

LEG. FINANCE - BILLS 1977 - 1978

1010

Executive Order 39 cont.

1000

DRAFT January 28, 1977

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DIVISION OF MARINE FACILITIES

FUNCTIONAL DUTIES:

Responsible for designing and construction of all harbor facilities including public docks, floats, launching ramps and other associated harbor improvements.

DRAFT January 28, 1977

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DIVISION OF TRANSPORTATION DESIGN

FUNCTIONAL DUTIES:

1. Receives and reviews program proposals from transportation planning, evaluates planning and program data related to proposals, participates in selection of consultants.
2. Instructs consultants, or in-house design staff, as to specific procedures and design standards to be applied to projects and supervises consultants/ staff in the prosecution of work.
3. Approves and assembles the drawings, specifications and other documents, and transmits them to the Division of Transportation Construction to be placed in final contract form.
4. Develops and maintains information received from the Regional Offices and other agencies for use in planning and coordinating the State's long range construction program, and for developing life cycle cost information.
5. Manages the Regional Offices.

DRAFT January 28, 1977

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DIVISION OF TRANSPORTATION CONSTRUCTION

FUNCTIONAL DUTIES:

1. Reviews designs developed by Division of Transportation Design for conformance with sound construction practice and departmental policy; prepares documents necessary for the bidding and contract phases.
2. Accepts bids, makes recommendations to the Commissioner for bid award, and administers construction contracts through the construction and warranty phases, certifies project acceptance.
3. Continuously monitors construction contracts to evaluate the legal consequences to the State of work performance and takes positive action as necessary to protect the interest of the State and to ensure timely completion of a project in conformance with contract documents.
4. Aids in the collection of data for use in planning and developing Life Cycle Cost information.
5. Instructs Owner personnel in procedures necessary to ensure adequate maintenance and operation of completed facilities.

DRAFT January 28, 1977

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DIVISION OF GENERAL CONSTRUCTION

FUNCTIONAL DUTIES:

1. Reviews designs developed by Division of General Design for conformance with sound construction practice and departmental policy; prepares documents necessary for the bidding and contract phases.
2. Accepts bids, makes recommendations to the Commissioner for bid award and administers construction contracts through the construction and warranty phases, certifies project acceptance.
3. Continuously monitors construction contracts to evaluate the legal consequences to the State of work performance and takes positive action as necessary to protect the interest of the State and ensure timely completion of a project in conformance with contract documents.
4. Aids in the collection of data for use in planning and developing life cycle information.
5. Instructs Owner personnel in procedures necessary to ensure adequate maintenance and operation of completed facilities.

DRAFT January 28, 1977

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
DESIGN AND CONSTRUCTION DIVISION - REGIONAL OFFICES

FUNCTIONAL DUTIES:

(As explained in Division Description)

Divisions of General Design, General Construction and Transportation Design organized under Regional Chiefs located in Juneau, Anchorage, and Fairbanks.

Division of Transportation Construction organized under Regional Chiefs located in Juneau, Anchorage, Fairbanks, Valdez and Nome as required.

1 Sec. 44.42.070. GRANTS TO THE DEPARTMENT. The commissioner may
2 apply for and accept, on behalf of the state, grants from the federal
3 government or an agency of it or from another state, a foundation,
4 corporation, association or individual, for any of the functions or
5 purposes of the department, and may expend the money received under this
6 section for those functions or purposes.

7 Sec. 44.42.080. LIMITATION ON TRANSPORTATION FACILITIES. The
8 department shall consult with the appropriate officials of other depart-
9 ments regarding environmental risks and economic and social considera-
10 tions that may arise by reason of the location, design, construction or
11 reconstruction of transportation facility.

12 * Sec. 3. (a) The Department of Transportation is vested with the duties
13 and powers formerly held by the Department of Public Works relating to
14 planning, construction, maintenance and operation of transportation facili-
15 ties, including state ferries, airports and water and harbor facilities
16 except for design and construction of buildings and appurtenant structures.

17 (b) The Department of Transportation is vested with the duties and
18 powers formerly held by the Department of Highways relating to planning,
19 construction, maintenance and operation of state transportation facilities
20 including state highways, roads, bridges, traffic signs and signals, the
21 supervision and maintenance of state automotive and mechanical equipment, the
22 control of outdoor advertising visible from state highways and all other
23 duties and powers of the Department of Highways.

24 * Sec. 4. The commissioner of transportation shall replace the commis-
25 sioner of highways on the State Geographic Board, the Alaska Toll Bridge
26 Authority, and all other boards and commissions.

27 * Sec. 5. AS 44.19.700 - 44.19.714 and AS 44.44.010 are repealed.

28 * Sec. 6. This Act takes effect July 1, 1977.
29

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

CC 70
Steve Cowper
JAY S. HAMMOND, GOVERNOR

POUCH K - STATE CAPITOL
JUNEAU 99811

February 17, 1977

The Honorable Chancy Croft
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

FEB 17 1977

Re: Exec. Order No. 39

Dear Senator Croft:

This responds to your inquiry of February 10, 1977, on this subject.

You have asked, first, whether the language of AS 44.42.050, as proposed by Exec. Order No. 39, providing for funds for transportation projects to be itemized as "allocations" within the general appropriation bill might in any way restrict the legislature's power to amend the bill and itemize those funds as "appropriations" rather than "allocations." The short answer is no.

No rule of law is better settled throughout the United States than that a state Legislature has absolute power to enact, that is, pass, amend, or repeal any law whatsoever it pleases, unless it is prohibited from doing so by either the state or federal constitutions. . . .
Richards v. Whisman, 154 N.W. 707, 710 (S.D. 1915).

In plain fact and law, the power of the legislature in making law, and that includes appropriations, is plenary, subject only to constitutional restraints. Jones v. Maine State Highway Comm'n., 238 A.2d 226, 230 (Me. 1968).

The provisions of proposed AS 44.42.050 in Exec. Order No. 39 are statutory in nature and not constitutional, and they cannot inhibit this or any future legislature in its handling of appropriations. We view those provisions solely as directory upon the executive when it submits its proposed annual budget and appropriation bill under the Alaska Constitution, art. IX, § 12.

Accordingly, the proposed budgetary provisions in Exec. Order No. 39 can in no way whatsoever impair the legislature's power over appropriations.

You have also asked whether section 12 of Exec. Order No. 39, which authorizes transfers between appropriations as necessary to carry out the departmental merger proposed by Exec. Order No. 39 is in conflict with the Executive Budget Act, AS 37.07.080(e), as amended last year to prohibit transfers between appropriations. The short answer is yes. */

AS 37.07.080(e) provides in relevant part:

No transfers may be made between appropriations.

Section 12 of Exec. Order No. 39 reads:

*/ Of course, the very existence of the executive order indicates that the Governor's proposals are inconsistent or otherwise in conflict with law and need the force of law to take effect. This is the very situation which art. II, § 23 of the constitution covers.

During Fiscal Year (sic) 1978, all appropriation items made for that fiscal year and prior years for the Department of Highways and the Department of Public Works may, upon approval of the governor, be appropriately transferred to [effect] the purposes of this Order.

The latter provision is in conflict on its face with the former. It is also, of course, essential to carry out the executive order, and obviously constitutes a limited, temporary exception to AS 37.07.080(e).

Finally, you have asked which provision, AS 37.07.-080(e) or section 12, Exec. Order No. 39, will prevail. The short answer is that, if the legislature does not disapprove Exec. Order No. 39, then its provisions will prevail.

The ultimate power over the matter lies with the legislature. If it disapproves Exec. Order No. 39, that order will have no force or effect. But when the governor reorganizes and the changes require the force of law, then he may make them by an executive order and they will effectively change the law unless disapproved by the legislature. Alaska Const., art. III, § 23. That is precisely what Exec. Order No. 39 proposes, and section 12 of the order is an essential and integral part of that proposed change.

The controlling provisions of the constitution read as follows:

Where these changes [in the organization of the executive branch or in the assignment of functions among its

TO: All Juneau Civil Support
and Attorney Staff

DATE: February 16, 1977

FILE NO:

TELEPHONE NO.

FROM: Wilson L. Condon
Deputy Attorney General

SUBJECT: Civil Rule 76(d)(3)
Requirements

A large packet of pleadings dating back to August 10, 1976 has been returned to us unfiled by the Superior Court clerk's office in Anchorage. They will not accept and file pleadings without the C.A. number. If we do not know the number, when we prepare the pleadings, we should send pleadings to the Anchorage civil office and ask them to file for us. They can find the number when they file.

WLC:jeh

units] require the force of law, they shall be set forth in executive orders. Id.

The organization of the two departments and their assigned functions and their respective appropriations are now prescribed by law. Hence, the changes in them require the force of law, and the constitution requires the executive order. The controlling constitutional provisions continue:

The legislature shall have sixty days of a regular session . . . to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor. Id.

Thus, unless the legislature disapproves, the changes become effective with the force of law at the date designated by the governor.

It might be suggested that the governor may change the law with respect to organization and assignment of functions but not with respect to appropriation. That result would be illogical. The money appropriated must follow the function for which it was appropriated, and it seems probable that it does as a matter of law even without a provision such as section 12 of Exec. Order No. 39.

Suppose, for example, that the Division of Lands were transferred by executive order to a new, separate Department of Surface Resources. It would be absurd for the

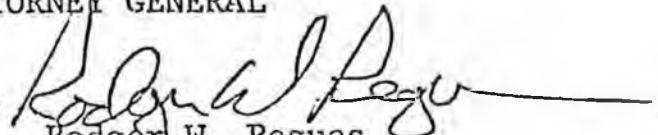
Department of Natural Resources to retain the appropriations made to it for the functions thereafter assigned to the new department. Section 12 of Exec. Order No. 39 does nothing more than restate the applicable law.

In sum, the legislature's power over the subject is plenary; the order cannot in any manner impair the legislature's powers to appropriate money. But the proposed changes, including those for subsequent transfers between appropriations, will have the force of law unless Exec. Order No. 39 is duly disapproved.

Because of the importance of this matter, copies of this opinion are being sent to the President of the Senate and the Speaker of the House.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Rodger W. Pegues
Assistant Attorney General

RWP:chp

cc: Hon. John Rader
Hon. Hugh Malone ✓

COMMITTEE REPORT

HOUSE

Mr. Speaker:

Date _____

The Committee on _____ has had _____

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLAC'D WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

HOUSE
JOURNAL SUPPLEMENT

January 11, 1977

No. 1

EXECUTIVE ORDER NO. 39

Under the authority of Article III, Section 23 of the Constitution of the State of Alaska, and in accordance with AS 24.30.130(b), I order the following:

* Section 1. FINDINGS AND PURPOSE. As governor, I find that the diverse transportation needs of the state would best be served by the creation of a single department for the planning, study, development, management and operation of integrated, intermodal transportation systems. The purpose of this department is to evaluate, plan, design, construct, manage, operate and maintain all state transportation modes and systems, relying on analysis of the relative advantages of different modes and systems and considering their social, economic, and environmental consequences.

* Sec. 2. AS 44 is amended by adding a new chapter to read:

CHAPTER 42. DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES.

Sec. 44.42.010. COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES. The principal executive officer of the Department of Transportation and Public Facilities is the commissioner of transportation and public facilities.

Sec. 44.42.020. POWERS AND DUTIES. (a) The department shall

- (1) plan, design, construct and maintain all state modes of transportation and transportation facilities, communication facilities, and all docks, floats, breakwaters, buildings and similar facilities;
- (2) study existing transportation modes and facilities and communication facilities in the state to determine how they might be improved or whether they should continue to be maintained;
- (3) study alternative means of improving transportation and communication in the state with regard to the economic costs of each alternative and its environmental and social effects;
- (4) develop a comprehensive, long-range intermodal transportation plan for the state;
- (5) study alternatives to existing modes of transportation in urban areas and develop plans to improve urban transportation;
- (6) cooperate and coordinate with and enter into agreements with federal, state and local government agencies and private organizations and persons in exercising its powers and duties;

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

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

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

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

(11) supervise and maintain all state automotive and mechanical equipment, aircraft, and vessels, except vessels and aircraft used by the Department of Fish and Game or the Department of Public Safety; and

(12) supervise aeronautics and communications inside the state, under AS 02.10.

(b) The department may

(1) engage in experimental projects relating to available or future modes of transportation and any means of improving existing transportation facilities and service and communication;

(2) exercise the power of eminent domain, including the declaration of taking as provided in AS 09.55.

Sec. 44.42.030. REGULATIONS. The department may adopt regulations under the Administrative Procedure Act (AS 44.62) to implement, interpret, or make more specific its powers and duties.

Sec. 44.42.040. DEPARTMENTAL ORGANIZATION. The commissioner shall establish regions within the state. The functions of the department within each region shall be performed, to the maximum extent feasible, through a regional office. Each regional office shall be directed by a regional transportation and public facilities director appointed by the commissioner.

Sec. 44.42.050. STATE TRANSPORTATION PLAN. (a) The commissioner shall develop annually a comprehensive, intermodal, long-range transportation plan for the state. In developing and revising the state plan, the commissioner shall consider means and costs of improv-

ing existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities. The commissioner shall also consider the recommendations of the Alaska Transportation Planning Council. The plan shall be submitted to the governor for his review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

(1) consult and cooperate with officials and representatives of the federal government, other governments, interstate commissions and authorities, local agencies and authorities, interested corporations and other organizations concerning problems affecting transportation in the state; and

(2) request from an agency or other unit of the state government or of a political subdivision of it, or from a public authority, the assistance and data that may be necessary to enable the commissioner to carry out his responsibilities under this section; every such entity shall provide the assistance and data requested.

(c) Copies of the plan, as revised, shall be kept on file as a public document in the office of the commissioner and at each regional office of the department.

(d) The plan shall include a description of projects planned for design and construction for the following two years. The description is in addition to the long-range plan required by (a) of this section and by AS 19.10.140. The description shall include an itemization of the estimated cost for each project and the total cost of all projects. The commissioner shall propose and forward to the governor for his review and approval and inclusion, as approved, in the capital budget a construction program which includes the projects to be undertaken during the following two years, including recommended project priorities. Funds for transportation construction projects and necessary contingencies shall be itemized as allocations within the bill for the general appropriations Act.

Sec. 44.42.060. GRANTS TO THE DEPARTMENT. The commissioner may apply for and accept, on behalf of the state, grants from the federal government or an agency of it, or from another state, a foundation, or any person, for any of the functions or purposes of the department.

Sec. 44.42.070. LIMITATION ON TRANSPORTATION FACILITIES. The department shall consult with the appropriate officials of other

HOUSE JOURNAL
SUPPLEMENT

No. 1

January 11, 1977

departments regarding environmental risks and economic and social considerations that may arise by reason of the location, design, construction or reconstruction of a transportation facility.

Sec. 44.42.900. DEFINITIONS. In this chapter, unless the context requires otherwise,

(1) "commissioner" means the commissioner of the Department of Transportation and Public Facilities;

(2) "department" means the Department of Transportation and Public Facilities;

(3) "transportation" or "transportation mode" includes, but is not limited to, the following means of conveyance or travel, including their related or auxiliary structures, facilities or services: air, rail, water, highway, and pipeline.

* Sec. 3. AS 28.05.020 is amended to read:

Sec. 28.05.020. AUTHORITY OF COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES [HIGHWAYS] TO ADOPT REGULATIONS. The commissioner of transportation and public facilities [HIGHWAYS] may adopt [RULES AND] regulations

(1) preventing the restriction, obstruction, or stoppage of normal traffic upon any road or highway;

(2) prohibiting a person from committing a wilful or careless act causing injury or damage to a road, highway, trail, or bridge;

(3) governing the size, weight, and load limits of all vehicles operating upon public roads, highways, or bridges, [INCLUDING THE ISSUANCE OR WITHHOLDING OF SPECIAL PERMITS FOR EXCESSIVE SIZES, WEIGHTS, AND LOADS; LIMITING OR PRESCRIBING CONDITIONS OF OPERATION OF VEHICLES, WHEN NECESSARY] to assure against undue damage to the road foundations, surfaces, or structures; and prescribing fees for special permits.

* Sec. 4. AS 28.05.025 is amended to read:

Sec. 28.05.025. WEIGHING STATIONS; ENFORCEMENT [AUTHORITY OF THE DEPARTMENT OF COMMERCE TO ADOPT REGULATIONS]. The Department of Public Safety [COMMERCE] is responsible for the operation of motor vehicle weighing stations, and the enforcement of highway size, weight and load limitations including the issuance or withholding of special permits and prescribing fees for special permits, limiting or prescribing conditions of operation of oversized or overweight vehicles. The department shall adopt [RULES AND] regulations necessary for the operation of motor vehicle weighing stations, and regulations necessary to enforce size, weight and load limitations on state highways.

* Sec. 5. AS 30.07.020 is amended to read:

Sec. 30.07.020. REGULATIONS. The Department of Transportation and Public Facilities [COMMERCE] may adopt [PROMULGATE] regulations, not in conflict with federal law or regulations, which establish standards for marine communications in the state.

* Sec. 6. AS 39.25.120 is amended by adding a new paragraph to read:

(9) regional directors of the Department of Transportation and Public Facilities.

* Sec. 7. AS 44.15.010(15) is amended to read:

(15) Department of Transportation and Public Facilities [HIGHWAYS].

* Sec. 8. All litigation, hearings, investigations and other proceedings pending under a law amended or repealed by this Order, or in connection with functions transferred by this Order, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Order. Certificates, orders, and regulations issued or adopted under authority of a law amended or repealed by this Order remain in effect for the term issued, until revoked, vacated, or otherwise modified under the provisions of this Order. All contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Order, and in effect on the effective date of this Order, remain in effect notwithstanding this Order's taking effect. Records, equipment, and other property of agencies of the state whose functions are transferred under this Order shall be transferred commensurate with the provisions of this Order.

* Sec. 9. (a) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Public Works relating to planning, construction, maintenance and operation of transportation facilities, including state ferries, airports and water and harbor facilities, and for design and construction of buildings and appurtenant structures, and specifically including all powers and duties formerly held by the Department of Public Works under AS 02, AS 30.05, AS 30.15, AS 35, AS 41.20 and AS 44.05.

(b) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Highways relating to planning, construction, maintenance and operation of state transportation facilities including state highways, roads, bridges, traffic signs and signals, the supervision and maintenance of state automotive and mechanical equipment, the control of outdoor advertising visible from state highways and all other duties and powers of the Department of Highways, and specifically including powers and duties formerly held by the Department of Highways under AS 19, AS 28.01, AS 28.05, and AS 44.57.

* Sec. 10. The commissioner of transportation and public facilities shall replace the commissioner of highways on the state Geographic Board, the Alaska Toll Bridge Authority, and all other boards and commissions.

* Sec. 11. All other references in the Alaska Statutes to the Department of Highways or the commissioner of highways, or to the Department of Public Works or the commissioner of public works, not expressly amended by or referred to in this Order shall be read as the Department of Transportation and Public Facilities or the commissioner of transportation and public facilities, respectively, in order to implement this Order.

* Sec. 12. During Fiscal Year 1978, all appropriation items made for that fiscal year and prior years for the Department of Highways and the Department of Public Works may, upon approval of the governor, be appropriately transferred to implement the purposes of this Order.

* Sec. 13. AS 44.15.010(13), AS 44.33.020(9), AS 44.43, and AS 44.44 are repealed.

* Sec. 14. This Order takes effect July 1, 1977.

DATED: January 10, 1977, at Juneau, Alaska.



JAY BYRNES
Governor

HOUSE JOURNAL

March 8, 1977

The Honorable Hugh Malone
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

SUBJECT: EXECUTIVE ORDER 39

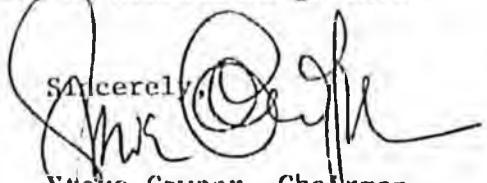
Executive Order 39, which would consolidate transportation functions currently located in the Departments of Public Works and Highways into a new Department of Transportation, was placed before this legislature on January 11. When the executive order was submitted to the legislature, it was not accompanied by proposed organization plans or an operating budget related to the proposed consolidated department. Thus, the House Finance Committee was confronted with the problem of being asked to review and make recommendations on a budget for transportation services that bore little resemblance to the proposed new department.

On January 20 Representative Oral Freeman, Chairman of the Transportation Subcommittee, wrote the Governor and advised him of this predicament. The Governor responded on January 26 that Representative Freeman's request had been referred to Budget and Management for response, and on February 1 Commissioner Harris submitted a three-page letter briefly outlining the "changed by reorganization" and "unchanged by reorganization" budget components of the Transportation category. This response fell far short of providing sufficient information on which to base budget decisions, thus you, Mr. Speaker, wrote to Commissioner Harris on February 8 setting February 21 as the deadline for receipt by the House Finance Committee of a reasonably complete Department of Transportation budget.

A revised budget containing summary level detail and position transfers and deletions was submitted to the Finance Committees by Commissioner Harris on February 22. This document, though nowhere near as complete as the normal budget presentation, was nonetheless complete enough to give the Transportation Subcommittee some idea of the organizational structure of the new department and the resulting shifts in personnel and resources. It was on this revised document--contemplating the approval of Executive Order 39--that the Transportation Subcommittee yesterday made its budget recommendation to the full committee.

To summarize, Mr. Speaker, the Finance Committee has tentatively adopted a budget based on the DOT concept. But, the Committee believes that following two years of discussion by the Executive of a DOT concept the Executive should have presented with their executive order 1) a complete organizational lay-out of the proposed department, and 2) the related budget and backup material to support the reorganization. Though the Committee does not like the way in which the proposal was delivered, those concurring in the Chairman's letter feel the consolidated department approach offers sufficient benefits to the state to warrant the Committee's recommendation that Executive Order 39, establishing a Department of Transportation and Public Facilities, be allowed to go into effect.

Sincerely,



Steve Cowper, Chairman
House Finance Committee

HOUSE JOURNAL

CONCURRING

Cowper
Rhode
Buchholdt
Gruening

NOT CONCURRING

Swanson
Haugen

NO RECOMMENDATION

Duncan
Freeman
Schaeffer



JUNEAU ALASKA

Alaska State Legislature
House

to Finance

February 3, 1977

Rep. Hugh Malone, Speaker,
Rep. Steve Cowper, Finance
Alaska State Legislature
Capitol Building
Juneau, Alaska 99801

Re: E.O. 39, HB-92, and HB-3

Dear Mr. Speaker and Finance Chairman:

The House State Affairs Committee has reviewed Executive Order 39 and advises that no negative action be taken at this time. In the event that Executive Order 39 does take effect, any specific changes could be accommodated in the context of amending HB-92 and HB-3. Such amendments are presently being formulated by this committee.

Thank you.

Sincerely,


REPRESENTATIVE BOB BRADLEY
HOUSE STATE AFFAIRS CHAIRMAN

JAY S. HAMMOND
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 18, 1977

The Honorable Hugh Malone
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

I recognize the significance of the reorganizational magnitude embodied in Executive Order 39, creating a Department of Transportation, and I recognize that certain appropriation transfers may be necessary during the initial year of operation. Notwithstanding the wording contained in Executive Order 39, Section 12, it is my intention to submit transfers between appropriations made to the new Department of Transportation to the Legislative Budget and Audit Committee throughout Fiscal Year 1978 for their approval.

Sincerely,

A large, stylized handwritten signature in dark ink, appearing to read "Jay S. Hammond".

Jay S. Hammond
Governor



JUNEAU ALASKA

Alaska State Legislature
House

to Finance

February 3, 1977

Rep. Hugh Malone, Speaker,
Rep. Steve Cowper, Finance
Alaska State Legislature
Capitol Building
Juneau, Alaska 99801

Re: E.O. 39, HB-92, and HB-3

Dear Mr. Speaker and Finance Chairman:

The House State Affairs Committee has reviewed Executive Order 39 and advises that no negative action be taken at this time. In the event that Executive Order 39 does take effect, any specific changes could be accommodated in the context of amending HB-92 and HB-3. Such amendments are presently being formulated by this committee.

Thank you.

Sincerely,


REPRESENTATIVE BOB BRADLEY
HOUSE STATE AFFAIRS CHAIRMAN

HOUSE
JOURNAL SUPPLEMENT

January 11, 1977

No. 1

EXECUTIVE ORDER NO. 39

Under the authority of Article III, Section 23 of the Constitution of the State of Alaska, and in accordance with AS 24.30.130(b), I order the following:

* Section 1. FINDINGS AND PURPOSE. As governor, I find that the diverse transportation needs of the state would best be served by the creation of a single department for the planning, study, development, management and operation of integrated, intermodal transportation systems. The purpose of this department is to evaluate, plan, design, construct, manage, operate and maintain all state transportation modes and systems, relying on analysis of the relative advantages of different modes and systems and considering their social, economic, and environmental consequences.

* Sec. 2. AS 44 is amended by adding a new chapter to read:

CHAPTER 42. DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES.

Sec. 44.42.010. COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES. The principal executive office of the Department of Transportation and Public Facilities is the commissioner of transportation and public facilities.

Sec. 44.42.020. POWERS AND DUTIES. (a) The department shall

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

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

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

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

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

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

HOUSE JOURNAL

No. 1

SUPPLEMENT

January 11, 1977

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

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

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

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

(11) supervise and maintain all state automotive and mechanical equipment, aircraft, and vessels, except vessels and aircraft used by the Department of Fish and Game or the Department of Public Safety; and

(12) supervise aeronautics and communications inside the state, under AS 02.10.

(b) The department may

(1) engage in experimental projects relating to available or future modes of transportation and any means of improving existing transportation facilities and service and communication;

(2) exercise the power of eminent domain, including the declaration of taking as provided in AS 09.55.

Sec. 44.42.030. REGULATIONS. The department may adopt regulations under the Administrative Procedure Act (AS 44.62) to implement, interpret, or make more specific its powers and duties.

Sec. 44.42.040. DEPARTMENTAL ORGANIZATION. The commissioner shall establish regions within the state. The functions of the department within each region shall be performed, to the maximum extent feasible, through a regional office. Each regional office shall be directed by a regional transportation and public facilities director appointed by the commissioner.

Sec. 44.42.050. STATE TRANSPORTATION PLAN. (a) The commissioner shall develop annually a comprehensive, intermodal, long-range transportation plan for the state. In developing and revising the state plan, the commissioner shall consider means and costs of improv-

ing existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities. The commissioner shall also consider the recommendations of the Alaska Transportation Planning Council. The plan shall be submitted to the governor for his review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

(1) consult and cooperate with officials and representatives of the federal government, other governments, interstate commissions and authorities, local agencies and authorities, interested corporations and other organizations concerning problems affecting transportation in the state; and

(2) request from an agency or other unit of the state government or of a political subdivision of it, or from a public authority, the assistance and data that may be necessary to enable the commissioner to carry out his responsibilities under this section; every such entity shall provide the assistance and data requested.

(c) Copies of the plan, as revised, shall be kept on file as a public document in the office of the commissioner and at each regional office of the department.

(d) The plan shall include a description of projects planned for design and construction for the following two years. The description is in addition to the long-range plan required by (a) of this section and by AS 19.10.140. The description shall include an itemization of the estimated cost for each project and the total cost of all projects. The commissioner shall propose and forward to the governor for his review and approval and inclusion, as approved, in the capital budget a construction program which includes the projects to be undertaken during the following two years, including recommended project priorities. Funds for transportation construction projects and necessary contingencies shall be itemized as allocations within the bill for the general appropriations Act.

Sec. 44.42.060. GRANTS TO THE DEPARTMENT. The commissioner may apply for and accept, on behalf of the state, grants from the federal government or an agency of it, or from another state, a foundation, or any person, for any of the functions or purposes of the department.

Sec. 44.42.070. LIMITATION ON TRANSPORTATION FACILITIES. The department shall consult with the appropriate officials of other

HOUSE JOURNAL
SUPPLEMENT

No. 1

January 11, 1977

departments regarding environmental risks and economic and social considerations that may arise by reason of the location, design, construction or reconstruction of a transportation facility.

Sec. 44.42.900. DEFINITIONS. In this chapter, unless the context requires otherwise,

(1) "commissioner" means the commissioner of the Department of Transportation and Public Facilities;

(2) "department" means the Department of Transportation and Public Facilities;

(3) "transportation" or "transportation mode" includes, but is not limited to, the following means of conveyance or travel, including their related or auxiliary structures, facilities or services: air, rail, water, highway, and pipeline.

* Sec. 3. AS 28.05.020 is amended to read:

Sec. 28.05.020. AUTHORITY OF COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES [HIGHWAYS] TO ADOPT REGULATIONS. The commissioner of transportation and public facilities [HIGHWAYS] may adopt [RULES AND] regulations

(1) preventing the restriction, obstruction, or stoppage of normal traffic upon any road or highway;

(2) prohibiting a person from committing a wilful or careless act causing injury or damage to a road, highway, trail, or bridge;

(3) governing the size, weight, and load limits of all vehicles operating upon public roads, highways, or bridges, [INCLUDING THE ISSUANCE OR WITHHOLDING OF SPECIAL PERMITS FOR EXCESSIVE SIZES, WEIGHTS, AND LOADS; LIMITING OR PRESCRIBING CONDITIONS OF OPERATION OF VEHICLES, WHEN NECESSARY] to assure against undue damage to the road foundations, surfaces, or structures; and prescribing fees for special permits.

* Sec. 4. AS 28.05.025 is amended to read:

Sec. 28.05.025. WEIGHING STATIONS; ENFORCEMENT [AUTHORITY OF THE DEPARTMENT OF COMMERCE TO ADOPT REGULATIONS]. The Department of Public Safety [COMMERCE] is responsible for the operation of motor vehicle weighing stations, and the enforcement of highway size, weight and load limitations including the issuance or withholding of special permits and prescribing fees for special permits, limiting or prescribing conditions of operation of oversized or overweight vehicles. The department shall adopt [RULES AND] regulations necessary for the operation of motor vehicle weighing stations, and regulations necessary to enforce size, weight and load limitations on state highways.

* Sec. 5. AS 30.07.020 is amended to read:

Sec. 30.07.020. REGULATIONS. The Department of Transportation and Public Facilities [COMMERCE] may adopt [PROMULGATE] regulations, not in conflict with federal law or regulations, which establish standards for marine communications in the state

* Sec. 6. AS 39.25.120 is amended by adding a new paragraph to read:

(9) regional directors of the Department of Transportation and Public Facilities.

* Sec. 7. AS 44.15.010(15) is amended to read:

(15) Department of Transportation and Public Facilities [HIGHWAYS].

* Sec. 8. All litigation, hearings, investigations and other proceedings pending under a law amended or repealed by this Order, or in connection with functions transferred by this Order, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Order. Certificates, orders, and regulations issued or adopted under authority of a law amended or repealed by this Order remain in effect for the term issued, until revoked, vacated, or otherwise modified under the provisions of this Order. All contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Order, and in effect on the effective date of this Order, remain in effect notwithstanding this Order's taking effect. Records, equipment, and other property of agencies of the state whose functions are transferred under this Order shall be transferred commensurate with the provisions of this Order.

* Sec. 9. (a) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Public Works relating to planning, construction, maintenance and operation of transportation facilities, including state ferries, airports and water and harbor facilities, and for design and construction of buildings and appurtenant structures, and specifically including all powers and duties formerly held by the Department of Public Works under AS 02, AS 30.05, AS 30.15, AS 35, AS 41 20 and AS 44.65.

(b) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Highways relating to planning, construction, maintenance and operation of state transportation facilities including state highways, roads, bridges, traffic signs and signals, the supervision and maintenance of state automotive and mechanical equipment, the control of outdoor advertising visible from state highways and all other duties and powers of the Department of Highways, and specifically including powers and duties formerly held by the Department of Highways under AS 17, AS 28.01, AS 28 05, and AS 44.57.

* Sec. 10. The commissioner of transportation and public facilities shall replace the commissioner of highways on the state Geographic Board, the Alaska Toll Bridge Authority, and all other boards and commissions.

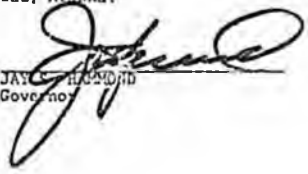
* Sec. 11. All other references in the Alaska Statutes to the Department of Highways or the commissioner of highways, or to the Department of Public Works or the commissioner of public works, not expressly amended by or referred to in this Order shall be read as the Department of Transportation and Public Facilities or the commissioner of transportation and public facilities, respectively, in order to implement this Order.

* Sec. 12. During Fiscal Year 1978, all appropriation items made for that fiscal year and prior years for the Department of Highways and the Department of Public Works may, upon approval of the governor, be appropriately transferred to implement the purposes of this Order.

* Sec. 13. AS 44.15.010(13), AS 44.33.020(9), AS 44.43, and AS 44.44 are repealed.

* Sec. 14. This Order takes effect July 1, 1977.

DATED: January 10, 1977, at Juneau, Alaska.



JAY HAMMOND
Governor

Introduced: 1/21/77
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 92

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SLESSION

5 A BILL

6 For an Act entitled: "An Act relating to transportation-related functions;
7 and providing for an effective date."

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

9 * Section 1. AS 19.30.070 is amended to read:

10 Sec. 19.30.070. CONTRACTS FOR CONSTRUCTION OF ROADS. The
11 director of the division of lands may contract with private persons
12 for the construction of roads to and on state lands programmed for
13 surface disposal which are not more than six miles from existing roads
14 or highways. The location of each proposed road is subject to the
15 approval of the commissioner of transportation and public facilities.

16 * Sec. 2. AS 44.42.020(a)(10) is amended to read:

17 (10) develop facility program plans for transportation
18 facilities required to implement the duties set out in this section
19 including but not limited to (A) functional performance criteria;
20 [AND] (B) schedules for completion; and (C) first and life cycle cost
21 budgets for particular transportation facilities consistent with the
22 provisions of AS 35.10.160, 35.10.180, and 35.10.190;

23 * Sec. 3. AS 44.42 is amended by adding a new section to read:

24 Sec. 44.42.065. PUBLIC HEARINGS AND SURVEYS. (a) When a major
25 new state transportation facility or a significant extension or altera-
26 tion of an existing system or facility is proposed, the department
27 shall give notice of the proposal and of the opportunity to request a
28 public hearing to the governing body of an affected municipality and
29 residents of each affected community. The purpose of this notice is

1 to provide information to the governing body and those residents and
2 provide an opportunity for informed public review of a proposal from
3 the earliest time practicable.

4 (b) Before a final decision is made regarding a proposal, the
5 department shall give a second notice and opportunity for public
6 hearing.

7 (c) A notice given under this section shall describe the project,
8 invite written comments regarding the proposal, inform that all current
9 and relevant information regarding the proposal will be made available
10 in at least one designated location within the affected community, and
11 inform that basic information regarding the proposal will be provided
12 upon the request of any person. The notice shall also inform that a
13 public hearing will be held upon the written request of the governing
14 body of an affected municipality or of at least 20 interested residents
15 of an affected community.

16 (d) If the governing body of an affected municipality requests a
17 hearing, the hearing shall be conducted by and may take place before
18 that governing body. Otherwise the public hearing may be held by the
19 department at any convenient location. If a public hearing is held,
20 the deadline for written comment may be not earlier than 30 days after
21 the hearing.

22 (e) At a public hearing held under (a) of this section, the
23 department shall describe the proposal, identify the essential considera-
24 tion in favor of and against it, and receive comments and answer
25 questions from any interested person. In addition, at a hearing, the
26 department shall present its recommendations, to the extent they have
27 been developed, regarding the proposal, its costs and benefits, its
28 environmental and social effects, and the alternatives which have been
29 considered, including the alternative of not constructing a facility.

1 or in which a proposed facility would actually be located, or which
2 would be directly served by a proposed facility;

3 (2) "municipality" means a home rule or general law borough
4 or city, and includes a municipality unified under AS 29.68.

5 * Sec. 4. AS 44.42.070 is amended to read:

6 Sec. 44.42.080. LIMITATION ON TRANSPORTATION FACILITIES. (a)
7 The department shall consult with the appropriate officials of other
8 departments regarding environmental risks and economic and social
9 considerations that may arise by reason of the location, design,
10 construction or reconstruction of a transportation facility.

11 (b) No highway, transit line, highway interchange, airport or
12 other transportation corridor or facility may be built or expanded in
13 such a way as to use publicly-owned land described below in this
14 subsection, unless there is no feasible and prudent alternative to
15 using that land, and the corridor or facility is planned and con-
16 structed so as to minimize harm to the land: land designated by the
17 federal, state, or local legislative bodies or administrative officials
18 having jurisdiction over it, as a

19 (1) park;

20 (2) recreation area;

21 (3) wildlife or waterfowl refuge or sanctuary;

22 (4) historic site;

23 (5) wilderness area;

24 (6) critical habitat area; or

25 (7) wetland.

26 * Sec. 5. This Act takes effect July 1, 1977.
27
28
29

Introduced: 1/21/77
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 92

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transportation-related functions;
7 and providing for an effective date."

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

9 * Section 1. AS 19.30.070 is amended to read:

10 Sec. 19.30.070. CONTRACTS FOR CONSTRUCTION OF ROADS. The
11 director of the division of lands may contract with private persons
12 for the construction of roads to and on state lands programmed for
13 surface disposal which are not more than six miles from existing roads
14 or highways. The location of each proposed road is subject to the
15 approval of the commissioner of transportation and public facilities.

16 * Sec. 2. AS 44.42.020(a)(10) is amended to read:

17 (10) develop facility program plans for transportation
18 facilities required to implement the duties set out in this section
19 including but not limited to (A) functional performance criteria;
20 [AND] (B) schedules for completion; and (C) first and life cycle cost
21 budgets for particular transportation facilities consistent with the
22 provisions of AS 35.10.160, 35.10.180, and 35.10.190;

23 * Sec. 3. AS 44.42 is amended by adding a new section to read:

24 Sec. 44.42.065. PUBLIC HEARINGS AND SURVEYS. (a) When a major
25 new state transportation facility or a significant extension or altera-
26 tion of an existing system or facility is proposed, the department
27 shall give notice of the proposal and of the opportunity to request a
28 public hearing to the governing body of an affected municipality and
29 residents of each affected community. The purpose of this notice is

1 to provide information to the governing body and those residents and
2 provide an opportunity for informed public review of a proposal from
3 the earliest time practicable.

4 (b) Before a final decision is made regarding a proposal, the
5 department shall give a second notice and opportunity for public
6 hearing.

7 (c) A notice given under this section shall describe the project,
8 invite written comments regarding the proposal, inform that all current
9 and relevant information regarding the proposal will be made available
10 in at least one designated location within the affected community, and
11 inform that basic information regarding the proposal will be provided
12 upon the request of any person. The notice shall also inform that a
13 public hearing will be held upon the written request of the governing
14 body of an affected municipality or of at least 20 interested residents
15 of an affected community.

16 (d) If the governing body of an affected municipality requests a
17 hearing, the hearing shall be conducted by and may take place before
18 that governing body. Otherwise the public hearing may be held by the
19 department at any convenient location. If a public hearing is held,
20 the deadline for written comment may be not earlier than 30 days after
21 the hearing.

22 (e) At a public hearing held under (a) of this section, the
23 department shall describe the proposal, identify the essential considera-
24 tions in favor of and against it, and receive comments and answer
25 questions from any interested person. In addition, at a hearing, the
26 department shall present its recommendations, to the extent they have
27 been developed, regarding the proposal, its costs and benefits, its
28 environmental and social effects, and the alternatives which have been
29 considered, including the alternative of not constructing a facility.

1 (f) The department may use other means of enabling the residents
2 of each affected community to express opinions regarding the proposal.

3 (g) Within 90 days after a hearing, the department shall prepare
4 and mail to the governing body of an affected municipality a report
5 which summarizes the oral testimony and written comments received and
6 the results of surveys and other relevant data and which informs
7 whether and to what extent the proposal has been modified as a result
8 of public comments, surveys and other relevant data.

9 (h) Affected communities may exclude themselves, withdraw from,
10 or reject the proposal providing that, within sixty days after the
11 receipt of the documents described in (g) of this section, a majority
12 of the affected communities which will be directly served by the
13 proposal, vote to exclude themselves, withdraw from, or reject the
14 proposed new transportation system or facility or the extension or
15 alteration of an existing transportation facility by: a resolution,
16 adopted by a majority of all the members of the governing body of each
17 community, submitting the exclusion from, withdrawal from, or rejection
18 of the proposal to the electorate of each affected community at the
19 next general election, which is adopted by a majority of qualified
20 voters voting on the question.

21 (i) This section does not apply to improvements or modifications
22 of existing facilities which do not significantly affect the environment
23 nor to actions and repairs which may be necessary to meet a disaster
24 or emergency which threatens human lives as determined by the commis-
25 sioner.

26 (j) For the purposes of this section,

27 (1) "affected community" means a municipality or an unincor-
28 porated village of 25 or more persons which is directly served by an
29 existing facility, or where an existing facility is actually located,

1 or in which a proposed facility would actually be located, or which
2 would be directly served by a proposed facility;

3 (2) "municipality" means a home rule or general law borough
4 or city, and includes a municipality unified under AS 29.68.

5 * Sec. 4. AS 44.42.070 is amended to read:

6 Sec. 44.42.080. LIMITATION ON TRANSPORTATION FACILITIES. (e)
7 The department shall consult with the appropriate officials of other
8 departments regarding environmental risks and economic and social
9 considerations that may arise by reason of the location, design,
10 construction or reconstruction of a transportation facility.

11 (b) No highway, transit line, highway interchange, airport or
12 other transportation corridor or facility may be built or expanded in
13 such a way as to use publicly-owned land described below in this
14 subsection, unless there is no feasible and prudent alternative to
15 using that land, and the corridor or facility is planned and con-
16 structed so as to minimize harm to the land: land designated by the
17 federal, state, or local legislative bodies or administrative officials
18 having jurisdiction over it, as a

19 (1) park;

20 (2) recreation area;

21 (3) wildlife or waterfowl refuge or sanctuary;

22 (4) historic site;

23 (5) wilderness area;

24 (6) critical habitat area or

25 (7) wetland.

26 * Sec. 5. This Act takes effect July 1, 1977.
27
28
29

1 IN THE HOUSE

BY MILLER

2 HOUSE BILL NO. 3

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Department of Transportation;
7 and providing for an effective date."

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

9 * Section 1. FINDINGS AND PURPOSE. The legislature finds that the
10 diverse transportation needs of the state would best be served by the crea-
11 tion of a single department for the planning, study, construction and opera-
12 tion of integrated, intermodal transportation systems. The purpose of this
13 department is to evaluate, plan, design, construct, operate and maintain all
14 state transportation modes and systems, relying on analysis of the relative
15 advantages of different modes and systems and considering their social,
16 economic, and environmental consequences.

17 * Sec. 2. AS 44 is amended by adding a new chapter to read:

18 CHAPTER 42. DEPARTMENT OF TRANSPORTATION.

19 Sec. 44.42.010. COMMISSIONER OF TRANSPORTATION. The principal
20 executive officer of the Department of Transportation is the commis-
21 sioner of transportation.

22 Sec. 44.42.020. POWERS. The department may

23 (1) plan all state modes of transportation and transportation
24 facilities;

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

28 (3) study alternative means of improving transportation in
29 the state with regard to the economic costs of each alternative and

1 its environmental and social effects;

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

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

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

9 (7) engage in experimental projects relating to available or
10 future modes of transportation, and any means of improving existing
11 transportation facilities and service;

12 (8) exercise the power of eminent domain; and

13 (9) adopt regulations under the Administrative Procedure Act
14 (AS 44.62) to implement, interpret, or make more specific its powers and
15 duties.

16 Sec. 44.42.030. DUTIES. The department shall

17 (1) plan, construct, maintain and operate state transportation
18 facilities, including all state highways, marine transportation ships
19 and facilities, docks, breakwaters, airports and aviation facilities
20 except design and construction of buildings which is the responsibility
21 of the Department of Public Works;

22 (2) study alternative means of transportation in the state,
23 considering the economic, social and environmental impacts of each
24 alternative;

25 (3) coordinate and develop state and regional transportation
26 systems, considering deletions, additions and the absence of alterations
27 and

28 (4) develop facility program plans for transportation facili-
29 ties required to implement these duties including but not limited to (A)

1 first and life cycle cost budgets; (B) functional performance criteria;
2 and (C) schedules for completion.

3 Sec. 44.42.040. DEPARTMENTAL ORGANIZATION. The commissioner may,
4 with the approval of the governor, organize the department into those
5 divisions that can most efficiently perform the functions of the depart-
6 ment.

7 Sec. 44.42.050. STATE TRANSPORTATION PLAN. (a) The commissioner
8 shall develop and keep current by periodic revision, at intervals not
9 less frequent than five years, a comprehensive intermodal long-range
10 transportation plan for the state. The state plan shall consider means
11 and costs of improving existing modes and facilities, state subsidies,
12 and the costs and benefits of new transportation modes and facilities.

13 (b) In developing and revising the plan, the commissioner shall
14 seek public review and evaluation by any reasonable means and may

15 (1) consult and cooperate with officials and representatives
16 of the federal government, other governments, interstate commissions and
17 authorities, local agencies and authorities, interested corporations and
18 other organizations concerning problems affecting transportation in the
19 state; and

20 (2) request and receive from an agency or other unit of state
21 government or of a political subdivision of it, or from a public author-
22 ity, the assistance and data that may be necessary to enable the com-
23 missioner to carry out his responsibilities under this section.

24 (c) The commissioner shall submit copies of proposed policies and
25 plans annually to the legislature within 10 days after the legislature
26 convenes. The legislature may approve, reject or modify the policies
27 and plans by concurrent resolution. If the legislature fails to act
28 during the legislative session, the policies and plans are approved.

29 (d) Copies of the plan, as revised, shall be kept on file as a

1 public document in the office of the commissioner and at each regional
2 or district office of the department.

3 Sec. 44.42.060. PUBLIC HEARINGS AND SURVEYS. (a) When a major
4 new state transportation facility or a significant extension or altera-
5 tion of an existing system or facility is proposed, the department shall
6 give notice of the proposal and of the opportunity to request a public
7 hearing to the governing body of an affected municipality and residents
8 of each affected community. The purpose of this notice is to provide
9 information to the governing body and those residents and provide an
10 opportunity for informed public review of a proposal from the earliest
11 time practicable.

12 (b) In giving notice under this section, the notice shall describe
13 the project, invite written comments regarding the proposal, inform that
14 all current and relevant information regarding the proposal will be made
15 available in at least one designated location within the affected com-
16 munity, and inform that basic information regarding the proposal will be
17 provided upon the request of any person. The notice shall also inform
18 that a public hearing will be held upon the written request of the
19 governing body of an affected municipality or of at least 20 interested
20 residents of the affected community.

21 (c) If the governing body of an affected municipality requests a
22 hearing, the hearing shall take place before that governing body.
23 Otherwise the public hearing may be held by the department at any con-
24 venient location. If a public hearing is held, the deadline for written
25 comment may be not earlier than 30 days following the hearing.

26 (d) At a public hearing the department shall describe the proposal,
27 identify the essential considerations in favor of it, and receive com-
28 ments and answer questions from any interested person. In addition, at
29 a hearing, to the extent they have been developed, the department shall

1 present its recommendations regarding the proposal, its costs and
2 benefits, its environmental and social effects, and the alternatives
3 which have been considered including the alternative of not constructing
4 a facility.

5 (e) The department shall conduct surveys of the residents of each
6 affected community to enable the residents to express opinions regarding
7 the proposal.

8 (f) Within 90 days following a hearing the department shall pre-
9 pare and mail to the governing body of an affected municipality and to
10 each known interested person a report which summarizes the oral testimony
11 and written comments received and the results of surveys and other
12 relevant data and which informs whether and to what extent the proposal
13 has been modified as a result of public comments, surveys and other
14 relevant data.

15 (g) This section does not apply to improvements or modifications
16 to existing facilities which do not significantly affect the environment
17 nor to actions and repairs which may be necessary to meet a disaster or
18 emergency which threatens human lives.

19 (h) For purposes of this section,

20 (1) "affected community" means a municipality or an unincor-
21 porated village of 25 or more persons which is directly served by an
22 existing facility, or where an existing facility is actually located or
23 in which a proposed facility would actually be located, or which would
24 be directly served by a proposed facility;

25 (2) "municipality" means a home rule or general law borough
26 or city including but not limited to a unified municipality organized
27 under AS 29.68.

28 (i) The commissioner may adopt regulations under the Administra-
29 tive Procedure Act (AS 44.62) to implement this section.

1 Sec. 44.42.070. GRANTS TO THE DEPARTMENT. The commissioner may
2 apply for and accept, on behalf of the state, grants from the federal
3 government or an agency of it or from another state, a foundation,
4 corporation, association or individual, for any of the functions or
5 purposes of the department, and may expend the money received under this
6 section for those functions or purposes.

7 Sec. 44.42.080. LIMITATION ON TRANSPORTATION FACILITIES. The
8 department shall consult with the appropriate officials of other depart-
9 ments regarding environmental risks and economic and social considera-
10 tions that may arise by reason of the location, design, construction or
11 reconstruction of a transportation facility.

12 * Sec. 3. (a) The Department of Transportation is vested with the duties
13 and powers formerly held by the Department of Public Works relating to
14 planning, construction, maintenance and operation of transportation facili-
15 ties, including state ferries, airports and water and harbor facilities
16 except for design and construction of buildings and appurtenant structures.

17 (b) The Department of Transportation is vested with the duties and
18 powers formerly held by the Department of Highways relating to planning,
19 construction, maintenance and operation of state transportation facilities
20 including state highways, roads, bridges, traffic signs and signals, the
21 supervision and maintenance of state automotive and mechanical equipment, the
22 control of outdoor advertising visible from state highways and all other
23 duties and powers of the Department of Highways.

24 * Sec. 4. The commissioner of transportation shall replace the commis-
25 sioner of highways on the State Geographic Board, the Alaska Toll Bridge
26 Authority, and all other boards and commissions.

27 * Sec. 5. AS 44.19.700 - 44.19.714 and AS 44.44.010 are repealed.

28 * Sec. 6. This Act takes effect July 1, 1977.

1 IN THE HOUSE

BY MILLER

2 HOUSE BILL NO. 3

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Department of Transportation;
7 and providing for an effective date."

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

9 * Section 1. FINDINGS AND PURPOSE. The legislature finds that the
10 diverse transportation needs of the state would best be served by the crea-
11 tion of a single department for the planning, study, construction and opera-
12 tion of integrated, intermodal transportation systems. The purpose of this
13 department is to evaluate, plan, design, construct, operate and maintain all
14 state transportation modes and systems, relying on analysis of the relative
15 advantages of different modes and systems and considering their social,
16 economic, and environmental consequences.

17 * Sec. 2. AS 44 is amended by adding a new chapter to read:

18 CHAPTER 42. DEPARTMENT OF TRANSPORTATION.

19 Sec. 44.42.010. COMMISSIONER OF TRANSPORTATION. The principal
20 executive officer of the Department of Transportation is the commis-
21 sioner of transportation.

22 Sec. 44.42.020. POWERS. The department may

23 (1) plan all state modes of transportation and transportation
24 facilities;

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

28 (3) study alternative means of improving transportation in
29 the state with regard to the economic costs of each alternative and

1 its environmental and social effects;

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

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

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

9 (7) engage in experimental projects relating to available or
10 future modes of transportation, and any means of improving existing
11 transportation facilities and service;

12 (8) exercise the power of eminent domain; and

13 (9) adopt regulations under the Administrative Procedure Act
14 (AS 44.62) to implement, interpret, or make more specific its powers and
15 duties.

16 Sec. 44.42.030. DUTIES. The department shall

17 (1) plan, construct, maintain and operate state transportation
18 facilities, including all state highways, marine transportation ships
19 and facilities, docks, breakwaters, airports and aviation facilities
20 except design and construction of buildings which is the responsibility
21 of the Department of Public Works;

22 (2) study alternative means of transportation in the state,
23 considering the economic, social and environmental impacts of each
24 alternative;

25 (3) coordinate and develop state and regional transportation
26 systems, considering deletions, additions and the absence of alterations
27 and

28 (4) develop facility program plans for transportation facili-
29 ties required to implement these duties including but not limited to (A)

1 first and life cycle cost budgets; (B) functional performance criteria;
2 and (C) schedules for completion.

3 Sec. 44.42.040. DEPARTMENTAL ORGANIZATION. The commissioner may,
4 with the approval of the governor, organize the department into those
5 divisions that can most efficiently perform the functions of the depart-
6 ment.

7 Sec. 44.42.050. STATE TRANSPORTATION PLAN. (a) The commissioner
8 shall develop and keep current by periodic revision, at intervals not
9 less frequent than five years, a comprehensive intermodal long-range
10 transportation plan for the state. The state plan shall consider means
11 and costs of improving existing modes and facilities, state subsidies,
12 and the costs and benefits of new transportation modes and facilities.

13 (b) In developing and revising the plan, the commissioner shall
14 seek public review and evaluation by any reasonable means and may

15 (1) consult and cooperate with officials and representatives
16 of the federal government, other governments, interstate commissions and
17 authorities, local agencies and authorities, interested corporations and
18 other organizations concerning problems affecting transportation in the
19 state; and

20 (2) request and receive from an agency or other unit of state
21 government or of a political subdivision of it, or from a public author-
22 ity, the assistance and data that may be necessary to enable the com-
23 missioner to carry out his responsibilities under this section.

24 (c) The commissioner shall submit copies of proposed policies and
25 plans annually to the legislature within 10 days after the legislature
26 convenes. The legislature may approve, reject or modify the policies
27 and plans by concurrent resolution. If the legislature fails to act
28 during the legislative session, the policies and plans are approved.

29 (d) Copies of the plan, as revised, shall be kept on file as a

1 public document in the office of the commissioner and at each regional
2 or district office of the department.

3 Sec. 44.42.060. PUBLIC HEARINGS AND SURVEYS. (a) When a major
4 new state transportation facility or a significant extension or altera-
5 tion of an existing system or facility is proposed, the department shall
6 give notice of the proposal and of the opportunity to request a public
7 hearing to the governing body of an affected municipality and residents
8 of each affected community. The purpose of this notice is to provide
9 information to the governing body and those residents and provide an
10 opportunity for informed public review of a proposal from the earliest
11 time practicable.

12 (b) In giving notice under this section, the notice shall describe
13 the project, invite written comments regarding the proposal, inform that
14 all current and relevant information regarding the proposal will be made
15 available in at least one designated location within the affected com-
16 munity, and inform that basic information regarding the proposal will be
17 provided upon the request of any person. The notice shall also inform
18 that a public hearing will be held upon the written request of the
19 governing body of an affected municipality or of at least 20 interested
20 residents of the affected community.

21 (c) If the governing body of an affected municipality requests a
22 hearing, the hearing shall take place before that governing body.
23 Otherwise the public hearing may be held by the department at any con-
24 venient location. If a public hearing is held, the deadline for written
25 comment may be not earlier than 30 days following the hearing.

26 (d) At a public hearing the department shall describe the proposal,
27 identify the essential considerations in favor of it, and receive com-
28 ments and answer questions from any interested person. In addition, at
29 a hearing, to the extent they have been developed, the department shall

1 present its recommendations regarding the proposal, its costs and
2 benefits, its environmental and social effects, and the alternatives
3 which have been considered including the alternative of not constructing
4 a facility.

5 (e) The department shall conduct surveys of the residents of each
6 affected community to enable the residents to express opinions regarding
7 the proposal.

8 (f) Within 90 days following a hearing the department shall pre-
9 pare and mail to the governing body of an affected municipality and to
10 each known interested person a report which summarizes the oral testimony
11 and written comments received and the results of surveys and other
12 relevant data and which informs whether and to what extent the proposal
13 has been modified as a result of public comments, surveys and other
14 relevant data.

15 (g) This section does not apply to improvements or modifications
16 to existing facilities which do not significantly affect the environment
17 nor to actions and repairs which may be necessary to meet a disaster or
18 emergency which threatens human lives.

19 (h) For purposes of this section,

20 (1) "affected community" means a municipality or an unincor-
21 porated village of 25 or more persons which is directly served by an
22 existing facility, or where an existing facility is actually located or
23 in which a proposed facility would actually be located, or which would
24 be directly served by a proposed facility;

25 (2) "municipality" means a home rule or general law borough
26 or city including but not limited to a unified municipality organized
27 under AS 29.68.

28 (i) The commissioner may adopt regulations under the Administra-
29 tive Procedure Act (AS 44.62) to implement this section.

1 Sec. 44.42.070. GRANTS TO THE DEPARTMENT. The commissioner may
2 apply for and accept, on behalf of the state, grants from the federal
3 government or an agency of it or from another state, a foundation,
4 corporation, association or individual, for any of the functions or
5 purposes of the department, and may expend the money received under this
6 section for those functions or purposes.

7 Sec. 44.42.080. LIMITATION ON TRANSPORTATION FACILITIES. The
8 department shall consult with the appropriate officials of other depart-
9 ments regarding environmental risks and economic and social considera-
10 tions that may arise by reason of the location, design, construction or
11 reconstruction of a transportation facility.

12 * Sec. 3. (a) The Department of Transportation is vested with the duties
13 and powers formerly held by the Department of Public Works relating to
14 planning, construction, maintenance and operation of transportation facili-
15 ties, including state ferries, airports and water and harbor facilities
16 except for design and construction of buildings and appurtenant structures.

17 (b) The Department of Transportation is vested with the duties and
18 powers formerly held by the Department of Highways relating to planning,
19 construction, maintenance and operation of state transportation facilities
20 including state highways, roads, bridges, traffic signs and signals, the
21 supervision and maintenance of state automotive and mechanical equipment, the
22 control of outdoor advertising visible from state highways and all other
23 duties and powers of the Department of Highways.

24 * Sec. 4. The commissioner of transportation shall replace the commis-
25 sioner of highways on the State Geographic Board, the Alaska Toll Bridge
26 Authority, and all other boards and commissions.

27 * Sec. 5. AS 44.19.700 - 44.19.714 and AS 44.44.010 are repealed.

28 * Sec. 6. This Act takes effect July 1, 1977.
29