

**HB**

**298**

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 298(TRA)  
 (H) Publish Date: 2/1/02

Revision Date/Time (Note if correction): 01/30/2002 Dept. Affected: ARRC  
 Title An Act relating to Legislative Approval BRU \_\_\_\_\_  
of Railroad land leases Component \_\_\_\_\_  
 Sponsor Representative Murkowski  
 Requester House Transportation Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2003    | FY 2004    | FY 2005    | FY 2006    | FY 2007    | FY 2008    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |            |            |            |            |            |            |
|-----------------------------|------------|------------|------------|------------|------------|------------|
| <b>CAPITAL EXPENDITURES</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |
|-----------------------------|------------|------------|------------|------------|------------|------------|

|                               |            |            |            |            |            |            |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| <b>CHANGE IN REVENUES ( )</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |
|-------------------------------|------------|------------|------------|------------|------------|------------|

**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other (Specify Type--Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)  
 HB 298 will not have a fiscal impact on the State of Alaska. This change in statute will make large commercial and residential development on Alaska Railroad lands more viable by making it easier for the Railroad to lease lands that are currently underdeveloped in Seward, Anchorage, Healy and Fairbanks.

Prepared by: Wendy Lindskoog, Director of External Affairs Phone 907-265-2498  
 Division Alaska Railroad Corporation Date/Time 1/30/02 10:59 AM  
 Approved by: Deborah B. Sedwick, Commissioner Date 1/30/2002  
 Agency Department of Community & Economic Development

**CS FOR HOUSE BILL NO. 298(L&C)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY THE HOUSE LABOR AND COMMERCE COMMITTEE**

**Offered: 2/6/02**  
**Referred: Rules**

**Sponsor(s): REPRESENTATIVES MURKOWSKI, Mulder**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to authorizing the Alaska Railroad Corporation to lease land for a  
2 period of up to 55 years."

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

4 \* Section 1. AS 42.40.285 is amended to read:

5 **Sec. 42.40.285. Legislative approval required.** Unless the legislature  
6 approves the action by law, the corporation may not

7 (1) exchange, donate, sell, or otherwise convey its entire interest in  
8 land;

9 (2) issue bonds;

10 (3) extend railroad lines; this paragraph does not apply to a spur,  
11 industrial, team, switching, or side track;

12 (4) lease land for a period in excess of 55 [35] years unless the  
13 corporation reserves the right to terminate the lease if the land is needed for railroad  
14 purposes;

1                   (5) apply for or accept a grant of federal land within a municipality;  
2 before approving an action under this paragraph, the legislature must determine that  
3 the federal land is required for essential railroad purposes; this paragraph does not  
4 apply to the application for or acceptance of a grant of federal land associated with

5                   (A) the Anchorage-Wasilla line change project on Elmendorf  
6 Air Force Base and Fort Richardson;

7                   (B) the Fairbanks intermodal rail yard expansion project;

8                   (C) a conveyance of rail properties of the Alaska Railroad  
9 under the original Alaska Railroad Transfer Act of 1982 as set out in Title VI,  
10 P.L. 97-468; in this subparagraph, "rail properties of the Alaska Railroad" has  
11 the meaning given in 45 U.S.C. 1202(10).

# ALASKA STATE LEGISLATURE

*Chair:*  
LABOR AND COMMERCE

*Member:*  
MILITARY AND VETERANS AFFAIRS  
COMMUNITY AND REGIONAL AFFAIRS  
LEGISLATIVE COUNCIL  
JOINT ARMED SERVICES



**REPRESENTATIVE LISA MURKOWSKI**  
Government Hill • Elmendorf • East Anchorage

*Session:*  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-3783  
FAX: (907) 465-2293  
Representative\_Lisa\_Murkowski@legis.state.ak.us

*Interim:*  
716 WEST 4TH AVENUE  
ANCHORAGE, AK 99501-2133  
PHONE: (907) 269-0174  
FAX: (907) 269-0177

## Sponsor Statement

### HB 298

### “An Act relating to authorizing the Alaska Railroad Corporation to lease land for a period of up to 55 years”

At the request of the Alaska Railroad Corporation, I have introduced House Bill 298, extending the length of time the Alaska Railroad Corporation (ARRC) can lease lands from the current 35 years to 55 years.

This change in statute will help cultivate economic development in communities along the Railbelt by making commercial and residential development on Alaska Railroad lands more viable. On any existing ARRC lease with a term longer than 35 years, an option to extend leases beyond that time includes a termination clause. This clause allows the ARRC to terminate any lease after 35 years in the event the land is needed for railroad purposes.

While the 35-year lease limit is adequate for most of ARRC's tenants, it is an obstacle in leasing lands to large commercial and residential developers who need to secure long-term financing for their investments. Financial lenders are reluctant to invest in large-scale projects requiring substantial equity participation when there is no guarantee the land will be available beyond 35 years. It will also make ARRC's leasing practices more consistent with other state agencies. Both the University of Alaska and the Department of Natural Resources can lease land for up to 55 years.

The proposed extension of allowable lease term is supported by the following businesses, individuals and organizations: Anchorage Historic Properties, Anchorage Neighborhood Housing Services, Mel Tipton (Ship Creek tenant and commercial developer), Seward Ship's Drydock, Inc., Dowl Engineers, Northrim Bank, AIDEA, Yukon Fuel, Kantishna Holdings, Inc., A&A Construction and Development, Inc., the Anchorage Chamber of Commerce, City of Seward, Anchorage Assembly, and Fairbanks Chamber of Commerce. I urge your support of this legislation.

## House Bill 298, Railroad Leasing Policy Frequently Asked Questions

### **How much land does the Alaska Railroad own?**

The Alaska Railroad Corporation (ARRC) owns approximately 36,000 acres of real estate.

Total right-of-way acres = 12,415  
Total "reserve" acres = 23,813

Of the 23,813 acres of reserve land, 17,970 are available for lease, which represents about 49.6% of the land owned by the Railroad. The remaining 5,843 acres within the reserves is used for operating purposes including yards, tracks etc. The Railroad has approximately 260 tenants scattered from Fairbanks to Seward and even in Valdez.

### **Why are the Anchorage, Fairbanks, Seward, and Healy terminal Reserves the only lands subject to the lease extension?**

While the Alaska Railroad would prefer the flexibility to lease all of its reserve lands for longer terms, the reserve lands identified in this legislation are those most apt to draw large commercial and residential projects, and therefore more deserving of legislative attention.

These four reserves represent about 36 percent of the Railroad's land available for lease.

### **What is considered reserve land?**

"Reserve" is a federal term of art – in this case it refers to land originally set aside or "reserved" by the federal government for use of the Alaska Railroad. These lands are larger parcels (i.e. not a skinny right-of-way strip) sited in strategic locations for both operational and non-operational purposes. These uses have historically included rail, yards, railroad facilities and lease by third parties. Most of the railroad's lands available for lease lie in these contiguous land areas called reserves.

### **What are considered rail right-of-way and operating lands?**

More than half of ARRC's land is dedicated to supporting and maintaining the corporation's primary activity – freight and passenger transportation services. These lands encompass the railroad's 200-foot right-of-way (100 feet on either side of the track) as well as lands containing spurs, industrial track, yard, dock, and depot facilities.

### **What is the total acreage of land affected by this legislation?**

Approximate available acres available for lease in August 2001

|            |                    |              |
|------------|--------------------|--------------|
| Anchorage: | 587 lease acres,   | 187 vacant   |
| Fairbanks: | 260 lease acres,   | 160 vacant   |
| Healy:     | 5,541 lease acres, | 4,097 vacant |
| Seward:    | 64 lease acres,    | 26 vacant    |

### **Does this legislation affect ROW leases?**

This legislation does not affect right-of-way and other operating lands that lie within the reserve areas. Most operating lands are located in our reserves. Right-of-way lands are rarely leased, and even then are restricted to terms of less than 18 years to avoid triggering certain onerous provisions in the federal transfer act.

### **Why were the leases originally set at 35 years before being subject to a termination clause?**

The answer is not clear. Discussions regarding the lease terms and rates took place in legislative work sessions that were not officially recorded meetings. These sessions took place during the time the Railroad was being transferred from the federal government to the State of Alaska and the Alaska Railroad Corporation enabling legislation was being drafted.

At the time of transfer there was much debate regarding the development of a consistent and reasonable policy for leasing railroad land. People involved in discussions during the transfer time don't remember a specific reason for reducing the maximum lease length for railroad land but said the decision could have been influenced by the following issues.

At the time of transfer, there was a pending lawsuit from the "Alaska Railroad Leaseholders Association" many who asserted that certain leases were sweetheart deals and others were not. There were concerns within the legislature and administration that the railroad's practice was to issue long-term leases at rental rates that were below Fair Market Value (FMV). Lastly, there was considerable sentiment in the legislature to privatize the railroad within a fairly short time, which might well have fueled the desire for shorter lease terms. Out of these concerns, came a statutory requirement for Fair Market Value leases and legislative approval for any lease longer than 35 years.

### **Who supports this bill?**

The proposed extension of allowable lease terms to 55 years is supported by the following businesses, individuals and organizations:

Anchorage Historic Properties  
Anchorage Neighborhood Housing  
Mel Tipton (*Anchorage business man and Railroad lessee*)  
Seward Ship's Drydock  
Dowl Engineers  
Northrim Bank  
AIDEA  
Yukon Fuel  
Kantishna Holdings

A&A Construction and Development  
Alaska State Chamber of Commerce  
Anchorage Chamber of Commerce  
City of Seward  
Anchorage Assembly  
Fairbanks Chamber of Commerce

### **Who opposes this bill?**

As of December 2001, there has been no expressed opposition to this proposal.

### **What commercial and residential developments are driving this legislation?**

- Ship Creek Development in Anchorage
- Chena Landings Development in Fairbanks
- Anchorage Neighborhood Housing project using HUD financing that requires a 50-year lease.
- Major hotel, restaurant, office space, retail space or commercial development such a convention center.

### **Wasn't legislation recently passed allowing for longer leases in Healy?**

House Bill 344 was passed during the 2000 legislative session giving the Railroad flexibility to issue a lease in the Tri-Valley subdivision in excess of 35 years without reserving the right to terminate the lease if the land is needed for railroad purposes. The long-term lease affecting the Tri-Valley subdivision enabled families in Healy to qualify for more affordable loans. This bill applied only to the Tri-Valley subdivision area and not to the entire Railroad Healy Reserve.

### **How does a lease differ from a permit?**

Leases give tenants the exclusive use of the property, precluding even railroad use. If for five or more years in length, they must be approved by the Alaska Railroad Corporation Board of Directors. Public notice must be given

before a lease is issued, and the Board's action approving or disapproving is taken at a public meeting.

Permits are a non-exclusive right to be on railroad land. They run the gamut from short-term entries by people like surveyors or customers needing temporary storage space, to longer, more intensive uses like utilities, roadways, pipelines or fiber optics facilities. Typically, more than half of our permits can be cancelled on short notice, are issued for less than five years, and are for uses not involving a significant investment of capital. These kinds of permits do not require Board approval or public notice. However, permits that represent a considerable investment by the permittee or are of a nature that makes them functionally irrevocable (such as a public utility line) do require public notice. The most significant of these are "corridor permits", where the user installs a longitudinal facility taking advantage of the right-of-way as a utility corridor. These not only require public notice and Board approval, but also are also longer term and charge a FMV rate of compensation.

#### **How is the public assured proper input in the Railroad's long-term leasing decisions?**

- All Alaska Railroad Board of Directors meetings are open to the public and offer an opportunity for public comment. These meetings are advertised at least five days in advance in at least three newspapers of general circulation along the Railroad. The Railroad typically advertises in the Anchorage Daily News, Fairbanks News Miner and Seward Phoenix Log.
- All leases are subject to a public notice process: Previously issued leases that don't alter use are subject to a minimum 15-day public notice period. Property that has not been leased before or is being leased again but with changed zoning is subject to a minimum 30-day public notice period. The notice is published in a local newspaper (or posted in a public location if there is no newspaper). It invites comment up to the expected date of Board action.

Introduced By: Governmental Affairs  
 Other Review: Transportation  
 Date Introduced: November 5, 2001  
 Date Passed: December 10, 2001  
 Date Transmitted: December 11, 2001

**RESOLUTION 01-1210**

**A RESOLUTION BY THE GREATER FAIRBANKS CHAMBER OF  
 COMMERCE SUPPORTING LEGISLATION AUTHORIZING THE  
 ALASKA RAILROAD TO LEASE LAND FOR 55 YEARS**

WHEREAS legislation authorizing the Alaska Railroad Corporation (ARRC) to lease land for 55 years will cultivate economic development in Alaska communities along the railbelt by making commercial and residential development on ARRC lands more feasible; and

WHEREAS ARRC's current statutory limit is a 35-year lease. Proposed legislation would amend AS 42.40.285 (4) enabling the Alaska Railroad Corporation (ARRC) to lease lands within its Anchorage, Fairbanks, Seward and Healy Terminal Reserves for up to 55 years rather than 35 years without first gaining legislative approval; and

WHEREAS today, ARRC can extend leases beyond 35 years subject to a termination clause defined by AS 42.40.285 (4). The clause states ARRC can terminate any lease with a term in excess of 35 years in the event the land is needed for railroad purposes after the initial 35 years; and

WHEREAS financial lenders are reluctant to lend on large-scale projects requiring substantial equity when there is no guarantee the land will be available beyond 35 years; and

WHEREAS ARRC's statutory constraints limit the ability for developers of large-scale commercial and residential projects to secure financing because certain banking regulations require ground lease maturity to exceed loan maturity by 10 years; and

WHEREAS when developers provide significant infrastructure or operational improvements, it is beneficial to have a lengthened lease term allowing companies to amortize debt over a longer span of time; and

WHEREAS increasing the lease term to 55 years would increase financing options and, therefore, investor interest; and

**Benefactors**

- Alaska Airlines
- Alaska Communications Systems
- Alaska Railroad
- Alaska Pipeline Service Company
- AT&T Alascom
- BP Exploration (Alaska) Inc.
- CellularOne
- Denali State Bank
- Design Alaska
- Fairbanks Building & Construction Trades Council "The Unions"
- Fairbanks Natural Gas, LLC
- Fairbanks Urgent Care Center
- First National Bank Alaska
- Flowline Alaska
- Fort Knox Mine
- Golden Heart Utilities
- Golden Valley Electric Association
- K Janitorial
- Key Bank of Alaska
- McKinley Bank
- North Star Computing
- Northrim Bank
- Phillips Alaska, Inc.
- Sarina's Flowers & Gifts
- Tanana Valley Clinic
- Third Sector Technologies, Inc.
- Totem Ocean Trailer Express
- Usibelli Coal Mine
- WebWeavers
- Wells Fargo Bank Alaska
- Wendy's
- Westmark Fairbanks Hotel & Conference Center
- Williams Alaska Petroleum

GREATER \* FAIRBANKS  
**CHAMBER**  
OF COMMERCE

250 Cushman St., Suite 2D, Fairbanks, AK 99701-4665  
phone: (907) 452-1105, fax: (907) 456-6968

e-mail: [staff@fairbankschamber.org](mailto:staff@fairbankschamber.org)  
website: [www.fairbankschamber.org](http://www.fairbankschamber.org)

WHEREAS this change would result in increased business activity on railroad property by making improvements more attractive to investors/users. This also creates long term benefits to the surrounding communities by providing an economic and tax base; and

WHEREAS the proposed legislation would make ARRC's leasing practices more consistent with other state agencies. The University of Alaska and the Department of Natural Resources can both lease land for up to 55 years:

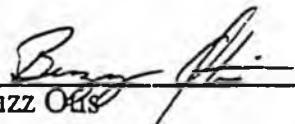
NOW THEREFORE BE IT RESOLVED that the Greater Fairbanks Chamber of Commerce views legislation authorizing ARRC to lease land for 55 years as an important step toward promoting economic development in railbelt communities where certain high value Railroad lands are currently underdeveloped.

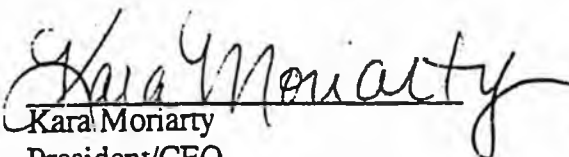
BE IT FURTHER RESOLVED that the Greater Fairbanks Chamber of Commerce supports and seeks to assist ARRC in obtaining legislative approval to lease land for up to 55 years in its Seward, Anchorage, Healy and Fairbanks Reserve Lands.

BE IT FURTHER RESOLVED that this resolution be distributed to:

Governor Tony Knowles  
Interior Delegation  
Senator Loren Leman  
Alaska Railroad Corporation

PASSED in Fairbanks, Alaska this 10th day of December, 2001 by the Greater Fairbanks Chamber of Commerce Board of Directors.

  
\_\_\_\_\_  
Buzz Oles  
Board Chair

  
\_\_\_\_\_  
Kara Moriarty  
President/CEO

**Benefactors**

Alaska Airlines

Alaska  
Communications  
Systems

Alaska Railroad

Alaska Pipeline  
Service Company

AT&T Alascom

BP Exploration  
(Alaska) Inc.

CellularOne

Denali State Bank

Design Alaska

Fairbanks Building &  
Construction Trades  
Council "The Unions"

Fairbanks Natural  
Gas, LLC

Fairbanks Urgent  
Care Center

First National Bank  
Alaska

Flowline Alaska

Fort Knox Mine

Golden Heart Utilities

Golden Valley  
Electric Association

Janitorial

Key Bank of Alaska

McKinley Bank

North Star Computing

Northrim Bank

Phillips Alaska, Inc.

Prima's Flowers & Gifts

Sumana Valley Clinic

Third Sector  
Technologies, Inc.

Totem Ocean  
Trailer Express

Urbelli Coal Mine

WebWeavers

Wells Fargo Bank Alaska

Wendy's

Westmark  
Fairbanks Hotel &  
Conference Center

Williams Alaska  
Petroleum

Alaska State Chamber of Commerce

Priority 2002 - 32

Authorization for the Alaska Railroad to lease land

The Alaska State Chamber of Commerce urges the Administration and Legislature to support a change allowing authorization of the Alaska Railroad to lease land for 55 years within its Anchorage, Fairbanks, Seward and Healy Terminal Reserves. The Alaska Railroad needs the flexibility to offer 55-year lease terms on a variety of Railroad properties to promote economic development in railbelt communities where certain high value Railroad lands are currently underdeveloped.

Rationale:

The Alaska Railroad Corporation's (ARRC) current statutory limit is a 35-year lease. The ARRC can extend leases beyond 35 years subject to a termination clause defined by AS 42.40.285 (4). The clause states the ARRC can terminate any lease with a term in excess of 35 years in the event the land is needed for railroad purposes after the initial 35 years.

Financial lenders are reluctant to lend on large-scale projects requiring substantial equity when there is no guarantee the land will be available beyond 35 years. Increasing the lease term to 55 years would allow companies to amortize debt over a longer span of time and increase financing options.

The ARRC's statutory constraints limit the ability for developers of large-scale commercial and residential projects to secure financing because certain banking regulations require ground lease maturity to exceed loan maturity by 10 years. The change to 55 year leases from 35 also creates long-term benefits to surrounding communities by providing an economic and tax base.

ADOPTED

November 1, 2001

BY Pamela La Bolle  
Pamela La Bolle  
President

BY Helvi K. Sandvik  
Helvi Sandvik  
Chair



Anchorage • *Star of the North*  
Chamber of Commerce

**A Resolution Supporting Legislation  
Authorizing the Alaska Railroad to Lease Land for 55 years  
Resolution 01/02 - 04**

WHEREAS, legislation authorizing the Alaska Railroad Corporation (ARRC) to lease land for 55 years will cultivate economic development in Alaska communities along the railbelt by making commercial and residential development on ARRC lands more feasible; and

WHEREAS, ARRC's current statutory limit is a 35-year lease. Proposed legislation would amend AS 42.40.285 (4) enabling the Alaska Railroad Corporation (ARRC) to lease lands within its Anchorage, Fairbanks, Seward and Healy Terminal Reserves for up to 55 years rather than 35 years without first gaining legislative approval; and

WHEREAS, the Alaska Railroad owns 36,000 acres of land. Of that, the proposed legislation would apply to approximately 8,000 acres of reserve land: some 300 acres in Seward, 1000 acres in Anchorage, 6,000 acres in Healy and 450 acres in Fairbanks; and

WHEREAS, today, ARRC can extend leases beyond 35 years only if it subjects the lessee to a termination clause defined by AS 42.40.285 (4). The clause states ARRC can terminate any lease with a term in excess of 35 years in the event the land is needed for railroad purposes after the initial 35 years; and

WHEREAS, financial lenders are reluctant to lend on large-scale projects requiring substantial equity when there is no guarantee the land will be available beyond 35 years; and

WHEREAS, ARRC's statutory constraints limit the ability for developers of large-scale commercial and residential projects to secure financing because certain banking regulations require ground lease maturity to exceed loan maturity by 10 years; and

WHEREAS, when developers provide significant infrastructure or operational improvements, it is beneficial to have a lengthened lease term allowing companies to amortize debt over a longer span of time; and

WHEREAS, increasing the lease term to 55 years would increase financing options and, therefore, investor interest; and

WHEREAS, this change would result in increased business activity on railroad property by making improvements more attractive to investor/users. This also creates long term benefits to the surrounding communities by providing an economic and tax base; and

WHEREAS, the proposed legislation would make ARPC's leasing practices more consistent with other state agencies. The University of Alaska and the Department of Natural Resources can both lease land for up to 55 years; and

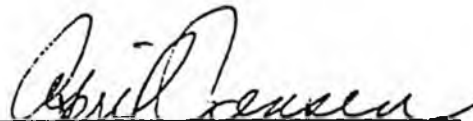
NOW THEREFORE BE IT RESOLVED, that the Anchorage Chamber of Commerce views legislation authorizing ARRC to lease land for 55 years as an important step toward promoting economic development in railbelt communities where certain high value Railroad lands are currently underdeveloped.

BE IT RESOLVED, that the Anchorage Chamber of Commerce supports and seeks to assist ARRC in obtaining legislative approval to lease land for up to 55 years in its Seward, Anchorage, Healy and Fairbanks Reserve Lands.

Approved this 2<sup>nd</sup> day of November 2001.



Eric Britten, 2001-2002 Chair



April Jensen, President

Sponsored by: Janke

**CITY OF SEWARD, ALASKA  
RESOLUTION 2001-136**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEWARD,  
ALASKA, SUPPORTING LEGISLATION AUTHORIZING THE ALASKA  
RAILROAD TO LEASE LAND FOR 55 YEARS**

**WHEREAS**, legislation authorizing the Alaska Railroad Corporation (ARRC) to lease land for 55 years will cultivate economic development in Alaska communities along the railbelt by making commercial and residential development on ARRC lands more feasible; and

**WHEREAS**, ARRC's current statutory limit is a 35-year lease. Proposed legislation would amend AS 42.40.285 (4) enabling the ARRC to lease lands within its Anchorage, Fairbanks, Seward and Healy Terminal Reserves for up to 55 years rather than 35 years without first gaining legislative approval; and

**WHEREAS**, today, ARRC can extend leases beyond 35 years subject to a termination clause defined by AS 42.40.285 (4). The clause states ARRC can terminate any lease with a term in excess of 35 years in the event the land is needed for railroad purposes after the initial 35 years; and

**WHEREAS**, financial lenders are reluctant to lend on large-scale projects requiring substantial equity when there is no guarantee the land will be available beyond 35 years; and

**WHEREAS**, ARRC's statutory constraints limit the ability for developers of large-scale commercial and residential projects to secure financing because certain banking regulations require ground lease maturity to exceed loan maturity by 10 years; and

**WHEREAS**, when developers provide significant infrastructure or operational improvements, it is beneficial to have a lengthened lease term allowing companies to amortize debt over a longer span of time; and

**WHEREAS**, increasing the lease term to 55 years would increase financing options and, therefore, investor interest; and

**WHEREAS**, this change would result in increased business activity on railroad property by making improvements more attractive to investor/users. This also creates long term benefits to the surrounding communities by providing an economic and tax base; and

**WHEREAS**, the proposed legislation would make ARRC's leasing practices more consistent with other state agencies. The University of Alaska and the Department of Natural Resources can both lease land for up to 55 years.

CITY OF SEWARD, ALASKA  
RESOLUTION 2001-136

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NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, that:

Section 1. The City of Seward views legislation authorizing ARRC to lease land for 55 years as an important step toward promoting economic development in railbelt communities where certain high value railroad lands are currently underdeveloped.

Section 2. The City of Seward supports and seeks to assist ARRC in obtaining legislative approval to lease land for up to 55 years in its Seward, Anchorage, Healy and Fairbanks Reserve Lands.

Section . This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Seward, Alaska, this 22nd day of October, 2001

THE CITY OF SEWARD, ALASKA

*E. Blatchford*

Edgar Blatchford, Mayor

AYES: Blatchford, Brossow, Branson, Calhoon, Clark, Orr, Shafer  
NOES: None  
ABSENT: None  
ABSTAIN: None

ATTEST:

*Patrick Reilly*

Patrick Reilly  
City Clerk

(City Seal)





**Yukon Fuel Company**

7941 Sandwood Pl  
Anchorage, AK 99507  
Tel: (907) 777-5505  
Fax: (907) 777-5550  
www.yukonfuel.com

Monday, April 23, 2001

Mr. James Kubitz, Vice President Real Estate  
Alaska Railroad  
327 W Ship Creek Ave  
P.O. Box 107500  
Anchorage, AK 99510-7500

Dear Mr. Kubitz:

We support the Alaska Railroad plan to seek the ability to offer longer-term real-estate leases. As you know we have been working with the Railroad to develop some new industrial areas.

Longer terms would be more attractive to our company because we will be able to amortize our investments over a longer span.

Please feel free to use this letter if this will help to allow the Railroad to extend its lease contracts beyond the current levels.

Yours truly,

Clayton Shelver  
VP Assistant General Manager

# A & A CONSTRUCTION & DEVELOPMENT, INC.

202 East Trent Avenue, Suite 400, Spokane, Washington 99202

(509) 624-1170 fax (509) 624-1255

April 25, 2001

Alaska Railroad Corporation  
Attn: Karen Morrissey  
Real Estate Department  
Fax: 907-265-2450

Ladies and Gentlemen:

A & A Construction & Development, Inc. has developed and built four (4) hotels in the state of Alaska. Three of those are in Anchorage and one is in Fairbanks. The Anchorage Comfort Inn and the Fairbanks Comfort Inn are both on land leased from the Alaska Railroad Corporation pursuant to a ground lease.

When these leases were negotiated, the maximum initial term which we were told was available was only 35 years. Building a major improvement such as a hotel on a parcel of leased ground with only a 35 year duration presents significant problems. These include realizing the rate of return necessary to amortize the necessary debt over the term of the lease while at the same time providing an internal rate of return necessary to attract investors.

Although agreements can be reached for an extension of the original term, our experience has been that such extensions are difficult to obtain because of the mind set that the initial maximum term should be sufficient. Additional concerns arise with the potential failure to give notice for any extension that is typically required even when an extension is available.

There would seem to be little justification in limiting a ground lease for a major improvement to 35 years. The presumption would almost seem to be that the owner of the ground, as Lessor, would hope to receive a windfall by an early termination of the lease with the improvements then vesting in the Lessor.

My partner and I would very much like to construct further improvements on ground owned by the Alaska Railroad Corporation. We are reluctant to do so, however, unless the lease term can be increased.

Very Truly Yours,

A & A Construction & Dev., Inc.

  
Christopher R. Ashenbrenner  
CORPORATE COUNSEL

CRA:sf



April 26, 2001

Chris Anderson  
Leasing Supervisor  
Alaska Railroad Corporation  
PO Box 107500  
Anchorage, Alaska 00510-7500

VIA FACSIMILE 265-2450

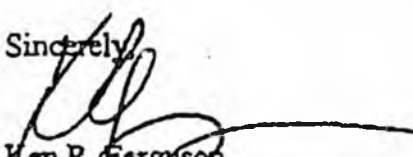
Dear Chris:

I am writing to support your efforts to amend AS 42.40.285(4) allowing Alaska Railroad Corporation (ARC) to lease land for 55 years.

This change would allow greater flexibility for lenders as regulations require ground lease maturity exceed loan maturity by 10 years. It will also make purchase and improvement more attractive to investor/users, which should result in increased business activity on railroad property.

Longer-term ground leases will increase financing options, investor interest and business development. Northrim Bank fully supports and commends your efforts.

Sincerely,



Ken R. Ferguson  
Vice President

Bayview Commercial Building, LLC  
619 E. Ship Creek Ave., Suite 250  
Anchorage, Alaska 99501  
Phone 907-279-7654  
Fax 907-278-0685

April 23, 2001

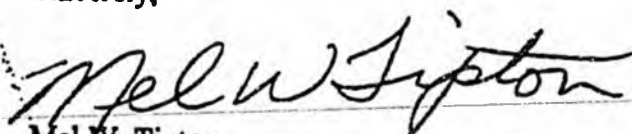
Jim Kubitz, Vice President Real Estate  
Alaska Railroad Corporation  
327 W. Ship Creek Avenue  
Anchorage, Alaska 99510-7500

Dear Mr. Kubitz:

As the owner of the Bayview Commercial Building located at 619 E. Ship Creek Avenue, I want to support the efforts you have been making to eliminate obstacles to create a more developer friendly process in leasing Alaska Railroad land. One of the obstacles still remaining is the restriction you have to leasing land beyond 35 years. Businesses and developers need to have a longer-term lease available in order to reinvest and find the financing to make major investments on railroad land. We support your efforts to extend your lease term from 35 to 55 years.

If you have any questions or would like to discuss this further, please call me at 279-7654.  
Thank you.

Sincerely,



Mel W. Tipton  
Manager

cc: Reading file  
Karen Morrissey



# SEWARD SHIP'S DRYDOCK, INC.

P.O. Box 944  
Mile 7 Nash Road  
Seward, Alaska 99664-0944

Tel: (907) 224-3198  
Tel: (907) 224-5640  
Fax: (907) 224-5376

April 24, 2001

Jim Kubitz, Vice president Real Estate  
Alaska Railroad Corporation  
327 W. Ship Creek Avenue  
Anchorage, Alaska 99510-7500

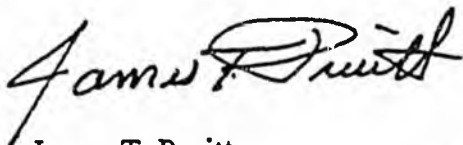
Dear Mr. Kubitz,

As the owner of three companies in Seward, I would like to extend my support to the efforts to obtain legislation to extend the land lease terms of the Alaska Railroad Corporation from 35 years to 55 years.

To obtain financing and make major investments on Alaska Railroad property this extension is critical to businesses and developers.

We are extremely supportive of your efforts in this obtaining this legislation.

Sincerely,



James T. Pruitt  
President



April 23, 2001

Jim Kubitz, Real Estate Division  
Alaska Railroad Corp.  
P.O. Box 107500  
Anchorage, AK 99510

Dear Jim:

Anchorage Historic Properties was founded 15 years ago as a non-profit organization dedicated to identifying and preserving structures of historical significance to Anchorage. Our board of directors and membership believe that we can only build a strong future for our city by recognizing the importance of its past.

To effectively accomplish our mission, the Alaska Railroad needs to be able to extend its property leases beyond the currently ineffective 35-year term. We strongly support the passage of AS 42.40.285, extending Railroad land leases to a 55-year term. This would greatly enhance the ability of organizations like ours to preserve structures situated on railroad property, and make long-term financing feasible.

We appreciate the Alaska Railroad's continued commitment to helping Anchorage Historic Properties and our vital role in the community.

Sincerely,

Craig Harpel  
Executive Director  
Anchorage Historic Properties

CC Reading File  
Karen Morrissey



April 24, 2001  
W.O. D01100

Mr. Jim Kubitz  
Vice President, Real Estate  
Alaska Railroad Corporation  
P.O. Box 107500  
Anchorage, Alaska 99510-7500

Subject: Real Estate Leasing

Dear Mr. Kubitz:

As you are aware, DOWL Engineers (DOWL), deals with a large number of developers and development projects throughout Alaska.

DOWL has been involved with many projects on leased land. Historically, most developers have desired "fee simple" ownership as a first choice. However, when that option is not available and leasing is the only option, the key issue is the "duration" of the lease. Obviously, the longer the lease term, the more financially feasible the project usually becomes. Thirty-five year leases have been shown to be inadequate for many projects.

Longer-term leases can be a significant incentive to promote development. Lease rates will presumably have a market based escalator so that the Alaska Railroad Corporation (ARRC) would get a market-based return over the life of the lease. Fifty-five year leases are not uncommon, especially where developers are asked to provide significant infrastructure/operational improvements.

I would strongly recommend that the ARRC consider 55-year leases for its properties. I believe the flexibility associated with this added incentive will promote major investments throughout the railbelt, resulting in favorable economic growth and a more financially viable Alaska Railroad.

If you have any specific questions or need additional information, please contact me at your convenience.

Very truly yours  
DOWL Engineers

A handwritten signature in cursive script that reads 'Timothy C. Potter'.

Timothy C. Potter  
Director of Planning

D01100.Kubitz.TCP.042401.kms



Anchorage Neighborhood Housing Services, Inc.

~~3002 Third Street, Suite 1000 Anchorage, Alaska 99501~~ • (907) 243-1558 • Fax (907) 243-3214 • www.akanhs.org  
480 West Tudor Road, Anchorage, Alaska 99503

April 20, 2001

Ms. Karen J. Morrissey  
Director of Real Estate  
327 W. Ship Creek Avenue  
Anchorage, Alaska 99501

Dear Ms. Morrissey:

On behalf of Anchorage Neighborhood Housing Services, Inc., I would like to express our support of the Alaska Railroad Corporation's efforts to obtain legislation that would extend the land lease term from 35 years to 55 years.

Anchorage Neighborhood Housing Services, Inc. is working on the development of a 20 unit senior housing complex on Alaska Railroad property located in the Government Hill area. The housing would be developed utilizing Housing and Urban Development (HUD) 202 senior housing funds. HUD requirements for site control require a 50-year lease period in order to be eligible for financing. Therefore, changes in the land lease term are crucial to the development of future senior housing in Government Hill community.

We are highly supportive of your efforts in obtaining this legislation.

Sincerely,

Mary Jane Michael  
CEO and Executive Director



Mr. James W. Kubitz  
Vice President, Real Estate & Project Planning  
327 Ship Creek Avenue,  
Anchorage, Alaska 99501  
April 23, 2001

Re: Lease term or length

Dear Jim:

I have recently learned that the Alaska Railroad Corporation (ARC) is considering the extension of lease term length from 35 years to 55 years.

This is an outstanding proposal that will be applauded by everyone seeking to develop any major project on ARC lands.

The financial markets will be exceedingly receptive to such an increase in term length as the additional term allows for the aggregation of capital that would not be ordinarily available for the shorter term and is seeking the added security a 55 year lease offers.

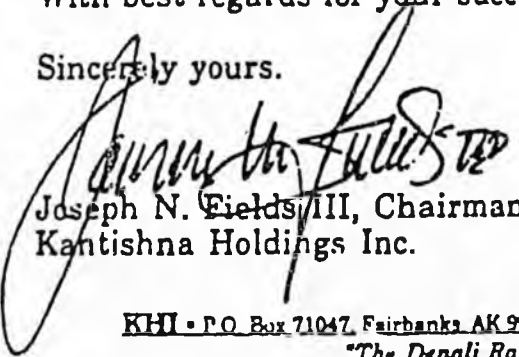
Major projects developers in Europe, like Eurotunnel PLC, creators of the rail link under the English Channel (chunnel) utilized the longer terms to aggregate the equivalent of USD 26 Billion in refinancing with over 200 participating banks, and that is exclusive of the high speed rail links from Calais to Paris and Brussels. The same can be said for financings in mining in Kalamantan (Borneo) and on the rail link from Blackpool, England to Edinburgh, Scotland.

The extended lease term is not limited to Europe or Asia but also is utilized in all parts of NAFTA to secure financing for major projects that have the capability of generating return over a longer period while creating long term benefits to the communities they are developed in. In some cases, the intent is to create a local cultural mainstay industry in the economy, a place where several generations will work and prosper. It is called economic stability.

I strongly urge you to adopt this very good, "Common Sense", policy at the earliest opportunity.

With best regards for your success I remain,

Sincerely yours,

  
Joseph N. Fields III, Chairman  
Kantishna Holdings Inc.



ALASKA INDUSTRIAL DEVELOPMENT  
AND EXPORT AUTHORITY



813 WEST NORTHERN LIGHTS BLVD. • ANCHORAGE, ALASKA 99503 • 907 / 269-3000 • FAX 907 / 269-3044  
TOLL FREE (ALASKA ONLY) 888 / 300-8534

April 23, 2001

Chris Anderson  
Leasing Supervisor  
Alaska Railroad Corporation  
PO Box 107500  
Anchorage, AK 99510-7500

VIA FACSIMILE 265-2450

Dear Chris:

This letter is in support of Alaska Railroad Corporation's (ARC) efforts to amend AS 42.40.285(4), which would allow ARC to lease land for a period of up to 55 years without prior legislative approval.

As you are aware, Alaska Industrial Development and Export Authority (AIDEA) provides financial assistance to Alaskan businesses through a loan participation program, whereby AIDEA purchases a portion of a loan originated by a financial institution. The benefit of this program is long-term financing, up to 40 years for certain projects, and fixed interest rates.

As the statute currently reads, if AIDEA was to participate in a project that qualified for a 40-year term, the maximum lease term would preclude AIDEA from establishing a 40-year term. Current AIDEA regulations require the term of a ground lease to extend 10 years beyond the term of the loan.

A change to the statute as ARC proposes would provide the flexibility needed for AIDEA to participate in all types of projects on ARC leased land.

Please let me know if I can be of any further assistance.

Sincerely,

  
James A. McMillan  
Deputy Director-Credit

X  
CLERK'S OFFICE

APPROVED

Date 11-13-01

Submitted by: Assemblymember TESCHE

Prepared by: Department of Assembly

For reading: November 13, 2001

ANCHORAGE, ALASKA

AR NO. 2001-328

1  
2  
3  
4  
5  
6  
7  
8 A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING  
9 SENATE BILL 209, AUTHORIZING THE ALASKA RAILROAD TO LEASE LAND FOR  
10 55 YEARS.

11  
12  
13 WHEREAS, a proposed bill - Senate Bill 209 - would authorize the Alaska Railroad  
14 Corporation (ARRC) to lease land for 55 years; and

15  
16 WHEREAS, this proposed legislation will cultivate development in Alaska  
17 communities along the railbelt by making commercial and residential development on  
18 ARRC lands more feasible; and

19  
20 WHEREAS, ARRC's current statutory limit is a 35-year lease - the proposed  
21 legislation would amend AS 42.40.285(4) enabling the ARRC to lease lands within its  
22 Anchorage, Fairbanks, Seward, and Healy Terminal Reserves for up to 55 years rather  
23 than 35 years without first gaining legislative approval; and

24  
25 WHEREAS, today, ARRC can extend leases beyond 35 years subject to a  
26 termination clause defined by AS 42.40.285(4) - the clause states ARRC can terminate  
27 any lease with a term in excess of 35 years in the event the land is needed for railroad  
28 purposes after the initial 35 years; and

29  
30 WHEREAS, financial lenders are reluctant to lend on large-scale projects requiring  
31 substantial equity when there is no guarantee the land will be available beyond 35 years;  
32 and

33  
34 WHEREAS, ARRC's statutory constraints limit the ability for developers of large-  
35 scale commercial and residential projects to secure financing because certain banking  
36 regulations require ground lease maturity to exceed loan maturity by 10 years; and

37  
38 WHEREAS, when developers provide significant infrastructure or operational  
39 improvements, it is beneficial to have a lengthened lease term allowing companies to  
40 amortize debt over a longer span of time; and

41  
42 WHEREAS, increasing the lease term to 55 years would increase financing options  
43 and, therefore, investor interest; and

44  
45


2  
3  
4 WHEREAS, this change would result in increased business activity on railroad  
5 property by making improvements more attractive to investor/users. This also creates long  
6 term benefits to the surrounding communities by providing an economic tax base.

7  
8 NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

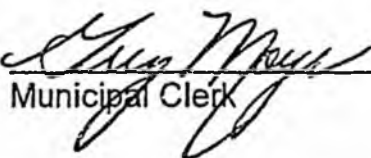
9  
10 Section 1: That the Assembly supports Senate Bill 209 authorizing ARRC to lease  
11 land for 55 years.

12  
13 Section 2: That the Assembly views this legislation as an important step toward  
14 promoting economic development in railbelt communities where certain high value railroad  
15 lands are currently underdeveloped.

16  
17 PASSED AND APPROVED by the Anchorage Assembly this 13<sup>th</sup> day of  
18 November, 2001.

19  
20  
21  
22   
23 Chair

24  
25 ATTEST:

26  
27  
28  
29   
30 Municipal Clerk  
31  
32