

S

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OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

4/14/83

LETTER OF INTENT FOR CS3B 124

During the scheduled hearings in which the Alaska Transportation Commission (A.T.C.) was discussed and reviewed, many problem areas were identified. The Performance Review of the Alaska Transportation Commission conducted by the Division of Legislative Audit, April 1, 1982, concluded that the functions of A.T.C. could be better performed if A.T.C. were to merge with the Alaska Public Utilities Commission.

However, several questions were raised which remain unanswered:

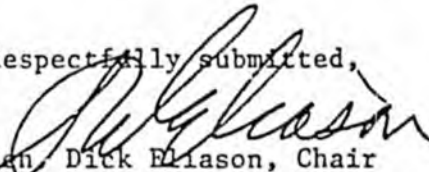
- 1) Is State involvement in the Essential Air Service Program required?
- 2) Does the State want to deregulate surface and air transportation within Alaska?
- 3) What method does the State wish to employ to assure the public that air and motor carriers have sufficient insurance coverage to protect the public's interest?
- 4) What is the role of the Alaska Transportation Commission in regard to a commercial vehicle safety program?
- 5) Would a citizen's board be an appropriate mechanism to perform the oversight functions which are currently the responsibility of the Commissioners of the Alaska Transportation Commission.
- 6) Do the Alaska Transportation Commission's policies regarding light aircraft ensure that innovative competition which could be beneficial to the public is not eliminated?

With the passage of this legislation, it is the intent of the Senate Labor and Commerce Committee that the Office of Management and Budget conduct a thorough performance review of the functions of A.T.C. The review will include, but will not be limited to, the scope of areas previously outlined.

Letter of Intent
CSSB 184, 4-14-83
page 2

The Office of Management and Budget will report back to the Thirteenth Legislature within ten days after the second session convenes in 1984. The report shall outline the findings of the audit as well as specific actions to implement any changes recommended.

Respectfully submitted,



Sen. Dick Eliason, Chair

ADDITIONAL LETTER OF INTENT TO CSSB 184 (L&C)

BY SENATORS HALFORD, JOSEPHSON AND VIC FISCHER

In the interim it is the intent of the Senate that the Alaska Transportation Commission fulfill its statutory responsibility with concentration on protection of the public.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 184
 Title: ~~An Act extending the termination date of the Alaska Transportation~~
 Sponsor: The Labor & Commerce Committee
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 Program Category Affected: Consumer Protect.
 BRU, Program of Subprogram(s) Affected:
 Alaska Transportation Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	1356.6	1293.1	1293.1	1293.1	1293.1	
200 TRAVEL	57.7	61.2	64.3	67.5	70.9	
300 CONTRACTUAL	182.5	192.2	201.8	211.9	222.5	
400 COMMODITIES	16.2	16.9	17.7	18.6	19.5	
500 EQUIPMENT	1.2					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	1614.2	1563.4	1576.9	1591.1	1606.0	
CAPITAL						
REVENUE	145.2	155.2	155.2	155.2	155.2	

FUNDING: (Thousands of Dollars)

GENERAL FUND	1614.2	1563.4	1576.9	1591.1	1606.0	
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	30	28	28	28	28	
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

If fees were increased as recommended in the Legislative Audit, then there would be an increase in revenue to the General Fund.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Francis W. Moran Phone: 561-4216
 Division: Alaska Transportation Commission Date: March 25, 1983
 Approved by Commissioner: Richard A. Lyon Date: 3/29/83
 Department: Commerce and Economic Development

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 184
 Title: An Act extending the termination date of the Alaska Transportation Comm.
 Sponsor: The Labor & Commerce Committee
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 Program Category Affected: Consumer Protect
 BRU, Program of Subprogram(s) Affected: Alaska Transportation Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	1356.6	1293.1	525.4	525.4	525.4	
200 TRAVEL	57.7	61.2	33.0	34.6	36.3	
300 CONTRACTUAL	182.5	192.2	134.2	140.9	147.9	
400 COMMODITIES	16.2	16.9	7.0	7.3	7.7	
500 EQUIPMENT	1.2					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	1614.2	1563.4	699.6	708.2	717.3	
CAPITAL						
REVENUE	145.2	155.2	37.7	37.7	37.7	

FUNDING: (Thousands of Dollars)

GENERAL FUND	1614.2	1563.4	699.6	708.2	717.3	
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	30	18	12.5	12.5	12.5	
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: *Travis W. [Signature]*
 Division: Alaska Transportation Commission
 Approved by Commissioner: Richard A. Lyon *[Signature]*
 Department: Commerce and Economic Development

Phone: 561-4216
 Date: March 25, 1983
 Date: 3/29/83

Distribution:

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3/8/83

A. Analysis

SB 184 essentially continues the Alaska Transportation Commission until June 30, 1987. If the bill passes, the fiscal impact will be the continuation of an operating budget of approximately 1,600.0 with yearly inflationary increases of 5% until June 30, 1987.

If SB 184 does not pass, there will still be a financial impact since AS 42.10 and AS 02.05 will still have to be administered. Even if the decision is made to deregulate air and motor commerce in Alaska, it would appear that at least three functions currently performed by the ATC would continue. Those functions are:

1. Coordination of the State's role in the Essential Air Service Program currently administered by the Civil Aeronautics Board;
2. Commercial Vehicle Safety Program;
3. Requirement for insurance registration.

Further, to perform those functions would require that an agency be assigned the responsibility to:

4. Register carriers;
5. Enforcement;
6. Quasi-judicial hearings to effect administrative sanctions for proven violations.

The rationale for indicating the continuation of these functions and tasks is that there will still be a desire to monitor CAB action in the implementation of the Essential Air Service Program provided for in the Federal Air Deregulation Act of 1978 which provides for the State of Alaska to have a role in the selection of EAS Points and service levels. The Act provides that the federal government will cease paying subsidies in 1988 and that it will be up to the States to continue the programs. It would appear obvious that the State would want to maintain its unique role in the EAS program and to evaluate the program and prepare for its assumption in 1988 if the federal government withdraws.

There are currently statutory authority and safety regulations that cover the operation of commercial vehicles of over 4,000 pounds. The regulations cover all vehicles involved in commerce without regard to type of carriage. It is assumed that the State

would continue the inspection of these vehicles and encourage compliance to the safety standard through both voluntary compliance and the levying of civil penalties where necessary. This program can have the direct impact of removing unsafe vehicles from the public roads before accidents or property damage occurs.

The requirement for all carriers offering their services to the public to show proof of adequate liability and property insurance is the cornerstone of protecting the consumer. By requiring the filing of insurance, the public is assured that if a loss occurs, some compensation will be available.

In order to provide for the performance of the three functions, there would be a need for carriers to register with an agency so that the State would be aware of who is holding out to the public to provide service. Without some filing requirement with an agency specifically interested in compliance with those requirements, the State would have no idea who was operating or what operators were not in compliance.

An enforcement effort will be necessary to conduct the safety program and to take action against operators who operate without insurance. It has generally been found more effective to handle the violation through a quasi-judicial administration process than through the court system. Civil penalties can be levied after appropriate hearings if the operator is found in violation. There will always be a percentage of operators who will be out of compliance, and economic sanction is the only effective tool to get them into compliance. In this area of safety violations the quasi-judicial process is especially effective since both the vehicle operator and the carrier can be held responsible to either fix the vehicle or pay a fine depending on the violation or pattern of violations.

B. Program Summary

Following the assumption in Part A, Analysis, if the bill passes, there will be no impact on the program as the ATC will continue to function as the agency responsible for the administration of AS 42.10 and AS 02.05.

Following the assumption that the bill might fail and if it is decided that the three basic functions identified above would be continued, the following program impacts are projected. The basic assumption for program impacts are:

- A. Generally, the same number of people would be needed, no matter what agency has the responsibility.

- B. The CAB coordination function could be separated from the Commercial Vehicle Safety program and insurance registration without serious impact to either program.
- C. To effectively manage the vehicle safety and insurance program, there will be a need for registration and enforcement to include provisions for quasi-judicial proceedings.

To continue the coordination with the CAB on EAS would require about 50% of a full-time professional position with clerical support and legal assistance from the Attorney General's Office. The principle contact person would need an understanding of the EAS program and the transportation patterns existing in rural Alaska. The correct level for the position would probably be at about a Range 21 with a Range 8 Clerk Typist III supporting for 20% of the time and about 10% of an Assistant Attorney General's time. There would be minimal support cost unless the need arose to participate in joint hearings with the CAB or the federal agency ignored the State's role in the EAS program. Actual costs would be:

1/2 Range 21 each year until 1988.			
1/2 X 3,475/non X 12/non		20,850	
Benefits: SBS 20,850 X .0613		1,279	
Variable: 20,850 X .1550		3,232	
Insurance: 6 mo X 240		1,440	
Total Benefits		<u>5,951</u>	
	Total 100		26,801
20% Range 8 Clerk Typist III until 1988			
20% X 1530/mo X 12/mon		3,672	
Benefits SBS 3672 X .0613		225	
Variable 3672 X .1550		570	
Insurance 12 X 240 X .2		576	
Total Benefits		<u>1,371</u>	
	Total 100		5,043
10% Range 24 Assistant Attorney General until 1988			
10% X 4251 X 12 mon		5,102	
Benefits SBS 5102 X .0613		313	
Variable 5102 X .1550		791	
Insurance 12 X 240 X .1		288	
Total Benefits		<u>1,392</u>	
	Total 100		6,444

Total estimated cost of EAS program coordination. 38.3

The estimated program necessary to administer the Commercial Safety Program would vary somewhat based on the salary range of the positions assigned to the task. If the program was placed in the Department of Public Safety, the expense would be greater based on P. S. employee agreements and benefits. For this discussion, we will use Range 16--General Government Employees.

3 Range 16 positions, Anchorage		
3 X 2463 X 12	88,668	
2 Range 16 positions, Fairbanks		
2 X 2838 X 12	68,112	
1 Range 18 position, Fairbanks		
1 X 3309 X 12	39,708	
2 Range 10 Clerical positions, Anchorage		
2 X 1726 X 12	41,424	
1 Range 10 Clerical position, Fairbanks		
1 X 1889 X 12	22,608	
1 Range 21 Supervisor, Anchorage		
1 X 3537 X 12	42,444	
1 Range 24 Hearing Office, Anchorage		
1 X 4251 X 12	51,012	
	<u>354,036</u>	
	Total Salary	

Benefits: SBS 354,036 .0613	21,703	
Variable 354,036 .1550	54,876	
Insurance 11 X 12 X 240	31,680	
Total Benefits	108,259	

Total 100 462.3

Travel: To conduct safety inspections throughout the State plus travel necessary to conduct hearings.

200 days of per diem @ 90/day	18,000	
Air fares, charters, etc.	15,000	

Total 200 33.0

Contracted: An attempt is only made to estimate the most obvious cost.

Communication/postage	20.0	
Printing & Advertising, Booklets, Etc.	15.0	
Equipment Rental HWCF		
5 (108D) Sedans Operating rate		
5 X .39 X 850 X 12	19.9	
Fixed fees 5 X 173/mo X 12	10.4	
Copy machine	9.0	

Department of Law - Legal Service	15.0	
Data Process Charge	12.0	
Professional services for additional Hearing officer on a needed basis	10.0	
	Total 300	111.3

Commodities: Misc. office supplcs, protective clothing publications, etc.	Total 400	5.0
	Total Safety Program	611.6

The cost of maintaining a filing of proof of insurance would essentially involve one additional clerical person if assigned as part of the safety program as there could be shared enforcement efforts and hearing procedures.

1 Range 12 GGW position, Anchorage 1 X 1945 X 12	23,352	
Benefits SBS 23,352 X .0613	1,432	
Variable 23,352 X .1550	3,620	
Insurance 12 X 240 X 1	2,880	
	Total 100	31.3

Contractual Service		
Communication	3.0	
Printing and Advertising, Forms	5.0	
Department of Law	3.5	
Data Processing Charge Back	5.0	
	Total 300	16.5

Commodities Office Supplies		2.0
	Total Insurance Program	49.8

The total estimated cost of continuing the three basic functions is \$699.7. This figure does not include any cost of management services that could be caused by relocating the program responsibility. Further, there would be the question of who would review the findings of the Hearing Officer if civil penalties are levied for violations. The current system of having all final orders decided by a majority of three is generally considered the fairest system as a consensus judgment system tends to provide the greatest protection of due process. While a single Commissioner could certainly make the final determination, there is a greater possibility of denial of due process and certainly better grounds for appeal into the Court System based on a claim of prejudicial treatment. To have three full time Commissioners as we now have would add approximately 250.0 to the above cited 699.7. To utilize a single Commissioner would add about 80.0 to the total.

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/6, 1983

I. REQUEST

Bill/Resolution No.: SB 184
 Title: Extending termination of ATC
 Sponsor: Labor & Commerce Committee
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Development
 Program Category Affected: Consumer Protection
 BRU, Program of Subprogram(s) Affected: Alaska Transportation Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Catherine Wallen *CW*
 Division: Administrative Services

Phone: 465-2504
 Date: 4/7/83

Approved by Commissioner: Richard A. Lyon *R*
 Department: Commerce & Economic Development

Date: 4/7/83

Distribution:

- Original to Legislative Finance
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SB 184 FISCAL NOTE ANALYSIS

The submitted FY '84 budget request for ATC follows:

Operating Expenditures	FY '83	FY '84
Personal Services	1,356.6	1,293.1
Travel	57.7	61.2
Contractual	182.5	192.2
Commodities	16.2	16.9
Equipment	1.2	-0-
	<u>1,614.2</u>	<u>1,563.4</u>
Capital Expenditures	0	0
Revenue	145.2	155.2

If the legislation fails to pass and ATC sunsets, there will continue to be a financial impact to the State for the administration of the State's share in the Essential Air Services Program and for verification of insurance registration. The reduced responsibilities would be reflected in the FY '85 budget request. In this case, the budget would be as follows:

Operating Expenditures	FY '83	FY '84	FY '85	FY '86	FY '87
Personal Services	1,356.6	1,293.1	69.6	73.8	78.2
Travel	57.7	61.2	0	0	0
Contractual	182.5	192.2	16.5	17.5	18.5
Commodities	16.2	16.9	2.0	2.1	2.2
Equipment	1.2	0	0	0	0
Total Operating	<u>1,614.2</u>	<u>1,563.4</u>	<u>88.1</u>	<u>93.4</u>	<u>98.9</u>
Capital Expenditures	0	0	0	0	0
Revenue	145.2	155.2	0	0	0
Positions (Full-Time)	30	28	2	2	2

AGENCY: DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
 CATEGORY: PUBLIC PROTECTION

PROGRAM: REGULATORY COMMISSIONS
 SUB-PROGRAM: ALASKA TRANSPORTATION COMM.

*** GOVERNOR ANALYSIS ***

OBJECT GROUP	VARIATION		DESCRIPTION: GOVERNOR VERSUS 83 AUTH
01 PERS. SERV.	-63.5	-4.7%	PERS SVS ADJUST 18.8; DELETE TWO PFT POSITIONS, A TRANSPORTATION FIELD AGENT ASSIGNED TO SOLDOTNA AND AN ACCOUNTING TECHNICIAN ASSIGNED TO THE ANCHORAGE OFFICE (82.3).
02 TRAVEL	3.5	6.1%	INFLATION 3.5.
03 CONTRACTUAL	9.7	5.3%	INFLATION 11.8; REDUCE BY COSTS ASSOCIATED WITH THE DELETED POSITIONS (2.1).
04 COMMODITIES	0.7	4.3%	INFLATION 1.0; REDUCE BY COSTS ASSOCIATED WITH THE DELETED POSITIONS (0.3).
05 EQUIPMENT	-1.2	-100.0%	LESS ONE-TIME ITEM (1.2).
TOTAL	-50.8	-3.1%	

NO NEW POSITIONS AUTHORIZED.

AGENCY: DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
 CATEGORY: PUBLIC PROTECTION

PROGRAM: REGULATORY COMMISSIONS
 SUB-PROGRAM: ALASKA TRANSPORTATION COMM.

EXPENDITURES & FUNDING	(01) 82 AUTH	(02) 82 FINAL	(03) 82 ACT	(04) 83 AUTH	(05) 83 SUPL	(06) 83 RP	(07) 84 CONT.	(08) 84 ADD.	(09) REQUEST	(10) GOVERNOR	(11) HOUSE	(12) LEGIS	(13) LEG.REC
01 PERS. SERV.	1245.2	1286.8	1275.4	1356.6			1375.4	121.9	1497.3	1293.1			
02 TRAVEL	52.5	49.4	49.2	57.7			61.2	15.0	76.2	61.2			
03 CONTRACTUAL	167.4	180.8	179.9	182.5			194.3	9.0	203.3	192.2			
04 COMMODITIES	14.9	11.3	11.5	16.2			17.2	2.4	19.6	16.9			
05 EQUIPMENT				1.2				80.4	80.4				
06 LANDS/DLDGS													
07 GRANTS, CLMS													
08 MISC.													
** TOTAL EXPEND	1480.0	1528.3	1516.0	1614.2			1648.1	228.7	1876.8	1563.4			
09 I-A TRANSFER	96.2		97.1	112.8			113.3		113.3	113.3			
10 FED. RECEIPT													
11 G. F. MATCH													
12 GENERAL FUND	1480.0	1528.3	1516.0	1614.2			1648.1	228.7	1876.8	1563.4			
13 PGH RECEIPTS													
14 OTHER FUNDS													
15 FULL-TIME	30.0	30.0	30.0	30.0			30.0	3.0	33.0	28.0			
16 PART-TIME													
17 TEMPORARY													
18 STAFF MONTHS	360.0	360.0	360.0	364.3			364.3	36.0	400.3	336.0			

NEW POSITIONS

TITLE	LOCATION	TYPE	REQ	S&B COST	OTH.COST	TOT.COST	FED.FUND	GEN.FUND	OTH.FUND	GV 'HS	SN	FC	FN
1 PARALEGAL ASSISTANT II	ANCHORAGE	FULL	1	38.8	7.3	46.1		46.1					
2 ACCOUNTANT III	ANCHORAGE	FULL	1	44.3	13.3	57.6		57.6					
3 TRANSPORTATION FIELD AGENT I	ANCHORAGE	FULL	1	38.8	16.4	55.2		55.2					
** NEW POSITION TOTALS			3	121.9	37.0	158.9		158.9					

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

ep. Bette Cato, Chairman

DATE: 20 April 1983

TO: REP. WALTER FURNACE, CHAIRMAN
Labor and Commerce Committee

REP. AL ADAMS, CHAIRMAN
Finance Committee

FROM: Rep. M. W. Miller, Acting Chairman
House Transportation Committee

RE: HB 313



It is the recommendation of the House Transportation Committee that it is in the State's best interest to continue the Alaska Transportation Commission (ATC) because of the importance of the ATC in order to provide for the enforcement of surface and air transportation regulations. Alaska has seen a substantial increase in the surface and air transportation in recent years.

In testimony before the House Transportation Committee, several witnesses said that the reason the Alaska Transportation Commission has not been able to implement recommendations from previous audits, is that they have not received sufficient funding from the legislature to hire personnel necessary to accomplish the recommendations.

In testimony, several witnesses also said that the ATC has been neglectful in following practices to ensure an efficient operation. This was supported by the findings in the legislative audit.

It is further suggested that the qualifications of the Commissioners and the number of Commissioners setting on the ATC should be reviewed to ensure a more efficient operation both for the benefit of the carriers and the public in the area of safety.

The Alaska Transportation Commission is a most important link or buffer between the Federal government, the State and the industries, therefore, the ATC should be continued after having been fully reviewed.

SB 184 TITLE & SPONSOR SUMMARY

16:16 6/04/84 PAGE 1 OF 3

AMENDED TITLE: CSSB 184(L&C)

AN ACT EXTENDING THE TERMINATION DATE OF THE ALASKA TRANSPORTATION COMMISSION;

AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE LABOR&COMM COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 5/06/83 IN (H) LABOR & COM

SB 184 SENATE ACTION

16:16 6/04/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/18/83	01	0433	FIRST READING -- COMMITTEE REPORTS
04/13/83	02	0482	L&C -- CS03
04/13/83	03	0482	L&C F/NOTE EQUALS ZF90
04/15/83	04	0710	L&C LETTER OF INTENT
04/25/83	05	0800	RLS -- OTHER04 TAKEN UP IMMEDIATELY
04/25/83	06	0801	SECOND READING
04/25/83	07	0802	POSTPONED UNTIL 04/26/83 BY UNAN CONSENT
04/26/83	08	0813	L&C CS ADOPTED BY UNAN CONSENT
04/26/83	09	0813	POSTPONED UNTIL 04/27/83 BY UNAN CONSENT
04/27/83	10	0823	SEN LETTER OF INTENT ADOPTED
04/27/83	11	0824	SUPPL LETTER ADOPTED BY DIV 14-06-00
04/27/83	12	0824	ADVANCED TO 3RD READING BY UNAN CONSENT
04/27/83	13	0824	THIRD READING
04/27/83	14	0825	PASSED BY DIV 16-04-00
04/27/83	15	0825	EFFECTIVE DATE VOTE SAME AS PASSAGE
***	**	**	*** **

SB 184 HOUSE ACTION

16:17 6/04/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/28/83	16	1095	FIRST READING -- COMMITTEE REPORTS
05/06/83	17	1206	TRAN -- DP04, NR04 LABOR & COMMERCE RULES
***	**	**	*** **

References

ATC Statute

Commerce

02.05 - Air Air

Freight

Motor

42.10 -

42.07 - ATC Ad

COMMITTEE REPORT
SENATE

3/12/83

FURTHER:

Date: 3/12/83

Mr. President:

The Committee on LABOR AND CONFERENCE has had SB 184

Extending the termination date of the Alaska Transportation Commission
eff. date

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 184 (L+C) same title
 new title
- and recommends 10 p.m.
- AND attaches a "Letter of Intent" ^{Zero} New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
CHAIRMAN

MEMORANDUM

State of Alaska

TO: Sen Harding
Special Assistant
Office of the Governor

DATE: April 7, 1982

FILE NO:

TELEPHONE NO:

FROM: Richard A. Lyon
Commissioner
Department of Commerce and
Economic Development

SUBJECT: Alaska Transportation
Commission - Sunset

The Alaska Transportation Commission (ATC) was statutorily scheduled for sunset in 1979. However, an extension was granted by the Legislature continuing the Commission to 1983. The question of sunset is now before the Legislature for the second time. An audit performed by the Division of Legislative Audit dated April 1, 1982 did not recommend sunset, but did recommend the Alaska Transportation Commission become a section within the Alaska Public Utilities Commission. Should sunset be recommended, several functions performed by or which are the responsibility of the ATC will require serious consideration:

1. Regulation of surface and air transportation.
2. Essential Air Service Program.
3. Requirement that air and motor carriers have sufficient insurance coverage to protect the public's interest.
4. Commercial Vehicle Safety Program.

The State currently monitors the essential air service program which is administered by the Civil Aeronautics Board. The program was provided for in the Federal Air Regulation Act of 1978. Federal subsidies under this program will cease in 1980. A determination must be made as to whether the State finds it necessary to continue the subsidy or whether sufficient competition exists without the subsidy to adequately serve the remote areas.

Deregulation of surface and air transportation has taken place in the "lower 48" states. It does not appear to have a negative effect on the transportation of goods or people. However, Alaska is unique in that the vast majority of this State is not connected by road and covers vast areas. The option of driving from one location to another versus flying does not exist. Consideration must be given to the effect of controlling transportation by competition only.

Both the ATC and the Department of Public Safety are statutorily assigned the responsibility for commercial vehicle safety inspections. However, the Department of Public Safety is the only one currently conducting inspections. The Division of Measurement Standards did temporarily take over the responsibility from the Department of Public Safety when the

permit and scale house program was transferred in FY '83 under a federally funded program which ended March 11, 1983. This authority was delegated by letter from the Commission to the Division of Measurement Standards. The program is not presently funded in the Division of Measurement Standards or ATC in FY '84.

Property and liability insurance is presently required of all common air and motor carriers before they are issued a permit to operate in Alaska. Consideration must be given to continue this requirement if a decision is made to sunset the Alaska Transportation Commission.

The following are several options for your consideration:

1. Continue all operations as presently structured. Monitor the essential air service programs, certificate all air and motor carriers requiring minimal economic analysis, provide for insurance coverage for all carriers, provide for no commercial vehicle safety program. Total cost \$1,500,000.
2. Continue the Alaska Transportation Commission with reorganization. Reorganize the Alaska Transportation Commission's program to more properly prioritize their responsibilities. Legislation should be introduced to completely deregulate dump trucks, except for providing insurance coverage. Absent passage of legislation, this deregulation could be accomplished by permitting all applicants. Sound economic analysis should be performed on all admitted carriers. This analysis' capability could be provided by reclassification of the employees currently regulating dump trucks. A safety program could be added at an additional cost of \$350,000 for a total cost of \$1,900,000.
3. Sunset ATC, transfer required function to other State agencies. The essential air service program could be run with monitoring by the Department of Transportation and Public Facilities. They currently provide input into the recommendations made by ATC. The Department of Public Safety could assume full responsibility for the safety program. Since the Alaska State Troopers are now providing a minimal safety program, consideration should be given to expanding their capability to also conduct inspections at the scale houses in cooperation with the scale house operators. Implement a registration program under either the Division of Occupational Licensing or the Division of Insurance to register and assure insurance filings by all air and motor carriers. Deregulate all transportation services. Cost of this option would be probably under \$100,000 for the registration program and whatever additional cost required by the Department of Public Safety and the Department of Transportation and Public Facilities.

4. Transfer essential functions to the Alaska Public Utilities Commission. This option was recommended by Legislative Audit as a means of continuing essential functions of the Commission. While I feel the regulation of utilities are very different than regulation of the transportation industry and that economics gained by combining the two may be to the detriment of APUC, the option should be analyzed.

The best means to address the above would be to extend the ATC one year and call for an OMB performance audit to be presented to the Legislature when they convene in 1984.

RAL/wfs 4/34

cc: Kevin Bruce
Commissioner Sundberg
Commissioner Casey

MEMORANDUM

State of Alaska

TO: Richard A. Lyon
Commissioner

DATE: April 1, 1983

FILE NO:

TELEPHONE NO:

FROM: Lois J. Cook, Director
Division of Administrative Services

SUBJECT: Alaska Transportation
Commission - Sunset

The Alaska Transportation Commission (ATC) was statutorily scheduled for sunset in 1979. However, an extension was granted by the Legislature continuing the Commission to 1983. The question of sunset is now before the Legislature for the second time. An audit performed by the Division of Legislative Audit dated April 1, 1982 did not recommend sunset, but did recommend the Alaska Transportation Commission become a section within the Alaska Public Utilities Commission. Should sunset be recommended, several functions performed by or are the responsibility of the ATC will require serious consideration:

1. Is State involvement in the Essential Air Service Program required?
2. Does the State want deregulation of surface and air transportation in Alaska?
3. A means of assuring the public that air and rotor carriers have sufficient insurance coverage to protect the public's interest should be considered.
4. Statutory authority rests with the Alaska Transportation Commission to provide for a commercial vehicle safety program. Although this authority has been delegated to other State agencies in the past, the need for such a program must be considered before a decision is made for discontinuing the Commission.

The State currently monitors the essential air service program which is administered by the Civil Aeronautics Board. The program was provided for in the Federal Air Deregulation Act of 1978. Federal subsidies under this program will cease in 1983. A determination must be made as to whether the State finds it necessary to continue the subsidy or whether sufficient competition exists without the subsidy to adequately serve the remote areas.

Deregulation of surface and air transportation has taken place in the "Lower 48" states. It does not appear to have a negative effect on the transportation of goods or people. However, Alaska is unique in that the vast majority of this State is not connected by road and covers vast areas. The option of driving from one location to another versus flying does not exist. Consideration must be given to the effect of controlling transportation by competition only.

Although the ATC is statutorily assigned the responsibility for a commercial vehicle safety program, they currently do not administer the program. The Division of Measurement Standards has conducted safety inspections (taking over the responsibility from the Department of Public Safety when the permit and scale house program was transferred in FY '83), under a federally funded program which ended March 11, 1983. The program is not presently funded in FY '84. It could be redelegated to the Division of Measurement Standards or taken back into the Alaska Transportation Commission. The estimated cost of providing a safety inspection program is approximately \$350,000. A safety inspection program for aircraft is provided by the FAA.

Property and liability insurance is presently required of all common air and motor carriers before they are issued a permit to operate in Alaska. Consideration must be given to continue this requirement if a decision is made to sunset the Alaska Transportation Commission.

The following are several options for your consideration:

1. Continue all operations as presently structured. Monitor the essential air service programs, certificate all air and motor carriers requiring minimal economic analysis, insurance coverage for all carriers, provide for no commercial vehicle safety program. Total cost \$1,500,000.
2. Continue the Alaska Transportation Commission with reorganization. Reorganize the Alaska Transportation Commission's program to more properly prioritize their responsibilities. Legislation should be introduced to completely deregulate dump trucks, except for providing insurance coverage. Absent passage of legislation, this deregulation could be accomplished by permitting all applicants. Sound economic analysis should be performed on all admitted carriers. This analysis' capability could be provided by reclassification of the employees currently regulating dump trucks. A safety program could be added at an additional cost of \$350,000 for a total cost of \$1,900,000.
3. Sunset ATC, transfer required function to other State agencies. The essential air service program could be run without monitoring by the State. An assumption would be made that federal control is sufficient. The Division of Measurement Standards could be given the responsibility for the safety program. Legislation would be introduced to assign this responsibility since it does not exist outside the ATC statutes. Implement a registration program under either the Division of Occupational Licensing or the Division of Insurance to register and assure insurance filings by all air and motor carriers. Deregulate all transportation services. Cost of this option would be \$350,000 for the safety program and probably under \$100,000 for the registration program; for a total cost of approximately \$450,000.

The best means to address the above would be to extend the ATC one year and call for an OMB performance audit to be presented to the Legislature when they convene in 1984.

LC/wfs 4/34

SENATE LABOR AND COMMERCE
STANDING COMMITTEE
March 15, 1983
1:35 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: Senator Don Bennett
Senator John Sackett

COMMITTEE CALENDAR

SUNSET REVIEW OF THE ALASKA TRANSPORTATION COMMISSION

WITNESS REGISTER

Keith Miller, Chair
Alaska Transportation Commission
3601 C Street, Room 778
Anchorage, Alaska 99503
561-4216
Position statement: Supports continuation of ATC.

H. D. Scougal, Commissioner
Alaska Transportation Commission
6615 Nottingham Dr.
Anchorage, Alaska 99504
561-4216
Position statement: Supports continuation of ATC.

T. J. Thrasher
Alaska Trucking Association
3443 Minnesota Drive
Anchorage, Alaska 99504
276-1149
Position statement: Supports continuation of ATC (Constructive changes suggested.)

Lance Wells
Alaska Air Carriers Association
4790 Business Park Blvd.
Anchorage, Alaska 99504
272-9933
Position statement: "No position on issue, members are split, informational testimony."

PREVIOUS ACTION

No previous action in this or other committees.

ACTION NARRATIVE

Tape #9
Number 000

Senator Eliason called the meeting to order with members Senator Rodey and Senator Mulcahy present. The subject of the meeting was the "Sunset Review" of the Alaska Transportation Commission, which will terminate this year unless legislative action is taken to extend it.

Number 032

Keith Miller, Chair of the Alaska Transportation Commission, touched on the high points of the Commission's prepared budget. He then presented a point-by-point summary of the Commission's response to comments made in the "Analysis of Public Need" section of the April 1, 1982 Performance Review prepared by the Division of Legislative Audit. The comments relate to nine specific statements which ATC feels are "obviously slanted against the ATC and no effort is made to avoid unsupported generalities." The nine areas are as follows:

- 1) the extent to which ATC operated in the public interest;
- 2) the extent to which ATC's operation has been inspired or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matters including budgetary resources and personnel matters;
- 3) the extent to which ATC has recommended statutory changes which are generally of benefit to the public interest;
- 4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;
- 5) the extent to which ATC has encouraged public participation in the making of its regulations;
- 6) the efficiency with which public inquiries or complaints regarding the activities of the commission filed with it, with the department (DCED), or with the office of the ombudsman have been processed and resolved;

Number 300

(Keith Miller, continued)

- 7) the extent to which ATC (in regulating entry into an occupation or profession) has presented qualified applicants to some of the public;
- 8) the extent to which state personnel practices including affirmative active requirements, have been complied with and applied to ATC's own activities and the area of activity or interest; and
- 9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the ATC to better serve the interest of the public and to comply with the factors "enumerated in this subsection".

Keith Miller pointed out that the main question before the Legislature is that of deregulation. There needs to be a decision as to what direction should be taken in the future as to the amount of economic regulation which is needed or desired by both the public and the industry.

Number 400

Keith Miller further stated that there will always be a need to protect the public by requiring carriers to register, show a degree of fitness, provide proof of insurance, and to operate safe vehicles, however, the need to prove public convenience and necessity for entry, filing and justifying tariffs, and all the required filing of reports may not be as necessary as it was once thought to be.

Number 490

Keith Miller entertained questions from committee members.

Number 570

H. D. Scougal, ATC Commissioner, provided information about ATC activities, and elaborated on some of their functions, such as that of commercial vehicle authority. The ATC strives to ensure that all transportation activities are safe, at reasonable rates. They work to ensure that sound economic conditions prevail in the transportation industry, and act as a quasi-judicial body on contested applications, complaints, and rate matter. The Commissioner discussed safety regulations, and ATC functions in the area formerly regulated solely by the Civil Aeronautics Board. One of the interests of the ATC is to keep down the number of air carriers so that there are not two operating in one small area. Commissioner Scougal provided some statistics relevant to ATC activity, and concluded his well-rounded presentation by offering to provide recommendations to the legislature.

Number 785

T. J. Thrasher, representing the Alaska Truckers Association, a non-profit trade organization representing 325 trucking firms and allied industry firms throughout Alaska, presented a statement of position offered by ATA supporting the continuation of the Alaska Transportation Commission. ATA does not support increased filing fees, and disagrees with two of the recommendations made in the above-mentioned Performance Review (audit). Those recommendations were: 1) The ATC should become a section within the Alaska Public Utilities Commission (APUC); and 2) Alaska Statutes should be amended to exempt dump truck operators from certification and economic regulation.

Number 836

T. J. Thrasher elaborated on ATA's reasons for rejecting those recommendations, the first of which is proposed by Senate Bill 35, which ATA opposes. (Although SB 35 was not the subject of the hearing, ATA's "Statement of Position" outlined their reasons for opposing the merger.) ATA also recommended that the Legislature direct ATC to undertake regulatory initiatives in three major areas: 1) Certificates of Authority, 2) Tariffs, and 3) Safety Inspections. The Alaska Truckers Association concludes that although ATC is not doing all they could or should do, the Legislature should extend the Alaska Transportation Commission for four years and support the Commission with adequate funding. They maintain that "good regulation should be continued in the public interest," and that "the importance of a regulated motor carriage

system, and the trucking industry as a whole to the State's vital transportation system cannot be overstated."

Side 2

Number 003

T.J. Thrasher stated that ATA would like to see a "revitalized ATC" and concluded her testimony by answering questions posed by Senator Mulcahy and Senator Eliason concerning ATC's revenue collection procedures and revenue sources.

Number 260

Lance Wells, an attorney and representative of the Alaska Air Carriers, presented three positions on the issue of termination/continuation of the Alaska Transportation Commission, and advocated none of them. He stated that he was testifying in order to provide the committee with information. The Air Carriers are being polled on the issue, and results should be available next week. Many carriers support the "sunset" of ATC, and maintain that it should be allowed to terminate. Others think that the overlapping of Federal regulation with ATC regulation is unnecessary. Another position is that ATC should be kept as it is, as it serves a vital function of a vital industry, and deters air carriers from running "cream skimming operations".

Number 400

Yet another position, and the one for which Lance Wells provided the greatest amount of support, is that ATC should be kept with changes. He presented an argument for opposing the merger of APUC and ATC. He proposed supporting more funding for independent investigations as ATC has neither the staff nor the budget to perform independent economic analysis in the state to determine where there is a need for air carrier service. He would like to see ATC modernized, computerized, with greater capacity to conduct independent investigation (so they don't have to rely on biased reports of applicants and opponents). Respect for ATC, he stated, is at an all-time low. Part of the reason for this is that they haven't been given the resources (or support from Administration or Legislature) to adequately discharge their responsibilities. He anticipates an increase in conflict with the Federal government: Alaska is the only state which is, by Federal law, exempted from the pre-emption clause of the Federal Aviation Act, and has the privilege of regulating its own air industry. This is a privilege Alaska must work to protect in light of the fact that the Civil Aeronautics Board (CAB) faces "Sunset" in 1987 or before. Summary of needs in state regulation of air industry: 1) safety, 2) assist in insurance problems, 3) effective liaison between ATC and CAB (federal subsidy program), 4) State comprehensive transportation policy to provide guidelines to DoTPF and ATC. Laws passed three years ago relating to ATC were very political in nature, and the "economic feasibility" set down as a new standard is not definable by the commission itself. Evolution has taken place in the aviation industry: from the days of air taxis to a commuter air carrier industry carrying U.S. mail, a valuable source of revenue which must be actively

protected. Lance Wells stated that there is a need to form a regulatory body which does not need to be renewed every three years. He closed his remarks by stating that he does not know whether we need ATC or not, and he doesn't think air carriers know, but if they have to make decisions based on inadequate information, decisions will remain highly political and very inconsistent. A regulatory body must be established to do the job effectively, and develop a policy for safe, convenient, low-cost travel.

The meeting adjourned.

SENATE LABOR AND COMMERCE
STANDING COMMITTEE
March 29, 1983
1:00 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: *Senator John Sackett
Senator Don Bennett

*Senator Sackett arrived within the first twelve minutes of the meeting.

COMMITTEE CALENDAR

CSHB 15(Loans)am

"An Act relating to commercial fishing loans (AS 16.10.300-
AS 16.10.370); and providing for an effective date."

SB 66

"An Act relating to municipal self insurance for workers' compensation."

1:30 TELECONFERENCE--Alaska Transportation Commission Sunset Review

SB 184

"An Act extending the termination date of the Alaska Transportation
Commission; and providing for an effective date."

WITNESS REGISTER

(CSHB 15)

Rep. Rick Uehling, Chair
House Loans Committee
Pouch V

Juneau, Alaska 99811
465-4821

Position statement: Discussed Letter of Intent

Rep. Peter Goll
Pouch V

Juneau, Alaska 99811
465-4925

Position statement: Discussed legal aspects of collection provisions
and residency.

Rep. Adelheid Hermann
Pouch V

Juneau, Alaska 99811
465-4942

Position statement: Expressed support for specific provision of HB 15.

Don Hostack, Director, Div. of Business Loans and Veterans' Affairs
Pouch D
Juneau, Alaska 99811
465-2510
Position statement: Provided specific information from Loan Division perspective.

(SB 184--ATC SUNSET REVIEW)

Bill Schneider, Associated General Contractors
Box 4-2500
Anchorage, Alaska 99501
276-5354
Position statement: Testified in opposition to SB 35 (not on calendar, but relates to SB 184).

Andy Hoge, Attorney representing Alaska Truckers Association
437 E, Suite 500
Anchorage, Alaska 99501
276-1726
Position statement: Supports continuation of ATC.

John Ulsher
6901 Dickerson Drive
Anchorage, Alaska 99501
337-7876
Position statement: Supports sunset of ATC.

Jay Bynum
Cordova, Alaska
(No address provided by teleconference network.)

Joe Gilbertson
Fairbanks, Alaska
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

James Bishop, Bishop Brothers Inc.
Box 2989
Kenai, Alaska
262-4245
Position statement: Does not support ATC as functions now.

Arthur Robinson
Box 3519
Soldotna, Alaska
262-9164
Position statement: Supports sunset of ATC.

Tim Gunderson
Fairbanks, Alaska 99701
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

George Carter
Fairbanks, Alaska 99701
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

Lois Cook, Director, Div. of Administrative Services
Dept. of Commerce and Economic Development
Pouch D
Juneau, Alaska 99811
465-2505
Position statement: Department favors extension of ATC for one year.

The testimony of the following witnesses was not teleconferenced.

Charles Cole, Attorney (represents Alaska Interior Airways)
Fairbanks, Alaska
Position statement: Supports continuation of ATC.

Jim Wilson
P. O. Box 629
Juneau, Alaska 99802
586-3420, 586-6358
Position statement: Supports sunset of ATC.

PREVIOUS ACTION

(Senate Labor and Commerce only.)

SB 66: Please refer to Labor and Commerce Committee Minutes for Feb. 10 and March 24, 1983.

ACTION NARRATIVE

Tape #15
Side 1
Number 010

Senator Eliason called the meeting to order with members Senator Mulcahy and Senator Rodey in attendance. The first item on the agenda was CSHB 15(Loans)am, relating to fishing loans. The committee members considered a work draft of a Labor and Commerce Committee substitute.

Rep. Rick Uehling, Chair of the House Committee on Loans testified on HB 15, dwelling on the Letter of Intent which was added as the bill passed out of the House. Because the fishery is seasonal, they feel that a two year residency requirement is legally defensible. At the request of the Chair, he also touched on the letter of intent as it relates to severability of that requirement should it be struck down in the courts, and he addressed the acceleration clause providing for immediate payback of the loan upon the borrower's ceasing to reside in the state. Rep. Uehling cited supportive documents from Attorney General Norm Gorsuch and from the Department of Law.

Number 238

Senator Sackett's presence was noted for the record.

Number 256

Rep. Peter Goll testified on CSHB 15, concentrating his testimony on the requirements outlined in the bill. He stated that chances of loan repayment are increased by the requirement that the loan recipient have three years of active fishing experience. He also discussed the continuing residency requirement (and accelerated repayment provision), the intent of which is that Alaska subsidized loans be directed to Alaska residents; he defended this aspect of the legislation with regard to legal questions which have been suggested, using documents from Legal Services and the Attorney General.

Number 464

Rep. Adelheid Hermann testified on CSHB 15, stating support for the remarks made by Rep. Goll, including his remarks on the severability clause. She had asked that House Research Agency staff to research whether or not California, Oregon or Washington had fishing loan programs now or in the past, and the result was that none of them had. She also posed a question, which she would like answered by the department administering the loan program, concerning whether or not they were actively engaged, or intended to engage in, an outreach program for the fishing loan program as discussed in the past.

Number 505

Don Hostack, Director of DCED's Division of Business Loans and Veterans Affairs, testified on CSHB 15, asked what residency requirement the Division would use to make loan determinations if the two year requirement were severed from the legislation. Senator Rodey responded that the Attorney General would offer guidance as the legal counsel for the Division, and that the existing two year requirement would be followed until ruled out by a court of competent jurisdiction. Mr. Hostack responded to questions from committee members about the fishing loan program concerning loans to rural area residents, termination of Alaska residency, and fraud investigation.

Number 647

(Senator Sackett left the meeting.)

Number 652

The committee took up Senate Bill 66, which had received previous hearings, and for which a Labor and Commerce Committee substitute had been prepared.

Number 705

Senator Eliason recessed the meeting in order to recover a quorum to do business on SB 66.

Number 707

Senator Eliason called the meeting to order to begin the teleconference on the Sunset Review of the Alaska Transportation Commission.

Bill Schneider (Anch), with the Associated General Contractors, testified in opposition to Senate Bill 35, a measure merging the APUC and the ATC. Senator Eliason pointed out that SB 35 was not calendered for discussion. (Teleconference network had accidently sent SB 35 as part of package pertinent to the teleconference.)

Andy Hoge, attorney who represents Alaska Truckers Association, testified in favor of SB 184 and continuation of the Alaska Transportation Commission. He believes that the legislature should look closely at the performance review done by Legislative Audit, and said that as written testimony had already been submitted he would not read his statement. The Alaska Trucker's Association maintains that the ATC should be extended for four years and should concentrate effort in problem areas. The ATC should receive the money required to do their job.

Tape 15
Side 2
Number 6

Senator Rodey asked if Andy Hoge would favor an interim look at ATC by the Legislative Budget and Audit Committee, to which Hoge responded that a one or two year "sunset" disrupts the activity of the agency.

Number 62

Members of the committee reverted to SB 66, concerning municipal self-insurance for workers' compensation. Senator Rodey moved that the Labor and Commerce Committee Substitute for SB 66 be passed out of committee with individual recommendations. There being no objection it was so moved.

Number 81

John Ulsher (Anch) testified on the Alaska Transportation Commission, stating that he did not own a truck, but that it seemed that the trucking regulations were written for one reason, and accomplish another. He feels that the Commission has failed totally to accomplish the purpose for which they were created (among other things, to prevent cutthroat competition and protect the public). He touched on the subject of safety ("the responsibility of the owner") and stated that the Alaska Truckers' Association should sell its services to members (who would join Trucking Association) in a form of cooperative shipping; this would best serve the consumer. Does not support continuation of ATC as now functioning.

Jay Bynam (Cordova), owner of Bynam and Sons Towing, concurs with ATA (Alaska Truckers Association) in that a four year extension of ATC benefits all. To discontinue the ATC would open the way for cutthroat competition. Some regulation and control, he believes, is necessary.

Joe Gilbertson (Fairbanks) began his testimony with a brief history of transportation in Alaska, stating that Alaska always had a stable trucking industry. He favors termination of the ATC. Watching "what they were set up to do and what they actually do" he finds their activity "counterproductive all the way around" and believes they participate in restraint of trade. There are already too many state agencies, and he sees better ways to spend the money. He feels we can control and regulate better in a free-market society.

Number 370

J. Bishop (Soldotna), Chairman of the Board of Bishop Brothers, Inc., (primarily involved in seafood transport), does not support ATC as it is currently functioning. The theory of ATC is that it should protect a fragile Alaskan economy, and it seems necessary for someone to protect the public need for year-round transportation capability. That same mechanism should insure against industry practices which are contrary to the public interest. And it is in practice, and specifically regarding that last element, "which I feel that the ATC has failed miserably in its responsibility to protect the people of Alaska from monopolistic practices within air transportation in the state." Mr. Bishop further stated that the ATC should continue to operate only under circumstances where "they are moving against an entity with too much power in the state".

Number 530

Arthur Robinson (Soldotna), an attorney from the Kenai Peninsula, testified in support of allowing the ATC to terminate, as they are more concerned with the protection of established economic interests, like the air carriers, without regard to public needs. He suggested the creation of a public agency just to handle safety matters now handled by ATC, and to provide a protest forum in Alaska for what is basically a monopoly in the state.

Tim Gunderson (Fairbanks) is a twelve year resident involved in the trucking industry. He has been a Teamster for carriers in the state, and has been an owner-operator, and shareholder in an Interstate trucking company. At one time he might have supported continuation of the ATC, but, having been involved, he is today opposed to extending their ability to operate. Transportation should be on a competitive basis: the public is the best judge. A person who is insured and can show competency should be allowed to go into business. He urged the committee not to extend the termination date of the ATC.

Number 728

Richard Asay (Anchorage) testified in support of continuation of the ATC, which is helpful in keeping a vital transportation industry in the state. He has been in the trucking industry in Alaska for more than twenty years, and does not feel that deregulation is the answer.

Number 746

George Carter (Fairbanks), an 8½ year resident involved in trucking since 1968, does not support extension of the ATC, and would like to see it done away with.

Number 760

Lois Cook (Juneau), Director of the Dept. of Commerce and Economic Development's Division of Administrative Services, presented the department's position on the Alaska Transportation Commission. The department recommends the ATC be extended for a one year period in order to allow the department the opportunity to conduct a performance review. The review would assess the effect of deregulation which would take place if the ATC were allowed to terminate. The review would assess and provide for a motor safety program (including insurance) and would determine the effect of ATC termination on essential air service.

(NO FURTHER TESTIMONY WAS TELECONFERENCED.)

Charles Cole (Juneau), an attorney from Fairbanks, wished to testify on the ATC "but not necessarily teleconferencing". Therefore, the teleconference was concluded, and Mr. Cole, representing Alaska Interior Airways, testified in support of continuation of the ATC. He has, for twenty six years, been representing air carriers in Alaska. Prior to statehood the authorities consisted of the Civil Aeronautics Board and the International Commerce Commission. Those that called the shots were those who could afford to go to D.C. and woo the Federal authorities.

Number 841

Mr. Cole provided a historical sketch of air transportation in Alaska, from territorial days to the present, touching on the Alaska Air Commerce Act of 1960, which provided some state regulation of commerce and transportation. He strongly recommends perpetuation of the Alaska Transportation Commission for four years. He pointed out that air transportation in Alaska has developed technologically and commercially over the years.

Tape 2
Number 010

Mr. Cole described what he perceives as the negative aspects of deregulation, stating that bankers will not finance airplanes in the presence of the spectre of deregulation, and that if there was no state agency to grant regulatory authority, we would lose that authority. He feels that regulation of air commerce has been a good thing, by and large, given the developments of the last several years.

Number 146

Mr. Cole responded to a previous speaker's charges that AIA had received favored treatment by the ATC, and offered a rebuttal to allegations of favoritism resulting in AIA having a monopoly. He concluded his testimony by emphasizing the need for stability in air commerce in Alaska, and the need to chart our own destiny. "Somebody has to look

out for the little guy", and AIA fav. continuing the Alaska Transportation Commission for four years.

Number 310

Jim Wilson provided final testimony on the Alaska Transportation Commission, describing himself as a "local little guy" trying to get into the business and having trouble doing it. He favors "allowing the sun to set on the ATC." Now that there is an Aeronautics Act, the ATC has outlived its usefulness. He stated that three years ago he "worked for the big guys" and would have testified on the other side of the issue. He cited problems with restrictions on contract carriers in Alaska. He cited various problems he perceives with regulation, and described the current ATC as "political". He does not favor continuation of the ATC (as it is). Mr. Cole and Mr. Wilson conducted a brief dialoge.

Number 560

There being no further testimony, Sen. Eliason adjourned the meeting.

LAW OFFICES OF
CHARLES E. COLE

406 CUSHMAN
FAIRBANKS, ALASKA 99701
TELEPHONE 907-452-1124

April 5, 1983

The Honorable Richard I. Eliason,
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

I write in connection with the teleconference hearing before your Labor and Commerce Committee on the Sunset legislation involving the Alaska Transportation Commission.

During the hearing particularly caustic testimony was submitted by Bishop Brothers and Harold L. Gilbertson. As is usually the case, there was more to their testimony than met the eye.

Enclosed, for the record, is a copy of a stipulation between the Alaska Transportation Commission and Bishop Brothers assessing a civil penalty of \$15,000 against Bishop Brothers and a stipulation in connection with the assessment of a civil penalty of \$18,000 against Mr. Gilbertson.

Very truly yours,

C. E. Cole
Charles E. Cole

CEC:bjc
Enclosure

cc: John Sackett

S E R V E D

MAR 19 1982

STATE OF ALASKA

ALASKA TRANSPORTATION COMMISSION



In the Matter of the Accusation)
 against:)
)
 Harold L. Gilbertson, d/b/a)
 BIG STATE EQUIPMENT CO.)
 P. O. Box 1540)
 Fairbanks, AK 99707)
)
 Respondent.)
)

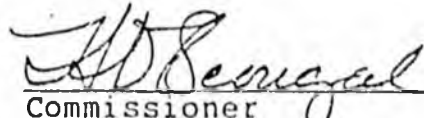
Docket 81-252-MF/A

ERRATUM

Order for Stipulation for Dismissal, served on March 11, 1982, was inadvertently dated February 9, 1982. The date is corrected to read March 9, 1982.

DATED at ANCHORAGE, ALASKA, this 18 day of March, 1982.

ALASKA TRANSPORTATION COMMISSION



 Commissioner

RECEIVED


S E R V E D

MAR 11 1982

STATE OF ALASKA

ALASKA TRANSPORTATION COMMISSION

In the Matter of the Accusation)	FEB 19 1982
against:)	
)	
Harold L. Gilbertson, d/b/a)	
BIG STATE EQUIPMENT CO.)	Docket 81-252-MF/A
P. O. Box 1540)	
Fairbanks, AK 99707)	
)	
Respondent.)	

STIPULATION FOR DISMISSAL

COMES NOW the Respondent, Harold L. Gilbertson, d/b/a Big State Equipment Co. through his attorney, Joseph W. Sheehan, and the Staff of the Alaska Transportation Commission through its attorney, Wilson L. Condon, Attorney General, G. Charles Schmidt, Assistant Attorney General and stipulate for the dismissal of this matter on the following terms and conditions:

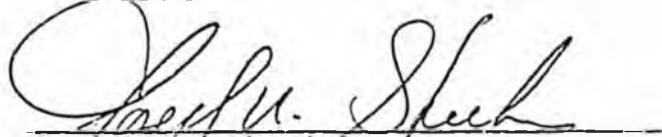
1. That on the basis of the matters alleged in the Accusation and amended Accusation, the parties agree to a stipulated civil penalty in the total amount of \$18,000. Of this amount \$9,000 is suspended on the condition that no similar violations to those alleged in this docket are committed by the Respondent for a period of two years commencing from the date of the Order accepting this Stipulation. Upon a finding of further violations, the suspended portion of the penalty will be immediately due and payable.

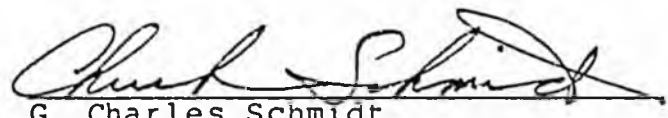
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A.T.C.
MAR 9 8 07 AM '82

2. That the Respondent pay the balance of the civil penalty, \$9,000, to the Commission within 90 days of the date of an Order accepting this Stipulation. In the event that the \$9,000 is not paid in full within the 90 days, the full amount of the civil penalty, \$18,000, will be immediately due and payable.

DATED at ANCHORAGE, ALASKA, this 17th day of February, 1982.


Joseph W. Sheehan
Attorney for Respondent


G. Charles Schmidt
Assistant Attorney General
Counsel for the Staff of the
Alaska Transportation Commission

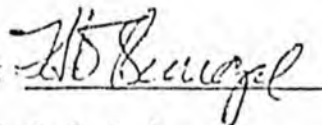
ORDER

IT IS SO ORDERED.

DATED at ANCHORAGE, ALASKA, this 9th day of February, 1982.

BY THE COMMISSION

ALASKA TRANSPORTATION COMMISSION

Commissioner  concurring.


Commissioner

(S E A L)

S E R V E D

SEP 25 1981

STATE OF ALASKA
ALASKA TRANSPORTATION COMMISSION

In the Matter of the Accusation)
Against:)
BISHOP BROTHERS, INC.) Docket 81-134-MF/A
P. O. Box 2969)
Kenai, Alaska)
Respondent.)

Order 81-376

ORDER ACCEPTING STIPULATION

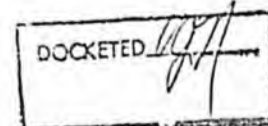
On June 10, 1981, the Commission Staff served an Accusation charging Respondent with violation of AS 02.05.050.

On September 18, 1981, the Staff submitted a written stipulation for settlement of this matter signed by Gary Martin for the Commission Staff and Arthur J. Robinson for the Respondent.

The terms of the Stipulation are agreeable to the Commission. Therefore,

IT IS ORDERED THAT:

1. The Commission accepts the Respondent's plea of no contest.
2. Pursuant to AS 02.05.231 a civil penalty of \$15,000 is levied, to be paid at the Commission's offices within 90 days of the effective date of this Order.
3. The terms of the Stipulation of the parties dated September 18, 1981, are adopted by reference as part of this Order.



4. The effective date of this Order will be the date of service.

DATED at ANCHORAGE, ALASKA, this 24th day of September, 1981.

BY THE COMMISSION

ALASKA TRANSPORTATION COMMISSION

W. L. Kubley
W. L. Kubley, Commissioner

Commissioner Miller concurring.

(S E A L)

File ATC
L+C



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

March 2, 1983

Dick Lyon, Commissioner
Department of Commerce
and Economic Development
Pouch D
Juneau, Alaska 99811

Dear Commissicner Lyon:

As you know, the Alaska Transportation Commission is being considered for Sunset Review with an expiration date of June 30, 1983. The Senate Labor and Commerce Committee is hesitant to take any action regarding ATC until we receive a statement of position from the Department of Commerce and Economic Development. The Committee would appreciate your taking the necessary steps to expedite the forthcoming position paper.

Senate Bill 35, introduced by Senator Vic Fischer on January 18, 1983, proposes to merge the Alaska Transportation Commission with the Alaska Public Utilities Commission. I am still looking forward to receiving the Department's position on this legislation.

Thanks in advance for your assistance in these areas.

Sincerely,

A handwritten signature in cursive script that reads "Dick Eliason".

Senator Dick Eliason, Chair
Senate Labor and Commerce Committee

PUBLIC SERVICE ANNOUNCEMENT

FROM: Senate Labor and Commerce Committee
Senator Dick Eliason, Chair
Pouch v
Juneau, Alaska 99811
(907) 465-4916

CONTACT: Sheila Peterson

RUN: March 16, 1983

KILL: March 29, 1983

THE SENATE LABOR AND COMMERCE COMMITTEE WILL BE HOLDING A TELECONFERENCE TO GET PUBLIC INPUT ON THE ALASKA TRANSPORTATION COMMISSION FOR THE SUNSET REVIEW PROCESS. THE TELECONFERENCE WILL BE TUESDAY, MARCH 29 FROM 1:30 TO 3:00 (PST). FOR MORE INFORMATION CONTACT YOUR LOCAL TELECONFERENCE OFFICE OR SHEILA PETERSON AT 465-4916.

Phil Schneider AGC

Andrew Hogg - ATC IN FAVOR

392 Do NOT MERGE
= = =

JOHN ~~Usher~~ Usher ~~CONSUMER~~ CONSUMER ←

Jay Byman CONDOVER YES

JOE GILBERTSON FRK'S NO

* JAMES Bishop Sold ~~ATIA~~ NO

ART ROBINSON " 1977 - NO

TIM GUNDERSON FRK'S NO

RICHARD ACEY ACEY YES

SEO. CARTER FRK'S ~~NO~~

Lois Cook 1 year JUNO - 1 yr

← CHARLES COLE # STN: ATIA 4 years
1980 # 418 / 419

JIM Wilson - viability - P.O.C

SPONSOR: Senate Labor + Commerce Comte.
 leg non-leg pub hear work sess inv hear
 SUBJECT: Alk Trans. Commission Support
Review
 MAILING ADDRESS: _____

DATE TAKEN/BY 3/11/83
 T/C DATE/DAY 3/29/83
 TIME: 1:30-3:00 PACIFIC

 YUKON

 ALASKA

 BERING

PHONE 4916 CONTACT Sheila (Sen. Elison)

SITES PARTICIPATING:

- | | | | | |
|--|--|--|---|--|
| <p>North Slope
Anaktuvuk Pass
* <u>Barrow</u>
Kaktovik
Point Hope
Wainwright</p> <p>ALL ALASKA
ALL LTO's
WASH., D.C.</p> | <p>* NANA
Ambler
* <u>Kotzebue</u>
Hoorvik
Selawik</p> <p>Norton Sound
Gamrell
Hooper Bay
* <u>Nome</u>
Savoonga
Shishmaref
** <u>Unalakleet</u></p> | <p>Bristol Bay
Aleutians
* <u>Bethel</u>
* <u>Dillingham</u>
St. Paul
Sand Point
** Unalaska</p> <p>Interior
* <u>Delta Junction</u>
* <u>Fairbanks</u>
** <u>Fort Yukon</u>
<u>Galena</u></p> | <p>South Central
* Anchorage
Homer
* Kenai (Sol)
<u>Kodiak</u>
* Mat-Su
Seward
* Valdez</p> | <p>Southeast
* Cordova
* Haines
Hoonah
* <u>Juneau</u>
<u>Ketchikan</u>
* Petersburg
* <u>Sitka</u>
Wrangell
Yakutat</p> |
|--|--|--|---|--|

Chairing Site/Person Vala Peterson Special Offnet _____
 Location/Phone# _____

Signature of Sponsor/Contact Person Vala Peterson Date 2/11/83

-----TELECONFERENCE OFFICE USE ONLY-----

added sites 3/15

3-Wire _____ 4-Wire _____
 Bridges: #1 (206)447-0620
 #2 (206)447-1554
 #3 (206)447-5627
 #4 (206)447-9479
 Bridge operator (800)426-3832
 JNU trouble #'s 516-1062
 465-1836
 Publicity:
 _____ Local calls/list attached
 _____ Media/P.S.A. attached
 Jan. report:
 _____ Longmy back-up
 _____ Bill summary
 _____ Participants list

POST TELECONFERENCE NOTES
 Site/Date: _____
 Local Moderator _____
 T/C Started: _____ T/C Ended _____
 T/C Recorded? _____
 Testified/Participated: _____
 Unable to Testify: _____
 Observers: _____
 Total Number _____

Purpose of ATC

Alaska Transportation Commission

1) ensures all transportation activities are safe at reasonable rates

Have they? Weigh stations are now under Commerce + Econ. Dev. Safety inspections have stopped. What is ATC's opinion?

2) ensures sound economic conditions prevail in industry

What has ATC done to encourage "sound" conditions. Refer to case questions

3) act as quas judicial body on contested applications, complaints, + rate matters

Audit - in 1981 - 36 test cases averaged 9 months from complaint to hearing, 7 had no record of the date initiated, 10 not listed on any Commission mtg. This average 1.5 complaint cases per week per staff.

ATC says steps have been taken to improve - What are steps? Have they really improved?

★ During Fiscal Year 1981, there were 198 hours of hearing of which Commissioner presided over only 27 hours. Are the Commissioners responsive?

ATC says now that Commissioners attend hearings in Anchorage, but not out of city.

Summary - Ak. Trans. Comm Audit

Purpose - Should ATC be allowed to be "sunset" - June 30, 1983?

Method of Review - Concentrated on problem areas. Did not review areas where no problem existed.

Alaska Transportation Commission -

- 1) ensures all transportation activities are safe, at reasonable rates.
- 2) ensures sound economic conditions prevail in industry
- 3) act as quasi-judicial body on contested applications, complaints, + rate matters

Audit Conclusion

ATC should be allowed to be terminate on June 30, 1983, + regulation of transportation should be administered through Alaska Public Utilities Commission

Time is right for the merger as there are many problem areas which need addressing. While the major overhaul is being done way not under the heading of "transition between agencies".

Findings + Recommendations

Audit Response

ATC Response

1) ATC should become a section within APUC

- policies by ATC do not ensure public served in effective + economical manner
- workload decreased from 1978 (reason - deregulation)
- present statutes + regulations need to be revised
- survey showed 80% of other states have one regulatory commission
- study should be conducted prior to merger - determine correct staffing, reshape + reorganize policies, procedures, etc

1) ATC should not merge within APUC

- recommendations do not support that public interest is not being served by Comm.
- no reason to assume that combination would be better - reason based on other states is simplistic
- no comparison of Alaska to other states - only 6 states regulate air carriers but not air taxi operations - states have other forms travel - makes Alaska different
- regulatory functions of both vastly different

2) ATC awarding Temporary Authority too loosely

- Out of 32 test applications, 22 did not meet statute - emergency defined too loosely. 4 exceeded 90 day limits
- processing time too slow - therefore temporary used (ave. processing time - 5 mths for permanent authority)
- pay single fee for temporary + permanent - against statute - unfair advantage
- temp authority granted via telegram - Superior Court ruled violates provisions of statute

2) ATC - disagrees temp authority issued without considering statutory constraints

- discontinued practice of sending telegrams
- since May 28 - 82 - statute change which requires more info to grant relief
- ATC feels petitioner can be notified before written order is published
- ATC feels AS 02.05.060 - not restricted. Emergency need not be defined before issuing an order.
- ATC takes exception to using example of Superior Court - shows "due process" + not order must be written before issuing temporary.
- If application longer than 120 days its because incomplete application.

3) Economic regulatory procedure should include financial analysis of data

- 44 out of 70 application showed staff did not analyze carrier's financial statements

3) Agree - ATC needs to improve method for financial analyzation

- But current staffing makes it impossible to do a full rate review

Findings + Recommendations con't.

Audit Response

ATC Response

- supporting documentation of tariff changes is not required + should be - No written documentation of any review
- The required annual reports from motor carriers are not being analyzed.

- Steps taken since audit -
 - applications reviewed by an accounting technician during initial process (Revised form - 10/1/82)
 - check list for tariff in operation by 8/15/82
 - all quarterly air carriers are on computer - analyzed by state agencies
 - want more staff

4) Complaints + accusations should be investigated in timely manner

- average time - 9 months - involving hearings; 4mths if no hearing
- poor record keeping

4) ATC concurs enforcement might be streamlined

- Change - end of calendar yr, every agent will have a specific assigned cases + will be held accountable

5) # of field surveys should be increased

- Out of 630 regulated carriers, 38 surveyed in 1981 - all surveys were performed on air carriers - none on motor carriers
- ATC should perform field surveys on motor carrier as well as air carriers

5) ATC agrees more field surveys should be conducted

- 4 motor + 8 air surveys conducted since 5/82
- to verify annual reports against accounting records would take 3 additional staff members

6) Commissioners + hearing officers should write all formal orders on docketed matters

- requiring staff to write orders creates potential for violation of ATC's ethical regulations
- delay of average 53 days for written reply
- Commissioners presided over only 27 hrs of 198 hrs

6) ATC does not agree that Commissioners should write order

- practice in almost every state regulatory agencies for prevailing party to write final order

Findings + Recommendations con't

Audit Response

7) ATC should establish procedures for the accountability + collection of civil penalties
- 45% of assessed penalties has not collected

8) Statutes should be amended to exempt dump trucks from certification
- applications for authority is routinely granted
- regulate only for safety

9) Regulations should be promulgated in a timely manner.
- Regulations drafted 1978, approved in 1981, still not filed
- Regulations - construction - public hearing in 1981 - no action taken
- Insurance regulations - hearings 1980 - approved 81 - not filed
- Re: freight forwarder regulations - beginning 1978 - still not settled

10) Seek legislation to increase fees
- air carrier fees have not been increased since 1968
- motor carrier - 1972
- ATC's expenditures exceeded its revenues by 20%

ATC Response

7) ATC agrees accounts receivable system is needed.
- new system on line 8/31/82
- greater effort in collecting assessed penalties during last 6 months

8) ATC agrees dump trucks should be exempted
- worked towards legislation which would exempt trucks

9) ATC - regulations should be promulgated quickly BUT
- ATC cannot unilaterally issue regulations
- problems cited - 2 on file by 8/82 - 2 revised

10) ATC would support legislation to increase fees.
- Possibly entire fee structure for commercial vehicles should be reviewed.

Questions to ATC re: current problems

1. Has ATC encountered any problems in implementing contracts awarded ^{under} the Small Business Administration for minority owned businesses?

If so, what recommendation does ATC propose?

Case: Louis Corley, a black, was awarded a contract under the Small Business Admin, but needed to meet state requirement, ie: a common carrier permit. He could not get a permit as he could not show "public need + convenience." ATC says that statutes limit what can be done.

Case is currently in court.

2. What has been the outcome of ATC repealing and/or amending regulations governing the use of lease vehicles? What has been the reaction of owner/operators?

Case: Owner-operators feel regulations have made unfair demands, loss of benefits which companies don't have to pay, purchase of.

new vehicle every five years, untenable position with company owners.

Recommend limit entry permits for owner-operators, rescind regulations, declare extra axles illegal, + permanent state scales be constructed at Fox, Ak, to force Ak Carriers to ship legal weight loads.

3. Statutes indicate that a "certificate" must be granted within 60 days after hearing. If not, the failure to deny certificate within 60 days constitutes approval of application. Has ATC experienced any problems regarding this statute?

Any recommendations?

Case: Jim Wihlberg wanted to start a small (one-two plane) air taxi/tourist business in Tok. ATC formally denied "certificate" the 61st day. Because of 60 day ruling + other seemingly discriminating practices, Jim went to court

Case in court today.

Summary

Criteria for Sunset

I. The extent operated in the public interest —

- Review of policies + procedure indicated that the public's interest was not served in an effective, economical manner.

II. The extent to which the operation of the Commission has been impeded or enhanced by existing statutes, etc.

- Slow promulgation of regulations has impeded Commission's operations.

III. The extent to which the Commission has recommended statutory changes

- Legislation has been introduced to correct some problem areas.

IV. The extent to which Commission has encouraged public participation.

- Commission publishes a bi-weekly journal. Public participation is encouraged through hearing process.

V. The extent to which Commission has encouraged interested persons to report concerning regulations, etc

— Commission receives feedback through hearing process

VI. The efficiencies with which public inquiries regarding the activities of the board.

— Commission processes complaints in an untimely manner

VII. The extent to which Commission has presented qualified applicants to serve public.

Commission's ability to select quality applicants is impeded by lack of analysis of information submitted.

VIII. Are affirmative action requirements observed?

Yes

IX. The extent which changes are necessary to better serve the public.

The Commission should merge with Alaska Public Utilities Commission. Decision based on Findings + Recommendations.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

ALASKA TRANSPORTATION COMMISSION

BILL SHEFFIELD, GOVERNOR

SUITE 778, FRONTIER BUILDING
3601 C STREET
ANCHORAGE, ALASKA 99503

March 7, 1983

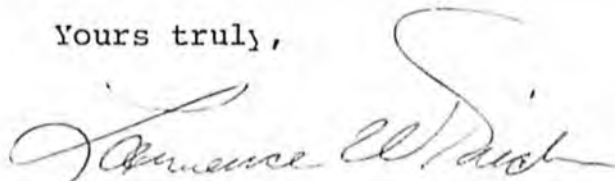
Hon. Richard I. Eliason
Alaska State Senate
Pouch V
Juneau, AK 99811

ATTENTION: Sheila

Pursuant to your telephone conversation with Chairman Miller, please find attached a copy of the Legislative Audit Report dated April 1, 1982, and our letter to Rep. Jerry Ward dated March 3, 1983 that you requested.

If you need any additional information, please advise.

Yours truly,



Lawrence W. Michou
Executive Director

Enclosures

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

ALASKA TRANSPORTATION COMMISSION

BILL SHEFFIELD, GOVERNOR

SUITE 778, FRONTIER BUILDING
3601 C STREET
ANCHORAGE, ALASKA 99503

PHONE: 561-4221

March 3, 1983

Representative Jerry Ward
Chairman, Finance Sub Committee
Commerce and Economic Development
Pouch V
Juneau, AK 99811

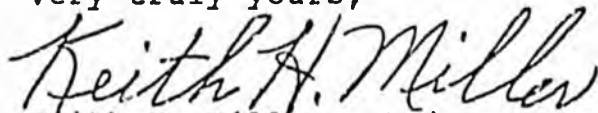
Dear Representative Ward:

Reference your letter of February 8, 1983, requesting specific response to the concept of merging the Alaska Transportation Commission and the Alaska Public Utilities Commission; the ATC's plans to remedy the problems disclosed in the audit; the ATC's response to SB 35 and the changes necessitated by Federal deregulation. I believe it most appropriate to respond by several attachments instead of attempting to combine all in one letter. My reasoning is that the issues are best handled separately as a single response would be both confusing and possibly considered contradictory.

Therefore, please find attached the following:

- A. Comments Concerning Merger.
- B. Plans to Remedy Problems Disclosed in Audit.
- C. Response to SB 35
- D. Operators Reporting Requirements.
- E. Changes Dictated by Federal Deregulation.

Very truly yours,



Keith H. Miller, Chairman
Alaska Transportation Commission

KHM/jv

cc: Richard A. Lyons, Commissioner
Dept. of Commerce & Economic Dev.

Emil Notti, Legislative
Assistant to the Governor

ATTACHMENT A

COMMENTS CONCERNING MERGER OF ATC WITH APUC

It is the opinion of the Alaska Transportation Commission that merger with the Alaska Public Utilities Commission would not accomplish any positive result. The merger of the two agencies would not be in the interest of the public or the regulated industries.

The primary problem is that the two agencies deal with two different regulatory responsibilities. The APUC has the responsibility to regulate entities that belong either to the rate payers formed into cooperatives or to a local government. There are relatively few privately owned utilities in Alaska. In almost every case the utility has a monopoly position in its market area, and competition for customers is generally not a factor in either the utilities operations or in the proceedings before the APUC. The ATC has the responsibility to regulate business entities that cover the spectrum from sole proprietorships or small partnerships to corporations that are part of larger national corporations. By the very nature of the type of carriage used--private, common or contract--the ATC is involved in all types of transportation. No regulated carrier has a monopoly position in a market area.

Competition from other carriers in the same mode of transportation as well as from other modes clearly plays a determinate role in the price of service as well as quality of service. Stated simply, a shipper can find another carrier or provide its own carriage, but a utility customer has only one utility company to supply each service and to provide its own service is either impossible or extremely expensive.

The procedures each Commission has developed are designed to meet the needs of their regulated industries. The APUC is actively involved in the complexities of rate setting for existing utilities while the ATC is involved in reviewing matters relating to authorities and enforcement. The work load is more than adequate in each area to keep all eight Commissioners busy. Unlike many jurisdictions, the Commissioners assigned to each Commission are actively involved in the decision making process and are not simply an appeal board reviewing administrative law judge opinions.

To burden the five APUC Commissioners with the additional work load that is generated by transportation could seriously impact their ability to perform. During calendar year 1982, the ATC had 667 dockets filed, issued 803 orders, and conducted oral hearings on 132 dockets. Merging the two Commissions will not alter the work load as it is generated by the regulated industries, the statutes and the procedures. In addition, the ATC Commissioners are active in the essential air service program currently before the Civil Aeronautics Board, the granting of federal authorities to air carriers wishing to operate in Alaska, and a major joint board hearing with the Interstate Commerce Commission. All of these activities require a great deal of time in reviewing written submissions, as well as making the "decisions."

There appears to be no real reason to combine the two Commissions other than the fact that most other States have a single regulatory Commission. The recommendation does not make an effort to compare the regulatory needs, functions, or circumstances of Alaska to other States. For example, the report fails to recognize that only six other States regulate air commerce and then generally only scheduled service. The Alaskan trucking industry's unique situation of not being able to compete in interstate commerce is ignored. The Alaskan truckers are severely limited from competing across State boundaries since the expense of crossing Canada makes a multi-state operation impractical.

The merger would accomplish very little to streamline the responsibilities of the agencies and the level of regulation would remain the same. Further, very little, if any, cost savings would be made. The individual regulatory staff personnel would continue to function as they currently do to carry out their respective responsibilities.

Historically, the functions of the ATC and APUC were once performed by a single agency, the Alaska Public Service Commission. The Legislature in 1966 divided the Alaska Public Service Commission and created the Alaska Transportation Commission to administer the motor and air acts. The primary reason for the division was that the single agency had not been able to adequately serve the regulated industries. There is no indication that the problem that confronted the single agency in the 1960's would not again develop in the 1980's and cause a similar problem.

ATTACHMENT B

PLANS TO REMEDY PROBLEMS DISCLOSED IN AUDIT

As indicated in the response to the Legislative Audit, the Commission does not agree with the stated audit conclusions, nor did it agree that the problems discussed in the recommendations were as serious as indicated.

The Commission admitted in its response and still admits that improvements can be made in its operations. As will be indicated, efforts have already been made to improve the level of service to both the public and the regulated industries. It is still our contention that none of the recommendations are serious enough to justify the conclusion that the agency is failing in its responsibilities.

The specific actions that either have been taken to improve our operation or our plans to remedy the problem areas are as follows:

Recommendation 1

The Alaska Transportation Commission should become a section with the Alaska Public Utilities Commission (APUC).

The response to this recommendation is presented in the first part of this report.

Recommendation 2

Temporary authority should be granted in accordance with statutes.

We do not agree that temporary authorities are being granted without considering the statutes.

While in the past some temporary authorities were granted in what appears to have been an expedited manner, this is no longer the case. Temporary authorities are still being granted, and in a few special cases have been granted before publication in the Journal. The use of the telegram has generally been discontinued and is now only used in special circumstances. In all cases now, an order is written before the temporary is granted.

As a general rule temporaries are not being granted until after the publishing period, and in many cases are not being granted at all. Further, the revised procedural regulations that were effective May 28, 1982, places more responsibility on the applicant to justify the request for a temporary exemption.

The Commission is still of the opinion that the statutes provide enough latitude to allow for the issuance of temporary exemptions. Quite frankly, to limit the issuance of temporary exemptions within the narrow parameters suggested in Recommendation 2 would be more of a disservice to both the industry and the public than the granting of such permissions. At no point in time does the issuance of a temporary exemption deny any party their right of due process before the Commission. On the other hand, the denial can cause hardship on the applicant and the public.

In fact, in retrospect it is our opinion that the audit has taken the narrowest possible view of the temporary exemption process and instead of analyzing why the temporary exemption was issued on a case by case basis, has simply lumped them all together to insinuate the Commission is failing in its responsibilities. The audit completely fails to recognize AS 42.07.121 which grants the Commission considerable latitude in administering both AS 02.05 and AS 42.10.

The procedures for handling all dockets have been changed somewhat since the period covered by the audit. There has been an effort to cut processing time, and issuance of permanent authorities for unprotested applicants in 1982 averaged three months. The procedures for handling temporary applications have also changed in that telegrams are seldom used, only rarely is a temporary considered at any time other than the weekly agenda meeting; a staff recommendation is normally solicited as to need, financial fitness, etc., and in all cases an order is prepared promptly after a Commission decision has been made. The actual statistics for calendar year 1982 indicate the following:

	Motor	Air
Temporary Applications Received	24	30
Temporary Exemptions Granted	9	8
Temporary Exemptions Denied	10	18
Temporary Exemptions Granted in less than five work days	3	3

Note the columns do not total as some applications were pending at year end.

Recommendation 3

The economic regulatory procedures of ATC should include financial analysis of data submitted by carriers.

This recommendation is presented in three separate parts and we will indicate our plans in the same format. We generally agree that more financial analysis could be done. However, it should be noted that to do so is going to require more staff, higher support cost for such analytical necessities as computer time, programming, data entry, etc., and even more important is going to greatly impact the regulated industries. While there is a cost in reviewing data, the real cost is in the cost of preparing the data for submittal. Therefore, any attempt to improve the effort to analyze and judge the financial data submitted by applicants and carriers is going to directly impact the same people both in terms of cost of preparation, cost of verification and in time, as the more analysis you do the longer it takes to process the application.

Our response to this three-part recommendation is being made with the realization that any improvements must take into consideration our available funding and what can reasonably be expected from the industry as a whole.

A. Processing of applications should include financial analysis of carrier's financial statements and financial data.

Steps have been taken to improve the quality of the review of financial data issued. The review is done by either a tariff specialist or an accounting technician. A review sheet is included in all application dockets giving a general financial analysis of the application. Further, if additional information is needed or an item needs explanation, the applicant is contacted by letter and required to supply such additional data as needed. Failure on the part of the applicant to supply the information results in the application being rejected by staff.

The staff is considering a new application form that requires the applicant to submit additional financial data as well as confirmation of assets and liabilities. However, it appears that regulations will have to be published and approved as the confirmation requirement would be new as part of the application process.

B. ATC should require supporting documentation of tariff changes for review and analysis.

The tariff staff is now requiring that all tariff changes be supported with cost justification. The motor carriers have indicated some opposition to the concept that all rates have to be justified by all carriers. The carriers have indicated in recent hearings before the Commission that cost justification is expensive and time consuming and will adversely affect the carriers ability to be competitive. The staff has opened several tariff investigations and will continue to do so. The staff expects that the final question of how much cost data that will be required for tariff filings will have to be resolved through the promulgation of regulations.

C. Annual and quarterly financial reports should be analyzed.

The question of what is needed on annual and quarterly reports is most difficult to answer. The carriers generally resent having to file any reports, contending that reports are expensive to prepare and are open to public review. The staff is of the opinion that some information is needed and can only be supplied by the carriers. Additionally, many other agencies request information from the Commission concerning transportation in Alaska.

Therefore, the staff would prefer to continue to collect annual and quarterly reports and to continue to work on developing an adequate information system that will allow the retrieval of statistical data. It should be noted, that many jurisdictions are reducing reporting requirements as part of deregulation.

Recommendation 4

Complaints and accusations should be investigated and processed in a timely manner and accurate records of the complaint resolution process should be maintained.

Steps have been taken to improve the record keeping efforts in the enforcement section and some improvement is taking place. Part of the improvement is due to the assignment of agents to specific cases and if the case develops into a major case, two or more agents may be assigned specific duties so that the necessary information can be collected.

The effort to increase the productivity of enforcement is going to continue. However, there is no way to ensure that some cases are not going to extend over what appears to be an unusual length of time. The effort to collect adequate evidence of violations simply takes time, especially since the violators seldom cooperate. To further complicate the enforcement effort, there are many minor contacts by telephone that do not result in any formal actions, but are very time consuming and prevent the enforcement agent from concentrating his efforts on a particular case.

Recommendation 5

The number of field surveys performed each year should be increased and should include a limited financial/compliance audit of accounting record.

The number of motor carrier and air carrier surveys has increased. The enforcement staff and tariff staff are working together to conduct more in-depth surveys of motor carriers.

We are finding that a thorough motor survey may take as long as two weeks when problems are found and every record must be reviewed. If the survey results in an accusation, another several weeks can be involved in just getting the supporting documentation necessary to prove a violation.

It is the staff's opinion that surveys are a very important element in economic regulation. However, there is a direct conflict for time between promptly resolving all complaints and at the same time be doing more in-depth surveys. To do both would require more staff.

Recommendation 6

The Commissioners and Hearing Examiners should write all the formal written decisions (orders) on docketed matters before the ATC.

The Commissioners attend most of the hearings in Anchorage and a portion of the hearings outside of Anchorage. By attending the hearings, the Commissioners can render a decision without the interim step of a proposed order. This both shortens the time between hearing and final order and lessens the work load on staff.

For the Commissioners to attend all hearings does not appear cost effective since a quorum by law is two Commissioners. Therefore, it is more economical to send one Hearing Examiner to preside over a case and render a proposed decision. All parties have an opportunity to respond to the proposed order and the Commissioners make their decision from the written record.

Recommendation 7

ATC should establish procedures for the accountability and collection of civil penalties.

The procedures for collecting civil penalties has been improved. There are new procedures in effect to have all cases with unpaid civil penalties called up for action after the fine is due and payable. The first action is a demand/reminder letter giving a set time to pay. If that is ignored, then the case is referred to the Attorney General's office if over \$2,000 is involved. If less than \$2,000 is involved, legal action is started in small claims court. If the offender is a carrier, a show cause order is issued to revoke the certificate for failure to pay.

This system should result in a higher percentage of fines being collected.

Recommendation 8

Alaska Statutes should be amended to exempt dump truck operators from certification and economic regulation.

The Commission concurs that dump truck operations should be exempt from economic regulations and regulated only as to the safety of operation as commercial vehicles, and as to the acquisition of adequate insurance. If such legislation was passed, the time currently being spent supervising dump truck operations could be spent in other areas.

Recommendation 9

Regulations should be promulgated in a timely manner.

The staff will continue working on needed regulations. The regulations that are currently published in the Administrative Code are adequate for the operation of the agency. The primary need for new regulations is to revise or expand

current areas to clarify procedures or requirements placed on carriers or applicants. The current trend is to require that administrative agencies have every decision making process covered by a printed regulation. This trend is good in that it helps ensure that everyone is treated equally, but it does place an additional burden on agencies such as the ATC. The interesting point in this recommendation is had the ATC not been trying to develop revised regulations, there would have been nothing to criticize.

There is no question that revised regulations should not take two years, but in some cases it is better for the revisions to die under public criticism than to push them through and create unworkable situations.

Recommendation 10

ATC should seek regulation to increase fees.

The ATC still supports the concept of increasing fees and further would support statutory language that would allow for the assessment of costs to participants such as appears in AS 42.05.651.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Commerce & Economic Development	Sponsor (Principal) Senator V. Fisher	Bill Number SB-35
Department Position No comments on fees except lines 9 and 13 of Section 9 are contrary to Federal law. Opposed to transfer of Transportation Section to Alaska Public Utilities Commission and any reference to deletion of current positions.		
XXXXXXXXXX, Chairman of ATC <i>Ruth H. Miller</i>	Date 1/27/83	Commissioner's Signature Date

GOVERNOR'S OFFICE USE

Comments:

Position Noted

By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting)	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

The bill would increase the various fees charged by the regulatory body by 50% across the board.

The Bill would transfer the regulatory responsibility from the Alaska Transportation Commission to the Alaska Public Utilities Commission by essentially eliminating the three ATC Commissioners and Executive Director positions and making the current five APUC Commissioners responsible for the quasi-judicial actions necessary for administering economic regulation of motor and air commerce in Alaska. Continued.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

a) Elimination of all references to the transfer of the regulatory functions from the ATC to the APUC. Continued.

6. Comments:

The ATC believes it appropriate to comment on a section by section basis.

Section 1. AS 02.05.075(a) is amended to read:-The weight referred to in line 15 and 16 should read: "Applications including aircraft having a maximum payload capacity of not more than 7,500 pounds or a maximum seating configuration, exclusive of pilot's seat of not more than 30 passengers...\$100." Continued.

5. Amendments Proposed:

- b) Elimination of all references to the deletion of position currently in the ATC BRU.
- c) Necessary language to continue the ATC beyond its sunset limits by amending AS 44.66.010(7) to read June 30, 1986.
- d) Several other line by line amendments recommended in part 6.

6. Comments:

The line referred to in line 17 and 18 should be:--"Applications" involving aircraft having a maximum payload capacity in excess of 7,500 pounds or a maximum seating configuration, exclusive of pilot's seat of more than 30 passengers...\$200."

These changes would bring the application fees in line with the statutory division throughout the remainder of the Air Act between large and small aircraft operations. It would simplify the fee collection if application fees followed the same division as applicants normally fall into, either small operators or large.

Section 2. AS 02.05.090(f) is amended to read: No comment.

Section 3. AS 02.05.250(3) is amended to read: We would recommend AS 02.05.250(3) not be amended.

Section 4. AS 19.40.100(b)(3) is amended to read: We would recommend AS 19.40.100(b)(3) not be amended.

Section 5. AS 28.10.502(b) is amended to read:
This particular section should not be amended to delete the Alaska Transportation Commission. However, the section should be amended to recognize the deregulation of tow trucks under 14,000 pounds. Therefore we would suggest the following:

- b. A lien under this section is limited to towing and storage charges assessed according to the tariff filed by the regulated carrier...

Section 6. AS 29.48.030(b) is amended to read:

We would recommend AS 29.48.030(b) not be amended except to point out that the forms of transportation that local government performs is deregulated since the ATC does not regulate buses.

Section 7. AS 39.25.120(c)(6) is amended to read: No comment except that it appears the section cited should be 39.120(c).

Section 8. AS 42.07.191 is amended to read: AS 42.07.191 should not be amended.

6. Comments.... Continued.

Section 9. AS 42.10.160 is amended to read: Line 4 referring to amendment of filing fee from \$50 to \$75. The Commission does not have a definite comment on this amendment. However, based on work that must be performed on any application, the fee separation between air and motor does not appear appropriate. In all fairness, the application fees for motor and small aircraft application should be the same. The \$150 figure would more closely approximate the cost of processing.

Line 9--referring to increase from \$25 to \$37.50 for initial interstate filings. This amendment is illegal as 49 CFR 1023.13 limits state filing fees to \$25 nationwide. Therefore this amendment should be stricken and filing fees left at \$25.

Line 13--referring to increase from \$10 to \$15 for annual renewal of interstate authorities. As mentioned above, 49 CFR 1023.13 limits the fees charged by a state. In the case of renewals, the allowable fee is \$10. Therefore, this amendment should be stricken and the fee left at \$10.

Section 10 AS 42.10.240(a)(1) is amended to read: No comment.

Section 11 AS 42.10.240(a)(2); is amended to read: No comment.

Section 12 AS 39.25.120(c)(7); AS 39.50.200(b)(30); AS 42.07.011 - 42.07.111; and AS 44.66.010(a)(2) are repealed.

The ATC would recommend that the statutes not be repealed as this essentially does away with the ATC.

If the Legislature elects to combine the regulatory functions into one agency, some steps should be taken to assure the qualification of the Commissioners in the area of transportation as is currently required in AS 42.07.

Section 13 Transition.

If the ATC's recommendations are taken to continue the agency, then a transition would not be necessary. If the bill is passed as written, the transition would appear workable except that an additional assistant Executive Director position should be created within the APUC to administer the transportation function. Normally in States with a single regulatory agency each major functional Staff area is separate from the other. While certain shared space and clerical functions are used by all sections, the technical staff maintains a functional identity.

Appendix D

Statutes Requiring Operator Reports.

The statutory basis for requiring motor and air carriers to file reports are:

AS 42.10.070(4) The Commission. . .

(4) may require every common carrier to file reports and other data;

AS 42.10.080(4) The Commission shall. . .

(4) require every contract carrier to file reports and other data and

AS 02.05.160 The Commission may require the filing with it of any tariffs, schedules and reports which an air carrier is required to file with the Civil Aeronautics Board or the United State or any other federal agency.

AS 02.05.170(a) The Commission may require annual reports from any air carrier covering any operation or business. The Commission may also require monthly, periodical, and special reports from an air carrier and may prescribe the manner and form in which these reports shall be made. . . .

Based on the statutes the Commission published 3 AAC 76 entitled Uniform Systems of Accounts and Reports covering the motor carriers effective January 1, 1982. Generally, 3 AAC 76 requires the carrier to either file an annual income statement accounts or file with the ATC a copy of the ICC reports made by the carrier. The State form is patterned after the form outlined in 3 AAC 76.070 and explained in 3 AAC 76.080. The form consists of the front side showing a dollar amount and th back side showing equipment inventory and controlling stock holders. Prior to the change in ICC reporting requirements, Class I and II carriers could file a copy of their ICC reports with the ATC, now they file either.

It does not appear that it will be necessary to change the motor statute as the language is not specific. The Commission may have to revise 3 AAC 76 to clarify references to the ICC once the Federal agency makes a final decision as to what reports they are going to require to be filed. Currently, the ICC's requirements for reports and accounting

system requirements are not clear as they are still in the rule making process. There is every indication that the ICC is going to simplify the reporting system, but it does not appear that all reports are going to be eliminated.

As in the motor act, the air act provides only general language that gives the Commission considerable latitude in what reports are required. These would not appear to be a necessity to change AS 02.05.170 as the language is permissive.

The subject of required reporting is possibly one of the hottest areas of debate outside the right of entry in the regulation versus economic deregulation question. Several jurisdictions including many federal regulatory agencies have taken steps to "reduce paperwork" which generally has meant doing away with required reports that were duplicating information received from other sources, streamlining or simplifying reports, and, possibly most important, asking only for information necessary to perform their regulatory job.

There is a definite need for some information so that the regulatory agency has some knowledge of what is happening in the industry. While the collections of statistical data can easily get out of control, the need for some statistics will always be present.

The ATC requirements on reports from both air and motor carriers is really minimal when compared to other agencies such as the Civil Aeronautics Board that requires separate quarterly reports and one monthly report. Possibly the ATC's biggest problem has not been in collection of reports, but in what is done with the information once it is collected. Unfortunately, there has not been adequate funds to process the data in a usable system where quick retrieval is possible. With the exception of the origin and destination information received from air carriers, most of the information must be hand sorted to generate the answer to the questions asked, which is both time consuming and somewhat unreliable as human error can taint the statistics.

The statistics are used by the ATC to determine carrier activity, equipment utilization, operating expenses, in gross terms the income both before and after operating expenses and in air, traffic patterns. This information is definitely important for determining new entry and evaluation of applicant's expectation as to the market segment that he plans to

capture. It must be realized that normally new entries are not going to generate new traffic, but only capture part of the traffic available to existing carriers. The decision that the regulatory commission must make is whether the split between old and new will be enough to support both carriers.

APPENDIX E

Changes Dictated By Federal Deregulation

To date the federal deregulation effort has not placed the State of Alaska in the position of having to change its laws to avoid statutory conflict. The federal deregulation has caused considerable philosophical conflict between the approach taken at the national level and the State level. This philosophical conflict is prevalent in the federal relationship with all the States except Arizona, Florida, and Wisconsin who have deregulated.

The first problem when discussing deregulation is the definition of the term. In a practical sense the term means the reduction of regulation; not the elimination of regulation. Therefore, the conflict between the States and the federal government is over how much latitude the regulated industries are to be allowed.

If the Legislature was to decide to follow the federal trend, both AS 42.10 and 02.05 would need major revision. Generally, if both acts are not amended, the impact of federal deregulation will be limited, given that the federal government does not attempt to preempt State jurisdiction in intrastate commerce. There will be a need to fill the void in such areas as commercial vehicle safety and transportation of hazardous materials as it appears the federal government will not be as active in enforcing as it was. If the State elects to maintain the protection of intrastate carriers from the influx of ICC carriers that attempt to siphon off intrastate freight, some additional enforcement will be needed. If the federal government ceases the essential air service subsidy program in 1988 as currently stated in the auditing legislation, the State of Alaska would be confronted with the issue of providing State funds to replace the discontinued federal subsidy. Since the EAS program is just getting under way, there is no way to predict the fiscal impact, but the federal payout on subsidized matters is expected to be about five to seven million in 1983/84. This number can change a lot either way as the program is very flexible and is primarily based on carrier losses versus earnings in the specific service area.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

ALASKA TRANSPORTATION COMMISSION

BILL SHEFFIELD, GOVERNOR

SUITE 778, FRONTIER BUILDING
3601 C STREET
ANCHORAGE, ALASKA 99503

PHONE: 561-4221

March 14, 1983

Senator Richard Eliason, Chairman
Labor and Commerce Committee
Senate
Pouch V
Juneau, AK 99811

Dear Senator Eliason:

Your staff has requested that the Alaska Transportation Commission respond to comments made in the Analysis of Public Need section of the April 1, 1982 Performance Review prepared by the Division of Legislative Audit.

The following statement appears in the introductory paragraph:

"This analysis is not intended to be comprehensive in nature."

Then follows comments relating to nine specific statements. The comments are obviously slanted against the ATC and no effort is made to avoid unsupported generalities. There is no effort made to support the conclusion other than references back to the Recommendations.

Our specific comments for each of the nine areas are as follows:

I. The extent to which the board, commission, or programs has operated in the public interest.

The ATC believes that its operations are in the public interest. Efforts have been made to reduce the processing time of applications while still guaranteeing that all parties receive due process. While this effort may have not been obvious during the time frame covered by the audit, calendar year 1980-81, it was obvious in calendar year 1982 when processing time for non-protested applications averaged less than 90 days. This reduction has been made in spite of the fact that requested additional staff that was recommended in the 1978 audit were never approved in the operating budget.

There is no indication of how the public interest is to be better served by the recommended merger of the ATC and the APUC. It would appear that the public and the regulated industries would be better served by an adequately funded ATC rather than further diluting the economic regulation of transportation by combining it with the regulation of utilities.

The enforcement effort is being improved with a concentration of manpower in three general areas--authorized carrier compliance, elimination of unauthorized operations, and commercial vehicle safety. Again, this effort does not always generate obvious results since seven agents must supervise about 445 authorized motor carriers, 270 authorized air carriers, probably 1500 legitimate private carriers and probably, at any one time, about 50 active unauthorized carriers.

II. The extent to which the operation of the board, commission, or agency program has been inspired or enhanced by existing statutes, procedures and practices which it has adopted, and any other matters including budgetary resource and personnel matter.

The ATC concurs that it was necessary to promulgate revised regulations to assist in a more efficient processing of applications and enforcement action through the hearing stage. However, the length of time in promulgating the regulations did not impede the program as the existing regulations were adequate. It was simply an effort to clarify the procedures for the sake of all concerned. Since the revisions of the procedures covered some 28 pages of the Administrative Code, it is not surprising that it took several years for them to get through drafting into final print. Further, other proposed changes in the regulations have been tabled as the comments received at public hearings indicate they had the potential of causing more problems than improving the situations. It is our opinion that the ATC should have received a more positive comment for not implementing regulations that might have caused an economic hardship on the regulated industries without adequate staff justification.

Again we note that no comment was made concerning the attempts the ATC made to get additional staff as was recommended in the 1978 audit. Further, the fact the Commission received a budget reduction in fiscal year 1980 of \$103,200 from its maintenance level is not mentioned. It is difficult to maintain a level of service and to improve service without adequate funding and positions.

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

The Commission has recommended several items for legislative action and has testified on several others. It is difficult for a regulatory commission to recommend legislative changes as such changes have a tendency to either increase or decrease the level of regulation. The Commission is in a better position to advise the Executive and Legislative Branches of the State on the impact of proposed legislation on the industries and the Commission's ability to carry on its mandate.

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

As stated in the audit report, the Commission conducts its business through the hearing process that is designed to guarantee all participants fair treatment and due process of law. Further, the Commission publishes its journal twice a month which is sent to local newspapers, libraries, radio and television stations. The journal contains notices as well as procedural matters that are designed to inform the public of the Commission's business.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

As stated in the audit report, the journal is designed to inform the public of the Commission actions. To further insure that all local participants that wish to take part in a proceeding, the Commission travels to the locality most convenient to the applicant or the respondent. While general public comment is not solicited at Commission proceedings, as such proceedings are quasi-judicial in nature and all parties must be assured of the right of cross-examination, time is allowed for public comment if requested by any party.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

The response in the audit appears not to relate to the statement. The statement concerns inquiries or complaints of the Commission activities not how enforcement is doing in answering complaints about violation of the statutes or regulations. While we have agreed that the enforcement effort can be improved, this effort has no bearing on our willingness and performance in answering inquiries from the public. We answer as promptly as possible and seek to generally satisfy the public that the ATC is functioning within the law.

The statements concerning the Ombudsman's office are totally misleading. The Commission makes every effort to answer all correspondence from that office within the time frames indicated. Our records indicate that with very few exceptions the Ombudsman has not found the Commission in error. It appears to us that the 33 complaints should have been analyzed so a clear picture of the exact number of resolved and unresolved complaints could be established.

VII. The extent to which a board or commission which regulate entry into an occupation or profession has presented qualified applicants to some of the public.

The Commission agrees that more analytical work might be performed on applications. However, this does not mean that the applicant is unqualified. It must be remembered that the regulated transportation industry is highly competitive that the as well as being at the mercy of changing economic condition. Therefore, the analytical evaluation of the application and projected services do not guarantee success, but only that the applicant meets entry standards.

VIII. The extent to which state personnel practices including affirmative active requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

The Commission has made every effort to function within the state personnel systems, labor agreement and affirmative action program. To the best of our knowledge there have not been any problems in this area for several years.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board, or commission to better serve the interest of the public and to comply with the factors enumerated in this subsection.

The comments in the audit referring the reader to the "Findings and Recommendations" does not answer this statement. The recommended merger of the two Commissions even with the suggestion of a management study does not evaluate the need for statutory, regulatory or budgeting changes necessary for the ATC to conduct its business.

The ATC has requested new positions that would have assisted in the elimination of some of the problems enumerated in the audit and in fact recommended in the 1978 audit. Everyone realizes that any agency can only perform the tasks for which it is funded and must determine the priority of service based on the funds received. The ATC would like to expand its activities in the area of economic review of active carriers as well as determination of market needs for additional service, but neither the funds nor the positions have been approved.

In the area of enforcement, the ATC could obviously increase the number of illegal activities that are brought before the Commission for adjudication. But the increase requires more manpower as again priorities must be set between the three areas of enforcement--surveys and enforcement of authorized carriers, prevention of unauthorized carrier, and vehicle safety. As stated in our response to the audit, the Commission recognizes the need to streamline the processing of accusations and citations, but only so much can be done to improve without additional manpower. The enforcement of economic regulation is not a simple matter and requires many manhours of work to gather the evidence to prove a violation has occurred and to prove who committed the violation. It is easy to accuse, but it can be difficult to prove that the accused should have a civil penalty levied against him.

There is no doubt that the major question that should be before the Legislature is that of deregulation. There needs to be a decision as to what direction should be taken in the future as to the amount of economic regulation is needed or desired by both the public and the industry. While very few

March 14, 1983

states are completely deregulating, several have started looking at lessening regulation that is shown to be of little real value or unreasonably blocks entry or competition. The Commission and the Staff would be happy to assist the Legislature if it is determined that review of AS 42.10 and AS 02.05 is needed. There will always be a need to protect the public by requiring carriers to register, show a degree of fitness, provide proof of insurance, and to operate safe vehicles. However, the need to prove public convenience and necessity for entry, filing and justifying tariffs, and all the required filing of reports may not be as necessary as it was once thought to be.

If you need any additional information, please let me know and we wish to thank you for this opportunity to express our views.

Very truly yours,



Keith H. Miller
Chairman

KHM/LWM/rm

cc: Richard Lyon, Commissioner
Department of Commerce &
Economic Development
Pouch D
Juneau, AK 99811

Emil Notti, Legislative Assistant
to the Governor
Pouch A
Juneau, AK 99811

Room 417

STATEMENT OF POSITION

offered by

ALASKA TRUCKING ASSOCIATION, INC.

SUPPORTING THE CONTINUATION OF THE
ALASKA TRANSPORTATION COMMISSION

STATEMENT OF POSITION

The Alaska Trucking Association, Inc. (Association) is a non-profit trade organization representing 325 trucking firms and allied industry firms throughout the State of Alaska. Our membership consists generally of two major groups, the For-Hire Carrier and the Private Carrier. The for-hire carrier group includes common carriers, contract carriers and exempt carriers as well as the water carriers. Our membership stretches from the northernmost tip of Alaska (Barrow) to the extreme south and west (Dutch Harbor and Ketchikan), to the Nome/Kotzebue area and to the Canadian border on the west. The largest concentration of membership is in the Southcentral, Southeast and Interior regions.

The Association's purpose is to foster and promote an economically sound transportation system in Alaska.

The regulated motor carrier industry is composed overwhelmingly of small firms with the vast majority grossing less than \$500,000 a year. At the other end of the spectrum are the large well-established carriers and included in the group are some of the industry's publicly held firms.

The importance of a regulated motor carriage system, and the trucking industry as a whole to our State's vital transportation system cannot be overstated. Our motto, "If you got it, it came by truck," is not an attempt to overrate our industry. It is simply a fact that goods, supplies and materials are shipped to Alaska by outside manufacturing markets and that shipment always begins and ends with truck movement.

There are approximately 13,281 commercial trucks registered with the State of Alaska and approximately 9,178 commercial trailers. Most of these trucks and trailers are involved with freight movement and these numbers give some indication of the number of jobs offered to Alaskans within the trucking industry. The trucking industry is one of the largest private industry employers in the state.

Recently, Senate Bill 35 was introduced. Senate Bill 35 is an act "relating to transportation merging the Alaska Transportation Commission with the Alaska Public Utilities Commission; and providing for an effective date." Inherent in this bill are some changes in the manner in which motor transportation is regulated in the State of Alaska.

Senate Bill 35 contains a number of items. First, it increases certain weight and application fees for aircraft and motor vehicles. While the state trucking association is cognizant of the need to keep fees in line with inflation, the Association is partially opposing a fee increase at this time because of the recent federal increase in taxes which, in part, are directed exclusively against the motor transportation industry. The association will provide a separate statement dealing with the increased fees portion of the bill.

I. Merger of the Alaska Transportation Commission (ATC) with the Alaska Public Utilities Commission. The Alaska Trucking Association has considered the findings and recommendations of the Division of Legislative Audit in this regard but believes that the merger of the two commissions is not warranted at this time. The Association's reasons for opposing the merger are as follows:

1. The Public Utilities Commission, at the present time, is still assimilating the Alaska Pipeline Commission. It already has an overcrowded docket and the assimilation of another 500 to 600 cases annually would, of necessity, dilute the time spent on transportation matters by the state regulatory commission. The Association believes that the Commission should be directed to refocus its attention on the proper administration of the state Transportation Act. The Association believes that this will best serve the public interest.

2. The saving in space and personnel would, at best, be illusory. Commissioner Miller, in his testimony before this committee, indicated that the Commission was underfunded by over \$100,000 in its last budget. The legislative audit report suggests that the change be a reorganization of policies, procedures and staffing. However, based on a review of the recommendations put forth by the report, it would appear that more staff and commission work is needed rather than less; hence, the Association does not believe any real cost savings will result from a merger.

3. Alaska's unique needs and isolation from the contiguous 48 states makes it totally dependent upon motor and air transportation. The previous Governor and the Legislature have already recognized the importance of transportation to the state in forming the Department of Transportation. The same recognition should be given to the regulatory phases of transportation. In fact, it might be noted that the federal government has two agencies dealing with motor and air transportation, to wit, the Interstate Commerce Commission and the Civil Aeronautics Board.

4. Regulatory policies that are necessary in dealing with transportation, i.e., a greater degree of competition in the marketplace, a greater number of carriers, a greater number of diverse needs to be met, are not consistent with the regulatory policies that might be applied for public utility regulation which deal with companies with high fixed assets and, generally, a monopoly or quasi-monopoly service area. This difference was one of the original justifications for splitting the Alaska Transportation Commission from the original Public Services Commission. This difference was true in 1957 when the split occurred and is even more true today in light of Alaska's diverse transportation needs.

II. The Legislature Should Direct the Commission to Undertake Regulatory Initiatives in Three Major Areas, (1) Certificates of Authority, (2) Tariffs, and (3) Safety Inspections.

1. Certificates of Authority. The Association recommends two initiatives in this area.

(A) The legislative audit report, in its Recommendation No. 2, advised the Legislature that temporary authority to motor and air carriers should be granted in accordance with statutes. Discussion of the Commission practices in this regard is already contained in the legislative audit report and will not be further discussed herein. The audit report also directed the Commission to strengthen its review of a carrier's financial fitness. Financial fitness is critical in determining the suitability of a given carrier to provide transportation. If a carrier is in financial trouble, often the first items to go are maintenance and safety procedures. If a carrier's financial capability is more closely examined to begin with, there will be greater assurance that the carrier will have sufficient assets to pay its expenses as they become due. While there is no guarantee in the transportation business that a company will make money, at least a closer financial analysis will insure a greater probability of a financially solvent carrier and will thus enable the carrier to operate properly and safely.

(B) The second aspect of authority certification that is of great concern to the association is dealing with carriers who operate either beyond their authority or who have no authority at all. The legislative audit committee, in its Recommendation No. 4, recommended that the Commission Staff take a stronger position and a stronger enforcement posture. Alaska Transportation Commission Chairman Miller, in testifying before the committee last week, noted that the Commission was aware of 50 unauthorized operations. The committee should realize that the failure to take an efficient enforcement posture ultimately costs every consumer who deals with an authorized carrier more in shipping charges. A carrier's revenue must come through its tariff charges. If the total pool of common carrier traffic is being diverted to non-authorized operations, the authorized carrier, in order to cover its costs, must, of necessity, raise rates. A strong enforcement posture will reduce this illegal siphoning off of carrier traffic revenue and will reduce the pressure to increase transportation charges.

2. Tariffs. Again, the Association recommends two initiatives in this area.

(A) First, the Commission must perform field surveys of regulated motor carriers. The legislative audit report noted that of 630 regulated carriers in 1981, 36 field surveys were performed, all on air carriers. None were performed on any motor carriers. Illegal operations can also include illegal applications of tariffs. Carriers provide services usually below their tariffs, again illegally siphoning off traffic and having the same financial effect on authorized carriers as illegal operations.

The Association would note that some of the smaller carriers may not have experienced tariff personnel. The ATC, in performing its field surveys, can assist the carriers' personnel in the proper application of the carriers' tariffs. The Association is not recommending that a Commission enforcement agent be placed in every trucking concern's office, but rather that the Commission use its best judgment in insuring tariff compliance. Obviously, if a carrier repeatedly violates its tariff or misuses its authority, it should be prosecuted to the full extent of the law.

(B) The second area in tariff regulation is the need by the Commission to propose appropriate cost and accounting regulations in order that it will be able to properly review tariff filings by carriers. Again, the legislative audit report, in its Recommendation 3(B) recommended that the Commission require the carriers to submit appropriate financial data for rate changes. To this, the Association has no objection, per se; however, the Commission must adopt suitable accounting and rate regulations and perform proper cost studies since the filing of raw financial data alone is not enough to review the appropriateness of tariff filings in motor transportation. The Association supports the need for such accounting and cost justification regulations, but the initiative must come from the Commission. Obviously, with 630 motor and air carriers and the recognition that not all of these companies are large companies, the type of information that the Commission will need must be tailored to the competitive needs of the industry and the geographical location. However, something must be done because already there is evidence of predatory pricing which will only further exacerbate the weak financial condition of the motor transportation industry in Alaska. Also, it might be noted that such regulations would give shippers and other members of the public an opportunity to have their input in the regulatory process. The Commission already has powers to prevent predatory pricing by using its minimum rate order powers.

3. Safety Inspections. The Association understands that as of March 11, 1983, money for the safety inspection function of the Commission has run out. It is unthinkable to the Association that Alaskans can think of multi-million dollar capital projects being funded while this important element of public safety is neglected. The Commission is urged to institute and the Legislature is urged to appropriate sufficient funds for safety inspections. Under Recommendation No. 5 of the legislative audit report, it was noted that field surveys should include safety inspections. The Association concurs with inspections because of the obvious benefit of inspections and surveys to both the public and to the motor carrier, i.e., less probability of accidents occurring. Also, such inspections have a more positive effect in that if the number of accidents occurring are reduced, presumably insurance rates would go down and the pressure to raise transportation rates would decrease. Again, the initiative must come from the Commission along with the assistance of both the Legislature and the Alaska transportation industry.

4. Other Matters. In regard to the de-regulation of dump truck operators, the Association believes that this should be a separate subject matter in separate legislation and not in the bill. The Dump Truck Industry has its own association. This Association does perform some services for them such as providing the casualty insurance trust; however, it is believed that the best interests of the public are served by severing this provision from the bill and dealing with it separately and allowing the affected industry to speak for itself.

III. CONCLUSION

THE LEGISLATURE SHOULD EXTEND THE ALASKA TRANSPORTATION COMMISSION FOR FOUR (4) YEARS AND SUPPORT THE COMMISSION WITH ADEQUATE FUNDING.

The Alaska Trucking Association generally endorses the results of the legislative audit. However, it believes that a merger of the Alaska Transportation Commission with the Alaska Public Utilities Commission will only exacerbate the problems set forth in the legislative audit report rather than solve them. For example, the legislative audit Recommendation No. 6 suggest, that commissioners and hearing examiners write all of the formal orders of the Commission. Obviously, the suggestion of transferring only one commissioner who has a background in transportation to the Public Utilities Commission if merger is approved and attempting to comply with this recommendation is inconsistent. What the Alaska Transportation Commission needs is more help and not less.

Generally, the suggestions made by the legislative audit and endorsed by the Alaska Trucking Association all require time to implement. Tariff regulations are needed on costs and accounting. The legislative auditors noted several areas in which the Commission must improve its internal procedures. The Association believes that what is needed is suitable financial support for the Commission and not merger of the Commission with the Public Utilities Commission.

It is, therefore, the recommendation of the Alaska Trucking Association that the Alaska Transportation Commission's term be extended under the Sunset Law for four (4) years. Coupled with that should be a legislative committee report urging the Commission to comply with the recommendations of the legislative audit. Legislative direction should be given with adequate and sufficient financial support, both from manpower and budgetary standpoints, to enable the Commission to effectively do its job. The Association does not think it is necessary to have a Commission enforcement agent threatening civil penalties to insure compliance with the Commission's regulations. For the most part, most air and motor operators try diligently to comply with the law. However, because transportation regulations, as in any other regulated field, are often complicated, Commission guidance is needed to assure that operators comply with the law. However, where appropriate, the full enforcement capability of the Commission should be brought to bear on those operators who refuse to comply with the law.

Good regulation should be continued in the public interest. It assists the public, which, after all, involves each of us as consumers; it assists shippers; and it assists those connected with the motor carrier industry.

Thank you for the opportunity to provide this statement of position.

ALASKA TRUCKING ASSOCIATION, INC.

By W. H. Hatcher
Its Managing Director

PATRICK M. RODEY
3271 MONTCLAIRE CT.
ANCHORAGE, AK 99503

DURING SESSION:
POUCH V
JUNEAU, AK 99811
(907) 465-3717

ALASKA STATE SENATE

March 10, 1983

Senator Dick Eliason
Chairman, Senate Labor & Commerce
Pouch V
Juneau, Alaska 99811

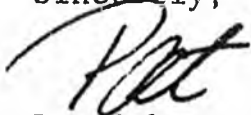
Dear Dick:

It has been brought to my attention the Alaska Transportation Commission's sunset date is June 30, 1983, although they will have a year wind down period under the regulations. As of this date, there has been no legislation introduced to extend the existence of the commission.

I urge you as the Chairman of Labor & Commerce to consider supporting the continuation of the Transportation Commission.

Thank you for your consideration of this matter.

Sincerely,



Patrick M. Rodey

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

ALASKA TRANSPORTATION COMMISSION

BILL SHEFFIELD, GOVERNOR

SUITE 778, FRONTIER BUILDING
3801 C STREET
ANCHORAGE, ALASKA 99503

PHONE: 561-4221

March 3, 1983

Representative Jerry Ward
Chairman, Finance Sub Committee
Commerce and Economic Development
Pouch V
Juneau, AK 99811

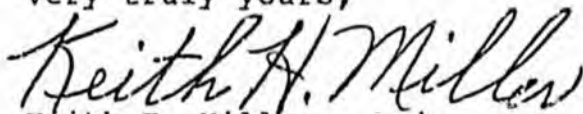
Dear Representative Ward:

Reference your letter of February 8, 1983, requesting specific response to the concept of merging the Alaska Transportation Commission and the Alaska Public Utilities Commission; the ATC's plans to remedy the problems disclosed in the audit; the ATC's response to SB 35 and the changes necessitated by Federal deregulation. I believe it most appropriate to respond by several attachments instead of attempting to combine all in one letter. My reasoning is that the issues are best handled separately as a single response would be both confusing and possibly considered contradictory.

Therefore, please find attached the following:

- A. Comments Concerning Merger.
- B. Plans to Remedy Problems Disclosed in Audit.
- C. Response to SB 35
- D. Operators Reporting Requirements.
- E. Changes Dictated by Federal Deregulation.

Very truly yours,



Keith H. Miller, Chairman
Alaska Transportation Commission

KHM/jv

cc: Richard A. Lyons, Commissioner
Dept. of Commerce & Economic Dev.

Emil Notti, Legislative
Assistant to the Governor

ATTACHMENT A

COMMENTS CONCERNING MERGER OF ATC WITH APUC

It is the opinion of the Alaska Transportation Commission that merger with the Alaska Public Utilities Commission would not accomplish any positive result. The merger of the two agencies would not be in the interest of the public or the regulated industries.

The primary problem is that the two agencies deal with two different regulatory responsibilities. The APUC has the responsibility to regulate entities that belong either to the rate payers formed into cooperatives or to a local government. There are relatively few privately owned utilities in Alaska. In almost every case the utility has a monopoly position in its market area, and competition for customers is generally not a factor in either the utilities operations or in the proceedings before the APUC. The ATC has the responsibility to regulate business entities that cover the spectrum from sole proprietorships or small partnerships to corporations that are part of larger national corporations. By the very nature of the type of carriage used--private, common or contract--the ATC is involved in all types of transportation. No regulated carrier has a monopoly position in a market area.

Competition from other carriers in the same mode of transportation as well as from other modes clearly plays a determinate role in the price of service as well as quality of service. Stated simply, a shipper can find another carrier or provide its own carriage, but a utility customer has only one utility company to supply each service and to provide its own service is either impossible or extremely expensive.

The procedures each Commission has developed are designed to meet the needs of their regulated industries. The APUC is actively involved in the complexities of rate setting for existing utilities while the ATC is involved in reviewing matters relating to authorities and enforcement. The work load is more than adequate in each area to keep all eight Commissioners busy. Unlike many jurisdictions, the Commissioners assigned to each Commission are actively involved in the decision making process and are not simply an appeal board reviewing administrative law judge opinions.

To burden the five APUC Commissioners with the additional work load that is generated by transportation could seriously impact their ability to perform. During calendar year 1982, the ATC had 667 dockets filed, issued 803 orders, and conducted oral hearings on 132 dockets. Merging the two Commissions will not alter the work load as it is generated by the regulated industries, the statutes and the procedures. In addition, the ATC Commissioners are active in the essential air service program currently before the Civil Aeronautics Board, the granting of federal authorities to air carriers wishing to operate in Alaska, and a major joint board hearing with the Interstate Commerce Commission. All of these activities require a great deal of time in reviewing written submissions, as well as making the "decisions."

There appears to be no real reason to combine the two Commissions other than the fact that most other States have a single regulatory Commission. The recommendation does not make an effort to compare the regulatory needs, functions, or circumstances of Alaska to other States. For example, the report fails to recognize that only six other States regulate air commerce and then generally only scheduled service. The Alaskan trucking industry's unique situation of not being able to compete in interstate commerce is ignored. The Alaskan truckers are severely limited from competing across State boundaries since the expense of crossing Canada makes a multi-state operation impractical.

The merger would accomplish very little to streamline the responsibilities of the agencies and the level of regulation would remain the same. Further, very little, if any, cost savings would be made. The individual regulatory staff personnel would continue to function as they currently do to carry out their respective responsibilities.

Historically, the functions of the ATC and APUC were once performed by a single agency, the Alaska Public Service Commission. The Legislature in 1966 divided the Alaska Public Service Commission and created the Alaska Transportation Commission to administer the motor and air acts. The primary reason for the division was that the single agency had not been able to adequately serve the regulated industries. There is no indication that the problem that confronted the single agency in the 1960's would not again develop in the 1980's and cause a similar problem.

ATTACHMENT B

PLANS TO REMEDY PROBLEMS DISCLOSED IN AUDIT

As indicated in the response to the Legislative Audit, the Commission does not agree with the stated audit conclusions, nor did it agree that the problems discussed in the recommendations were as serious as indicated.

The Commission admitted in its response and still admits that improvements can be made in its operations. As will be indicated, efforts have already been made to improve the level of service to both the public and the regulated industries. It is still our contention that none of the recommendations are serious enough to justify the conclusion that the agency is failing in its responsibilities.

The specific actions that either have been taken to improve our operation or our plans to remedy the problem areas are as follows:

Recommendation 1

The Alaska Transportation Commission should become a section with the Alaska Public Utilities Commission (APUC).

The response to this recommendation is presented in the first part of this report.

Recommendation 2

Temporary authority should be granted in accordance with statutes.

We do not agree that temporary authorities are being granted without considering the statutes.

While in the past some temporary authorities were granted in what appears to have been an expedited manner, this is no longer the case. Temporary authorities are still being granted, and in a few special cases have been granted before publication in the Journal. The use of the telegram has generally been discontinued and is now only used in special circumstances. In all cases now, an order is written before the temporary is granted.

As a general rule temporaries are not being granted until after the publishing period, and in many cases are not being granted at all. Further, the revised procedural regulations that were effective May 28, 1982, places more responsibility on the applicant to justify the request for a temporary exemption.

The Commission is still of the opinion that the statutes provide enough latitude to allow for the issuance of temporary exemptions. Quite frankly, to limit the issuance of temporary exemptions within the narrow parameters suggested in Recommendation 2 would be more of a disservice to both the industry and the public than the granting of such permissions. At no point in time does the issuance of a temporary exemption deny any party their right of due process before the Commission. On the other hand, the denial can cause hardship on the applicant and the public.

In fact, in retrospect it is our opinion that the audit has taken the narrowest possible view of the temporary exemption process and instead of analyzing why the temporary exemption was issued on a case by case basis, has simply lumped them all together to insinuate the Commission is failing in its responsibilities. The audit completely fails to recognize AS 42.07.121 which grants the Commission considerable latitude in administering both AS 02.05 and AS 42.10.

The procedures for handling all dockets have been changed somewhat since the period covered by the audit. There has been an effort to cut processing time, and issuance of permanent authorities for unprotested applicants in 1982 averaged three months. The procedures for handling temporary applications have also changed in that telegrams are seldom used, only rarely is a temporary considered at any time other than the weekly agenda meeting; a staff recommendation is normally solicited as to need, financial fitness, etc., and in all cases an order is prepared promptly after a Commission decision has been made. The actual statistics for calendar year 1982 indicate the following:

	Motor	Air
Temporary Applications Received	24	30
Temporary Exemptions Granted	9	8
Temporary Exemptions Denied	10	18
Temporary Exemptions Granted in less than five work days	3	3

Note the columns do not total as some applications were pending at year end.

Recommendation 3

The economic regulatory procedures of ATC should include financial analysis of data submitted by carriers.

This recommendation is presented in three separate parts and we will indicate our plans in the same format. We generally agree that more financial analysis could be done. However, it should be noted that to do so is going to require more staff, higher support cost for such analytical necessities as computer time, programming, data entry, etc., and even more important is going to greatly impact the regulated industries. While there is a cost in reviewing data, the real cost is in the cost of preparing the data for submittal. Therefore, any attempt to improve the effort to analyze and judge the financial data submitted by applicants and carriers is going to directly impact the same people both in terms of cost of preparation, cost of verification and in time, as the more analysis you do the longer it takes to process the application.

Our response to this three-par' recommendation is being made with the realization that any improvements must take into consideration our available funding and what can reasonably be expected from the industry as a whole.

- A. Processing of applications should include financial analysis of carrier's financial statements and financial data.

Steps have been taken to improve the quality of the review of financial data issued. The review is done by either a tariff specialist or an accounting technician. A review sheet is included in all application dockets giving a general financial analysis of the application. Further, if additional information is needed or an item needs explanation, the applicant is contacted by letter and required to supply such additional data as needed. Failure on the part of the applicant to supply the information results in the application being rejected by staff.

The staff is considering a new application form that requires the applicant to submit additional financial data as well as confirmation of assets and liabilities. However, it appears that regulations will have to be published and approved as the confirmation requirement would be new as part of the application process.

B. ATC should require supporting documentation of tariff changes for review and analysis.

The tariff staff is now requiring that all tariff changes be supported with cost justification. The motor carriers have indicated some opposition to the concept that all rates have to be justified by all carriers. The carriers have indicated in recent hearings before the Commission that cost justification is expensive and time consuming and will adversely affect the carriers ability to be competitive. The staff has opened several tariff investigations and will continue to do so. The staff expects that the final question of how much cost data that will be required for tariff filings will have to be resolved through the promulgation of regulations.

C. Annual and quarterly financial reports should be analyzed.

The question of what is needed on annual and quarterly reports is most difficult to answer. The carriers generally resent having to file any reports, contending that reports are expensive to prepare and are open to public review. The staff is of the opinion that some information is needed and can only be supplied by the carriers. Additionally, many other agencies request information from the Commission concerning transportation in Alaska.

Therefore, the staff would prefer to continue to collect annual and quarterly reports and to continue to work on developing an adequate information system that will allow the retrieval of statistical data. It should be noted, that many jurisdictions are reducing reporting requirements as part of deregulation.

Recommendation 4

Complaints and accusations should be investigated and processed in a timely manner and accurate records of the complaint resolution process should be maintained.

Steps have been taken to improve the record keeping efforts in the enforcement section and some improvement is taking place. Part of the improvement is due to the assignment of agents to specific cases and if the case develops into a major case, two or more agents may be assigned specific duties so that the necessary information can be collected.

The effort to increase the productivity of enforcement is going to continue. However, there is no way to ensure that some cases are not going to extend over what appears to be an unusual length of time. The effort to collect adequate evidence of violations simply takes time, especially since the violators seldom cooperate. To further complicate the enforcement effort, there are many minor contacts by telephone that do not result in any formal actions, but are very time consuming and prevent the enforcement agent from concentrating his efforts on a particular case.

Recommendation 5

The number of field surveys performed each year should be increased and should include a limited financial/compliance audit of accounting record.

The number of motor carrier and air carrier surveys has increased. The enforcement staff and tariff staff are working together to conduct more in-depth surveys of motor carriers.

We are finding that a thorough motor survey may take as long as two weeks when problems are found and every record must be reviewed. If the survey results in an accusation, another several weeks can be involved in just getting the supporting documentation necessary to prove a violation.

It is the staff's opinion that surveys are a very important element in economic regulation. However, there is a direct conflict for time between promptly resolving all complaints and at the same time be doing more in-depth surveys. To do both would require more staff.

Recommendation 6

The Commissioners and Hearing Examiners should write all the formal written decisions (orders) on docketed matters before the ATC.

The Commissioners attend most of the hearings in Anchorage and a portion of the hearings outside of Anchorage. By attending the hearings, the Commissioners can render a decision without the interim step of a proposed order. This both shortens the time between hearing and final order and lessens the work load on staff.

For the Commissioners to attend all hearings does not appear cost effective since a quorum by law is two Commissioners. Therefore, it is more economical to send one Hearing Examiner to preside over a case and render a proposed decision. All parties have an opportunity to respond to the proposed order and the Commissioners make their decision from the written record.

Recommendation 7

ATC should establish procedures for the accountability and collection of civil penalties.

The procedures for collecting civil penalties has been improved. There are new procedures in effect to have all cases with unpaid civil penalties called up for action after the fine is due and payable. The first action is a demand/reminder letter giving a set time to pay. If that is ignored, then the case is referred to the Attorney General's office if over \$2,000 is involved. If less than \$2,000 is involved, legal action is started in small claims court. If the offender is a carrier, a show cause order is issued to revoke the certificate for failure to pay.

This system should result in a higher percentage of fines being collected.

Recommendation 8

Alaska Statutes should be amended to exempt dump truck operators from certification and economic regulation.

The Commission concurs that dump truck operations should be exempt from economic regulations and regulated only as to the safety of operation as commercial vehicles, and as to the acquisition of adequate insurance. If such legislation was passed, the time currently being spent supervising dump truck operations could be spent in other areas.

Recommendation 9

Regulations should be promulgated in a timely manner.

The staff will continue working on needed regulations. The regulations that are currently published in the Administrative Code are adequate for the operation of the agency. The primary need for new regulations is to revise or expand

current areas to clarify procedures or requirements placed on carriers or applicants. The current trend is to require that administrative agencies have every decision making process covered by a printed regulation. This trend is good in that it helps ensure that everyone is treated equally, but it does place an additional burden on agencies such as the ATC. The interesting point in this recommendation is had the ATC not been trying to develop revised regulations, there would have been nothing to criticize.

There is no question that revised regulations should not take two years, but in some cases it is better for the revisions to die under public criticism than to push them through and create unworkable situations.

Recommendation 10

ATC should seek regulation to increase fees.

The ATC still supports the concept of increasing fees and further would support statutory language that would allow for the assessment of costs to participants such as appears in AS 42.05.651.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Commerce & Economic Development	Sponsor (Principal) Senator V. Fisher	Bill Number SB-35
Department Position: No comments on fees except lines 9 and 13 of Section 9 are contrary to Federal law. Opposed to transfer of Transportation Section to Alaska Public Utilities Commission and reference to deletion of current positions.		
XXXXXXXXX, Chairman of ATC <i>Keith H. Miller</i>	Date 1/27/83	Commissioner's Signature Date

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting)	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

The bill would increase the various fees charged by the regulatory body by 50% across the board.

The Bill would transfer the regulatory responsibility from the Alaska Transportation Commission to the Alaska Public Utilities Commission by essentially eliminating the three ATC Commissioners and Executive Director positions and making the current five APUC Commissioners responsible for the quasi-judicial actions necessary for administering economic regulation of motor and air commerce in Alaska. Continued.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

a) Elimination of all references to the transfer of the regulatory functions from the ATC to the APUC. Continued.

6. Comments:

The ATC believes it appropriate to comment on a section by section basis.

Section 1. AS 02.05.075(a) is amended to read:-The weight referred to in line 15 and 16 should read: "Applications including aircraft having a maximum payload capacity of not more than 7,500 pounds or a maximum seating configuration, exclusive of pilot's seat of not more than 30 passengers...\$100." Continued.

5. Amendments Proposed:

- b) Elimination of all references to the deletion of position currently in the ATC BRU.
- c) Necessary language to continue the ATC beyond its sunset limits by amending AS 44.66.010(7) to read June 30, 1986.
- d) Several other line by line amendments recommended in part 6.

6. Comments:

The line referred to in line 17 and 18 should be:—"Applications involving aircraft having a maximum payload capacity in excess of 7,500 pounds or a maximum seating configuration, exclusive of pilot's seat of more than 30 passengers...\$200."

These changes would bring the application fees in line with the regulatory division throughout the remainder of the Air Act between large and small aircraft operations. It would simplify the fee collection if application fees followed the same division as applicants normally fall into, either small operators or large.

Section 2. AS 02.05.090(f) is amended to read: No comment.

Section 3. AS 02.05.250(3) is amended to read: We would recommend AS 02.05.250(3) not be amended.

Section 4. AS 19.40.100(b)(3) is amended to read: We would recommend AS 19.40.100(b)(3) not be amended.

Section 5. AS 28.10.502(b) is amended to read:
This particular section should not be amended to delete the Alaska Transportation Commission. However, the section should be amended to recognize the deregulation of tow trucks under 14,000 pounds. Therefore we would suggest the following:

- b. A lien under this section is limited to towing and storage charges assessed according to the tariff filed by the regulated carrier...

Section 6. AS 29.48.030(b) is amended to read:

We would recommend AS 29.48.030(b) not be amended except to point out that the forms of transportation that local government performs is deregulated since the ATC does not regulate buses.

Section 7. AS 39.25.120(c)(6) is amended to read: No comment except that it appears the section cited should be 39.120(c).

Section 8. AS 42.07.191 is amended to read: AS 42.07.191 should not be amended.

6. Comments.... Continued.

Section 9. AS 42.10.160 is amended to read: Line 4 referring to amendment of filing fee from \$50 to \$75. The Commission does not have a definite comment on this amendment. However, based on work that must be performed on any application, the fee separation between air and motor does not appear appropriate. In all fairness, the application fees for motor and small aircraft application should be the same. The \$150 figure would more closely approximate the cost of processing.

Line 9--referring to increase from \$25 to \$37.50 for initial interstate filings. This amendment is illegal as 49 CFR§ 1023.13 limits state filing fees to \$25 nationwide. Therefore this amendment should be stricken and filing fees left at \$25.

Line 13--referring to increase from \$10 to \$15 for annual renewal of interstate authorities. As mentioned above, 49 CFR§ 1023.13 limits the fees charged by a state. In the case of renewals, the allowable fee is \$10. Therefore, this amendment should be stricken and the fee left at \$10.

Section 10 AS 42.10.240(a)(1) is amended to read: No comment.

Section 11 AS 42.10.240(a)(2); is amended to read: No comment.

Section 12 AS 39.25.120(c)(7); AS 39.50.200(b)(30); AS 42.07.011 - 42.07.111; and AS 44.66.010(a)(2) are repealed.

The ATC would recommend that the statutes not be repealed as this essentially does away with the ATC.

If the Legislature elects to combine the regulatory functions into one agency, some steps should be taken to assure the qualification of the Commissioners in the area of transportation as is currently required in AS 42.07.

Section 13 Transition.

If the ATC's recommendations are taken to continue the agency, then a transition would not be necessary. If the bill is passed as written, the transition would appear workable except that an additional assistant Executive Director position should be created within the APUC to administer the transportation function. Normally in States with a single regulatory agency each major functional Staff area is separate from the other. While certain shared space and clerical functions are used by all sections, the technical staff maintains a functional identity.

Appendix D

Statutes Requiring Operator Reports.

The statutory basis for requiring motor and air carriers to file reports are:

AS 42.10.070(4) The Commission. . .

(4) may require every common carrier to file reports and other data;

AS 42.10.080(4) The Commission shall. . .

(4) require every contract carrier to file reports and other data and

AS 02.05.160 The Commission may require the filing with it of any tariffs, schedules and reports which an air carrier is required to file with the Civil Aeronautics Board or the United State or any other federal agency.

AS 02.05.170(a) The Commission may require annual reports from any air carrier covering any operation or business. The Commission may also require monthly, periodical, and special reports from an air carrier and may prescribe the manner and form in which these reports shall be made. . . .

Based on the statutes the Commission published 3 AAC 76 entitled Uniform Systems of Accounts and Reports covering the motor carriers effective January 1, 1982. Generally, 3 AAC 76 requires the carrier to either file an annual income statement accounts or file with the ATC a copy of the ICC reports made by the carrier. The State form is patterned after the form outlined in 3 AAC 76.070 and explained in 3 AAC 76.080. The form consists of the front side showing a dollar amount and th back side showing equipment inventory and controlling stock holders. Prior to the change in ICC reporting requirements, Class I and II carriers could file a copy of their ICC reports with the ATC, now they file either.

It does not appear that it will be necessary to change the motor statute as the language is not specific. The Commission may have to revise 3 AAC 76 to clarify references to the ICC once the Federal agency makes a final decision as to what reports they are going to require to be filed. Currently, the ICC's requirements for reports and accounting

system requirements are not clear as they are still in the rule making process. There is every indication that the ICC is going to simplify the reporting system, but it does not appear that all reports are going to be eliminated.

As in the motor act, the air act provides only general language that gives the Commission considerable latitude in what reports are required. These would not appear to be a necessity to change AS 02.05.170 as the language is permissive.

The subject of required reporting is possibly one of the hottest areas of debate outside the right of entry in the regulation versus economic deregulation question. Several jurisdictions including many federal regulatory agencies have taken steps to "reduce paperwork" which generally has meant doing away with required reports that were duplicating information received from other sources, streamlining or simplifying reports, and, possibly most important, asking only for information necessary to perform their regulatory job.

There is a definite need for some information so that the regulatory agency has some knowledge of what is happening in the industry. While the collections of statistical data can easily get out of control, the need for some statistics will always be present.

The ATC requirements on reports from both air and motor carriers is really minimal when compared to other agencies such as the Civil Aeronautics Board that requires separate quarterly reports and one monthly report. Possibly the ATC's biggest problem has not been in collection of reports, but in what is done with the information once it is collected. Unfortunately, there has not been adequate funds to process the data in a usable system where quick retrieval is possible. With the exception of the origin and destination information received from air carriers, most of the information must be hand sorted to generate the answer to the questions asked, which is both time consuming and somewhat unreliable as human error can taint the statistics.

The statistics are used by the ATC to determine carrier activity, equipment utilization, operating expenses, in gross terms the income both before and after operating expenses and in air, traffic patterns. This information is definitely important for determining new entry and evaluation of applicant's expectation as to the market segment that he plans to

capture. It must be realized that normally new entries are not going to generate new traffic, but only capture part of the traffic available to existing carriers. The decision that the regulatory commission must make is whether the split between old and new will be enough to support both carriers.

APPENDIX E

Changes Dictated By Federal Deregulation

To date the federal deregulation effort has not placed the State of Alaska in the position of having to change its laws to avoid statutory conflict. The federal deregulation has caused considerable philosophical conflict between the approach taken at the national level and the State level. This philosophical conflict is prevalent in the federal relationship with all the States except Arizona, Florida, and Wisconsin who have deregulated.

The first problem when discussing deregulation is the definition of the term. In a practical sense the term means the reduction of regulation; not the elimination of regulation. Therefore, the conflict between the States and the federal government is over how much latitude the regulated industries are to be allowed.

If the Legislature was to decide to follow the federal trend, both AS 42.10 and 02.05 would need major revision. Generally, if both acts are not amended, the impact of federal deregulation will be limited, given that the federal government does not attempt to preempt State jurisdiction in intrastate commerce. There will be a need to fill the void in such areas as commercial vehicle safety and transportation of hazardous materials as it appears the federal government will not be as active in enforcing as it was. If the State elects to maintain the protection of intrastate carriers from the influx of ICC carriers that attempt to siphon off intrastate freight, some additional enforcement will be needed. If the federal government ceases the essential air service subsidy program in 1988 as currently stated in the auditing legislation, the State of Alaska would be confronted with the issue of providing State funds to replace the discontinued federal subsidy. Since the EAS program is just getting under way, there is no way to predict the fiscal impact, but the federal payout on subsidized matters is expected to be about five to seven million in 1983/84. This number can change a lot either way as the program is very flexible and is primarily based on carrier losses versus earnings in the specific service area.

Bill Fact Sheet

Date Received 4/18/83

Bill Number SB/84 Title Extending ATC

Fiscal Note - Date Requested 3/18 Date Received _____

- Of Whom Katherine Wallen C+ED

Dept. Position Paper - Date Requested 3/18 Date Received _____

- Of Whom Katherine Wallen, C+ED

Resource People

Initial Hearing - Date 4/12/82
People Contacted

- Clyde (Senate Trans) 4/9/82
- Jeff - (House L+C)
- Steve (Rep Cato) 4/11
- Jim Wilson - 4/11
- Keith Miller 4/11

Follow-up Hearing - Date _____

Final Action passed C-S Date 4/12
letter of intent 4/14

Bill Fact Sheet

Date Received _____

Bill Number _____ Title Sunset Review

Fiscal Note - Date Requested _____ Date Received _____

- Of Whom _____

Dept. Position Paper - Date Requested _____ Date Received _____

- Of Whom _____

ATC Position - 3/7 of Keith Miller
Resource People

Initial Hearing - Date ~~3/17/83~~ 3/15/83

People Contacted

Keith Miller - 561-4216 - 3/7 - 3/10

Russ Painter - 276-4800 - 3/7 (left message) 3/10

Katherine Wallen - DC+ED, 3/8 (left message) - 2504 3/10

Gordy Hwang - 747-8907 - 3/11 (left message)

Wally Kublely - 3/11

Jim Wihlberg - 3/11

Follow-up Hearing - Date _____

Final Action _____ Date _____