

SB

14

SENATE COMMITTEE REPORT

DATE: 3/27/09

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Transportation Committee considered SENATE BILL NO. 14

SB 14 EXTEND MOTOR FUEL TAX SUSPENSION

"An Act expanding the motor fuel tax suspension period."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#
Revenue	3/5	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Linda Menard</i>	Menard	X			
<i>Beryl Davis</i>	Davis	X			
<i>K. Meyer</i>	Meyer	X			
CHAIR: <i>Allent Kooresh</i>	Kooresh	X			

Senate Bipartisan Working Group

Alaska's State Senate Majority Caucus
Today is Apr. 6th :: 13 First Session Days Left

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Senator Gary Stevens, Senate President



Senator Johnny Ellis, Majority Leader

Available Data for SB14

SB14

[SENATOR BETTYE DAVIS](#)

[Statement PDF](#)

BILL LOOKUP:

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Sponsor



Statement

Senate Bill 14: "An Act suspending the motor fuel tax suspension period"

SB 14 extends for an additional two years to August, 31, 2011, the termination date of the 1-year suspension of the motor fuel tax imposed by the governor in 2008 under SB 4004. This bill extends motor fuel tax relief of approximately \$0.08 per gallon to Alaska consumers and businesses which continue to pay some of the highest prices for motor fuel in the nation. Initiated at a time when oil prices were spiking to all-time highs, the motor fuel tax relief afforded to Alaskans in 2008 is still important in sustaining and stimulating the Alaska economy in the national economic recession which is expected to last several years.

Fuel costs affect almost every aspect of Alaska life in work, recreation, vacations, private, and business use. High fuel prices affect the cost of all goods and materials transported by sea, air and road. Most goods have to be shipped very long distances to Alaska. Every year hundreds of thousands of shipping containers carrying goods Alaskans use every day must be shipped by sea and road over 2,000 miles to Anchorage, the largest population center and distribution point to other parts of the state. From there over 80% of goods distributed to many Alaska communities can be reached only by air transportation. The reverse is true of Alaska's exports and seafood shipped south or overseas.

Air and cruise travel which is critical to the Alaska tourism industry is declining in the current recession. Bookings are down and airlines and cruise lines are cutting back due to decreased demand as they continue to struggle with high costs of fuel. Extending the suspension of the motor fuel tax under SB 14 will have major impact on the enormous quantities of fuel consumed in the transport of goods and people in Alaska. It will encourage cargo carriers to maintain flights and cargo hubs in Alaska and it will encourage air and cruise lines to reduce fares to stimulate demand.

SENATOR BETTYE DAVIS

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 14
(S) Publish Date: 3/27/09

Identifier (File Name): SB14-DOR-TAX-03-05-09 Dept. Affected: Revenue 04
Title: Extend Motor Fuel Tax Suspension RDU: Taxation and Treasury
Component: Taxation and Treasury
Sponsor: Senator Davis
Requester: (S) Labor & Commerce Component No.: 2476

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0
CAPITAL EXPENDITURES		0	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()		(33,900.0)	0.0	(40,600.0)	(10,200.0)	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This bill would extend the existing motor fuel tax suspension for an additional two years, until August 31, 2011. Revenue from the motor fuel tax goes to the General Fund. 60 percent of taxes attributable to aviation fuel sales at municipally owned or operated airports is customarily shared with the respective municipalities.

In FY 2008, the last year before the tax suspension, the motor fuel tax generated \$41.6 million, and \$148,000 of that was shared with municipalities. As a result of this bill, we anticipate no motor fuel tax revenues in FY 2010 and FY 2011. For FY 2012, we estimate that the state will receive nine months of revenue (beginning with returns due in October 2011). Revenue impacts shown are based on the expected reduction compared to our Fall 2008 revenue forecast. Expenditures will not be affected as this is a temporary suspension and taxpayers are still required to file informational returns.

Prepared by: Dan Stichel, Economist Phone (907) 465-3279
Division: Tax Division Date/Time 3/4/09 3:04pm
Approved by: Ginger Blaisdell Director Date 3/5/2009
Agency: Administrative Services

COMMITTEE COPY

SB

15

Alaska State Legislature

SENATOR
GENE THERRIAULT

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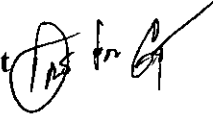


Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
SENATE DISTRICT F

Memorandum

To: Senator Kookesh / Chair Senate Transportation

From: Senator Therriault 

Date: January 18, 2007

Re: SB 15 Marine Pilots

.....

I respectfully request that Senate Bill 15 be scheduled for hearing (s) in Senate Transportation Committee.

Thank you.

Alaska State Legislature

SENATOR
GENE THERRIAULT

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Senate

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SENATE DISTRICT F

Sponsor Statement

Senate Bill 15

Senate Bill 15 authorizes the continuation of the Board of Marine Pilots for 8 years.

The Board's purpose is to benefit the public's welfare and safety as well as protect the environment. After reading the Report by Legislative Budget and Audit (08-20045-06) it is clear the Board is operating and accomplishing its mission.

I am confident the Board will take the recommendations of the Audit Report Conclusions seriously and will move to comply with them in a steadfast and resolute manner.

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Board of Marine Pilots (BMP or the board) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner. Currently, AS 08.03.010(c)(10) states that the board will terminate on June 30, 2007 and will have one year from that date to conclude its administrative operations.

Objectives

There are three central, interrelated objectives of our report. They are:

1. To determine if the termination date of the board should be extended;
2. To determine if the board is operating in the public interest; and
3. To determine if the board has exercised appropriate regulatory oversight of licensed marine pilots.

Scope

Our audit reviews the operation and activities of the Board of Marine Pilots for the period July 1, 2002 through June 30, 2006. The assessment of the board is based on criteria set out in AS 44.66.060(c).

Methodology

To accomplish the audit objectives, the following documents were reviewed:

- Applicable sections of federal regulations and state statutes and regulations;
- Minutes of board meetings and annual reports related to, or issued by, the board;
- Licensing files for marine pilots;
- Files maintained by pilot associations and contractors related to drug testing of pilots;
- Marine pilot coordinator's correspondence files;
- Board revenues and expenditures from FY 03 through FY 06;
- Legal information from the Department of Law and the courts; and
- Various reports submitted, as required, by the pilot associations.

We interviewed the following individuals and groups:

- Staff of the Division of Corporations, Business, and Professional Licensing (DCBPL), Department of Commerce, Community, and Economic Development (DCCED);
- Pilot associations' officials, board members, pilots, and shipping agents regarding various concerns and issues involving marine pilotage in Alaska. The topics covered included the activities of BMP, the impact of the mandatory retirement revisions made to marine pilot statutes in 2003, and subsequent impact on the rate setting process on board operations and pilotage in Alaska;
- U.S. Coast Guard licensing and enforcement officers;
- Chief investigator for DCBPL, DCCED;
- Attorney at the Department of Law familiar with Board of Marine Pilot statute and regulations;
- Administrative assistants for pilot boards in the States of Washington and Oregon;
- Staff of the drug testing contractors for the Pilot associations;
- The maritime department head of the Alaska Vocational Center in Seward;
- A private sector contractor specializing in maritime training and evaluation of pilot skills; and
- Executive director and legal counsel of the American Pilot Association.

Additionally, we conducted a survey of licensed marine pilots, some trainees and apprentices, and registered agents and organizations that use piloting services. In addition, we contacted each pilot association and registered agent seeking additional individuals or organization contacts that they believed might be interested in participating in the survey. As a result, we identified and issued surveys to seven additional industry¹ members. Our survey sought responses related to various policy issues, such as:

- Board member objectivity and service;
- Rate setting process;
- Adequacy of drug testing;
- Licensing requirements and pilot disciplinary practices; and
- Simulator training, performance evaluations, and continuing professional education.

¹ Industry is defined as vessel agents who must register with BMP, shipping and cruise businesses, and vessel owners.

ORGANIZATION AND FUNCTION

The Board of Marine Pilots (BMP or the board) was created by Chapter 106, SLA 1970, which became effective May 7, 1970. The statutes were significantly changed with the passage of the Marine Pilot Act of 1991. At that time the legislature gave BMP broad statutory authority which included establishing pilotage regions, maximum tariffs, and criteria for the training and licensing of marine pilots. The policy, findings, and intent of the Marine Pilot Act stated:

"It is the policy of the state to prevent the loss of lives and property, and to protect the marine environment of the state by requiring compulsory pilotage on the inland and coastal water of and adjacent to the state."

In 1995 the legislature extensively revised the statutes and overall structure of BMP. The most significant change involved the role in establishing rates for piloting services. This is significant, since pilot associations have control over providing pilot services to foreign-flagged vessels and domestic oil tankers of 50,000 dead weight tons or greater.

Membership on the Board

BMP is composed of seven members. Membership consists of two licensed pilots who are actively engaged in that profession, two agents or managers of vessels subject to the statutes, two public members, and the commissioner of the Department of Commerce, Community, and Economic Development (DCCED) or a designee. All members must be residents of Alaska.

By statute, not more than one pilot member and one agent may be from any one pilotage region established by the board. Additionally, not more than one registered agent may be employed by, be a contractor for, or hold a financial interest in the same marine industry business entity, including commonly owned, affiliated, or subsidiary business entities.

The public members cannot be engaged in the piloting profession, have a legal contract with a pilot, or have a direct financial interest in the piloting profession.

Exhibit 1

Members of the Board of Marine Pilots At October 1, 2006

Albert H. Clough, DCCED
Deputy Commissioner, Chair

Pilot Members

Dale O. Collins, Southeast Region
Anthony J. Joslyn, Southwest Region

Agent Members

Robert J. Arts, Southwest Region
Les Cronk, Southeast Region

Public Members

Jack G. Poulson, Esq. Public Member
Robert Schasteen, Public Member

Duties of BMP

1. Maintaining an efficient and competent pilotage service on the inland and coastal waters to ensure the protection of shipping, safety of human life and property, and protection of the marine environment.
2. Adopting regulations establishing qualifications of, and required training for, pilots and providing for examination of pilots.
3. Maintaining a register on licensed pilots, licensed deputy pilots, and agents.
4. Adopting regulations establishing pilotage regions, professional fees, and criteria to recognize pilot organizations.
5. Reviewing and approving training programs conducted by pilot organizations.
6. Reviewing and approving the articles, bylaws, and rules of pilot organizations.
7. Audit a pilot organization or an individual pilot as necessary to implement and enforce this chapter.
8. Establishing and publishing the dates of future license examinations.
9. Approve or disapprove rates for pilotage services in a manner provided for in the marine pilot statutes.

DCCED, Division of Corporations, Business, and Professional Licensing (DCBPL)

DCBPL provides administrative assistance to BMP. Administrative assistance includes budgetary services and functions such as: collecting fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations and meetings. On its own initiative, DCBPL may conduct an investigation if it appears an individual has engaged – or is about to engage – in a practice over which DCBPL has authority. DCBPL can issue an order that the individual stop the practice, bring an action in Superior Court to enjoin the act, examine the books and records of a license holder and/or association, and issue subpoenas for the attendance of witnesses and records.

Marine Pilot Coordinator

DCCED employs a marine pilot coordinator to assist the board in fulfilling its statutory duties. The duties of this position, whose hiring is subject to approval by BMP, are set out at AS 08.62.050. The marine pilot coordinator cannot work as a pilot, be an active member of a pilot association, or have a financial interest in a pilot association or the equipment that it uses. The coordinator position is funded from fees generated by BMP.

Organization of Pilot Associations

All Alaska marine pilots are required to belong to an association. Pilots have formed an association in each of the three regions of Alaska to provide services to the maritime industry. The association exists to facilitate joint activities such as billing and collecting for pilot services and to administer the rotation, dispatch, pilot boat and training operations.

BACKGROUND INFORMATION

Piloting involves directing a sea-going vessel into and out of waters where navigation has been determined to be dangerous or difficult. The difficulties can include: (1) restricted waterways, such as channels, ports or harbors; (2) tides, currents and water depths; and, (3) type and nature of traffic. A pilot can either be a member of the ship's crew or independent of the crew and brought onto the ship solely for the purpose of guiding the vessel through designated pilotage waters. The pilot's knowledge of the local geography and waterways they are piloting makes them invaluable to the vessel. The pilot is responsible for the safety of those aboard the vessel and the protection of the marine environment.

Pilotage of international trade vessels in the United States is regulated by the individual states, each of which maintains a pilotage system that is suited to the particular needs and circumstances of its own water. In 1789, the first Congress of the United States enacted a law giving the states the right to regulate pilotage in their waters. That created the state pilotage system, which remains in effect today. Every foreign-flag vessel and every U.S.-flag vessel engaged in international trade, moving in the waters of a state, is required to use the services of a state licensed pilot.

History of pilotage in Alaska

Enacted in 1970, Alaska's original piloting law created the Board of Marine Pilots (BMP or the board) to license pilots. The statute did not specify qualifications and licensing standards for pilots, leaving the establishment of such standards to the discretion of BMP.

In 1990, the legislature drafted and passed a bill, known as the Marine Pilot Act of 1991, making significant changes to Alaska's pilotage statute. The act included a policy, findings, and intent section which emphasized safety by requiring compulsory pilotage on the inland and coastal waters of the State to prevent the loss of lives and property, and to protect the marine environment. The legislature gave BMP broad statutory authority, including identifying pilotage regions, setting maximum tariffs and establishing criteria for the training and licensing of marine pilots.

In 1995, in conjunction with the sunset extension of BMP, the legislature again amended the marine pilot statutes. One of the more significant changes the legislature made involved the role BMP has in establishing rates charged for piloting services. Under the revised statute, local pilot associations set rates either through negotiation with shippers or by providing due notice to all enterprises utilizing pilot services. Upon due notice of a change in rates, affected parties can appeal the change in proposed rates to BMP.

Rate Setting Process

Prior to 1995, the rates for marine pilot services were established as a maximum tariff set by BMP. This tariff served as a basis for customer charges. Typically, users of marine pilot services paid an amount which included a negotiated discount from the established tariff.

The 1995 amendments to the marine pilot statutes made rate setting the responsibility of the local association through provision of published rates to customers (utilizing pilot services), or negotiation of rates with shipping industry customers.

Upon due notice of a proposed rate change, affected parties can appeal the newly proposed rates to BMP. If the parties fail to reach an agreement, the board can solicit information from the association about the proposed rate change. BMP can then evaluate the information presented, and determine if the proposed change in rates is reasonable. The board acts as the final binding arbiter where the published rates are disputed.

Rate setting was further complicated with the addition of 12 AAC 56.310(e) and (f), effective February 12, 2005, which included the retirement surcharge in the rate setting. This regulation provides that a pilot organization is to provide a retirement plan or program for eligible members. Also, the pilot organization may assess a separate charge at a rate necessary to provide the benefits to be paid out under a retirement program. The charge for the retirement plan or program is to be listed separately in the published rate.

Requirements for federal licensing

The U.S. Coast Guard (USCG) enforces federal pilotage laws and issues federal licenses to individuals who meet its requirements. In most states, including Alaska, an applicant must have a USCG pilot license in order to obtain a state license. The USCG license is usually referred to as a "minimum standard of competence" license. USCG licensing requires a minimum amount of qualifying sea service in addition to passing a written examination.

A federal license is valid for a period of five years. For renewal of the license, a pilot has to submit evidence of one year of sea service within the previous five years. Pilotage endorsements on the license do not expire, but every five years the pilot must make one familiarization round-trip over the route for which they have an endorsement. For long or extended routes, the pilot does not have to physically make the familiarization trip; the pilot can be certified based on his review of publications and charts.

Requirements for state licensing

Since knowledge of local geography and waterways is an essential aspect of the pilotage profession, individuals licensed as marine pilots are required to have extensive navigational experience. Established by state law, these requirements involve up to ten years experience in navigating vessels of various sizes. Due to these requirements, most applicants for marine pilot

licensing have extensive experience either with the USCG, Alaska Marine Highway System, or commercial shipping.

Pilot trainee programs provide on-the-job training in the region where licensure is sought. Entry into an apprenticeship program typically requires less experience than entry as a trainee. Candidates in trainee/apprentice programs progress from either trainee or apprentice to a deputy marine pilot (license issued by BMP) and, finally to a marine pilot. It takes from one to four years to attain licensure as a deputy marine pilot. All training programs require the candidate to ride a ship with a fully licensed training pilot, observing their handling of the ship. Over time, the trainee or apprentice begins to handle the ship under the training pilot's guidance. Statute requires a minimum of four years apprenticeship training to become a deputy marine pilot. A deputy marine pilot, in addition to other requirements set out in statute, must have three years experience as a licensed deputy marine pilot to obtain a marine pilot license.

Alaska has a biennial license renewal. BMP has incorporated the continuing proficiency requirements for license renewal in regulations: (1) a marine pilot with Very Large Crude Carrier (VLCC) endorsement for license renewal after January 1, 2001, must have satisfactorily completed a manned model course within six years preceding the license period for which renewal is sought; (2) a deputy pilot and marine pilot must receive a pilot performance monitoring with at least a satisfactory rating each calendar year in which the pilot is engaged in piloting vessels for 30 days or more; and (3) a marine pilot or deputy marine pilot applying for license renewal effective on or after January 1, 2003, must document satisfactory completion of a board-approved, simulator-based training and pilot performance evaluation within six years preceding the license period for which renewal is sought.

Vessels subject to Alaska marine pilotage regulations

A pilot is required to be employed for vessels navigating inland and coastal waters of, or adjacent to, the State (as defined by the board). This includes any oil tanker of 50,000 dead weight tons or greater, navigating in state water beyond Alaska pilot stations. Vessels exempt from this regulation include vessels subject to federal pilot requirements, U.S. or Canadian fishing vessels, many U.S. and Canadian registered vessels and foreign-flagged yachts 65 feet or less in overall length.

Pilot discipline

All 24 maritime states have procedures for disciplining pilots when incidents occur while the pilot is operating under their state license. In Alaska, reports are investigated by the marine pilot coordinator (MPC), who serves as primary staff to BMP. BMP has the authority to suspend or revoke a pilot's license. BMP also has the statutory power to suspend or revoke a pilot's state license if their USCG license has been conditioned, suspended, or revoked.

The USCG investigates shipping accidents and other navigational incidents involving marine pilots operating under its federal license. The USCG has the authority to issue a letter of warning or reprimand, levy a fine, or seek criminal prosecution. The USCG may suspend or

revoke a pilot's federal license if the pilot violated maritime law or regulation, or was negligent or inattentive to their pilotage duties. However, marine pilots operating within state waterways are not directly under the purview of the USCG.²

Drug and Alcohol Testing Program

Under AS 08.62.040(b)(2), BMP has the discretionary authority to establish responsibility for a mandatory random drug and alcohol testing program. BMP has delegated the responsibility for the administration of alcohol and drug testing to the local pilot associations. The board requires each pilot association establish a mandatory random drug testing program. Alcohol testing is also performed, but only after a maritime incident or for reasonable cause.

Board regulations specify that a pilot must participate in a random drug testing program conducted according to the requirements of federal regulations (46 CFR 16 and 49 CFR 40). Additionally, pilots are required to report to the marine pilot coordinator that they have participated in a random drug testing program during the previous year.

License Fees

Alaska Statutes 08.01.065(a) and (c) require the Department of Commerce, Community, and Economic Development to adopt regulations that establish the amount and manner of payment of an occupation's applicable fees, and that the fee collected for an occupation approximately equals the actual regulatory costs for the occupation. Licensing fees have been as follows:

2001//2002:	\$2,000
2003/2004:	2,600
2005/2006:	2,000

Exhibit 4 on page 23 shows revenues and expenditures for the Board for FY 03 through FY 06.

² Although not under the jurisdiction of the USCG, a marine pilot could be assessed a civil penalty for violations of USCG rules.

REPORT CONCLUSIONS

Under AS 08.03.010(10), the Board of Marine Pilots (BMP or board) will terminate on June 30, 2007. If the legislature does not take action to extend the board's termination date, then AS 08.03.020 provides the board one year in which to conclude its administrative operations.

The regulation and licensing of qualified marine pilots benefit the public's safety and welfare, as well as protection of the environment. The board provides reasonable assurance that the individuals licensed to pilot passenger and cargo ships in Alaskan waters are qualified to do so. The board has successfully worked with the pilot associations in resolving many of the problems identified in prior sunset audits and has contributed to improving marine safety in Alaskan waters. However, over the past four years the board has been hindered in effectively executing its statutory requirement to arbitrate over the rate setting process.

As discussed in the Findings and Recommendations section, BMP's administration of the mandatory drug and alcohol testing is not consistent with established regulatory standards and needs improvement. Further, BMP should establish procedures to ensure adequate coverage of the marine pilot coordinator's critical investigation functions during a vacancy or extended periods of absence. The board should also consider changes to continuing professional education. Additionally, the legislature should consider statutory changes to direct the usage of pleasure craft exemption fees. See Recommendation Nos. 1 through 6 for further discussion.

In our opinion, BMP serves an important public purpose. It should be continued in statute and its termination date extended for six years until June 30, 2013.

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FINDINGS AND RECOMMENDATIONS

Four recommendations were made in the prior Board of Marine Pilots (BMP or the board) sunset audit report.³ One recommendation has been satisfactorily addressed; however, the remaining three are reiterated as Recommendation Nos. 1 through 3 below. Recommendation Nos. 4 through 6 are new recommendations.

Recommendation No. 1

BMP should establish more informative and comprehensive reporting requirements so the marine pilot coordinator (MPC) can confirm that an appropriate number of licensed pilots are consistently being subjected to random testing.

Prior Finding

Current state regulation 12 AAC 56.940(h) requires each pilot to submit a report to the MPC by January 31st of each year stating that the pilot has participated in a random drug testing program during the previous year. The respective pilot association provides this annual report on behalf of their pilot members. The report is essentially a list of the association's membership – since presumably all members are subject to, but not necessarily selected for, random testing for alcohol and drugs. Nowhere in the report did it indicate if a pilot was actually selected for, and submitted to, a drug test.

Legislative Audit's Current Position

The prior finding has not been resolved. Of the three associations, two provided the MPC with an incomplete listing of pilots participating in drug testing. Specifically, some pilots identified as working and included in the testing pool were not listed on the report to the MPC. The third association failed to list any of the pilots participating in a drug testing program for both 2004 and 2005.

Incomplete and inaccurate reporting is due in part to the associations not fully understanding state regulation and failure to verify the information listed prior to submitting to the MPC. This information provided to the MPC does not support the actual testing activity conducted and, therefore, is not in compliance with state regulation.

We recommend that BMP revise regulations relating to drug test reporting to ensure the MPC has complete and accurate information with which to identify the extent and results of

³ Division of Legislative Audit's *Department of Community and Economic Development, Board of Marine Pilots, November 1, 2002*, Audit Control No. 08-20015-02.

testing conducted. We further suggest the board develop or amend current regulation to provide for more specificity about what constitutes participation in a drug testing program, as well as what process should occur in the event of a positive⁴ test result. See Recommendation No. 2 for further discussion.

We recommend the MPC take a more active role in monitoring the associations' testing programs throughout the year.

Recommendation No. 2

BMP should take action to ensure regional pilot associations administer mandatory alcohol and drug testing programs in a manner consistent with established regulatory standards.

Prior Finding

Under AS 08.62.040(b)(2), the board is authorized to develop a mandatory drug and alcohol testing program for licensed pilots. The board adopted regulations that delegated the responsibility for administering a mandatory alcohol and drug testing program to the local pilot associations. Further, BMP regulations required that local associations administer their programs in accordance with requirements set out in Titles 46 and 49 of the Code of Federal Regulations.

Legislative Audit's Current Position

The prior finding has not been resolved; however, some improvements have been made. We reviewed detailed records for calendar years 2004 and 2005 – related to the mandatory alcohol and drug testing programs – at all three pilot associations, as well as their drug contractors in the State. These records show continuing problems with the completeness of testing programs and inconsistencies with federal regulatory requirements. Issues noted were:

1. Testing follow-through was incomplete. During 2005 two pilots, from one association selected for random testing, failed to report for analysis. No further follow-up effort was made by the association to ensure that the selected individuals were tested. In addition, one pilot that was selected took over two months to report for testing. Failure to report for testing is considered a *positive* result according to federal regulation. If a pilot is determined to have a positive result –

“before they may return to work aboard a vessel, the medical review officer shall determine that the individual is drug-free and the risk of subsequent use of dangerous drugs by that person is sufficiently low to justify his or her return to work. In addition,

⁴ Positive results equate to drugs or alcohol found in urine during drug testing analysis.

the individual shall agree to be subject to increased, unannounced testing for a period as determined by the medical review office of up to 60 months."⁵

BMP has no follow-up process in place.

2. Selection for testing was inconsistent between associations. All associations contract for drug testing services. The contractor may include a number of organizations within a consortium to establish a single testing pool. Two of the three pilot associations have established their entire membership as a single testing pool.

In contrast, the membership of one association has directed the contractor to include within their testing pool employees of another entity within their organization⁶ creating two subgroups. The addition of the subgroups of nonpilots represents approximately one-third of the association's testing pool. Although, in 2005, 50 percent of the pilots were tested in-compliance with federal regulation, the addition of the group of nonpilots effectively dilutes the testing pool. While including both groups is technically consistent with federal regulation, the association has no mechanism that ensures the subgroup of marine pilots will consistently meet the 50 percent requirement.

Further, this same association did not have any signed agreement with their contractor. If testing problems do occur, responsibilities of either party are unclear, due to lack of agreed upon procedures to resolve them.

3. All pilots were not enrolled in a drug testing program. On a regular basis the associations provide a current listing of active pilots for inclusion in the quarterly, random selection process performed by the contractor. However, one association was unable to provide adequate support for which pilots were actually working during two different quarters in 2005.

Further, three pilots from two different associations were not enrolled by these associations in their mandatory drug testing program. Accordingly, even though these individuals should have been subject to random testing, they were never "eligible" for selection in the quarters reviewed, because their names were not provided to the contractor. One of these pilots claimed he participated in another drug testing program; however, the pilot association did not keep sufficient evidence to support his participation.

The reason for these oversights and inconsistencies were due to either the pilot associations' lack of understanding of testing program requirements set out in the relevant federal regulations, or miscommunication between the associations and their contractors.

⁵ Federal regulation 46 CFR 16.370, Medical review officer.

⁶ This other group included pilots that ferried the marine pilots to/from pickup and drop-off points, as well as maintenance workers and cooks.

We recommend that BMP take a more active role in administering the drug testing program. Procedures and processes should be established through enhanced regulations to clarify the role of the pilot associations in meeting compliance requirements. Additionally, the board, through the MPC should actively monitor the pilot associations. Specific areas which should be addressed include, but are not limited to:

- Identify the number of days, following pilot notification, to report for testing that constitutes a failure to report.
- Immediate reporting to the MPC of positive test results or failure to report.
- Require each pilot association to set out in their by-laws, or operating rules, assurances that they will test 50 percent of their marine pilots.
- Require associations to have a current signed agreement with their testing contractors, as well as providing a copy to the MPC.
- Establish a mechanism or process where the MPC can verify that all pilots are enrolled in their association's program or supply adequate documentation that they are actively participating in another random drug testing program.

Recommendation No. 3

The legislature should consider amending current statutes in order to extend mandatory drug and alcohol testing to pilot organization trainees and apprentices.

Prior Finding

At the time of the prior review, no statutory or regulatory provision existed which required trainees or apprentices to be subject to random drug testing. Pilot associations reported that most trainees and apprentices worked for other employers involved in maritime activities. As such they were likely to be included under other employer testing programs according to federal regulations.

Legislative Audit's Current Position

The prior finding has been partially resolved. The legislature gave the board, through statute, the authority in 2003 to adopt regulations requiring trainees and apprentices seeking a license to participate in a mandatory drug and alcohol testing program through a change to AS 08.62.040(b)(2). The board, however, has yet to propose any mandatory random drug testing regulations over those trainees and apprentices seeking a deputy marine pilot's license. At the present time those seeking a deputy marine pilot's license, under the purview of BMP, are not held to the same standards as a licensed deputy or marine pilot for drug testing. Associations were attempting to manage this requirement informally, but each association had trainees and apprentices who were not fully participating in the program.

Apprentices and trainees should participate in random testing with the pilot associations. This ensures all individuals who board and train on vessels, under the State's marine pilotage requirements, are subject to random testing. It would also ensure that their participation is reported to the board.

Accordingly, we recommend BMP develop regulations requiring the inclusion of trainees and apprentices to participate in the random drug testing programs administered by the pilot associations. Additionally, they should be included within the reporting requirements as identified in Recommendation No. 1.

Recommendation No. 4

The legislature should consider clarifying current statutes specifying the use of pleasure craft exemption fees.

Currently, pleasure craft exemption fees (yacht fees) received by BMP are combined with pilot licensing and other marine pilot occupational fees. A four-year average of yacht fees, from 2003 through 2006, represents approximately 28 percent of the annual revenues of the board. These additional revenues became part of the Division of Corporations, Business, and Professional Licensing's (DCBPL's) computation in determining the amount to assess pilots and pilot candidates for covering the subsequent year's anticipated operation and regulatory costs of the board.

Alaska Statute 08.01.065(c) states:

"... the department shall establish fee levels under (a) of this section so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation." [Emphasis added]

Because statutes refer to the amount of fees collected "for an occupation", any fee not related directly to operations or regulation of that profession or trade, such as yacht fees, should presumably not be combined with that occupation's licensing fees. Under current procedures combining yacht fees, not directly related to the piloting profession, results in a reduction of licensing fees due from pilots to support the operations of the board. Further, AS 08.62.180 states:

"... An exemption issued under this subsection may be revoked by the board if the vessel is not operated in a manner that is appropriate to protect human life, property, and the marine environment or if the vessel does not comply with all applicable local, state, and federal laws." [Emphasis added]

The State – through BMP – has identified certain pleasure craft as exempt from regulatory oversight, based on a determination they are not a substantial threat to public safety or the environment, as long as the owner or master follows the terms and conditions of the

exemption granted. Therefore, the State has taken on the risk associated with potential harm to the public and the environment. Although the board incurs some costs associated with the administration of yacht fees, they are negligible at less than one percent of total costs of the board in FY 2006.

In our view, regulatory guidance is unclear as to whether the yacht fees paid by owners or their agents should be included with marine pilot licensing revenues. Exclusion of yacht fees provides that, similar to other regulated occupations, the board's operations are only supported by pilots' occupational fees. Accordingly, we recommend the legislature consider revision of current statutes to clarify the use of the yacht fee revenues received by BMP.

Recommendation No. 5

The director of the DCBPL should ensure coverage of the marine pilot coordinator's investigative functions occur during extended absences or vacancy.

A violation of vessel movement was reported in Western Alaska during the summer of 2004. Information supplied to the MPC, as required under AS 08.62.157(b),⁷ was not investigated within a reasonable amount of time. The case was not assigned for investigation until January 2005, a full six months after the reported violation. At that time, the attorney general's office determined too much time had elapsed to ensure an adequate investigation of the events.

The MPC position was vacant during the last half of 2004, and a divisional staff member performed only cursory functions as acting-MPC. Reliance is placed on the MPC as the primary investigator of marine pilot violations reported to DCBPL. When staffing issues, such as vacancies or extended periods of absence occurs, adequate coverage over this position's investigative functions should be a priority. Without timely investigations performed—*the protection of shipping, the safety of human life and property, and the protection of the marine environment...*" are placed at risk.⁸

We recommend the DCBPL ensure appropriate coverage of critical investigative functions when the MPC's position is vacant for an extended period of time. The Division's Office of Investigation should take over the functions during extended absences of the MPC.

⁷ AS 08.62.157(b) Duties of licensed pilots: "A person licensed under this chapter shall report to the appropriate authority all violations of a federal or state pilotage law."

⁸ AS 08.62.040(a)(1) Powers, duties, and limitations. "The board shall provide for the maintenance of efficient and competent pilotage service on the inland and coastal water of and adjacent to the state to assure the protection of shipping, the safety of human life and property, and the protection of the marine environment."

Recommendation No. 6

BMP should consider changes to regulations requiring other types of continuing professional education (CPE) of its licensees, instead of the mandatory annual peer review.

To meet CPE requirements,⁹ marine pilots and deputy marine pilots receive annual performance monitoring, also known as a "peer review." Peer review is normally a more effective mechanism to ensure continued competency. Although peer reviews are being conducted by the associations, the board is not monitoring associations to ensure satisfactory annual completion by each pilot as required. Additionally, interviews and results of our survey of marine pilots, identified that generally pilots do not consider peer reviews either useful or objective.

If pilots do not consider peer reviews a useful requirement for ensuring competency of performance, the board should – at a minimum – review and reconsider changes to the current process. Further, other alternatives that may be more effective on an annual basis should be given consideration by the board. Continuing education should provide reasonable assurance that the professional is at least keeping abreast with new developments and maintains an awareness of the changes occurring in their profession.

BMP needs to be responsive to the public need for continued competency of licensed pilots. We recommend the board consider developing a CPE program or find an effective peer review process which provides an objective, useful measure of licensed pilot performance.

⁹ 12 AAC 56.083(c) Continuing education requirements: "*A deputy marine pilot or marine pilot must receive a pilot performance monitoring with at least a satisfactory rating each calendar year in which the pilot engages in piloting vessels for 30 days or more.*"

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AUDITOR'S COMMENTS

As discussed in the Analysis of Public Need section on page 21, rate setting has hindered the efficiency of board operations and has increased legal costs incurred by the State on behalf of the board.

BMP and the Department need to consider alternatives available to remedy difficulties the board has encountered with rate setting.

Over the past four years the board's requirement to hear disputed rate proposals has increasingly become hampered by difficulties of conflicting public policy in statute. BMP is a seven-member board consisting of: two marine pilots, two industry¹⁰ members, two public members, and the commissioner's designee. Inherent in this makeup is a balance of licensed pilots with an equal number of industry members. On rate setting matters it is presumed the four members would cancel each other's vote out, leaving the deciding vote on an issue with the two public members and the chair. Ostensibly on rate setting matters, the board becomes a three-member board – the two public members and the commissioner's designee.

In addition to balancing pilot and industry members on the board, the legislature also specifically exempted the board from the Administrative Procedures Act (AS 44.62). This means the responsibility of hearing rate setting issues is retained by the board and not automatically assigned to an administrative law judge when there is a dispute.

However, the application of Alaska's Executive Branch Ethics Act (AS 39.52) has caused a disruption of the voting balance on rate setting matters. Under Alaska's Executive Branch Ethics Act, members of a board or commission are considered a public officer. AS 39.52.120 defines what is considered a misuse of an official position. The act specifies,

"A public officer may not.... take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest."

The impact of the Ethics Act is that nonpublic members of the board may have to recuse themselves from voting on rate setting issues. When the board is voting on whether or not to increase pilotage fees in a specific pilotage region, the pilot on the board from that region has a clear financial conflict.

However what is less clear, is when the industry member has a conflict. Under AS 08.62.10. an industry member must be "...registered agents or managers of vessels subject to this chapter who are actively engaged in the procurement of pilotage services.... Not more than one registered agent or manager may be employed by, be a contractor for, or hold a

¹⁰ Industry members are comprised of vessel agents, shipping and cruise line firms, and vessel owners.

financial interest in the same marine industry business entity, including commonly owned, affiliated, or subsidiary business entities.

Currently, there are neither board policies requiring disclosure of all the business affiliations for its industry board members nor guidelines provided when an industry member has a conflict under the State's Ethics Act.

The effect of recusing one nonpublic member of the board during rate setting is to create an imbalance in vote counts between pilots and industry board members. When one of the two pilot members is recused, industry needs only two of the three votes of the public members and chair to defeat a rate matter. Whereas the remaining pilot would need all three votes to pass a rate matter.

Rate setting is absent from the purview of most professional occupational boards in Alaska with the exception of the Board of Marine Pilots.¹¹ Further, rate setting is part of the objectives of other states' marine piloting boards – such as Washington's State Board of Pilotage Commissioners and the Oregon Board of Maritime Pilots. Both of these states have recognized that their boards, created in statutes, have an inherent financial conflict of interest when voting on pilotage rate issues. Despite this conflict, no member need recuse themselves from voting on board issues in which they have a direct financial interest because it would create an imbalance.

The Department and BMP should consider the options available to them which would alleviate the rate setting difficulties currently hampering their effectiveness. Some options to be considered might include:

- A narrowly defined exemption within the Ethics Act, specific to rate setting. Although this is in opposition of public policy, the unique nature of board functions could support this action while still generally recognizing all other Ethics Act requirements that are applicable to protect public interest.
- The board can establish policies requiring employment disclosures from the industry members that identify all business relationships. The board can then establish a policy identifying those circumstances when an industry member has a conflict and should be recused from voting.
- Removal of the board's exemption from the Administrative Procedures Act, effectively removes the board from the rate-setting process and forwards the sole responsibility for rate decisions to an administrative law judge.

¹¹ In addition, the Board of Realtors sets specific rates, but it is done based on advise of the Department and not presented to board members.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of the Board of Marine Pilots' (BMP or the board) activities relate to the public-need factors defined in the sunset law, AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas covered within the scope of our review.

As part of the review, a survey was conducted of the primary stakeholders of the board's functions and actions including pilots licensed and regulated by the board and industry¹² who utilize the services of pilots. Seventy-seven pilots¹³ were provided the survey and 50 responded. Twenty-three industry members were provided the survey and 13 responded. Survey results are presented in the Appendices of this report.

Determine the extent to which the board, commission, or program has operated in the public interest.

The regulation and licensing of qualified marine pilots benefits the public's safety and welfare. The quantity of tourist passenger ships traveling in Alaskan waters, coupled with shipping, has continued to make BMP's role important. During the period covered by this review (July 1, 2002 to June 30, 2006) BMP has licensed six deputy marine pilots and five marine pilots.

The board provides reasonable assurance that the individuals licensed to pilot passenger and cargo ships in Alaskan waters are qualified to do so.

BMP has continued to update their exam database questions and answers for content, applicability, and accuracy. The pilot associations' designated training chairs, actively solicit all pilot members for questions to present to the board for input into the testing database. The board also focused on improvements to address training and continuing education of Alaska marine pilots as follows:

- The board has increased both docking requirements and supervised transits within particularly sensitive environmental or hazardous waterways.
- The board has a proposal into the Department of Law for changing regulations from a board-approved simulator to an industry-standard Class A facility.¹⁴

¹² Industry represents vessel agents, shipping and cruise firms, and vessel owners.

¹³ Includes some trainees.

¹⁴ Det Norske is a rating system which identifies simulators meeting an industry-determined standard, Class A being the most rigorous.

- The board has created new requirements for a marine pilot wishing to transfer from one region to another. Specifically, the pilot must have successfully completed the board-approved training program for the requested region prior to approving the license move.

Survey responses showed mixed results on the overall satisfaction of the board's performance. Pilots responded with 52 percent "above average" for overall satisfaction whereas, 54 percent of industry members rated the board's performance "below average" (See page 31). Similarly, 44 percent of the pilots gave the board a rating of "above average" on addressing important issues while 62 percent of industry representatives gave the board a "below average" rating on the same factor (See page 32).

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

Rate Setting

The board's rate setting process has been significantly impeded by the role of board members which has been determined to be in conflict with the Executive Branch Ethics Act. Specifically, over the past four years, the necessity for some pilot members to recuse themselves from voting on rate issues has created an imbalance on the board. The board structure, established by the legislature, created a situation where the two licensed pilots and two industry members would, most likely, have an inherent conflict due to a personal or financial interest when rate decisions came before the board. See Auditor Comments for further discussion.

As shown in Exhibits 2 and 3, 69 percent of industry respondents rate the board's handling of rate issues as below average. However, both pilots and industry oppose removing the rate setting process from the board.

Exhibit 2

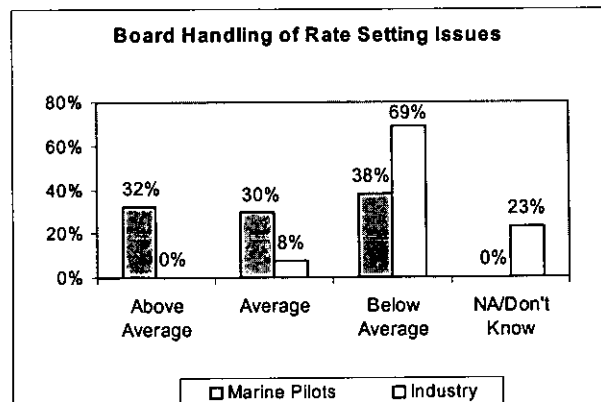


Exhibit 3

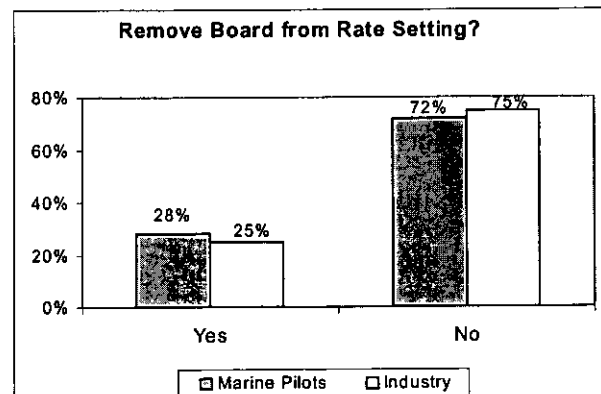


Exhibit 4

Schedule of Board of Marine Pilots Revenues, Expenditures, and Cumulative Roll Forward For the period FY 03 through FY 06 (unaudited)				
	FY06	FY05	FY04	FY03
Board Revenues:				
Yacht Fees	\$ 37,050	\$ 43,064	\$ 51,500	\$ 26,800
Licensing and Occupational Revenues	29,967	162,380	11,430	198,602
Total Revenues:	67,017	205,444	62,930	225,402
Board/Occupation Direct Expenditures:				
Personal Services	82,039	63,116	98,937	82,230
Travel	19,152	16,211	17,084	12,757
Contractual	60,685	37,979	24,622	15,945
Supplies	168	727	580	388
Equipment	-	-	-	-
Total Board/Occupation Direct Expenditures:	162,044	118,033	141,223	111,320
Total Administrative Indirect Expenditures:	3,693	4,445	4,382	4,409
Total Direct and Indirect Expenditures:	165,737	122,478	145,605	115,729
Revenues - Expenditures	(98,720)	82,966	(82,675)	109,673
Cumulative Roll Forward Surplus	\$ 72,044	\$ 170,764	\$ 87,798	\$ 170,473

Board Finances

The schedule above presents the board revenues and expenditures used to calculate the board's licensing fees.¹⁵ At the end of FY 06, the board shows a surplus of over \$72,000. Given the current litigation regarding rate setting, contractual costs in FY 06 are higher than

¹⁵ Any fines collected by the board are not reflected in this schedule because they are not used in calculating the licensing fees.

prior years and probably will be higher again in FY 07. Therefore, the current surplus is necessary to avoid increasing licensing fees in the future to cover the cost of the litigation.

As discussed in Recommendation No. 4, the crediting of yacht fees to the board should be reexamined. If a change is made to exclude yacht fees from the calculation of required license fees, then licensing fees would likely increase. Licensing fees have been lowered in recent years as a result of the inclusion of yacht fees in the overall fee determination calculation.

Drug Testing

Passive enforcement of the drug testing program, through delegation to the pilot associations, did not significantly improve from the prior audit period. Current procedures and practices by the board are insufficient to ensure the adequacy of the drug testing program. Those practices impeded the board's ability to operate effectively. See Recommendation Nos. 1 through 3.

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

During the past four years the board has supported three statutory changes. The first was enhancing the drug testing to include trainees and apprentices seeking a license. The second change modified the exemptions for pleasure craft from requiring pilotage. The final change was to modify the degrees and minutes of the northern latitude where compulsory pilotage is required.

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

BMP has published notices of all examinations, meetings, and prospective regulation changes. Public notice of meetings, examinations, and changes in published rates are made in newspapers of general circulation and also in the State of Alaska's Online Public Notice website. Additionally, a period of time for public comment was available at each BMP meeting.

The Division of Corporations, Business, and Professional Licensing (DCBPL) maintains a list of individuals or organizations who are interested in the regulations of that occupation. DCBPL sends a *Notice of Proposed Regulations* automatically to the parties on the occupation listing, each time there is a proposed change in the occupation's regulations.

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

As noted previously, each board meeting's agenda allots time for public comment. The public has been encouraged to use these public comment periods to express concerns, obtain information from the board, and participate in the regulatory process. When the agenda time allotments could not be followed based on topics covered, the board still adhered to the specified public comment period.

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

Complaints and concerns regarding decisions and activities of the board, as well as complaints about the performance of licensed marine pilots, were generally handled and resolved in an appropriate manner consistent with its priority and the limitations of the DCBPL's staff. However, during a period of approximately six months, the MPC position was vacant and critical investigation functions were not timely handled. (See Recommendation No. 5.)

No complaints were filed with the Office of the Ombudsman or the Office of Victims Rights in recent years regarding the operations of the board specifically, or marine pilots in general. BMP has revoked two marine pilot licenses - one each in FY 04 and FY 06. These revocations were due to an accident occurring as a result of the pilot's actions and due to medical reasons, respectively.

Survey respondents expressed opinions about complaints, investigations, and disciplinary actions as follows:

- Forty-two percent of industry respondents said the board should be more proactive during the course of an investigation into an accident which causes damage or harm to people, property, or the environment. In contrast, 72 percent of pilots believed the board did not need to be more proactive. (See page 36)
- Industry representatives were evenly split on how the board handled incidents involving pilots, 38 percent rated the board above average, 38 percent rated the board below average and 24 percent rated the board as average. (See page 45)

Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Over the past four fiscal years, the board has certified five individuals as marine pilots and six individuals as deputy marine pilots.

Exhibit 5

Schedule of Pilots as of June 30, 2006					
Region	Association	Marine Pilots	Deputy Marine Pilots	Trainees	Apprentices
Southeast	Southeast Alaska Pilot Association	42	3	2	5
Western	Alaska Marine Pilots	9	0	1	3
Southcentral	Southwest Alaska Pilot Association	20	2	3	0
Totals		71	5	6	8

When surveyed, 60 percent of the pilots believed the board requirements of trainees and apprentices were just right. However, on the issue of continued competency, 76 percent of the pilots indicated that the peer-conducted performance evaluations were not effective. (See Recommendation No. 6.)

A majority of both industry members and marine pilots believed there were sufficient pilots available to meet business needs. In addition, 83 percent of industry indicated a high level of skill was necessary to pilot their vessels; whereas, 66 percent believed that pilots demonstrated a high level of skill. (See page 43)

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

No evidence indicated BMPs noncompliance with state personnel practices, including affirmative action, in qualifying applicants or in hiring the marine pilot coordinator. Each time BMP has denied an applicant a license the reason has been based on experience requirements and not personal attributes of the applicant.

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

See the discussion presented both in the Findings and Recommendations section and the Auditor Comments section of this report.

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

Over the past four years, considerable time has been spent by BMP on rate setting issues hindering the efficiency at which the board operates. Issues that impact the evaluation of the rates by the board involve the inclusion of a retirement surcharge in the rates set by pilots; as well as, pilot board members' ability to vote on rate issues and the need to recuse themselves from voting on rates being set in the region they represent.

Rate issues have resulted in increased need for legal advice by an administrative law judge. In one recent rate setting hearing, BMP chose not to even hear the case and automatically passed the issue to a judge.

Sixty-nine percent of industry respondents and 38 percent of pilots gave the board a below average rating on rate setting issues. However, both industry and pilots overwhelmingly (75 percent and 72 percent, respectively) support the board's continued involvement with rate setting issues. (See page 34)

Rate setting issues were, again, recently addressed by the Superior Court. The reviewed case related to a board vote on a 2003 Southwest Pilots Association proposed rate which included, amongst other changes, a retirement surcharge. The case also addressed the issue of pilots recusing themselves from voting on certain rate setting issues.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

No duplication of efforts or activities was identified with other governmental agencies, including both state and federal agencies. Further, the drug testing processes and procedures have been delegated fully to the pilot associations which are the private sector; therefore, no duplication of efforts over that board activity is occurring.

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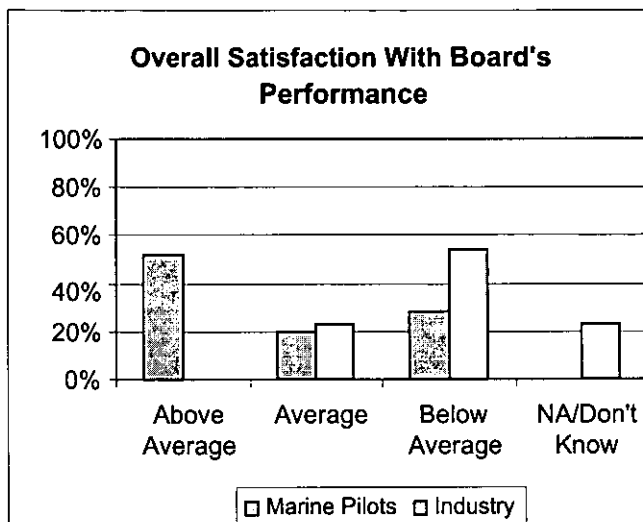
APPENDICES

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Appendix A
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS AND INDUSTRY

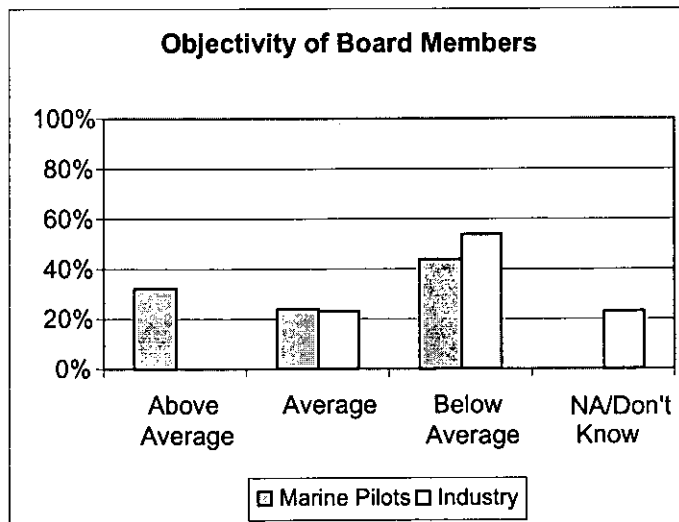
1. Rate your overall satisfaction with the board's performance.

	Marine Pilots	Industry
Above Average	26	0
Average	10	3
Below Average	14	7
NA/Don't Know	<u>0</u>	<u>3</u>
Total	50	13



2. Rate the objectivity of the board members.

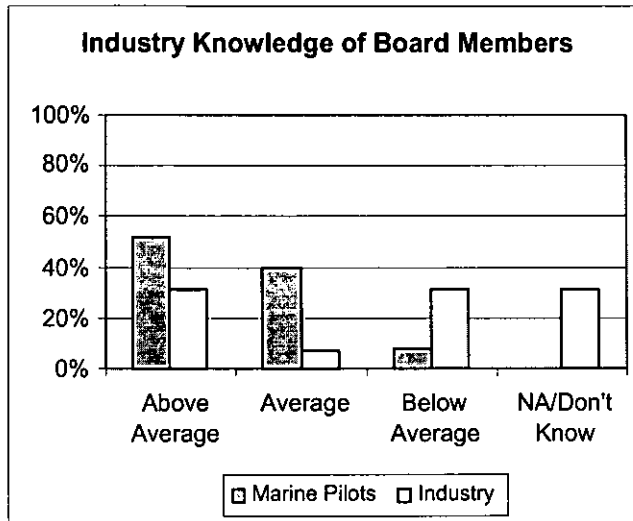
	Marine Pilots	Industry
Above Average	16	0
Average	12	3
Below Average	22	7
NA/Don't Know	<u>0</u>	<u>3</u>
Total	50	13



Appendix A
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS AND INDUSTRY
(Continued)

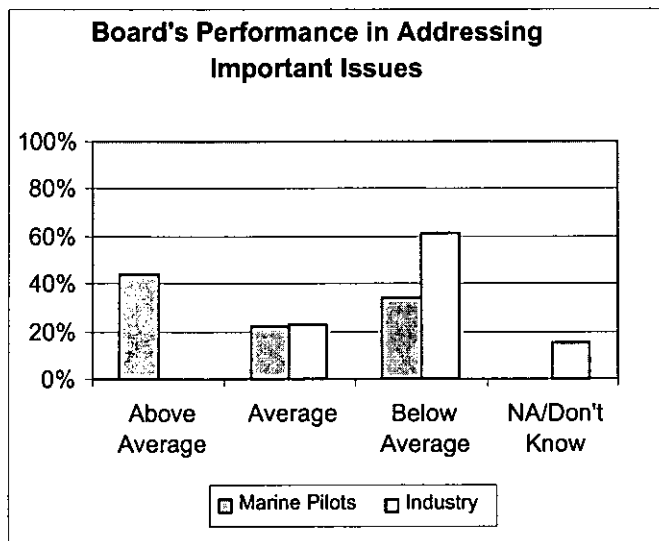
3. Rate the industry knowledge of the board members.

	<u>Marine Pilots</u>	<u>Industry</u>
Above Average	26	4
Average	20	1
Below Average	4	4
NA/Don't Know	<u>0</u>	<u>4</u>
Total	50	13



4. Rate the board's performance in addressing important issues.

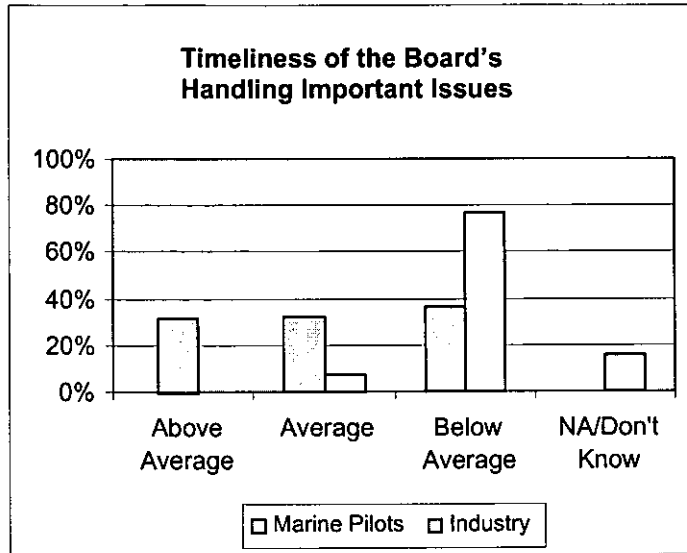
	<u>Marine Pilots</u>	<u>Industry</u>
Above Average	22	0
Average	11	3
Below Average	17	8
NA/Don't Know	<u>0</u>	<u>2</u>
Total	50	13



Appendix A
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS AND INDUSTRY
(Continued)

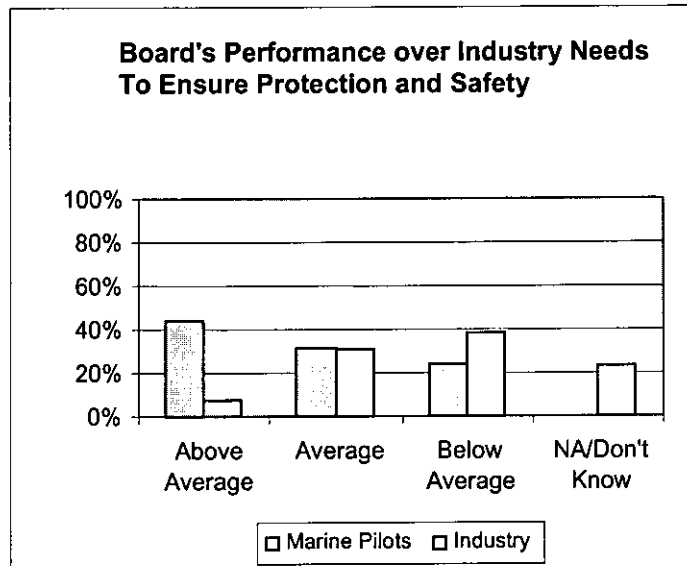
5. Rate the timeliness with which the board handles important issues.

	<u>Marine Pilots</u>	<u>Industry</u>
Above Average	16	0
Average	16	1
Below Average	18	10
NA/Don't Know	<u>0</u>	<u>2</u>
Total	50	13



6. Rate the board's performance in addressing industry needs sufficient to ensure protection of shipping, safety of human life and property, and the protection of the environment.

	<u>Marine Pilots</u>	<u>Industry</u>
Above Average	22	1
Average	16	4
Below Average	12	5
NA/Don't Know	<u>0</u>	<u>3</u>
Total	50	13

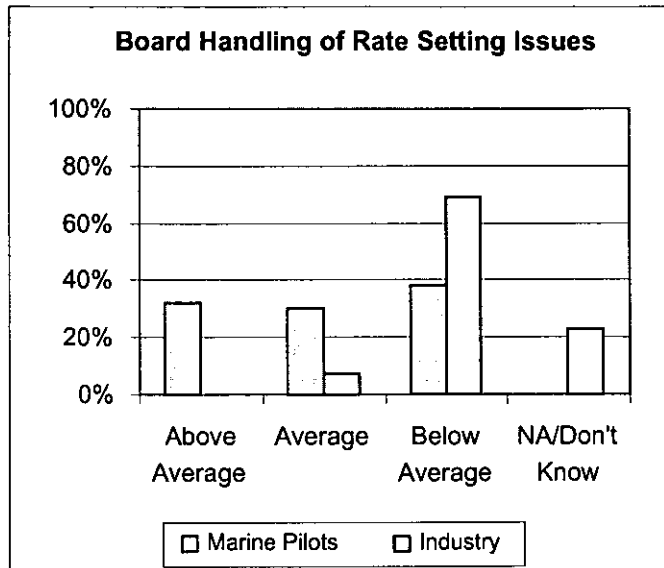


Appendix A
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS AND INDUSTRY
(Continued)

7. Rate the board's handling of rate setting issues.

	Marine Pilots	Industry
Above Average	16	0
Average	15	1
Below Average	19	9
NA/Don't Know	<u>0</u>	<u>3</u>
Total	50	13

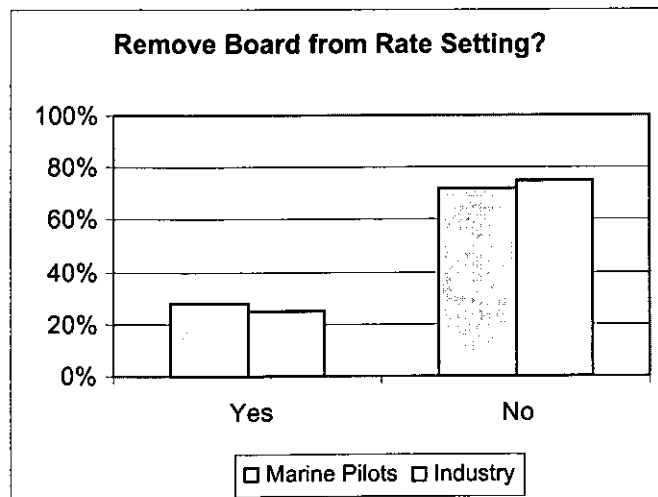
Comments: Both industry and pilots commented that the board has been ineffective in handling rate setting issues. However both industry and pilots agreed that the BMP needs to keep this function so that individuals with knowledge of the industry are more involved in the rate decision process.



Pilots expressed concern about the balance of the board when hearing rate issues if (1) pilot members are required to recuse themselves and (2) public members are not free from conflicts with the shipping industry.

8. Should the board be removed from the rate setting process?

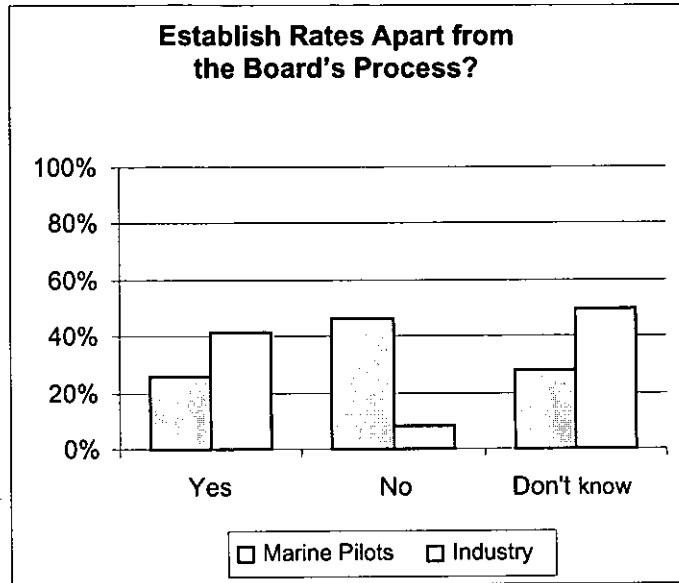
	Marine Pilots	Industry
Yes	14	3
No	<u>36</u>	<u>9</u>
Total	50	12



Appendix A
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS AND INDUSTRY
(Continued)

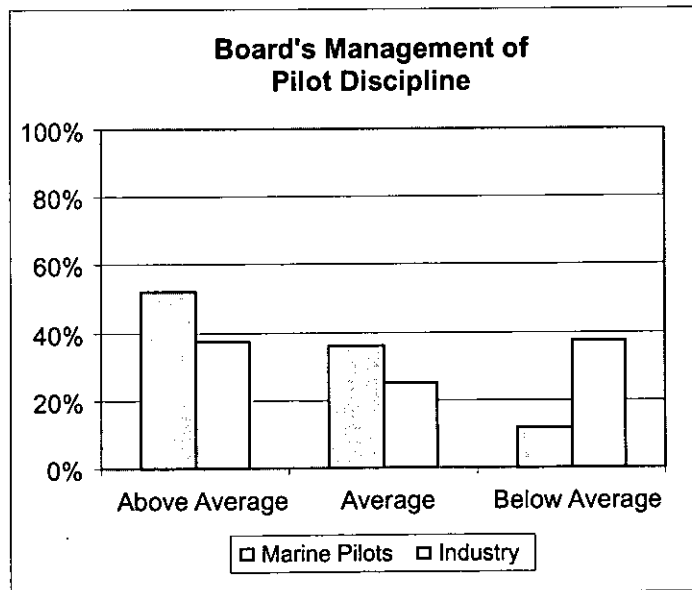
9. In your opinion, would it be more effective for pilot associations to establish rates with industry principals, or their agents, apart from the board's processes.

	Marine Pilots	Industry
Yes	13	5
No	23	1
Don't know	<u>14</u>	<u>6</u>
Total	50	12



10. In your opinion, how has the board managed disciplinary situations involving pilots.

	Marine Pilots	Industry
Above Average	26	3
Average	18	2
Below Average	6	3
Don't know	<u>0</u>	<u>0</u>
Total	50	8

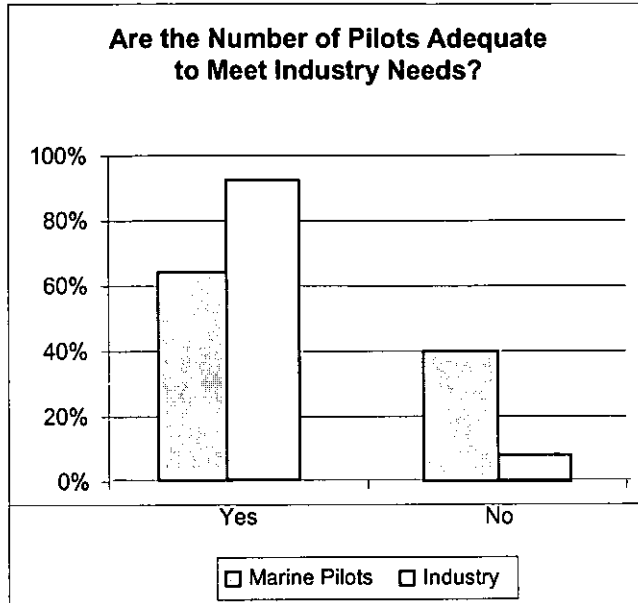


Appendix A
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS AND INDUSTRY
(Continued)

11. Is the current number of licensed deputy and marine pilots in your region adequate to cover the needs of the industry?

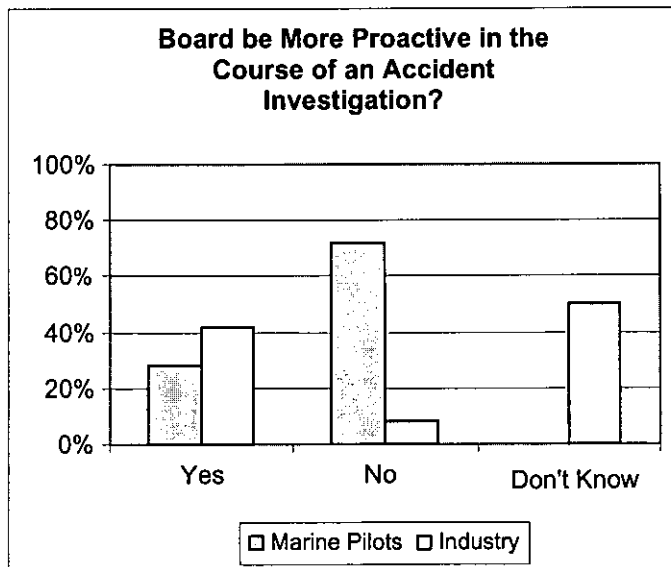
	Marine Pilots	Industry
Yes	30	11
No	<u>20</u>	<u>1</u>
Total	50	12

Although the majority of both industry and pilots believed that there were currently enough pilots, both sides expressed concern about having enough pilots in the future to cover demand.



12. Should the board be more proactive during the course of an investigation into an accident which caused damage or harm to people, property, or the environment?

	Marine Pilots	Industry
Yes	14	5
No	36	1
Don't Know	<u>0</u>	<u>6</u>
Total	50	12



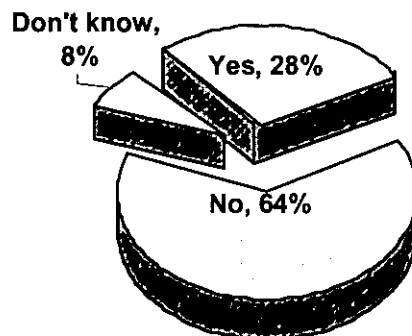
Appendix B
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS
(50 Respondents)

1. Should the simulator evaluation, now required once every 6 years, be expanded to include a live performance evaluation, such as a manned model?

Pilot comments:

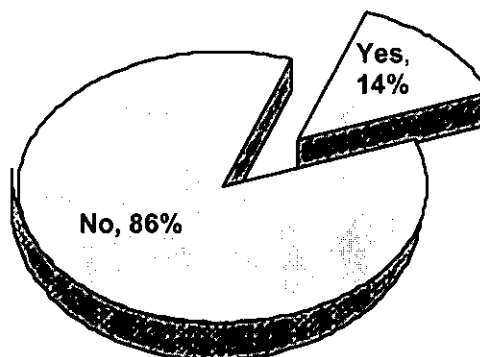
Pilots commented that required time on manned models and required training spent in simulators would be a better use of resources and would be more beneficial to the industry than simulator evaluations.

Simulator Evaluation Change?



2. Should performance evaluations be required more frequently than once every 6 years?

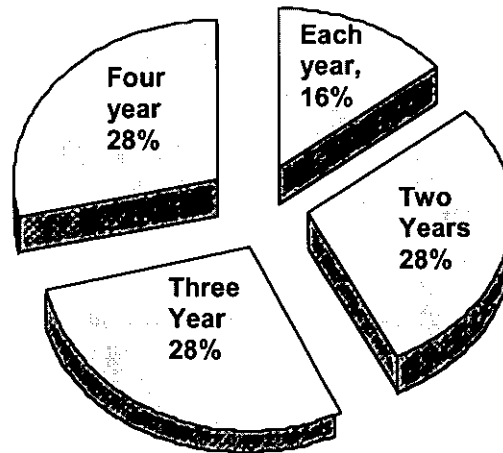
More Frequent Performance Evaluation?



Appendix B
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS
(Continued)

3. Of those who answered 'Yes' to question 2, we asked how often should they be done?
(7 respondents)

How Frequent Should Performance Evaluations Be?

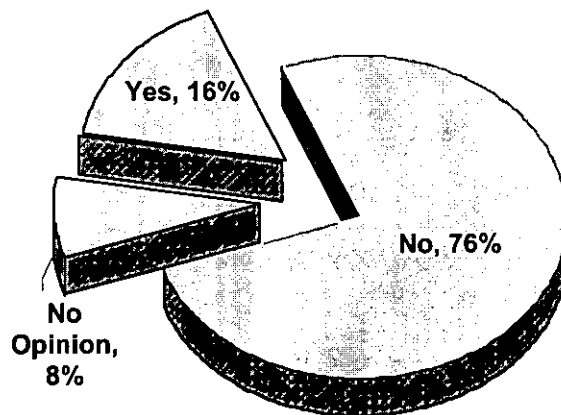


4. Are the peer-conducted performance evaluations effective?

Pilot comments:

A few pilots commented that the peer-review process is both unproductive and ineffective. They also commented that in lieu of this process, some form of continuing education would better serve the industry as it makes the current pilots better at their jobs.

Are Peer Performance Evaluations Effective?

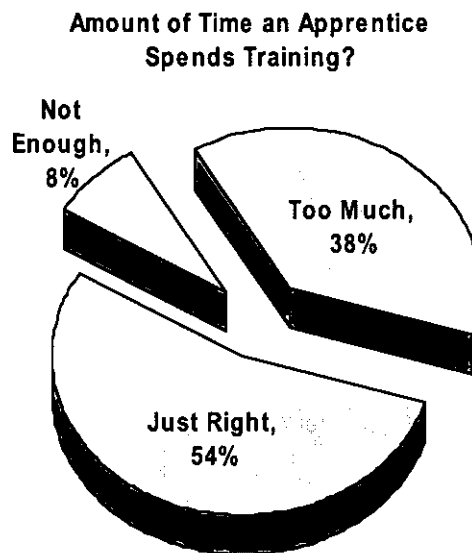


Appendix B
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS
(Continued)

5. Rate the length of time it currently takes for a trainee or apprentice to complete the training process to obtain a marine pilot license.

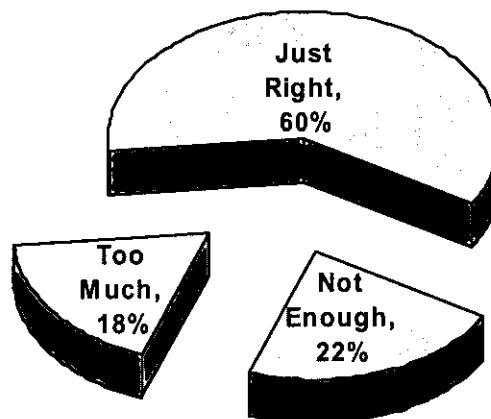
Pilot comments:

Pilots who believed that the amount of time to complete the training process was too long commented that training should be more intensive therefore lessening the amount of time and money it takes a trainee to complete the process.



6. Rate the adequacy of trainee and apprentice pilot requirements

Adequacy of Trainee and Apprentice Pilot Requirements?



Appendix B
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS
(Continued)

7. In order to ensure there are enough qualified pilot candidates available to serve the public's need, should there be some form of financial incentive for trainee?

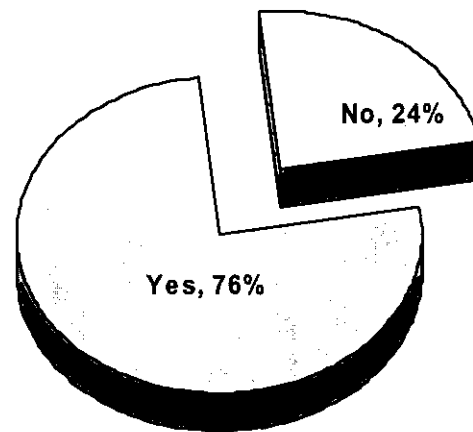
Pilot comments:

Pilot's suggestions for financial incentives to be provided to trainees including low interest loans, free passage on state owned transportations system (Alaska Marine Highway System for example) and dropping the testing fees.

Some pilots also commented that, in their opinion, this was not a board issue but an association issue.

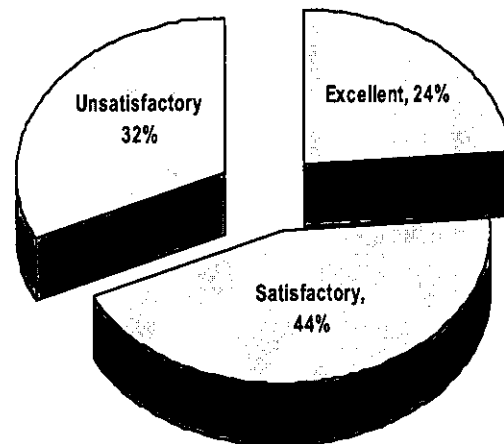
One pilot commented that the financial incentive is the compensation one gets after obtaining their marine pilots license.

Financial Incentive for Trainees?



8. Rate the effectiveness of your association's pilot recruitment.

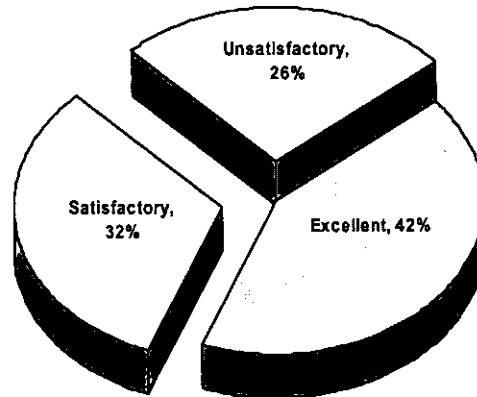
Effectiveness of your Association's Pilot Recruitment?



Appendix B
SURVEY RESULTS
QUESTIONS ANSWERED BY
MARINE PILOTS
(Continued)

9. Rate the effectiveness of your association's pilot retention.

Effectiveness of Your Association's Retention?

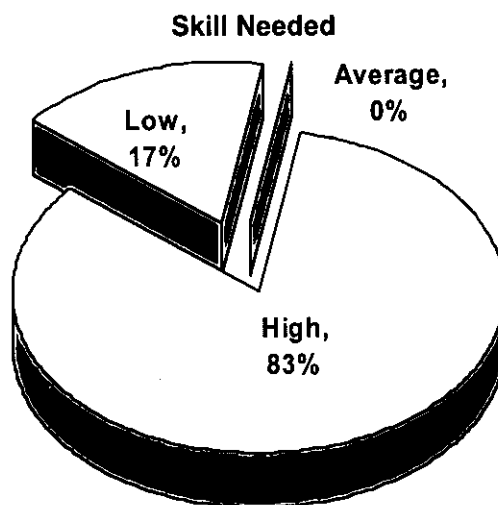


(Intentionally left blank)

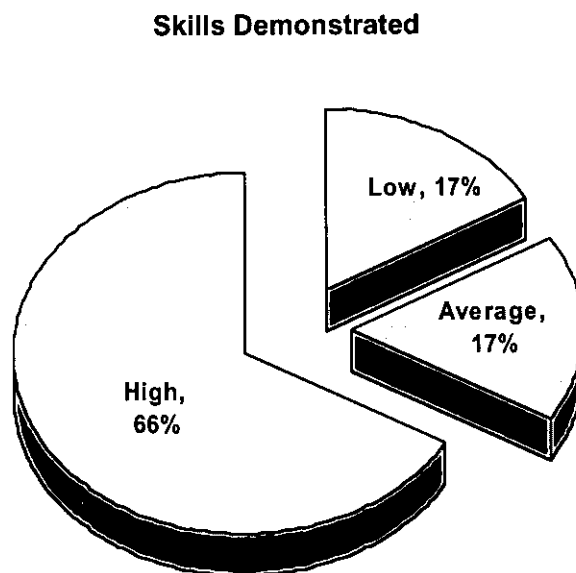
Appendix C
SURVEY RESULTS
QUESTIONS ANSWERED BY
INDUSTRY
(13 Respondents)

1. Rate the level of :

Skill needed to pilot your vessels.



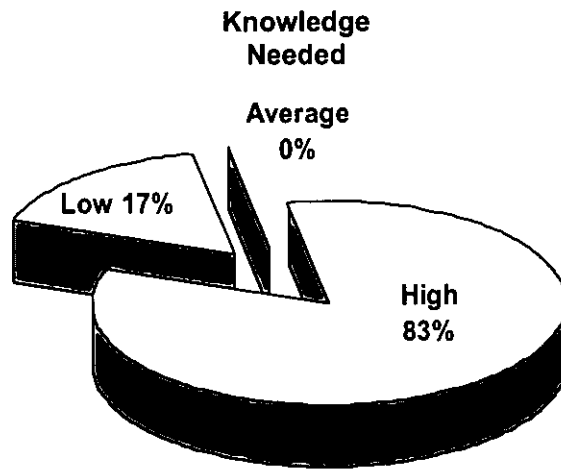
Skill demonstrated by pilots on your vessels.



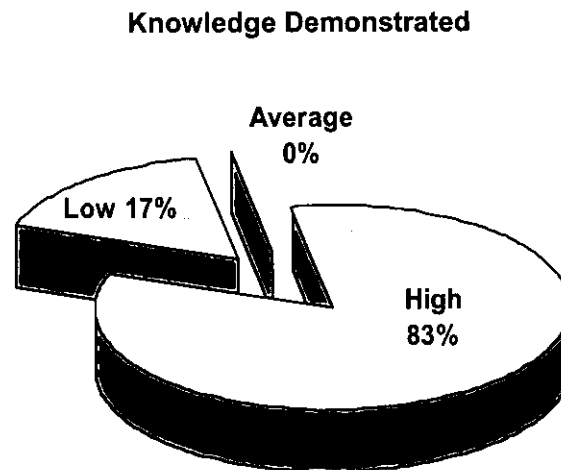
Appendix C
SURVEY RESULTS
QUESTIONS ANSWERED BY
INDUSTRY
(Continued)

2. Rate the level of:

Knowledge needed to pilot your vessels.



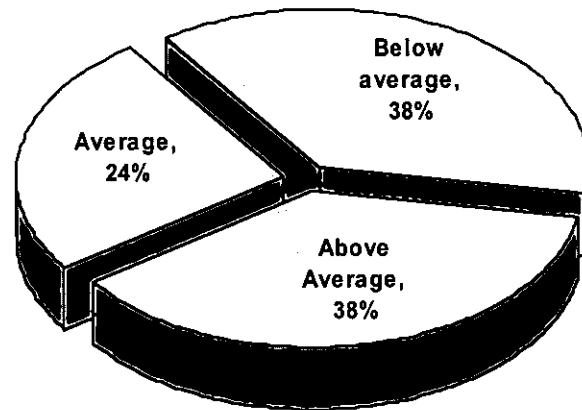
Knowledge demonstrated by pilots on your vessels.



Appendix C
SURVEY RESULTS
QUESTIONS ANSWERED BY
INDUSTRY
(Continued)

3. Rate the board's handling of incident(s) involving pilots.

Board Handling of Incidents Involving Pilots



(Intentionally left blank)



DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT
Office of the Commissioner

Frank H. Murkowski, Governor
William C. Noll, Commissioner

December 1, 2006

Ms. Pat Davidson
Legislative Auditor
Alaska State Legislature
Legislative Budget and Audit Division
Division of Legislative Audit
P.O. Box 113300
Juneau, Alaska 99811-3300

Dear Ms. Davidson,

I am in receipt of Preliminary Audit Report, Department of Commerce, Community and Economic Development Board of Marine Pilots (BMP) Sunset Review. Following per your request is a written response to your October 13th Preliminary findings report. An electronic copy of this response was emailed to you on December 1, 2006.

The BMP responded to the draft audit report on November 1, 2006 and notes and appreciates that the preliminary audit report has taken into account some of the BMP's earlier responses. The following comments are specific to the Preliminary Audit report (red cover).

The Board of Marine Pilots and Department are in general agreement with the Report Conclusions.

The BMP recognizes the need for various changes in drug and alcohol testing and standards.

The BMP is also actively involved with the pilot organizations in further refining professional standards and continuing education for Alaska Marine Pilots.

The BMP does not agree that the distribution of yacht exemption fees should be changed. Board position on this issue is further explained in the specific comment response section.

The Board of Marine Pilots is also well aware of the frustration by parties interested in the rate setting process; the Board is equally frustrated by this conundrum.

The BMP most surely agrees that it serves an important public purpose. Further, the BMP supports the enactment of new statute to extend the termination date for another 6 years to June 30, 2013.

P.O. Box 110800, Juneau, Alaska 99811-0800
Telephone: (907) 465-2500 Fax: (907) 465-5442 Text Telephone: (907) 465-5437
Email: questions@commerce.state.ak.us Website: <http://www.commerce.state.ak.us/>

Following are detailed comments in response to issues raised in the Preliminary Audit report.

Prior Audit Recommendation No. 1.

The BMP should establish more informative and comprehensive reporting requirements so the Marine Pilot Coordinator (MPC) can confirm that an appropriate number of licensed pilots are consistently being subjected to random testing.

The BMP agrees in most part with the current position of Legislative Audit and with the recommendations. Part of the underlying problem seems to be due to the seasonal nature of much of the pilot work; especially with Southeast Alaska Pilots Association- the majority of whose work is associated with the highly seasonal Cruise Ship trade.

The MPC has already been working to resolve the shortcoming and will continue to do such. The current effort is to rectify this issue without having to promulgate new regulations. However if the situation cannot be sorted out by working with the pilot associations appropriate regulation will be developed.

Prior Audit Recommendation No. 2.

The BMP should take action to ensure regional pilot associations administer mandatory alcohol and drug testing programs in a manner consistent with established regulatory standards.

The BMP agrees with Legislative Audit that additional effort must be expended to ensure the consistency of testing programs. As in recommendation No. 1, part of the problem is due to the seasonal nature of the business.

The MPC has been directed to work with the pilot associations to further refine various testing and reporting practices. Further, the MPC has been requested to assure spot checking is conducted on reports to assure completeness.

The MPC has also been requested to ensure that testing is consistent between the three associations (issue raised in recommendation 2, number 2). The MPC has been instructed to make sure that all working pilots are enrolled in a testing program as required by statute and regulation and that the necessary reporting requirements are complied with.

The MPC will be working with the pilot associations to further evaluate and implement (if necessary) the 5 specific recommendations detailed in the audit.

Prior Audit Recommendation No. 3.

The legislature should consider amending current statutes in order to extend mandatory drug and alcohol testing to pilot organization trainees and apprentices.

The BMP agrees with the recommendation that apprentices and trainees should be included in the association's mandatory drug and alcohol testing program. The MPC is working with the association to accomplish such. However, the BMP would suggest this be done through procedures or by regulation and not by a statute change.

Recommendation No. 4.

The legislature should consider clarifying current statutes specifying the use of pleasure craft exemption fees.

The BMP understands the arguments presented by Legislative Audit in relation to yacht exemption fees. However, the BMP does not agree with Legislative Audit on this issue and recommends the yacht exemption fees remain reserved with marine pilot and other pilot occupation fees.

The administration of yacht exemptions is not a trivial matter for the BMP or the MPC. Not only is considerable time and effort expended in administering this program by both the MPC and board members, the BMP has also incurred significant legal fees as part of overseeing this exemption. With homeland and port security requirements growing with no end in sight, the efforts of the BMP and MPC on private yachts will only increase.

HB 251, the 2003 legislation which created the yacht pilotage exemption was supported by the BMP and pilot associations with the understanding that fees generated from these exemptions would be used to offset BMP expenses to include the administration and management of exempt yachts. It would be disingenuous to come back at this date and change this fund source for the BMP.

For these reasons the BMP recommends yacht exemption fees remain as part of the BMP combined revenue.

Recommendation No. 5.

The director of the Division of Corporations, Business, and Professional Licensing should ensure coverage of the marine pilot coordinator's investigative functions occur during extended absences or vacancy.

The BMP agrees with the recommendation by Legislative Audit on this issue. The BMP has already had discussions with the Division Director to assure such situations do not recur.

Further, the MPC has been working closely with the investigative unit in the Division. In cooperation with the Chief Investigators office, various protocols have been developed and instituted that assure continuity of coverage on BMP matters.

Recommendation No. 6.

The BMP should consider changes to regulations requiring other types of continuing professional education (CPE) of its licensees, in lieu of the mandatory annual peer review.

The BMP agrees with this recommendation. At its most recent meeting (after this audit was completed) various new regulations were approved that strengthen CPE.

Auditor Comments.

The auditor has stated "the BMP and the Department need to consider alternatives available to remedy difficulties the board has encountered with rate setting."

Although this is not a formal recommendation put forward by the Audit, the BMP agrees with the comment. So long as the BMP is under the state's ethics act there can not be equal and full representation by the industry and pilot groups on rate setting matters. The BMP believes this is a poor way to conduct business and that state piloting in general and rate setting in particular would be best served by a balanced BMP as envisioned by the legislature.

The pilot and shipping company survey conducted as part of this audit noted that although both competing interest groups were not satisfied with BMP actions on rate setting matters that both sides overwhelmingly agreed that rate setting matters should remain the purview of the BMP.

The BMP looks forward to working with various parties to resolve this impasse. Until such time this balance can be regained the BMP recommends that contested rate matters be assigned to a hearing officer.

Thank you for this opportunity to comment.

Sincerely,

Albert H. Clough
Chair, Alaska Board of Marine Pilots
Deputy Commissioner DCCED

Cc; Rick Urion, Director Division of Corporations,
Business, and Professional Licensing

Renda Heimbigner, Marine Pilot Coordinator

SB

24

SB 24
2/3/09

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/21/09

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/3/09

Transportation Committee considered SENATE BILL NO. 24

SB 24 LOUIS MILLER BRIDGE

"An Act naming the bridge over Hammer Slough on Nordic Drive in Petersburg the Louis Miller Bridge."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOT	2/2	✓			

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Betty Davis</i>	DAVIS	X			
<i>Ke Meyer</i>	MEYER	X			
<i>Joe Paskvan</i>	PASKVAN	X			
CHAIR: <i>Albert Kookum</i>	KOOKUM	X			

ALASKA STATE LEGISLATURE

SESSION

State Capitol, Rm 516
Juneau, Alaska 99801-1182
(907) 465-3873 Phone
(907) 465-3922 Fax
(877) 463-3873 Toll Free
Senator_Bert_Stedman@legis.state.ak.us



INTERIM

50 Front Street
Ketchikan, AK 99901-6442
Phone (907) 225-8088
Fax (907) 225-0713

SENATOR BERT K. STEDMAN

MEMORANDUM

To: Senator Albert Kookesh, Chairman
Senate Transportation Committee

From: Senator Bert Stedman *B.S.*

Date: January 26, 2009

Subject: Request for Hearing

I respectfully request that Senate Bill 24, "An Act naming the bridge over Hammer Slough on Nordic Drive in Petersburg the Louis Miller Bridge", be scheduled for a hearing in the Senate Transportation Committee at your earliest convenience.

Attached is the following documentation:

- Sponsor Statement
- Senate Bill 24
- Resolution from the City of Petersburg in support of Senate Bill 24
- Photo of Bridge

If you have any questions or need more information, feel free to contact me or my aide Weston Eiler. Thank you for your attention to this important matter.

DISTRICT A

Ketchikan • Sitka • Petersburg • Wrangell

Pelican • Elfin Cove • Port Alexander • Saxman • Meyers Chuck • Thorne Bay • Coffman Cove • Hollis

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: _____
 () Publish Date: _____

Identifier (file name): SB24-DOT-SMO-2-02-09

Dept. Affected: DOT&PF
 RDU: Statewide M&O
 Component: SE M&O

Title: Louis Miller Bridge

Sponsor: Sen. Stedman
 Requester: House Transportation

Component Number: 604

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies		4.0						
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	4.0	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		4.0						
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	4.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This will cover the expense of making the signs and hanging them.;

Prepared by: Mary Siroky, Legislative Liaison
 Division: Department of Transportation and Public Facilities
 Approved by: Nancy Slagle, Admin Director
Department of Transportation and Public Facilities

Phone 465-4772
 Date/Time 2/02/09 10:00am
 Date 2/2/2009

ALASKA STATE LEGISLATURE

SESSION

State Capitol, Rm 516
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(877) 463-3873 Toll Free
Senator_Bert_Stedman@legis.state.ak.us



INTERIM

50 Front Street
Ketchikan, AK 99901-6442
Phone (907) 225-8088
Fax (907) 225-0713

SENATOR BERT K. STEDMAN

SPONSOR STATEMENT

Senate Bill 24

“An Act naming the bridge over Hammer Slough on Nordic Drive in Petersburg the Louis Miller Bridge”

Senate Bill 24 would name a bridge in Petersburg in honor of Louis Miller. Mr. Miller was an early Alaskan pioneer who helped found and build the community of Petersburg.

Louis Miller came to Alaska as part of the Klondike Gold Rush. He arrived in Petersburg in 1901 and worked for town founder Peter Buschmann as a carpenter. Miller is credited with building some of Petersburg's first houses and serving as foreman for the construction of the community's Sons of Norway Hall. He operated a moorage and warehouse on the site of the present day bridge over Hammer Slough until his death in 1955. Senate Bill 24 would name this bridge in his honor.

Under current law (AS 35.40.015), the State of Alaska may name public works infrastructure through an act of the legislature. Senate Bill 24 would honor a historic figure in Petersburg's history and is supported by the City of Petersburg.

Contact: Weston Eiler, Legislative Aide to Senator Bert Stedman at (907)-465-3873

DISTRICT A

Ketchikan • Sitka • Petersburg • Wrangell

Pelican • Elfin Cove • Port Alexander • Saxman • Meyers Chuck • Thorne Bay • Coffman Cove • Hollis

CITY OF PETERSBURG, ALASKA

RESOLUTION # 1877

**Offered by: Jensen
Supported by: Sarff**

A RESOLUTION REQUESTING PETERSBURG'S LEGISLATORS TO SPONSOR AN ACT DESIGNATING THE BRIDGE ACROSS HAMMER SLOUGH ON THE MITKOF HIGHWAY AS THE LOUIS MILLER MEMORIAL BRIDGE

WHEREAS, the Petersburg City Council received a letter dated June 20, 2008 from Leif O. Wikan asking the Council to acknowledge the contribution of two Petersburg pioneers for their dedication to the community by naming the downstream bridge across Hammer Slough the Rasmus Enge Bridge and the upstream bridge the Louis Miller Bridge, a copy of which is attached and made a part of this resolution by reference; and

WHEREAS, the Council has formally designated the downstream bridge across Hammer Slough as the Rasmus Enge Memorial Bridge by a motion passed and approved at a meeting held July 7, 2008; and

WHEREAS, the bridge upstream of Hammer Slough is a structure that is owned and maintained by the Alaska Department of Transportation and Public Facilities; and

WHEREAS, AS 35.30.040 provides authority for the Alaska Legislature to designate memorial public works by an Act sponsored by a member of the legislature.

NOW, THEREFORE, BE IT RESOLVED that the Petersburg City Council hereby petitions its state legislators to sponsor an Act amending AS 35.40 by adding a new section designating the bridge across Hammer Slough in the City of Petersburg on the Mitkof Highway as the Louis Miller Memorial Bridge.

PASSED and APPROVED by the City Council of the City of Petersburg, Alaska this 20nd day of October 2008.

CITY OF PETERSBURG, ALASKA



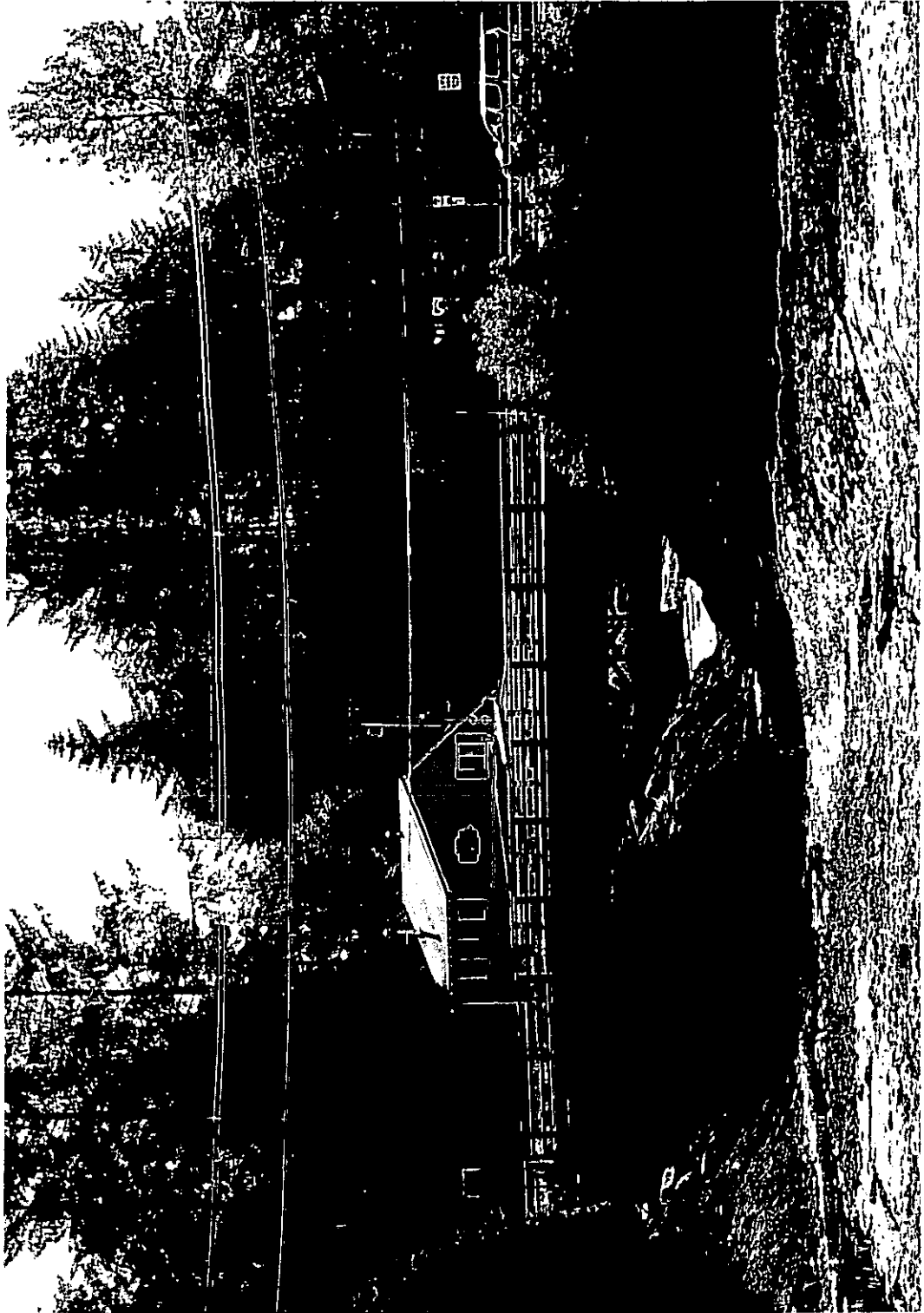
Al Dwyer, Mayor

ATTEST:



Kathy O'Rear, City Clerk

Proposed Louis Miller Bridge
Petersburg, Alaska



S B

3 4

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/21/09

FURTHER: Senate Special
Committee on Energy
Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Transportation Committee considered SENATE BILL NO. 34

SB 34 COMPRESSED NATURAL GAS FOR STATE VEHICLES

"An Act directing the Department of Transportation and Public Facilities to prepare a report on the feasibility of using compressed natural gas to power vehicles in the state, including vehicles owned or operated by the state, and including in that study, if warranted, a pilot program proposal for powering some vehicles owned or operated by the state with compressed natural gas."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
<input type="checkbox"/> Same Title
<input type="checkbox"/> New Title
HOUSE BILL:
<input type="checkbox"/> Same Title
<input type="checkbox"/> Technical Title Change
<input type="checkbox"/> New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#
DOTPF	4/5/09	75			

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Linda Menard</i>	Menard	X			
<i>Betty Davis</i>	Davis	X			
<i>Ke Meyer</i>	Meyer	X			
<i>Joe Pasikvan</i>	Pasikvan	X			
CHAIR: <i>Allen Kohut</i>	Kohut	X			



SENATOR FRED DYSON

Sponsor Statement for SB 34

“An Act directing the Department of Transportation and Public Facilities to prepare a report on the feasibility of using compressed natural gas to power vehicles in the state, including vehicles owned or operated by the state, and including in that study, if warranted, a pilot program proposal for powering some vehicles owned or operated by the state with compressed natural gas.”

April 2, 2009

Contact: Lucky Shultz at Senator Fred Dyson's office (907) 465-2199

The state is actively pursuing various tactics for addressing the high cost of energy. One area of particular concern has been the high cost of gasoline and diesel fuel, not only for state and municipal government vehicles, but for all Alaskans. As has been publicly decried over the past several months, we pay the highest fuel costs in the nation. Ironically, we have an abundance of one of a very proven alternative fuel – natural gas.

Compressed natural gas (CNG) is used to power more than 8,000,000 vehicles around the world. There are more than 12,000 compressed natural gas refueling stations. In the United States, there has been a “chicken and egg” supply/demand conundrum. While CNG is a much less expensive, cleaner-burning fuel than either gasoline or diesel, individuals have hesitated to purchase CNG-powered vehicles, or to modify existing vehicles to burn CNG, because there are few refueling stations (lack of supply). At the same time, entrepreneurs have been slow to construct refueling stations because there is inadequate demand.

To break the supply/demand conundrum, the Utah legislature recently provided seed money for the construction of refueling stations. As a result, demand for CNG-powered vehicles soared. New York has mandated a massive move to CNG-powered vehicles by state vehicles.

The move has not been limited to governments. AT&T, with 9,000 workers in the St. Louis area, has agreed to spend more than \$500,000,000 over the next decade, starting out by replacing 8,000 gasoline-powered vehicles with CNG-powered vehicles over the next five years. The Center for Automotive Research estimates AT&T will save 49 million gallons of gasoline and reduce carbon emissions by 211,000 metric tons over the ten-year deployment period.

Finally, because CNG can be transported in tanks, it may well be a viable replacement for vehicles and other energy needs in rural Alaska.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 34
() Publish Date: _____

Identifier (file name): SB34-DOT-SEF-04-05-09 Dept. Affected: DOT&PF
Title: Compressed Natural Gas for State Vehicles RDU: State Equipment Fleet
Component: State Equipment Fleet
Sponsor: Senator Dyson
Requester: Senate TRA Component Number: 2791

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Personal Services							
Travel							
Contractual	75.0						
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	75.0	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	75.0						
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	75.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

SB 34 requires DOT&PF to prepare a report evaluating the feasibility of using compressed natural gas to power vehicles in Alaska. The report will review public policy incentives, evaluate the environmental benefits and technical merits, consider the economic, environmental and technological advantages and disadvantages of using and promoting compressed natural gas to power vehicles in the state. If the findings of the study warrant, a pilot program will be proposed. The Department will hire a contractor to prepare the report and develop a potential pilot program with the detailed costs as outlined in the bill. SB 34 requires completion of the report by December 1, 2009. So funding is only needed for FY10.

Prepared by: Mary Siroky, Legislative Liaison
Division: Department of Transportation and Public Facilities
Approved by: Nancy Slagle, Admin Director
Department of Transportation and Public Facilities

Phone 465-4772
Date/Time 4/5/09 1:00 AM
Date 4/5/2009

SB

48

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
1292 Sadler Way, Suite 308
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
SENATE DISTRICT F

Memorandum

To: The Honorable Senator Albert Kookesh
Chair Senate Transportation Committee

From: Senator Gene Therrault 

Date: February 14, 2009

Re: CSSB 48 (CRA) Hearing Request

CSSB 48 (CRA) amends AS 44.62.310(d) by adding a new section to exempt municipal boards, commissions, and other similar bodies from Alaska's Open Meetings Act when meeting solely to conduct administrative and managerial business. The legislation also clarifies an abnormality in state statute regarding the definition of a "meeting." Meeting requirements for advisory bodies are currently more stringent than those for policy setting bodies. CSSB 48 (CRA) places the same open meetings requirements on advisory bodies as are on government agencies authorized to establish public policy.

AS 44.62.310-312 prevents municipal government bodies from conducting administrative duties such as responding to unforeseen road conditions without first triggering the open meetings act. Unless a public meeting is first scheduled and held, board members may not discuss and act upon time sensitive issues. CSSB 48 (CRA) will grant service area boards and commissions the necessary legal authority to more efficiently implement their duties and responsibilities and respond quickly to unforeseen local events like heavy snowfall or flooding.

CSSB 48 (CRA) also resolves an unintended consequence caused by the definition of "meeting." Under the current language, meeting requirements for advisory bodies are more stringent than those for policy setting bodies. The committee substitute places the same open meetings requirements on advisory bodies as are on government agencies authorized to establish public policy.

I respectfully request you schedule CSSB 48 (CRA) for a Senate Transportation Committee hearing.

Alaska State Legislature

SENATOR
GENE THERRIALT

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Senate

White in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
SENATE DISTRICT F

Sponsor Statement

Committee Substitute for Senate Bill 48 (CRA)

"An Act exempting municipal boards, committees, commissions, or other similar bodies for the requirements of conducting meetings open to the public when a meeting is administrative or managerial in nature; and amending the definition of 'meeting' as it relates to public governmental meetings."

Established under Article X Section 5 of the Alaska State Constitution and AS 29.35.450-490, service area districts provide essential road maintenance, fire protection, and park and recreation services to residents living within established cities and boroughs. In keeping with America's federalist foundations, service area boards and commissions promote local governance by encouraging residents to join together and take responsibility for providing basic community services.

AS 44.62.310(d) prevents a service area from efficiently responding to time sensitive issues such as adverse weather related road conditions without first complying with the Open Meetings Act's requirement of a noticed and held public hearing.

Senate Bill 48 was originally introduced to exempt road service districts from the open meetings requirement so they could quickly respond to unforeseen weather events without having to hold public hearings. Following multiple communications with the Fairbanks North Star Borough, Committee Substitute for Senate Bill 48 {CSSB 48 (CRA)} was introduced to expand the open meetings exemption to all municipal boards, committees, commissions, and other similar bodies meeting solely to conduct administrative or managerial business.

CSSB 48 (CRA) also streamlines the definition of "meeting" as defined in AS 44.62.310(h)(2). Under current statutory language, meeting requirements for advisory bodies are more stringent than those for policy setting bodies. By requiring the same open meetings requirements for advisory bodies as are required for government agencies authorized to establish public policy, members will be able to conduct public meetings in a more clear and uniform manner.



25th ALASKA STATE LEGISLATURE
SENATE REPUBLICAN CAUCUS
www.aksenateminority.com

SENATOR GENE THERRIAULT, MINORITY LEADER
STATE CAPITOL, ROOM 427, 465.4797 (FAX 465.3884)

SENATOR CON BUNDE
SENATOR FRED DYSON
SENATOR TOM WAGONER

Fact Sheet: CSSB 48 (CRA)
Sponsor: Senator Gene Therriault

Contact: Ernest Prax, 465.4797

Short Title: Meetings of Road Service Area Boards

Summary:

- CSSB 48 (CRA) expands SB 48's original exemption of road service areas from the Alaska's open meetings act (AS 44.62.310-312) to now include all municipal boards, committees, commissions, and other similar bodies meeting solely for the purpose to conduct administrative or managerial business.
- Establishes a uniform definition of "meeting" under AS 44.62.310(h)(2) for both policy setting and advisory government bodies.

Benefits:

- Grants municipal bodies the legal authority to efficiently carry out in a timely manner administrative duties such as responding quickly to unforeseen road conditions that may cause damage to a road system and subsequent danger.
- Preserves the spirit of an informed and involved citizenry when formulating local public policy. Municipal bodies will still be required to schedule and hold public meetings when discussing policy issues such as contract negotiations and local tax rates.

Background:

- Established under Article X Section 5 of the Alaska State Constitution and AS 29.35.450-490, municipal service areas districts provide essential road maintenance, fire protection, and park and recreation services. In keeping with America's federalist foundations, service districts promote local governance through residents joining together and taking responsibility for providing basic community services.
- AS 44.62.310-312 limits a road service area's ability to efficiently respond to road conditions caused by adverse weather. Unless a public meeting is first scheduled and held, board members cannot discuss and act upon time sensitive issues.
- Under AS 44.62.310(h)(2), meeting requirements for advisory bodies are more stringent than those for policy setting bodies. CSSB 48 (CRA) places the same open meetings requirements on advisory bodies as are on government agencies authorized to establish public policy.

Alaska State Legislature

SENATOR
GENE THERRIAULT

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Senate

While in session
State Capitol
Juneau, Alaska
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SENATE DISTRICT F

Committee Substitute for Senate Bill 48 (CRA) Sectional Analysis

Page 2, lines 12-14

AS 44.62.310(d):

- (8) "...meetings by municipal boards, committees, commissions, or other similar bodies when meeting solely to act on matters that are administrative or managerial in nature."

Explanation: CSSB 48 (CRA) expands SB 48's original road conditions exemption to now include administrative and managerial duties which fall within a municipality's purview.

Page 2, lines 30-31

AS 44.62.310(h)(2):

- (B) "...more than three members or a majority of the members, whichever is less, are present,..."

Explanation: AS 44.62.310(2) defines the constitution of an "open public meeting" between members of a governmental body. AS 44.62.310(2)(A) mandates that "...more than three members or a majority of the members, whichever is less..." constitutes a meeting for governmental bodies responsible for formulating and establishing public policy. However, AS 44.62.310(2)(B) does not require this same prerequisite for advisory-only bodies; the meeting needs only to be pre-arranged. Consequentially, meeting requirements for advisory bodies (e.g.: local service district) are more stringent than those for policy making bodies (e.g.: borough assembly). CSSB 48 (CRA) establishes a uniform public meetings requirement by placing the same open meetings requirements on advisory bodies as are on government agencies authorized to establish public policy.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 48(CRA)
 (S) Publish Date: 2/11/09

Identifier (file name): SB48-CED-CRA-02-09-09 Dept. Affected: DCCED
 Title: Meetings of Road Service Area Boards RDU: Community & Regional Affairs
 Component: Community & Regional Affairs
 Sponsor: Senator Therriault
 Requester: Senate Community & Regional Affairs Component Number: 405

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	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								
1036 Com Fish								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This bill grants service area boards the legal authority to respond quickly to hazardous road conditions affected by harsh weather by bypassing the open public meeting requirements.

The Department of Commerce, Community & Economic Development foresees zero fiscal impact with passage of this legislation.

Prepared by: Tara Jollie, Division Director Phone 465-2510
 Division: DCCED - Community & Regional Affairs Date/Time 2/6/09 3:35pm
 Approved by: Emil Notti, Commissioner, Date 2/9/2009
DCCED

Ernest Prax

From: Dan&Ann Swift [dswift@acsalaska.net]
Sent: Thursday, February 12, 2009 9:25 PM
To: Sen. Joe Paskvan
Cc: Sen. Joe Thomas; Sen. Gene Therriault
Subject: CS for Senate Bill No. 48

Dear Senator Paskvan,

I just read that the subject bill has passed through the Community and Regional Affairs Committee and has been referred to the Transportation Committee, of which you are a member. I am a chairman of a road service area commission, and this bill is very important to all who serve on road service area commissions in our Borough. This bill will exempt service area commissions from the onerous requirements of the open meetings law.

As it stands now, we cannot discuss routine maintenance problems without giving two weeks public notice to hold a general service area meeting. This gives us the choice of violating the law or being unable to conduct service area business. Decisions on whether to call out or contractor to repair washout damages will not wait for us to give proper notification to all service area residents. We call general service area meetings to get input on annual maintenance or upgrade projects within our service area. However, the formulation of a final workorder document for our contractor requires many iterations and repeated on-the-ground inspections. We would never complete the workorder document within a construction season if we had to call a general service area meeting for each iteration of the document. Passage of SB 48 would allow the service area commissions to conduct their business, while obtaining timely input from service area residents.

I urge your active support for this bill, and hope you can convince your senate colleagues of the bill's merits.

Daniel W. Swift, Ch.
Edanella Heights Road Service Area

Fairbanks North Star Borough

Request for Legislation

AMEND THE OPEN MEETINGS ACT FOR MUNICIPAL ADVISORY BOARDS AND COMMISSIONS WHILE PRESERVING THE INTENT AND PURPOSE OF THE ACT

The proposed legislation attempts to solve two typical problems encountered by volunteer advisory boards and commissions when attempting to comply with the Open Meetings Act. The proposed changes make the law more workable while maintaining the intent and purposes of the Act.

1. The first issue arises because some municipal volunteer boards and commissions perform managerial and administrative functions. Examples include both fire and road service area commissioners who are responsible, once the assembly approves the service area budget, to supervise and manage the affairs of the service area. These include decisions concerning when to plow the streets, whether a pothole needs to be fixed, etc. In implementing these duties commissioners are really fulfilling the role of municipal employees.

Current state law exempts most administrative and managerial activities by exempting staff meetings and gatherings. This exemption recognizes that it would be impossible to apply the Act to the everyday transactions of governmental employees confronting day-to-day issues and problems. This exemption, however, does not currently extend to members of governmental bodies that also have administrative and managerial responsibilities. Thus, volunteer boards and commissions that try to supervise and manage the affairs of a governmental entity, like a service area, often find that they must choose between complying with the Act or providing delayed and unresponsive services.

Exempting these boards and commissions when they meet only to fulfill their administrative and managerial functions allows them to effectively conduct business without harming any of the purposes or intent of the Open Meetings Act. These advisory bodies are still required to comply with the Act whenever they meet to make or discuss legislative or policy decisions, including recommending their annual budget and tax levy, adopting strategic plans, or discussing any other legislative policies.

2. The second issue arises due to an anomaly in state law. Although state law prescribes a minimum number of members necessary to constitute a meeting for policy-making bodies, this exception does not exist for advisory-only bodies. All that is required for a meeting of an advisory body is that the meeting be prearranged. Accordingly, a meeting exists under the Act if only two of a 12 member advisory body decide to meet to discuss to consider the business of the body. In this circumstance the rule for advisory bodies is more stringent than the rule governing actual policy-making bodies. The proposed change removes this anomaly by allowing two members of an advisory board to have a prearranged meeting as long as it does not result in a violation of the "three or a majority" rule applicable to policy-making bodies.

Article 06. OPEN MEETINGS OF GOVERNMENTAL BODIES

AS 44.62.310. Government meetings public

(d) This section does not apply to

(1) a governmental body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;

(2) juries;

(3) parole or pardon boards;

(4) meetings of a hospital medical staff;

(5) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline;

(6) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents; or

(7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings.

(8) meetings by boards, committees, commissions or other similar bodies when meeting solely to act upon matters that are administrative or managerial in nature.

(h) In this section,

(1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;

(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or

(B) the gathering is **either (i) prearranged by more than two members, or (ii) more than three members or a majority of the members, whichever is less, are present** for the purpose of considering a matter upon which the governmental body is empowered to act and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

(3) "public entity" means an entity of the state or of a political subdivision of the state including an agency, a board or commission, the University of Alaska, a public authority or corporation, a municipality, a school district, and other governmental units of the state or a political subdivision of the state; it does not include the court system or the legislative branch of state government.

Fairbanks Daily News-Miner

The voice of Interior Alaska since 1903

Open and effective

Published September 3, 2008

A request by some local **road service area** commissioners for greater leeway under the state **open meetings** law seems worthy of consideration. Newspapers usually opine in favor of greater openness in government and tighter rules to make it happen. Strict application of the current law, though, causes nearly impossible problems for the small, volunteer commissions that keep many of our borough **roads** passable.

Wet summers, such as the one just concluding, can make a mess of the **roads**, especially those with gravel surfaces. Potholes are unavoidable. Washouts and soft spots are common. Some of these problems must be fixed rapidly to avoid accidents and damage to vehicles. Legally, commissioners must discuss and make decisions at quarterly **meetings** that are **open** to the public and announced in advance. That's reasonable and advisable.

However, Mother Nature doesn't play by the same rules. Rain clouds don't advertise in the newspaper.

Those clouds can cause damage that requires immediate work. That work may be too expensive to fit within the agreed-upon plan. Commissioners cannot legally talk with each other to reach a consensus about what to do in such situations, though, without holding a public **meeting**.

The Fairbanks North Star Borough's guidelines for **service area** commissioners explain the rules: 'If you need to speak to each other, you have enough business for a public **meeting**. To discuss work and make decisions about what will be done in the **service area** outside of a public **meeting** is a violation of the **Open Meetings Act**.'

Perhaps the problem could be solved by giving the commissions authority to delegate some actions. If not, the law may need some tweaking, because the current situation obviously doesn't provide the kind of flexibility that **road service** commissions need to do their jobs.

The revisions should be limited in scope, though. Not all **road service areas** are informal little neighborhood operations. Some spend large amounts of money. For those reasons, their actions should be not only effective but **open** to public scrutiny.

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1
2 By: Randy Frank
3 Introduced: 08/21/08
4 Adopted: 08/21/08
5

6 FAIRBANKS NORTH STAR BOROUGH

7
8 RESOLUTION NO. 2008-34
9

10 A RESOLUTION URGING THE ALASKA STATE LEGISLATURE TO REQUEST A
11 STATE LAW CHANGE TO THE OPEN MEETINGS ACT WITH REGARDS TO ROAD
12 SERVICE AREA COMMISSIONS
13

14 WHEREAS, there are a variety of rules, regulations, and procedures in
15 Alaska State Law governing the conduct of public meetings, which are intended to
16 ensure that decisions made and actions taken are public knowledge and represent the
17 will of the public that the governing body serves. One of these is the state's Open
18 Meetings Act; and

19 WHEREAS, the Open Meetings Act requires that all meetings of public
20 bodies are open to the public and that the public body must provide reasonable notice
21 of its meetings. In essence, the Open Meetings Act protects the public's right to know.
22 To accomplish this, the act requires that:

- 23 • All deliberations and action taken by a public entity must be done in public view,
24 with limited exceptions;
25 • The public must be provided prior knowledge of all steps occurring in the
26 decision making process, with limited exceptions; and
27 • Individual actions of an official are made known.

28 WHEREAS, in order for these requirements to have full effect, meetings
29 must occur as provided in the notice; and, with few exceptions, the public must be
30 allowed to involve itself in the meeting; the public must also have access to materials
31 being considered during the meeting; and

32 WHEREAS, with regard to advisory only bodies such as the Fairbanks
33 North Star Borough Road Service Area Commissions, current law dictates that a
34 meeting is:

- 35 • a gathering
36 • of any number of members of the body
37 • prearranged
38 • for the purpose of considering any matter upon which the body is empowered to
39 act; and

40 WHEREAS, Service Area Commissions have management and
41 maintenance duties to perform, requiring some discussion between commissioners thus
42 making compliance with current state law difficult to comply with; and

43 WHEREAS, exemption from and/or amendments to the following areas of
44 the Act are requested:

- 45 • Specify the number of members of an advisory body required for action to
46 constitute a meeting as defined in AS 44.62.310(h)(2)(B);
- 47 • Include an exemption in AS 44.62.310(d) when governmental bodies such as
48 Service Area Commissions meet to act on behalf of the borough to supervise and
49 manage the affairs of the service area, to implement policies and programs to
50 protect the safety of the public and preserve the service area's capital assets in a
51 fiscally prudent manner, and other duties considered managerial in nature;

52 NOW, THEREFORE, BE IT RESOLVED by the Fairbanks North Star
53 Borough Assembly requests that a recommendation be made to the Alaska State
54 Legislature to amend state law to change the Open Meetings Act to allow Road Service
55 Area Commissions to effectively conduct business within their areas.

56
57 BE IT FURTHER RESOLVED that the FNSB Assembly Road Service
58 Area Committee supports a change to the Open Meetings Act.

59
60 BE IT FURTHER RESOLVED that a copy of this resolution shall be
61 forwarded to the Alaska Interior Delegation.

62
63 PASSED AND APPROVED THIS 21st DAY OF AUGUST 2008.
64
65


Nadine Winters
Presiding Officer

ATTEST:


Mona Lisa Drexler, MMC
Municipal Borough Clerk

66
67 Ayes: Brown, Beck, Frank, Musick, Sattley, Stringer, Hopkins, Foote, Winters
68 Noes: None

SENATE COMMITTEE REPORT

DATE: 2/11/09

FURTHER: Judiciary

DATE TURNED
IN TO OFFICE: 3/10/09

Transportation Committee considered SENATE BILL NO. 48

SB 48 MEETINGS OF ROAD SERVICE AREA BOARDS

"An Act exempting municipal service area boards from the requirements of conducting meetings open to the public when meeting about road conditions affected by harsh weather."

and recommends:

- be replaced with SCS or CS 6000 ()
- adopt previous SCS or CS SB 48 (CRA)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#
DCCED	2/11/09			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	Menard	✓			
<i>[Signature]</i>	Davis	✓			
<i>[Signature]</i>	Meyer	✓			
<i>[Signature]</i>	PASKVAN	X			
CHAIR: <i>[Signature]</i>	KooKesh	X			



26th ALASKA STATE LEGISLATURE
SENATE REPUBLICAN CAUCUS
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STATE CAPITOL, ROOM 427, 465-4797 (FAX 465-3884)

SENATOR CON BUNDE
SENATOR FRED DYSON
SENATOR TOM WAGONER

Fact Sheet for : CSSB 48 (CRA)
Sponsor: Senator Gene Therriault

Contact: Ernest Prax, 465-4797

Short Title: Meetings of Road Service Area Boards

Summary:

- CSSB 48 (CRA) expands SB 48's original exemption of road service areas from the Alaska's open meetings act (AS 44.62.310-312) to now include all municipal boards, committees, commissions, and other similar bodies meeting solely for the purpose to conduct administrative or managerial business.
- Establishes a uniform definition of "meeting" under AS 44.62.310(h)(2) for both policy setting and advisory government bodies.

Benefits:

- Grants municipal bodies the legal authority to efficiently carry out in a timely manner such administrative duties as responding quickly to unforeseen road conditions that may cause damage to a road system and subsequent danger.
- Preserves the spirit of an informed and involved citizenry when formulating local public policy. Municipal bodies will still be required to schedule and hold public meetings when discussing policy issues such as contract negotiations and local tax rates.

Background:

- Established under Article X Section 5 of the Alaska State Constitution and AS 29.35.450-490, municipal service areas districts provide essential road maintenance, fire protection, and park and recreation services. In keeping with America's federalist foundations, service districts promote local governance through residents joining together and taking responsibility for providing basic community services.
- AS 44.62.310-312 limits a road service area's ability to efficiently respond to road conditions caused by adverse weather. Unless a public meeting is first scheduled and held, board members cannot discuss and act upon time sensitive issues.
- Under AS 44.62.310(h)(2), meeting requirements for advisory bodies are more stringent than those for policy setting bodies. CSSB 48 (CRA) places the same open meetings requirements on advisory bodies as are on government agencies authorized to establish public policy.

S B


5 1

Senator Hollis French

Capitol Room 417
465-3892
465-6595 fax



MEMORANDUM

Date: 2/27/2009
To: Senator Bettye Davis
From: Senator Hollis French 
RE: Motor Vehicle Window Tinting CS

During the Senate Transportation meeting held on February 24, 2009 the committee considered Senate Bill 51. You raised concerns about the availability of window tinting for people who need to use such products for medical reasons.

The attached CS makes several changes on page 2 of the legislation:

The first clarifies, on page 2 lines 4-5, that a person can install window tinting that varies from the requirements outlined in the first part of the bill in certain instances. The special circumstances are taken from the window tinting regulations, where the exception currently exists for medical reasons.

The second change, on page 2 lines 13-14, requires that the medical reasons are certified by a physician and provided to the installer at the time of installation.

In addition, a few minor wording adjustments, for grammar reasons, were made on page 2 lines 6-18. None of these changed the substance of the legislation.

I hope this CS addresses your concerns. If you need any further information or have additional concerns, please contact my office at 465-3892.

Attachments

26-LS0323\R
Luckhaupt
2/26/09

CS FOR SENATE BILL NO. 51()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR FRENCH

A BILL

FOR AN ACT ENTITLED

"An Act relating to the installation of window tinting in automobiles."

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

*** Section 1.** AS 28.35 is amended by adding a new section to article 3 to read:

Sec. 28.35.271. Installation of window tinting. (a) A person commits the offense of improper installation of window tinting if the person in this state installs window tinting on a motor vehicle

(1) on the front windshield of the vehicle; notwithstanding this paragraph, a person may install a strip of tinting material that is applied to the top edge of the windshield that does not extend downward more than five inches from the top of the glass;

(2) on the driver and front passenger side windows that does not allow at least 70 percent light transmittance;

(3) on the rear door windows, quarter glasses, and back glasses that does not allow at least 40 percent light transmittance;

(4) that is not green, gray, bronze, or neutral smoke in color, or a

1 nonmirrored sun reflective auto film; or

2 (5) for compensation and does not install a window tint hologram that
3 identifies the installer and certifies that the window tinting complies with this section.

4 (b) Notwithstanding (a) of this section, a person may install window tinting
5 that varies from the requirements of this section in

6 (1) limousines and passenger buses used to transport persons for hire,
7 motor homes, and vehicles identified by the vehicle manufacturer as multipurpose if
8 the tinting material complies with standards set by the department in regulation;

9 (2) the windows of a vehicle that permits less light transmittance than
10 that specified in (a) of this section if a driver or a passenger who frequently travels in
11 the vehicle is required for medical reasons to be shielded from the direct rays of the
12 sun if

13 (A) the medical reasons are certified by a physician licensed to
14 practice in this state and provided to the installer at the time of installation;

15 (B) the medical reasons are recertified annually by a physician
16 licensed to practice in this state; and

17 (C) the certification is carried in the vehicle; and

18 (3) law enforcement vehicles.

19 (c) In this section, "light transmittance" means the ratio, expressed as a
20 percentage, of the amount of total light that is allowed to pass through a window,
21 including glazing, to the amount of total light falling on the window.

22 (d) Improper installation of window tinting is an infraction.

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/21/09

FURTHER: Judiciary

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 3/3/09

Transportation Committee considered SENATE BILL NO. 51

SB 51 MOTOR VEHICLE WINDOW TINTING

"An Act relating to the installation of window tinting in automobiles."

and recommends:

- be replaced with SCS or CS SB51 (TRA) _____
- adopt previous SCS or CS _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#
DPS	3/3/09	0		<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Bruce Davis</i>	DAVIS				X
<i>K. Meyer</i>	MEYER			X	
<i>OC Pashvan</i>	PASHVAN				X
CHAIR: <i>Albert Kookesh</i>	KOOKESH	X			

WINDOW TINT

ALASKA / FEDERAL LAW

ALASKA LAW

- Front windshield 5” strip of tint
- Front driver and passengers side windows must allow 70% Visible Light Transmission (VLT).
- All other rear windows must allow 40% VLT, (some exemptions).
- Special use vehicles must comply with 49 C.F.R. 571.205 (Federal Law)

FEDERAL LAW

- The Federal DOT specifies a minimum of 70% VLT for window tinting on the windshield and the windows to the immediate left and right of the driver.
- The Federal DOT does not specify any VLT requirements for any other windows

OTHER JURISDICTIONS

- At least 13 other States have similar, or more restrictive laws.
- 90% of Canadian provinces have a similar or more restrictive laws.
- 5 States allow 50% VLT (front sides)
- 31 States range from 20%-40% VLT (front sides)
- General rule, the hotter the climate, the greater window tint allowed.

For Consideration

- Driving with tinted windows at night is the same as driving with sunglasses on.
- Sunglasses are regulated by the Food and Drug Administration (FDA) as medical devices.
- Per the American National Standards Institute (ANSI) Cosmetic sunglasses must let through at least 40% of the visible light (not recommended for wear at night).
- Most people choose General Purpose sunglasses in the 15 to 25% VLT range.
- Some want Alaska's Tinted window law to allow tints that only allow 30% of VLT.

<http://www.vision1to1.com/EN/HomePage.asp?BGColor=3&Category=21&Article=97>

Common filter colors

- light gray, which transmits **35 to 43%** of visible light.
- dark gray, which transmits **14 to 25%** of visible light
- light brown or tan, which transmits **27 to 29%** of visible light
- dark brown, which transmits **18 to 27%** of visible light
- yellow, which transmits **68 to 71%** of visible light
- amber, a high-definition filter that inhibits blue light
- neutral gray or brown, for indoor or computer use, transmitting **60% of visible light**

Do tinted windows really
cause problems?

Police Officer Shot To Death After Car Chase

(March 24, 2007)--A Dallas police officer was shot and killed Friday after a car chase in which the suspect's car ended up nose to nose with the squad car, a police spokesman said.

Senior Corporal Mark Timothy Nix, 33, was declared dead at Parkland Memorial Hospital. He had been on the force nearly seven years and was a veteran of the first Gulf War. The car chase ended in a West Dallas neighborhood when the suspect lost control of his car.

The police car and the suspect's car ended up front bumper to front bumper.

A police spokesman says the suspect opened fire, shooting from inside his car.

The chase began around 5 p.m. after officers spotted the man, initially believed to be a **suspect in a killing** committed earlier this week, driving down the street, the spokesman said.

Police spokesman Vernon Hale said the car's dark, tinted windows initially prevented officers from knowing how many people were inside.

Texas Law allows 65% tint / 35% VLT - Front D/P

“The red and gray Chevrolet Caprice with customized rims, driven by Mr. Ruiz, had nearly blacked-out tinted windows, and the officers could see neither the race of the driver – the suspects in the Wednesday morning slaying were black – nor how many people were in the car”.

With his other hand, he yanked out his expandable baton, known as an asp, and began hammering on the window trying to break it.

The Caprice's window barely budged, held together by the heavy tint. He managed no more than a small hole when a shot came from inside the car. Police later found his baton and sidearm laying beside the car.

Mr. Ruiz fired at least one round from an assault rifle, which may have at some point jammed. The bullet pierced Senior Cpl. Nix's neck near his clavicle. He dropped to the ground. He did not fire his weapon.

Examples of other problems

- Chicago - Police officers unable to see clearly through a tinted window mistakenly shot a passenger they thought had a gun (cell phone). *Mayor vowed to ban all tinted windows.*
- Numerous examples of criminals who were not identified because witnesses could not see the driver through tinted windows.
- Collisions with motor vehicles and pedestrians blamed on poor visibility due to tinted windows.

- The National Highway Traffic Safety Administration has noted that tinted windows can hamper police in determining whether a vehicle's occupants are wearing seat belts or have their children properly protected in car seats.
- Heavy tints may also prevent other motorists from viewing the road ahead by looking through the cabins of cars in front of them - something many drivers do, especially when roads are congested.
- Tinted windows can impair a driver's vision, particularly at night, making it difficult to see pedestrians and bicyclists, for example.

TINT EXAMPLES

Taken from the Tint industry and photographs
of actual vehicles in Alaska



Nissan Maxima

70% VLT
(Light / Legal)

30% VLT
(medium)

5% VLT
(Heavy /Limo)

Note: pictures taken on a sunny day (see shadows), far harder to see inside during periods of low light



Ford Explorer - Front DR/PS 75% VLT Rear doors/windows 20% VLT (stock).



Dodge Durango - Front DR/PS 80% VLT Rear doors/windows
20% VLT (stock).



Toyota Avalon - Front DR/PS 70% VLT (stock), Rear doors 35% VLT, Rear Window 20% VLT (aftermarket).

Reasons not to change current law

- Our current standard assures that Alaskan vehicles are in compliance with the tinted window laws in most States and Canadian provinces.
- Increased visibility for the driver.
- Increased safety for pedestrians.
- Increased safety for Law Enforcement officers.

Reasons to support SB51

- Protects the public from unethical installers who would tint a vehicle, knowing that the installation is illegal.
- Will reduce the number of citations issued to motorists.
- Will increase safety on our highways.

You can always wear sunglasses on a sunny day, but can't take off window tint at night.

THANK YOU
ANY QUESTIONS?

**THE FOLLOWING PAGES
WERE TREATED AS A UNIT
IN THE ORIGINAL FILE**

SB 51

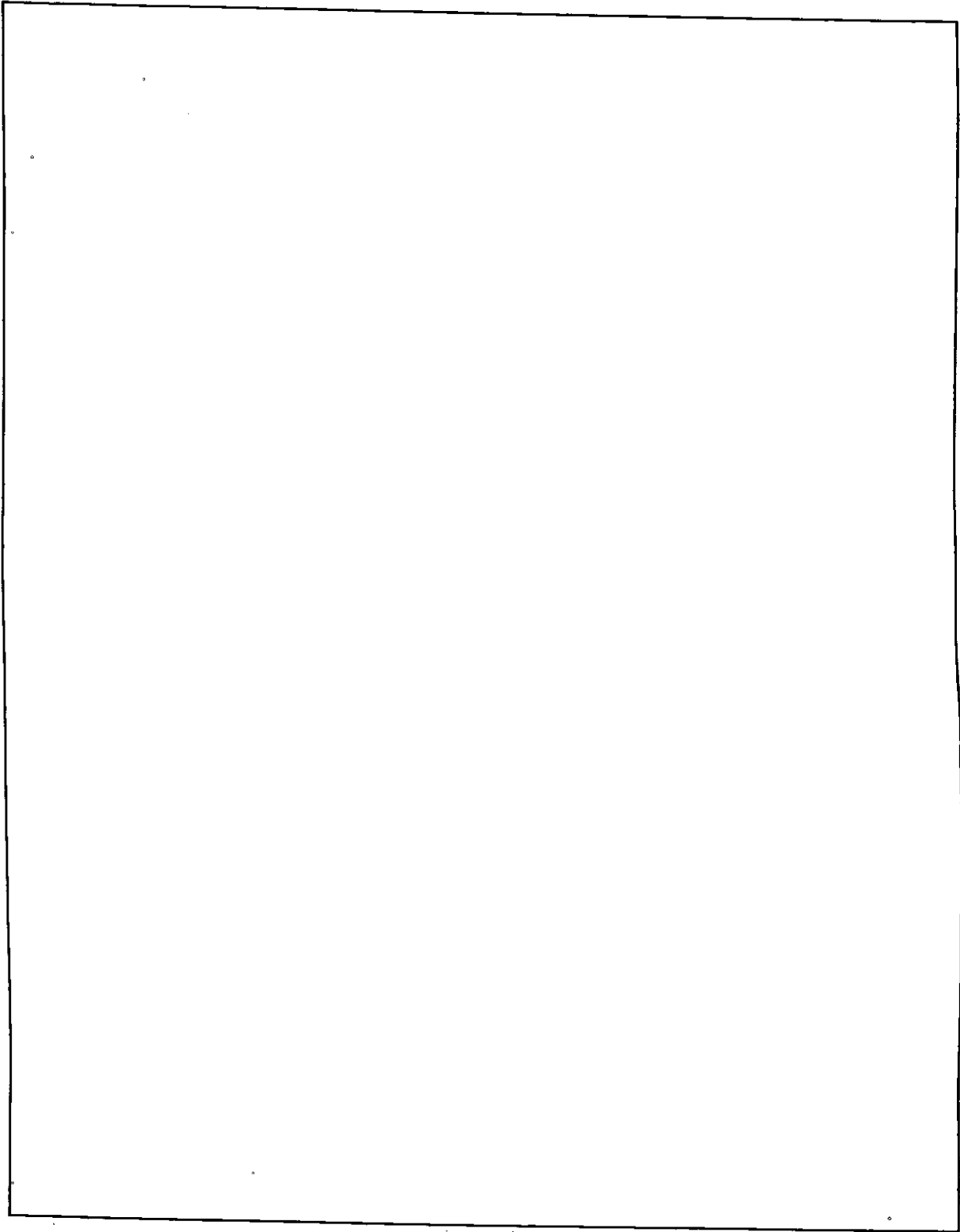
Revision

Proposed by

Bob Boswood, President

Auto Trim Design of Fairbanks Inc.







5%
"Dark"
window film



of Fairbanks, Inc.
2550 South Cushman Street
Fairbanks, Alaska 99701
Phone (907) 456-8400 Fax (907) 456-8406

1. SB51 as written will not accomplish goals of the sponsors, which is to eliminate the installation of unsafe dark 5% window films on passenger vehicles. The source of this dark tinting is not by reputable installers, it is almost always a black market installation or "fly by night" tint operation. Since there are already laws in place that make it illegal to drive cars on Alaska's roads with dark tint applied, SB51 in its current form only serves to foster and enhance black markets in the State of Alaska.

2. SB51 as written will cause lost jobs and lost profits for several small businesses in Alaska. These losses will have disastrous effects for such businesses during this time of economic downturn. It seems almost insane to create more unemployment and loss of tax base due to discriminatory legislation when there are safe compromises that will circumvent these presumably unintended consequences.

3. 45 other states recognize as safe and legal, window film light transmittance restrictions that still allow tint installers a saleable commodity, while adding safety and cosmetic value to the consumer's vehicle.

4. An amended SB51 could do a better job accomplishing the sponsor's goals, as well as allowing the automotive tint industry in the state of AK to continue to provide profits and jobs for Alaskans as follows:

A) Allowing industry standard 35% light transmittance window film to be installed on all windows (except windshield) of passenger vehicles is a safe and saleable commodity. The inward and outward visibility of 35% medium window film is very good for the driver as well as law enforcement officers and other drivers and or pedestrians approaching the vehicle. Additionally, this film provides health benefits in the form of reduced skin cancer risks, heat, and glare associated risks while driving or parked, increased safety against flying glass in the event of an accident, and cosmetic value.

B) Amended SB51 should consider additional penalties to discourage the installation of dark 5% window film. Perhaps not renewing business licenses of convicted offenders or private vehicle registrations of multiple offenders?

5. One further observation concerning the safety of police officers approaching the still illegal 5% dark tinted vehicles. It seems prudent to me that the officer would ask the operator of the vehicle over his/her bullhorn to roll down the windows or turn on the dome light prior to approaching the vehicle, thus allowing the officer to see inside the vehicle.

Thank You for your time and consideration,

Bob Boswood, President
Auto Trim Design of Fairbanks inc.

Bullet points for SB51 modification

- 1) As written, SB51 will change allowable automotive window tint percentages from regulatory to statutory law which allows for changes during review of this bill.
- 2) As written SB51 will not accomplish the goals of the sponsor.
- 3) As written SB51 will cause lost jobs and business closures in the State of Alaska during a time of economic crisis.
- 4) Forty four states have less restrictive tint laws than Alaska.
- 5) Ten of those states have relaxed their tint laws since 2000.
- 6) Aligning Alaska's tint laws with the majority of the United States will make Alaska more friendly for our military transplants and others who relocate here.
- 7) Our closest neighbor states, Washington, Oregon, Idaho, Montana are among those 44 states with less restrictive tint laws.
- 8) May through mid Aug, Alaska has more daylight then any other State in the union.
- 9) 35% Medium tint does not represent a risk to Law Enforcement, pedestrians, bikers, or other motorists. There is no statistical evidence to support any opposition of this point.
- 10) 35% Medium tint provides safety and health benefits.
- 11) 35% Medium tint can provide jobs for Alaskans and profits for Alaskan businesses.
- 12) 35% Medium tint brings Alaska in line with the vast majority tint laws of other States in the Union.
- 13) 35% Medium tint enhances the cosmetics of most vehicles and is of value to the consumer.

SENATE BILL NO. 51
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the installation of window tinting in automobiles."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 28.35 is amended by adding a new section to article 3 to read:

4 Sec. 28.35.271. Installation of window tinting. (a) A person commits the
5 offense of improper installation of window tinting if the person in this state installs
6 window tinting on a motor vehicle

7 (1) on the front windshield of the vehicle; notwithstanding this
8 paragraph, a person may install a strip of tinting material that is applied to the top edge
9 of the windshield that does not extend downward more than five inches from the top
10 of the glass;

11 (2) window film on the driver and front passenger side windows that does not allow
12 at least 35 percent light transmittance;

13 (3) window film on the rear door windows, quarter glasses, and back glasses that
14 does not allow at least 35 percent light transmittance;

15 (4) that is not green, gray, bronze, or neutral smoke in color, or a

SB0051A -1- SB 51
New Text Underlined [DELETED TEXT BRACKETED]

1 nonmirrored sun reflective auto film; or

2 (5) for compensation and does not install a window tint hologram that
3 identifies the installer and certifies that the window tinting complies with this section.

4 (b) Notwithstanding (a) of this section,

5 (1) limousines and passenger buses used to transport persons for hire,
6 motor homes, and vehicles identified by the vehicle manufacturer as multipurpose
7 may have tinting material that complies with standards set by the department in
8 regulation;

9 (2) the windows of a vehicle may have tinting material that permits
10 less light transmittance than that specified in (a) of this section if a driver or a
11 passenger who frequently travels in the vehicle is required for medical reasons to be
12 shielded from the direct rays of the sun and

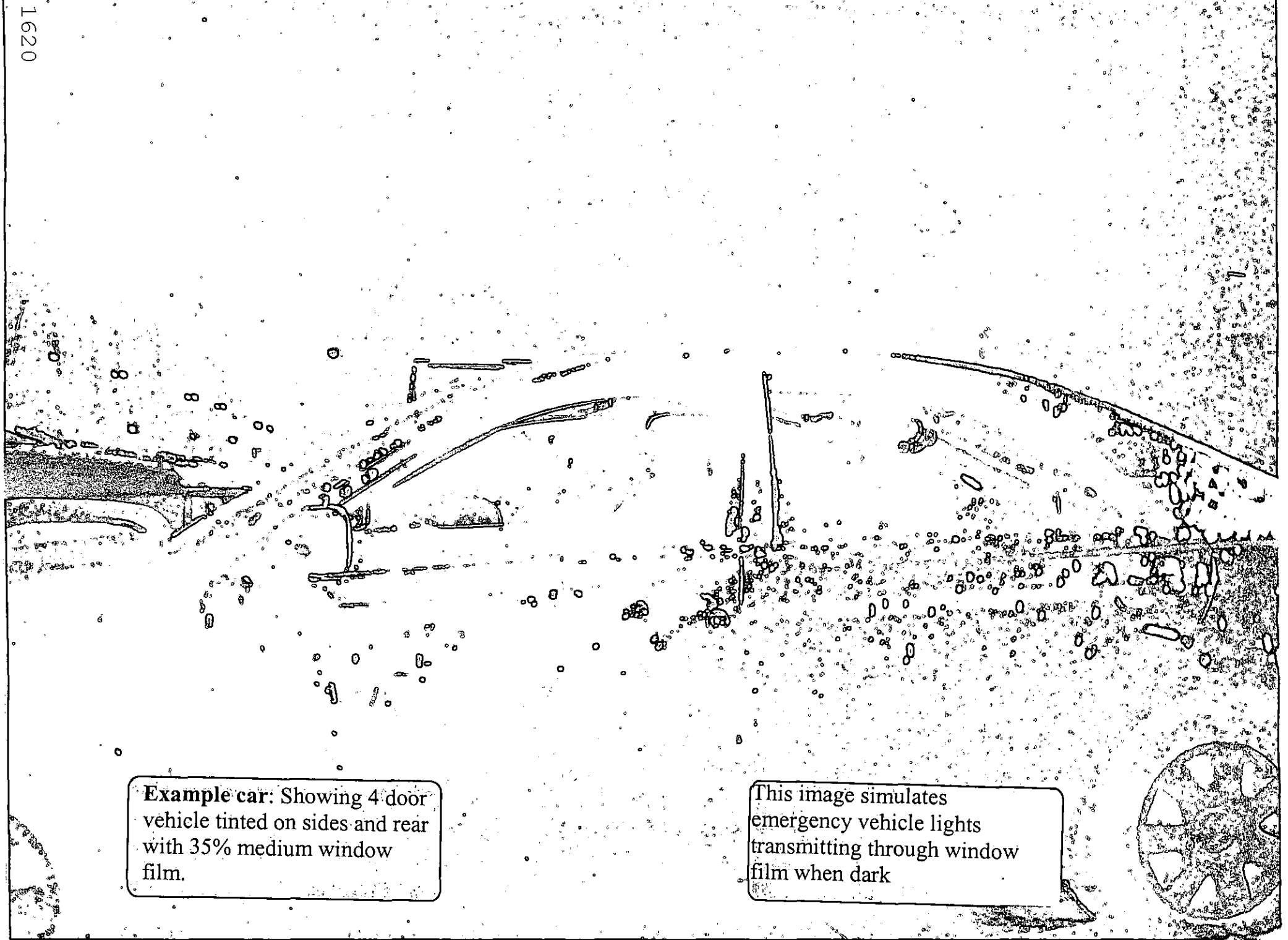
13 (A) the medical reasons are certified annually by a physician
14 licensed to practice in this state; and

15 (B) the certification is carried in the vehicle;

16 (3) law enforcement vehicles may have tinting material that varies
17 from the requirements of this section.

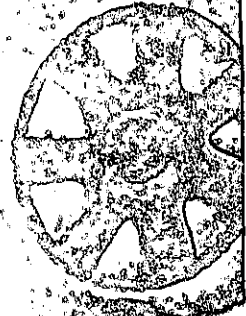
18 (c) In this section, "light transmittance" means the ratio, expressed as a
19 percentage, of the amount of total light that is allowed to pass through a window,
20 including glazing, to the amount of total light falling on the window.

21 (d) Improper installation of window tinting is an infraction.



Example car: Showing 4 door vehicle tinted on sides and rear with 35% medium window film.

This image simulates emergency vehicle lights transmitting through window film when dark



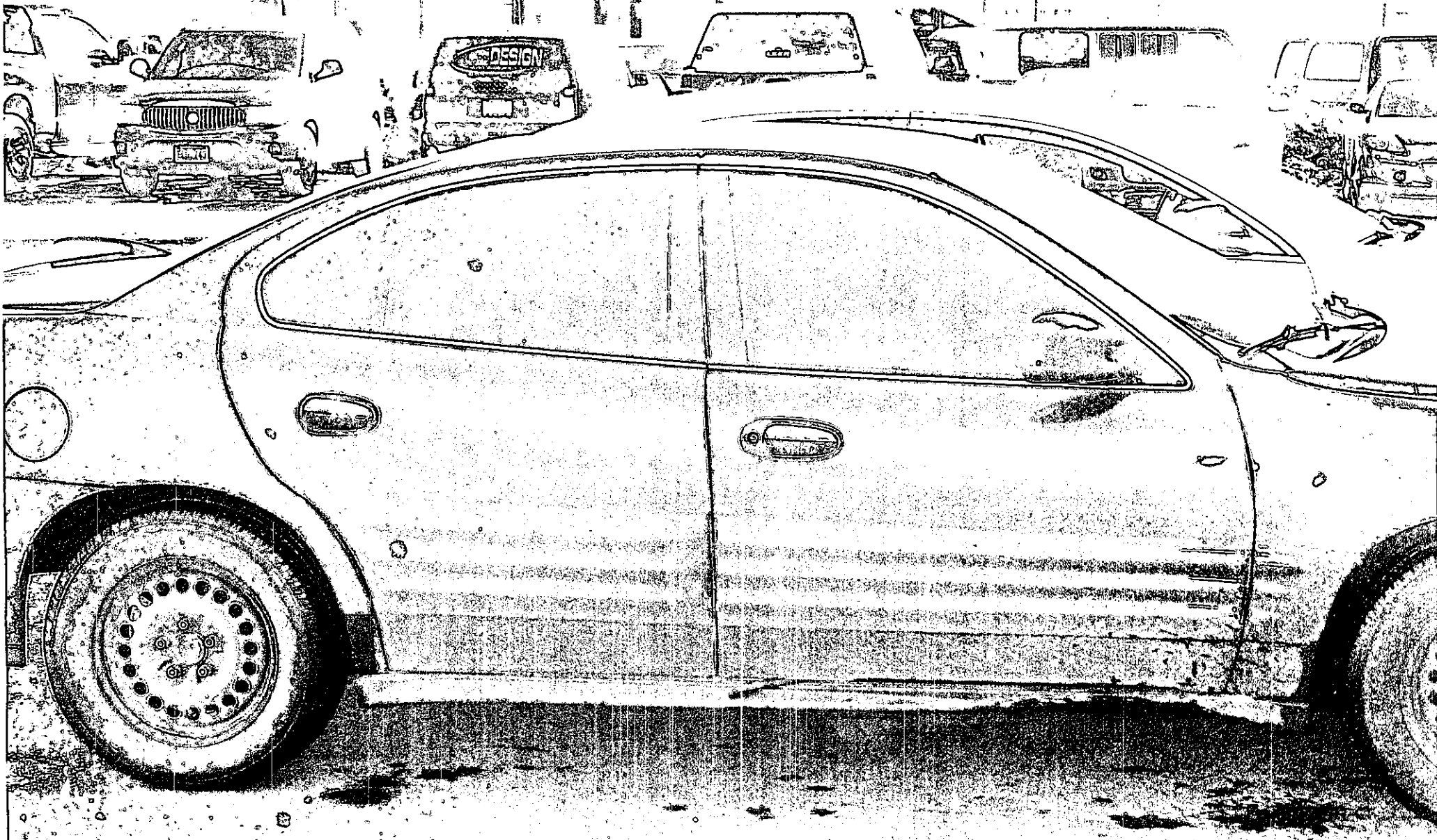


Example car: Showing 4 door vehicle tinted on sides and rear with 35% medium window film.

This image simulates emergency vehicle lights transmitting through window film when dark



This image shows same vehicle in the daylight.



Unsafe vehicle tinted with 5% dark film on sides and rear. SB51 will not stop this from happening.

A

STATE WINDOW TINTING RULES & LAWS

7/19/07 Updated			% OF VISIBLE LIGHT TRANSMISSION						% OF REFLECTIVITY		RESTRICTED COLORS				
ST	YEAR	TYPE	WIND-SHIELD	F.SIDE	B.SIDE	REAR	REAR	F.SIDE	B.SIDE	ALL GLASS	L&R.MIRR.	CERTIF.	STCKR/LOC	MEDICAL	
ENACTED				(car)	(MPV)	(car)	(MPV)	(SEE LEGEND)		(SEE LEGEND)	REQ.	REQ.			
AL	96	NET	6"	32	32	ANY	32	ANY	20	20	N/S	NO	YES	SPEC / ALL	YES
AZ	94	NET	AS1	33	ANY	ANY	ANY	ANY	35	35	R, A	YES	NO	NO	YES
AR	93	NET	5"	25	25	10	10	10	NR	NR	N/S	NO	NO	SPEC / DRIVER	YES
CA	98	NET	4"	70	ANY	ANY	ANY	ANY	MNIR	MNIR	R, A, B	YES	NO	NO	YES
CO	95	NET	4"	NO	ANY	ANY	ANY	ANY	NMMA	NMMA	R, A	NO	NO	NO	NO
CO	95	NET	4"	27	27	27	27	27	NMMA	NMMA	R, A	YES	NO	RECOMMEND	NO
CT	94	NET	AS1	35	35	ANY	ANY	ANY	21	27	N/S	YES	YES	SPEC/ALL	NO
DE	92	NET	AS1	70	ANY	ANY	ANY	ANY	NR	NR	N/S	YES	NO	SPEC / DRIVER	YES
FL	91	NET	AS1	28	15	8	15	6	25	35	ALL	YES	NO	SPEC / DOOR	YES
GA	2005	NET	6"	32	32	ANY	32	ANY	20	20	R, A	NO	NO	NO	YES
HI	89	NET	4"	35	35	ANY	35	ANY	NR	NR	N/S	YES	NO	NO	NO
IA	83	NET	AS1	70	ANY	ANY	ANY	ANY	NE	NE	N/S	NO	NO	NO	YES
ID	92	FILM	AS1	35	20	ANY	35	ANY	35	35	N/S	YES	NO	NO	YES
IL	98	NET	6"	NO	ANY	ANY	ANY	ANY	MBNR	MBNR	N/S	YES	NO	NO	YES
IN	2003	VAGUE	AS1	30	30	VAGUE	30	VAGUE	25	25	N/S	NO	YES	NO	YES
KS	87	NET	AS1	35	35	35	35	35	MBNR	MBNR	R, A, Y	YES	NO	RECOMMEND	NO
KY	94	FILM	AS1	35	18	8	18	8	25	25	N/S	NO	YES	SPEC/DOOR	NO
LA	93	NET	AS1	40	25	ANY	12	ANY	20	20	N/S	NO	YES	SPEC / DRIVER	YES
MA	85	NET	6"	35	35	35	35	35	35	35	N/S	YES	NO	RECOMMEND	YES
ME	1993	FILM	4"	50	50	ANY	50	ANY	MBNR	MBNR	N/S	YES	YES	NO	YES
MD	95	NET	5"	35	35	ANY	35	ANY	NONE	NONE	R, A, Y	YES	YES	SPEC/ALL	YES
MI	2000	NET	4"	4"	ANY	ANY	ANY	ANY	35	35	N/S	NO	NO	NO	YES
MN	85	VAGUE	NO	50	50	ANY	50	ANY	20	20	N/S	NO	NO	SPEC/DRIVER	YES
MO	2002	NET	AS1	35	ANY	ANY	ANY	ANY	35	35	N/S	YES	NO	NO	YES
MS	2006	NET	AS1	28	28	ANY	28	ANY	20	20	N/S	NO	YES	SPEC / ALL	YES
MT	91	FILM	AS1	35	20	ANY	20	ANY	35	35	N/S	NO	NO	RECOMMEND	YES
NC	2004	NET	AS1	35	35	ANY	35	ANY	20	20	R, A, Y	YES	NO	NO	YES
ND	2003	NET	70	50	ANY	ANY	ANY	ANY	NR	NR	N/S	YES	NO	NO	NO
NE	2006	NET	AS1 OR 5"	35	20	35	20	35	35	35	R, A, Y	VAGUE	NO	NO	YES
NJ	2003	NET	NO	NO	ANY	ANY	ANY	ANY	NMMA	NMMA	N/S	YES	NO	NO	YES
NM	97	NET	AS1 OR 5"	20	20	ANY	20	ANY	NONE	NONE	R, A, Y	YES	YES	SPEC / ALL	YES
NV	93	NET	AS1	35	ANY	ANY	ANY	ANY	NONE	NONE	N/S	YES	YES	NO	YES
OH	2004	NET	70	50	ANY	ANY	ANY	ANY	MNIR	MNIR	R, Y	YES	YES	SPEC/ALL	YES
OK	2005	NET	AS1 OR 5"	25	25	ANY	25	ANY	25	25	N/S	YES	YES	NO	YES
OR	2003	NET	6"	35	35	ANY	35	ANY	13	13	R, G, A, Y, BK	YES	YES	NO	YES
SC**	82	NET	AS1	27	27	ANY	27	ANY	MBNR	MBNR	R, A, Y	YES	YES	SPEC / ALL	YES
SD	89	NET	AS1	35	20	NR	20	NR	NR	NR	N/S	NO	YES	SPEC / ALL	YES
TN	90	NET	AS1	35	35	ANY	35	ANY	NR	NR	N/S	NO	NO	SPEC / ALL	YES
TX	2003	NET	AS1 OR 5"	25	25	ANY	ANY	ANY	25	25	R, B, A	YES	YES	SPEC / DRIVER	YES
UT	2005	NET	AS1	43	ANY	ANY	ANY	ANY	NMMA	NMMA	N/S	YES	NO	NO	YES
VT	84	NET	AS1	NO	ANY	ANY	ANY	ANY	NR	NR	N/S	YES	NO	NO	NO
VA	99	NET	AS1	50	35	ANY	35	ANY	20	20	R, A, Y	YES	NO	NONE	YES
WA	83	FILM	6"	35	35	ANY	35	ANY	35	35	R, Y, G, BK	YES	YES	SPEC / DRIVER	YES
WI	96	NET	AS1	50	35	35	35	35	MBNR	MBNR	N/S	YES	NO	NO	YES
WV	81	NET	5"	35	35	ANY	35	ANY	20	20	R, A, Y	YES	YES	SPEC / ALL	YES
WY	96	NET	AS1 OR 5"	28	28	ANY	28	ANY	20	20	N/S	YES	NO	NO	YES

This information is prepared for IWFA members by the Legislative Committee and consultants and represents our understanding of the law, regulations and rules of the states published in it. If you are an IWFA member and you have questions on these interpretations, call the IWFA office. In all cases, refer to your local authority for current laws, rules or regulations. Your current state law is the final authority.

* Medical Exemption Day Time Only **Pick-Up Trucks are not considered MPVs ***Above AS1 only
 ***V--exemption for vans and pickups (50%) with SUV replacement at factory level only

LEGENDS:

NET = VLT% refers to the combined LT of film and glass.
 Reflectivity: NR = NOT REGULATED, NE = NOT EXCESSIVE (NOT SPECIFIC), MBNR = MUST BE NON - REFLECTIVE (NOT SPECIFIC),
 MNIR = MUST NOT INCREASE REFLECTIVITY, NMMA = NO METALLIC OR MIRRORRED APPEARANCE, NONE = NO REFERENCE
 TO REFLECTIVITY IN THE CURRENT LAW.
 Colors: R = RED, A = AMBER, Y = YELLOW, B = BLUE, G = Gold, BK = BLACK, N/S = NOT SPECIFIED.

INTERNATIONAL WINDOW FILM ASSOCIATION

P.O. Box 3871
 Martinsville, VA 24116-8871
 Phone (276) 636-4982 • Fax (276) 636-4988 • E-mail: admin@iwfa.com
www.iwfa.com

Senate Bipartisan Working Group

Alaska's State Senate Majority Caucus
Today is Feb. 5th :: 73 First Session Days Left

[Home](#) [Press](#) [Bills](#) [Members](#) [Photos](#)



Senator Gary Stevens, Senate President



Senator Johnny Ellis, Majority Leader

Available Data for SB51

SB51

[SENATOR HOLLIS FRENCH](#)

[Statement PDF](#)

BILL LOOKUP:

SB.51

SPONSORED

BILLS:

Sponsor Statement

Senate Bill 51: "Motor Vehicle Window Tinting"

Illegally tinted motor vehicle windows create numerous safety concerns in Alaskan communities across the state. For peace officers, dark tints can completely block an outside view of a driver and passengers, hiding potential threats and essentially "blindfolding" officers conducting traffic stops. For pedestrians, bikers and motorcyclists, illegal window tinting prevents eye contact with a driver, which is the most effective way to confirm that a driver has seen them as they share the roads.

Alaska law, like all other states in the country, currently limits how dark window tinting can be on vehicles operated on roads in the state. Alaska differs from some other states, however, in that it doesn't currently penalize the professional businesses that make a profit installing illegal window tinting. This bill makes it an infraction to install illegal window tinting.

On top of posing a safety hazard to pedestrians and peace officers, tinting windows illegally can also be a costly endeavor for consumers. After paying hundreds of dollars for a custom tint job, a citation for driving with illegal window tinting runs at \$150. While a first citation is often a correctible offense, removing professional window tinting requires a second visit to a tinting business, since the product is difficult to pull off windows. While the consumer is out hundreds of dollars, a tinting business makes even more money.

In Anchorage alone, over 1,200 citations were given out for illegal tinting during 2006. Senate Bill 51 is an act that will protect peace officers, pedestrians and consumers, and I urge your support.

[SENATOR HOLLIS FRENCH](#)

SENATE BILL NO. 51

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR FRENCH

Introduced: 1/21/09

Referred: Transportation, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the installation of window tinting in automobiles."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1, AS 28.35 is amended by adding a new section to article 3 to read:

4 Sec. 28.35.271. Installation of window tinting. (a) A person commits the
5 offense of improper installation of window tinting if the person in this state installs
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7 (1) on the front windshield of the vehicle; notwithstanding this
8 paragraph, a person may install a strip of tinting material that is applied to the top edge
9 of the windshield that does not extend downward more than five inches from the top
10 of the glass;

11 (2) on the driver and front passenger side windows that does not allow
12 at least 70 percent light transmittance;

13 (3) on the rear door windows, quarter glasses, and back glasses that
14 does not allow at least 40 percent light transmittance;

15 (4) that is not green, gray, bronze, or neutral smoke in color, or a

1 nonmirrored sun reflective auto film; or

2 (5) for compensation and does not install a window tint hologram that
3 identifies the installer and certifies that the window tinting complies with this section.

4 (b) Notwithstanding (a) of this section,

5 (1) limousines and passenger buses used to transport persons for hire,
6 motor homes, and vehicles identified by the vehicle manufacturer as multipurpose
7 may have tinting material that complies with standards set by the department in
8 regulation;

9 (2) the windows of a vehicle may have tinting material that permits
10 less light transmittance than that specified in (a) of this section if a driver or a
11 passenger who frequently travels in the vehicle is required for medical reasons to be
12 shielded from the direct rays of the sun and

13 (A) the medical reasons are certified annually by a physician
14 licensed to practice in this state; and

15 (B) the certification is carried in the vehicle;

16 (3) law enforcement vehicles may have tinting material that varies
17 from the requirements of this section.

18 (c) In this section, "light transmittance" means the ratio, expressed as a
19 percentage, of the amount of total light that is allowed to pass through a window,
20 including glazing, to the amount of total light falling on the window.

21 (d) Improper installation of window tinting is an infraction.

SB

53

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/21/09

FURTHER: Finance

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 3/10/09

Transportation Committee considered SENATE BILL NO. 53

SB 53 APPROP.: BRIDGES, SERVICE ROADS, TRAILS

"An Act making special appropriations for bridge repairs and construction and road construction; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#
DOT P/E	3/6/09			✓	

Department	Date	Fiscal	Indet	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Linda Menard</i>	Menard			X	
<i>Benny Davis</i>	Davis			X	
<i>Ke Meyer</i>	MEYER			X	
<i>Joe Pashavan</i>	PASHAVAN			X	
CHAIR <i>Cliff Kober</i>	KOBER	X			

ALASKA DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

STATEWIDE DESIGN & ENGINEERING SERVICES

BRIDGE STATUS REPORT – March 6, 2009

Contact: Roger Healy, P.E., Chief Engineer 465-6958

Project Development Timeline – Bridges

All projects take time to bring from concept through completion: federally funded projects take longer yet. It is not unusual for the project development process (funding authorization, preliminary design, permits, environmental clearances, final design, bidding, and award) to take multiple years. Bridge projects have further challenges in preconstruction and construction because of historic structure considerations, river hydraulics, wetland impacts, Coast Guard clearances, fish permit timeframes, traffic detours, temporary bridges, and seasonal construction windows.

Bridge Work Present and Future

The focus of the following lists is bridges owned and maintained by the DOT&PF. Future anticipated Project Costs are preliminary and will change. The following lists identify:

- Major Bridge work underway or completed in the 2008 construction season;
- Major Bridge work anticipated for construction in the 2009 construction season;
- Major Bridge design and construction work for Structurally Deficient bridges without complete funding through design and/or construction;
- Structurally deficient bridges of major significance that, subject to available funding, must be replaced or undergo rehabilitation in the future.

Major Bridge Construction Work in 2008

Bridge	Highway/Location	Project Cost or Bridge Component (BC) Cost	Notes
Hick's Creek	Glenn Highway	~\$4M (BC)	Open to Traffic
South Channel	Unalaska	~\$20M	Open to Traffic
North Pole Interchange	Richardson/North Pole	~\$2M (BC)	Open to Traffic
Susitna River Br. Rehab	Talkeetna	~\$5.5M(BC)	Open to Traffic
ADOT Maintenance Repairs	Statewide	~\$250K	Open to Traffic

Anticipated Bridge Construction Work 2009 – Funds Identified for Design/Construction

Bridge	Highway/Location	Project Cost or Bridge Component (BC) Cost	Notes
Tanana River	Alaska Highway	~\$40M	Bid on 2/26/2009
Gakona River	Tok	~\$5M	2009 Stimulus - Fast List
Shaw Creek	Richardson	~\$3M (BC)	GF Funded
Barnette Street	Chena River/Fairbanks	~\$4M	FMATS TIP
Tok River	Alaska	~\$380K	2008 G.O. Bonds for Future STIP Eligibility

On System Major Bridge Work – Planning and Design – Majority of Funds Identified

Bridge	Highway/Location	Project Cost or Bridge Component (BC) Cost	Notes	Proposed Funding Source
Snake River	Nome	~\$10M	Replacement	2008 G.O. Bonds
Wood River	Aleknagik	~\$20M	New Crossing	2008 G.O. Bonds
Ptarmigan Creek	Seward Highway	~\$2M	Emergency Temp. Repairs	2008 G.O. Bonds
Falls Creek	Seward Highway	~\$2.5M	Emergency Temp. Repairs	2008 G.O. Bonds
Trail River	Seward Highway	~\$6.5M	Emergency Temp. Repairs	2008 G.O. Bonds
Slana River	Tok	~\$6M	Replacement	2008 G.O. Bonds
Taiya River	Dyea/Skagway	~\$1.5M	Load Rated/Rehab	2008 G.O. Bonds
Tolsona Creek	Glenn	~\$1.5M	Replacement	2008 G.O. Bonds

FUTURE FUNDING

DOT&PF anticipate between \$20M to \$25M annually in federal Bridge Replacement monies for bridge replacement and rehabilitation. The limited federal Bridge Replacement (BR) funds will be prioritized based on needs for safety and transportation efficiency. Project costs are rough.

On System Bridge Work – Funds Not Secured – STIP Nominations for Federal Bridge Replacement Funds

Bridge	Highway/Location	Project Cost or Bridge Component (BC) Cost	Notes	Proposed Funding Source
Tok River	Alaska Highway	~\$10.0M	Replacement – Functionally Obsolete/Gas Line Support	2009 STIP Nomination for Design
Moose Creek RR Xing	Richardson	~\$14M	Replacement	2009 Stimulus – Contingent
Ketchikan Viaducts	Tongass	~\$7.15M	Rehabilitation	2009 Stimulus – Contingent
Livengood Creek	Old Elliot	~\$1.0M	Structurally Deficient - Replacement	2009 STIP -Potential Nomination for Design Funds
Phelan Creek	Richardson	~\$2.5M	Replacement Structurally Deficient - Replacement	2009 STIP -Potential Nomination for Design Funds
Ruby Creek	Richardson	~\$2.0M	Replacement - Structurally Deficient	2009 STIP -Potential Nomination for Design Funds
Snow River Center	Seward	~\$1.8M	Rehabilitation - Structurally Deficient	2009 STIP -Potential Nomination for Design Funds
Snow River West	Seward	~\$5M	Rehabilitation – Structurally Deficient	2009 STIP -Potential Nomination for Design Funds
S. Fork Anchor River	Sterling	~\$2.5M	Replacement – Structurally Deficient	2009 STIP -Potential Nomination for Design Funds
Ptarmigan Creek	Seward Highway	~\$4.0M	Permanent Replacement	2009 STIP
Falls Creek	Seward Highway	~\$3.0M	Permanent Replacement	2009 STIP
Trail River	Seward Highway	~\$8.5M	Permanent Replacement	2009 STIP
	TOTALS	~\$55M to \$65M		FHWA BR Funds

Structurally Deficient On-System Major Bridge Work – Future

Bridge	Highway/Location	Bridge Component Cost (est.)	Notes
Twenty Mile River	Seward Highway	~\$25M	Seward Hwy MP75 to 90 – STIP ID# 11925
Virgin Creek	Seward Highway	~\$7M	Seward Hwy MP75 to 90 – STIP ID# 11925
No Name Creek	Halibut Pt. Road	~\$3M	Future Fund Request
Mendenhall River	Glacier Highway	\$3.0M for Design	2010 Gov Budget for Design, Construction out-years
Portage Creek No. 1	Seward Highway	~\$10M	Seward Hwy MP75 to 90 – STIP ID# 11925
Portage Creek No. 2	Seward Highway	~\$12M	Seward Hwy MP75 to 90 – STIP ID# 11925
Peterson Creek	Seward Highway	~\$5M	Seward Hwy MP75 to 90 – STIP ID# 11925
Glacier Creek	Seward Highway	~\$15M	Seward Hwy MP75 to 90 – STIP ID# 11925
Placer River Main	Seward Highway	~\$20M	Seward Hwy MP75 to 90 – STIP ID# 11925
Placer River Overflow	Seward Highway	~\$13M	Seward Hwy MP75 to 90 – STIP ID# 11925
Gerstle River	Alaska Highway	~\$55M	Future Fund Request
O'Connor Creek	Goldstream Road	~\$1.5M	Future Fund Request
Klehini River	Porcupine River	~\$7M	Future Fund Request
	TOTALS	~\$160M to ~\$200M	

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
1292 Sadler Way, Suite 308
Fairbanks, Alaska 99701
(907) 488-0857
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Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
SENATE DISTRICT F

Senator Gene Therriault

Sponsor Statement Senate Bill 53

.....

The intent of Senate Bill 53 is to once again provide a focus point for legislators to understand more clearly the structural integrity and corresponding repair needs of our current system of highway bridges.

The Department of Transportation will provide a list, photographs and a detailed report of the bridges it has deemed in need of critical repair. This first phase of this effort is underway with a portion of funding to work down the list of these deficient bridges.

As we prepare for the great loads of infrastructure needed for the gas line and other statewide projects, the need for bridge repairs and, or, replacements is more important than ever. Increasing both the number and weights of loads over these bridges demands the highest level of attention by those who design and maintain them. Senate Bill 53 brings this issue back before the legislature so policy makers can be made aware of the highest priority projects and what funding is needed to address them.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 53
() Publish Date: _____

Identifier (file name): SB53 -DOT-DES-3-06-09
Title: Approp: Bridges, Service Roads, Trails
Sponsor: Sen. Theriault
Requester: S. TRA
Dept. Affected: DOT&PF
RDU: Design Engineering & Construction
Component: Statewide Design & Eng. Services
Component Number: 2357

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

No operating funds are necessary for implementing the funding in this appropriation bill.

Prepared by: Mary Siroky, Legislative Liaison
Division: Department of Transportation and Public Facilities
Approved by: Nancy Slagle, Admin Director
Department of Transportation and Public Facilities

Phone 465-4772
Date/Time 3/6/09 5:25 PM
Date 3/6/2009

SB

59

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/21/09

FURTHER: Judiciary

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Transportation Committee considered SENATE BILL NO. 59

SB 59 LOW-SPEED MOTOR VEHICLES

"An Act relating to the operation of low-speed vehicles."

and recommends:

- be replaced with SCS or CS CSSB (TRA) (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#
DOT	2/13			V	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>K. Muen</i>	Meyer	X			
<i>Betty D. and</i>	DAVIS	X			
<i>Joe Packman</i>	MENARD ROSKVAN	X			
CHAIR: <i>Robert G. ...</i>	KOOKESH	X			

26-LS0280VP
Luckhaupt
2/24/09

CS FOR SENATE BILL NO. 59()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR STEDMAN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the operation of low-speed vehicles."**

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

3 *** Section 1.** AS 28.15.261(b) is repealed and reenacted to read:

4 (b) The operator of a low-speed vehicle may not operate that vehicle on a
5 highway

6 (1) within a municipality that has a maximum speed limit of more than

7 (A) 35 miles an hour, and may cross a highway that has a
8 maximum speed limit of more than 35 miles an hour if the crossing is made at
9 the intersection with a highway that is authorized for low-speed vehicles;

10 (B) 45 miles an hour, and may cross a highway that has a
11 maximum speed limit of more than 45 miles an hour if the crossing is made at
12 the intersection with a highway that is authorized for low-speed vehicles, if the
13 municipality

14 (i) has a population of less than 25,000;

15 (ii) is not connected by road to Anchorage or Fairbanks;

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and

(iii) has passed an ordinance allowing for the operation of low-speed vehicles as provided in this subparagraph;

(2) connected by road to Anchorage or Fairbanks in the unorganized borough that has a maximum speed limit of more than 35 miles an hour, and may cross a highway that has a maximum speed limit of more than 35 miles an hour if the crossing is made at the intersection with a highway that is authorized for low-speed vehicles;

(3) not connected by road to Anchorage or Fairbanks in the unorganized borough that has a maximum speed limit of more than 45 miles an hour, and may cross a highway that has a maximum speed limit of more than 45 miles an hour if the crossing is made at the intersection with a highway that is authorized for low-speed vehicles.

CS FOR SENATE BILL NO. 59()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR STEDMAN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the operation of low-speed vehicles."**

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

3 *** Section 1.** AS 28.35.261(b) is amended to read:

4 (b) The operator of a low-speed vehicle may not operate that vehicle on a
5 highway within a municipality that has a maximum speed of more than 35 miles an
6 hour. Notwithstanding this subsection, the operator of a low-speed vehicle may cross a
7 highway that has a maximum speed limit of more than 35 miles an hour if the crossing
8 is made at the intersection with a highway that is authorized for low-speed vehicles.

9 *** Sec. 2.** AS 28.35.261 is amended by adding a new subsection to read:

10 (d) Notwithstanding (b) of this section, the operator of a low-speed vehicle
11 may operate that vehicle on a highway that has a maximum speed of 45 miles an hour
12 or less and may cross a highway that has a maximum speed limit of more than 45
13 miles an hour if the crossing is made at the intersection with a highway that is
14 authorized for low-speed vehicles in

15 (1) areas of the state outside of municipalities; or

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(2) a municipality

(A) with a population of less than 25,000;

(B) that is not connected by road to Anchorage or Fairbanks;

and

(C) that has passed an ordinance allowing for the operation of low-speed vehicles as provided in this subsection.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: _____
() Publish Date: _____

Identifier (file name): SB59-DOT-SDE-2-13-09
Title: Medium Speed Motor Vehicles
Dept. Affected: DOT&PF
RDU: Design and
Component: Design and Construction
Sponsor: Sen. Stedman
Requester: S. TRA
Component Number: 2357
Statewide Design and Engineering

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

There will be no fiscal impact to the Department of Transportation and Public Facilities.

Prepared by: Mary Siroky, Legislative Liaison
Division: Department of Transportation and Public Facilities
Approved by: Nancy Slagle, Admin Director
Department of Transportation and Public Facilities

Phone 465-4772
Date/Time 2/13/09 4:30 AM
Date 2/13/2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 59
() Publish Date: _____

Identifier (file name): SB059-DOA-DMV-02-16-09
Title: "An Act Relating to the operation of low-speed vehicles."
Sponsor: SEN Stedman
Requester: S (TRA)
Dept. Affected: Administration
RDU: Motor Vehicles
Component: Division of Motor Vehicles
Component Number: 2348

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	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								
1156 Receipt Supported Services								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

Low speed vehicles are defined as those vehicles with a minimum speed of 20 mph and a maximum speed of 25 mph. Because this bill addresses the maximum speed of the roadway on which a low speed vehicle can operate and does not change the definition of a low speed vehicle, this bill does not fiscally impact the Division of Motor Vehicles.

Prepared by: Whitney Brewster
Division: Motor Vehicles
Approved by: Kevin Brooks
Deputy Commissioner

Phone 907-269-5559
Date/Time 2/15/09 4:30 PM
Date 2/16/2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 059(TRA)
() Publish Date: _____

Identifier (file name): SB059(TRA)-DPS-DET-02-13-09 Public Safety
Title "An Act relating to the operation of low-speed vehicles." RDU Alaska State Troopers
Sponsor Senator Stedman Component AST Detachments
Requester Senate Transportation Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill amends AS 28.35.261(b) by allowing low-speed vehicle operation on highways with posted speed limits up to 45 miles per hour. This is an increase from the current 35 mph limit.

Passage of this legislation will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial
Division Alaska State Troopers
Approved by: Joseph Masters, Commissioner
Department of Public Safety

Phone 907-247-4480
Date/Time 2/16/09 3:47 PM
Date _____

ALASKA STATE LEGISLATURE

SESSION

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Senator_Bert_Stedman@legis.state.ak.us



INTERIM

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SENATOR BERT K. STEDMAN

MEMORANDUM

**TO: Senator Albert Kookesh, Chairman
Senate Transportation Committee**

**CC: Senator Linda Menard
Senator Bert Stedman**

FROM: Weston Eiler, Legislative Aide

DATE: February 24, 2009

RE: Senate Bill 59 - Hearing Questions Follow-Up

Senator Stedman would like to follow-up on questions raised during the February 17th Senate Transportation Committee hearing on Senate Bill 59. Committee members raised questions regarding the number of low-speed vehicles in Alaska and comparative policy examples with the State of Kentucky.

According to the Alaska Division of Motor Vehicles there are approximately 20 low-speed vehicles currently registered in Alaska. Additionally, there are another 20 low-speed vehicles for sale by dealers in communities such as Petersburg.

In August of 2008, Kentucky Governor Steve Beshear signed an executive order authorizing the use of low-speed electric vehicles on roads with speed limits of 45 miles per hour. The order was in response to high fuel prices and followed a finding by the governor's transportation cabinet that low-speed vehicles could operate safely on state highways. State officials estimate there are 50 low-speed vehicles operating in Kentucky. The Kentucky State Legislature is currently considering legislation that would codify the executive order. The brief time span since the issuance of the executive order has limited Kentucky from generating statistics on the order's effect on safety; but state transportation officials describe expanding the jurisdiction of low-speed vehicles as a productive action.

The attached documentation details the State of Kentucky's policies. Please feel free to contact our office if you have any questions.

KY Agencies KY Services

 Search

GOVERNOR STEVE BESHEAR

COMMONWEALTH OF KENTUCKY



Governor Steve Beshear Press Release

Governor Steve Beshear's Communications Office

Gov. Beshear signs executive order allowing electric cars

Press Release Date: Tuesday, August 05, 2008

Contact Information: Jay Blanton
502-564-2611

Order will give Kentuckians a new way to save on fuel costs

FRANKFORT, Ky. – Gov. Steve Beshear today signed an executive order directing the Transportation Cabinet to immediately develop and implement an emergency regulation authorizing the use of low-speed electric vehicles on Kentucky's roadways.

"Kentuckians, like all Americans, are hard hit by record-high gas prices," Gov. Beshear said at a news conference announcing the order. "These tough times call for creative solutions, and I believe allowing Kentuckians the option of using an electric vehicle is one of those solutions. Electric vehicles may help ease the burden on the pocketbooks of hard-working Kentucky families, as well as reduce their carbon footprint."

"In addition, my administration will also aggressively pursue any economic development opportunities to recruit manufacturers and the jobs that come with this growing field," the Governor added.

Following a recent review of low-speed electric vehicles ordered by the Governor, the Transportation Cabinet reported that under certain conditions, such vehicles can operate safely on Kentucky's highways.

"We're in favor of new and innovative transportation technologies," Transportation Secretary Joe Prather said. "We will work diligently to develop and implement standards to ensure safe operation of these vehicles on Kentucky roads."

The executive order calls on Secretary Prather to immediately develop and implement the standards for authorizing the use of Low Speed Electric Vehicles upon Kentucky's roadways; defines a low-speed electric vehicle; and identifies rules under which a person may operate these vehicles.

The executive order also calls on Secretary Prather to report to the Governor by Dec. 1, 2008, any recommendations for legislation, additional regulation, or other policy and procedures needed to facilitate the safe use of low speed electric vehicles in Kentucky.

In addition, the Cabinet for Economic Development and other state and local agencies are currently engaged in

efforts designed to retain and recruit major manufacturers of low-speed electric vehicles.

###

[View a copy of the Executive Order \(150KB PDF\)](#)
[Listen to audio from the Press Conference \(1MB MP3\)](#)

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STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2008-824
August 5, 2008

RELATING TO LOW-SPEED ELECTRIC VEHICLES

WHEREAS, gasoline and diesel prices are at record highs, with the average price for a gallon of gas now hovering near \$4.00 nationwide – the highest ever if adjusted for inflation, and oil is regularly trading over \$120.00 a barrel; and

WHEREAS, a *USA Today*/Gallup poll showed that Americans are driving fewer miles, a decline not seen since 1979, despite increases in population, households, drivers and vehicles; and

WHEREAS, families throughout the nation are feeling the pinch, with 60 percent of Americans trimming other expenses to pay for rising fuel costs and even more changing their driving habits to save money on fuel; and

WHEREAS, I recently directed the Kentucky Transportation Cabinet (“Cabinet”) to investigate the ramifications of allowing low-speed electric vehicles to operate on Kentucky’s highways, including any safety or other issues; and

WHEREAS, the Cabinet has advised me that under the conditions set out below, such vehicles can operate safely on Kentucky’s highways; and

WHEREAS, the Cabinet for Economic Development and other state and local agencies are currently engaged in efforts designed to retain and recruit major manufacturers of low-speed electric vehicles which ultimately impact the state’s economy in a significant way; and

WHEREAS, allowing the use of such vehicles will provide Kentuckians a way to save energy costs and at the same time reduce their carbon footprints:



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2008-824
August 5, 2008

NOW THEREFORE, I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, by virtue of the power and authority vested in me by the Constitution and laws of Kentucky, and KRS 12.029, do hereby ORDER and DIRECT the following:

- I. The Secretary of the Transportation Cabinet shall immediately develop and implement the following standards by emergency regulation for authorizing the use of Low Speed Electric Vehicles upon Kentucky's highways:
 - A. Low-speed electric vehicle means a motor vehicle that:
 - (1) Is designed to operate at a speed of not more than fifty (50) miles per hour;
 - (2) Is self-propelled using an electric motor;
 - (3) Is three (3) or four (4) wheeled;
 - (4) Meets or exceeds the federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R. sec. 571.500; and
 - (5) Displays a seventeen (17) character vehicle identification number that meets the requirements set forth in 49 C.F.R. pt. 565.
 - (6) A person may operate a low-speed electric vehicle on a highway in this state if:
 - (i) The posted speed limit of the highway is forty-five (45) miles per hour or less;
 - (ii) The operator of a low-speed electric vehicle does not cross a roadway at an at-grade intersection where the roadway being crossed has a posted speed limit of more than forty-five (45) miles per hour unless the intersection is equipped with an electronic traffic signal;
 - (iii) The operator has a valid operator's license in his or her possession; and
 - (iv) The low-speed electric vehicle has not been modified to increase its speed above its original standard manufactured limit.



STEVEN L. BESHEAR
GOVERNOR


EXECUTIVE ORDER

2008-824
August 5, 2008

Secretary of State
Frankfort
Kentucky

- B. A low-speed electric vehicle operating on a highway shall be insured in compliance with KRS 304.39-080 by the owner or operator, and the proof of insurance shall be inside the vehicle at all times of operation on a highway.
 - C. A low-speed electric vehicle operating on a highway is considered to be a motor vehicle as defined in KRS 186.010(4) and shall be titled in accordance with KRS Chapter 186A and registered as a motor vehicle in accordance with KRS 186.050(3)(a).
 - D. An operator of a low-speed electric vehicle operating on a highway shall comply with the traffic regulations of KRS Chapter 189 and shall be subject to the provisions of KRS Chapter 189A.
2. The Secretary of the Transportation Cabinet shall report to me, no later than December 1, 2008, any recommendations for legislation, additional regulation, or other policy and procedures, to facilitate the safe use of low speed electric vehicles in Kentucky.
 3. The Transportation Cabinet, the Department of Revenue and the Department of Insurance shall take all necessary steps to implement this order.


STEVEN L. BESHEAR, GOVERNOR
Commonwealth of Kentucky


TREY GRAYSON
Secretary of State

SB

72

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/21/09

FURTHER: State Affairs

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Transportation Committee considered SENATE BILL NO. 72

SB 72 CHILD SAFETY SEATS & SEAT BELTS

"An Act relating to use of child safety seats and seat belts."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title

HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#

Department	Date	Fiscal	Indet	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Linda Menard</i>	MENARD	X			
<i>Benny Damm</i>	DAVIS				
<i>Kj M...</i>	Meyer	X			
<i>Joel...</i>	PASKVAN	X			
CHAIR: <i>Allent Korn</i>	KORNEST				



February 4, 2009

The Honorable Senator Hollis French and Members of the State of Alaska Legislature

Dear Senator French and Member of the Alaska Legislature,

On behalf of Safe Kids Alaska, I urge you to support Senate Bill 72, the proposed upgrade to Alaska's child passenger safety law. I strongly urge you to approve this legislation in its entirety during the current legislative session.

As you may know, motor vehicle crashes remain the leading cause of unintentional injury-related death among children ages 14 and under. Each year, nearly 1,600 child occupants ages 14 and under die in motor vehicle crashes and close to 228,000 are injured as occupants in motor vehicles. Unrestrained children are more likely to be injured, to suffer more severe injuries, and to die in motor vehicle crashes than children who are restrained.

We know that strong occupant protection laws that are consistently enforced are one of the best ways to prevent injuries and save children's lives. Senate Bill 72, if enacted into law, would close a significant gap in Alaska's child occupant protection law by clearly requiring some older children to ride properly restrained in a booster seat or high-weight-harness child restraint, secured by the motor vehicle's safety belt system.

If Safe Kids Alaska can be of any assistance to you regarding Senate Bill 72, please do not hesitate to contact me. Thank you for your leadership on this important safety initiative for Alaska's children!

Sincerely,

Sara L. Penisten, RN, BSNS, CPSTI
Safe Kids Alaska State Coalition Coordinator
Child Passenger Safety Technician Instructor
The Children's Hospital at Providence
Telephone: (907) 261-3194
Email: safekidsak@providence.org

Safe Kids Alaska: Preventing Childhood Injury in The Last Frontier

Support Letter: SB 72: Child Safety Seats and Seat Belts

As a private citizen, I support clarification of the current Alaska Child Passenger Safety Law by re-writing, in terms more easily understood, the recommendations of the Departments of Transportation and NHTSA. The reference for parents to look and follow DOT recommendations was always the goal of the original 1985 law.

Correct positioning of children riding in cars and booster seats DO save lives and DO prevent life long injuries. We have discovered since the writing the original law, through the advancement of technology, of on-scene crash investigations, hands-on emergency trauma treatment, through pediatric intensive care, and months, if not years, of rehabilitation due to the serious consequences of non-use and misuse of child restraints, how current law has been the misinterpreted.

I have been an emergency department registered nurse in three major western trauma centers during my 42 professional years. The last 22 of those years, I worked in the largest emergency department in an Anchorage, Alaska and coordinated a statewide, national injury prevention program for children.

Currently, in "retirement", I serve as the Chair of the Alaska Committee for Child Passenger Safety (CPS) and am a nationally certified CPS Instructor.

Beginning in 1987 in Alaska, CPS technicians and instructors began "checking" car seats, educating parents and caregivers how to choose and correctly install seats. Annual evaluation of thousands of car seat "check" records, indicated an 85% misuse rate in the most commonly used seats, with three or more critical errors. We also continued to find, through the years, parents and caregivers misunderstood the Alaska Child Passenger Safety Law. Most, when questioned, said the law allowed children to turn forward facing BEFORE one year of age and children could MOVE to a "safety belt" at age 4.

Due to muscle instability and bone growth, children MUST remain rear facing until they are at the very least one-year of age and 20 pounds. The American Academy of Pediatrics recommends, barring any medical conditions, children remain rear facing for even longer depending on the range of the car seat. Car seat belts (lap only and lap-shoulder) were designed by all car manufacturers for individuals over 4 foot 9 inches and heavier than originally indicated, fitting over the upper thighs, across the chest, with knees bent at seat edge, feet touching the floor, holding an individual safely in the restraint.

It is past time to join the majority of states and update Alaska's Child Passenger Safety Law. We have the knowledge and the data indicating children are at risk if not secured properly and secured in booster seats for a longer period than previously indicated. Parents look to our current law for guidance and have been confused, putting children at risk.

There is nothing quite so tragic as the loss of a child due to preventable injuries.

Thank you for your consideration: Margaret (Peggy) Hayashi, R.N.



American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN™



Alaska Chapter

January 26, 2009

Alaska Chapter Executive Committee

President

Jodyne L. Butto, MD, FAAP
3340 Providence Drive, Ste. 466
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Phone: 907/562-2423
Fax: 907/563-1170
E-mail: jlbutto@gci.net

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www.aapalaska.org

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141 Northwest Point Blvd
Elk Grove Village, IL 60007-1098
Phone: 847/434-4000
Fax: 847/434-8000
E-mail: kidsdocs@aap.org
www.aap.org

Jon Cook
PO Box 71577
Fairbanks, AK 99707

Dear Mr. Cook,

On behalf of the Alaska Chapter AAP I would like to lend our chapter's support for SB 72 that will update and modernize our Child Safety Seat laws to include the use of booster seats, and to spell out safe practices of child restraint devices that are appropriate for infants and children of all ages.

Seat belts are made for adults. Children should stay in a booster seat until adult seat belts fit correctly, usually when the child reaches 4' 9" in height and is between 8 and 12 years of age. The Alaska Chapter AAP recommends that state child safety seat laws are brought up to this standard.

Results from the 2007 National Survey of the Use of Booster Seats conducted by the National Center for Statistics and Analysis of the National Highway Traffic Safety Administration reveals alarmingly that booster seat use rates for children ages 6 and 7 dropped from 36 percent in 2006 to 25 percent in 2007. The study concludes that there is premature graduation of children from birth to age 12 to restraint types that are inappropriate for their height or weight.

SB 72 would help to alleviate confusion among parents and caregivers as to which safety devices are appropriate for their children. Alaska's pediatricians are happy to do their part by counseling parents during doctors' visits on how to keep their children safe while riding in vehicles.

Sincerely,

Jodyne L. Butto, MD, FAAP
President

Alaska Auto Dealer's Association

P.O. Box 71577

Fairbanks, Alaska 99707

February 4, 2009

Re: SB 72

To All Members of the House and Senate:

The Alaska Auto Dealers Association Board of Directors passed a unanimous resolution in support of SB 72 and we urge you to support this worthy bill. The same bill was introduced as SB 218 during the last session. The bill was unanimously supported in all committees and in the Senate. Unfortunately, time ran out before the bill could be heard on the House floor. SB 72 bill, if passed, will help protect young children by updating the current infant and booster seat law which has become outdated.

For example, the current law gives the parent the option of placing a small four year old in a booster seat or utilizing a seat belt. Vehicle safety systems have advanced dramatically since the current law was written with a variety of active and passive safety devices being added to vehicles. Front, side and curtain airbags, which have tremendous explosive force if triggered, are just one example of safety devices that weren't in existence when the current law was written.

As automobile dealers, we can assure you that no vehicle manufacturer recommends placing a small four year old in a seat belt only. Doing so could result in serious injury or death to the child.

Nearly forty two states have updated their infant and booster seat laws along the lines proposed. By adopting new legislation, the State will be eligible for grant monies which could be used for a safety campaign. Most importantly, however, updating our law will insure that children are better protected on Alaska's roads. We urge and appreciate your support of SB 72.

Sincerely,



Jon Cook
Legislative Director



Jill Hodges
Alaska Brain Injury Network
3745 Community Park Loop #140
Anchorage, Alaska 99501
February 10, 2009

Senator Hollis French
Alaska State Legislature
Capitol Building
Juneau, Alaska

Dear The Honorable Hollis French:

Thank you for your continued concern for safety for Alaskans, as well as prevention of injury and death. SB 72 --Child Safety Seats and Seat Belts will help prevent death as well as traumatic brain injury in children.

The Alaska Brain Injury Network is a non-profit 501 (c) 3 whose mission is to educate, plan, coordinate, and advocate for a comprehensive service delivery system for survivors of traumatic brain injury and their families. Our vision begins with prevention.

There are 800 Alaskans each year hospitalized for more than 24 hours with a moderate to severe traumatic brain injury (Alaska Trauma Registry). Motor vehicle crashes are one of the leading causes of traumatic brain injury in Alaska. The Alaska Brain Injury Network, "10 Year Plan for TBI in Alaska" highlights Prevention, Advocacy, and Public Awareness on pages 49-57

(http://www.alaskabraininjury.org/documents_akbrain/10%20Year%20TBI%20Plan.pdf) with a specific objective "to prevent TBI in child occupants of motor vehicle crashes through correct booster seat use." (attachment).

Centers for Disease Control and Prevention highlights traumatic brain injury as the 'silent epidemic' and a public health issue. There are many causes of traumatic brain injury and preventative factors are specific to each cause. The CDC recommends wearing a seatbelt every time you drive and buckling children in the car using a child safety seat, booster seat, or seat belt (according to the child's height, weight, and age) (<http://www.cdc.gov/ncipc/tbi/Prevention.htm>).

In 2003, the Alaska Legislature passed legislation for a primary seatbelt law. The TBI rate due to motor vehicle crashes on the highway has decreased 38% from 2001 to 2005

(attachment). The Alaska Brain Injury Network will continue to study the TBI data to see if TBI-disability among children due to motor vehicle crashes decreases.

Thank you for your concern and your untiring pursuit of keeping Alaskans safe. You have our support.

Sincerely,

Jill Hodges

ATTACHMENT 1:

(Alaska Brain Injury Network "10 year plan for TBI in Alaska p. 55
http://www.alaskabraininjury.org/documents_akbrain/10%20Year%20TBI%20Plan.pdf)

Goal 2: Reduce the incidence of TBI-related disability

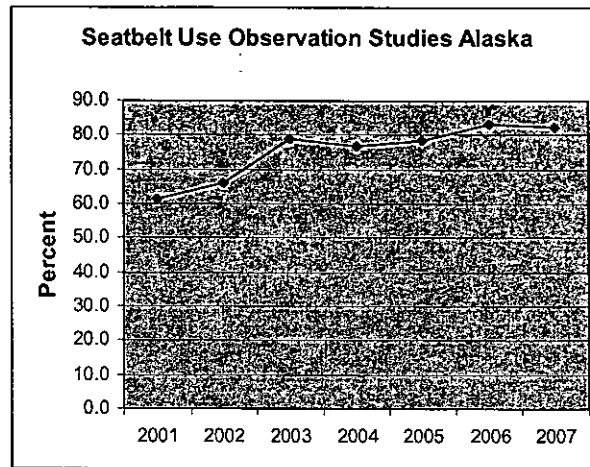
Objectives

- A. To prevent TBI in child occupants of motor vehicle crashes through correct booster seat use.
 - B. To prevent TBI in young Alaskans in off-road vehicle and bicycle crashes through helmet use.
 - C. To reduce risky behaviors among teens.
 - D. To prevent TBI in elders due to falls through awareness and training of long-term care, community service providers and other caretakers.
 - E. To prevent repetitive injuries by educating individuals with TBI, family members and others about the risk of second and third injuries.
 - F. To promote collaboration among prevention agencies and organizations to include TBI in the prevention message (in addition to fatalities).
 - G. To reduce TBI among elders due to falls.
-

ATTACHMENT 2:

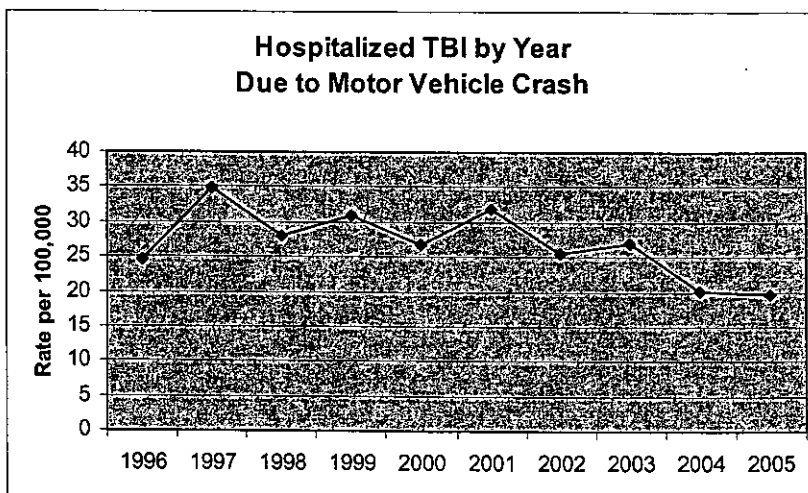
Primary Enforcement Seatbelt Law

On May 1, 2003 Alaska passed a law to change their seat belt law from secondary enforcement to primary enforcement state, ie. a vehicle can be stopped solely for seat belt non-use by an occupant. A study of Alaska has seen a steady increase in seatbelt use in the last decade. In 2007 the percent use as seen in the annual observations study was 82.4%. The national rate is 82%. The NHTSA goal is 95% use.



Source: Alaska Highway Safety Office

States with primary seat belt laws on average had seat belt use rates about 10 percentage points higher than States without primary laws in 2005. Wearing a seat belt is the best defense for an occupant in a motor vehicle crash and the single most effective measure to prevent serious traumatic brain injury. 56% of Alaskans with TBI resulting from a motor vehicle crash on the highway were not wearing seat belts. If every state with a secondary seat belt law upgraded to primary enforcement, about 1,000 lives and \$4 billion in crash costs could be saved each year.



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FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 073
 () Publish Date: _____

Identifier (file name): SB073-DPS-DET-03-02-09 Public Safety
 Title "An Act relating to the use of headlights when operating a motor vehicle." RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Senator Menard
 Requester Senate Transportation Committee Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Full-time							
Part-time							
Temporary							

ANALYSIS: *(Attach a separate page if necessary)*

This bill amends AS 28.35 by adding a new section requiring the use of headlights while operating a vehicle on a highway. Violation of this section would be an infraction.

This bill will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial
 Division: Alaska State Troopers
 Approved by: Joseph Masters, Commissioner
Department of Public Safety

Phone 907-247-4480
 Date/Time 3/3/09 9:28 AM
 Date 3/3/2009

Senator Linda Menard

State Capitol, Room 9
Juneau, Alaska 99801



Phone: (907) 465-6600
Fax: (907) 465-3805

Alaska State Legislature

Sponsor Statement for SB 73

By passing Senate Bill 73, motorists would be required to use their vehicle's headlight system at all times while on Alaska's roads.

The bill will address a key goal of the Alaska Highway Safety Office's Strategic Highway Safety Plan. That plan recommends changing state law to require headlight use at all times. The Alaska Highway Safety Office backs up the need for the law with research showing a decrease in traffic accidents where daytime running lights are used. Enforcement of the headlight law could decrease head-on collisions by 7 percent to 15 percent, the AHSO has determined.

The effectiveness of "headlights on" rules can be seen on the Seward Highway. In the mid-1990s, signs were installed along the highway from Anchorage to Seward reading "Headlights On At All Times." The Department of Public Safety says the signs were very effective in saving lives. According to the Department of Transportation, there was a marked decrease in numbers of crashes around the time of sign posting on the Seward Highway.

Similar results have been seen in other countries located in Polar Regions like Alaska. In Sweden, which has similar weather conditions to Alaska, studies have found that the requirement to use headlights at all times reduced crash rates by 20 percent in urban areas and 17 percent in rural areas in winter months.

Currently, 39 out of 50 states, including Alaska, require use of headlights on motorcycles at all times while operating on roads. Experts report the headlights increase the conspicuousness of motorcycles, allowing other motorists to more easily see them.

Senate Bill 73 will increase the safety on Alaska's roadways by making all vehicles easier to see while traveling, especially during Alaska's long periods of dusk and dawn.

HH.3 HEADLIGHTS ON AT ALL TIMES - TIER ONE

DESCRIPTION: Around 15 people die in Alaska each year in head-on crashes. National data indicate headlights-on signing and enforcement could eliminate 7 to 15 percent of these crashes.

This plan recommends changing state law to require headlights on at all times. If this is not done, we can still post signs that will make headlights mandatory on particular sections of road. 13 AAC 04.010 gives the signs the authority of law.

RESPONSIBLE AGENCY:

Lead Agency: Alaska Department of Transportation and Public Facilities, Alaska Highway Safety Office (AHSO)

Contact Name, Title: Cindy Cashen, Highway Safety Office Administrator

Phone: (907) 465-4374

E-mail: Cindy.Cashen@alaska.gov

NECESSARY PARTNERS:

- Governor's Alaska Highway Safety Office.
- DOT&PF Headquarters and Regional Offices.
- Legislature.
- Media.
- AG's Office.
- State Troopers/Local Police.
- National Insurance Institute.
- NHTSA.

DATA ANALYSIS NEEDS OR AVAILABLE RESOURCES:

Create a statewide map of head-on collisions, insurance report, photos, past country/state success stories.

EXPECTED EFFECTIVENESS/OUTCOME:

Narrative: To eliminate fatal and major injury crashes - estimate number yet to be determined.

Average number of lives lost and major injuries sustained due to this problem over the past five years: Approximately 15 per year.

Estimated number of lives saved and major injuries prevented in one year following implementation: One.

FUNDING AND RESOURCE REQUIREMENTS:

Narrative: Funding for AHSO to cover legal costs - approximately \$10K. If signs are posted, approximately \$1,000 per sign.

Estimated Cost to Implement: \$ TBD

ACTION STEPS AND TIMELINE

ACTION STEP	RESPONSIBLE AGENCY	TIMELINE/DUE DATE
Collect data and success stories in a draft packet for the legislature.	AHSO	December 2007
Collaborate with partners to develop a legislative information/lobby plan.	AHSO	December 2007
Pass Legislation.	Legislature	May 2008
If successful, install signs in high-crash areas. (This could happen earlier.)		

MEASUREMENT AND EVALUATION

STRATEGY PERFORMANCE MEASURES: Reduction in head-on collisions.

EVALUATION:

Reduction in head-on collisions as indicated by before/after crash studies.



U.S. Department
of Transportation
National Highway
Traffic Safety
Administration

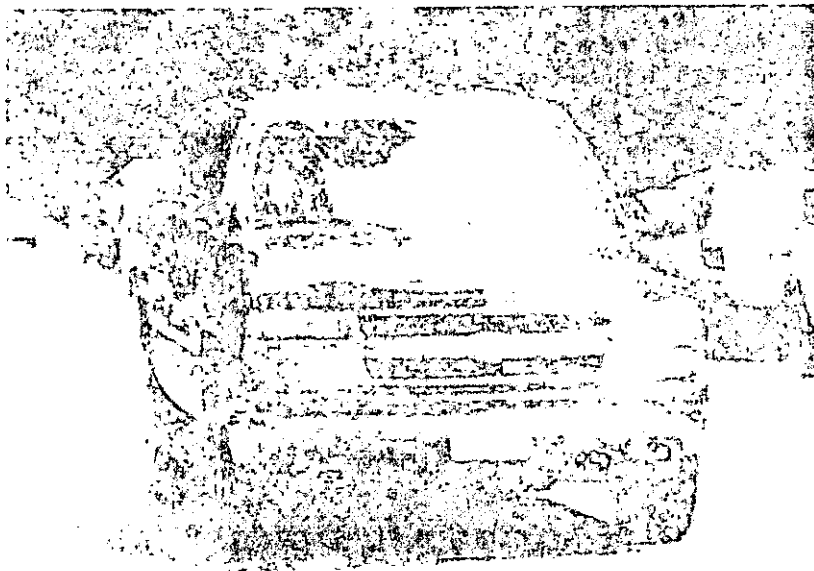


DOT HS 809 760

September 2004

Technical Report

An Assessment of the Crash-Reducing Effectiveness of Passenger Vehicle Daytime Running Lamps (DRLs)



Published By:

NCSA

**National Center for Statistics and Analysis
Advanced Research and Analysis**

This document is available to the public from the National Technical Information Service, Springfield, VA 22161

Executive Summary

This study estimates the effectiveness of passenger vehicle daytime running lights in reducing two-vehicle opposite direction crashes, pedestrian/bicycle crashes, and motorcycle crashes. The authors chose the generalized simple odds, a conventional statistical technique, to analyze the data. The generalized odds ratio attempts to adjust for a variety of exogenous factors other than the presence or absence of DRLs not specifically controlled for within the model.

Significant results of this study show that from 1995 to 2001:

Simple Odds Results:

- DRLs reduced opposite direction daytime fatal crashes by 5 percent.
- DRLs reduced opposite direction/angle daytime non-fatal crashes by 5 percent.
- DRLs reduced non-motorists, pedestrians and cyclists, daytime fatalities in single-vehicle crashes by 12 percent.
- DRLs reduced daytime opposite direction fatal crashes of a passenger vehicle with a motorcycle by 23 percent.

The reviewers of this paper required the inclusion of an analysis based on odds ratio, which can be found in Appendix B. Like the simple odds, the odds ratio attempts to control for a variety of factors other than the presence or absence of DRLs. The estimated effectiveness of DRLs based on this technique is extremely sensitive to small changes encountered in real world crash data. As a result, reductions in target crashes during the daytime using the odds ratio technique may not be detected over the inherent background noise of the data system. **None** of the results based on the odds ratio are statistically significant.

Odds Ratio Results:

- DRLs reduced opposite direction daytime fatal crashes by -6.3 percent that is DRLs increase opposite direction daytime fatal crashes by 6.3 percent.
- DRLs reduced opposite direction/angle daytime non-fatal crashes by -7.9 percent that is DRLs increase opposite direction/angle daytime non-fatal crashes by 7.9 percent.
- DRLs reduced non-motorists, pedestrians and cyclists, daytime fatalities in single-vehicle crashes by 3.8 percent.
- DRLs reduced daytime opposite direction fatal crashes of a passenger vehicle with a motorcycle by 26 percent.

Table 1: State Requirements for Headlight Use When Operating Passenger Vehicles

State	Headlights Must Be Used				Minimum Sight Distance Before Headlight Use is Mandatory (In feet)
	Half Hour After Sunset and Half Hour Before Sunrise	From Sunset to Sunrise	When Windshield Wipers are Operating	During Inclement Weather	
Alabama		x	x		500
Alaska ^(a)					1,000
Arizona		x			500
Arkansas	x		x		500
California	x				1,000
Colorado		x			1,000
Connecticut	x			x	1,000
Delaware		x	x		1,000
District of Columbia ^(b)					500
Florida		x		x	1,000
Georgia	x			x	500
Hawaii	x				200
Idaho	x				500
Illinois		x	x		1,000
Indiana		x			500
Iowa		x		x	500
Kansas		x			1,000
Kentucky	x				350
Louisiana		x	x	x	500
Maine	x		x	x	1,000
Maryland	x		x		1,000
Massachusetts	x		x		200
Michigan	x				500
Minnesota		x		x	500
Mississippi		x			500
Missouri	x				500
Montana	x			x	500
Nebraska	x				500
Nevada	x				1,000
New Hampshire	x			x	1,000
New Jersey	x		x	x	500
New Mexico	x				500
New York	x		x	x	1,000
North Carolina		x	x		400
North Dakota		x		x	1,000
Ohio	x				1,000
Oklahoma	x			x	500
Oregon		x			1,000
Pennsylvania		x		x	1,000
Rhode Island		x	x	x	500
South Carolina	x		x		500
South Dakota	x				200
Tennessee		x		x	200
Texas	x				1,000
Utah	x			x	1,000
Vermont	x			x	150
Virginia		x	x		500
Washington	x				1,000
West Virginia		x		x	500
Wisconsin	x				350
Wyoming	x			x	1,000

Notes:

(a) Headlights are required at all times on designated roadways with speeds in excess of 45 miles per hour.

(b) We could not locate time of day usage requirements for the District of Columbia.

Sources: *Digest of Motor Laws*, American Automobile Association, 2005, and Matt Sundeen, Program Principal, Transportation, National Conference of State Legislatures, (303) 364-7700.

Information from Kurt Smith, Department of Transportation

1. 13 AAC 04.010 became effective in April 1994. It authorized the department to install Headlights On At All Times signs.
2. HOAAT signs were posted on the Seward Highway from Seward to Anchorage mid summer 1994.
3. DPS claimed the signs were very effective in saving lives (16 fatalities during 1991-1993, none in 2004). They asked that the rest of our major highways be signed accordingly.
4. The department worked to install the signs (500 signs at an approximate cost of \$250,000). Many signs were installed by late 1995.
5. The DOT&PF Commissioner, under direction from the governor, issued a stop work notice in late 1995 due to adverse public opinion. The signs were taken down, except for the signs on the Seward Highway.
6. It is hard to tell the long term safety impact of the Headlights On signs, because their installation coincided with some major passing lane and reconstruction projects on the Seward Highway. However, there was a marked decrease in numbers of crashes around that time. As I recall, severe crashes did not decrease that markedly.
7. Windshield "surveys" have indicated that a higher percentage of vehicles have their lights on on the Seward Highway than on other roads.

1 | What are the safety advantages of DRLs?

Daytime running lights (DRLs) are a low-cost method to reduce crashes. They are especially effective in preventing daytime head-on and front-corner collisions by increasing vehicle conspicuity and making it easier to detect approaching vehicles from farther away.

2 | Where are DRLs required?

Laws in Canada and many European countries require vehicles to operate with lights on during the daytime. There are two types of laws. Canada's requires vehicles to be equipped with DRLs. Laws in Europe require motorists to turn on their headlights if their vehicles do not have automatic DRLs. In 1972, Finland mandated daytime running lights in winter on rural roads and a decade later made DRLs mandatory year-round. Sweden's law took effect in 1977, Norway's in 1986, Iceland's in 1988, and Denmark's in 1990. Hungary has required drivers on rural roads to operate with vehicle lights on since 1993. Canada requires DRLs for vehicles made after December 1, 1989. No US state mandates DRLs, but some require drivers to operate vehicles with lights on in bad weather.

3 | Are DRLs available on vehicles in the United States?

First offered on a handful of 1995 domestic and foreign model passenger cars, pickups, and SUVs, daytime running lights have become a more common feature. They are standard on all General Motors, Lexus, Mercedes Benz, Saab, Subaru, Suzuki, Volkswagen, and Volvo models. Other manufacturers also offer daytime running lights on certain models. GM offers retrofit kits for vehicles that do not already have DRLs. The kits can be used on non-GM models, too.

4 | How effective are DRLs?

Nearly all published reports indicate DRLs reduce multiple-vehicle daytime crashes. Evidence about DRL effects on crashes comes from studies conducted in Scandinavia, Canada, and the United States. A study examining the effect of Norway's DRL law from 1980 to 1990 found a 10 percent decline in daytime multiple-vehicle crashes.¹ A Danish study reported a 7 percent reduction in DRL-relevant crashes in the first 15 months after DRL use was required and a 37 percent decline in left-turn crashes.² In a second study covering 2 years and 9 months of Denmark's law, there was a 6 percent reduction in daytime multiple-vehicle crashes and a 34 percent reduction in left-turn crashes.³ A 1994 Transport Canada study comparing 1990 model year vehicles with DRLs to 1989 vehicles without them found that DRLs reduced relevant daytime multiple-vehicle crashes by 11 percent.⁴

In the United States, a 1985 Institute study determined that commercial fleet passenger vehicles modified to operate with DRLs were involved in 7 percent fewer daytime multiple-vehicle crashes than similar vehicles without DRLs.⁵ A small-scale fleet study conducted in the 1960s found an 18 percent lower daytime multiple-vehicle crash rate for DRL-equipped vehicles.⁶ Multiple-vehicle daytime crashes account for about half of all police-reported crashes in the United States. A 2002 Institute study reported a 3 percent decline in daytime multiple-vehicle crash risk in nine US states concurrent with the introduction of DRLs.⁷ Federal researchers, using data collected nationwide, concluded that there was a 5 percent decline in daytime, two-vehicle, opposite-direction crashes and a 12 percent decline in fatal crashes with pedestrians and bicyclists.⁸

5 | Will DRLs shorten headlamp bulb life or lower fuel economy?

Running vehicle lights in the daytime does not significantly shorten bulb life. Systems like those on General Motors cars that use high beams are designed to operate at half their normal power during daylight hours, thereby conserving energy and reducing the effect on a vehicle's fuel economy. The National Highway Traffic Safety Administration (NHTSA) estimates that only a fraction of a mile per gallon will be lost, depending on the type of system used. GM estimates the cost to be about \$3 per year for the average driver. Transport Canada estimates the extra annual fuel and bulb replacement costs to be \$3-15 for systems using reduced-intensity headlights or other low-intensity lights and more than \$40 a year for DRL systems using regular low-beam headlights.

6 | Will motorists be bothered by glare?

In most countries mandating DRLs, glare has not been an issue. However, some motorists in the United States have complained that the systems here are too bright. In response to these complaints, NHTSA in 1998 proposed reducing the maximum allowable light intensity from 7,000 to 1,500 candela, a value more in line with European DRLs. There has been no action on this proposal as yet.

7 | Are motorcycles required to have DRLs?

Federal law does not require motorcycles to have DRLs, but some states require motorcyclists to ride with their headlights on at all hours. Thus, since 1979 most manufacturers have equipped their cycles with automatic-on headlamps.

List of witnesses testifying to Senate Bill 73

In person:

Cindy Cashen- Administrator, Alaska Highway Safety Office

Off-net testimony:

Marcella Hill- Fairbanks resident in support of SB 73 (Ms. Hill is having surgery March 2nd, and after that her participation will be up-in-the-air)

My name is Dona Corey. I have been teaching AARP Driver Safety Program classes for 20 years. This program is an eight-hour defensive driving program written for adults 50 and older although we accept adults of any age in our classes.

I strongly urge the passage of SB73. The following information comes from Australia's "National Roads and Motorists Association," but I am sure that this is just as true in Alaska: "Headlights can save lives, even in broad daylight. Research has shown that more than half of all collisions in daylight are due, in part, to one road user failing to see the other road user in time to avoid a collision."

While we Alaskans enjoy sunny days, as we all know, during a good deal of the year we have gloomy days, snowy days, and rainy days, which can all contribute to one motorist's difficulty in seeing another motorist. A mud-covered vehicle on gray pavement can be very hard to see. My experience and the experience of drivers who have been in my classroom is that car lights help us not only to see other vehicles particularly well at intersections, they also help us judge the speed of oncoming traffic. This is especially true for older drivers, but can help drivers of all ages make correct judgments when deciding whether or not to pass another vehicle. Incidentally, cyclists, motorcyclists, and pedestrians can also benefit from being better able to see approaching vehicles.

Again, I urge the passage of SB73. I firmly believe the use of headlights will help prevent vehicle crashes and keep all of us Alaskan drivers safer when we are out on the road.

Thank you.

SB

142

ALASKA STATE LEGISLATURE

Senator Joe Paskvan

passed

Chair, Labor and Commerce
Vice Chair, Health and Social Services
Member, Transportation
Member, State Affairs
Member, Joint Armed Services




*Senate District E
Fairbanks and Fort Wainwright*

State Capitol Building, Room 7
Juneau, Alaska 99801-1182

Phone (907) 465-3709
Fax (907) 465-4714
sen.joe.paskvan@legis.state.ak.us
<http://paskvan.aksenate.org/>

To: Senator Albert Kookesh, Chair
Senate Transportation Committee

From: Senator Joe Paskvan 

Date: March 9, 2009

Re: Request for Hearing for SB 142 – Transfer of Railroad Land to DOTPF:
Fairbanks

I respectfully request Senate Bill 142 be scheduled for a hearing before the Senate Transportation Committee at your earliest convenience.

Senate Bill 142 provides for land to be conveyed to the Department of Transportation and Public Facilities (DOT&PF). DOT&PF needs approximately 5 acres of Alaska Railroad property to proceed with reconstruction of Illinois Street. The Alaska Railroad Act requires legislative approval for this action to proceed. SB 142 provides that authority and also specifies that DOT&PF can provide a combination of cash, land of equal value or a combination of both to the Alaska Railroad.

Included in this packet:

- Sponsor Statement
- SB 142 – 26-LS0690\A
- Sectional Analysis
- Supporting Documents
- List of Witnesses, Teleconference Sites

If you have any questions or comments, please contact Jeff Stepp (465-4747).

Thank you for your consideration.

ALASKA STATE LEGISLATURE

Senator Joe Paskvan

Chair, Labor and Commerce
Vice Chair, Health and Social Services
Member, Transportation
Member, State Affairs
Member, Joint Armed Services

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Sponsor Statement

SB 142: Transfer of Railroad Land to DOTPF: Fairbanks

The Department of Transportation and Public Facilities (DOT&PF) is preparing to reconstruct Illinois Street which provides primary access to downtown Fairbanks from the north. Other important travel routes intersect Illinois and Barnette Streets, which adds to the travel demands and safety concerns along this corridor. Pedestrian and bicycle facilities are currently inadequate or entirely absent.

The Illinois Street reconstruction project is also designed to support efforts to address riverfront enhancements in the area where the corridor crosses the Chena River. The goal is to create a road that celebrates Fairbanks' great traditions and provides a grand entrance into the Golden Heart City.

In order to complete this project the Department of Transportation and Public Facilities needs to acquire full interest in approximately 5 acres of property. The Alaska Railroad Corporation Act requires legislative approval for this action to proceed. Senate Bill 142 provides that authority and also that DOT&PF can provide a combination of cash, land of equal value or combination of both to the Alaska Railroad Corporation (ARRC).

There is no fiscal impact as DOT&PF costs are part of the construction cost of this project. Both DOT&PF and ARRC support the legislation.

I urge your support of Senate Bill 142.

ALASKA STATE LEGISLATURE

Senator Joe Paskvan

Chair, Labor and Commerce
Vice Chair, Health and Social Services
Member, Transportation
Member, State Affairs
Member, Joint Armed Services

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SB 142 Fact Sheet

Illinois Street Reconstruction Project

Problem

- Traffic delays are longer than acceptable at 7 intersections¹;
- A 3X higher than expected accident rate at First Avenue and Cushman Street;
- Poor sight distance at the Church Street approach due to road curvature;
- Pedestrian accidents at First Avenue and Cushman Street;
- Confusing lane configuration.

The Illinois Street Reconstruction project improves safety and

- Reduces traffic delays at intersections;
- Improves pedestrian or bicycle facilities along Illinois Street;
- Replaces the pavement which is in poor condition;
- Upgrades drainage along the length of Illinois Street;
- Improves sight distance problems at some intersections and approaches
- Increases roadway illumination;
- Supports downtown and Chena Riverfront development;
- Corrects confusing lane configurations that do not meet driver expectations.

This bill provides the Alaska Railroad Corporation (ARRC) the legislative approval it needs to exchange, donate, sell or otherwise convey its interest in land.

It is anticipated DOT&PF will need approximately 5 acres of various ARRC parcels in order to complete the Illinois Project.

DOT&PF needs title to this property **this year** to meet the federal right of way requirements that are needed prior to Federal Highway Administration(FHWA) approval to construct. Construction will occur in 2010.

DOT&PF does not need a fiscal note as right-of-way costs are already factored into project costs.

ARRC supports this bill.

¹ Illinois Street and Doyon, Church, and Charles Streets, Illinois and College Road, Barnette Street and Second, Third and Fourth Avenues



Adopted: February 17, 2009

Resolution No. 2009-008

Approving Transfer of Real Property to the State
Department of Transportation and Public
Facilities

WHEREAS, the Alaska Railroad Corporation (ARRC) is the owner of certain land in the vicinity of Illinois Street in Fairbanks, Alaska, that has been requested by the Alaska Department of Transportation and Public Facilities (DOTPF) in connection with DOTPF's Illinois Street Reconstruction Project, STP-F-M-0663(4)/63102; and

WHEREAS, ARRC and DOTPF have negotiated various aspects of the proposed project and its impacts on ARRC and ARRC tenants for over four years, and ARRC is satisfied with the changes in design that have been made by DOTPF; and

WHEREAS, the properties proposed for transfer are generally shown on Exhibit A attached and will be independently appraised to establish value before any conveyance would occur; and

WHEREAS, ARRC and DOTPF are exploring whether DOTPF has lands eligible to transfer to ARRC in exchange for ARRC's Illinois Street properties instead of outright payment of the appraised value; and

WHEREAS, ARRC management recommends approval of this land conveyance based on the public interest served by DOTPF's project and contingent on ARRC receiving equivalent value in return through cash payment, conveyance of other lands, or a combination of both; and

WHEREAS, both ARRC Board approval and legislative approval are required for conveyance of the corporation's entire interest in land under AS 42.40.120(c)(14) and AS 42.40.285(1), respectively.

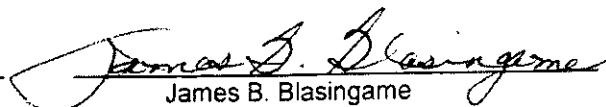
NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors has reviewed the proposed transaction and approves the conveyance of approximately three (3) acres of land as shown on Exhibit A to the Alaska Department of Transportation and Public Facilities in exchange for equivalent value in land or cash or both being transferred to the corporation; and

FURTHER RESOLVED, the President and CEO or his designee is authorized to negotiate such other conditions of transfer and take such other steps as he deems are appropriate and in the best interests of the corporation, including but not limited to seeking legislative approval of the conveyance of the corporation's entire interest in land as required by law.

This is to certify that I am the Secretary of the Board of Directors of the Alaska Railroad Corporation, and the above Resolution No. 2009-008 is a true and correct copy of the resolution adopted by the Alaska Railroad Corporation's Board of Directors at its regular meeting on February 17, 2009.

Date

Feb. 17, 2009



James B. Blasingame
Board Secretary

Corporate Seal

327 W. Ship Creek Avenue
Anchorage, Alaska 99501

MAILING ADDRESS
P.O. Box 107500 Anchorage, Alaska, 99510-7500

TEL 907.265.2300 FAX 907.265.2416
AlaskaRailroad.com

4/16/98

Due to questions regarding ownership and access the AK RR commissions the Brunner Report. Conclusion of report—ARRC has a 200' wide strip of land in which it holds at least an exclusive use **easement** between Ft. Wainwright and Eielson.

107th & 108th 1/7/2003 Congress--ARRC attempts to insert language regarding land swap for track realignment on Elmendorf and Ft. Richardson.

2/20/03

Reversionary Clause of ARTA is repealed at the request of the ARRC (no public comment, or legislative comment)

Repeals Section 1208 C and 1209

Includes:

- (1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and a quitclaim deed thereto; or
 - (2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs
- (C) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States.....

10/2005

Railroad attempts to close crossing located in North Pole

2006

Questions regarding Reversionary Repeal are raised.

2007—2008

Debate on this issue continues. Railroad has realignments planned in Fairbanks, Nenana, Palmer, MatSu, and Wasilla

Railroad Easement Issue Fact Sheet

1862

Homestead Act of 1862 created the ability for US Citizens to file for homesteads

1914

The Act of March 12, 1914—allows for all future homesteads in Alaska to contain the clause:

Reserved to the United States a right of way for the construction of railroads, telegraph and telephone lines

1940

In the early 1940 to late 1940's several homestead are filed for and patented along the Spur Line between Ladd Field and Satellite Field (Ft. Wainwright to Eielson AFB). These homesteads predate the existing Railroad spur.

1947

The Rail line to Eielson AFB is built. Homesteaders receive notification from the War Department that the railroad will traverse their homesteads.

1949

Patents continue to be issued to homesteaders for a full 160 acres for homesteads along spur line

19??

Through ARTA (Alaska Railroad Transfer Act) federal ownership of the Alaska Railroad is transferred to the State of Alaska

1/5/85

Interim Conveyance—

ARTA contains the following language:

“deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;...The exclusive use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of January 14, 1983.”

SB 142
Transfer Railroad Land to DOT&PF: Fairbanks
Illinois Street Reconstruction Project

Problem

- Traffic delays are longer than acceptable at 7 intersections¹;
- A 3X higher than expected accident rate at First Avenue and Cushman Street;
- Poor sight distance at the Church Street approach due to road curvature;
- Pedestrian accidents at First Avenue and Cushman Street;
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This bill provides the Alaska Railroad Corporation (ARRC) the legislative approval it needs to exchange, donate, sell or otherwise convey its interest in land.

It is anticipated DOT&PF will need approximately 5 acres of various ARRC parcels in order to complete the Illinois Project.

DOT&PF needs title to this property **this year** to meet the federal right of way requirements that are needed prior to Federal Highway Administration(FHWA) approval to construct. Construction will occur in 2010.

DOT&PF does not need a fiscal note as right-of-way costs are already factored into project costs.

ARRC supports this bill.

¹ Illinois Street and Doyon, Church, and Charles Streets, Illinois and College Road, Barnette Street and Second, Third and Fourth Avenues

**FAIRBANKS
METROPOLITAN
AREA
TRANSPORTATION
SYSTEM**



POLICY COMMITTEE MEMBERS

Steve Titus, P.E.
Chair

Dept. of Transportation & Public Facilities
Regional Director, Northern Region
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Fairbanks, Alaska 99709
(907) 451-2210

Mayor Jim Whitaker
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Fairbanks, Alaska 99707
(907) 459-1300

Mayor Terry Strle
City of Fairbanks
800 Cushman Street
Fairbanks, Alaska 99701
(907) 459-6793

Mayor Doug Isaacson
City of North Pole
125 Snowman Lane
North Pole, Alaska 99705
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Fairbanks City Council Representative
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(907) 452-2435

Alice Edwards
Dept. of Environmental Conservation
Acting Director, Air Quality Division
410 Willoughby Ave., Suite 303
Juneau, Alaska 99811-1800
(907)465-5109

March 12, 2009

Alaska State Legislature
Senator Joe Paskvan
State Capitol
Juneau, AK 99801

Dear Senator Paskvan:

The Fairbanks Metropolitan Area Transportation System (FMATS) would like to express our support for SB 142 authorizing the conveyance of certain land of the Alaska Railroad Corporation to the Department of Transportation and Public Facilities (DOT & PF). This land is critical to the upcoming reconstruction, realignment and widening of Illinois Street in Fairbanks, Alaska. Without this land, the reconstruction of Illinois Street could not occur.

This project began development in 1985 and is in the final stages of right-of-way acquisition. The plan is to construct this project in 2011. The public interest would be best served to convey this land to the DOT & PF so that this critical FMATS project may be built.

We thank you for sponsoring this bill and urge the Alaska State Legislature to pass SB 142 expeditiously.

Sincerely,

Donna J. Gardino
MPO Coordinator

CC: FMATS Policy Committee
FMATS Technical Committee
Deputy Commissioner Frank Richards, P.E., DOT & PF
Mary Siroky, Special Assistant to the Commissioner, DOT & PF



Executive Office
Telephone: 907-265-2403
Facsimile: 907-265-2312

March 10, 2009

The Honorable Joe Paskvan
Senator
State Capitol, Room 7
Juneau, AK 99801

The Honorable Scott Kawasaki
Representative
State Capitol, Room 428
Juneau, AK 99801

Dear Senator Paskvan and Representative Kawasaki:

Thank you for your willingness to sponsor legislation authorizing the conveyance of approximately five acres of rail land from the Alaska Railroad Corporation (ARRC) to the Department of Transportation and Public Facilities (DOT&PF).

Over the years, ARRC has had the opportunity to work with DOT&PF to facilitate projects that benefit Alaska's public infrastructure needs. The Illinois Street Reconstruction Project proposed by DOT&PF is another such effort and we are pleased to provide our support.

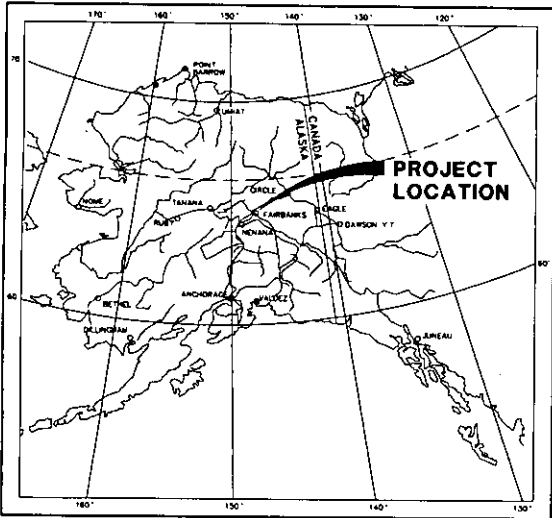
ARRC Board of Directors and legislative approval are both required for conveyance of the corporation's entire interest in land as mandated by AS 42.40.120 (c) (14) and AS 42.40.285 (1), respectively. ARRC's Board of Directors authorized this particular exchange for the conveyance of rail land with the understanding that ARRC would receive equivalent value in return through cash payment, conveyance of other lands, or a combination of both.

ARRC representatives will be present at hearings for this legislation to help convey our support and answer questions. If you need additional information from us, please contact Wendy Lindskoog, Assistant Vice President Corporate Affairs, at 265-2498.

Sincerely,


for

Patrick K. Gamble
President and CEO



STATE OF ALASKA
 DEPARTMENT OF TRANSPORTATION
 &
 PUBLIC FACILITIES

LATEST REVISION _____

RIGHT OF WAY SURVEYOR'S CERTIFICATE

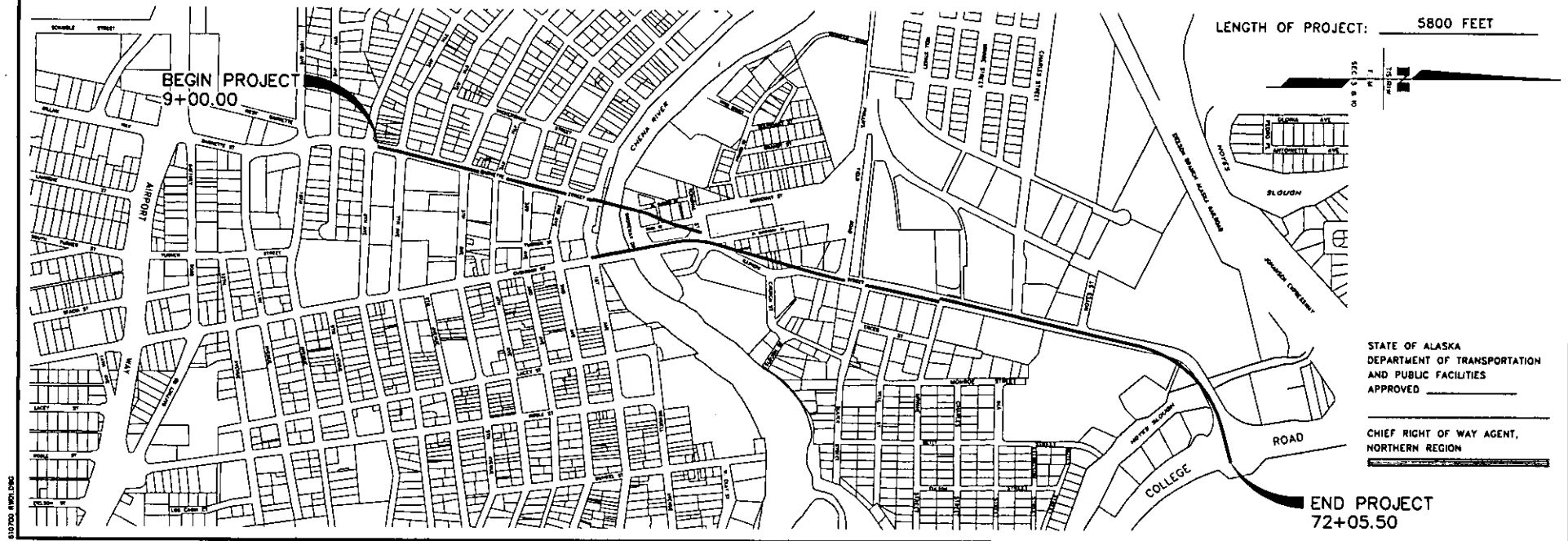
I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT WAS MADE BY ME OR UNDER MY SUPERVISION. I DECLARE THAT THIS PLAT IS BASED ON INFORMATION COMPILED FROM RECORD DATA AND CONTROLLED BY RECOVERED MONUMENTATION AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE ACCURATE.

MARSHALL L. HETLET LS-9108 _____ Date

RIGHT OF WAY MAP
 AKSAS Project No. 63102
 ILLINOIS ST. RECONSTRUCTION
 STP-F-M-0663(4)/63102



LYING WITHIN SECTIONS 3 & 10, TOWNSHIP 1 SOUTH, RANGE 1 WEST, FAIRBANKS MERIDIAN

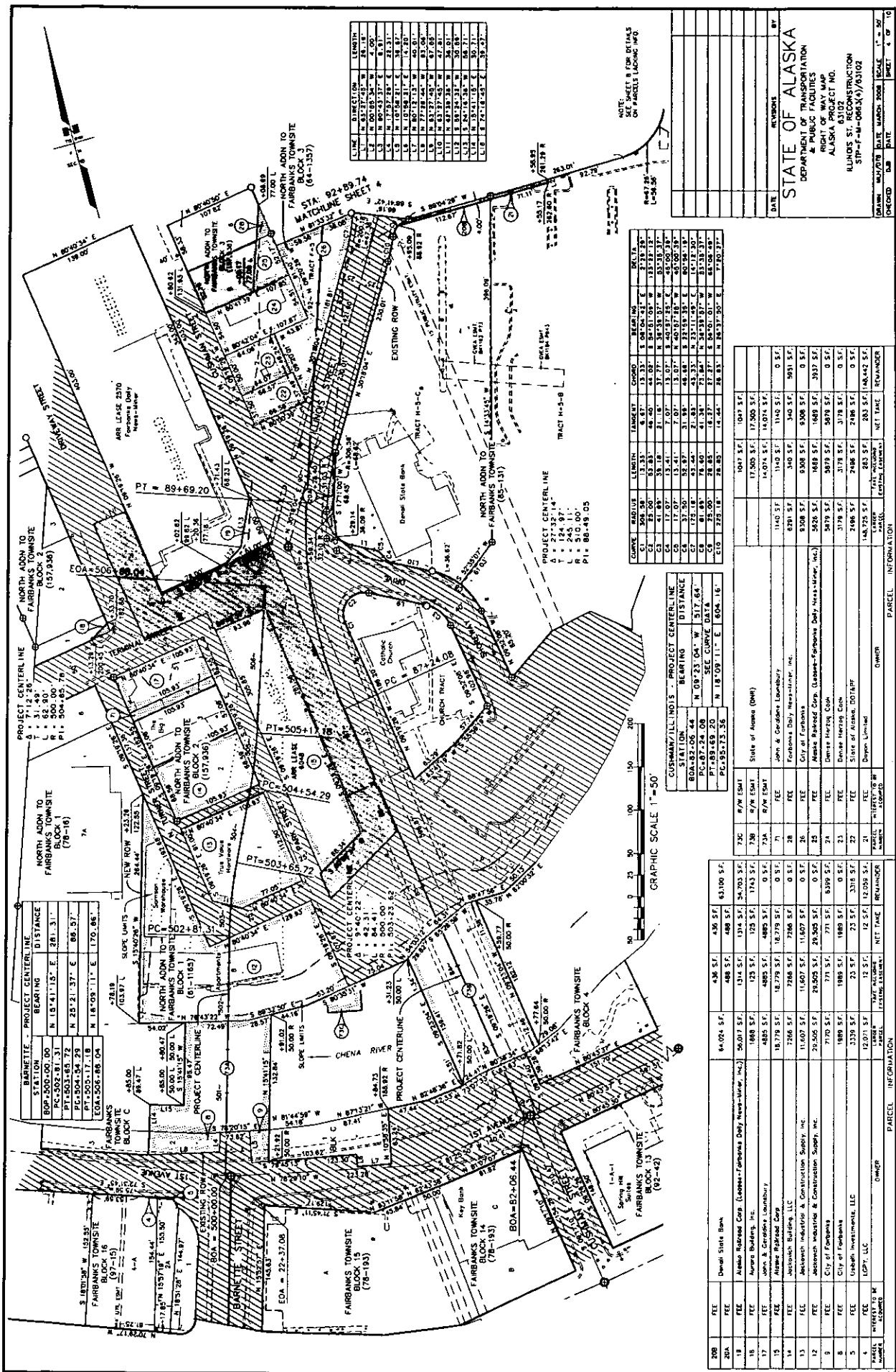


LENGTH OF PROJECT: 5800 FEET

STATE OF ALASKA
 DEPARTMENT OF TRANSPORTATION
 AND PUBLIC FACILITIES
 APPROVED _____

CHIEF RIGHT OF WAY AGENT,
 NORTHERN REGION

END PROJECT
 72+05.50



LINE	BEARING	LENGTH	AREA
L1	N 89° 43' 37" E	6.91'	0.00
L2	N 89° 43' 37" E	6.91'	0.00
L3	N 89° 43' 37" E	6.91'	0.00
L4	N 89° 43' 37" E	6.91'	0.00
L5	N 89° 43' 37" E	6.91'	0.00
L6	N 89° 43' 37" E	6.91'	0.00
L7	N 89° 43' 37" E	6.91'	0.00
L8	N 89° 43' 37" E	6.91'	0.00
L9	N 89° 43' 37" E	6.91'	0.00
L10	N 89° 43' 37" E	6.91'	0.00
L11	N 89° 43' 37" E	6.91'	0.00
L12	N 89° 43' 37" E	6.91'	0.00
L13	N 89° 43' 37" E	6.91'	0.00
L14	N 89° 43' 37" E	6.91'	0.00
L15	N 89° 43' 37" E	6.91'	0.00
L16	N 89° 43' 37" E	6.91'	0.00
L17	N 89° 43' 37" E	6.91'	0.00
L18	N 89° 43' 37" E	6.91'	0.00
L19	N 89° 43' 37" E	6.91'	0.00
L20	N 89° 43' 37" E	6.91'	0.00

COMP	BEARING	LENGTH	AREA	DELTA
C1	N 89° 43' 37" E	6.91'	0.00	0.00
C2	N 89° 43' 37" E	6.91'	0.00	0.00
C3	N 89° 43' 37" E	6.91'	0.00	0.00
C4	N 89° 43' 37" E	6.91'	0.00	0.00
C5	N 89° 43' 37" E	6.91'	0.00	0.00
C6	N 89° 43' 37" E	6.91'	0.00	0.00
C7	N 89° 43' 37" E	6.91'	0.00	0.00
C8	N 89° 43' 37" E	6.91'	0.00	0.00
C9	N 89° 43' 37" E	6.91'	0.00	0.00
C10	N 89° 43' 37" E	6.91'	0.00	0.00

STATION	BEARING	DISTANCE
BOA-82-06.44	N 09° 23' 04" W	517.66'
PT-89-69.20	SEE CORNER	517.66'
PT-89-69.20	N 18° 09' 11" E	6094.16'
PT-89-69.20	N 18° 09' 11" E	6094.16'

PARCEL INTEREST TO BE ACQUIRED	OWNER	PARCEL NUMBER	AREA (S.F.)	AREA (ACRES)	NET TAKE	REMARKS
18	Deloitte State Bank	64-074 S.F.	436 S.F.	0.01	436 S.F.	
19	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	56,017 S.F.	1314 S.F.	0.03	1314 S.F.	
20	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	1688 S.F.	123 S.F.	0.00	123 S.F.	
21	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	4825 S.F.	4825 S.F.	0.11	4825 S.F.	
22	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	18,778 S.F.	18,778 S.F.	0.43	18,778 S.F.	
23	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	7266 S.F.	7266 S.F.	0.17	7266 S.F.	
24	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	11,607 S.F.	11,607 S.F.	0.27	11,607 S.F.	
25	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	29,505 S.F.	29,505 S.F.	0.68	29,505 S.F.	
26	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	771 S.F.	771 S.F.	0.02	771 S.F.	
27	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	1989 S.F.	1989 S.F.	0.05	1989 S.F.	
28	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	3319 S.F.	3319 S.F.	0.08	3319 S.F.	
29	Alaska Reformed Cong. (Lutheran-Farmer's Daily News-Sun, Inc.)	12,011 S.F.	12,011 S.F.	0.28	12,011 S.F.	

PARCEL INFORMATION	OWNER	PARCEL NUMBER	AREA (S.F.)	AREA (ACRES)	NET TAKE	REMARKS
1	State of Alaska	1003 S.F.	1003 S.F.	0.02	1003 S.F.	
2	State of Alaska	17,505 S.F.	17,505 S.F.	0.40	17,505 S.F.	
3	State of Alaska	14,074 S.F.	14,074 S.F.	0.32	14,074 S.F.	
4	State of Alaska	1140 S.F.	1140 S.F.	0.03	1140 S.F.	
5	State of Alaska	340 S.F.	340 S.F.	0.01	340 S.F.	
6	State of Alaska	908 S.F.	908 S.F.	0.02	908 S.F.	
7	State of Alaska	1688 S.F.	1688 S.F.	0.04	1688 S.F.	
8	State of Alaska	5879 S.F.	5879 S.F.	0.13	5879 S.F.	
9	State of Alaska	3178 S.F.	3178 S.F.	0.07	3178 S.F.	
10	State of Alaska	2486 S.F.	2486 S.F.	0.06	2486 S.F.	
11	State of Alaska	883 S.F.	883 S.F.	0.02	883 S.F.	
12	State of Alaska	148,442 S.F.	148,442 S.F.	3.38	148,442 S.F.	

STATE OF ALASKA
 DEPARTMENT OF TRANSPORTATION
 & PUBLIC FACILITIES
 RIGHT OF WAY MAP
 ALASKA PROJECT NO.
 ILINOIS ST. RECONSTRUCTION
 STP-F-M-068.X(4)/83102

DATE: _____
 DRAWN BY: _____
 CHECKED BY: _____
 DATE: _____
 SCALE: 1" = 50'
 SHEET: 4 OF 10

NOTE: SEE SET FOR DETAILS
 OF PARCELS LACKING MAPS

PARCEL INFORMATION		OWNER		NET AREA		NET TIME	
PARCEL NUMBER	ACRES	NAME	ADDRESS	SQ. FT.	ACRES	MIN.	SEC.
27	0.37	Woman Family Limited Partnership	2420 S.F.	2420 S.F.	0.05	0	37
29	0.37	Woman Family Limited Partnership	2771 S.F.	2771 S.F.	0.06	0	37
30	0.37	Woman Family Limited Partnership	2800 S.F.	2800 S.F.	0.06	0	37
31	0.37	Ray Johnson	22,018 S.F.	555 S.F.	0.01	31	44
32	0.37	Woman Family Limited Partnership	7002 S.F.	7002 S.F.	0.16	0	37
33	0.37	Woman Family Limited Partnership	7944 S.F.	7944 S.F.	0.18	0	37
34	0.37	Robert E. Dean Country	18,118 S.F.	2085 S.F.	0.05	17	04
35	0.37	V. Pool Owners	18,103 S.F.	3037 S.F.	0.07	18	04

LINE	BEARING	LENGTH	AREA	PERCENT
L1	N 04°11'17" E	54.81	1,481.5	1.00
L2	N 70°08'34" W	6.00	1,481.5	1.00
L3	N 09°18'37" W	80.28	1,481.5	1.00
L4	N 05°02'38" W	15.08	1,481.5	1.00
L5	N 81°21'53" W	30.18	1,481.5	1.00
L6	N 73°53'41" W	35.01	1,481.5	1.00
L7	N 75°12'52" E	27.82	1,481.5	1.00
L8	N 14°51'04" E	70.49	1,481.5	1.00
L9	N 13°17'52" E	260.37	1,481.5	1.00
L10	N 14°51'04" E	220.37	1,481.5	1.00
L11	N 80°38'04" E	0.23	1,481.5	1.00

LINE	BEARING	LENGTH	AREA	PERCENT
L12	N 04°11'17" E	54.81	1,481.5	1.00
L13	N 70°08'34" W	6.00	1,481.5	1.00
L14	N 09°18'37" W	80.28	1,481.5	1.00
L15	N 05°02'38" W	15.08	1,481.5	1.00
L16	N 81°21'53" W	30.18	1,481.5	1.00
L17	N 73°53'41" W	35.01	1,481.5	1.00
L18	N 75°12'52" E	27.82	1,481.5	1.00
L19	N 14°51'04" E	70.49	1,481.5	1.00
L20	N 13°17'52" E	260.37	1,481.5	1.00
L21	N 14°51'04" E	220.37	1,481.5	1.00
L22	N 80°38'04" E	0.23	1,481.5	1.00

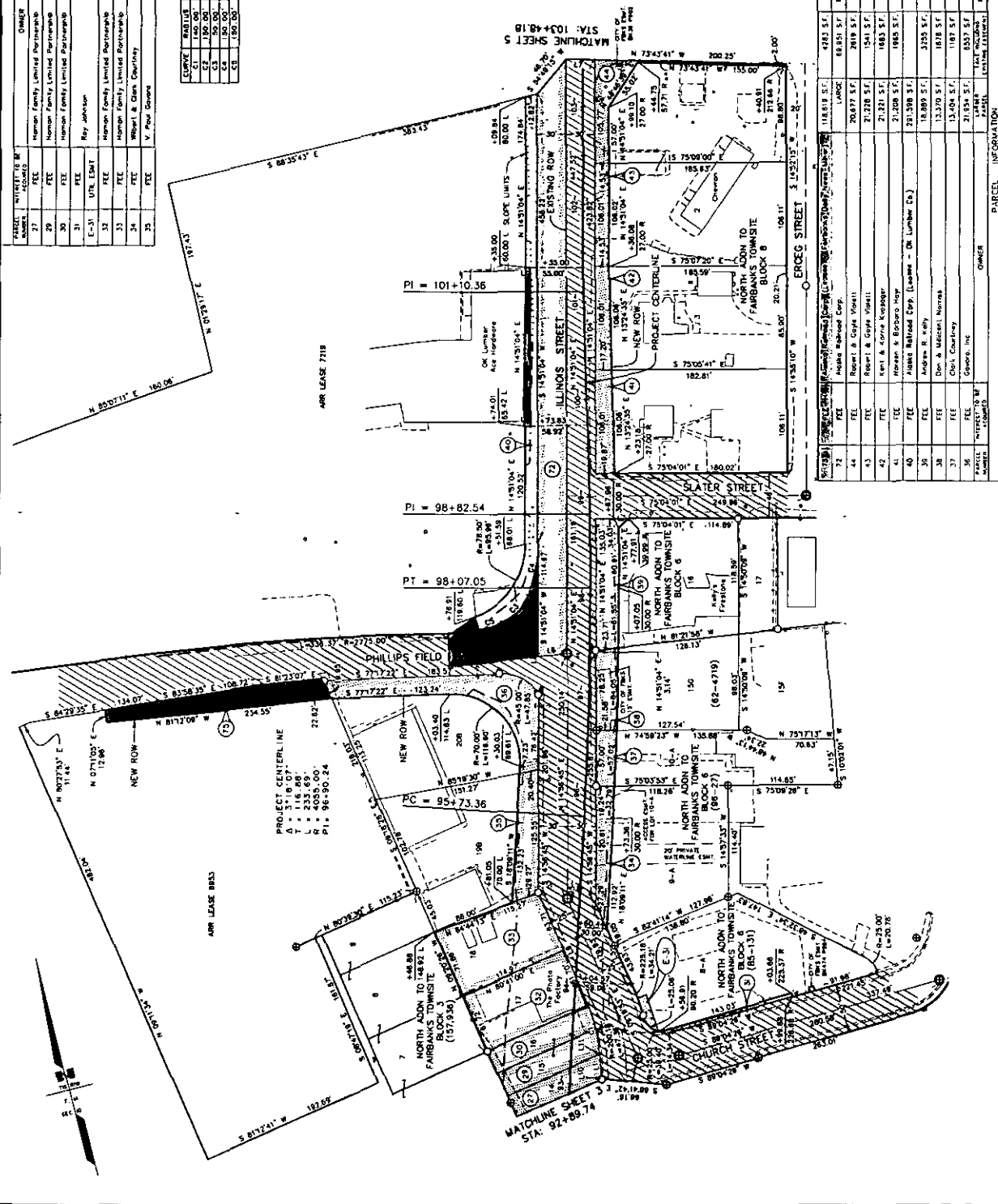
STATION	BEARING	PROJECT CENTERLINE	DISTANCE
PT-88-69-20	N 01°42'41" E	81.55	
PC-95-73-36	N 14°51'04" E	70.49	
PT-98-07-05	N 14°51'04" E	70.49	
PT-98-82-58	N 13°17'52" E	260.37	
PT-101-10-36	N 14°51'04" E	220.37	
PT-101-10-36	N 14°51'04" E	220.37	



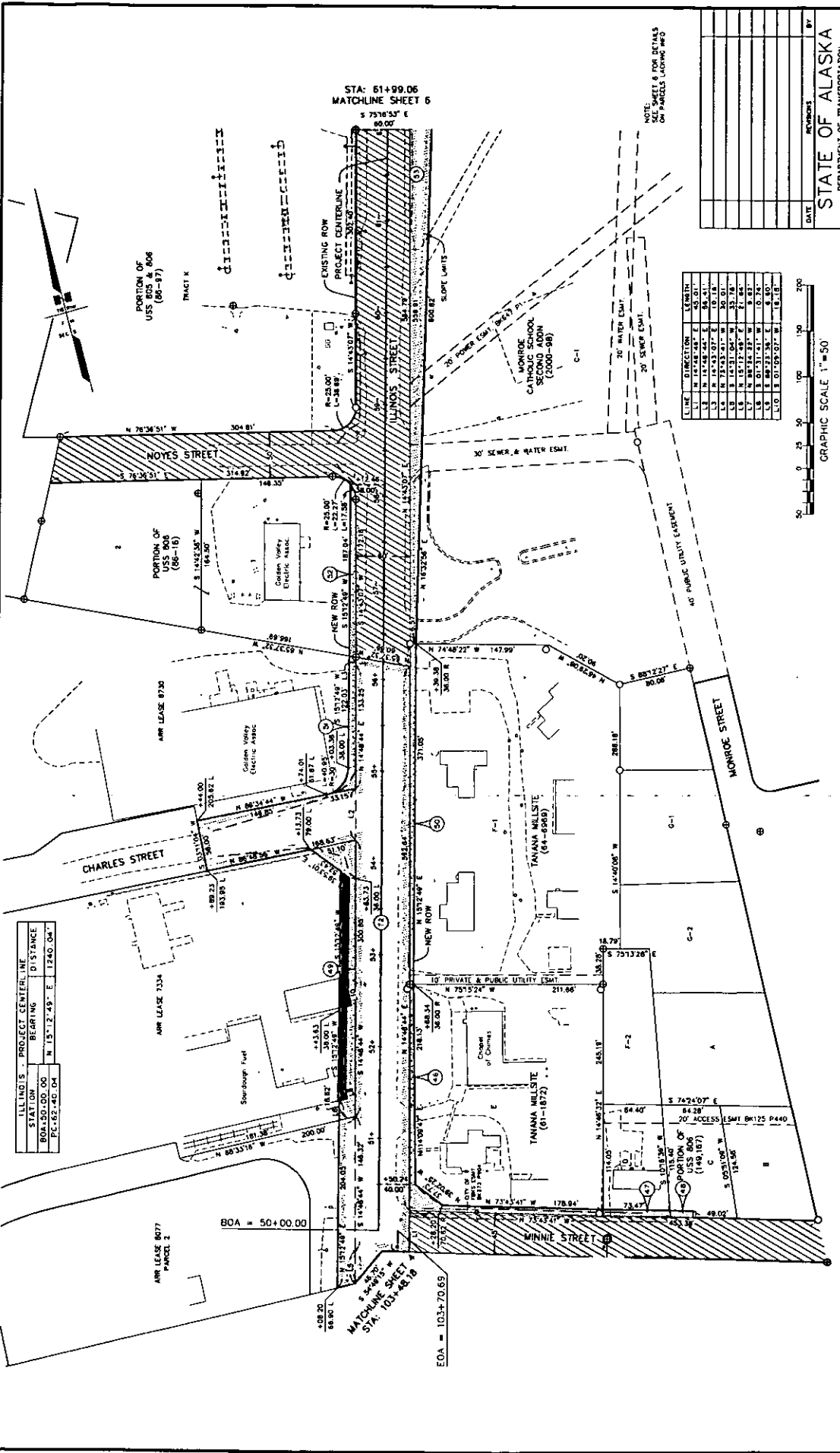
NOTE: SHEET & FOR DETAILS ON PARCELS LACING INFO

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
ALASKA PROJECT NO. 63102
KLUKOS ST. RECONSTRUCTION
SIT-F-N-0683(4)/6102

DATE: 08/07/08
SCALE: 1" = 50'
SHEET: 17 OF 18



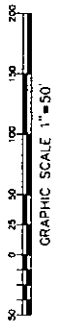
PARCEL NUMBER	OWNER	NET AREA	PERCENT
27	Woman Family Limited Partnership	2420 S.F.	0.05
29	Woman Family Limited Partnership	2771 S.F.	0.06
30	Woman Family Limited Partnership	2800 S.F.	0.06
31	Ray Johnson	555 S.F.	0.01
32	Woman Family Limited Partnership	7002 S.F.	0.16
33	Woman Family Limited Partnership	7944 S.F.	0.18
34	Robert E. Dean Country	2085 S.F.	0.05
35	V. Pool Owners	3037 S.F.	0.07



STA: 61+99.06
MATCHLINE SHEET 6

NOTE:
SEE SHEET 6 FOR DETAILS
SEE PARCELS LISTING PAGE

LINE	DIRECTION	LENGTH
L1	N 14°48'48" E	45.01'
L2	N 14°48'48" E	85.41'
L3	N 14°48'48" E	85.41'
L4	N 14°48'48" E	85.41'
L5	N 14°48'48" E	85.41'
L6	N 14°48'48" E	85.41'
L7	N 14°48'48" E	85.41'
L8	N 14°48'48" E	85.41'
L9	N 14°48'48" E	85.41'
L10	N 14°48'48" E	85.41'
L11	N 14°48'48" E	85.41'
L12	N 14°48'48" E	85.41'
L13	N 14°48'48" E	85.41'
L14	N 14°48'48" E	85.41'
L15	N 14°48'48" E	85.41'
L16	N 14°48'48" E	85.41'
L17	N 14°48'48" E	85.41'
L18	N 14°48'48" E	85.41'
L19	N 14°48'48" E	85.41'
L20	N 14°48'48" E	85.41'
L21	N 14°48'48" E	85.41'
L22	N 14°48'48" E	85.41'
L23	N 14°48'48" E	85.41'
L24	N 14°48'48" E	85.41'
L25	N 14°48'48" E	85.41'
L26	N 14°48'48" E	85.41'
L27	N 14°48'48" E	85.41'
L28	N 14°48'48" E	85.41'
L29	N 14°48'48" E	85.41'
L30	N 14°48'48" E	85.41'
L31	N 14°48'48" E	85.41'
L32	N 14°48'48" E	85.41'
L33	N 14°48'48" E	85.41'
L34	N 14°48'48" E	85.41'
L35	N 14°48'48" E	85.41'
L36	N 14°48'48" E	85.41'
L37	N 14°48'48" E	85.41'
L38	N 14°48'48" E	85.41'
L39	N 14°48'48" E	85.41'
L40	N 14°48'48" E	85.41'
L41	N 14°48'48" E	85.41'
L42	N 14°48'48" E	85.41'
L43	N 14°48'48" E	85.41'
L44	N 14°48'48" E	85.41'
L45	N 14°48'48" E	85.41'
L46	N 14°48'48" E	85.41'
L47	N 14°48'48" E	85.41'
L48	N 14°48'48" E	85.41'
L49	N 14°48'48" E	85.41'
L50	N 14°48'48" E	85.41'

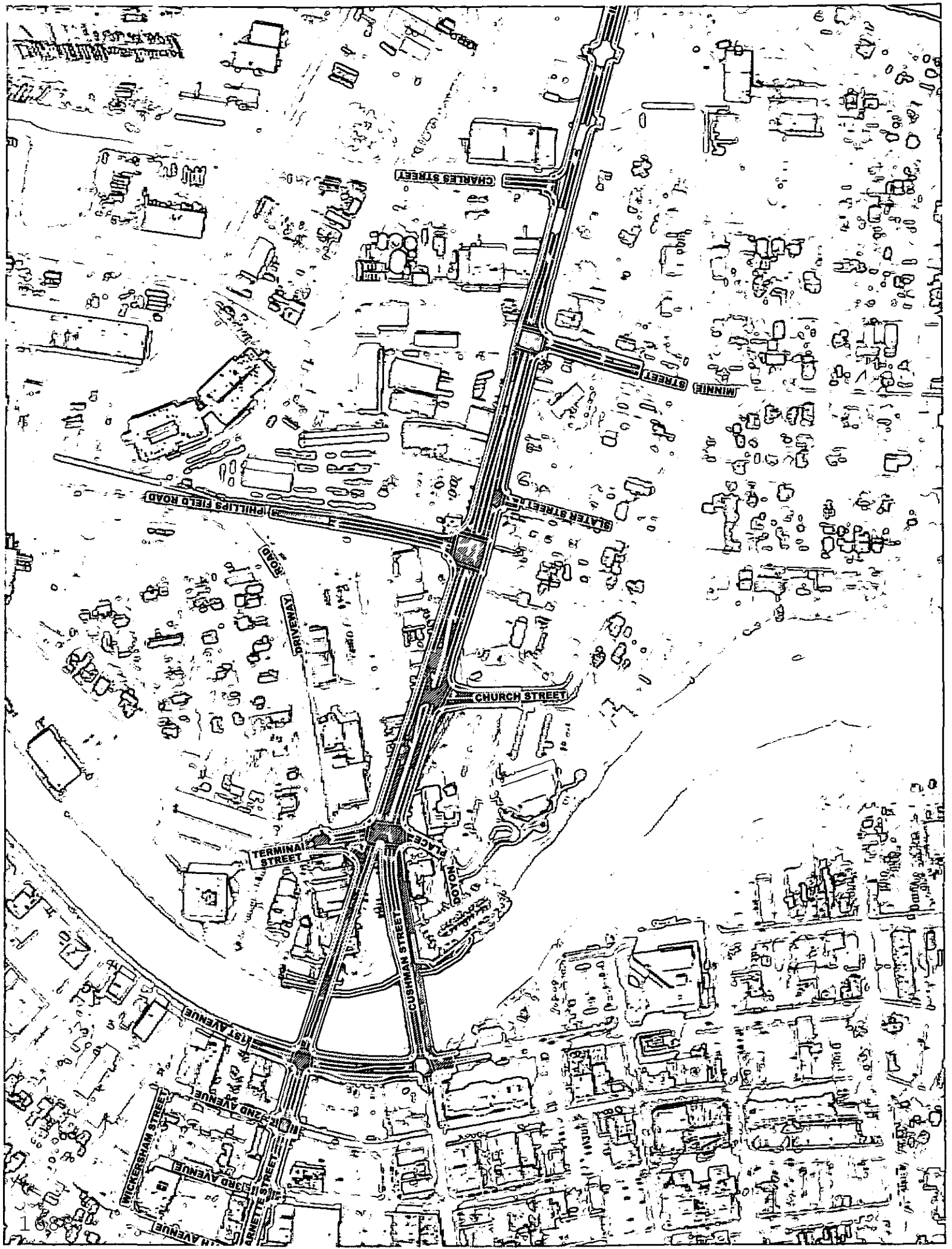


ILLINOIS - PROJECT CENTERLINE	STATION	BEARING	DISTANCE
	BOA+50+00.00	N 15°12'49" E	1240.04'
	PC+62+40.04		

#	FEE	PARCEL INFORMATION		PARCEL INFORMATION	
		OWNER	REMARKS	OWNER	REMARKS
48	FEE	Alaska Electric Corp (Laska+Rulo Str, Inc.)	190,117 S.F.	3,604 S.F.	146,513 S.F.
49	FEE	J & W Properties, LLC	843,517 S.F.	178 S.F.	843,339 S.F.
47	FEE	New Friendship	840,457 S.F.	617 S.F.	839,840 S.F.
46	FEE	SD Alaska General Services, Inc.	53,795 S.F.	3,032 S.F.	50,763 S.F.
				NET TAKE	REMAINDER

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
& PUBLIC FACILITIES
RIGHT OF WAY MAP
ALASKA PROJECT NO.
ILLINOIS ST. RECONSTRUCTION
SIP-F-M-0063(1)/8102
DRAWN: MWP/DOB DATE: 11/20/08 SCALE: 1" = 50'
CHECKED: DJM DATE: SHEET 6 OF 10





CHARLES STREET

MINNIE STREET

PHILLIPS FIELD ROAD

SLATER STREET

DRIVEWAY

CHURCH STREET

TERMINAL STREET

CUSHMAN STREET

1ST AVENUE

2ND AVENUE

3RD AVENUE

WICKERMAN STREET

4TH AVENUE

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/9/09

FURTHER: Labor and Commerce

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/17/09

Transportation Committee considered SENATE BILL NO. 142

SB 142 TRANSFER RAILROAD LAND TO DOT/PF: FAIRBANKS

"An Act authorizing the conveyance of certain land of the Alaska Railroad Corporation to the Department of Transportation and Public Facilities; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#
DOT PF	3/11			✓	
DCCED	3/16			✓	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Betty Davis</i>	DAVIS	X			
<i>Ki Meyer</i>	MAYER	X			
<i>Ove Pashvan</i>	PASHVAN	X			
CHAIR: <i>Judith Menard</i>	MENARD	X			

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 142
 () Publish Date: _____

Identifier (file name): SB142-DOT-NRD-03-11-09 Dept. Affected: DOT&PF
 Title: Land Conveyance between DOT&PF and AK Railroad RDU: Design and Construction
 Component: No. Reg. Design & Engineering
 Sponsor: Sen. Paskvan
 Requester: Sen. TRA Component Number: 2299

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

There will be no fiscal impact to the Department. Should DOT&PF need to purchase land from the Ak Railroad as opposed to a land exchange - those right of way purchases are already a part of the project costs.

Prepared by: Mary Siroky, Legislative Liaison
 Division: Department of Transportation and Public Facilities
 Approved by: Nancy Slagle, Admin Director
Department of Transportation and Public Facilities

Phone 465-4772
 Date/Time 3/11/09 4:10 PM
 Date 3/11/2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 142
 () Publish Date: _____

Identifier (file name): SB142-CED-ARR-03-16-09 Dept. Affected: DCCED
 Title Land Transfer Alaska RR and DOTPF RDU _____
 Component Alaska Railroad Corporation
 Sponsor Senator Paskvan
 Requester Senate Labor and Commerce Committee Component Number _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This legislation would authorize the Alaska Railroad Corporation (ARRC) to transfer approximately five acres of rail land to the Department of Transportation and Public Facilities (DOTPF). This would accommodate the DOTPF's Illinois Street Reconstruction Project in Fairbanks. The ARRC would receive equivalent value in return through cash payment, conveyance of other lands, or a combination of both. ARRC is a public corporation supported by revenues generated through its freight, passenger and real estate services. ARRC does not receive state funding for operations or capital improvements.

Prepared by: Wendy Lindskoog, Assistant Vice President, Corporate Affairs
 Division: Alaska Railroad Corporation
 Approved by: Emil Notti, Commissioner
Department of Commerce, Community and Economic Development

Phone 907-265-2498
 Date/Time 3/16/09 11:00 AM
 Date 3/16/2009

SB

148

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/13/09

FURTHER: Judiciary

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Transportation Committee considered SENATE BILL NO. 148

SB 148 LIABILITY FOR TRIBAL ROAD CONSTRUCTION

"An Act relating to limitation of state liability on certain federal highway programs; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#
DOTPF	3/23			✓	

Department	Date	Fiscal	Indet	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Jinda Menard</i>	Menard	X			
<i>Betty Davis</i>	Davis	X			
<i>Kj Meyer</i>	MEYER	X			
<i>Obetahum</i>	POSHVAN			✓	
CHAIR: <i>Willmet Korman</i>	Koolbesh	X			



SENATOR ALBERT M. KOOKESH
ALASKA STATE LEGISLATURE SENATE DISTRICT C

State Capitol, Room 11
Juneau AK, 99801-1182
907-465-3473
888-288-3473
FAX 907-465-2827

Sponsor Statement

SB 148

SB 148 will resolve the issue of liability to the state or employees of the state when partnering with federally recognized tribes under the Indian Reservations Roads Program. With the decline in state and federal highway funds it's imperative we collaborate and work together. This bill will assist the partnering process, and ultimately benefit all Alaskans by leading to long-term improvements in the state's overall transportation infrastructure.

To take advantage of all available federal transportation dollars on state highways, Alaska DOT&PF and Indian Tribes may enter a series of inter-governmental agreements outlining respective obligations. The process of drafting such inter-governmental agreements can be time consuming and costly. Negotiations will often center on liability concerns, and sometimes months may elapse while trying to resolve the issues. This bill will lessen inter-governmental disputes or disagreements about liability concerns and will enable the tribe and the state to focus instead on the core transportation project(s).

Tribes have both the legal authority and financial capacity to assist with the improvements to the state transportation infrastructure. Congress made significant transportation dollars available under the Indian Reservation Roads (IRR) program. These IRR funds were made available upon the passage of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A legacy for users (SAFETEA-LU), Pub.L.No. 109-59 (2005). In FY 2008 the Alaska share of IRR funds is over \$45 million and the recent stimulus package supplemented those funds by approximately \$40 million.

This bill has the benefit of advancing state-tribal relations, advancing the state-tribal interest in improving state transportation infrastructure (including access to Alaska native villages) and minimizing nuisance litigation which can cost the state significant moneys to defend and settle.

This bill has the support of DOT& PF and I would appreciate your prompt and favorable action on this measure.

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
OFFICE OF THE COMMISSIONER

SARAH PALIN, GOVERNOR

3132 CHANNEL DRIVE
PO Box 112500
JUNEAU, ALASKA 99811-2500

FAX: (907) 586-8365
PHONE: (907) 465-3900

March 23, 2009

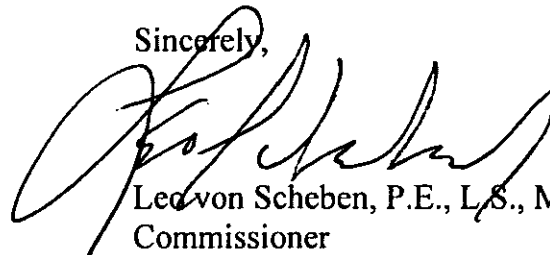
The Honorable Albert Kookesh
Alaska State Legislature
State Capitol, Room 11
Juneau AK 99801-1182

Dear Senator Kookesh:

Thank you for sponsoring SB 148. This important piece of legislation will facilitate the partnering between Alaska's tribe and the Department of Transportation and Public Facilities (DOT&PF).

One of the most confusing issues during negotiations is liability. Eliminating or limiting the need to discuss liability issues during agreement negotiations means, time and energy will focus on the core transportation issues and ultimately the construction of transportation infrastructure that will benefit communities.

Sincerely,



Leo von Scheben, P.E., L.S., M.B.A.
Commissioner

cc: Mary Siroky, Legislative Liaison, DOT&PF

Indian Reservation Road (IRR) Program Within Alaska
Synopsis by Alaska DOT&PF
February, 2009

Overview

IRR program established in federal law in 1982. Though initially managed primarily by the Bureau of Indian Affairs, this has evolved to a joint management structure between tribal governments and two federal agencies (BIA and FHWA). Participation by Alaska tribes in this program was limited prior to 2005 by two factors: First, the BIA held most decision and performance authority, and second, the funding allocated to Alaska was relatively small, resulting in very little road work being accomplished.

Under SAFETEA-LU (2005 surface transportation authorization) the statutory foundation for the program changed significantly. First, the amount of nationwide funding increased each year (starting at \$300 Million per year in 2005 and rising to \$450 Million per year in 2009). Second, each tribe was allotted funding annually based on a formula established through regulations. The formula is complex, but apart from population, the most important variable to each tribe is the number of road miles in their tribe's inventory.

Road Inventory and Funding

This identification of road miles takes place between each tribe and BIA and can include roads owned by other entities (such as Alaska DOT&PF, USFS and local governments). Since 2005 there has been a very active effort by tribes in Alaska to add as many road miles as possible to their individual inventories. While there was at one point (in 2007) a legal complication between the tribes and the State of Alaska over the inventory process (because BIA was requiring that road owners such as the state must "consent" to their roads being added to an inventory), this has been favorably resolved and the state is no longer involved in the inventory process.

The inventory process for Alaska tribes is different than most other tribes, which have reservations and thus clear boundaries. The tribal inventory of reservation-based tribes was largely based on the roads within their reservation boundary. In Alaska, with only one reservation-based tribe, essentially all but one of Alaska's 228 or so tribes must rely on road miles in and around each tribe's geographic location. Because some tribes are located in areas with a substantial number of roads, their tribal inventories are large. Other Alaska tribes, in areas with limited road mileage, have much smaller inventories and thus garner far less funding each year under the federal formula.

Another factor is the national split of funds between tribes. As Alaska's tribes have increased their inventory of IRR road miles since 2005, this has led to a smaller share of funding to other tribes in the United States. In response, these tribes have sought to expand their own inventory of miles, by expanding to include roads that lead to the reservation but are not within the reservation. Since Alaska, taken as a whole, has relatively few miles of total road in the state, this effort by non-Alaska tribes is likely to shift the balance of miles under IRR inventory back to these other non-Alaskan tribes as their inventories expand.

There are also some other categories of funding that are allocated on a discretionary (competitive) basis, such as \$14 million per year for bridge projects across all tribes in the U.S.

Examples of IRR Funding to Alaska Tribes

In 2008 Alaska tribes received about \$40 Million in funding based on the Relative Need" formula used by BIA. This formula uses several factors, including population, amount of vehicle travel, the total number of road miles and a "cost to construct factor" (which is designed to normalize funds across different construction cost circumstances). This is somewhat less than an average of \$175,000 per Alaska tribe per year. However, the distribution of funds varies widely from this average. Some tribes garner nearly \$2 million per year, while others earn less than \$5,000. In general, the tribes in Southeast Alaska do the best under the formula, in part because of their population, and also because there are relatively high number of road miles in this region due to USFS logging road construction. (See attached table from BIA)

Use of IRR Funding by Tribes

The rules governing the use of IRR funding gives substantial latitude to each tribe as to how they use their funds. Some examples of what they can perform with their funding includes:

- Maintenance: 25% of each year's funding is eligible for routine road and bridge maintenance
- Match to other federal: IRR road funds can be used to match other federal funds, including FHWA highway funds and/or Denali Commission funds
- Design and Construction: IRR funds can be used for the tasks required to plan and engineer roads, as well as the actual construction. Construction can occur under force-account rules, unlike most other federal fund sources, which require competitive bids.
- Projects types include:
 - Transportation facility planning, research, engineering, construction and reconstruction
 - Tourism enhancement and recreational development
 - Vehicular parking area improvements and additions
 - Interpretive signage installation
 - Scenic easement and scenic or historic site acquisition
 - Pedestrian and bicycle on-and-off road system improvements, including modification of public walkways to comply with the Americans with Disabilities Act (ADA)
 - Construction and reconstruction of roadside rest areas, including sanitary and water facilities
 - Provision of transit facilities and services within public lands, national parks and Indian reservations
 - Other appropriate facilities such as visitor centers

In order to use their funds, each tribe must prepare a Transportation Improvement Program or TIP (much like the state STIP) which identifies the project scope, cost and location of each project and activity to be funded.

Successful Examples of DOT&PF-Tribal Cooperation

Several groups of tribes within Alaska have established mutual organizations to better manage the program and take advantage of a pooled approach. For example, twenty tribes in the Bering Strait area operate a transportation organization called the Kawerak Transportation Program, which has professional road engineers, planners and accountants to internally identify and manage projects. By pooling their IRR funds and taking turns at project construction within their several communities, they are able to accomplish one or more projects each year, in order to improve employment opportunities and the road system in their communities. Several of these multi-tribe transportation organizations, sometimes called compacts, have been established in the state.

There have also been examples of tribes wishing to help fund work on state roads. For example, in Petersburg, the Petersburg Indian Association has helped to fund two state projects, including intending to perform the work on one project the tribe funded. This work is planned to be accomplished in cooperation with Alaska DOT&PF. Other examples of state-tribal partnerships include:

- Cordova: Native Village of Cordova (Eyak) is performing highway work on the state-owned Copper River Highway and intends to perform bridge work in the future.
- Sitka: Sitka Tribe of Alaska is operating a community-wide transit system and has received state managed transit funds.
- Mat-Su Borough: Chickaloon Native Village is evaluating the possibility of a transit system that might run from Glenallen to Anchorage on a daily or several times per week basis. This latter project received a transit grant from the Federal Transit Administration. DOT&PF transit planners have assisted the planning for this effort.
- Gambell: A federal highway earmark for road work in Gambell is being performed by Kawerak, under a transfer of funds from Alaska DOT&PF.

Impact of Stimulus Funds to Alaska Tribes

The American Recovery and Reinvestment Act contains \$310 M nationally for funding to tribes for stimulus purposes. This is about 75% increase to regular 2009 funding to all tribes, including Alaska tribes or about \$35 Million. The law's language requires that priority be given to projects that can be completed in 2 years or less, and after one year, BIA may be redistribute funds among the tribes. The allocation of IRR stimulus funds, and any redistribution of funds, is determined by the two federal agencies involved: BIA and FHWA.

Role of DOT&PF in the IRR Program

DOT&PF has been active in working with tribes in order to better achieve transportation improvements for all Alaskans. We have recently agreed to participate in a task force between the state and tribes to find workable solutions, including standard legal formats, in order to accelerate projects. That work is underway this year. We have also entered into several agreements, or otherwise assisted tribes in their use of IRR funds. Perhaps one key factor, as we prepare the next STIP, is that for the first time tribes can bring both matching funds, and maintenance funds to the table. Both factors will permit tribes' nominated projects to score higher, and thus improve the chances of garnering funds.

*36.6 m
in IRR
funds*

Tribal Code	Tribe/Village	Alloc %	Approx. Alloc.
E01002	AFOGNAK	0.000233152	\$ 65,329
E01004	AKHIOK	0.000198866	\$ 55,722
E01007	AKUTAN	0.000218151	\$ 61,126
E01011	ALEKNAGIK	0.000175729	\$ 49,239
E01027	ATKA	0.000660474	\$ 185,065
E01041	BELKOFSKI	9.57506E-06	\$ 2,683
E01065	CANTWELL	9.57506E-06	\$ 2,683
E01081	CHICKALOON	0.00207013	\$ 580,051
E01083	CHIGNIK BAY	0.000290969	\$ 81,529
E01084	CHIGNIK LAGOON	0.000255934	\$ 71,713
E01085	CHIGNIK LAKE	0.00016138	\$ 45,219
E01087	CHEESH-NA (CHISTOCHINA)	8.38246E-05	\$ 23,488
E01088	CHITINA	2.26866E-05	\$ 6,357
E01096	CLARKS POINT	4.36678E-05	\$ 12,236
E01102	KLUTI KAAH (COPPER CENTER)	3.61871E-05	\$ 10,140
E01121	CURYUNG (DILLINGHAM)	0.000623763	\$ 174,778
E01133	EGEGIK	0.000476694	\$ 133,570
E01135	EKLUTNA	0.000151737	\$ 42,517
E01136	EKUK	0.000185869	\$ 52,081
E01137	EKWOK	4.35034E-05	\$ 12,190
E01142	NANWALEK (ENGLISH BAY)	0.000847514	\$ 237,473
E01148	EYAK (CORDOVA)	0.001172167	\$ 328,441
E01149	FALSE PASS	2.11834E-05	\$ 5,936
E01165	GAKONA	9.28783E-05	\$ 26,024
E01185	GULKANA	6.16666E-05	\$ 17,279
E01214	IGIUGIG	0.000444181	\$ 124,459
E01216	ILIAMNA	0.000559303	\$ 156,717
E01222	IVANOFF BAY	1.21538E-05	\$ 3,405
E01237	KARLUK	0.000440235	\$ 123,354
E01246	KENAITZE INDIAN TRIBE	0.000402272	\$ 112,716
E01252	AGDAAGUX TRIBE (KING COVE)	0.00037297	\$ 104,506
E01254	KING SALMON TRIBE	4.09893E-05	\$ 11,485
E01260	KNIK TRIBE	0.000283909	\$ 79,551
E01264	KOKHANOK	0.000203144	\$ 56,921
E01266	NEW KOLIGANEK (KOLIGANEK)	0.000131406	\$ 36,820

E01279	LARSEN BAY	1.80799E-05	\$	5,066
E01283	LEVELOCK	0.0010243	\$	287,009
E01295	MANOKOTAK	0.000253994	\$	71,169
E01309	MENTASTA	2.72634E-05	\$	7,639
E01324	PAULOFF HARBOR	0.00017393	\$	48,735
E01330	NAKNEK	0.001855871	\$	520,015
E01336	NELSON LAGOON	0.000114157	\$	31,987
E01339	NEW STUYAHOK	0.000132432	\$	37,107
E01340	NEWHALEN	0.002782963	\$	779,786
E01346	NIKOLSKI	2.07679E-05	\$	5,819
E01348	NINILCHIK	0.000471152	\$	132,017
E01353	NONDALTON	6.39638E-05	\$	17,923
E01367	OLD HARBOR	4.28449E-05	\$	12,005
E01370	OUZINKIE	0.000262691	\$	73,606
E01376	PEDRO BAY	0.000208515	\$	58,426
E01378	PERRYVILLE	0.000157744	\$	44,200
E01383	PILOT POINT	0.000348278	\$	97,587
E01396	PORT GRAHAM	0.000173799	\$	48,699
E01397	PORT HEIDEN	0.000465471	\$	130,425
E01398	PORT LIONS	0.000341681	\$	95,739
E01402	PORTAGE CREEK	4.80145E-05	\$	13,454
E01419	SALAMATOFF	0.00041533	\$	116,375
E01424	QAGAN TAYAGUNGIN (SAND POINT)	0.000271481	\$	76,069
E01431	SELDOVIA	0.000384164	\$	107,643
E01450	SOUTH NAKNEK	0.000267407	\$	74,927
E01455	SAINT GEORGE	0.000412542	\$	115,594
E01458	SAINT PAUL	0.000474003	\$	132,816
E01477	TATITILEK	9.36216E-05	\$	26,233
E01478	TAZLINA	0.000102185	\$	28,632
E01487	TOGIAK	0.000590746	\$	165,527
E01503	TWIN HILLS	0.000254801	\$	71,395
E01505	TYONEK	0.000375801	\$	105,299
E01506	UGASHIK	0.000386458	\$	108,286
E01510	QAWALANGIN (UNALASKA)	0.00031642	\$	88,661
E01511	UNGA	0.000309438	\$	86,704
E01531	LESNOI (WOODY ISLAND)	8.80288E-06	\$	2,467
E01578	CHENEGA (CHANEGA)	0.000820165	\$	229,810

E01586	KAGUYAK	4.6331E-07	\$	130
E01623	KANATAK	8.80288E-06	\$	2,467
E01804	SUN'AQ TRIBE (KODIAK)	0	\$	-
E01850	SUN'AQ TRIBE (KODIAK) (POP)	0.000229362	\$	64,267
E02005	AKIACHAK	0.000467675	\$	131,042
E02006	AKIAK	9.40498E-05	\$	26,353
E02008	ALAKANUK	0.000353685	\$	99,102
E02019	YUPIIT (ANDREAFSKI)	0.000231501	\$	64,867
E02021	ANIAK	0.000111517	\$	31,247
E02029	ATMAUTLUAK	0.000183679	\$	51,467
E02043	ORUTSARAMUIT (BETHEL)	0.000527704	\$	147,863
E02047	BILL MOORE'S SLOUGH	0.000621648	\$	174,186
E02077	CHEFORNAK	6.84154E-05	\$	19,170
E02080	CHEVAK	0.000223468	\$	62,616
E02092	CHULONAWICK	7.56739E-06	\$	2,120
E02109	CROOKED CREEK	0.001763482	\$	494,128
E02132	EEK	0.00013771	\$	38,586
E02141	EMMONAK	0.000260013	\$	72,856
E02170	GEORGETOWN	0.00036578	\$	102,491
E02189	HAMILTON	3.86091E-06	\$	1,082
E02199	HOOPER BAY	0.00017266	\$	48,379
E02232	KALSKAG	3.69103E-05	\$	10,342
E02241	KASIGLUK	9.42591E-05	\$	26,411
E02255	KIPNUK	0.000128287	\$	35,946
E02267	KONGIGANAK	0.000298045	\$	83,512
E02268	KOTLIK	0.000151138	\$	42,349
E02275	KWETHLUK	0.000190269	\$	53,313
E02276	KWIGILLINGOK	5.86859E-05	\$	16,444
E02288	LIME VILLAGE	0.00010261	\$	28,751
E02291	LOWER KALSKAG	5.43935E-05	\$	15,241
E02297	MARSHALL (FORTUNA LEDGE)	0.000503771	\$	141,157
E02307	MEKORYUK	0.000169488	\$	47,491
E02323	ASA'CARSARMIUT	0.000159698	\$	44,747
E02325	GOODNEWS BAY	0.000102407	\$	28,694
E02332	NAPAIMUTE	1.15827E-05	\$	3,245
E02333	NAPAKIAK	0.000196848	\$	55,157
E02334	NAPASKIAK	0.000193489	\$	54,216

E02341	NEWTOK	0.001162596	\$	325,760
E02343	NIGHTMUTE	0.00036304	\$	101,724
E02361	NUNAPITCHUK	8.03066E-05	\$	22,502
E02366	OHOGAMIUT	1.25094E-05	\$	3,505
E02369	OSCARVILLE	1.08106E-05	\$	3,029
E02371	PAIMIUT	1.01928E-05	\$	2,856
E02384	PILOT STATION	0.000114705	\$	32,140
E02385	PITKAS POINT	2.61512E-05	\$	7,328
E02388	PLATINUM	6.7952E-06	\$	1,904
E02407	KWINHAGAK (QUINHAGAK)	0.000187433	\$	52,519
E02411	RED DEVIL	6.17936E-05	\$	17,315
E02418	IQURMUIT (RUSSIAN MISSION)	0.000450209	\$	126,148
E02428	SCAMMON BAY	0.00021422	\$	60,025
E02436	NUNAM IQUA (SHELDON'S POINT)	2.73353E-05	\$	7,659
E02446	SLEETMUTE	3.27425E-05	\$	9,174
E02456	ALGAACIQ (ST. MARY'S)	5.74504E-05	\$	16,098
E02464	STONY RIVER	0.000204835	\$	57,395
E02490	NUNAKAUYARMIUT (TOKSOOK BAY)	0.000126532	\$	35,454
E02497	TULUKSAK	0.000121326	\$	33,995
E02499	TUNTUTULIAK	0.000113756	\$	31,875
E02500	TUNUNAK	9.66292E-05	\$	27,076
E02508	UMKUMIUTE	2.16211E-06	\$	606
E02841	CHUATHBALUK (RUSSIAN MISSION)	0.000210273	\$	58,919
E03010	ALATNA	5.40528E-06	\$	1,515
E03013	ALLAKAKET	0.000159164	\$	44,598
E03016	ANAKTUVUK PASS	0.000145615	\$	40,801
E03022	ANVIK	2.6414E-05	\$	7,401
E03025	ARTIC VILLAGE(VENETIE)	0.000537883	\$	150,715
E03028	ATQASUK VILLAGE (ATKASOOK)	0.00010439	\$	29,250
E03033	BARROW INUPIAT	0.001400071	\$	392,300
E03038	BEAVER	7.4365E-05	\$	20,837
E03049	BIRCH CREEK TRIBE	0.000106643	\$	29,881
E03072	CHALKYITSIK	0.000177107	\$	49,625
E03093	CIRCLE	5.28041E-05	\$	14,796
E03127	DOT LAKE	8.17887E-05	\$	22,917
E03130	EAGLE	4.81887E-05	\$	13,502
E03146	EVANSVILLE	0.000175431	\$	49,156

E03162	FORT YUKON	0.00053164	\$	148,966
E03166	GALENA (LOUDEN VILLAGE)	0.000102979	\$	28,855
E03195	HOLY CROSS	0.000733543	\$	205,539
E03205	HUGHES	0.000200634	\$	56,218
E03210	HUSLIA	0.000392228	\$	109,902
E03230	KAKTOVIK (BARTER ISLAND)	0.000302508	\$	84,763
E03233	KALTAG	0.000164646	\$	46,134
E03271	KOYUKUK	4.75324E-05	\$	13,319
E03294	MANLEY HOT SPRINGS	0.000190645	\$	53,419
E03303	MCGRATH	0.000559825	\$	156,863
E03314	MINTO	8.36019E-05	\$	23,425
E03337	NENANA	0.000158136	\$	44,310
E03345	NIKOLAI	0.000397715	\$	111,440
E03354	NUIQSUT (NOOIKSUT)	0.000971049	\$	272,088
E03358	NORTHWAY	8.77483E-05	\$	24,587
E03359	NULATO	0.000318201	\$	89,160
E03389	POINT HOPE	0.001055683	\$	295,802
E03390	POINT LAY	0.00018705	\$	52,412
E03410	RAMPART	0.000413387	\$	115,831
E03416	RUBY	0.000156708	\$	43,910
E03434	SHAGELUK	6.64438E-05	\$	18,618
E03463	STEVENS	0.000819964	\$	229,754
E03472	TAKOTNA	3.50281E-05	\$	9,815
E03474	TANACROSS	4.88519E-05	\$	13,688
E03475	TANANA	0.00025781	\$	72,238
E03479	TELIDA	9.52838E-06	\$	2,670
E03483	TETLIN	0.000290328	\$	81,350
E03518	VENETIE	0.001908435	\$	534,743
E03519	WAINWRIGHT	0.000373051	\$	104,529
E03634	HEALY LAKE	0.000702448	\$	196,826
E03672	GRAYLING	0.000121694	\$	34,099
E03842	INUPIAT (ARCTIC SLOPE)	0	\$	-
E04014	AMBLER	0.000179062	\$	50,173
E04056	BREVIG MISSION	0.002234208	\$	626,025
E04059	BUCKLAND	0.000196699	\$	55,115
E04107	COUNCIL	0.000645823	\$	180,960
E04117	DEERING	0.000304929	\$	85,441

E04139	ELIM	0.003003718	\$	841,642
E04167	GAMBELL	0.000802277	\$	224,798
E04177	CHINIK (GOLOVIN)	0.002476734	\$	693,981
E04219	DIOMEDE (INALIK)	0.000871644	\$	244,235
E04249	KIANA	0.000195189	\$	54,692
E04253	KING ISLAND	0.001959187	\$	548,964
E04256	KIVALINA	0.000497913	\$	139,515
E04261	KOBUK	0.000419178	\$	117,454
E04269	KOTZEBUE	0.001277088	\$	357,840
E04270	KOYUK	0.00400364	\$	1,121,820
E04299	MARY'S IGLOO	0.002848064	\$	798,027
E04350	NOATAK	0.000268066	\$	75,112
E04352	NOME	0.000693125	\$	194,214
E04355	NOORVIK	0.001667867	\$	467,336
E04425	SAVOONGA	0.003275815	\$	917,883
E04429	SELAWIK	0.00033264	\$	93,206
E04435	SHAKTOOLIK	0.002637548	\$	739,041
E04438	SHISHMAREF	0.001510506	\$	423,244
E04440	SHUNGNAK	0.000527017	\$	147,670
E04447	SOLOMON	0.001445523	\$	405,036
E04457	SAINT MICHAEL	0.001628392	\$	456,275
E04460	STEBBINS	0.001026155	\$	287,529
E04480	TELLER	0.001117104	\$	313,013
E04509	UNALAKLEET	0.000998426	\$	279,759
E04521	WALES	0.001487735	\$	416,863
E04525	WHITE MOUNTAIN	0.002138295	\$	599,150
E09020	ANGOON	0.000748292	\$	209,671
E09108	CRAIG	0.003172434	\$	888,916
E09128	DOUGLAS	0.000432239	\$	121,113
E09186	CHILKOOT (HAINES)	0.00070501	\$	197,544
E09198	HOONAH	0.000879626	\$	246,471
E09211	HYDABURG	0.006521119	\$	1,827,217
E09229	KAKE	0.002654215	\$	743,711
E09238	KASAAN	0.005074374	\$	1,421,839
E09248	KETCHIKAN	0.002287486	\$	640,954
E09257	KLAWOCK	0.004286807	\$	1,201,163
E09259	CHILKAT (KLUKWAN)	0.001069984	\$	299,810

E09380	PETERSBURG			
E09427	SAXMAN	0.003387362	\$	949,139
E09442	SITKA TRIBE	0.000137306	\$	38,473
E09443	SKAGWAY	0.000676279	\$	189,493
E09532	WRANGELL	5.59855E-05	\$	15,687
E09533	YAKUTAT TLINGIT TRIBE	0.000909776	\$	254,919
E09801	TLINGIT & HAIDA TRIBES	0.000693867	\$	194,421
		0.00208879	\$	585,279
			\$	36,628,493

Based on \$280,200,000

SB

152

ALASKA STATE LEGISLATURE

Senate District H
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Wasilla AK 99654
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907-373-4724 :Fax



State Capitol
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Charlie Huggins
Senator

MEMORANDUM

February 15, 2010

To: Senator Albert Kookesh
Chair, Senate Transportation Committee

From: Senator Charlie Huggins

Subject: Hearing Request for Senate Bill 152

This is a request that you schedule a hearing on SB 152, "AN ACT RELATING TO MUNICIPAL TRANSPORTATION SYSTEMS AND TO REGIONAL TRANSIT AUTHORITIES."

Attached please find a copy of the bill, a sponsor statement, a sectional analysis, a witness list, and some background information for your use. Digital copies of these documents were also emailed to your office.

If you have questions regarding this request or the bill, please contact Jody Simpson in my office at 465-2661.

Thank you.

Attachments

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

August 17, 2009

SUBJECT: Senate Bill 152, authorizing municipalities to establish and operate regional transit authorities to provide public transportation services -- sectional analysis (Work Order No. 26-LS0667A)

TO: Senator Charlie Huggins

FROM: Jack Chenoweth
Assistant Revisor

Jody Simpson has asked for preparation of a sectional analysis of the above-captioned bill.¹

In the measure:

Bill section 1 sets out, as new sections within AS 29.35 (Municipal powers and duties), substantive provisions authorizing establishment and operation of regional transit authorities:

Sec. 29.35.750. Declares the purpose of regional transit authorities ("to provide for public transportation within the boundaries of the authority"). Provides that a single municipality or two or more municipalities may create a regional transit authority ("authority") by ordinance or ordinances. Allows a municipality to join an established authority. Provides that an authority is a body corporate and politic and an instrumentality of the municipality or municipalities that created it, but has a separate and independent legal existence from the municipality or municipalities. Requires that the ordinance or ordinances creating the authority must specify the powers, boundaries, and limitations of the authority. Limits the application of the Act to a regional transit authority created under this section.

Sec. 29.35.752. Requires that an ordinance creating an authority provide for the manner for dissolving an authority. States that the assets of a dissolved authority be distributed to a participating municipality in proportion to a municipality's contribution,

¹ Supporting information provided by your office in late February when you asked for a first draft evidences that the measure draws heavily from existing law, the Regional Solid Waste Management Authority Act, ch. 26, SLA 2006, authorizing one or more municipalities to establish regional solid waste management authorities and defining the powers and duties of those authorities as set out in AS 29.35.800 - 29.35.920.

Senator Charlie Huggins

August 17, 2009

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less any liability owed to the authority. Distribution may only occur after outstanding bond liability has been satisfied. Allows a municipality participating with one or more other municipalities to withdraw from the authority without dissolving the authority, but disallows use of the powers of initiative and referendum to direct withdrawal of a municipality from participating with an authority.

Sec. 29.35.754. Authorizes a municipality to transfer real property and improvements or assign or lease personal property to an authority.

Sec. 29.35.756. Enumerates the powers an authority may exercise, provided the powers are included in the enabling ordinance. Directs the authority to maintain appropriate insurance coverage.

Sec. 29.35.758. Provides that an authority created with appropriate powers may issue bonds and borrow money. States that the principal and interest are payable from the revenue received by the authority. Lists requirements for authorizing and selling bonds and planning for the payment of bond debt.

Sec. 29.35.760. States that an authority's bonds are eligible investments for and by entities listed in the section.

Sec. 29.35.762. Declares that the pledge of revenue for the payment of debt is binding from the time the pledge is made and provides for a lien on revenue. Affirms that the state and municipalities participating in an authority are not liable for the debts of an authority and that the debt is payable solely from the authority's revenue.

Sec. 29.35.764. Establishes the requirement that the state and participating municipalities commit to not interfere with the ability of an authority to meet its debt obligation.

Sec. 29.35.766. Limits the satisfaction of the liability of an authority exclusively to the assets or revenue of the authority. Eliminates personal liability of a board member or employee because of the execution or issuance of bonds. Requires an authority to obtain a fidelity bond for board members and executives responsible for accounts and finances.

Sec. 29.35.768. Exempts an authority and its bonds from state and municipal taxes. Provides that an authority and a participating municipality may negotiate for payments in lieu of taxes.

Sec. 29.35.770. Provides for the authority to be administered by a board that shall appoint a chief executive officer.

Sec. 29.35.772. Provides that a collective bargaining agreement for state or municipal employees transferred to the authority shall remain in effect for a fixed period of time and allows the employees to retain certain rights of participation in fringe benefit programs. Declares that the Public Employment Relations Act (AS 23.40.070 - 23.40.260) under which public employees may engage in collective bargaining, applies to the authority's employees unless all participating municipalities are exempt from provisions of that Act.

Sec. 29.35.774. Requires the board to adopt bylaws and regulations and lists subjects that must be included in the bylaws and regulations.

Sec. 29.35.776. Declares that an the authority is subject to state public records (AS 40.25) and open meeting (AS 44.62.310 - 44.62.312) laws.

Senator Charlie Huggins

August 17, 2009

Page 3

Sec. 29.35.778. Requires the authority to prepare and distribute an annual report to the mayor and governing body of each municipality participating in the authority and lists subjects that may be included in the report. Requires an annual audit by an independent certified public accountant and requires the authority to make its records available to an auditor for a municipality participating in the authority.

Sec. 29.35.780. Directs that the superior court has jurisdiction to determine claims brought against an authority. Specifies the legal authority by which a holder of bonds, notes, or coupons, or a trustee may enforce rights and compel performance of the authority's duties. Establishes that an authority, its board members, and its employees enjoy the same rights, privileges, and immunities as a municipality and municipal officers in judicial and regulatory proceedings.

Sec. 29.35.790. Declares the provisions of this legislation prevail if in conflict with other statutes in the state's Municipal Code (AS 29).

Sec. 29.35.798. Supplies definitions for terms used in provisions that would be enacted in AS 29.35.750 - 29.35.799.

Sec. 29.35.799. Sets out a short title for the material set out as AS 29.35.750 - 29.35.799; the material is to be cited as the "Regional Transit Authority Act".

Bill section 2 adds a new paragraph, paragraph (26), to AS 29.71.800 to supply a definition of the term "transportation system" applicable to the use of that term where it appears throughout the Municipal Code (AS 29). The definition incorporates reference to transportation facilities commonly used for the public or private transportation of goods and individuals and motor vehicles, trains, and watercraft, -

JBC:ljw
09-317.ljw

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Senator Gary Stevens, Senate President



Senator Johnny Ellis, Majority Leader

Available Data for SB152

SB152

[SENATOR CHARLIE HUGGINS](#)

[Statement PDF](#)

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Statement

Senate Bill 152: "Transportation; Transit Authorities"

"An Act relating to municipal transportation systems and to regional transit authorities."

The Municipality of Anchorage and the Matanuska-Susitna Borough have approved a Memorandum of Agreement that commits both entities to cooperate in the development of a Regional Transit Authority ("RTA") for the purpose of increasing commuter service between the two communities.

It is important to plan for regional transit service in South-central Alaska now so that we are prepared for the future. Conservative estimates indicate that more than 14,000 people commute between Mat-Su and Anchorage every day and this number is projected to grow to 30,000 within 15 years. Fluctuating fuel costs and over-capacity roadways are driving the public demand for transit service to record highs. Park-and-ride lots are overflowing and bus services in both Anchorage and Mat-Su are experiencing double-digit ridership growth, with over 700 people on a waiting list for vanpools.

Thousands of RTAs exist in communities large and small across the nation and are a proven effective and efficient approach to managing cross-jurisdictional service. These authorities plan and deploy multi-modal services that are funded by a variety of sources, including federal, state, and local contributions and "fare box" revenue.

Enabling legislation is required to create RTAs. There is precedent in Alaska for forming multi-jurisdictional authorities: The Municipal Port Authority Act, Alaska Statutes 29.35.600 - .730, provides for the establishment of port authorities by one or more municipalities, and the Regional Solid Waste Management Authority Act, Alaska Statutes 29.35.800 - .925, provides for the establishment of regional solid waste management authorities. SB 152 will provide the framework to authorize the RTA and empower it to enter into contracts; accept contributions, grants, or loans from any public or private agency; incur obligations and issue bonds; and acquire, manage, and convey real property in furtherance of its mission.

The creation of an RTA is recommended in both the Anchorage and Mat-Su Borough Long Range Transportation plans, as well as in a 2002 Commuter Rail Study that was commissioned by the Alaska Railroad Corporation.

By planning regionally, we can best meet increasing demands on Alaska's busiest commuter corridor and manage the integrated system as it matures.

Contact: Jody Simpson
(907)465-2661
SB 152, 26-LS0667A
March 24, 2009

[SENATOR CHARLIE HUGGINS](#)



**SOUTH CENTRAL TRANSIT AUTHORITY
MEMORANDUM OF AGREEMENT**

THIS AGREEMENT dated October 23, 2009, by the MUNICIPALITY OF ANCHORAGE, a home rule municipality (the "Municipality"); and the MATANUSKA-SUSITNA BOROUGH, a second class borough (the "Borough");

WHEREAS, there is increasing commuter traffic between the Municipality and Borough;

WHEREAS, the parties desire to coordinate their efforts to reduce vehicular congestion, improve air quality and assist residents with the increasing costs and inconvenience of commuting;

WHEREAS, the parties will explore the feasibility of the formation of a regional transit authority as a public corporation pursuant to legislation to be enacted by the State of Alaska, operating as an instrumentality of its member communities but with a separate and independent existence; and

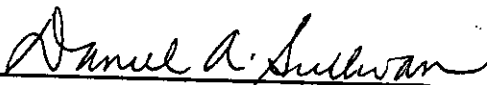
WHEREAS, in the interim, each of the parties has the power and authority to enter agreements for the cooperative or joint administration of its transportation functions;

ACCORDINGLY, IT IS HEREBY AGREED AS FOLLOWS:

1. **Purpose; Authorized Representative.** Each party shall appoint an authorized representative to determine if a regional transportation authority is feasible, and beneficial to its jurisdiction. If it is found to be feasible and beneficial to each jurisdiction, and if the jurisdiction concurs, then the representative will assist in the planning and design of a public transit system, inclusive of those modes of transportation within the jurisdictional limits that were determined to be feasible and beneficial to each party. The authorized representative will also pursue enabling legislation, if feasible and beneficial, to create a regional transit authority as a public corporation, acting as an instrumentality of its member municipalities, but with a separate and independent legal existence for those modes of transportation that each party agrees to. Upon the death, disability, resignation or removal of an authorized representative, a successor shall be promptly appointed to fill the vacancy.
2. **Additional Parties.** Additional parties to this Agreement may be added by agreement of the existing parties, contingent upon the additional party(ies) signing this Agreement

- 3 **Funding.** The activities of the authorized representatives shall be funded primarily by grant moneys from the United States, the State of Alaska, or any department, instrumentality, or agency thereof, and the parties shall include regional transportation assistance high on their respective legislative request lists if determined to be feasible and beneficial. However, the parties may contribute funds at such times and in such amounts and proportions as requested by the authorized representatives and approved by each jurisdiction's administration and assembly
- 4 **Expiration.** This Agreement shall expire December 31, 2010, unless extended by agreement of the parties
- 5 **Amendments.** This Agreement may be amended only in writing signed by the parties.

MUNICIPALITY OF ANCHORAGE

By: 
Daniel A. Sullivan, Mayor

MATANUSKA-SUSITNA BOROUGH

By: 
John Duffy, Borough Manager



**SOUTH CENTRAL TRANSIT AUTHORITY
MEMORANDUM OF AGREEMENT**

THIS AGREEMENT dated MARCH 12, 2009, by the MUNICIPALITY OF ANCHORAGE, a home rule municipality (the "Municipality"); and the MATANUSKA-SUSITNA BOROUGH, a second class borough (the "Borough");

WHEREAS, there is increasing commuter traffic between the Municipality and Borough;

WHEREAS, the parties desire to coordinate their efforts to reduce vehicular congestion, improve air quality and assist residents with the increasing costs and inconvenience of commuting;

WHEREAS, the parties anticipate formation of a regional transit authority as a public corporation pursuant to legislation to be enacted by the State of Alaska, operating as an instrumentality of its member communities but with a separate and independent existence; and

WHEREAS, in the interim, each of the parties has the power and authority to enter agreements for the cooperative or joint administration of its transportation functions;

ACCORDINGLY, IT IS HEREBY AGREED AS FOLLOWS:

1. **Purpose; Authorized Representative.** Each party shall appoint an authorized representative to plan and design a public transit system inclusive of all modes of transportation within the jurisdictional limits of the parties, including pursuit of enabling legislation to create a regional transit authority as a public corporation acting as an instrumentality of its member municipalities but with a separate and independent legal existence. Upon the death, disability, resignation or removal of an authorized representative, a successor shall be promptly appointed to fill the vacancy.

2. **Additional Parties.** Additional parties to this Agreement may be added by agreement of the existing parties, contingent upon the additional party(ies) signing this Agreement.

3. **Funding.** The activities of the authorized representatives shall be funded primarily by grant moneys from the United States, the State of Alaska, or any department, instrumentality, or agency thereof, and the parties shall include regional transportation assistance high on their respective legislative request lists. However, the parties may contribute funds at such times and in such amounts and proportions as requested by the authorized representatives and approved by the assembly of the appropriate party.

4. **Expiration.** This Agreement shall expire December 31, 2009, unless extended by agreement of the parties.

5. **Amendments.** This Agreement may be amended only in writing signed by the parties.

MUNICIPALITY OF ANCHORAGE

By: 

Matt Claman, Acting Mayor

MATANUSKA-SUSITNA BOROUGH

By: 

John Duffy, Borough Manager

South Central Alaska Regional Transit Authority - Initial Planning Study Scope of Work

Background

The Municipality of Anchorage (MOA) and the Matanuska Susitna Borough (MSB) have signed a Memorandum of Agreement to work together toward the formation of a Regional Transit Authority (RTA). The RTA will develop a regional public transportation transit strategy that could involve a number of policy and operational options, including additional buses, vanpools, carpools, highway improvements, commuter rail, and ferry service.

Conservative estimates indicate that more than 14,000 people commute between the MatSu and Anchorage every day, a number projected to grow to 30,000 in just 15 years. According to the American Public Transportation Association, Americans use more energy for transportation than for any other activity. Nearly 43% of America's energy resources are used in transportation, compared to industrial use (39%), residential use (11%) and commercial use (7%). Greater use of public transportation therefore offers the single most effective strategy currently available for achieving significant energy savings and improving air quality, without imposing new taxes, government mandates or regulations.

The demands on our region's existing transit systems are reaching or exceeding existing capacity. Park-and-ride lots in the Matanuska Valley are at overflow, the popular Share-a-Van program has a 700-person waiting list, and transit in MOA and the MSB are seeing double-digit ridership growth. Existing commuter services are at capacity. Action is needed to maintain affordable, energy efficient transportation and a vibrant regional economy.

The Transit Cooperative Research Program (TCRP) – sponsored by the Federal Transit Administration – authored “Report 34: Assessment of the Economic Impacts of Rural Public Transportation”, a 201 page report published in 1998. According to the report, the national economic benefits of expenditures for rural transit of provide a benefit/cost ratio of 3.35 to one. This is a significant level of benefits. The ratio of 3.35 to one exceeds by a large margin the returns of many governmental programs.

The following benefits were derived from the case studies presented in the report:

- Increasing opportunities for employment
- Providing access to training and employment
- Providing cost savings to transit riders over their alternative modal options
- Generating additional activity for existing businesses and caregivers by creating better access for customers, clients, and employees
- Attracting additional businesses to the area
- Attracting tourists to the area
- Allowing more productive use of scarce land
- Providing access to medical facilities

- Helping persons with disabilities and other functional problems continue to maintain independent lives within the community
- Increasing overall economic activity in the community

Scope of Study

The MOA and MSB will jointly contract with a consultant for the preparation of a plan for the institutional design and initial operations of the RTA. This plan study will be developed as a series of working papers which will be consolidated as chapters in a Final Report:

- **Institutional Options.** Describes typical Regional Transit Authority (RTA) powers; provides an overview of the institutional structures of existing RTAs in the continental US; presents initial institutional options for the development of a Regional Transit Authority (RTA) serving the MOA/MSB; and provides an analysis and assessment of each alternative.
- **Organizational Analysis and Staffing Plan.** Documents the general framework for the organizational structure for management and operation of public transportation for MOA/MSB.
- **Inventory/Existing Needs Assessment.** Describes and evaluates existing public transportation services and identifies known deficiencies or needs.
- **Demand Forecast/Corridor Identification.** Provides a 20-year forecast of overall demand for public transportation services and identifies those corridors and areas most likely to need expanded transit services within 5, 10, and 20-year timeframes.
- **Alternative Service Strategies.** Identifies four alternative service strategies for expanding public transportation within the RTA boundaries, evaluates their ability to meet identified and forecasted demand/needs, compares their estimated capital and operating costs, and identifies a preferred alternative.
- **Service Standards.** Establishes service standards to provide a systematic method to determine: 1) the effectiveness in serving the community and meeting agency goals, and 2) the efficiency in the use of resources.
- **Investment in RTA.** Documents proposed RTA assets, the original cost of and the current value of assets, and each municipality's contributions.
- **Financing Plan.** Identifies potential funding sources (including federal, state, city, county funds, fares, and other miscellaneous sources such as advertising) and provides a recommended financing plan for capital and operating costs.
- **Cost Allocation Options.** Presents an overview of operating cost allocation methods that are used by other Regional Transit Authorities.
- **Transition Plan and Implementation.** Identifies a time table for the transition from operations by current service providers to operations by the new RTA.

Working Paper 1

RIDERSHIP FORECAST

INTRODUCTION

The purpose of this working paper is to assess the ridership potential for a new commuter rail service between the Matanuska-Susitna (Matsu) Valley and Anchorage. The planning years for the service is assumed here to be 2012 and 2020. The service would offer either 2 or 3 inbound peak trips in the morning commute period, and the reverse in the evening, with the potential of mid-day or off-peak service as well.

Stations assumed in this analysis include, from north to south, Downtown Wasilla, Matanuska (Glenn Highway / Park Highway Interchange), Eklutna, Birchwood, Eagle River, Elmendorf, Anchorage, Spenard and Anchorage Airport.

Forecasts were done assuming two station stopping patterns: one for a traditional pattern, with stops every 6 to 8 miles; the other for express service having 2 and 3 stations.

FORECASTING METHODOLOGY

The methodology described below was pioneered in a similar commuter rail planning effort conducted for the *Orange County Commuter Rail Strategic Assessment* in 2003-2004. That study focused on improvements to Metrolink service between Orange County and Los Angeles Union Station near Downtown Los Angeles. The forecasting process was developed based on various existing data, but mostly on origin-destination information from Metrolink's 2002 *On-board Passenger Survey*.¹ The methodology as adapted to the current effort consists of several steps outlined below.

Determining Station Catchment Areas

The catchment areas represent the areas around stations where riders are most likely to be originating (home end) or terminating (work end) their commuter rail trips. Origin catchment areas are larger than the destination catchment areas, as travelers can use their own cars to access their origin stations but must either walk or ride local transit on the destination end. Catchment areas vary generally from about 3 to 5 miles around a station, but the reach of more distant stations can extend further outward.

For this study, the origin catchment areas were defined as 5 miles for Wasilla and Matanuska stations and as 3 miles for the Eklutna, Birchwood and Eagle River. These five stations are considered originating stations.

The destination catchment areas were defined as 3 miles around all stations. Destinations stations include Elmendorf, Anchorage, Spenard and Anchorage Airport.

Identifying the Universe of Work Trips

With the station catchment areas defined, the study team identified the universe of work trips that could be attracted to commuter rail between any pairing of an origin catchment area and a destination catchment area. This was done using the travel demand model developed for the Knik Arm Bridge and Toll Authority

¹ In 2005, the methodology was applied to forecast Metrolink system-wide ridership. In 2007, it was adapted to forecast ridership in three studies: one for service expansion of the San Joaquin Regional Rail Commission's commuter rail program in Northern California; another for an update of the Atlanta, Georgia, commuter rail plan; and a third for a conceptualized Fairbanks commuter rail service.

(KABATA). More specifically, the home base work (HBW) trip tables developed as part of the KABATA model were used. A HBW trip (also known simply as a work trip) occurs when a worker travels to a workplace. Thus, a commuter from Wasilla heading to a job in Anchorage would generate two work trips on a regular weekday: one to the workplace and another returning home.

Work trips made between the aggregation of traffic analysis zones (TAZs) at the origin station and the aggregation of TAZs at destinations were extracted from the KABATA trip tables for 2005, 2012 and 2020.

Determining the Commuter Rail Trips

A comparison of actual Metrolink peak period ridership between station catchment areas and the universe of work trips between those catchment areas provided an understanding of the commuter rail mode share, i.e. the percentage of all work trips that commuter rail could capture. If, for example, a commuter rail line carries 100 out of 1,000 eligible work trips between an origin station catchment area and a destination station catchment area, then the commuter rail line captures 10 percent of that work trip market.

The comparison showed a relationship existed between the shares of work trips and both the distance traveled and the frequencies of trains. Commuter rail tends to capture more commute trips if the trips are longer and if service levels are higher (more frequencies). Furthermore, trips heading to Downtown Los Angeles tended to have higher mode splits than to anywhere else (this fact appears a result of higher parking fees and good transit connections Downtown versus origin or suburban stations). Thus a table of capture rates varying with the distance to a city center and the frequency of train was developed and refined over the time. The capture rates were then applied to the Anchorage projections of work trips between station areas.

Potential Adjustments

The application of capture rates by distance and train frequency from the Metrolink study to the current effort assumes implicitly that the other factors affecting ridership are similar between the conceptualized Anchorage commuter rail system and the Metrolink system at the time of the survey (2002). These assumptions were reviewed as described below and adjustments were developed when needed.

- **Congestion** – Los Angeles is well known as one of the worse cities in the U.S. when it comes to congestion. Anchorage has some congestion but not at the same level as in Los Angeles. Based on the Texas Transportation Institute's *Annual Urban Congestion Report*, the annual hours of delay per peak traveler averaged 69 hours in 2002 in Los Angeles. Based on the 1995 to 2007 trend, the estimate of annual hours of delay for Anchorage has stayed pretty steady around 10 hours. Accordingly, a factor was estimated to adjust the capture rates developed in Los Angeles for use in this study.
- **Gas price** – The price of gasoline is usually higher in California than in Anchorage. At the same time, the incomes of travelers in Los Angeles are higher than in Anchorage. As a result, it was assumed that no adjustment for a gas price differential was necessary.
- **Fares** – Since the assumption for this study was to use distance-based, "typical" commuter rail fares, there was no need to make adjustment for fares.
- **Parking availability and cost** – Most of the Metrolink stations have free parking. Parking at origin stations of an Anchorage system will be free. So, again, no adjustment was necessary to reflect the impact of paid parking.
- **Seasonality** – It is reasonable to assume ridership would be higher in winter, when road conditions are more dangerous. However, it is difficult to identify how much more. To be conservative, there was no adjustment made for seasonality.

- **Train speed** – The average Metrolink train speed was estimated at 42 mph, similar to the one assumed for the Anchorage assuming a traditional stopping pattern. Matsu-Anchorage express service would have higher speeds, as they would have fewer station stops.

COMMUTER RAIL LINES DESCRIPTION AND ASSUMPTIONS

The distance and travel times between the 9 stations assumed for the Anchorage commuter rail system appear in Table 1.

Table 1: Commuter Rail Line Description

From	To	Miles	Minutes
Wasilla	Matanuska	8.50	13
Matanuska	Eklunta	9.38	14
Eklutna	Birchwood	5.65	9
Birchwood	Eagle River	8.20	12
Eagle River	Elmendorf	7.62	11
Elmendorf	Anchorage	5.87	9
Anchorage	Spenard	3.19	5
Spenard	Airport	3.04	5

The ridership forecasts for 2012 and 2020 rested on various assumptions. The assumptions pertain to five cases. Cases 1 through 2 reflect a typical commuter rail service with stations every 6 to 8 miles on average. Cases 3 through 5 reflect an express service.

- **Case 1** – 2 alternatives: 2 and 3 trains inbound in the morning peak period, with the reverse pattern assumed in the afternoon peak period, and a total of 9 commuter rail stations.
- **Case 2** – 2 alternatives: 2 and 3 trains inbound in the morning peak period, with the reverse pattern assumed in the afternoon peak period, and a total of 7 commuter rail stations.
- **Case 3** – 2 alternatives: 2 and 3 trains inbound in the morning peak period, with the reverse pattern assumed in the afternoon peak period, and a total of 2 commuter rail stations: Wasilla and Anchorage.
- **Case 4** – 2 alternatives: 2 and 3 trains inbound in the morning peak period, with the reverse pattern assumed in the afternoon peak period, and a total of 2 commuter rail stations: Matanuska (Glenn Highway / Parks Highway Interchange) and Anchorage.
- **Case 5** – 2 alternatives: 2 and 3 trains inbound in the morning peak period, with the reverse pattern assumed in the afternoon peak period, and a total of 3 commuter rail stations: Wasilla, Matanuska, and Anchorage.
- **In All Cases** – Free and available parking at station outside Downtown Anchorage, along with a feeder bus service, as needed.

While forecasts were performed for the planning years of 2012 and 2020, both forecasts progressed from a Base Year of 2005 forecast. The 2005 forecast relied on the 2005 work trip table coming from the KABATA model. The study team ascertained that the KABATA model's 2005 work trip table reflected reasonably accurately the work trips made in 2005 along the Glenn Highway. Accordingly, the team could assume that the work trips forecasts for future years would be reasonably reliable.

Illustrative schedules for Cases 1 and 5 appear in the Appendix.

GROWTH ASSUMPTION

As explained earlier in this working paper, the universe of potential work trips for the proposed commuter rail was extracted from the KABATA model for 2005, 2012, and 2020. The number of work trips is expected to increase (or decrease) with the level of employment and population in the area. As in most models of this type, the KABATA model uses number of household and employment assumptions to estimate work trips (as well as other purposes trips). These assumptions are summarized in Table 2 for the areas around the proposed 9 stations.

Table 2: 2005, 2012, and 2020 Household and Employment

Station	2005		2012		2005-2012		2020		2005-2020	
	Households	Employment	Households	Growth	Employment	Growth	Households	Growth	Employment	Growth
Anchorage Airport (D)	12,277	14,114	13,017	6.0%	14,545	3.1%	13,478	9.8%	14,255	1.0%
Spenard (D)	10,147	19,906	11,050	8.9%	21,206	6.5%	11,741	15.7%	21,519	8.1%
Anchorage (D)	20,350	67,806	22,339	9.8%	74,043	9.2%	23,910	17.5%	77,001	13.6%
Eimendorf (D)	5,429	11,096	6,379	17.5%	11,265	1.5%	7,242	33.4%	10,861	-2.1%
Eagle River (O)	7,769	2,941	8,944	15.1%	3,504	19.1%	9,984	28.5%	3,935	33.8%
Birchwood (O)	3,156	787	4,157	31.7%	1,136	44.3%	5,134	62.7%	1,460	85.5%
Eklutna (O)	326	62	670	105.5%	192	209.7%	1,026	214.7%	324	422.6%
Matanuska (O)	7,561	5,306	10,792	42.7%	7,969	50.2%	15,175	100.7%	10,460	97.1%
Wasilla (O)	11,560	10,016	15,563	34.6%	14,788	47.6%	21,099	82.5%	19,207	91.8%
Total HH Origin	30,372		40,126	32.1%			52,418	72.6%		
Total Emp. Destination		112,922			121,059	7.2%			123,636	9.5%
Total all O and all D	78,575	132,034	92,911	18.2%	148,648	12.6%	108,789	38.5%	159,022	20.4%

The stations in the above table are organized as either Origin (O) or Destination (D). The proposed commuter rail will have 2 or 3 trains in the morning from Wasilla to Anchorage and 2 or 3 trains in the afternoon from Anchorage to Wasilla. This means that it will serve work trips from people residing in Wasilla (origin) and working in Anchorage (destination). As a result, the universe of potential work trips for the proposed commuter rail is linked to the number of households in the Wasilla area (origin) and the number of employment in the Anchorage area (destination).

It is worth noting that while households in the Matsu area will grow by almost 73 percent between 2005 and 2020, employment in Anchorage will grow by only 9 percent. At the same time employment in Wasilla and Matanuska will grow by more than 90 percent. These figures indicate that, in the future, more Matsu residents will find opportunities to work closer to home instead of having to go to Anchorage.

RESULTS

A summary of ridership forecasts are presented in Tables 3 through 7. The figures are rounded to the nearest 100.

Ridership estimates for Case 1 appear in Table 3. This case assumed all 9 stations. A trip from Wasilla to Anchorage would be done in 68 minutes, at an average speed of 40 mph. Ridership is expected to increase by about 38 percent in 2012 and by about 33 percent in 2020 with the addition of a third round trip.

Table 3: Weekday Ridership Summary Case 1

9 Stations

Year	Wkdy. Psgr. Trips	
	2RT	3RT
2005	700	1,000
2012	800	1,100
2020	1,200	1,600

Note: RT stands for rail round trips

Ridership estimates for Case 2 appear in Table 4. This case assumed 7 stations as opposed to 9. Dropped were Eklutna and Birchwood, neither of which generates significant work trip ridership for the near or long term. As shown, eliminating these two stations would reduce ridership by about 100 riders a day or less than 10 percent. Average speed would be slightly higher than Case 1, but the time savings would be small and unlikely to attract any additional ridership by themselves.

Table 4: Weekday Ridership Summary Case 2

7 Stations

Year	Wkdy. Psgr. Trips	
	2RT	3RT
2005	700	900
2012	700	1,000
2020	1,100	1,500

Note: RT stands for rail round trips

Ridership estimates for Case 3 appear in Table 5. This case assumed an express stopping pattern of Wasilla and Anchorage. The 45-mile trip would be done in 55 minutes, at an average speed of 49 mph. The greater travel time savings serve to attract ridership, while the reduced number of stations serves to restrict ridership. The net effect is very similar to Case 2.

Table 5: Weekday Ridership Summary Case 3

Year	Wkdy. Psgr. Trips	
	2RT	3RT
2005	600	900
2012	700	900
2020	1,000	1,500

Note: RT stands for rail round trips

Ridership estimates for Case 4 appear in Table 6. This case assumed an express stopping pattern of Matanuska, or the Glenn Highway / Parks Highway Interchange, and Anchorage. The 37-mile trip would be done in 45 minutes, at an average speed of 49 mph. This scenario has weaker ridership, as the sole origin station will be 9 miles from Downtown Wasilla and thus less desirable for Wasilla commuters than a Downtown Wasilla Station.

Table 6: Weekday Ridership Summary Case 4

Year	Wkdy. Psgr. Trips	
	2RT	3RT
2005	500	700
2012	500	700
2020	600	900

Note: RT stands for rail round trips

Ridership estimates for Case 5 appear in Table 7. This case assumed an express stopping pattern of Wasilla, Matanuska, and Anchorage. The 45-mile trip would be done in 58 minutes, at an average speed of 47 mph. This is perhaps the optimum scenario, offering two Matsu origin stations and a faster travel time versus either Case 1 or Case 2, each with many more station stops.

Table 7: Weekday Ridership Summary Case 5

Year	Wkdy. Psgr. Trips	
	2RT	3RT
2005	600	900
2012	700	1,000
2020	1,000	1,500

Note: RT stands for rail round trips

Missing from these forecasts is any adjustment for non-work trips. Since the service would be focused during the peak period, the potential for non-work trips is small. Per the Metrolink survey of riders in 2002, 87 percent of Metrolink trips were work trips, with 92 percent of riders employed. At the same time, Metrolink does offer mid-day and later evening service.

It is reasonable to assume that some of the peak period trains could make trips during the off-peak period as well, providing more opportunities for non-work trips. If such off-peak period service were offered, it would be reasonable to add 10 percent to the figures stated in the Tables 3 through 7 to account for non-work trips. For example, in 2012 for Case 2 (7 stations), assuming 3 peak period round trips and limited off-peak service, weekday ridership would be 1,100. The results would be the same for Case 5.

APPENDIX: Illustrative Schedules for Anchorage Commuter Rail Service

Table A-1
Case 1: Two Peak Period Round Trips with Mid-day Option

Read Down				Read Down				
C1	C3	C5	Den. Star	Location	Den. Star	C2	C4	C8
6:00	6:45	13:00	18:15	Wasilla	9:35	12:18	18:18	19:03
6:13	6:58	13:13		Matanuska		12:05	18:05	18:50
6:27	7:12	13:27		Eklutna		11:51	17:51	18:36
6:36	7:21	13:36		Birchwood		11:42	17:42	18:27
6:48	7:33	13:48		Eagle River		11:30	17:30	18:15
6:59	7:44	13:59		Elmendorf		11:19	17:19	18:04
7:08	7:53	14:08	20:00	Anchorage	8:15	11:10	17:10	17:55
7:13	7:58	14:13		Spenard		11:05	17:05	17:50
7:18	8:03	14:18		Airport		11:00	17:00	17:45

Notes:

Run time Wasilla-Airport is 78 minutes.

Run time Wasilla-Anchorage is 68 minutes.

Schedule assumes an average commuter train speed of 40 mph, which is consistent with commuter operations elsewhere in the U.S.

Denali Star is ARRC's long distance train, whose schedule has significant padding.

Wasilla Station is Downtown Wasilla.

Matanuska Station is near the Glenn Highway / Parks Highway Interchange.

Table A-3
Case 5: Two Peak Period Round Trips with Mid-day Option

Read Down				Read Down				
C1	C3	C5	Den. Star	Location	Den. Star	C2	C4	C8
6:00	6:45	13:00	18:15	Wasilla	9:35	11:58	17:58	18:43
6:13	6:58	13:13		Matanuska		11:45	17:45	18:30
6:58	7:43	13:58	20:00	Anchorage	8:15	11:00	17:00	17:45

Notes:

Run time Wasilla-Anchorage is 58 minutes.

Schedule assumes an average commuter train speed of 47 mph, a result of only one intermediate station.

Denali Star is ARRC's long distance train, whose schedule has significant padding.

Wasilla Station is Downtown Wasilla.

Matanuska Station is near the Glenn Highway / Parks Highway Interchange.

Table A-2
Case 1: Three Peak Period Round Trips with Mid-Day Option

Read Down				Read Down							
C1	C3	C5	C7	Den. Star	Location	Den. Star	C2	C4	C6	C8	
6:00	6:30	7:00	13:00	18:15	Wasilla	9:35	12:18	18:18	18:48	19:18	
6:13	6:43	7:13	13:13		Matanuska		12:05	18:05	18:35	19:05	
6:27	6:57	7:27	13:27		Eklutna		11:51	17:51	18:21	18:51	
6:36	7:06	7:36	13:36		Birchwood		11:42	17:42	18:12	18:42	
6:48	7:18	7:48	13:48		Eagle River		11:30	17:30	18:00	18:30	
6:59	7:29	7:59	13:59		Elmendorf		11:19	17:19	17:49	18:19	
7:08	7:38	8:08	14:08	20:00	Anchorage	8:15	11:10	17:10	17:40	18:10	
7:13	7:43	8:13	14:13		Spenard		11:05	17:05	17:35	18:05	
7:18	7:48	8:18	14:18		Airport		11:00	17:00	17:30	18:00	

Table A-4
Case 5: Three Peak Period Round Trips with Mid-Day Option

Read Down				Read Down							
C1	C3	C5	C7	Den. Star	Location	Den. Star	C2	C4	C6	C8	
6:00	6:30	7:00	13:00	18:15	Wasilla	9:35	11:58	17:58	18:28	18:58	
6:13	6:43	7:13	13:13		Matanuska		11:45	17:45	18:15	18:45	
6:58	7:28	7:58	13:58	20:00	Anchorage	8:15	11:00	17:00	17:30	18:00	

**Regional Transit Authority
(RTA)**

August 19, 2009

RTA

- Purpose
 - Provide residents and commuters with transit options
 - Improve regional transit quality and service
 - Reduce traffic congestion
 - Improve air quality
 - Coordinate transit service among providers
 - Schedules, fares, management, planning and programming, state and federal funding

RTA

For Anchorage & Mat-Su:

A cooperative effort to design, implement, and manage transit service between Anchorage and the Mat-Su Borough that is coordinated with existing service in each community.

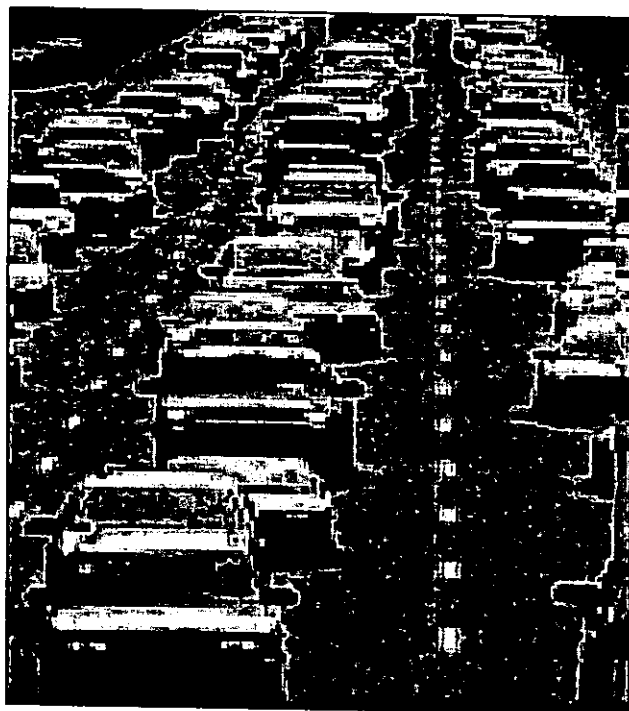
History

- Memorandum of Agreement signed by the Municipality of Anchorage and the Matanuska-Susitna Borough on March 12, 2009.

RTA

- Current proposal is for a Regional Transit Authority
not a
Regional Transportation Authority
- A “*transportation*” authority would combine all modes: road, port, airport, transit; *a super MPO*

Demand



- Double-digit ridership growth at People Mover
- 800+ person waiting list for van pools
- ~14,000 vehicles enter Anchorage via the Glenn daily

Current Level of Service

- 52 vans with 847 participants
- Share-a-Ride carpool matching
- 2 MASCOT buses daily
- People Mover has three routes serving Eagle River/Chugiak
- M/V Susitna



Long Range Transportation Plans

- Anchorage LRTP supports regional connections and Glenn Highway improvements
- “Traffic demand on the Glenn Highway will exceed capacity in 2025 from Mirror Lake to Boniface Road.”
- Anchorage LRTP speaks to need for regional coordination and funding strategies for multi-modal service

Long-Range Transportation Plans

- Mat-Su LRTP recommendations:
 - Support “multi-agency joint powers sponsored service between Mat-Su and Anchorage”
 - Support Share-a-Ride, Share-a-Van, and MASCOT – People Mover commuter service
 - Support development of cost-effective rail and bus commuter service

ARCC Commuter Rail Study

Completed in 2002 by
Wilbur Smith Associates



- Recommends a “Joint Powers Authority as the most practicable alternative” to manage commuter rail service

Organization

- RTA is common for coordinating multi-jurisdictional transit
- With status quo, hard to divert Anchorage buses to Mat-Su and vice versa
- Agreement between MOA and MSB
 - Partners: MASCOT, AKDOTPF, AKRR

TRIMET
See where it takes you.



SOUNDTRANSIT

CIRTA
Central Indiana Regional Transportation Authority
CONNECTING PEOPLE AND PLACES

Spokane Transit
www.spokanetransit.com

MVRTA
Merrimack Valley Regional Transit Authority

MVTA
Minnesota Valley Transit Authority



Guiding Principles

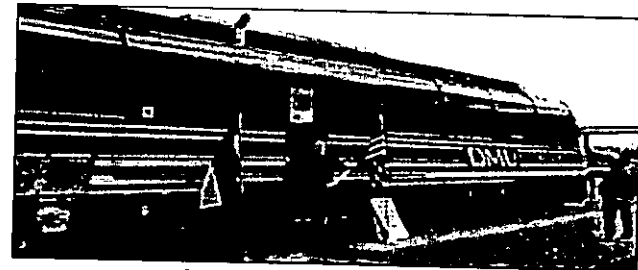
- Coordination
- Additive
- Customer-focused
- Don't pre-judge modes

Organizational Process

1. Memorandum of Understanding between MOA and MSB – expires 12/09
 - Planning and design role
2. Secure start-up funding
 - ARRA energy funding
3. Seek enabling authority via state legislation to create Regional Transit Authority as a separate entity

A word about modes

- Strategy is to seek quick wins and build momentum
- M/V Susitna deployment 2010
- Commuter rail is not deployed overnight
- Light Rail vs. Heavy Rail
- Options available-
 - vans, additional buses, express buses, bus lanes on Glenn, trains



Funding

- Initial start-up funding request to state legislature
 - Staff
 - Vans
 - Extended life for aging buses
 - Update commuter rail study
 - Alternative fuels study
 - Implement ferry service
 - Rail equipment
- Ongoing strategy needed

Memorandum of Understanding

- An agreement created pursuant to AS 29.35.010(13) to:
 - Plan and design public transit within jurisdictional boundaries
- A commitment at this stage, to become a separate entity with legislative action

RTA Legislation

Senate Bill 152

“An Act relating to municipal transportation systems and to regional transit authorities.”

Introduced and read across on March 18, 2009

- Referred to Senate Transportation and Senate Finance Committees
- No committee hearings requested
- Commitment to work on the bill and build consensus over the interim

SB 152

○ PURPOSE

- Provides a framework for a single municipality or two or more municipalities around the state to create RTAs by ordinance or ordinances
- Provides for dissolution and distribution of assets
- Allows municipality to join an established authority
- Establishes an authority as a body corporate and politic , with a separate and legal existence from the municipality
- Requires that powers, boundaries, and limitations are specified
- Limits the application of the Act to an RTA

SB 152

- SB 152, as introduced, draws heavily from existing law
- Regional Solid Waste Management Authority Act, ch 26, SLA 2006
- Established regional solid waste authority and defined powers and duties of those authorities (AS 29.35.800 – 29.35.920)

Powers and Duties

- Transfer real property and improvements or assign or lease personal property
- Issue bonds and borrow money
- Declare the authority and its bonds are exempt from state and municipal taxes
- Declare that the state and municipalities participating in the authority are not liable for debts
- Declare that debt is payable solely from the authority's revenue

Powers and Duties

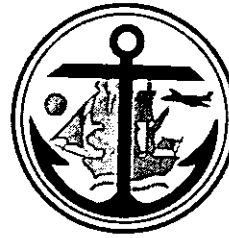
- Establish a board and appoint a chief executive officer
- Provide for a collective bargaining agreement for state or municipal employees
- Draft bylaws and regulations
- Follow state public records and open meetings laws
- Deliver an annual report to the governing body of each participating municipality

Next Steps

- Recommit to pursue legislation
- Renew Memorandum of Agreement
- Second Session of the 26th Legislature begins in January, 2010.
- Be ready to build support and testify before Legislative committees



Matanuska-Susitna Borough
350 E. Dahlia Avenue
Palmer, AK 99645
(907)745-4801



Municipality of Anchorage
632 W. 6th Avenue
Anchorage, AK 99501
(907)343-7100

April 8, 2009

Frank Richards, P.E.
Deputy Commissioner
Highways & Public Facilities
3132 Channel Drive
PO Box 112500
Juneau, AK 99811-2500

Dear Mr. Richards:

This letter is intended to provide you with additional information concerning Senate Bill 152 and a proposed Regional Transit Authority (RTA) spanning the Municipality of Anchorage and the Matanuska Susitna Borough.

The current bill reflects the combined efforts of Municipal and Borough staff with the assistance of legislative council. It is based upon existing Alaska Statutes for authorities with similar powers, including port authorities and solid waste management authorities.

The RTA would not extend the authority of the MPO to include the Borough, although a cooperative relationship would exist between the MPO and the RTA for those areas they have in common. We anticipate that a portion of the Borough may meet the criteria for inclusion in an MPO during the 2010 US Census. However, it is premature to determine whether a portion of the Borough would join with the Anchorage MPO or establish its own MPO.

We anticipate that fare box subsidies will eventually be required. How large this subsidy might be and how it might be provided for are, for the moment, unresolved questions. In addition to enabling legislation, we are asking for a capital grant to fund initial studies to determine the range of services to be provided by the RTA, the revenue generation potential, and alternatives for spanning any shortfalls. As proposed, the RTA could utilize financial or in-kind

Letter to Mr. Frank Richards
April 8, 2009
Page 2

contributions by the two municipalities in addition to issuing revenue bonds. Taxation powers can be added later if necessary.

The RTA would exist in a complementary relationship with DOT&PF with respect to the overall "transportation system". As proposed, Section 29.35.750(a) limits the RTA to providing for "public transportation" which is defined in Section 29.35.798(8) as "transportation by a conveyance that provides regular and continuing general or special transportation to the public". If necessary, we would agree to the addition of language to clarify that the RTA's powers will not extend to the construction of roads.

The RTA would have the power of Eminent Domain, as does KABATA, local governments, and private utilities (see: AS 19.75.111(a)(18) as to KABATA; AMC 31.10.030C as to AWWU; AMC 32.10.030C as to ML&P).

The RTA will have no powers beyond the boundaries of its member local governments. Since the Municipality and Borough are immediately adjacent to each other and their boundaries match perfectly, there should be no concern with "extraterritorial" powers.

Please be assured that we are interested in working cooperatively with DOT&PF in the interest of providing safe and efficient access for the residents of Anchorage and the "MatSu". Please do not hesitate to contact MOA Director of Sustainability Randy Virgin (VirginRS@ci.anchorage.ak.us) or MSB Planning Director Mark Mayo (Mark.Mayo@matsugov.us) if you have any further questions.

Sincerely,



John Duffy
Borough Manager



Michael K. Abbott
Municipal Manager

cc: Mary Siroky (DOT&PF Special Assistant)
Jeff Stark (AG)
Senator Huggins (Jody Simpson)

MAYORS FOCUS ON COMMUTE ALTERNATIVES

Anchorage and Mat-Su Borough to form Regional Transportation Authority

Alaska Railroad Chairman John Binkley was on-hand June 13 to witness Anchorage Mayor Mark Begich and Mat-Su Borough Mayor Curt Menard as they signed a pioneering agreement to endorse formation of a regional transportation authority (RTA). Skyrocketing gas prices and growing commuter traffic between the two communities spurred mayoral promises to improve mass transit opportunities, including the possibility of a commuter rail service.

"The Railroad's Southcentral Commuter Rail Study in 2002 points to forming a regional transit authority as the first critical step to establishing commuter rail service," said Binkley. "Local governments and state government coordination is key to this effort, and we are pleased to see the Mat-Su Borough and Anchorage on board."

Begich and Menard signed the agreement at the railroad's Ship Creek Historic Depot, the site of a future transportation hub. During the past five years, ARRC has invested millions of dollars to straighten track, build a new rail station at the Anchorage Airport and a rail depot in Palmer, as well as begin



Left-right: ARRC Chair John Binkley, Mat-Su Mayor Curt Menard, and Anchorage Mayor Mark Begich. (Photo by Stephenie Wheeler)

work on the Ship Creek Intermodal Transportation Center. Such infrastructure improvements make commuter rail a more viable option.

More than 14,000 people regularly commute between the Mat-Su and Anchorage, including about 150 ARRC employees. ●

ALASKA RAILROADERS HELP FORGE NEW NATIONAL COLLEGE LEVEL RAILWAY MANAGEMENT CERTIFICATION PROGRAM

The Alaska Railroad had a hand in developing, teaching and experiencing a premier Railway Management Program offered through Michigan State University.

The new certificate program is aimed at upwardly mobile, mid-career railroad managers, according to Alaska Railroad Training Director Paula Donson, Ph.D. She served on the program's Curriculum Content Advisory Committee, which first met in February 2007 and subsequently during the summer 2007 to identify program goals and hammer out key topics to be taught.

The course includes online participation, along with classroom instruction that is split into four one-week sessions held throughout a six-month period. Week 1 in the classroom introduces railway and transportation fundamentals.

Week 2 covers rail infrastructure, equipment, and command and control. Week 3 reviews customer and financial stakeholder relations. The final week outlines management and leadership development.

ARRC President & CEO Pat Gamble taught a two-hour block in the fourth week. "The students said they really liked the 'one-liners' in particular, because these were thoughts or tools that could be implemented on the spot when they return to work," said Gamble.

The inaugural class began last January and graduated in early June 2008. ARRC Director of Passenger Operations David Greenhalgh was among the first class of 17 students to earn the certificate. For details about the Railway Management Program visit www.RailEducation.com. ●

adn.com

Anchorage Daily News

Print Page

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Regional Transit Authority can help speed us on our way**COMPASS: Other points of view**

By RANDY VIRGIN and JOHN DUFFY

(09/15/08 21:11:43)

With an Alaska Railroad train gleaming in the sun behind them, Mayor Mark Begich and Mat-Su Mayor Curt Menard recently signed a joint agreement to create a Regional Transit Authority to better serve commuters in the region.

As gas prices skyrocket, demand for transit has never been higher. Park-and-ride lots in the Valley are at overflow, the popular Share-a-Van program has a 700-person waiting list, and Anchorage and Mat-Su buses are seeing double-digit ridership growth. Existing commuter services are at capacity, and demand has quickly outpaced supply.

In addition to home heating and electricity costs, transportation costs are a big piece of the energy challenge that state and local leaders are seeking to address. Pain at the pump is causing hardship in Alaska's urban areas and eating up household budgets from Ketchikan to Fairbanks.

In Alaska's busiest commuter corridor, more than 14,000 people commute between Anchorage and the Mat-Su every day. Without meaningful strategies to address the unprecedented cost of this commute, the economic success and land-use patterns of both communities could be undermined by a breakdown in the economics of daily transportation.

As local leaders work to deliver additional services in the short term and build an integrated transit system for the long term, we want to hear from you. We've set up a short survey and feedback form at the city's Web site home page, www.muni.org, under the link "Commuter Survey." If you're interested in commuter service by train, bus, van or carpool, this is your chance to weigh in on what you'd like to see happen and how you think it should work for you.

There are many options to improve service for commuters now and into the future. The quickest addition we can make is more vans and buses to existing service. That 700-person waiting list for van pools we mentioned earlier will require 50 additional vans, and we are also working to put more buses on the road to further expand capacity. To put these vehicles into service, it will take resources -- and, as commuters are telling us, these services are needed yesterday, if not sooner. State support of additional transit capacity would jump-start this effort and enable communities around the state to benefit relatively quickly. Today, Alaska is one of

only a handful of states that do not contribute resources to local transit service, and the current effort to address rising energy costs for Alaskans is a logical place for the state to play this critical role.

As we plan for even more ambitious service, like commuter rail, a key element is integration. It's not hard to see that a commuter rail service won't be very popular unless Valley residents can board easily and then connect with convenient, cost-competitive links from the train depot to major employment centers in South Anchorage, Midtown, U-Med and downtown. And those links need to be seamless for the traveler -- one pass, one price.

That kind of "doorstep-to-doorstep" coordination is best done by a Regional Transit Authority, planning and deploying multi-modal service powered by a combination of federal, state, local and ridership fare revenue. That's why Mayor Begich and Mayor Menard have charted a course to create an RTA for our region, and with your advice and involvement we can make convenient, competitive service a reality for residents of Anchorage and the Mat-Su.

Let's get moving!

Randy Virgin is director of sustainability for the Municipality of Anchorage. John Duffy is manager of the Matanuska-Susitna Borough.

Print Page

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(www.adn.com)**

SB 152 – Regional Transit Authorities

WITNESS LIST:

1. Brad Sworts
Matanuska-Susitna Borough
Manager, Environmental and Transportation Planning Division
(907) 746-7430
2. Jody Karcz
Municipality of Anchorage
Director, Public Transportation Division
(907) 343-8402
3. David Levy
Executive Director
Alaska Mobility Coalition
(907)240-2702
4. Ralph Duerre
Attorney, Municipality of Anchorage
(907) 343-4235
*On line to answer questions

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 152
 () Publish Date: _____

Identifier (file name): SB152-DOT-CO-3-16-10
 Title: Transportation; Transit Authorities
 Sponsor: Sen. Huggins
 Requester: S TRA
 Dept. Affected: DOT&PF
 RDU: Administration and Support
 Component: Commissioner's Office
 Component Number: 530

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
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	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact to the department.

Prepared by: Mary Siroky, Legislative Liaison
 Division: Department of Transportation and Public Facilities
 Approved by: Frank Richards, Deputy Commissioner
Department of Transportation and Public Facilities

Phone 465-4772
 Date/Time 3/16/10 6:15 PM
 Date 3/16/2010

SB

280

ALASKA STATE LEGISLATURE

Senator Joe Paskvan

Chair, Labor and Commerce
Vice Chair, Health and Social Services
Member, Transportation
Member, State Affairs
Member, Joint Armed Services

Senate District E
Fairbanks and Fort Wainwright



State Capitol Building, Room 7
Juneau, Alaska 99801-1182

Phone (907) 465-3709
Fax (907) 465-4714
sen.joe.paskvan@legis.state.ak.us
<http://paskvan.aksenate.org/>

MEMORANDUM

DATE: February 17, 2010

TO: Senator Albert Kookesh
Senate Transportation Committee

FROM: Senator Joe Paskvan

RE: Hearing Request for SB 280 – Sam Schuyler Memorial Bridge

I respectfully request that Senate Bill 280 be scheduled for a hearing in the Senate Transportation Committee at your earliest convenience.

Senate Bill 280 gives the name the "Sam Schuyler Memorial Bridge" to a bridge that will be built this summer (2010) at mile post 308 on the Dalton Highway. Sam Schuyler was a well loved and respected Alaska Department of Transportation and Public Facilities (DOT&PF) employee who spent his 23-year career on the Dalton Highway.

Included in this packet:

- Sponsor Statement
- A current version of SB 280
- Support letters and materials

Please contact Anna Sorensen with any questions regarding SB 280 (465-3709).

Thank you for your consideration.

ALASKA STATE LEGISLATURE

Senator Joe Paskvan

State Capitol Building, Room 7
Juneau, Alaska 99801-1182
<http://paskvan.aksenate.org/>



Phone (907) 465-3709
Fax (907) 465-4714
sen.joe.paskvan@legis.state.ak.us
Senate District E – Fairbanks, AK

Sponsor Statement

SB 280

SB 280 gives the name the "Sam Schuyler Memorial Bridge" to a bridge that will be built at mile post 308 on the Dalton Highway. Sam Schuyler was a well loved and respected Alaska Department of Transportation and Public Facilities (DOT&PF) employee who spent his entire career working along the Dalton Highway. Sam began his career with DOT&PF as a heavy equipment operator at the Jim River Maintenance Station, milepost 135 of the Dalton Highway.

Sam immediately exhibited a spirited tenacity that set him apart from his peers. This trait caused Sam's career to rise rapidly. He was promoted to Foreman of the Jim River Maintenance Station and from there he quickly became the Dalton District Roving Foreman. In this position, Sam frequented every mile of the Dalton Highway and he was personally involved in the everyday functions of each maintenance camp.

Throughout Sam's storied career, he routinely placed the needs of friends and coworkers ahead of his own. He based his leadership on the principle "lead by example." Sam never asked an employee to take on a job he would not do himself. His men knew him well and respected him immensely.

Sam was dedicated to the Dalton Highway, often personally overseeing a project to ensure that the job was completed on time and within budget. This dedication is reflected in Sam's favorite saying, "Get 'er Done!" This often-used phrase, coupled with another favorite saying, "Can Do!" earned Sam the respect of other maintenance workers and the respect of the famous Dalton Highway truckers.

Sam's work ethic and his heartfelt commitment to improving the Dalton Highway are appreciated by travelers who drive this road today. He left the Dalton Highway in a much better condition than he found it.

Sam's life ended unexpectedly on January 1, 2007. He was still a DOT&PF employee when he passed away.

I respectfully ask for your support in honoring a dedicated State of Alaska employee.

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 280
 () Publish Date: _____

Identifier (file name): SB280-DOT-NRF-2-23-10 Dept. Affected: DOT&PF
 Title: Sam Schuyler Memorial Bridge RDU: Statewide Facilities M&O
 Component: Northern Region Facilities
 Sponsor: Sen. Paskvan
 Requester: S TRA Component Number: 2069

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

The cost of the signs for this bridge are a budgeted part of the construction of the bridge.

Prepared by: Mary Siroky, Legislative Liaison
 Division: Department of Transportation and Public Facilities
 Approved by: Frank Richards, Deputy Commissioner
Department of Transportation and Public Facilities

Phone 465-4772
 Date/Time 2/23/2010 10:30AM
 Date 2/23/2010

ALASKA STATE LEGISLATURE

Senator Joe Paskvan

State Capitol Building, Room 7
Juneau, Alaska 99801-1182
<http://paskvan.aksenate.org/>



Phone (907) 465-3709
Fax (907) 465-4714
sen.joe.paskvan@legis.state.ak.us
Senate District E – Fairbanks, AK

Witness Testimony

Meadow Bailey

Department of Transportation & Public Facilities, Northern Region

Clark Milne

Maintenance Engineer for Northern Region DOT&PF



**Sam Schuyler Memorial Bridge
HB 345 and SB 280**

**Sam Schuyler Memorial Bridge
HB 345 and SB 280**

1. Overview
2. Map of "Sam Schuyler Memorial Bridge" location
3. Photo of similar sized bridge
4. Letters of support
 - a. North Pole Mayor-Doug Isaacson
 - b. Terry Gabriel-Dalton Highway Trucker
 - c. Signatures from members of Alaska Trucking Companies
 - d. DOT&PF Northern Region Maintenance & Operations

Sam Schuyler Memorial Bridge
HB 345 and SB 280
OVERVIEW

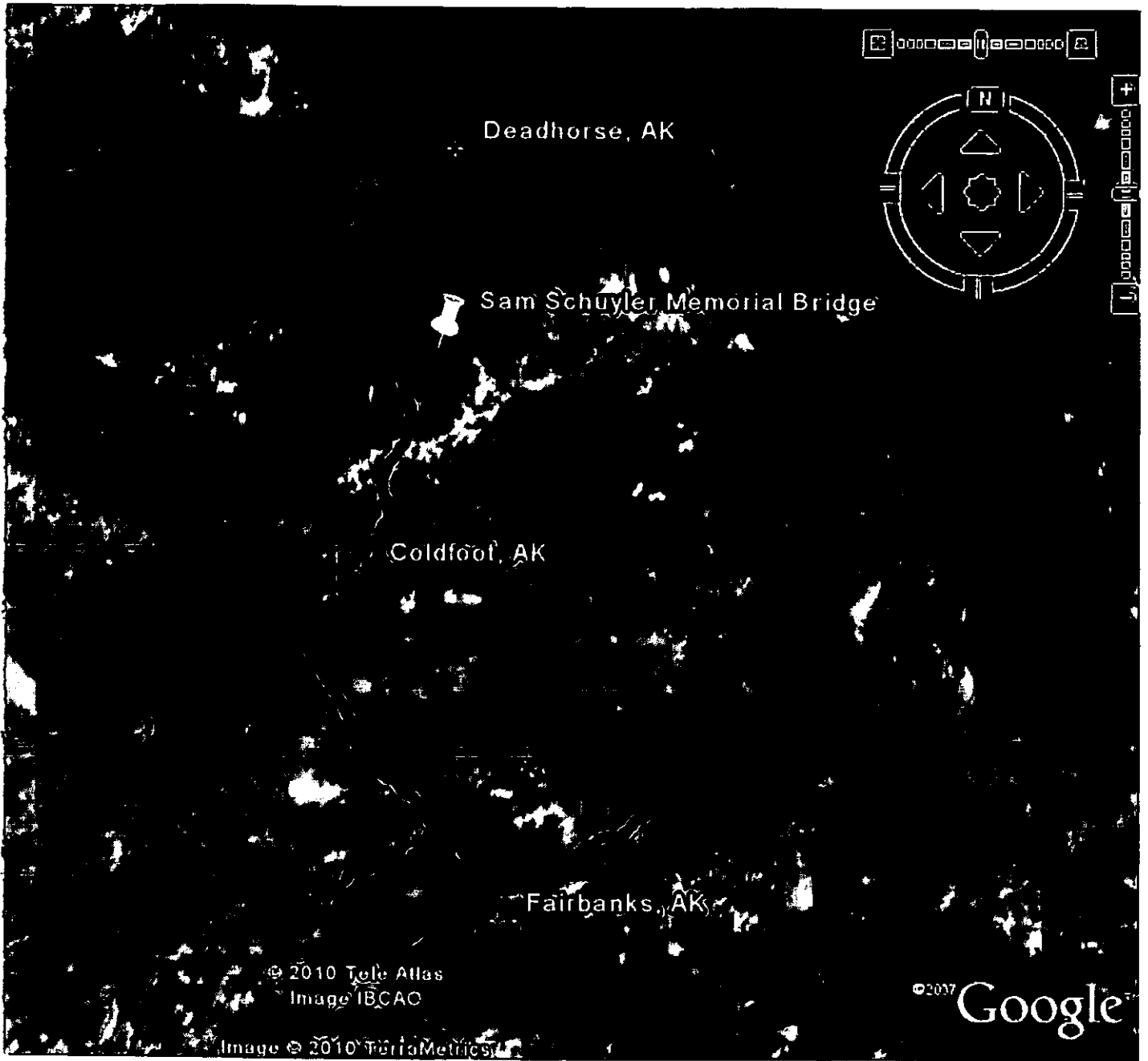
Location:

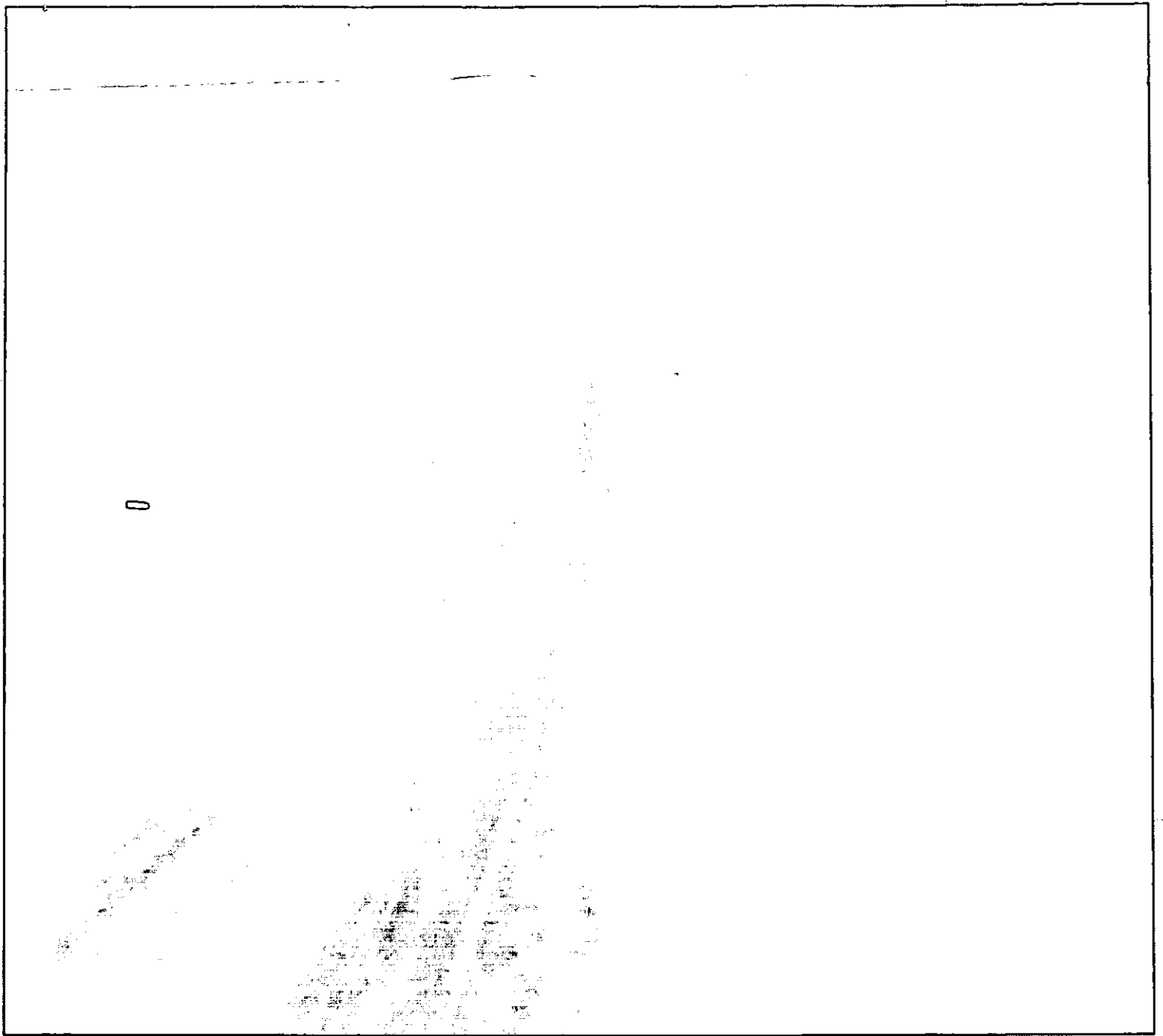
Dalton Highway, MP 314
Oksrukuyik Creek
New bridge, replacing a culvert
Length is 122'x 36' wide

Sam Schuyler

- 23 years with DOT, 6/4/1984 through 1/1/2007
 - Started as a heavy equipment operator at the Jim River Maintenance Station
 - Promoted to manager at Jim River.
- Accomplished equipment operator
- Respected leader
- Dedicated to the Dalton Hwy.

"Sam was well-liked and friendly. He made the workplace enjoyable; he always had a smile on his face and he would give the shirt off his back or the bunny boots off his feet to help a friend or stranger in need."







CITY OF NORTH POLE

"Where the Spirit of Christmas Lives Year Round"

125 Snowman Lane • North Pole, Alaska 99705-7708
E-mail: mayor@northpolealaska.com • Website: www.northpolealaska.com

City Hall
907-488-2281
Fax: 907-488-3002

Mayor
907-488-8584

City Clerk
907-488-8583

Police
Department
907-488-6902

Fire
Department
907-488-2232

Utilities
907-488-6111

Director of
City Services
907-488-8593

Finance
907-488-8594

February 2, 2010

To Whom It May Concern:

Sam Schuyler was a valued Alaskan from North Pole, Alaska. He worked for the State of Alaska, spending 23 years with the Department of Transportation & Public Facilities on the Dalton Highway. The highlight of Sam's well-deserving esteem came from his thorough and detailed handling of everything he undertook. If Sam committed to do something, it was as good as done. Not only would he get it done, but he would accomplish the task to the highest measure, and be depended on for future follow-through.

In a world where people often appear to achieve glory only for themselves, it would be wonderful to have more people like Sam Schuyler. He took pride in his work, committed himself to doing an excellent job, but did not seek personal gain nor did he have selfish motives.

I am proud to support the naming of the "Sam Schuyler Memorial Bridge" on the Dalton Highway. It is fitting recognition of a man who dedicated his life's work to improve the Dalton Highway.

Sincerely,


Douglas W. Isaacson, Mayor

State of Alaska
House Bill 345
Senate Bill 280

February 18, 2010

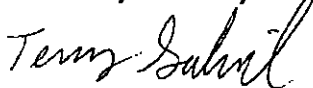
To whom it may concern:

As a seventeen year employee of the great state of Alaska, I write you today to request recognition be given to a dear friend of mine. It is the feeling of myself and many of my fellow truck drivers of the Dalton Highway that the new bridge to be put in at mile 314 over Ox Bow Creek (bill #345 in the house, bill #280 in the Senate) should be named to memorialize Sam Schuyler (known to his good friends as Kubalack). Unfortunately Sam's life was cut short in January of 2007 which was a shame, for all the good he did in life.

Not only was he a driving force behind keeping the Dalton Highway running smoothly. He was also known to have a heart nearly as large as the massive area he was in charge of. Sam was well known for being the guy to call when you were stuck on the side of the road in a blow. He was also quick to volunteer as a Santa Clause or give his home as a place of refuge whenever the need would arise. The loss of Sam Schuyler was truly a loss to the DOT as well. A state employee for 24 years and foreman of the Dalton for 18, life just hasn't been the same since our loss of Sam.

In a state full of nameless bridges over Gold Creeks, Bear Creeks and Sheep Creeks, a "Sam Schuyler memorial bridge" crossing over Ox Bow Creek just seem the right thing to do.

Thank you for your time and consideration on this matter



Terry Gabriel

Alaska Trucking Companies employees in favor of naming the Ox Bow Creek Bridge after Samuel Schuyler:

1. Adam FENDER
2. ~~Sam~~ Sarah Belway
3. Wayne Lindquist
4. Blanche Clayton
5. Leonard Taylor & Paul Lopez
6. Connie Keiss
7. William Goff
8. Jeffrey Somtow
9. ~~Mark~~ MARTIN FREY
10. ~~Paul~~ Marcus Lucas Lambert
11. ~~John~~ Joanna King
12. ~~John~~ Rodney King
13. ~~John~~ Dustin Pederson
14. ~~John~~ Dale Lamb
15. ~~Joe~~ Joe Zimmerman
16. ~~Mark~~ R. Thiel
17. ~~David~~ DANIEL L GARROD
18. ~~Michael~~
19. Michael C. Cawthrop Michael C. Cawthrop.
20. Janis A. Link
21. ~~John~~
22. ~~John~~ Joshua
23. ~~John~~
24. Josh Dinwiddie
25. Gail Poy
- 26.
- 27.
- 28.
- 29.
- 30.
- 31.
- 32.
- 33.
- 34.
- 35.
- 36.
- 37.
- 38.

STATE OF ALASKA

Department of Transportation and Public Facilities
Northern Region, Regional Director

Sean Parnell, Governor

2301 Peger Road
Fairbanks, AK 99709
Phone: (907) 451-2210
Fax: (907) 451-2333
TDD: (907) 451-2363

February 18, 2010

We, the employees of DOT&PF Northern Region Maintenance & Operations, support the dedication of the Sam Schuyler Bridge on the Dalton Highway.

Sam was an integral part of our staff for 23 years; he is missed personally and professionally. During his entire career with DOT&PF, Sam worked the length of the Dalton Highway. He knew every part of the highway, tackling some of the worst weather conditions in Northern Region, and in the world, on a regular basis. Countless times during Sam's career he left the warmth and comfort of the Maintenance Station to head out in whiteout conditions to rescue a stranded trucker or motorist.

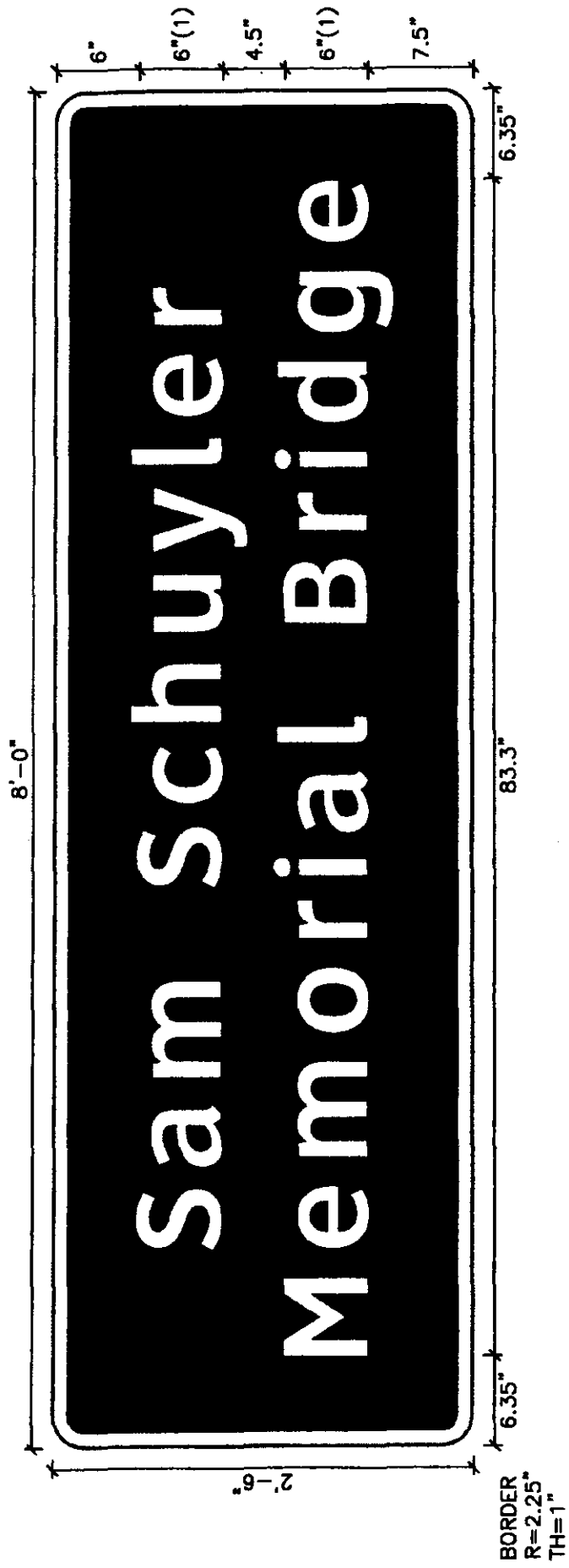
Sam was well-liked and friendly. He was a strong leader and an excellent equipment operator. Sam made the workplace enjoyable; he always had a smile on his face and he would give the shirt off his back or the bunny boots off his feet to help a friend or stranger in need. Sam was a genuinely good person.

Sincerely,

Angel Montalvo
Arleen Burgess
Barry Wilson
Bert Harold
Brian Goss
Bruce Garey
Chris Niedorf
Dan Moody
Danny Cazac
Danny Stevens
David King
Dennis Lindeman
Donald Adkins

Donnie Hensley
Dwight Stuller
Glenn Chandler
Glenn Hollett
James jennings
Jimmy Fairchild
John Ming
Keith Gaudin
Keith Pomeroy
Kenton Bear
Kevin Glynn
Lance Benson
Laurie Parra

Leroy Gabriel
Linda Colang
Paula Sue Webber
Paula Webber
Reid Bahnson
Robert Antesberger
Robert Blake
Steven Meirriotto
Timothy Ryan
Tim Fickus
Todd Schallock
William Bunch
Jason Carson



HB

100

SENATE COMMITTEE REPORT

DATE: 2/17/09

FURTHER:

DATE TURNED
IN TO OFFICE: 3/3/09

Transportation Committee considered HOUSE BILL NO. 100

HB 100 JOSEPH C WILLIAMS, SR., COASTAL TRAIL

"An Act relating to the Joseph C. Williams, Sr., Coastal Trail."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#
(H) TRA	2/10/09	-	-	✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Benjamin Davis</i>	DAVIS	X			
<i>Joe Paskvan</i>	PASKVAN	X			
CHAIR: <i>Albert Kookesh</i>	KOOKESH	X			

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 100
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: DOT&PF
Title Joe Williams Sr. Coastal Trail RDU Administration and Support
Component Commissioners Office
Sponsor Rep. Johanson
Requester (H) Transportation Committee Component Number 530

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This bill will just rename the extension of the original trail. There should be no cost involved.

Prepared by: Rebecca Rooney
Division: (H) TRA Committee Aid
Approved by: Rep. Wilson
Chair (H) Transportation Committee

Phone 465 3759
Date/Time 2/10/09 8:25 AM
Date 2/10/2009

ALASKA STATE LEGISLATURE



REPRESENTATIVE KYLE JOHANSEN
MAJORITY LEADER

HB 100

An Act relating to the Joseph C. Williams, Sr. Coastal Trail

JOSEPH C. WILLIAMS, Sr.

Joseph C. Williams, Sr. was known as a caring and loving father, community leader, and tireless advocate for the people of Saxman.

Joe met Elizabeth in Wrangell, and they had five children: Chester, Johanna, Estella Marie, William (former representative Bill Williams, R-Saxman), and Joe Jr. After Elizabeth passed on, Joe married Dorothy, and they had three children: Dan, Charles, and Linda.

Joe served as the Mayor of Saxman for 38 years. During his long tenure, Joe advocated for many different projects that improved the quality of life for the people of Saxman, including a water dam, senior housing units, and the construction of a community hall. Joe utilized most of the building material to construct the community hall from recycled material from a building being torn down at the Coast Guard base in Ketchikan. He also advocated for his people's interests during the Indian Reorganization Act and represented them on the Tlingit and Haida Central Council.

It was always Joe's desire (with Elizabeth's influence) to have a safe walking path between Saxman to Ketchikan. Elizabeth was always concerned about children who walked from Saxman to Bugge's Beach. With the new extension of the Joe C. Williams, Sr. Coastal Trail, people can walk on a safe, wide trail from Ketchikan to Mountain Point and enjoy the wonderful view of Ketchikan's coastline.



KETCHIKAN GATEWAY BOROUGH

1900 First Ave Ste 115 • KETCHIKAN, ALASKA 99901

• 907/228-6605 • fax 907/247-8439

www.borough.ketchikan.ak.us

OFFICE OF THE BOROUGH MAYOR

February 2, 2009

Representative Kyle Johansen
State of Alaska
State Capitol Room 204
Juneau, Ak 99801-1182

Dear Honorable Rep. Johansen,

The Ketchikan Gateway Borough enthusiastically supports HB 100, extending the name of the Joe Williams Sr. Coastal Trail to cover the new section of the Coastal Trail from Saxman to Mountain Point.

It was through the tireless efforts of Mr. Williams and his son - longtime state legislator Bill Williams - that Ketchikan was able to receive the coastal trail as part of State DOT improvements along the South Tongass Highway. The trail not only provides a significant recreation opportunity but it also is a profound safety improvement for pedestrians as well as bicyclists on Ketchikan's South End. These were the goals of longtime Saxman Mayor Joe Williams Sr. and it is entirely appropriate to extend his name to the recently completed section of the trail that extends south beyond Saxman.

Sincerely,

Dave Kiffer
Borough Mayor



**City of
Ketchikan**

February 3, 2009

Representative Kyle Johansen
Alaska House of Representatives
State Capitol, Room 13
Juneau, AK 99801-1182


Dear Rep. Johansen:

I am writing in support of HB 100, An Act Relating to the Joseph C. Williams, Sr., Coastal Trail.

My understanding is that the bill would assure that, like first portion of the coastal trail, the new extension to it is named after Joe. C. Williams, Sr. As you know, Mr. Williams was a Native and community leader in Saxman and Ketchikan for many years. There was broad support for naming the trail after him to recognize his contributions to our community. It makes a lot of sense to maintain this recognition for the extension as well.

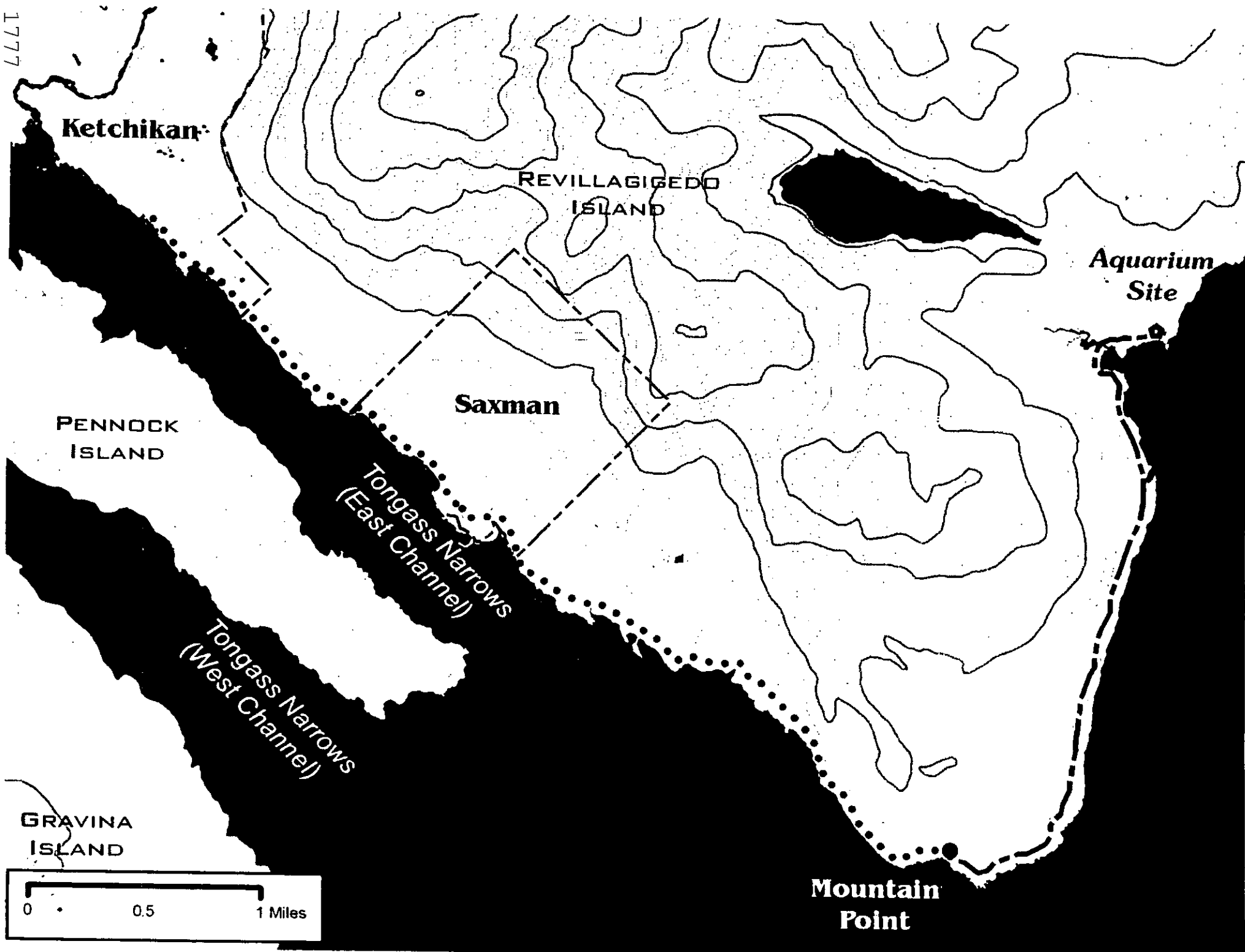
I strongly support HB 100. Thank you for your efforts to honor Mr. Williams.

Sincerely,



Bob Weinstein
Bob Weinstein
Mayor

1777



Ketchikan

REVILLAGIEDO
ISLAND

Aquarium
Site

PENNOCK
ISLAND

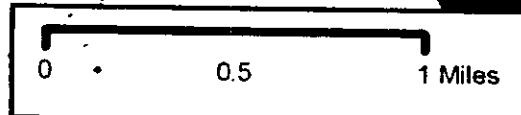
Saxman

Tongass Narrows
(East Channel)

Tongass Narrows
(West Channel)

GRAVINA
ISLAND

Mountain
Point



HB

114

Chair, Judiciary
Chair, Economic Development,
Trade & Tourism
Energy
Military & Veteran Affairs
Joint Armed Services
1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature House of Representatives



While in Session
State Capitol, Room 118
Juneau, Alaska 99801-1182
(907) 465- 3004
Fax: (907) 465-2070
Toll Free: (877) 465-3004

Representative Jay Ramras District 10

Sponsor Statement HB 114

"An Act relating to availability of state transportation facilities and state-owned or state-operated transportation modes for delivering compassionate aid."

House Bill 114 is a compassionate aid bill that would enable the Governor to use state transportation to provide aid to Alaska communities in times of eminent disaster without declaring a disaster.

In the initial week of the 26th Legislative session, the village of Emmonak wrote a declaration of economic disaster to the Department of Commerce, Community and, Economic Development. As private and public entities worked together to raise donations of money and food for relief to Emmonak it became apparent that they were not the only village in desperate need of aid and attention. The following weeks, Representative Ramras and his staff worked with the Fairbanks and Anchorage Food Banks and local faith based organizations to raise over 30,000 pounds of food for eleven villages in Western Alaska.

Due to the current restrictions, state transportation could not be used because a disaster had not been declared. Consequently, Representative Ramras and staff had two options: 1) use the monetary donations towards transportation; thus taking away precious funds for additional food or 2) work with transportation companies to provide their services for free or discounted rates.

Ultimately, based on the collective generosity of a few transportation companies, the food was able to arrive in all of the eleven villages.

House Bill 114 would reduce the need to spend donated funds on transportation and instead, allow a sharper focus on gathering the resources needed for relief.

Representative Jay Ramras @legis.state.ak.us

AMENDMENT

OFFERED IN THE SENATE TRANSPORTATION
COMMITTEE

TO: CSHB 114(TRA) am (26-LS0505\C.A)

1

2 Page 1, line 5:

3 Delete "; immunity"

4 Delete "(a)"

5

6 Page 1, line 7:

7 Delete "make available state"

8 Insert "use state-owned and state-operated"

9

10 Page 1, line 8, following "facilities,":

11 Delete "state-owned"

12

13 Page 1, line 8, following "of the":

14 Insert "Alaska"

15

16 Page 1, line 9:

17 Delete "for use by nonprofit organizations"

18

19 Page 1, line 10, following "aid":

20 Insert "for distribution"

21

22 Page 1, line 10, following "to the":

i-2
0)
m)

sert "affected"

ne 11:

delete "supplies"

sert "other supplies provided by nonprofit organizations"

ne 12, through page 2, line 3:

delete all material.

**SENATE CS FOR CS FOR HOUSE BILL NO. 114(TRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

BY THE SENATE TRANSPORTATION COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES RAMRAS, Dahlstrom, Millett, Johansen, Edgmon, Petersen, Holmes, Richard Foster, Johnson, Tuck, Gruenberg, Salmon, Coghill, Thomas, Joule, Muñoz, Peggy Wilson, Stoltze, Lynn

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to availability of state transportation facilities and state-owned or**
2 **state-operated transportation modes for delivering compassionate aid."**

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

4 *** Section 1.** AS 44.19 is amended by adding a new section to article 2 to read:

5 **Sec. 44.19.051. Emergency assistance transportation; liability.** (a) If the
6 governor determines that public safety or health conditions in an area of the state
7 require emergency assistance, the governor may make available state transportation
8 facilities, state-owned aircraft, vessels of the marine highway system, or railroad
9 rolling stock of the Alaska Railroad for use by nonprofit organizations to deliver
10 compassionate aid to the area, including food, water, fuel, clothing, medicine, and
11 supplies.

12 (b) A person may bring an action under AS 09.50.250 against the state and its
13 officers, agents, and employees, and the Alaska Railroad Corporation and its officers,
14 agents, and employees for damages resulting from assistance provided under (a) of

1

this section.

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR PASKVAN

TO: CSHB 114(TRA) am

1 Page 1, line 12, through page 2, line 3:

2 Delete all material and insert:

3 "(b) A person may bring an action under AS 09.50.250 against the state and its
4 officers, agents, and employees, and the Alaska Railroad Corporation and its officers,
5 agents, and employees for damages resulting from assistance provided under (a) of
6 this section."

Representative Jay Ramras
Chair, House Judiciary
House Labor & Commerce
House Oil & Gas
House Military & Veteran
Affairs

1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature



While in Session
State Capitol, Room 118
Juneau, Alaska 99801-1182
(907) 465-3004
Fax: 465-2070
Toll Free: (877) 465-3004

House District 10

House of Representatives

Memo

To: Sen. Albert Kookesh, Chairman Sen. Transportation Committee

From: Representative Jay Ramras

Date: January 22, 2010

Re: HB114 - Changes

Below are the outlined changes between HB114 26-LS0505\R and CSHB114 26-LS0505\C.A:

- The proposed legislation was removed from AS 26.23.020 and added as a new section to AS 44.19 under Office of the Governor
- The purpose and mechanism of the legislation remains the same, however by taking it out of 26.23.020 the Governor would not have to declare a disaster before utilizing state-owned or operated transportation modes for delivering compassionate aid in times when the Governor determines that public safety and health conditions in an area of the state require emergency assistance.
- Section (b) is amended to remove liability from the state, the Alaska Railroad Corporation and subsequent officers, agents and employees in the event of injury or death of a person or property damage resulting from assistance
- Liability standard was added to Section (b) on the House Floor.

If there are any questions please don't hesitate to contact Don Habeger at 465-3004.

Representative_Jay_Ramras@legis.state.ak.us

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

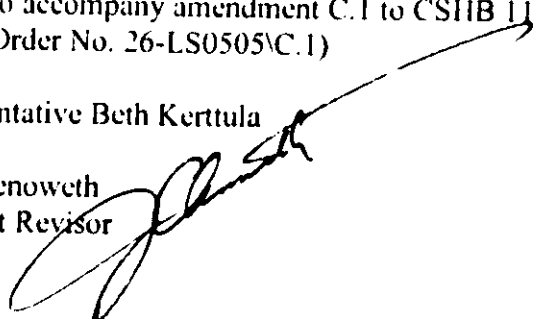
MEMORANDUM

April 15, 2009

SUBJECT: Memo to accompany amendment C.1 to CSHB 114(TRA)
(Work Order No. 26-LS0505\C.1)

TO: Representative Beth Kerttula

FROM: Jack Chenoweth
Assistant Revisor



In a statute (AS 18.08.086(a)) establishing immunity from liability for providers of emergency medical services, the provision excludes

... liability for civil damages that are the proximate result of gross negligence or intentional misconduct, nor [does it] preclude imposition of liability on a person or public agency that employs, sponsors, directs, or controls the activities of persons certified under AS 18.08.082 if the act or omission is a proximate result of a breach of duty to act created under this chapter.

For the purposes of AS 18.08.086(a), the statute provides this definition for the term "gross negligence":

"gross negligence" means reckless, wilful, or wanton misconduct.

*

A number of statutes use the phrase "reckless or intentional misconduct," but none incorporates a definition. A 1982 decision of the Alaska Supreme Court, *Green v. Northern Publishing Co.*, 655 P.2d 736, 742 (Alaska 1982), defines

"[r]eckless disregard," for these purposes, means conduct that is heedless and shows a wanton indifference to consequences; it is conduct which is far more than negligent.

The terms have been together explained in a 1968 court decision:

In order for one to be guilty of gross negligence, the evidence must show that he had full knowledge of the hazards he was creating by his actions, such as to evidence a reckless disregard of possible consequences

-- in the statute, AS 09.50.253, defining actionable claims against state employees: under subsection (h)

(h) In this section,

(1) "acting within the scope of the employee's office or employment" means acts or omissions

(A) that the state employee is employed or authorized to perform;

(B) of the state employee that occur substantially within the authorized time and space limit;

(C) that are activated by a purpose to serve the state;

and

(D) *that do not constitute acting, or failing to act,* with wilful, reckless, or intentional misconduct, or *with gross negligence* or malice;

-- in the statute, AS 09.65.170, limiting liability for certain officers and directors: under subsection (a):

(a) Unless the act or omission constituted gross negligence, a person may not recover tort damages for personal injury, death, or damage to property for an act or omission to act in the course and scope of official duties, from one of the following:

(1) a member of the board of directors or an officer of a nonprofit corporation;

(2) a member of the board of directors of a public or nonprofit hospital, or a member of a citizen's advisory board of any hospital;

(3) a member of a school board of a school district;

(4) a member of the governing body, a commission, or a citizen's advisory committee of a municipality of the state;

(5) a member of the board of directors, an officer, or an employee of a regional development organization.

and

-- in the statute, AS 47.10.093, relating to public disclosure of reports of harm to minors:

Disclosure of agency records. (a) Except as permitted in AS 47.10.092 and in (b) - (g) and (i) - (l) of this section, all information and social records pertaining to a child who is subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state, or municipal agency or employee in the discharge of the agency's or employee's official

Raymond J. Watson, Chairperson
Myron P. Naneng, Sr., President
Phone (907)543-7300
Fax (907)543-3369

AVCP
The Association of Village Council Presidents
Office of Administration
Pouch 219, Bethel, AK 99559



Comments for the record
26th Alaska State Legislature
House Transportation / Finance Committee

by

Myron P. Naneng, Sr., President
Regarding HB 114

February 9, 2009

BILL: HB 114

BILL VERSION:

CURRENT STATUS: (H) TRA

TRPN FIN

SHORT TITLE: USE STATE TRANS FACILITY
FOR DISASTER AID

STATUS DATE: 02/04/09

SPONSOR(S) REPRESENTATIVE(S): RAMRAS, Dahlstrom, Millet, Johansen, Lügsten, Petersen, Holmes, Foster, Johnson, Tuck, Groenberg, Salmo, Coghill, Thomas, Jude, Munro

TITLE: "An Act relating to availability of state transportation facilities and state-owned or state-operated transportation modes for delivering compassionate aid during a disaster emergency."

We at the Association of Village Council Presidents, Inc. (AVCP) are grateful for Representative Ramras and the co-sponsors of HB 114 in an effort to make use of State transportation resources to ship out compassionate aid to remote, rural Alaska communities in our Yukon-Kuskokwim region.

My name is Myron Naneng, I am President of our regional non-profit corporation made up of 56 federally recognized Tribes in the YK Delta. While energy and food relief has been pouring into our communities suffering from food shortages and crippling fuel prices, the efforts have until this point remained primarily by private citizens and groups. We would also like to recognize and thank the redirect of donated Energy Rebates under the United Way.

In the last several weeks, Representative Jay Ramras, has focused on directing some of his food drive activities for relief to our communities. We appreciate his efforts, and are sorry that he, along with other private donors, has been burdened with the shipping expense of getting this compassionate aid out to our remote villages. Our calls to the Governor's office to address our energy crisis have largely gone ignored, and this bill, along with SB 88 and SB 91 finally has State efforts come into play.

Last week, we testified in favor of extending the PCE program and instituting a fuel cap on costs beyond \$3 a gallon. Since early last summer, tribal leaders as well as myself were justifiably concerned about our coming winter since we were forced to prepay our winter fuel purchases for our tank farms at the highest costs of oil on record.

Because we are roadless, all of our villages have to import fuel by barge or by air in emergencies. In most cases, we have no choice but to sign no-fault contracts with fuel vendors if weather or acts of god prevent a scheduled delivery. Some of our villages, with human resources turnover or other constraints, are unable to make their fuel orders in concordance to State programs such as the bulk fuel loan in time to lock in at more agreeable rates. Factors such as these aggravate the already challenging nature of providing light and heat to our communities with little or no energy infrastructure.

With continued and full funding by the Legislature of the Renewable Energy Fund coupled with possible federal stimulus infrastructure funds, we may be looking at a reality where accessible energy sources come to fruition in a matter of years, rather than a matter of decades. With affordable energy at the village level, a failed fishing season would not break us as badly as this hard winter has shown.

Akiachuk
Alash
Alakanuk
Andreasfky
Aniak
Attanuluk
Bethel
Bill Moore's St.
Chislorok
Chevak
Cheshchaluk
Chelonsawick
Crooked Creek
Eek
Emmonak
Georgetown
Goodnews Bay
Hamlet
Hooper Bay
Lower Kaktovik
Upper Kaktovik
Kaktovik
Kipruk
Kongiganuk
Kodiak
Kwethuk
Wiglinguk
Lime Village
Marshall
Mekoryuk
Mtn. Village
Napaimut
Napakiak
Napsadik
Newtok
Nightmute
Nunakuyah
Nunam Iqut
Nunapichuk
Ohegamiut
Oscarville
Palmas
Pilot Station
Pitkin's Point
Platinum
Qurbagak
Red Devil
Reindeer Mission
Seasmoen Bay
Sternmut
St. Mary's
Stony River
Tulokuk
Tusituk
Tusituk
Tusituk

Though Governor Palin herself has not directly acknowledged the fishery or fuel crisis in our region, in her response to the U.S. Army's reduced retirement payments to 26 Alaska Native Elders who had served in the Territorial Guard during WWII, she argued:

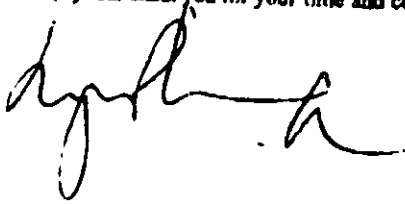
"Rural Alaskans face the highest food and energy costs in the nation, and these veterans need their retirement checks now more than ever," Governor Palin said. "Using the emergency fund to provide monetary protection for these 26 veterans is the right thing to do."

AVCP provides direct assistance to many families in our member villages that include a Housing Improvement Program, TANF and LIHEAP to name a few. Last year we assisted 1,846 households with energy assistance, and we anticipate the same number if not more appeals for the remainder of this season.

We tried to address this crisis proactively, in public statements and resolutions. We warned that the \$1,200 rebate would not adequately address the remote / rural fuel needs - and with the taxes due from as little as \$90 to over \$300 per person, we will continue to see pain in affected households this year. If we had access to affordable energy sources, all the factors we laid out for you would not have hurt us so badly this winter.

With families not having to worry about donated foods delivered from the state, it will go a long way to keeping our homes heated, and save our families from deciding between going cold or going hungry.

Quyana, thank you for your time and consideration.



FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 114(TRA)
 (H) Publish Date: 4/7/09

Identifier (file name): HB114CS-DOT-AS-C0-3-16-09
 Title _____
 Sponsor H. Ramras
 Requester H TRA
 Dept. Affected: DOT&PF
 RDU Administration and Support
 Component _____
 Commissioners Office _____
 Component Number 530

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

no fiscal impact

Prepared by: Mary Siroky, Legislative Liaison
 Division: Department of Transportation and Public Facilities
 Approved by: Nancy Slagle, Admin Director
Department of Transportation and Public Facilities

Phone 465-4772
 Date/Time 3/16/09 1:45PM
 Date 3/16/2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 114(TRA)
 (H) Publish Date: 4/7/09

Identifier (file name): CSHB114-dfg-CO-3-16-09 Dept. Affected: ADF&G
 Title: An act relating to availability of state transportation facilities and state-owned or state-operated... RDU: Administration and Support
 Sponsor: Rep. Ramras, Dahlstrom, Millett, Johansen, et all Component: Commissioner's office
 Requester: House Finance Component Number: 2175

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES							
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact to the department.

Prepared by: Jeff Hoover, Deputy Director
 Division: Administrative Services
 Approved by: Tom Lawson, Director of Administrative Services
Department of Fish and Game

Phone 465-6077
 Date/Time 3/16/09 2:00 PM
 Date 3/16/2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 114(TRA)
 (H) Publish Date: 4/7/09

Identifier (file name): HB114CS(TRA)-CED-ARR-03-16-09 Dept. Affected: DCCED
 Title: State Transportation Assets deliver compassionate aid RDU
 Component: Alaska Railroad Corporation
 Sponsor: Representative Ramras
 Requester: House Finance Committee Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

If the Governor determines that public safety or health conditions in an area of the state require emergency assistance, the Governor can utilize state transportation assets to deliver compassionate aid. This legislation would provide that the Alaska Railroad Corporation would not be liable in tort for damages, for the injury to or death of a person, or property damage resulting from assistance provided. Because the Alaska Railroad does not receive state funding for operations or capital improvements, HB 114 would not provide a railroad related cost to the state. The cost to provide this service to the Alaska Railroad would depend on the number of rail cars and locomotive power needed, crew requirements, and the destination.

Prepared by: Wendy Lindskoog, Assistant Vice President, Corporate Affairs
 Division: Alaska Railroad Corporation
 Approved by: Emil Notti, Commissioner
Department of Commerce, Community and Economic Development

Phone 907-265-2498
 Date/Time 3-16-09 11:00 a.m.
 Date 3/16/2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 114(TRA)
(H) Publish Date: 3/13/09

Identifier (file name): HB114-DMVA-HS&EM-2-17-09 Dept. Affected: Dept of Military and Veterans Affairs
Title: An Act relating to availability of state transportation facilities and state-owned or operated transportation modes.... RDU: Military and Veterans Affairs
Sponsor: Rep Ramras, Dahlstrom, Millett, Johansen, Edgmon, Peterson.... Component: Homeland Security & Emerg. Mgmt
Requester: TRA Component Number: 2657

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE		(Thousands of Dollars)						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts		0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match		0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF		0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts		0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health		0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts		0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0	0

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: McHugh Pierre, Legislative Liaison/Communications Director
Division: National Guard Military Headquarters/Office of the Commissioner
Approved by: Commissioner Craig Campbell
Department of Military and Veterans Affairs

Phone 465-4402
Date/Time 2/17/09 @ 11:00 am
Date 2/17/2009

26-LS0505\W
Kane
2/25/10

SENATE CS FOR CS FOR HOUSE BILL NO. 114(TRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES RAMRAS, Dahlstrom, Millett, Johansen, Edgmon, Petersen, Holmes, Richard Foster, Johnson, Tuck, Gruenberg, Salmon, Coghill, Thomas, Joule, Muñoz, Peggy Wilson, Stoltze, Lynn

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to availability of state transportation facilities and state-owned or**
2 **state-operated transportation modes for delivering compassionate aid."**

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

4 *** Section 1.** AS 44.19 is amended by adding a new section to article 2 to read:

5 **Sec. 44.19.051. Emergency assistance transportation.** If the governor
6 determines that public safety or health conditions in an area of the state require
7 emergency assistance, the governor may use state-owned and state-operated
8 transportation facilities, aircraft, vessels of the Alaska marine highway system, or
9 railroad rolling stock of the Alaska Railroad to deliver compassionate aid for
10 distribution to the affected area, including food, water, fuel, clothing, medicine, and
11 other supplies provided by nonprofit organizations.

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/15/10

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

Transportation Committee considered SENATE BILL NO. 280

SB 280 SAM SCHUYLER MEMORIAL BRIDGE

"An Act designating the bridge to be built on the Dalton Highway at approximately mile post 308 as the Sam Schuyler Memorial Bridge."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Brigitte Davis</i>	MENARD				
<i>Kim Meyer</i>	DAVIS	X			
<i>Joe Koshon</i>	MEYER	X			
<i>Trish Menard</i>	KOSKOV	X			
<i>Trish Menard</i>	MENARD	X			
CHAIR: <i>Allan Kookosh</i>	KOOKOSH	✓			

HB

168

Alaska State Legislature



HOUSE TRANSPORTATION COMMITTEE

House Bill 168: DOT and RR Land Swap

House Bill 168 would authorize the Alaska Railroad Corporation (ARRC) to exchange approximately ten acres of land with the Department of Transportation and Public Facilities (DOTPF) to accommodate two DOTPF projects. The Parks Highway Improvement project in Wasilla and the Heavy Aircraft Cargo Apron project at the Fairbanks International Airport both require an adjustment to the Alaska Railroad's track and right-of-way lands. This legislation ensures that all the appropriate titles to property can be in place for both of these important DOTPF projects.

The Alaska Railroad Corporation Act, Alaska Statute 42.40.285, requires Legislative approval for the ARRC to "exchange, donate, sell or otherwise convey its entire interest in land".

Section 1: Parks Highway Improvement Project

Section 1 conveys approximately 6.3 acres of ARRC property adjacent to the Parks Highway to DOTPF. The widening and lane improvements to the Parks Highway required relocation of a portion of the Alaska Railroad mainline in the vicinity of Wasilla Lake. DOTPF acquired the necessary property south of the existing 200-foot Alaska Railroad right-of-way. The ARRC was able to relocate its tracks to this property just south of its original alignment. Once the railroad was relocated, DOTPF was able to complete construction of the improvements to the Parks Highway. The project is complete.

Section 2: Fairbanks International Airport Heavy Aircraft Cargo Apron

Section 2 would convey approximately 3.3 acres of ARRC property to DOTPF to accommodate construction of the new Heavy Aircraft Cargo Apron. Fairbanks International Airport is 43rd in the nation for the amount of landed weight, serves nearly a million passengers and has 17 airlines operating at the facility. Replacing the currently inadequate heavy aircraft cargo apron located next to the airport terminal is part of the planned construction upgrade and expansion of the Fairbanks International Airport. Of the four current aircraft parking positions, two interfere with the taxiway and create a potential safety risk. Expansion of the terminal will create additional interference with the third parking position. To eliminate a potential safety hazard and accommodate the airport expansion, the DOTPF is planning to construct a new heavy aircraft cargo apron on ARRC property adjacent to the airport. This proposed land exchange of approximately 3.3 acres will allow for the construction of a heavy aircraft cargo apron that will provide parking for four large cargo planes and be designed to handle the weight and size of the largest cargo planes. DOTPF must have a legally sufficient title interest to property in order to comply with Federal Aviation Administration (FAA) grant assurances and funding participation requirements. Construction of this project will begin this summer.



SENATE TRANSPORTATION COMMITTEE

State Capitol, Room 11
Juneau AK, 99801-1182
907-465-6828 (Senate)
907-465-3424 (House)

To: Senate Transportation Committee Members

From: Albert Kookesh, Chair, Senate Transportation Committee *AK*
465-6828

Date: March 19, 2007

RE: Draft Senate Transportation Committee Bill authorizing exchanges of land
between the Alaska Railroad Corporation and the Department of
Transportation

Attached is a draft Senate Transportation bill which would authorize the Alaska Railroad Corporation (ARRC) to exchange approximately 10 acres of land with the Department of Transportation and Public Facilities to accommodate two DOTPF projects.

It has been introduced by the House Transportation Committee (HB 168) and a copy of the sponsor statement is attached. If you have no objections I would like to introduce this as a Senate Transportation bill. Please let my staff member, Nancy Barnes, know if you concur (465-6828). I would appreciate hearing from you as soon as possible.

Alaska State Legislature



HOUSE TRANSPORTATION COMMITTEE

House Bill 168: DOT and RR Land Swap

House Bill 168 would authorize the Alaska Railroad Corporation (ARRC) to exchange approximately ten acres of land with the Department of Transportation and Public Facilities (DOTPF) to accommodate two DOTPF projects. The Parks Highway Improvement project in Wasilla and the Heavy Aircraft Cargo Apron project at the Fairbanks International Airport both require an adjustment to the Alaska Railroad's track and right-of way lands. This legislation ensures that all the appropriate titles to property can be in place for both of these important DOTPF projects.

The Alaska Railroad Corporation Act, Alaska Statute 42.40.285, requires Legislative approval for the ARRC to "exchange, donate, sell or otherwise convey its entire interest in land".

Section 1: Parks Highway Improvement Project

Section 1 conveys approximately 6.3 acres of ARRC property adjacent to the Parks Highway to DOTPF. The widening and lane improvements to the Parks Highway required relocation of a portion of the Alaska Railroad mainline in the vicinity of Wasilla Lake. DOTPF acquired the necessary property south of the existing 200-foot Alaska Railroad right-of-way. The ARRC was able to relocate its tracks to this property just south of its original alignment. Once the railroad was relocated, DOTPF was able to complete construction of the improvements to the Parks Highway. The project is complete.

Section 2: Fairbanks International Airport Heavy Aircraft Cargo Apron

Section 2 would convey approximately 3.3 acres of ARRC property to DOTPF to accommodate construction of the new Heavy Aircraft Cargo Apron. Fairbanks International Airport is 43rd in the nation for the amount of landed weight, serves nearly a million passengers and has 17 airlines operating at the facility. Replacing the currently inadequate heavy aircraft cargo apron located next to the airport terminal is part of the planned construction upgrade and expansion of the Fairbanks International Airport. Of the four current aircraft parking positions, two interfere with the taxiway and create a potential safety risk. Expansion of the terminal will create additional interference with the third parking position. To eliminate a potential safety hazard and accommodate the airport expansion, the DOTPF is planning to construct a new heavy aircraft cargo apron on ARRC property adjacent to the airport. This proposed land exchange of approximately 3.3 acres will allow for the construction of a heavy aircraft cargo apron that will provide parking for four large cargo planes and be designed to handle the weight and size of the largest cargo planes. DOTPF must have a legally sufficient title interest to property in order to comply with Federal Aviation Administration (FAA) grant assurances and funding participation requirements. Construction of this project will begin this summer.

25-LS0726A
Kane
3/6/07

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

**Introduced:
Referred:**

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing two exchanges of land between the Alaska Railroad Corporation**
2 **and the Department of Transportation and Public Facilities; and providing for an**
3 **effective date."**

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

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

7 APPROVAL OF THE TRANSFER OF REAL PROPERTY TO THE
8 DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES. (a) Contingent
9 upon conveyance to the Alaska Railroad Corporation by the Department of Transportation
10 and Public Facilities of its entire interest in real property onto which the railroad utility
11 corridor may be or has been relocated, the Alaska Railroad Corporation is authorized to
12 convey the corporation's entire interest in approximately 6.3 acres, more or less, of railroad
13 utility corridor between railroad mileposts 158.8 and 159.6, within Sections 10 and 11,
14 Township 17 North, Range 1 West, Seward Meridian, to the Department of Transportation

1 and Public Facilities.

2 (b) The conveyance described in this section is made for the purpose of realignment
3 of the railroad to allow relocation of a portion of the Parks Highway in Wasilla by the
4 Department of Transportation and Public Facilities to improve highway operations and
5 enhance safety.

6 (c) The land conveyed by the Department of Transportation and Public Facilities to
7 the Alaska Railroad Corporation shall be held and managed by the corporation in accordance
8 with AS 42.40.

9 (d) This section constitutes legislative approval under AS 42.40.285(1) for the Alaska
10 Railroad Corporation to convey its entire interest in the land described in (a) of this section.

11 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 APPROVAL OF THE TRANSFER OF REAL PROPERTY TO THE
14 DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES. (a) Contingent
15 upon conveyance to the Alaska Railroad Corporation by the Department of Transportation
16 and Public Facilities of its entire interest in real property onto which the railroad utility
17 corridor may be or has been relocated, the Alaska Railroad Corporation is authorized to
18 convey the corporation's entire interest in approximately 3.331 acres, more or less, of railroad
19 utility corridor between railroad mileposts H-9.3 and H-10, within Sections 23, 25, and 26,
20 Township 1 South, Range 2 West, Fairbanks Meridian, to the Department of Transportation
21 and Public Facilities.

22 (b) The conveyance described in this section is made for the purpose of realignment
23 of the railroad to allow construction of a heavy aircraft apron and other improvements at the
24 Fairbanks International Airport by the Department of Transportation and Public Facilities to
25 improve airport operations and efficiency.

26 (c) The land conveyed by the Department of Transportation and Public Facilities to
27 the Alaska Railroad Corporation shall be held and managed by the corporation in accordance
28 with AS 42.40.

29 (d) This section constitutes legislative approval under AS 42.40.285(1) for the Alaska
30 Railroad Corporation to convey its entire interest in the land described in (a) of this section.

31 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).



SENATE TRANSPORTATION COMMITTEE

e-mail: Senator Albert M. Kookesh@legis.state.ak.us

State Capitol, Room 11
Juneau AK, 99801-1182
907-465-3732
888-461-3732
FAX 907-465-2652

To: Senate Secretary

From: Senator Albert M. Kookesh

Date: January 25, 2007

RE: Senate Transportation – week of January 29 – Feb 2, 2007

Tuesday, January 30, 2007

SB 15: Marine Pilots
SB: 49: Commemorative license plates
State Capitol, Room 205 (Butrovich Room)

Thursday, February 1

No Meeting Scheduled

HB

262



SENATE TRANSPORTATION COMMITTEE

State Capitol, Room 11
Juneau AK, 99801-1182
907-465-6828

To: Senate Transportation Committee Members

From: Albert M. Kookesh, Chair, Senate Transportation Committee
465-6828

Date: March 25, 2010

Re: Senate Transportation Committee
For the week of March 29 – April 2, 2010

@Kookesh

Tuesday, March 30, 2010

No meeting scheduled

Thursday, April 1, 2010—1:00pm to 2:00pm, Butrovich Room # 205

CSHB 262: An Act establishing the month of May as Motorcycle and Motor Scooter Awareness. Sponsor: Representative Wes Keller

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 373-1842
Fax: (907) 373-4729*



Session:

State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-2186
Fax: (907) 465-3818

REPRESENTATIVE WES KELLER DISTRICT 14 MEMO

To: Senator Albert Kookesh, Chair
Senate Transportation Committee

Fm: Representative Wes Keller

W.K.

Date: March 24, 2010

Re: Request for Hearing on CSHB 262 (26-LS1130R)

Please consider this as a request for you to schedule CSHB 262- "Motorcycle and Motor Scooter Awareness Month" for consideration before the Senate Transportation Committee. I have included a packet of information and will provide your committee staff a .pdf version.

CSHB 262 will declare the month of May as Motorcycle and Motor Scooter Awareness Month. This has traditionally been done each year by the Governor, usually several weeks prior to May. Unfortunately, this often makes it difficult for the Alaska Motorcycle Safety Foundation and other organizations to plan and schedule events and programs during what has become the National Awareness month.

If you have any questions please feel free to contact my office.

The information contained in this memo is **CONFIDENTIAL** and/or privileged. This memo is intended to be reviewed initially by only the individual named above. If the reader of this page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this memo or the information contained herein is prohibited. If you have received this memo in error, please immediately notify the sender by telephone and return this memo to the sender at the above address.

Thank you

E-Mail: Representative_Wes_Keller@legis.state.ak.us
Call Juneau Toll free: (800) 468-2186
Website: www.akRepublicans.org/keller/

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 373-1842
Fax: (907) 373-4729



Session:

State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-2186
Fax: (907) 465-3818

REPRESENTATIVE WES KELLER DISTRICT 14

Sponsor Statement CS for House Bill 262

“An Act establishing the month of May as Motorcycle and Motor Scooter Awareness Month.”

For many people visiting Alaska each summer one of the surprises is how many motorcycles are on the road. That's because Alaskans enjoy the warm weather which usually begins shortly after the road are clear of ice and snow and lasts until the snow comes again.

This normally means that riders are on the streets and roads earlier and later during the year than in most parts of the lower 48. Typically May is considered the month when the majority of street legal bikes are up and running. With this thought the Motorcycle Safety Foundation launches a campaign for motorcycle awareness and safety. Alaska has followed this lead but currently requires special attention from the Governor in the form of a declaration.

CS for House Bill 262 will change that, making May officially Motorcycle and Motor Scooter Awareness Month in Alaska. This change allows members of the Alaska Motorcycle Safety Commission to plan for the campaign in advance. Material that center on safety serve as a reminder to vehicle drivers that motorcycles are back on the street and to motorcycle riders to keep an eye on those drivers not yet use to seeing them.

Support for May as Motorcycle and Motor Scooter Awareness month is a no cost way to support traffic safety projects in Alaska.

E-Mail: [Representative Wes Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)
Call Juneau Toll free: (800) 468-2186
Website: www.akRepublicans.org/keller/

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 262(TRA)
(H) Publish Date: 3/19/10

Identifier (file name): HB262-DOT-CO-3-17-10 Dept. Affected: DOT&PF
Title: Motorcycle Awareness Month RDU: Administration and Support
Component: Commissioner's Office
Sponsor: Rep. Keller
Requester: H TRA Component Number: 530

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES							
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	0.0

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

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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact to the department.

Prepared by: Mary Siroky, Legislative Liaison
Division: Department of Transportation and Public Facilities
Approved by: Frank Richards, Deputy Commissioner
Department of Transportation and Public Facilities

Phone 465-4772
Date/Time 3/17/2010 10:15:00AM
Date 3/17/2010

LESSMEIER & WINTERS

LAWYERS - LLC

VINTAGE BUSINESS PARK
3000 VINTAGE BOULEVARD
SUITE 100
JUNEAU, ALASKA 99801

MICHAEL L. LESSMEIER
GREGORY W. LESSMEIER
SHELDON E. WINTERS

TELEPHONE: (907) 796-4999
FACSIMILE: (907) 796-4998
E-MAIL: lw@gci.net

February 16, 2010

Honorable Representative Keller
State Capitol, Room 13
Juneau, AK 99801

Re: HB 262 – May as Motorcycle Awareness Month

Dear Representative Keller:

On behalf of State Farm I am pleased to voice State Farm's support for HB 262. Safety awareness programs are always a good thing; indeed they truly translate into a reduction in accidents and injuries, and even save lives. If there is any information State Farm can provide to assist in moving this bill forward, please feel free to contact me.

Sincerely,

By: 
Sheldon E. Winters
State Farm Alaska Lobbyist

cc: Honorable Representative Herron – State Capitol Room 411
Honorable Representative Peterson – State Capitol Room 422
Honorable Representative Lynn – State Capitol Room 104
Honorable Representative Seaton – State Capitol Room 102
Honorable Representative Stoltze – State Capitol Room 515
Honorable Representative Ramras – State Capitol Room 120

HB 262-0151 W

Tuesday, February 9, 2010

The Honorable Wes Keller
State Representative
State Capitol #13
Juneau, AK 99801

Dear Representative Keller:

on behalf of Harley-Davidson Motor Company, I want to thank you for introducing House Bill 262, relating to Motorcycle Safety Awareness Month.

Motorcycle Safety is an important factor in our sport. By recognizing this, you have put a big spotlight on our issues. For that, thank you.

Best of luck this season.

Harley-Davidson Motor Company
3700 W. Lincoln Ave. #100
Milwaukee, WI 53208
Tel: 414.442.4080 Fax: 414.442.4081
http://www.harleydavidson.com

Michael D. Richards
Manager, Government Affairs

Ride Free,
- Michael Richards

P.S. My best friend from high school is proud to call
Wesley, AK home. He loves it here, and I need
to come visit.

MOTORCYCLE SAFETY AWARENESS MONTH FACT SHEET

Overview

Despite significant gains since the enactment of Federal motor vehicle and highway safety legislation in the mid 1960's, the annual toll of traffic crashes remains tragically high. Recent data indicate that deaths and injuries attributable to motorcycle crashes are becoming a larger portion of this grave public health problem. Motorcycle crash-related fatalities have been increasing since 1997, while injuries have been increasing since 1999.

Many motorcycle deaths could be prevented if motorcyclists would take responsibility for ensuring they have done everything possible to make the ride safe by wearing helmets and other protective gear that increases their visibility to other motorists, riding sober and taking rider training classes.

Mission

Motorcycle Safety Awareness Month is a national initiative aimed at getting motorists and motorcyclists to "Share the Road" with each other.

Share the Road Model Language

The National Highway Traffic Safety Administration (NHTSA) has developed model "Share the Road" language by reviewing materials currently being used by safety, and motorcycle safety agencies and a variety of national organizations that have a vested interest in motorcycle safety. These materials included operator licensing manuals, public service announcements, brochures, pamphlets, posters, and Internet Web sites. The agency identified the common themes and language from these materials that serve to effectively convey the importance of sharing the road safely with motorcyclists.

We encourage local, State, and national organizations to use the following model Share the Road language in their motorists awareness programs:

- * Motorcycles are vehicles with the same rights and privileges as any vehicle on the roadway.
- * Allow the motorcyclist a full lane width. Although it may seem as though there is enough room in the traffic lane for an automobile and a motorcycle, remember the motorcycle needs the room to maneuver safely. Do not share the lane.
- * Motorcycles are small and may be difficult to see. Motorcycles have a much smaller profile than vehicles, which can make it more difficult to judge the speed and distance of an approaching motorcycle.
- * Always signal your intentions before changing lanes or merging with traffic. This allows the motorcyclist to anticipate traffic flow and find a safe lane position.

* Remember that motorcyclists are often hidden in a vehicle's blind spot or missed in a quick look due to their smaller size. Always make a visual check for motorcycles by checking mirrors and blind spots before entering or leaving a lane of traffic and at intersections.

* Don't be fooled by a flashing turn signal on a motorcycle – motorcycle signals usually are not self-canceling and riders sometimes forget to turn them off. Wait to be sure the motorcycle is going to turn before you proceed.

* Remember that road conditions that are minor annoyances to motorists can pose major hazards to motorcyclists. Motorcyclists may change speed or adjust their position within a lane suddenly in reaction to road and traffic conditions such as potholes, gravel, wet or slippery surfaces, pavement seams, railroad crossings, and grooved pavement.

* Allow more following distance, three or four seconds, following a motorcycle so the motorcyclist has enough time to maneuver or stop in an emergency. In dry conditions motorcycles can stop more quickly than cars.

Motorcyclist Deaths are Rising.

In 2007, motorcycle rider fatalities increased for the tenth straight year.

During 2007, 5,154 motorcyclists lost their lives in fatal highway crashes.

Fifty percent of all motorcycles involved in fatal crashes collided with another type of motor vehicle in transport. In two-vehicle crashes, 78 percent of the motorcycles involved were struck in the front. Only 5 percent were struck in the rear.

Over, 90 percent of all two-vehicle crashes involving a motorcycle and a passenger vehicle in which the motorcycle rider died occurred on non-interstate roadways.

Fifty percent or more of all two-vehicle crashes involving a motorcycle and a passenger vehicle in which the motorcycle rider died were intersection crashes.

In 2007, there were 2,332 two-vehicle fatal crashes involving a motorcycle and another type of vehicle. In 40 percent of these crashes, the other vehicle was turning left while the motorcycle was going straight, passing, or overtaking the vehicle.

2009 MOTORCYCLE SAFETY AWARENESS MONTH PLANNER SAMPLE NEWS RELEASE

Note: before filling in the names of the Organization and Organization spokesperson, you MUST contact them to obtain their permission to use their names in this press release, and you must get their approval for the language of their quotations, and any changes or additions they may require. Only after this is done should you send out the press release.

FOR IMMEDIATE RELEASE: [Date]
CONTACT: [Name, Phone Number, E-mail]

[Local Organization] Promotes “Sharing the Road” with Motorcycles by Joining Efforts with State and Federal Partners *May 2009 Proclaimed Motorcycle Safety Awareness Month.*

[City, State] – Motorcyclists fatalities have steadily increased over the past decade. In fact, in 2007, there was a seven percent increase in fatalities from 4,837 in 2006, to 5,154.

That’s why [Local Organization] announced today that they are joining with other federal, State and local highway safety, law enforcement, and motorcycle organizations in proclaiming May 2009 as “Motorcycle Safety Awareness Month.” All motorists are reminded to safely “Share the Road” with motorcycles and to be extra alert when driving to help keep motorcyclists safe. Motorcyclists are reminded to make themselves visible to other motorists in case other drivers are not looking out for motorcycle riders.

“As the weather improves, more and more motorcyclists are hitting the roads. And with that in mind, drivers of all vehicles, whether you’re driving an SUV, passenger car or truck, need to be extra attentive and make sure you “Share the Road,”” said [Local Leader]. “Motorcycles are some of the smallest vehicles on our roads, often hidden in a vehicle’s blind spot so everyone needs to really look out for them.”

It’s crucial that motorists always make a visual check for motorcycles by checking mirrors and blind spots before entering or leaving a lane of traffic and at intersections.

“Motorcyclists have responsibilities, too,” said [Local Leader]. “They should follow the rules of the roadway, be alert to other drivers, and always wear a DOT-compliant helmet and other protective gear.”

[Local Leader] said that motorcyclists are much more vulnerable than passenger vehicle occupants in the event of a crash. [He/she] said that research shows that per vehicle mile traveled, motorcyclists are about 37 times more likely than a passenger car occupant to die in a traffic crash.

[Local Leader] offered several tips for drivers to help keep motorcyclists safe on our roadways:

* Remember the motorcycle is a vehicle with all of the rights and privileges of any other motor vehicle on the roadway. Always allow a motorcyclist the full lane width—never try to share a lane;

* Always make a visual check for motorcycles by checking mirrors and blind spots before entering or leaving a lane of traffic and at intersections;

* Always signal your intentions before changing lanes or merging with traffic;

* Don't be fooled by a flashing turn signal on a motorcycle – motorcycle signals are often not self-canceling and riders sometimes forget to turn them off. Wait to be sure the motorcycle is going to turn before you proceed;

* Allow more following distance, three or four seconds, when behind a motorcycle, so the motorcyclist has enough time to maneuver or stop in an emergency. And don't tailgate. In dry conditions, motorcycles can stop more quickly than cars.

[Local Leader] said motorcyclists can increase their safety by:

* Avoid riding in poor weather conditions.

* Wearing brightly colored protective gear and a DOT-compliant helmet;

* Using turn signals for every turn or lane change, even if the rider thinks no one will see it;

* Combining hand and turn signals to draw more attention to themselves;

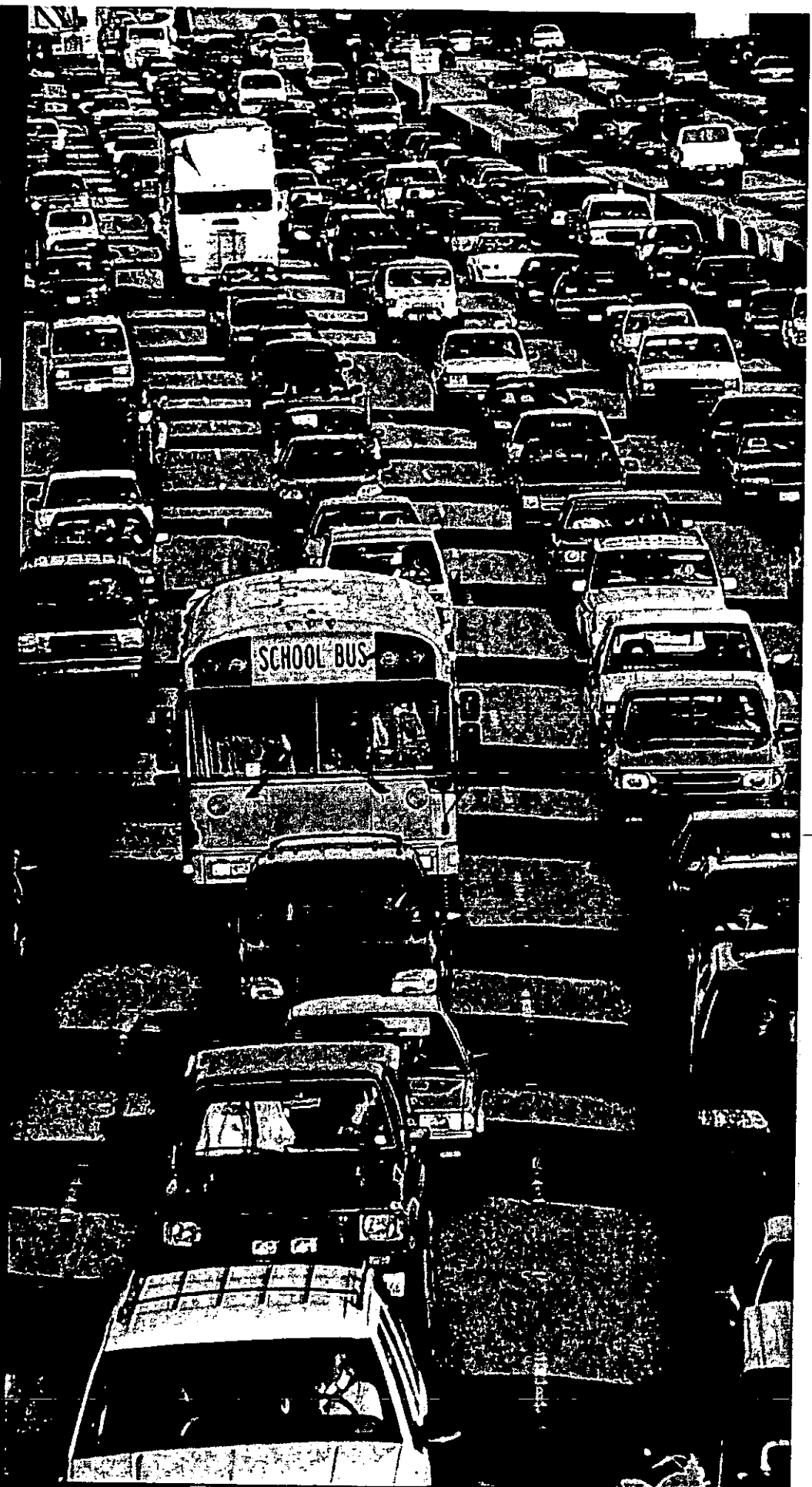
* Using reflective tape and stickers to increase conspicuity; and

* Positioning themselves in the lane where they will be most visible to other drivers.

Our message to all drivers and motorcyclists is: make this the first year in recent years when motorcycle fatalities do not increase. Help to share in the responsibility and do your part by safely "Sharing the Road."

Spotting a
motorcycle
on the
road can
be just
as hard
as finding
one in
this picture.

Keep an eye out
for motorcycles.



Share the road with motorcycles





OBJECTS IN MIRROR ARE MORE
VULNERABLE THAN THEY APPEAR.



Share the road with motorcycles



HELP US KEEP MOTORCYCLES SAFE AND UNENDANGERED SPECIES LIST

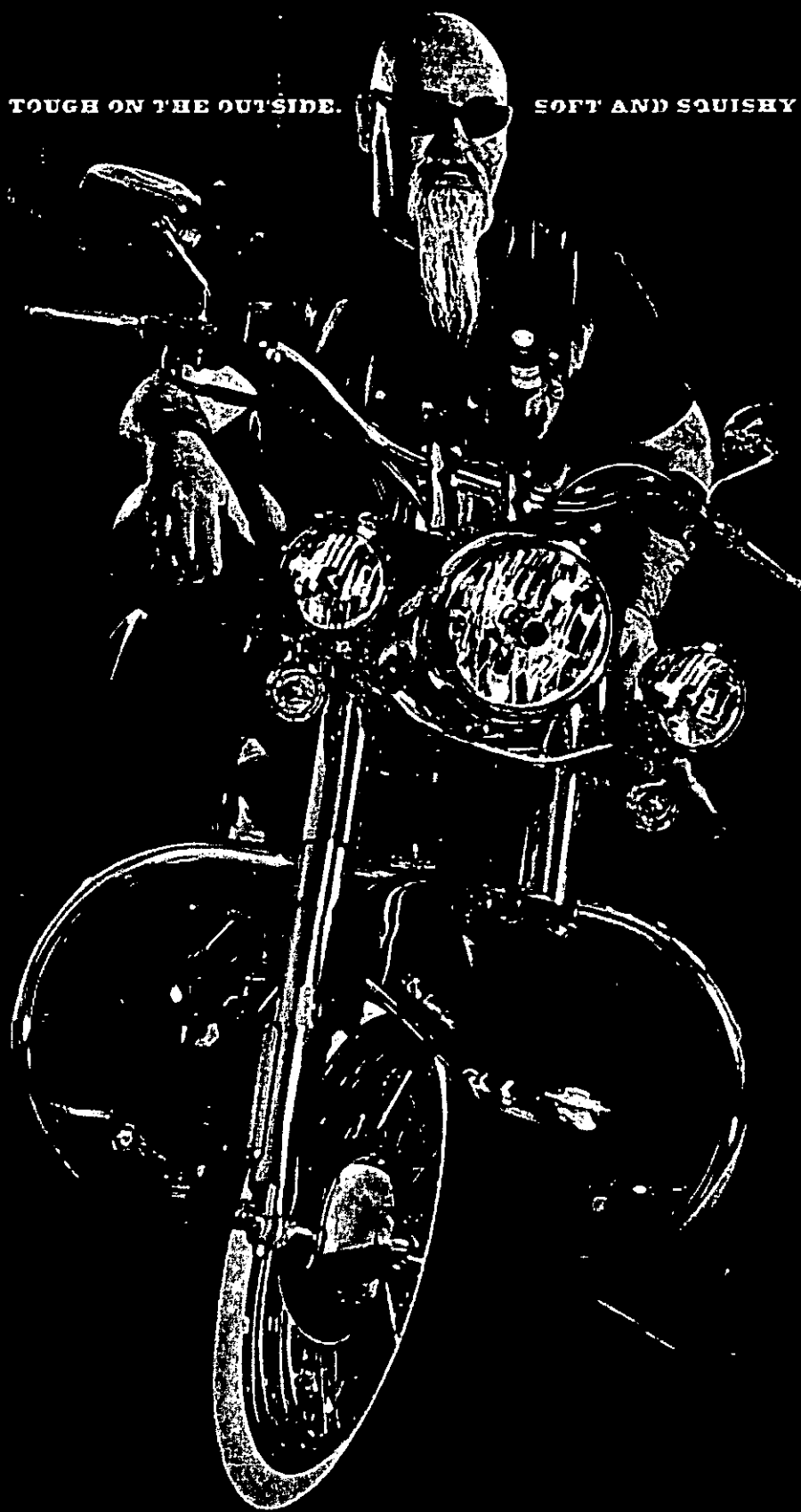


Share the road with motorcycles



TOUGH ON THE OUTSIDE.

SOFT AND SQUISHY ON THE INSIDE.



Share the road with motorcycles

HB

272



SENATE TRANSPORTATION COMMITTEE

State Capitol, Room 11
Juneau AK, 99801-1182
907-465-6828

To: Senate Transportation Committee Members

From: Senator Albert Kookesh, Chair, Senate Transportation Committee *A. Kookesh*

Date: February 18, 2010

Re: Notice of Senate Transportation Committee Meeting for the week of February 22 - 26, 2010

Tuesday, February 23, 2010 **Butrovich Room 205** **1pm to 2:00 pm**

- + **SB 272**: charges for rented motor vehicles, cost recovery fees, making a violation of the rented motor vehicle charge provisions and unfair trade practice. Sponsor: Senator Huggins

Senator Linda Menard will chair this meeting.

Thursday, February 25, 2010 **Butrovich Room 205** **1pm to 2:30 pm**

- + **CSHB 114**: relating to availability of state transportation facilities and state-owned or state-operated transportation modes for delivering compassionate aide. Sponsor: Representative Ramras (HB 114 Previously heard).
- + **SB 280**: An act designating the bridge to be built on the Dalton Highway at approximately mile post 308 as the Sam Schuyler Memorial Bridge. Sponsor: Senator Joe Paskvan
- + indicates will be teleconferenced

ALASKA STATE LEGISLATURE

Senate District H
600 E. Railroad Avenue
Wasilla AK 99654
907-376-4866
907-373-4724 - Fax
Senator_Charlie_Huggins@legis.state.ak.us



State Capitol, Room 417
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878
www.akrepublicans.org/huggins/

Charlie Huggins Senator

February 16, 2010

To: Senator Albert Kookesh, Chair
Senate Transportation Committee

From: Senator Charlie Huggins *Charlie Huggins*

Subject: Request to Schedule SB 272, Rental Car Fees, for a Hearing

I respectfully request the scheduling of SB 272, "An Act relating to charges for rented motor vehicles, including cost recovery fees, and making a violation of the rented motor vehicle charge provisions an unfair trade practice," for a hearing before the Senate Transportation Committee at your earliest convenience.

Please contact my staff member Edra Morledge, with any questions on the details of this bill. Her phone number is 465-6149.

Please find attached pertinent information for the committee.

Thank you.

Attachments

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 272
 () Publish Date: _____

Identifier (file name): SB272-LAW-CIV-02-19-10 Dept. Affected: Law
 Title: An act relating to charges for rented motor vehicles, cost recovery fees, and RDU Civil
 making violation the rented motor vehicle charge provisions an unfair trade practice Component Commercial and Fair Business
 Sponsor Senator Huggins
 Requester _____ Transportation Component Number 2717

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
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	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

SB 272 will require rental car companies to separately identify a "cost recovery fee" in the rental contract. "Cost recovery fee" is defined to mean a vehicle licensing cost recovery fee, an airport-related cost, a government tax, or a government surcharge. The bill will also prohibit rental car companies from charging a vehicle licensing fee unless the fee represents a good faith estimate by the rental car business of the average daily cost to the rental car business of recovering its actual total annual licensing costs in the state during a calendar year. Finally, the bill makes a violation of this law an unfair trade practice under AS 45.50.471. The Department of Law enforces the Unfair and Deceptive Trade Practices Act, AS 45.50.471. We do not expect that this bill, if enacted, would generate substantial new enforcement activity, and the Department would absorb any such enforcement within existing resources, therefore the fiscal impact is considered zero.

Prepared by: Eileen Donahue, Division Operations Manager
 Division Administrative Services
 Approved by: Daniel S. Sullivan, Attorney General
Department of Law

Phone 465-5427
 Date/Time 2/19/10 5:30 PM
 Date 2/19/2010

ALASKA STATE LEGISLATURE

Senate District H
600 E. Railroad Avenue
Wasilla AK 99654
907-376-4866
907-373-4724 :Fax



State Capitol
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878

Charlie Huggins Senator

Sponsor Statement

Senate Bill 272 – Rental Car Fees

"An Act relating to charges for rented motor vehicles, including cost recovery fees, and making a violation of the rented motor vehicle charge provisions an unfair trade practice."

SB 272 is a technical bill that would allow rental car companies to do in Alaska what they already do in thirty other states. Alaska law is currently silent on the issue of separately-listed charges on rental car statements for the recovery of fees. This bill would require those fees to be listed separately and clearly identified on the rental car agreement.

The industry standard is to turn over the rental car fleet every twelve months and to associate the costs of licensing the vehicles, concessions, and airport or facility-related costs with the vehicles themselves. In addition to government taxes and surcharges, rental car companies assess additional "cost recovery fees" to offset those costs. Consumers should be made aware, and be able to see the fees they are charged, on both the rental bill and in an online quote. This bill would provide full disclosure and transparency of "cost recovery fees" included in rental car agreements.

Contact:
Edra Morledge
465-6419
SB 272, 26-LS13931A
February 16, 2010

Vehicle Licensing Fees Per State 2010

STATE	CITATION	SUMMARY	VLF Charge
Arizona	A.R.S. §28-5810	5% on rentals not exceeding 180 days, used only for reimbursement of the amount of VLF imposed on rental car company.	5% - Mandatory
Connecticut	§12-692(b)-(c)	3% on vehicles rented in-state for rentals not exceeding 31 days. Surcharge imposed on total amount charged to renter. Used only for reimbursement of the amount of VLF imposed on the company.	3% - Mandatory
Hawaii	C.G.S. §437D-8.4(a)(2)	1/365 of the VLF for the vehicle being rented for each full or partial 24-hour day the vehicle is rented, not to exceed the actual annual VLF on that vehicle.	Varies based upon particular vehicle. – Non-mandatory
Minnesota	M.S.A. §297A.135	3% of the sales price. It must be reported and paid to the commissioner of revenue. A lessor collecting the fee is entitled to a rebate of the fee collected equal to the amount of the fees collected	3% - Mandatory
Nebraska	Neb. Rev. Stat. §77-4501(1)-(2)	4.5% of rental amount, not including sales tax. Money collected in excess must be paid to the treasurer of the county where the transactions occurred.	4.5% - Mandatory
Rhode Island	Gen.Laws §31-34.1-2	6% for gross receipts per vehicle on all rentals for each of the first 10 consecutive days. 50% of that is retained by the rental car company and 50% is remitted to the state.	6% - Mandatory
South Carolina	S.C.C. §56-31-50	5% on rentals not exceeding 31 days. They may only be used for reimbursement of the amount of personal property taxes imposed and paid upon these vehicles by the vehicle owner or rental car company.	5% - Mandatory

Vehicle Licensing Fees Per State 2010

Tennessee	T.C.A. §67-4-1901	3% of the gross proceeds from the rental agreement (gas, insurance, etc.) for rentals not exceeding 31 days. Fees to be remitted back to the state.	3% - Mandatory
Texas	V.T.C.A., Occupations Code § 2301.851	Proportionate amount of title fees, registration fees, and property taxes paid in the preceding calendar year on the vehicle fleet.	\$1.75/day – Non-mandatory
Virginia	46.2-755(D) Code of Virginia	Allows for recoupment of VLF, airport concession fees, airport consolidated facility fees or other governmentally mandated fees. The fees must be disclosed in advertisement, in the contract and calculated based on direct costs.	See below – Non-mandatory
Wisconsin	Chapter 100.53	Allows for recoupment of title and registration fees so long as it is disclosed in advertising and on contracts.	\$.41/day – Non-mandatory
Wyoming	W.S. 1977 §31-3-104	4%, any amount collected in excess of VLF is remitted to dept for distribution.	4% - Mandatory
New Laws in 2006			
Ohio		Recoup VLF on a per rental day calculation.	\$.26/day – Non-mandatory
Maryland		Recoup VLF so as to not over-collect.	\$.28/day – Non-mandatory
Montana		Recoup VLF so long as it is disclosed on contract and we do not over-collect.	\$1.49/day – Non-mandatory
New Hampshire		Recoup VLF so long as it is disclosed. No calculative method.	\$1.60/day – Non-mandatory
Virginia		Recoup VLF so long as it is disclosed and any overcollection must be forwarded to next year and we must reduce our rate.	\$.30/day – Non-mandatory
New Laws in 2007			

Vehicle Licensing Fees Per State 2010

Maine	SB 1645	Recoup VLF; no calculative method	\$1.50/day – Non-mandatory
Missouri	SB 82	Recoup VLF; no calculative method	\$1.18/day – Non-mandatory
North Carolina	SB 1118	Recoup VLF; no calculative method; any annual over-collection shall be forwarded to next year and reduce rate.	\$\$.39/day – Non-mandatory
New Laws in 2008			
Georgia	SB 181	Recoup VLF; no calculative method; any annual over-collection shall be forwarded to next year and reduce rate.	\$.92/day – Non-mandatory
Kentucky	HB 393	Recoup VLF; no calculative method; any annual over-collection shall be forwarded to next year and reduce rate.	\$.80/day – Non-mandatory
Massachusetts	SB 2416	Recoup VLF; no calculative method; any annual over-collection shall be forwarded to next year and reduce rate.	\$1.50/day – Non-mandatory
Michigan	SB 1008	Recoup VLF; no calculative method; any annual over-collection shall be forwarded to next year and reduce rate.	\$.57/day – Non-mandatory
New in 2009			
Arkansas	Attorney General Opinion	Recoup VLF; no calculative method; any annual over-collection shall be forwarded to next year and reduce rate.	\$.79/day – Non-mandatory
California	SB 10 (Special Session - 2009)	Recoup INCREASED registration and titling fees only.	\$.05/day – Non-mandatory
Washington	SB 5509	Recoup VLF; no calculative method; any annual over-collection shall be forwarded to next year and reduce rate	\$.30/day – Non-mandatory
Oregon	SB 2818	Recoup VLF; no calculative method.	\$.37/day – Non-mandatory
Illinois	HB 2424	Recoup VLF; no calculative method; any annual over-collection shall be rolled over to next year and reduce rate.	\$.99/day – Non-mandatory
Nevada	N.R.S. §482.313	New in 2009: The 4% rental fee, which was a VLF	\$1.33/day (est. law takes effect October

HB

357

ALASKA STATE LEGISLATURE

Co-Chair:
House Finance Committee

Chair:
House Finance Subcommittees for;
Department of Public Safety
Department of Law

Member:
Legislative Council
Legislative Budget & Audit



Session:
Alaska State Capitol, Rm 515
Juneau, AK 99801-1182
Phone: (907) 465-4958
Fax: (907) 465-4928

District:
600 E. Railroad Ave.
Wasilla, AK 99654

BILL STOLTZE
STATE REPRESENTATIVE
Representative_Bill_Stoltze@legis.state.ak.us

MEMORANDUM

TO: Senator Kookesh, Chair
Senate Transportation Committee

FROM: Bill Stoltze *BS*

DATE: April 9, 2010

SUBJECT: Hearing Request

*Rec'd
3:40 PM
Sat
April 10
2010
BS*

I respectfully request a hearing be scheduled for House Bill 357, an act relating to the sale of land owned by the Alaska Railroad that is not needed for railroad purposes.

Thank you for your consideration.

DISTRICT 16

ALASKA STATE LEGISLATURE HOUSE FINANCE COMMITTEE

Representative Mike Hawker
Co-Chairman
(907) 465-4949
Fax: (907) 465-4979
Representative.Mike.Hawker@legis.state.ak.us

State Capitol 505
Juneau, Alaska 99801



Representative Bill Stoltze
Co-Chairman
(907) 465-4958
Fax: 465-4928
Representative.Bill.Stoltze@legis.state.ak.us

State Capitol 515
Juneau, Alaska 99801

State Capitol, Juneau, Alaska 99801-1182

Letter of Intent for House Bill 357

"It is the intent of House Bill 357, "An Act relating to the sale of land owned by the Alaska Railroad that is not needed for railroad purposes," to not impact any outstanding Federal issue which has not been resolved in regards to railroad lands, easements, or rights-of-way. It is not the intent of this legislation to impede, damage, or disrupt any ongoing claims, issues, or cases involving the Alaska - Railroad Corporation and governmental, tribal, or private sector disputes."

ALASKA STATE LEGISLATURE

Co-Chair:
House Finance Committee

Chair:
House Finance Subcommittees for:
Department of Public Safety
Department of Law

Member:
Legislative Council
Legislative Budget & Audit (alt)



Session:
Alaska State Capitol, Rm 515
Juneau, AK 99801-1182
Phone: (907) 465-4958
Fax: (907) 465-4928

District:
600 E. Railroad Ave.
Wasilla, AK 99654

BILL STOLTZE
STATE REPRESENTATIVE
Representative_Bill_Stoltze@legis.state.ak.us

HB 357

Alaska Railroad Non-Essential Land Sale

"An Act relating to the sale of land owned by the Alaska Railroad that is not needed for railroad purposes."

To spur economic development throughout the state, House Bill 357 adds a fourth clause to the existing language governing how the Alaska Railroad Corporation may dispose of land. House Bill 357 will enable the railroad to sell land that is not needed for essential railroad purposes. This bill does not ask for any irresponsible disposal of land, as the sale must be initiated by the board of directors on two conditions. The first condition is that the land is not essential to railroad operations, and the second condition is that the sale is in the best interest of the state of Alaska.

As support has shown, current leaseholders are very unhappy with the inability to purchase their leased properties from the railroad. In general real estate dealings, private purchases are made in mutually beneficial sales. House Bill 357 encourages these sales after determination by the board of directors of the railroad looks at each sale with the overall benefit to the state of Alaska as the key driver. Not only will the private sector benefit from this addition to state law, the railroad will also have increased ability to make decisions regarding their overall real estate portfolio.

The sale and relationship of private and public lands are vital to the economic growth of the state of Alaska. I ask for your consideration and support of House Bill 357 to promote Alaskan growth through the diversification of land ownership, increasing the tax base of the state, and encouraging responsible development of Alaskan land.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 357(TRA)
 (H) Publish Date: 3/24/10

Identifier (file name): HB357-CED-ARR-3-23-10 Dept. Affected: DCCED
 Title: Alaska Railroad Corporation Land Sales RDU:
 Component: Alaska Railroad Corporation
 Sponsor: Representative Stoltz
 Requester: House Transportation Committee Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

The fiscal impact of this legislation to the Alaska Railroad Corporation is indeterminate.

HB 357 would authorize the Alaska Railroad to sell land that is not needed for railroad purposes, subject to legislative approval, if the ARRC Board finds that the sale of the land is in the best interest of the state. Current law already allows the railroad to propose the sale of rail land subject to legislative approval. The incremental cost to sell rail land including appraisals, staff time, and other professional fees would likely be passed on to the buyer.

(Continued)

Prepared by: Wendy Lindskoog
 Division: Alaska Railroad Corporation
 Approved by: Emil Notti, Commissioner
Commerce, Community and Economic Development

Phone 265-2498
 Date/Time 3/23/10 12:00 AM
 Date 3/23/2010

FISCAL NOTE #1

STATE OF ALASKA
2010 LEGISLATIVE SESSION

BILL NO. CSHB 357(TRA)

ANALYSIS CONTINUATION

Current lease revenue streams average an 8% annual return on the fair market value of ARRC land. If ARRC were to sell this land, it would be hard-pressed to find a comparable investment that would provide such a return with a similar risk profile. As an extreme hypothetical, if ARRC were to sell its holdings in the Ship Creek area of Anchorage, roughly \$6 million of annual lease revenues would be immediately removed from the corporation's budgets. If the corresponding funds received for the sales were used to purchase investments with a similar risk profile, at today's investment returns, ARRC could stand to lose over \$4 million annually when compared to the foregone lease revenues. This could have a material impact on the corporation as it tries to maintain infrastructure, fully fund benefit plans, and provide the required match for federal grant funds, among other items.

ARRC believes the real fiscal impact of selling the non-operating land we currently lease to third parties would result in the loss of a consistent, predictable annual revenue stream to ARRC.

Another potential fiscal impact relates to ARRC's ability to use financial leverage to accomplish its capital plans. Currently, ARRC has approximately \$11 million in outstanding loans secured by lease revenues from corporation lands. Material changes to the lease streams could concern existing lenders, violate covenants, and/or most certainly impact ARRC's future ability to use debt.

Because the potential volume of lands to be sold and the timing thereof is unknown at this point, the fiscal note is indeterminate.

Alaska Railroad Corporation



P.O. BOX 107500 ANCHORAGE, ALASKA 99510-7500
327 W. SHIP CREEK AVENUE, ANCHORAGE, ALASKA 99501

To: John Binkley, Chairman of the Board of Directors
From: Phyllis Johnson, ARRC VP/General Counsel
Regarding: HB 357
Date: April 12, 2010

As you know, the final version of HB357 that passed the House was the Committee Substitute adopted in the House Finance Committee. In that version, the very last sentence (lines 9-10, page 2) reads as follows:

Money in the account may be appropriated in accordance with 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982). [emphasis added]

For background, ARTA, 45 U.S.C. 1207(a)(5) provides:

Revenues generated by the State-owned railroad, including any amount appropriated or otherwise made available to the State-owned railroad, shall be retained and managed by the State-owned railroad for railroad and related purposes.

The highlighted word, "appropriated", raises some concerns as to whether the legislative intention is to require a legislative appropriation for expenditure of proceeds of sales of land under this new provision. Fundamentally, appropriations are made "to" an entity "by" a legislative body. None of ARRC's governing statutes speak of appropriations "by" ARRC, they only mention appropriations being made "to" the corporation. Use of this term therefore suggests that legislative action is contemplated. In the House Transportation Committee, when this issue was discussed, testimony and committee comments indicated that there was no intention to inject a legislative action into railroad expenditures, and the term "appropriated" was replaced after much discussion by "used". Similar commentary was made in the House Finance Committee, but the term was changed back again to "appropriated", in part relying on a Legislative Legal memo. I have reviewed the only such memo made available and, in some respects, it raises more questions than it answers. A copy is attached.

The memo suggests that it is open to question whether the proceeds of these railroad land sales may constitutionally be spent without an appropriation -- "a question that has not been answered by the courts". It relies on a 1984 informal Attorney General's opinion (also attached) that seems to sidestep the question of whether railroad revenues are a part of the state treasury and therefore require appropriation to be spent. In light of the question raised by the Legislative Legal memo, there is ambiguity at the least, if not arguably an implication that legislative appropriation will be necessary to expend these funds. This would be a sweeping departure from the accepted manner in which railroad funds have been handled

since the state-owned railroad was created. For 25 years, the matter has been left in the hands of the ARRC, pursuant to an annual budget approved by its Board of Directors, to expend railroad funds in accordance with the federal transfer act language referenced above (and in accordance with very similar language in the state corporation act, see AS 42.40.530), i.e.: "for railroad and related purposes".

This language may also inadvertently impact ARRC's bonding activities. I am advised by bond counsel that an important component of the ratings assigned to the railroad's grants receipts bonds is that the Alaska Railroad Transfer Act prohibits the diversion of the railroad's revenues and speaks only in terms of appropriations "to" the railroad, never "by" the railroad. It would be preferable for any legislation dealing with the proceeds of real estate sales to provide that the proceeds be retained by railroad and applied as provided in the Transfer Act for railroad purposes. It is always helpful for State legislation to echo the federal legislation and allows us to show the rating agencies that the Alaska legislature is cognizant of the federal legislation. While the wording may not be fatal, it is never productive to raise issues in the eyes of rating agencies.

To resolve these concerns, we strongly recommend substituting another term for "appropriated" in this proposed legislation. Possibilities include "retained and managed" (which has the advantage of being the language of both ARTA and ARCA), "applied", or "used".

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 24, 2010

SUBJECT: Use of money without an appropriation (CSHB 357(TRA))
(Work Order No. 26-LS1356E)

TO: Representative Peggy Wilson
Chair of the House Transportation Committee
Attn: Becky Rooney

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

Enclosed is CSHB 357(TRA) that includes the changes you requested.

With regard to the deletion of the word "appropriated" on page 2, line 10, and the insertion of the word "used" in its place, is it the committee's intent that the money may be spent without an appropriation?

Under terms of the federal Alaska Railroad Transfer Act (P.L. 97-469, Title IV), the "revenues generated by the State-owned railroad shall be *retained and managed* by the State-owned railroad for railroad and related purposes." 45 U.S.C. 1207(a)(5); emphasis added. According to a section-by-section analysis of the Alaska Railroad Transfer Act that was prepared at the time Congress passed the Act, this provision was intended to allow the railroad to "retain and manage its [sic] own revenues" and to "avoid the need for annual appropriations by the State for the railroad." Congressional Record, December 23, 1982, S16080. The apparent intent of Congress was that the revenues of the railroad be dedicated for railroad and related purposes and that the railroad have the discretion to determine how to use its revenues without having the legislature approve the use and expenditure of those revenues by an appropriation. This provision constitutes a federally mandated dedicated fund requiring that railroad revenues be retained by the railroad and used only for railroad and related purposes. 1984 Inf. Alaska Att'y Gen. Op., May 26 (366-575-84). However, this provision does not prevent the legislature from appropriating railroad revenue for railroad purposes or mandating that the railroad expend its revenue for a legislatively prescribed railroad or related purpose. *Id.*

Although there have been unsuccessful efforts to amend the Executive Budget Act to make it applicable to the Alaska Railroad Corporation, art. IX, sec. 13, Constitution of the State of Alaska prohibits the withdrawal of money from the treasury except in accordance with appropriations made by law. Thus, although the money from the land sales contemplated in CSHB 357(TRA) may be dedicated under 45 U.S.C. 1207(a)(5).

Representative Peggy Wilson
March 24, 2010
Page 2

whether it may be spent without an appropriation is a question that has not been answered by the courts.

DMB:plm
10-171.plm

Enclosure

Westlaw.

1984 WL 61065 (Alaska A.G.)

Page 1

1984 WL 61065 (Alaska A.G.)

Office of the Attorney General
State of Alaska

File No.

366

-

575

-

84

May 26, 1984

Appropriation of Alaska Railroad revenue

Honorable Al Adams
Chairman

Luann Cutler, on your behalf, has requested our opinion whether revenues of the Alaska Railroad must be appropriated before expenditure. Under the provisions of the Alaska Railroad Transfer Act (45 U.S.C. § 1207 — 45 U.S.C. § 1214), 'revenues generated by the state-owned railroad shall be retained and managed by the state-owned railroad for railroad and related purposes.' 45 U.S.C. § 1207(a)(5).

This constitutes a dedication of revenue mandated by federal law. Even if a revenue source is dedicated for a specific purpose, amounts may not be expended by an agency within the executive branch from that revenue source unless appropriated by law. Alaska Const. art. IX, §§ 12, 13; see also, Kelley v. Hammond, C.A. No. 77-4, 1st Jud. Dist (Alaska 1977). The important distinction of a validly dedicated revenue source is that money may not be expended for a purpose other than the Alaska Railroad, not necessarily that the money may be expended without appropriation.

We acknowledge that if the railroad's function is assigned to a public corporation which is established as a political subdivision of the state, an argument can be made that railroad revenue is not a part of the state treasury, much the same as the revenues collected by municipal corporations. If this view is adopted in Alaska, railroad revenues could be expended without appropriations. To date, this view has been repudiated at the superior court level. Kelley v. Hammond, C.A. No. 77-4 1st Jud. Dist. (Alaska 1977).

We hope this opinion answers your question.

Norman C. Gorsuch
Attorney GeneralJames L. Baldwin
Assistant Attorney General

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ALASKA RAILROAD CORPORATION



Corporate Address: P.O. Box 107500, Anchorage, Alaska 99510
327 W. Ship Creek Avenue, Anchorage, Alaska 99501

April 6, 2010

Re: Alaska Railroad letter relating to House Bill 357

Dear Legislator:

I would like to share with you the Alaska Railroad's concerns regarding House Bill 357. As currently drafted, House Bill 357 does not "mandate" that the Alaska Railroad sell its land to its tenants. However, we believe this bill will create an expectation that the Legislature and Alaska Railroad Board of Directors (Board) are moving in that direction and that many acres of land will become available for sale to current tenants.

The Board has a fiduciary responsibility to manage the Alaska Railroad on a self-sustaining basis and to protect the asset value for all Alaskans. Our real estate income generated from third party leases at fair market value makes that possible. Current lease revenue streams average an 8% return on the fair market value of railroad land. If the Alaska Railroad were to sell this land it would be difficult to find an investment that would provide a comparable return with a similar low-risk profile over the long term.

For that reason, we believe the railroad "land grant" model created at transfer by the Legislature has served the railroad, and the State, well. The Alaska Railroad has never had to ask the Legislature for financial operating subsidy during its entire history of state ownership.

I appreciate the dialogue generated through Representative Stoltze's introduction of this bill. It has provided an important opportunity for the Alaska Railroad to better understand leaseholder issues and take immediate steps to improve customer relations. At the suggestion of the Board, management will be proposing changes to our long term leasing policy at our May meeting to address some of the issues raised. We believe this effort provides a great first step to better supporting our Alaska private sector.

Sincerely,

A handwritten signature in black ink, appearing to read "John". The signature is fluid and cursive, written over a horizontal line.

John Binkley
Chairman, Alaska Railroad Board of Directors

The Alaska Railroad Corporation requested its bond counsel, Joan Stern from Blank Rome, to provide comments regarding the use of the word "appropriation" in House Bill 357 relating to sale of Alaska Railroad land. Below are her comments received April 12, 2010:

"A very important component of the ratings assigned to the Railroad's grants receipts bonds is that the Transfer Act prohibits the diversion of the Railroad's revenues and speaks only in terms of appropriations "to" the Railroad, never "by" the Railroad. For this reason, I would recommend that any legislation dealing with the proceeds of real estate sales should provide that the proceeds be retained by Railroad and applied as provided in the Transfer Act for Railroad purposes. It is always helpful for the State legislation to echo the federal legislation and lets us show the rating agencies that the Alaska legislature is cognizant of the federal legislation. I cannot say that the wording is fatal, but it is not the best wording we could have. Now that our bond insurer has a rating lower than the Railroad's unenhanced rating, any legislation affecting the Railroad has to be scrutinized more carefully because it will have that extra scrutiny at the rating agencies"

Joan



THE CITY OF WHITTIER

Gateway to Western Prince William Sound

P.O. Box 608 • Whittier, Alaska 99693 • (907) 472-2327 • Fax (907) 472-2404

Honorable Bill Stoltze, Chairman
House Finance Committee
State Capitol, 5th Floor
Juneau, AK 99801

April 2, 2010

Re: House Bill 357

Dear Representative Stoltze,

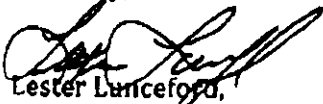
On behalf of the City of Whittier, I am writing to express our support for House Bill 357 which would allow the Alaska Railroad to dispose of land that they own which is not essential to the operations of the railroad. From our perspective, we believe that private ownership over public ownership is best for economic development within the City of Whittier and throughout Alaska.

As you are probably aware, the Alaska Railroad is a major landholder within the City of Whittier and we are familiar with the complaints associated with the railroad's leasing practices. Likewise, we are aware of the constraints that businesses and individuals find in obtaining loans on leased property.

Given that HB 357 is permissive and does not require the railroad to dispose of land, we find it difficult to understand how or why anyone could oppose this measure. In closing, we would like to take this opportunity to thank the legislature in recognizing the need to get more public lands into private ownership and urge the passage of this bill.

Thank you for your time and consideration.

Sincerely,


Lester Lurrenceford,
Mayor

Please visit our new website:
www.whittieralaska.gov

Date: March 10, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
State Capitol, 4th Floor
Juneau, AK 99801
Fax:: 907-465-3175

Dear Chair Wilson,

I am writing in opposition of House Bill 357, which is currently in your committee. As a Real Estate professional I can see why business owners may wish to own rather than lease. As a resident of the State of Alaska I don't see the *"giving the railroad the authority to dispose of non-strategic land within their real estate portfolio creates the logical first step of putting more government-owned lands in the private sector,"* is in Mine or the States best interest.

I am closely aware that the Real Estate department of the Alaska Railroad, operates for profit, and strives to get the highest rate of return, on value, for their owned real estate. Well managed long term leases will, and do provide a greater rate of return to me and the State than selling off performing asset, not to mention, selling those assets in a depressed real estate environment.

Any favorable vote on this bill will only serve the interests of a few business owners rather than the majority of residents of the State of Alaska.

This legislation does not represent good financial stewardship of mine and the States performing real estate assets.

Respectfully,

Mark S. Kulstad
Commercial Real Estate Agent and Broker 907-223-8135

Alaskan Wood Moulding Inc.
1115 Whitney Rd.
Anchorage AK 99501
Ph: 907-563-9724, Fax: 907-563-9725

Honorable Peggy Wilson, Chair
House Transportation Committee
Alaska House of Representatives
State Capitol, Room 406
Juneau, AK 99801

RE: HOUSE BILL 357

Dear Chair Wilson,

I would like to urge your support of HB 357, which is currently under review by your committee. This legislation is important to Alaska businesses and would help diversify and strengthen the private sector.

As you know, the vast majority of land in Alaska is held by various public entities, which limits opportunities for the private sector. HB 357 is a reasonable vehicle for current land users to have the ability to purchase the property that they currently lease from the ARRC. The ability to own both the land and the improvements on these properties vastly increases the bottom-line health of business and opens lines of credit that can be utilized to expand and grow. This legislation is a win/ win opportunity for the ARRC to continue to generate revenue from the proceeds of the proposed land sale while Alaskan businesses gain the financial leverage to continue to create jobs.

Respectfully,

Mark Stearns

Alaskan Wood Moulding Inc.
1115 Whitney Rd.
Anchorage AK 99501
Ph: 907-563-9724, Fax: 907-563-9725

Honorable Peggy Wilson, Chair
House Transportation Committee
Alaska House of Representatives
State Capitol, Room 406
Juneau, AK 99801

RE: HOUSE BILL 357

Dear Chair Wilson,

I am writing in support of House Bill 357. This bill is long overdue and if passed will have a positive impact on commerce, our economy and our local community's tax base(s). For the communities surrounding the rail belt, this legislation will probably be the largest positive impact on the economy and creation of jobs.

Alaska's economy is restricted because of the amount of land under government ownership and control. This legislation is a positive step in getting land from under government ownership into the hands of the private sector. With that will come greater investment and more jobs.

On a separate note, I saw on the news a legislative proposal that would charge the Alaska Railroad with the responsibility of developing a small diameter gas pipeline, often referred to by Alaskans as a bullet line. From my perspective, this is a terrible and short-sighted proposal that does not contemplate the railroad's ability to waste money. Their direct managerial involvement will almost certainly insure a tariff that would be unaffordable to most Alaskans.

In conclusion, I want to take this opportunity to extend my thanks and appreciation to Representative Stoltze who authored this bill. Without his business sense and leadership, we would most likely continue operating under the existing arcane structure of governmental ownership. Please support passage of HB 357.

Respectfully,



Mark Stearns

March 12, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
State Capitol, 4th Floor
Juneau, AK 99801

Dear Representative Wilson,

I am writing in support of House Bill 357, it would allow private businesses and citizens to purchase government owned land.

Respectfully,

James Garvin
AT&S, Inc.
Operations Manager
Fairbanks Alaska

March 12, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
State Capitol, 4th Floor
Juneau, Alaska 99801

RE: HB 357

Dear Representative Wilson,

I recently learned about House Bill 357, and I am writing in support of this measure.

I work for a Fairbanks based company, that has been in business, since 1974, which is located on railroad-leased land. In fact, all the businesses around us, are located on Railroad-leased land. The land we are based on, is not used for railroad operations and Never will be.

This legislation would allow for the sale of these properties. In AT&S case and the others around us. This would be an asset, to the companies, to own the land there business is located on.

With your help, lets do the right thing and pass this bill.

Thank you,
Randy Arendell
AT&S Inc.
1883 Fox Ave.
Fairbanks, Alaska 99701

March 10, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
Alaska State House of Representatives
State Capitol, Room 406
Juneau AK 99801

Via fax: (907) 465-3175

RE: HB 357

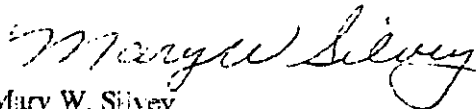
Dear Chairwoman,

As a former leaseholder with the ARRC, I support this bill. My understanding is that when these lands were transferred to the State, the intention was that such lands would be sold to private parties. Under that belief, at least some former leaseholders that I have known expanded their facilities. Several years ago, a commission formed to research long-term plans for the State also recommended that these lands be sold.

Besides original intent, it is my belief that these lands are not developed to their potential because there is always the threat of ARRC takeover at the end of the lease. I realize this is standard leasehold practice, but the ARRC is statutorily prohibited from selling its land. This was enough incentive for me not to further improve my property.

The ability and flexibility to maximize these properties will be of benefit to the communities as well in expanding the revenue capacity of the lands and value of tax base.

Sincerely,



Mary W. Silvey
PO Box 71350
Fairbanks AK 99707

Cc: Bill Steltze via fax: (907) 465-4928
Cc: Peter Macksey via email: pmacksey@steelfabak.com

HB357 re ARRC leases Mar 2009

RECEIVED

MAR 02 2010

February 25, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
Alaska State House of Transportation
State Capitol, 4th Floor
Juneau, Alaska 99801

Re: House Bill 357

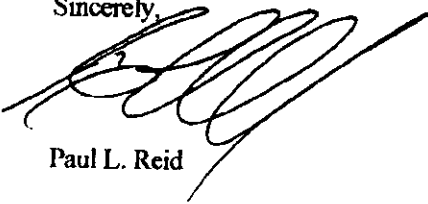
Dear Representative Wilson,

I am writing to you in support of House Bill 357. As an Alaska Railroad Leaseholder myself, I know first hand the difficulties and restraints associated with dealing with the railroad. While my lease, primarily because of its location, will probably not be one of the parcels of land ever put up for sale or disposition; nonetheless, as a businessman I know of many parcels that are not strategic to the railroad and where the community's commerce would likely improve substantially if these parcels were sold and in private hands. One of Alaska's biggest problems is that too much land is owned by the government, both federal and state.

Putting railroad lands that are not necessary to their operation or strategic purpose in the hands of the private sector would increase business Capital investment, thus creating more jobs and a stronger local tax base. I know of many leaseholders unwilling to further invest in their businesses because of the uncertainty of their leases and the perceived difficulties in dealing with the railroad and their real estate office.

Again, in the strongest terms possible, I urge swift passage of house bill 357. Furthermore, I would like to compliment Representative Bill Stoltze for having the business acumen and determination to address an important issue to the rail belt region and its commerce.

Sincerely,



Paul L. Reid

cc: Representative Bill Stoltze

sagaya
corporation

2525 blueberry road suite 106 anchorage, alaska 99503
tel 907 563-0220 fax 907 563-0240

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(907) 277-8584 • TOLL FREE 800-478-8584 • FAX (907) 277-5707

March 1, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
State Capitol, Room 406
Juneau, AK 99801

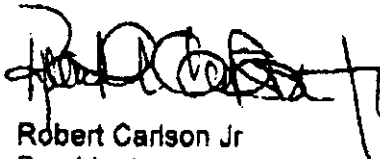
Dear Representative Wilson:

Your committee is in charge of reviewing House Bill 357, which deals with allowing the Alaska Railroad Corporation to dispose/sell non-essential real estate. This legislation warrants the body's attention and passage.

HB 357 is an astutely crafted vehicle that will allow the Railroad to sell land that is not essential to their transportation system. By doing so, the private sector will be able to more easily attract needed capital, and be insured that they have the freedom to direct, expand, and upgrade their businesses as they wish and receive full benefit of any capital improvements.

Passing this legislation is a commitment to economic development and belief in the private sector. Please support HB 357.

Sincerely,



Robert Carlson Jr
President

ALASKA'S LEADING WHOLESALER OF BUILDING SPECIALTY MERCHANDISE

STATEWIDE DOOR & GLASS

221 East Ship Creek Avenue Anchorage, Alaska 99501
Phone: (907) -562-2074 Fax: (907) -562-1803

3/2/2010

Page 1 of 2

Honorable Peggy Wilson
Chairperson, Transportation Committee
Alaska House of Representatives

Dear Representative Wilson,

My name is Mike Hammer. I am the owner of Statewide Door & Glass. I do commercial glass service and new installations for projects throughout Alaska. I currently employ 25 – employees year round. I purchased my current building in 1999. It sits on Railroad leased land, located on Ship Creek Avenue. This street was originally named Warehouse Avenue until about 10 years ago. The name of the street was changed by the Railroad Corporation to make it appear that the area was not used for industrial, manufacturing, or storage purposes. There are currently at least 10 – businesses on this street that still do this kind of work to make a living. They have all been here longer than me.

Over the past 10 – years, some businesses have had their leases expire. When this happens, the Railroad has refused to renew them. As a result, the owner is currently required to demolish the building and have the debris hauled off to the landfill at the owner's expense unless the Railroad wants the building. Then, they will waive the demo requirement and take over the building. I have been told that my lease will not be renewed if I continue to operate as a glass shop. By doing this, the Railroad will eventually own all of the buildings or get rid of them. The goal is to turn this area into a tourist shopping and retail area.

Page 2 of 2

The Railroad Corporation has allowed 3 – new buildings to be built since I have been here. The Comfort Inn Hotel, The Ulu Factory, and The Bridge Restaurant. They were allowed to be built because they fit into the future model of what the Railroad would like to see happen in this area. The problem is that this area is not attracting any investment as the Railroad Corporation expected.

The Bridge Restaurant went out of business two years ago. The building has been for sale ever since and is still empty. There is an empty lot next to mine that has been advertized as a great location for a new Condominium project. There has been no interest. The Ulu factory had to invest in a shuttle bus to get people from downtown to come see their store. There are many other empty lots for sale.

As I see it, the Alaska Railroad Corporation has become a real estate holding company who still likes to play with trains! The federal government GAVE this land to Alaska so it could be used for transportation and building infrastructure, not to build shopping malls and coffee stands for tourists that will sit empty eight months of the year.

I would like to be able to purchase the land that my building sits on. I would like to continue to employ people who live and work in Alaska all year long. Having to start over again in another building because my lease will not be renewed may put me out of business. Please do what you can to help myself and others in my position so that we can stay where we are and continue to employ Alaskans. Please support House Bill #357.

Sincerely,



Thomas Tonkin
2005 Misty Meadows
Anchorage, AK 99502

March 4, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
Alaska House of Representatives
State Capital, Room 406
Juneau, AK 99801

RE: HOUSE BILL 357

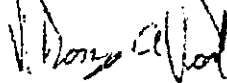
Dear Chair Wilson,

I would like to ask for your support of HB 357 that is currently under consideration in your committee. I have been employed by a company for the last sixteen years that leases property from the ARRC. My employer faces numerous uncertainties and challenges as do most small businessmen. As an example the ARRC has increased the land lease payment cost from \$780.00 per month in 2001 to \$2,990.00 per month currently. The current rate approaches an almost four fold increase in just 9 years. These dramatic increases place strain on already stretched finances and reduce the available funds to expand the business and increase wages.

From my reading of this legislation it seems like an excellent opportunity to place privately used property into the ownership of those entities that use and occupy these properties. The ARRC will still receive an income stream from the investment income from the proceeds of the sale and the users will reap the benefits and predictability of land ownership. This appears to be a situation that benefits both the private sector as well as the public interest.

Thank you for your consideration,

Thomas Tonkin



February 25, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
Alaska State House of Transportation
State Capitol, 4th Floor
Juneau, Alaska 99801

Re: House Bill 357

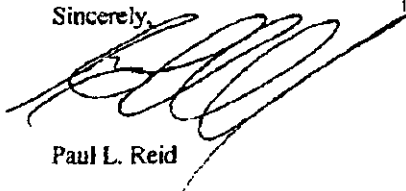
Dear Representative Wilson,

I am writing to you in support of House Bill 357. As an Alaska Railroad Leaseholder myself, I know first hand the difficulties and restraints associated with dealing with the railroad. While my lease, primarily because of its location, will probably not be one of the parcels of land ever put up for sale or disposition; nonetheless, as a businessman I know of many parcels that are not strategic to the railroad and where the community's commerce would likely improve substantially if these parcels were sold and in private hands. One of Alaska's biggest problems is that too much land is owned by the government, both federal and state.

Putting railroad lands that are not necessary to their operation or strategic purpose in the hands of the private sector would increase business Capital investment, thus creating more jobs and a stronger local tax base. I know of many leaseholders unwilling to further invest in their businesses because of the uncertainty of their leases and the perceived difficulties in dealing with the railroad and their real estate office.

Again, in the strongest terms possible, I urge swift passage of house bill 357. Furthermore, I would like to compliment Representative Bill Stoltze for having the business acumen and determination to address an important issue to the rail belt region and its commerce.

Sincerely,



Paul L. Reid

cc: Representative Bill Stoltze

Sageeva
CORPORATION

2525 blueberry road suite 106 anchorage, alaska 99503
tel 907 563-0220 fax 907 563-0240

February 25, 2010



2132 RAILROAD AVENUE
ANCHORAGE, ALASKA 99501
FAX 907 276-3448
TEL 907 276-3448

Honorable Peggy Wilson, Chairwoman
House Transportation Committee
Alaska State House of Representatives
Juneau, AK 99801

Dear Chairwoman Wilson,

I am writing to ask you to give HB 357 your committee's fullest deliberation. It is a bill that will right a major inequity for my business and for many other businesses in Alaska's Rail Belt.

Currently we have to make and pay for many capital and property improvements, ourselves. (We were required to pay for a new water line on property we did not own.) We "inherited" our lease when we bought this business, over 25 years ago. The lease has proved to be the only regret I have about owning this business. It is a bitter pill to know that while you are improving your business to the highest standards, that those improvements may end up belonging to another owner.

Alaska depends on private enterprise to keep building new jobs more than any other segment of our economy. This is especially important during these tough economic times. A business that could have the opportunity of owning its land would also have the confidence to make additional capital improvements and expansions. This will provide huge benefits to local communities.

Rather than continuing to lock up more land from private ownership, let a crack of light and hope shine down on the many businesses who struggle daily to be competitive. After all, it was set out in the original Federal transfer of lands as a fair and equitable procedure. The Alaska Railroad Corp. has done nothing but drag its heels on this process, and I think HB 357 will give everyone the green light to proceed with a process that should have started 20 years ago. I really believe HB 357 is a fair and equal way to start this important adjustment.

Sincerely,

A handwritten signature in cursive script that reads "Janet Faulkner".

Janet Faulkner
Vice President

February 25, 2010

Honorable Peggy Wilson, Chairwoman
House Transportation Committee
Alaska State House of Representatives
Juneau, AK 99801



Dear Representative Wilson,

Here's the key to the simplicity of HB 357: it just starts the process that was set-up over 25 years ago when the Federal government transferred ownership to Alaska. Part of that Federal transfer specified that state-owned, non-operational railroad lands could be purchased at fair market value after 10 years. HB 357 just specifies that it's alright to begin the process.

HB 357 will allow business owners like me, who has leased state land through the Alaska Railroad Corporation, the opportunity to purchase land that I have improved upon for over 25 years (I have made over \$8 million in capital improvements to my business site). I have paid taxes on this land, too, even though I do not own the land. I have done this in order to build my steel fabricating business to be the top steel fabricator in Alaska, with the largest capacity and capabilities in the state. The reason? I want to make sure that other Alaska industries can get their steel needs met in Alaska, without going outside the state.

Under current lease conditions, if I would close or move my business, all the capital improvements would belong to the ARRC. Frankly, I have always found this very bothersome. I look around me, at other leaseholders, and I am sure that if they were able to own the land they are sitting on that they would make major improvements, which would equate to higher property values, greater civic pride and beautification, and a stronger tax base for Rail Belt communities.

Help us eliminate serfdom from the Rail Belt. Please give HB 357 your most earnest consideration, Representative Wilson. HB 357 is a simple bill crafted to treat leaseholders who desire to buy their property as equally as those who wish to continue to lease. Private property owners in Alaska are a rare breed: only 2 percent of Alaska land is in private ownership. Please give us a chance to help remedy this inequality.

Sincerely,

Richard Faulkner
President



Alaska Flor-Wall, Inc.

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March 2, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
State Capital, 4th Floor
Juneau, Ak 99801

RE: HB 357

Dear Representative Wilson,

We recently learned about House Bill 357 and we are writing in support of this measure.

We have leased our property from the Alaska Railroad since 1965. We would not even consider doing any improvements due to the uncertainties of our lease. There has only been one new business on our street within the last 10 years and it failed. There are many lots available but no one wants to develop them because of the lease agreement. The railroad does not use or need these lots for railroad purposes. It is a shame to have properties sitting vacant and leased land buildings needing repair. The lands have become an eyesore to the community.

House Bill 357 would allow the sale of these properties. This would allow development of the lands which would be beneficial to everyone.

We would appreciate your support of this bill. If you have any questions, please email me at kiperham@gci.net.

Thank you,

ALASKA FLOR-WALL, INC.

Karen A. Paulson Perham
President

WHOLESALE DISTRIBUTORS OF ALASKA, INC.

WWW.WDAALASKA.COM

2548 N. POST ROAD • ANCHORAGE, ALASKA 99501
(907) 277-8584 • TOLL FREE 800-478-8584 • FAX (907) 277-5707
3/2/2010

Honorable Peggy Wilson, Chairwoman

Alaska State House of Representatives

Transportation Committee

Juneau, AK 99801

Dear Chairwoman Wilson,

I sincerely request the support and endorsement of HB 357. This bill deals with the sale and the redistribution of ownership of unessential railroad land.

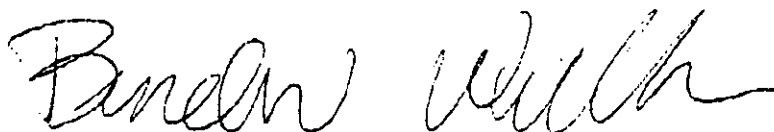
This legislation, if passed, would allow the railroad to sell lands that are in surplus to their transportation operations. This in turn would allow the businesses and other interested parties to procure the land that they already have financial interests and investments in. By doing so, the Railroad would not be infringing upon the directives of their board, or the welfare of the public. If the private entrepreneurs/corporations are allowed to own the land that they have established their respective enterprises on, they are thus more likely to further invest in said enterprises and strengthen our local community by remaining where they are. Investments will then lead to more jobs and revenue for the community/state as well.

Nearly all the land in the state of Alaska is government owned (just about 98%). By allowing the railroad to sell the extra land to these business owners, it would grant the private business sector more strength and revenue.

Please consider this bill and all that I have stated as it is crucial for the development and prosperity of the private business sector as well as the continuing stability of our local communities.

Sincerely,

Brandon Wallace



ALASKA'S LEADING WHOLESALER OF BUILDING SPECIALTY MERCHANDISE

Bohuslav Fiala
167 Ocean Park Dr.
Anchorage, AK 99515

Honorable Peggy Wilson, Chair
House Transportation Committee
Alaska House of Representatives
State Capitol, Room 406
Juneau, AK 99801

RE: HOUSE BILL 357

Dear Chair Wilson,

I am writing to ask your support of HB 357 currently under consideration in your committee. This bill, if enacted, will have a positive impact on Alaska's economic future by securing the economic future of current ARRC leaseholders.

This legislation will give the railroad the authority to sell their non-strategic land within their real estate portfolio and puts public lands into private ownership. This will significantly increase economic climate for more investment, create new jobs and ensure existing ones, and expand the local tax base all along the rail belt.

This legislation does all this and is revenue neutral. The railroad will continue the revenue stream that it currently enjoys while businesses can secure their future through land ownership. This legislation is pro business, pro jobs and pro private sector business and it allows the ARRC to concentrate on their primary mission of operating our railroad.

Respectively,


Bohuslav Fiala

Cc: Honorable Bill Stoltze

Erik Brubaker
P.O. Box 876432
Wasilla, AK 99587

March 3, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
Alaska House of Representatives
State Capitol, Room 406
Juneau, AK 99801

RE: HOUSE BILL 357

Dear Chair Wilson,

House Bill 357 that has been introduced by Rep. Stoltze, would support private sector businesses that are currently lease holders with the ARRC. As you are aware a large proportion of land in Alaska is held by the public including those lands that are leased by the Railroad to businesses along the rail belt region. Most railroad leased land has no direct impact on the day to day operational activities of the Railroad. The Railroad by virtue of these leases exerts control and creates uncertainty for the long term health of the leaseholders. This legislation if enacted, would provide the leaseholders a secure future and give them the flexibility to invest for the future. It also allows the Railroad continued revenue for their train operations and lets them focus on their primary reason for existence.

Respectfully,



Erik Brubaker

cc: Honorable Bill Stoltze

Ken McCarty
11441 Lower Sunny Cr.
Eagle River, AK 99577

March 2, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
Alaska House of Representatives
State Capitol, Room 406
Juneau, AK 99801

RE: HOUSE BILL 357

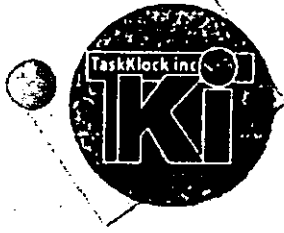
Dear Chair Wilson,

Please actively support HB 357 as this will be tangible and visible support of small business interests in Alaska. This legislation will help put public lands into private ownership and will lead to increased investment and job growth. This will allow the ARRC to concentrate on their primary activity and still maintain the revenue stream that they currently have from their real estate operations. It also is revenue neutral which is probably a rare situation in these economic times. This seems like a situation where both parties benefit and I strongly urge you to give it the attention that it deserves.

Thank you,


Ken McCarty

Cc: Honorable Bill Stoltze



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March 3, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
Alaska House of Representatives
State Capitol, Room 406
Juneau, AK 99801

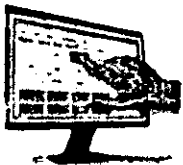
RE: HOUSE BILL 357

Dear Chair Wilson,

Please support HB 357 currently in your committee. This legislation will help Alaskan businesses by placing public lands into private use. Alaska has more public lands than any other state and this legislation will allow these lands to generate tax revenue and strengthen the bottom line of the private sector. This legislation is the type of real and tangible support that the State can provide to help diversify the economy. This legislation is one that provides benefits without harming the ARRC. The Rail Road will continue to receive revenue from the invested proceeds of these land sales and it puts the land into private hands for the benefit of Alaskans.

Thank you for your consideration,

Marguerite C Kremer



Timekeeping
made ATM-simple

Pamalyn Duvall

From: Mark Sprano [marksprano@gmail.com]
Sent: Wednesday, March 03, 2010 3:27 PM
To: Pamalyn Duvall
Cc: ashleyreed@gci.net; rfaulkner@steelfabak.com
Subject: House Bill 357

Date March 1, 2010

Honorable Peggy Wilson, Chair
House Transportation Committee
State Capitol, 4th Floor
Juneau, AK 99801

Dear Chair Wilson,

I am writing in support of House Bill 357, which is currently in your committee. I believe this legislation deserves the attention and support of the legislature because of its positive implications for the economy of our state.

First and foremost, giving the railroad the authority to dispose of non-strategic land within their real estate portfolio creates the logical first step of putting more government-owned lands in the private sector. By doing so, you will significantly increase the economic climate for more investment, create new and more jobs, and expand the local tax base of our communities along the railbelt.

A move like this will allow the RR to make sound and rationale decisions about their real estate portfolio for the betterment of their operations as well as for their communities and leaseholders.

This legislation is pro-business, pro-jobs, pro-private sector and deserves the attention and passage of

the Alaska State Legislature. Thank you for your consideration.

Regards

Mark Sprano

--
Mark Sprano

Alaska Marble & Granite Inc.
1115 Whitney Rd.
Anchorage Alaska 99501
907 277-7625

BKC Alaska LLC
124 E 3rd Avenue Ste 211
Anchorage, AK 99501
Phone 907.222.1800
Fax 907.222.1802

March 3, 2010

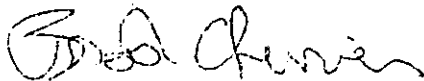
Honorable Peggy Wilson, Chairwoman
Alaska State House of Representatives
Transportation committee
State Capitol
Juneau, AK 99801

Dear Chairwoman Wilson:

I urge your endorsement and support of HB 357, Our family has leased a small parcel of railroad land since the late 60's. On many occasions over the years we have tried unsuccessfully to purchase this parcel. We operate a small business and could never justify the improvements we need as we do not own the land.

More recently the Municipality of Anchorage in conjunction with railroad officials has forced the railroad lease holders to pay property taxes on land that they do not own. We are in full support of this legislation and hope it will pass during the current session.

Thank you for your support,



Brad Cherric

6 March, 2010

Hon. Peggy Wilson
Chair, House Transportation Committee
State Capital, Room 406
Juneau, Alaska 99801

Dear Representative Wilson;

I am writing in support of House Bill 357, which would allow the sale or disposition of non essential railroad lands. I give these reasons for this solution:

There is a lot of land controlled by the Alaska Railroad. The State land on Commercial Drive was sold to tenants years ago.

It would probably lead to larger operations being located in the Railroad area.

I have leased from the Alaska Railroad since the end of 1975. In the last few years the City of Anchorage has been charging taxes on the value of the Alaska Railroad leases. Nobody seems to know if the lease value is reduced as the years left on the lease are reduced. As my lease has left time remaining, the taxes have gone up considerably.

I think if the property was owned by companies or individuals, tenants would be in a better position to expand, get loans, etc. The Railroad has a lot of fine people working there, and I don't have anything against anyone.

Thanks for your efforts,

Sincerely,
Harvey Dougherty
Harvey Dougherty
Alaska Crate & Pallet
3405 Vassar Drive
Anchorage, Alaska 99508

HB

366

Alaska Trucking Association, Inc.

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1946
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HB 366

Indemnification Agreements in Motor Carrier Contracts

Senate Transportation Committee Hearing

1:00 pm, April 8, 2010

Aves D. Thompson, Executive Director

Alaska Trucking Association

Thank you. Mr. Chairman and members of the committee, I am Aves Thompson, Executive Director of the Alaska Trucking Association. The Alaska Trucking Association is a state wide organization representing the interests of our nearly 200 member companies from Barrow to Ketchikan. Freight movement is an essential element of our economy and impacts all of us each and every day. The simple truth is that "if you got it, a truck brought it."

One of the priorities of the Alaska Trucking Association, this year, is to achieve tort reform in the area of indemnification agreements in motor carrier transportation contracts.



If you got it, a truck brought it...

Alaska Trucking Association, Inc.

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1946

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A motor carrier must generally comply with the Federal Motor Carrier Safety Regulations when transporting goods, and is also subject to additional common law or statutory duties or responsibilities. Likewise, shippers or other parties frequently have legal duties and responsibilities to fulfill when they provide goods for transportation. More and more frequently, however, language is creeping into motor carrier contracts wherein the shipper is requiring the motor carrier to contractually agree to indemnify and hold harmless the shipper for the shipper's own failure to meet its legal duties and responsibilities.

The Committee Substitute for HB 366 provides statutory language that voids contractual provisions in motor carrier transportation contracts that indemnify either a shipper or the motor carrier for either the shipper's or the motor carrier's own negligent or intentional acts or omissions which lead to claims. We believe that this approach sets a level playing field where each party is responsible for their own actions. HB366 does not establish any new duties or responsibilities for any party and it

2



If you got it, a truck brought it...

HB 366 Senate TRA Testimony 20100408.doc

Alaska Trucking Association, Inc.

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1946

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does not limit the parties' freedom to contract – except to improve safety. This language allows each party to control their own employees or agents to improve any unsafe practices.

We have worked with industry groups who agree that the committee substitute constitutes an equitable condition where both parties to the motor carrier transportation contract are responsible for their own negligent actions or inactions that lead to claims.

The Alaska Trucking Association supports this bill.

Support: BP
ComcoPhillips
AGC
ABE
AMA
AK State Chamber
* OCEMA

Aves Thompson
Executive Director

April 8, 2010

Currently enacted: 12 states
(similar)
Pending: 8 including AK



If you got it, a truck brought it...

ALASKA STATE LEGISLATURE

Interim:
716 West 4th Avenue, Suite 640
Anchorage, Alaska 99501
Phone (907) 269-0200
Fax (907) 269-0204
Rep.Craig.Johnson@legis.state.ak.us



Session:
State Capitol, Room 126
Juneau, Alaska
99801-1182
Phone (907) 465-4993
Fax (907) 465-3872

REPRESENTATIVE CRAIG JOHNSON
HOUSE DISTRICT 28

— CSHB 366 JUD —

The purpose of this legislation is to promote safety in the carriage of goods by motor carrier.

A motor carrier must generally comply with the Federal Motor Carrier Safety Regulations while it is transporting goods, and is also subject to additional common law or statutory duties or responsibilities. Likewise, shippers or other parties frequently have legal duties and responsibilities to fulfill when they provide goods for transportation. More and more frequently, however, shippers are pressuring motor carriers to provide transportation under contracts in which the motor carrier contractually agrees to indemnify and hold harmless the shipper for the shipper's own failure to meet its legal duties and responsibilities.

The effect of these indemnification clauses is to eliminate the incentive for the shipper to meet its responsibilities and duties in a prudent and reasonable manner. In essence, such a clause makes the motor carrier the shipper's insurer. Such a shifting of liability through contract completely contradicts sound public policy. One of the primary reasons for assigning legal liability is to persuade the offending party to regulate its behavior. However, where the shipper is at fault but is nevertheless indemnified by the motor carrier, there is nothing the motor carrier can do to change its own behavior to make things safer. That ability lies solely with the shipper.

A similar problem with respect to public construction contracts has already been addressed by the legislature in AS 45.45.900.

This legislation voids contractual provisions in motor carrier transportation contracts that indemnify a shipper for the shipper's own negligent or intentional acts or omissions which lead to claims. It maintains the incentive for a shipper that is a party to a motor carrier transportation contract to perform its legal obligations and duties in a prudent and reasonably safe manner. This legislation now includes an indemnification clause for the shippers and excludes the parties to the Uniform Intermodal Interchange and Facilities Access Agreements.

26-LS1434S

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 366(TRA)
 () Publish Date: _____

Identifier (file name): HB366CS(TRA)-LAW-CIV-03-12-10 Dept. Affected: LAW
 Title An Act relating to indemnification agreements that relate to motor RDU Civil
carrier transportation contracts Component Commercial and Fair Business
 Sponsor Representative Johnson
 Requester Transportation Component Number 2717

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

See attached page...

Prepared by: Eileen Donahue, Division Operations Manager
 Division Administrative Services
 Approved by: Daniel S. Sullivan, Attorney General
Department of Law

Phone 465-5427
 Date/Time 3/12/10 3:00 PM
 Date 3/12/2010

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

BILL NO. CSHB 366(TRA)

ANALYSIS CONTINUATION

HB 366 adds a new section to AS 45.45 that makes "void and unenforceable" any agreement between a motor carrier and a "shipping person" that requires the motor carrier to indemnify the shipper for claims of negligence, intentional acts, or intentional omissions of the shipping person. A "motor carrier" is defined to mean a person engaged in the transportation of property for compensation by motor vehicle. A "shipping person" is defined to mean a person who enters into a transportation services contract to use the services of a motor carrier. The intent of the bill is to prohibit the shifting of liability from a shipper to a motor carrier, and provide an incentive for the shipper to perform its legal obligations and duties.

It is unclear whether the state can be a "shipping person" under this bill. If it is, this bill could restrict the state's ability to require indemnification from motor carriers it does business with. The state's business model, however, does not require the motor carrier to indemnify the state for the state's negligence or intentional acts. For these transactions, the common practice is to accept the terms and conditions stipulated in the contract form provided by the motor carrier. Accordingly, we do not anticipate any fiscal impacts from this legislation.

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 366
 () Publish Date: _____

Identifier (file name): HB366-DOT-CO-03-09-10 Dept. Affected: DOT&PF
 Title: Motor Carrier Indemnification Agreements RDU: Administration and Support
 Component: Commissioner's Office
 Sponsor: Rep. Johnson
 Requester: H TRA Component Number: 530

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact to the department.

Prepared by: Mary Siroky, Legislative Liaison Phone 465-4772
 Division: Department of Transportation and Public Facilities Date/Time 3/9/10 6:15 PM
 Approved by: Frank Richards, Deputy Commissioner Date 3/9/2010
Department of Transportation and Public Facilities

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 22, 2010

SUBJECT: Sectional summary of CSHB 366(JUD), a bill relating to indemnification agreements that relate to motor carrier transportation contracts (Work Order No. 26-LS1434\S)

TO: Representative Craig Johnson
Attn: Jeanne Ostnes

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Adds a new provision that prohibits certain indemnification by motor carriers and shipping persons.

Sec. 45.45.905(a) prohibits a motor carrier and a shipping person from entering into certain indemnification agreements related to transportation services contracts. Prohibits the motor carrier from indemnifying the shipping person from the shipping person's negligence and intentional acts and omissions. Prohibits the shipping person from indemnifying the motor carrier from the motor carrier's negligence and intentional acts and omissions. Covers defending the motor carrier or shipping person. Covers holding the motor carrier or shipping person harmless.

Sec. 45.45.905(b) states that an agreement that violates (a) is void and unenforceable.

Sec. 45.45.905(c) exempts agreements that relate to intermodal equipment.

Sec. 45.45.905(d) defines terms used in the section. Defines "motor carrier," "motor vehicle," "shipping person," and "transportation services."

Section 2. States that this Act won't apply to an indemnification agreement unless the agreement is entered into on or after the bill's effective date.

If I may be of further assistance, please advise.

TLB:ljw
10-206.ljw

APPENDIX: State Anti-Indemnification Acts

INDIANA

SECTION 1. IC 8-2.1-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS EFFECTIVE JULY 1, 2006:

Chapter 26. Invalidity of Indemnity Agreements in Motor Carrier Transportation Contracts

Sec. 1. This chapter applies to an indemnity provision entered into or renewed after June 30, 2006.

Sec. 2. As used in this chapter, "indemnity provision" means a provision, a clause, a covenant, or an agreement that:

- (1) is contained in, collateral to, or affecting a motor carrier transportation contract; and
- (2) purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, a promisee against liability for loss or damage resulting from:
 - (A) negligence;
 - (B) intentional acts; or
 - (C) omissions;

of the promisee or an agent, employee, servant, or independent contractor that is directly responsible to the promisee.

Sec. 3. As used in this chapter, "motor carrier transportation contract" means a contract, an agreement, or an understanding covering:

- (1) the transportation of property for compensation or hire by a motor carrier as defined under this article or by 49 U.S.C. 13102(12);
- (2) the entrance on real property by a motor carrier to:
 - (A) load;
 - (B) unload; or
 - (C) transport property for compensation or hire; or
- (3) a service incidental to an activity described in subdivision (1) or (2), including storage of property.

Sec. 4. As used in this chapter, "promisee" means a person that an indemnity provision:

- (1) purports to indemnify, defend, or hold harmless; or

(2) has the effect of indemnifying, defending, or holding harmless.

Sec. 5.

(a) This section does not apply to any of the following:

- (1) An indemnity provision in which a motor carrier indemnifies a promisee for and only to the extent of loss or damage that results directly from the negligence, omission, or intentional act of the motor carrier or an agent, employee, servant, or independent contractor that is directly responsible to the motor carrier.
- (2) An indemnity provision contained in, collateral to, or affecting a motor carrier transportation contract with a regulated public utility, including an energy utility (as defined in IC 8-1-2.5-2) or an affiliate of an energy utility, if the contract relates to a utility product, service, or business operation. For purposes of this subdivision, a contract relates to a utility product, service, or business operation if it involves an activity necessary for or ancillary to the production or delivery of heat, power and light, or a product or service under the jurisdiction of the Indiana utility regulatory commission (as described by IC 8-1-1).
- (3) The Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America.

(b) Notwithstanding any other law, an indemnity provision under this chapter is:

- (1) against public policy; and
- (2) void and unenforceable.



Alaska West Express, Inc.
1048 Whitney Road
Anchorage, AK 99501
(907) 279-9515
(800) 478-2655
Fax: (907) 272-8152

March 3, 2010

Representative Craig Johnson
716 West 4th Avenue
Anchorage, Alaska 99501

Dear Representative Johnson,

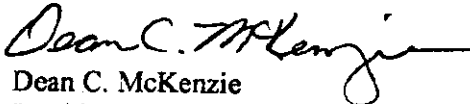
I have read both HB 366 and the comments by Aves Thompson regarding it and want to commend you for what I believe is a very good piece of legislation. In our previous discussions I have mentioned how some of the bigger carriers and contractors in the business have the ability to challenge and push back and end up with contracts that are fair to both parties while smaller ones do not have that same ability. Ideally you end up with a true Knock for Knock document with each party responsible for their own actions.

We have been very successful in getting that type of result over the last few years but there are still major companies operating with the goal of transferring all liability to the carrier regardless of who creates the situation. I am currently in negotiations with a major US based drilling contractor who operates internationally and is trying to do that very thing. Basically indemnify themselves for any and all actions even if caused by their personnel and make the carrier responsible.

I wish you well in your efforts and certainly hope for a successful outcome. If I can be of assistance in any way please don't hesitate to contact me directly at 907-339-5101 or e-mail at deanmc@awe.lynden.com.

Alaska West Express Inc.

Best Regards,


Dean C. McKenzie
President

Copy: Aves Thompson
Executive Director ATA

Alaska Trucking Association, Inc.

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1946

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HB 366

Indemnification Agreements in Motor Carrier Contracts

House Transportation Committee Hearing

1:00 pm, March 11, 2010

Aves D. Thompson, Executive Director

Alaska Trucking Association

Thank you. Madame Chair and members of the committee, I am Aves Thompson, Executive Director of the Alaska Trucking Association. The Alaska Trucking Association is a state wide organization representing the interests of our nearly 200 member companies from Barrow to Ketchikan. Freight movement represents a large chunk of our economy and impacts all of us each and every day. The simple truth is that "if you got it, a truck brought it."

One of the priorities of the Alaska Trucking Association is to achieve tort reform in the area of indemnification agreements in motor carrier transportation contracts.

Background: A motor carrier must generally comply with the Federal Motor Carrier Safety Regulations while it is transporting goods, and is also subject to additional common law or statutory duties or responsibilities. Likewise, shippers or other parties frequently have legal duties and responsibilities to fulfill when they provide goods for transportation. More and more frequently, however, shippers are pressuring motor carriers to provide transportation under contracts in which the motor carrier



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contractually agrees to indemnify and hold harmless the shipper for the shipper's own failure to meet its legal duties and responsibilities.

The Committee Substitute for HB 366 provides statutory language that voids contractual provisions in motor carrier transportation contracts that indemnify either a shipper or the motor carrier for either the shipper's or the motor carrier's own negligent or intentional acts or omissions which lead to claims. We believe that this approach sets a level playing field where each party is responsible for their own actions. HB366 does not establish any new duties or responsibilities for any party and it does not limit the parties' freedom to contract – except to improve safety. This language allows each party to control their own employees or agents to improve any unsafe practices.

A similar problem with respect to public construction contracts has already been addressed by the legislature in AS 45.45.900.

What the legislation does:

- It voids contractual provisions in motor carrier transportation contracts that indemnify a shipper or a motor carrier for negligent or intentional acts or omissions of the other party which lead to claims.
- It maintains the incentive for a shipper and a motor carrier that is a party to a motor carrier transportation contract to perform its legal obligations and duties in a prudent and reasonably safe manner.



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What the legislation does not do:

- It does not void contractual provisions in which a shipper or motor carrier indemnifies the other party to the contract for their own negligent or intentional acts or omissions.
- It does not establish any new duties or responsibilities for any party.
- It does not limit the parties' freedom to contract – except to improve safety.

We have worked with industry groups and in particular, BP, who agree that the committee substitute constitutes an equitable condition where both parties to the motor carrier transportation contract are responsible for their own negligent actions or inactions that lead to claims.

The Alaska Trucking Association supports this bill.



Aves Thompson
Executive Director
March 11, 2010



If you got it, a truck brought it...

From: Steve Day [mailto:DayS@americanfast.com]
Sent: Tuesday, March 02, 2010 7:23 AM
To: Rep. Craig Johnson
Subject: HB 366 An Act relating to indemnification agreements

Dear Representative Craig Johnson,
Alaska State House of Representatives
State Capitol
Juneau, Alaska

Subject: HB 366 An Act relating to indemnification agreements

Dear Representative Johnson,

As a motor carrier, we must comply with the Federal Motor Carrier Safety Regulations as well as while transporting goods, and we are also subject to additional common law or statutory duties or responsibilities. Likewise, shippers or other parties frequently have legal duties and responsibilities to fulfill when they provide goods for transportation. More and more frequently, however, shippers are pressuring motor carriers and other transportation providers to perform transportation services under contracts in which the carrier contractually agrees to indemnify and hold harmless the shipper for the shipper's own failure to meet its legal duties and responsibilities. In essence, such a clause makes the motor carrier the shipper's insurer. Such a shifting of liability through contract completely contradicts sound public policy.

HB 366 provides statutory language that voids contractual provisions in motor carrier transportation contracts that indemnify a shipper for the shipper's own negligent or intentional acts or omissions which lead to claims. HB 366 does not void contractual provisions in which a motor carrier indemnifies a shipper for the motor carrier's own negligent or intentional acts or omissions. Further, HB366 does not establish any new duties or responsibilities for any party and it does not limit the parties' freedom to contract – except to improve safety.

We support HB 366 and request that the bill be heard in committee at the earliest opportunity.

We would like you to consider expanding the bill to cover other transportation providers performing services as a carrier, such as domestic freight forwarders.

Thank you.

Sincerely,

Stephen L. Day

President

American Fast Freight

<http://www.americanfast.com>

450 Shattuck Avenue S., Suite 401

Renton, WA 98055

Phone (253) 926-5000 Fax (206) 624-8334

U NITED FREIGHT & TRANSPORT, INC.

1701 E. FIRST AVENUE
ANCHORAGE, ALASKA 99501
907-272-5700 / FAX 907-272-4324

Dear Representative Craig Johnson,
Alaska State House of Representatives
State Capitol
Juneau, Alaska

Subject: HB 366 An Act relating to
indemnification agreements...

March 2, 2010

Dear Representative Johnson,

As a motor carrier, we must generally comply with the Federal Motor Carrier Safety Regulations as well as while transporting goods, and we are also subject to additional common law or statutory duties or responsibilities. Likewise, shippers or other parties frequently have legal duties and responsibilities to fulfill when they provide goods for transportation. More and more frequently, however, shippers are pressuring motor carriers to provide transportation under contracts in which the motor carrier contractually agrees to indemnify and hold harmless the shipper for the shipper's own failure to meet its legal duties and responsibilities. In essence, such a clause makes the motor carrier the shipper's insurer. Such a shifting of liability through contract completely contradicts sound public policy.

HB 366 provides statutory language that voids contractual provisions in motor carrier transportation contracts that indemnify a shipper for the shipper's own negligent or intentional acts or omissions which lead to claims. HB 366 does not void contractual provisions in which a motor carrier indemnifies a shipper for the motor carrier's own negligent or intentional acts or omissions. Further, HB366 does not establish any new duties or responsibilities for any party and it does not limit the parties' freedom to contract - except to improve safety.

We support HB 366 and request that the bill be heard in committee at the earliest opportunity.

Thank you.

Sincerely



Frank Monfrey

BIG STATE LOGISTICS, INC.

Big State Logistics, Inc.
P.O. Box 71540
Fairbanks, AK. 99707-1540

Telephone (907) 452-8600
1-800-478-8660
Fax (907) 452-8651

Big State Logistics, Inc.
P.O. Box 63007
Valdez, AK. 99686-3007

Telephone (907) 835-5600
1-800-478-5602
Fax (907) 835-5651

Dear Representative Craig Johnson,
Alaska State House of Representatives
State Capitol
Juneau, Alaska

Subject: HB 366
An Act relating to indemnification
agreements.....

Dear Representative Johnson,

As a motor carrier, we must comply with the Federal Motor Carrier Safety Regulations while transporting goods, we are also subject to additional common law or statutory duties or responsibilities. Likewise, shippers or other parties frequently have legal duties and responsibilities to fulfill when they provide goods for transportation. More and more frequently, however, shippers are pressuring motor carriers to provide transportation under contracts in which the motor carrier contractually agrees to indemnify and hold harmless the shipper for the shipper's own failure to meet its legal duties and responsibilities. In essence, such a clause makes the motor carrier the shipper's insurer. Such a shifting of liability through contract completely contradicts sound public policy.

HB 366 provides statutory language that voids contractual provisions in motor carrier transportation contracts that indemnify a shipper for the shipper's own negligent or intentional acts or omissions which lead to claims. HB 366 does not void contractual provisions in which a motor carrier indemnifies a shipper for the motor carrier's own negligent or intentional acts or omissions. Further, HB366 does not establish any new duties or responsibilities for any party and it does not limit the parties' freedom to contract - except to improve safety.

We support HB 366 and request that the bill be heard in committee at the earliest opportunity.

Thank you.

Sincerely,



Mervin Gilbertson
President
Big State Logistics, Inc.

**Midnight Sun
TRANSPORTATION SERVICES, INC.
2040 E 79TH
Anchorage, AK 99507**

Dear Representative Craig Johnson,
Alaska State House of Representatives
State Capitol
Juneau, Alaska

Subject: HB 366
 An Act relating to
 indemnification agreements...

Dear Representative Johnson,

As a motor carrier, we must generally comply with the Federal Motor Carrier Safety Regulations as well as while transporting goods, and we are also subject to additional common law or statutory duties or responsibilities. Likewise, shippers or other parties frequently have legal duties and responsibilities to fulfill when they provide goods for transportation. More and more frequently, however, shippers are pressuring motor carriers to provide transportation under contracts in which the motor carrier contractually agrees to indemnify and hold harmless the shipper for the shipper's own failure to meet its legal duties and responsibilities. In essence, such a clause makes the motor carrier the shipper's insurer. Such a shifting of liability through contract completely contradicts sound public policy.

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We support HB 366 and request that the bill be heard in committee at the earliest opportunity.

Thank you.

Sincerely,

R C Onstott
General Manager



2812 70th Ave East
Fife, WA 98424
Tel (253) 926-3292 Fax (253) 926-3161

Dear Representative Craig Johnson,
Alaska State House of Representatives
State Capitol
Juneau, Alaska

Subject: HB 366 An Act relating to indemnification agreements...

Dear Representative Johnson,

As a motor carrier, we must generally comply with the Federal Motor Carrier Safety Regulations as well as while transporting goods, and we are also subject to additional common law or statutory duties or responsibilities. Likewise, shippers or other parties frequently have legal duties and responsibilities to fulfill when they provide goods for transportation. More and more frequently, however, shippers are pressuring motor carriers to provide transportation under contracts in which the motor carrier contractually agrees to indemnify and hold harmless the shipper for the shipper's own failure to meet its legal duties and responsibilities. In essence, such a clause makes the motor carrier the shipper's insurer. Such a shifting of liability through contract completely contradicts sound public policy.

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We support HB 366 and request that the bill be heard in committee at the earliest opportunity.

Thank you.

Sincerely,

Wes Renfrew
Alaska Operations Manager
Pacific Alaska Freightways



March 2, 2010

Representative Craig Johnson
Alaska State House of Representatives
State Capitol Room 126
Juneau AK, 99801

Subject: HB 366 – An Act Relating to Indemnification Agreement

Dear Representative Johnson:

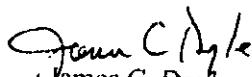
As a motor carrier, we must generally comply with the Federal Motor Carrier Safety Regulations as well as while transporting goods, and we are also subject to additional common law or statutory duties or responsibilities. Likewise, shippers or other parties frequently have legal duties and responsibilities to fulfill when they provide goods for transportation. More and more frequently, however, shippers are pressuring motor carriers to provide transportation under contracts in which the motor carrier contractually agrees to indemnify and hold harmless the shipper for the shipper's own failure to meet its legal duties and responsibilities. In essence, such a clause makes the motor carrier the shipper's insurer. Such a shifting of liability through contract completely contradicts sound public policy.

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We support HB 366 and request that the bill be heard in committee at the earliest opportunity.

Thank you.

Sincerely,
Weaver Bros., Inc.


James C. Doyle
Vice-President

Cc: WBI – James H. Doyle, President; ATA – Aves Thomson, Executive Director.

ANCHORAGE
2230 Spar Ave
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Fairbanks, AK 99706
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OCEMA

Ocean Carrier Equipment Management Association

c/o 1850 M Street, N.W., Suite 900, Washington, D.C. 20036

March 15, 2010

VIA E-MAIL

The Honorable Max Gruenberg
State Capitol Room 110
Juneau, AK 99801

Re: URGENT - Alaska HB 366

Dear Representative Gruenberg:

Please accept these comments regarding House Bill 366 which is now pending before the Judiciary Committee and is set to be considered on March 19, 2010. I am writing on behalf of the Ocean Carrier Equipment Management Association (OCEMA), an organization of 20 ocean-going common carriers that provide intermodal transportation of cargoes in the foreign commerce of the United States. OCEMA's members serve Alaska manufacturers, distribution centers, and retailers by way of rail and motor carriage of international intermodal shipping containers. Many thousands of OCEMA members' containers and chassis are interchanged to truckers annually for over-the-road transport to and from localities in Alaska.

We are concerned that HB 366, as written, could void the indemnity provisions in intermodal equipment interchange agreements and other intermodal transportation contracts which would severely disrupt transportation arrangements to and from Alaska businesses by jeopardizing insurance coverage. This would significantly impact intermodal transportation through and within Alaska. The insurance market for intermodal activity is very limited and coverage is often contingent upon effective risk management arrangements such as the indemnity provisions contained in interchange agreements.

The interchange of intermodal equipment between those who provide the equipment, notably ocean carriers or railroads, and motor carriers is typically achieved by way of private interchange agreements that have been negotiated by representatives of all the modes of transportation, as well as other interested parties such as terminal operators and equipment leasing companies. Currently, the majority, but not all, intermodal interchanges are conducted under the Uniform Intermodal Interchange and Facilities Access Agreement (UIIA) administered by the Intermodal Association of North America (IANA). The UIIA is a standard industry contract that was developed with the participation of ocean, motor, and rail carriers in order to achieve efficiencies and streamline the interchange process. This type of arrangement is essential to the free flow of US export and import containerized goods.

The UIIA covers liability and other issues related to the interchange of intermodal equipment (i.e. containers, chassis, etc.) between the parties. It drastically reduces the paperwork burden for all parties involved by eliminating having to sign individual interchange contracts with each equipment provider that is participating in this agreement. It eliminates repeating these arrangements for each of millions of shipments. It also reduces the number of insurance filings for the motor carrier to provide proof of insurance. Only one certificate must be issued to the UIIA and this information is then disseminated to the individual Equipment Providers by IANA.

While there are over 5000 members of the UIIA, including motor carriers, water carriers, and railroads, not all ocean carriers and not all motor carriers use this agreement. Consequently, there are other interchange agreements in use, similar to the UIIA, which would likewise not be exempted from the scope of the bill. Moreover, should the UIIA be terminated or replaced, there would be no available alternative for intermodal transportation. While we applaud your efforts to improve public policy regarding indemnification agreements, we do not believe this is the intent of HB 366.

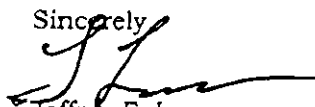
We support your efforts in Alaska as we have in other states. Most recently, we have supported similar legislation in Virginia, Maryland, Kansas, Colorado, Connecticut, Missouri, and Tennessee. By working with legislators in those states we were able to ensure that public policy in this area correctly protects all parties.

Accordingly, we would respectfully ask that you include an exception for intermodal transportation in HB 366 such as the following:

This section shall not apply to the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America or other agreements providing for the interchange, use or possession of intermodal chassis, containers or other intermodal equipment."

We believe this is consistent with the objectives and purposes of the bill. Thank you for your consideration of this matter. If there is any way we can be of help in this effort, please do not hesitate to contact the undersigned or Mr. Rob Freeman at (202) 463-2515.

Sincerely



Jeffrey F. Lawrence
Executive Director
Ocean Carrier Equipment Management
Association

The following states have laws in place that include the exception for the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America or other agreements providing for the interchange, use or possession of intermodal chassis, containers or other intermodal equipment.

1. Georgia
2. Illinois
3. Indiana
4. Kansas
5. Maryland
6. Missouri
7. New Mexico
8. North Dakota
9. Tennessee
10. Virginia
11. West Virginia
12. Wyoming

The following states have indemnity bills pending. I have indicated the status of the exemption.

1. Alaska – amended to include exception
2. Connecticut – contains exception
3. Iowa – contains exception
4. Kentucky – contains exception
5. Minnesota – contains exception
6. Oregon - bill is pending/working on amendment
7. Washington – amended to include exception
8. Wisconsin – bill is pending/working on amendment

**State Motor Carrier Anti-Indemnification Provisions:
A Comparison and Analysis**

Robert C. Pitcher
Vice President, State Laws
American Trucking Associations
Arlington, Virginia

As of late 2008, a dozen states have enacted statutes that seek to prohibit or to make unenforceable contractual provisions that require a motor carrier to indemnify another party to the contract for that party's own acts or omissions:

Indiana	Nebraska	Tennessee
Kansas	North Carolina	Texas
Maryland	Oklahoma	Virginia
Missouri	South Carolina	West Virginia

The Insurance Task Force of the American Trucking Associations has adopted enactment of such statutes as a specific goal, because of the inequities these contractual provisions involve, because of their potential adverse effect on transportation safety, and because of the growing frequency with which such provisions are being forced on motor carriers by shippers and others.

The existing state statutes in this area are varied, and since additional states may be expected to consider legislation of this sort in the coming years, it is the purpose of this piece to analyze the existing provisions and to compare them, both to each other and to the model anti-indemnification language prepared by ATA and recommended by the Insurance Task Force. Both the ATA model language and the existing state statutes are found in the appendix to the analysis.

ATA Model Language

ATA's model language will form the basis of the analysis here, since it is relatively simple and most of the state provisions resemble it fairly closely. The model language has three parts: it first describes what kind of contractual language the statute is dealing with and provides the remedy that such language is to be unenforceable; it next defines the limiting term "motor carrier transportation contract" to which the provision applies; and last it defines the "promisee" that the prohibited language would benefit.

Stripped of some of the legal phrasing, and separated into its significant sections, the first part says, in effect:

In spite of what any other law may say, // any provision of a motor carrier transportation contract // that would indemnify // a promisee // for any liability for loss or damage // resulting from the promisee's own acts or omissions // is against the public policy of the state // and is void and unenforceable.

The second part similarly reduces to:

A "motor carrier transportation contract" here means // a contract or agreement // that covers transportation for hire by a motor carrier, // entrance onto property by a motor carrier // to load, unload, or transport property for hire, // or a service connected with such transportation or such an entrance, // including property storage.

And the third part says, in effect:

The term "promisee" here includes // not only the promisee, // but all persons that are responsible to the promisee, // including independent contractors, // but it does not include a motor carrier // that is a party to the contract with the promisee // and persons that are responsible to the motor carrier.

In even more condensed language, the provisions as whole mean that the state will not enforce a provision of a contract that would require a motor carrier to assume liability for the acts of another party to the contract. The model language includes no exceptions to the rule.

Many of the existing state provisions are very similar to the model language, but some lack one or more of these particular elements, a few have some additional elements, and nearly all have some exceptions.

State Provisions

Ten of the twelve existing state anti-indemnification provisions are similar to the ATA model, although the statute in effect in Kansas includes some significant additional features, the provision in Tennessee is much more compact than the model, and most of the states have one or more exceptions to the general prohibition against indemnification. Two state statutes, however, those in Oklahoma and Texas, are different enough to warrant separate analysis.

Contracts covered. Nine of the ten state provisions that correspond closely to the ATA model have language to describe the "motor carrier transportation contracts" to which the indemnification prohibition applies that is very similar in wording to that of the ATA model. Three states (Indiana, Maryland, and Nebraska) add a definition of the term motor carrier, either in the provision itself or by reference to another statute. Like the model, all of the states, except Kansas and Tennessee, restrict the coverage of the prohibition to transportation of property by a motor carrier for compensation. The provisions in Kansas and Tennessee may be read to include private carriers in the coverage, and Tennessee's provision can be read to include passenger carriers. Tennessee's provision is the one that does not closely correspond to the model in this

respect; its language merely references "a motor carrier transportation contract" as the subject of the prohibition.

Actions prohibited. All ten of the state statutes that correspond closely to the ATA model have rather similar language to describe the contractual provisions which they make unenforceable. Three differences are perhaps worth noting. The Kansas statute adds a definition of damage for which indemnification might otherwise apply (that is, personal injury, property damage, or economic loss); the Tennessee provision is again notable for its compactness, but adds an indemnitee of the promisee as a party to whom indemnification is unenforceable; and the Virginia law is written so as to prevent either party to the contract from indemnifying the other for the other's own acts.

Remedy. Each of the ten statutes that closely resemble the ATA model provides essentially the same remedy for an offending indemnification clause in a motor carrier transportation contract: such a clause is against public policy (some provisions add "of this state") and is void and unenforceable (Nebraska and South Carolina omit void).

Exceptions. With the exception of Tennessee, whose provision is notable for its exceeding shortness, the other nine existing statutes that are similar to the ATA model add at least one exception to the anti-indemnification coverage, and most have two or three.

All nine of these states except the Uniform Intermodal Interchange and Facilities Access Agreement, which railroads, ocean carriers, and draymen employ to exchange intermodal chassis. The Agreement includes certain anti-indemnification protections of its own.

Five states specifically except a motor carrier's own acts or omissions, although arguably these would be excepted without special mention.

Two states' statutes provide an exception for other motor carriers that are parties to the motor carrier transportation contract with the carrier. (Missouri, North Carolina)

The other exceptions appear in only one state statute apiece: contracts with a public utility (Indiana), agreements to settle disputed claims (Kansas), separately negotiated indemnity provisions supported by adequate compensation and generally accepted industry loss experience (Kansas), separate insurance paid for by the promisee (Kansas), and contracts with rail carriers or their independent contractors (Missouri).

Effective dates. These ten states specify the effective dates of their provisions in two ways: Four states (Indiana, Kansas, North Carolina, and West Virginia) specify that the provisions apply to contracts entered into on or after a particular date. In the other six states, the act itself was effective on a particular date, and its applicability to contracts in existence before that time is unspecified (and would presumably depend on the general contract law or case law in those jurisdictions). The ATA model does not deal with this issue.

Additional clauses - Kansas. The Kansas statute includes three provisions not found in any of the others. The first provides that contract clauses which require a motor carrier to include the promisee as an "additional insured" on any insurance contract are void and unenforceable in the same manner as the prohibited indemnification provisions. Although the ATA model does not include similar language on additional insureds, this language can be recommended, since additional-insured provisions, depending on how they are interpreted, can easily be extended to provide for the indemnification of a promisee's own negligence.

The second provision included in the Kansas statute provides that the anti-indemnification protection is to be extended to every contract to be performed in Kansas, notwithstanding any choice-of-law provision or other language that may be found in such a contract. This clause may be especially useful since there is essentially no case law yet on the applicability of these anti-indemnification provisions to contracts entered into in one state and to be performed in one or more others.

The third Kansas provision merely states that the anti-indemnification statute is not to be construed to affect the validity of any contract of insurance.

Oklahoma. The Oklahoma anti-indemnification statute is very short, and its approach to the problem is quite distinct from that of the ATA model and all of the other states except Texas. It says only:

A motor carrier shall not be required to sign any statement of liability or enter into any contract for the indemnification of any person for any acts or omissions not arising from damage or loss from a wrongful or negligent act or omission from the motor carrier.

The basic thrust of the model language is surely incorporated here, but, unless Oklahoma has a case-law tradition to the effect that indemnifying a party for its own acts is contrary to public policy, it might be argued that the statute does not cover an instance where a carrier has *voluntarily* provided for the indemnification of the promisee.

The Oklahoma law includes as well an exception for contracts with railroads and ocean carriers, and specifies that its prohibition does not apply to rail intermodal or transload facilities.

Texas. The statute in Texas is rather different in form from the ATA model and the ten states that follow it, but its effect should be quite similar. It begins with "(a) A person may not require indemnification from a motor carrier as a condition to [a motor carrier transportation contract]," and ends with "A provision that is contrary to Subsection (a) is not enforceable."

The remainder of the Texas law includes language describing the contracts to which it applies, in terms almost identical to the ATA model definition of a motor carrier transportation contract; a definition of motor carrier that specifically excludes private

carriers conducting backhauls for hire; and an exception for the contracting motor carrier's own acts or omissions. There are no other exceptions to the protection of the provision. A separate provision of Texas law includes a broad grant of authority to the state department of transportation to enforce all requirements in the chapter of the transportation code in which the anti-indemnification provision is found. This general authority may prove to be of some value, though it is unclear just how the department would make use of it in this connection.

Alaska Stat. § 45.45.900

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*** Current through the 2009 First Session of the Twenty-Sixth State Legislature and the
2009 First Special Session ***

*** Annotations current through opinions posted on Lexis.com as of January 1, 2010 ***

TITLE 45. TRADE AND COMMERCE
CHAPTER 45. TRADE PRACTICES
ARTICLE 12. MISCELLANEOUS PROVISIONS

Alaska Stat. § 45.45.900 (2010)

Sec. 45.45.900. Indemnification agreements against public policy

A provision, clause, covenant, or agreement contained in, collateral to, or affecting a construction contract that purports to indemnify the promisee against liability for damages for (1) death or bodily injury to persons, (2) injury to property, (3) design defects, or (4) other loss, damage or expense arising under (1), (2), or (3) of this section from the sole negligence or wilful misconduct of the promisee or the promisee's agents, servants, or independent contractors who are directly responsible to the promisee, is against public policy and is void and unenforceable; however, this provision does not affect the validity of an insurance contract workers' compensation, or agreement issued by an insurer subject to the provisions of AS 21, or a provision, clause, covenant, or agreement of indemnification respecting the handling, containment, or cleanup of oil or hazardous substances as defined in AS 46.

HISTORY: (§ 1 ch 155 SLA 1975; am § 6 ch 59 SLA 1986)

NOTES: REVISOR'S NOTES. --Formerly AS 45.47.010. Renumbered in 1980.

OPINIONS OF ATTORNEY GENERAL. --The apparent prohibition on indemnification agreements in construction contracts found in this section will only apply when the promisee is completely negligent and seeks to hold an innocent promisor accountable. February 27, 1986 Op. Att'y Gen.

NOTES TO DECISIONS

LEGISLATIVE INTENT. --The absence in this section of an exemption for limitation of liability clauses indicates that the legislature did not intend to allow an exemption. City of Dillingham v. CH2M Hill N.W., Inc., 873 P.2d 1271 (Alaska 1994).

THE WORD "INDEMNIFY" AS USED IN THIS SECTION MEANS "exempt," and thus this section prohibits limitation of liability clauses; absent legislative action to the contrary, such an interpretation best fulfills the legislature's express intent to prevent a party to a construction contract from bargaining away liability for the party's negligent acts. City of Dillingham v. CH2M Hill N.W., Inc., 873 P.2d 1271 (Alaska 1994).

APPLICABILITY OF SECTION. --This section became effective on September 23, 1975, and governs contracts executed on or after that date. Contracts executed before that date are governed by the rule announced in Burgess Constr. Co. v. State, 614 P.2d 1380 (Alaska 1980), that an indemnity clause is effective to shift responsibility for an accident where the indemnitee is negligent and the indemnitor is not. Stephan & Sons v. Municipality of Anchorage, 629 P.2d 71 (Alaska 1981).

There is no indication in the text of this section itself that would indicate that the statute is intended to ban only indemnification clauses that would benefit a public promisee at the expense of a private promisor. City of Dillingham v. CH2M Hill N.W., Inc., 873 P.2d 1271 (Alaska 1994).

This section applies to a clause that is questioned under this statute regardless of whether indemnification has been sought. City of Dillingham v. CH2M Hill N.W., Inc., 873 P.2d 1271 (Alaska 1994).

SECTION APPLICABLE TO EQUIPMENT LEASES. --This section should be applied to void indemnity clauses in equipment lease agreements if such a legal rule would advance the purposes of the anti-indemnity statute by inducing careful inspection and use of the leased equipment. Aetna Cas. & Sur. Co. v. Marion Equip. Co., 894 P.2d 664 (Alaska 1995).

WHEN STATE IS SOLELY NEGLIGENT. --This section should come into effect only when it is determined, as between the state and contractors, that the state is solely negligent. Rogers & Babler v. State, 713 P.2d 795 (Alaska 1986).

"WILFUL MISCONDUCT" DOES NOT REQUIRE INTENT TO HARM. --Wilful misconduct means volitional action taken either with a knowledge that serious injury to another will possibly result, or with wanton and reckless disregard of the possible results. Aetna Cas. & Sur. Co. v. Marion Equip. Co., 894 P.2d 664 (Alaska 1995).

Because the insured was found by a jury to have acted with reckless disregard of the plaintiff's interests and safety, the insured's injurious behavior is properly termed wilful misconduct. Consequently, this section forbids the indemnity the insurer seeks. Aetna Cas. & Sur. Co. v. Marion Equip. Co., 894 P.2d 664 (Alaska 1995).

INDEMNITY CLAUSE NOT INVALIDATED. --This section only invalidates an indemnity clause if the clause purports to indemnify the indemnitee for the indemnitee's sole negligence, and where neither part of the indemnity clause purported to indemnify the general contractor for the hospital's sole negligence, this section did not invalidate the indemnity clause in the contract between the general contractor and the hospital work site. Hoffman Constr. Co. of Alaska v. U.S. Fabrication & Erection, Inc., 22 P.3d 464 (Alaska 2001).

CITED IN Deaver v. Auction Block Co., 107 P.3d 884 (Alaska 2005).

NOTES APPLICABLE TO ENTIRE TITLE

REVISOR'S NOTES. --The provisions of this title were redrafted in 1986 to remove personal pronouns pursuant to § 4, ch. 58, SLA 1982 and in 1986, 1994, and 2006 to make other, minor word changes. In 1980, the provisions of the Uniform Commercial Code formerly set out in AS 45.05, were renumbered as AS 45.01 -- AS 45.09 so that the numbering now corresponds to the numbering of the official text of the Uniform Commercial Code. To determine the disposition of sections formerly numbered within AS 45.05, or to determine the prior numbering of sections now numbered within AS 45.01 -- AS 45.09, see the Table of Sections Amended, Etc., in Volume 11.

COLLATERAL REFERENCES. --Theodore Eisenberg, *Debtor-Creditor Law* (Matthew Bender).
Peter J. Bestos, *Modern UCC Litigation Forms* (Matthew Bender).
Duesenberg and King, *Sales and Bulk Transfers Under the UCC* (Matthew Bender).
Cohen, McLaughlin, and Zaretsky, *Commercial Law Report* (Matthew Bender).
Frederick M. Hart, *Forms and Procedures Under the UCC* (Matthew Bender).
Willer and Hart, *UCC Reporter-Digest* (Matthew Bender).
Zaretsky, McLaughlin, *Commercial Law and Practice Guide* (Matthew Bender).
Charles L. Knapp, *Commercial Damages: A Guide to Remedies in Business Litigation*
(Matthew Bender).
Charles K. Knapp, *Commercial Damages Reporter* (Matthew Bender).
Howard Ruda, *Asset Based Financing: A Transactional Guide* (Matthew Bender).

RE
HB
366

KANSAS

HOUSE Substitute for SENATE BILL No. 379

AN ACT concerning contracts; relating to indemnification provisions and additional insured parties; amending K.S.A. 16-121 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 16-121 is hereby amended to read as follows: 16-121.

(a) When used in this section:

- (1) "Construction contract" means an agreement for the design, construction, alteration, renovation, repair or maintenance of a building, structure, highway, road, bridge, water line, sewer line, oil line, gas line, appurtenance or other improvement to real property, including any moving, demolition or excavation, except that no deed, lease, easement, license or other instrument granting an interest in or the right to possess property shall be deemed to be a construction contract even if the instrument includes the right to design, construct, alter, renovate, repair or maintain improvements on such real property. "Construction contract" shall not include any design, construction, alteration, renovation, repair or maintenance of: (A) Dirt or gravel roads used to access oil and gas wells and associated facilities; or (B) oil flow lines or gas gathering lines used in association with the transportation of production from oil and gas wells from the wellhead to oil storage facilities or gas transmission lines.
- (2) "Contract" means any construction contract, motor carrier transportation contract, dealer agreement or franchise agreement.
- (3) "Damages" means personal injury damages, property damages or economic loss.
- (4) "Dealership agreement" means an oral or written agreement of definite or indefinite duration between an equipment manufacturer or service provider and an equipment or service dealer which provides for the rights and obligations of the parties with respect to the purchase or sale of such equipment or services.
- (5) "Franchise agreement" means any contract or franchise or any other terminology used to describe the contractual relationship between manufacturers, distributors and dealers, by which: (A) A right is granted one party to engage in the business of offering, selling or otherwise distributing goods or services under a marketing plan or system prescribed in substantial part by the other party, and in which there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, agreement or otherwise; and (B) the operation of the grantee's business pursuant to such agreement is substantially associated with the grantor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the grantor or an affiliate of the grantor.
- (6) "Indemnification provision" means a covenant, promise, agreement, clause or understanding in connection with, contained in, or collateral to a contract that requires the promisor to hold harmless, indemnify or defend the promisee or others against liability for loss or damages.
- (7) "Motor carrier transportation contract" means, with respect to a motor carrier as defined in K.S.A. 66-1,108, and amendments thereto, a contract, agreement or understanding covering: (A) The transportation of property by a motor carrier; (B) the entrance on property by the motor carrier for the purpose of loading, unloading or transporting property; or (C) a service incidental to activity described in clause (A) or (B) including, but not limited to, storage of property.

"Motor carrier transportation contract" shall not include the uniform intermodal interchange and facilities access agreement administered by the intermodal association of North America or other agreements providing for the interchange, use or possession of intermodal chassis, containers or other intermodal equipment.

(8) "Mutual indemnity obligation" means an indemnity obligation in a contract in which the parties agree to indemnify each other and each other's contractors and their employees against loss, liability or damages arising in connection with bodily injury, death and damage to property of the respective employees, contractors or their employees, and invitees of each party arising out of or resulting from the performance of the agreement.

(9) "Promisee" shall include an agent, employee or independent contractor who is directly responsible to the promisee.

(10) "Unilateral indemnity obligation" means an indemnity obligation in a contract in which one of the parties as promisor agrees to indemnify the other party as promisee with respect to claims for personal injury or death to the promisor's employees or agents or to the employees or agents of the promisor's contractors but in which the promisee does not make a reciprocal indemnity to the promisor.

(b) An indemnification provision in a contract which requires the promisor to indemnify the promisee for the promisee's negligence or intentional acts or omissions is against public policy and is void and unenforceable.

(c) A provision in a contract which requires a party to provide liability coverage to another party, as an additional insured, for such other party's own negligence or intentional acts or omissions is against public policy and is void and unenforceable.

(d) This act shall not be construed to affect or impair:

(1) The contractual obligation of a contractor or owner to provide railroad protective insurance or general liability insurance;

(2) an agreement under which an owner, a responsible party or a governmental entity agrees to indemnify a contractor directly or through another contractor with respect to strict liability under environmental laws;

(3) an indemnification agreement that is an integral part of an offer to compromise or a settlement of a disputed claim, if: (A) The settlement is based on consideration; (B) the dispute relates to an alleged event that is related to a construction contract and that occurred before the settlement is made; and (C) the indemnification relates only to claims that have arisen or may arise from the past event;

(4) the validity of any insurance contract, construction bond or other agreement lawfully issued by an insurer or bonding company;

(5) a separately negotiated provision or provisions whereby the parties mutually agree to a reasonable allocation of risk, if each such provision is: (A) Based on generally accepted industry loss experience; and (B) supported by adequate consideration; and

(6) an agreement that provides for indemnity if the parties agree in writing that the indemnity obligation will be supported by liability insurance coverage to be furnished by the promisor subject to the following limitations: (A) With respect to a mutual indemnity obligation, the indemnity ob-

ligation is limited to the extent of the coverage and dollar limits of insurance or qualified self-insurance each party as promisor has agreed to obtain for the benefit of the other party as promisee. (B) With respect to a unilateral indemnity obligation, the indemnity obligation is limited to the extent of the coverage and dollar limits of insurance the promisor has agreed to

obtain for the benefit of the other party as promisee. Such indemnity obligation shall be at the promisee's expense and shall be a separate liability insurance policy.

(e) Notwithstanding any contractual provision to the contrary, the laws of the state of Kansas shall apply to and govern every contract to be performed in this state. Any litigation, arbitration or other dispute resolution proceeding arising from such contract shall be conducted in this state. Any provision, covenant or clause in such contract that conflicts with the provisions of this subsection shall be void and unenforceable.

(f) This section applies only to indemnification provisions and additional insured provisions entered into after January 1, 2009.

Sec. 2. K.S.A. 16-121 is hereby repealed.

Sec. 3. This act shall take effect and be in force on and after January 1, 2009, and its publication in the statute book.

MARYLAND

§ 5-401. Indemnity agreements regarding construction barred

Effective October 1, 2007

(a) A covenant, promise, agreement or understanding in, or in connection with or collateral to, a contract or agreement relating to the construction, alteration, repair, or maintenance of a building, structure, appurtenance or appliance, including moving, demolition and excavating connected with it, purporting to indemnify the promisee against liability for damages arising out of bodily injury to any person or damage to property caused by or resulting from the sole negligence of the promisee or indemnitee, his agents or employees, is against public policy and is void and unenforceable. This section does not affect the validity of any insurance contract, workers' compensation, or any other agreement issued by an insurer.

(b)(1)(i) In this subsection the following words have the meanings indicated.

(ii) "Motor carrier" has the meaning stated in § 11-134.2 of the Transportation Article.

(iii) 1. "Motor carrier transportation contract" means a contract, agreement, or understanding concerning:

(A) The transportation of property for compensation or hire by a motor carrier;

(B) The entrance on property by a motor carrier for the purpose of loading, unloading, or transporting property for compensation or hire; or

(C) A service incidental to an activity described in item (i) or (ii) of this paragraph, including storage of property.

2. "Motor carrier transportation contract" does not include:

(A) The Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America, as amended by the Intermodal Interchange Executive Committee; or

(B) Other agreements providing for the interchange, use, or possession of intermodal chassis, containers, or other intermodal equipment.

(iv) "Promisee" includes an agent, employee, servant, or independent contractor who is directly responsible to the promisee, other than a motor carrier that is a party to a motor carrier transportation contract with the promisee, and an agent, employee, servant, or independent contractor directly responsible to that motor carrier.

(2) Notwithstanding any other provision of law, a provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of

indemnifying, defending, or holding harmless, the promisee against liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against public policy and is void and unenforceable.

MISSOURI

390.372. 1. Notwithstanding any provision of law to the contrary, a provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against the public policy of this state and is void and unenforceable.

2. For the purposes of this section, the following terms shall mean:

(1) "Motor carrier transportation contract", a contract, agreement, or understanding covering:

(a) The transportation of property for compensation or hire by the motor carrier;

(b) The entrance on property by the motor carrier for the purpose of loading, unloading, or transporting property for compensation or hire; or

(c) A service incidental to activity described in paragraphs (a) and (b) of this subdivision, including but not limited to, storage of property; "Motor carrier transportation contract" shall not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America or other agreements providing for the interchange, use or possession of intermodal chassis, or other intermodal equipment;

(2) "Promisee", the promisee and any agents, employees, servants, or independent contractors who are directly responsible to the promisee except for motor or rail carriers who are party to a motor carrier transportation contract, and such motor or rail carrier's agents, employees, servants, or independent contractors directly responsible to such motor or rail carriers.

NEBRASKA

LB 1007, Sec. 21

Effective March 6, 2006

- (1) A provision, a clause, a covenant, or an agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless or has the effect of indemnifying, defending, or holding harmless the motor carrier transportation contract's promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the motor carrier transportation contract's promisee or any agents, employees, servants, or independent contractors who are directly responsible to the motor carrier transportation contract's promisee, is against the public policy of this state and is unenforceable.
- (2) Nothing contained in this section affects a provision, a clause, a covenant, or an agreement in which a motor carrier indemnifies or holds harmless a motor carrier transportation contract's promisee against liability for damages to the extent that the damages were caused by and resulting from the negligence of the motor carrier or its agents, employees, servants, or independent contractors who are directly responsible to the motor carrier.
- (3) As used in this section:
 - (a) Motor carrier means any person who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport goods over any public highway in this state, whether in intrastate or interstate commerce;
 - (b) Motor carrier transportation contract means a contract, agreement, or understanding covering:
 - (i) The transportation of property for compensation or hire by a motor carrier;
 - (ii) The entrance on property by a motor carrier for the purpose of loading, unloading, or transporting property for compensation or for hire; or
 - (iii) A service incidental to activity described in subdivision (i) or (ii) of this subdivision, including, but not limited to, storage of property.

A motor carrier transportation contract does not include provisions of the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America or any other provision, clause, covenant, or agreement providing for the interchange, use, or possession of intermodal chassis, containers, or other intermodal equipment; and

- (c) Promisee means the party to a motor carrier transportation contract who or which is not a motor carrier or, if the promisee is a motor carrier, is not the motor carrier actually doing the transporting.

NORTH CAROLINA

"This act becomes effective October 1, 2005, and applies to contracts entered into on or after that date."

§ 62-212. Indemnity agreements in motor carrier transportation contracts

- (a) A provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omission of the promisee is against the public policy of this State and is void and unenforceable.
- (b) The following definitions apply in this section:
 - (1) Motor carrier transportation contract. -- A contract, agreement, or understanding covering at least one of the following:
 - (a) The transportation of property for compensation or hire by the motor carrier.
 - (b) Entrance on property by the motor carrier for the purpose of loading, unloading, or transporting property for compensation or hire.
 - (c) A service incidental to activity described in sub-subdivision a. or b. of this subdivision, including storage of property.
 - (2) Promisee. -- The person with whom the motor carrier enters into a motor carrier transportation contract and any agents, employees, servants, or independent contractors who are directly responsible to that person, except for motor carriers party to a motor carrier transportation contract with the person, and the motor carrier's agents, employees, servants, or independent contractors directly responsible to the motor carrier.
 - (c) Nothing contained in this section effects [affects] a provision, clause, covenant, or agreement where the motor carrier indemnifies or holds harmless the contract's promisee against liability for damages to the extent that the damages were caused by and resulted from the negligence of the motor carrier, its agents, employees, servants, or independent contractors who are directly responsible to the motor carrier.
 - (d) Notwithstanding the other provisions contained in this section, the term "motor carrier transportation contract", as defined in this section, shall not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America, or other agreements providing for the interchange, use or possession of intermodal chassis, containers, trailers, or other intermodal equipment that

contain substantially the same indemnity provision as the provision contained in the Uniform Intermodal Interchange and Facilities Access Agreement.

OKLAHOMA

§ 169.7 Statements of liability or indemnity agreements not required—Exceptions

A motor carrier shall not be required to sign any statement of liability or enter into any contract for the indemnification of any person for any acts or omissions not arising from damage or loss from a wrongful or negligent act or omission from the motor carrier.

The provisions of this section shall not apply to railroad intermodal or transload facilities or to contracts with railroads or ocean carriers.

SOUTH CAROLINA
Effective April 19, 2005

§ 58-23-110. Motor carrier transportation contracts; definition; hold harmless provisions; exception.

- (A) Notwithstanding another provision of law, a provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, the contract's promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the contract's promisee, or any agents, employees, servants, or independent contractors who are directly responsible to the contract's promisee, is against the public policy of this State and is unenforceable.
- (B) As used in this section "motor carrier transportation contract" means a contract, agreement, or understanding covering:
 - (1) the transportation of property for compensation or hire by the motor carrier;
 - (2) the entrance on property by the motor carrier for the purpose of loading, unloading, or transporting property for compensation or for hire; or
 - (3) a service incidental to activity described in items (1) or (2) including, but not limited to, storage of property.
- (C) Nothing contained in this section affects a provision, clause, covenant, or agreement where the motor carrier indemnifies or holds harmless the contract's promisee against liability for damages to the extent that the damages were caused by and resulting from the negligence of the motor carrier, its agents, employees, servants, or independent contractors who are directly responsible to the motor carrier.
- (D) Notwithstanding the other provisions contained in this section, a "motor carrier transportation contract" shall not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America, as that agreement may be amended by the Intermodal Interchange Executive Committee.

TENNESSEE

AN ACT to amend Tennessee Code Annotated, Title 12; Title 47, Chapter 18 and Title 65, Chapter 15, relative to motor carrier transportation contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 15, Part 1, is amended by adding the following language as a new section thereto:

65-15-1__.

A covenant, promise, agreement or understanding in or in connection with or collateral to a motor carrier transportation contract purporting to indemnify the promisee against liability for damages resulting from the negligence of the promisee, the promisee's agents or employee's, or indemnitee, is against public policy and is void and unenforceable.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

TEXAS

§ 623.0155. Indemnification From Motor Carrier Prohibited

- (a) A person may not require indemnification from a motor carrier as a condition to:
 - (1) the transportation of property for compensation or hire by the carrier;
 - (2) entrance on property by the carrier for the purpose of loading, unloading, or transporting property for compensation or hire; or
 - (3) a service incidental to an activity described by Subdivision (1) or (2), including storage of property.
- (b) Subsection (a) does not apply to:
 - (1) a claim arising from damage or loss from a wrongful or negligent act or omission of the carrier; or
 - (2) services or goods other than those described by Subsection (a).
- (c) In this section, "motor carrier" means a common carrier, specialized carrier, or contract carrier that transports property for hire. The term does not include a person who transports property as an incidental activity of a nontransportation business activity regardless of whether the person imposes a separate charge for the transportation.
- (d) A provision that is contrary to Subsection (a) is not enforceable.

VIRGINIA

§ 11-4.5. Certain indemnification provisions in motor carrier transportation contracts declared void.

A. As used in this section:

"Motor carrier transportation contract" means a contract, agreement, or understanding covering:

- (1) The transportation of property for compensation or hire by the motor carrier;
- (2) The entrance on property by the motor carrier for the purpose of loading, unloading, or transporting property for compensation or for hire; or
- (3) A service incidental to activity described in subdivision 1 or 2 including, but not limited to, storage of property.

For the purposes of this section, the term "motor carrier transportation contract" shall not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America, as that agreement may be amended by the Intermodal Interchange Executive Committee, or other agreements providing for the interchange, use, or possession of intermodal chassis, containers, or other intermodal equipment.

B. A provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, or hold harmless, or has the effect of indemnifying, or holding harmless, either party from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of other party, or any agents, employees, servants, or independent contractors who are directly responsible to the other party, is against the public policy and is void and unenforceable.

C. Nothing contained in this section affects a provision, clause, covenant, or agreement where the motor carrier indemnifies or holds harmless the other party against liability for damages to the extent that the damages were caused by and resulting from the negligence of the motor carrier, its agents, employees, servants, or independent contractors who, in whole or in part are directly responsible to the motor carrier.

WEST VIRGINIA
Effective July 1, 2006.

S.B. No. 492

MOTOR CARRIERS--TRANSPORTATION--CONTRACTS

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated § 24A-6-7, relating to providing that indemnity agreements in motor carrier transportation contracts are void and unenforceable as against public policy; and effective date.

Be it enacted by the Legislature of West Virginia: That the code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated § 24A-6-7, to read as follows:

ARTICLE 6. DUTIES AND PRIVILEGES OF MOTOR CARRIERS SUBJECT TO REGULATION OF THE COMMISSION.

§ 24A-6-7. Indemnity agreement in motor carrier transportation contracts void.

- (a) Notwithstanding any provision of law to the contrary, a provision, clause, covenant or agreement contained in, collateral to or affecting a motor carrier transportation contract entered into on or after the first day of July, two thousand six, that purports to indemnify, defend or hold harmless, or has the effect of indemnifying, defending or holding harmless, the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against the public policy of this state and is void and unenforceable.
- (b) In this section:
 - (1) "Motor carrier transportation contract" means a contract, agreement or understanding covering:
 - (A) The transportation of property for compensation or hire by the motor carrier;
 - (B) Entrance on property by the motor carrier for the purpose of loading, unloading or transporting property for compensation or hire; or
 - (C) A service incidental to activity described in paragraph (A) or (B), including, but not limited to, storage of property.
 - (2) "Promisee" means the promisee and any agents, employees, servants or independent contractors who are directly responsible to the promisee except for motor carriers party to a motor carrier transportation contract with promisee and such motor carrier's agents, employees, servants or independent contractors directly responsible to such motor carrier.

- (3) The term "motor carrier transportation contract" shall not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America, as that agreement may be amended by the Intermodal Interchange Executive Committee, or other agreements providing for the interchange, use or possession of intermodal chassis, containers or other intermodal equipment.

HJR

9

SENATE COMMITTEE REPORT

DATE: 4/1/09

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Transportation Committee considered HOUSE JOINT RESOLUTION NO. 9

HJR 9 CENTENNIAL OF FLIGHT CELEBRATION

Designating the Alaska Aviation Heritage Museum located at 4721 Aircraft Drive in Anchorage as the official headquarters for the State of Alaska's Centennial of Flight Celebration.

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
H. TRA	3/23			√	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Luide Menard</i>	Menard	X			
<i>Bruce Davis</i>	Davis	X			
<i>Kj Meyer</i>	Meyer	X			
<i>Joe Paskvan</i>	PASKVAN	X			
CHAIR: <i>Allan Kooksh</i>	KOOKSH	X			

Conceptual Amendment

WHEREAS the first flight took place in the summer of 1913 in a Fourth of July exhibition in Fairbanks

Alaska House of Representatives

Richard Foster
P.O. Box 1630
Nome, AK 99762
907-443-5036
Fax 907-2162
Staff
Larry LaBolle



During Session
State Capitol Rm. 410
Juneau, AK 99801-1182
907-465-3789
Fax 907-465-3242
Session Staff
Paul LaBolle

HJR 9 Centennial of Flight Celebration-Sponsor Statement

On July 4th 2013 the State will mark the 100 year anniversary of the first powered flight in Alaska. To honor that occasion the State will hold the Centennial of Flight Celebration. HJR 9 establishes the Alaska Aviation Heritage Museum as the focal point for those activities, programs and celebrations. The Alaska Aviation Heritage Museum's mission is to "preserve, display, and honor Alaska's aviation heritage." As such it is uniquely qualified and positioned to serve as the headquarters for this celebration. Establishing the Headquarters for the Centennial of Powered Flight in Alaska at the Alaska Aviation Heritage Museum ensures a well-planned and organized celebratory program by a capable team of professionals for all Alaskans and visitors to Alaska.

STATEMENT OF SUPPORT FOR HJR 9

“Designating the Alaska Aviation Heritage Museum located at 4721 Aircraft Drive in Anchorage as the official headquarters for the State of Alaska’s Centennial of Flight Celebration.”

As Alaskans prepare to celebrate the Centennial of Powered Flight in Alaska in 2013, HJR 9 establishes the Alaska Aviation Heritage Museum as the focal point for those activities, programs and celebrations. Alaska has the highest per capita population of pilots in the nation and it is requisite that this celebration be handled by the professional team at the Aviation Museum.

Alaska’s powered aviation began at the fairgrounds in Fairbanks on July 4, 1913 with Captain James Martin demonstrating the Martin Gage Tractor Biplane over the grandstands.

The Alaska Aviation Museum currently exhibits numerous artifacts depicting aviation milestones of state, national and global significance. These include the Douglas World Cruises, the *Seattle* (1924) to the P-40E #241 flown by Lt. Winfield McIntyre during the attack on Dutch Harbor in 1942 and the Loening Keystone Commuter brought to Alaska by Governor Jay Hammond in 1946. Caring for these and other significant artifacts and being the focal point for Alaska’s incredibly rich aviation history are the core of the Aviation Museum’s mission. A dedicated group of aviation historians and enthusiasts diligently work to protect, preserve and grow the mission.

Alaska’s convention, visitor and tourism industries will all benefit by having the Aviation Museum designated as the official headquarters for the Centennial of Flight. Aviation and transportation museums around our country and around the globe will highlight Alaska’s aviation history and development to tourist groups and aviation enthusiasts who will travel to Alaska to be part of this milestone in aviation.

Establishing the Headquarters for the Centennial of Powered Flight in Alaska at the Alaska Aviation Heritage Museum ensures a well-planned and organized celebratory program by a capable team of professionals for all Alaskans and visitors to Alaska.

Thank you for your consideration of this Resolution.

**Gail Phillips
President, Alaska Aviation Museum
Board of Directors
277-4867**

**Norm Lagasse
Executive Director
Alaska Aviation Museum
248-5325**



DEPARTMENT OF THE AIR FORCE
NATIONAL MUSEUM OF THE UNITED STATES AIR FORCE
1100 SPAATZ STREET
WRIGHT PATTERSON AIR FORCE BASE, OHIO 45433-7102

13 March 2009

NMUSAF/CL
1100 Spaatz Street
Wright-Patterson AFB OH 45433-7102

Mr. Norm Lagasse
Executive Director
Alaska Aviation Heritage Museum
4721 Aircraft Drive
Anchorage AK 99502


Dear Mr. Lagasse

I am pleased to inform you that The National Museum of the United States Air Force (NMUSAF) has granted the Alaska Aviation Heritage Museum full civilian museum certification. The museum is now qualified to enter into loans of historical property in accordance with 10 USC §2572 and relevant Air Force and NMUSAF policy.

You are welcome to submit written requests for aerospace vehicles that CPAM may wish to borrow from the NMUSAF. Requests for specific airframes are filled in the order they are received from qualified organizations, based on available assets. Requests by official Department of Defense organizations are filled prior to requests by civilian museums. Please note: requests for pre-Korean War era airframes will not be accepted as none are available for loan. You may direct your request letters to Mr. Mark Miller, NMUSAF/MUC, 1100 Spaatz Street, Wright-Patterson AFB OH, 45433-7102. You are welcome to submit multiple requests in one letter.

Again, congratulations on completing the certification process. We look forward to working with you to preserve and share the heritage of the United States Air Force.

Sincerely



CHARLES D METCALF
Major General, USAF (Ret)
Director

Attachment:
Certification Site Visit Trip Report, 3 March 2009

cc:
Mark Miller, NMUSAF/MUC
Sherry Howard, NMUCAF/MUC

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HJR 9
(H) Publish Date: 3/25/2009

Identifier (file name): _____ Dept. Affected: _____
Title: HJR 9 - Centennial of Flight Celebration RDU _____
Sponsor: Representative Richard Foster Component _____
Requester: House Transportation Committee Component Number _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0
CAPITAL EXPENDITURES								
CHANGE IN REVENUES ()								

FUND SOURCE (Thousands of Dollars)

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Becky Rooney, House TRA Committee Aide
Division: _____
Approved by: Representative Peggy Wilson, Chair
House Transportation Committee

Phone 465-3759
Date/Time _____
Date 3/23/2009

HJR

42



SENATE TRANSPORTATION COMMITTEE

State Capitol, Room 11
Juneau AK, 99801-1182
907-465-6828

REVISED

To: Senate Transportation Committee Members

From: Albert M. Kookesh, Chair, Senate Transportation Committee
465-6828 *a. kookesh*

Date: April 12, 2010

Re: Senate Transportation Committee
For the week of April 12-16, 2010

Tuesday, April 13, 2010: 1pm-2:30pm, Butrovich Room 205

- + **HB 357**: An Act relating to the sale of land owned by the Alaska Railroad that is not needed for railroad purposes. Sponsor: Representative Bill Stoltze
- CSHJR 42**: Proposing Amendments to the Constitution of the State of Alaska creating a transportation infrastructure fund. Sponsor: House Transportation Committee

Thursday, April 15, 2010—1:00pm to 2:30 pm, Butrovich Room 205

Bills previously heard or scheduled.

+indicates will be teleconferenced

ALASKA STATE LEGISLATURE

Interim:
P.O. Box 109
Wrangell, AK 99929
Phone: (907) 874-3088
Fax: (907) 874-3055

Session:
State Capitol, Room 406
Juneau, AK 99801-1182
Phone: (907) 465-3824
1-800-686-3824
Fax: (907) 465-3175

REPRESENTATIVE PEGGY WILSON
HOUSE DISTRICT 2

SPONSOR STATEMENT House Joint Resolution 42

“Proposing amendments to the constitution of the State of Alaska creating a transportation infrastructure fund”

HJR 42 will put a constitutional amendment before voters to change the Alaska constitution to allow a dedicated fund for Capital Transportation Projects.

In FY10 87% of our transportation budget came from the federal government. The current federal reauthorization legislation has already expired and is being extended month to month until new legislation can be passed. The new federal reauthorization bill is unfavorable for states with small populations by emphasizing mass transit and green transportation. It favors toll roads, bridges, and other transportation that are self-funding. Alaska's small population makes these self pay options prohibitive. There aren't enough cars on the road, people on the ferries or residents landing at our airports to generate the economy of scale that is needed.

The roads, bridges, airports, ferries and transit systems that make up our state's transportation system are essential to mobility, commerce and economic development. This system enhances economic competitiveness, increases safety and enhances quality of life. There is a growing imbalance between system use and capacity as well as the need for new infrastructure to access our valuable resources. To insure Alaska has the infrastructure necessary to develop our resources as well as providing a quality of life for our citizens we must commit to funding transportation. Having a guaranteed amount that can be counted on from year to year will allow Alaska to tackle today's congestion and maintenance projects as well as developing the needed access to resources and energy.

The crafters of the constitution grandfathered in dedicated funds. They realized that some funds would be needed no matter the economic or political climate. Transportation was one of the funds that predated the constitution. It lasted for several years until it was eliminated.

26-LS1411\P

CS FOR HOUSE JOINT RESOLUTION NO. 42()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A RESOLUTION

1 **Proposing amendments to the Constitution of the State of Alaska creating a**
2 **transportation infrastructure fund.**

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

4 * **Section 1.** Article IX, sec. 7, Constitution of the State of Alaska, is amended to read:

5 **Section 7. Dedicated Funds.** The proceeds of any state tax or license shall not
6 be dedicated to any special purpose, except as provided in Sections 15 and 18
7 [SECTION 15] of this article or when required by the federal government for state
8 participation in federal programs. This provision shall not prohibit the continuance of
9 any dedication for special purposes existing on April 24, 1956 [UPON THE DATE
10 OF RATIFICATION OF THIS SECTION BY THE PEOPLE OF ALASKA].

11 * **Sec. 2.** Article IX, Constitution of the State of Alaska, is amended by adding a new
12 section to read:

13 **Section 18. Transportation Infrastructure Fund.** (a) The revenue received
14 after July 1, 2011, from any state tax on fuel used for the propulsion of motor vehicles,
15 aircraft, and watercraft, less refunds, credits, and collection costs as provided by law,
16 and from a registration fee levied for a motor vehicle that is not a special registration

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fee provided by law shall be placed in a transportation infrastructure fund. The legislature may appropriate additional amounts to the fund. The fund shall be managed as an endowment. Each year, the legislature may appropriate a percentage of the state fuel taxes and registration fees received by the fund in that year and a percentage of the average market value of the fund as established by law for capital projects for transportation and related facilities that are designated by law and for costs related to motor vehicle licensing and registration that are designated by law.

(b) The legislature shall provide by law for the management and investment of the fund balance. The income earned from the fund shall be deposited into the fund.

* Sec. 3. The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HJR42
() Publish Date: _____

Identifier (file name): HJR-042-OOG-DOE-2-9-10 Dept. Affected: OOG
Title Constitutional amendment creating a transportation RDU Elections
infrastructure fund Component Elections
Sponsor House Transportation Committee
Requester House Transportation Committee Component Number 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	Appropriation Required FY 2011	Information					
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Personal Services							
Travel							
Contractual		1.5					
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	1.5	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)

FUND SOURCE	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
1002 Federal Receipts						
1003 GF Match						
1004 GF		1.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Interagency Receipts						
TOTAL	0.0	1.5	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The passage of this resolution would require the constitutional amendment to appear on the 2010 general election ballot. The cost of providing information about the constitutional amendment in the Official Election Pamphlet, as required by AS 15.58 is \$1.5. Should the addition of this question require printing an 8-1/2 by 18 inch ballot, the cost will increase to \$22.0.

Prepared by: Gail Fenumiai, Director
Division Division of Elections
Approved by: Linda Perez, Director
Division of Administrative Services

Phone 465-4611
Date/Time 2/9/10, 3:49pm
Date 2/9/2010

**TO: Representative Peggy Wilson
Chair
House Transportation Committee**

**FROM: Larry Persily
Legislative Aide
House Finance Committee Co-Chair Rep. Mike Hawker**

RE: Funding options for a long-term statewide transportation plan

DATE: Sept. 28, 2009

As per your request, I have prepared this summary of possible funding options for a multiyear, statewide transportation initiative. There are three basic options for raising a substantial amount of money for a comprehensive transportation plan: Taxes, taking from savings, or borrowing against future state revenues in one form or another. All of the most feasible choices fall into those three categories.

I did not include as an option the possibility of relying on annual legislative appropriations in the state capital budget. Though that certainly is an option in the legal and political sense, and would not require new or increased taxes or issuing bonds or any legislative action outside of the annual budget battles, it also would not create any new money for highways, roads, harbors, airports or ferries. Simply put, it would not add anything to the state's financial resources and would merely continue the annual fight for transportation funds vs. other needs statewide. It doesn't get us anywhere that we haven't been for years. Therefore, I have left it off the list of productive options, assuming the status quo is not acceptable to the committee as it looks at how to generate a substantial amount of money or a dedicated revenue stream to fund the state's growing backlog of highway, road and other transportation projects.

For this discussion, the Department of Transportation has compiled the numbers for state capital spending the past 10 years on highways and roads, harbors, airports and ferries. The numbers are included in a separate Power Point presentation; they fluctuate year to year, generally linked to the rise and fall of oil prices and state revenues.

The rest of this report explains options for a statewide transportation funding plan, including some history; some legal, financial and political considerations; and pros and cons for several of the options. Please consider this report an ongoing work in progress, which I can expand or amend or update to meet the committee's needs.

Motor fuel taxes

Certainly, one option would be for the state to dedicate motor fuel taxes to highway construction and repair and other transportation needs.

The cleanest way would be for the Legislature to seek voter approval of a constitutional amendment for a dedicated fund. Such an account existed at statehood but was abolished the next year. Some have suggested over the years that perhaps the Legislature could somehow "reclaim" the dedicated fund for transportation-related purposes. Not likely, say the lawyers. A 1990 attorney general's opinion was not favorable to this approach, nor was a Sept. 15, 2009, Legislative Legal Affairs opinion prepared for this committee or a recent attorney general opinion. The Alaska Constitution prohibits dedicated funds, except for those that existed at statehood or are required by federal law. The 1990 attorney general legal opinion, the Sept. 15 Legislative Legal opinion and the recent attorney general opinion said the Legislature's 1960 decision to eliminate the motor fuel tax dedication cannot be reversed by legislative action; it would require an amendment to the constitution.

If legislators go with the constitutionally dedicated fund approach, a two-thirds majority vote is required in each legislative chamber to put a constitutional amendment on the ballot. State law requires that amendments must be scheduled for the next general election after legislative action.

As for the tax itself, after a one-year hiatus the state on Sept. 1, 2009, resumed collecting its excise tax on motor fuel. The 8-cent-a-gallon tax on highway fuel is the lowest state motor fuel tax in the nation. Alaska's tax rate has not changed since 1970.

The average state tax nationwide (total of excise and all other state taxes on motor fuel) is 28.6 cents on gasoline and 27 cents on diesel (Alaska collects the same 8 cents per gallon on gasoline and diesel). In addition, several states allow counties and municipalities to impose a local tax, plus many states add a sales tax, gross receipts tax, underground storage tank fee and other fees to motor fuels. Wyoming, at 14 cents a gallon in total gasoline taxes, is the closest to Alaska, while at least 16 states collect more than 30 cents a gallon when all their taxes are combined.

The federal tax rate is 18.4 cents per gallon.

If, for example, an Alaskan owned a vehicle that got 20 miles per gallon and drove 15,000 miles a year, the state tax would be \$60 for the year, with \$138 in federal taxes.

The 2008 legislative suspension of motor fuel taxes applied to all tax types, including marine fuel, jet fuel and aviation gasoline. The state does not tax heating fuel, fuel sales to government agencies, or fuel for electrical generating plants operated by utilities.

Consumers who use gasoline or diesel for off-road vehicles and equipment, such as mining and construction equipment that does not travel the highway, can apply to the state for a refund of 6 cents per gallon from the 8-cent tax.

The tax is paid not at the retail level but by fuel wholesalers, which greatly reduces the number of tax returns to the state. There are about 230 taxpayers that collect and remit motor fuel taxes to the state.

Alaska in Fiscal Year 2008 collected:

- \$30 million from its 8-cent tax on highway fuel (gasoline and diesel).
- \$5.6 million from marine fuel (5 cents a gallon).
- \$4.5 million from jet fuel (3.2 cents per gallon, with an exemption for flights originating in a foreign country and refueling in Alaska and also flights leaving Alaska for a foreign destination).
- \$670,000 for aviation gasoline (4.7 cents).

Alaska's motor fuel revenues do not vary much year to year; collections have ranged between \$39.2 million and \$41.8 million over the past five years.

All of the state's motor fuel revenues are deposited into the general fund. State law requires that 60 percent of aviation fuel tax proceeds must be shared with municipalities that own and operate an airport. The state in FY2007 sent \$147,322 to municipalities under this revenue-sharing provision:

- Juneau, \$79,914
- Ketchikan Gateway Borough, \$23,428
- Kenai, \$16,822
- Anchorage (Merrill Field), \$16,510
- Kodiak, \$6,955
- Soldotna, \$1,531
- Palmer, \$1,093
- Wasilla, \$1,069

The approximately \$41 million a year Alaska collects in all motor fuel taxes puts it between tobacco taxes (\$74 million) and alcohol taxes (\$39 million) among state excise tax revenues in FY2008. Motor fuel taxes provided about 7 percent of the state's non-oil and gas tax revenues in FY2008.

If, for example, the Legislature wanted to seek voter approval for a constitutional amendment to dedicate motor fuel taxes (gasoline and diesel only, not aviation or marine fuels) to transportation projects, and at the same time double the tax rate to 16 cents a gallon (still far below the national average), that would generate an estimated \$60 million a year for a comprehensive highway funding initiative.

With such a constitutionally dedicated fund, the Legislature could either appropriate the tax receipts annually, paying cash for projects, or the state could issue revenue bonds to raise a large amount of money up front and then use the tax receipts to repay the bonds over time. This is just a hypothetical suggestion, not a recommendation.

In addition to needing a constitutional amendment, in order to issue bonds secured by a dedicated motor fuel tax the Legislature also would need to adopt statutory authority for the State Bond Committee to issue the bonds on behalf of the state. A statute similar to the Alaska International Airport System authority at AS 37.15.410 - 37.15.550 would need to be established to provide the framework for the motor fuel tax bond issuance.

Pros Easy to collect and administer; no new program.
Clear link between users and payers.
Provides option of dedicated annual appropriations or revenue to repay bonds, or both.
Revenue stream continues indefinitely.
Taxing ourselves could help Alaska's congressional delegation counter the argument that Alaskans have their hand out too much in Washington.

Cons: Cost to consumers of higher taxes.
Politics of a tax increase.
Politics of opening the door to dedicated funds.

Revenue bonds and general obligation bonds

If lawmakers prefer raising cash up front for immediate transportation needs, rather than stretching out the construction work to match the motor fuel tax revenues available each year, the Legislature could opt for issuing bonds.

Continuing with the example of a 16-cent tax on gasoline/diesel that raises \$60 million a year, the state could use that revenue stream to cover debt service on a revenue bond issue of about \$400 million in today's market for transportation projects. Even though \$60 million a year, plus any potential gain from increased motor fuel consumption over the years, would cover annual debt service on closer to \$800 million in bonds, investors would discount the annual estimated tax receipts to reduce any risk that the revenues might come up short. The market, for example, would require that the state's estimated tax revenues equal two times the annual debt service on the bonds, to provide protection for investors. That's likely what it would take to earn an AA rating for the bonds.

Under this scenario, \$60 million in estimated annual tax receipts would cover \$30 million in annual debt service. The remaining \$30 million a year would be available for annual appropriation for transportation projects.

The actual amount the state could borrow in revenue bonds would depend on the motor fuel tax rate, bond interest rates at the time of issuance and other factors. The interest rate charged on revenue bonds would depend mostly on the creditworthiness of the revenue source — does the market believe the tax (or some other revenue source) would actually raise enough money to pay off the debt.

If it wanted, the state could borrow additional funds — beyond what it could access under the traditional scenario above — by paying a higher interest rate and issuing what is called subordinate debt. Under that scheme, the state could go to the market and essentially say to borrowers, OK, the first-lien bond holders have claim to the first 50% in tax revenues each year, but any subordinate borrowers willing to bet on the next 30% of the estimated tax receipts each year could earn a higher interest rate for loaning money to the state. Under such a debt issuance, the state would be compensating those subordinate borrowers for the higher risk that perhaps, just maybe, Alaskans would buy less motor fuel and tax revenues would fall short of what's needed to fully cover the bond debt. Under such a plan, the state could leverage 80% of its estimated tax revenues to raise a total of \$600 million on today's bond market. This would leave 20% of the tax available for annual appropriations after the debt service payments, or about \$12 million a year. Leveraging anything more than 80% of the projected revenues would be extremely costly to the state in high interest rates.

Dedicating motor fuel taxes for transportation spending is not a new idea; half of the states have revenue bonds backed by motor fuel taxes.

One point to keep in mind is that any dedication of motor fuel taxes to repay revenue bonds would mean those tax dollars are no longer available in the general fund for annual appropriation. In a real sense, it is a cut to future revenues, leaving a little less for legislators as they build the annual state budget.

Another option — if lawmakers wanted to raise even more money at a bond sale than motor fuel taxes could support in a straight revenue bond issuance — would be to go to voters twice: Once, for a constitutional amendment to dedicate motor fuel taxes to highway projects, and, in a second vote, to seek public approval of general obligation bonds for highway projects. The Legislature could use the two approvals to issue both revenue and general obligation bonds to amass a larger war chest for transportation funding.

If legislators want to go with debt, using revenue bonds to pay for some of the state's transportation needs would avoid placing the entire burden on the state's capacity for general obligation bonds.

Or the legislature could skip the dedicated-fund, revenue-bond approach and go with straight general obligation bonds to raise substantial funds for transportation projects.

General obligation bonds are painless in a way, in that they do not require a new tax or dedicated revenue stream. Rather, they are a binding pledge that one way or another, no matter what other demands are placed on state revenues, the State of Alaska will repay the debt. The money could come from motor fuel taxes, driver's license fees, oil production taxes — it really doesn't matter where the dollars come from once the taxes or fees are deposited into the general fund. And bondholders don't much care either where the debt service money comes from, as long as the state pays on time. The debt service payments simply become part of the annual appropriations package approved by legislators, the same as the state share of municipal school construction debt.

General obligation bonds require a vote of the public; revenue bonds do not.

A downside to general obligation bonds is that the promise to use general fund revenues to make payments on the debt means there would be less money available in the years ahead for legislators to spend on other needs. For example, a bond issue of \$700 million or so that commits the state to repay \$50 million a year for 20 years means that much less money would be on the table for school foundation funding, public health, state troopers or anything else.

Certainly, there is an element of fiscal risk for the state to borrow money and promise to pay it back from future general fund revenues at a time of declining North Slope oil production and uncertainty of the proposed Alaska natural gas pipeline. Oil has been the major source of state revenues for more than three decades, and Alaskans hope that new oil discoveries — and a gas pipeline — will do the same for many more decades to come. But there is no guarantee of future oil and gas revenues, and Alaska has always been cautious not to overextend itself in general obligation borrowing.

The bond market would react negatively if the state tried to issue too much general obligation debt. Unfortunately, there is no exact answer to the question: How much debt could the state issue without risking a downgrade by rating agencies and subsequently higher borrowing costs. The imprecise answer is: It depends on the future price of oil.

Assuming oil hung out around today's \$65- to \$70-per-barrel price range, the state next year probably could take on an additional \$500 million in new general obligation debt without much risk of a rating downgrade. If the Legislature wanted to build on that initial \$500 million, and if the public approved, the state probably could issue as much as an additional \$1.5 billion or so over the next five to ten years and still keep within the guideline that total debt load not exceed 5 percent to 8 percent of annual unrestricted revenues.

Of course, those numbers assume oil prices stay high enough to avoid any budget deficits; no other substantial new debt shows up on the state's books to eat away at cash flow; and the state retires its existing debt on schedule.

The state in Fiscal Year 2010 will pay about \$200 million on debt (general obligation bonds, certificates of participation, state share of municipal school construction debt and other borrowings). The Department of Revenue Spring 2009 forecast predicted unrestricted general fund revenue in Fiscal 2010 at \$3.2 billion, at \$58.29 oil — 5 percent to 8 percent of that would be \$160 million to \$256 million. The state's \$200 million in debt payments fall well within the acceptable range.

At \$65 oil, however, due to the revenue boost from the progressivity factor in the state's oil production taxes, the acceptable range for debt service from unrestricted revenues would climb to \$300 million to \$400 million, giving the state capacity to take on additional debt. This example, while showing the benefit of higher oil prices, also shows the risk of betting on future oil revenues.

In considering a possible general obligation bond issuance for transportation projects, the Legislature would want to consider:

- How much money is needed for projects statewide?
- How much could Alaska borrow without jeopardizing its favorable credit ratings?
- What other needs exist that might also require general obligation bonds in the future? If the state issues too much debt for transportation projects it could leave Alaska short of borrowing capacity for other needs in the years ahead, until the highway bonds are retired or new revenues boost the state's cash flow.
- How much less would it cost the state to spend cash each year for transportation projects rather than borrowing money and paying interest? Legislators would want to weigh the cost of borrowing against the benefit of having a substantial amount of cash up front to complete projects sooner than paying for the work by annual appropriations. Inflation will drive up the cost of construction in the years ahead, so the sooner the state contracts for the work the less it would cost. But interest on bonds adds up to a substantial amount. There's also the calculation that future dollars used to repay debt are worth less than today's dollars — a consideration when borrowing money and paying it back in the years ahead.
- The Legislature would want to ask how much the state already owes, if there is any new debt coming on line, and the schedule for paying off existing debt.

The state's debt obligations as of June 30, 2009, totaled \$502.8 million in general obligation bonds. State officials expect to issue an additional \$150 million in bonds in 2010 (the second half of a transportation bond issue approved by voters in November 2008). The debt service on the state's general obligation bond debt in Fiscal 2011 is scheduled at \$53.8 million — not counting any payments that might be due on the \$150 million in bonds to be issued next year.

In addition to its general obligation debt, the state had \$51.4 million outstanding in certificates of participation debt as of June 30, 2009, with no additional debt authorized. Payments on the outstanding certificates of participation total about \$8 million a year.

The state also is responsible for the debt on the Atwood Building (state office building) in Anchorage, the Anchorage jail and the soon-to-be-built Matanuska-Susitna Borough Goose Creek prison. That debt totaled \$309.7 million as of June 30, 2009. No additional debt is authorized at this time. The annual payments on the existing debt are about \$26.5 million.

And as of June 30, 2009, the state's share of annual debt service on municipal school bonds totaled about \$106 million a year — with more debt possible after this fall's municipal elections. The state's share of outstanding municipal school bond debt is about \$900 million.

One other requirement to remember for general obligation bonds is this: The ballot question must list the specific projects that would be funded by the bonds. The ballot issue can be written to allow some discretion for state transportation planners, but the general requirement to list actual projects usually forces a political discussion and compromise along geographical lines — there has to be something (enough) on the list for each region to garner sufficient legislative votes and the public's vote for passage.

Pros: Revenue bonds would not directly limit the state's future general obligation bond capacity.

Revenue bonds stand alone and do not draw directly from general fund.

General obligation bonds do not require new or increased taxes.

The state could raise a substantial amount of funds with a bond issue.

Cons: Basing revenue bonds on the public's acceptance of higher motor fuel taxes. There is a real cost to borrowing money.

Debt service commits future state revenues and could create tighter budgets in the future.

Toll road financing

The state could use highway tolls instead of motor fuel taxes to cover the debt on revenue bonds for specific, high-traffic projects. Many states pay for major highways through toll-financed debt issuance. But is there a highway project in Alaska with enough traffic to generate enough money to pay the bills? It takes a lot of cars and trucks paying a lot of dollars to pay back tens of millions or maybe hundreds of millions in toll road bonds, along with maintenance costs.

At one extreme, for example, New Jersey's two toll roads — the Turnpike and the Garden State Parkway — recorded more than 670 million vehicle trips in 2007, deriving 92 percent of their revenues from tolls (the rest came from roadway concessions). Of that toll revenue, more than half was paid by out-of-state motorists driving all or some of the more than 320 miles on the two toll roads. The revenues covered all expenses and debt payments; as of 2007, the New Jersey Turnpike Authority carried almost \$5 billion in outstanding bond debt. The state opened its first toll road segment more than 50 years ago.

At the other end of the traffic scale, South Carolina sold revenue bonds to finance construction and opened the Southern Connector eight years ago, providing a 16-mile bypass around a congested traffic area south of Greenville (on the road between Atlanta and Charlotte). The short toll road carries fewer than 6 million vehicles a year, less than 1% of the traffic on New Jersey's toll roads. Though the road is short, it took a very long time to build the project — 34 years from the first proposal to ribbon cutting.

In Alaska, the Knik Arm Bridge and Toll Authority proposes to pay for most of the crossing's construction costs with bonds financed by toll revenues. KABATA estimates 6 million toll-paying trips per year by the third year of operations for the proposed Knik Arm Crossing. The authority believes the toll revenues would be sufficient to cover several hundred million dollars in construction costs, though skeptics are less certain of traffic projections. The bond market could very well require state backup for toll road revenue bonds to protect investors against unknown toll receipts falling short of projections.

The only existing toll operation in Alaska is the Whittier Tunnel, though the toll revenues cover only a small portion of the actual construction costs and operations.

Pros: Users pay the costs.
No general fund dollars.

Cons: Are Alaskans willing to pay a toll to use existing highways that are now free?
Are Alaskans willing to pay a toll for new highways?
And is the state willing to back the bonds, in case toll revenues come up short?

Public-private partnerships

Public-private partnerships, known as 3Ps, were quite the rage in the 1990s as states and municipalities looked for new ways to pay for highway construction. But, like many hot new financing schemes, the 3Ps are less popular these days.

The Knik Arm Bridge and Toll Authority had pegged its financing future to a 3P plan — a privately run toll road.

The state-established toll authority is waiting for federal approval for the Knik Arm Crossing and dealing with the Endangered Species Act listing for Cook Inlet beluga whales. Meanwhile, further negotiations on the details of a financing plan are mostly on hold. The private firms interested in financing, building and operating the project had wanted the state to guarantee a minimum level of traffic and toll revenues; anything less than the guaranteed minimum and the state could have been required to write a check to cover the shortfall. Using the state treasury as a backstop for financing did not go over very well with the Palin administration. Besides, the problems in the worldwide credit market have dampened interest in privately financed, publicly owned transportation projects, leaving such a financing option uncertain for the Knik Arm crossing. But all that is waiting for federal permit approval and more work on belugas.

One difficulty the Knik Arm crossing faces — and why investors would like some kind of guarantee — is that traffic is an unknown. It's not like when the State of Indiana cut a deal in 2006 to lease out the Indiana Toll Road for 75 years to a joint venture of Spanish and Australian firms. In exchange for handing over the next 75 years of toll revenues, Indiana received \$3.8 billion cash for the deal. But in making the deal, Indiana could point to a 50-year history of proven toll revenues on the highway.

Simply put, it's difficult to sell Blue Sky (unknown revenues from future projects) to investors.

Endowment funded by the Permanent Fund or Constitutional Budget Reserve

Lawmakers could withdraw a large sum of money from the Constitutional Budget Reserve or earnings reserve account of the Permanent Fund, using the money to establish a separate, dedicated Alaska Transportation Fund. The choice then would be whether to use investment earnings from the new fund to pay for construction projects on an annual cash basis, or issue debt and use the earnings to pay back the bonds.

Either way — annual appropriations for specific projects or making debt service payments on bonds — would require a constitutional amendment to establish the endowment and dedicate it and its revenues to transportation projects.

Withdrawing money from the Permanent Fund principal also would require its own constitutional amendment. Taking the money for the new endowment from the Permanent Fund earnings reserve or Constitutional Budget Reserve would require a legislative appropriation — not a constitutional amendment — though certainly a politically contentious appropriation.

And any reduction in the investment balance of the Permanent Fund — from principal or earnings reserve — would reduce future dividends. The less money in the fund earning a profit on investments, the less earnings would be available for future dividends.

As for taking the money from the Constitutional Budget Reserve Fund, that could leave the state short if a steep drop in oil prices required a deep draw on the CBRF. The fund's balance as of Sept. 21 was about \$8 billion, sufficient for several years of small to moderate budget deficits if oil prices fall. There is always the risk, however, of large draws on the fund if world oil prices collapse. Tapping the budget reserve for a new transportation endowment also would reduce future earnings by the reserve fund — a \$2 billion reduction in the CBRF, for example, would significantly reduce the annual investment earnings that help feed the fund.

To secure bonds and receive the lowest interest rate possible, the state likely would have to pledge not only the earnings from the transportation fund but also the principal to protect investors in case earnings fall short in any given year and cannot cover the debt service.

Pros: No new taxes.
Substantial funds could be made available.

Cons: A dedicated fund would require a constitutional amendment.
Any withdrawal from the Permanent Fund would reduce future dividends.
Any draw on the Constitutional Budget Reserve could cause problems in the years ahead if oil prices fall and the state runs a deficit.
A year of low or negative investment earnings on the transportation fund would require a draw on the fund's principal to pay debt service or fund projects.

Allocating a portion of oil royalties or Permanent Fund earnings

Instead of withdrawing money from the Constitutional Budget Reserve or the Permanent Fund, the Legislature could consider diverting a percentage of future oil and gas royalties away from the general fund to a transportation fund. Or diverting a portion of Permanent Fund earnings to transportation projects.

For example, Alaskans amended the constitution in 1976 to direct at least 25 percent of oil and gas royalties to the Permanent Fund. They could be asked a similar question to establish the Alaska Transportation Fund. A 2.5 percent annual dedication of oil and gas royalties would raise approximately \$55 million a year at \$65 oil. The fund could be used to pay directly for projects each year or as collateral for a revenue bond issue with earnings to help cover debt service payments.

Of course, any diversion of royalties to a special fund would reduce state general fund revenues in future years. And it would require a constitutional amendment for the dedicated fund.

There also is the option of drawing each year on Permanent Fund earnings. The Legislature could adopt a percent-of-market-value approach for imposing a limit and governing the availability of Permanent Fund earnings for annual appropriation. If, for example, the Legislature wanted to adopt an annual withdrawal limit of no more than 5 percent of the Permanent Fund's market value (as the Permanent Fund trustees and others have long proposed), it could choose to dedicate — from within that 5 percent — 0.25 percent of the market value for annual appropriation to transportation projects. At a market value of \$32 billion, that would generate \$80 million a year.

Though much of the public is skeptical of the POMV approach for limiting annual expenditures from the Permanent Fund, perhaps some would react more favorably if a comprehensive, statewide transportation initiative were part of the deal?

Pros: No new taxes.

Substantial sum of money would be available.

Cons: Any diversion of oil and gas taxes or royalties away from the general fund could create revenue shortages in years of low oil prices.

Dedicated funds require a constitutional amendment.

Using Permanent Fund earnings could result in lower future dividends.

The politics of using Permanent Fund earnings would be controversial.

Selling off future state oil taxes or royalties

The state could raise cash today by selling off a portion of its future revenue stream from oil taxes or royalties. The state could approach investors and turn over a percentage of future taxes or royalties or even a fixed amount of barrels of oil each month in exchange for a large, up-front cash payment. Mining companies often generate cash for new developments this way by forward selling future gold production.

The risk to investors is that oil prices or production could fall, leaving them short. Which means investors would pay the state a discounted price for the future revenue stream.

The risk to the state is shortchanging the general fund of future revenues.

Pros: No new taxes.

Cons: Diverts future state revenues away from the general fund and annual appropriation process.

It would cost less to raise the same amount of money by general obligation or revenue bonds.

Stimulus Build America Bonds

The state could save money by availing itself of the Build America Bond program offered under the federal economic stimulus act. Under this program, the federal government pays a substantial portion of the interest on taxable public debt issues. The subsidy is available only on financings that could otherwise be sold as tax-exempt debt but where the issuer elects to sell taxable bonds to receive the federal subsidy equal to 35% of the interest expense on the bonds. The federal aid essentially buys down the state's cost to below the interest rate of tax-free debt

The State of Alaska could save 25 to 100 basis points on actual debt costs under the program, depending on the market, the term of the bonds, size of the bond issue and the issue's debt rating. It is estimated that in the current market a \$100 million, 20-year AA-rated bond issue by the State of Alaska would be priced at about 4.2% on a tax-exempt basis, while under the Build America Bond program the true cost to the state would be approximately 3.3%.

The idea is that the higher interest earned on taxable bonds would be attractive to some investors (such as pension funds and other institutional investors that do not pay income tax), and attractive to investors looking for lower-risk public debt, while the federal subsidy would drop the actual cost to states and municipalities below the lower interest rate they normally pay on tax-exempt bonds.

The federal subsidy on Build America Bonds is 35 percent of the interest rate for the life of the bonds. The subsidy is available on bonds issued through Dec. 31, 2010. There is no limit on the amount of bonds that can be issued under the program, though only government projects that otherwise would qualify for tax-exempt financing — such as schools, roads, universities and such — are eligible for the program.

The White House reported that 66 bond issues, totaling \$11 billion, were issued in the first seven weeks of the program. Several of the early issuances were for transportation work, including the New Jersey Turnpike Authority and New York State's Metropolitan Transportation Authority.

The state would face an extremely tight timeline to get in on this program, and the Legislature would need to consider changing statute to eliminate the requirement for a competitive bond sale to speed up the process.

Pros: Federal assistance reduces cost of borrowing.
No dollar limit to federal program.

Cons: Dec. 31, 2010, deadline for participation. That could be extremely tight if the bonds cannot go before voters until the November 2010 general election.

Creative financing

One idea the state has discussed with financial services firm J.P. Morgan Chase is using a general fund appropriation, say maybe \$2 billion, to create an oversize reserve for a bond issuance of an equal amount by a public corporation of the state. Debt service on the bonds, perhaps around \$145 million a year, could be covered by the general fund with help from earnings on the \$2 billion reserve.

The benefit of the oversized reserve is that it likely would achieve an AAA rating for the bond issue and therefore lower interest rates. The downside is that the \$2 billion in reserve is then yield restricted to the yield on the bonds that are issued. This essentially guarantees that the state would earn less on the \$2 billion than it would pay in interest on the bonds. This is because in periods of low investment earnings the state would still be responsible for all of the debt service, but in periods of high earnings any investment earnings on the reserve in excess of the rate on the bonds must be paid to the IRS.

While this idea would ensure that \$2 billion would be available for transportation projects, it is not beneficial from a financial perspective and the state would be better off simply appropriating \$2 billion to fund projects without any borrowing.

And, as with all debt, there would be costs of issuing the bonds — about \$20 million for \$2 billion in bonds

An additional downside is such a large appropriation for the bond reserve would be dependent on high oil prices to generate the extra general fund cash needed to fund the reserve. Or lawmakers could draw on the Constitutional Budget Reserve to set up the \$2 billion account, reducing the state's oil-price cushion in future years.

Pros: Ensures \$2 billion for transportation projects.
No new taxes.

Cons: It would reduce the state's earnings on the \$2 billion put into reserve.
The state would lose flexibility in using the \$2 billion while it's held in reserve.

Federal funds

Separate but pertinent to this discussion is the fact that the federal Highway Trust Fund is running close to empty. The account, which pays the federal share of highway projects nationwide, is supposed to be continuously refilled with federal motor fuel tax receipts. But tax revenues are not keeping up with spending needs, with the gap especially troublesome as Americans buy less gasoline and diesel and pay less in taxes.

Congress approved a stopgap \$7 billion appropriation for the highway fund before adjourning for its summer recess. The money, however, is not expected to last much past the end of the federal fiscal year Sept. 30, which means Congress will need to take further action to maintain the fund.

This was the second year Congress has had to appropriate general fund dollars to bail out the trust fund. Lawmakers added \$8 billion to the account last September.

The point of this information is the reality that Alaska probably should not look to Congress and the federal government for substantial additional amounts of transportation funds for the next several years. Congress will have enough trouble finding the money just to maintain existing commitments for federal sharing.

The separate Power Point presentation accompanying this report shows year-to-year federal funding for transportation projects in Alaska.



Alaska State Legislature

Representative Peggy Wilson
House District 2

MEMORANDUM

Date: April 12, 2010

To: Senator Albert Kookesh
Senate Transportation Committee

From: Representative Peggy Wilson

Re: HJR 42 - Constitutional Amendment:Transportation Fund

I would like to request the Senate Transportation Committee schedule a hearing on HJR42.

HJR 42 will put a constitutional amendment before voters to change the Alaska constitution to allow a dedicated fund for Capital Transportation Projects.

Alaska is geographically the largest state in the country, and the future of the economic and social well being of its citizens is critically dependent on a reliable transportation system. This change to the State Constitution, allowing a dedicated transportation fund, is needed to create and maintain a modern, reliable transportation system for Alaska.

Thank you for your consideration.

26-LS1411\T
Kane
4/13/10

SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 42()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A RESOLUTION

1 **Proposing amendments to the Constitution of the State of Alaska creating a**
2 **transportation infrastructure fund.**

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

4 *** Section 1.** Article IX, sec. 7, Constitution of the State of Alaska, is amended to read:

5 **Section 7. Dedicated Funds.** The proceeds of any state tax or license shall not
6 be dedicated to any special purpose, except as provided in Sections 15 and 18
7 [SECTION 15] of this article or when required by the federal government for state
8 participation in federal programs. This provision shall not prohibit the continuance of
9 any dedication for special purposes existing on April 24, 1956 [UPON THE DATE
10 OF RATIFICATION OF THIS SECTION BY THE PEOPLE OF ALASKA].

11 *** Sec. 2.** Article IX, Constitution of the State of Alaska, is amended by adding a new
12 section to read:

13 **Section 18. Transportation Infrastructure Fund.** (a) The revenue received
14 after July 1, 2011, from any state tax on fuel used for the propulsion of motor vehicles,
15 aircraft, and watercraft, less those refunds, credits, and collection costs that are
16 provided by law, and from a registration fee levied for a motor vehicle, not including

1 special registration fees as provided by law, shall be placed in a transportation
 2 infrastructure fund. The legislature may appropriate additional amounts to the fund.
 3 The fund shall be managed as an endowment. Each year, the legislature may
 4 appropriate a percentage of the state fuel taxes and registration fees received by the
 5 fund in that year and a percentage of the average market value of the fund as
 6 established by law for capital projects ^{or major maintenance} for transportation and related facilities that are
 7 designated by law and for costs related to motor vehicle licensing and registration that
 8 are designated by law.

9 (b) The legislature shall provide by law for the management and investment of
 10 the fund balance. The income earned from the fund shall be deposited into the fund.

11 * Sec. 3. The amendments proposed by this resolution shall be placed before the voters of
 12 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
 13 State of Alaska, and the election laws of the state.

*Major
 Maintenance Projects
 Provision: included?*

HJR

47

ALASKA STATE LEGISLATURE



REPRESENTATIVE KYLE JOHANSEN
MAJORITY LEADER

SPONSOR STATEMENT

HJR 47 – Urging the United States Coast Guard to amend its regulations relating to small vessels transporting fuel and supplies to remote communities and businesses in the state

HJR 47 asks the United States Coast Guard to amend its regulations to allow for small vessels to simultaneously carry fuel, cargo and passengers and be constructed of aluminum.

The delivery of supplies to communities, homes and businesses in rural Alaska can be costly. Most supplies get to these remote communities and businesses via large barge companies or plane and within this transportation sector there is a niche that can be exploited by smaller vessels to carry supplies that are too big for a plane but does not warrant the use of a large tug and barge operation.

Current federal laws and regulations do not allow this. While 46 USC 3302(i)(1) does provide for single vessel exemptions, the law prohibits what can be a successful sector of the transportation industry in Alaska.

This legislation asks the federal government to take into consideration the transportation challenges of Alaska and its effect on the state's economy. I urge your support.

Session: State Capitol, Juneau, AK 99801-1182 • (907) 465-3424 • Fax (907) 465-3793

Interim: 50 Front Street, Suite 203, Ketchikan, AK 99901 • (907) 247-4672 • Fax (907) 225-8546

Coffman Cove • Hollis • Ketchikan • Meyers Chuck • Saxman • Thorne Bay

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HJR 47
 (H) Publish Date: 3/24/10

Identifier (file name) : HJR47-DOT-CO-3-23-10 Dept. Affected: DOT&PF
 Title Small Vessel Cargo Exemption RDU Administration and Support
 Component Commissioner's Office
 Sponsor Rep. Johansen
 Requester H TRA Component Number 530

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact to the department.

Prepared by: Mary Siroky, Legislative Liaison
 Division: Department of Transportation and Public Facilities
 Approved by: Frank Richards, Deputy Commissioner
Department of Transportation and Public Facilities

Phone 465-4772
 Date/Time 3/23/10 11:30 AM
 Date 3/23/2010

COMMITTEE COPY