

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 846

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 104 (STA)

This bill makes significant changes to state laws concerning eminent domain, and relocation assistance and real property acquisition practices. Some of the more significant changes are the following:

First, the bill would extend existing relocation assistance program benefits to a person, where such person is displaced or damaged by a taking or damaging of property as the result of activities of state agencies. Currently relocation assistance is available only where a state agency acquires real property under a federally-assisted program.

Second, the bill would make both short-term and long-term business loss compensable under eminent domain laws. Many jurisdictions do not compensate for such losses, except where the loss suffered is due to a temporary interruption to business operations, as is currently the case in Alaska.

Third, the bill would require that prior to filing a declaration of taking and prior to taking possession, the state or municipality must complete an expansive fact finding to prove that the amount deposited with the court for estimated compensation for business losses is adequate.

Fourth, the bill would permit the court to divest the state or municipality of title or possession to the property if the amount of estimated compensation deposited with the court is not adequate, if damages paid under AS 34.60 are not adequate or if the replatting requirements of AS 09.55.275 are not met.

These changes will require additional attorney services and will have a fiscal impact on the Department of Law. The state's cost for any capital project involving relocation assistance or business losses will be incrementally higher. Disagreements over the measure of business losses as well as disputes over the adequacy of the estimated amount deposited with the court will likely result in more litigation and court time. This means the total number of attorney hours provided in any given year will increase, and thus the legal services costs that are reimbursed to Law by the Department of Transportation and Public Facilities will be increased accordingly.

Furthermore, the cost that the state pays for eminent domain and relocation assistance will also increase to the extent that business losses and state-funded agency activities are a part of capital improvement projects, probably decreasing the number of projects that could be undertaken in any given year. These increased costs would occur in future capital project budgets. The

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Department of Transportation and Public Facilities' view on these matters may be helpful in this latter regard.

Because an accurate increase in legal costs cannot be predicted, they have not been shown. However, we believe that these costs could increase by as much as ten or twenty percent.

CSSB 104 (STA)

CS Compared To Original Bill (by section)

- Section 1: New section which amends AS 09.55.300 (b), and is not in the original. It requires that all parties to an eminent domain action must agree to the appointment of a hearing master.
- Section 2: Unchanged from original's section 1.
- Section 3: Amends AS 09.55.330, and is not in the original.
- Section 4: Unchanged from original's section 2.
- Section 5: Unchanged from original's section 3.
- Section 6: Unchanged from original's section 4.
- Section 7: Unchanged from original's section 5.
- Section 8: Unchanged from original's section 6.
- Section 9: Minor clarifying language from original's section 7.
- Section 10: Unchanged from original's section 8.
- Section 11: Restores the word "acquisition" to the original section 9.
- Section 12: Restores the word "acquisition" to the original section 10.
- Section 13: Restores the word "acquisition" to the original section 11.
- Section 14: Restores the word "acquisition" to the original section 12.
- Section 15: Restores the word "acquire" to the original section 13.
- Section 16: Identical to original's section 14.
- Section 17: Restores the words "acquire" and "acquisition" to the original's section 15.
- Section 18: Restores the words "acquire" and "acquisition" to the original's section 16.

- Section 19: Restores the word "acquires" to the original section 17.
- Section 20: Unchanged from original's section 18.
- Section 21: Unchanged from original's section 19.
- Section 22: Unchanged from original's section 20.
- Section 23: Restores the word "acquisition" to the original's section 21.
- Section 24: Unchanged from original's section 22.
- Section 25: States that Alaska Rule of Civil Procedure 72 (h) (2) is amended by the addition of Section 1 of this CS.
- Section 26: Unchanged from original's section 23.

**DIVISION OF LEGAL SERVICES
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MEMORANDUM

May 7, 1991

SUBJECT: Sectional summary of CSSB 104 (State Affairs)
(Work Order No. 7-LS0554\J, 5-6-91)

TO: Senator Pat Rodey
Chair, Senate State Affairs Committee

FROM: Theresa L. Bannister *TB*
Legislative Counsel

You have requested a sectional summary of the above described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 amends AS 09.55.300(b) to require that all parties to an eminent domain action must agree before a master is appointed. If a party objects, the master is not appointed.

Section 2 amends AS 09.55.310(a) to require the jury or master in an eminent domain action to ascertain and assess the full amount of business loss caused by taking or damaging the property.

Section 3 amends AS 09.55.330 to establish how business loss is to be determined in an eminent domain action.

Section 4 amends AS 09.55.440(b) by directing the court in an eminent domain action to expeditiously order that deposited money be paid immediately to the persons entitled to it.

Section 5 amends AS 09.55.450(a) by adding a third situation in which a court is prohibited from granting a right of entry in an eminent domain action. The new

provision delays the right of entry until the court determines that the deposited amount of the estimated just compensation for all property taken or damaged is substantiated by one or more appraisals prepared in good faith.

Section 6 adds four additional situations in which the plaintiff in an eminent domain action may be divested of a title or possession taken. The new situations are when the court finds that the amount of the estimated just compensation deposited under AS 09.55.440(a) is not adequate, when the state failed to comply with AS 34.60, when the plaintiff is a municipality that failed to comply with AS 34.60, and when the plaintiff failed to comply with AS 09.55.275.

Section 7 defines "business loss" and "private injury" for the eminent domain article.

Section 8 amends AS 29.10.200 to make home rule municipalities subject to the change made in sec. 9.

Section 9 adds to AS 29.35.030(a) the requirement that municipalities use the procedures set out in AS 34.60 (Relocation Assistance and Real Property Acquisition Practices), regardless of the source of funding, when exercising the powers of eminent domain and declaration of taking.

Section 10 states that the purpose of AS 34.60 is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of state agency activities.

Section 11 requires state agencies to establish and operate a relocation and payment program for persons displaced as a result of the acquisition, taking, or damaging of property for activities of state agencies.

Section 12 requires a state agency to make certain payments to displaced persons when the acquisition, taking, or damaging of property for a state agency program will displace the persons.

Section 13. Sec. 34.60.050(a) requires a state agency to make, in addition to other payments authorized by AS 34.60, an additional payment to a displaced person who meets certain requirements. The payment must include

(1) the amount that, when added to the cost of acquiring or taking the dwelling, equals the reasonable cost of a comparable replacement dwelling that meets certain criteria;

(2) the amount that will compensate the displaced person for any increased interest costs that the displaced person is required to pay for financing a comparable replacement dwelling; this amount is to be paid only if the dwelling acquired or taken

by the state agency was encumbered by a mortgage meeting certain requirements; and

(3) certain other expenses incurred by the displaced person relating to the replacement dwelling.

Sec. 34.60.050(b) limits the making of the additional payment authorized in (a) to a displaced person who purchases and occupies a replacement dwelling, which must meet certain criteria, within one year from (1) when the person receives final payment of all costs of the acquired or taken dwelling, or (2) when the person moves from the acquired or taken dwelling, whichever is later.

Section 14 requires state agencies, in addition to amounts otherwise authorized by AS 34.60, to make a specified payment to a displaced person who is not eligible for a payment under AS 34.60.050, if the dwelling was actually and lawfully occupied by the person for a certain period before the initiation of negotiations for acquiring or taking the dwelling.

Section 15 requires a state agency, as soon as practicable after paying the purchase price or depositing the funds to satisfy the award of compensation in a condemnation proceeding, whichever event is earlier, to reimburse the owner to a fair and reasonable extent for certain expenses.

Section 16 requires the state court handling a state agency condemnation proceeding to award each owner of an interest in the property a sum that the court determines will cover certain costs incurred because of the condemnation proceedings, if (1) the final judgment is that the agency cannot take the property by condemnation, or (2) the state agency abandons the proceeding.

Section 17 directs a state agency to provide a specified relocation assistance advisory program for displaced persons when the acquisition, taking, or damaging of property for a program or project undertaken by a state agency will result in the displacement of a person. Directs the state agency to offer the occupant of immediately adjacent property the relocation advisory services under the program if the person is caused substantial economic injury because of the acquisition or taking.

Section 18 directs a state agency or other entity acquiring, taking, or damaging property for a project to comply with certain listed policies to the greatest extent practicable.

Section 19 directs a state agency acquiring or taking an interest in real property to acquire or take at least the same interest as taken in the real property, in all buildings, structures, and other improvements located upon the property that are to

Senator Pat Rodey
May 7, 1991
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be removed by the state agency or that will be adversely affected by the use to which the real property will be put.

Section 20 states that for determining just compensation for a building, structure, or other improvement required to be acquired or taken under AS 34.60.130(a), the building, structure, or other improvement is considered to be a part of the real property to be acquired or taken even if a tenant eventually has the right or obligation to remove it. The tenant with the right or obligation of removal is to be paid the fair market value that the building, structure, or improvement contributes to the fair market value of the real property to be acquired or taken, or the fair market value of the building, structure, or improvement for removal, whichever is greater.

Section 21 makes technical changes and deletes the federal assistance requirement from AS 34.60.135.

Section 22 amends AS 34.60.137 to cover state agency projects, not just federal aided projects.

Section 23 adds a definition of property to include short-term and long-term business interests. Makes several changes in the definition of "displaced person" to reflect the changes in the rest of the chapter and to delete an obsolete date.

Section 24 repeals AS 34.60.100.

Section 25 describes how AS 09.55.300(b), as amended by this bill, changes a court rule.

Section 26 gives the act an immediate effective date.

If I can be of further assistance, please advise.

TLB:mi
91-086.mai

Patrick M. Rodey
Senator

Alaska State Legislature



Senate

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MAY 15 1991

MEMORANDUM

DATE: May 14, 1991

TO: Senators Kerttula and Pourchot
Co-Chairmen, Senate Finance Committee

FROM: Senator Patrick M. Rodey

SUBJ: Request for Scheduling - CSSB 104 (STA)

I respectfully request that CSSB 104 (STA) be scheduled for hearing in the Senate Finance Committee. The bill seeks to address shortcomings in Alaska's eminent domain laws and condemnation practices.

The primary thrust of the bill concerns adequate compensation for business loss, especially in the cases of leasees and franchisees for whom relocation is not possible.

Current law provides for compensation for the loss of real estate, and relocation expenses for those businesses able to move successfully, however, provisions for adequate compensation for businesses which must close is not well-defined.

Your review and support of this bill would be greatly appreciated. Support material will provided.

PMR/tb/memo004

Patrick M. Rodey
Senator

Alaska State Legislature



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SPONSOR SUMMARY

CS Senate Bill 104 (STA)

This bill is intended to address inadequacies in eminent domain proceedings where business loss occurs. The chief beneficiaries would be businesses which rent or lease. The Alaska Supreme Court has ruled that business is a form of property which cannot be taken or damaged without payment of just compensation. Short term loss of profit due to business interruption has been judged compensable.

The court has not ruled on compensability in cases of total, or long term business loss due to condemnation when the business cannot be relocated. This bill is necessary to correct that injustice. No property owner should be forced to pay a greater proportion of the cost of a public project than any other citizen.

In Section 7, the bill clearly defines "business loss". Proof of business loss is a burden of the claimant. It is routinely calculated and awarded in tort and contract cases, and would be no more difficult in condemnation cases. SB 104 requires damage be established with reasonable certainty, not speculation. The Supreme Courts of Alaska, and the United States have defined short and long term loss of profits, and loss of goodwill. The concepts are well understood by valuation experts and accountants.

CSSB 104 (STA) does the following:

- Improves public policy by rectifying the injustice of inadequate compensation of businesses which are destroyed by condemnation.
- Reduces likelihood of litigation by allowing for a master's hearing if all parties agree.
- Establishes how business loss is to be determined.
- Applies constitutional standard of "taking" and "damaging" in relevant statutes.

CSSB 104 (STA) more fairly addresses concerns of small business and franchise entities. It will provide more a realistic evaluation of business loss, and improve procedures for scrutiny and settlement of claims.

California Statute Pertaining to Business Loss

Article 6. Compensation for Loss of Goodwill

Compensation

1263.510 (a) The owner of a business conducted on the property taken, or on the remainder if such property is part of a larger parcel, shall be compensated for loss of goodwill if the owner proves all of the following:

- (1) The loss is caused by the taking of the property or the injury to the remainder.
- (2) The loss cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill.
- (3) Compensation for the loss will not be included in payments under Section 7262 of the Government Code.
- (4) Compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner.

(b) Within the meaning of this article, "goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

Tax Returns

1263.520 The owner of a business who claims compensation under this article shall make available to the court, and the court shall, upon such terms and conditions as will preserve their confidentiality, make available to the plaintiff, the state tax returns of the business for audit for confidential use solely for the purpose of determining the amount of compensation under this article. Nothing in this section affects any right a party may otherwise have to discovery or to require the production of documents, papers, books and accounts.

Inverse Condemnation

1263.530 Nothing in this article is intended to deal with compensation for inverse condemnation claims for temporary interference with or interruption of business.

RECEIVED 12/17



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: SB 104

APPROVED:

FR W. G. Turpin
Frank G. Turpin, Commissioner

TITLE: Condemnation Practices

DATE: March 16, 1992

Statement of Position

This document is meant to expand the previous position paper issued on this bill by focusing on alternative approaches which would reduce the potential for impairment of project schedules, and would achieve a much better balance between net payments for business losses versus administrative, appraisal and legal costs. This presentation begins at page 9 of Attachment A.

While sensitive to the underlying circumstances which this bill appears to address, the department cannot endorse it in the current form. Further, we feel it important to point out the very serious consequences these changes would have on the ability of the state to proceed with capital construction. Simply stated, projects will become significantly more costly, with such costs being fully ineligible for federal-aid reimbursement, and the likelihood of long delays on some projects appears certain.

There are, however, certain features of the bill which we support, such as making uniform the treatment of citizens relocated as a consequence of an eminent domain action. Here-to-fore relocation benefits of AS 34.60 were exclusively available to projects with federal funding. Projects with other funding sources were not eligible for these relocation benefits, thus causing non-uniform treatment of citizens affected by capital projects.

The impacts of this bill are very far reaching, and could add millions of dollars to the general fund cost of transportation programs on a yearly basis. A detailed discussion of our analysis of the bill and its ramifications is attached. I hope you will take the time to review this material for it clarifies how adverse an impact this bill is likely to have on this vital area of public service.

Finally, we believe a far more targeted and less costly solution is possible to resolve the type of problem addressed by this bill. Our recommendation is contained in the last section of Attachment A.

For Further Information contact Katy McHugh at 465-3900.

Attachment A

SB 104

An Act relating to the taking and compensation for damage of property by state agencies, municipalities, and other entities; and providing for an effective date.

Introduction

It is believed that this bill is meant to rectify what is perceived as an inequity when a business is relocated as a consequence of an eminent domain action and suffers some form of uncompensated loss which is ineligible for compensation under existing constitutional and statutory law. In addressing this circumstance, the bill as written, would accomplish significant change in eminent domain practices particularly as it relates to businesses, but also to all eminent domain and relocation actions. These changes are so profound, that Alaska would become a "pioneer" state in the area of eminent domain law and would easily have the most generous program in the nation. We believe that there is a real opportunity that this generosity will result in payments well in excess of fair market value.

This paper attempts to explain what protections exist under current law, the changes proposed in this new law as well as the fiscal consequences of these changes, and recommendations to address the problem of business relocations which would be less disruptive to the program as a whole.

Current Practice

The practice of eminent domain is perhaps one of the most powerful government powers. It needs to be carefully controlled by sound policy and procedure, with appropriate checks and balances. We believe that any policy adjustment should be carefully considered in relation to the dual goals of protection of both private and public rights.

Current practice contains an inequity between projects with federal funding and those without. Unless federal funding is involved, no relocation benefits are authorized under state law. This bill corrects this inequity by making relocation benefits available for all projects.

When federal funds are involved, current policy regarding condemnation and relocation work well in most instances. We believe that policy adjustments should build upon the strengths of current law. Following is a discussion of the rights and protections afforded citizens affected by eminent domain actions under present law.

1. Just compensation generally: The supreme court has stated that the constitutional provision and the law is to be construed in favor of the owner. That is, under current law the owner is given the benefit of every doubt.

- A. Measure of compensation for real property: Full market value upon the date of taking. The owner is entitled to the market value of the property taken plus the market value of the property not taken but injured by the taking as measured by the decrease in the market value of the remainder before and after the taking. Under current department practice these values are determined by appraisers and certified by review appraisers.
- B. Measure of compensation for special damages: The owner is entitled to:
1. payment of expenses incurred in finding and moving to a new place of business, including lodging, transportation and brokerage fees;
 2. payment for personal property lost or damaged during relocation;
 3. payment for personal property which cannot be used in the new business location; and,
 4. in the event a business cannot be relocated, a payment can be made in lieu of relocation up to \$20,000. In essence this is a payment for going out-of-business.
- C. Relocation benefits: The business owner is entitled to relocation costs and benefits including the cost of moving, including packing and unpacking, storage and move insurance, licenses and permits, new signs and stationary, certain repairs or improvements to new location, utility connections, feasibility studies, advertising, new special assessment costs, advertising of new business location, and other items considered essential to reestablish the business.

Summary: Under current law the owner is compensated for the value of the real property lost; cost of finding a new place of business; all damage to personal property; and all moving costs. Conceptually the owner should be whole; i.e.: he should be able to buy or lease a comparable piece of property and move his/her business to it.

However, there are gaps in the above benefits that arise in some circumstances. Perhaps the biggest gap is left when no suitable location can be found or a location less suitable to the business is the only alternative. In these circumstances, the business owner may suffer damages. Here lies what we believe is the crux of the problem and our recommendations address businesses facing relocation which suffer consequences not now eligible for compensation.

2. Deposit. The state must deposit it's estimate of compensation when it files a declaration of taking. The owner is in a position whereby he/she can obtain full payment of the state's estimate of compensation on the date of filing or as soon thereafter as it is clear they will not contest the authority and necessity of the state's acquisition.

3. Authority. If the owner contests the state's authority to acquire the property in question, the state must prepare a statement of authority and necessity. This document requires that the state justify in writing the purpose and need for the property in question (see AS 09.55.270). Alaska is one of a limited number of states which bestows this additional layer of protection to private parties affected by eminent domain.
4. Costs and fees. A property owner may be concerned about the cost of contesting a condemnation. Yet, the law currently goes a long ways towards protecting the owner in condemnation proceedings.

- A. Master's Hearing. Under Civil Rule 72, any party to a condemnation is entitled to a masters hearing or jury trial on the question of just compensation. The master's hearing is informal in nature and gives everyone the right to an inexpensive shot at putting their compensation arguments to a neutral third party appointed by the courts. The vast majority of acquisitions which are uncontested as to authority but are disputed as to compensation are currently resolved by a masters hearing.

Any party can appeal the master's decision to the courts but if the state is the appealing party, it must pay 100% of the owners costs and fees incurred through trial regardless of how the trial turns out.

- B. Owner's costs and fees and the 10% Rule. Rule 72 provides that if an owner is successful in increasing just compensation by 10% above the state's offer, they get 100% of their reasonable costs and attorneys fees. Even if they do not succeed in increasing just compensation by 10% they still get all costs and fees that the court finds were reasonably and necessarily incurred to assure the payment of adequate just compensation.
- C. State's costs and fees. There is no provision for payment to the state of its costs and fees incurred on condemnation claims. Even if the state wins, i.e., the estimate of value is upheld, the court can find that the owner's costs and fees were necessarily incurred, and the state still cannot collect any of its costs and fees.
- D. Expedited proceedings. Rule 72 (j) provides that the court and the parties are to expedite the proceedings for the determination of just compensation.
- E. Abandoned proceedings. If the state abandons the proceedings or is not granted possession because they failed to prove authority and necessity of the taking AS 34.60.080(a) requires that the owner be paid all reasonable costs, disbursements, and expenses of the proceedings.

Analysis of Bill's Changes and Consequences

This bill would have both short and long term impacts. The immediate effective date will change the rules under which many projects which are currently undergoing active acquisition efforts. Most of these projects must be "obligated" (which requires that ROW acquisition is 100% complete) or we cannot use the federal funds allocated to the project. The presence of even one business seeking compensation under the provisions of this bill on a active project will threaten our ability obligate the project because we can't certify the right-of-way acquisition as being complete. This will potentially result in the loss of millions of dollars of federal-aid highway funds in the current federal fiscal year.

A long term effect of the bill is the tremendous legal uncertainty it will cause. The bill will dramatically alter the practice of property acquisition involving businesses. Administrative and judicial decisions will no longer have the firm foundation of case law as developed in numerous cases in Alaska and the nation over many decades. The potential for delay and tedious legal interpretation will remain high for a long time. This will delay many future projects and add significant cost.

Furthermore, additional business compensation added by this bill, including staff time, appraisal costs, legal costs and the actual compensation to business owners will be eligible for federal funds. Business losses are not eligible for federal reimbursement, (23 CFR 710.304 (h) states: "*Payments made for ... loss of business ... are not eligible for federal participation.*") Thus, any payment for such losses will be out of an additional state general fund contribution.

A fourth consequence of the bill, and perhaps an unintended consequence, is the possibility that many actions of government falling under the legitimate exercise of its powers, which cause damage to a business may now be compensable. Many necessary actions of government can be interpreted as a damage, though they are not eligible for compensation under current eminent domain theory. Consider:

- Actions to increase or decrease traffic flow on a given route.
- Actions to limit or prohibit certain turning movements.
- Actions to temporarily close roads to traffic for maintenance or construction.
- Actions regulating the size and weight of vehicles used by businesses.
- Actions to condition or deny certain driveway applications.

We believe these types of actions could be construed as a "taking" or damage which is eligible for reimbursement. Even if we prevail in court, the vagueness of the bill's language would seem to invite suits of this nature.

Comparison to Other States

No other state that we know of compensates for short and long term business losses. Both Florida and California provide some compensation for loss of goodwill. In

California, a bellwether state in many other legal issues, their act compensates for loss of goodwill, but under a rather tightly defined standard which the business owner is obliged to prove. The Florida law is more limited than the California law.

In conversations with CalTrans personnel who administer the right-of-way program in California, they have experienced the time consuming and costly legal proceedings that we predict for this bill.

In one court decision (California Department of Transportation v. Muller), involving a viable though not very prosperous veterinary clinic, the court awarded the clinic operator a new clinic that was substantially better in quality, size and condition than the acquired location. The fact that the business was a corporation owned by the same individual who owned the land and buildings did not prevent what in essence were duplicate payments (i.e., the fair market value of the property and the non-relocatable business assets). This contravenes a basic concept of eminent domain which is to make the property owner "whole" but not to enrich them at the public's expense.

CalTrans finds that many goodwill claims are found invalid based upon the failure to provide records or that goodwill is not substantiated. Where goodwill must be compensated, claims range from \$30,000 to in excess of \$1,000,000.

Given the more limited application of the California law and burden of proof placed on the business owner, we predict that under the effects of this bill Alaska's experience will be more costly for there are no bounds to what the state must pay, nor is there a burden of proof on the business owner.

A comparison of the California law and SB 104 is shown in Table 1.

Additional Issues

Aside from the major points made above there are other concerns that we wish to bring forward:

Compensation Question

The bill create a scheme where the emphasis is on requiring the state to deposit as much money as possible up front, scrutinizing that deposit and requiring prompt distribution of the deposit.

There should be no requirement of distribution until objections to the state's right to take are resolved and competing claims to the deposit are resolved. The court must be left with the discretion to distribute the deposit when and how it's judgement warrants. Court time should not be wasted holding proceedings on the deposit as opposed to determining the fair amount of compensation. Considering that the state jeopardizes it's case if the deposit is less than 90% of the final compensation this additional scrutiny is

unwarranted. Further there may be more than one party who is entitled to a portion of the deposit.

Loss of Declaration of Taking Procedure

Alaska law currently provides a procedure whereby we can accelerate the transfer of title while the process of establishing equitable compensation is adjudicated. This procedure is intended to ensure that vital public projects are not delayed, while retaining protections for the land owner affected. The bill appears to frustrate our ability to utilize this procedure by allowing objections to matters that are inherently subjective.

Table One
Comparison of Alaska and California Concerning Business Losses

California is one of very few states known to have a statutory requirement for compensation of certain types of business loss not otherwise compensable under eminent domain proceedings. Because the California law is exceptional in character, it is felt a good benchmark by which the proposed legislation may be compared. The following is a side-by-side comparison of a number of characteristics of the California law with the proposed bill.

CONSIDERATION	CALIFORNIA <i>(Title 7, Ch. 9, Art. 6, Sec. 1263. 510-530)</i>	ALASKA <i>(SB 104)</i>
What is Compensable:	Loss of business good will, such as a decline or temporary drop-off in patronage. Temporary interference loss or loss by interruption is specifically excluded.	Loss of short and long term business losses, loss of goodwill, and private injury.
Definition:	Goodwill is defined in some detail by legislation.	Above terms are not defined.
How claimed:	Business owner is notified of opportunity to make claim, CalTrans then prepares goodwill appraisal. Only a small fraction of businesses file goodwill loss claim.	State <u>must</u> prepare appraisal before negotiations. State will incur costs on all businesses, regardless of presence of actual loss.
Required Information:	State granted access to prior 3 years tax records plus uses voluntary questionnaire.	State has no legal access to any business information or records except that which is volunteered.
Funding:	Use state general fund; FHWA will not participate.	Use state general fund; FHWA will not participate.
Declaration of Taking Procedure:	Not changed.	Additional time factors and burdens placed on process, render it ineffective.
Definition of "Real Property:"	Not changed.	Changed considerably by exchanging term "real property" with "property."
Changes in Uniform Relocation Requirements:	Not changed.	Intertwined with eminent domain process and process appears cumbersome in consequence.
Burden to Minimize Loss:	Business owner is required to take steps that a reasonably prudent person would take and adopt to preserve goodwill.	No duty or burden is placed on business owner to minimize loss.
Duplicate Compensation:	Duplication of compensation is prohibited.	Duplication of payments is not prohibited and perhaps probable, given overlap of various types of losses to be recompensed.
Burden of Proof:	Owner must prove that there is a loss of goodwill.	State must determine losses with no burden of proof on owner.
Relationship to Taking:	There must be a taking of real property in order that a loss of goodwill is claimed.	No taking of real property is required in order that loss may occur.
Use of Master's Process:	N/A	No longer a required step to be used to minimize the number of full court proceedings.
Capping of Benefits by Fair Market Value (FMV):	In practice, benefits are carefully calculated and at most the FMV of the business less value of saleable assets is compensable.	Uncertainties in language provide no guarantee of a ceiling, thus payments could likely exceed a FMV determination.

These frustrations include:

Compensation.

The bill imposes a third level of compensation determination on the judge before the state is granted possession. The court must determine that the state has deposited adequate just compensation for all real and personal property interests taken. This is a departure from current law in two respects:

First, there is a hearing regarding the adequacy of the compensation deposit. This will entail extensive testimony from experts, a process which causes significant delay in obtaining possession since most experts will not testify or be in a position to render a meaningful opinion until they have finished their reports. Also consider the crowded court docket and the result is that a declaration of taking will be meaningless.

Second is the requirement of valuation for personal property which gets into incidental or special damages such as business loss and damage to personal property. Currently the claimant bears the burden of proof on these items. This is reasonable because the claimant is in the best position to control and limit the loss. The bill removes the owners incentive to limit the loss. In most cases incidental or special damages are not incurred until the claimant actually moves. Under the bill the claimant must be adequately compensated before the claimant has to move.

Replat.

The court may not grant possession until the state has replatted the owner's remainder. This is a very problematic requirement for we must own property before we file for a subdivision. Right now this element of the law is not followed in "letter" but adhered to in "spirit". The change places a burden on us which we can not technically satisfy--replating land prior to possession.

Compensation Benefits to Those Who Have Not Had Real Property Taken.

A whole new class of claimants is created by the proposed legislation. Currently benefits are triggered by the taking of some real property interest. If we take something that person could claim applicable relocation benefits. This threshold is removed, and a person can claim benefits regardless of whether a real property interest is taken.

Time Pressures

There is always considerable pressure by the public to keep projects moving. These projects solve urgent transportation and safety needs, create jobs in construction, and ensure that we utilize every available federal dollar. The bill gives a business owner tremendous leverage to stop projects. Thus we will be coerced to settle for amounts that may far exceed compensation based on merits. If we instead choose to go slow so that time is not our disadvantage, project timetables will slip by one year at minimum. Such a strategy cannot be implemented without significant short

term disruptions to projects now underway, with corresponding impacts to the construction and transportation industries.

Merger of Acquisition and Relocation

This bill has the affect of merging two distinct aspects of land acquisition under eminent domain. Case law of the U.S. Supreme Court has held firm to the principal that compensation for the consequent damages of the taking are not compensable as part of the fee granted for the taking. In other words we purchase the property and not the opportunities which the owner may lose. However, in recognition of the these consequential damages Congress passed the Uniform Relocation Act (1971) which does compensate for some aspects of these consequential costs. The two types of compensation are separated both in time and procedure.

Initially we value the land and either voluntarily or involuntary possession is gained and a final price is established. Secondly, and administratively the department proceeds with payments for relocation. This bill has the effect of intertwining these two elements and making them complex in application.

Definition of Property

The bill redefines property to include personal property. The change in definition adds unnecessary confusion without corresponding benefits to the public. As a general rule we acquire real property and relocate or compensate for personal property when it cannot be reused or relocated.

Duplicate and Unjustified Compensation

A very real likelihood of the amendments is that business owners will receive duplicate compensation or compensation for losses that market analysis will not support. In addition to generous payments prompted by the use of delay this prediction is based on a number of points:

Overlapping and Undefined Terms: The terms short term business loss, long term business loss and loss of goodwill are undefined and contain some overlapping elements in general practice. They often come to mean "blue sky" or that which is over and above what a fair market value of a business is.

Burden of Proof: The state bears the full burden of estimating these losses at a very early stage in the proceedings and without access to business records. The owner has no burden of proof, nor a duty to take steps to minimize losses. This is a dramatic departure from current eminent domain practice in this and other states.

Compensation Cap: There is no upper limit to what must be compensated. Traditionally, eminent domain is limited to fair market value plus special damages. This upper limit would not apply with these amendments and compensation far in excess of fair market value seems inevitable.

Unprofitable Businesses: Many businesses are unprofitable upon market analysis yet provide a wage to the owner. They would have little or nominal value in a business transaction, but do provide independence and the future potential for profit to the owner. The state has heard arguments that we owe such owner's their income and perhaps future profit for life and this may now be possible upon the right interpretation by the courts.

Summary

A major point on these special damages is that the loss is unknown until the business has either relocated or shut down. The owner has the ability to minimize the damages. The bill requires that the state estimate and pay for business loss before it is known whether a loss has occurred and without access to relevant records. The bill renders ineffective the declaration of taking provisions and gives owners significant leverage to coerce unwarranted compensation. The bill creates a huge disincentive for the owner to minimize his damages. Finally, the bill sets out no parameters or definitions of what the terms mean nor does it ensure that duplicate nor unwarranted compensation is disallowed.

Alternates to the Bill

Briefly, the department is not taking a position on the need to compensate for various types of business loss. While generally, such losses are non-compensable under federal law, various states have enacted laws which make them compensable within their jurisdiction and a growing body of case law is expanding the concept of business losses throughout the country.

What does concern us is the bill's extreme effects on our ability to complete projects. Aside from compensating business owners, the bill will enlarge the bureaucracy and clog the courts, at great costs to Alaska's citizens. Lastly, it will almost guarantee that a portion of our annual federal-aid allocations are lost due to our inability to expeditiously advance projects through the right-of-way process.

We believe these undesirable consequences are avoidable while ensuring that business losses are compensable. What we propose is an alternative that relies primarily upon administrative procedures separate and apart from the condemnation process. The three main concepts embodied within our concept are as follows:

- Reaffirm the relationship between business loss and property takes. If businesses can claim damages on "any" action of government, then there is no conceivable limit to potential claims. Virtually any action of government, including regulation, taxation, allocation of resources, and provision of services can be argued as harming someone. This element of the current bill is a real "sleeper" and is perhaps it's most harmful feature.

- Expansion of the relocation benefits compensable for various types of business damages. In brief, current relocation benefits are generally quite limited. We propose a five-fold expansion of the caps on these benefits.
- Create a California-type Loss of Good Will Provision in state law (see Attachment A). The California program relies upon administrative procedures, places the burden of proof upon the business, and limits such payments to the fair market value of the business.

Enclosed Attachment B further describes how the proposed alternative would work. While the majority of these new costs would be ineligible for federal-aid, and thus would require new annual general fund appropriations, the program would be far less disruptive to projects, and would pay a far larger portion of funds to businesses rather than those who administer and participate in court-based proceedings.

The concepts presented in this alternative would require a major and perhaps total rewrite to the current bill. We are prepared and willing to assist in this effort, if requested, but given the magnitude of the task have not prepared substitute language at this time.

Attachment B

SB 104

An Act relating to the taking and compensation for damage of property by state agencies, municipalities, and other entities; and providing for an effective date.

Alternatives to SB 104

Attached is a summary of what can be paid now under relocation and what we would propose as an alternative to SB 104. In many instances, the only real change needed is an expansion of the existing dollar limits. It is important to note that these benefits are administered by staff, subject to fairly simple standards of proof on the part of the business, such as business records, receipts for equipment cost and estimates for relocation expenses. While most of the proposed expanded benefits would not be compensable under federal-aid guidelines, they would result in a far simpler and more expeditious process than contained in the current bill.

Relocation and Moving Expenses:

Relocation Item	Current Law	DOT&PF Proposal
Personal property lost or damaged during relocation	Actual cost.	No change.
Personal property which cannot be reused.	Fair market value.	No change.
Moving related costs	Actual cost.	No change.
Storage of business property	Actual cost.	No change.
Licenses, permits, or certificates	Actual cost.	No change.
Insurance connected with move or storage.	Actual cost.	No change.
Consultant services for moving or re-installing business equipment.	Actual cost.	No change.
Substitute personal property.	Actual cost.	No change.
Searching for replacement location.	Actual cost up to \$1k.	Increase to \$10k.

Reestablishment Expenses

Relocation Item	Current Law	DOT&PF Proposal
Repairs or improvements to meet laws.	Covered, subject \$10k limit for all reestablishment expenses.	Increase limit to \$50k for reestablishment expenses (cumulative maximum for all 10 types of reestablishment activities).
Modifications to make property suitable.	Covered, subject \$10k limit.	Same
Changes or replacement to signs.	Not to exceed \$1.5k for this item and total \$10k limit.	Same
Provision of utility connections.	Covered, subject to \$10k limit.	Same
Redecoration or replacement of soiled or worn surfaces at replacement site.	Covered, subject to \$10k limit.	Same

Reestablishment Expenses (cont.)

Relocation Item	Current Law	DOT&PF Proposal
Licenses, fees and permits when not covered by moving expenses.	Covered, subject to \$10k limit.	Same
Surveys, soil testing, market studies.	Covered, subject to \$10k limit.	Same
Advertising to notify patrons of new location.	Covered, subject to \$10k limit.	Same
Increased cost of operation due to higher rent, taxes, insurance premiums, utility charges.	Not to exceed \$5k for this item and total \$10k limit.	Same
One time utility impact fees.	Covered, subject to \$10k limit.	Same

NOTE: The total for reestablishment expenses is now \$10,000 for all categories, regardless of how many such expenses are necessary. We would propose expanding these to an upper limit of \$50,000.

Business Losses

Relocation Item	Current Law	DOT&PF Proposal
Short Term Business Losses	Partially covered in reestablishment expenses.	Covered by increase in up to \$50k allowed for reestablishment.
Long Term Business Losses.	Not covered.	With proper definition it should be compensable as part of loss of good will.
Loss of Good Will	Not covered.	Make compensable based upon tests similar to California law. Such payments should be non-redundant, verifiable and owner should be responsible to take steps to reasonably avoid these losses. Upset limit is fair market value.

Payment in Lieu of Relocation

Relocation Item	Current Law	DOT&PF Proposal
A lump sum payment in lieu of moving and reestablishment expenses (and business losses).	Equal to average annual net earnings, up to a maximum of \$20,000	Equal to average annual net earnings for past three years. Payable for 2 years of net earnings up to \$100,000 maximum.

BRADBURY, BLISS & RIORDAN

LAWYERS

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ANCHORAGE, ALASKA 99501-3583
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FACSIMILE: (907) 278-8211

RONALD L. BAIRD

March 18, 1992

VIA FACSIMILE AND U.S. MAIL
(907) 465-2069

State Affairs Committee
c/o The Honorable Pat Pourchot
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Attention: Susan Barnett

Re: SB104, Condemnation Practices

Dear Committee Member:

I am an attorney who has practiced condemnation law representing both condemnors and landowners. I am a member of the Condemnation Subcommittee of the Civil Rules Committee which was appointed by the Supreme Court to revise Rule 72 of the Alaska Rules of Civil Procedure which governs condemnation actions. I wish to comment on SB104 now pending before your committee. The views expressed herein are not those of any client but rather are my own.

Definition of Business Loss

I was opposed to this bill as it existed in Senate State Affairs last year because the bill employed the term "business damages" without definition. The current bill is an improvement in that respect with its definition that "business loss includes short term loss of profits, long term loss of profits, and a loss of goodwill." (SB104, § 7.) While this definition is an improvement over the previous bill, it continues to present the prospect of providing the landowner with double compensation for some types of loss and a fiscal impact so large it is impossible to estimate.

There are two problems with this definition. The term, "long term loss of profits", creates the prospect that the landowner will be better off after condemnation than the landowner would have

The Honorable Pat Pourchot
March 18, 1992
Page -2-

been if required to continue in a business environment fraught with risk. This language will encourage landowners to claim compensation for profits indefinitely into the future which requires the assumption that the business will remain profitable for all of those years. No business is capable of reasonably making such an assertion. I do not believe it is the proper function of government to insulate businesses from the risks, including business failure, which exists in any free enterprise. The term invites speculation by the jury leading to astronomical compensation awards.

The term "goodwill" is also flawed because of its potential to allow recovery under this category for losses which are in fact related to the real property and compensated in connection with the taking of that kind of property. Most businesses can be relocated particularly if adequate time is allowed for such relocation. Alaska case law already requires compensation for temporary loss of profits occasioned by the necessity of setting up a new place of business following the taking of the old operation. In those instances where the location is critical to the operation of the business, that fact will almost always figure substantially in the value of the land itself. If this bill is passed, the jury would have to be instructed separately on the loss of goodwill and there is great potential for double compensation.

I believe these concerns could be addressed by a definition of "business loss" which expands the current liability of the government yet places important limitations on the landowners recovery. I think these objectives can be achieved by the following definition:

(1) "Business loss" means the value, discounted to the date on which possession of the business location is relinquished, of profits which are reasonably probable to have been earned by the business but for the taking, for a period not to exceed three (3) years from the date of taking.

This definition adds three clarifying and helpful concepts to this area. First, the definition makes clear that the recovery of future profits must be discounted to the date of taking at which point they will then earn interest at the judgment rate. Second, the profits to be awarded are required to have been reasonably probable to have been earned. "Reasonably probable" is already a term used to deal with a number of kinds of future events, such as zoning changes, which may affect value but must not be speculative. Third, this definition sets an upper limit to the number of years

The Honorable Pat Pourchot
March 18, 1992
Page -3-

for which the jury can find that a business would be profitable. I have chosen three years but a lesser or larger number might be justified.

Additions/Conditions on the Government's Right to Take

The new bill also contains several new provisions which represent steps backward in the law of condemnation. The revisions set forth in §§ 5 and 6 of the bill essentially have the effect of eliminating quick take condemnation in Alaska. The language added to these sections would arm landowner lawyers with ample ammunition for substantially delaying public projects. The result is a substantial transfer of power from the governmental agencies to the court system which does not have the resources to deal with the litigation that will result. Lawyers such as myself, however, will profit.

Section 24's repeal of A.S. 34 60.100 similarly will obstruct the timely development of public improvement projects. Removal of this section would provide yet another means by which lawyers will be able to litigate the agency's right to take with the attendant delay and transfer of project resources to legal fees.

Restriction on Use of Master's Hearing

Finally, the revisions of § 1 and § 25 of the bill pertaining to the master's hearing procedure represents a great leap backward. The master's hearing is an informal, inexpensive and fast procedure whereby the landowner and agency can obtain the opinion of a neutral third party as to the fairness of compensation. This procedure results in the resolution of about 90% of condemnation cases in my experience. In many smaller takes, landowners can participate in the master's hearing without the assistance of counsel. Any movement towards greater reliance on civil jury trials in these cases again merely benefits lawyers and further delays prompt recovery of compensation in these cases. Many jurisdictions including the federal government have eliminated the use of jury trials in these types of cases due to the wildly erratic results (both favorable and unfavorable to landowners) and the cost and expense associated with this type of procedure.

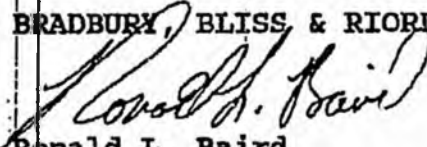
The revision set forth in this section was proposed by Richard Weinig to the Condemnation Subcommittee. This committee represents a cross-section of government and landowner attorneys. Mr. Weinig was unable to persuade any other members of the committee that this revision was in the public interest. It should be rejected by the legislature as well.

The Honorable Pat Pourchot
March 18, 1992
Page -4-

In general, while the version of SB104 now before your committee is some improvement over the legislation considered in 1991, it continues to be seriously flawed and now contains additional provisions which are steps backward in the area of condemnation law. It should not be enacted.

Sincerely,

BRADBURY, BLISS & RIORDAN


Ronald L. Baird

RLB:ss
rlb2\pourchot

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ATTORNEY AT LAW
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(907) 452-4454

FAX (907) 452-3988

March 18, 1992

Tim Benintendi
c/o The Honorable Pat Rodey
Alaska State Senate
Juneau, Alaska 99811

Via Fax 463-3144

Re: CS for Senate Bill No. 104: Eminent Domain Amendments
Response to 3-18-92 Comments of Ron Baird

Dear Tim:

Some points to consider with respect to Ron Baird's letter:

1) There are already sufficient legal protections built into the law to discount future proven profits to present net worth. Lost profits already must be shown with certainty as a matter of law. Limiting them to a 3-year period is not only a denial of just compensation, but arbitrary. If a limit were to be imposed, such limit should be determined by the jury in the exercise of its discretion, as amounts of just compensation generally are within the province of the jury.

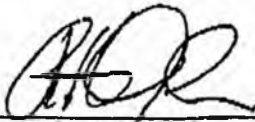
3) Sections 5 and 6 of the Bill, which would impose procedural safeguards pertaining to the condemnor's estimate of just compensation, contrary to Mr. Baird's suggestion, will not substantially delay public projects by creating a litigation feast. Rather, greater safeguards concerning the initial estimate of just compensation will benefit not only the landowner but the State as well by insuring that the condemnation decision is based upon better and more complete information. Thus, Sections 5 and 6 may well lead to a decrease in litigation, if the State complies with their provisions.

3) Mr. Baird, generally, is a condemnor's counsel.

Sincerely,

THE LAW OFFICES OF WILLIAM R. SATTERBERG, JR.

~~William R. Satterberg, Jr.~~


Robert John

WRS:jmm

TO THE SENATE FINANCE COMMITTEE:

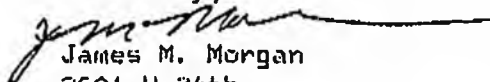
March 12, 1992

The fiscal note from DOT concerning SB-104 fails to look at two important facts. #1-How much does it cost to leave the laws concerning condemnation as they are now? The Raspberry Road project is a good example. There was 3.4 million dollars allocated to litigate an 18 million dollar project. This is ludicrous. The Minnesota Drive project and the Raspberry Road project were combined by DOT to save 1.5 to 3 million dollars. DOT seperated these two projects rather than make a settlement with the businesses affected by the project. The cases of the two service stations were finally settled out of court. The state had to pay attorney fees for both businesses affected. They also paid a monetary settlement to both parties. The laws are in place to protect Alaska citizens from being forced to give up their property without being paid for it. Unfortunately these laws are very ambiguous and it becomes necessary to wage a long and costly court battle to obtain fair treatment. This process can put lifelong plans on hold for an indefinite period of time, or even entirely crush them. This is what the state depends on.

The second fact the fiscal note proves is that DOT admits there is business loss when roads are constructed. They currently refuse to pay for it and businesses are required to pay a much higher cost for road construction than anyone else.

I strongly urge you to do everything possible to make SB-104 an Alaska state law.

Sincerely;



James M. Morgan
2601 W. 34th.
Anch. Ak. 99517

SB105

(11)

USE COMMITTEE REPORT

Date Referred: May 13, 1991

FURTHER REFERRALS:

Date of Committee Action: 5/17/91

The FINANCE Committee considered:

CSSB 105(JUD)

CS FOR SENATE BILL NO. 105 (JUDICIARY)

MINIMUM PENALTY FOR JOYRIDING

"An Act amending the penalty for the crime of criminal mischief in the third degree involving the unauthorized taking of a propelled vehicle."

RECOMMENDATIONS:

be replaced with HCS CS SB 105 (JUD) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

2 zero fiscal note(s) D/ot Corrections: D/ot Law ^{4/17/91}

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bob Sharp</i>	<input checked="" type="checkbox"/>	<i>Ed. Mechean MACKAN</i>		<input checked="" type="checkbox"/>	
<i>REGG E. PHILLIPS</i>	<input checked="" type="checkbox"/>	<i>MOMERSON BOYER</i>		<input checked="" type="checkbox"/>	
<i>Ronald J. Finkelson</i>	<input checked="" type="checkbox"/>	<i>Tom Brown BROWN</i>		<input checked="" type="checkbox"/>	
_____		<i>(Kopman) KOPMAN</i>		<input checked="" type="checkbox"/>	
		<i>George Jack JACK</i>		<input checked="" type="checkbox"/>	
		<i>Spice Yavum NAVARR</i>		<input checked="" type="checkbox"/>	
		<i>Man Ulmer ULMER</i>		<input checked="" type="checkbox"/>	

Spice Yavum
 CO-CHAIRMAN'S SIGNATURE
 NAVARR

Ed. Mechean
 MACKAN

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

Dir 1
 b... Version: SA105
 (S) Publish Date: 4/17/91

Revision Date: _____ Department Affect: _____
 Title: "An Act amending the penalty... crime of criminal mischief...propelled BRU: Statewide Operations
vehicle. Component: _____
 Sponsor: Senators Jones, Halford,
 Requestor: Uehling COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Changes in SSB 105 (Jud) have no fiscal impact. This fiscal note is appropriate.

WRBail date / AG 04/17/91 Comptroller (initial)

Prepared By: Tom Sutton, Director *Tom Sutton* Phone: (907)465-3376
 Division: Administrative Services Date: 04/03/91

Approved by Commissioner: _____
 Agency: Department of Corrections Date: 04/03/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 2

Bill Version: SB 105

(S) Publish Date: 4/17/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Department of Law

Title: "...amending the penalty..." BRU: Prosecution

Unauthorized taking of a propelled vehicle Component: All

Sponsor: Senator Jones

Requestor: Senate Judiciary

COMPONENT SERIAL NO.			8	9
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Changes in CSSB 105 (JUD)
reflect NO FISCAL CHANGE from the original
fiscal note. This fiscal note is appropriate.

4/17/91 Don Bailey
Date Comte Aide (Initial) DB

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: March 29, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: March 29, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 105

This bill amends AS 11.46.484 by adding a new subsection that imposes a mandatory minimum sentence for joyriding of a term of imprisonment of not less than 72 hours, a fine of not less than \$250, and restitution. These sentencing provisions will not have a fiscal impact on the Department of Law. It should be noted that some additional prosecutor time will be needed because defendants can be expected to offer a more vigorous defense in the face of a mandatory jail term, in some first offense cases where jail time is not currently imposed. Because this bill amends a sentencing provision the department recommends that it be located in Title 12 rather than Title 11. Finally, to the extent that additional imprisonment occurs, there will be a fiscal impact for the Department of Corrections.

HOUSE CS FOR CS FOR SENATE BILL NO. 105 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/13/91

Referred: Finance

Sponsor(s): SENATORS JONES, Halford, Uehling

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the penalty for the crime of criminal mischief in the third degree
2 involving the unauthorized taking of a propelled vehicle."

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

4 * Section 1. FINDINGS. The legislature finds that

5 (1) many defendants convicted for the first time of violating AS 11.46.484(a)(2)
6 (joyriding) are not now receiving an adequate sentence; and

7 (2) the public's interest in deterring people from violating AS 11.46.484(a)(2) and in
8 rehabilitating those convicted of violations of the statute will be served by the court imposing sentences
9 of imprisonment on those convicted of this crime.

10 * Sec. 2. PURPOSE. It is the purpose of this Act to ensure that a defendant convicted of criminal
11 mischief in the third degree in violation of AS 11.46.484(a)(2), whose conviction is not a felony under
12 AS 11.46.484(c), does not receive a wholly suspended sentence. However, in light of statistics showing
13 that over 50 percent of defendants sentenced under current law are required to serve 10 or more days
14 in jail, and recognizing that a second conviction for criminal mischief in the third degree is a felony, the

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

JAN 31 1991

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

January 30, 1991

SUBJECT: Amending the penalty for misdemeanor
joyriding (W. O. 7LS0590A)

TO: Senator Lloyd Jones

FROM: John B. Gaguine *JBG*
Legislative Counsel

The legislation imposes a mandatory minimum sentence for a first conviction for the offense of misdemeanor joyriding ("criminal mischief in the third degree") involving the taking of a propelled vehicle in which the damage or expenses are less than \$500. A first conviction for the offense is defined as a class A misdemeanor, with normal maximum penalties of a \$5000 fine and one year in jail. Under this bill, one convicted would face a mandatory sentence of

- imprisonment for a minimum of 72 hours;
- a minimum fine of \$250; and
- payment of restitution as the court may order.

The court would be precluded from suspending imposition or execution of sentence and would be precluded from admitting the convicted defendant to probation unless the minimum sentence was served.

In essence, the penalty incorporates the content of the penalty for first offense Driving While Intoxicated (AS 28.35.030(c)).

Although this bill suggests a "go to jail" approach, under AS 33.30.151 - 33.30.161, the mandatory sentence required by the bill may be served in a correctional restitution center.

Senator Lloyd Jones

January 30, 1991

Page 2

The penalty for felony joyriding, involving damage to the vehicle of \$500 or more--a class C felony--is unchanged: a maximum fine of \$50,000 and maximum term of imprisonment of five years.

JBG:pl

91-040.plm

Alaska State Legislature

Chair, Resources Committee
Vice-chair, Transportation Committee
Member, Rules Committee
Member, Committee on Committees



Senator Lloyd Jones

P.O. Box V
Juneau, AK 99811
907 465-3743
Fax: 907 465-3922

352 Front Street
Ketchikan, AK 99901
907 225-9082
Fax: 907 225-8546

District A
Ketchikan, Wrangell, Petersburg,
Hyder, Myers Chuck, Kupreanof

MEMORANDUM

To: Rep. Dave Donley, Chairman
House Judiciary Committee

From: Senator Lloyd Jones

Date: April 26, 1991

Subject: SB 105: Amending the penalty for Joyriding

Joyriding continues to be a problem in Alaska. This crime involves first offense auto theft with less than \$500 damage to the vehicle. Under current law there is no assurance that those found guilty of joyriding (Criminal Mischief III), will pay any penalty whatsoever. In fact, statistics show that of the 132 convicted cases in FY 88, 48 offenders served no jail time at all (36.4%), and nearly 100 of these offenders paid no monetary fine (75%). As shown in the statement of Assistant Attorney General Dean Guaneli, there is no reason to believe these statistics vary significantly from year to year.

Senate Bill 105 imposes a mandatory "floor", or minimum sentence for those convicted of misdemeanor joyriding. SB 105 imposes a mandatory jail time of three days once convicted. In addition to the jail time that will be served, the legislation makes restitution to the victim of the crime mandatory along with a mandatory minimum fine of \$250.

It is irrational that an individual can break into a house and steal a \$450 television set and be convicted of a felony and serve jail time, while the same individual can break into and steal a \$20,000 automobile, incur \$450 damages and be charged with a misdemeanor and no tangible penalty. As the back-up in your files show, both the public and law enforcement officials often feel powerless when faced with the theft of an automobile. A car is one of the major investments an individual makes, and to be involuntarily deprived of its use for any length of time is wrong. Such action must have tangible consequences. SB 105 will insure that those individuals found guilty of this crime will be held accountable. It also insures that those individuals impacted by the same crime will be made whole financially, and will have peace of mind that the criminal will pay.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Alaska State Legislature

Chair, Resources Committee
Vice-chair, Transportation Committee
Member, Rules Committee
Member, Committee on Committees



District A
Ketchikan, Wrangell, Petersburg,
Hyder, Myers Chuck, Kupreanof

Senator Lloyd Jones

P.O. Box V
Juneau, AK 99811
907 465-3743
Fax: 907 465-3922

352 Front Street
Ketchikan, AK 99901
907 225-9082
Fax: 907 225-8546

MEMORANDUM

To: Rep. Dave Donley, Chairman
House Judiciary Committee

From: Senator Lloyd Jones

Date: April 26, 1991

Subject: SB 105: Amending the penalty for Joyriding

Joyriding continues to be a problem in Alaska. This crime involves first offense auto theft with less than \$500 damage to the vehicle. Under current law there is no assurance that those found guilty of joyriding (Criminal Mischief III), will pay any penalty whatsoever. In fact, statistics show that of the 132 convicted cases in FY 88, 48 offenders served no jail time at all (36.4%), and nearly 100 of these offenders paid no monetary fine (75%). As shown in the statement of Assistant Attorney General Dean Guaneli, there is no reason to believe these statistics vary significantly from year to year.

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DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

April 9, 1991

SUBJECT: Department of Law's proposed changes to SB 105
TO: Senator Lloyd Jones
FROM: John B. Gaguine *JBG*
Legislative Counsel

The Department of Law's proposed revision of SB 105 - putting the change to the law in AS 12.55.135 instead of in AS 11.46.484 - made sense to me. Accordingly I have prepared a blank CS making the change. It is enclosed.

If I may be of further assistance, please advise.

JBG:gc
91-197.glc

Enclosure

Department of Law
Proposed Amendment to HB 123/SB 105
April 2, 1991

Whenever possible, sentencing provisions appear in AS 12.55, rather than as part of the statute defining the criminal offense. In accordance with this policy, this bill should amend AS 12.55.135 ("sentences of imprisonment for misdemeanors"), rather than AS 11.46.484.

It could do so by moving existing AS 12.55.135(e) to (f) and adding a new (e), which would read:

A defendant convicted of criminal mischief in the third degree in violation of AS 11.46.484(a)(2), whose conviction is not a felony, shall be sentenced to a minimum term of imprisonment of not less than 72 hours, payment of a fine of not less than \$250, and restitution.

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX KC
JUNEAU, ALASKA 99811-0310
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

April 9, 1991

The Honorable Lloyd Jones
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Jones:

I was requested by your office staff to provide you with updated statistics on cases involving the offense of joyriding (criminal mischief in the third degree). The previous report for your office on this subject was prepared in January, 1989, and showed the following approximate percentages of joyriding convictions that resulted in jail sentences of certain lengths.

less than three days	38%
three to nine days	10%
10 to 30 days	30%
over 30 days	22%

I do not envision any significant change in either the overall number of such cases or in the sentences imposed.

If I can provide additional information, please contact me.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: 

Dean J. Guaneli
Assistant Attorney General

DJG:ma

7-LS0590ND ✓
Gaguine
4/9/91

CS FOR SENATE BILL NO. 105 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsors: SENATORS JONES, Halford, Uehling

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the penalty for the crime of criminal mischief in the third degree
2 involving the unauthorized taking of a propelled vehicle."

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

4 * Section 1. AS 12.55.135(e) is amended to read:

5 (e) The execution of a sentence under (c), (d), or (f) [OR (d)] of this section may not
6 be suspended and probation or parole may not be granted until the minimum term of
7 imprisonment has been served. Imposition of a sentence under (c), (d), or (f) [OR (d)] of this
8 section may not be suspended, except upon condition that the defendant be imprisoned for no less
9 than the minimum term of imprisonment provided in (c), (d), or (f) [OR (d)] of this section, and
10 the minimum sentence provided for in (c), (d), or (f) [OR (d)] this section may not be otherwise
11 reduced.

12 * Sec. 2. AS 12.55.135 is amended by adding a new subsection to read:

13 (f) A defendant convicted of criminal mischief in the third degree in violation of
14 AS 11.46.434(a)(2), whose conviction is not a felony under AS 11.46.484(c), shall be sentenced

1 to a minimum term of imprisonment of not less than 72 hours, payment of a fine of not less than
2 \$250, and restitution.

**DOCUMENTS WHICH HAVE NOT BEEN FILMED BUT ARE
AVAILABLE IN THE ORIGINAL FILE INCLUDE:**

CORRESPONDENCE AND STATEMENTS OF SUPPORT FROM:

- 1. ALASKA PEACE OFFICERS ASSOCIATION, 4/9/91**
- 2. NATIONAL CAR RENTAL, 4/8/91**
- 3. AVIS RENT-A-CAR SYSTEM, 4/8/91**

SB108

SENATE FINANCE COMMITTEE REPORT

DATE: 4/12/91

FURTHER:

DATE TURNED
INTO OFFICE:

5-15-91

The Finance Committee considered SENATE BILL NO. 108

"An Act relating to the classification and reclassification of state land by the Department of Natural Resources."

and recommended:

replace with _____ CS
 or adopt CS 5A 108 (RES)
 attached amendment(s)
 _____ letter of intent adopted

same title
 new title
 technical
title change
(HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

fiscal note(s) _____ Dept/Date:

zero fiscal note(s) _____

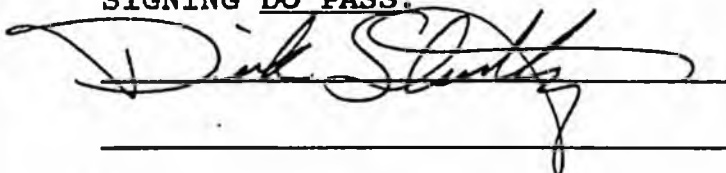
appropriation-no fiscal note

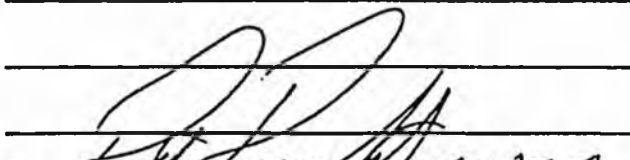
APPROVES PREVIOUS:

fiscal note(s) _____ Dept/Date:
DNR 4-4-91 #71.0

zero fiscal note(s) _____

SIGNING DO PASS:





1. Pat Lamm no rec

OTHER RECOMMENDATIONS:

J. Durca - No Rec.

Al Adams - No Rec

Tom Hefner No Rec

Rick Uebler NO REC

2. [Signature] NO Rec

Co-Chairs: Signatures and Recommendations

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill Number: SB 108

(S) Publish Date: 4/12/91

Revision Date: _____ Department Affected: Natural Resources
 Title: An Act relating to the classification of BRU: Land & Water Management
state land Components: Land & Water Management
 Sponsor: Senator Shultz
 Requestor: Senate Resources COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	54.6	54.6	54.6	54.6	54.6	54.6
TRAVEL	6.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	10.0	10.0	10.0	10.0	10.0	10.0
SUPPLIES	0.4	0.4	0.4	0.4	0.4	0.4
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	71.0	71.0	71.0	71.0	71.0	71.0

CAPITAL	**					
---------	----	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	71.0	71.0	71.0	81.0	71.0	71.0
FEDERAL FUNDS						
OTHER						
TOTAL	71.0	71.0	71.0	81.0	71.0	71.0

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of Current year impact: 0

ANALYSIS: (Attach a separate page if necessary)

To provide economic feasibility studies on all proposed land classification actions.

** In addition, approximately \$14,000 per township would be needed for mineral assessments.
 (Mineral values cannot be determined)

Prepared by: Ron Swanson Phone: 762-2680
 Division: Land & Water Management Date: 4-Apr-91

Approved by Commissioner: AS Harold Heinze Date: 4-Apr-91
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Req & Impacted Agency(ies).

REV 10/90

Changes in CS SB 108 (RS)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.

4/5/91 PT
 date Comte Aide (initial)

CS FOR SENATE BILL NO. 108 (RESOURCES)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/12/91
 Referred: Finance

Sponsor(s): SENATORS SHULTZ, Jones

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the classification and reclassification of state land by the Department
 2 of Natural Resources, and to the preparation of statements of probable economic effect on
 3 certain bills relating to state land."

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

5 * Section 1. AS 38.05.300(b) is amended to read:

6 (b) Not later than February 1 of each year, the commissioner shall submit a written report
 7 to each house of the legislature that

8 (1) [WHICH] describes and shows the location of all classifications of state land
 9 made under (a) of this section during the preceding year; and

10 (2) transmits the analysis of proposed land classifications and reclassifications
 11 required by (c) of this section.

12 * Sec. 2. AS 38.05.300 is amended by adding a new subsection to read:

13 (c) Before publishing notice of a proposed classification or reclassification under
 14 AS 38.05.945, the commissioner shall determine whether the proposed classification or

1 reclassification will restrict or limit the disposal of an interest in the land or its resources. If the
2 commissioner finds that the proposed classification or reclassification will restrict or limit the
3 disposal of an interest in the land or its resources, the commissioner shall analyze the probable
4 economic effect of the proposed classification or reclassification. The commissioner shall submit
5 the analysis prepared under this subsection to the legislature. An analysis prepared under this
6 subsection must

7 (1) include an estimate of the value of the resources on the land proposed for
8 classification or reclassification;

9 (2) consider the probable short-term and long-term economic effect of the
10 proposed classification or reclassification on the region in which the land is located and on the
11 state; and

12 (3) consider the types and number of persons that will probably be affected by
13 the proposed classification or reclassification, and evaluate the anticipated effect of the proposed
14 classification or reclassification on persons who are developing resources at the time of the
15 proposed classification or reclassification.

16 * Sec. 3. AS 24.08 is amended by adding a new section to read:

17 Sec. 24.08.034. STATEMENT OF PROBABLE ECONOMIC EFFECT ON BILLS
18 RELATED TO STATE LAND. (a) Before a bill that has the effect of classifying or
19 reclassifying state land or of restricting the use of state public domain land is reported from the
20 committee of first referral, the committee shall attach to the bill a statement of the bill's probable
21 economic effect. The statement of probable economic effect must

22 (1) include an estimate of the value of the resources on the land proposed for
23 classification, reclassification, or reservation of state public domain land;

24 (2) consider the probable short-term and long-term economic effect of the
25 proposed classification, reclassification, or reservation of state public domain land on the region
26 in which the land is located and on the state; and

27 (3) consider the types and number of persons that will probably be affected by
28 the proposed classification, reclassification, or reservation of state public domain land and
29 evaluate the anticipated effect of the proposed classification, reclassification, or reservation of
30 state public domain land on persons who are developing resources on the land at the time of the
31 proposed classification, reclassification, or reservation.

1
2
3
4
5

(b) An amendment or a substitute bill proposed by a committee of referral that changes the probable economic effect of a bill for which a statement of probable economic effect is required shall be explained in a revised statement attached to the bill.

(c) The analysis required by this section is in addition to the fiscal note requirements of AS 24.08.035.



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: ALL SENATORS
FROM: SENATOR SHULTZ *DS*
DATE: FEBRUARY 6, 1991
RE: ECONOMIC IMPACT STATEMENT

We all know what an Environmental Impact Statement is. The basis for an EIS is the public's right to know what impacts development is having on a given environment.

There is other information valuable to the public and I am introducing a bill to correct this inequity.

The legislation I am proposing will require those who propose to restrict the use of public lands to provide the legislature an estimate of the value of the resources being lost as a result of the proposed restriction. This will include both the long and short term economic effects of the restriction.

Finally, the bill would require an assessment of the types and numbers of people affected by the proposed land restriction including those who are using the resources at the time the restriction is made.

SB 108 BILL HISTORY

OVER THE YEARS I HAVE WATCHED HUNDREDS OF THOUSANDS OF ACRES OF ALASKA SET ASIDE FOR SPECIAL USES.

EACH TIME THIS IS DONE WE LOSE THE MULTIPLE USE CONCEPT AS CERTAIN USES ARE RESTRICTED.

WHENEVER DEVELOPMENT INTERESTS APPLY FOR THE USE OF A RESOURCE THEY ARE REQUIRED AT THEIR EXPENSE TO INVENTORY THE OTHER VALUES OF THE AREA THEY WILL BE USING. TO ME IT ONLY MAKES SENSE THAT THE LEGISLATURE BE APPRISED OF THE RESOURCE VALUES BEFORE LAND AND WATER IS PUT OFF LIMITS TO DEVELOPMENT.

IT SURPRISES ME THAT AGENCIES ALWAYS SEEM TO HAVE THE TIME AND MONEY TO HALT DEVELOPMENT BY PROVIDING A RESOURCE INVENTORY TO THE LEGISLATURE, BUT CAN NOT CARRY OUT THE MANDATES OF THIS LEGISLATION WITHOUT NEW POSITIONS AND A FISCAL NOTE.

I FEEL WE NEED TO KNOW THE BIG PICTURE BEFORE WE MAKE OUR VALUE JUDGEMENTS. POLITICS ASIDE THIS TYPE OF APPROACH TO USE OF OUR LAND AND RESOURCES JUST MAKES GOOD SENSE.

I WOULD EXPECT THOSE WHO HAVE A PREJUDICE AGAINST DEVELOPMENT TO OPPOSE THIS BILL, JUST AS THEY HAVE OPPOSED ANY OTHER PIECE OF LEGISLATION WHICH FALLS OUTSIDE THEIR SPECIAL INTEREST.

I FOR ONE, WOULD LIKE TO KNOW HOW MANY MILLIONS OF DOLLARS OR RESOURCES ARE ALREADY LOCKED AWAY IN OUR REFUGES, PUBLIC USE AREAS, MARINE PARKS, CRITICAL HABITAT, PARKS, MOOSE RANGES, ETC.

IT IS TIME WE TRY TO BALANCE THE EQUATION AND TO DO THAT WE NEED TO KNOW THE VALUES ON BOTH SIDES OF IT.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

April 4, 1991

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

The Honorable Lloyd Jones, Chair
Senate Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Jones:

Subject: SB 108, which relates to the classification and reclassification of state land.

Position: The Department of Natural Resources believes that economics should be given more consideration before state land classifications are made. While we do not object to the intent of this bill, rather than instituting a new requirement in statute, we believe it would be more cost effective to allow us to consider economics administratively, during the land use planning process.

Background: This bill requires the department to analyze the effects of a land classification before it is adopted. The analysis must include an estimate of the value of the resources in the area to be classified, the probable short and long term effects on the region of the classification, and the number and type of persons affected by the classification.

Currently, land classifications are adopted if a review of the proposed action determines it to be in the best interests of the state. Economic factors are considered in this review, but a detailed economic analysis of the proposed classification is not performed. Land valuation exercises associated with the mental health trust land issue have demonstrated that determining the value of mineral resources in place is extremely difficult if not impossible. Our fiscal note shows the cost of a mineral assessment per township, it does not address mineral valuations.

AS 38.04.065 requires state land classifications to be the result of and consistent with state land use plans for a region. If a plan has not been completed for a region, a site specific plan must be developed before the site can be classified. In general, if state land is not classified, it can not be sold or leased, and permits for its use cannot be issued. State land plans take several years to complete, with considerable public involvement, after economics and other factors affecting an area are considered. All classification categories are for multiple use of an area, although a particular use may be considered primary. Classifications may be changed by administrative action.

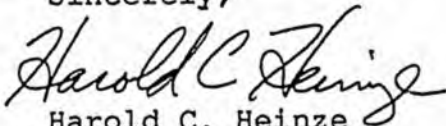
The economic consequences of land use classifications should always be considered, but a detailed economic analysis and mineral valuation should not be statutorily required for every classification action. Aside from the costs of such a requirement,

the difficulties of acquiring reliable data and of quantifying resource values could make land classifications difficult to complete. Since land must be classified before it can be sold or leased, activities on state land could be slowed considerably or even prevented.

Recommendation: Allow the department to administratively place more emphasis on the economic consequences of land use classifications during the land use planning process. If legislative direction is considered necessary, change the focus of the bill from land classification to land planning and fund the department to hire an economist to work on land use plans. Amend the planning statute, AS 38.04.065 (b) (2), to read as follows:

consider both current and future physical, economic, and social factors affecting the area, as well as the economic effects that state land classifications resulting from a plan may have both locally and statewide, and involve other agencies and the public in achieving a systematic interdisciplinary approach:

Sincerely,



Harold C. Heinze
Commissioner

cc: Committee Members
Senator Snultz
Bruce Kendall, Legislative Liaison, Office of the Governor

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB108 (Res)

Revision Date: 21-Jan-92

Department Affected: Natural Resources

Title: An Act Relating to the Classification
of state land

BRU: Land & Water Management

Components: Land & Water Management

Sponsor: Senator Shultz

Requestor: Senate Rules

COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	60.0	60.0	60.0	60.0	60.0	60.0
TRAVEL	6.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	10.0	10.0	10.0	10.0	10.0	10.0
SUPPLIES	0.4	0.4	0.4	0.4	0.4	0.4
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	76.4	76.4	76.4	76.4	76.4	76.4

CAPITAL	**					
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REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	76.4	76.4	76.4	76.4	76.4	76.4
FEDERAL FUNDS						
OTHER						
Funding Source:						
TOTAL	76.4	76.4	76.4	76.4	76.4	76.4

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of Current year impact: 0

ANALYSIS: (Attach a separate page if necessary)

To provide economic feasibility studies on all proposed land classification actions.

** In addition, approximately \$14,000 per township would be needed for mineral assessments.
(Mineral values cannot be determined)

Prepared by: Ron Swanson

Phone: 762-2680

Division: Land & Water Management

Date: 21-Jan-92

Approved by Commissioner: 18 Harold C. Heinze

Date: 21-Jan-92

Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB,
& Impacted Agency(ies).

801 08

SIS 108

Position Title Economist I		No. of Positions 1	Range/Step 18B	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District
TYPE OF EXPENDITURE		Amount	Justification CSS108 (Res) This position is needed to conduct economic studies on all land use classifications to determine the economic impact a particular classification would have on other possible land uses. These must be analyzed for their short and long term affects and the number and types of people which would be affected. Contractual money is for the purchase of data needed to conduct the analysis and for normal overhead expenses associated with any position.	
Salary	42.0			
Benefits	17.0			
Premium Pay				
Other	1.0			
Total Personal Services				
Travel		60.0		
Contractual		6.0		
Commodities		10.0		
Equipment		.4		
Other				
Total Cost		76.4		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	76.4		
I-A Receipts	1007			
CIP Receipts	1061			
Other				

**Request For
New Position**
rncss108

AGENCY Natural Resources
 BRU Land & Water
 COMPONENT Land & Water

Page 2 of 2
 Revised Date: _____

FY 93

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 108

Revision Date: 01/21/92

Department Affected: Fish and Game

Title: Economic effect of land

BRU: Habitat

classification _____

Component: Habitat

Sponsor: Senator Shultz

Requestor: Senate Rules

COMPONENT SERIAL NO.

	4	8	6
--	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE: 1024	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Geron Bruce Phone: 465-4100

Division: Commissioner's Office Date: 2/28/92

Approved by Commissioner: *Don Jermoloff*

Agency: Department of Fish and Game Date: 3/1/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. OSC., & Impacted Agency(ies).

FISCAL NOTE

No. 1

Bill Version: SB 108

(S) Publish Date: 4/12/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: 2-25-91 Department Affected: Fish and Game

Title: Economic Effect of Land Classification BRU: Habitat

Component: Habitat

Sponsor: Senator-Shultz/Senator Jones

Requestor: _____ COMPONENT SERIAL NO.

	4	8	6
--	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	204.4	204.4	204.4	204.4	204.4
TRAVEL	0	8.0	8.0	8.0	8.0	8.0
CONTRACTUAL	0	15.0	15.0	15.0	15.0	15.0
SUPPLIES	0	5.0	5.0	5.0	5.0	5.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	232.4	232.4	232.4	232.4	232.4

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	232.4	232.4	232.4	232.4	232.4

POSITIONS:

FULL-TIME	0	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: no impact on current year

ANALYSIS: (Attach a separate page if necessary.) These estimates are based on an assumed workload that requires an economist and two additional biologists to assess both the qualitative and quantitative aspects of socio-economic analyses.

Prepared By: Frank Rue, Director Phone: 465-4105

Division: Habitat Date: 2/25/91

Approved by Commissioner: [Signature]

Agency: Department of Fish Changes in SSB08 (RES) Date: 3/27/91

Distribution (by preparer): Legislative 4/5/91 PT reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate. d. & Impacted Agency(ies).

Rev 10/90

4/5/91 PT
date Comte Aide (Initial)

Page 1 of 1

SB 110

(11)

FINANCE COMMITTEE REPORT

Date Referred: May 18, 1991

FURTHER REFERRALS:

Date of Committee Action: 5/22/92

The FINANCE Committee considered:

CSSB 110(TRA)

CS FOR SENATE BILL NO. 110 (TRANSPORTATION)

LAPSING OF HWY/AVIATION OPERATING APPROPS

"An Act relating to lapse of appropriations for maintenance and operation of highways and aviation facilities; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CSSB 110 (TRA) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note DOTPF

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
EP ^{MacLean} MacLean		Mike Havane ^{NAVARRE}		<input checked="" type="checkbox"/>	
Jan Brown ^{BROWN}	<input checked="" type="checkbox"/>	Koponen ^{Koponen}			<input checked="" type="checkbox"/>
Jacko ^{JACKO}	<input checked="" type="checkbox"/>	Phillips ^{Phillips}		<input checked="" type="checkbox"/>	
Sharp ^{Sharp}	<input checked="" type="checkbox"/>	Lawson ^{LAWSON}		<input checked="" type="checkbox"/>	
Fullmer ^{Fullmer}	<input checked="" type="checkbox"/>				

^{NAVARRE}
 Mike Havane ^{NAVARRE} EP ^{MacLean} MacLean
 Co-CHAIRMAN'S SIGNATURE

KUSIN P/D HFC 5/12/92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NUMBER: SB 110

FISCAL NOTE

Revision Date: 05/18/91
Title: Lapsing of Hwy/Aviation Operating
Appropriations
Sponsor: Frank
Requestor: Frank

Department Affected: DOT&PF
BRU: Statewide Maintenance
and Operations
Component: Maintenance and Operations
Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

[Empty box for analysis]

Prepared by: Ron Lind, Director

Phone: 465-2171

Division: Plans, Programs and Budget

Date: January 9, 1992

Approved by Commissioner: *Frank G. Turpin*
Frank G. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: January 9, 1992

Distribution By Preparer: Leg. Finance, Leg. Sponsor, Requestor, OMB/DBR, Gov. Leg. Office, Impacted Agency(ies).

CS FOR SENATE BILL NO. 110 (TRANSPORTATION)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 4/17/91
Referred: Finance

Sponsor(s): SENATORS FRANK, Pourchot

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to lapse of appropriations for maintenance and operation of highways
2 and aviation facilities; and providing for an effective date."

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

4 * Section 1. AS 37.25 is amended by adding a new section to read:

5 Sec. 37.25.015. LAPSE OF APPROPRIATIONS FOR MAINTENANCE AND
6 OPERATION OF HIGHWAYS AND AVIATION FACILITIES. Except as otherwise provided
7 in the Act making the appropriation, notwithstanding AS 37.25.010 the Department of
8 Transportation and Public Facilities shall lapse the unexpended and unobligated balance of
9 operating appropriations for maintenance and operation of highway and aviation facilities on
10 August 31 of the fiscal year following the fiscal year for which the appropriation was made.

11 * Sec. 2. This Act takes effect July 1, 1991.

Alaska State Legislature

STEVE FRANK

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701
(907) 452-3421

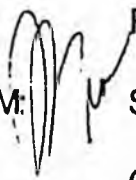


While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 417

Senate

MEMORANDUM

TO: Representative Mike Navarre, Co-Chair House Finance
Representative Eileen MacLean, Co-Chair House Finance

FROM:  Senator Steve Frank

RE: CS SB110 (Transportation) Extending the lapse of
Appropriations for Maintenance and Operation of
Highways and Aviation Facilities

DATE: January 22, 1992

I would like to request that Senate Bill 110 be scheduled for a hearing in the House Finance Committee at your earliest convenience. This bill would allow the DOT&PF to more efficiently maximize their maintenance and operation monies by extending the lapse date to August 31. This extension would:

1. Provide necessary lead time for order and delivery of construction materials. Savings would be achieved by reducing shipping and handling costs.
2. Reduce overtime because projects will not be subject to completion by the June 30, fiscal year deadline.
3. Provide greater opportunities to contract our maintenance because the time required for the bid process is less critical.
4. Reward more efficient winter maintenance operations by allowing managers to use the funds they conserve for deferred summer maintenance.

Senate Bill 110 will put into law a practice that in recent years has been authorized by the legislature in the budget bill. On occasion this extension has been inadvertently overlooked during the budget process causing problems for DOT&PF's maintenance and operations.

This proposal passed the Senate by a vote of 15-0-1 (4 absent). I would appreciate your support and approval of Senate Bill 110.

SB 110

SENATE FINANCE COMMITTEE REPORT

DATE: 4/17/91

FURTHER:

DATE TURNED INTO OFFICE: 5-6-91

The Finance Committee considered SENATE BILL NO. 110

"An Act relating to lapse of appropriations for maintenance and operation of highways and aviation facilities; and providing for an effective date."

and recommended:

replace with _____ CS
 or adopt _____ CS SB 110 (TRA)
 attached amendment(s)
 _____ letter of intent adopted

same title
 new title
 technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____
DOTPF 2/2/91 e

SIGNING DO PASS:

Dick Sturdy

Pat Kaur

OTHER RECOMMENDATIONS:

Pat Kaur - No Rec
Al Adams - No Rec
Tom Hahn - No Rec
Kurt Uehy NO REC

1. Pat Kaur do pass
2. Pat Kaur do pass
Co-Chairs: Signatures and Recommendations

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL No. 1
Bill Version: SB 110
(S) Publish Date: 4/17/91

FISCAL NOTE

Revision Date:
Title: Lapse date of appropriations for maintenance
and operations of highways and aviation.
Sponsor: Frank

Department Affected: DOT&PF
BRU: Statewide M&O
Component: M&O

Requestor: Frank

Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact:

Changes in CSSB 110 (Trans)
have no fiscal impact. This
fiscal note is appropriate.

ANALYSIS: (Attach a separate page if necessary)

4/16/91
date AMM
Comte Aide (initial)

Prepared by: Ron Lind, Director RL

Phone: 465-2171

Division: Plans, Programs and Budget

Date: Feb. 20, 1991

Approved by Commissioner: Frank G. Turpin
Frank G. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: Feb. 20, 1991

Distribution By Preparer: Legislative Finance, Legislative Sponsor, Requestor, OMB, Impacted Agency(ies).

CS FOR SENATE BILL NO. 110 (TRANSPORTATION)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 4/17/91
Referred: Finance

Sponsor(s): SENATORS FRANK, Pourchot

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to lapse of appropriations for maintenance and operation of highways
2 and aviation facilities; and providing for an effective date."

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

4 * Section 1. AS 37.25 is amended by adding a new section to read:

5 Sec. 37.25.015. LAPSE OF APPROPRIATIONS FOR MAINTENANCE AND
6 OPERATION OF HIGHWAYS AND AVIATION FACILITIES. Except as otherwise provided
7 in the Act making the appropriation, notwithstanding AS 37.25.010 the Department of
8 Transportation and Public Facilities shall lapse the unexpended and unobligated balance of
9 operating appropriations for maintenance and operation of highway and aviation facilities on
10 August 31 of the fiscal year following the fiscal year for which the appropriation was made.

11 * Sec. 2. This Act takes effect July 1, 1991.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

REGIONAL DIRECTOR, CENTRAL REGION
P.O. BOX 196900
ANCHORAGE, ALASKA 99519-6900
(FAX 248-9681) (907) 266-1440

February 25, 1991

RE: SB 110 Extend M&O Lapse Date

The Honorable Steve Frank
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Frank:

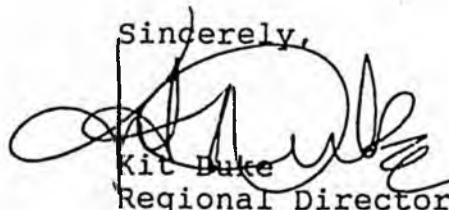
I want to thank you for providing me with a copy of SB 110 which would extend the lapse date for maintenance and operations funds.

Because the fiscal year extends from July 1, to June 30, M&O conserves its budget to cover winter costs. M&O can not make plans for a summer maintenance program until March or April. An extended lapse date would provide additional time to plan and execute a program of summer maintenance and efficiently use the funds appropriated for maintenance. Specifically the following areas would benefit:

1. Provide the necessary lead time to order and take delivery of construction materials. Savings can be achieved by reducing shipping and handling costs.
2. Reduce the need for overtime because projects won't have to be completed by June 30.
3. Provide rewards for more efficient winter maintenance operations by allowing managers to use the funds they conserve for deferred summer maintenance.

The extended lapse date would not be an opportunity to spend funds because they are in budget, but would let us implement needed summer maintenance projects and help to reduce the backlog of deferred maintenance.

Sincerely,



Kit Duke
Regional Director

cc: Katy McHugh, Legislative Liaison, Commissioner's Office

MEH/kkk



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: SB 110

APPROVED:

A handwritten signature in cursive script, appearing to read "Randy Linn", written over a horizontal line.

TITLE: Lapse date of appropriations for
maintenance and operations of
highways and aviation.

DATE: February 20, 1991

The department continues to and has historically supported an extended lapse date for maintenance and operations, highways and aviation activities. There are many valid reasons why it is more efficient for maintenance, especially for a unit who has much of their work controlled by weather conditions, to have an extended period of time to utilize their funding.

For Further Information contact Katy McHugh at 465-3900.

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

SOUTHEAST REGIONAL DIRECTOR

WALTER J. HICKEL, GOVERNOR

P.O. BOX 3-1000
JUNEAU, ALASKA 99802
PHONE: (907) 789-6261

February 14, 1991

FEB 14 1991

The Honorable Steve Frank
Alaska State Senator
P. O. Box V
Juneau, Alaska 99811

Dear Senator Frank,

Thank you for providing me a copy of SB 110 extending the lapse date for maintenance and operations funds.

This bill would greatly enhance the efficiency and productivity of the department's maintenance and operations effort.

Some 50 percent of the department's maintenance and operations budget is spent on snow and ice control. And because we cannot reliably predict the winter weather, we cannot reliably predict or plan for the level of effort or amount of funds it will take to keep our roads and airports safe for the traveling public.

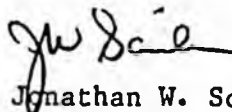
On the other hand, we can better control our level of expenditure during the summer months. Only after the winter is over and we know how much we spent can we plan and execute our summer work program to stay within our budget appropriation.

Unfortunately, the state's current budget cycle (July 1 - June 30) makes it extremely difficult to plan and perform necessary summer maintenance activities. There is not enough time after July 1 to requisition materials and perform work or develop and let maintenance contracts before winter. In addition, we must be conservative in our level of maintenance effort because we must be prepared for a harsh winter, if it comes.

When winter is over, usually late March to mid-April, and we, for the first time, know how much money remains for summer maintenance activities, there is not enough time left to plan for and do the work before June 30. Often less important work gets done or we must lapse funds simply because there is not enough time left in the budget fiscal year.

SB 110 would give us the entire summer to use funds remaining in our budget for highest priority maintenance repairs; e.g., patching, pothole repair, guardrail repair, brushing, drainage repair and striping.

Sincerely,



Jonathan W. Scribner