

LEG. FINANCE - BILLS 1985 - 1986 2182

SB 103 cont. - SB 105

2182

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

5.50.85
2/26/85
POUCHY STATE CAPITAL
BUREAU ALASKA 99511
907 465 3F J

MEMORANDUM

February 23, 1985

SUBJECT: Changes in CS for SB 103 (Finance)
TO: Senator John Sackett
FROM: Randall J. Moen *RJM*
Legislative Counsel

Upon review of the CS for SB 103 (Finance) I recommend the following changes for clarification and conciseness:

Page 1, line 13:

Delete "commercial purposes" and insert "direct monetary compensation".

Page 4, line 11 and 12:

Delete all material and renumber the section accordingly.

Page 2, lines 9-11:

Delete "For insurance policies submitted as proof of financial responsibility under AS 42.30.225(a)(1) this requirement must be stated in the policy or endorsement" and insert "This requirement must be clearly stated in the policy or endorsement for an insurance policy submitted as proof of financial responsibility under AS 42.30.225(a)(1)."

Page 3, lines 21-25:

Delete all material and insert: "A person who has obtained a certificate to use an aircraft in air commerce from the Alaska Transportation Commission before the effective date of this act is not required to obtain a certificate of compliance under (a) of this section until the date the insurance policy for the aircraft is renewed."

RJM:csh
c3/019

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

270-85
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5-7-85
POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

M E M O R A N D U M

February 22, 1985

SUBJECT: Sectional Analysis of
CS SB 103(Finance)

TO: Senator John Sackett

FROM: Randall J. Moen
Legislative Counsel *RJM*

Section 1 amends AS 42.30.200 as follows:

1. Requires a person who carries freight in a motor vehicle for commercial purposes to be financially responsible.
2. Specific minimum amounts of financial responsibility are established rather than having the Department of Public Safety determine amounts required for financial responsibility.
3. The specific minimum amounts of financial responsibility required of a person under Initiative No. 83-02 are:

If a person operates a motor vehicle:

- (a) \$200,000 for property damage in a single occurrence; and
- (b) \$500,000 for bodily injury or death in a single occurrence.

If a person operates an aircraft:

- (a) \$200,000 for property damage in a single occurrence; and
- (b) \$300,000 per seat for bodily injury or death in a single occurrence.

4. The Department of Commerce and Economic Development rather than the Department of Public Safety will enforce financial responsibility requirements.
5. Department personnel from the Department of Commerce and Economic Development, not enforcement officers from the Department of Public Safety, will enforce financial responsibility requirements.
6. Provides discretionary authority to the Department of Commerce and Economic Development to adopt procedural regulations to implement financial responsibility requirements.

Section 2 the following provisions of law are added to Initiative No. 83-02:

1. 30 days written notice must be given before a policy of insurance, surety bond, or other form of security needed for proof of financial responsibility may be cancelled. The 30 day written notice requirement must be clearly stated in a insurance policy or endorsement if submitted as proof of financial responsibility to obtain an aircraft certificate of compliance. The 30 day notice period is measured from the date the Department of Commerce and Economic Development receives the notice of cancellation.
2. A person who violates a financial responsibility requirement is guilty of a class B misdemeanor (no more than 90 days in prison) and may receive a fine of no less than \$500 and no more than \$1,000.
3. Financial responsibility requirements apply only to:
 - (a) a person who carries passengers or freight for hire in a motor vehicle, or a propeller or jet-powered aircraft; or
 - (b) a person who carries freight in a motor vehicle for commercial purposes.

Section 3 adds new sections of law to AS 42.30.200.

CERTIFICATION OF COMPLIANCE OF AIR CARRIERS

1. A person may not use an aircraft in air commerce without a certificate of compliance from the Department of Commerce and Economic Development. Before obtaining a certificate of compliance a person must present to the Department of Commerce and Economic Development proof of financial responsibility (see Section 1) and proof of compliance with Federal Aviation Administration requirements. If applicable, federal certification of scheduled airline service is required.

2. A certificate of compliance must be renewed annually at a cost of \$50.

3. A certificate of compliance is valid for 12 months and must be on the aircraft in a manner visible to boarding passengers.

4. A certificate of compliance is required for a federally-certificated interstate air carrier if it:

(a) provides interstate service between points in the state on an interstate or foreign route; and

(b) uses aircraft based primarily outside the state for intrastate service.

5. A certificate of compliance may be suspended or revoked if the aircraft is used in air commerce before obtaining the certificate of compliance.

6. An air carrier certified to operate by the Alaska Transportation Commission before the effective date of this Act does not need a certificate of compliance until it is time to renew the insurance policy for the aircraft.

7. The Department of Commerce and Economic, Development may authorize department personnel to enforce this section and adopt procedural regulations.

DEFINITIONS

The following words are defined within AS 42.30.200 - 42.30.250: air carrier, air commerce, aircraft, commercial purposes, department, freight, and motor vehicle.

Section 4 until July 1, 1985, a person who operates an aircraft and required to meet the financial responsibility requirements under AS 42.30.200 need only carry security in the amount of \$100,000 a seat for bodily injury or death in a single occurrence.

Section 5 the Department of Commerce and Economic Development is given an additional duty to implement the financial responsibility requirements for motor vehicles and air carriers under AS 42.30.200 - .225.

Section 6 this Act takes effect immediately.

RJM:ojb
J12/010

Moen
2/22/85✓

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 103 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transportation safety and finan-
7 cial responsibility; and providing for an effective
8 date."

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

10 * Section 1. AS 42.30.200 is amended to read:

11 Sec. 42.30.200. FINANCIAL RESPONSIBILITY. (a) A person who
12 carries passengers or freight for hire intrastate or a person who
13 carries freight in a motor vehicle for commercial purposes shall
14 procure and maintain security in the following minimum amounts:

15 (1) \$200,000 for property damage in a single occurrence;16 (2) \$500,000 for bodily injury or death in a single occur-
17 rence if a person operates a motor vehicle; and18 (3) \$300,000 per seat for bodily injury or death in a
19 single occurrence if a person operates an aircraft [AN AMOUNT DE-
20 TERMINED BY THE DEPARTMENT OF PUBLIC SAFETY AS NECESSARY FOR THE
21 REASONABLE PROTECTION OF THE PUBLIC AGAINST DAMAGES OR INJURY CAUSED
22 BY THE PERSON].23 (b) Evidence of security required under (a) of this section
24 shall be filed with the department and must be25 (1) a policy or certificate of insurance issued by an
26 insurer acceptable to the department; or27 (2) a bond of a surety company licensed to write surety
28 bonds in the state; or

29 (3) evidence accepted by the department, showing ability to

1 self-insure; or

2 (4) other security approved by the department.

3 (c) The department may authorize department personnel [ENFORCE-
4 MENT OFFICERS] to enforce this section and may adopt procedural regu-
5 lations necessary to implement this section.

6 * Sec. 2. AS 42.30.200 is amended by adding new subsections to read:

7 (d) A policy of insurance, surety bond, or other form of secur-
8 ity may not be cancelled on less than 30 days' written notice to the
9 department. For insurance policies submitted as proof of financial
10 responsibility under AS 42.30.225(a)(1) this requirement must be
11 clearly stated in the policy or endorsement. The 30-day notice period
12 is measured from the date on which the department receives notice.

13 (e) A person who violates (a) of this section is guilty of a
14 class B misdemeanor and is punishable by a fine of not less than \$500
15 or more than \$1,000.

16 (f) This section applies only to

17 (1) a person who carries passengers or freight for hire
18 intrastate in a motor vehicle or a propeller or jet-powered aircraft;
19 or

20 (2) a person who carries freight in a motor vehicle for
21 commercial purposes.

22 * Sec. 3. AS 42.30 is amended by adding new sections to read:

23 Sec. 42.30.225. CERTIFICATION OF COMPLIANCE OF AIR CARRIERS.

24 (a) A person may not use an aircraft in air commerce without obtain-
25 ing a certificate of compliance from the department. The department
26 shall issue a certificate of compliance upon application and presenta-
27 tion of

28 (1) proof of financial responsibility required under
29 AS 42.30.200;

1 (2) proof of compliance with Federal Aviation Administra-
2 tion requirements, and, where applicable, federal certification for
3 scheduled airline service.

4 (b) A person who receives a certificate of compliance under (a)
5 of this section shall renew the certificate annually. The annual fee
6 for a certificate of compliance shall be \$50.

7 (c) Each aircraft owned or leased by a person subject to the
8 provisions of this section must have a certificate of compliance
9 issued by the department before the aircraft is used in air commerce.
10 The certificate is valid for a period of 12 months following the date
11 of certification. The certificate must be displayed on the aircraft
12 so that it is visible to boarding passengers.

13 (d) A federally-certificated interstate air carrier that pro-
14 vides intrastate service between points in the state on an interstate
15 or foreign route, and who uses, for that intrastate service, aircraft
16 based primarily outside the state, must also obtain a certificate of
17 compliance for each aircraft used in intrastate service.

18 (e) Use of an aircraft in air commerce before obtaining a cer-
19 tificate of compliance required under (a) of this section may be cause
20 for suspension or revocation of the certificate.

21 (f) An air carrier, who before the effective date of this Act,
22 obtained a certificate to operate from the Alaska Transportation
23 Commission, is not required to obtain a certificate of compliance
24 under (a) of this section until the date on which the insurance policy
25 on each aircraft must be renewed.

26 (g) The department may authorize department personnel to enforce
27 this section and may adopt procedural regulations necessary to imple-
28 ment this section.

29 Sec. 42.30.250. DEFINITIONS. In AS 42.30.200 - 42.30.250,

1 (1) "air carrier" means a person undertaking to engage in
2 air commerce, whether directly or indirectly, or by lease, contract,
3 or any other arrangement, and whether over regular or irregular
4 routes;

5 (2) "air commerce" means carriage by aircraft of persons or
6 freight, for compensation or hire, in intrastate commerce, including
7 the carriage by aircraft of persons or freight that move partly by
8 aircraft and partly by other forms of transportation;

9 (3) "aircraft" means a device used or designed for flight
10 in the air;

11 (4) "commercial purposes" means something for which the
12 person receives direct monetary compensation;

13 (5) "department" means the Department of Commerce and
14 Economic Development;

15 (6) "freight" means all commodities, articles, and cargo,
16 of whatever nature or value, excluding garbage and trash;

17 (7) "motor vehicle" means

18 (A) a truck of more than 10,000 pounds unladen gross
19 vehicle weight used upon a public highway of this state; and

20 (B) a trailer registered in this state of more than
21 5,000 pounds unladen gross vehicle weight and used upon a public
22 highway of this state.

23 * Sec. 4. Notwithstanding AS 42.30.200(a)(3) enacted by sec. 1 of this
24 Act, until July 1, 1985, a person to whom AS 42.30.200 applies need only
25 maintain security in the amount of \$100,000 a seat for bodily injury or
26 death in a single occurrence if a person operates an aircraft.

27 * Sec. 5. AS 44.33.020 is amended by adding a new paragraph to read:

28 (27) implement the financial responsibility requirements for
29 motor vehicles and air carriers under AS 42.30.200 - 43.30.225.

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* Sec. 6. This Act takes effect immediately in accordance with AS 01.-
10.070(c).

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2/26/85

DRAFT

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/26/85

REQUEST

Bill/Resolution No.: CSSB 103 (Fin)
Title: Relating to financial responsibility
Sponsor: Governor
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Dept of Commerce
Program Category Affected: Weights and Measures
BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		111.6				
200 TRAVEL		7.5				
300 CONTRACTUAL		20.00				
400 SUPPLIES		1.5				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		140.6				

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		140.6				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		4				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Joseph L. Swanson, Director
Division: Measurement Standards

Phone: 345-7750
Date: 2/26/85

Approved by ^{Director} Commissioner: [Signature]
Agency: _____

Date: 2/26/85

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

Senator Jan Faiks—Vice Chairman
Senator Mitch Ahood
Senator Paul Fischer
Senator Joe Josephson



POUCH A
JUNEAU, ALASKA 99811
(907) 465-4921

Senate Committee on Transportation

LETTER OF INTENT

To Accompany CSSB 103 (Trans)

It is the intent of the Legislature that a study be undertaken by legislative staff to determine 1.) the effects of deregulation on air transportation service to the bush, and what measures, if any, the Legislature ought to address to ensure a minimally acceptable level of service to those areas of the state; 2.) the effects of early phase-out of the 406 Essential Air Service subsidies by the federal government on air service to rural Alaska; 3.) what federal safety regulations are applicable to Alaska intrastate air commerce, and which, if any, ought to be incorporated into the State's certification of compliance program; and 4.) the efficiency and effectiveness with which the Department of Commerce and Economic Development has established a motor vehicle safety inspection program. The results of this study shall be reported to the Second Session of the Fourteenth Alaska Legislature not later than the tenth day after it convenes.

SENATE COMMITTEE ON TRANSPORTATION

A large, stylized handwritten signature in black ink, appearing to read "John B. Coghill".

Senator John B. Coghill, Chairman

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

1/29/85

Date FEBRUARY 20, 1985

Mr. President

The Committee on TRANSPORTATION considered SB 103

providing authority for the Department of Public Safety to regulate safety of motor carrier and air carrier operation; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

[] do pass

[] do pass with attached amendment(s)

[X] replace with or adopt CS for SB 103 (TRANSPORTATION)

[X] new title

[] same title and recommends DO PASS

[X] and attached a "LETTER OF INTENT"

[X] NEW FISCAL NOTE

[] reports it back without recommendation

[] recommends referral to _____ Committee

MEMBERS SIGNING
~~DO PASS~~

Paul A. Fisher

MEMBERS HAVING
OTHER RECOMMENDATIONS

Your file, No Rec

[Signature]

Chairman

Chairman recommendation




STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

M E M O R A N D U M

TO: John Shively
Chief of Staff

DATE: February 19, 1985

FROM: Ben F. Harding 
Special Staff Assistant
Office of the Governor

SUBJECT: Safety Aspects of
CSSB 103

CSSB 103, which is currently under review in the Senate Transportation Committee, is designed to provide an operating framework for intrastate aviation and trucking safety procedures following the termination of the Alaska Transportation Commission (ATC) February 28.

As the Governor mentioned in his transmittal letter on this legislation, he believes that the administrative arrangements on safety issues should be flexible, provided that basic provisions to ensure safety for the traveling public are adequately addressed.

In that regard, the committee substitute appears to meet the Governor's overall objectives. There are, however, a number of exceptions which raise questions about the adequacy of the protection to the traveling public. These concerns include the following:

1. Commercial vehicle inspections have been reduced from twice a year to a once-annually inspection. In my opinion and in that of Commissioner Sundberg, Commissioner Knapp, and Deputy Commissioner Terry Elder, a once-a-year inspection is not adequate for the protection of the motoring public.
2. The committee substitute proposes that, in lieu of State commercial vehicle inspectors, private-sector mechanics be certificated by the State to perform this function. We have no objection in supporting this approach. We are concerned, however, that certificated inspectors would be allowed to be an employee of the company whose vehicles they inspect. In the highly competitive economic environment which will result

from the deregulation, an in-house inspector's independence may be questioned since he may be viewed as having divided loyalties. (A possible solution might be the certification of mechanics at service stations or other facilities which are not owned and/or operated by transportation companies.)

3. The committee substitute does not provide a clear-cut standard for basic highway truck safety rules. This could be easily remedied by referencing federal interstate rules of the road or pertinent portions of 3 AAC 62.

4. The committee substitute provides no explanation of what procedures would be used to suspend an air carrier's certificate of compliance nor makes any distinction between suspension and revocation. There is no indication of how compliance provisions can be enforced. (The aircraft registration fees will be lost, as will fees carriers used to pay to get a certificate as a carrier in the past.)

5. The annual truck safety inspection program emphasizes the role of the inspectors but does not address the following issues:

a. There is no provision for removing trucks from the road if they lack insurance, current safety stickers, or have never been inspected, short of criminal prosecution.

b. There is no authority for the State to enforce any safety regulation or inspection requirements outside of the annual inspection forum.

c. The committee substitute emphasizes the penalties for an inspector who acts wrongly but provides no serious sanction against a company for unsafe commercial vehicle use. (We proposed that operation in violation of safety rules should be punishable by citation, or removal from the road.)

e. Buses are exempt, which is somewhat inconsistent with the overall road safety policy.

f. There is no definition or explanation of the difference between suspension and revocation of vehicle inspectors' State certification. Also, there is no provision for the registration of commercial carriers, and no authority for levying fees to cover the costs of the safety inspection. (If inspections are to be done privately, fees for this may not be appropriate.)

John Shively

-3-

February 19, 1985

These points in the current draft legislation have been jointly identified by Commissioner Sundberg, Commissioner Knapp, Deputy Commissioner Terry Elder, and me. We believe that these provisions, although well-intentioned from the standpoint of insuring maximum flexibility to State government agencies and to the transportation industry, could unfortunately result in a deterioration of the present level of safety which the public in Alaska currently enjoys, both in air travel and on our highways.

The Governor has reviewed these points and asked that they be conveyed to the appropriate legislative committees as items of his concern.

SECTIONAL ANALYSIS

FOR

CSSB 103 (Transportation)

Section 1 amends the financial responsibility language of the initiative to include anyone carrying freight "for commercial purposes", and sets minimum insurance levels at \$200,000 for property damage; \$500,000 for bodily injury or death for motor vehicles; and \$300,000 per seat for bodily injury or death for aircraft. The section then changes "enforcement officers" to "department personnel", and allows the department to adopt procedural regulations.

Section 2 adds language to the financial responsibility section to require 30 days notice of cancellation of a policy (but exempts currently-effective policies which may not say this); sets a minimum fine of \$500 for violation of this section; and applies the section to only certain size vehicles and certain kinds of aircraft.

Section 3 establishes a certificate of compliance program for aircraft used in air commerce. A certificate would be renewed annually with a fee of \$50, and would be issued by the department if the applicant showed proof of financial responsibility and compliance with FAA requirements.

The section further requires the certificate to be displayed for boarding passengers to read, requires interstate carriers to obtain the certificate for aircraft used intrastate, and would allow the suspension or revocation of the certificate if the plane was used in commerce before the certificate was obtained. Finally, ATC-authorized carriers are "grandfathered in" until the renewal dates on their insurance policies, in order to spread the paperwork out over the year.

Section 3 then establishes a motor vehicle inspection program in Commerce. Subsection .300 would require two inspections a year, and a vehicle registration could be denied if the inspection has not been done. The commissioner is allowed to adopt regulations to implement the section, and to achieve reciprocity with the other western states.

Subsection .310 exempts U.S. government vehicles.

Subsection .320 describes how official inspection stations will be permitted by the State - if properly equipped, and with a certified inspector on staff. It allows the department to inspect a vehicle or enter an official inspection station to check on the work of an inspector. It allows the department to suspend or revoke a permit, and allows for action by the permit-holder in such case.

Subsection .330 establishes a system for certifying vehicle inspectors, allows for suspension of certification, and a process of

appeal of suspension.

Subsection .340 directs an inspector to issue a certificate of inspection if the vehicle is found to be unsafe, and to keep a record of inspections, auditable by the department.

Subsection .350 prohibits falsely representing to be an inspection station, or issuing certificates of inspection without a permit.

Subsection .360 prohibits the making or use of counterfeit certificates of inspection, or using a certificate of inspection on an unqualified vehicle.

Subsection .370 makes violation of the section a class B misdemeanor.

Subsection .380 provides definitions of "air carrier", "air commerce", "aircraft", "commercial purposes", "department", "freight", and "motor vehicle".

Section 4 provides a later effective date of July 1, 1985 for the requirement in Section 1 that aircraft operators have \$300,000 per seat insurance. This will allow some of those operators to phase in from \$100,000 to the new minimum.

Section 5 adds implementation of the financial responsibility requirements to the duties of the commissioner.

Section 6 provides an immediate effective date.

ANALYSIS OF SB-103

I. Background to SB-103

Public initiative #3 not only abolished the ATC, it also enacted a statute which authorized the Dept. of Public Safety to establish and enforce financial responsibility requirements for public carriers. (See AS 42.32.200 in Text of Initiative) According to the Alaska Constitution, a public initiative can be amended by the Legislature.

Thus, based upon this authority and the ability to amend, the Governor has introduced a bill which not only requires financial responsibility of carriers, but goes further to establish a method of registering the truck and airline companies. The legislative counsel has analyzed SB-103 and opined that it does not violate this section of the Constitution. (See Counsel's Opinion) Nevertheless, this bill has been attacked as being contrary to the letter and spirit of the initiative. (See Libertarian Objections)

II. Effect of SB-103

SB-103 has the following features: (references are to sections of bill)

A. Applicability

The law applies to all commercial aircraft and to all commercial vehicles weighing over 5,000 gross tons except for government vehicles, vehicles which transport only mail, newspapers, periodicals, or small packages, school buses, other buses which carry less than sixteen passengers, and farm vehicles. (.195, .197)

B. Financial Responsibility & Identification

The Department of Public Safety (DPS) will establish by regulation the amount of insurance required of each commercial plane or vehicle operator. No insurance can be cancelled without first giving DPS 30 days notice. (amendments to .200)

The Alaska Air Carriers Association (AACA), however, recommends that a minimum of \$250,000 per seat of liability insurance be required of air carriers and that this amount be set by statute. (See Carrier's Opinion)

In addition to insurance, DPS by regulation may require carriers to post security bonds and shall require identification markings on all vehicles and planes. (.205, .210)

Analysis (Original Bill)

C. Registration of Carriers

The Governor claims that these requirements will not, as did the ATC, economically regulate entry into air or motor commerce.

1. Intrastate Motor Carriers

Annual registration will be given to carriers who show proof of insurance, proof of bonding if required, payment of fees, and proof of compliance with applicable safety regulations. Safety compliance will be determined by mandatory inspections conducted every six months by non-uniformed DPS personnel. (.215)

2. Interstate Motor Carriers

Annual registration will be given to interstate carriers who show proof of ICC operating authority, proof of bonding if required, payment of fees, and proof of compliance with applicable state safety regulations. (Proof of insurance is already required for ICC authority.) (.220)

3. Air Carriers

Annual registration will be given to air carriers who show proof of insurance, proof of bonding if required, compliance with state and federal safety regulations. These carriers must also register each aircraft annually and pay an annual aircraft registration fee for each. (.225)

The AACA believes that the Department of Commerce, rather than DPS, would be better suited to handle air carrier registration.

D. Enforcement & Penalties

1. Administrative suspension of carrier's registration

A carrier's registration may be summarily suspended (i.e. before he is afforded a hearing) if he operates his vehicle or plane without required insurance, bonding, or aircraft registration. It may be suspended after a hearing if the carrier has misrepresented his registration application, failed to pay fees, or failed to comply with other regulations. (.240)

2. Judicial enforcement

DPS may issue citations for violations of the law, and the state superior court may render misdemeanor convictions (fine up to \$500) or civil penalties (up to \$1000). The law also provides that vehicles and aircraft used by violators may be seized and forfeited to the state. (.245, .255)

III. Fiscal Implications of Bill

DPS projects that it will cost a total of \$1,633,100 over the next five years to add the six employees and equipment needed for permitting, certification, bonding and insurance. Vehicle safety inspections may require additional funds. Some of the DPS positions and equipment are expected to be transferred from the ATC component so the net cost to the state will not be as high as the fiscal note suggests.

FULL TEXT OF INITIATIVE
Initiative No. 83-02

For an Act entitled: "An Act terminating the Alaska Transportation Commission and repealing transportation laws administered by the commission; requiring persons who carry passengers or freight for hire to hold insurance or other security; and requiring the governor to lobby Congress for the repeal of the federal Jones Act."

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

* Section 1. **STATEMENT OF PURPOSE.** The people of Alaska recognize that

- (1) because of Alaska's great size and distance from markets, Alaskans must have access to efficient low-cost transportation in order for people and goods to move safely inside and outside the state;
- (2) a little-known but powerful state regulatory agency, the Alaska Transportation Commission (ATC), creates motor and air carrier monopolies by legalized price fixing and tariffs, which artificially raises shipping rates and makes consumer goods more expensive for all Alaskans;
- (3) the primary purpose of the ATC is to fix rates, not promote safety, and other government agencies can insure safety standards while allowing persons to contract freely for services;
- (4) abolishing the ATC and its anti-competitive practices will subject air carriers and trucking companies to free market competition, thereby reducing freight rates, improving service, and saving Alaskan consumers millions of dollars each year;
- (5) a federal law, known as the Jones Act, requires that ships bound for Alaska from other American ports must be built and registered in the United States and staffed with American crews, thereby granting such ships an unfair monopoly and protecting them from free market competition, which costs Alaskan consumers millions of dollars each year;
- (6) the Jones Act should be repealed, and the governor should use all appropriate means to persuade Congress to do so.

* Section 2. AS 29.48 is amended by adding a new section to read:

Sec. 29.48.036. REGULATION OF TRANSPORTATION CARRIERS.

Notwithstanding AS 29.48.035(a), a municipality may not regulate an activity regarding transportation of passengers or freight for hire if the regulation conflicts with the regulation of that activity by the Alaska Transportation Commission as the regulation existed on April 1, 1983 under former AS 02.05, AS 42.07, or AS 42.10.

* Section 3. AS 42.30 is amended by adding a new section to read:

ARTICLE 5. RESPONSIBILITIES OF MOTOR AND AIR CARRIERS.

Sec. 42.30.200. FINANCIAL RESPONSIBILITY.

(a) A person who carries passengers or freight for hire intrastate shall procure and maintain security in an amount determined by the Department of Public Safety as necessary for the reasonable protection of the public against damages or injury caused by the person.

(b) Evidence of security required under (a) of this section shall be filed with the department and must be

- (1) a policy or certificate of insurance issued by an insurer acceptable to the department; or
- (2) a bond of a surety company licensed to write surety bonds in the state; or
- (3) evidence accepted by the department, showing ability to self-insure; or
- (4) other security approved by the department.

(c) The department may authorize enforcement officers to enforce this section.

* Section 4. AS 44.19 is amended by adding a new section to article 1 to read:

Sec. 44.19.035. JONES ACT REPEAL. The governor shall use best efforts and all appropriate means to persuade the United States Congress to repeal 46 U.S.C. secs. 861, et seq., known as the Jones Act. Until that Act is repealed, the governor shall publish an annual report documenting the harmful effects of the Act on Alaska commerce, and progress made towards its repeal. The report shall be submitted to the legislature no later than its convening each year.

* Section 5. If any provision of this Act is held invalid, the remaining provisions of this Act are severable and remain in effect.

* Section 6. AS 02.05.; AS 28.10.411(b); AS 39.25.120(c)(7); AS 39.50.200(b)(30); AS 42.07; AS 42.10; and AS 44.66.010(a)(2) are repealed.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 31, 1985

SUBJECT: Senate Bill 103 as amending initiative 83-02
TO: Senator Jack Coghill
FROM: George W. Edwards *JWC*
Legislative Counsel

This is in response to your research request concerning the constitutional implications of Senate Bill 103 as an amendment to initiative 83-02 regarding the termination of the Alaska Transportation Commission.

Article XI, section 6 of the Alaska Constitution states that an initiative passed into law may not be repealed by the legislature for two years. It further states that such an initiative may be amended at any time.

This legislative power to amend has been broadly defined by the Alaska supreme court as a check or balance against the initiative process lest the process otherwise result in the frustration of sound government (see Warren v. Boucher 543 P2d 731 (Alaska, 1975) and Warren v. Thomas 568 P2d 400 (Alaska, 1977)). While the amendment process may not be employed by the legislature to so emasculate an initiative as to effectively repeal it, it may legitimately be used to clarify the law or to effectuate the intent of the electorate.

In order to determine the appropriateness of an amendment to an initiative the language and intent of the initiative and the language and effect of the amendment must be considered. If the amendatory language may be interpreted not to vitiate the intent of the initiative, the court is likely to approve the legislature's right to adopt the language.

Initiative 83-02 was concerned with, among other things, abolishing the ATC for the purpose of eliminating legalized price-fixing and tariffs. It proposed that other government

COUNSEL'S OPINION RE:
SB103 AMENDING INITIATIVE

Senator Jack Coghill
January 31, 1985
Page 2

agencies could insure transportation safety standards and that financial responsibility of commercial carriers should be overseen by the Department of Public Safety. Senate bill 103 does not appear to incorporate any price support or tariff provisions which would conflict with the intent of the initiative. It contains provisions concerning financial responsibility and safety which are consistent with the terms of the initiative. It goes beyond the literal terms of the initiative in requiring both bonds to protect shippers and equipment registration, but these provisions serve a rational purpose and are not in conflict with the apparent intent of the initiative.

In summary, Senate Bill 103 does not appear to violate the constitutional provision concerning the amendment of initiatives.

GWE:csh
c2/199

Testimony prepared for the
Senate Transportation Committee
regarding Senate Bill 103 by
the Alaska Air Carriers Association

February 28, 1985

Mr. Chairman and members of the Senate Transportation Committee, my name is Bob Jacobsen and I am here today on behalf of the Alaska Air Carriers - an association comprised of 115 member air service companies throughout Alaska.

I would like to begin by commending the Committee for its early review of this matter both because it is of great concern to our association and because of the February 28 deadline after which the Alaska Transportation Commission will no longer be in existence.

On Friday, I was present for the testimony of Representative Marrou regarding the intent of people who voted for the initiative which abolished A.T.C. We appreciate Representative Marrou's efforts to remove unnecessary regulatory constraints which impede free competition among air carriers. But it is also important for the Committee to recognize that among the people I know who voted in favor of the initiative, including some members of our organization, did so to express opposition to an overemphasis by A.T.C. on economic regulation and underemphasis on safety and fitness which are and should continue to be a primary concern of government. The only safe conclusion to draw when trying to figure out the intent of the initiative's supporters is that they believe in greater freedom of competition in the transportation industry and what they hope will be lower freight and passenger cost. That is the only common thread which ties the motor carriers, air carriers, and Jones Act (water) carriers together in the initiative.

We feel that it would be a mistake to conclude that Alaskans are no longer concerned with safety or that the initiative standing alone will assure that the transportation industry is as safe as possible. For this reason, we appreciate the efforts of Governor Sheffield in introducing legislation which we feel is necessary to protect public safety.

While we agree with the intent of Senate Bill 103, we do have some suggestions which we think will simplify and improve it.

AK AIR CARRIERS'
OPINION

First, the registration, insurance provisions, and proof of FAA certification, as they apply to the air carriers are similar to the occupational licensing function of the Department of Commerce. We believe the registration of air carriers would be handled by that Department more efficiently and at lower cost than by the Department of Public Safety.

Second, the minimum liability insurance which is currently required by A.T.C. for air carriers is \$100,000 per seat (non-certificated carriers). The minimum liability insurance which must be carried by certificated carriers is \$300,000 per seat. I have been advised by an attorney in Anchorage knowledgeable in this jurisdiction that the average death settlement in 1982 was approximately \$250,000. Rather than allow the minimum liability insurance requirement to be set by regulation, we suggest you consider this and recommend that you establish it by statute.

When the federal government recently deregulated the airline industry, the same issues were addressed as those now before the committee. In the decision to sunset the Civil Aeronautics Board (C.A.B.), it was decided by Congress that the economic regulatory function of the agency would be discontinued, but that oversight of fitness and financial responsibility for certificated carriers be transferred to the federal Department of Transportation. The certification process requires an application, an operations and business plan, and a declaration of previous accidents, consumer complaints, and judgments awarded against the applicant. The application is reviewed and awarded based on fitness to operate, not upon the competitive effects of the business.

Because we recognize that the line between economic regulation and public safety - one key aspect of which is financial responsibility and fitness to operate - is not easy to define with precision; and because we also feel strongly that legislation should be in place February 28 to protect public safety, we do not believe it is possible to tackle this issue without risk of delay beyond that date. Therefore, we strongly urge the Committee to consider an amendment which would require the administration to undertake an interim study which would:

1. Examine the federal certification process for scheduled carriers to determine which aspects are desirable to incorporate in the state registration process in the interest of public safety.
2. Examine the impact of deregulation on rural air service to determine whether measures designed to insure reliability of service are necessary.

The results of this study would be reported back to the next session of the legislature with recommendations.

We also recommend to you that because of some fundamental differences between the air and trucking industries, that you divide the Governor's bill into two separate bills.

Last, Mr. Chairman, we sympathize with your task in reducing state expenditures this year to bring them in line with available revenues. In FY 85, A.T.C. was budgeted at \$1.4 million. We feel that the Governor's bill with the amendments we have suggested could be administered by the Department of Commerce for a much smaller budget.

January 25, 1985

TO: Senator Jack Coghill, Chairman, Senate Transportation Committee
FROM: Andre Marrou, Representative, House Transportation Committee
SUBJECT: Governor's Proposed ^{bill} to Re-regulate Transportation

Andre
M

Mr. Chairman, at your request, I am submitting this memorandum to try to delineate what appears to be an effort by the Executive Branch to contravene the will of the people as expressed in the November 1984 election. In that election, the people voted to de-regulate transportation and to abolish the Alaska Transportation Commission by a vote of 116,891 to 78,663. This is a vote of approximately 60% to 40%. In fact, substantially more Alaskans voted to de-regulate transportation than voted to elect Governor Sheffield two years before.

Following a 38-page report by the Department of Commerce and Economic Development, in November 1984, after the election, and at least four memoranda by the Attorney General's Office on November 16, 23, & 29, 1984 and January 8, 1985, the Governor is considering a bill approximately 16 to 24 pages in length that would re-regulate portions of the statutes that were de-regulated by the people only 2 1/2 months ago.

The initiative repealed portions of 7 sections of Alaska Statutes, including the following 3 in their entirety:

- AS 02.05 Alaska Air Commerce Act
- AS 42.07 Alaska Transportation Commission Act,
- AS 42.10 Alaska Motor Freight Carrier Act.

In the draft of the Governor's bill which I have seen, portions of AS 42.10 and AS 02.05 are re-written almost verbatim as additions to AS 42.30, Miscellaneous Regulations Governing Public Utilities and Carriers, starting with AS 42.30.195. The following is a compendium comparing the new proposed statutes with the old repealed statutes:

New AS 42.30.195 is almost a word for word combination of old AS 42.10.030 and AS 02.05.040.

New AS 42.30.197 is essentially a verbatim extract of old AS 42.10.020.

New AS 42.30.200 is as required by the initiative, except with a new section (d) added by the Governor, and a change to the language of section (a). These changes substantially increase the scope of the regulation, and further stipulates that the Department shall adopt regulations considerably in excess to that provided by the initiative.

LIBERTARIAN OBJECTIONS
TO AMENDING INITIATIVE

New AS 42.30.205 is essentially a verbatim extract of old AS 42.10.100.

New AS 42.30.210 is a partial re-write of old AS 42.10.113.

New AS 42.30.215 is a re-write of old AS 42.10.135 and AS 42.10.140.

New AS 42.30.220 is, so far as I can tell, a total invention and a new statute, requiring registration of a motor carrier not only with the State of Alaska, but also with the federal Interstate Commerce Commission.

New AS 42.30.225 is a re-write of all or portions of old AS 02.05.075, .080, .090.

New AS 42.30.230 is evidently another new invention and proposed new statute.

New AS 42.30.235 is a re-write with small changes of old AS 42.10.110 and AS 02.05.030.

New AS 42.30.240 is a combination of minor re-writes of old AS 42.10.230 and AS 02.05.100.

New AS 42.30.245 is a virtual verbatim extract of old AS 42.07.171 and AS 42.10.391, with a little thrown in from AS 02.05.210.

Similarly, new AS 42.30.250 is an almost verbatim extract of old AS 42.10.393, with a little from AS 02.05.230. Once again, new AS 42.30.255 is almost verbatim extracted from AS 42.10.394, with a little from AS 02.05.231.

By the same token, new AS 42.30.260 is almost a direct extract of old AS 42.10.395, with a little from AS 02.05.232.

Once again, new AS 42.30.265 is almost directly extracted from old AS 42.10.398, plus some from AS 02.05.233.

The last proposed new statute is new AS 42.30.270, which is extracted essentially verbatim from the old AS 42.10.420 and AS 02.05.250.

As you can see, Mr. Chairman, the proposed Act by the Governor amounts to nothing more or less than a blatant attempt to circumvent the will of the people and re-enact legislation which the people have repealed by a substantial vote less than 3 months ago.

I might also state for the record that Section 6 of Article 11 of the Alaska Constitution provides clearly that "initiated law becomes effective 90 days after certification, is not subject to veto, and may not be repealed by the Legislature within 2 years of its effective date. It may be amended at any time."

This latter "amend" clause has been cited by the Attorney General's Office in one of the aforementioned opinions and was recommended by that office as providing broad latitude for the Alaska Transportation Commission essentially to do what they want.

For example, the Attorney General's memoranda dated November 16, 1984, states, in replying to the Alaska Transportation Commission, "You have asked if you should be using this 90-day period to wind down the ATC's affairs, with the objective of closing up shop by the initiative's effective date. As I previously indicated to you, you should be conducting business as usual, for several reasons."

Again, the Attorney General's office stated, "The Legislature may extend the initiative's effective date, revise the substance of the initiative, or both. Until you get some sense of what action, if any, the Legislature might take in the next session, you cannot depend on your laws becoming void in late February or early March. Finally, even though those laws may, in fact, be repealed 90 days after certification of the election results, they do not necessarily vanish immediately".

As you can see, Mr. Chairman, the Attorney General's office essentially encouraged the Alaska Transportation Commission to continue business as usual and, by and large to ignore the will of the people as expressed in the initiative petition passed in November 1984.

In the Attorney General's memorandum of November 23, 1984, addressed to the Governor's office, are listed repealed statutes that are to be considered for re-enactment:

"These are listed below, along with the references to other Federal Agencies which are found in AS 02.05 and other areas that should be considered if another department is to take up where the ATC leaves off."

"There are several ATC functions being repealed which should be considered for legislation. The list follows:"

"I have not attempted to draw a fine legal distinction between health and safety issues and matters of economic regulation. Many of the items listed under health and safety can be considered a form of economic regulation."

"Policymakers should decide...(whether)...to continue some type of certification/permit/registration process, bond requirements, civil and criminal penalties, weigh fees, vehicle identification, etc."

"Those regulations should be examined and consideration should be given to transferring safety and other regulations to a department with the authority to adopt and enforce them."

And again in the Attorney General's memorandum of November 29, 1984:

"The questions of which department might assume responsibility for transferred regulations...is left open at this point."

In another memorandum by the Attorney General's office, dated January 8, 1985, and addressed to the Office of the Governor, the Attorney sets out a procedure to be accomplished with the proposed new act. In fact, some of the language in that 6-page memorandum is amazing in its clarity as to how to circumvent or contravene the initiative petition as passed by the people. For example:

"The regulations setting up insurance requirements could be taken from those the ATC has currently..."

"DPS would like the authority to continue requiring carriers to be bonded, a power currently given the ATC by AS 42.10.100. As I understand it, the bonding of the business is independent of the financial responsibility requirement established for each vehicle."

"At a minimum, proposed legislation should give DPS the power to adopt regulations for motor carrier safety. Under this authority, DPS would adopt the ATC's regulations currently found..."

"DPS proposes to go a step further than merely adopting the ATC's safety regulations by implementing a semi-annual truck inspection."

"As an additional enforcement tool for the insurance and safety requirements, DPS wants to institute a registration system for both intra-state air and motor freight carriers."

"AS 42.30.220 of the attached bill draft sets up the skeleton of a registration system for both air and motor carriers operating intra-state. AS 42.30.230 re-enacts current AS 42.10.135 to provide for registration of inter-state motor carriers."

"Do you want a requirement that motor vehicles display identification for owner and registration number on the side of trucks, similar to former AS 42.10.113?"

"AS 42.10.394 and AS 02.05.231 provided for civil money penalties in certain circumstances-- should these be included in the bill and for what offenses?"

"AS 42.10.393 and AS 02.05.230 also made violations of the Motor Freight Carrier Act and Air Commerce Act of 1960 misdemeanors. Should similar provisions be included in this bill, and for what offenses? Do you want a section similar to AS 02.05.232, making each violation a separate offense?"

Mr. Chairman, I should re-iterate again, that the initiative petition passed by the people in early November 1984 specifically repealed all portions of AS 42.10 Alaska Motor Freight Carrier Act and AS 02.05 Alaska Air Commerce Act of 1960. By suggesting these statutes be re-enacted in a memorandum to the Office of the Governor, the Office of the Attorney General shows arrogant and flagrant disregard for the will of the people as expressed in a free election. In my opinion, this attitude must not go unnoticed nor unheralded. If we are to maintain a degree of freedom from governmental control of our lives, then we must not allow our State Executive Branch to attempt to re-enact what the people have so soundly and so recently repealed.

Offered: 2/22/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 CS FOR SENATE BILL NO. 103 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transportation safety and finan-
7 cial responsibility; and providing for an effective
8 date."

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

10 * Section 1. AS 42.30.200 is amended to read:

11 Sec. 42.30.200. FINANCIAL RESPONSIBILITY. (a) A person who
12 carries passengers or freight for hire intrastate or a person who
13 carries freight in a motor vehicle for commercial purposes shall
14 procure and maintain security in the following minimum amounts:

15 (1) \$200,000 for property damage in a single occurrence;

16 (2) \$500,000 for bodily injury or death in a single occur-
17 rence if a person operates a motor vehicle; and

18 (3) \$300,000 per seat for bodily injury or death in a
19 single occurrence if a person operates an aircraft [AN AMOUNT DE-
20 TERMINED BY THE DEPARTMENT OF PUBLIC SAFETY AS NECESSARY FOR THE
21 REASONABLE PROTECTION OF THE PUBLIC AGAINST DAMAGES OR INJURY CAUSED
22 BY THE PERSON].

23 (b) Evidence of security required under (a) of this section
24 shall be filed with the department and must be

25 (1) a policy or certificate of insurance issued by an
26 insurer acceptable to the department; or

27 (2) a bond of a surety company licensed to write surety
28 bonds in the state; or

29 (3) evidence accepted by the department, showing ability to

1 self-insure; or

2 (4) other security approved by the department.

3 (c) The department may authorize department personnel [ENFORCE-
4 MENT OFFICERS] to enforce this section and may adopt procedural regu-
5 lations necessary to implement this section.

6 * Sec. 2. AS 42.30.200 is amended by adding new subsections to read:

7 (d) A policy of insurance, surety bond, or other form of secur-
8 ity may not be cancelled on less than 30 days' written notice to the
9 department. For insurance policies submitted as proof of financial
10 responsibility under AS 42.30.225(a)(1) this requirement must be
11 clearly stated in the policy or endorsement. The 30-day notice period
12 is measured from the date on which the department receives notice.

13 (e) A person who violates (a) of this section is guilty of a
14 class B misdemeanor and is punishable by a fine of not less than \$500
15 or more than \$1,000.

16 (f) This section applies only to a person who carries passengers
17 or freight for hire in a motor vehicle weighing 10,000 pounds or more,
18 or a propeller or jet-powered aircraft.

19 * Sec. 3. AS 42.30 is amended by adding new sections to read:

20 Sec. 42.30.225. CERTIFICATION OF COMPLIANCE OF AIR CARRIERS.

21 (a) A person may not use an aircraft in air commerce without obtain-
22 ing a certificate of compliance from the department. The department
23 shall issue a certificate of compliance upon application and presenta-
24 tion of

25 (1) proof of financial responsibility required under
26 AS 42.30.200;

27 (2) proof of compliance with Federal Aviation Administra-
28 tion requirements, and, where applicable, federal certification for
29 scheduled airline service.

1 (b) A person who receives a certificate of compliance under (a)
2 of this section shall renew the certificate annually. The annual fee
3 for a certificate of compliance shall be \$50.

4 (c) Each aircraft owned or leased by a person subject to the
5 provisions of this section must have a certificate of compliance
6 issued by the department before the aircraft is used in air commerce.
7 The certificate is valid for a period of 12 months following the date
8 of certification. The certificate must be displayed on the aircraft
9 so that it is visible to boarding passengers.

10 (d) A federally-certificated interstate air carrier that pro-
11 vides intrastate service between points in the state on an interstate
12 or foreign route, and who uses, for that intrastate service, aircraft
13 based primarily outside the state, must also obtain a certificate of
14 compliance for each aircraft used in intrastate service.

15 (e) Use of an aircraft in air commerce before obtaining a cer-
16 tificate of compliance required under (a) of this section may be cause
17 for suspension or revocation of the certificate.

18 (f) An air carrier, who before the effective date of this Act,
19 obtained a certificate to operate from the Alaska Transportation
20 Commission, is not required to obtain a certificate of compliance
21 under (a) of this section until the date on which the insurance policy
22 on each aircraft must be renewed.

23 (g) The department may authorize department personnel to enforce
24 this section and may adopt procedural regulations necessary to imple-
25 ment this section.

26 ARTICLE 6. MOTOR VEHICLE SAFETY INSPECTIONS.

27 Sec. 42.30.300. MOTOR VEHICLE SAFETY INSPECTIONS. (a) A motor
28 vehicle may not be operated on the public highways of this state
29 without a certificate of inspection. A certificate of vehicle

1 registration may not be issued to a motor vehicle under AS 28.10.041-
2 (a)(4) without a current certificate of inspection if the motor
3 vehicle is required to obtain a certificate of inspection under this
4 section. An owner of a motor vehicle shall renew a certificate of
5 inspection at least twice a year at an official inspection station
6 under AS 42.30.320. An owner of a motor vehicle shall display a
7 sticker of inspection visible from outside the vehicle in a location
8 determined by the department.

9 (b) The commissioner of commerce and economic development may
10 adopt procedural regulations appropriate to achieve reciprocity with
11 other western states and necessary to implement this section.

12 Sec. 42.30.310. EXEMPTIONS. A motor vehicle is exempt from the
13 requirements of AS 42.30.300 if it is owned by the government of the
14 United States of America.

15 Sec. 42.30.320. OFFICIAL INSPECTION STATIONS. (a) A person may
16 not operate an inspection station without a permit from the depart-
17 ment. The department shall approve an application for permit to
18 operate an inspection station, if

19 (1) the department determines the inspection station has
20 proper equipment and competent personnel; and

21 (2) a certified vehicle inspector under AS 42.30.330 is
22 employed at the inspection station.

23 (b) After the department approves an application for permit to
24 operate an official inspection station under (a) of this section, it
25 shall provide the applicant with a permit, certificates of inspection,
26 and inspection stickers.

27 (c) Upon receipt of a permit from the department under (c) of
28 this section, the operator of an official inspection station shall
29 post the permit in a conspicuous place at the location designated by

1 the department.

2 (d) The department may inspect a motor vehicle or enter the
3 premises of the operator of an official inspection station at any time
4 to inspect the work of the certified vehicle inspectors under AS 42.-
5 30.330 or to determine if the operator continues to meet the require-
6 ments of this section.

7 (e) The department shall suspend or revoke a permit of an opera-
8 tor of an official inspection station if the operator fails to meet
9 the requirements of this section.

10 (f) Upon notice of suspension or revocation of a permit under
11 (e) of this section, the operator of an official inspection station
12 shall immediately terminate all inspection activities, and on demand
13 by the department, return the permit and all certificates of inspec-
14 tion. The department shall issue a receipt for all unused certifi-
15 cates of inspection.

16 (g) If a permit is suspended or revoked under (e) of this sec-
17 tion, the department shall give an operator of an official inspection
18 station a hearing, upon written request filed with the department
19 within 10 days after suspension or revocation.

20 (h) A permit to operate an official inspection station may not
21 be assigned, transferred, or used at a location other than the lo-
22 cation designated by the department.

23 Sec. 42.30.330. CERTIFICATION OF VEHICLE INSPECTORS. (a) A
24 person may not conduct a motor vehicle inspection at an official
25 inspection station under AS 42.30.320 unless certified as a vehicle
26 inspector by the department.

27 (b) The department may suspend the certification issued to a
28 vehicle inspector under (a) of this section if the vehicle inspector
29 improperly conducted inspections or failed to comply with a provision

1 of this section or regulations adopted under it.

2 (c) If a certificate is denied or suspended under (b) of this
3 section the department shall give a vehicle inspector a hearing upon
4 written request filed with the commissioner within 10 days after
5 denial or suspension.

6 Sec. 42.30.340. ISSUANCE OF CERTIFICATE OF INSPECTION. (a) A
7 person operating an official inspection station shall issue a certifi-
8 cate of inspection to the owner of a motor vehicle after determining
9 the motor vehicle is in a safe and mechanically sound condition.

10 (b) A person operating an official inspection station shall keep
11 a record of each inspection performed at the station and the depart-
12 ment may audit the records of an official inspection station at any
13 time.

14 Sec. 42.30.350. FALSELY REPRESENTING TO BE AN OFFICIAL STATION.
15 (a) A person may not represent a place as an official inspection
16 station unless the station is operating under a valid permit issued by
17 the department under AS 42.30.320.

18 (b) A person may not issue a certificate of inspection unless
19 holding a valid permit under AS 42.30.320.

20 Sec. 42.30.360. COUNTERFEIT CERTIFICATES OF INSPECTION. (a) A
21 person may not make, issue, or knowingly use an imitation or counter-
22 feit of an official certificate of inspection.

23 (b) A person may not knowingly display or issue a certificate
24 of inspection on a motor vehicle unless the motor vehicle has met the
25 requirements of AS 42.30.340.

26 Sec. 42.30.370. VIOLATION A MISDEMEANOR. A person who violates
27 a provision of AS 42.30.300 - 42.30.360 is guilty of a class B misde-
28 meanor.

29 Sec. 42.30.380. DEFINITIONS. In AS 42.30.200 - 42.30.380,

1 (1) "air carrier" means a person undertaking to engage in
2 air commerce, whether directly or indirectly, or by lease, contract,
3 or any other arrangement, and whether over regular or irregular
4 routes;

5 (2) "air commerce" means carriage by aircraft of persons or
6 freight, for compensation or hire, in intrastate commerce, including
7 the carriage by aircraft of persons or freight that move partly by
8 aircraft and partly by other forms of transportation;

9 (3) "aircraft" means a device used or designed for flight
10 in the air;

11 (4) "commercial purposes" means something for which the
12 person receives direct monetary compensation;

13 (5) "department" means the Department of Commerce and
14 Economic Development;

15 (6) "freight" means all commodities, articles, and cargo,
16 of whatever nature or value, excluding garbage and trash;

17 (7) "motor vehicle" means

18 (A) a truck of more than 10,000 pounds unladen gross
19 vehicle weight used upon a public highway of this state; and

20 (B) a trailer registered in this state of more than
21 5,000 pounds unladen gross vehicle weight and used upon a public
22 highway of this state.

23 * Sec. 4. Notwithstanding AS 42.30.200(a)(3) enacted by sec. 1 of this
24 Act, until July 1, 1985, a person to whom AS 42.30.200 applies need only
25 maintain security in the amount of \$100,000 a seat for bodily injury or
26 death in a single occurrence if a person operates an aircraft.

27 * Sec. 5. AS 44.33.020 is amended by adding a new paragraph to read:

28 (27) implement the financial responsibility requirements for
29 motor vehicles and air carriers under AS 42.30.200 - 43.30.225.

1 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
2 10.070(c).

Introduced: 1/25/85
Referred: State Affairs, Transportation
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 103

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing authority for the Department of
7 Public Safety to regulate safety of motor carrier and
8 air carrier operations; and providing for an effec-
9 tive date."

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

11 * Section 1. AS 42.30 is amended by adding new sections to article 5 to
12 read:

13 Sec. 42.30.195. COMPLIANCE ENJOINED. A person may not operate
14 as a motor carrier on a public highway of this state, or engage in air
15 commerce to or from any point in this state, except in accordance with
16 AS 42.30.195 -- 42.30.270.

17 Sec. 42.30.197. EXEMPT MOTOR VEHICLES. (a) AS 42.30.195 --
18 42.30.220 and AS 42.30.230 -- 42.30.270 apply to all motor vehicles of
19 a motor carrier unless specifically exempted by this section. Unless
20 specifically provided otherwise, AS 42.30.195 -- 42.30.220 and AS 42.-
21 30.230 -- 42.30.270 do not apply to

22 (1) a motor vehicle operated exclusively in the transporta-
23 tion of United States mail or in the transportation of newspapers or
24 periodicals alone or in conjunction with an express service delivering
25 packages not to exceed 100 pounds to any one receiver;

26 (2) a motor vehicle owned and operated by the United
27 States, the state, or a borough, city, or unified municipality in the
28 state, or by an agency of any of them, except when the vehicle is used
29 to transport property of the general public for compensation in

1 competition with other carriers subject to this chapter, and to the
2 extent that regulation of vehicles operated by the United States is
3 permitted by the laws of the United States;

4 (3) a motor vehicle that is a "farm vehicle," as defined by
5 the department by regulation; that does not exceed an unladen total
6 gross weight of 16,000 pounds; that is owned by a person whose primary
7 source of livelihood is derived from the operation of a ranch, farm,
8 or dairy; and that is used exclusively to transport that person's own
9 ranch, farm, or dairy products to and from the market or to transport
10 supplies, commodities, or equipment to be used on the person's ranch,
11 farm, or dairy;

12 (4) a motor vehicle weighing 5,000 pounds or less, unladen
13 gross weight;

14 (5) a motor vehicle operated exclusively for the transpor-
15 tation of persons, which has a seating capacity of less than 16 pas-
16 sengers; and

17 (6) a motor vehicle operated exclusively for the transpor-
18 tation of student: and teachers to or from school, which is subject to
19 regulation under AS 14.09.

20 (b) A vehicle weighing 5,000 pounds to 12,000 pounds, unladen
21 gross weight, is exempt from the requirements of AS 42.30.230.

22 * Sec. 2. AS 42.30.200 is amended to read:

23 Sec. 42.30.200. FINANCIAL RESPONSIBILITY. (a) A person operat-
24 ing as a motor carrier, except with regard to a vehicle exempt under
25 AS 42.30.197, or a person engaging in air commerce, [WHO CARRIES
26 PASSENGERS OR FREIGHT FOR HIRE INTRASTATE] shall procure and maintain
27 security in an amount determined by the Department of Public Safety as
28 necessary for the reasonable protection of the public against damages
29 or injury caused by the person.

1 (b) Evidence of security required under (a) of this section must
2 [SHALL] be filed with the department and must be

3 (1) a policy or certificate of insurance issued by an insur-
4 er acceptable to the department; or

5 (2) a bond of a surety company licensed to write surety
6 bonds in the state; or

7 (3) evidence accepted by the department, showing ability to
8 self-insure; or

9 (4) other security approved by the department.

10 (c) A policy of insurance, surety bond, or other form of securi-
11 ty is not cancellable on less than 30 days' written notice to the
12 department. This requirement must be clearly stated in the policy or
13 endorsement. The 30-day notice period is measured from the date upon
14 which the department receives notice.

15 (d) The department may authorize enforcement officers to enforce
16 this section.

17 (e) The department shall adopt regulations relating to financial
18 responsibility and enforcement of the financial responsibility re-
19 quirements set out in this section.

20 * Sec. 3. AS 42.30 is amended by adding new sections to read:

21 Sec. 42.30.205. BOND TO PROTECT SHIPPERS AND CONSIGNEES. The
22 department may, under regulations it adopts, require a motor or air
23 carrier to file a surety bond, or deposit security or a bond, in an
24 amount fixed by the department. The bond or security must be condi-
25 tioned upon the carrier paying to shippers and consignees money be-
26 longing to shippers and consignees, respectively, and coming into the
27 possession of the carrier in connection with its transportation ser-
28 vice. A carrier required by law to compensate a shipper or consignee
29 for loss, damage, or default for which a connecting carrier is legally

1 responsible is subrogated to the rights of the shipper or consignee
2 under the bond or deposit of security to the extent of the sum paid.

3 Sec. 42.30.210. IDENTIFICATION OF MOTOR VEHICLES. Each motor
4 carrier that is required to register under AS 42.30.315 shall place
5 sufficient identification, as determined by the department, on each
6 motor vehicle operated by that carrier that is not exempt under
7 AS 42.30.197. The required identification must be sufficient to allow
8 immediate determination of the carrier's name, address, and registra-
9 tion number. The department shall adopt regulations necessary to
10 implement this section.

11 Sec. 42.30.215. REGISTRATION OF INTRASTATE MOTOR CARRIERS. (a)
12 A person may not operate as an intrastate motor carrier, except with
13 regard to a vehicle exempt under AS 42.30.197, without obtaining
14 registration as a motor carrier from the department. Registration is
15 conditioned upon compliance with all other applicable provisions of
16 AS 42.30.195 -- 42.30.270, payment of applicable fees, and the filing
17 of an application accompanied by the following:

18 (1) proof of financial responsibility required under
19 AS 42.30.200;

20 (2) proof of bonding if required by regulations adopted
21 under AS 42.30.205;

22 (3) proof of a satisfactory safety inspection within the
23 preceding six months, by the department or its authorized representa-
24 tive, under AS 42.30.230 for all motor vehicles operated by the carri-
25 er, or, if the safety inspection for a vehicle within the preceding
26 six months was unsatisfactory, proof of repair or correction of the
27 vehicle's deficiency.

28 (b) An application for registration must be made in writing on a
29 form prescribed by the department, and must state the ownership,

1 control, affiliation with any other carrier, equipment to be used, and
2 other information the department requires.

3 (c) Registration under (a) of this section must be renewed
4 annually by paying the applicable renewal fee and filing a renewal
5 application, accompanied by the documentation of financial responsi-
6 bility, bonding, and safety compliance specified in (a)(i) -- (3) of
7 this section.

8 (d) A motor carrier, otherwise required to register under (a) of
9 this section, who is engaged in the transportation of property or
10 passengers by motor vehicle in intrastate commerce and who, before
11 February 28, 1985, obtained a permit to operate from the Alaska Trans-
12 portation Commission, is not required to file another application for
13 registration as prescribed in (a) of this section. Such a carrier is
14 required to file an application for renewal as prescribed in (c) of
15 this section no later than February 28, 1986; however, the renewal
16 application may not be granted until the applicant has complied with
17 all other applicable provisions of AS 42.30.195 -- 42.30.270.

18 Sec. 42.30.220. REGISTRATION OF MOTOR CARRIER'S INTERSTATE OPER-
19 ATING AUTHORITY. (a) A motor carrier may not operate as a motor
20 carrier in interstate or foreign commerce in the state without regis-
21 tering the operation with the department. Registration must be gran-
22 ted upon the filing of an application, the payment of applicable fees,
23 and upon compliance with the bonding requirement of AS 42.30.205, if
24 applicable, and with safety regulations adopted under AS 42.30.230(a).
25 An application for registration must be accompanied by either

26 (1) a copy of the operating authority pertaining to service
27 from, to, or within this state issued by the Interstate Commerce Com-
28 mission under 49 U.S.C. sec. 10921 (Interstate Commerce Act); or

29 (2) an affidavit of the motor carrier's exempt status,

1 including a description of the operations to be conducted, if the
2 operation does not require authority from the Interstate Commerce
3 Commission under 49 U.S.C. sec. 10921 (Interstate Commerce Act).

4 (b) Registration under (a) of this section, must be renewed
5 annually by filing a renewal application and paying the renewal fee.
6 Renewal is conditioned upon continued compliance with the bonding
7 requirement of AS 42.30.205, if applicable, and safety regulations
8 adopted under AS 42.30.230(a).

9 (c) A motor carrier operating as a motor carrier in interstate
10 or foreign commerce in the state, who, before February 28, 1985, reg-
11 istered its authority from the Interstate Commerce Commission with the
12 Alaska Transportation Commission, is not required to file another
13 initial application as prescribed in (a) of this section. Such a
14 carrier is required to file an application for renewal as prescribed
15 in (b) of this section; however, the renewal application may not be
16 granted until the applicant has complied with the bonding requirement
17 of AS 42.30.205, if applicable, and safety regulations adopted under
18 AS 42.30.230(a).

19 Sec. 42.30.225. REGISTRATION OF AIR CARRIERS. (a) A person may
20 not engage in air commerce without obtaining registration as an air
21 carrier from the department. Registration is conditioned upon compli-
22 ance with all other applicable provisions of AS 42.30.195 -- 42.30.-
23 270, payment of the applicable fees, and filing of an application
24 accompanied by the following:

25 (1) proof of financial responsibility required under
26 AS 42.30.200;

27 (2) proof of bonding if required by regulations adopted
28 under AS 42.30.205;

29 (3) evidence, satisfactory to the department, showing that

1 the applicant can and will comply with the provisions of the laws of
2 the United States and the state, and the regulations and orders re-
3 garding safety of operation.

4 (b) Applications for registration must be made in writing on a
5 form prescribed by the department, and must state the ownership, con-
6 trol, affiliation with any other carrier, equipment to be used, and
7 other information the department requires.

8 (c) Registration under (a) of this section must be renewed
9 annually by paying the applicable renewal fee and filing a renewal
10 application, accompanied by the documentation of financial responsi-
11 bility, bonding, and safety compliance specified in (a)(1) -- (3) of
12 this section.

13 (d) Except as provided in (e) of this section, each aircraft
14 owned or leased by a person subject to the provisions of this section
15 must be registered with the department before the aircraft is used in
16 air commerce. A certificate of registration must be issued by the
17 department for each aircraft. These certificates are valid for a
18 period of 12 months following the date of registration, and must be
19 renewed at the expiration of each 12-month period. The department
20 shall establish fees for registration of aircraft.

21 (e) Federally certificated interstate carriers that provide
22 intrastate service between points in the state on their interstate or
23 foreign routes and who use, for that intrastate service, aircraft
24 based primarily outside the state, shall register with the department
25 the aircraft used in intrastate service in the state. Registration
26 fees must be paid on the basis of the maximum number of aircraft used
27 in the intrastate service during any 24-hour period during the year,
28 as provided in regulations adopted by the department.

29 (f) Failure, by a person holding carrier registration under (a)

1 of this section, to register an aircraft before its use in air com-
2 merce may be cause for suspension or revocation of carrier registra-
3 tion in accordance with AS 42.30.240.

4 (g) An air carrier, operating as an air carrier, who, before
5 February 28, 1985, obtained a certificate to operate from the Alaska
6 Transportation Commission, is not required to file another application
7 for registration as prescribed in (a) of this section. Such a carrier
8 is required to file an application for renewal as prescribed in (c) of
9 this section no later than February 28, 1986; however, the renewal
10 application may not be granted until the applicant has complied with
11 all other applicable provisions of AS 42.30.195 -- 42.30.270.

12 Sec. 42.30.230. MOTOR VEHICLE SAFETY. (a) The department shall
13 adopt regulations governing the safety of operation of motor vehicles
14 that are subject to AS 42.30.195 -- 42.30.270, and providing for
15 enforcement of those safety requirements.

16 (b) An intrastate motor carrier shall have all of its motor
17 vehicles that are not exempted under AS 42.30.197 inspected for com-
18 pliance with safety regulations by the department or an authorized
19 representative of the department at least once every six months.

20 Sec. 42.30.235. ADOPTION OF REGULATIONS. The department may
21 adopt regulations to carry out the purposes of AS 42.30.195 -- 42.30.-
22 270 which apply to motor carriers, and to persons engaged in air
23 commerce, including but not limited to regulations for safety of
24 operations, financial responsibility, bonding, registration, fees,
25 identification of motor vehicles, and enforcement. The department
26 shall adopt these regulations under the Administrative Procedure Act
27 (AS 44.62).

28 Sec. 42.30.240. SUSPENSION OR REVOCATION OF CARRIER REGISTRA-
29 TION. (a) The department may suspend the registration of a motor

1 carrier or air carrier, without prior notice or hearing, upon failure
2 of the carrier to comply with AS 42.30.200, 42.30.205, or 42.30.225(e)
3 or (f). The suspension without a hearing is effective for 10 days.
4 The department shall provide the carrier whose registration is sus-
5 pended a hearing within 10 days. If the carrier so requests, the
6 hearing must be in the judicial district in which the carrier's prin-
7 cipal place of business in the state is located. If a hearing has
8 been provided by the department, the suspension may be extended for up
9 to 10 additional days in order that the hearing officer may decide the
10 matter.

11 (b) Upon complaint, or upon its own initiative, the department,
12 after notice and opportunity for hearing, and for good cause shown,
13 may revoke the registration of a motor carrier or air carrier. Good
14 cause for suspension or revocation of carrier registration includes
15 the following reasons:

16 (1) failure to submit evidence of financial responsibility
17 required by AS 42.30.200;

18 (2) failure to submit evidence of bonding if required by
19 regulations adopted under AS 42.30.205;

20 (3) failure to register aircraft used in air commerce as
21 required by AS 42.30.225(e) and (f);

22 (4) intentional misrepresentation of a material fact in
23 obtaining registration;

24 (5) intentional failure to comply with a provision of
25 AS 42.30.195 -- 42.30.270 or a regulation adopted under AS 42.30.235;

26 (6) failure to pay applicable fees.

27 (c) A carrier whose registration has been suspended for failure
28 to show financial responsibility or bonding may, at any time before
29 revocation, have the carrier registration reinstated upon proof of

1 compliance with AS 42.30.200 and 42.30.205. An air carrier whose
2 carrier registration has been suspended for failure to register air-
3 craft may, at any time before revocation, have the registration rein-
4 stated by complying with AS 42.30.225(e) and (f). In order to become
5 a registered carrier after registration has been revoked for any
6 reason, the carrier must pay applicable carrier registration fees and
7 submit a new application accompanied by the documentation required by
8 applicable provisions of AS 42.30.215, 42.30.220, and 42.30.225.

9 (d) A carrier whose registration has been revoked may appeal the
10 department hearing officer's decision to the superior court.

11 Sec. 42.30.245. ENFORCEMENT AUTHORITY; JUDICIAL ENFORCEMENT;
12 SEIZURE AND FORFEITURE. (a) Enforcement officers authorized by the
13 department and persons authorized and designated by the department to
14 perform inspections under AS 42.30.230 have the authority set out in
15 this section to enforce regulations of the department and to enforce
16 the statutes that the department administers. The department may
17 authorize these designated representatives to

18 (1) require the operator of a motor vehicle or aircraft
19 that might be subject to the authority of the department under AS 42.-
20 30.195 -- 42.30.270 to present documents of vehicle registration or
21 ownership, or other documents required by regulation to be in the
22 possession of the operator;

23 (2) stop a motor vehicle that might be subject to the au-
24 thority of the department under AS 42.30.195 -- 42.30.270 and request
25 the right to inspect cargo in the vehicle to determine whether the
26 operation of the vehicle violates a regulation of the department or a
27 statute which the department administers; if the operator of that
28 vehicle refuses to permit inspection of the vehicle or its cargo, the
29 authorized department representative may, by placing a seal on or

1 around the cargo, prohibit the discharge of the cargo except at a
2 point of destination and in the presence of an authorized representa-
3 tive of the department;

4 (3) detain or remove from service a motor vehicle that
5 might be subject to the authority of the department under AS 42.30.-
6 195 -- 42.30.270 when it reasonably appears to an authorized represen-
7 tative of the department that the continued operation of the vehicle
8 would jeopardize the public safety; if an authorized department rep-
9 resentative discovers a safety violation that in the representative's
10 opinion will not cause an accident or breakdown, the representative
11 may order the vehicle to proceed to a designated repair area where the
12 violation must be corrected before the vehicle departs the area;

13 (4) issue a citation for a violation of a regulation or
14 statute administered by the department; and

15 (5) apply to a court for an appropriate order or fine.

16 (b) The department may apply to the superior court for the
17 enforcement of a statute or regulation, or decision of the department
18 to suspend or revoke the registration of a motor carrier or air carri-
19 er under AS 42.30.240. The court may enforce obedience by any pro-
20 cess, including the restraint of the person and the person's officers,
21 agents, employees and representatives, from further violation.

22 (c) A motor vehicle or aircraft, used by a motor carrier or air
23 carrier without obtaining valid registration under the applicable pro-
24 visions of AS 42.30.215, 42.30.220, and 42.30.225, or used after
25 registration has been revoked under AS 42.30.240(b), may be seized by
26 the department. Upon conviction of the offender or by other judgment
27 of the court, a motor vehicle or aircraft used in violation of these
28 registration requirements is forfeited to the state and must be dis-
29 posed of as directed by the court. If sold, the proceeds of the must

1 be transmitted to the proper state officer for deposit in the general
2 fund of the state treasury. Motor vehicles or aircraft seized, unless
3 forfeited by order of the court, must be returned after the final
4 court decision and payment of any criminal fines and civil penalties.

5 Sec. 42.30.250. VIOLATION A MISDEMEANOR. A person who knowingly
6 fails or refuses to comply with a provision of AS 42.30.195 -- 42.-
7 30.270, a regulation or decision of the department, or a final order
8 or decree of a court, or who knowingly procures, aids, or abets such a
9 violation, is guilty of a misdemeanor, and, upon conviction, must be
10 sentenced to pay the costs of prosecution and a fine of not more than
11 \$500 for each offense.

12 Sec. 42.30.255. CIVIL PENALTIES FOR OPERATING WITHOUT REGISTRA-
13 TION. A motor carrier or air carrier, whose registration is suspended
14 under AS 42.30.240(a), and who operates a motor vehicle or aircraft
15 without the insurance or bond required by AS 42.30.200 and 42.30.205,
16 or a motor carrier or air carrier that operates a motor vehicle or
17 aircraft without obtaining valid carrier registration under AS 42.-
18 30.215, 42.30.220 or 42.30.225 or operates while carrier registration
19 is revoked under AS 42.30.240(b), is subject to a civil penalty of not
20 more than \$1,000 or an amount equal to revenue the carrier earned as a
21 result of the illegal operation, whichever is greater. This civil
22 penalty is in addition to any other civil or criminal penalties and
23 remedies provided by law, and may only be levied by a court of compe-
24 tent jurisdiction.

25 Sec. 42.30.260. EACH VIOLATION A SEPARATE OFFENSE. Each viola-
26 tion, by a motor carrier, air carrier, or other person, of the pro-
27 visions of AS 42.30.195 -- 42.30.270, or of a decision or regulation
28 of the department, is a separate offense. In case of a continuing
29 violation, each day's continuance is a separate offense.

1 Sec. 42.30.265. PENALTIES CUMULATIVE; RECOVERY. (a) All penal-
2 ties incurred under AS 42.30.195 -- 42.30.270 are cumulative; an
3 action for the recovery of one penalty is not a bar to and does not
4 affect the recovery of any other penalty, and is not a bar to a crim-
5 inal prosecution and imposition of a fine against a motor carrier, air
6 carrier, or an officer, director, agent, or employee of a motor carri-
7 er or air carrier, or any other person.

8 (b) Neither a criminal prosecution nor an action to recover a
9 penalty is a bar to an enforcement proceeding to require compliance,
10 nor to any other remedy provided by AS 42.30.195 -- 42.30.270.

11 (c) An action to recover a penalty or impose a fine under
12 AS 42.30.195 -- 42.30.270 must be brought by the attorney general in a
13 court of competent jurisdiction. All fines imposed and all penalties
14 recovered under this chapter must be paid to the court and deposited
15 by it in the general fund of the state.

16 Sec. 42.30.270. DEFINITIONS. For the purposes of AS 42.30.-
17 195 -- 42.30.270,

18 (1) "air carrier" means a person undertaking to engage in
19 air commerce, whether directly or indirectly, or by lease, contract,
20 or any other arrangement, and whether over regular or irregular
21 routes;

22 (2) "air commerce" means carriage by aircraft of persons or
23 property, for compensation or hire, in intrastate commerce, including
24 the carriage by aircraft of persons or property which move partly by
25 aircraft and partly by other forms of transportation;

26 (3) "aircraft" means a device used or designed for flight
27 in the air;

28 (4) "department" means the Department of Public Safety;

29 (5) "motor carrier" includes

1 (A) a person who undertakes to transport property or
2 persons for the general public by motor vehicle, for compensa-
3 tion, including motor vehicle operations of other carriers by
4 rail or water and of express or forwarding companies;

5 (B) a person who leases, rents, or provides a motor
6 vehicle for the use of another in transporting property or per-
7 sons, and who provides, procures, or arranges for, directly or
8 indirectly, a driver or operator for the motor vehicle; or who
9 provides the necessary authority for the use of the vehicle on a
10 public highway, except when the motor vehicle is leased to anothe-
11 er carrier;

12 (C) a person engaged in the business of providing,
13 contracting for, or undertaking to provide, transportation of
14 property, for compensation, over the public highways as a broker
15 or forwarder;

16 (D) a person who transports by motor vehicle, with or
17 without compensation, property that is owned or is being bought
18 or sold by that person, or property of which that person is the
19 seller, purchaser, lessee, or bailee, and the transportation is
20 incidental to and in furtherance of some other primary business
21 conducted by the person in good faith;

22 (E) except when the motor vehicle is leased to another
23 carrier, a person who rents, leases, or otherwise provides a
24 motor vehicle for the use of others in transporting passengers or
25 property, but who does not provide, procure, or arrange for,
26 directly or indirectly, an operator for the vehicle;

27 (F) a person who, under special and individual con-
28 tracts or agreements, transports property by motor vehicle, for
29 compensation;

1 (6) "motor vehicle" means a truck, tractor, wrecker, tow
2 car, bus, van, hearse, ambulance, or other self-propelled or motor-
3 driven vehicle used upon any public highway of this state for the
4 purpose of transporting property or persons, which is not exempted
5 under AS 42.30.197;

6 (7) "property" means all commodities, articles, and cargo,
7 of whatever nature or value, excluding garbage, refuse, trash, or
8 other waste material;

9 (8) "public highway" means every street, road, or highway
10 in this state;

11 (9) "seating capacity" includes a space capable of accommo-
12 dating an average-sized adult, if the overall seat configuration and
13 design, and vehicle design, are such that the position is likely to be
14 used as a seating position while the vehicle is in motion, but does
15 not include auxiliary seating accommodations such as temporary or
16 folding jump seats;

17 (10) "vehicle" includes every device capable of being moved
18 upon a public highway and in, upon, or by which a person or property
19 is or may be transported or drawn upon a public highway; the term does
20 not include a device moved by human or animal power or used exclusive-
21 ly upon stationary rails or tracks.

22 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

1 Sec. 42.30.265. PENALTIES CUMULATIVE; RECOVERY. (a) All penal-
2 ties incurred under AS 42.30.195 -- 42.30.270 are cumulative; an
3 action for the recovery of one penalty is not a bar to and does not
4 affect the recovery of any other penalty, and is not a bar to a crim-
5 inal prosecution and imposition of a fine against a motor carrier, air
6 carrier, or an officer, director, agent, or employee of a motor carri-
7 er or air carrier, or any other person.

8 (b) Neither a criminal prosecution nor an action to recover a
9 penalty is a bar to an enforcement proceeding to require compliance,
10 nor to any other remedy provided by AS 42.30.195 -- 42.30.270.

11 (c) An action to recover a penalty or impose a fine under
12 AS 42.30.195 -- 42.30.270 must be brought by the attorney general in a
13 court of competent jurisdiction. All fines imposed and all penalties
14 recovered under this chapter must be paid to the court and deposited
15 by it in the general fund of the state.

16 Sec. 42.30.270. DEFINITIONS. For the purposes of AS 42.30.-
17 195 -- 42.30.270,

18 (1) "air carrier" means a person undertaking to engage in
19 air commerce, whether directly or indirectly, or by lease, contract,
20 or any other arrangement, and whether over regular or irregular
21 routes:

22 (2) "air commerce" means carriage by aircraft of persons or
23 property, for compensation or hire, in intrastate commerce, including
24 the carriage by aircraft of persons or property which move partly by
25 aircraft and partly by other forms of transportation;

26 (3) "aircraft" means a device used or designed for flight
27 in the air;

28 (4) "department" means the Department of Public Safety;

29 (5) "motor carrier" includes

1 (A) a person who undertakes to transport property or
2 persons for the general public by motor vehicle, for compensa-
3 tion, including motor vehicle operations of other carriers by
4 rail or water and of express or forwarding companies;

5 (B) a person who leases, rents, or provides a motor
6 vehicle for the use of another in transporting property or per-
7 sons, and who provides, procures, or arranges for, directly or
8 indirectly, a driver or operator for the motor vehicle; or who
9 provides the necessary authority for the use of the vehicle on a
10 public highway, except when the motor vehicle is leased to anothe-
11 er carrier;

12 (C) a person engaged in the business of providing,
13 contracting for, or undertaking to provide, transportation of
14 property, for compensation, over the public highways as a broker
15 or forwarder;

16 (D) a person who transports by motor vehicle, with or
17 without compensation, property that is owned or is being bought
18 or sold by that person, or property of which that person is the
19 seller, purchaser, lessee, or bailee, and the transportation is
20 incidental to and in furtherance of some other primary business
21 conducted by the person in good faith;

22 (E) except when the motor vehicle is leased to another
23 carrier, a person who rents, leases, or otherwise provides a
24 motor vehicle for the use of others in transporting passengers or
25 property, but who does not provide, procure, or arrange for,
26 directly or indirectly, an operator for the vehicle;

27 (F) a person who, under special and individual con-
28 tracts or agreements, transports property by motor vehicle, for
29 compensation;

1 (6) "motor vehicle" means a truck, tractor, wrecker, tow
2 car, bus, van, hearse, ambulance, or other self-propelled or motor-
3 driven vehicle used upon any public highway of this state for the
4 purpose of transporting property or persons, which is not exempted
5 under AS 42.30.197;

6 (7) "property" means all commodities, articles, and cargo,
7 of whatever nature or value, excluding garbage, refuse, trash, or
8 other waste material;

9 (8) "public highway" means every street, road, or highway
10 in this state.

11 (9) "seating capacity" includes a space capable of accommo-
12 dating an average-sized adult, if the overall seat configuration and
13 design, and vehicle design, are such that the position is likely to be
14 used as a seating position while the vehicle is in motion, but does
15 not include auxiliary seating accommodations such as temporary or
16 folding jump seats;

17 (10) "vehicle" includes every device capable of being moved
18 upon a public highway and in, upon, or by which a person or property
19 is or may be transported or drawn upon a public highway; the term does
20 not include a device moved by human or animal power or used exclusive-
21 ly upon stationary rails or tracks.

22 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).

COMMITTEE REPORT
SENATE

FURTHER:

1935

Date 1/20/35

Mr. President

The Committee on FINANCE considered SB 105

FINANCE

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 105
- new title
- same title and recommends to pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman _____

Chairman recommendation _____

*Language from Knapp
DOT/PF*

Amendment
4/9/85

Senate Bill 105

Section 2 (6)

Those portions of Section 22, 27 and 34, T. 17 N., R. 1 E, S. M. in the Palmer Recording District, Third Judicial District, State of Alaska, more particularly described as follows are omitted from the refuge for the purpose of providing transportation and utility corridors. Lands within the transportation and utility corridors which are determined not to be necessary for future transportation or utility development or expansion will become part of the Palmer Hay Flats State Game Refuge or revert to its intended use under this Act. The Department of Transportation and Public Facilities will, if feasible, develop access points to the refuge at Knik River Bridge and to Rabbit Slough during future project development.

The SE 1/4 of the NW 1/4, the NE 1/4, the NE 1/4 of SW 1/4, the W 1/2 of SE 1/4 in said Section 22 together with a corridor 300 feet either side of existing highway centerline through said Section 27 and through said Section 34.

*Adopted
4/24/85*

Original sponsor: Kerttula

1
2 IN THE SENATE

BY THE FINANCE COMMITTEE

3 CS FOR SENATE BILL NO. 105 (Finance)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to the Palmer Hay Flats State Game
8 Refuge; and providing for an effective date."

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

10 * Section 1. The legislature determines that wetlands important to the
11 protection of waterfowl and salmon in the Spring Creek area lie outside of
12 the boundaries of the Palmer Hay Flats State Game Refuge. The Spring Creek
13 area also provides one of the major public access points to the hay flats
14 although the land is privately owned. The legislature therefore determines
15 that it is in the public interest to protect the Spring Creek wetlands
16 through extension of the Palmer Hay Flats State Game Refuge under this Act.

17 * Sec. 2. AS 16.20.032(a) is amended to read:

18 (a) The following state-owned land and water is established as
19 the Palmer Hay Flats State Game Refuge:

20 (1) Township 16 North, Range 1 West, Seward Meridian

21 Sections 1 - 12 inclusive

22 Section 13: N1/2

23 Sections 14 - 18 inclusive

24 (2) Township 17 North, Range 1 West, Seward Meridian

25 Section 25: All

26 Section 26: S1/2, S1/2N1/2, N1/2NE1/4, NE1/4NW1/4

27 Section 27: S1/2, SE1/4NE1/4

28 Section 31: Lot 4, SE1/4, E1/2SW1/4, SE1/4NE1/4,

29 S1/2SW1/4NE1/4

Section 32: S1/2, S1/2NE1/4, NE1/4NE1/4,

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SE1/4NW1/4

Section 33: All

Section 34: All

Section 35: All

Section 36: All

(3) Township 17 North, Range 1 East, Seward Meridian

Section 22:

excluding NW1/4NW1/4

excluding NE1/4NE1/4NE1/4

excluding N1/2NE1/4NW1/4

Section 27:

excluding S1/2S1/2

Section 28: N1/2SE1/4

Section 31: Lots 5, 7, 8, 9, 10

Section 32: NE1/4

Section 33: SW1/4NW1/4, including all state tide
and submerged land

(4) Township 16 North, Range 1 East, Seward Meridian

Section 4, 5, 6, 7, 8, 9: All

Section 17: N1/2

Section 18: N1/2

All state tide and submerged land

(5) Township 16 North, Range 1 East, Seward Meridian

Section 2: Portion lying west of the Alaska
Railroad

Section 3: Lot 1, excluding portions lying east
of the Alaska Railroad centerline, Lots, 2, 3,
4, 5, 6, NW1/4, NW1/4, NE1/4

Section 10: Lots 1, 2, 3, 4, 6, and portions

1
2 lying west of the Alaska Railroad

3 Section 15: All state land lying north of the
4 south bank of the Knik River and west of the
5 Alaska Railroad

6 Section 16: All state land lying north of the
7 south bank of the Knik River

8 * Sec. 3. The commissioner of natural resources shall include land
9 acquired from the Matanuska-Susitna Borough in the Palmer Hay Flats State
10 Game Refuge established under AS 16.20.032.

11 * Sec. 4. (a) The commissioner of natural resources may dispose of
12 state land located within the Matanuska-Susitna borough in exchange for
13 privately owned land determined desirable for inclusion in the Palmer Hay
14 Flats State Game Refuge. The commissioner of natural resources may also
15 offer to purchase at fair market value from willing sellers privately owned
16 land determined desirable for inclusion in the Palmer Hay Flats State Game
17 Refuge.

18 (b) An offer made by the commissioner of natural resources under this
19 section for a purchase or exchange that remains unaccepted for two years
20 after tender is withdrawn.

21 (c) An exchange or purchase authorized under (a) of this section
22 shall be accomplished under AS 38.50.

23 (d) The commissioner of natural resources shall include land acquired
24 under this section in the Palmer Hay Flats State Game Refuge established
25 under AS 16.20.032.

26 * Sec. 5. The addition of land to the Palmer Hay Flats State Game
27 Refuge under secs. 2 - 4 of this Act may not be an occasion for the delay
28 in or prohibition of the expansion or improvement of the Glenn Highway, the
29 Parks Highway, or the Wasilla Bypass, or the construction of the inter-
change at the Parks and the Glenn Highways, nor may it restrict the present

1 or future use of land retained by an owner of land under sec. 4 of this
2 Act.

3 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
4 10.070(c).
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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: _____
Title: _____

FISCAL DETAIL

Agency Affected: _____
Program Category Affected: _____

Sponsor: _____
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact

Prepared By: Mike Vediner
Division: Commissioner's Office

Phone: 462-1581
Date: 2-27-84

Approved by Commissioner: Neil Faragher
Agency: Natural Resources

Date: 2-27-84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Original sponsor: Kerttula

See Sec 3

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 105 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Palmer Hay Flats State Game
7 Refuge; and providing for an effective date."

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

9 * Section 1. The legislature determines that wetlands important to the
10 protection of waterfowl and salmon in the Spring Creek area lie outside of
11 the boundaries of the Palmer Hay Flats State Game Refuge. The Spring Creek
12 area also provides one of the major public access points to the hay Flats
13 although the land is privately owned. The legislature therefore determines
14 that it is in the public interest to protect the Spring Creek wetlands
15 through extension of the Palmer Hay Flats State Game Refuge under this Act.

16 * Sec. 2. AS 16.20.032(a) is amended to read:

17 (a) The following state-owned land and water is established as
18 the Palmer Hay Flats State Game Refuge:

19 (1) Township 16 North, Range 1 West, Seward Meridian

20 Sections 1 - 12 inclusive

21 Section 13: N1/2

22 Sections 14 - 18 inclusive

23 (2) Township 17 North, Range 1 West, Seward Meridian

24 Section 25: All

25 Section 26: S1/2, S1/2N1/2, N1/2NE1/4, NE1/4NW1/4

26 Section 27: S1/2, SE1/4NE1/4

27 Section 31: Lot 4, SE1/4, E1/2SW1/4, SE1/4NE1/4,

28 S1/2SW1/4NE1/4

29 Section 32: S1/2, S1/2NE1/4, NE1/4NE1/4,

1 SE1/4NW1/4

2 Section 33: All

3 Section 34: All

4 Section 35: All

5 Section 36: All

6 (3) Township 17 North, Range 1 East, Seward Meridian

7 Section 22:

8 excluding NW1/4NW1/4

9 excluding NE1/4NE1/4NE1/4

10 excluding N1/2NE1/4NW1/4

11 Section 27:

12 excluding S1/2S1/2

13 Section 28: N1/2SE1/4

14 Section 31: Lots 5, 7, 8, 9, 10

15 Section 32: NE1/4

16 Section 33: SW1/4NW1/4, including all state tide
17 and submerged land

18 (4) Township 16 North, Range 1 East, Seward Meridian

19 Section 4, 5, 6, 7, 8, 9: All

20 Section 17: N1/2

21 Section 18: N1/2

22 All state tide and submerged land

23 (5) Township 16 North, Range 1 East, Seward Meridian

24 Section 2: Portion lying west of the Alaska
25 Railroad

26 Section 3: Lot 1, excluding portions lying east
27 of the Alaska Railroad centerline, Lots, 2, 3,
28 4, 5, 6, NW1/4, NW1/4, NE1/4

29 Section 10: Lots 1, 2, 3, 4, 6, and portions

1 lying west of the Alaska Railroad

2 Section 15: All state land lying north of the
3 south bank of the Knik River and west of the
4 Alaska Railroad

5 Section 16: All state land lying north of the
6 south bank of the Knik River

7 * Sec. 3. AS 16.20.032 is amended by adding a new subsection to read:

8 (e) Notwithstanding the provisions of (a) of this section, the
9 land described in this subsection is excluded from the Palmer Hay
10 Flats State Game Refuge established under (a) of this section for the
11 establishment of a transportation and utility corridor. Land within
12 the transportation and utility corridor that is determined by the
13 commissioner of transportation and public facilities to be unnecessary
14 for future transportation or utility corridors becomes a part of the
15 Palmer Hay Flats State Game Refuge. The commissioner of transporta-
16 tion and public facilities is directed to develop access points to the
17 Palmer Hay Flats State Game Refuge at the Knik River Bridge and to
18 Rabbit Slough during future development of state highways in the area.
19 The land that is excluded from the Palmer Hay Flats State Game Refuge
20 under this subsection is described as

21 Township 17 North, Range 1 East, Seward Meridian

22 Section 22: SE1/4NW1/4, NE1/4, NE1/4SW1/4, W1/2SE1/4

23 Section 27: a corridor 300 feet on either side of the
24 existing highway centerline

25 * Sec. 4. The commissioner of natural resources shall include land
26 acquired from the Matanuska-Susitna Borough in the Palmer Hay Flats State
27 Game Refuge established under AS 16.20.032.

28 * Sec. 5. (a) The commissioner of natural resources may dispose of
29 state land located within the Matanuska-Susitna borough in exchange for

1 privately owned land determined desirable for inclusion in the Palmer Hay
2 Flats State Game Refuge. The commissioner of natural resources may also
3 offer to purchase at fair market value from willing sellers privately owned
4 land determined desirable for inclusion in the Palmer Hay Flats State Game
5 Refuge.

6 (b) An offer made by the commissioner of natural resources under this
7 section for a purchase or exchange that remains unaccepted for two years
8 after tender is withdrawn.

9 (c) An exchange or purchase authorized under (a) of this section
10 shall be accomplished under AS 38.50.

11 (d) The commissioner of natural resources shall include land acquired
12 under this section in the Palmer Hay Flats State Game Refuge established
13 under AS 16.20.032.

14 * Sec. 6. The addition of land to the Palmer Hay Flats State Game
15 Refuge under secs. 2 and 4 - 5 of this Act may not be an occasion for the
16 delay in or prohibition of the expansion or improvement of the Glenn High-
17 way, the Parks Highway, or the Wasilla Bypass, or the construction of the
18 interchange at the Parks and the Glenn Highways, nor may it restrict the
19 present or future use of land retained by an owner of land under sec. 5 of
20 this Act.

21 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

SECTIONAL ANALYSIS FOR PROPOSED CS SENATE BILL 105 (Fin)

An Act relating to the Palmer Hay Flats State Game Refuge

Section 1

Legislative determination that the wetlands in the Spring Creek Area that currently lie outside the existing Palmer Hay Flats Game Refuge are important to the protection of waterfowl and salmon. This area, although privately owned, also provides public access to the hay flats. Therefore, they should be included into the Game Refuge.

Section 2

Specifies the boundaries of the existing Palmer Hay Flats Game Refuge as well as the additions. As originally introduced, this bill added 910 acres to the refuge of which 130+ acres are owned by the Mat-Su Borough (they have donated this land for inclusion in the refuge) and the remainder is in private hands. There was an amendment in Resources which was requested by the Department of Fish and Game which added an additional 1200 acres.

Section 3

Authorizes the Department of Natural Resources to acquire the 130+ acres from the Mat-Su Borough.

Section 4

Authorizes the Department of Natural Resources to exchange other state lands in the Mat-Su Borough for privately owned land which is determined to be desirable for inclusion in the Refuge. The Department may also offer to buy privately owned land at fair market value (no eminent domain). Such offers would be good for 2 years.

Section 5

This section is added in the Finance CS and states that the additional land that is added to the Refuge in this bill may not be used to delay expansion or improvement of either the Glenn or Parks Highways. It may also not be used to restrict present or future use of land that is retained in private ownership.

Section 6

Immediate effective date.

There is no fiscal impact because no funds are provided to purchase privately owned land only land exchanges.

Wed 5/10/85

Revision Date: May 8, 1985

REQUEST

Bill/Resolution No.: CSSB 105 (Fin)
Title: Palmer Hay Flats

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: NRMEC

Sponsor: Kerttula
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached

Note: Requested by Horse Resources for Horse Rules

Prepared By: Mike Vediner Phone: 465-2400
Division: Land and Water Management Date: May 8, 1985

Approved by Commissioner: *Ned Paragon* Date: May 8, 1985
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

Revised Fiscal Note Analysis - CSSB 105 (Finance)

This legislation would provide several opportunities for the department to acquire lands from both the Mat-Su Borough and private landholders within the refuge for inclusion in the refuge. With the exception of direct purchase of private land from willing sellers, however, the department would be able to eventually acquire these lands within our existing land exchange project budget. Land exchanges (AS 38.50) are an ongoing statewide project within the Division of Land and Water Management. The Department of Fish and Game would be available to assist in the identification of suitable lands for acquisition. Both borough and private lands determined suitable for inclusion in the refuge would be placed on the exchange pending list and processed in due course.

The commissioner is also granted the discretionary authority to purchase private land from willing sellers for inclusion in the refuge. Generally, any such purchase would require direct legislative appropriation as a CIP line item. Since the department would intend to pursue negotiated land exchanges rather than direct purchase, it would be premature, and therefore, inappropriate to speculate on funding requirements for direct purchase.

FEB 27 1985



COOK INLET
AQUACULTURE ASSOCIATION

P.O. BOX 3819
SOLDOTNA, AK 99669-3819
(907) 262-9419

February 25, 1985

Senator Arliss Sturgulewski
Pouch V
Juneau, Alaska 99811

Dear Senator:

The Cook Inlet Aquaculture Association supports SB 105 which allows for the extension of the Palmer Hay Flats State Game Refuge. It is clear that the entire area is valuable for recreational fishing and hunting activities. The extension is essential to "leagalize" public access to much of the Refuge.

It is probably more important to realize that the sloughs and marshes throughout the area are excellent rearing or "nursery" areas for large numbers of coho salmon fry. Dredging, filling, diking and draining, the very expensive things which can be done to marshlands to make them usable for commercial or residential purposes, all destroy the fitness of the area to harbor and nourish young salmon. We encourage the State to preserve these wetland habitats.

Sincerely,

A handwritten signature in cursive script that reads "Thomas E. Mears".

Thomas E. Mears,
Executive Director

cc: Suzanne Haines
Steve Braund

FEB 27 1985

February 22, 1985

Senator A. Sturgulewski
Senate Resorces Committee
Pouch V
Juneau, AK 99811

RE: SB 105

I suport this bill. I have used the Spring Creek area and Hay Flats for over thirty years for recreation and hope to continue. Up to this time there has been very little pressure to develop this ground, primarily due to the extreme cost of site preparation. With the current boom and subsequent escalation in commercial real estate prices, there is real economic pressure to develop the road frontage.

Currently, zoning/subdivision restrictions such as Army Corps of Engineers, EPA, and Mat-Su borough regulations restrict development. These regulations were implemented under the premise that the long term economic/social interest must be protected, and I feel they are generally well applied. Commercial development in the Spring Creek area would be disruptive not only to the environment of the entire downstream drainage, but would also disrupt the trafic flow. The area is in the flood plain of the Matanuska River. The town of Matanuska (near subject properties) was moved to Palmer because of the extreme cost of fighting high water. Any facilities placed in the area covered by SB 105 are likely to experience this problem, with the burden eventually resting with the State. This irregular flooding also makes it extremely dificult to comply with EPA regulations should any development occur.

Preservation interests must be weighed against vested property interests. Many of the owners have held the property for several years, often predating wetland regulations. Only one owner has a permit to fill in a portion of the wetlands.

Although the proposed enabling legislation has a two year expiration for selling or exchange, hopefully after the offer is specifically tendered, the intent should be perpetual. Perhaps certain provisions could be enacted to allow continuation of the exchange provision beyond this time frame. Finally, all offers to exchange or sell property should be strictly voluntary.

Sincerely,



Ralph Hulbert
P.O. Box 1846
Palmer, AK 99645

cc: Sen. Fahrenkamp
Eliason
Zharoff
Halford
Coghill
V. Fischer



FEB 27 1985

ALASKA FRONTIER TRAPPERS ASSN.
P.O. BOX 2856
PALMER, ALASKA 99645 □ (907)745-4660

February 18, 1985

Senator Arliss Sturgulewski
Resources Chairman
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

I am writing in regard to S.B. 105 introduced into the senate by Senator Kerttula. This bill is a very important piece of legislation to our organization and to outdoor-minded people of all pursuits. Senator Kerttula, in introducing this bill, is trying to preserve one of the most highly used and highly valued pieces of wildlife habitat in Alaska. Anyone who has crossed the flats on the Glenn Highway at any time of the year has surely seen the large numbers of ducks, geese, muskrat, beaver and other numerous species that inhabit this area.

The Mat-Su Borough has indicated its desire to see this area preserved by offering to let the Fish and Game Department include its 130 acres in the refuge to be managed as the rest of the area. With the population expanding as rapidly as it is in the Matanuska Valley, it is imperative that we preserve areas for our citizens to use and enjoy.

I would like to thank Senator Kerttula for introducing this legislation, as I believe it shows his desire to protect the outdoor lifestyle of many of his constituents.

Your support of S.B. 105 would be greatly appreciated.

Thank you,

James Reiss, President
ALASKA FRONTIER TRAPPERS ASSOC.

- cc: Fahrenkamp
- Eliason
- Zharoff
- Halford
- Coghill
- V. Fischer

FEB 27 1985

P.O. Box 3196
Palmer, Alaska 99645
February 21

Senator Sturgulewski
State Capital
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski,

An issue of interest to me will be coming before the Senate this session. That issue is the Palmer Hay Flats Bill. As you already know, this bill would acquire private land for inclusion into an existing special use area.

I strongly support passage of this bill in this session of the legislature. I believe this action is warranted in view of the long-range state interest to promote economic developments through economic diversification of the private sector. As a local boatbuilder, I feel the area should be protected for wildlife, sport fishing and scenic values. These ends support my personal business interests.

On a larger level, I feel the passage of the Hay Flats Bill will recognize the area as a national and international landmark. The area has already been selected by Ducks Unlimited, an international organization, as a special feeding and breeding ground along the Pacific Flyway for many species of wildfowl. In enacting this bill, the State of Alaska identifies itself among the few forward-looking nations and regions of the world seeking to keep land uses diverse and healthy.

Finally, as an educator, I strongly believe the state must take a leadership role in promoting the continuance of 'as is' landscape for the enjoyment and education of our state's youth. If regional planners are correct, the area surrounding the Hay Flats may soon approach the population density of the Anchorage bowl. By protecting the Hay Flats for young people to hunt, fish and recreate in, we teach good stewardship of Alaska's land resources.

Again, let me strongly state my support of this critical piece of state-wide legislation. It appears we have much more to gain than lose in this proposal.

Sincerely,

Rick Turner
Matanuska Boat Company
Palmer, Alaska

CC:Sens. Fahrenkamp
Eliason
Zharoff
Halford
Joghill
V. Fischer

League of Women Voters of Alaska

9151 Skywood Lane
Juneau, Alaska 99801
February 26, 1985

The Honorable Arliss Sturgulewski, Chairman
Senate Resources Committee
Alaska Legislature
Pouch V
Juneau, Alaska 99811

Re: SB 105: Palmer Hay Flats State Game Refuge

Dear Senator Sturgulewski:

The League of Women Voters of Alaska supports, in principle, SB 105, which would expand the Palmer Hay Flats State Game Refuge to incorporate certain important wetlands. The League has always considered the protection of important wetland habitats as a high priority matter, and has supported the setting aside for future public use such areas as State forests and marine parks in Alaska. We also supported the bill which established the Kenai River Management Area.

We are in a quandary, however, because of the large fiscal note connected with the need to purchase private lands to implement SB 105. This is of special concern in a time of declining State revenues and competing health related demands such as asbestos removal from schools. If, because of budgetary constraints, we had to choose between the purchase of these wetlands and the removal of any existing asbestos hazards from schools, we would choose the asbestos removal. This is consistent with one of the amplification provisions of the League's new "capital budget process" position, which states that life, health, safety and educational needs should take priority over other less basic needs.

Perhaps another financing mechanism (such as inclusion of the project cost in a State bond issue) should be explored, possibly by your committee jointly with the Finance Committee.

If a way can be found to acquire the wetlands necessary to expand the Palmer Hay Flats State Game Refuge in accordance with SB 105, without adversely impacting high priority health and education related needs, we would like to see it happen.

The Honorable Arliss Sturgulewski, Chairman
February 26, 1985
Page Two

Thank you for considering our views.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Cuadra". The signature is written in dark ink and is positioned above the typed name.

Elizabeth Cuadra, Board Member
(Natural Resources Portfolio)

DEC:sd

cc: Committee Members (Fahrenkamp, Eliason, Zharoff, Halford,
Coghill and V. Fischer)
Sponsor (Kerttula)

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUCH V
JUNEAU, ALASKA, 99811
(907) 465-4907

Senate Committee on Resources

MEMORANDUM

February 26, 1985

TO: All Members
Senate Resources Committee

FROM: Staff *fl*
Senate Resources Committee

RE: SB 105 "An Act relating to the Palmer Hay Flats State Game
Refuge; and providing for an effective date."

SB 105 provides for additional land to be added to the Palmer Hay Flats State Game Refuge established under AS 16.20.032.

The bill does not allow for taking private land by eminent domain but does allow for land exchange or purchase by the commissioner of the Department of Natural Resources for inclusion in the Palmer Hay Flats State Game Refuge. The bill does not restrict the use of private land pending an exchange or purchase.

The specific land which is addressed in this bill includes about 900 acres on either side of the Glenn Highway. Some of the land, approximately 130 acres, is owned by the Matanuska Susitna Borough and they have agreed to discuss an exchange for state land in other areas. The remainder is privately owned and presently has minimal development. The Draft Susitna Area Plan recommends that the land use designations in this area be for wildlife habitat, water resources and public recreation.

The Department of Fish and Game has suggested the bill be amended to include additional lands in the Palmer Hay Flats. The Department of Transportation and Public Facilities may wish to acquire some of this land for highway expansion at some future date. Both departments will present testimony at the hearing.

This bill has a zero fiscal note since it only allows for purchase at some future time. The total cost to the state is unknown at this time because the bill provides for land exchange as well as purchase. The number of acres that might require purchase would be determined by the Department of Natural Resources after discussion with the property owners.

fl:bh



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER 50105	REMARKS Retula
DEPARTMENT POSITION Support - with amendments.			
PREPARED BY Habitat Div. - Debra Clausen		DATE 2/4/85	COMMISSIONER'S SIGNATURE <i>[Signature]</i>
			DATE 2/13/85

SUMMARY

OTHER AGENCIES AFFECTED BY BILL DNR Matanuska Susitna Borough	CONSTITUENT GROUP(S) AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL Matanuska Susitna Borough (see attached resolution 85-12)	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The purpose of this bill is to provide protection for highly productive wetlands habitat in the Spring Creek area by adding it to the Palmer Hay Flats State Game Refuge. The wetlands proposed for addition provide important habitat for waterfowl, salmon, and moose populations. Addition of these lands will result in acquisition of key refuge access points.

ANALYSIS OF BILL/PROGRAM EFFECTS

The bill will provide protection to highly productive wetlands habitat by:

1. Expanding the boundary description of Palmer Hay Flats State Game Refuge to include the Spring Creek area.
2. Allowing for the addition of municipal lands within the Spring Creek area to Palmer Hay Flats State Game Refuge.
3. Allowing the Department of Natural Resources to acquire, through purchase or trade, private land determined desirable for inclusion in Palmer Hay Flats State Game Refuge.

The bill will enhance public access to the Refuge by directing the acquisition of key access points now in private ownership.

AMENDMENTS PROPOSED

Change AS 16.20.032(a)(2) Section 36: All [STATE TIDE AND SUBMERGED LAND]
(see attached continuation sheet)

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

PALMER HAY FLATS
A PROPOSAL TO EXTEND THE GAME REFUGE

BY
MICHAEL BRONSON
FOR
SEN. J. KERTTULA

NOVEMBER 30, 1984

PALMER HAY FLATS

CONTENTS

	PAGE
ABSTRACT	1
PROPOSED LEGISLATION	2
BACKGROUND INFORMATION	6
* HISTORY OF PROTECTION	6
* VALUE OF PROPOSED EXTENSION TO PUBLIC	8
* PLANS TO FILL WETLANDS	10
FIGURES	
ADDENDA	