

HB

239

ALASKA STATE LEGISLATURE

INTERIM

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SESSION

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REPRESENTATIVE JIM ELKINS

Sponsor Statement HB 239

House Bill 239: "An Act relating to the powers and duties of the Department of Transportation and Public Facilities; relating to a long-range program for highway construction and maintenance" is designed to clean up obsolete statute.

In the late 1970's the Governor wrote Executive Order No. 39 § 2 (1977) creating the "Alaska Transportation Council". The executive order directs the Department of Transportation and Public Facilities Commissioner 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. Regrettably, subsequent governors did not populate the council, and it has been vacant for many years. 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, delaying construction projects around the state.

The problem is straightforward. The state is not complying with this old statute, thereby setting a basis for litigation. To preserve our future projects, HB 239 will amend this statute and ensure that this loophole will not be used in the future to block important projects across the state.

The other changes to the statute the bill proposes 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. And finally, the bill changes "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 road projects.

I urge your support of this important measure.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: F.B239-DOT-CO-4-11-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title Powers/Duties DOTPF/ RDU Administration & Support
Transportation Plan Component Commissioner's Office
 Sponsor H Trans By Request
 Requester House Transportation Component No. 530

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
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CHANGE IN REVENUES ()						
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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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nona Wilson Phone 465-3904
 Division Legislative Liaison, DOT&PF Date/Time 4/11/05 10:14 AM
 Approved by: Mike Barton Date 4/11/2005
 Agency Commissioner, DOT&PF

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB239-DPS AST-4-11-05
 () 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: House Transportation Committee
 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 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
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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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation will not have a fiscal impact on the Department of Public Safety.

Prepared by: Lieutenant Todd Sharp Phone 907-465-3223
 Division: Alaska State Troopers Date/Time 4/11/05 9:10 AM
 Approved by: Commissioner William Tandeske Date 4/11/2005
 Agency: Department of Public Safety

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REPRESENTATIVE JIM ELKINS

Sectional Analysis

Section 1 amends AS 19.05.040 to provide that the Department of Transportation and Public Facilities (DOT) may award and administer grants authorized by appropriation by the legislature.

Section 2 amends AS 44.42.020(a) by repealing the duties of the DOT in regard to (1) maintaining a current inventory of public facilities; (2) adopting energy performance standards for state public facilities; and, (3) providing planning assistance to school districts and regional educational attendance areas. The duties of the department are amended to provide that the department shall periodically evaluate alternative fuels, not just natural gas, for automotive purposes and purchase or convert vehicles to use alternative fuels whenever practicable. The duties of the department are also amended to provide that the department shall periodically study alternatives available to finance transportation systems.

Section 3 amends AS 44.42.050(a) to establish requirements for the development of a comprehensive, intermodal, long-range transportation plan for the state.

Section 4 amends AS 44.42.050(d) to establish the duties of the commissioner of transportation and public facilities in regard to development of a list of projects scheduled for at least the next two years to implement the comprehensive, intermodal long-range transportation plan developed under AS 44.42.050(a).

Section 5 amends AS 46.11.900(8) to delete references to thermal and energy standards developed by the DOT&PF in order to conform to the repeal of the department's duties regarding those standards by Section 2 of the bill.

Section 6 repeals AS 19.10.140 (relating to a long term program for highway construction and maintenance) and AS 46.11.010 (relating to thermal and lighting energy standards for public buildings).

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REPRESENTATIVE JIM ELKINS

FACT SHEET FOR HB 239

SHORT TITLE: POWERS AND DUTIES OF DOT&PF / TRANSPORTATION PLAN

SUMMARY:

- Deletes the requirement that the DOT&PF participate in setting thermal and lighting energy standards.
- Includes other statutory clean-up language requested by DOT&PF.
- Deletes the requirement that DOT&PF conduct a cost benefit study for projects where such studies are not warranted.

BENEFITS:

- Allows DOT&PF to proceed in a timelier manner with projects for which a cost benefit study is not required.
- Updates DOT&PF statutes to respond to circumstances as they actually exist today

BACKGROUND:

- Opponents of DOT&PF projects often manipulate obsolete statutes, such as a requirement that the department conduct a cost-benefit analysis, to halt construction projects vital to the health, safety, and wellbeing of Alaskans. This has increased costs to the state and has wasted valuable time and money in litigation all while increasing the overall project costs. HB 239 will eliminate this requirement and cleans up other statutory language no longer appropriate to DOT&PF functions.

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

3132 CHANNEL DRIVE
JUNEAU, ALASKA 99801-7898

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March 17, 2005

The Honorable Gary Stevens
Alaska State Legislature
State Capitol, Room 103
Juneau, Alaska 99801-1182

Dear Senator Stevens:

Thank you for taking the time to meet with my staff on this important legislation. As you know, the state statutes governing transportation planning have recently been used in litigation to halt or at least slow down the accomplishment of strongly supported transportation improvements.

Tragically, the litigation induced delay of the project to build a road and bridge between Iliamna and Nondalton may have led to the drowning deaths of two young men who recently attempted to cross the Newhalen River and broke through the ice. A third person only narrowly averted his death by struggling back to shore.

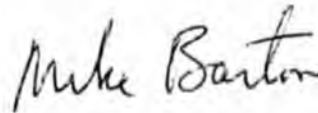
The state has spent more than \$200,000 in legal costs, and at least another \$100,000 in planning costs to comply with the court interpretation of the transportation planning duty found in AS 44.42.050(a). The current draft of CS SSSB 16 would modify this transportation planning duty to a more reasonable standard, and one that is not as readily used to halt important transportation projects. Of course, these state costs are trivial in comparison to the loss of life and physical dangers forced on Alaska citizens who must travel across thin ice in the dark of winter to seek basic consumer goods and services.

Aside from the obvious gravity of what might have been avoidable loss of life, the current statute language remains a tool available to any person or group seeking to halt or delay other needed transportation projects. This legislation is needed to ensure that the roads, buses, trails, airports, ferries and other basic transportation needs are not needlessly halted for reasons of process rather than substance.

My staff stands ready to discuss the specifics of this legislation and why we endorse its passage. I would also note that we have recently begun the administrative process to change the regulations (17 AAC 05.120-990) that govern the transportation project selection. This change, which is driven by the court ruling in question, has increased the costs of nominating projects for every community in the state. Should CS SSSB 16 become law, we will immediately take steps to remove this new and expensive regulatory burden on our communities.

I applaud your attention to this matter, and by copy of this letter to Senate leadership and committee chairs assigned to consider this legislation I hope to encourage its passage. I understand the Representative Elkins is considering introducing a companion bill, and have copied him on this letter to illustrate our support and the statewide urgency for this legislation.

Sincerely,



Mike Barton
Commissioner

cc: Senator Ben Stevens, Senate President
Senator Charlie Huggins, Chair, Senate Transportation
Representative Jim Elkins, Chair, House Transportation
Kevin Jardell, Legislative Director, Office of the Governor
Linda Hay, Deputy Legislative Director, Office of the Governor
Nona Wilson, Legislative Liaison, DOT&PF

**Transportation HB 239
Before House Transportation Committee**

**Prepared by:
Alaska Department of Transportation and Public Facilities
April 12, 2005**

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 or costs of "process rather than pavement" will be higher.

This bill 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 2, 4, 5 and 6 shown in grey as house keeping measures.

Substantive:

The remaining sections of the bill (Sections 1 and 3) are more substantive. They are directed at two specific goals:

- Ensuring that federal funds we receive for grant programs can lawfully be administered and awarded.
- 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

The change to paragraph (13) is very important. Currently the department is operating without legal authority to issue grants other than from the Highway Safety Office. Yet we routinely receive federal funds for other purposes and award them in a grant process. The two most common examples of this occur in the area of Federal Transit funds for rural communities and transit vans for the elderly and disabled persons, and grants in the area of Scenic Byways.

Section 2

All but the last change in this section relates to natural evolution in the department's duties and technology. The department no longer has a building program that involves local governments. The department no longer sets energy standards; this is done by national standard groups and generally adopted by local government in their building codes. The addition of a new duty concerning the study of alternative financing mechanisms is important. There is a rapid change occurring in transportation finance nationally, and we believe it will become an increasingly important area of examination.

Section 3

From the department's perspective, this is the most important section in the bill. The language in this section has been the subject of litigation in state court. As now constructed it is both nearly impossible to fully comply with, and results in very expensive costs for project proponents.

The section now literally requires that the entire long-range transportation plan for the state, for all modes of transportation be updated annually. The department currently expends more than \$8 million annually on transportation planning but does not have the resources to meet even a five-year cycle of plan updating. The very lengthy process of plan preparation and the associated public process can take several years. We would not recommend enlarging the funding directed at planning nor adding the staff required to meet an annual cycle, thus we recommend the flexibility contained in this bill.

The removal of the requirement for "*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.*" is also vital. This requirement has been at the heart of the litigation. A judge's ruling has now confirmed that a project selected for funding by the state must fulfill this requirement. Taken literally, this means:

- Every senior van, every bus, every repair to state ferries, every maintenance project to roads and every trail project must undergo a consideration of benefits and/or costs;
- No exceptions in current law apply to emergencies such as flood damage, or earthquake repairs;
- No exception can be applied to federally funded "projects" that are not easily measured, such as training, research, planning and bridge inspection;
- No exception in the current law permits projects that meet basic needs to be exempted, such as runway lights for small villages or a "make it black" project on rural subdivision roads; and,
- No exception exists for projects authorized by direct legislative appropriation, Congressional earmark or even by the voters through bond issues.

Due to the court ruling and the current language of the statute, the department recently adopted regulations that require a cost-effectiveness study for every project in the STIP scoring process. This requirement falls heavily on local governments, which must now undertake these studies before they request federal funds. But the legal advice of the

Department of Law was that we had no choice in this action. Should SB 16 pass as written we will immediately move to strike this provision from the regulations.

Section 4

The changes in this section are recommended. They update the process of submitting a capital budget including the STIP process to more closely follow both the practice of the Legislature and the federal agencies that fund the STIP.

Section 5

This change is needed to reflect the changes in time that have caused the department to no longer have a role in the setting of thermal and lighting energy standards.

Section 6

This section assists the cleanup of statutes by dropping sections that are duplicative and thus confusing to the public and the department.

Issues of Concerns with Mandatory Consideration of Costs and Benefits
Statement by Alaska DOT&PF
March 31, 2005

Statute is not clear as to what constitutes “*consideration of costs and benefits*”

- CBR (cost-benefit ratio) is but one method of engineering economics
- Other legitimate methods include NPW (net present worth), CEM (cost effectiveness measures) and EUAC (equivalent uniform annual cost)¹.
- Other societal mandates often left out of strict economic considerations including LEC (least environmental cost), (EJ) environmental justice and SCP (safety conscious planning).

Statute has little if no flexibility regarding consideration of costs and benefits

- Requires such consideration on every new project regardless of usefulness
- Puts at risk all projects currently in progress (even under construction) that were selected for capital budget without consideration the Superior Court believes is necessary.
- Effectively requires cost-benefit consideration for all projects since cost is required to be considered in all cases and must be put into some context.

Statute would divert public money to cost-benefit consideration even when not meaningful

- Many project categories are not well suited to C-B consideration:
 - Rural Alaska projects provided as a basic public service but serve a small population base such as airports or sanitation roads
 - Urban Alaska projects that serve non-traditional transportation needs such as buses, trails or beautification
 - “Projects” required to fulfill one or more federal or state mandates such as traffic data collection, or environmental mitigation

Statute applies to statewide transportation plan, prior to project selection for capital budget

- Strict interpretation may prevent the following methods of project selection unless added to the statewide transportation plan:
 - Projects nominated by local governments
 - Projects selected by members of Legislature or Congress (earmarks)
 - Projects that arise unexpectedly due to natural disasters or other external causes (example: new retail store needing access).

Statute does not apply to alternative selection during project development

¹ Fricker and Whitford, Fundamentals of Transportation Engineering, Pearson Prentice Hall, 2004

- C-B (or other engineering economic methods) are often used during project design to evaluate alternatives
- Such tools are often used to select among competing choices, even on projects with low overall economic benefits (example: airport layout for small village)
- Proposed change in statute does not affect this use of C-B consideration

Statute is being used to argue against projects with C-B ratio less than 1.0

- In Trout Unlimited lawsuit, the plaintiff's attorney argues state should not build projects with ratio less than 1.0
- Most rural and urban projects would be at risk of this interpretation
 - Ferry projects
 - Transit and bus
 - Trails and beautification
 - Environmental remediation
 - Low volume roads and bridges
 - Airport improvements and relocations
- While current statute does not mandate only projects with positive C-B ratio be selected, this appears part of the motive behind the lawsuit in question

Statute is not in touch with the reality of transportation needs in Alaska

- Alaska is inherently a place where low population and vast land area make transportation critical, but often requiring a subsidy.
- Ironically, the recent Congressional justification for Denali Commission funding for transportation argued that transportation in rural areas is vital to our future:

"... The majority of Alaskan communities remain unconnected. Alaska has been left far behind the rest of the Nation, with a road system that is no system at all. If the highway system is the Nation's skeleton, Alaska is still missing its arms and legs.

As a result, many Alaskan communities are punished with third-world conditions and an extraordinarily high cost of living, and the Nation as a whole is that much poorer because Alaska's tremendous natural wealth cannot be shared.

...²

Alaska has long-suffered the measure of costs versus benefits

Alaska has long suffered the punditry of being a place with high costs but low benefits. At the time of the Alaska purchase in 1867, Secretary of State, William H. Seward overcame national ridicule (the tag of "Seward's Folly was applied) and strenuous objections to persuade Congress to proceed with the purchase of

² Senator Lisa Murkowski, US Senate Floor speech on amendment to S1072, February 12, 2004

Alaska for \$7.2 million. Similarly, for nearly 40 years after the federal-aid highway program was started in the early 1900's, Congress denied Alaska access to this funding, because it felt the transportation needs in Alaska were so great the federal program could not be exposed to such costs. Now, as then, important transportation needs in Alaska often must be built as a public good, even where indicators such as cost-benefit analysis are used to oppose such projects. In 1867, those who sought to deny the purchase of Alaska spoke of 'folly' as to the value of the Alaska purchase. For Alaskans today, the age old 'folly' argument seems to never really 'ie!

Case Status:
In the Superior Court for the State of Alaska
Third Judicial District at Anchorage

Alaska State Council of)
Trout Unlimited, Robert B.)
Gillam,)
)
Plaintiffs,)
)
vs)
)
State of Alaska, Alaska)
Department of Transportation)
and Public Facilities,)
)
Defendants.)
_____)

Filed: July 25, 2002

Case: 3AN-02-0763CI

July 25, 2002 - Plaintiffs filed suit seeking "injunctive and declaratory relief against the Alaska Department of Transportation and Public Facilities (DOT&PF) for having violated AS 44.42.020 and AS 44.42.050 by scheduling for construction in 2003 a proposed, approximately 19-mile rural road¹ and bridge project from Iliamna, Alaska to Nondalton, Alaska in Southwest Alaska ..."

May 1, 2003 - Plaintiff's filed for a preliminary injunction that defendants be restrained from constructing or contracting to construct the Iliamna - Nondalton project.

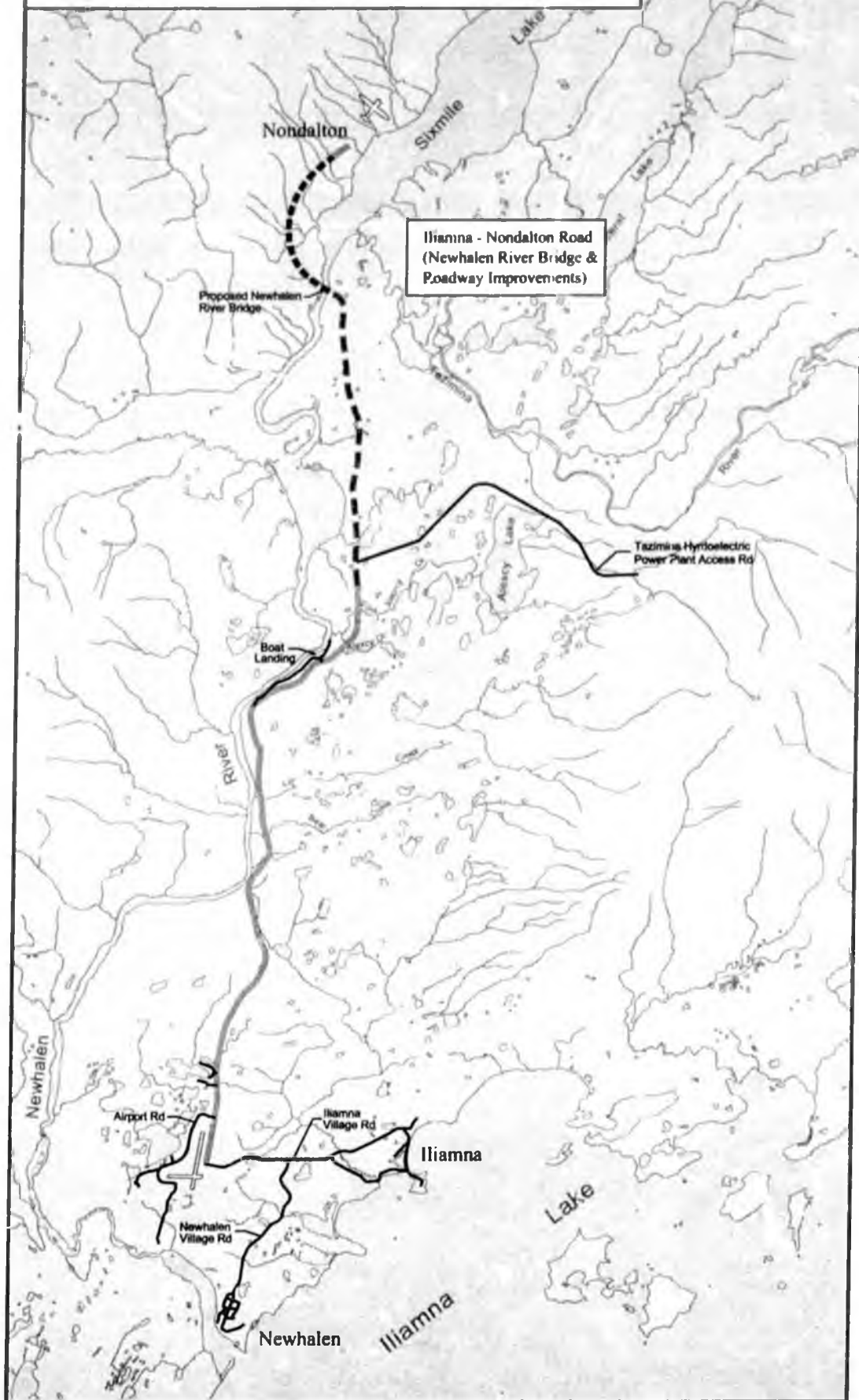
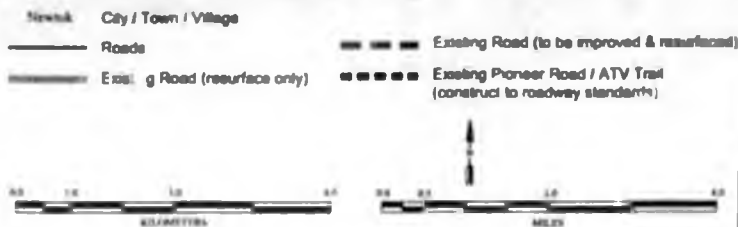
January 5, 2004 - Preliminary injunction granted to Plaintiffs. DOT&PF was ordered to **cease any action** to construct, contract to construct, or produce final design of the Iliamna-Nondalton road and bridge project **until the economic costs of the project are considered** in the next revision to the "Southwest Regional Transportation Plan" as required by AS 44.42.050, or until further order of this court. (Emphasis added.)

September 30, 2004 - "Southwest Alaska Transportation Plan" was revised. The revision consisted of extracting the Iliamna-Nondalton Road/Bridge project and the Aleknagik/Wood River Bridge project from the Plan baseline and subjecting them to the cost effectiveness methodology used to evaluate the other capital projects in the Plan. The two projects were subjected to an economic analysis that was incorporated into the Plan.

January 14, 2005 - The preliminary injunction was lifted. It is unclear at this time whether the remaining causes of action filed in the lawsuit will be litigated.

¹ The road already exists, in different forms and (absent the bridge), from Iliamna to Nondalton. Going north from Iliamna, roughly the first 11.5 miles is paved, the next 4.5 miles to the site of the proposed bridge is a gravel road and the remaining 2.5 miles from the other side of the river to Nondalton is in the form of a pioneer road.

Iliamna-Nondalton Proposed Road Improvements January 2005



24-LS0419U
Utermohle
4/6/05

CS FOR HOUSE BILL NO. 239(TRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Originated:
Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE BY REQUEST

A BILL
FOR AN ACT ENTITLED

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

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

7 * Section 1. AS 19.05.040 is amended to read:

8 **Sec. 19.05.040. Powers of department.** The department may

- 9 (1) acquire property;
- 10 (2) exercise the power of eminent domain;
- 11 (3) take immediate possession of real property, or any interest in real
- 12 property [IT] under a declaration of taking or by other lawful means;
- 13 (4) acquire rights-of-way for present or future use;

- 1 (5) control access to highways;
- 2 (6) regulate roadside development;
- 3 (7) preserve and maintain the scenic beauty along state highways;
- 4 (8) dispose of property acquired for highway purposes;
- 5 (9) accept and dispose of federal funds or property available for
- 6 highway construction, maintenance, or equipment;
- 7 (10) enter into contracts or agreements relating to highways with the
- 8 federal government, municipalities, a political subdivision, or with a foreign
- 9 government, if the contract is approved by the federal government;
- 10 (11) establish, levy, and collect tolls, fees, charges, and rentals for the
- 11 use of state roads, highways, bridges, tunnels, crossings, and causeways;
- 12 (12) exercise any other power necessary to carry out the purpose of
- 13 AS 19.05 - AS 19.25; and
- 14 (13) award and administer grants authorized by appropriation by
- 15 the legislature [NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF
- 16 THE DUTIES AND EXECUTION OF THE POWERS OF THE HIGHWAY
- 17 SAFETY PLANNING AGENCY].

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

- 19 (a) The department shall
- 20 (1) plan, design, construct, and maintain all state modes of
- 21 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
- 22 and similar facilities;
- 23 (2) study existing transportation modes and facilities in the state to
- 24 determine how they might be improved or whether they should continue to be
- 25 maintained;
- 26 (3) study alternative means of improving transportation in the state
- 27 with regard to the economic costs of each alternative and its environmental and social
- 28 effects;
- 29 (4) develop a comprehensive, long-range, intermodal transportation
- 30 plan for the state;
- 31 (5) study alternatives to existing modes of transportation in urban areas

1 and develop plans to improve urban transportation;

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

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

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

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

12 (10) develop facility program plans for transportation and state
13 buildings, docks, and breakwaters required to implement the duties set out in this
14 section, including but not limited to functional performance criteria and schedules for
15 completion;

16 (11) supervise and maintain all state automotive and mechanical
17 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
18 Fish and Game or the Department of Public Safety; for state vehicles maintained by
19 the department, the department shall every five years [ANNUALLY] evaluate the
20 cost, efficiency, and commercial availability of alternative fuels [NATURAL GAS]
21 for automotive purposes, and the purpose for which the vehicles are intended to be
22 used, and convert or purchase vehicles to use alternative fuels [UTILIZE NATURAL
23 GAS] whenever practicable; the department may participate in joint ventures with
24 public or private partners that will foster the availability of alternative fuels
25 [NATURAL GAS] for all automotive fuel consumers;

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

27 (13) [COMPLETE AND MAINTAIN A CURRENT INVENTORY
28 OF PUBLIC FACILITIES, INCLUDING A PROJECTION OF THE
29 SERVICEABILITY OF THE FACILITIES AND PROJECTIONS OF
30 REPLACEMENTS AND ADDITIONS TO FACILITIES NEEDED TO PROVIDE
31 THE LEVEL OF SERVICES PROGRAMMED BY THE VARIOUS USER

1 AGENCIES, FOR MUNICIPALITIES WITH POPULATIONS OF LESS THAN
2 12,000 AND FOR UNINCORPORATED COMMUNITIES, AND PERFORM
3 THOSE DUTIES ON A COOPERATIVE BASIS WITH LARGER
4 MUNICIPALITIES;

5 (14) ADOPT ENERGY PERFORMANCE STANDARDS FOR
6 PUBLIC FACILITIES OF THE STATE, THE CONSTRUCTION OF WHICH
7 BEGINS AFTER JULY 1, 1980; THE STANDARDS SHALL BE BASED ON
8 THERMAL AND LIGHTING ENERGY STANDARDS ESTABLISHED BY THE
9 AMERICAN SOCIETY OF HEATING, REFRIGERATION AND AIR
10 CONDITIONING ENGINEERS AS ADAPTED FOR APPLICATION IN HIGH
11 LATITUDE, COLD CLIMATE ENVIRONS;

12 (15) PROVIDE PLANNING ASSISTANCE, INCLUDING BUT NOT
13 LIMITED TO ENERGY AUDITS AND RELATED TECHNICAL SERVICES, TO
14 SCHOOL DISTRICTS AND REGIONAL EDUCATIONAL ATTENDANCE
15 AREAS TO DEVELOP AND IMPLEMENT

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

18 (B) ENERGY CONSERVATION MEASURES FOR RURAL
19 EDUCATIONAL FACILITIES;

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

22 ~~(14)~~ [(17)] inspect weights and measures;

23 (15) at least every four years study alternatives available to finance
24 transportation systems in order to provide an adequate level of funding to sustain
25 and improve the state's transportation system.

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

27 (a) The commissioner shall develop [ANNUALLY] a comprehensive,
28 intermodal, long-range transportation plan for the state. The plan may be developed
29 in multiple documents that address logical components, including geographic
30 areas, modes of transportation, transportation corridors, systems, and other
31 distinct subjects relevant to transportation planning. The components of the plan

1 shall be revised as the commissioner determines appropriate. In developing and
2 revising the state plan, the commissioner shall conform to the requirements for the
3 eligibility and use of federal and other funds, as applicable. Upon approval of
4 each component of the plan by the commissioner, the commissioner shall
5 transmit notice of the approval of that component to the governor and
6 [CONSIDER MEANS AND COSTS OF IMPROVING EXISTING MODES AND
7 FACILITIES, STATE AND FEDERAL SUBSIDIES, AND THE COSTS AND
8 BENEFITS OF NEW TRANSPORTATION MODES AND FACILITIES. THE
9 COMMISSIONER SHALL ALSO CONSIDER THE RECOMMENDATION OF
10 THE ALASKA TRANSPORTATION PLANNING COUNCIL. THE PLAN SHALL
11 BE SUBMITTED TO THE GOVERNOR FOR REVIEW AND APPROVAL AND
12 SUBMITTED BY THE GOVERNOR] to the legislature.

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

14 (d) The commissioner shall develop a list [PLAN MUST INCLUDE A
15 DESCRIPTION] of projects scheduled [PLANNED] for design, [AND] construction,
16 or other necessary activities for a period of not less than [THE FOLLOWING] two
17 years that is consistent with the plan developed under (a) of this section. The list
18 of projects [DESCRIPTION] is in addition to the long-range plan required by (a) of
19 this section [AND BY AS 19.10.140]. The list of projects [DESCRIPTION] must
20 include an estimate of federal, state, and other funds anticipated to be received to
21 fund the projects and a description, location, and itemization of the estimated cost
22 for each project and the total cost of all projects. [THE COMMISSIONER SHALL
23 PROPOSE AND FORWARD TO THE GOVERNOR FOR REVIEW AND
24 APPROVAL AND INCLUSION, AS APPROVED, IN THE CAPITAL BUDGET A
25 CONSTRUCTION PROGRAM THAT INCLUDES THE PROJECTS TO BE
26 UNDERTAKEN DURING THE FOLLOWING TWO YEARS INCLUDING
27 RECOMMENDED PROJECT PRIORITIES. FUNDS FOR TRANSPORTATION
28 CONSTRUCTION PROJECTS AND NECESSARY CONTINGENCIES SHALL BE
29 ITEMIZED AS ALLOCATIONS WITHIN THE BILL FOR THE GENERAL
30 APPROPRIATIONS ACT.]

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

1 (e) In evaluating new highways, airports, terminals, ferries, and other major
2 components for inclusion in the plan, the commissioner shall prepare a cost-
3 effectiveness analysis using a consistent methodology. A cost-effectiveness analysis
4 is not required for a project that involves the rehabilitation and maintenance of an
5 existing transportation system or that primarily serves local transportation needs.

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

7 (8) "thermal and lighting energy standards" means the thermal and
8 lighting energy standards

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

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

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

16 (B) developed in regulations adopted

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

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

22 * Sec. 7. AS 19.10.140 and AS 46.11.010 are repealed.

23 * Sec. 8. Section 5 of this Act takes effect July 1, 2006.

24-LS0419A
Utermohle
1/18/05

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:
Referred:

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the powers and duties of the Department of Transportation and
2 Public Facilities; repealing the requirement for a long-range program for highway
3 construction and maintenance; and repealing a requirement that public facilities comply
4 with energy standards adopted by the Department of Transportation and Public
5 Facilities."

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

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 PURPOSE OF SECTION 4 OF THIS ACT. The purpose of the amendment of
10 AS 44.42.050(a) by sec. 4 of this Act is to conform state statutes with federal standards and
11 current practice of the state for planning of transportation systems.

12 * **Sec. 2.** AS 19.05.040 is amended to read:

13 **Sec. 19.05.040. Powers of department.** The department may

- 1 (1) acquire property;
- 2 (2) exercise the power of eminent domain;
- 3 (3) take immediate possession of real property, or any interest in real
- 4 property [IT] under a declaration of taking or by other lawful means;
- 5 (4) acquire rights-of-way for present or future use;
- 6 (5) control access to highways;
- 7 (6) regulate roadside development;
- 8 (7) preserve and maintain the scenic beauty along state highways;
- 9 (8) dispose of property acquired for highway purposes;
- 10 (9) accept and dispose of federal funds or property available for
- 11 highway construction, maintenance, or equipment;
- 12 (10) enter into contracts or agreements relating to highways with the
- 13 federal government, municipalities, a political subdivision, or with a foreign
- 14 government, if the contract is approved by the federal government;
- 15 (11) establish, levy, and collect tolls, fees, charges, and rentals for the
- 16 use of state roads, highways, bridges, tunnels, crossings, and causeways;
- 17 (12) exercise any other power necessary to carry out the purpose of
- 18 AS 19.05 - AS 19.25; and
- 19 (13) award grants necessary or incidental to the performance of the
- 20 duties and execution of the powers of the department [HIGHWAY SAFETY
- 21 PLANNING AGENCY].

22 * Sec. 3. AS 44.42.020(a) is amended to read:

23 (a) The department shall

- 24 (1) plan, design, construct, and maintain all state modes of
- 25 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
- 26 and similar facilities;
- 27 (2) study existing transportation modes and facilities in the state to
- 28 determine how they might be improved or whether they should continue to be
- 29 maintained;
- 30 (3) study alternative means of improving transportation in the state
- 31 with regard to the economic costs of each alternative and its environmental and social

1 effects;

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

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

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

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

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

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

16 (10) develop facility program plans for transportation and state
17 buildings, docks, and breakwaters required to implement the duties set out in this
18 section, including but not limited to functional performance criteria and schedules for
19 completion;

20 (11) supervise and maintain all state automotive and mechanical
21 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
22 Fish and Game or the Department of Public Safety; for state vehicles maintained by
23 the department, the department shall periodically [ANNUALLY] evaluate the cost,
24 efficiency, and commercial availability of alternative fuels [NATURAL GAS] for
25 automotive purposes, and the purpose for which the vehicles are intended to be used,
26 and convert or purchase vehicles to use alternative fuels [UTILIZE NATURAL
27 GAS] whenever practicable; the department may participate in joint ventures with
28 public or private partners that will foster the availability of alternative fuels
29 [NATURAL GAS] for all automotive fuel consumers;

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

31 (13) [COMPLETE AND MAINTAIN A CURRENT INVENTORY

1 OF PUBLIC FACILITIES, INCLUDING A PROJECTION OF THE
2 SERVICEABILITY OF THE FACILITIES AND PROJECTIONS OF
3 REPLACEMENTS AND ADDITIONS TO FACILITIES NEEDED TO PROVIDE
4 THE LEVEL OF SERVICES PROGRAMMED BY THE VARIOUS USER
5 AGENCIES, FOR MUNICIPALITIES WITH POPULATIONS OF LESS THAN
6 12,000 AND FOR UNINCORPORATED COMMUNITIES, AND PERFORM
7 THOSE DUTIES ON A COOPERATIVE BASIS WITH LARGER
8 MUNICIPALITIES;

9 (14) ADOPT ENERGY PERFORMANCE STANDARDS FOR
10 PUBLIC FACILITIES OF THE STATE, THE CONSTRUCTION OF WHICH
11 BEGINS AFTER JULY 1, 1980; THE STANDARDS SHALL BE BASED ON
12 THERMAL AND LIGHTING ENERGY STANDARDS ESTABLISHED BY THE
13 AMERICAN SOCIETY OF HEATING, REFRIGERATION AND AIR
14 CONDITIONING ENGINEERS AS ADAPTED FOR APPLICATION IN HIGH
15 LATITUDE, COLD CLIMATE ENVIRONS;

16 (15) PROVIDE PLANNING ASSISTANCE, INCLUDING BUT NOT
17 LIMITED TO ENERGY AUDITS AND RELATED TECHNICAL SERVICES, TO
18 SCHOOL DISTRICTS AND REGIONAL EDUCATIONAL ATTENDANCE
19 AREAS TO DEVELOP AND IMPLEMENT

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

22 (B) ENERGY CONSERVATION MEASURES FOR RURAL
23 EDUCATIONAL FACILITIES;

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

26 ~~(14)~~ [(17)] inspect weights and measures;

27 (15) periodically study alternatives available to finance
28 transportation systems in order to provide an adequate level of funding to sustain
29 and improve the state's transportation system.

30 * Sec. 4. AS 44.42.050(a) is amended to read:

31 (a) The commissioner shall develop [ANNUALLY] a comprehensive,

1 intermodal, long-range transportation plan for the state. The plan shall be developed
2 in multiple documents that address logical components, including geographic
3 areas, modes of transportation, transportation corridors, systems, and other
4 distinct subjects relevant to transportation planning. The components of the plan
5 shall be revised as the commissioner determines appropriate. In developing and
6 revising the state plan, the commissioner shall conform to the requirements for the
7 eligibility and use of federal and other funds, as applicable. Upon approval of
8 each component of the plan by the commissioner, the commissioner shall
9 transmit notice of the approval of that component to the governor and
10 [CONSIDER MEANS AND COSTS OF IMPROVING EXISTING MODES AND
11 FACILITIES, STATE AND FEDERAL SUBSIDIES, AND THE COSTS AND
12 BENEFITS OF NEW TRANSPORTATION MODES AND FACILITIES. THE
13 COMMISSIONER SHALL ALSO CONSIDER THE RECOMMENDATION OF
14 THE ALASKA TRANSPORTATION PLANNING COUNCIL. THE PLAN SHALL
15 BE SUBMITTED TO THE GOVERNOR FOR REVIEW AND APPROVAL AND
16 SUBMITTED BY THE GOVERNOR] to the legislature.

17 * Sec. 5. AS 44.42.050(d) is amended to read:

18 (d) The commissioner shall develop a list [PLAN MUST INCLUDE A
19 DESCRIPTION] of projects scheduled [PLANNED] for expenditure [DESIGN
20 AND CONSTRUCTION] for a period of not less than [THE FOLLOWING] two
21 years that is consistent with the plan developed under (a) of this section. The list
22 of projects [DESCRIPTION] is in addition to the long-range plan required by (a) of
23 this section [AND BY AS 19.10.140]. The list of projects [DESCRIPTION] must
24 include an estimate of federal, state, and other funds anticipated to be received to
25 fund the projects and a description, location, and itemization of the estimated cost
26 for each project and the total cost of all projects. The commissioner shall propose and
27 forward to the governor for review and approval a [AND INCLUSION, AS
28 APPROVED, IN THE] capital budget [A CONSTRUCTION PROGRAM] that
29 includes the projects to be undertaken during the following year [TWO YEARS],
30 including recommended project priorities. [FUNDS FOR TRANSPORTATION
31 CONSTRUCTION PROJECTS AND NECESSARY CONTINGENCIES SHALL BE

1 ITEMIZED AS ALLOCATIONS WITHIN THE BILL FOR THE GENERAL
2 APPROPRIATIONS ACT.]

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

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

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

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

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

13 (B) developed in regulations adopted

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

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

19 * Sec. 7. AS 19.10.140 and AS 46.11.010 are repealed.

HOUSE BILL NO.

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

**Introduced:
Referred:**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the powers and duties of the Department of Transportation and**
2 **Public Facilities; repealing the requirement for a long-range program for highway**
3 **construction and maintenance; and repealing a requirement that public facilities comply**
4 **with energy standards adopted by the Department of Transportation and Public**
5 **Facilities."**

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

7 *** Section 1. AS 19.05.040 is amended to read:**

8 **Sec. 19.05.040. Powers of department. The department may**

9 (1) acquire property;

10 (2) exercise the power of eminent domain;

11 (3) take immediate possession of real property, or any interest in real
12 property [IT] under a declaration of taking or by other lawful means;

13 (4) acquire rights-of-way for present or future use;

- 1 (5) control access to highways;
- 2 (6) regulate roadside development;
- 3 (7) preserve and maintain the scenic beauty along state highways;
- 4 (8) dispose of property acquired for highway purposes;
- 5 (9) accept and dispose of federal funds or property available for
- 6 highway construction, maintenance, or equipment;
- 7 (10) enter into contracts or agreements relating to highways with the
- 8 federal government, municipalities, a political subdivision, or with a foreign
- 9 government, if the contract is approved by the federal government;
- 10 (11) establish, levy, and collect tolls, fees, charges, and rentals for the
- 11 use of state roads, highways, bridges, tunnels, crossings, and causeways;
- 12 (12) exercise any other power necessary to carry out the purpose of
- 13 AS 19.05 - AS 19.25; and
- 14 (13) award and administer grants authorized by appropriation by
- 15 the legislature [NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF
- 16 THE DUTIES AND EXECUTION OF THE POWERS OF THE HIGHWAY
- 17 SAFETY PLANNING AGENCY].

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

- 19 (a) The department shall
- 20 (1) plan, design, construct, and maintain all state modes of
- 21 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
- 22 and similar facilities;
- 23 (2) study existing transportation modes and facilities in the state to
- 24 determine how they might be improved or whether they should continue to be
- 25 maintained;
- 26 (3) study alternative means of improving transportation in the state
- 27 with regard to the economic costs of each alternative and its environmental and social
- 28 effects;
- 29 (4) develop a comprehensive, long-range, intermodal transportation
- 30 plan for the state;
- 31 (5) study alternatives to existing modes of transportation in urban areas

1 and develop plans to improve urban transportation;

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

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

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

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

12 (10) develop facility program plans for transportation and state
13 buildings, docks, and breakwaters required to implement the duties set out in this
14 section, including but not limited to functional performance criteria and schedules for
15 completion;

16 (11) supervise and maintain all state automotive and mechanical
17 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
18 Fish and Game or the Department of Public Safety; for state vehicles maintained by
19 the department, the department shall periodically [ANNUALLY] evaluate the cost,
20 efficiency, and commercial availability of alternative fuels [NATURAL GAS] for
21 automotive purposes, and the purpose for which the vehicles are intended to be used,
22 and convert or purchase vehicles to use alternative fuels [UTILIZE NATURAL
23 GAS] whenever practicable; the department may participate in joint ventures with
24 public or private partners that will foster the availability of alternative fuels
25 [NATURAL GAS] for all automotive fuel consumers;

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

27 (13) [COMPLETE AND MAINTAIN A CURRENT INVENTORY
28 OF PUBLIC FACILITIES, INCLUDING A PROJECTION OF THE
29 SERVICEABILITY OF THE FACILITIES AND PROJECTIONS OF
30 REPLACEMENTS AND ADDITIONS TO FACILITIES NEEDED TO PROVIDE
31 THE LEVEL OF SERVICES PROGRAMMED BY THE VARIOUS USER

1 AGENCIES, FOR MUNICIPALITIES WITH POPULATIONS OF LESS THAN
2 12,000 AND FOR UNINCORPORATED COMMUNITIES, AND PERFORM
3 THOSE DUTIES ON A COOPERATIVE BASIS WITH LARGER
4 MUNICIPALITIES;

5 (14) ADOPT ENERGY PERFORMANCE STANDARDS FOR
6 PUBLIC FACILITIES OF THE STATE, THE CONSTRUCTION OF WHICH
7 BEGINS AFTER JULY 1, 1980; THE STANDARDS SHALL BE BASED ON
8 THERMAL AND LIGHTING ENERGY STANDARDS ESTABLISHED BY THE
9 AMERICAN SOCIETY OF HEATING, REFRIGERATION AND AIR
10 CONDITIONING ENGINEERS AS ADAPTED FOR APPLICATION IN HIGH
11 LATITUDE, COLD CLIMATE ENVIRONS;

12 (15) PROVIDE PLANNING ASSISTANCE, INCLUDING BUT NOT
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21 for air carriers under AS 02.40;

22 (14) [(17)] inspect weights and measures;

23 (15) periodically study alternatives available to finance
24 transportation systems in order to provide an adequate level of funding to sustain
25 and improve the state's transportation system.

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

27 (a) The commission shall develop [ANNUALLY] a comprehensive,
28 intermodal, long-range transportation plan for the state. The plan may be developed
29 in multiple documents that address logical components, including geographic
30 areas, modes of transportation, transportation corridors, systems, and other
31 distinct subjects relevant to transportation planning. The components of the plan

1 shall be revised as the commissioner determines appropriate. In developing and
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3 eligibility and use of federal and other funds, as applicable. Upon approval of
4 each component of the plan by the commissioner, the commissioner shall
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15 DESCRIPTION] of projects scheduled [PLANNED] for design, [AND] construction,
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17 years that is consistent with the plan developed under (a) of this section. The list
18 of projects [DESCRIPTION] is in addition to the long-range plan required by (a) of
19 this section [AND BY AS 19.10.140]. The list of projects [DESCRIPTION] must
20 include an estimate of federal, state, and other funds anticipated to be received to
21 fund the projects and a description, location, and itemization of the estimated cost
22 for each project and the total cost of all projects. [THE COMMISSIONER SHALL
23 PROPOSE AND FORWARD TO THE GOVERNOR FOR REVIEW AND
24 APPROVAL AND INCLUSION, AS APPROVED, IN THE CAPITAL BUDGET A
25 CONSTRUCTION PROGRAM THAT INCLUDES THE PROJECTS TO BE
26 UNDERTAKEN DURING THE FOLLOWING TWO YEARS INCLUDING
27 RECOMMENDED PROJECT PRIORITIES. FUNDS FOR TRANSPORTATION
28 CONSTRUCTION PROJECTS AND NECESSARY CONTINGENCIES SHALL BE
29 ITEMIZED AS ALLOCATIONS WITHIN THE BILL FOR THE GENERAL
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2 lighting energy standards

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4 Refrigeration, and Air Conditioning Engineers as revised

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9 buildings and structures that are not public facilities; or

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11 [(i) BY THE COMMISSIONER OF
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13 AS 44.42.020(a) FOR PUBLIC FACILITIES; OR

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

16 * Sec. 6. AS 19.10.140 and AS 46.11.010 are repealed.

Attached Message

From: Pat Kemp <pat_kemp@dot.state.ak.us> [Save Address]
To: Robin L Taylor <robin_taylor@dot.state.ak.us>
Subject: [Fwd: Suggested draft of DOT Planning Powers rewrite]
Date: Tue, 14 Dec 2004 07:54:53 -0900 (AKST)

Attached Message

From: Jeff Ottesen <jeff_ottesen@dot.state.ak.us> [Save Address]
To: Pat Kemp <pat_kemp@dot.state.ak.us>, Peter K Putzler <peter_putzler@law.state.ak.us>
Subject: Suggested draft of DOT Planning Powers rewrite
Date: Mon, 13 Dec 2004 10:03:07 -0900 (AKST)

Here is out latest internal draft. It has been gone over in an earlier version by both the Law DOT section as well as Deb Behr's office. Latest thinking is to have it introduced by legislators, not governor.

Pat you thought you knew of a possible sponsor. Feel free to share this version.

Sec. 465 are the key sections. Remainder of bill is mostly house keeping but not too likelyst to draw fire from anyone.

Unlike last year's version, this one does not have retroactivity, nor does it openly trump an active lawsuit. But who knows. We may have to add one or both features in, depending on how things go in court over next few months.

BTW, the current state suit is now arguing over the accuracy of the travel estimate, with plaintiff's attorney arguing state's 20-year out estimate of travel does not achieve scientific certainty! Crux of the issue is we had only 3 roads in same region to compare too, and the statistical range of possibility ran from -1.1 to +1.3 million trips per year using these 3 data points. Our estimate is for about +0.1 million trips or very near middle of range and of course in bottom 10% of range if you throw out the impossible outcome of NEGATIVE TRIPS (whatever they are??).

Attachment 1: Billv3.doc (application/msword)

VCARD
fn:Jeff Ottesen
n:Ottesen,Jeff
org:Alaska Dept. of Transportation;Division of Program Development
adr;dom;;;3132 Channel Drive;Juneau;AK;99801
email;internet:jeff_ottesen@dot.state.ak.us
title:Director
tel;work:(907) 465-6971
tel;fax:(907) 465-6984
tel;cell:(907) 351-2009



[Print] [Close]

From: Robin Taylor <robin_taylor@dot.state.ak.us>
To: jmelkins@att.net
Subject: [Fwd: [Fwd: [Fwd: Suggested draft of DOT Planning Powers rewrite]]]
Date: Tue, 14 Dec 2004 17:41:34 +0000

Robin Taylor
Special Assistant
DOT Southeast Region
(907)465-1897
Cell: (907)254-8130

This is a privileged and confidential communication. If you are not the intended recipient, please: (1) Notify the sender of the error; (2) Destroy this communication entirely, including deletion of all associated attachment files from all individual a network storage devices; and (3) Refrain from copying or disseminating this communication by any means.

Attached Message

From: Robin Taylor <robin_taylor@dot.state.ak.us> [Save Address]
To: jmelkins@att.com
Cc: "Patrick J. Kemp" <pat_kemp@dot.state.ak.us>, "Paxton, Gary" <gary_paxton@dot.state.ak.us>
Subject: [Fwd: [Fwd: Suggested draft of DOT Planning Powers rewrite]]
Date: Tue, 14 Dec 2004 08:38:40 -0900

Dear Representative Jim:

Attached hereto is the latest draft of the DOT bill, which we discussed last evening. This bill would remove the cost/benefit ratio requirement, from the law. This section of law is currently being used by the Environmental extremists to stop state projects and the repeal and reenactment of this law, needs to be made retro-active if we are to move forward on the Cascade Point, road extension project. The continued abuse of this law by the opponents of development in this state, will affect every state project if not corrected. Please call if you or your staff have any questions.

Robin

Robin Taylor
Special Assistant
DOT Southeast Region
(907)465-1897
Cell: (907)254-8130

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ALASKA STATE LEGISLATURE

INTERIM

50 Front St.
Suite #203
Ketchikan, Alaska 99901
Phone: (907) 247-4672
Fax: (907) 225-8546



SESSION

Suite 416
State Capitol Building
Juneau, Alaska 99801
Phone: (907) 465-3424
Fax: (907) 465-3793

REPRESENTATIVE JIM ELKINS

To: George Utermohle

From: Jos - Transportation Committee Aide Rep. Elkins

Total Pages including Cover: 8

“An Act relating to the powers and duties of the Department of Transportation and Public Facilities; relating to a long-range program for highway construction and maintenance; and providing for an effective date.”

* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

PURPOSE AND INTENT OF SECTION 4 OF THIS ACT. (a) The purpose of this Act is to bring these statutes in conformance with federal standards and the contemporary practice of the state with regard to the procedures used for planning of transportation systems.

* **Sec. 2.** AS 19.05.040 is amended to read:

Sec. 19.05.040. Powers of department.

The department may

- (1) acquire property;
- (2) exercise the power of eminent domain;
- (3) take immediate possession of real property, or any interest in it under a declaration of taking or by other lawful means;
- (4) acquire rights-of-way for present or future use;
- (5) control access to highways;
- (6) regulate roadside development;
- (7) preserve and maintain the scenic beauty along state highways;
- (8) dispose of property acquired for highway purposes;

(9) accept and dispose of federal funds or property available for highway construction, maintenance, or equipment;

(10) enter into contracts or agreements relating to highways with the federal government, municipalities, a political subdivision, or with a foreign government, if the contract is approved by the federal government;

(11) establish, levy, and collect tolls, fees, charges, and rentals for the use of state roads, highways, bridges, tunnels, crossings, and causeways;

(12) exercise any other power necessary to carry out the purpose of AS 19.05 - AS 19.25; and

(13) award grants necessary or incidental to the performance of the duties and execution of the powers of the [HIGHWAY SAFETY PLANNING AGENCY] department.

* **Sec. 3.** AS 44.42.020(a) is amended to read:

(a) The department shall

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

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

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

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

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

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

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

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

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

(10) develop facility program plans for transportation and state buildings, docks, and breakwaters required to implement the duties set out in this section, including but not limited to functional performance criteria and schedules for completion;

(11) supervise and maintain all state automotive and mechanical equipment, aircraft, and vessels, except vessels and aircraft used by the Department of Fish and Game or the Department of Public Safety; for state vehicles maintained by the department, the department shall ^{NAT} periodically [ANNUALLY] evaluate the cost, efficiency, and commercial availability of alternative fuels [NATURAL GAS] for

automotive purposes, and the purpose for which the vehicles are intended to be used, and convert or purchase vehicles to use alternative fuels [UTILIZE NATURAL GAS] whenever practicable; the department may participate in joint ventures with public or private partners that will foster the availability of alternative fuels [NATURAL GAS] for all automotive fuel consumers;

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

(13) [COMPLETE AND MAINTAIN A CURRENT INVENTORY OF PUBLIC FACILITIES, INCLUDING A PROJECTION OF THE SERVICEABILITY OF THE FACILITIES AND PROJECTIONS OF REPLACEMENTS AND ADDITIONS TO FACILITIES NEEDED TO PROVIDE THE LEVEL OF SERVICES PROGRAMMED BY THE VARIOUS USER AGENCIES, FOR MUNICIPALITIES WITH POPULATIONS OF LESS THAN 12,000 AND FOR UNINCORPORATED COMMUNITIES, AND PERFORM THOSE DUTIES ON A COOPERATIVE BASIS WITH LARGER MUNICIPALITIES;

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

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

(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:

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

(15) study periodically the various funding mechanisms for transportation finance, in view of assuring an adequate level of financial resource to sustain and improve the state's transportation system.

* Sec. 4. 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 shall be developed in multiple documents that are revised in separate cycles and that address logical components, including geographic areas, modes of transportation, transportation corridors, systems, and other components relevant to statewide transportation planning. In developing and revising the state plan, the commissioner shall conform to the requirements necessary for the eligibility and use of federal funding and funding

from other sources, as applicable. Upon approval of each component of the plan the commissioner shall transmit notice of the plan to the governor and [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. THE PLAN SHALL BE SUBMITTED TO THE GOVERNOR FOR REVIEW AND APPROVAL AND SUBMITTED BY THE GOVERNOR TO] the legislature.

* Sec. 5. AS 44.42.050(d) is amended to read:

(d) The commissioner shall develop a list of [PLAN MUST INCLUDE A DESCRIPTION of] projects scheduled [PLANNED] for expenditure [DESIGN AND CONSTRUCTION] for a period of not less than [THE FOLLOWING] two years that is consistent with the plan developed under (a) of this section. The list of projects [DESCRIPTION] is in addition to the long-range plan required by (a) of this section [AND BY AS 19.10.140]. The list of projects [DESCRIPTION] must include an estimate of federal, state, and other funds anticipated to finance the program and a description, location, and itemization of the estimated cost for each project and the total cost of all projects. The commissioner shall propose and forward to the governor for review and approval a [AND INCLUSION, AS APPROVED, IN THE] capital budget [A CONSTRUCTION PROGRAM] that includes the projects to be undertaken during the following year [TWO YEARS], including recommended project priorities. [FUNDS

FOR TRANSPORTATION CONSTRUCTION PROJECTS AND NECESSARY
CONTINGENCIES SHALL BE ITEMIZED AS ALLOCATIONS WITHIN THE BILL
FOR THE GENERAL APPROPRIATIONS ACT.]

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

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

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

[(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 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 19.10.140; AS 46.11.010 are repealed.