

ALASKA LEGISLATURE  
HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994 1155

229

Footwear Impressions," presented at the 77th Annual International Association for Identification Educational Conference, Atlantic City, New Jersey, July 1992 (C. Beheim, BS).

3. "Identification of Furbearer Blood in a Cooperative State - Federal Investigation," "Physical Matching a Skull and Hide to a Poached Bear Carcass," and "A Practical Digital Imaging System for Evidence Documentation and Analysis," at the Northwest Association of Forensic Scientists Fall Meeting, Portland, Oregon, October 1992 (J. Wolfe, MS)
- Publications (Authored by R. Shem, BS.)
  1. Association of Firearm and Toolmark Examiners Journal:
    - a. "Patina Patterns on Brass Cartridge Cases"
    - b. "Factory Installed Trace Material on Bullets and Cartridge Cases"
    - c. "Preserving Trace Evidence from Blood Extracted Garments"
  2. American Journal of Forensic Medicine and Pathology:
 

"Wounds Caused by Contact with Muzzle-Life Relief Ports (Mag-Na-Port)"

**CRIME LAB PERSONNEL MEMBERSHIP  
IN PROFESSIONAL ORGANIZATIONS**

Crime Laboratory personnel are members of the following professional organizations:

- Alaska Chiefs of Police Association (ACOPA)
- Alaska Peace Officers Association (APOA)
- American Academy of Forensic Sciences (AAFS)
- American Chemical Society (ACS)
- American Society of Crime Lab. Directors (ASCLD)
- Association of Firearm and Toolmark Examiners (AFTE)
- Forensic Photographers Association (FPA)
- International Association for Identification (IAI)
- Midwest Association of Forensic Scientists (MAFS)
- National Safety Council Committee on Alcohol & Drugs
- Northwest Association of Forensic Scientists (NWAFS)
- Southwest Association of Forensic Scientists (SWAFS)

**Figure 22: Backlog of Crime Lab cases has been reduced 54% from December 1991 to December 1992.**

	Dec '91	Dec '92	Change
Latents	379	103	-73%
Drugs	353	175	-50%
Toxicology	13	13	0%
General Criminalistics	6	5	-17%
Arson	3	2	-33%
Skeletal Remains	6	3	-50%
Firearm / Toolmark	46	39	-15%
Wildlife	12	3	-75%
Foot / Tire Track	7	4	-43%
Serology	44	64	+45%
Trace	20	2	-90%
<b>Total Backlog</b>	<b>889</b>	<b>413</b>	<b>-54%</b>

**NOTEWORTHY 1992 CASES**

- A. During the course of an investigation of a brutal sexual assault/homicide, the Laboratory was able to provide troopers with key information which led to the arrest of a suspect. Foreign head, pubic, and body hairs recovered from the victim were examined at the Lab. Two early suspects were eliminated as a result of this exam. These hairs were later associated with an individual with a prior arrest record for sexual assault. Examination of the suspect's watch revealed microscopic traces of blood. Subsequent DNA analysis of this blood resulted in a DQ $\alpha$  type matching the victim. Semen and several foreign hair roots located on the victim's underpants were found to exhibit the same DNA type as that of the suspect.
- B. Thorne Bay Homicide: After a several-hour drinking session in Thorne Bay, the suspect and his female companion became embroiled in an argument. In an effort to intervene on behalf of the female, the victim become involved in the dispute. The argument escalated to the point that the suspect retrieved a 270 Winchester caliber rifle and took a shot at, but missed, the victim. Sometime later, as the victim attempted to leave the residence in his pickup truck, the suspect fired two more shots, killing the victim. A subsequent crime scene search uncovered some interesting evidence; the suspect apparently was a reloader as one of the cartridge cases recovered was a 30-06 caliber cartridge converted to fit the suspect's 270 caliber rifle. Additionally, it was noted that the victim's denim jacket possessed on its back a soot-like pattern around the bullet entrance hole. It was discovered, through Laboratory testing, that this soot-like material was vaporous lead. This lead was produced as the bullet's soft lead nose impacted the sheet metal of the pickup. Both of these somewhat unique occurrences were of such forensic interest that they are the subjects of two scientific articles that are scheduled to appear in the Association of Firearm and Toolmark Examiners Journal in 1993.
- C. Fairbanks Police Department flew a 67-year-old rape victim to the Crime Laboratory in Anchorage for a composite interview with the Laboratory's forensic artist. A composite was generated in less than an hour. The victim returned to Fairbanks with composite drawing in hand. Fairbanks P.D. ran the composite drawing in the local newspaper. A probation officer called advising Fairbanks P.D. of a suspect which matched the appearance of the composite drawing. The suspect was interviewed and immediately confessed.
- D. A deceased individual from Naknek, believed by local law enforcement officers to be an alcohol-related death, arrived at Crime Lab for autopsy. No foul play was suspected. Autopsy revealed the deceased had been stabbed, thus triggering a homicide investigation.
- E. Key evidence was presented by the Crime Lab at the trial of a Ketchikan woman charged with murdering her common-law husband whose decomposed body was found under a tarp in their

front yard. During a search of the couple's residence, a large bloodstain was found soaked through a foam cushion on the living room couch. The stain was hidden from view by the seat cover which had been washed free of blood and replaced. It was detected only after luminol, an extremely sensitive presumptive test for blood, was applied to the surfaces of the living room.

Figure 23: Number of breath alcohol (BrAC) tests conducted by hour of day for agencies equipped with advanced model test instruments capable of reporting performance and test data to Crime Lab electronically.

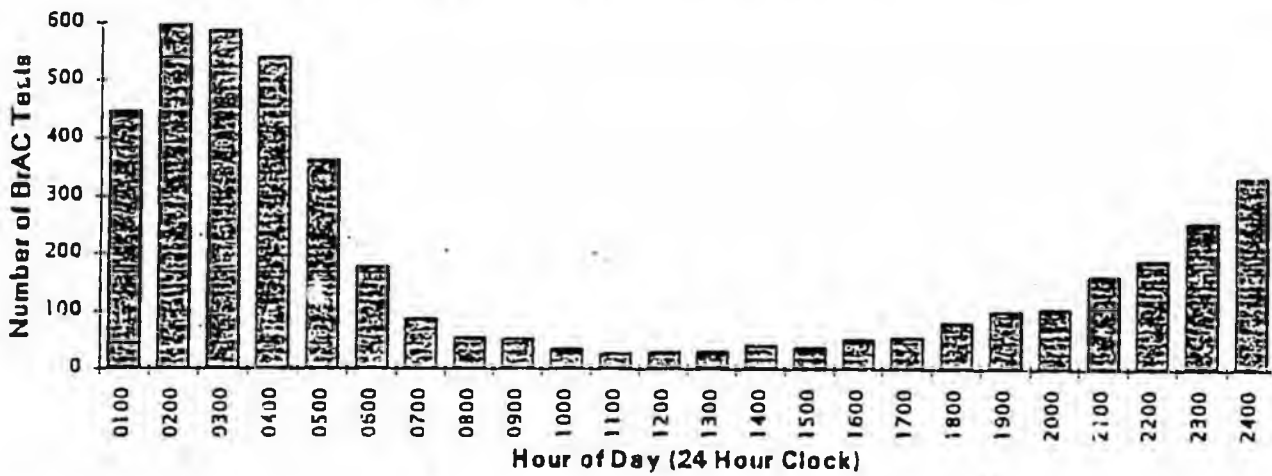
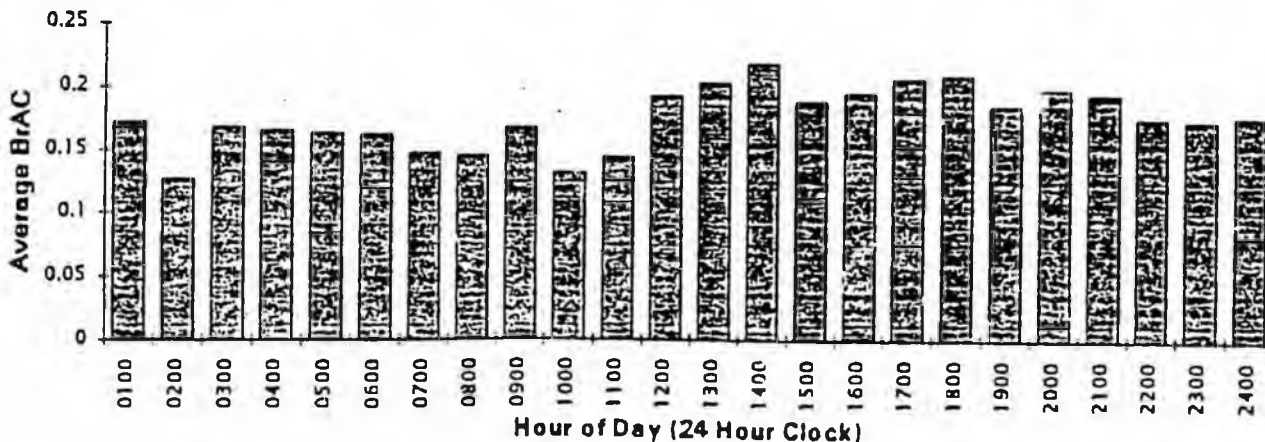


Figure 24: Average breath alcohol level measured by hour of day for agencies equipped with advanced model test instruments capable of reporting performance and test data to Crime Lab electronically.





# ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

RECEIVED MAR 31 1993

March 30, 1993

Senator Steve Reiger  
Alaska State Senate  
State Capitol  
Interdepartmental Mail Stop: 3100  
Juneau, AK 99801-1182

Dear Senator Reiger:

The Legislative Affairs Committee of the Alaska State Medical Association recently reviewed Senate Bill 145 regarding the position of a State Medical Examiner. After a lengthy discussion we feel it necessary to oppose this bill. It will not represent an improvement over the current system. It was also felt that this would be a more expensive means of dealing with unattended deaths in Alaska. I would encourage you to oppose this bill. If you have any questions regarding this, please feel free to contact me.

Sincerely yours,

Donald R. Lehmann, M.D., A.B.F.P.  
Chairman, Legislative Affairs Committee  
Alaska State Medical Association

DRL:bj

**SB**

**145**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/13/93

FURTHER:

DATE TURNED INTO OFFICE: 4-20-93

The Finance Committee considered **SENATE BILL NO. 145**

"An Act establishing the position of state medical examiner; and relating to preparation of death certificates."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)
- or  adopt previous \_\_\_\_\_ CS SB 145 (STA)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal
JRC/DH#SS #293	4/20/93		\$84.0

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
#3 DPS	4-2-93	<del>0</del>	
#2 Courts	3-11-93	<del>0</del>	

Appropriation No Fiscal Note

**DO PASS:**

Alvin Tain  
[Signature]  
[Signature]

**OTHER RECOMMENDATIONS:**

Tom Kelly - No Rec  
 \_\_\_\_\_  
 \_\_\_\_\_

1. [Signature]  
 Co-Chair: Signature/Recommendation

2. [Signature]  
 Co-Chair: Signature/Recommendation

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 145 (STA)

Revision Date: 4/20/93 Dept. Affected: Health and Social Service  
 Title: Establish State Medical Examiner Position BRU: State Health Services  
 and Preparation of Death Certificates Component: Post Mortem Examinations  
 Sponsor: SHES  
 Requestor: SFIN COMPONENT SERIAL NO. #293

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	35.6	35.6	35.6	35.6	35.6	35.6
TRAVEL						
CONTRACTUAL	53.4	53.4	53.4	53.4	53.4	53.4
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>89.0</b>	<b>89.0</b>	<b>89.0</b>	<b>89.0</b>	<b>89.0</b>	<b>89.0</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE:</b>						
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**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	89.0	89.0	89.0	89.0	89.0	89.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>						

**POSITIONS:**

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

Estimate of current year (FY93) impact \$ none

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

Line 100  
Clerk IV rg 9 GGU ANCH PFT 35.6  
 Line 300  
Post Mortem Examinations(at \$1098 each) 53.4

Prepared by: Senate Finance Committee  
 Division: \_\_\_\_\_  
 Approved by Commissioner: [Signature]  
 Agency: \_\_\_\_\_

Phone: 465-4993  
 Date: 4/20/93  
 Date: 4/20/93

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FISCAL NOTE

No. 2

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: 3B 145

(S) Publish Date: 4-7-93

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act establishing the position of State BRU: Trial Courts  
medical examiner Components: \_\_\_\_\_  
 Sponsor: Senate HESS COMPONENT SERIAL NO. 768  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Changes in CSSB 145 STA have no fiscal impact. This fiscal note is appropriate.

Estimate of current year (FY 93) impact: None

4.7.93  
date

[Signature]  
Comptroller (initial)

ANALYSIS: (Attach a separate page if necessary)  
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228  
Division: Alaska Court System Date: 03/11/93

Approved by: Arthur H. Snowden, II, Administrative Director Date: 03/11/93  
Agency: Alaska Court System

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

# FISCAL NOTE

No. 3

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: SB 145  
(S) Publish Date: 4-7-93

Revision Date: 4/2/93 Dept. Aff. ted: Public Safety  
 Title: "An act establishing the position  
of state medical examiner: BRU: DPS Statewide Support  
 Component: Laboratory Services  
 Sponsor: Senate HESS  
 Requestor: Senate STA COMPONENT SERIAL NO. 527

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>						
<b>REVENUE FUND SOURCE:</b>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Changes in CS SB 145 STA have no fiscal impact. This fiscal note is appropriate.  
4-7-93 date [Signature] Comte Aide (initial)

**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 (FY 93) impact: \$ 0.0

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

The Department's original fiscal note was in error, due to miscommunication. Passage of this bill will help to contain the growing costs for services provided by the Crime Lab. See attached budget amendment.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 4/02/93  
 Approved by Commissioner: [Signature] Date: 4/02/93  
 Agency: Richard L. Burton, Dept. of Public Safety

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AS 12.65.025 assigns the responsibility for designating facilities at which autopsies are performed to the Commissioner of the Department of Health and Social Services. AS 12.65.040 authorizes the coroner to inquire into the cause of death. The Department of Public Safety's Crime Laboratory receives bodies for autopsy but has no authority to question or screen referrals from the coroner. Additionally, the Crime Laboratory has never been permanently funded to perform or assist in a significant number of autopsies.

Due to the tremendous growth in the number of autopsies, resources including forensic professionals are being diverted to assist in autopsies to such an extent that approximately 10% of the Lab's resources are now allocated to autopsy work.

The resulting impact limits the major forensic focus of the lab which is to provide forensic support to police in the processing of cases involving latent fingerprints (21,500), criminalistics (6,900), narcotics (11,000), crime scene investigations, administering the breath alcohol program and perform drawings and facial reconstructions.

During the first 6 months of FY 93, 301 autopsies were performed at the Public Safety Crime Laboratory. Of the total \$2,000.5 authorized, an estimated \$225.2 was spent for autopsy support. With the expectation of handling over 600 bodies during FY 93, the Laboratory cannot handle this volume of work with only two autopsy assistants or afford the overtime to receive these remains after hours. During FY 93, other Laboratory caseload has increased to a level where current laboratory personnel can no longer handle this increased workload.

GBA  
ADDITIONAL  
EXPLANATION  
FORM

AGENCY Department of Public Safety

BRU DPS Statewide Support

COMPONENT Laboratory Services

FY 94

Page 2 of 2

Revised Date

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

No. 1  
but Version: SB 145  
(S) Publish Date: 4-7-93

Revision Date: 3/31/93 Dept. Affected: Health and Social Services  
Title: Establish a state medical examiner position BRU: State Health Services  
and preparation of death certificates Component: Post Mortem Examinations  
Sponsor: SHES  
Requestor: SCRA COMPONENT SERIAL NO. #293

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	191.0	191.0	191.0	191.0	191.0	191.0
TRAVEL	25.0	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	183.0	183.0	183.0	183.0	183.0	183.0
SUPPLIES	5.0	5.0	5.0	5.0	5.0	5.0
EQUIPMENT	25.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>429.0</b>	<b>394.0</b>	<b>394.0</b>	<b>394.0</b>	<b>394.0</b>	<b>394.0</b>

**CAPITAL**

**REVENUE FUND SOURCE**

**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	429.0	394.0	394.0	394.0	394.0	394.0
1005 GF/Program Receipts						
1006 GF/MIHTIA						
Other						
<b>TOTAL</b>	<b>429.0</b>	<b>394.0</b>	<b>394.0</b>	<b>394.0</b>	<b>394.0</b>	<b>394.0</b>

**POSITIONS:**

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: None

Changes in CS SB 145 (STA) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

4.7.93  
date

Comptroller (initial)

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

Line 100 -					
Medical Examiner	rg 27	Exempt	Anch	PFT	155.4
Clerk IV	rg 9	GGU	Anch	PFT	35.6
Line 200 -					
Recruitment & Moving Expenses					10.0
Travel to conduct PME's & meeting					15.0

Prepared by: Peter M. Nakamura, MD, MPH  
Division: Division of Public Health

Phone: (907) 465-3090  
Date: 3/21/93

Approved by Commissioner: Theodore A. Mala, MD, MPH  
Agency: Department of Health & Social Services

Date: 3/31/93

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Position Title Clerk IV		No. of Positions 1	Range/Step 9A	Bargaining Unit GGU
Time Status PFT	Staff Months 12.0	Location Anchorage		Election District
<b>TYPE of EXPENDITURE</b>		<b>AMOUNT</b>		
Salary		25.4		
Benefits		10.2		
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>35.6</b>		
Travel				
Contractual		1.5		
Commodities		0.6		
Equipment		8.2		
Other				
<b>Total Cost</b>		<b>45.9</b>		
<b>FUNDING SOURCE for TOTAL COST</b>				
1002	Federal Receipts			
1003	GF Match			
1004	General Fund	45.9		
1005	GF/Program Receipts			
1006	GF/Mental Health Trust			
1007	I/A Receipts			
1061	CIP Receipts			
Other				
justification This position will be the sole clerical support for the State Medical Examiner position. It will be responsible for: 1) office management; 2) data base management; 3) office fiscal responsibilities; and 4) medical transcriptions.				

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services  
 BRU: State Health Services  
 COMPONENT: Post Mortem Examinations

**FY94**

Page 1 of 1  
 Revised Date:

# Alaska State Legislature

Senator Steve Rieger, Chair  
Senator Bert Sharp, Vice Chair  
Senator Loren Leman  
Senator Mike Miller  
Senator Jim Duncan  
Senator Johnny Ellis  
Senator Judith Salo



State Capitol  
Room 516  
Juneau, Alaska 99801  
(907) 465-3762

## Senate Committee on Health, Education and Social Services

MEMORANDUM

April 14, 1993

**TO:** Senator Drue Pearce, Co-Chair  
Senator Steve Frank, Co-Chair  
Senate Finance Committee

**FROM:** Senator Steve Rieger, Chair *SR*  
Senate Health, Education, and Social Services Committee

**RE:** Hearing request for SB 145 "An Act establishing the position of state medical examiner; and relating to the preparation of death certificates."

I respectfully request a hearing for SB 145 which is in the Senate Finance Committee.

Senate Bill 145 is a Senate HESS bill which has the support of the Departments of Public Safety and Health and Social Services and the Alaska Court System. The Alaska State Medical Association opposes the legislation.

I have enclosed a packet of information on SB 145 for Senate Finance Committee members. Please contact me or Betty Hargrave on my staff if you have any questions regarding this legislation. Thank you.

# Alaska State Legislature

Senator Steve Rieger, Chair  
Senator Bert Sharp, Vice Chair  
Senator Loren Leman  
Senator Mike Miller  
Senator Jim Duncan  
Senator Johnny Ellis  
Senator Judith Salo



State Capitol  
Room 516  
Juneau, Alaska 99801  
(907) 465-3762

## Senate Committee on Health, Education and Social Services

### Sponsor Statement on:

### **SB 145 "An Act establishing the position of state medical examiner; and relating to preparation of death certificates."**

Senate Bill 145 is a Senate HESS bill which has the support of the Departments of Public Safety and Health and Social Services and the Alaska Court System. Currently, a coroner determines whether post mortem examinations are necessary, physicians conduct the post mortem examinations under a fee for service arrangement, and the Department of Health and Social Services pays for the exams and associated costs.

Senate Bill 145 creates a new position of state medical examiner in the Department of Health and Social Services. It provides that coroners may request the state medical examiner, under regulations to be adopted by the department, to conduct an external and/or internal examination of the body and to take other appropriate actions to determine the cause of death and to certify it.

It is the expectation of the Committee that a state medical examiner will be able to reduce the total number of post mortem exams performed by eliminating unnecessary exams. In the FY 94 Senate Health and Social Services budget, the Senate Finance Committee has incorporated the passage of SB 145 into its funding proposal and shows a reduced post mortem examination cost when compared to the governor's budget proposal.

DEPARTMENT OF HEALTH & SOCIAL SERVICES

POSITION PAPER

SENATE BILL NO. 145

A Bill for an Act entitled: "An Act establishing the position of state medical examiner; and relating to preparation of death certificates."

SB 145 establishes the position of state medical examiner within the Department of Health and Social Services. It provides that coroners may request the state medical examiner, under regulations to be adopted by the department, to conduct an external and/or internal examination of the body and to take other appropriate actions to determine the cause of death and to certify it.

BACKGROUND

The existing system for the medical investigation of deaths required to be reported to coroners in Alaska involves four agencies: the Departments of Public Safety, Health and Social Services and Law, and the Alaska Court System.

AS 12.65 specifies the types of deaths which must be reported to coroners and gives coroners the responsibility for establishing the cause of death in these cases. In some of these reported cases, a physician is willing to certify the cause of death and the coroner may determine that no further action is required. In other cases, a physician is not willing to certify the cause or the circumstances of death are such that the coroner may decide to require a post mortem examination which, under current conditions, usually includes an autopsy. Physicians who conduct post mortem examinations work under a fee for service arrangement. Coroners certify that the physician's service has been rendered and DHSS pays the bills. In addition to physician fees, there are also costs for laboratory services, ground or air transportation of bodies for examination and fees payable to funeral homes for the use of facilities and other services provided. The Department of Public Safety provides facilities and support for certain post mortem examinations conducted at its Anchorage Crime Lab facility.

Historically, the costs of the program for medical investigations of death have been significantly underfunded. Supplementals or revised budget requests have been required each year.

# POSITION PAPER

STATE OF ALASKA ★ DEPARTMENT OF HEALTH & SOCIAL SERVICES

	<u>Orig Auth</u>	<u>RP/SUPP</u>	<u>Final Auth</u>	<u>Actuals</u>
FY88	463.4	180.6	644.0	618.3
FY89	463.4	333.2	796.6	767.3
FY90	463.4	310.0	773.4	754.5
FY91	463.4	346.6	810.0	809.1
FY92	696.0	102.0	798.0	796.2
FY93	696.0	229.6 (Req)		

The marked projected increase in FY93 is accounted for by an estimated 11 percent increase in the number of autopsies performed and a higher cost per unit of service.

Also historically, Alaska has had a higher rate of autopsy examinations than other states. Contributory factors include the relatively young age of the population and the high incidence of violent deaths, both accidental and deliberate.

## DISCUSSION

The purpose of this bill is to control escalating costs through improving the decision making process for selection of cases to be autopsied. The only way to make significant changes in the rate of cost increases is to limit the number of autopsies and associated transportation expenditures. However, it is absolutely essential that these changes be achieved while simultaneously guaranteeing that autopsies and other types of post mortem examinations be performed where they are necessary for the purposes of law enforcement and public health.

It is anticipated that the number of autopsies can be reduced by focusing on deaths which are classified as accidental or natural. In FY 1991, Alaska autopsied 84 percent of the accidental and 22 percent of the natural death cases reported while the national average for these two categories is 50 percent and 11 percent respectively. In FY 1992, 538 or 68.7 percent of autopsies performed related to accidental or natural deaths at a cost of \$546.6.

There are two critical cost-related issues which can be addressed by a state medical examiner:

- 1) which cases require full autopsies or other post mortem examinations, including toxicology screens; and
- 2) whether transportation of a body is necessary, and if so, to what destination. E.g., can the drawing of body fluids for toxicology screens be done locally or at a regional facility rather than in Anchorage?

The state medical examiner will provide consultation to the coroners and law enforcement agencies on forensic medical considerations in death scene investigations, on

# POSITION PAPER

STATE OF ALASKA ★ DEPARTMENT OF HEALTH & SOCIAL SERVICES

interpretation of decedents' medical histories, and on the interpretation of the findings of external body examinations. He or she will also perform about 125 autopsies per year while other required autopsies will continue to be done by contract pathologists. A quality control program will also be established. The state medical examiner will also provide training and monitoring of the work of physicians who are appointed as medical examiners in the judicial districts. Once these activities are in place and functioning, it should be possible to contain the costs of the program.

## POSITION

The Department of Health and Social Services strongly endorses SB 145. Discussions have been held with the Court System and the Departments of Law and Public Safety over a period of years to try to arrive at a realistic cost containment strategy. While the Court System has attempted to limit the proportion of cases sent for autopsy examination, significant changes have not occurred. We believe that the establishment of a state medical examiner program will ensure that appropriate post mortem examinations are performed when necessary for reasons of public safety or public health, while also providing the department with the tools it needs to control escalating program costs.

Recommended by:



Peter M. Nakamura, MD, MPH  
Director, Division of Public Health

Date:

March 10, 1993

Approved by:



Theodore A. Mala, MD, MPH  
Commissioner, Department of Health and Social Services

Date:

10 March 1993

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

P.O. BOX 110610  
JUNEAU, ALASKA 99811-0610  
PHONE. (907) 465-3090

March 30, 1993

Honorable Steve Rieger  
Room 516  
State Capital

Dear Senator Rieger:

The department projects the following costs associated with the Post Mortem Program for FY 94. Our latest projections anticipate that the program will have to pay for 824 post mortem exams in FY 94. This new projection is down from our original projection of 880 as a result of more current data. We have prepared an amended fiscal note based upon this new projection. Our analysis is also based upon an average cost of \$1,098.00 per post mortem examination. This average was discussed in the original fiscal note and is still our best estimate of actual costs after all fee increases have been realized in the system.

Table one shows the projected cost of 824 post mortem exams under the existing system is \$905,000. This compares with \$825,000 if SB 145 passes and a State Medical Examiner (ME) is hired.

TABLE 1

	Without Medical Examiner	With Medical Examiner
Personal Services		\$191.0
Travel		\$ 25.0
Contractual		
post mortem exams (824@\$1,098)	\$905.0	
post mortem exams (500@\$1,098)		\$549.0
Toxicological panels (100@\$250)		\$ 25.0
Office and phones		\$ 5.0
Supplies		\$ .0
Equipment		\$ 25.0
	-----	-----
Total Estimated Cost	\$905.00	\$825.00
Estimated Savings With Medical Examiner		\$80.0

This first year savings of approximately \$80,000 occurs because the ME is expected to do 110 autopsies per year along with other administrative duties and court appearances. The analysis further assumes that approximately 150 deaths will be certified based upon

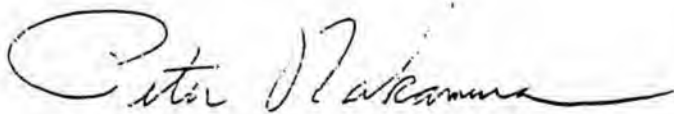
Senator Reiger

-2-

a death investigation alone and 100 can be certified on the basis of a toxicology panel alone at a cost of \$250.

Savings in future years will depend primarily upon the rate of increase in the cost of contracted services. However, with the proposed Medical Examiner system in place these services will be under the administrative and financial control of the Department.

Truly Yours,

A handwritten signature in cursive script, reading "Peter M. Nakamura". The signature is written in dark ink and has a long, sweeping underline that extends to the right.

Peter M. Nakamura MD, MPH  
Director

BILL NO: SB 145

DATE: March 18, 1993

TITLE: "An Act establishing the position of state medical examiner. . ."

CONTACT: C E. Swackhammer  
Deputy Commissioner  
465-4322

RECEIVED 1993

SB 145 establishes the position of state medical examiner within the Department of Health and Social Services. It provides that coroners may request the state medical examiner, under regulations to be adopted by the Department, to conduct an external and/or internal examination of the body and to take other appropriate actions to determine the cause of death and to certify it.

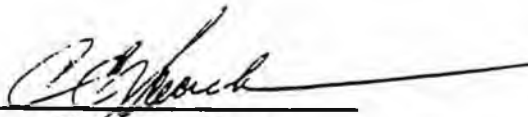
Since 1988, DPS autopsy costs have escalated from 0 to \$225.0 projected for FY93. A state medical examiner can assist in helping to reduce the growth of these costs by being the central point of contact to coroners and law enforcement agencies on forensic medical considerations in death scene investigations, on interpretation of decedents' medical histories, on the interpretation of the findings of external examinations so that a decision can be made to determine:

Which cases require full autopsies or other post mortem examinations and including toxicology screens;

Whether the transportation of the body for post mortem examination is necessary; and if so to what location can autopsy/toxicology screens be performed.

A state medical examiner program will help ensure that appropriate post mortem examinations are performed when necessary for reasons of public safety or public health, while also providing the department with a mechanism to help contain growth in autopsy costs. A state medical examiner will also establish a quality control program to provide training and monitoring of the work of physicians who are appointed as medical examiners in the judicial districts.

The Department of Public Safety strongly endorses SB 145.

  
Richard L. Burton  
Commissioner

## SCIENTIFIC CRIME DETECTION LABORATORY

### MISSION

To provide forensic support for all law enforcement agencies and to help solve serious crimes anywhere in Alaska.

### STATUTORY AUTHORITY

AS 18.65.050  
AS 18.65.090  
AS 44.41.020

### STAFFING

All crime laboratory staff are civilian employees. The breakdown of staff assignments is:

Administrative Support	5
Breath Alcohol	2
Controlled Substances / Toxicology	
Computer / and Evidence	7
Criminalistics	6
<u>Latent Fingerprint / Autopsy / Maint.</u>	<u>8</u>
Total	28*

\* Two positions federally funded

### PROGRAM OVERVIEW

The Scientific Crime Detection Laboratory provides forensic services with scientists specialized in criminalistics (toxicology, serology, chemical analysis) and latent fingerprint examiners. Services include examination and analysis of evidence in criminal cases and assistance with crime scene investigations. Laboratory staff testify in court on the results of evidence testing. Training is provided to law enforcement officers in proper evidence collection and preservation. The Crime Lab provides autopsy space, personnel, and evidentiary custody of remains submitted by the coroner/magistrate in cases where criminal activity is suspected or identity needs to be established.

Figure 16: Laboratory Cases Submitted by Agency

Agency	Cases	%
City Police	1415	45%
AST	908	29%
Drug Units	496	16%
Federal Agencies	92	3%
FWP	43	1%
Coroners/Magistrates	42	1%
Fire Protection	39	1%
Airport Police	30	1%
Dept. of Corrections	20	1%
Others	22	1%
Parks	1	<1%

The Crime Lab maintains the statewide breath alcohol program which tests instruments used for evidence in Driving While Intoxicated (DWI) cases. The Intoximeter program, which is essential for successful prosecution of DWI cases, has never received funding for the full-time position needed for equipment repairs, supervisor certification, etc. Federal funds are providing a position through at least FY 1993, but may not do so in the future operation of the breath alcohol program is a State responsibility. The Governor's budget includes an increment to reflect the federally-funded position and anticipates the continued support of this effort by the federal government, although this is not certain at this time.

Figure 17: Other Laboratory Support for Law Enforcement

Court Appearances	178
Crime Scenes Investigated	39
Laboratory Tours	99

### CONTROLLED SUBSTANCES / TOXICOLOGY / COMPUTER / EVIDENCE SECTION

The Drug / Toxicology Section provides controlled substance and toxicology analysis, maintenance of various Laboratory databases and computer equipment; and receipt, maintenance of chain of custody, and return of evidence from criminal cases. The Drug/Toxicology Section noted that during 1992, marijuana was the most-received drug, with cocaine second, and cocaine base (crack) third.

Figure 18: 1992 Activity for the Drug / Toxicology Section

<b>DRUG cases</b>	1301
Items analyzed	3453
Analyses performed	12279
Reports issued	1335
Case backlog	175
<b>TOXICOLOGY cases</b>	215
Items analyzed	226
Analyses performed	471
Reports issued	204
Case backlog	13

### CRIMINALISTICS SECTION

The Criminalistics Section provides analysis of trace evidence, firearm / toolmark, serology, footwear / tiretrack, arson, wildlife, and crime scene investigation.

### LATENT FINGERPRINT SECTION

The Latent Fingerprint Section provides fingerprint analysis, photography, composite drawing, facial reconstruction, crime scene investigation, autopsy support and laboratory maintenance.

### STATEWIDE BREATH ALCOHOL PROGRAM:

The Scientific Crime Detection Laboratory maintains the Statewide Breath Alcohol Testing Program with 1,000 certified breath test

Figure 19: 1992 Activity of the Criminalistics Section

CRIMINALISTICS cases	710
Items analyzed	2987
Analyses performed	7064
Reports issued	523
Case backlog	119
CRIMINALISTICS cases by type of offense:	
Arson	42
Firearm/Toolmark	136
Fish/Wildlife	16
Footwear/Tiretrack	33
Questioned Documents	5
Serology	231
Skeletal Remains	13
Trace Evidence	217
Other	37

erators, 100 certified breath test supervisors, and 70 Intoximeter 00 breath test instruments. The Breath Alcohol Testing Program maintains statistics on every DWI breath test conducted in Alaska. Some of these results are presented in figures 23 and 24 at the end of this section.

Figure 20: 1992 Activity of the Latent Fingerprint Section

LATENT cases received	946
Items analyzed for latent prints	10382
Latent prints identified	678
ID through AAFIS	41
Reports issued	1291
Case backlog	103
Composites (13 cases)	18
Facial Reconstructions (4 cases)	1
Autopsies assisted	521

**TRAINING:**

The Scientific Crime Detection Laboratory provides training to law enforcement and to the public. In 1992, training was offered to the following agencies and groups:

- Anchorage Police Department
- Department of Corrections
- DPS Academy classes
- Fish & Wildlife Protection
- National Park Rangers
- Statewide Breath Alcohol Program

Village Public Safety Officers

grade schools, middle schools, and high schools statewide

**DNA TESTING IN ALASKA**

The Serology Section of the Alaska State Crime Laboratory is now offering a form of DNA testing known as DQ $\alpha$  typing. This new technique makes use of the Polymerase Chain Reaction (PCR) to amplify and produce millions of copies of a specific region of the DQ $\alpha$  gene. This allows extremely small or partially degraded samples of blood, semen, or tissue to be typed. The technique is so sensitive that in a recent homicide case, the Laboratory successfully determined the DQ $\alpha$  type from the root of a single foreign hair found at the scene. This was compared with and found to match the suspect's DQ $\alpha$  type. There are 21 different DQ $\alpha$  types of which the least common occurs in approximately 1% of the Caucasian population and the most common is approximately 11%. While this is not as discriminating as the DNA typing being performed at the FBI Laboratory, it is much more sensitive and results can be obtained in only eight hours as opposed to three months for traditional DNA typing. Samples can be screened initially by DQ $\alpha$  typing and those not excluded can (sample size permitting) still be forwarded to the FBI Laboratory for further characterization.

**NATIONAL RECOGNITION**

The Crime Lab encourages the scientific staff to conduct research projects in Laboratory topics, to present at professional organizations, and to write for professional journals. The following national recognition was received by Crime Lab staff in 1992:

- The Latent Fingerprint Section received a federal grant for \$88,576.00 from the Department of Justice, Forensic Research Division, National Institute of Justice, to study the feasibility of combining cyanoacrylate fuming characteristics with laser dye luminescence in latent impression enhancement.
- The Latent Fingerprint Section supervisor has been appointed to the International Association for Identification Subcommittee on AFIS to study the effects live scan capabilities will have on the success of latent comparisons and AFIS Systems.
- Presentations at National Meetings
  1. "Expert Witnesses Who Give Questionable Courtroom Testimony," presented at the 23rd Annual Association of Firearm and Toolmark Examiners Training Seminar, Miami, Florida, April 1992 (R. Shem, BS).
  2. "Dental Stone Casting of Snow Impressions" and "The Detection and Comparison of Luminol Enhanced Latent

Figure 21: Scientific Crime Detection Laboratory Activity, 01/01/92 to 12/31/92

	Cases	Latent Prints	Criminalistics	Drugs	Toxicology	Composite Drawings	Crime Scenes	Vehicle Exams	Facial Reconstruction	Skeletal Remains	Questioned Documents	Autopsy
Submitted by Agencies	3118	1291	523	1335	204	14	1	0	11	0	1	N/A
Analyses Required	3751	946	710	1301	215	13	19	11	0	10	5	521
Reports Issued	3380	1291	523	1335	204	14	11	0	1	0	1	N/A

## Scientific Crime Detection Laboratory

Footwear Impressions," presented at the 77th Annual International Association for Identification Educational Conference, Atlantic City, New Jersey, July 1992 (C. Beheim, BS).

3. "Identification of Furbearer Blood in a Cooperative State - Federal Investigation," "Physical Matching a Skull and Hide to a Porched Bear Carcass," and "A Practical Digital Imaging System for Evidence Documentation and Analysis," at the Northwest Association of Forensic Scientists Fall Meeting, Portland, Oregon, October 1992 (J. Wolfe, MS)
- Publications (Authored by R. Shem, BS.)
    1. Association of Firearm and Toolmark Examiners Journal:
      - a. "Patina Patterns on Brass Cartridge Cases"
      - b. "Factory Installed Trace Material on Bullets and Cartridge Cases"
      - c. "Preserving Trace Evidence from Blood Extracted Garments"
    2. American Journal of Forensic Medicine and Pathology:
 

"Wounds Caused by Contact with Muzzle-Life Relief Ports (Mag-Na-Port)"

### CRIME LAB PERSONNEL MEMBERSHIP IN PROFESSIONAL ORGANIZATIONS

Crime Laboratory personnel are members of the following professional organizations:

- Alaska Chiefs of Police Association (ACOPA)
- Alaska Peace Officers Association (APOA)
- American Academy of Forensic Sciences (AAFS)
- American Chemical Society (ACS)
- American Society of Crime Lab. Directors (ASCLD)
- Association of Firearm and Toolmark Examiners (AFTE)
- Forensic Photographers Association (FPA)
- International Association for Identification (IAI)
- Midwest Association of Forensic Scientists (MAAFS)
- National Safety Council Committee on Alcohol & Drugs
- Northwest Association of Forensic Scientists (NWAFFS)
- Southwest Association of Forensic Scientists (SWAFS)

Figure 22: Backlog of Crime Lab cases has been reduced 54% from December 1991 to December 1992.

	Dec '91	Dec '92	Change
Latents	379	103	-73%
Drugs	353	175	-50%
Toxicology	13	13	0%
General Criminalistics	6	5	-17%
Arson	3	2	-33%
Skeletal Remains	6	3	-50%
Firearm / Toolmark	46	39	-15%
Wildlife	12	3	-75%
Foot / Tire Track	7	4	-43%
Serology	44	64	+45%
Trace	20	2	-90%
Total Backlog	889	413	-54%

### NOTEWORTHY 1992 CASES

- A. During the course of an investigation of a brutal sexual assault/homicide, the Laboratory was able to provide troopers with key information which led to the arrest of a suspect. Foreign head, pubic, and body hairs recovered from the victim were examined at the Lab. Two early suspects were eliminated as a result of this exam. These hairs were later associated with an individual with a prior arrest record for sexual assault. Examination of the suspect's watch revealed microscopic traces of blood. Subsequent DNA analysis of this blood resulted in a DQA type matching the victim. Semen and several foreign hair roots located on the victim's underpants were found to exhibit the same DNA type as that of the suspect.
- B. Thorne Bay Homicide: After a several-hour drinking session in Thorne Bay, the suspect and his female companion became embroiled in an argument. In an effort to intervene on behalf of the female, the victim became involved in the dispute. The argument escalated to the point that the suspect retrieved a 270 Winchester caliber rifle and took a shot at, but missed, the victim. Sometime later, as the victim attempted to leave the residence in his pickup truck, the suspect fired two more shots, killing the victim. A subsequent crime scene search uncovered some interesting evidence, the suspect apparently was a reloader as one of the cartridge cases recovered was a 30-06 caliber cartridge converted to fit the suspect's 270 caliber rifle. Additionally, it was noted that the victim's denim jacket possessed on its back a soot-like pattern around the bullet entrance hole. It was discovered, through Laboratory testing, that this soot-like material was vaporized lead. This lead was produced as the bullet's soft lead nose impacted the sheet metal of the pickup. Both of these somewhat unique occurrences were of such forensic interest that they are the subjects of two scientific articles that are scheduled to appear in the Association of Firearm and Toolmark Examiners Journal in 1993.
- C. Fairbanks Police Department flew a 67-year-old rape victim to the Crime Laboratory in Anchorage for a composite interview with the Laboratory's forensic artist. A composite was generated in less than an hour. The victim returned to Fairbanks with composite drawing in hand. Fairbanks P.D. ran the composite drawing in the local newspaper. A probation officer called advising Fairbanks P.D. of a suspect which matched the appearance of the composite drawing. The suspect was interviewed and immediately confessed.
- D. A deceased individual from Naknek, believed by local law enforcement officers to be an alcohol-related death, arrived at Crime Lab for autopsy. No foul play was suspected. Autopsy revealed the deceased had been stabbed, thus triggering a homicide investigation.
- E. Key evidence was presented by the Crime Lab at the trial of a Ketchikan woman charged with murdering her common-law husband whose decomposed body was found under a tarp in their

front yard. During a search of the couple's residence, a large bloodstain was found soaked through a foam cushion on the living room couch. The stain was hidden from view by the seat cover which had been washed free of blood and replaced. It was detected only after luminol, an extremely sensitive presumptive test for blood, was applied to the surfaces of the living room.

Figure 23: Number of breath alcohol (BrAC) tests conducted by hour of day for agencies equipped with advanced model test instruments capable of reporting performance and test data to Crime Lab electronically.

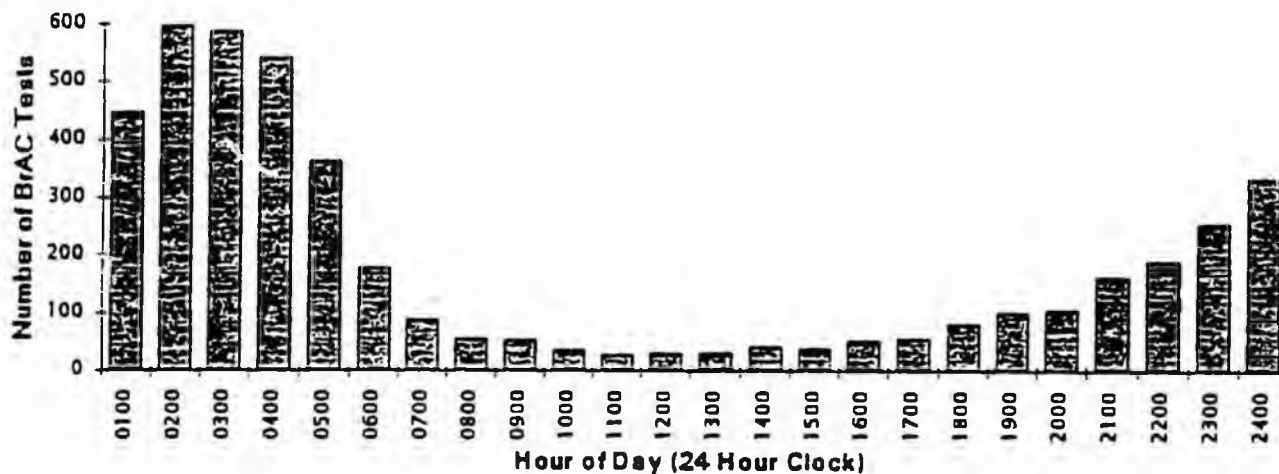
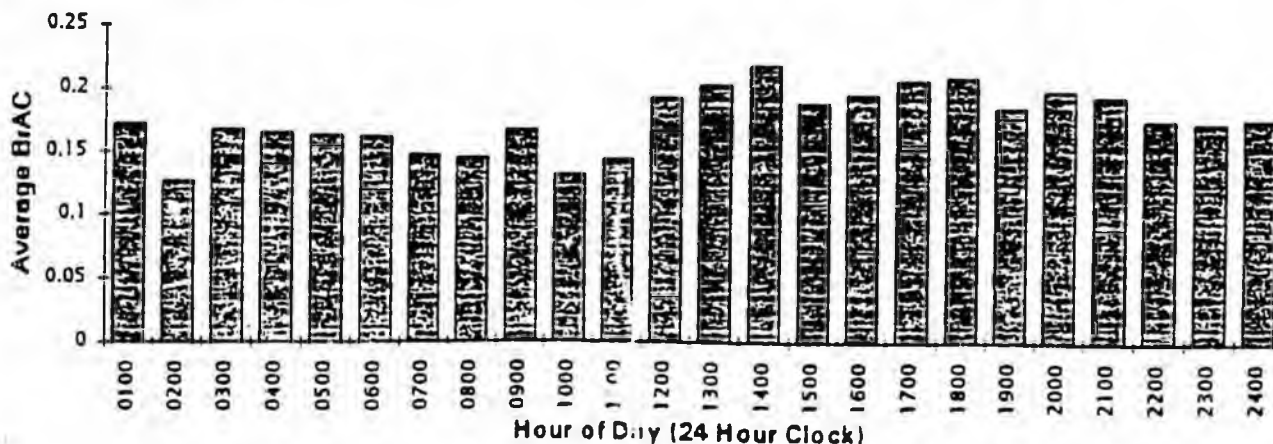


Figure 24: Average breath alcohol level measured by hour of day for agencies equipped with advanced model test instruments capable of reporting performance and test data to Crime Lab electronically.





# ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

RECEIVED MAR 31 1993

March 30, 1993

Senator Steve Reiger  
Alaska State Senate  
State Capitol  
Interdepartmental Mail Stop: 3100  
Juneau, AK 99801-1182

Dear Senator Reiger:

The Legislative Affairs Committee of the Alaska State Medical Association recently reviewed Senate Bill 145 regarding the position of a State Medical Examiner. After a lengthy discussion we feel it necessary to oppose this bill. It will not represent an improvement over the current system. It was also felt that this would be a more expensive means of dealing with unattended deaths in Alaska. I would encourage you to oppose this bill. If you have any questions regarding this, please feel free to contact me.

Sincerely yours,

Donald R. Lehmann, M.D., A.B.F.P.  
Chairman, Legislative Affairs Committee  
Alaska State Medical Association

DRL:bj

SENATE COMMITTEE REPORT

DATE: 4/13/93

FURTHER:

DATE TURNED INTO OFFICE: \_\_\_\_\_

JUDICIARY Committee considered SENATE BILL NO. 145

"An Act establishing the position of state medical examiner; and relating to preparation of death certificates."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts \_\_\_\_\_ Letter of Intent
- further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

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OTHER RECOMMENDATIONS:

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4-13-93  
 called  
 State Dir

STATE COMMITTEE REPORT

*Frank*

DATE: 4/7/93

FURTHER: JUDICIARY *Edward*

DATE TURNED INTO OFFICE: 4/12/93 *For added*

HES Committee considered SENATE BILL NO. 145

"An Act establishing the position of state medical examiner; and relating to preparation of death certificates."

and recommends:

[ ] replace with \_\_\_\_\_ CS \_\_\_\_\_  
or [X] adopt previous CS *SB 145* *(STA)*  
[ ] attaches amendment(s) *+ rpts in the as plus*

[X] same title  
[ ] new title  
[ ] technical title change (HB only)

[ ] adopts \_\_\_\_\_ Letter of Intent  
[ ] further referral to the \_\_\_\_\_

- [X] do pass
- [ ] do not pass
- [ ] no recommendation
- [X] individual recommendations

*FN*  
*2/2/93*

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DHSS	3/31/93		429.0
DPS	4/2/93	✓	
Court System	3/11/93	✓	

[ ] Appropriation No Fiscal Note

DO PASS:

*Mike Miller*  
*Best Mary*  
~~\_\_\_\_\_~~  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS:

*Duncan - No Rec.*  
*A Ellis NO Rec.*  
*Brewer & Seman NO Rec*  
~~\_\_\_\_\_~~  
\_\_\_\_\_

*Steve Pison Do Pass*

**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERRAL

*[Signature]*  
DATE: 3/3/93

FURTHER: HES  
JUDICIARY

Date of 5-Day Notice: 3.31.93  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-7-93

STATE AFFAIRS Committee considered SB 145

"An Act establishing the position of state medical examiner, and relating to preparation of death certificates."

and recommends it be replaced with

and recommends:

replace with ~~SB 145~~ CS SB145 (STA)

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

and report it back as follows:

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

*FN  
20*

FISCAL NOTE INFORMATION

B/c  
" "  
" "

Department	Date	Zero	Fiscal
DHSS	3.31.93		429.0
DPS	4.2.93	✓	
Court System	3.11.93	✓	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

1) Fly Ellis no rec.

*[Signature: Adria I. Taylor]*

*[Signature: Drew A. Leman]* No Rec

Chair: Signature and Recommendation

**SB**

**148**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/2/93

FURTHER:

DATE TURNED INTO OFFICE: \_\_\_\_\_

The Finance Committee considered SENATE BILL NO. 148

"An Act relating to the Alaska Railroad Corporation; and providing for an effective date."

*Died in SFC 1994*

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation
- individual recommendations

### NEW FISCAL NOTES

Department	Date	Zero	Fiscal

### PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

**DO PASS.**

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**OTHER RECOMMENDATIONS:**

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1. \_\_\_\_\_  
Co-Chair: Signature/Recommendation

2. \_\_\_\_\_  
Co-Chair: Signature/Recommendation

**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERRAL

*Frank*

DATE: 3/5/93

FURTHER: FINANCE

Date of 5-Day Notice: 3-5-93  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-1-93

TRANSPORTATION Committee considered SB 148

"An Act relating to the Alaska Railroad Corporation, and providing for an effective date."

and recommends it be replaced with

and recommends:

replace with \_\_\_\_\_ CS SB 148 (TRA)

same title  
 new title  
 technical title change (HB only)

attaches amendment(s) and report it back as follows

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_

do pass

do not pass

no recommendation

individual recommendations

*4/5/93*

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
S. TRA. COMTE	4/1/93	✓	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

**DO PASS:**

**OTHER RECOMMENDATIONS:**

① Bill Kelly - Do Pass - if Amended      Tom Kelly - No Pass  
Georgiana - NR

① Bill Sharp Do Pass - if Amended  
Chair: Signature and Recommendation

ALASKA STATE LEGISLATURE  
SENATE BILL NO. 148

HISTORY IN THE SENATE

1993

Read first time and referred to:

3/5

TRA, FIN

4/5

na RPT(  ) CS 2 DP  NR  DNP 2 AM  
 New Title  Same Title  Previous FN  
 FN  OFN To AM

RPT(  ) CS  DP  NR  DNP  AM  
 New Title  Same Title  Previous FN  
 FN  OFN To

RPT(  ) CS  DP  NR  DNP  AM  
 New Title  Same Title  Previous FN  
 FN  OFN To

Rules Calendar(  ) CS  AM  Other  
 New Title  Same Title  Previous FN  
 FN  OFN

Read second time

CS Adopted (  )  New Title  
 Amended  Advanced

Read third time

Letter of Intent adopted  
 Return to second for specific amendment

PASSED	EFD Same <input type="checkbox"/> or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Reconsideration

Reconsideration not taken up

PASSED	EFD Same <input type="checkbox"/> or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Reported correctly engrossed  
Signed by President, to House

Secretary of the Senate

HISTORY IN THE HOUSE

19

Read first time and referred to:

RPT CS(  )  New Title  
 DP  DNP  NR  AM  
 FN  OFN  Previous FN

RPT CS(  )  New Title  
 DP  DNP  NR  AM  
 FN  OFN  Previous FN

RPT CS(  )  New Title  
 DP  DNP  NR  AM  
 FN  OFN  Previous FN

Read second time  
CS(  ) Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED	EFD Same <input type="checkbox"/> or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Intent adopted

Reconsideration

Reconsideration not taken up

PASSED ON RECON.	EFD Same <input type="checkbox"/> or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Intent adopted

Reported correctly engrossed, signed by the Speaker  
and returned to the Senate

Chief Clerk of the House

SENATE-HOUSE HISTORY Continued

19

Received from the House  
Version: \_\_\_\_\_

Concur in House amendment  
Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_  
\_\_\_\_\_ Efd name or Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

Failed to concur in House amendment, ask House recede  
Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

House failed to / recede / from amendment  
Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

CC appointed by Senate \_\_\_\_\_ Chair  
\_\_\_\_\_

CC appointed by House \_\_\_\_\_ Chair  
\_\_\_\_\_

(S) Granted Limited Powers of Free Conference  
(H) Granted Limited Powers of Free Conference

19

(S) Adopted CC Rpt \_\_\_\_\_  
Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_  
\_\_\_\_\_ Efd name or Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

(H) Adopted CC Rpt \_\_\_\_\_  
Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_  
\_\_\_\_\_ Efd name or Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

To enrolling  
Received from enrolling  
Sent to Governor  
\_\_\_\_\_ By Governor

Chapter Number \_\_\_\_\_

Filed with Lieutenant Governor

# Alaska State Legislature

SENATOR  
**BERT SHARP**  
CHAIRMAN



## Senate Transportation Committee

### FAIRBANKS

DENALI BANK BUILDING  
119 N. CUSHMAN, SUITE 201  
FAIRBANKS, ALASKA 99701  
(907) 452-7885/7886

### SESSION ADDRESS

STATE CAPITOL, ROOM 514  
JUNEAU, ALASKA 99801-1182  
(907) 465-3004/4921

## MEMORANDUM

DATE: 4/1/93

TO: SENATE FINANCE COMMITTEE  
SENATOR STEVE FRANK, CO-CHAIR  
SENATOR DRUE PEARCE, CO-CHAIR

FROM: SENATE TRANSPORTATION COMMITTEE  
SENATOR BERT SHARP, CHAIRMAN

RE: **Hearing for SB 148 - "An Act Relating to the Alaska  
Railroad Corporation"**

The Senate Transportation Committee requests that the Senate Finance Committee examine closely the tax issue raised in SB 148 "An Act relating to the Alaska Railroad." The Senate Transportation Committee did not address this issue as it felt the Senate Finance Committee was a more appropriate forum for its discussion.

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR FRANK

TO: CSSB 148(FIN) Version "I"

Page 1, after line 13:

Insert a new paragraph to read:

"(3) the Alaska Railroad Corporation is authorized to incur debt for the acquisition and construction of the Northern Crossroads Discovery Center for the Ship Creek Landings Project;"

Renumber the following paragraphs accordingly.

Page 5, line 12, after "APPROVAL":

Insert ": REGIONAL LANDFILL"

SENATE FINANCE  
COMMITTEE  
Amendment Number: 6  
Bill Number: SB 148  
Sponsor: FRANK Date: 3/18/94  
Logged In By: [Signature]

Page 5, after line 14:

Insert a new bill section to read:

"\* Sec. 11. LEGISLATIVE APPROVAL: NORTHERN CROSSROADS DISCOVERY CENTER. (a) Contingent upon enactment of a law passed by the Eighteenth Alaska State Legislature approving the issuance of bonds by the Alaska Railroad Corporation for the acquisition and construction of the Northern Crossroads Discovery Center for the Ship Creek Landings Project, the Alaska Railroad Corporation, in accordance with AS 42.40.285, as amended by sec. 8 of this Act, is authorized to incur debt through the issuance of bonds in the amount approved by the legislature for the acquisition and construction of the Northern Crossroads Discovery Center.

(b) The amount of debt authorized under this section is in addition to the debt that the Alaska Railroad Corporation may incur without legislative approval under AS 42.40.285, as amended by sec. 8 of this Act."

Renumber the following bill section accordingly.

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 148(FIN); Version "I"

Page 1, line 10:

Delete "or"

Page 1, line 11, after "activities;":

Insert "or

(C) issuing bonds other than nonrecourse bonds;"

Page 4, line 7, after "bonds":

Insert "other than nonrecourse bonds; in this paragraph, "nonrecourse bond" means a bond, under which, in the event of default, the holder of the bond has no recourse to the revenue or assets of the corporation beyond those corporation assets in the venture for which the bonds are issued"

Page 4, line 10, after "to":

Insert "(A)"

Page 4, line 12, after "plant":

Insert "(B) nonrecourse bonds issued by the corporation:"

SENATE FINANCE  
COMMITTEE  
Amendment Number: 5  
Bill Number: SB 148  
Sponsor: PERM Date: 3/12/94  
Logged In By: (Signature)

3-16-94  
SFZ

8-LS0583X.4  
Utermohle  
4/14/93

Conceptually  
Adopted  
to "I"  
version

A M E N D M E N T

OFFERED IN THE SENATE

TO: DRAFT CSSB 148(FIN) (Version X, dated 4/12/93)

Page 1, line 4, after "Corporation":

Insert "; and providing for an effective date"

Page 2, line 7, after "directors":

Insert "under certain circumstances"

SENATE FINANCE  
COMMITTEE  
Amendment Number: 4  
Bill Number: SB 148  
Sponsor: Franke Date: 4/15/93  
Logged In By: Bon

Page 2, line 11, after "vacancy":

Insert "in certain positions"

Page 3, lines 18 - 26:

Delete all material and insert:

\* Sec. 6. AS 42.40.110(a) is amended to read:

(a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The chief executive officer of the corporation may not serve as chair or vice-chair of the board. The chief executive officer of the corporation is subject to AS 39.50. The board shall fix compensation for the chief executive officer.

\* Sec. 7. AS 42.40.110(a) is repealed and reenacted to read:

(a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. A person appointed to the board under AS 42.40.020(a)(1) may not be appointed chief executive officer of the corporation. The chief executive officer of the corporation may not be appointed to the board under AS 42.40.020(a)(1). The chief executive officer of the corporation may not serve as chair or vice-chair of the board. The chief executive officer of the corporation is subject to AS 39.50. The board shall fix compensation for the chief

compensation for the chief executive officer."

Renumber the following bill sections accordingly.

Page 5, lines 13 - 16:

Delete all material and insert:

**\*\* Sec. 12. APPOINTMENT TO FILL VACANCY.** Notwithstanding other provisions of law, the governor shall appoint a person who satisfies AS 42.40.020(a)(1)(A) or (B), as amended by sec. 3 of this Act, to fill the next vacancy that occurs on the board of directors of the Alaska Railroad Corporation that results from

(1) the governor not reappointing one of the members of the board who is serving, on the effective date of this section, as either the member from the third judicial district or the member with at least five years experience as an owner or manager of a business in the state, at the time that the term of either of these members expires; or

(2) one of the members of the board who is serving, on the effective date of this section, as either the member from the third judicial district or the member with at least five years experience as an owner or manager of a business in the state, resigning from the board, being removed from the board, or otherwise declining to continue to serve on the board.

**\* Sec. 13.** Section 7 of this Act takes effect upon the appointment of a person to the board of directors of the Alaska Railroad Corporation under sec. 12 of this Act who satisfies AS 42.40.020(a)(1)(A) or (B), as amended by sec. 3 of this Act. The governor shall certify to the revisor of statutes the date the appointment is made."

*adopted*  
*4-13-93*

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 148(FIN) (Version X dated 4/12/93)

Page 5, lines 1 - 9:

Delete all material and insert:

"(11) "nontransportation activity" means

(A) a hotel or other lodging facilities;

(B) an activity not directly related to the movement, handling, or distribution of people or personal property; or

(C) an activity occurring before, or subsequent to, the movement, handling, or distribution of people or personal property by the railroad, unless the activity

(i) was conducted by the railroad on the date of transfer to the state; or

(ii) is directly related to the movement, handling, or distribution of people or personal property."

SENATE FINANCE  
COMMITTEE

Amendment Number: 3  
Bill Number: SB 148  
Sponsor: \_\_\_\_\_ Date: 4/13/93  
Logged In By: RW

4-8-93

SFC

Adopted

8-LS0583R.2

Utermohle

4/6/93

Incorp. with it

CS(Fin) X version

4-12-93

See Sec. 10

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 148(TRA)

Page 5, after line 30:

Insert a new bill section to read:

"\* Sec. 12. LEGISLATIVE APPROVAL. In accordance with AS 42.40.285(6), the Alaska Railroad Corporation is authorized to acquire an equity position in a regional ~~sanitary~~ <sup>TK</sup> land fill at mile 388 of the Alaska Railroad or at Totchaket Road west of Nenana."

Renumber the following bill section accordingly.

SENATE FINANCE  
COMMITTEE

Amendment Number: (2)  
Bill Number: CSSB 148(TRA)  
Sponsor: FRANIC Date: 4/7/93  
Logged In By: BM

A M E N D M E N T

OFFERED IN THE SENATE  
TO: CSSB 148(TRA)

Page 5, after line 30:

Insert a new bill section to read:

"\* Sec. 12. LEGISLATIVE APPROVAL. In accordance with AS 42.40.285(6), the Alaska Railroad Corporation is authorized to <sup>incur debt and (TR) Amend. #2</sup> acquire an equity position in a regional sanitary land fill at mile 388 of the Alaska Railroad or at Totchaket Road west of Nenana."

Renumber the following bill section accordingly.

*Amend. to amendment  
Adopted 4-8-93  
Action later rescinded.  
See Amendment #2*

SENATE FINANCE  
COMMITTEE  
Amendment Number: ①  
Bill Number: CSSB 148(TRA)  
Sponsor: FRANIC Date: 4/7/93  
Logged In By: FR

1 agency or a person for fair value is subject to real property taxes imposed by municipalities;  
2 the real property of the corporation that is subject to municipal property taxes is excepted from  
3 the exemption from taxation granted to property of the state by art. IX, sec. 4, Constitution  
4 of the State of Alaska;

5 (3) members of the board of directors and chief executive officer of the Alaska  
6 Railroad Corporation are subject to AS 39.50 (Conflict of Interest);

7 (4) the chair or vice-chair of the board of directors may not serve as chief  
8 executive officer of the Alaska Railroad Corporation;

9 (5) the board of directors of the Alaska Railroad Corporation shall provide for  
10 meetings of the board by teleconference during legislative sessions.

11 \* Sec. 2. AS 29.45.030(a) is amended to read:

12 (a) The following property is exempt from general taxation:

13 (1) municipal property, including property held by a public corporation  
14 of a municipality, or state property, except that

15 (A) a private leasehold, contract, or other interest in the  
16 property is taxable to the extent of the interest;

17 (B) notwithstanding any other provision of law, property  
18 acquired by an agency, corporation, or other entity of the state through  
19 foreclosure or deed in lieu of foreclosure and retained as an investment of a  
20 state entity is taxable; this subparagraph does not apply to federal land granted  
21 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land  
22 granted to the university by the state to replace land that had been granted  
23 under AS 14.40.380 or 14.40.390;

24 (C) an ownership interest of a municipality in real property  
25 located outside the municipality acquired after December 31, 1990, is taxable  
26 by another municipality; however, a borough may not tax an interest in real  
27 property located in the borough and owned by a city in that borough;

28 (D) the real property of the Alaska Railroad Corporation  
29 that is leased for fair value to a municipal, state, or federal agency or a  
30 person is taxable;  
31

*4-12-93 See AS (Fix) X version  
this date. All language  
relating to tax to be removed from  
draft. Amend #1 no longer  
applicable.*

*market  
TK  
#1*

*Fin*  
CS FOR SENATE BILL NO. 148(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 4/2/93  
Referred: FINANCE

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to legislative approval of certain acts of the Alaska Railroad  
2 Corporation; taxation of certain property of the Alaska Railroad Corporation;  
3 members of the board and chief executive officer of the Alaska Railroad  
4 Corporation; meetings of the board of directors of the Alaska Railroad  
5 Corporation; and providing for an effective date."

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

7 \* Section 1. PURPOSE. This Act provides that

8 (1) the Alaska Railroad Corporation shall obtain approval of the legislature  
9 before

10 (A) incurring debt, except in certain circumstances, in excess of  
11 \$10,000,000 in a year or in excess of a total of \$50,000,000; or

12 (B) obtaining an equity position in certain nontransportation activities;

13 (2) the real property of the Alaska Railroad Corporation that is leased to an

4-12-93  
Sen. Frank  
Distributed

Old —  
see Amend  
# 3  
adopted  
4-13-94

**AMENDMENT**

OFFERED IN THE SENATE

TO: CSSB 148(FIN) version X (dated 4/12/93)

Page 5, LINES 1-9:

Delete all material.

Insert

"(11) "nontransportation activity means  
(A) a hotel or other lodging facilities;  
(B) an activity not directly related to the movement  
handling, or distribution of people or personal property; or  
(C) an activity occurring before, or subsequent to the  
transportation of people or personal property by the railroad;  
this subsection does not apply to an activity conducted by the  
railroad on the date of transfer to the state.

SENATE FINANCE  
COMMITTEE  
Amendment Number: (2)  
Bill Number: CSSB 148(FIN)  
Sponsor: \_\_\_\_\_ Date: 4/12/93  
Logged In By: FR

4-12-93  
SF moved  
as working  
document  
Adopted

8-LS0583X  
Utermohle  
4/12/93

**CS FOR SENATE BILL NO. 148(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to legislative approval of certain acts of the Alaska Railroad  
2 Corporation; relating to members of the board and chief executive officer of the  
3 Alaska Railroad Corporation; and relating to meetings of the board of directors  
4 of the Alaska Railroad Corporation."

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

6 \* Section 1. PURPOSE. This Act provides that

7 (1) the Alaska Railroad Corporation shall obtain approval of the legislature  
8 before

9 (A) incurring debt, except in certain circumstances, in excess of  
10 \$10,000,000 in a year or in excess of a total of \$50,000,000; or

11 (B) obtaining an equity position in certain nontransportation activities;

12 (2) the Alaska Railroad Corporation is authorized to acquire an equity position  
13 in a proposed regional land fill;

14 (3) qualifications for appointed members of the board of directors of the

1 Alaska Railroad Corporation are amended;

2 (4) members of the board of directors and chief executive officer of the Alaska  
3 Railroad Corporation are subject to AS 39.50 (Conflict of Interest);

4 (5) certain members of the board of directors may not serve as chief executive  
5 officer of the Alaska Railroad Corporation;

6 (6) the chief executive officer of the Alaska Railroad Corporation may not be  
7 appointed to certain memberships on the board of directors and may not serve as chair or vice-  
8 chair of the board of directors;

9 (7) the board of directors of the Alaska Railroad Corporation shall provide for  
10 meetings of the board by teleconference;

11 (8) the next vacancy on the board of directors of the Alaska Railroad  
12 Corporation shall be filled by a person who has experience with railroad matters.

13 \* Sec. 2. AS 39.50.200(b) is amended by adding a new paragraph to read:

14 (55) the board of directors and the chief executive officer of the Alaska  
15 Railroad Corporation (AS 42.40.010).

16 \* Sec. 3. AS 42.40.020(a) is amended to read:

17 (a) The powers of the corporation are vested in the board of directors. The  
18 board consists of the commissioner of commerce and economic development, the  
19 commissioner of transportation and public facilities, and five members appointed by  
20 the governor. The five appointed members must be registered voters in the state  
21 except as provided in (1) [AND (2)] of this subsection. Except for the commissioners  
22 and the members [MEMBER] appointed under (2) and (5) of this section, a member  
23 may not be a state officer or employee. Appointed members shall have the following  
24 qualifications:

25 (1) one member of the board shall be a person who

26 (A) has at least 10 years of experience in railroad management;  
27 a person who is not a resident of the state may be appointed under this  
28 subparagraph; or

29 (B) is or has [PARAGRAPH;

30 (2) ONE MEMBER OF THE BOARD SHALL BE OR HAVE] been  
31 an executive official of a United States railroad and shall be selected in accordance

1 with any requirements imposed under 49 U.S.C. (Interstate Commerce Act); a person  
2 who is not a resident of the state may be appointed under this subparagraph  
3 [PARAGRAPH];

4 (2) one member shall be an executive officer of the corporation who  
5 represents the executive management of the corporation;

6 (3) at least one member shall be from each judicial district directly  
7 served by the Alaska Railroad;

8 (4) one member shall have at least five years experience as an owner  
9 or manager of a business in the state;

10 (5) one member shall be an employee who is a member of a bargaining  
11 unit representing employees of the corporation.

12 \* Sec. 4. AS 42.40.020 is amended by adding a new subsection to read:

13 (c) Members of the board are subject to AS 39.50.

14 \* Sec. 5. AS 42.40.060(a) is amended to read:

15 (a) The board shall elect from its membership a chair [CHAIRMAN] and  
16 vice-chair [VICE-CHAIRMAN] and prescribe their duties by rule. The chair or vice-  
17 chair of the board may not serve as the chief executive officer of the corporation.

18 \* Sec. 6. AS 42.40.110(a) is amended to read:

19 (a) The board shall appoint the chief executive officer of the corporation who  
20 serves at the pleasure of the board. A person appointed to the board under  
21 AS 42.40.020(a)(1) may not be appointed chief executive officer of the corporation.  
22 The chief executive officer of the corporation may not be appointed to the board  
23 under AS 42.40.020(a)(1). The chief executive officer of the corporation may not  
24 serve as chair or vice-chair of the board. The chief executive officer of the  
25 corporation is subject to AS 39.50. The board shall fix compensation for the chief  
26 executive officer.

27 \* Sec. 7. AS 42.40.150 is amended by adding a new subsection to read:

28 (d) The board shall provide for attendance and participation by members of the  
29 board by teleconference at meetings where the board will or may possibly take official  
30 action on behalf of the corporation. Materials that are to be considered at a meeting  
31 must be available at teleconference locations. The vote at a meeting held by

1 teleconference shall be taken by roll call.

2 \* Sec. 8. AS 42.40.285 is amended to read:

3 Sec. 42.40.285. LEGISLATIVE APPROVAL REQUIRED. Unless the  
4 legislature approves the action by law, the corporation may not

5 (1) exchange, donate, sell, or otherwise convey its entire interest in  
6 land;

7 (2) issue bonds;

8 (3) incur debt in an amount exceeding \$10,000,000 in any fiscal  
9 year or have at any time an outstanding aggregated debt exceeding \$50,000,000;  
10 this paragraph does not apply to debt incurred for the acquisition and  
11 maintenance of railroad rolling stock, locomotives, construction and maintenance  
12 equipment, track structure, and other railroad related physical plant;

13 (4) extend railroad lines; this paragraph does not apply to a spur,  
14 industrial, team, switching, or side track;

15 (5) [(4)] lease land for a period in excess of 35 years unless the  
16 corporation reserves the right to terminate the lease if the land is needed for railroad  
17 purposes;

18 (6) use assets of the corporation to obtain an equity position in a  
19 nontransportation activity; this paragraph

20 (A) does not apply to

21 (i) the purchase of stocks or other forms of equity  
22 participation by the pension funds of the corporation; or

23 (ii) specific activities in which the corporation is  
24 engaged on the effective date of this section of this Act, or to  
25 routine maintenance and upkeep for those activities or to routine  
26 appreciation in value of those existing activities;

27 (B) applies to increases in the corporation's respective share  
28 of equity in a specific activity in which the corporation is engaged on the  
29 effective date of this section of this Act and to substantial physical  
30 expansions of that activity.

31 \* Sec. 9. AS 42.40.980 is amended by adding a new paragraph to read:

- 1 (11) "nontransportation activity" means  
2 (A) a hotel or other lodging facilities;  
3 (B) an activity occurring before, or subsequent to the  
4 transportation of people or personal property by the railroad; or  
5 (C) an activity not  
6 (i) directly related to the movement, handling, or  
7 distribution of people or personal property; or  
8 (ii) conducted by the railroad on the date of transfer to  
9 the state.

10 \* Sec. 10. LEGISLATIVE APPROVAL. In accordance with AS 42.40.285(6), the Alaska  
11 Railroad Corporation is authorized to acquire an equity position in a regional land fill at mile  
12 388 of the Alaska Railroad or at Totchaket Road west of Nenana.

13 \* Sec. 11. APPOINTMENT TO FILL VACANCY. Notwithstanding other provisions of  
14 law, the governor shall appoint a person who satisfies AS 42.40.020(a)(1)(A) or (B), as  
15 amended by sec. 3 of this Act, to fill the next vacancy on the board of directors of the Alaska  
16 Railroad Corporation.

3-16-94  
SF 3

8-LS0583N ✓  
Utermohle  
3/11/94

*Adopted*

**CS FOR SENATE BILL NO. 148(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to legislative approval of certain acts of the Alaska Railroad  
2 Corporation; relating to members of the board and chief executive officer of the  
3 Alaska Railroad Corporation; and relating to meetings of the board of directors  
4 of the Alaska Railroad Corporation."

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

6 \* **Section 1. PURPOSE.** This Act provides that

7 (1) the Alaska Railroad Corporation shall obtain approval of the legislature  
8 before

9 (A) incurring debt, except in certain circumstances, in excess of  
10 \$10,000,000 in a year or in excess of a total of \$50,000,000; or

11 (B) obtaining an equity position in certain nontransportation activities;

12 (2) the Alaska Railroad Corporation is authorized to acquire an equity position  
13 in a proposed regional land fill;

14 (3) qualifications for appointed members of the board of directors of the

1 Alaska Railroad Corporation are amended;

2 (4) members of the board of directors and chief executive officer of the Alaska  
3 Railroad Corporation are subject to AS 39.50 (Conflict of Interest);

4 (5) certain members of the board of directors may not serve as chief executive  
5 officer of the Alaska Railroad Corporation;

6 (6) the chief executive officer of the Alaska Railroad Corporation may not be  
7 appointed to certain memberships on the board of directors and may not serve as chair or vice-  
8 chair of the board of directors;

9 (7) the board of directors of the Alaska Railroad Corporation shall provide for  
10 meetings of the board by teleconference;

11 (8) the next vacancy on the board of directors of the Alaska Railroad  
12 Corporation shall be filled by a person who has experience with railroad matters.

13 \* Sec. 2. AS 39.50.200(b) is amended by adding a new paragraph to read:

14 (55) the board of directors and the chief executive officer of the Alaska  
15 Railroad Corporation (AS 42.40.010).

16 \* Sec. 3. AS 42.40.020(a) is amended to read:

17 (a) The powers of the corporation are vested in the board of directors. The  
18 board consists of the commissioner of commerce and economic development, the  
19 commissioner of transportation and public facilities, and five members appointed by  
20 the governor. The five appointed members must be registered voters in the state  
21 except as provided in (1) [AND (2)] of this subsection. Except for the commissioners  
22 and the members [MEMBER] appointed under (2) and (5) of this section, a member  
23 may not be a state officer or employee. Appointed members shall have the following  
24 qualifications:

25 (1) one member of the board shall be a person who

26 (A) has at least 10 years of experience in railroad management;  
27 a person who is not a resident of the state may be appointed under this  
28 subparagraph; or

29 (B) is or has [PARAGRAPH;

30 (2) ONE MEMBER OF THE BOARD SHALL BE OR HAVE] been  
31 an executive official of a United States railroad and shall be selected in accordance

1 with any requirements imposed under 49 U.S.C. (Interstate Commerce Act); a person  
2 who is not a resident of the state may be appointed under this subparagraph  
3 [PARAGRAPH];

4 (2) one member shall be an executive officer of the corporation who  
5 represents the executive management of the corporation;

6 (3) at least one member shall be from each judicial district directly  
7 served by the Alaska Railroad;

8 (4) one member shall have at least five years experience as an owner  
9 or manager of a business in the state;

10 (5) one member shall be an employee who is a member of a bargaining  
11 unit representing employees of the corporation.

12 \* Sec. 4. AS 42.40.020 is amended by adding a new subsection to read:

13 (c) Members of the board are subject to AS 39.50.

14 \* Sec. 5. AS 42.40.060(a) is amended to read:

15 (a) The board shall elect from its membership a chair [CHAIRMAN] and  
16 vice-chair [VICE-CHAIRMAN] and prescribe their duties by rule. The chair or vice-  
17 chair of the board may not serve as the chief executive officer of the corporation.

18 \* Sec. 6. AS 42.40.110(a) is amended to read:

19 (a) The board shall appoint the chief executive officer of the corporation who  
20 serves at the pleasure of the board. A person appointed to the board under  
21 AS 42.40.020(a)(1) may not be appointed chief executive officer of the corporation.  
22 The chief executive officer of the corporation may not be appointed to the board  
23 under AS 42.40.020(a)(1). The chief executive officer of the corporation may not  
24 serve as chair or vice-chair of the board. The chief executive officer of the  
25 corporation is subject to AS 39.50. The board shall fix compensation for the chief  
26 executive officer.

27 \* Sec. 7. AS 42.40.150 is amended by adding a new subsection to read:

28 (d) The board shall provide for attendance and participation by members of the  
29 board by teleconference at meetings where the board will or may possibly take official  
30 action on behalf of the corporation. Materials that are to be considered at a meeting  
31 must be available at teleconference locations. The vote at a meeting held by

1 teleconference shall be taken by roll call.

2 \* Sec. 8. AS 42.40.285 is amended to read:

3 Sec. 42.40.285. LEGISLATIVE APPROVAL REQUIRED. Unless the  
4 legislature approves the action by law, the corporation may not

5 (1) exchange, donate, sell, or otherwise convey its entire interest in  
6 land;

7 (2) issue bonds;

8 (3) incur debt in an amount exceeding \$10,000,000 in any fiscal  
9 year or have at any time an outstanding aggregated debt exceeding \$50,000,000;  
10 this paragraph does not apply to debt incurred for the acquisition and  
11 maintenance of railroad rolling stock, locomotives, construction and maintenance  
12 equipment, track structure, and other railroad related physical plant;

13 (4) extend railroad lines; this paragraph does not apply to a spur,  
14 industrial, team, switching, or side track;

15 (5) [(4)] lease land for a period in excess of 35 years unless the  
16 corporation reserves the right to terminate the lease if the land is needed for railroad  
17 purposes;

18 (6) use assets of the corporation to obtain an equity position in a  
19 nontransportation activity; this paragraph

20 (A) does not apply to

21 (i) the purchase of stocks or other forms of equity  
22 participation by the pension funds of the corporation; or

23 (ii) specific activities in which the corporation is  
24 engaged on the effective date of this section of this Act, or to  
25 routine maintenance and upkeep for those activities or to routine  
26 appreciation in value of those existing activities;

27 (B) applies to increases in the corporation's respective share  
28 of equity in a specific activity in which the corporation is engaged on the  
29 effective date of this section of this Act and to substantial physical  
30 expansions of that activity.

31 \* Sec. 9. AS 42.40.980 is amended by adding a new paragraph to read:

- 1 (11) "nontransportation activity" means  
2 (A) a hotel or other lodging facilities;  
3 (B) an activity not directly related to the movement, handling,  
4 or distribution of people or personal property; or  
5 (C) an activity occurring before, or subsequent to, the  
6 movement, handling, or distribution of people or personal property by the  
7 railroad, unless the activity  
8 (i) was conducted by the railroad on the date of transfer  
9 to the state; or  
10 (ii) is directly related to the movement, handling, or  
11 distribution of people or personal property.

12 \* **Sec. 10. LEGISLATIVE APPROVAL.** In accordance with AS 42.40.285(6), the Alaska  
13 Railroad Corporation is authorized to acquire an equity position in a regional land fill at mile  
14 388 of the Alaska Railroad or at Totchaket Road west of Nenana.

15 \* **Sec. 11. APPOINTMENT TO FILL VACANCY.** Notwithstanding other provisions of  
16 law, the governor shall appoint a person who satisfies AS 42.40.020(a)(1)(A) or (B), as  
17 amended by sec. 3 of this Act, to fill the next vacancy on the board of directors of the Alaska  
18 Railroad Corporation.

# FISCAL NOTE

No. 1

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: SB 148

(S) Publish Date: 4-2-93

Revision Date: \_\_\_\_\_ Dept. Affected: None  
 Title: SB 148:Relating to the BRU: \_\_\_\_\_  
Alaska Railroad Corp. Component: \_\_\_\_\_  
 Sponsor: Sen. Finance  
 Requestor: Senate Transportation Comte. COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*
<b>CAPITAL</b>	*	*	*	*	*	*
<b>REVENUE FUND SOURCE:</b>	*	*	*	*	*	*

**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts	::					
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	*	*	*	*	*	*

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY	*	*	*	*	*	*

Estimate of current year (FY93) impact \$ \_\_\_\_\_

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

\*\*\*See attached analysis\*\*\*

Changes in CSSB 148 (TRA)  
have no fiscal impact. This  
fiscal note is appropriate.  
4-1-93 Camby Ford  
date Comte Aide (initial)

Prepared by: Senate Transportation Comte Phone: X 3004  
 Division: Alaska State Senate by CWT Date: 4/1/93  
 Approved by Commissioner: Sen. Sharp Date: 4/1/93  
 Agency: Senator Sharp Chair, Sen. Trans Comte

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## FISCAL NOTE ANALYSIS SENATE BILL 148

The provisions of Senate Bill 148 will likely have a significant impact on the profitability of the Alaska Railroad Corporation (ARRC) because the bill will reduce the ARRC's revenue and increase its expenses. As a result, the ARRC will not continue to meet one of its intended purposes, that is, operate on a self-sustaining basis. In addition, state subsidies will be required to support the current level of capital programs and the employment provided by those programs.

The railroad has operated under state ownership for eight years. The average profit during this period is \$3.7 million annually. This profit is generated mainly from the railroad's real estate. For example, while the average net profit during the eight year period was \$3.7 million, the average real estate income during the period was \$4.4 million.

The ARRC uses this profit, its borrowing capability and other cash flow items to perform its capital programs. During the eight year period, the ARRC has invested nearly \$100 million, or slightly more than \$12 million annually, in the railroad. Railroad's are capital intensive industries. The State was able to purchase the railroad for a mere \$22 million because of the years of deferred maintenance and capital dollars needed to modernize the railroad. Without a profit these expenditures and the resulting jobs created by them would only be possible through a State subsidy.

Time did not permit the detailed analysis required to determine how much SB 148 would reduce the ARRC's net income and thus its capital programs. There is no question that the bill's passage would reduce the ARRC's net income. The ARRC's position paper on this bill cites the major areas of the bill that would affect the railroads net income.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. SB 148**

Revision Date: 3/10/94  
 Title: "An Act relating to the Alaska Railroad Corporation"  
 Sponsor: Senate Finance Committee  
 Requestor: Senate Finance Committee

Department Affected: Commerce and Economic Development  
 BRU: Alaska Railroad Corporation  
 Component: Alaska Railroad Corporation

COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues:**

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
-----------------------------	---	---	---	---	---	---

<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0
-------------------------------	---	---	---	---	---	---

**FUND SOURCE**

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of current year (FY 94) cost: \$ 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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Robert S. Hatfield, Jr. President & CEO Phone: 265-2574  
 Division: Alaska Railroad Corporation Date: \_\_\_\_\_

Approved by Commissioner: Paul Fuhs  
 Agency: Commerce and Economic Development Date: 3/10/94

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## FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SB 148

### ANALYSIS: (continued)

The provisions of Senate Bill 148 will likely have a significant impact on the profitability of the Alaska Railroad Corporation (ARRC) because the bill will reduce the ARRC's revenue and increase its expenses. As a result, the ARRC will not continue to meet one of its intended purposes, that is, operate on a self-sustaining basis. In addition, state subsidies will be required to support the current level of capital programs and the employment provided by those programs.

The railroad has operated under state ownership for eight years. The average profit during this period is \$3.7 million annually. This profit is generated mainly from the railroad's real estate. For example, while the average net profit during the eight-year period was \$3.7 million, the average real estate income during the period was \$4.4 million.

The ARRC uses this profit, its borrowing capability and other cash flow items to perform its capital programs. During the eight-year period, the ARRC has invested nearly \$100 million, or slightly more than \$12 million annually, in the railroad. Railroads are capital intensive industries. The state was able to purchase the railroad for a mere \$22 million because of the years of deferred maintenance and capital dollars needed to modernize the railroad. Without a profit, these expenditures and the resulting jobs created by them would only be possible through a state subsidy.

Time did not permit the detailed analysis required to determine how much SB 148 would reduce the ARRC's net income and, thus, its capital programs. There is no question that the bill's passage would reduce the ARRC's net income. The ARRC's position paper on this bill cites the major areas of the bill that would affect the railroad's net income.

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

March 16, 1994

**SUBJECT:** Interaction of SB 338 and SB 148 Regarding Legislative Approval of Bonds Issued by the Alaska Railroad Corporation

**TO:** Senator Steve Frank

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have requested a discussion of the interaction between provisions of SB 338 and SB 148, regarding the legislative approval of bonds issued by the Alaska Railroad Corporation.

SB 338 (and CSSB 338(L&C)) authorizes the issuance of nonrecourse bonds by the Alaska Railroad Corporation for the acquisition and construction of the Northern Crossroads Discovery Center for the Ship Creek Landings Project. Sec. 1(a), SB 338. SB 338 satisfies the current requirement of AS 42.40.285 that the legislature approve by law the issuance of bonds by the Alaska Railroad Corporation. Id.

The draft CSSB 148(FIN), version I, amends AS 42.40.285 to require that the legislature must also approve the incursion of debt by the Alaska Railroad Corporation beyond certain annual and aggregate limits. Sec. 8, CSSB 148(FIN), version I. Specifically, the corporation must obtain legislative approval by law to incur debt of more than \$10,000,000 in any one year or more than a total debt of \$50,000,000. Debt incurred for the acquisition and maintenance of certain equipment and railroad related physical plant is exempt from the requirement for legislative approval.

If CSSB 148(FIN), version I, were enacted then the issuance of \$55,000,000 in bonds for the Northern Crossroads Discovery Center may be subject to two paragraphs of AS 42.40.285: first, paragraph (2) relating to issuance of bonds; and second, paragraph (3) relating to the incursion of debt in excess of \$10,000,000 in one year and in excess of a total of \$50,000,000. Sec. 8, CSSB 148(FIN), version I. SB 338, if enacted, probably would satisfy the requirement for legislative approval of the bonds for the Northern Crossroads Discovery Center under both requirements. Though SB 338 expressly states that it satisfies the requirement for legislative

Senator Steve Frank

March 16, 1994

Page 2

approval for the issuance of bonds but does not mention legislative approval for the corporation to exceed the limitations on debt imposed by SB 148, it is evident from SB 338 that the legislature approves the project and intends that the project go forward. The courts would probably find that legislative approval to exceed the debt limits established by SB 148 would be implied to the extent necessary to issue \$55,000,000 in bonds.

If both SB 338 and SB 148 are enacted, there is a potential for confusion and litigation over whether bonding for the Northern Crossroads Discovery Center would be subject to the new requirements for legislative approval for the incursion of debt under AS 42.40.285, as amended by SB 148. To minimize the potential for confusion and litigation, SB 148 should be amended to either (1) exempt projects approved by the legislature before the effective date of SB 148 from the debt limit provisions, (2) expressly approve the incursion of debt in the amount of \$55,000,000 for the Northern Crossroads Discovery Center, or (3) exempt projects such as the Northern Crossroads Discovery Center from the requirement that the legislature approve the incursion of debt for those projects. The appropriate language will resolve doubts as to whether the legislature approved the issuance of bonds and the incursion of debt by the Alaska Railroad Corporation for the Northern Crossroads Discovery Center in compliance with AS 42.40.285, as amended by SB 148.

If I may be of further assistance, please advise.

GU:mi

94-062.mai

**DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

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FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

March 16, 1994

**SUBJECT:** Legislative Approval of Alaska Railroad Corporation Bonds  
(SB 338)

**TO:** Senator Steve Frank

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have asked whether the enactment of SB 338 would constitute legislative approval for the issuance of bonds by the Alaska Railroad Corporation for the Northern Crossroads Discovery Center at the Ship Creek Landings Project.

The answer is yes.

Under AS 42.40.285(2), the Alaska Railroad Corporation may not issue bonds unless the issuance of the bonds is approved by the legislature by law. The enactment of SB 338 would constitute legislative approval by law for the issuance of bonds by the corporation for the Northern Crossroads Discovery Center at the Ship Creek Landings Project. Section 1(a) of SB 338 (and CSSB 338(L&C)) states: "This section constitutes legislative approval of the issuance of bonds by the Alaska Railroad Corporation, as required by AS 42.40.285."

Upon passage of SB 338 or similar legislation containing an express approval for the issuance of bonds for the Northern Crossroads Discovery Center, no further approval or action by the legislature would be necessary before the Alaska Railroad Corporation could issue bonds for the project.

If I may be of further assistance, please advise.

GU:pl  
94-212.plm

bill file

# Alaska State Legislature

STEVE FRANK

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

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



## Senate

### MEMORANDUM

**TO:** Senator Steve Frank, Co-Chair  
 Senator Drue Pearce, Co-Chair  
 Senate Finance Committee

**FROM:** David Skidmore

**RE:** Amendment #4 to Senate Bill 148  
 (Alaska Railroad Corporation Bill)

**DATE:** 11 March, 1994

-----

Senate Bill 148 will be heard by the Senate Finance Committee on Tuesday, March 15. This memorandum is to remind you of the proposed amendment that was under consideration by the committee when last the bill was heard.

As you know, SB 148 would in part bar the chief executive officer of the Alaska Railroad Corporation from serving as the ARRC Board of Directors member who is required by statute to have ten years of railroad management experience. As Mr. Robert Hatfield currently does hold both of these positions, passage of SB 148 would have rendered this situation illegal and untenable. Amendment #4 was drafted in order to provide for a transition period before this prohibition takes effect.

The terms of two members of the ARRC Board of Directors are scheduled to expire on October 3, 1994; these members happen to be Mr. Frank Chapados (who holds the Third Judicial District seat) and Mr. Loren Lounsbury (who holds the business owner seat). The amendment under consideration would require the governor--given the failure of either of these two members to continue to serve on the board for any reason--to appoint a person who satisfies the newly-combined membership requirement of either having ten years of railroad management experience or having been an executive official of a U.S. railroad.

Upon the appointment of a person who satisfies the newly-combined membership requirement, Section 7 of the Act would take effect and prohibit the chief executive officer from jointly occupying the railroad management experience seat.

# Alaska State Legislature

STEVE FRANK

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



White in Juneau  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3709  
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Senate

MAR 14 1994

## **MEMORANDUM**

**TO:** Senator Steve Frank, Co-Chair  
Senator Drue Pearce, Co-Chair  
Senate Finance Committee

**FROM:** David Skidmore

**RE:** CS SB 148 (Finance) Work Draft:  
Sectional Analysis

**DATE:** 14 March, 1994

-----

**Section 1.** Sets forth the purposes of the Bill.

**Section 2.** Amends AS 39.50.200(b) by adding new paragraph (55) which provides that the board of directors and chief executive officer of the Alaska Railroad Corporation (ARRC) are subject to the statutory requirements regarding conflict of interest.

**Section 3.** Amends AS 42.40.020(a) which describes the membership requirements of the ARRC board of directors. The amendment combines former qualifications (1) and (2) into one qualification such that a member of the board must **either** have ten years of experience in railroad management or be--or have been--an executive official of a U.S. railroad. The amendment also adds a new qualification such that one member of the board must be an executive officer of the ARRC.

**Section 4.** Amends AS 42.40.020 to provide that members of the board of directors of the ARRC are subject to AS 39.50 (Conflict of Interest).

**Section 5.** Amends AS 42.40.060(a) to provide that the chair or vice-chair of the ARRC board of directors may not serve as the chief executive officer of the corporation.

**Section 6.** Amends AS 42.40.110(a) to provide that persons who are appointed to certain seats on the ARRC board of directors may not serve as chief executive officer of the corporation, and vice versa. The amendment

also provides that the chief executive officer of the corporation may not serve as chair or vice-chair of the board of directors, and that the chief executive officer is subject to AS 39.50 (Conflict of Interest).

Section 7. Amends AS 42.40.150 by adding new subsection (d) which provides that the ARRC board of directors shall make provision for attendance and participation by members of the board by teleconference at meetings where the board will or may possibly take official action on behalf of the corporation.

Section 8. Amends AS 42.40.285 to require that the ARRC receive legislative approval before either incurring debt exceeding \$10,000,000 in any fiscal year or having at any time an outstanding aggregated debt exceeding \$50,000,000. This restriction does not apply to debt incurred for the acquisition and maintenance of railroad rolling stock, locomotives, construction and maintenance equipment, track structure, and other railroad related physical plant. The ARRC is also required to seek legislative approval prior to using its assets to obtain an equity position in a nontransportation activity. Certain exemptions are defined with regard to this latter restriction.

Section 9. Amends AS 42.40.980 by adding new paragraph (11) which defines "nontransportation activity."

Section 10. Grants legislative authorization for the ARRC to acquire an equity position in a proposed regional landfill at either of two specific locations.

Section 11. Requires that the governor appoint a person who satisfies AS 42.40.020(a)(1)(A) or (B) to fill the next vacancy on the ARRC board of directors.

**MEMORANDUM**

**TO:** Senator Steve Frank  
**FROM:** David Skidmore  
**RE:** Comparison of SB 148 with CS SB 148 (Transportation)  
**DATE:** 5 April, 1993

-----

Section 1 of the bill sets out the purpose of the bill.  
Section 1 of the CS sets out the purpose of the bill and reflects the changes that were made.

Section 2 of the bill amends AS 29.45.030(a) to provide that real property of the Alaska Railroad Corporation that is leased for fair value to a municipal, state, or federal agency or to a person is subject to municipal property taxes. "Person" is defined in AS 01.10.060 to include a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person.

Section 2 of the CS remains unchanged.

Section 3 of the bill amends AS 29.45.275 to conform to Section 2 of the bill. The amendment provides for the collection of delinquent taxes owed to a municipality by the Alaska Railroad Corporation.

Section 3 of the CS remains unchanged.

Section 4 of the bill amends AS 39.50.200(b) by adding the members of the board of directors, the chief executive officer, and vice-presidents of the Alaska Railroad Corporation to the list of persons subject to the conflict of interest law.

Section 4 of the CS applies only to the board of directors and the chief executive officer.

Section 5 of the bill amends AS 42.40.010 to state that the Alaska Railroad Corporation is established for the purpose of providing railroad and railroad related transportation services in the state.

This section was deleted in the CS.

Section 6 of the bill amends AS 42.40.020 to provide that the members of the board of directors of the Alaska Railroad Corporation are subject to AS 39.50 (Conflict of Interest).

Section 5 (renumbered) of the CS remains otherwise unchanged.

Section 7 of the bill amends AS 42.40.060(a) to prohibit persons who are appointed to certain seats on the board of directors of the Alaska Railroad Corporation from serving as chair or vice-chair of the board.

Section 6 (renumbered) of the CS provides that the chair or vice-chair of the board may not serve as the chief executive officer of the corporation.

Section 8 of the bill amends AS 42.40.110(a) to provide that persons who are appointed to certain seats on the board of directors of the Alaska Railroad Corporation may not serve as chief executive officer of the corporation. The amendment also provides that the chief executive officer of the corporation is subject to AS 39.50 (Conflict of Interest).

Section 7 (renumbered) of the CS provides that the chief executive officer of the corporation may not serve as chair or vice-chair of the board and also provides that the chief executive officer is subject to AS 39.50.

Section 9 of the bill amends AS 42.40.110 to provide that the persons appointed as vice-presidents of the Alaska Railroad Corporation are subject to AS 39.50 (Conflict of Interest).

This section was deleted in the CS.

Section 10 of the bill amends AS 42.40.250 to state that the Alaska Railroad Corporation may exercise its statutory powers for the purpose of providing railroad and railroad related transportation services in the state. AS 42.40.250 is also amended to provide that the power of the corporation to acquire personal and real property is subject to other provisions of AS 42.40. This section was deleted in the CS.

Section 11 of the bill amends AS 42.40.285 to require that the Alaska Railroad Corporation receive legislative approval before either incurring debt, other than bonded debt approved by the legislature and debt for certain purposes, exceeding \$1,000,000 or acquiring real or personal property by lease, if the property is valued at more than \$1,000,000 or is to be leased for more than 10 years.

Section 9 (renumbered) of the CS amends AS 42.40.285 to require that the Alaska Railroad Corporation receive legislative approval before either incurring debt exceeding \$10,000,000 in any fiscal year or having at any time an outstanding aggregated debt exceeding \$50,000,000. This restriction does not apply to debt incurred for the acquisition and maintenance of railroad rolling stock, locomotives, construction and maintenance equipment, track structure, and other railroad related physical plant. The Alaska Railroad Corporation is also required to seek legislative approval prior to using its assets to obtain an equity position in a nontransportation activity. Certain exemptions are defined with regard to this latter restriction, and "nontransportation activity" is defined in Section 11 of the CS.

Section 12 of the bill amends AS 42.40.910(a) to provide that certain property of the Alaska Railroad Corporation is subject to taxation as provided in AS 29.45.030(a)(1). This amendment is necessary to conform with the changes made by Section 2 of the bill.

Section 10 (renumbered) of the CS remains otherwise unchanged.

Section 13 of the bill amends AS 42.40.920(b) to provide that the Alaska Railroad Corporation is subject to certain provisions of the "open meetings law."

This section was deleted in the CS.

Section 14 of the bill amends AS 42.40.935 to provide that the Alaska Railroad Corporation shall comply with local building codes, including the obtaining of required permits.

This section was deleted in the CS.

Section 15 of the bill amends AS 44.62.310(a) to include the Alaska Railroad Corporation among the entities that are subject to provisions of the "open meetings law."

This section was deleted in the CS.

Section 16 of the bill amends provisions of temporary law that set out the purposes for which AS 42.40 (Alaska Railroad Corporation Act) was enacted. The amendments to Sec. 1(b), ch. 153, SLA 1984 provide that the Alaska Railroad Corporation is established for the purpose of providing railroad and railroad related transportation services in the state.

This section was deleted in the CS.

Section 17 of the bill provides that those sections of the bill (Sections 2,3, and 12) relating to the taxation of certain real property of the Alaska Railroad Corporation take effect January 1, 1994. The remaining sections of the bill take effect 90 days after the bill becomes law.

Section 12 (renumbered) of the CS remains unchanged other than necessary renumbering of Section 12 as Section 10.

APR 02 1993

SB 148

Theresa Becker  
P.O. Box 83269  
Fairbanks, Alaska 99708

March 28, 1993

Senator Drue Pearce  
Capitol Rm 423  
Juneau, Alaska 99801

Senate Bill #148

Dear Senator Drue Pearce,

As a Citizen of Alaska, concerned about the Alaska Railroad Corporation plan to diversify, I seek your support of Senate Bill #148.

A review of their recent history with the Ship Creek project, combined with an understanding of their plans to diversify in Fairbanks, Nenana, Denali, and Whittier, causes justifiable concern about the ability for ARRC to function without legislative action and still meet their responsibility to Alaskans. It seems ARRC acts without regard to the citizens of Alaska and the economic well being of privately owned business.

The actions put forth in Senate Bill #148 are past due and I strongly encourage your yes vote on this Bill.

Very Truly Yours,

  
Theresa Becker

**DIVISION OF LEGAL SERVICES**  
**LEGISLATIVE AFFAIRS AGENCY**  
**STATE OF ALASKA**

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Juneau, Alaska 99801-2105

**MEMORANDUM**

April 1, 1993

**SUBJECT:** CSSB 148(TRA); Legislative approval of Alaska Railroad Corporation involvement in a proposed solid waste facility (Work Order No. 8-LS0583\R)

**TO:** Senator Bert Sharp  
ATTN: Cam Toohey

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have asked whether the Alaska Railroad Corporation's involvement with a proposed solid waste facility near Nenana would be subject to legislative approval under AS 42.40.285, as amended by CSSB 148(TRA) (version R, dated March 31, 1993).

AS 42.40.285, as amended by CSSB 148(TRA), requires that the Alaska Railroad Corporation obtain legislative approval prior to acquiring an equity position in a nontransportation activity, except under certain circumstances.<sup>1/</sup>

If the Alaska Railroad Corporation merely leases land to the developer/operator of the proposed solid waste facility at Nenana and transports waste to the facility, without obtaining an equity position in the facility, legislative approval of the corporation's involvement with the facility would not be required.

---

<sup>1/</sup> For purposes of this memorandum it is assumed that the corporation's involvement in the proposed facility would not invoke legislative approval based on other provisions of AS 42.40.285. Thus, it is assumed that in connection with the proposed facility the corporation will not

- one, convey its entire interest in any land;
- two, issue bonds;
- three, incur any excessive debt, not related to acquisition and maintenance of railroad equipment and railroad related physical plant;
- four, extend railroad lines, other than spurs and other auxiliary track; or
- five, lease land for a period in excess of 35 years, without retaining a right to terminate the lease under certain conditions.

Senator Bert Sharp  
April 1, 1993  
Page 2

However, should the Alaska Railroad Corporation intend to acquire an equity position in the proposed facility, the corporation will probably have to obtain the appropriate legislative approval. Under AS 42.40.285(6), as amended by CSSB 148(TRA), the corporation may not acquire an equity position in a nontransportation activity, such as a solid waste facility without the approval of the legislature. The provisions exempting investments by the corporation's pension funds and grandfathering existing nontransportation activities of the corporation from the application of AS 42.40.285(6) would presumably be inapplicable, because the corporation's pension funds would not invest in the facility and because the corporation's involvement in the facility would not pre-date the effective date of AS 42.40.285(6)<sup>2/</sup>.

If I may be of further assistance, please advise.

GU:gc  
93-295.glc

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<sup>2/</sup> Whether a particular nontransportation activity is "grandfathered" under the proposed AS 42.40.285(6)(A)(ii) will ultimately depend on when the corporation became engaged in the activity and when AS 42.40.285(6)(A)(ii) takes effect.



# SOPHIE STATION HOTEL

1717 University Avenue • Fairbanks, Alaska 99709

Phone: (907) 479-3650 • Fax: (907) 479-7951

---

April 1, 1993

Senator Drue Pearce  
Capitol Rm 420  
Juneau, Alaska 99801

Senate Bill #148

Dear Senator Drue Pearce,

This letter is to encourage your support of the aforementioned Bill.

As it is not possible for a corporation of the government to compete equally and fairly against free market, I support the effort to define activities of The Alaska Railroad Corporation. Further, as Alaska Railroad Corporation currently plans to construct a hotel in Fairbanks during the summer of 1993, I recommend swift action by our Legislators that this Bill may be passed this session.

I look forward to hearing of your yes vote on this Bill.

Thank you.

Sincerely,

Catherine Schultz  
General Manager

4-8-93  
3FC**ALASKA RAILROAD CORPORATION**

P.O. Box 107500 • Anchorage, Alaska 99510-7500

March 19, 1993

The Honorable Bert M. Sharp  
Chairman, Senate Transportation Committee  
Alaska State Senate  
State Capitol, Room 514  
Juneau, Alaska 99801

Dear Senator Sharp:

Senate Bill 148, which is presently pending in your committee, raises several concerns relating to the future viability of the Alaska Railroad Corporation (ARRC). This is also the case with the companion House Bill, HB-202. Based on several Juneau trips and in-depth discussions with the Bills' sponsors, concern about the ARRC's decision to assume a 40% equity position in the Comfort Inn Hotel in Anchorage is apparently a major reason underlying the legislation.

An additional factor lending some urgency to this proposal is a perception that ARRC is planning to participate in a similar hotel deal in Fairbanks. Although there are parties expressing interest in locating a hotel on railroad property in Fairbanks, ARRC has no plans to assume an equity position as occurred in Anchorage.

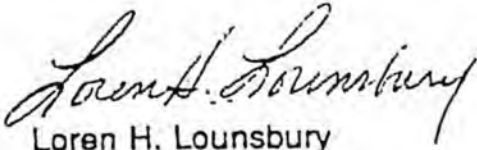
On the basis of my most recent Juneau visit, I have decided to propose a new policy at the next regular Board meeting on April 15, 1993 that would prevent ARRC from assuming an equity position in non-transportation activities in the future. Non-transportation activities will be defined to include hotel projects. While the ARRC Board believes that its action relative to the Comfort Inn was appropriate and consistent with ARRC's enabling legislation, we recognize and wish to be sensitive to the concerns about risk and the perception of unfair competition.

Based on initial discussions with other Board members, I believe there will be sufficient support to enact this policy. If there is interest, we would be happy to circulate the draft proposal for review and comment by interested legislators. It is my hope that the Bills' sponsors will agree that there will be no necessity for this Bill.

The Honorable Bert M. Sharp  
March 19, 1993  
Page Two

If there are questions by any members, please do not hesitate to contact me at 277-4334, or Bob Hatfield, ARRC President and CEO, at 265-2403.

Sincerely,



Loren H. Lounsbury  
Chairman of the Board  
Alaska Railroad Corporation

cc: The Honorable Walter J. Hickel, Governor  
The Honorable Drue Pearce, Alaska State Senate  
The Honorable Steve Frank, Alaska State Senate  
The Honorable Jeannette James, Alaska State House  
ARRC Board Members

March 11, 1993

Drue Pearce, Co-Chairman  
Finance Committee  
Alaska State Legislature  
Juneau, Alaska 99801

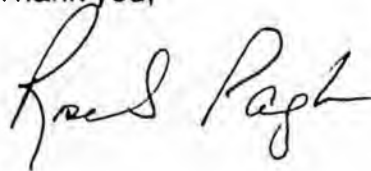
Honorable Co-Chairman Pearce:

Please support SB 148 which would make changes to more closely monitor the business actions of the Alaska Railroad Corporation.

The Fairbanks community depends greatly upon the influx of tourism during the summer months. The proposed development of the Chena River Project, with the addition of a hotel will do more harm than good for the promotion of local businesses. A state corporation should not involve itself in the management of a hotel in an already-glutted industry. There are plenty of lodging accommodations which are locally owned, and contribute to the Fairbanks economy.

I encourage you to do your best to see that Senate Bill 148 is passed so that the Alaska Railroad Corporation continues with its transportation mission, rather than expand to encompass other aspects of tourism which small business can support.

Thank you,

A handwritten signature in cursive script that reads "Fred Page".

640 Gradelle  
Fbks, AK 99709

BOARD: RAILROAD CORPORATION, BOARD OF DIRECTORS OF THE ALASKA

BOARD IDENTIFICATION NUMBER: 88

TITLE: Board of Directors of the Alaska Railroad Corporation

DEPT: Department of Commerce and Economic Development

AUTHORITY: AS 42.40.010

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS: Conflict of Interest (see AS 42.40.230).  
Members, except Commissioners and bargaining unit  
representative, may not be state officers or employees.

TERM: 5 years

DESCRIPTION: 7 members - 5 appointed by the Governor with at least the following qualifications: 1 member with 10 years of experience in railroad management (who may be a non-resident); 1 member who is/was an executive official of a railroad as required under federal regulation (who may be a non-resident); 1 member with 5 years experience as owner/manager of a business in Alaska; 1 member from the bargaining unit representing employees of the corp.; plus the Commissioners of Department of Commerce and Economic Development & Department of Transportation. Judicial districts which are directly served by the Alaska Railroad must be represented; Board elects chairman and vice-chairman.

SPECIAL FACTS: Annual report to the Governor and the Legislature; Quorum - at least 4 voting members; fidelity bond required for all directors. Serve at pleasure of Governor.

FUNCTION: Advises the Governor and the Legislature on the management and operation of the Alaska Railroad. Manages the Alaska Railroad Corporation and its assets.

COMPENSATION: \$400/day plus standard travel and per diem.

MEETINGS: Required to meet at least once every three months.

\*FOR FURTHER INFORMATION CONTACT: Commissioner, Dept. of Commerce and Economic Development, Box 110800, Juneau, AK 99811  
PHONE: 465-2500 or Board Secretary, Alaska Railroad Corporation, P.O. Box 107500, Anchorage, AK 99510 PHONE: 265-2680

(Revised 12/15/92)

**STATE OF ALASKA - OFFICE OF THE GOVERNOR**  
**Boards and Commissions Office**

Membership Roster

(088) RAILROAD CORPORATION

Member	Appointed	Reappointed	Term Exp.
<b>VICE-CHAIR</b> Frank X. Chapados Public/Restricted 42.40.c2c(a)(3) - Third Jud. Dist. (Anch.) P.O. Box 74825 Fairbanks, AK 99707	10/03/84	10/20/89	<u>10/03/94</u>
Paul Fuhs Commissioner/Commerce and Economic Development ✓ Act. Comm., DCED, Box 110800 Juneau, AK 99811-0800	07/01/92		
<b>CEC</b> Robert S. Hatfield, Jr. Railroad Executive (non-resident) 42.40.c2c(a)(1), (2) P.O. Box 112783 Anchorage, AK 99511-2783	01/07/91	10/14/91	10/03/96
Dale R. Lindsey Public/Restricted 42.40.c2c(a)(3) - Fourth Jud. Dist. (Fbks.) P.O. Box 389 Seward, AK 99664	12/19/88		10/03/93
<b>CHAIR</b> Loren H. Lounsbury Business Owner 42.40.c2c(a)(4) 1143 Anchorage, AK 99501	01/07/91		<u>10/03/94</u>
Michael W. Olson Bargaining Unit 42.40.c2c(a)(5) 1110 West 82nd Avenue Anchorage, AK 99518	01/07/91	12/08/92	10/03/97
Frank Turpin Commissioner/DOTPF ✓ Comm., DOT/PF, 3132 Channel Dr Juneau, AK 99801-7898	12/03/90		

## Committee Substitute for Senate Bill 148 (Senate Transportation)

### I. Introduction.

Committee Substitute for Senate Bill 148 ("CSSB 148") proposed by the Senate Transportation Committee, makes a number of changes to the bill as originally introduced by the Senate Finance Committee. The original bill proposed numerous and substantial changes to the Alaska Railroad Corporation Act, AS 42.40.010 et seq. ("ARCA"), that threatened to limit the corporation's ability to fulfill its original mission. That mission is to operate as a self-sustaining business, with substantial financial and operational independence tempered by public accountability. CSSB 148 mitigates the impact of the bill to a certain extent, and ARRC appreciated the opportunity to explain its concerns to the Senate Transportation Committee.

However, CSSB 148 will still significantly affect the ability of the Alaska Railroad Corporation ("ARRC") to respond quickly and flexibly to market opportunities. For example, the current regional landfill proposal at ARRC Milepost 388 may arguably fall within CSSB's definition of "nontransportation activity". The landfill's proponents, which include the City of Nenana, must have an answer that allows them to take alternative action before ice roads across a river are impossible. It would be impossible to obtain legislative approval quickly enough to meet need. The committee substitute also retains several provisions with significant and unwarranted economic consequences for ARRC and third parties such as lessees.

### II. Impact of the Committee Substitute.

A. Municipal Taxation. CSSB 148 includes the same provisions regarding municipal taxation as did the original bill. This language eliminates the statutory exemption from municipal taxation that currently applies to ARRC real property leased to third parties for "fair value."<sup>1</sup> It also provides municipalities a mechanism to enforce taxation by authorizing suit in superior court for tax bills remaining unpaid for six months. As ARRC noted in its position paper on SB 148, these provisions empower

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<sup>1</sup> Presumably, "fair value" is intended to have the same meaning as "fair market value" used elsewhere in ARCA. If the provision is retained, it should be changed to use the ARCA terminology and to apply prospectively only.

municipalities to tax the railroad's fee simple interest in land in the same manner as private property at the same time as the use of that land becomes seriously encumbered under other sections of the bill.

Authorizing municipalities to assess property taxes on ARRC property leased for fair value will impose a significant financial and administrative burden on the corporation. The burden is unfair from two perspectives. First, it is a burden that state property does not normally bear, except in the case of property acquired through foreclosure and retained as an investment. ARRC property is treated as state property for many purposes; for example, public notice of disposal is given as required by the state constitution. This is a process that wholly "private" property owners need not address.

On the other hand, while private landowners are subject to such taxes, most ground lessors pass taxes and other charges through to the ground lessees. Indeed, the ground lease form in use by ARRC since 1986 includes such "triple net" language, and lessees under that form will find themselves surcharged for any municipal levy. For some lessees, the amounts will be minimal; small lots in Anchorage may generate as little as a \$200 annual assessment. However, based on current appraised value and local mill rate, some twenty Anchorage lessees would be charged an additional annual amount of between \$5,000 and \$32,000 each as ARRC passes on the taxes imposed by this bill.

The foregoing figures illustrate the immediate impact on current ARRC lessees. However, ARRC has approximately 233 active leases, of which some 107 are governed by an old lease form inherited from the period of federal ownership of the railroad. Those leases do not commonly provide for recoupment of taxes from the lessee, and ARRC is bound by those provisions until each individual term expires. At current appraised value and applying the mill rate in effect for the Ship Creek area of Anchorage, approximately \$426,000 may be assessed Railbelt-wide in property taxes that ARRC cannot recoup from the lessees. This amounts to 18% of the corporation's net 1992 estimated income of approximately \$2.3 million.

The disparate application between lessees on the older lease forms and the newer one will gradually correct itself over time as those leases expire and the newer form is utilized for all lessees. However, in the interim ARRC will be at an unwarranted disadvantage vis-a-vis private land lessors who can pass such charges on to their lessees. Moreover, ARRC will face a significant administrative burden in manually reviewing each of the 233 leases to determine whether the taxes may be charged to the lessees.