

HB

327

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23-LS1135U
Utermohle
4/24/04

CS FOR HOUSE BILL NO. 327(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HOLM, Ogg

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers and duties of the Department of Transportation and
2 Public Facilities; relating to a long-range program for highway construction and
3 maintenance; repealing a requirement that public facilities comply with energy
4 standards adopted by the Department of Transportation and Public Facilities; relating
5 to the adoption of regulations regarding estimates of costs and benefits of transportation
6 projects; and providing for an effective date."

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

8 * Section 1. AS 19.10.140 is amended to read:

9 **Sec. 19.10.140. Long-range program for highway construction and**
10 **maintenance.** The [GOVERNOR SHALL REQUIRE THE] department may [TO]
11 establish a continuing, long-range program for highway construction and maintenance.
12 The program must periodically [ANNUALLY] project proposed construction and
13 maintenance of highways for not less than the next succeeding two [FIVE] years. The

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1 program shall become part of the state transportation plan developed under
2 AS 44.42.050 [A STATEMENT OF THE PROGRAM SHALL BE SUBMITTED
3 BY THE GOVERNOR TO THE LEGISLATURE ANNUALLY, AND THE LONG-
4 RANGE PROGRAM SHALL INCLUDE IN DETAIL THE PROGRAM PREPARED
5 UNDER AS 19.10.150].

6 * Sec. 2. AS 44.42.020(a) is amended to read:

7 (a) The department shall

8 (1) plan, design, construct, and maintain all state modes of
9 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
10 and similar facilities;

11 (2) study existing transportation modes and facilities in the state to
12 determine how they might be improved or whether they should continue to be
13 maintained;

14 (3) study alternative means of improving transportation in the state
15 with regard to the economic costs of each alternative and its environmental and social
16 effects;

17 (4) develop a comprehensive, long-range, intermodal transportation
18 plan for the state;

19 (5) study alternatives to existing modes of transportation in urban areas
20 and develop plans to improve urban transportation;

21 (6) cooperate and coordinate with and enter into agreements with
22 federal, state, and local government agencies and private organizations and persons in
23 exercising its powers and duties;

24 (7) manage, operate, and maintain state transportation facilities and all
25 docks, floats, breakwaters, and buildings, including all state highways, vessels,
26 railroads, pipelines, airports, and aviation facilities;

27 (8) study alternative means of transportation in the state, considering
28 the economic, social, and environmental effects of each alternative;

29 (9) coordinate and develop state and regional transportation systems,
30 considering deletions, additions, and the absence of alterations;

31 (10) develop facility program plans for transportation and state

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1 buildings, docks, and breakwaters required to implement the duties set out in this
2 section, including but not limited to functional performance criteria and schedules for
3 completion;

4 (11) supervise and maintain all state automotive and mechanical
5 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
6 Fish and Game or the Department of Public Safety; for state vehicles maintained by
7 the department, the department shall periodically [ANNUALLY] evaluate the cost,
8 efficiency, and commercial availability of alternative fuels [NATURAL GAS] for
9 automotive purposes, and the purpose for which the vehicles are intended to be used,
10 and convert or purchase vehicles to use alternative fuels [UTILIZE NATURAL
11 GAS] whenever practicable; the department may participate in joint ventures with
12 public or private partners that will foster the availability of alternative fuels
13 [NATURAL GAS] for all automotive fuel consumers;

14 (12) supervise aeronautics inside the state, under AS 02.10;

15 (13) complete and maintain a current inventory of public facilities,
16 including a projection of the serviceability of the facilities and projections of
17 replacements and additions to facilities needed to provide the level of services
18 programmed by the various user agencies, for municipalities with populations of less
19 than 12,000 and for unincorporated communities, and perform those duties on a
20 cooperative basis with larger municipalities;

21 (14) [ADOPT ENERGY PERFORMANCE STANDARDS FOR
22 PUBLIC FACILITIES OF THE STATE, THE CONSTRUCTION OF WHICH
23 BEGINS AFTER JULY 1, 1980; THE STANDARDS SHALL BE BASED ON
24 THERMAL AND LIGHTING ENERGY STANDARDS ESTABLISHED BY THE
25 AMERICAN SOCIETY OF HEATING, REFRIGERATION AND AIR
26 CONDITIONING ENGINEERS AS ADAPTED FOR APPLICATION IN HIGH
27 LATITUDE, COLD CLIMATE ENVIRONS;

28 (15) PROVIDE PLANNING ASSISTANCE, INCLUDING BUT NOT
29 LIMITED TO ENERGY AUDITS AND RELATED TECHNICAL SERVICES, TO
30 SCHOOL DISTRICTS AND REGIONAL EDUCATIONAL ATTENDANCE
31 AREAS TO DEVELOP AND IMPLEMENT

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(A) STANDARDS FOR THE DESIGN, CONSTRUCTION, AND OPERATION OF RURAL EDUCATIONAL FACILITIES; AND

(B) ENERGY CONSERVATION MEASURES FOR RURAL EDUCATIONAL FACILITIES;

(16)] implement the safety and financial responsibility requirements for air carriers under AS 02.40;

(15) [(17)] inspect weights and measures;

(16) provide an annual ^{summary report} report of the activities of the department under this section to the legislature by the fifteenth legislative day of each regular session of the legislature; the department shall make the ^{summary report} report available to the public and shall publish notice of the availability of the ^{summary report} report in a newspaper of general circulation in the state for at least once each week for three weeks following delivery of the ^{summary report} report to the legislature.

Amendment #1

* Sec. 3. AS 44.42.050(a) is amended to read:

(a) The commissioner shall develop [ANNUALLY] a comprehensive, intermodal, long-range transportation plan for the state. The plan may be developed in separate documents and divided into logical components, including geographic areas, modes of transportation, transportation corridors, systems, and other distinct subjects. The commissioner shall include the estimated costs of projects described in the plan and, if the commissioner determines appropriate, an estimate of the benefits of the project. In developing and revising the state plan, the commissioner may [SHALL] consider the requirements of 23 U.S.C. 135, as amended. Upon approval of the plan by the commissioner, the commissioner may transmit the plan to the governor and [MEANS AND COSTS OF IMPROVING EXISTING MODES AND FACILITIES, STATE AND FEDERAL SUBSIDIES, AND THE COSTS AND BENEFITS OF NEW TRANSPORTATION MODES AND FACILITIES. THE COMMISSIONER SHALL ALSO CONSIDER THE RECOMMENDATION OF THE ALASKA TRANSPORTATION PLANNING COUNCIL. THE PLAN SHALL BE SUBMITTED TO THE GOVERNOR FOR REVIEW AND APPROVAL AND SUBMITTED BY THE GOVERNOR TO] the legislature.

*4/26/04
copy of
23 USC 135
for
committee
from Todd*

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1 * Sec. 4. AS 44.42.050(d) is amended to read:

2 (d) The commissioner shall periodically develop a program [PLAN MUST
3 INCLUDE A DESCRIPTION] of projects planned for design and construction for a
4 period of not less than [THE FOLLOWING] two years that implement the plan
5 developed under (a) of this section. In developing the program of projects, the
6 commissioner may consider the requirements of 23 U.S.C. 135, as amended. The
7 program [DESCRIPTION] is in addition to the long-range plan required by (a) of this
8 section [AND BY AS 19.10.140]. The program [DESCRIPTION] must include an
9 estimate of federal, state, and other funds anticipated to be received and a
10 description, location, and itemization of the estimated cost for each project and the
11 total cost of all projects. The commissioner shall propose and forward to the governor
12 for review and approval and to the legislature for review [AND INCLUSION, AS
13 APPROVED, IN THE CAPITAL BUDGET] a construction program that includes the
14 projects to be undertaken during the following year [TWO YEARS], including
15 recommended project priorities. [FUNDS FOR TRANSPORTATION
16 CONSTRUCTION PROJECTS AND NECESSARY CONTINGENCIES SHALL BE
17 ITEMIZED AS ALLOCATIONS WITHIN THE BILL FOR THE GENERAL
18 APPROPRIATIONS ACT.]

19 * Sec. 5. AS 44.42.050 is amended by adding a new subsection to read:

20 (e) The commissioner shall adopt regulations establishing uniform procedures
21 for preparation of estimates of costs and benefits for projects included in a
22 comprehensive, intermodal, long-range transportation plan under (a) of this section.

23 The regulations must

24 (1) provide exceptions for those projects or category of projects for
25 which the determination of a detailed estimate of project costs and benefits is not
26 practical or is not useful due to factors such as federal and state requirements, the
27 nature of the project, or the impracticability of measuring benefits;

28 (2) identify the method and manner for estimating benefits of a project
29 so that the cost of estimating the benefits of a project is not excessive; and

30 (3) provide that the commissioner may waive the determination of the
31 calculation of benefits of a project if the commissioner determines that the calculation

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1 of the benefits is not in the best interest of the state.

2 * Sec. 6. AS 46.11.900(8) is amended to read:

3 (8) "thermal and lighting energy standards" means the thermal and
4 lighting energy standards

5 (A) established by the American Society of Heating,
6 Refrigeration, and Air Conditioning Engineers as revised

7 [(i) BY THE COMMISSIONER OF
8 TRANSPORTATION AND PUBLIC FACILITIES UNDER
9 AS 44.42.020(a) FOR PUBLIC FACILITIES; OR

10 (ii)] by the Alaska Housing Finance Corporation for
11 buildings and structures that are not public facilities; or

12 (B) developed in regulations adopted

13 [(i) BY THE COMMISSIONER OF
14 TRANSPORTATION AND PUBLIC FACILITIES UNDER
15 AS 44.42.020(a) FOR PUBLIC FACILITIES; OR

16 (ii)] by the Alaska Housing Finance Corporation for
17 buildings and structures that are not public facilities.

18 * Sec. 7. AS 46.11.010 is repealed.

19 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 ADOPTION OF REGULATIONS UNDER AS 44.42.050(e). (a) The Department of
22 Transportation and Public Facilities shall provide a copy of regulations that the department
23 proposes to adopt under authority of AS 44.42.050(e), added by sec. 5 of this Act, to each
24 incumbent state legislator, the secretary of the state senate, and the chief clerk of the house of
25 representatives at the time the department publishes the notice under AS 44.62.190 of the
26 proposed adoption of those regulations. In addition to the publication of the notice of the
27 proposed adoptions of regulations that is required under AS 44.62.190(a), the notice of the
28 proposed adoption of regulations under authority of AS 44.42.050(e), added by sec. 5 of this
29 Act, by the department shall be published once a week for three additional weeks in a
30 newspaper of general circulation in the state. The department shall accept public comment on
31 the regulations until at least 51 days have elapsed from the first publication in a newspaper of

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1 general circulation in the state of the notice of the proposed adoption of the regulations.
2 Regulations adopted under authority of AS 44.42.050(e), added by sec. 5 of this Act, may not
3 be filed with the lieutenant governor until at least 60 days have elapsed from the first
4 publication of the notice in a newspaper of general circulation in the state of the proposed
5 adoption of the regulations.

6 (b) On the day that the secretary of the state senate and the chief clerk of the state
7 house of representatives each receives a copy of regulations that the Department of
8 Transportation and Public Facilities proposes to adopt under authority of AS 44.42.050(e),
9 added by sec. 5 of this Act, the secretary and the chief clerk shall each provide notice in
10 writing to the regulations attorney, the revisor of statutes, and the lieutenant governor that
11 they have received a copy of the proposed regulations.

12 (c) This section applies only the initial adoption of the regulations under authority of
13 AS 44.42.050(e), added by sec. 5 of this Act.

14 * Sec. 9. Sections 5 and 8 of this Act take effect immediately under AS 01.10.070(c).

15 * Sec. 10. Sections 1 - 4 and 7 of this Act take effect on the day after the date on which the
16 lieutenant governor has received notice in writing from the secretary of the state senate and
17 the chief clerk of the state house of representatives under sec. 8 of this Act that they have each
18 received a copy of regulations that the Department of Transportation and Public Facilities
19 proposes to adopt under authority of AS 44.42.050(e), added by sec. 5 of this Act.

23-LS1135S
Utermohle
4/22/04

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IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

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11 determine how they might be improved or whether they should continue to be
12 maintained;

13 (3) study alternative means of improving transportation in the state
14 with regard to the economic costs of each alternative and its environmental and social
15 effects;

16 (4) develop a comprehensive, long-range, intermodal transportation
17 plan for the state;

18 (5) study alternatives to existing modes of transportation in urban areas
19 and develop plans to improve urban transportation;

20 (6) cooperate and coordinate with and enter into agreements with
21 federal, state, and local government agencies and private organizations and persons in
22 exercising its powers and duties;

23 (7) manage, operate, and maintain state transportation facilities and all
24 docks, floats, breakwaters, and buildings, including all state highways, vessels,
25 railroads, pipelines, airports, and aviation facilities;

26 (8) study alternative means of transportation in the state, considering
27 the economic, social, and environmental effects of each alternative;

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29 considering deletions, additions, and the absence of alterations;

30 (10) develop facility program plans for transportation and state
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1 section, including but not limited to functional performance criteria and schedules for
2 completion;

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6 the department, the department shall periodically [ANNUALLY] evaluate the cost,
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8 automotive purposes, and the purpose for which the vehicles are intended to be used,
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10 GAS] whenever practicable; the department may participate in joint ventures with
11 public or private partners that will foster the availability of alternative fuels
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29 SCHOOL DISTRICTS AND REGIONAL EDUCATIONAL ATTENDANCE
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31 (A) STANDARDS FOR THE DESIGN, CONSTRUCTION,

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2 (B) ENERGY CONSERVATION MEASURES FOR RURAL
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17 may transmit the plan to the governor and [MEANS AND COSTS OF
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19 SUBSIDIES, AND THE COSTS AND BENEFITS OF NEW TRANSPORTATION
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21 (2) identify the method and manner for estimating benefits of a project
 22 so that the cost of estimating the benefits of a project is not excessive; and

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 25 of the benefits is not in the best interest of the state.

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 30 Refrigeration, and Air Conditioning Engineers as revised

31 [(i) BY THE COMMISSIONER OF

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TRANSPORTATION AND PUBLIC FACILITIES UNDER
AS 44.42.020(a) FOR PUBLIC FACILITIES; OR

(ii)] by the Alaska Housing Finance Corporation for
buildings and structures that are not public facilities; or

(B) developed in regulations adopted

[(i) BY THE COMMISSIONER OF
TRANSPORTATION AND PUBLIC FACILITIES UNDER
AS 44.42.020(a) FOR PUBLIC FACILITIES; OR

(ii)] by the Alaska Housing Finance Corporation for
buildings and structures that are not public facilities.

* **Sec. 7.** AS 46.11.010 is repealed.

* **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

Representative Jim Holm

District 9

Session

Capitol Building, Room 110

Juneau, AK 99801

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Interim

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SPONSOR STATEMENT FOR HB327

“An Act relating to the powers and duties of the Department of Transportation and public officials”

HB327 is being brought forward at the suggestion of the DOT and the Attorney General's office to clean up old statute which is now and always has been, obsolete.

A situation has developed in Rural Alaska where a bridge is being held up because of an oversight by state government. In the late 70's the Governor wrote executive order No. 39 § 2 (1977) creating the "Alaska Transportation Council" (among other things) directing the commissioner of DOT to consult with this council on all annual transportation projects. Projects were not supposed to move forward without the recommendation of the council being considered. Unfortunately, after the term of that sitting governor all of the subsequent governors failed to populate the council. This made it difficult to comply. A contributing factor to the issue was the manner in which the council became law. As an executive order, it entered statute from lack of action on the part of the legislature and was therefore, somewhat outside of the usual process.

As we in the Legislature know, good ideas come and go. What seemed very prudent at one point can seem impractical at a later date. I feel that as a matter of policy, if we have placed an unrealistic statute into law we should repair it at the first notice. This is exactly the situation that HB327

addresses, but with a more serious consequence. Because the State may have unwittingly overlooked the requirement to "consider the recommendation of the Council..." and do a cost "benefit" study for each project in the state, it has found itself in litigation. This oversight was brought to my attention last year.

Our problem is fairly straight forward. The state is not complying with this old statute, thereby setting a basis for litigation. One person has taken advantage of this situation to get an injunction against a rural project and there is every reason to think that more will follow. To preserve our current and future projects, we must quickly repair this statute and take the further step of making it retroactive.

The other changes to the statute amount to house cleaning. The changes reflect "Powers and Duties" that have been handed to other agencies along with practices that cost more than the resulting savings. Also some changes include allowing the Commissioner to study "alternative fuels" for use in state vehicles rather than just natural gas. And finally, changing "annual" requirements to "periodic" which will allow the commissioner discretion in choosing times that are sensible. This will save the money spent on studies and let it be spent on roads.

Please help me make this crucial change as soon as practical.

CS HB 327 (Version V)
Comments by Jeff Ottesen
Director, Program Development
Alaska Department of Transportation and Public Facilities
February 26, 2004

(Explanatory Sectional Analysis Submitted by D.O.T.)

This version of HB 327 (Version I) contains both housekeeping and substantive measures.

Housekeeping:

To preserve time I will not address the house keeping measures other than to say they clean up sections of the powers and duties for DOT&PF to reflect the world we now operate within. Changes in other laws, technology, budgetary changes and governmental reorganization have intervened in such a way to make a part of our powers and duties language obsolete.

Specifically, I am referring to **Sections 3, 6, and 7** as house keeping measures.

Substantive:

The remaining sections of the bill are more substantive. They are directed at two specific goals:

- Ensuring that a specific project in the Lake Iliamna region (the Iliamna to Nondalton road and bridge) is not subject to endless planning and litigation; this a project that has been stopped and started since the mid-1970's.
- Ensuring that the state's transportation planning process is efficient, in line with current practice and federal influence, and most importantly not subject to additional litigation using the same arguments used on the Iliamna to Nondalton project.

Section 1:

This section was recommended to us by the Department of Law. This section, coupled with the other sections, notably Section 8, ensures the law will directly apply to the subject project currently before the Superior Court.

Section 2:

This section applies to a statutory requirement that existed when we were the Department of Highways prior to the merger with the Department of Public Works and the creation of DOT&PF. It clarifies that the requirement for a program of projects is a piece of the overall program of projects now required at AS 44.42.050 (see Section 4 of this bill). It also changes the timing from annual to periodic. We fulfill this requirement when we prepare the STIP (Statewide Transportation Improvement Program).

As a matter of technical correction we would ask that the requirement of 20 years be changed to 2 years. It is not practical to predict project costs and funding streams for a 20-year horizon.

Section 4:

This section applies to the state's requirement for a multi-modal transportation plan. It clarifies that said transportation plan is in reality comprised of many different planning documents, organized by geography, modes, corridors and other distinctions. It further clarifies that the federal requirements are the primary standard of such planning efforts, which is practical, as nearly all of our funding must meet this standard.

Importantly, this section eliminates the requirement for consideration of costs and benefits of new transportation modes; this is the key element in the lawsuit against the state. It also eliminates the reference to the Alaska Transportation Planning Council, a body that has not been seated for nearly 20 years.

Section 5:

This section applies to the listing of projects slated for design and construction, typically known as the STIP (Statewide Transportation Improvement Program), TIP (Transportation Improvement Program for urban areas), and the AIP (Aviation Improvement Program). It aligns this section of state law to match up to various federal requirements we also must follow.

Section 8:

This section provides that this law is retrospective or retroactive to the time that AS 44.42 was adopted as a matter of law, and not as a matter of legislative act. As Mr. Todd Larkin pointed out last week, the entirety of the AS 44.42 was codified from an Administrative Order, not as a matter of Legislative Act.

Section 9:

Makes the effective date immediate.

Consequences of not passing this legislation:

- The Iliamna to Nondalton project may be delayed.
- The state's transportation planning processes will remain in conflict with various federal requirements. Process, not projects, will be the beneficiary leading to more paper and less pavement.
- Many, if not most other important projects, in all corners of the state, rural and urban, would be at risk for similar litigation.

Thank you for your time. I would be happy to answer any questions you may have.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB327-DOT-CO-2-13-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title Powers and Duties of DOT&PF RDU Administration & Support
 Component Commissioner's Office
 Sponsor Holm
 Requester H Transportation Committee Component No. 530

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nona Wilson Phone 465-6973
 Director: Legislative Liaison Date/Time 2/16/04 12:43 PM
 Approved by: John MacKinnon Date 2/16/2004
 Agency: Deputy Commissioner

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB327-DPS-ASTD-2-24-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to the powers and duties of the RDU Alaska State Troopers
Department of Transportation and Public Facilities . . ." Component AST Detachments
 Sponsor Representative Holm
 Requester House Transportation Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill changes certain requirements of the Department of Transportation and Public Facilities relating to the evaluation of alternative fuel for vehicles under its supervision, and changes certain duties of the department relating to public facilities.

Passage of this legislation is not anticipated to have a fiscal impact on the Department of Public Safety.

Prepared by: Joan M. Kasson, Program Budget Analyst Phone 907-465-2640
 Division Administrative Services Date/Time 2/24/04 9:03 AM
 Approved by: Commissioner William Tandeske Date 2/24/2004
 Agency Department of Public Safety

Discussion on Why a Mandatory 'Costs and Benefits'
Analysis is Not Appropriate
Alaska Department of Transportation and Public Facilities
February 18, 2004

AS 44.42.050 (a) requires the department to: "...consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities."

On the surface, this requirement seems both reasonable and innocuous. However, there are many times the department does not spend the time or money to conduct such formal costs and benefits analyses. The most common examples are in rural areas where long distances and a small population base would make such efforts nonsensical—basic transportation elements are routinely needed regardless of their costs.

A recent court decision on a request for a preliminary injunction found the department at fault for not using a benefit-cost analysis on a project linking two rural villages. It is typical of many other rural projects we have undertaken, in that it provides a basic transportation system, but would not benefit from a detailed benefit-cost analysis.

Rural Alaska abounds in transportation needs that are provided as a basic public service. Virtually none of these would rise to a positive benefit-cost ratio because the small population base. Examples include:

- Ferries and ferry terminals
- Airports that meet minimum standards for length, width, adequate approaches, lighting and aprons/taxiways.
- Village roads to basic community services (e.g., sewage lagoons, water sources, airports, sanitary landfills, barge landing sites).

Even in the more populated regions of Alaska many categories of transportation projects would not be expected to present a positive benefit-cost ratio. Examples of such projects include:

- Rail-highway grade separation projects
- Paving of residential roads
- Landscaping and beautification
- Trails and amenities
- Pollution and environmental mitigation features needed to meet legal and permit requirements
- Transit investments (buses, bus stops)

Finally, the department often undertakes projects because a member of the Congressional delegation earmarked them. Such projects do not receive the normal prior planning or

detailed evaluation. The state has very little choice but to accept the project funds for the stated purpose, or to not use the funding.

Benefit and cost (B-C) analysis is a tool that is most often used to evaluate among and between different alternatives. In such cases, the tool helps to compare and contrast different choices in solving a transportation requirement. For example, in the development of the Southeast Alaska Transportation Plan, a number of different B-C analyses were prepared to better understand vastly different types of system options. Even in rural Alaska, the tool is used to help identify the most "cost-effective" solution, even if the costs still outweigh the benefits.

B-C analysis is a good technique and is routinely used in some circumstances. However, under the current construction of the statute, and the court's recent interpretation, every project undertaken must receive this type of analyses. For the reasons stated it is not appropriate nor a prudent use of project funds to routinely require these B-C analyses.

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES OFFICE OF THE COMMISSIONER

3132 CHANNEL DRIVE
JUNEAU, ALASKA 99801-7098TEXT: (907) 465-3652
FAX: (907) 586-8365
PHONE: (907) 465-3900

February 13, 2004

The Honorable Jim Holm
Co-Chair, House Transportation
Alaska State Legislature
State Capitol, Room 110
Juneau AK 99801

Dear Representative Holm:

Through the cooperative efforts of our respective staffs, let me first thank you for taking lead on this important piece of legislation (HB 327). As you know, the department's transportation planning statutes are nearly three decades old, and have not been updated to reflect modern practice nor the influence of the federal-aid requirements that we must routinely adjust to. This legislation would bring these statutes into compliance with the external requirements, and simplify the planning process to ensure we deliver projects and not paper studies with our scarce funds.

The legislation also accomplishes some important housekeeping tasks, such as bringing our departmental powers and duties in line with changes that have occurred over time. To this end, I would offer these comments:

Section 1. Pertaining to AS 44.42.020 (a)

- Paragraph (11) is modified to minimize the frequency and hence the costs of alternative fuels evaluations for use in state vehicles. It also is modified to reflect the emergence of new alternatives fuels in addition to natural gas. We support this modification.
- Paragraph (13) is deleted to reflect that our agency has not been funded to perform this duty for more than a decade. Whether the public facilities responsibility remains at DOT&PF is still an open question, but regardless of that outcome, we support this modification.
- Paragraph (14) is deleted to reflect that our agency has not been funded to perform this duty for more than a decade. We believe there are many other standard setting bodies for energy performance standards and do not think this a valid responsibility for a state agency regardless of whether the public facilities responsibility remains at DOT&PF. We support this modification.
- Paragraph (15) is deleted to reflect the transfer of school construction responsibility to local school districts several years ago. We support this modification.

Representative Holm

Page 2

February 13, 2004

Section 2. Pertaining to AS 44.42.050 (a):

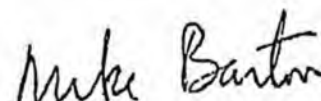
- This section would modify the transportation planning statute to better reflect modern practice and clarify the technical requirements and timing of updates to the state transportation plans. We support this section and have made some specific suggestions directly to your staff to further improve this section.

Sections 3 and 4. Pertaining to AS 46.11.900(8) and AS 46.11.010:

- Our comments above on paragraph (14) of AS 44.42.020 (a) in Section 1 of bill apply here too. We support this modification.

We understand that this bill will need our support and background information to ensure it is supported by the Legislature. To this end we are committed to meeting in any venue so scheduled and offering testimony as requested. I thank you for your dedication to this effort and important contribution to the state's transportation future.

Sincerely,



Mike Barton
Commissioner

cc: Rebecca L Hultberg, Special Staff Assistant, Office of the Governor
John MacKinnon, Deputy Commissioner of Highways & Public Facilities, DOT&PF
Jeff Ottosen, Director, Division of Program Development, DOT&PF
Nona Wilson, Legislative Liaison, DOT&PF

Transportation CS HB 327
Prepared by:
Alaska Department of Transportation and Public Facilities
March 16, 2004

Thank you Mr. Chairman:

I believe the legislation before you is some of the most important you will consider this year. While the bill is long and tedious, it addresses something we can all agree with. Transportation is vital to the state, and many important projects must continue to be built to serve the state. As my testimony will show, without this legislation, many such projects may be in jeopardy.

This version of Transportation Committee Substitute for HB 327 contains both housekeeping and substantive measures.

Housekeeping:

To preserve time I will not address the house keeping measures other than to say they clean up sections of the powers and duties for DOT&PF to reflect the world we now operate within. Changes in other laws, technology, budgetary changes and governmental reorganization have intervened in such a way to make a part of our powers and duties language obsolete.

Specifically, I am referring to **Sections 3, 6, and 7** as house keeping measures.

Substantive:

The remaining sections of the bill are more substantive. They are directed at two specific goals:

- Ensuring that a specific project in the Lake Iliamna region (the Iliamna to Nondalton road and bridge) is not subject to endless planning and litigation; this a project that has been stopped and started since the mid-1970's.
- Ensuring that the state's transportation planning process is efficient, in line with current practice and federal influence, and most importantly not subject to additional litigation using the same arguments used on the Iliamna to Nondalton project.

Section 1:

This section was recommended to us by the Department of Law. This section, coupled with the other sections, notably Section 8, ensures the law will directly apply to the subject project currently before the Superior Court.

Section 2:

This section applies to a statutory requirement that existed when we were the Department of Highways prior to the merger with the Department of Public Works and the creation of DOT&PF. It clarifies that the requirement for a program of projects is a piece of the overall program of projects now required at AS 44.42.050 (see Section 4 of this bill). It also changes the timing from annual to periodic. We fulfill this requirement when we prepare the STIP (Statewide Transportation Improvement Program).

Section 4:

This section applies to the state's requirement for a multi-modal transportation plan. It clarifies that said transportation plan is in reality comprised of many different planning documents, organized by geography, modes, corridors and other distinctions. It further clarifies that the federal requirements are the primary standard of such planning efforts, which is practical, as nearly all of our funding must meet this standard.

Importantly, this section eliminates the requirement for consideration of costs and benefits of new transportation modes; this is the key element in the lawsuit against the state. It also eliminates the reference to the Alaska Transportation Planning Council, a body that has not been seated for nearly 20 years.

Section 5:

This section applies to the listing of projects slated for design and construction, typically known as the STIP (Statewide Transportation Improvement Program), TIP (Transportation Improvement Program for urban areas), and the AIP (Aviation Improvement Program). It aligns this section of state law to match up to various federal requirements we also must follow.

Section 8:

This section provides that this law is retrospective or retroactive to the time that AS 44.42 was adopted as a matter of law, and not as a matter of legislative act. The entirety of the AS 44.42 was codified from an Administrative Order, not as a matter of Legislative Act.

Section 9:

Makes the effective date immediate.

Consequences of not passing this legislation:

- The Iliamna to Nondalton project may be delayed.
- The state's transportation planning processes will remain in conflict with various federal requirements. Process, not projects, will be the beneficiary leading to more paper and less pavement.
- Many, if not most other important projects, in all corners of the state, rural and urban, would be at risk for similar litigation.

Thank you for your time. I would be happy to answer any questions you may have.

[Handwritten signature]

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKA STATE COUNCIL OF TROUT)
UNLIMITED, ROBERT B. GILLAM,)

Plaintiffs,)

v.)

STATE OF ALASKA, ALASKA DEPARTMENT)
OF TRANSPORTATION AND PUBLIC)
FACILITIES,)

Defendant.)

RECEIVED

JAN 07 2004

DEPARTMENT OF LAW
OFFICE OF ATTORNEY GENERAL
3RD JUDICIAL DISTRICT
ANCHORAGE, ALASKA

Case No. 3AN-02-09363 CI

ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

AND GRANTING STATE'S CROSS-MOTIONS FOR PARTIAL SUMMARY

JUDGMENT

This is a case in which the Plaintiffs are seeking injunctive and declaratory relief with respect to a proposed road and bridge project between the communities of Iliamna/Newhalen and Nondalton in Southwest Alaska. The complaint was filed on July 25, 2002 by Plaintiffs Alaska State Council of Trout Unlimited, a branch of the nation's largest coldwater fisheries conservation organization, and Robert B. Gillam, who owns real property near the proposed project. The Defendant is the State of Alaska, Department of Transportation and Public Facilities (DOT&PF), which is the state agency responsible for transportation planning in Alaska.

project's cost, which Plaintiffs assert must be considered pursuant to AS 44.42.050.

On June 9, 2003, the State filed a cross-motion for partial summary judgment on the issue of the State's substantial compliance with AS 44.42.050 as related to the State's decision to baseline the Iliamna-Nondalton Road Project into the Southwest Alaska Transportation Plan. The State also cross-motoned for partial summary judgment on the issue of the Alaska Transportation Planning Council. In addition, the State filed its opposition to the motion for preliminary injunction.

Briefing was completed on all the motions in October 2003, and the court heard oral argument on October 29, 2003.

Factual Background

The following facts appear to be essentially undisputed between the parties:

Iliamna is a community of approximately 100 people that is located on the northwest shore of Iliamna Lake. It is connected by an approximate six-mile road to the community of Newhalen, which has about 160 residents. These two communities are served by a state-maintained airport. Nondalton is a community of approximately 220 people located on the western shore of Six Mile Lake. It is located approximately 20 miles north of Iliamna, on the other side of the Newhalen River. This litigation concerns a proposed road and bridge project to connect Nondalton to the other two communities

The benefit / cost analysis contained in this report concludes that continued construction of the road is not economically justifiable at this time. The present value of the project may be affected by future events. Consequently, it is recommended the project be re-evaluated at some future time.

Id. at 34.

In 1987, DOT&PF re-evaluated the project cost and estimated that the cost of completing the project upgraded to meet applicable federal standards at that time (including two bridges) to be approximately \$18.5 million. [Complaint and Answer at ¶ 15].

In December 1991, DOT&PF issued Tomorrow's Alaska: Transportation for the 21st Century, a statewide transportation policy plan. [Ex. D to Ottesen Affidavit dated 10/29/03]. The Iliamna and Nondalton roadway was on a map in this plan and identified as a highway route "recommended for future activity." [Id. at p. 5].

In October 1993, the Lake and Peninsula Borough issued Economic and Transportation Analysis of the Iliamna-Nondalton Inter-Village Road System. [Ex. C]. This analysis estimated the cost to complete the road and bridge at that time to be approximately \$9.5 million. [Id. at 1]. Although the analysis does not contain a cost/benefit analysis, it does identify the positive impact of the project on various levels: promotion of economic development and tourism, elimination of the need to further improve the Nondalton airport, promotion of private property development, consolidation of services, including fuel storage, and overall improved transportation for the area. [Id. at pp. 1-2]. It concludes by urging DOT&PF to prioritize the project's completion by ranking it as a priority "1"

ranked in order of their score using the criteria the DOT&PF had identified. The Iliamna-Nondalton project scored the 7th highest of all the community transportation program needs and priorities for the state, with a ranking of 110.5 points. The scoring criteria for the evaluation process did not specifically address the capital cost of the project or its cost effectiveness. [Ex. 4 to Otteson Depo. of 4/23/03 at 254-256]. As DOT&PF has stated:

cost-benefit analyses are not used by ADOT&PF to score Remote Roads and Trails transportation improvement projects. Project cost is not one of the standard thirteen criteria that are routinely scored by the ADOT&PF Project Evaluation Board (PEB) in the evaluation of proposed remote Alaskan road transportation improvement projects such as the Iliamna-Nondalton Road Improvement Project. Economic development is not the primary purpose for this project; the intent of the project is to provide year-round overland access between Iliamna and Nondalton allowing the communities mobility, increased safety, and use of regional service facilities.

Iliamna-Nondalton Road Improvements Revised Environmental Assessment at 52 (December 2001). The scoring criteria did include factors such as economic benefits following construction, the contribution the project would provide to health or quality of life, safety benefits from the project, the extent to which the project would improve intermodal transportation, and the contribution that other agencies or user groups would provide to fund the capital costs. [Ex. 4 to Otteson Depo. of 4/23/03 at 254-256].

Based on this scoring, the Iliamna/Nondalton project was listed in both the 1996-1998 Statewide Transportation Improvement Program (STIP) and the 1998-2000 STIP prepared for federal highway funding purposes. However, construction was not begun because the Plaintiffs in this case sued the Federal

recovery factor, the annual maintenance and operation cost, or estimate of the annual person miles traveled in 2020 for this particular project. [Id. at 59].

DISCUSSION

- A. The Commissioner has not violated the provision of AS 44.42.050 that requires consideration of the recommendation of the Alaska Transportation Planning Council.

AS 44.42.050(a) provides in relevant part as follows:

The commissioner shall develop annually a comprehensive, intermodal, long-range transportation plan for the state. In developing and revising the plan, the commissioner shall consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities. The commissioner shall also consider the recommendation of the Alaska Transportation Planning Council.

It is undisputed that the Alaska Transportation Planning Council has not been in existence since the early 1980's, and that there is no legislative or constitutional directive to the Department that obligates it to establish such a council.

In these circumstances, the Department is not in violation of this portion of the statute. Had a Council been formed and made recommendations that the commissioner did not consider, a statutory violation could well have been established. But here, no recommendations were made, and thus no statutory violation of this particular provision has been established.

The Plaintiffs also assert that summary judgment cannot be granted to the state regarding this statutory provision because the state itself is a party to this litigation. Having failed to appoint the council, the Plaintiffs assert that the State

consistent with the statutory requirements at the outset, then the "baselining" or carrying-over of that project from year to year is not precluded by the statute.¹

- C. Plaintiffs have demonstrated that the State has not adequately considered the means and costs, as well as the costs and benefits of the proposed bridge, of the Iliamna-Nondalton project as required by AS 44.42.050.

AS 44.42.050(a) requires that in determining which projects should be included within the state transportation plan, the commissioner "shall consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities." Further, section (d) of this statute requires that the state transportation plan "include an itemization of the estimated cost for each project and the total cost of all projects."

Here, DOT&PF asserts that it undertook the requisite statutory consideration of the Iliamna - Nondalton project in 1995, when it accorded the project a seventh-highest priority in the state based on the criteria that it applied to evaluate the project at that time.

But this court has reviewed the criteria that were employed by the Department at that time, and finds that they do not comport with the statutory requirements. Indeed, the Department itself has acknowledged that it did not undertake a cost-benefit analysis to evaluate transportation improvement projects in the remote parts of the state. See Ex. A, Revised Environmental

¹ Here, the 2002 Plan was silent on the total capital cost, capital recovery factor, annual maintenance cost, and estimate of the 2020 annual person miles traveled for the "baselined" projects. See Ex. 13 at 59. For the reasons discussed in part C, below, this appears due to the fact that this cost and effectiveness analysis was never undertaken at the outset, at least with respect to this project. It is one thing to carry-over the requisite analysis from year to year, which this court finds is not precluded by statute. It is another, as discussed below, to never undertake this statutorily required analysis at the outset.

viability and the priority that should be accorded to that project. But, in this court's view, AS 44.42.050 does require that a project's economic cost must be considered as a factor in the determination of whether a particular project should proceed, together with consideration of "the costs and benefits of new transportation modes and facilities."² The State has not demonstrated that an adequate economic cost analysis was included in the analysis when the 1995 decision to move forward with the completion of this road and bridge project was made. Accordingly, the Plaintiffs' motion for a preliminary injunction should be granted. As the State recognized, a bond is not appropriate in this case and will not be required. See State's Opposition to Prelim. Inj. at 11.

ORDER

Based on the foregoing, IT IS ORDERED that the Plaintiffs' motion for preliminary injunction is GRANTED. The Defendant, State of Alaska, Department of Transportation and Public Facilities, and its officers, employees, and those in active concert or participation with them who receive actual notice of this order by personal service or otherwise, are hereby ordered to cease any action to construct, contract to construct, or produce final design of the Iliamna – Nondalton road and bridge project until the economic costs of the project are considered in the next revision to the Southwest Regional Transportation Plan as required by AS 44.42.050, or until further order of this court. Because the bridge

² The State also asserts that the term "cost" as used in the statute, does not necessarily require consideration of economic cost. See, e.g., State's Opp. to Prelim. Inj. at 11-12. But to interpret cost to exclude the economic cost of the project is at odds with the statutory language itself, which requires the state transportation plan to "include an itemization of the estimated cost for each project and the total cost for all projects."

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Anchorage, Alaska 99501

CS HB 327

Testimony of Geoffrey Y. Parker
For Plaintiffs in *Trout Unlimited and Bob Gillam v. ADOT&PF*, 3 AN-02-09363 Civil

Thank you Mr. Chairman.

I am plaintiffs' counsel in *Trout Unlimited and Bob Gillam v. ADOT&PF*, 3 AN-02-09363 Civil. Sections 1, 4 and 8 of HB 327, and its companion SB 371, overturn the court's preliminary injunction in that case. I will come to that shortly, but first the larger picture. I will ask five questions and help you answer them. They are:

If HB 327 becomes law, then –

- (1) Will the Legislature have any objective criteria by which to decide whether to fund a project?*
- (2) Will the state refund more or less money to the federal government for projects which do not commence construction within 10 years of first spending federal funds?*
- (3) What will be the role of the Alaska Legislature in transportation planning?*
- (4) Will good projects be more or less likely to proceed?*
- (5) Who are the winners and losers?*

Now, I'll help you answer these questions.

1. HB 327 Eliminates All Objective Criteria for Determining Which Projects to Fund.

HB 327 eliminates the requirement in AS 44.42.050(a) that ADOT consider the costs of improvements to existing facilities and the costs and benefits of new facilities. These are the only objective criteria in state statute for determining whether a project is worthy. Without these criteria, the Legislature will have not an objective basis for determining which projects are worthy. Its budgetary decisions will be reduced to subjectivity and politics.

2. HB 327 Increases the Likelihood that the State Will Have to Refund More, Not Less, Money to the Federal Government.

23 USC 102(c) requires the state to refund to FHWA federal funds spent on projects that do not commence construction within 10 years of spending federal funds. I understand from FHWA that dozens of projects approved by the Legislature at ADOT's request have triggered this "10-year time trap" and apparently total millions of dollars potentially owed to the United States. This happens because ADOT tells the Legislature that a project is worthwhile, the Legislature includes it in a capital budget, ADOT spends the federal money on planning and

design, and then decides the project is not so important. If construction does not start within 10 years, then FHWA has the right to demand refund.

HB 327 makes such debts more likely, because the bill eliminates objective criteria that costs and benefits must be considered. Without objective criteria, projects are more likely to start for subjective political reasons, and then not be built when elected officials change.

By Eliminating State Requirements for Transportation Planning, SB 327 Reduces the Role of the Legislature to a Rubber Stamp.

Nearly all road projects use federal highway funds. To do so, a project must result from state compliance with federal planning requirements, at 23 USC 134 and 135, and regulations thereunder.

This means that the Legislature cannot insert, into the capital budget, a project using federal funds. The Legislature can only delete a project. Adding a project which is not a result of federally-required planning circumvents federal law, and FHWA cannot fund the project. So, the Legislature's role is limited.

What the Legislature can do is shape the planning process by enacting statutes, such as AS 44.42.050(a), to add *objective* criteria to the planning process.

By eliminating objective criteria, HB 327 eliminates the lawful role the Legislature has in guiding transportation planning involving federal funds. Therefore, HB 327 reduces the Legislature to approving or disapproving projects *without* any objective criteria for doing so. Its role is reduced to that of a political rubber stamp.

4. Eliminating the Requirement that Costs and Benefits be Considered Makes Good Projects Less Likely to Proceed Efficiently As Bad Projects Compete for Funds.

Federal funds are fungible but finite. So are state funds. In effect, HB 327 replaces objective criteria with subjective political considerations. Such considerations are to blame for spending federal funds on projects that do not have a high priority, and trigger the 10-year time trap. When political considerations drive bad projects forward, good projects slow down, because funds are fungible but finite.

5. Alaskans Deserving of Projects Lose Under HB 327; Alaskans Underserving Win.

The Iliamna-Nondalton project is a case in point. It was a pet project of Senator Zarhoff (D-Kodiak) initially estimated in 1976 to cost \$ 6 million. On April 16, 1976, ADOT's predecessor, the Alaska Department of Highways, wrote to Governor Hammond that the project should not be funded, because it worked out to "the staggering sum of \$125,000 per vehicle." In the early 1980's, the Legislature spent \$ 4 million on it. In 1986 ADOT discontinued the project after a cost-benefit analysis concluded (1) that costs were \$12 million, benefits were \$ 3 million, and the benefit-cost ratio was 0.26, (2) that projects should not be built at benefit-cost ratios less than 1.0, and (3) that the project was not economically justified. In April 1995, Governor Knowles announced his community transportation program. He wanted a demonstration project for remote roads. ADOT gave him Iliamna-Nondalton. The Legislature

has since allocated \$13.5 million toward the project – which now works out to about \$250,000 per vehicle. The money has not been spent on the project. Trout Unlimited and Bob Gillam have twice stopped it in court in 1997 and 2004. They saved the state millions of dollars, the expenditure of which is enjoined until ADOT objectively justifies the project as required by law. That is due in July 2004.

Who wins and loses when unjustified projects get funded? People who benefit from well-justified projects lose. Anchorage is a case in point. In April, Anchorage voters will be asked to bond about \$ 40 million in road projects which could be paid for with federal funds if such funds were not wasted on projects like Iliamna-Nondalton. Rural people, such as those in Kake who oppose a project ADOT wants, also lose. Who wins? – people who support projects that cannot be economically justified.

People live and die on highways because of such decisions. In 1979, the extension of the coastal trail in Anchorage was planned above the bluff of south Anchorage before it was subdivided. Proponents sat on their hands. Then, Governor Knowles, ADOT, and the Legislature spent \$ 4 million trying to put the trail below the bluff over objections of those who seek to protect the Anchorage Coastal Wildlife Refuge and private property. That money was FHWA transportation enhancement money. It could have been spent on a pedestrian overpass at Lake Otis where a school girl was recently killed crossing that road to go to school. You allocated that money elsewhere. Indirectly, the Legislature contributed to that girl's death.


You must make responsible decisions. Eliminating objective criteria for doing so eliminates the best information you can have. HB 327 is not the way to proceed.

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730 I Street, Suite 226
Anchorage, Alaska 99501

TO: House State Affairs Committee
FROM: Jeff Parker 
RE: Supplement to my testimony on CS HB 327
DATE: 3/25/04

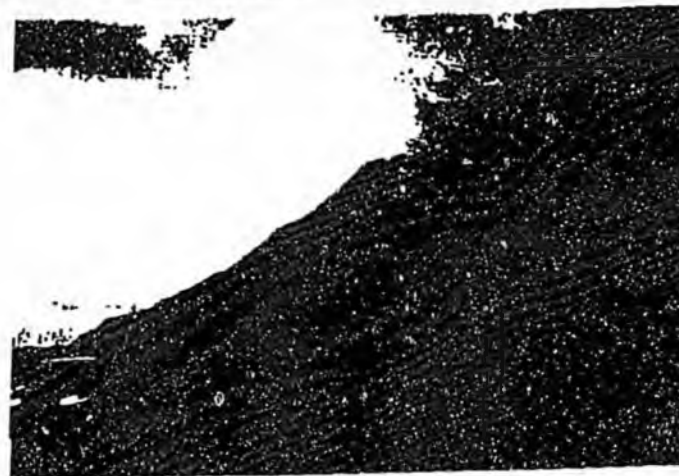
My written testimony states that "dozens of projects" approved by the Legislature at ADOT's request have triggered the "10-year time trap."

I am attaching pages 2 and 3 of ADOT's FY2004-2006 Statewide Transportation Improvement Program. They confirm that about 60 projects confront the time trap.

Attachment: FY 2004-2006 STIP, pp. 2-3



Approved



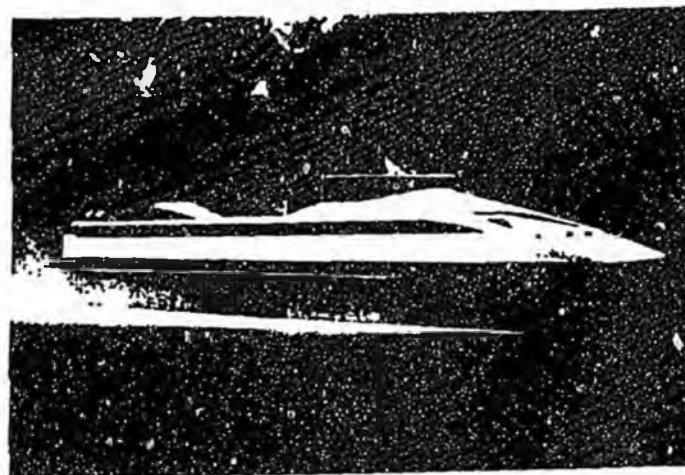
2004 - 2006 Statewide Transportation Improvement Program

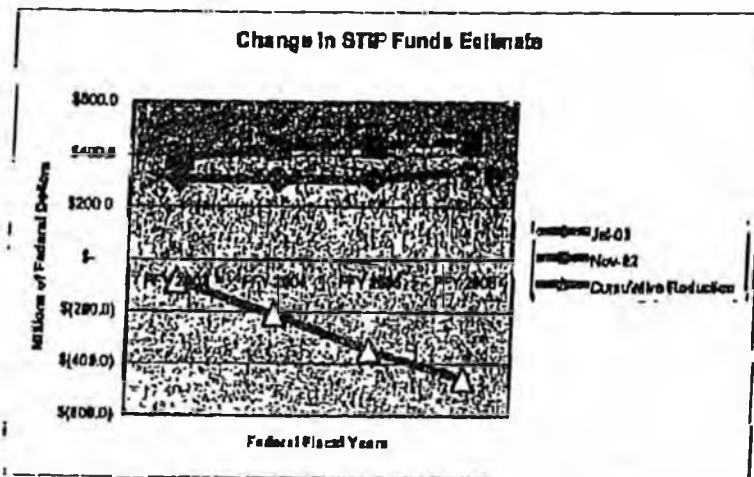
Providing for the Movement of People and Goods



**Alaska
Department of
Transportation
and Public
Facilities**

November 2003





Other factors affecting the STIP

The reduction of federal funds is not the only adverse factor accounted for in preparing this STIP. Three other significant events must be mentioned:

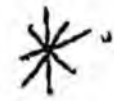
- *Delay in reauthorization of TEA-21* – TEA-21 is the federal transportation legislation that funds the federal transportation program in all 50 states. Every 6 years this federal program is reauthorized, and funding levels and program requirements are usually adjusted. If the normal schedule were followed, reauthorization would occur prior to FFY 2004, the first year of the new STIP. Reauthorization was delayed by at least 5 months, and the extension law uses the same funding levels received in FFY 2003. This final STIP is built on the cautious assumption that 2004 and 2005 will produce the same level of funding as 2003.

- *Delay in reimbursement of ER funds* – Alaska is eligible for more than \$50 million to cover the costs of transportation repairs due to emergencies in 2002. The Denali earthquake and the flooding on the Kenai Peninsula and elsewhere would usually be funded with special Emergency



Denali earthquake damage on Tok Cutoff Highway MP 67 to 78 November 3, 2002. Nearly \$20 million of damage was done on this and other transportation features.

Repair funds from TEA-21. However, the national ER funding is depleted, and the state may have to wait several years for reimbursement. In the draft STIP, we had recommended that the emergency costs be temporarily funded from the STIP. We will not be reimbursing the ER expenditures until federal Emergency Repair funds are appropriated.



FHWA Time Trap Requirements – In 2003 FHWA notified Alaska DOT of about 60 time trap projects that needed attention. A time trap project is one that was started 10 or more years ago, and not completed. Under the federal rules, the state must either commit to completing such time trap projects or reimburse the federal funds. In some cases, the department can also apply to have time trap projects forgiven, subject to review and approval by the FHWA. While we have

worked diligently to have many of these older projects forgiven, many other projects must be accelerated to avoid the requirement that the state repay federal funds.

Changes to the TRAAK Program

In 2003, the TRAAK program was changed by enactment of Senate Bill 71. The effect of this legislation was three-fold:

- Beginning in FFY 2004, it reduced the maximum level of funding allocated to the statewide TRAAK program from 8% to 4%; with a requirement for further reduction to 2% beginning in FFY 2007.
- Funds not spent in the TRAAK program are to be transferred to the CTP program. It will grow to 37% in FFY 2004 and to 38% in FFY 2007.
- MPOs (Anchorage and Fairbanks) may spend no more than 10% of the funds allocated from the STIP on transportation enhancements.

The effect of this change is to slow the pace of the entire TRAAK program. The department may have to impose a multi-year moratorium on new TRAAK projects until active projects in design are funded through construction. Another possibility is to limit TRAAK projects to maximum dollar limit. The intent of these possible program changes is to ensure the program's viability and utility to several Alaska communities each year.

Eligibility of borough governments to participate

The FHWA imposes a perpetual requirement for maintenance on projects funded under the federal-aid transportation program. Alaska DOT, in turn, requires that local governments

and other sub-recipients of these funds make the same commitment to long-term ownership.

Beginning in the FFY 2004 STIP, if STIP funds are used on a local (non-state owned or commitments for maintenance and ownership) project, the sub-recipients must have legal authority to accept this commitment. For example, Borough governments must have adopted the power to 'provide transportation systems', on an areawide or non areawide basis, as required by state statutes (AS 29.35.200 - 220).

Boroughs that have not adopted the power to 'provide transportation systems' under this statute, may not have the legal ability to own, fund, operate, maintain, or tax for such transportation projects. Should a borough or other recipient that accepts a federal-aid project, later claim they have no legal authority to fund or maintain projects built with FHWA funds, this policy protects the state from future financial liability.

New Policy: cost sharing with our partners

In reducing the state budget in 2004 to meet fiscal targets, state match funds were cut by about \$9 million or nearly 20% with the expectation that local and earmarked projects would no longer be matched with only state funds. The new policy requires that several classes of projects rely on 100% of the match funds provided by the local sponsor, and for other STIP projects serving a joint state and local interest, the match is to be split between the state and the sponsor.

This new policy applies to every new project phase or cost increase to existing phases needing match funds, including projects already underway. It applies to all projects and

**Division of Program Development
Process Consultation Matrix**

Process and reference	Who notified/consulted									What actions governed						
	MPO local govt officials	Non-MPO local govt officials	State and federal agencies	Interested parties*	Other governments**	Tribal governments	U.S. Secretary of Interior	Traditionally underserved (low income, minority households)	General public	Statewide Transportation Plan (SWTP)	Statewide Transportation Improvement Program (STIP)	Project development	Contracting	Hiring	Operations	Other plans
Govt-to-govt relations with federally recognized tribes DOT&PF P&P 01.03.010						●				●	●	●	●	●	●	●
Federal Law 23 USC 135(e)(2)(C) and 23 USC 135(f)(1)(B)(iii)						●	●			●	●					
MPO planning process (cooperative) 23 CFR 450.312 (a) and .316 (b)	●		●	●					●	● (LRTP)***	● (TIP)****	Major Investment Studies				
Non-MPO local process 23 CFR 450.212 (h)(l) and .214(f)		●								●	●					
Federal transportation regs 23 CFR 450.212 (a)(6) (Env Justice EO 12898)							●			●	●					
Public involvement procedure 17AAC 05.135 and 17AAC 05.160	●	●	●	●		●			●	●	●					
Alaska statute for Statewide Transportation Plan AS 44.42.050	●	●	●	●		●				●	●					
Local planning authority consistency review AS 35.30.010	●	●			●							●				

*Per 17 AAC 05.990 (3), Interested party means an individual or group that has expressed an interest in transportation issues, municipal governments and their elected officials, members of councils of Indian Tribes recognized under federal law, members of boards of associations established to implement AS 29.60.140, the Trails and Recreational Access for Alaska Citizen's Advisory Board created to implement Administrative Order 161, village and regional corporations under the Alaska Native Claims Settlement Act (43 USC 1601-1628); federal and state land management agencies, federal and state environmental agencies, and public and private providers of transportation services.

**Not defined in statute

***MPO Long-Range Transportation Plan

****MPO Transportation Improvement Program

Discussion on Why a Mandatory 'Costs and Benefits'
Analysis is Not Meaningful
Alaska Department of Transportation and Public Facilities
March 26, 2004

AS 44.42.050 (a) requires the department to: "...consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities."

On the surface, this requirement seems both reasonable and valuable. However, there are many times the department undertakes new projects but does not spend the time or money to conduct such formal costs and benefits analyses. The most common examples are projects for rural areas where long distances and a small population base would make such efforts nonsensical—basic transportation elements are routinely needed regardless of their costs.

A recent court decision on a request for a preliminary injunction found the department at fault for not using a benefit-cost (B-C) analysis on a project linking two rural villages. It is typical of many other rural projects we have undertaken, in that it provides a basic transportation system, but would not benefit from a detailed benefit-cost analysis.

Categories of transportation projects not suited selection using B-C analysis
Rural Alaska abounds in transportation needs that are provided as a basic public service. Virtually none of these would rise to a positive benefit-cost ratio because the small population base. Examples include:

- Ferries and ferry terminals
- Airports that meet minimum standards for length, width, adequate approaches, lighting and aprons/taxiways.
- Village roads to basic community services (e.g., sewage lagoons, water sources, airports, sanitary landfills, barge landing sites).

Even in the more populated regions of Alaska many categories of transportation projects would not be expected to present a positive benefit-cost ratio. Examples of such projects include:

- Rail-highway grade separation projects
- Paving of residential roads
- Landscaping and beautification projects
- Trails and amenities
- Pollution and environmental mitigation features needed to meet legal and permit requirements
- Transit investments (buses, bus stops, transit centers)

Many transportation "projects" are undertaken to fulfill one or more mandates, none of which can be readily quantified as to their "benefits."

- Projects undertaken to meet regulatory requirements (e.g., ferry modernization, data collection of truck weights and classes, bridge scour monitoring).
- Transportation "non-project" projects such as training, EEO compliance, bridge inspection, management systems and similar.
- Programs aimed at serving disadvantaged groups such as transit vans for elderly, disabled and other groups.

Finally, the department often undertakes projects because a member of Congress or the Legislature placed them in the capital budget. Such projects do not receive the normal prior planning or detailed evaluation. The state has very little choice but to accept the project funds for the stated purpose, or to not use the funding.

Why B-C analysis would continue to be used where it makes sense

Formal benefit and cost (B-C) analysis is a tool that is most often used to evaluate among and between different alternatives for a given project or range of options. In such cases, the tool helps to compare and contrast different choices in solving a transportation requirement. For example, in the development of the Southeast Alaska Transportation Plan, a number of different B-C analyses were prepared to better understand vastly different types of system options. Even in rural Alaska, the tool is used to help identify the most "cost-effective" solution, even if the costs still outweigh the benefits.

Even for the project at issue in the litigation, benefit cost analysis was prepared for the bridge crossing, considering different structural systems, pier options and span length. However, we did not perform an overall benefit-cost analysis, primarily because the project in question scored very highly on other considerations.

The department and two MPOs (AMATS and FMATS) maintain several different types of management systems, such as: Bridge, Pavement, Congestion, Safety and Maintenance. Each management system is a complex B-C tool aiding decision makers.

Why the STIP does not consider costs and benefits for certain project classes

In the STIP project selection process, a modified, simplified method of B-C analyses is used on urban and suburban projects, but village or remote projects and transit projects did not score well in this approach. Subsequently, we established modified project evaluation criteria for "remote" and transit projects that ensure they have a reasonable chance of competing. This satisfies a federal mandate that we ensure disadvantaged populations are not underserved by this federal program.

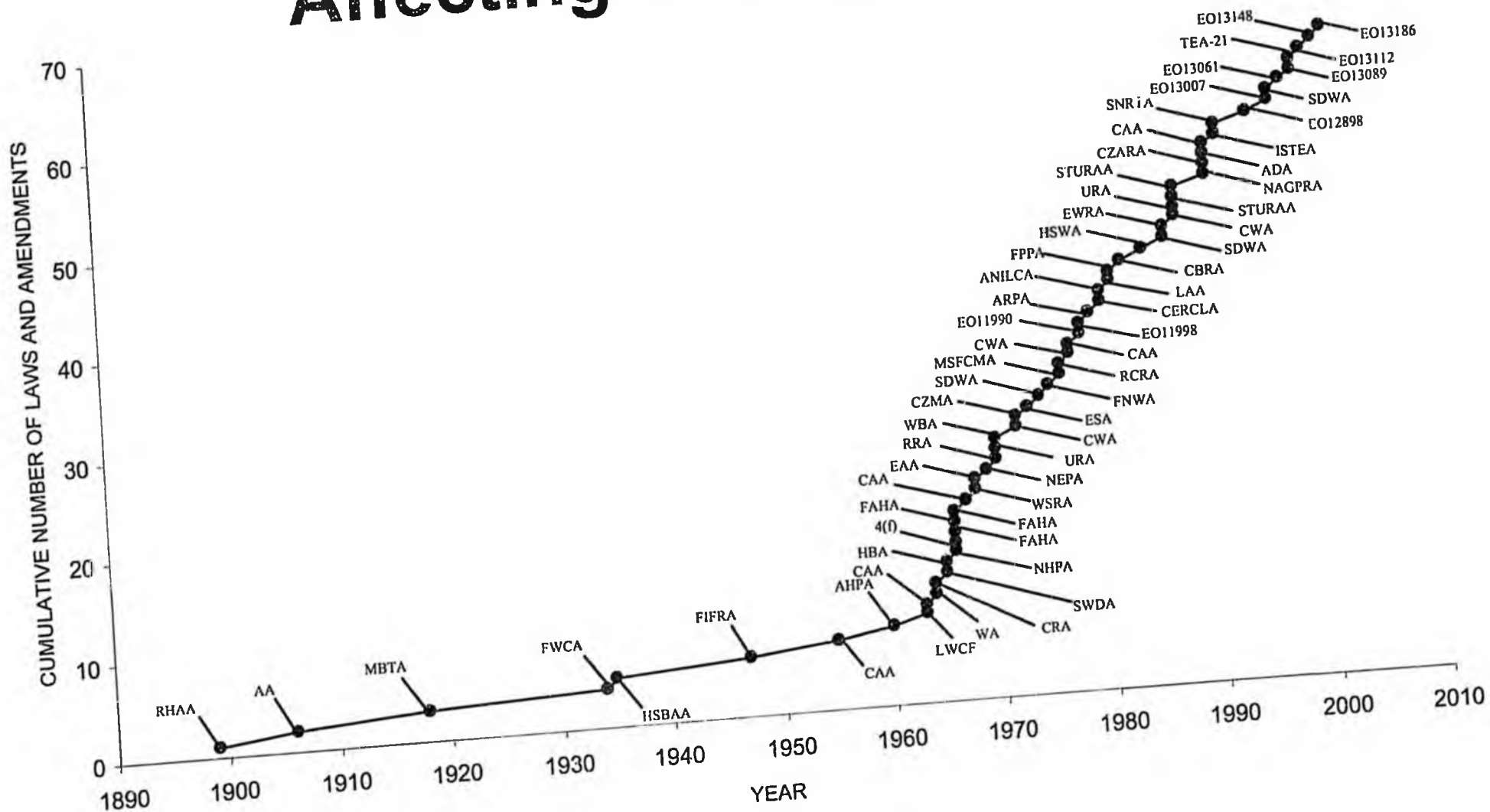
Summation

B-C analysis is a good technique and is routinely used in some circumstances even where not required by statute. However, under the current construction of the transportation

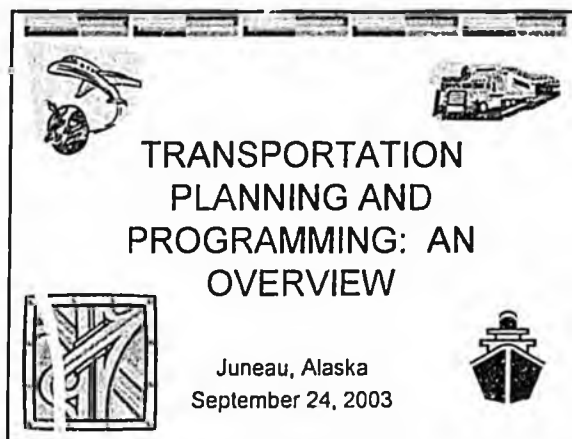
planning statute, and the court's recent interpretation, every new project undertaken must receive this type of analysis, including projects already in the development stage. For the reasons stated it is not meaningful nor a prudent use of project funds to routinely require these B-C analyses.

The real issue is whether we should perform B-C analysis where it is not practicable, nor a prudent use of public funds. With the current one-size fits all statute we have no discretion, as confirmed by the court. Without some relaxation of this requirement, delayed projects and higher project costs are unavoidable.

Federal Environmental Requirements Affecting Transportation



Per FHWA Presentation, 2003



**TRANSPORTATION
PLANNING AND
PROGRAMMING: AN
OVERVIEW**

Juneau, Alaska
September 24, 2003

TODAY'S PRESENTATION TOPICS

- The Basics of "Planning" and "Programming,"
- Legislative and Regulatory History;
- Key Components of Statewide and Metropolitan Transportation Planning;
- Transportation Plans and Planning Processes;
- Features of Transportation Programs and Programming;
- Linkages Between Statewide and Metropolitan Planning/Programming, and
- Role of Transportation Plans and Programs in Project Development.

The Basics of "Planning" and "Programming"

THE BASICS OF "PLANNING" AND "PROGRAMMING"

Transportation Planning involves "...improving the quality and scope of *information* the selected officials receive on *transportation options* and impacts of *transportation investments* on their state's (and community's) economy, environment and quality-of-life."

THE BASICS OF "PLANNING" AND "PROGRAMMING"

Transportation Programming involves "...matching and prioritizing proposed *projects* with available *funds* to accomplish agreed upon, stated *needs*."

THE BASICS OF "PLANNING" AND "PROGRAMMING"

- Planning Process:
 - Longer timeframe (at least 20 years).
 - Scope is "visionary," with emphasis on key policy issues
 - System-wide or facility-specific.
- Programming Process:
 - Shorter timeframe (at least three years, but can range upwards to six years).
 - Scope is more immediate and implementation-oriented.
 - Project-specific (by specific project phases).

Legislative and Regulatory Requirements

- ### LEGISLATIVE AND REGULATORY REQUIREMENTS
- Federal Legislation Influencing Statewide and Metropolitan Transportation Planning:
 - Federal-aid Highway Act of 1962;
 - Federal-aid Highway Act of 1973;
 - Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA); and
 - Transportation Equity Act for the 21st Century (TEA-21) - 1998.

- ### LEGISLATIVE AND REGULATORY REQUIREMENTS
- Federal-aid Highway Acts of 1962 and 1973:
 - Established the "3-C" planning process;
 - Created Metropolitan Planning Organizations (MPOs);
 - Established dedicated planning funds; and
 - Increased the role of local officials in the planning process.

- ### LEGISLATIVE AND REGULATORY REQUIREMENTS
- Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA):
 - Increased flexibilities in Federal funding;
 - Required fiscally constrained transportation plans and programs;
 - Emphasized management of travel demand;
 - Enhanced MPO authority to program funds;
 - Increased emphasis on public involvement; and
 - Tied transportation improvements to air quality attainment goals.

- ### LEGISLATIVE AND REGULATORY REQUIREMENTS
- Transportation Equity Act for the 21st Century (TEA-21) - 1998:
 - Maintained ISTEA program structure and decision-making processes;
 - Increased Federal funding levels and guaranteed annual funding;
 - Stressed simplification and streamlining of transportation decision-making processes; and
 - Established seven planning factors for consideration in Statewide and metropolitan planning processes.

- ### LEGISLATIVE AND REGULATORY REQUIREMENTS
- Title 23 U. S. Code (23 U.S.C. 134 - Metropolitan Planning and 23 U.S.C. 135 - Statewide Planning);
 - 23 Code of Federal Regulations (23 CFR Part 450 and 23 CFR Part 420); and
 - State Requirements (17 AAC 05).



Key Components of Statewide & Metropolitan Transportation Planning

KEY COMPONENTS OF STATEWIDE & METROPOLITAN TRANSPORTATION PLANNING

Metropolitan and Statewide Planning Factors (23 U.S.C. 134(f)(1) and 23 U.S.C. 135(c)(1)):

- ✓ Support Economic Viability
- ✓ Increase System Safety and Security
- ✓ Increase Accessibility and Mobility Options
- ✓ Protect and Enhance the Environment

- ✓ Enhance System Integration and Connectivity
- ✓ Promote Efficient System Management and Operation
- ✓ Emphasize Preservation of the Existing Transportation System

KEY COMPONENTS OF STATEWIDE & METROPOLITAN TRANSPORTATION PLANNING

- ✦ Statewide and Metropolitan "3-C" Principles:
 - Cooperative;
 - Comprehensive; and
 - Continuing.

KEY COMPONENTS OF STATEWIDE & METROPOLITAN TRANSPORTATION PLANNING

Primary Planning Process Products:

PRODUCTS (AND AUTHORITIES)	TIME HORIZON	CONTENTS	UPDATE REQUIREMENTS
Short-Range (1990's and later) Metropolitan and Statewide Planning (23 U.S.C. 134(f)(1) and 23 U.S.C. 135(c)(1))	1-2 years	Planning studies and forecasts	Annually
Intermediate and Long-Range Transportation Plans (23 U.S.C. 134(f)(2) and 23 U.S.C. 135(c)(2))	20 years (maximum)	Future goals, strategies, and actions	Metropolitan plans: Every seven years or less; Statewide plans: Every 10 years or less; or every 10 years for quality assurance plans.
Metropolitan and Statewide Transportation Improvement Programs (TIPs) (23 U.S.C. 134(f)(3) and 23 U.S.C. 135(c)(3))	1 year (maximum)	Transportation programs (by project)	Every one year (minimum)

KEY COMPONENTS OF STATEWIDE & METROPOLITAN TRANSPORTATION PLANNING

- ✦ Participation By Interested Parties in Plan and Program Development:
 - Citizens;
 - Affected public agencies;
 - Representatives of transportation agency employees;
 - Freight shippers;
 - Providers of freight transportation services;
 - Private providers of transportation;
 - Representatives of users of public transit; and
 - Other interested parties

Sources: 23 U.S.C. 134(g)(4); 23 U.S.C. 135(e)(3); 23 U.S.C. 134(h)(1)(B); and 23 U.S.C. 135(f)(1)(C).

KEY COMPONENTS OF STATEWIDE & METROPOLITAN TRANSPORTATION PLANNING

- ✦ Key Metropolitan Planning Process Elements:
 - Contain proactive public involvement processes;
 - Public involvement processes are consistent with Title VI of the Civil Rights Act of 1964 and the Title VI assurance expected by each State under 23 U.S.C. 324 and 29 U.S.C. 794;
 - Public involvement processes identify actions necessary to comply with the Americans with Disabilities Act of 1990;
 - Overall planning process provides for the involvement of traffic, parking, transportation safety and enforcement agencies; commuter rail operators; airport and port authorities; toll authorities; appropriate private transportation providers; and where appropriate city officials; and
 - Overall planning process provides for the involvement of local, State, and Federal environment resource and permit agencies, as appropriate.

Source: 23 CFR 450.316(b)(1-5)

KEY COMPONENTS OF STATEWIDE & METROPOLITAN TRANSPORTATION PLANNING

- **Proactive Public Involvement Processes:**
 - Provide timely information about transportation issues and processes;
 - Provide reasonable access to technical and policy information used in the development of Statewide and metropolitan transportation plans and programs and open public meetings where matters related to the Federal-aid highway and transit programs are being considered;
 - Require adequate public notice of public involvement activities and time for public review and comment at key decision points (e.g., approval of plans and programs);
 - Demonstrate explicit consideration and response to public input received during the planning and program development processes; and
 - Seek out and consider the needs of those traditionally underserved by existing transportation services, including but not limited to low-income and minority households.

Sources: 23 CFR 450.316(b)(1) and 23 CFR 450.212

KEY COMPONENTS OF STATEWIDE & METROPOLITAN TRANSPORTATION PLANNING

- **Public Agency Partners:**
 - State Department of Transportation;
 - Metropolitan Planning Organizations (MPOs);
 - Local agencies (cities; counties; and towns/townships);
 - Public transit operators;
 - Federally-recognized Tribal Governments;
 - USDOT (e.g., FHWA, FTA, FRA, NHTSA, and FAA);
 - Other Federal agencies (e.g., EPA, USFS, and BIA); and
 - Other State/local agencies.

KEY COMPONENTS OF STATEWIDE & METROPOLITAN TRANSPORTATION PLANNING

- **Definitions for "Working Together:"**
 - **Cooperation:** "...the parties involved in carrying out the planning, programming and management systems processes work together to achieve a common goal or objective."
 - **Coordination:** "...the comparison of the transportation plans, programs and schedules of one agency with related plans, programs and schedules of other agencies or entities with legal standing, and adjustment of plans, programs and schedules to achieve general consistency."
 - **Consultation:** "...one party confers with another identified party in accordance with an established process and, prior to taking action(s), considers that party's views and periodically informs that party about action(s) taken."

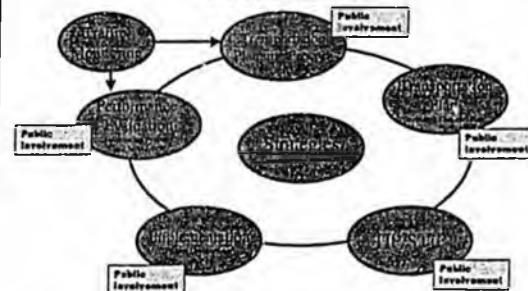
Source: 23 CFR 450.104

Transportation Plans and Planning Processes

TRANSPORTATION PLANS AND PLANNING PROCESSES

- **Key Process Elements:**
 - Public Involvement;
 - Visioning;
 - Transportation Systems Inventories;
 - Future Scenarios;
 - Corridor/Facility Needs;
 - Long-Range Plan;
 - Short-Range Plan;
 - STIP/TIP; and
 - Performance Evaluation.

TRANSPORTATION PLANNING PROCESS



TRANSPORTATION PLANS AND PLANNING PROCESSES

- **Public Involvement:**
 - Federal statutory requirements for Statewide and metropolitan transportation planning (23 U.S.C. 134(g)(3) and 23 U.S.C. 135(e)(2)-(3));
 - Public involvement must employ proactive practices within the context of systematic processes;
 - Public involvement processes provide complete information, timely public notice, full public access to key decisions, and supports early and continuing involvement of the public in developing Statewide and metropolitan transportation plans and programs;
 - Public involvement involves a holistic understanding of the environment and community culture; and
 - Public involvement processes must be consistent with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990.

TRANSPORTATION PLANS AND PLANNING PROCESSES

- **Tools for "Visioning:"**
 - TEA-21 Planning Factors (23 U.S.C. 134(f)(1), 23 U.S.C. 135(c)(1), and 17 AAC 05.125);
 - State Planning Considerations (e.g., State Policies/Mandates);
 - Values of Stakeholders and the General Public:
 - Economic;
 - Environment, and
 - Quality of Life.

TRANSPORTATION PLANS AND PLANNING PROCESSES

- **Transportation Systems Inventories:**
 - Inclusive of the larger transportation system (e.g., highways, transit, ferries, freight, and air), thereby establishing a "benchmark" for condition of the entire system.
- **Examples of Inventory Data:**
 - Operations/mobility (e.g., congestion, traffic monitoring, and/or safety).
 - Infrastructure (e.g., pavements and bndgos).
 - Social factors (e.g., populations and economic development).

TRANSPORTATION PLANS AND PLANNING PROCESSES

- **Future Scenarios:**
 - Data Collection and Forecasts on the "State of the State"
 - Population,
 - Economy,
 - Finance;
 - Politics;
 - Travel behavior; and
 - Technology innovation.

TRANSPORTATION PLANS AND PLANNING PROCESSES

- **Corridor/Facility Needs:**
 - Modal Alternatives
 - Define and evaluate alternatives
 - Infrastructure
 - Reconstruction/maintenance strategies
 - Operations
 - Capacity
 - Mobility
 - Safety

TRANSPORTATION PLANS AND THE PLANNING PROCESS

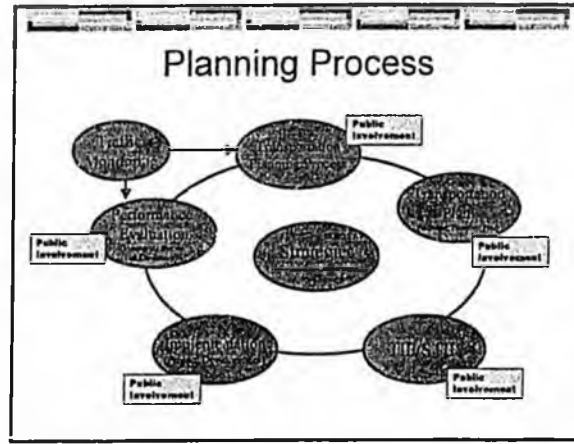
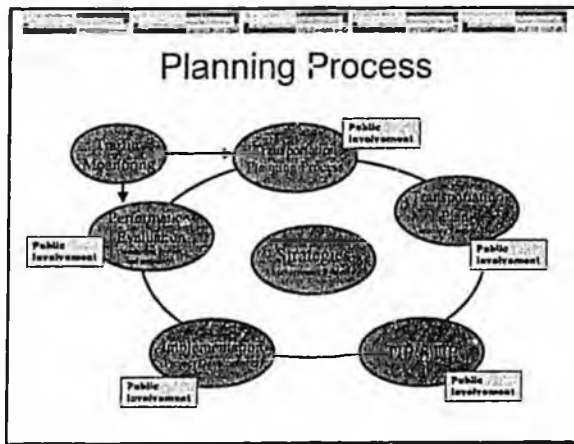
- **General Elements of Statewide and Metropolitan Transportation Plans:**
 - Typically involve combinations of policies (visions), corridors, and facilities;
 - Typically involve a combination of "bottom-up" and "top-down" approaches;
 - Consider land use, demographic, and regional attributes.
 - Include public and stakeholder involvement,
 - Examine modal network systems (e.g., highway, transit, rail, air, and bicycle/pedestrian) and their interconnectivity,
 - Present short- and long-term policies, strategies, and actions; and
 - Include a financial plan with revenue forecasts and investment plans (optional for Statewide plans, but required for metropolitan plans).

TRANSPORTATION PLANS AND PLANNING PROCESSES

- Features of the Statewide Long-Range Transportation Plan (23 U.S.C. 135(e)):
 - Covers at least a 20-year period;
 - Provides for the development and implementation of a Statewide intermodal transportation system;
 - Consultation with governments:
 - In cooperation with MPOs;
 - For non-metropolitan areas, in consultation with affected local officials with responsibilities for transportation; and
 - In consultation with Native American tribal governments and the Secretary of Interior. Provides for the development and implementation of a Statewide intermodal transportation system, and
 - May include a financial plan that demonstrates implementation.

TRANSPORTATION PLANS AND PLANNING PROCESSES

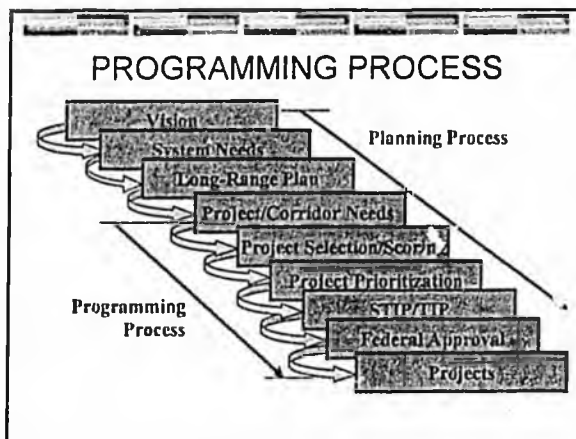
- Features of Metropolitan Long-Range Transportation Plans (23 U.S.C. 134(g)):
 - Cover at least a 20-year period;
 - Must be updated at least every three years in air quality nonattainment/maintenance areas and every five years in air quality attainment areas;
 - Identify transportation facilities (including but not limited to major roadways, transit, and multimodal and intermodal facilities) that function as an integrated metropolitan system;
 - Assess capital investment and other measures necessary to ensure the preservation of the existing metropolitan transportation system (e.g., operations, maintenance, and management); and
 - Include a financial plan that demonstrates implementation, including reasonably available public and private funding sources.



TRANSPORTATION PLANS AND PLANNING PROCESSES

- Key Systems Performance Evaluation Steps:
 - Transportation systems performance measures are established, followed by data collection and subsequent monitoring of measures;
 - Life-cycle of system performance;
 - Long-Range Transportation Plan is revisited and updated (17 AAC 05 130 (b)); and
 - This approach leads to systematic asset management

Features of Transportation Programs and Programming



- ### FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING
- Project/Corridor Needs Are Defined By:
 - Long-Range Transportation Plans (Statewide/Metropolitan);
 - Management System Outputs:
 - Pavement Management System (optional for States);
 - Bridge Management System (optional for States);
 - Safety Management System (optional for States);
 - Intermodal Management System (optional for States); or
 - Congestion Management System (required in Transportation Management Areas (TMAs)), and/or
 - Results from Sub-Area/Corridor/Feasibility Studies.

- ### FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING
- Project Selection (non-Metropolitan/Rural Areas):
 - For NHS, HBRR, and IM: State, in consultation with locals;
 - Federal Lands (23 U.S.C. 204);
 - Other Federally-Funded Highway Projects (i.e., Surface Transportation Program (STP)): State, in cooperation with locals;
 - Federally-Funded Transit Projects: State, in cooperation with locals and transit operators.

- ### FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING
- Project Selection (Metropolitan Areas):
 - Federal Lands (23 U.S.C. 204)
 - Non-TMAs:
 - Federal Highway and Transit Funds: State or transit operator, in cooperation with MPO.
 - TMAs:
 - For NHS, HBRR, and IM: State, in cooperation with MPO.
 - All Other Federal Highway and Transit Funds: MPO, in consultation with State and transit operators.

- ### FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING
- Characteristics of Project "Readiness:"
 - Project well-defined and engineered.
 - Funding sources are reasonably available.
 - Causes of project delivery delay:
 - Environmental issues;
 - Right-of-way approvals, and/or
 - Utilities clearances
 - Sufficient contingency funds available.

- ### FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING
- Project Scoring/Prioritization:
 - Scoring criteria
 - Systems performance measures:
 - Based on data collection.
 - Are measurable.
 - Modal competition.
 - "Rural" versus "metropolitan" criteria

FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING

- ↳ Key Programming Issues/Considerations:
 - Geographic balance versus transportation needs.
 - Balancing "rural" needs and "urban" needs.
 - Capital maintenance needs versus capital expansion needs.
 - Technical needs versus political realities.
 - Balancing "highway" needs and "transit" needs.

FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING

- ↳ General Elements of the STIP and TIPs:
 - Lists of projects;
 - Cover a minimum of three years and are developed at least every two years;
 - STIP must be consistent with the Statewide Transportation Plan and TIP must be consistent with the MPO's Long-Range Transportation Plan;
 - STIP and TIPs are system- and project-specific;
 - Fiscal constraint;
 - For air quality nonattainment/maintenance areas, projects must come from conforming Long-Range Transportation Plans;
 - STIP development in coordination with MPOs and local officials; and
 - Public involvement required for the STIP and TIPs.

FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING

- ↳ STIP (23 CFR 450.216):
 - State DOT develops STIP for the entire State;
 - STIP incorporates metropolitan TIPs in their entirety;
 - Projects may be grouped by function, work type, or geographic area;
 - Projects in STIP are advanced through project selection;
 - STIP must be developed at least every two years, and
 - STIP can be amended at any time, subject to established public involvement process practices.

FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING

- ↳ TIP (23 CFR 450.324):
 - Developed and adopted by MPOs, in cooperation with State DOT and transit operators;
 - TIPs are approved by the Governor (or his/her designee);
 - TIP must be developed at least every two years, compatible with the STIP development process;
 - TIP "lapses" if/when Federal approval for the STIP "lapses."
 - TIP can be amended at any time, subject to established MPO public involvement process practices; and
 - In air quality nonattainment/maintenance areas, TIP is subject to transportation conformity.

FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING

- ↳ Key STIP/TIP Components:
 - Contain all FHWA/FTA funded projects;
 - Contain Federal projects funded through Title 23;
 - Contain all regionally significant projects requiring Federal action or transportation conformity;
 - Include specific information on each project;
 - Pertinent Project Information:
 - Description of scope or phase;
 - Location;
 - Estimated total cost;
 - Federal funding (by program year);
 - Categories of Federal (and non-Federal) funds; and
 - Project sponsor(s).

FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING

- ↳ STIP/TIP Fiscal Constraint:
 - STIP/TIP must be financially constrained, by program year;
 - STIP/TIP identify projects to be funded with current revenues (Federal funds and State/local matches);
 - STIP/TIP must identify strategies for future proposed funding;
 - For specific project phases, STIP/TIP development is dependent on reasonable revenue/cost estimates;
 - For the TIP, the MPO, public transit agency, and State cooperatively develop reasonable estimates of funds; and
 - For illustrative (but not for advancement/implementation) purposes, STIP/TIP may include a listing of additional projects if other funding sources were available in the future.

FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING

- FHWA/FTA Review and Approval of STIP and TIPs:
 - Reviews of STIP and TIPs focus primarily on Federally-funded projects.
 - STIP is reviewed for consistency with the Statewide Transportation Plan.
 - STIP is reviewed for consistency with TIPs, as adopted by the MPOs.
 - TIPs are reviewed for consistency with MPO Long-Range Transportation Plans.
 - STIP and TIPs are reviewed for consistency with available/proposed funding sources.
 - For air quality nonattainment/maintenance areas, TIPs are subject to FHWA/FTA conformity determinations.
 - FHWA/FTA "planning finding" determines and documents how Statewide and metropolitan planning requirements were applied in the development of the STIP.
 - Based on the "planning finding," FHWA/FTA approve the STIP.

FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING

- Maintenance of STIP and TIPs:
 - STIP/TIPs can be amended at any time, subject to established public involvement process practices;
 - State DOT and MPOs can cooperatively develop procedures for identifying and processing amendments; and
 - STIP/TIP fiscal constraint must be maintained in light of any later program amendments.

FEATURES OF TRANSPORTATION PROGRAMS AND PROGRAMMING

- Characteristics of a Successful Programming Process:
 - Early consensus on planning and programming goals;
 - Effective communication among technical and policy leaders;
 - Continuous public involvement; and
 - Qualitative and quantitative prioritization criteria.

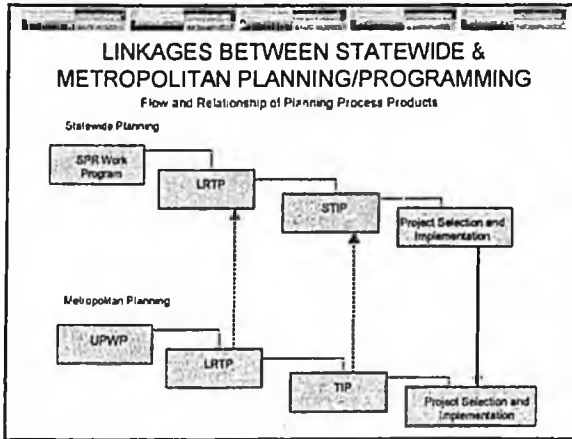
Linkages Between Statewide & Metropolitan Planning/Programming

LINKAGES BETWEEN STATEWIDE & METROPOLITAN PLANNING/PROGRAMMING

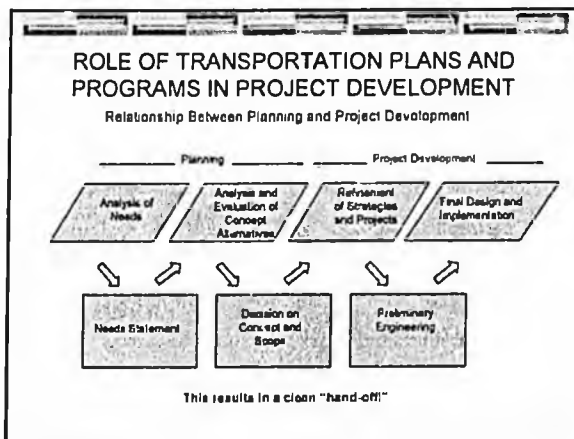
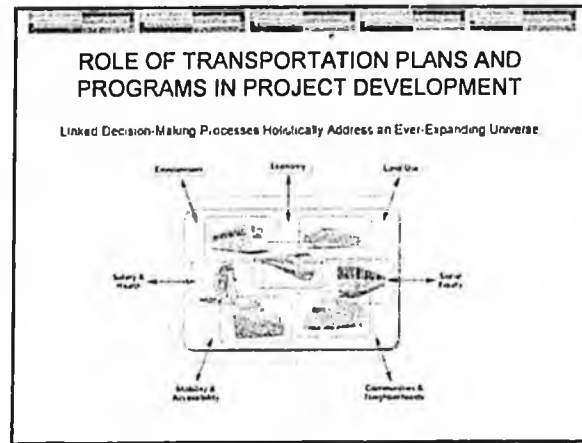
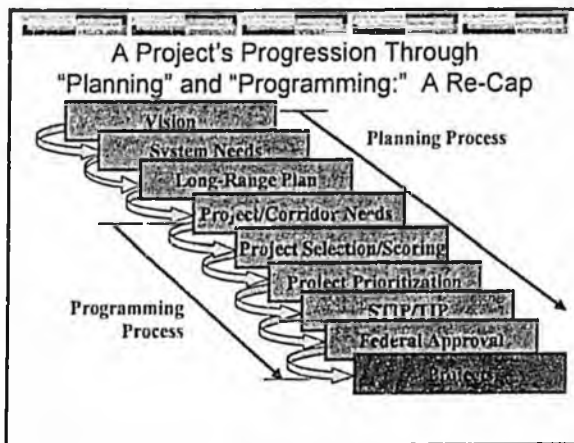
- General Relationships:
 - In metropolitan areas, projects in TIP must be consistent with the MPO Long-Range Transportation Plan;
 - Projects in the STIP must be consistent with the policies, strategies, and/or projects reflected in the Statewide Long-Range Transportation Plan; and
 - For the STIP, projects in metropolitan areas must be reflected in the MPO's TIP.

LINKAGES BETWEEN STATEWIDE & METROPOLITAN PLANNING/PROGRAMMING

- Other Key Process/Product Relationships:
 - If more than one MPO is located in an air quality nonattainment/maintenance area, the MPOs shall consult with each other and the State in the coordination of plans and programs (23 U.S.C. 134(e)(1));
 - If a project is located within the boundaries of more than one MPO, the MPOs shall coordinate plans regarding the project (23 U.S.C. 134(e)(2)); and
 - In metropolitan (air quality) nonattainment/maintenance areas, MPO shall coordinate the development of the Long-Range Transportation Plan with the process for developing the air quality State Implementation Plan, as required by the Clean Air Act.



Role of Transportation Plans and Programs in Project Development



ROLE OF TRANSPORTATION PLANS AND PROGRAMS IN PROJECT DEVELOPMENT

↳ **Comparison/Contrast of "Planning Issues" and "Project Issues:"**

- Planning focuses on systems and networks, while projects focus on a single purpose (*Point A to Point B*);
- Individual projects are essential to the implementation of the plan's systems and networks,
- Projects are subject to additional Federal laws and regulations (e.g., NEPA), while Statewide and metropolitan transportation plans and programs are not subject to NEPA.

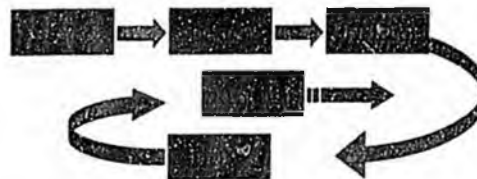
ROLE OF TRANSPORTATION PLANS AND PROGRAMS IN PROJECT DEVELOPMENT

- Value of Sound Transportation Planning and Programming Processes to Project Development:
 - Information-based decision-making.
 - Partners and stakeholders are engaged "early and often" throughout the "project continuum," and
 - Data and information from systems planning can be utilized in the NEPA process (e.g., project "purpose and need").



ROLE OF TRANSPORTATION PLANS AND PROGRAMS IN PROJECT DEVELOPMENT

Sound Processes Lead to
Avoiding/Minimizing the "Re-Work Cycle"



Thanks!

Any Questions ?



Fax

To: Representative Bruce Weyhrauch
Chair: House State Affairs Committee
Sent: April 28, 2004
Pages sent: two including cover sheet
Regarding: House Bill #327 Work Draft Comments
Fax number: 907-465-2273

From: Deanna Essert
Fax Number: 907-243-7811
Re: HB 327

Message: The one page letter on comments on the Work Draft CS for House Bill #327 is being sent via fax and email. Given the language in the bill, I am opposed to HB 327 revisions as of 4/24/04

April 28, 2004 Testimony HB #327
House Transportation Committee

To: State Transportation Committee
Attention: Chairman Jim Holm
Todd Larkin

Thank you Mr. Larkin for faxing the revised HB #327 language sponsored by Representative Holm. After reviewing the language and the intent of the language, I must disagree that the bill eliminates my concerns. As mentioned in my 4/12/04 letter my concerns are that metropolitan and rural projects should both be subject to the objective criteria outlined in AS 44.42.050(a) that mandates that ADOT consider the costs of improvements to existing facilities and the cost and benefits of new facilities.

The inclusion of AS44.42.050 does not alleviate my concerns, especially when I see the Revised HB 327 eliminates the requirement in AS 44.42.050(a) that ADOT consider the costs of improvements to existing facilities and the costs and benefits of new facilities. The language in the "original state statute" is specific and not subject to misinterpretation. This version appears to develop the Statute in a piecemeal and arbitrary fashion and leaves it up to the DOT Commissioner to consider costs: "The commissioner shall include the estimated costs of projects described in the plan and, if the commissioner determines appropriate, an estimate of the benefits of the project."

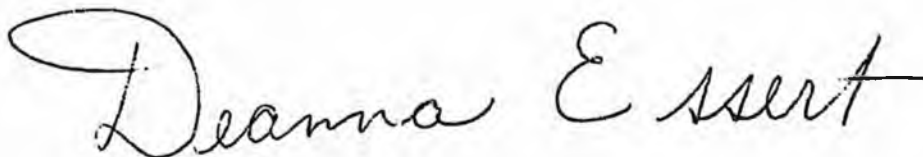
I do not withdraw my objections because the 4/24/04 work draft of the bill still eliminates the legal statutory requirement that ADOT consider the benefits of projects. It reduces that statutory requirement to regulations that can be waived. See Sec.5.AS44.42.050, the proposed new subsection: "(3) provide that the commissioner may waive the determination of the calculation of benefits of a project if the commissioner determines that the calculation of the benefits is not in the best interest of the state."

It is common sense to evaluate all projects, based on a careful and honest assessment, and not substitute the judgement of the Commissioner to push a political agenda. The state has many projects that are both expensive and controversial: the extension of the Coastal Trail in Anchorage, the road through glacier country in Southeast and the Knik Arm bridge connecting Point McKenzie and Anchorage. These are all hot issues and deserve a careful evaluation of their costs and benefits. Using costs and benefits is a common sense method of evaluating both rural and urban projects, and the revised HB 327 removes common sense and substitutes political judgment. Political judgement gave us the grain bins, dairy farms and the fish plant. A state that is asking residents to consider a sales tax, income tax or relinquish part of the Permanent Fund dividend should not encourage unjustified projects and waste public funds by eliminating protective statutory language.

The major problem with the bill is that it fails to identify what problem it seeks to address and substitutes a "Chicken Little" approach. When the Iliamna-Nondalton project was enjoined for failure to consider costs and benefits, it didn't give the State the right to remove the only language that will provide sound fiscal management and sound transportation planning for all projects. I oppose the bill because it does not promote common sense and fiscal responsibility.

Deanna Essert
6262 W. Dimond Blvd.
Anchorage 99502
PH: 243-1894

CC: Representative Weyhauch; Senator Ben Stevens; Representative Norm Rokeberg



March 26, 2004

6262 W. Dimond Blvd

To: House State Affairs Committee

I am opposed to amending the State's transportation statute, AS 44.42.050, that would eliminate the State's obligation to review the costs of improvements to existing roads and the costs and benefits to new roads. My opposition to HB 327 is due to my experience with AMATS, the local MPO. The cost of AMATS projects have escalated because engineers and project managers failed to consider hidden costs due to soils environmental impacts and property impacts.

Why is the State seeking to eliminate a key statutory requirement at the State level that would control costs, when it has instituted policies at the local level to address costs? The cost overruns for Anchorage projects initiated a change by State DOT whereby the Policy Committee of AMATS is required to provide quarterly obligation reports. When a project increases funding for a phase by more than \$500,000 or 50% of the project phase, the Policy Committee must approve the change. At the March 11th Policy Committee, members were asked to approve approximately \$3 million to cover additional construction costs for "C" Street, Phase III, due to extensive peat deposits in the ROW. If there had been a thorough cost/benefit analysis of "C" Street, would the initial design or ROW have been changed?

I am also one among the many who oppose the Coastal Trail Extension below the bluff or in the Refuge. The projected project costs have increased from \$12 million to \$37 million as the costs to the environment and private property have escalated. The DEIS is an example of a politically motivated document and does not reflect accurate building costs because there is no objective cost/benefit analysis. Many neighbors, who are practicing engineers and attorneys, have calculated the actual legal and construction costs to be in the \$60 million to \$80 million range and up. HB 327 eliminates the Public Claim that cost and benefits must be considered.

Projects in remote areas are subject to greater cost-overruns. When Federal dollars are declining and State resources are limited, it makes no sense to eliminate the only objective criteria applicable to transportation planning. With a new administration, that is emphasizing resource development, transportation planning in remote areas must be cost effective and accountable. Transportation projects in Metropolitan areas must emphasize traffic flow, air quality and safety and serve vehicular traffic, public transit and pedestrians and restrict enhancements to the federally mandated 10%.

The State must allocate scarce resources for those projects that provide the greatest benefit at the most reasonable cost. With appropriate cost/benefit criteria, a change in administration, won't mean a bridge to nowhere, a trail built as a political monument, or some bureaucratic vision that becomes the next administration's nightmare. In a time of declining revenues, the State must retain all statutory requirements that preserve an orderly transportation system by subjecting all projects to a cost-benefit analysis. I oppose HB 327 and its' companion, SB 371.

Deanna Essert
Phone: 243-1894

4/6/04

Subject: SB 371 & HB 327

Date: Mon, 05 Apr 2004 22:55:27 -0800

From: "A. Flister" <aflister@gci.net>

To: Senator_John_Cowdery@legis.state.ak.us

CC: "Senator_Con_Bunde@legis.state.ak.us" <Senator_Con_Bunde@legis.state.ak.us>,
"Representative_Bob_Lynn@legis.state.ak.us" <Representative_Bob_Lynn@legis.state.ak.us>

Bob wants to know when
this has been scheduled
again.

Dear Senator Cowdery:

I am deeply concerned about the above referenced bill and the House companion bill HB 327 that amend language in AS 44.42.050(a), essentially taking away from the Legislature an objective basis for determining which transportation projects are worthy of funding by way of cost-benefit analysis.

Our State can ill afford to allow spending decisions to be reduced to subjective politics at a time when transportation dollars should be allocated wisely. Projects should be funded only when their benefits equal or exceed the costs and should be prioritized or ranked in an objective manner.

On a personal level, I am highly angered that a state road "improvement" project (admittedly influenced by our municipal planning organization, AMATS), which has ballooned in cost from an estimated \$6M in 1998 to over \$22M at present, in direct defiance of the expected benefits and of the neighborhood's wishes and needs. DeArmoun Road is being moved forward as a reconstruction project far above and beyond what appears to be necessary, requiring my brand new home and acre lot and portions of nearly 100 other residential properties in the process, while we continue to experience gridlock in mid-town without having connected important links in the city transportation system. I might add that a previous analysis showed some of the currently proposed DeArmoun changes to be NOT COST EFFECTIVE, yet they are being seriously considered. The project has been moved up to No. 8 on the AMATS transportation improvement program, despite its scoring which rightly places it much further down the priority list were it not for political influence.

I can only imagine the harm that can be rendered with such waste on a statewide level without truly objective criteria for long range transportation planning.

I have seen a more thorough written testimony submitted to your office by Geoffrey Parker on this subject and agree with his comments entirely. Please do not allow this bill to move forward.

Ann Flister
5021 Currin Circle
Anchorage, Alaska 99516
(907) 344-4948

Bob wants to call Ann Flister
when this gets scheduled again.

SB 371
OR
HB 327 current

Bob -
This is scheduled
for Monday
State affairs.
HB 327

6050 W. Dimond Blvd.
Anchorage, AK 99502

March 25, 2004

To: House State Affairs Committee

I do not support HB 327 or its companion bill SB 371, which amend the state's transportation planning statute, AS 44.42.050. House Bill 327 is a bad idea that would negatively affect the future availability of funds for transportation and enhancements in Alaska. It would be short-sighted for the Legislature to remove the requirement that the Alaska Department of Transportation evaluate the costs of improvement to existing corridors and the cost of benefits to new ones. The careful consideration of costs and benefits are objective criteria for making responsible fiduciary decisions by logical analysis. If this change is made not only would unreasonable plans have every opportunity to get the go-ahead should the political tides flow towards a particular project, but honest-to-goodness necessities transportation-wise and safety-wise could easily get short-shrift to the extent that they would not get built. This would not only short-change the citizens of Alaska, but also put Legislators in the terrible bind of not having a practical way to analyze the myriad of projects and issues facing them. Times are tough and Alaska must make the best use of available funds in pragmatic ways that make economic good sense.

A prime example of a project which has gone bad because of the failure to properly analyze those costs of improvement and benefit is the South Extension of the Coastal Trail. A preferred route was dictated by then Governor, Tony Knowles, because the one he wanted was deemed unreasonable by the project team. That route would destroy the Anchorage Coastal Wildlife Refuge & its critical & adjacent habitat and cost more than any of the routes under consideration. On paper in 2002 the published estimate was \$30 million. When respected engineers in Anchorage were asked to evaluate those costs and give their estimates they ranged, conversely, from \$60 million to \$100 million for a recreational trail that gets no one to school and no one to work! On the street where we live, we cannot walk or ride our bikes to the nearest sidewalk or trail without risking our lives. The road is riddled with potholes, which must be repaired many times a year. There is so little room on the roadside that it is very scary when trucks & cars come by even if they are not speeding. On the eastside one of our sons was hit riding his bicycle to high school. We were fortunate that the injuries were minor. We must make practical use of transportation and enhancement funding.

Please do not pass HB 327 (or companion bill, SB 371).

Thank you for your time and consideration.

Respectfully,

Barbara L. Carlson
907/248-2503

March 26, 2004

House State Affairs Committee

HB 327

THANK YOU MR. CHAIRMAN. MY NAME IS BOB DOLL AND I LIVE IN JUNEAU. I WAS FORMERLY DIRECTOR OF THE SOUTHEAST REGION OF AOT, AND I'D LIKE TO SPEAK TO YOU FROM THAT PERSPECTIVE, BUT I AM HERE THIS MORNING REPRESENTING ONLY MYSELF. I COME TO ASK THE COMMITTEE TO WITHHOLD ITS SUPPORT OF HOUSE BILL 327.

I MAKE THIS REQUEST WITH SOME UNDERSTANDING OF THE DILEMMA YOUR FACE. YOU ARE BEING ASKED, IN THIS BILL, TO ENDORSE BAD GOVERNMENT. YOU ARE BEING ASKED TO LEND YOUR SUPPORT TO ENSHRINING

THE TERMS "ARBITRARY AND CAPRICIOUS" NOT AS ACCUSATIONS TO BE AVOIDED BUT AS THE STANDARD FOR GOVERNMENT DECISION-MAKING IN ALASKA. I HAVE APPEARED BEFORE THE COMMITTEE ONLY RECENTLY IN CONNECTION WITH ANOTHER SUCH ARBITRARY AND CAPRICIOUS DECISION AND MY APPREHENSION OF SUCH EVENTS IS ALL TOO CLEAR.

AND WHAT IS IT THAT THE BILL SEEKS TO AVOID? I CANNOT IMAGINE AN ECONOMIST WITH AN OUNCE OF IMAGINATION WHO COULD NOT MAKE A POSITIVE COST-BENEFIT CASE FOR A MARGINAL PROJECT, IF THAT WERE HIS TASKING. SUCH TASKINGS ARE ACCOMPLISHED ROUTINELY. ONLY WITH

THE MOST WORTHLESS PROPOSALS WOULD
HE FAIL, AND PROPERLY SO.

THE CURRENT STATUTE DOES NOT
PROVIDE US WITH CERTAINTY REGARDING
THE VALUE OF A PROJECT, BUT IT DOES
OFFER SOME OBJECTIVE CRITERIA FOR US TO
USE IN EXAMINING HOW OUR TAX DOLLARS
WILL BE SPENT. AND GIVEN THE GENERAL
DEFERENCE OF COURTS TO EXECUTIVE
AGENCIES WHICH HAVE COMPLIED WITH
THEIR OWN REGULATIONS AND THE
APPLICABLE STATUTES, IT IS DIFFICULT TO
UNDERSTAND WHY THIS REQUIREMENT IS SO
ONEROUS. FEDERAL DOLLARS PAY FOR THE
WORK AND THE TIME REQUIRED TO
COMPLETE THE ANALYSIS IS MEASURED IN

MONTHS. IN THE TIMELINE FOR MOST
TRANSPORTATION PROJECTS THAT IS
INCONSEQUENTIAL. AS A TRANSPORTATION
PROFESSIONAL, I WOULD NOT WANT TO
SPEND MY TIME, OR THAT OF MY STAFF, ON
A PROJECT WHICH COULD NOT MEET THIS
SIMPLE TEST. AS A CITIZEN, I HOPE THAT
PUBLIC MONEY WILL NOT BE THUS
SQUANDERD.

THE DILEMMA THAT I MENTIONED EARLIER
ARISES BECAUSE THERE ARE TRANSPORTATION
PROJECTS CURRENTLY UNDER CONSIDERATION
THAT MAY NOT MEET THIS TEST. THOSE
PROJECTS REPRESENT SOME OF THE MOST
CHERISHED HOPES AND DREAMS OF THE
RESIDENTS OF THOSE LOCATIONS. IF THEIR

AMBITIONS ARE NOT REALIZED THEY WILL BE,
TO SAY THE LEAST, DISAPPOINTED. I WOULD
SUGGEST TO YOU THAT YOU CAN MEASURE THE
VALUE OF THEIR PROJECT INVERSELY TO THEIR
PROTESTS AT HAVING IT EXAMINED. IN FACT, IF
A POSITIVE COST-BENEFIT RATIO IS AS EASILY
ACHIEVED AS I HAVE SUGGESTED, YOU MAY
WELL WONDER WHY ANYONE WOULD OBJECT TO
THE REQUIREMENT.

HB 327 ENDORSES BAD GOVERNMENT AND
SHOULD NOT RECEIVE THE COMMITTEE'S
APPROVAL.

>
> I am very concerned about two aspects of HB327. The part that removes economic cost and benefits analysis and the part that makes the bill retroactive to July 1977.
>
> HB 327 is a slap in the face to every taxpayer in America because it removes the economic analysis that should be part of any project evaluation. Looking at the economic viability of a project is the foundation of the American economy. It's an essential tool. If a project can't withstand economic scrutiny, then it probably shouldn't proceed
>
> HB 327 is insulting and detrimental to every Alaskan because it means projects will not be determined on an objective measure such as economic benefits but by political influence and whim. What kind of justification or measure of worth is this?
>
> HB 327 is offensive and should raise your suspicions since it is retroactive almost 30 years. This retroactivity tells me that the sponsor wants to gag any transportation dispute, challenge or appeal. Is this really America?
>
> Finally, HB 327 gives a green light to any project no matter how poorly conceived as long as it is backed by political clout. Where is the objective measure? HB 327 will have Alaskans throwing their transportation dollars away.
>
> This bill shouldn't be passed it should be buried.
>
> Thank you
>
> Mary Whitmore
> (907) 564-5145
> 940 Botanical Heights Circle
> Anchorage, AK 99515

ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

(907) 465-3744
FAX (907) 465-2273

STATE AFFAIRS COMMITTEE

Fax

*Thanks,
Ginny*

To: Legislative Legal-George Utermohle From: Ginny Austerman

Fax: 2029

Date: April 29, 2004

Phone: 2450

Pages: one

Re: CS HB 327

Please make the following *conceptual* changes to CS HB 327 (STA) Version 23-LS1135\U:

Amendment # 1 - Page 4 line 8 after "annual" insert "summary"; line 10 after the words " make the" insert "summary"; line 11 after the words "availability of the" insert "summary"; line 13 after the words "of the" insert "summary"

Amendment # 2 - 23-LS1135\U.2 adopted with the following changes

Line 8 - delete ", through page 6, line 1"; delete lines 16 and 17 and renumber accordingly

Amendment #3 - Page 3 lines 28 - 31 - and page 4 lines 1 - 4 - Retain these lines in the bill

Please process this bill in the final form.

Revised 4/29/04 / 115-211

AMENDMENT

#2
4/28/04
moved by
BWS
Holm
adopted
as amended

OFFERED IN THE HOUSE

TO: CSHB 327(STA), Draft Version "U"

1 Page 4, line 20:

2 Delete "if the commissioner determines appropriate"

3 Insert "except as provided in (e) of this section"

4

5 Page 5, line 20:

6 Delete "uniform"

7

8 Page 5, line 23, through ~~page 6, line 1~~:

9 Delete all material.

10 Insert "The regulations may provide for an exemption from the requirement to prepare
11 an estimate of benefits for a specific transportation project if

12 (1) the project is required for compliance with a federal or state statute
13 or regulation;

14 (2) the small scale of the project makes the preparation of an estimate
15 of benefits for the project impractical; or

16 ~~(3) the cost of preparing an estimate of benefits for the project is~~
17 ~~excessive relative to the estimated cost of the project."~~

Amendment #2
to #2
BWS
Holm
adopted
add
remember
accordingly