

**ALASKA LEGISLATURE**

**HOUSE and SENATE FINANCE COMMITTEE FILES,**

**1993-1994**

**1163**

237

# A FAX

## Alaska State Legislature

Date: 4/25/94

To: Peggy - Legal Services

Fax #: 2029 Phone #: 6662

From: Kathy - Senate Finance

Phone #: 2618

Re: Please incorporate the attached Amendment

within CSSB 166 (Jud) to produce a Senate Finance Committee Substitute for the bill.

Following this page, please find 1 page(s). If this does not reach you in full, please inform us ASAP.



## THANK YOU

*Fin*  
CS FOR SENATE BILL NO. 166(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/19/94  
Referred: Finance

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to registration of a motor vehicle and suspension of a driver's  
2 license for failure to appear in court or failure to pay a fine."

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

4 \* Section 1. AS 12.25.200(b) is amended to read:

5 (b) A citation issued under AS 12.25.180 must indicate the amount of bail or  
6 fine applicable to the offense, the procedure a person must follow in responding to the  
7 citation, [AND] that if the person fails to pay the bail or fine the person must appear  
8 in court, and that failure to pay the bail or fine or appear in court for an offense  
9 involving a moving motor vehicle may result in suspension of the person's driver's  
10 license, privilege to drive, or privilege to obtain a license. In addition, a citation  
11 must indicate that the person has a right to

- 12 (1) a trial;
- 13 (2) engage counsel;
- 14 (3) confront and question witnesses;

1 (4) testify; and

2 (5) subpoena witnesses on the person's behalf.

3 \* Sec. 2. AS 28.10.041 is amended by adding a new subsection to read:

4 (d) If an applicant has received actual notice of a required payment of a fine  
5 for a parking offense and has failed to pay the fine, the department shall refuse to  
6 register any vehicle owned by the applicant until the applicant provides proof that the  
7 fine has been paid. An agency of the state or a municipality shall report a person's  
8 failure to pay a fine to the department as required by the department. The department  
9 may require electronic reporting.

10 \* Sec. 3. AS 28.15.181 is amended by adding a new subsection to read:

11 (h) The court may suspend the driver's license, privilege to drive, or privilege  
12 to obtain a license of a person who fails to appear in court as required by a citation  
13 for an offense involving a moving motor vehicle, or who fails to pay a fine as required  
14 by the court for an offense involving a moving motor vehicle. If the court suspends  
15 a driver's license under this subsection, the court shall also provide notice of the  
16 suspension to the department. Suspension imposed under this subsection shall remain  
17 in effect until the person appears in court as required by the citation, or pays the fine  
18 as required by the court. When the person appears in court or pays the required fine,  
19 the court shall terminate the suspension imposed under this subsection and provide the  
20 person with written notice of the termination.

*Add new Sec. 4 (Rieger Amend)*

# Alaska State Legislature

SB 166

Senate Majority Leader  
Chair, Judiciary Committee  
Vice Chair, Community &  
Regional Affairs



State Capitol  
Juneau, Alaska 99801-1182  
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Member, State Affairs Committee  
Committee on Committees  
Western States Legislative Forestry Task Force  
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**Senator Robin L. Taylor**

## MEMORANDUM

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

**FROM: Senator Robin L. Taylor** *R.L.T.*

**DATE: 4/20/94**

**REF: Hearing Request - Senate Bill 166**

\*\*\*\*\*

Please consider this my formal request that Senate Bill 166 be scheduled for a hearing in the Senate Finance Committee at your earliest convenience.

Enactment of this legislation will provide the court system and the parking enforcement agencies of our municipalities with additional leverage in collecting outstanding fines.

Thank you in advance for your consideration of this request.

# Alaska State Legislature

Senate Majority Leader  
Chair, Judiciary Committee  
Vice Chair, Community &  
Regional Affairs

Member, State Affairs Committee  
Committee on Committees  
Western States Legislative Forestry Task Force  
Legislative Council



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*Senator Robin L. Taylor*

## SPONSOR STATEMENT

### SENATE BILL 166

The intent of this legislation is to encourage individuals to pay outstanding fines related to moving vehicle citations and parking offenses. The bill provides specific means by which this goal can be accomplished: Namely drivers license revocation and non-renewal of motor vehicle registrations.

Senate Bill 166 was designed to provide the court system and municipalities throughout Alaska with additional leverage to collect outstanding fines. It would also apply when an individual fails to appear in court, as ordered.

The bill duplicates House Bill 368, which I introduced in the 17th Alaska State Legislature.

I believe SB 166 would be a valuable tool for use by the courts in addressing the problems of scofflaws, especially those who failed to appear in court or pay a fine imposed by the courts.

The bill is based on statutes from other states. The experience in Washington state indicates that over 50 percent of those who receive notice of possible sanctions clear up outstanding matters within one week.

# Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196

Phone: (907) 465-3991  
Fax: (907) 463-3351

February 23, 1993

## MEMORANDUM

TO: Senator Robin Taylor

FROM: Christine M. Cheff *Cheff*  
Legislative Analyst

RE: **Sanctions for Failure to Pay Traffic Fines or Make Court Appearances**  
Research Request 93.116

You asked about the Hawaii, Oregon and Washington laws which pertain to sanctions imposed for failure to pay traffic fines or to make related court appearances. Additionally, you wanted to know if there were any problems with implementation of the laws, and whether driver's license revocation and nonrenewal of vehicle registration are effective sanctions. Your request is related to draft legislation that is modeled on California Vehicle Code 40509.

From our analysis of the Hawaii, Oregon and Washington laws it is **clear that a differentiation is made between a parking violation sanction, generally nonrenewal of vehicle registration, and a moving violation sanction which affects driving privileges.** That differentiation was also noted in our previous analysis of the California law upon which your draft bill is based.<sup>1</sup>

In the states you asked about, **Oregon is the only one which suspends a driver's license for failure to appear in court or to pay fines for moving traffic violations,** whereas, Hawaii and Washington have nonrenewal provisions. None of the three states suspend vehicle registrations for failure to pay parking fines. **Washington does, however, have a proviso against renewal of a vehicle registration if the registrant has more than two outstanding parking violations.**

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<sup>1</sup>Christine Cheff, "Draft Bill -- Fines and Court Appearances," Legislative Research Agency Memorandum 91.193, 1991.

No legal opinions related to the sanction laws appear to have been issued, either by the courts or by the states' attorneys general.<sup>2</sup>

Although we spoke with court personnel about the effectiveness of sanctions, most of the information we obtained was from persons employed in the driver's license and motor vehicle registration departments in each state. The primary responsibility for enforcing court suspensions or nonrenewal orders, as well as for maintaining recordkeeping systems, falls to those departments. The persons with whom we spoke were knowledgeable concerning the application of sanctions and provided general overviews of their effectiveness. Although we were unable to determine what initial problems may have been encountered with implementing the sanctions programs, the principal recommendation we received from the departments contacted was that an automated recordkeeping system and communications link should be in place before implementation.

Summaries of our contacts with the staff of various agencies and of the individual state laws are provided below.

### **Hawaii**

Highway Safety Code Section 286-109 provides that anyone who fails to respond to a traffic citation or summons for violation of traffic laws, or who fails to comply with orders of the court, may be denied issuance or renewal of a driver's license. There is no provision for revocation or suspension of driving privileges.

The municipal courts on each island are responsible for notifying the respective traffic violations divisions about outstanding fines or citations. That information is entered into a computerized recordkeeping system which serves as the checkpoint when a person makes application for or attempts to renew a driver's license. Although each island has a traffic violations division, there is no electronic link between their recordkeeping systems. According to Milton Hee, manager of the Honolulu Traffic Violations section, the computer systems throughout the islands are very old and it is, therefore, impossible to track the number of persons currently on suspension or nonrenewal status. The only comprehensive source for that information is a computer printout. When an outstanding obligation has been satisfied, the court will issue a clearance notice to the traffic violation division and the person's name is removed from the computer.

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<sup>2</sup>We conducted a WESTLAW search of the Attorney General Opinions and case law for Hawaii, Oregon and Washington, and called the Attorney General's office in Oregon.

Senator Taylor  
February 23, 1993  
Page 3

Hawaii does not have a statutory provision for suspension or nonrenewal of a vehicle registration for outstanding parking fines. Persons who fail to respond to a summons or citation for an illegally parked vehicle may be issued a penal summons to appear in court (Traffic Code Section 291C-168). Failure to appear in court can result in the person's arrest (Traffic Code Section 291C-169).

### **Oregon**

Under Oregon law (ORS 809.210 and 809.220), failure to appear (FTA) for a court hearing or to pay a traffic fine will result in the suspension of a person's driving privileges.<sup>3</sup> There are no sanctions (other than towing) for failure to pay fines related to parking offenses.

The Oregon Department of Motor Vehicles (DMV) is electronically connected to over 300 courts statewide--district, municipal, justice, and circuit. According to Jeanelle Naatz, Data Entry Division supervisor, about 12,000 FTAs are processed by the division each month. Ms. Naatz believes that the incidence of repeat offenders is quite high, possibly 50-75 percent. The courts clear between 6,000 and 7,000 driver's licenses for reinstatement per month. After five years, a statute of limitations allows the violator to clear a suspension by simply coming to the DMV office and paying the fine, plus interest. No court appearance is necessary.

Lane Borg, manager of the Criminal Division for the Multnomah County Circuit and District Courts, believes that sanctions are not particularly effective because of the limitations on enforcement. Conceivably, a person may drive on a suspended or expired license for five years and then clear the record without having to go to court.

### **Washington**

Currently, the only sanction for those who fail to appear in court or to pay parking fines is nonrenewal of a driver's license (RCW 46.20.031(3)) or vehicle registration (RCW 46.16.216) respectively.

A bill to suspend driver's licenses for FTAs related to moving violations has been introduced in the legislature, but at present the offense is a misdemeanor (RCW 46.64.020). Anyone with two or more outstanding FTAs within five years is guilty of "failure to comply" (RCW 46.64.027), which is a gross misdemeanor punishable by up to one year in the county jail or a fine of up to \$5,000, or both (RCW 9A20.020).

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<sup>3</sup>In Oregon an FTA refers to outstanding fines as well as to failure to appear in court.

Senator Taylor  
February 23, 1993  
Page 4

Approximately 85 of the 150 eligible court jurisdictions in Washington participate in the automated vehicle registration suspension program maintained by the state's Title & Registration Department. Statewide, the department processes 30-35 parking violation suspensions per day. Bob Bardish, internal operations manager, says that over 50 percent of the suspensions which come in during a week are cleared by the end of that week.

Copies of the statutes referenced in this memorandum are attached. I hope the information will be useful. Please do not hesitate to call if we can be of further assistance.

Attachments

# Alaska State Legislature

Legislative Research Agency



P.O. Box Y  
Juneau, AK 99811-3100  
Phone: (907) 165-3991  
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April 2, 1991

## MEMORANDUM

TO: Representative Robin Taylor

FROM: Christine M. Cheff *Cheff*  
Legislative Analyst

RE: Draft Bill -- Fines and Court Appearances  
Research Request 91.193

You asked us to discuss the draft of your bill amending the Alaska Motor Vehicles Code with the California attorney general's office, comparing it to California Code Section 40509 upon which the amendments are based.<sup>1</sup>

There appear to be some differences between the draft bill and the California statutes (Attachment A) which you might like to review before we contact the California attorney general. For instance, in California, penalties are attached to vehicle registration only for failure to pay parking fines, and then only after the vehicle owner or lessee has been properly notified. Also, we were unable to find a license revocation provision in the law. However, the court can impound for up to 30 days the license of persons convicted of an infraction if they fail to pay a fine. The attached table outlines the provisions in your draft and the California statutes (Attachment B).

We spoke with Bernard Lu, with the California Department of Motor Vehicles legal department, who did make one comment about your draft bill. He said that penalties for failure to pay fines should be differentiated between those for parking and moving violations. Because parking violations are recorded against vehicles, penalties should be attached to vehicle registration. Moving violations affect a person's driving privileges, therefore penalties should be attached to the driver's license.

Please let us know what further action you would like taken on this request. Don't hesitate to call if you have any questions.

Attachments

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<sup>1</sup>Motor Vehicles code sections AS 28.10.041, 28.15.031(b)(2), and 28.15.181(g) pertaining to penalties for failure to pay fines or to appear in court.

**COMPARISON TABLE: Alaska and California Motor Vehicle Codes  
(Penalties for Failure to Appear or to Pay Fines)**

ALASKA		CALIFORNIA	
<u>Statute</u>	<u>Text</u>	<u>Statute</u>	<u>Text</u>
AS 28.10.041	Refuses registration to applicant who fails to appear in court or to pay fine for traffic or parking violation.	Sec.4760	Registration renewal can be refused if a notice of delinquent parking violations has been mailed to owner or lessee, and itemization of penalties and fees has been filed with the department.
AS 28.15.031(b)(2)	No original or duplicate driver's license, or renewal or reinstatement to person who fails to appear in court or who fails to pay a fine for a parking or moving violation.	Sec.40508	Willful violation of promise/continuance/order to appear is a misdemeanor.  Willful failure to pay fine for vehicle code violation is a misdemeanor.
AS 28.15.181(g)	After the court has provided 10 days written notice of impending license revocation, it may revoke the license of a person who fails to appear in court for a parking offense or moving violation.	Sec.40509	The court may impound the driver's license, for up to 30 days, of a person convicted of an infraction of the vehicle code who fails to pay a fine.  (a) Magistrate or clerk may notify the Motor Vehicle Department if an order to appear in court has been violated for 15 days or more.  (b) Magistrate or clerk may notify the Motor Vehicle Department of a person's failure to pay a fine for 15 days or more.
		Sec.40509.5	(a) and (b) same as Sec. 40509.  (c) Court will mail courtesy warning notice to defendant 10 days before sending notice to the department.

**VOLUME 5**  
**Titles 46 through 57**

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**1992**  
**REVISED CODE OF WASHINGTON**

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Published under authority of chapter 1.08 RCW.

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Containing all laws of a general and permanent nature through the 1992 regular session, which adjourned sine die March 12, 1992.

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is any error in the application it may be returned to the county auditor or other agent to effectively secure the correction of such error, who shall return the same corrected to the director.

(2) Application for the renewal of a vehicle license shall be made to the director or his agents, including county auditors, by the registered owner on a form prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington unless the applicant submits a preprinted application mailed from Olympia, and the payment of such license fees and excise tax as may be required by law. Such application shall be handled in the same manner and the fees transmitted to the state treasurer in the same manner as in the case of an original application. Any such application which upon validation becomes a renewal certificate need not have entered upon it the name of the lien holder, if any, of the vehicle concerned.

(3) Persons expecting to be out of the state during the normal forty-five day renewal period of a vehicle license may secure renewal of such vehicle license for a period of thirty days prior thereto and have license plates or tabs preissued by making application to the director or his agents upon forms prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington and be accompanied by such license fees, including a special handling fee of two dollars; one dollar to be retained by the issuing agency, and one dollar to be deposited in the highway safety fund, and excise tax as may be required by law.

(4) Application for the annual renewal of a vehicle license number plate to the director or his agents shall not be required for those vehicles owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington. [1977 c 8 § 1. Prior: 1975 1st ex.s. c 169 § 6; 1975 1st ex.s. c 118 § 8; 1969 ex.s. c 75 § 1; 1961 c 12 § 46.16.210; prior: 1957 c 273 § 5; 1955 c 89 § 2; 1953 c 252 § 3; 1947 c 164 § 11; 1937 c 188 § 34; Rem. Supp. 1947 § 6312-34.]

**Effective date—Severability—1975 1st ex.s. c 118:** See notes following RCW 46.16.006.

**46.16.212 Notice of liability insurance requirement.** The department of licensing shall notify the public of the requirements of RCW 46.30.020 through 46.30.040 at the time of new vehicle registration and when the department sends a registration renewal notice. [1989 c 353 § 10.]

**Severability—Effective date—1989 c 353:** See RCW 46.30.900 and 46.30.901.

**46.16.216—Payment of parking fines required for renewal.** (1) To renew a vehicle license, an applicant shall satisfy all listed standing, stopping, and parking violations for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the department pursuant to RCW 46.20.270(3). For the purposes of this section, "listed" standing, stopping, and parking violations include only those violations for which notice has been

received from local agencies by the department one hundred twenty days or more before the date the vehicle license expires and that are placed on the records of the department. Notice of such violations received by the department later than one hundred twenty days before that date that are not satisfied shall be considered by the department in connection with any applications for license renewal in any subsequent license year. The renewal application may be processed by the department or its agents only if the applicant:

(a) Presents a preprinted renewal application showing no listed standing, stopping, and parking violations, or in the absence of such presentation, the agent verifies the information that would be contained on the preprinted renewal application; or

(b) If listed standing, stopping, and parking violations exist, presents proof of payment and pays a fifteen dollar surcharge.

(2) The surcharge shall be allocated as follows:

(a) Ten dollars shall be deposited in the motor vehicle fund to be used exclusively for the administrative costs of the department of licensing; and

(b) Five dollars shall be retained by the agent handling the renewal application to be used by the agent for the administration of this section.

(3) If there is a change in the registered owner of the vehicle, the department shall forward the information regarding the change to the local charging jurisdiction and release any hold on the renewal of the vehicle license resulting from parking violations incurred while the certificate of license registration was in a previous registered owner's name.

(4) The department shall send to all registered owners of vehicles who have been reported to have outstanding listed parking violations, at the time of renewal, a statement setting out the dates and jurisdictions in which the violations occurred as well as the amounts of unpaid fines and penalties relating to them and the surcharge to be collected. [1990 2nd ex.s. c 1 § 401; 1984 c 224 § 1.]

**Severability—1990 2nd ex.s. c 1:** See note following RCW 82.14.300.

**Severability—1984 c 224:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 224 § 5.]

**Effective date—1984 c 224:** "This act shall take effect on July 1, 1984." [1984 c 224 § 6.]

**46.16.220 Time of renewal of licenses—Duration.** Vehicle licenses and vehicle license number plates may be renewed for the subsequent registration year on and after the forty-fifth day prior to the end of the current registration year and must be used and displayed from the date of issue or from the day of the expiration of the preceding registration year, whichever date is later. [1991 c 339 § 20; 1975 1st ex.s. c 118 § 9; 1969 ex.s. c 170 § 9; 1961 c 12 § 46.16.220. Prior: 1957 c 261 § 8; 1955 c 89 § 1; 1953 c 252 § 4; 1947 c 164 § 12; 1937 c 188 § 35; Rem. Supp. 1947 § 6312-35; 1921 c 96 § 7, part; RRS § 6318, part; 1921 c 6 § 1, part; 1916 c 142 § 7, part.]

**Effective date—Severability—1975 1st ex.s. c 118:** See notes following RCW 46.16.006.

(6) Any person licensed as a driver under this chapter may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations. [1991 c 293 § 3; 1991 c 73 § 1; 1990 c 250 § 33; 1988 c 88 § 1; 1935 c 302 § 2; 1979 ex.s. c 136 § 53; 1965 ex.s. c 121 § 2.]

*Rule of court: Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

*Reviser's note:* (1) This section was amended by 1991 c 73 § 1 and by 1991 c 293 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

(2) Throughout chapter 46.20 RCW the phrases "this 1965 amendatory act" and "this act" have been changed to "this chapter." The 1965 amendatory act (1965 ex.s. c 121) consisted of RCW 46.20.021 through 46.20.055, 46.20.091, 46.20.161 through 46.20.181, 46.20.205, 46.20.207, 46.20.215, 46.20.285, 46.20.291, 46.20.305 through 46.20.315, 46.20.322 through 46.20.336, 46.20.342 through 46.20.344, 46.20.900, 46.20.910, and 46.20.025, the 1965 amendments to RCW 46.20.102 through 46.20.106, 46.20.120 through 46.20.140, 46.20.190, 46.20.200, 46.20.270, and 46.20.340 and 1965 ex.s. c 121 § 1, footnoted after RCW 46.20.021.

*Severability—1990 c 250:* See note following RCW 46.16.301.

*Effective date—Severability—1979 ex.s. c 136:* See notes following RCW 46.63.010.

*Purpose—Construction—1965 ex.s. c 121:* "With the advent of greatly increased interstate vehicular travel and the migration of motorists between the states, the legislature recognizes the necessity of enacting driver licensing laws which are reasonably uniform with the laws of other states and are at the same time based upon sound, realistic principles, stated in clear explicit language. To achieve these ends the legislature does hereby adopt this 1965 amendatory act relating to driver licensing modeled after the Uniform Vehicle Code subject to such variances as are deemed better suited to the people of this state. It is intended that this 1965 amendatory act be liberally construed to effectuate the purpose of improving the safety of our highways through driver licensing procedures within the framework of the traditional freedoms to which every motorist is entitled." [1965 ex.s. c 121 § 1.] For application of this section see reviser's note above.

*Impoundment of vehicle for driver's license violations—Release, when—Court hearing:* RCW 46.20.435.

*License plates and registration, confiscation and marking:* RCW 46.16.710.

**46.20.022 Unlicensed drivers—Subject to all provisions of Title 46 RCW.** Any person who operates a motor vehicle on the public highways of this state without a driver's license or nonresident privilege to drive shall be subject to all of the provisions of Title 46 RCW to the same extent as a person who is licensed. [1975-'76 2nd ex.s. c 29 § 1.]

*Allowing unauthorized person to drive:* RCW 46.16.011, 46.20.344.

**46.20.025 Persons exempt from licensing requirement.** The following persons are exempt from license hereunder:

(1) Any person in the service of the army, navy, air force, marine corps, or coast guard of the United States, or in the service of the national guard of this state or any other state, when furnished with a driver's license by such service when operating an official motor vehicle in such service;

(2) A nonresident who is at least sixteen years of age and who has in his immediate possession a valid driver's license issued to him in his home state;

(3) A nonresident who is at least sixteen years of age and who has in his immediate possession a valid driver's license issued to him in his home country may operate a

motor vehicle in this state for a period not to exceed one year;

(4) Any person operating special highway construction equipment as defined in RCW 46.16.010;

(5) Any person while driving or operating any farm tractor or implement of husbandry which is only incidentally operated or moved over a highway;

(6) Any person while operating a locomotive upon rails, including operation on a railroad crossing over a public highway; and such person is not required to display a driver's license to any law enforcement officer in connection with the operation of a locomotive or train within this state. [1979 c 75 § 1; 1965 ex.s. c 121 § 3.]

**46.20.027 Licenses of persons serving in armed forces to remain in force—Duration.** A Washington state motor vehicle driver's license issued to any person serving in the armed forces of the United States, if valid and in force and effect while such person is serving in the armed forces, shall remain in full force and effect so long as such service continues unless the same is sooner suspended, canceled, or revoked for cause as provided by law and for not to exceed ninety days following the date on which the holder of such driver's license is honorably separated from service in the armed forces of the United States. [1967 c 129 § 1.]

**46.20.031 Persons ineligible to be licensed.** The department shall not issue a driver's license hereunder:

(1) To any person who is under the age of sixteen years;

(2) To any person whose license has been suspended during such suspension, nor to any person whose license has been revoked, except as provided in RCW 46.20.311;

(3) To any person when the department has been notified by a court that such person has violated his written promise to appear in court, unless the department has received a certificate from the court in which such person promised to appear, showing that the case has been adjudicated. The deposit of bail by a person charged with a violation of any law regulating the operation of motor vehicles on highways shall be deemed an appearance in court for the purpose of this section;

(4) To any person who has been evaluated by a program approved by the department of social and health services as being an alcoholic, drug addict, alcohol abuser and/or drug abuser: PROVIDED, That a license may be issued if the department determines that such person has been granted a deferred prosecution, pursuant to chapter 10.05 RCW, or is satisfactorily participating in or has successfully completed an alcohol or drug abuse treatment program approved by the department of social and health services and has established control of his or her alcohol and/or drug abuse problem;

(5) To any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease, and who has not at the time of application been restored to competency by the methods provided by law: PROVIDED, HOWEVER, That no person so adjudged shall be denied a license for such cause if the superior court should find him able to operate a motor vehicle with safety upon the highways during such incompetency;

(6) To any person who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

(7) To any person who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited such proof;

(8) To any person when the department has good and substantial evidence to reasonably conclude that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways; subject to review by a court of competent jurisdiction. [1985 c 101 § 1; 1977 ex.s. c 162 § 1; 1965 ex.s. c 121 § 4.]

*Allowing unauthorized person to drive: RCW 46.16.011, 46.20.344.*

*Juvenile driving privileges, alcohol or drug violations: RCW 66.44.365, 69.50.420.*

**46.20.041 Physically or mentally disabled persons—Procedure—Restrictions—Violations—Penalty.** (1) The department shall permit any person suffering from any physical or mental disability or disease which may affect that person's ability to drive a motor vehicle, to demonstrate personally that notwithstanding such disability or disease he or she is a proper person to drive a motor vehicle. The department may in addition require such person to obtain a certificate showing his or her condition signed by a licensed physician or other proper authority designated by the department. The certificate shall be for the confidential use of the director and the chief of the Washington state patrol and for such other cognizant public officials as may be designated by law. It shall be exempt from public inspection and copying notwithstanding the provisions of chapter 42.17 RCW. The certificate may not be offered as evidence in any court except when appeal is taken from the order of the director suspending, revoking, canceling, or refusing a vehicle driver's license. However, the certificate may be made available to the director of the department of retirement systems for use in determining eligibility for or continuance of disability benefits and it may be offered and admitted as evidence in any administrative proceeding or court action concerning such disability benefits.

(2) The department may issue a driver's license to such a person imposing restrictions suitable to the licensee's driving ability with respect to the special mechanical control devices required on a motor vehicle or the type of motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(3) The department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(4) The department may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee shall be entitled to a driver improvement interview and a hearing as upon a suspension or revocation under this chapter.

(5) It is a traffic infraction for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him or her. [1986 c 176 § 1; 1979 ex.s. c 136 § 54; 1979 c 61 § 2; 1965 ex.s. c 121 § 5.]

*Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.*

**46.20.045 Age limit for school bus drivers and drivers of for hire vehicles.** No person who is under the age of eighteen years shall drive any school bus transporting school children or shall drive any motor vehicle when in use for the transportation of persons for compensation. [1971 ex.s. c 292 § 43; 1965 ex.s. c 121 § 6.]

*Severability—1971 ex.s. c 292: See note following RCW 36.28.010.*

**46.20.055 Instruction permits and temporary licenses.** (1) Any person who is at least fifteen and a half years of age may apply to the department for an instruction permit for the operation of any motor vehicle except a motorcycle. Any person sixteen years of age or older, holding a valid driver's license, may apply for an instruction permit for the operation of a motorcycle. The department may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant a driver's or motorcyclist's instruction permit.

(a) A driver's instruction permit entitles the permittee while having the permit in immediate possession to drive a motor vehicle upon the public highways for a period of one year when accompanied by a licensed driver who has had at least five years of driving experience and is occupying a seat beside the driver. Except as provided in subsection (c) of this subsection, only one additional permit, valid for one year, may be issued.

(b) A motorcyclist's instruction permit entitles the permittee while having the permit in immediate possession to drive a motorcycle upon the public highways for a period of ninety days as provided in \*RCW 46.20.510(3). Except as provided in subsection (c) of this subsection, only one additional permit, valid for ninety days, may be issued.

(c) The department after investigation may issue a third driver's or motorcyclist's instruction permit when it finds that the permittee is diligently seeking to improve driving proficiency.

(2) The department may waive the examination, except as to eyesight and other potential physical restrictions, for any applicant who is enrolled in either a traffic safety education course as defined by RCW 28A.220.020(2) or a course of instruction offered by a licensed driver training school as defined by RCW 46.82.280(1) at the time the application is being considered by the department. The department may require proof of registration in such a course as it deems necessary.

(3) The department upon receiving proper application may in its discretion issue a driver's instruction permit to an applicant who is at least fifteen years of age and is enrolled in a traffic safety education program which includes practice driving and which is approved and accredited by the superintendent of public instruction. Such instruction permit shall entitle the permittee having the permit in immediate possession to drive a motor vehicle only when an approved instructor or other licensed driver with at least five years of driving experience, is occupying a seat beside the permittee.

(4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to drive a motor vehicle for a period

for any offense or violation except either when the offense or violation is committed in his or her presence or when a person may be arrested pursuant to RCW 10.31.100, as now or hereafter amended. The detention arising from an arrest under this section may not be for a period of time longer than is reasonably necessary to issue and serve a citation and notice, except that the time limitation does not apply under any of the following circumstances:

(1) Where the arrested person refuses to sign a written promise to appear in court as required by the citation and notice provisions of this section;

(2) Where the arresting officer has probable cause to believe that the arrested person has committed any of the offenses enumerated in RCW 10.31.100(3), as now or hereafter amended;

(3) When the arrested person is a nonresident and is being detained for a hearing under RCW 46.64.035. [1987 c 345 § 2; 1985 c 303 § 11; 1979 ex.s. c 28 § 2; 1975-'76 2nd ex.s. c 95 § 2; 1975 c 56 § 1; 1967 c 32 § 70; 1961 c 12 § 46.64.015. Prior: 1951 c 175 § 1.]

**46.64.018 Arrest without warrant for certain traffic offenses.** See RCW 10.31.100.

**46.64.020 Nonappearance after written promise—Penalty—Response by mail, when.** (1) The legislature finds that:

(a) Traffic laws are necessary for the safe and expeditious flow of motor vehicle traffic.

(b) For traffic laws to be effective, they must be judiciously and fairly enforced. This enforcement includes the issuance of notices of infraction and citations and the assessment of fines and penalties.

(c) The adjudication of notices of infraction through a written and signed promise to respond, and of citations through a written and signed promise to appear, as provided in this title is an integral and important part of the traffic law system.

(d) Approximately twenty percent of all people issued notices of infraction and citations violate their written and signed promise to respond or appear and obtain notices of failure to respond or appear on their driving records. Through their actions, these people are destroying the effectiveness of the traffic law system and undermining the department of licensing regulatory control of drivers' licenses.

(e) Notices of failure to respond or appear accumulated on a person's driving record shall be considered if they were issued after July 25, 1987.

(2) Any person violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of traffic infraction, as provided in this title, is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested or the disposition of the notice of infraction: PROVIDED, That a written promise to appear in court or a written promise to respond to a notice of traffic infraction may be complied with by an appearance by counsel: PROVIDED FURTHER, That a person charged under RCW 46.20.021 with driving with an expired driver's license may respond by mailing to the court within fifteen days of the

violation, a copy of the person's currently valid driver's license. Any person who has been issued a notice of infraction pursuant to RCW 46.63.030(3) and who fails to respond as provided in this title is guilty of a misdemeanor regardless of the disposition of the notice of infraction. [1992 c 32 § 1; 1990 c 250 § 61; 1990 c 210 § 1; 1988 c 38 § 1; 1987 c 345 § 1; 1986 c 213 § 1; 1980 c 128 § 8; 1961 c 12 § 46.64.020. Prior: 1937 c 189 § 146; RRS § 6360-146.]

*Rules of court: Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

*Severability—1990 c 250: See note following RCW 46.16.301.*

*Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.*

**46.64.025 Nonappearance after written promise—Notice to department.** Whenever any person has for a period of fifteen or more days violated his written promise to appear in court, the court in which the defendant so promised to appear shall forthwith give notice of such fact to the department of licensing. Whenever thereafter the case in which such promise was given is adjudicated the court hearing the case shall file with the department a certificate showing that the case has been adjudicated. [1979 c 158 § 175; 1967 c 32 § 71; 1965 ex.s. c 121 § 23.]

*Severability—1965 ex.s. c 121: See RCW 46.20.910.*

*Purpose—Construction—1965 ex.s. c 121: See note following RCW 46.20.021.*

**46.64.027 Failure to comply.** (1) A person who drives a motor vehicle within the state and has accumulated two or more notices of failure to appear or respond on his or her driving record maintained by the department of licensing in a five-year period as a result of noncompliance with the traffic laws in a jurisdiction or court within Washington, or in a jurisdiction or court within other states that are signatories with Washington in a nonresident violator compact or reciprocal agreement under chapter 46.23 RCW, is guilty of failure to comply, a gross misdemeanor. A person is not subject to this section for failure to pay a penalty for a pedestrian, bicycling, or parking offense.

(2) Probable cause for arrest under this section is established by the officer obtaining, orally or in writing, information from the department of licensing that two or more notices of failure to appear or respond are on the person's driving record. For purposes of this chapter, failure to satisfy a penalty imposed under this title is considered equivalent to failure to appear or respond.

(3) Venue for prosecution is in the court with jurisdiction in the area of apprehension. [1992 c 32 § 2.]

**46.64.030 Procedure governing arrest and prosecution.** The provisions of this title with regard to the apprehension and arrest of persons violating this title shall govern all police officers in making arrests without a warrant for violations of this title for offenses either committed in their presence or believed to have been committed based on probable cause pursuant to RCW 10.31.100, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for other like offenses. [1979 ex.s.

**VOLUME 1**  
**Titles 1 through 17**

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**1992**  
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**Published under authority of chapter 1.08 RCW.**

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Containing all laws of a general and permanent nature through the 1992 regular session, which adjourned sine die March 12, 1992.

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at the discretion of the judge in the criminal proceeding. To award these reasonable costs the trier of fact must find that the defendant's claim of self-defense was sustained by a preponderance of the evidence: PROVIDED, HOWEVER, That nothing shall preclude the legislature from granting a higher award through the sundry claims process.

(3) Whenever the issue of self defense under this section is decided by a judge or whenever a judge exercises the discretion authorized under subsection (2) of this section in determining an award, the judge shall consider the same questions as must be answered in the special verdict under subsection (4) of this section.

(4) Whenever the issue of self defense under this section has been submitted to a jury, and the jury has found the defendant not guilty, and the judge has submitted an award determination to the jury, the court shall instruct the jury to return a special verdict in substantially the following form:

- |  |           |
|--|-----------|
|  | answer    |
|  | yes or no |
| 1. Was the finding of not guilty based upon self defense?                      | .....     |
| 2. If your answer to question 1 is no, do not answer the remaining question.   |           |
| 3. If your answer to question 1 is yes, was the defendant:                     |           |
| a. Protecting himself or herself?  | .....     |
| b. Protecting his or her family?   | .....     |
| c. Protecting his or her property?   | .....     |
| d. Coming to the aid of another who was in imminent danger of a heinous crime? | .....     |
| e. Coming to the aid of another who was the victim of a heinous crime?         | .....     |

[1989 c 94 § 1; 1977 ex.s. c 206 § 8. Formerly RCW 9.01.200.]

Use of deadly force—Legislative recognition: See note following RCW 9A.16.040.

**Chapter 9A.20  
CLASSIFICATION OF CRIMES**

Sections

- 9A.20.010 Classification and designation of crimes.
- 9A.20.020 Authorized sentences for crimes committed before July 1, 1984.
- 9A.20.021 Maximum sentences for crimes committed July 1, 1984, and after.
- 9A.20.030 Alternative to a fine—Restitution.
- 9A.20.040 Prosecutions related to felonies defined outside Title 9A RCW.

Assessments required of convicted persons  
offender supervision: RCW 9.94A.270.  
parolees: RCW 72.04A.120.  
probationers: RCW 10.64.120.

**9A.20.010 Classification and designation of crimes.**

(1) Classified Felonies. (a) The particular classification of each felony defined in Title 9A RCW is expressly designated in the section defining it.

(b) For purposes of sentencing, classified felonies are designated as one of three classes, as follows:

- (i) Class A felony; or

- (ii) Class B felony; or
- (iii) Class C felony.

(2) Misdemeanors and Gross Misdemeanors. (a) Any crime punishable by a fine of not more than one thousand dollars, or by imprisonment in a county jail for not more than ninety days, or by both such fine and imprisonment is a misdemeanor. Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor.

(b) All crimes other than felonies and misdemeanors are gross misdemeanors. [1984 c 258 § 808; 1975 1st ex.s. c 260 § 9A.20.010.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

**9A.20.020 Authorized sentences for crimes committed before July 1, 1984.** (1) Felony. Every person convicted of a classified felony shall be punished as follows:

(a) For a class A felony, by imprisonment in a state correctional institution for a maximum term fixed by the court of not less than twenty years, or by a fine in an amount fixed by the court of not more than fifty thousand dollars, or by both such imprisonment and fine;

(b) For a class B felony, by imprisonment in a state correctional institution for a maximum term of not more than ten years, or by a fine in an amount fixed by the court of not more than twenty thousand dollars, or by both such imprisonment and fine;

(c) For a class C felony, by imprisonment in a state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than ten thousand dollars, or by both such imprisonment and fine.

(2) Gross Misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed prior to July 1, 1984. [1982 c 192 § 9; 1981 c 137 § 37; 1975-'76 2nd ex.s. c 38 § 2; 1975 1st ex.s. c 260 § 9A.20.020.]

Severability—1981 c 137: See RCW 9.94A.910.

Effective date—Severability—1975-'76 2nd ex.s. c 38: See notes following RCW 9A.08.020.

Penalty assessments in addition to fine or bail forfeiture—Crime victim and witness programs in county: RCW 7.68.035.

**9A.20.021 Maximum sentences for crimes committed July 1, 1984, and after.** (1) Felony. No person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984. [1982 c 192 § 10.]

*Penalty assessments in addition to fine or bail forfeiture—Crime victim and witness programs in county: RCW 7.68.035.*

**9A.20.030 Alternative to a fine—Restitution.** (1) If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon conviction thereof or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, the court, in lieu of imposing the fine authorized for the offense under RCW 9A.20.020, may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the commission of a crime. Such amount may be used to provide restitution to the victim at the order of the court. It shall be the duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes that restitution is appropriate and feasible. If the court orders restitution, the court shall make a finding as to the amount of the defendant's gain or victim's loss from the crime, and if the record does not contain sufficient evidence to support such finding the court may conduct a hearing upon the issue. For purposes of this section, the terms "gain" or "loss" refer to the amount of money or the value of property or services gained or lost.

(2) Notwithstanding any other provision of law, this section also applies to any corporation or joint stock association found guilty of any crime. [1982 1st ex.s. c 47 § 12; 1979 c 29 § 3; 1975 1st ex.s. c 260 § 9A.20.030.]

**Severability—1982 1st ex.s. c 47:** See note following RCW 9.41.190.

**Restitution**

*condition of probation: RCW 9.95.210.*

*condition to suspending sentence: RCW 9.92.060.*

(1992 Ed.)

*disposition when vicam dead or not found: RCW 7.68.290.*

**9A.20.040 Prosecutions related to felonies defined outside Title 9A RCW.** In any prosecution under this title where the grade or degree of a crime is determined by reference to the degree of a felony for which the defendant or another previously had been sought, arrested, charged, convicted, or sentenced, if such felony is defined by a statute of this state which is not in Title 9A RCW, unless otherwise provided:

(1) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is twenty years or more, such felony shall be treated as a class A felony for purposes of this title;

(2) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is eight years or more, but less than twenty years, such felony shall be treated as a class B felony for purposes of this title;

(3) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is less than eight years, such felony shall be treated as a class C felony for purposes of this title. [1975 1st ex.s. c 260 § 9A.20.040.]

## Chapter 9A.28

### ANTICIPATORY OFFENSES

#### Sections

9A.28.010 Prosecutions based on felonies defined outside Title 9A RCW.

9A.28.020 Criminal attempt.

9A.28.030 Criminal solicitation.

9A.28.040 Criminal conspiracy.

**9A.28.010 Prosecutions based on felonies defined outside Title 9A RCW.** In any prosecution under this title for attempt, solicitation, or conspiracy to commit a felony defined by a statute of this state which is not in this title, unless otherwise provided:

(1) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is twenty years or more, such felony shall be treated as a class A felony for purposes of this title;

(2) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is eight years or more but less than twenty years, such felony shall be treated as a class B felony for purposes of this title;

(3) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is less than eight years, such felony shall be treated as a class C felony for purposes of this title. [1975 1st ex.s. c 260 § 9A.28.010.]

**9A.28.020 Criminal attempt.** (1) A person is guilty of an attempt to commit crime if, with intent to commit a specific crime, he does any act which is a substantial step toward the commission of that crime.

(2) If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have

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INCLUDING

All material affected by Acts of the 1990 special session of the Sixty-fifth Legislative Assembly on May 7, 1990; Acts of the 1991 regular session of the Sixty-sixth Legislative Assembly; and Acts approved by the electors at the General Election on November 6, 1990

**Volume 12**

Containing, with some exceptions, the statute laws of Oregon of a general, public and permanent nature in effect on September 29, 1991, the normal effective date of Acts passed by the regular session of the Sixty-sixth Legislative Assembly, which adjourned June 30, 1991

PUBLISHED PURSUANT TO ORS 171.275  
by the  
LEGISLATIVE COUNSEL COMMITTEE  
of the  
LEGISLATIVE ASSEMBLY  
of the  
STATE OF OREGON

FEB 07 1992

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judgment and parties sufficiently for identification if:

(a) The judgment is settled in the manner required under ORS 809.470; and

(b) The judgment debtor or the judgment debtor's attorney makes a written request for forwarding to the division a certificate stating the judgment has been settled as described in ORS 809.470.

(3) The notice made to the division under this section shall be given by the clerk of the court or, if the court has no clerk, by the judge. [1983 c.338 §391; 1985 c.16 §208]

**809.140 Administrative review of suspension, revocation or cancellation.** (1) Unless otherwise specifically provided by law, a person whose vehicle registration or driving privileges are suspended, revoked or canceled by the division on the basis of a conviction is entitled to administrative review of the action rather than to a formal hearing by the division.

(2) Actions by the division based on something other than a conviction may be subject to administrative review rather than a formal hearing if specifically provided by law. [1991 c.702 §2]

### DRIVING PRIVILEGES

#### (Court-ordered or Recommended)

**809.200** [1983 c.338 §389; repealed by 1987 c.730 §23]

**809.210 Suspension or restriction of driving privileges for failure to pay fine or obey court order; exceptions.** (1) A court may do any of the following if the defendant is convicted of any traffic offense and fails or refuses to pay a fine imposed by the judge or to comply with any condition upon which payment of the fine or any part of it was suspended:

(a) Issue notice to the Motor Vehicles Division to implement procedures under ORS 809.290.

(b) Order a defendant's driving privileges restricted.

(2) The authority granted in this section is in addition to or instead of any other method authorized by law for enforcing a court order.

(3) If a court places restrictions on driving privileges under this section:

(a) The judge shall immediately advise the division of the restrictions in writing.

(b) Upon removal of such restriction, the court shall notify the division in writing that the restriction is ended.

(c) The restriction shall remain in effect until ended by the court.

(d) The division shall take action as provided under ORS 807.120 on restrictions imposed under this section.

(e) The restrictions may include any restriction, condition or requirement.

(f) Violation of the restriction is punishable as provided under ORS 807.010.

(4) If a judge issues notice to implement procedures under ORS 809.290 as provided under this section:

(a) The judge shall immediately send to the division notice upon payment of the fine as ordered.

(b) The division shall take action on the suspension as provided under ORS 809.290.

(5) A court shall not issue notice under this section to implement procedures under ORS 809.290 for failure to pay a fine relating to any parking offense, pedestrian offense or bicycling offense. [1983 c.338 §387; 1985 c.16 §203; 1985 c.669 §13; 1991 c.702 §5]

**809.220 Failure to appear; suspension or other procedures.** This section establishes procedures that are applicable if a person fails to comply with ORS 153.540. All of the following apply to this section:

(1) If a defendant fails to comply with ORS 153.540, a court:

(a) Shall issue notice to the division to suspend for failure to appear if the defendant has not complied with ORS 153.540 (1). If a court issues notice under this paragraph, the division shall suspend the driving privileges of the person as provided under ORS 809.280.

(b) Shall issue notice to the Motor Vehicles Division to implement procedures under ORS 809.290 if the defendant has not complied with ORS 153.540 (2). If a court issues notice under this paragraph, the division shall implement procedures under ORS 809.290.

(2) In any notice to the division under this section, a court shall certify that the defendant failed to comply with ORS 153.540.

(3) Subject to subsection (4) of this section, at any time within five years from the date of a notice to suspend for failure to appear given to the division under this section, a court shall give a second notice to the division to terminate a suspension resulting from the original notice if any of the following occur:

(a) The bail or fine set by the court is paid.

(b) The court finds the defendant not guilty or orders a dismissal of the case.

(c) The court determines that the suspension for failure to pay or appear should be terminated for good cause.

(4) If a court takes any action under this section, the court shall not issue a notice terminating the action until the person pays the court or the clerk of the court a \$15 reinstatement fee. All fees paid under this subsection shall be disposed of as provided in ORS 153.630 (1) for the disposition of costs.

(5) Notifications by a court to the division under this section shall be in a form prescribed by the division.

(6) A court shall not notify the division under this section for failure to appear on any parking, pedestrian or bicyclist offense. [1983 c.338 §393; 1985 c.16 §209; 1985 c.669 §15; 1989 c.161 §1; 1991 c.702 §6]

**809.230 Court suspension or revocation of nonresident driving privileges.** A court may suspend or revoke the driving privileges to operate a motor vehicle in this state of any nonresident for any cause for which the driving privileges of a resident of this state may be suspended or revoked. [1983 c.338 §394]

**809.240 Court imposition of suspension or revocation; taking possession of license or permit; temporary permit.** (1) If a person is convicted of an offense that will result in mandatory suspension or revocation under ORS 809.410, 813.400 or 813.403, the trial judge shall:

(a) Impose the revocation or suspension at the time of conviction for the required period; and

(b) Comply with the requirements under ORS 809.250 to take possession of the license or driver permit of the person.

(2) When necessary to give full effect to this section, a court shall issue a temporary driver permit under ORS 807.320. [1983 c.338 §395; 1985 c.16 §210; 1991 c.185 §5]

**809.250 Court to take possession of license or permit; effective date of suspension or revocation.** (1) A court shall take immediate possession of any license or driver permit held by a defendant that is issued by any jurisdiction if the court imposes a suspension under ORS 809.120, 809.240 or 809.270.

(2) Upon taking possession of a license or permit under this section, a court shall immediately forward to the division the license or permit and a copy of the suspension or revocation order.

(3) A suspension or revocation of driving privileges becomes effective on the date a court takes possession of a license or permit under this section or orders the suspension or revocation. [1983 c.338 §396; 1985 c.669 §14; 1987 c.730 §14]

**809.260 Denial of driving privileges for convicted juvenile.** (1) Whenever a person

who is 17 years of age or younger, but not younger than 13 years of age, is convicted of any offense described in this subsection or determined by a juvenile court to have committed one of the described offenses, the court in which the person is convicted shall prepare and send to the Motor Vehicles Division, within 24 hours of the conviction or determination, an order of denial of driving privileges for the person so convicted. This section applies to any crime, violation, infraction or other offense involving the possession, use or abuse of alcohol or controlled substances.

(2) If a court has issued an order of denial of driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

(3) Upon receipt of an order under this section the Motor Vehicles Division shall take action as directed under ORS 809.280. [1985 c.16 §206]

Note: The amendments to 809.260 by section 3, chapter 335, Oregon Laws 1991, take effect October 1, 1992. See section 9, chapter 335, Oregon Laws 1991. The text in effect on and after October 1, 1992, is set forth for the user's convenience.

**809.260.** (1) Whenever a person who is 17 years of age or younger, but not younger than 13 years of age, is convicted of any offense described in this subsection or determined by a juvenile court to have committed one of the described offenses, the court in which the person is convicted shall prepare and send to the Motor Vehicles Division, within 24 hours of the conviction or determination, an order of denial of driving privileges for the person so convicted. This section applies to any crime, violation, infraction or other offense involving the delivery, manufacture or possession of controlled substances or the possession, use or abuse of alcohol.

(2) If a court has issued an order of denial of driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

(c) Notwithstanding paragraph (a) of this subsection, a court may not withdraw an order for a period of six months if the order is based on a determination or conviction involving controlled substances.

*Discard Earlier Pocket Supplement*

# 1991 POCKET SUPPLEMENT

ISSUED IN JANUARY, 1991

COVERING LEGISLATION THROUGH THE 1990  
SESSION OF THE 1989-90 LEGISLATURE

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## DEERING'S VEHICLE CODE

ANNOTATED

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OF THE STATE OF CALIFORNIA

§§ 1-9839

Annotated and Indexed by the Publisher's Editorial Staff

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*Note*—An updated analysis of the Vehicle Code  
appears at the beginning of this supplement.

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the registration card and potential specified in Section 9265 shall not

**§ 4750. (First of two; operative term contingent) Grounds requiring refusal**  
The department shall refuse registration or renewal or transfer of registration upon any of the following grounds:

- (a) That the application contains any false or fraudulent statement.
- (b) That the required fee has not been paid.

(c) That the registration or renewal or transfer of registration is prohibited by the requirements of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.

Enacted Stats 1959 ch 3; Amended Stats 1959 ch 1021 § 1; Stats 1st Ex Sess 1960 ch 23 § 3 p 351; Stats 1968 ch 764 § 13.5 p 1482; Stats 1975 ch 957 § 26. Repealed Stats 1985 ch 245 § 1, operative date contingent. See note to 2nd version following.

**§ 4750. (Second of two; operative term contingent) Grounds requiring refusal**

The department shall refuse registration, or renewal or transfer of registration, upon any of the following grounds:

- (a) The application contains any false or fraudulent statement.
- (b) The required fee has not been paid.
- (c) The registration, or renewal or transfer of registration, is prohibited by the requirements of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.
- (d) The owner of a heavy vehicle, which is subject to the heavy vehicle use tax imposed pursuant to Section 4481 of Title 26 of the United States Code, has not presented sufficient evidence, as determined by the department, that the tax for the vehicle has been paid pursuant to that section.

Added Stats 1985 ch 245 § 2.

Note—Stats 1985 ch 245 provides:

SEC. 3. Sections 1 and 2 of this act shall become operative when the Secretary of the Treasury prescribes the forms for the proof of payment of the heavy vehicle use tax, pursuant to subsection (d) of Section 141 of Title 23 of the United States Code.

**§ 4760. Failure to deposit bail for parking offenses**

(a) Except as provided in subdivision (b), the department shall refuse to renew the registration of any vehicle if the registered owner or lessee has been mailed a notice of delinquent parking violation relating to standing or parking, the processing agency has filed or electronically transmitted to the department an itemization of unpaid parking penalties, including administrative fees pursuant to Section 40220, and the owner or lessee has not paid the parking penalty and administrative fee pursuant to Section 40211, unless he or she pays to the department, at the time of application for renewal, the full amount of all outstanding parking penalties and administrative fees, as shown by records of the department.

(b) The department shall not refuse to renew the registration of any vehicle owned by a renter or lessor if the applicant provides the department with the abstract or notice of disposition of parking violation issued pursuant to subdivision (c) for clearing all outstanding parking penalties and administrative fees as shown by the records of the department.

(c) The court or designated processing agency shall issue an abstract or notice of disposition of parking violation to the renter or lessor of a vehicle issued a notice of delinquent parking violation relating to standing or

tion of a vehicle, if that registration ion, the owner of the vehicle shall ation that the vehicle will not be ny highway during the subsequent application for registration of the s. The certification of nonoperation r the vehicle, but may be renewed

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parking, if the renter or lessor provides the court or processing agency with the name, address, and driver's license number of the rentee or lessee at the time of occurrence of the parking violation.

Amended Stats 1986 ch 939 § 8. Amended Stats 1989 ch 750 sec 1.

**Amendments:**

**1986 Amendment:** (1) Added subdivision designation (a); (2) substituted all that part of subd (a) following "or lessee has been" for "sent or given a notice of violation relating to standing or parking pursuant to paragraph (2) of Section 41103 and has not complied with paragraph (2) of Section 41103, unless he pays to the department, at the time he applies for renewal, the full amount of bail for offenses relating to standing or parking which he has failed to deposit as required by law, as shown by records of the department"; and (3) amended subd (b) by substituting (a) "all outstanding parking penalties and administrative fees" for "bail for offenses relating to standing or parking which have not been deposited as required by law"; and (b) "parking violation for which the full amount of parking penalties is not enclosed and the name, address, and driver's license number of the rentee or lessee" for "offenses relating to standing or parking for which the full amount of bail is not enclosed".

**1989 Amendment:** (1) Amended subd (a) by (a) deleting ", rentee," after "registered owner"; (b) adding "the processing agency has filed of electronically transmitted to the department"; and (c) substituting "pursuant to Section 40220, and the owner or lessee" for ", has been filed with, or electronically transmitted to, the department under Section 40220, and that person"; (2) substituted subd (b) for former subd (b) which read: "(b) The department shall not refuse to renew the registration of any vehicle owned by a renter or lessor when the renter or lessor applies for renewal without paying to the department, at the time of submitting the application for renewal, the full amount of all outstanding parking penalties and administrative fees as shown by records of the department, if the application for renewal is accompanied by an affidavit of the applicant in a form acceptable to the department stating that the vehicle was in the possession of the rentee or lessee at the time of occurrence of the parking violation for which the full amount of parking penalties is not enclosed and the name, address, and driver's license number of the rentee or lessee."; and (3) added subd (c).

**§ 4761. Amount of bail on potential registration card**

The department shall include on each potential registration card issued for use at the time of renewal, or on an accompanying document, an itemization of unpaid parking penalties, including administrative fees, showing the amount thereof and the jurisdiction which issued the notice of parking violation relating thereto, which the registered owner or lessee is required to pay pursuant to Section 4760.

Amended Stats 1986 ch 939 § 9.

**Amendments:**

**1986 Amendment:** (1) Substituted "unpaid parking penalties, including administrative fees" for "undeposited bail"; and (2) added "parking" after "notice of".

**§ 4762. Remitting bail collected**

The department shall remit all parking penalties and administrative fees collected, after deducting the administrative fee authorized by Section 4763, for each notice of delinquent parking violation for which parking penalties and administrative fees have been collected pursuant to Section 4760, to each jurisdiction in the amounts due to each jurisdiction according to its unadjudicated notices of delinquent parking violation. Within 45 days from the time penalties are recorded by the department, the department shall inform each jurisdiction which of its notices of delinquent parking violation have been discharged.

Amended Stats 1985 ch 1008 § 1, ch 1289 § 1; Stats 1986 ch 939 § 10.

**Amendments:**

**1985 Amendment:** (1) Added the comma after "Section 4763"; and (2) divided the section into the present first and second sentences by substituting ". Within 45 days from the time bail is recorded by the department, the department" for ", and". (As amended by Stats 1985, ch 1289, compared to the section

within a period of not more than 10 days after the arrest, the notice to appear shall contain, in addition to the above, a statement notifying the person arrested that the person may appear before such a night session of the court.

Amended Stats 1980 ch 1299 § 3; Stats 1984 ch 400 § 1.

**Amendments:**

**1980 Amendment:** Added the second paragraph.

**1984 Amendment:** In addition to making technical changes, (1) substituted "any of the following" for "either" in the introductory clause; and (2) amended subd (b) by (a) deleting "or before a magistrate in the judicial district in which the offense is alleged to have been committed" at the end of the first sentence; and (b) adding the second sentence.

Cal Jur 3d (Rev) Courts §§ 36, 135, Criminal Law § 1677.

In a traffic prosecution for a violation of Veh. Code, § 22406, subd. (a), in which defendant was driving a semitruck within the territory of a judicial district outside the county seat when he was stopped by a California Highway Patrol officer for driving in excess of 55 miles an hour, and in which defendant, pursuant to Veh. Code, § 40502, subd. (b), requested trial at the county seat, the trial court did not err in denying defendant's motion to dismiss the case for lack of jurisdiction, although the trial was brought in a branch court of the municipal court for the city which comprised the county seat rather than in the central branch of the municipal court, since the entire municipal court regardless of where it was sitting within such city's judicial district, was the court

servicing the county seat. Although defendant, having been cited for a traffic violation in a judicial district outside the county seat was entitled, upon his request, to be tried at the county seat, trial at any such branch court satisfied § 40502, subd. (b), considering Cal. Const., art. VI, § 5, subd. (a), providing that a city may not be divided into more than one municipal court district, since each of the municipal court branches must therefore be treated as integral parts of a single municipal district court. In any event, defendant's appropriate remedy, were his contention correct, was transfer of the case to the proper court, not dismissal. *People v Beltran* (1981, 2d Dist) 124 Cal App 3d 33 5, 177 Cal Rptr 262.

### § 40504. Delivery of notice

Cal Jur 3d (Rev) Criminal Law § 1677.

A police officer who has stopped a motorist for a traffic violation for which the offender cannot be taken into custody and has already detained him for the period necessary to perform his functions arising from the violation, cannot thereafter lawfully detain the offender for an additional period of time solely for the purpose of conducting a warrant check. Veh C § 40504 subd (a), plainly and unequivocally provides that when a traffic offender gives his written promise to appear by signing two copies of the citation, the arresting officer shall "forthwith" release the person arrested from custody, and that rule is equally applicable when the officer has completed his investigation of the incident and gives a warning rather than a citation. The statute, moreover, implements constitutional doctrine. Just as a search which is reasonable at its inception may violate U.S. Const.

Fourth Amend., by virtue of its intolerable intensity and scope, so may an investigatory detention exceed constitutional bounds when extended beyond what is reasonably necessary under the circumstances which made its initiation permissible. Thus, a police officer's detention of a motorist stopped for driving the wrong way on a one-way street, for an additional period of approximately 10 minutes after completion of his duties with respect to the violation, for the purpose of seeking out unrelated arrest warrants in the name of the motorist or his passenger was not reasonably necessary to the initial detention process, and hence exceeded constitutional limitations. (*Per Mosk, Clark, and Manuel, JJ.*) *People v McGaughran* (1979) 25 C3d 577, 159 Cal Rptr 191, 601 P2d 207.

### § 40508. Violation of promise to appear

(a) Any person willfully violating his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested.

(b) Any person willfully failing to pay a lawfully imposed fine for a violation of any provision of this code or a local ordinance adopted pursuant

After the arrest, the notice to appear, a statement notifying the defendant before such a night session of

(b) substituted "any of the following" for (a) deleting "or before a magistrate in the county seat" at the end of the first

the county seat. Although defendant was cited for a traffic violation in a district outside the county seat was entitled at his request, to be tried at the county seat at any such branch court established under subd. (b), considering Cal. Const., art. VI, § 5, subd. (a), providing that a city may not be more than one municipal court district and each of the municipal court districts shall be treated as integral parts of a district court. In any event, the proper remedy, were his contention that the transfer of the case to the proper court was a denial of due process, is dismissal. *People v Beltran* (1981, 2d Dist. Cal App 3d 33 5, 177 Cal Rptr 262.

Amend., by virtue of its intolerable intrusion upon the constitutional bounds when extended beyond what is reasonably necessary under the circumstances which made its initiation permissible. The police officer's detention of a motorist for driving the wrong way on a one-way street for an additional period of approximately 15 minutes after completion of his duties with respect to the violation, for the purpose of seeking arrest warrants in the name of the motorist or his passenger was not reasonably necessary in the initial detention process, and hence the detention was unconstitutional. (Per *Moak and Manuel, JJ.*) *People v McGaughan* (1985, 3d Dist. Cal App 3d 577, 159 Cal Rptr 191, 601 P2d

written promise to appear or a deposit of bail is guilty of a violation of the charge upon which he or

lawfully imposed fine for a violation of a local ordinance adopted pursuant

to this code within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due is guilty of a misdemeanor regardless of the full payment of the fine after such time.

(c) If a person convicted of an infraction fails to pay a fine or any installment thereof within the time authorized by the court, the court may, except as otherwise provided in this subdivision, impound the person's driver's license and order the person not to drive for a period not to exceed 30 days. Before returning the license to the person, the court shall endorse on the reverse side of the license that the person was ordered not to drive, the period for which that order was made, and the name of the court making the order. If a defendant with a class 3 or 4 driver's license satisfies the court that impounding his or her driver's license and ordering the defendant not to drive will affect his or her livelihood, the court shall order that the person limit his or her driving for a period not to exceed 30 days to driving that is essential in the court's determination to the person's employment, including the person's driving to and from his or her place of employment if other means of transportation are not reasonably available. The court shall provide for the endorsement of the limitation on the person's license. The impounding of the license and ordering the person not to drive or the order limiting the person's driving does not constitute a suspension of the license, but a violation of the order constitutes contempt of court.

Enacted Stats 1959 ch 3; Amended Stats 1961 ch 1653 § 2; Stats 1968 ch 1192 § 15, operative January 1, 1969; Stats 1979 ch 235 § 2. Amended Stats 1987 ch 726 § 10, operative July 1, 1988.

#### Amendments:

1987 Amendment: In addition to making technical changes, added "with a class 3 or 4 driver's license" in the third sentence of subd (c).

Note—Stats 1987 ch 726 provides:

SEC. 11. This act shall become operative on July 1, 1988.

Suspension of driving privileges for violation of promise to appear: Veh C § 13365.

Notice of Delinquent Parking Violation will not serve as basis for issuance of warrant of arrest for violation of Veh C § 40508. (1988) 71 Ops Atty Gen 1.

### § 40508.5. Penalty assessments; Violation of promise to appear

(a) In addition to the fees authorized or required by any other provision of law, a county may, by resolution of the board of supervisors, authorize the courts of that county to impose an assessment of seven dollars (\$7) upon every person convicted under Section 40508, whether or not a fine is imposed.

(b) The courts authorized pursuant to subdivision (a) shall increase the bail schedule amounts to reflect the amount of the assessment imposed by this section.

(c) If bail is returned, the amount of the assessment shall also be returned.

(d) The clerk of the court shall deposit the amounts collected under this section in the county treasury. All money so deposited shall be used exclusively for the development and operation of an automated county warrant system.

Added Stats 1986 ch 151 § 2.

### § 40509. Violation of promise to appear

(a) Whenever any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or

her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court, the magistrate or clerk of the court may give notice of the fact to the department for any violation of this code, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803.

The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) Whenever any person has for a period of 15 or more days willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department for any violation, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. Whenever thereafter the fine is fully paid, the magistrate or clerk of the court shall issue and file with the department a certificate showing that the fine has been paid.

(c) This section is applicable to any court which has not elected to be subject to the notice requirements of subdivision (c) of Section 40509.5.

(d) Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

Amended Stats 1981 ch 584 § 3, operative July 1, 1982; Stats 1984 ch 858 § 2, operative July 1, 1985; Stats 1985 ch 1008 § 4; Stats 1986 ch 953 § 14; Stats 1989 ch 126 sec 1; Stats 1990 ch 472 § 2 (SB 1826).

**Amendments:**

**1981 Amendment:** (1) Added "or her" wherever it appears in the first sentence of subd (a); (2) generally eliminated "such"; (3) substituted "within 60 days of the failure to appear" for "not less than 30 days nor more than 60 days after issuance of a warrant" in the second sentence of subd (a); and (4) added the last paragraph.

**1984 Amendment:** (1) Substituted "the" for "such" before "promise" in the last sentence of subd (a); (2) deleted the former second paragraph of subd (b) which read: "This section shall become operative on July 1, 1982."; and (3) added subd (c).

**1985 Amendment:** (1) Amended the first sentence of subd (a) by (a) deleting "or to pay a fine pursuant to subdivision (a) of Section 42003" after "appear in court"; and (b) adding "for any violation of this code which is required to be reported pursuant to Section 1803" at the end; and (2) added "or to pay a fine pursuant to subdivision (a) of Section 42003" in the first sentence of subd (b).

**1986 Amendment:** Substituted "issue" for "sign" after "court shall" in the second sentence of subd (b).

**1989 Amendment:** (1) Substituted ", except violations not" for "which is" wherever it appears; (2) added "paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) of subdivision (b) of" wherever it appears; and (3) added subd (d).

**1990 Amendment:** Substituted "paragraphs (1), (2), (3), (6) and (7)" for "paragraphs (1), (2), (3), (6), (7) and (8)" in the first sentences in subds (a) and (b).

Suspension for violation: § 13365.

Cal Jur.3d (Rev) Criminal Law § 1678.

Review of Selected 1981 Legislation. 13 Pacific LJ 799.

Review of Selected 1985 Legislation. 17 Pacific LJ 806.

**§ 40509.5. Failure to appear; Warning notice; Issuance or arrest warrant**

(a) Whenever, with respect to an offense described in subdivision (d), any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court, the magistrate or clerk of the

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 l under this section.

Stats 1984 ch 858 § 2, operative July 1, 1985;  
 ch 126 sec 1; Stats 1990 ch 472 § (SB 1826).

s in the first sentence of subd (a); (2) generally  
 failure to appear" for "not less than 30 days  
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"promise" in the last sentence of subd (a); (2)  
 read: "This section shall become operative on

a) by (a) deleting "or to pay a fine pursuant to  
 and (b) adding "for any violation of this code  
 " at the end; and (2) added "or to pay a fine  
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and (7)" for "paragraphs (1), (2), (3), (6), (7)

court may give notice of the fact to the department for any violation of this  
 code, except violations not required to be reported pursuant to paragraphs  
 (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. The notice shall  
 be given within 60 days of the failure to appear. Wherever thereafter the  
 case in which the promise was given is adjudicated or the person who has  
 violated the court order appears in court or otherwise satisfies the order of  
 the court, the magistrate or clerk of the court hearing the case shall sign  
 and file with the department a certificate to that effect.

(b) Whenever, with respect to an offense described in subdivision (d), any  
 person has for a period of 15 or more days willfully failed to pay a lawfully  
 imposed fine within the time authorized by the court or to pay a fine  
 pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the  
 court may give notice of the fact to the department for any violation, except  
 violations not required to be reported pursuant to paragraphs (1), (2), (3),  
 (6), and (7) of subdivision (b) of Section 1803. Whenever thereafter the fine  
 is fully paid, the magistrate or clerk of the court shall issue and file with the  
 department a certificate showing that the fine has been paid.

(c) The court shall mail a courtesy warning notice to the defendant by first-  
 class mail at the address shown on the notice to appear, at least 10 days  
 before sending a notice to the department under this section.

(d) If the court notifies the department of a failure to appear or pay a fine  
 pursuant to this section, no arrest warrant shall be issued for an alleged  
 violation of subdivision (a) or (b) of Section 40508 or of a court order issued  
 pursuant to subdivision (a) of Section 42003, unless one of the following  
 criteria is met:

- (1) The alleged underlying offense is a misdemeanor or felony.
- (2) The alleged underlying offense is a violation of any provision of Division  
 12 (commencing with Section 24000), Division 13 (commencing with Sec-  
 tion 29000), or Division 15 (commencing with Section 35000), required to  
 be reported pursuant to Section 1803.
- (3) The driver's record does not show that the defendant has a valid  
 California driver's license.
- (4) The driver's record shows an unresolved charge that the defendant is in  
 violation of his or her written promise to appear for one or more other  
 alleged violations of the law.

(e) This section is applicable to courts which have elected to provide notice  
 pursuant to subdivision (c). The method of commencing or terminating an  
 election to proceed under this section shall be prescribed by the department.

(f) Any violation subject to Section 40001, which is the responsibility of the  
 owner of the vehicle, shall not be reported under this section.

Added Stats 1984 ch 858 § 3, operative July 1, 1985. Amended Stats 1985 ch 1008 § 5; Stats 1989 ch 126  
 sec 2; Stats 1990 ch 472 § 3 (SB 1826).

**Amendments:**

1985 Amendment: (1) Amended the first sentence of subd (a) by (a) deleting "or to pay a fine pursuant to  
 subdivision (a) of Section 42003" after "appear in court"; and (b) adding "for any violation of this code  
 which is required to be reported pursuant to Section 1803" at the end; and (2) added ", required to be  
 reported pursuant to Section 1803" at the end of subd (c)(2).

1989 Amendment: (1) Substituted ", except violations not" for "which is" near the end of the first  
 sentence of subd (a); (2) added "paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) of subdivision (a) of" in  
 subd (a); and (3) added subd (e).

1990 Amendment: (1) Amended the first sentence in subd (a) by substituting (a) "subdivision (d)" for  
 "subdivision (c)" after "offense described in"; and (b) "paragraphs (1), (2), (3), (6) and (7)" for  
 "paragraphs (1), (2), (3), (6), (7) and (8)"; (2) added subd (b); (3) redesignated former subds (b)-(e) to be

Issuance or arrest warrant  
 described in subdivision (d), any  
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subds (c)-(f); (d) amended the introductory clause of subd (d) by (a) adding "or pay a fine" after "failure to appear"; and (b) substituting "subdivision (a) or (b)" for "subdivision (a)"; (f) substituted "driver's" for "driver" after "The" at the beginning of subds (d)(3) and (d)(4); and (g) substituted "subdivision (e)" for "subdivision (f)" in subd (e).

Review of Selected 1985 Legislation. 17 Pacific LJ 806.

to amend and substitute provisions of the Vehicle Code relating to bail and penalties.

§ 40510. Deposit of bail

(a) Prior to the date upon which a defendant promised to appear, or prior to the time to appear contained on a notice of filing of a complaint on a notice of delinquent parking violation pursuant to subdivision (a) of Section 40215 or on a process issued after filing with the court under Section 40230, or prior to the expiration of any lawful continuance of that date, or upon receipt of information that an action has been filed and prior to the scheduled court date, the defendant may deposit bail or a parking penalty with the magistrate or the person authorized to receive a deposit of bail or parking penalties.

(b) For any offense which is not declared to be a felony, a deposit of bail or a parking penalty may be by a personal check meeting the criteria established in accordance with subdivision (c).

(c) Each court, sheriff, or other agency which regularly accepts deposits of bail or parking penalties, shall adopt a written policy governing the acceptance of personal checks in payment of bail or parking penalty deposits. The policy shall permit clerks and other appropriate officers to accept personal checks under conditions which tend to assure the validity of the checks.

(d) The written policy governing the acceptance of personal checks adopted pursuant to subdivision (c) shall provide that the payee of the deposit made by personal check shall be the agency accepting the deposit.

Amended Stats 1981 ch 775 § 3; Stats 1984 ch 481 § 4; Stats 1986 ch 939 § 18.

Amendments:

1981 Amendment: Amended subd (a) by (1) substituting "a defendant" for "he"; (2) adding the commas after "promised to appear" and after "that date"; (3) adding "time to appear contained on a notice of a parking violation, or prior to the"; and (4) substituting "that" for "such" after "continuance of".

1984 Amendment: Added subd (d).

1986 Amendment: (1) Added all references to parking penalty or parking penalties; (2) amended subd (a) by (a) substituting "filing of a complaint on a notice of delinquent parking violation pursuant to subdivision (a) of Section 40215 or on a process issued after filing with the court under Section 40230" for "a parking violation"; and (b) deleting the comma after "has been filed"; and (3) substituted "a" for "such" after "be a felony," in subd (b).

Payment of fee, fine, or bail deposit by check: CRC Rule 805.

Cal Jur 3d (Rev) Criminal Law §.1679.

§ 40512. Forfeiture of bail

(a) If at the time when the case is called for arraignment before the magistrate the defendant does not appear, either in person or by counsel, the magistrate may declare the bail forfeited and may in his or her discretion order that no further proceedings be had in the case, unless the defendant has been charged with violation of Section 23111 or 23112, or subdivision (a) of Section 23113, and he or she has been previously convicted of the same offense, except in cases where the magistrate finds that undue hardship will be imposed upon the defendant by requiring him or her to appear, the magistrate may declare the bail forfeited and order that no further proceedings shall be had in the case.

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# HAWAII REVISED STATUTES

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1992 SUPPLEMENT

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VOLUME 5

TITLES 16-19, CHAPTERS 281-344

FOR USE WITH THE 1985 REPLACEMENT VOLUME



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PUBLISHED BY AUTHORITY

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**HAWAII  
REVISED STATUTES**

(g) No driver's license shall be renewable by mail for more than two consecutive renewals whether the license expires, under section 286-106, on the fourth birthday after issuance or on the second birthday after issuance; provided that this subsection shall not apply to a resident military person or that person's immediate family if the resident military person resides outside the State on official military orders.

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[am L 1986, c 232, §1; am L 1987, c 313, §1]

Revision Note

Only the subsections amended are compiled in this Supplement.

**§286-108 Examination of applicants.** (a) The examiner of drivers shall examine every applicant for a driver's license, except as otherwise provided in this part. [The examination] shall include a test of the applicant's eyesight and such further physical examination as the examiner of drivers finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways; the applicant's ability to understand highway signs regulating, warning, and directing traffic; the applicant's knowledge of the rules of the road based on the traffic laws of the State and the traffic ordinances of the county where the applicant resides or where the applicant intends to operate a motor vehicle; and actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the state director of transportation. At the time of examination, an application for voter registration by mail shall be made available to every applicant.

(b) The examiner of drivers may waive the actual demonstration of ability to operate a motor vehicle for any person who is at least eighteen years of age and who possesses a valid driver's license issued to the applicant in any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, a province of the Dominion of Canada, or the Commonwealth of the Northern Mariana Islands for the operation of vehicles in categories 1 through 3 of section 286-102.

(c) As part of the examination required by this section the applicant for a driver's license shall produce and display a valid no-fault or liability insurance identification card for the motor vehicle required by section 431:10C-107 and section 431:10G-106, when the applicant demonstrates the ability to operate a motor vehicle to the satisfaction of the examiner of drivers. If no valid no-fault or liability insurance identification card is displayed, the examiner of drivers shall not issue a driver's license to the applicant. [L 1937, c 234, §11; RL 1945, §7312; RL 1955, §160-42; am L 1967, c 214, §9; HRS §286-108; am L 1975, c 194, §3; am L Sp 1977 1st, c 20, §12; am L 1978, c 91, §11; am L 1985, c 26, §1; am L 1986, c 224, §1; am L 1990, c 45, §10; am L 1991, c 60, §1]

**§286-108.5 REPEALED.** L 1989, c 320, §7; L 1990, c 342, §16.

**§286-109 General provision governing the issuance of licenses.** Upon payment of the required fee and upon demonstrating the ability to operate a certain category or categories of motor vehicles to the satisfaction of the examiner of drivers, an applicant for a driver's license shall be issued a single license of a design approved by the director of transportation upon which is made a notation of the category or

categories of motor vehicles the applicant may operate, any restrictive provisions to which the license is subject, and, where the license is issued to a person under twenty-one years of age, a statement, in clearly legible print that shall contrast with the other information appearing on the license, which indicates the date on which the person will attain the age of twenty-one years.

Statutes of limitations and other provisions of this chapter notwithstanding, no driver's license or instruction permit shall be issued or renewed under this section, where the examiner of drivers is notified by the district judge, traffic violations bureaus of the district courts, or the judge of the circuit court that the applicant has failed to respond to a traffic citation or summons for the violation of any traffic laws of a county, this chapter or chapters 286G, 287, 290, 291, or 291C, and the same remains delinquent and outstanding, or the applicant, having timely responded initially, has as of the time of the application, failed to comply in full with all orders of the court. [L 1967, c 214, pt of §2; HRS §286-109; am L 1970, c 164, §3; am L 1975, c 24, §7; am L Sp 1977 1st, c 20, §12; am L 1985, c 107, §1; am L 1990, c 9, §1]

**§286-109.5 Designation of anatomical gift.** The examiner of drivers shall design and implement a system to request anatomical gift information from all applicants for a driver's license or license renewal, at the time of application, including a method of directly imprinting on a license an applicant's designation of whether the applicant wishes to be an organ donor. The request shall elicit whether the applicant wishes to be an organ donor in the event of the applicant's death. [L 1975, c 80, §1; am L Sp 1977 1st, c 20, §12; am imp L 1984, c 90, §1; am L 1990, c 18, §2]

**§286-111 Application for license or instruction permit; fees.** (a) Every application for an instruction permit or for a driver's license shall be made upon a form furnished by the examiner of drivers and shall be verified by the applicant before a person authorized to administer oaths. The examiner of drivers and officers serving under the examiner are hereby authorized to administer such oaths without charge. Each application for an instruction permit for a category (1), (2), (3), or (4) license shall be accompanied by a fee to be determined by the council of each county and each application for a driver's license shall be accompanied by the fee; unless the applicant has already paid the fee upon application for an instruction permit in the same county, in which event no fee shall be chargeable. An additional fee to be determined by the council of each county shall be charged and collected upon the issuance of a driver's license. All the foregoing fees shall become county realizations.

(b) The director of transportation shall establish a fee schedule for all commercial driver's licensing examinations. The fees collected for a commercial driver's license shall become state realizations and deposited in the state highway fund. The State shall reimburse the counties all costs for administering the commercial driver's licensing program. The amount of reimbursement shall be determined by the director of transportation.

(c) Every application shall state the full name, date of birth, sex, occupation, the residence address and business address, if any, of the applicant, and shall briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and in what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal. [L 1937, c 234, §7; am L Sp 1941, c 6, §1; RL 1945, §7308; RL 1955, §160-38; HRS §286-111; am L 1968, c 48, §5; am L 1970, c 164, §3; am imp L 1984, c 90, §1; am L 1990, c 342, §20]

**PART XV. PENALTIES AND PROCEDURE ON ARREST;  
RESPECTIVE POWERS OF STATE AND COUNTIES**

Note

Part heading amended by L 1978, c. 111, §1.

**§291C-161 Penalties.** (a) It is a violation for any person to violate any of the provisions of this chapter except as otherwise specified in subsection (c) of this section and unless the violation is by other law of this State declared to be a felony, misdemeanor, or petty misdemeanor.

(b) Except as provided in subsection (c) of this section, every person who violates any provision of this chapter for which another penalty is not provided, shall for a first conviction thereof be fined not more than \$100; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined not more than \$200; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined not more than \$500 provided that upon a conviction for a violation of section 291C-12, the person shall be sentenced in accordance with section 291C-12.

(c) Every person who violates section 291C-13, 291C-14, 291C-18, 291C-37, 291C-43, 291C-44, 291C-45, 291C-46, 291C-47, 291C-48, 291C-50, 291C-51, 291C-65, 291C-72, 291C-73, 291C-74 or 291C-95 of this chapter shall for a first conviction thereof be fined not more than \$100 or imprisoned not more than ten days; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined not more than \$200 or imprisoned not more than twenty days, or by both fine and imprisonment; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined not more than \$500 or imprisoned not more than six months, or by both fine and imprisonment.

(d) The courts may assess a sum not to exceed \$25 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to the person for any traffic violation. [L 1971, c 150, pt of §1; am L 1976, c 44, §1; am L 1978, c 222, §2; am imp L 1984, c 90, §1]

Cross References

Classification of offense and authorized punishment, see §§701-107, 706-640, 663.

[§291C-162] Provisions uniform throughout State. This chapter shall be applicable and uniform throughout the State and in all political subdivisions therein provided that any matter not covered in this chapter relating to rules of the road may be subject to appropriate county ordinances in any county. [L 1971, c 150, pt of §1]

Attorney General Opinions

Inconsistent provisions of Maui ordinance relating to school buses superseded. Att. Gen. Op. 75-4.

**§291C-163 Powers of counties.** (a) This chapter shall not be deemed to prevent counties with respect to streets and highways under their jurisdiction from:

- (1) Regulating or prohibiting stopping, standing, or parking except as provided in section 291C-111;

# FISCAL NOTE

No. 1

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Bill Version: SB 166

(S, Publish Date: 4-13-94)

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: Driver's License Revocation BRU: Trial Courts  
 Sponsor: Senate Judiciary Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	39.0	39.0	39.0	39.0	39.0	39.0
TRAVEL						
CONTRACTUAL	13.8	13.8	13.8	13.8	13.8	13.8
SUPPLIES	2.1	2.1	2.1	2.1	2.1	2.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	54.9	54.9	54.9	54.9	54.9	54.9

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	54.9	54.9	54.9	54.9	54.9	54.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	54.9	54.9	54.9	54.9	54.9	54.9

POSITIONS

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

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)  
See attached analysis.

Changes in CSB 166 TPA reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.  
4-13-94 date Rick E. Jones Comte Aide (initials)

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228  
 Agency: Alaska Court System Date: 04/04/94

Approved by: Arthur H. Snowden, II, Administrative Director Date: 04/04/94  
 Agency: Alaska Court System

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Alaska Court System  
Fiscal Analysis  
SB 166

This bill will require preparation, mailing and tracking of 3 new forms for certain traffic offenses. The notices will be mailed to persons who fail to pay fines in traffic-related offenses and to persons who fail to appear at the court for moving violations. The three new forms are (1) a notice of pending license revocation, (2) a notice of license revocation and (3) a notice of termination of license revocation. During FY 93, the court system processed over 68,500 traffic offenses, of which nearly 39,000 involved moving violations. For purposes of this fiscal note, we have used the following assumptions:

<u>Estimated Number of Warrants Issued for Failure to Satisfy (25% of all traffic citations)</u>		<u>17,100</u>
100% of warrant recipients will receive Notice of Pending Revocation	17,100	
60% of warrant recipients will receive Notice of Revocation	10,300	
50% of warrant recipients will receive Notice of Termination of Revocation	8,600	
 <u>Estimated Number of Warrants Issued for Failure to Appear (20% of moving violation citations)</u>		 <u>7,800</u>
100% of warrant recipients will receive Notice of Pending Revocation	7,800	
40% of warrant recipients will receive Notice of Revocation	3,100	
10% of warrant recipients will receive Notice of Termination of Revocation	800	
 Total number of notices processed by the courts		 <u>47,700</u>

It is assumed that each notice will require 3 minutes of clerical time for preparation, mailing and tracking. Statewide clerical staffing needs are estimated at 1.2 new clerks.

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk I, range 8A, Anchorage, PFT, 12 months	\$21,336	\$10,715	\$32,051
Court Clerk I, range 8A, Fairbanks, PPT, 2.4 months	4,802	2,114	<u>6,916</u>
Total Personal Services			38,967

Contractual

Postage - mail 47,700 notices at 29¢ each	13,833
---	--------

Supplies

Cost of paper and envelopes for printing and mailing notices	<u>2,069</u>
Total Cost	<u>\$54,869</u>

STATE COMMITTEE REPORT

*Just*

DATE: 4/13/94

FURTHER: Finance

DATE TURNED INTO OFFICE: 4/19/94

Judiciary Committee considered SENATE BILL NO. 166

"An Act relating to the revocation of

SB 166 DRIVER'S LICENSE REVOCATION

instatement, and ine."

~~As adopted~~  
 and a majority of the committee recommends do pass

and recommends:

- replace with \_\_\_\_\_ CS SB 166 ( )
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )
- attaches amendment(s) + dp

- 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

*FMS*

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
<i>Court System</i>			<input checked="" type="checkbox"/>
<i>DP S</i>			<input checked="" type="checkbox"/>

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

*[Signature]*  
*[Signature]*

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*[Signature]*  
 Chair: Signature and Recommendation

**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERRAL

*John*

DATE: 3/16/93

FURTHER: JUDICIARY  
FINANCE

Date of 5-Day Notice: 3/31/94  
(in accordance with Uniform Rule 23)

DATE TURNED  
INTO OFFICE: 4-13-94

TRANSPORTATION Committee considered SB 166

"An Act relating to registration of a motor vehicle, and issuance, renewal, reinstatement, and revocation of a driver's license for failure to appear in court or failure to pay a fine."

and recommends: and a majority of the committee recommends it be replaced with

replace with \_\_\_\_\_ CS SB 166 (TRA)

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

attaches amendment(s) and do pass

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

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

do pass

do not pass

no recommendation

individual recommendations

*EM*

SB  
CS

**FISCAL NOTE INFORMATION**

Department	Date	Zero	Fiscal
AK COURT - SYS.	4/4/94		54.9

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

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

DO PASS:

*Tom Kell*  
*Robert G. ...*  
*[Signature]*

OTHER RECOMMENDATIONS:

*[Signature]* NR

*[Signature]* - Do Pass  
Chair, Signature and Recommendation

**SB**

**171**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: April 16, 1993

FURTHER REFERRALS:

Date of Committee Action: 4/22/93

The FINANCE Committee considered:

CSSB 171(FIN)

CS FOR SENATE BILL NO. 171(FIN)

AIDEA BONDS; BUSINESS ASSISTANCE PROG.

"An Act relating to the contracting and financing authority of the Alaska Industrial Development and Export Authority; authorizing the authority to issue bonds in a principal amount not to exceed \$40,000,000 to finance the acquisition, design, and construction of public use aircraft fueling facilities, to issue bonds in a principal

\* title continued on page 2 \*

RECOMMENDATIONS:

[ ] the same title

be replaced with \_\_\_\_\_ [ ] a new title

[ ] have attached amendments(s)

[ ] do pass

[ ] do not pass

no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

zero fiscal note(s) DCED 3/24/93

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eileen P. Macken</i>	<i>macken</i>				
<i>Donald J. Lardon</i>	<i>Lardon</i>	<i>Mark Hanley</i>		<input checked="" type="checkbox"/>	
<i>Terry Martin</i>	<i>Martin</i>	<i>San Paul Parnell</i>		<input checked="" type="checkbox"/>	
		<i>James Grossendorf</i>		<input checked="" type="checkbox"/>	
		<i>Paul Brown</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
		<i>Mike Navarre</i>			<input checked="" type="checkbox"/>
		<i>Tom Theriault</i>		<input checked="" type="checkbox"/>	

*Paul J. Lardon*  
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SB 171

Revision Date: \_\_\_\_\_  
Title: An Act relating to the contracting and financing authority of AIDEA and extending a program.  
Sponsor: Senator Pearce  
Requestor: Senator Pearce

Department Affected: Commerce and Economic Development  
BRU: AIDEA  
Component: AIDEA  
COMPONENT SERIAL NO. \_\_\_\_\_

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

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
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY 93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Bonds of AIDEA will be sold to finance the Anchorage public-use aircraft fueling facilities and will have no fiscal impact on the General Fund. The Business Assistance program is a guarantee program on bank originated loans and with careful oversight should have no fiscal impact on AIDEA.

Prepared by: William R. Snell, Executive Director  
Division: AIDEA

Phone: 561-8050  
Date: March 22, 1993

Approved by Commissioner: Paul Fuhs  
Agency: Commerce and Economic Development

*Paul Fuhs*  
Date: March 22, 1993

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**Senator Drue Pearce**  
District F

## Sponsor Statement for Senate Bill 171

### AIDEA Bonds

If enacted, SB-171 would achieve four things. Section one of the bill gives legislative approval to the Alaska Industrial Development and Export Authority to authorize the issuance of revenue bonds, up to \$40 million, to finance the acquisition, design, and construction of public use aircraft fueling facilities located at Anchorage International Airport.

Section two of the bill gives legislative approval to AIDEA to authorize the issuance of bonds, up to \$50 million, to finance the acquisition, design, and construction of a port facility located at Point MacKenzie to further the development and operation of a direct iron ore processing facility.

Section three of the bill gives legislative approval to AIDEA to authorize the issuance of bonds, up to \$50 million, to finance the acquisition, design, and construction of a seafood processing, storage, and loading project located in Anchorage.

Section four of the bill extends the sunset date of AIDEA's Business Assistance Fund to July 1, 1996 from the current sunset date of July 1, 1993.

**SB 171: "An Act relating to the contracting and financing authority of the Alaska Industrial Development and Export Authority, giving approval of the issuance of the authority's revenue bonds, and delaying the termination date of the authority's business assistance program; and providing for an effective date.**

The bill as proposed provides authority for the Alaska Industrial Development and Export Authority (AIDEA) to issue up to \$40,000,000 in bonds to finance the acquisition, design, and construction of public use aircraft fueling facilities at the Anchorage International Airport. The bill also provides a procurement exemption under AS 36.30 as allowed under AS 36.30.850(b)(8). This would authorize AIDEA to work through the Anchorage Fueling and Service Company (ASFC), the owner of the existing fueling facilities, to obtain information and services to develop a finance plan, and to manage the design and construction of the project. Design and construction contracting will be performed on a competitive basis.

The purpose of the project is to construct a new jet fuel storage tank farm and distribution system to accommodate future projected airline growth. The existing facilities are old, potentially unreliable and out-of-date as to environmental safety. In addition, the site of ASFC's existing system is required for airport expansion which includes roadway/traffic improvements.

The bill also extends the sunset date of the Authority's business assistance program until July 1, 1996. The program provides an 80 percent guarantee on bank originated loans up to \$1 million. The business assistance program is a helpful financial "tool" to assist in the development and expansion of small businesses throughout Alaska. In addition, the business assistance program is key to facilitating the newly created Rural Development Initiative Fund (RDIF) which is operated jointly through the Department of Community and Regional Affairs and AIDEA. The RDIF was designed to assist rural Alaskan entrepreneurs who may not currently be served by commercial financial institutions.

AIDEA fully supports SB 171.

  
Paul Fuhs, Commissioner

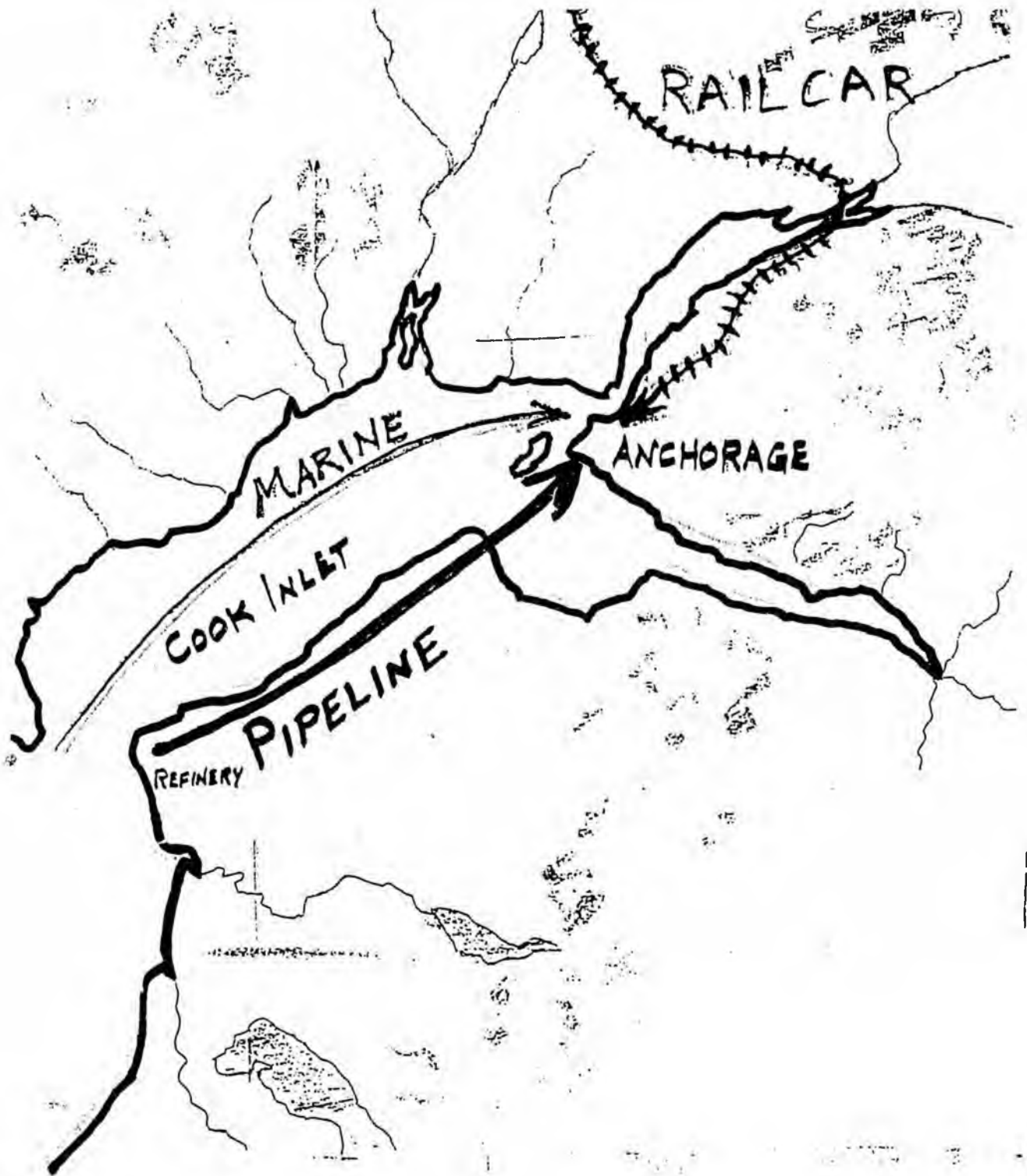
3-22-93  
Date

ALASKA INDUSTRIAL DEVELOPMENT  
AND EXPORT AUTHORITY

---

480 WEST TUDOR • ANCHORAGE, ALASKA 99503-6690 • (907) 561-8050 • FAX (907) 561-8998

**PROJECT FACT SHEET: Anchorage Fueling and Service Company  
Tank Farm and Distribution Facilities****DATE:** November 25, 1992**STATUS:** The Legislature failed to act on bonding authority for this project in 1992. AIDEA may seek bonding approval in 1993.**PROJECT BUDGET:** \$40 million**SOURCE OF FUNDS:** Revenue bonds sold by AIDEA.**PURPOSE:** To construct a new jet fuel storage tank farm and distribution system in order to accommodate future airline growth. The site of the existing system is needed for airport expansion. Existing facilities are also old and potentially unreliable or environmentally unsafe.**PARTICIPANTS:** AIDEA may finance the relocation and construction of the new tank farm and distribution system at Anchorage International Airport.**BACKGROUND:** The existing tank farm and distribution facilities must be removed due to planned airport expansion and roadway/traffic improvements at the airport. The existing facilities also cannot accommodate future airline growth and old pipelines should be replaced to guarantee an uninterrupted supply of jet fuel to the airport and to eliminate the possibility of an environmental problem. The new facilities would be modern, efficient, safe, and environmentally sound.**ECONOMIC EFFECTS:** The new facilities would support increased activity at Anchorage International Airport and ensure a stable work environment for more than 100 employees.**SOCIAL EFFECTS:** The project would ensure continued fuel service to the airport, while also ensuring operations that are safe to the environment and to workers.**SCOPE OF PROJECT:** The new tank farm would consist of three 100,000-barrel tanks, pumps, filters, operations building, and an on-ramp truck loading island. New piping would be laid to tie into the Nikiski pipeline, replace the Port of Anchorage pipeline, and reroute the hydrant fueling system piping. The project would also include demolition of existing facilities and any necessary environmental remediation.

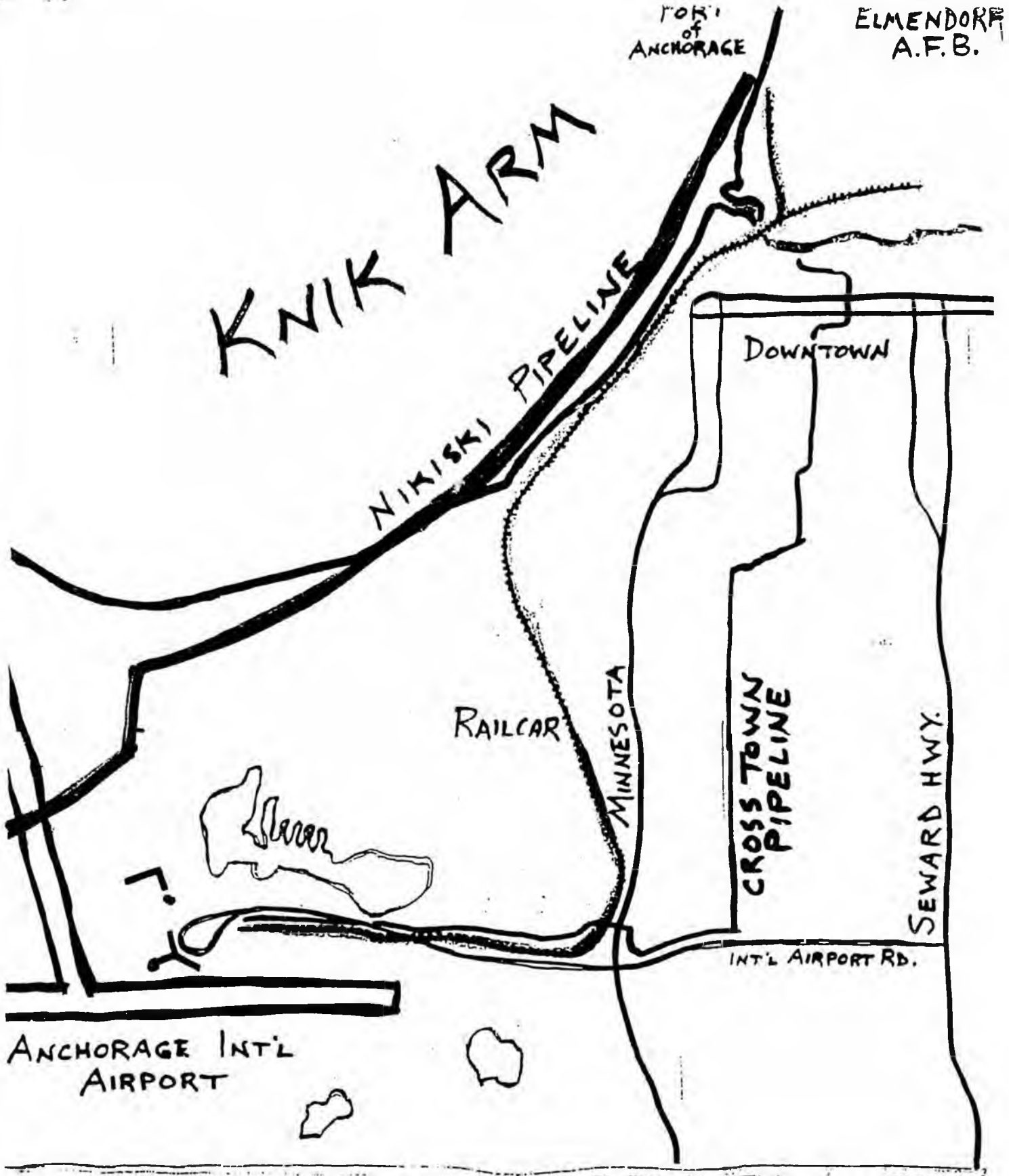


FUEL FLOW

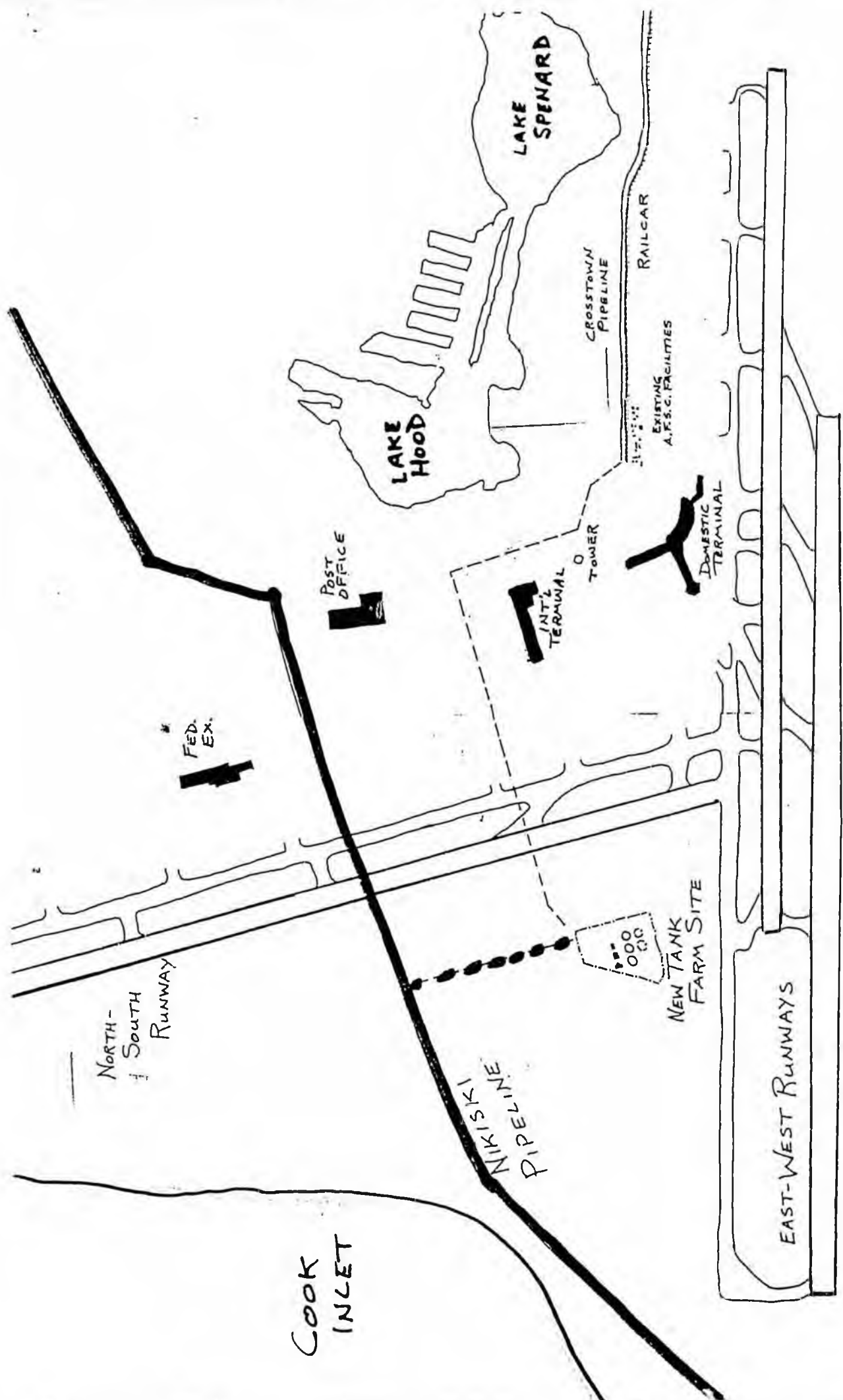
to

ANCHORAGE

ORIENTATION



# FUEL FLOW IN ANCHORAGE



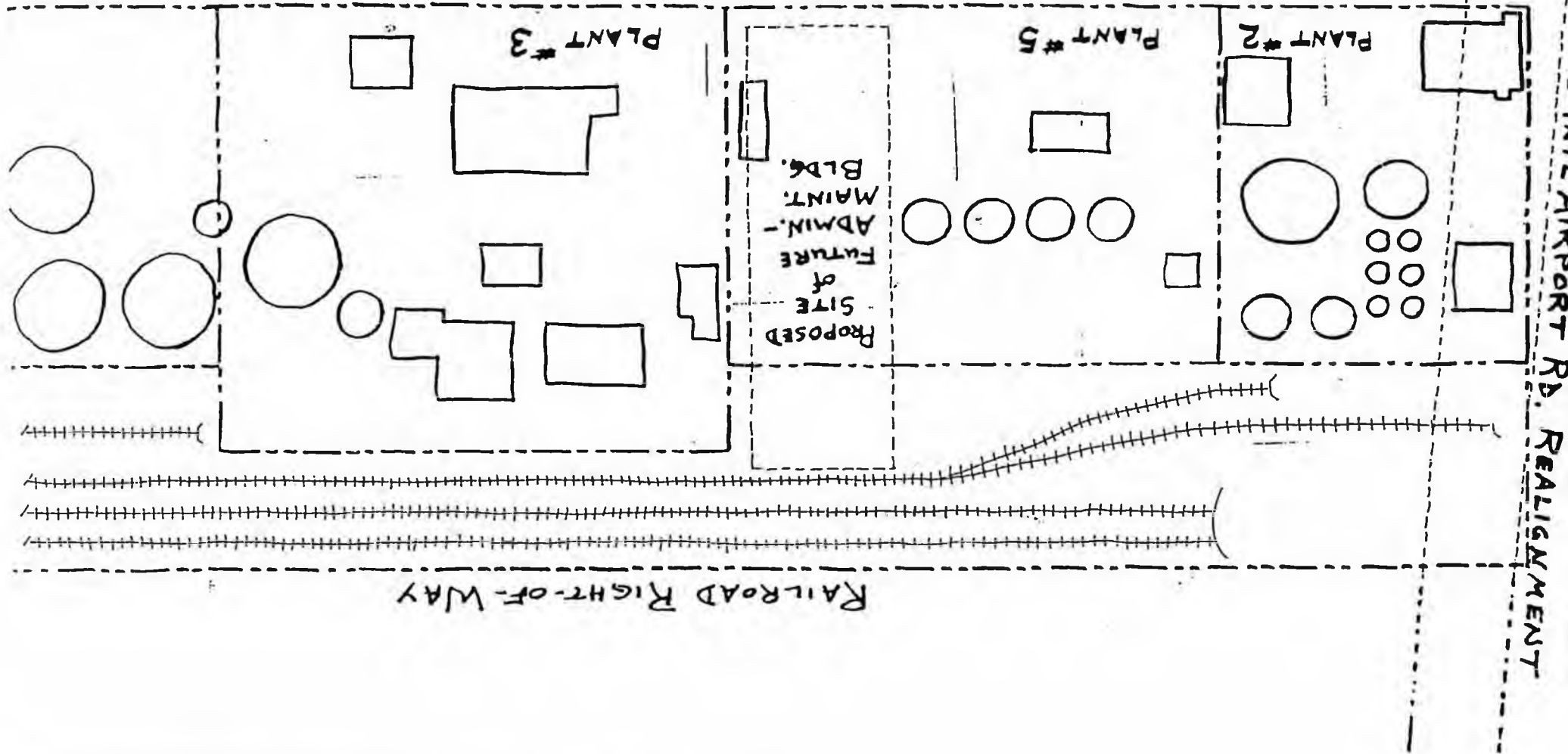
# FUEL FLOW AT ANCHORAGE AIRPORT

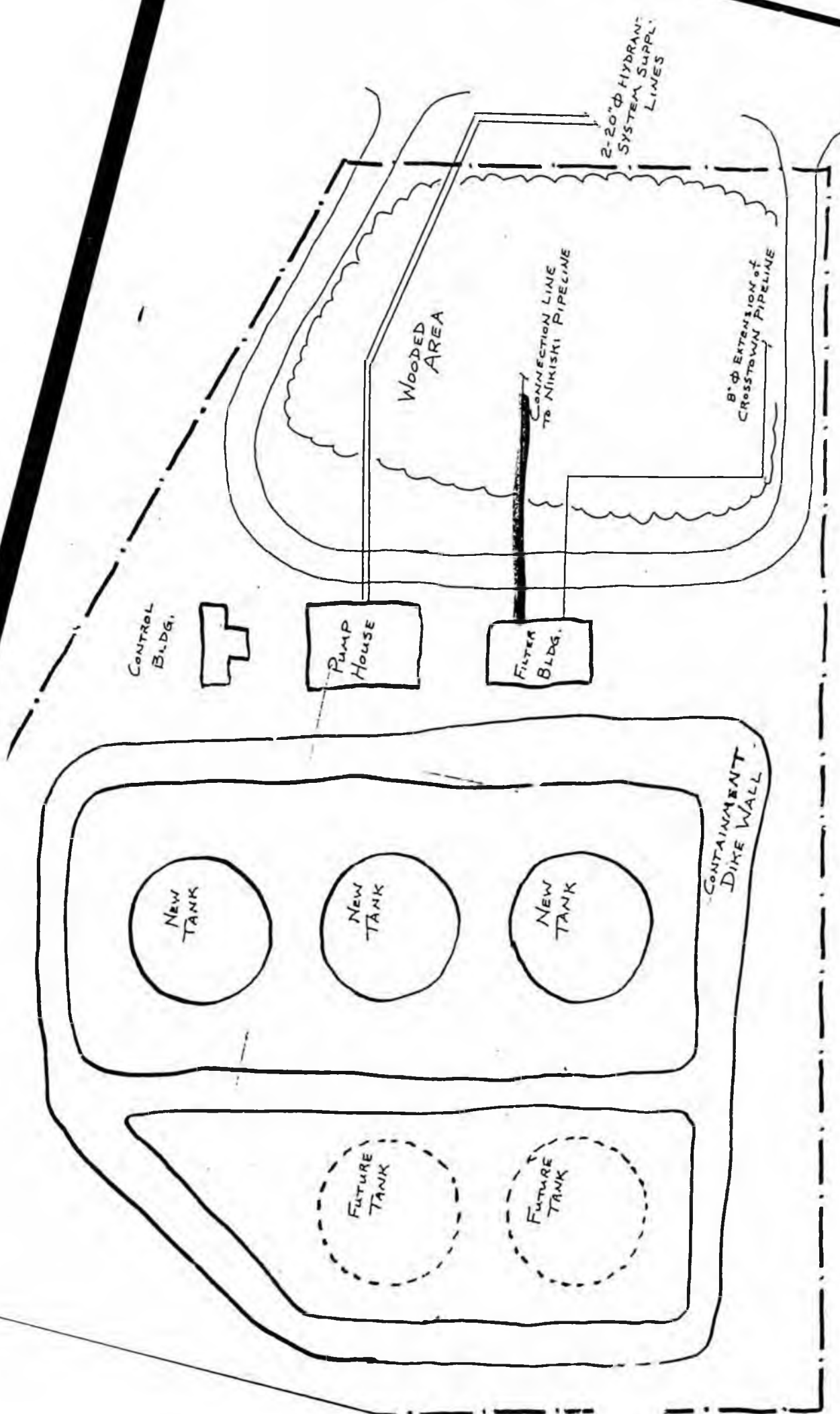
ORIENTATION  
MAP # 3

# AFSC AIRPORT FACILITIES

ORIENTATION  
MAP #4

OLD INT'L AIRPORT RD.





# PROPOSED NEW TANK FARM

ORIENTATION MAP #5

## AFSC PROJECT BUDGET/SCHEDULE

	<u>BUDGET</u>	<u>SCHEDULE</u>
* NEW TANKS, PUMPING FACILITIES, PIPELINES	\$20 MILLION	1993-95
* PLANT NO. 5 DEMOBILIZATION	\$ 1 MILLION	1994-95
* NEW OPERATIONAL BASE AND GARAGE	\$ 5 MILLION	1995-97
* PLANTS NOS. 2 & 3 DEMOBILIZATION	<u>\$ 4 MILLION</u>	1996-97
<b>SUBTOTAL.</b>	<b>\$30 MILLION</b>	
* BOND SALE COSTS, RESERVES, CAPITALIZED INTEREST	<u>\$10 MILLION</u>	
<b>TOTAL</b>	<b>\$40 MILLION</b>	

## AIDEA DUE DILIGENCE (AS 44.88)

### FINDINGS TO INCLUDE:

1. PROJECT IS ECONOMICALLY ADVANTAGEOUS TO THE STATE AND PUBLIC WELFARE.
2. AFSC IS FINANCIALLY RESPONSIBLE  
\* AIRLINE CREDIT ANALYSIS - BY PUBLIC FINANCE MANAGEMENT
3. PROJECT IS FINANCIALLY FEASIBLE  
\* FEASIBILITY ANALYSIS BY KPMG-PEAT MARWICK
4. EMPLOYMENT CREATION/RETENTION
5. COMPLIANCE WITH LAW
6. BONDS WILL NOT ADVERSELY AFFECT OTHER CREDIT INSTRUMENTS OF THE STATE
7. OTHER REQUIREMENTS OF AS 44.88

## KEY PROJECT BENEFITS

- \* ANCHORAGE INTERNATIONAL AIRPORT FUEL STORAGE RELOCATED - NEW, MODERN, ENVIRONMENTALLY IMPROVED SYSTEM
- \* AIRPORT FUEL STORAGE INCREASED FROM 2 MIL. GALLONS TO 12 MIL. GALLONS.
- \* SYSTEM SIZED FOR GROWTH - ASSISTS AIRPORT MARKETING
- \* CONSTRUCTION EMPLOYMENT - MULTIPLE YEAR CONSTRUCTION
- \* STABILIZED OPERATION EMPLOYMENT
- \* AIRPORT AUTO TRAFFIC FLOW IMP.

**MAPCO ALASKA PETROLEUM INC.**

March 22, 1993

Mr. William R. Snell  
Executive Director  
AIDEA  
400 West Tudor  
Anchorage, AK 99503

Dear Mr. Snell:

I am writing this letter to express MAPCO ALASKA PETROLEUM Inc.'s (MAPCO) support for the newly proposed aircraft fueling facilities at the Anchorage International Airport. It is MAPCO's understanding that the facilities will be financed by the Alaska Industrial Development and Export Authority (AIDEA) and operated by the Anchorage Fueling and Service Company, the operator of the facilities which are in existence today.

MAPCO feels this fueling project will be a valuable addition and is needed to modernize the fueling system at the Anchorage International Airport. The planned modification will address the increased fueling requirements of cargo operators.

MAPCO supports this project in part as we feel it will allow substantially improved operational methods of delivery for our product. A pipeline from the Port of Anchorage, rather than the current daily railcar deliveries, will enhance our productivity and ability to deliver jet fuel to our customers.

MAPCO is encouraged by the State's support of economic development within Alaska and encourage economic development. The new fueling facilities at the Anchorage International Airport not only should provide a stable and safe work environment for those employees who directly or indirectly serve the airport, but also provides improved infrastructure necessary to promote Alaska as an international air crossroad and destination.

I hope this addresses your concern and should you have any additional questions please feel free to let me know.

Sincerely,

Bonnie J. Garner  
Aviation Fuel Sales Manager

/bg

C:\WP\DATA\AIDEA

Thomas L. Schaefer, P. E.  
Director, Fuel Services



Northwest Airlines, Inc.  
Department A4195  
5101 Northwest Drive  
St. Paul, MN 55111-3034

612 727-4612  
612 726-4851 Fax

**NORTHWEST AIRLINES**

April 2, 1993

Mr. William R. Snell  
Executive Director  
Alaska Industrial Development and Export Authority  
480 West Tudor  
Anchorage, AK 99503

Dear Mr. Snell:

This letter is to express our support for your assistance in obtaining state funding for a proposed new fuel facility at the Anchorage International Airport.

Northwest Airlines has an extensive base of operations in Anchorage: in 1992, our payroll to Alaska employees was approximately \$2,432,000, and our property and fuel taxes were \$673,500. We delivered 92,000 thousand passengers and originated/terminated 12.6 million pounds of cargo. (We average five 747's per day stopping in Anchorage, each dedicated solely to cargo.) Our concession fees at the Anchorage airport exceed \$950,000 per year.

Perhaps most importantly for purposes of this discussion, we purchased approximately \$32,000,000 in jet fuel from Alaska refiners and fuel vendors.

Controlling costs for these operations is crucial to our continued levels of service in Alaska. The expenses for handling the fuel at the Anchorage airport are of critical concern to us, as we have clearly identified a major modernization project that *must* be undertaken.

We strongly appreciate your continued assistance in developing the legislative support to obtain financing for this project.

Sincerely,

A handwritten signature in cursive script that reads "Thomas L. Schaefer".

Thomas L. Schaefer

cc: Fred Ketzbeck, Chairman of the Board, Anchorage Fueling and Service Company  
Executive Committee, Anchorage Fueling and Service Company  
Tom Mushovic, General Manager, Signature Flight Support



April 2, 1993

Mr. Riley Snell  
Executive Director  
Alaska Industrial Development  
and Export Authority  
480 West Tudor  
Anchorage, AK 99503

Dear Mr. Snell:

I appreciate the time you have taken to meet with members of Anchorage Fueling and Service Company to discuss the problems associated with the required relocation of the tank farm at Anchorage International Airport. While the preferred airline alternative would be to maintain the status quo, such an alternative appears to be closed.

As you are aware, fuel constitutes one of the most significant expenses an airline incurs and without a highly efficient system, not only will the cost for the airlines increase but the competitiveness of Anchorage International will also suffer. While significantly greater volumes of fuel are uplifted by the international carriers any interruption or increased costs will likewise impact the local carriers. As of late the domestic carriers have been incapable of passing on higher costs, much less their ongoing operating costs, to the traveling public, absorbing them instead as losses. Any increase in costs will merely compound this already dismal situation.

Any assistance the Authority can provide for this required relocation of the tank farm will be very much appreciated.

Sincerely,

Bertram L. Wagnon  
Director, Project Financing

CONSOLIDATED FREIGHTWAYS, INC.



April 1, 1993  
Fax 907-248-3360  
Attn: Tom Mushovic

Via Fax

Mr. William R. Snell  
Executive Director  
Alaska Industrial Development and Export Authority  
c/o AFSC

Dear Mr. Snell:

We at Emery Worldwide are vitally interested in the upgrading of the Anchorage International Airport Jet Fuel Storage and Delivery System. Anchorage is the preferred "tech stop" on our flights to/from the North Pacific area and an efficient aircraft fueling system is a critical component.

We're also very pleased that AIDEA is supporting our efforts for Alaska state funding of this upgrading project.

Thank you for your support.

Sincerely,

A handwritten signature in cursive script that reads "Thomas A. Mayer".

Thomas A. Mayer  
Manager  
Aviation Fuel Purchasing

TAM/bon  
107.127

cc: Fred Ketzeback - Alaska Airlines - SEA

The Alaska Airlines logo is written in a stylized, cursive script. It is positioned above a thick, solid black horizontal line that spans the width of the page.

ROBERT J. JIRSA  
VICE PRESIDENT,  
PUBLIC AFFAIRS

March 31, 1993

The Honorable Drue Pearse  
Co-chair Senate Finance Committee  
State Capitol Building  
Juneau, Alaska 99801

Dear Senator Pearse:

Alaska Airlines fully supports SB 171 authorizing the Alaska Industrial Development and Export Authority to issue up to \$40 million in bonds to design and construct a new jet fuel storage facility at Anchorage International Airport.

These facilities are necessary to ensure an adequate supply of jet fuel to support domestic and international air traffic at Anchorage International Airport. They would also provide a reliable and environmentally sound fuel storage and distribution system for many decades.

A reliable jet fuel supply/distribution system is required at any major airport as it is the lifeline for any airline operation. An inadequate jet fuel system constricts an airport and any potential for growth for the surrounding communities it supports. Anchorage International Airport is the major international airport in the State of Alaska as well as the primary hub for flights between the lower 48 and outlying Alaska communities for domestic airlines. Anchorage International Airport's continued success benefits the State of Alaska as a whole by attracting passenger and cargo air carriers generating visitors and jobs.

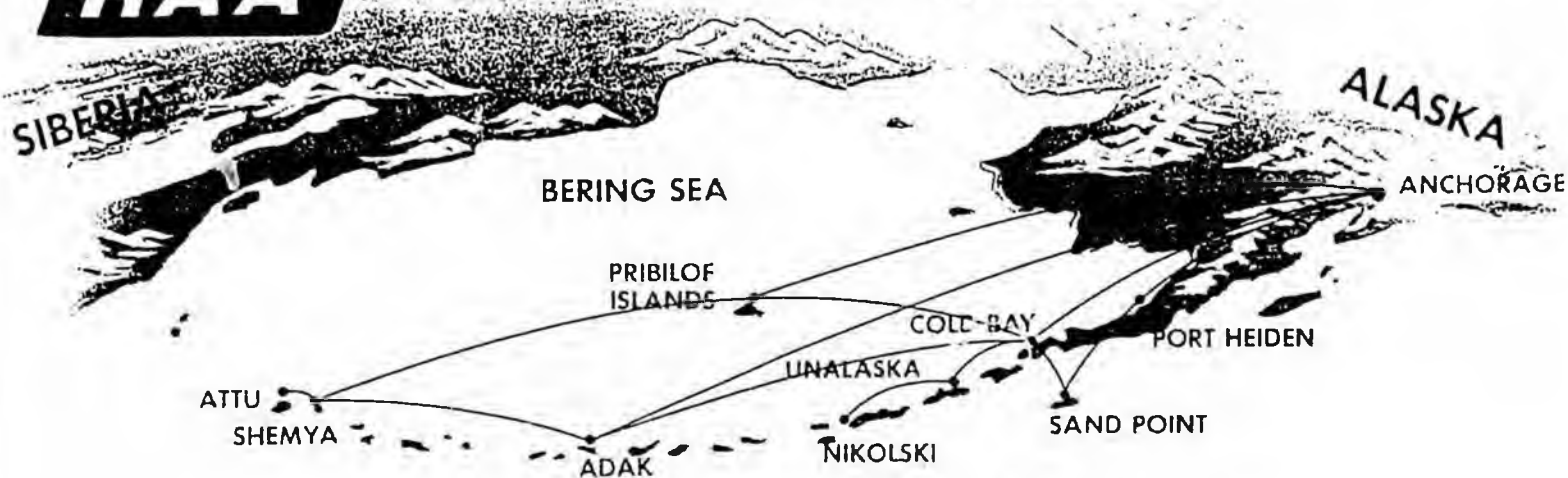
Sincerely,

A handwritten signature in dark ink, appearing to read "Bob Jirsa". Below the signature is the printed name "Robert J. Jirsa".

Robert J. Jirsa



# REEVE ALEUTIAN AIRWAYS, INC.



April 2, 1993

AIDEA  
 Mr. William R. Snell  
 Executive Director

AFSC Request for  
 Funding through AIDEA

AFSC and the Anchorage Airport in turn is in need of funding through your facility so as not to delay this tank farm expansion to proceed as soon as possible. At present the airport fuel is supplied by a small fuel line from Anchorage dock, which has been in service for many years, and by railroad tank cars. Should something happen to this fuel line under present useage the airport would be in a bad way for fuel.

With the new proposed tank farm it will be able to tie into the much larger newer pipeline from Nikiski to the Anchorage dock. This will cut down the delivery time of fuel to the airport and eliminate the troublesome use of railroad tank cars that are necessary now.

As a long time operator at Anchorage International Reeve Aleutian Airways, Inc. wholeheartedly support this request of AFSC and hope you will look favorably to a very necessary worthwhile project.

Respectfully,  
 REEVE ALEUTIAN AIRWAYS, INC.

Robert L. Hanson  
 Sr. Vice President of 45 years



United Parcel Service 400 Perimeter Center - Terraces North  
Atlanta, GA 30346  
(404) 913-6000

April 1, 1993

Mr. William R. Snell  
c/o Tom Mushovic  
Signature Aviation  
Anchorage Alaska

Dear Mr. Snell

United Parcel Service has seen its Anchorage Airport operation grow significantly over the years with our most recent expansion being a new facility at the North Air Park. Our jet fuel consumption likewise has increased significantly to match the increase in flight activity.

We are very supportive of the effort of the Anchorage Fueling and Service Company to construct new jet fuel storage facilities at the airport. We of course would like to fund the construction of these facilities with the most attractive financing available in the market.

We would appreciate your efforts in making this project a reality.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff H. Ridings". The signature is written in a cursive, flowing style.

Jeff H. Ridings  
Materials Management  
Energy Purchasing



日本航空株式会社

〒105 東京都港区浜松町1-18-18  
住友浜松町ビル

Apr. 01, 1993

Mr. William R. "Riley" Snell  
Executive Director  
Alaska Industrial Development  
and Export Authority

Subject: Request for your strong support to pass the legislation for the funding of the Anchorage Fueling and Service Company facilities at Anchorage International Airport.

Dear Mr. W. R. Snell;

Regarding the captioned subject, I understand that the meeting among the representatives of the Alaska State Senate, the Alaska Industrial Development and Export Authority and us, AFSC is to be held at 13:00 through 17:00 on April 03 at Juneau, whose purpose is that the Senate Finance committee could find how important this project is for not only AFSC but also for the State of Alaska and the Anchorage International Airport to promote their greater prosperity in the future.

As one of the airlines whose uplift-volume of jet fuel at Anchorage is always at top three's, we, Japan Airlines Co., Ltd. would like you to fully understand that without this funding by the state it is quite difficult to go further towards the goal, which is to meet the integration plan of the airport and the environmental requirement in the state.

To take a look at JAL's operational plan to and from Anchorage, it is anticipated that in the five years' range to come, the total number of flights there will not change so dramatically, in other words, total uplift-volume required there will be always among top 3's.

In a short this project with the funding by the state is essential for JAL so that the airport of Anchorage is to be always kept in a good order and shape, by which the jet fuel can be supplied to us securely.



日本航空株式会社

〒105 東京都港区浜松町1-18-16  
住友浜松町ビル

Mr. William R. "Riley" Snell  
Executive Director, AIDEA

Apr. 01, 1993

Page-2

Thus the success of this project with the funding by the State shall be essential for not only the Anchorage Fueling and Service Company as a whole but also for us, Japan Airlines as an individual.

In this connection we shall be very much obliged if you could give us your full support for obtaining the approval of the funding by the state in the next Legislative to be held in this May.

Appreciating once again your usual cooperation to us, we remain,

Sincerely Yours,

A handwritten signature in cursive script, appearing to read 'S. Kobayashi'.

Shigeru Kobayashi  
Senior Director, Fuel Department  
Japan Airlines Co., Ltd.  
Tokyo, Japan

/Sk

QD ANCBNXH  
.SINPASQ 020813  
ANCBNXH

PA APR02/93-182  
TOM MUSHOVIC/NG CHEE KIEN  
RYT 31141. WE ARE UNABLE TO ATTEND THE 3 APR MTG. HOWEVER  
WE CONFIRM SUPPORT OF THE PROJECT FUNDING THRU AIDEA.  
BRGDS

;  
0920920 AMBNH 001

**TESORO ALASKA**

April 2, 1993

Mr. Riley Snell  
Director  
Alaska Industrial Development Authority  
480 W. Tudor Road  
Anchorage, Alaska 99503

Subject: Tesoro Alaska Support of S.B. 171

Dear Mr. Snell:

As per our recent discussion, Tesoro Alaska supports the successful passage of Senate Bill 171 which will facilitate financing of needed aircraft fueling facilities at the Anchorage International Airport. These improvements are needed and will enable Alaska's support facilities to keep pace with the current and future needs of the air cargo and passenger services. The result provides benefits to all Alaskans.

We will attempt to follow the progress of this legislation and will be available to assist your efforts as appropriate. I will not be able to be in Juneau next week for your planned hearing; however on behalf of Tesoro Alaska please feel free to communicate our support.

If we may be of any future assistance in this, or any other matter, please do not hesitate to contact me.

Sincerely,



Gene Burden  
Senior Vice President

cc: Senator Drue Pearce  
Senator Loren Leman  
Senator Johnny Ellis  
Senator Dave Donley



ALASKA INDUSTRIAL DEVELOPMENT  
AND EXPORT AUTHORITY

480 WEST TUDOR • ANCHORAGE, ALASKA 99503-6690 • (907) 661-8060 • FAX (907) 561-8996

**PROJECT FACT SHEET:**

**Matanuska-Susitna Borough dock and associated infrastructure to service the MIDREX direct reduction iron processing plant**

**DATE:** March 31, 1993

**STATUS:** Legislation is currently pending in the Alaska State Legislature to provide bonding authority for this project.

**PROJECT BUDGET:** \$30 million in bonding authority is sought for dock facility.

**SOURCE OF FUNDS:** Bonds sold by AIDEA to be repaid by user/handling fees.

**PURPOSE:** To provide tax-exempt financing for a public-use dock and associated infrastructure to service and support a MIDREX Direct Reduction Corporation (MIDREX) direct reduction iron processing plant at Point Mackenzie in the Matanuska-Susitna Borough.

**PARTICIPANTS:** AIDEA will finance the acquisition, design, and construction of a public use port facility; MIDREX Corporation (a subsidiary of Kobe Steel, Ltd of Japan) will provide technology and assist in finding investors and a plant operator for the \$200 million direct reduction iron processing plant. The land is currently owned by the Matanuska-Susitna Borough.

**BACKGROUND:** The Matanuska-Susitna Borough has been working with MIDREX to encourage the corporation to locate in Alaska to produce a product through the reduction of iron ore which is used in the manufacture of steel products. Processing requires a long-term source of natural gas, found abundantly in Alaska. Ore would be imported from South American or Australia, reduced, and the processed product would be exported to the Pacific Rim. MIDREX, which has process license agreements with owners of 42 plants world-wide, would be the project manager and insure that the plant is properly engineered and operated. Direct reduced iron ore - a more pure form of iron - has seen increased demand as a supplement to scrap processing as processors have shifted away from large plant technology to new-technology electric arc furnaces used in smaller mills which specialize in steel products for niche markets.

**ECONOMIC EFFECTS:** The MIDREX plant will provide 100-120 jobs in the Mat-Su area - a region historically known for high unemployment rates.

**SOCIAL EFFECTS:** The facility will strengthen the Southcentral economy by providing additional value-added processing of steel products.

**SCOPE OF PROJECT:** MIDREX began exploring the possibility to locate a plant in Alaska in early 1992. A final decision on the feasibility of the project is expected in April, 1993. If found to be feasible, construction may begin during the summer construction season of 1993. The plant will have the ability to manufacture approximately one million tons of reduced ore annually and will cover an area larger than a football field.



## MATANUSKA-SUSITNA BOROUGH

350 East Dahlia Avenue, Palmer, Alaska 99645-6488  
BOROUGH MAYOR'S OFFICE • Phone 745-9882

April 5, 1993

Senator Drue Pearce  
Alaska State Senate Finance Committee  
Alaska State Legislature  
Juneau, AK 99811

### AIDEA REVENUE BONDS FOR PORT MACKENZIE

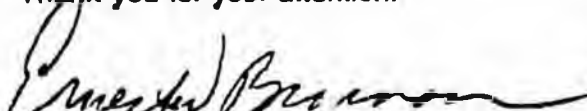
It has come to my attention today that the Senate Finance Committee has delayed their decision on AIDEA bonding for Port MacKenzie for reasons not clear to me. If you have some problems with this, maybe I can give you some reasons to support this proposal.

1. These are revenue bonds that must be paid back to AIDEA with revenues generated by the project.
2. The port project is resource driven - not a build and they will come. A MIDREX representative is there to show you their interest in this project.
3. The MIDREX project is environmentally benign.
4. This MIDREX project would probably stimulate Idemitsu-Kosan to open up the Wishbone Coal Mine.
5. The port would stimulate the forest industry along the railbelt corridor.
6. The projects combined would generate at least 300 good paying jobs.

7. The Matanuska-Susitna Borough has spent well over a million dollars pursuing this project in studies and road construction to the port site. (Borough Manager Don Moore will speak directly to this item at your hearing.)
8. The Matanuska-Susitna Borough has five thousand (5,000) acres of land that can be committed to this project.
9. This is one of the few projects in the state that is private industry driven.
10. The Matanuska-Susitna Borough desperately needs the economic base. As you may or may not know, this borough's only tax base is derived from real and personal property taxes. And, the problem with that is there is only 3 percent of the land in private ownership. The state of Alaska owns 59 percent and the Federal Government owns 30 percent. The Mat-Su Borough owns approximately 2 percent and 3 percent is owned by Alaska Native Corporations.
11. The last figures (1991) I had on unemployment benefits and public welfare receipts distributed in the Mat-Su Borough was approximately \$12 million or 11 percent of the state's total.
12. The MIDREX project will stimulate economic development and transportation expansion throughout the railbelt area.

Give us, for once, the opportunity to address our problems and needs.

Thank you for your attention.

  
ERNEST W. BRANNON, MAYOR



# Matanuska-Susitna Borough

350 EAST DAHLIA AVE, PALMER, ALASKA 99645-6488 • PHONE 745-9682

BOROUGH MAYOR

April 5, 1993

Honorable Steve Frank and Drue Pearce, Co-Chairs  
Senate Finance Committee  
State Capitol Building, Room 518  
Juneau, Alaska 99801-1182

Dear Senators Frank and Pearce:

Attached are the schedules of expenditures by the Matanuska-Susitna Borough for the development of the industrial property at Pt. MacKenzie since 1987. As this information shows, the Borough has invested over \$2 million to make this site suitable for major private industries, such as MIDREX, to locate and operate in the state of Alaska.

The expected return on this investment will be in the form of more jobs for Alaskans, lease payments, property sales, an expanded tax base, and other positive economic benefits for the state and local economies.

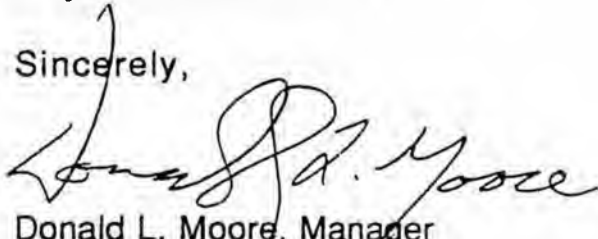
S.B. 171 would authorize AIDEA and the Borough to work with the private investors to arrange financing for the public-owned assets associated with this project. Such financing will be accomplished as a loan, and not as a grant.

The basis of both AIDEA's and the Borough's involvement in the MIDREX project is as investors seeking a return for our citizens/shareholders.

Senate Finance Committee, Page 2

It is my hope that you will find the attached information helpful in making a decision on S.B. 171, and that you will share this information with the other members of the Senate Finance Committee. If I can be of any further assistance, please contact me at your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donald L. Moore".

Donald L. Moore, Manager  
Matanuska-Susitna Borough

DLM:whk

Attachments (4 pages)

**PORT DEVELOPMENT OPERATING EXPENDITURES**

**BY FISCAL YEAR**

	1989	1990	1991	1992	1993
Salaries	53,805	80,913	28,234	-0-	-0-
Benefits	15,539	26,083	10,547	-0-	-0-
Expenses Within Borough	1,905	3,542	3,341	263	523
Expenses Outside Borough	6,471	17,197	8,406	8,443	6,877
Communications	663	2,348	1,208	12,749	185
Advertising	645	2,495	3,781	6,902	-0-
Printing	470	824	492	10,589	20
Rental/Leases	210	-0-	200	134	-0-
Professional Charges	-0-	111,044	27,223	12,391	3,309
Maintenance	-0-	85	20	361	-0-
Contractual	3,294	19,758	78,688	116,946	68,721
Office Supplies	830	1,162	648	501	-0-
Miscellaneous Supplies	1,131	1,634	199	759	-0-
Equipment Under \$300	546	346	230	-0-	-0-
Other Equipment	9,916	1,250	-0-	1,120	-0-
Furnishings	-0-	356	-0-	-0-	-0-
<b>TOTAL</b>	<b>95,425</b>	<b>269,057</b>	<b>163,217</b>	<b>171,158</b>	<b>79,635*</b>

\* Note the amounts for fiscal year 1993 represent only amounts actually expended or encumbered through December 3, 1992.

**SPECIFIC PROJECTS ASSOCIATED WITH THE PORT  
EXPENDITURE BY FISCAL YEAR**

Port MacKenzie Port Road

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92	TOTAL
<b>LAND</b>							
Consultants		21,500.00	9,600.00			665.41	31,765.41
Design/Recon.		91,877.00	14,825.00				106,702.00
Printing Costs						5,000.00	5,000.00
Construction					43,829.03		43,829.03
Materials Purchased					92.25		92.25
Misc. Expenses	26.55	96.30	133.00		387.31	26.00	669.16
Advertising	226.40	360.90					587.30
<b>ENGINEERING STAFF</b>							
Administrative Time	3,805.34	5,283.64	1,367.14	5.75			10,461.87
Inspection Time		391.16					391.16
Survey Time		4,994.27					4,994.27
Design Time	1,511.27	503.25	1,742.27				3,756.79
<b>TOTALS</b>	<b>5,569.56</b>	<b>125,006.52</b>	<b>27,667.41</b>	<b>5.75</b>	<b>44,308.59</b>	<b>5,661.41</b>	<b>208,249.24*</b>

\* The funding for this project was from the following revenue sources: General Fund Balance (\$21,460), Land Management Fund (\$90,000) and a State Administration Municipal Grant (\$96,789.24).

Point MacKenzie Phase III Road\*\*

	FY 88	FY 89	FY 90	FY 91	FY 92	TOTAL
<b>LAND</b>						
Land		10,653.62				10,653.62
Survey		5,100.00				5,100.00
Administration (PS&E)		387.00				387.00
Construction		673,043.21	2,940.47			675,983.68
Rental		5,113.03				5,113.03
Materials Purchased		46,197.86				46,197.86
Legal Expense		1,000.65				1,000.65
Advertising		12,757.87				12,757.87
Film Processing		836.30				836.30
Mail Delivery		424.11				424.11
		15.00				15.00
<b>ENGINEERING STAFF</b>						
Administrative Time		37,521.25				37,521.25
Inspection Time		9,239.35				9,239.35
Survey Time		32,985.19				32,985.19
Design Time		1,674.94				1,674.94
<b>FURNISHINGS/EQUIP.</b>						
Furnishings/Equip.		40,006.10				40,006.10
Advertising		104.05				104.05
<b>TOTALS</b>		<b>877,059.53</b>	<b>2,940.47</b>			<b>880,000.00*</b>

\* Funding for this project was from the Land Management Fund.

\*\* Phase II related to agricultural parcels only.

Point MacKenzie Transportation Corridor

	FY88	FY89	FY90	FY91	FY92	FY93	TOTAL
<b>BUILDINGS</b> Adverdsing						223.20	223.20
<b>LAND</b> Design/Recon. Advertising					50,000.00	89.25	50,000.00 89.25
<b>IMPROVEMENTS</b> Survey					23,835.89		23,835.89
<b>TOTALS</b>					<b>73,835.89</b>	<b>312.45</b>	<b>74,148.34*</b>

\* Funding for this project was from the General Fund Balance (\$50,000) and the Land Management Fund (\$24,148.34).

Point MacKenzie East Port Site

	FY88	FY89	FY90	FY91	FY92	FY93	TOTAL
<b>IMPROVEMENTS</b>		38,600.00					38,600.00
<b>TOTALS</b>		<b>38,600.00</b>					<b>38,600.00*</b>

\* Funding for this project was from the Land Management Fund.

Point MacKenzie AMSA Plan

	FY88	FY89	FY90	FY91	FY92	FY93	TOTAL
<b>PLANNING STUDIES</b>	32,400.00	12,833.53	38,766.47				84,000.00
<b>OTHER CONTRACTUAL</b>					24,070.00	7,930.00	32,000.00
<b>TOTALS</b>	<b>32,400.00</b>	<b>12,833.53</b>	<b>38,766.47</b>		<b>24,070.00</b>	<b>7,930.00</b>	<b>116,000.00*</b>

\* Funding for this project was from the General Fund.

In Summary:

Total expenditures from operating funds	\$ 778,492.00
Total expenditures from projects	<u>1,316,997.58</u>
<b>GRAND TOTAL</b>	<b><u>\$2,095,489.58</u></b>



ALASKA INDUSTRIAL DEVELOPMENT  
AND EXPORT AUTHORITY

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480 WEST TUDOR • ANCHORAGE, ALASKA 99503-6690 • (907) 561-8050 • FAX (907) 561-8998

**PROJECT FACT SHEET: Alaska Seafood Center/Cold Storage**

**DATE:** February 8, 1993

**STATUS:** Legislation providing bonding authority for this project was not acted upon in 1992. The AIDEA Board approved an expenditure of up to \$50,000 to work with the Alaska Seafood Center to develop a business plan. The project may be brought before the Legislature in 1993.

**PROJECT BUDGET:** \$50 million (Total cost of the project estimated at \$165 million)

**SOURCE OF FUNDS:** Revenue bonds sold by AIDEA

**PURPOSE:** To expand the capabilities of the Alaska seafood industry to provide secondary processing, freight forwarding, and commercial cold storage services.

**PARTICIPANTS:** AIDEA will finance construction in Anchorage of a cold storage warehouse facility as part of the proposed Alaska Seafood Center. The facility will be an integral part of the state-of-the-art fish processing, cold storage, and distribution center planned by ASC.

**BACKGROUND:** The cold storage warehouse will allow ASC to perform secondary (value added) processing of bottomfish, surimi, and salmon; provide freight forwarding for salmon and other seafood products; and provide commercial cold storage services for seafood and non-seafood products. The secondary processing capabilities will create a local market for shore-based primary processors. Other Alaskan processors will be able to use the frozen storage and chill room capacities at cost-efficient rates. The facility will be located near the Anchorage International Airport, making it accessible to processors throughout the state.

**ECONOMIC EFFECTS:** ASC operations will provide about 450 new year-round jobs at the Anchorage facility and additional employment in related business sectors, including transportation.

**SOCIAL EFFECTS:** The facility should strengthen the entire seafood industry in Alaska by enhancing the cold storage, secondary processing, and freight forwarding capabilities available.

**SCOPE OF PROJECT:** The cold storage warehouse will have a storage capacity of 45 million pounds, capable of handling as much as 2 million pounds of product in one day. The warehouse will include an energy-efficient ammonia refrigeration system, a high-bay racked storage system with automatic closure entrances and air-curtain walls, chill rooms, blast freezers, ice makers, a standby electrical generation system, and electric-powered lift cranes, conventional forklifts, and similar handling equipment.

## EXECUTIVE SUMMARY

### Introduction

The Alaska Seafood Center, Inc., a privately-owned company ("ASC" or "the Company"), proposes to develop, build, own and operate a state-of-the-art fish processing, cold storage and distribution center ("the Facility") to be located in Anchorage, Alaska. ASC is being developed at a time of profound change in the seafood industry in Alaska and the eating habits of Americans, i.e., a rapid reduction in the consumption of red meat and an escalation in the demand for seafood. ASC believes that the combination of these circumstances has created a significant opportunity for ASC and for Alaska.

ASC's operations will be based on producing high quality, value added seafood products. ASC will create approximately 450 new year round jobs at the Facility itself and support many other jobs in Anchorage in indirectly related businesses. For example, a great number of jobs will be created in the State transportation system (airline, railroad and trucking) to serve ASC. ASC will also provide economical cold storage and transportation services to smaller fish processors in the State, giving them faster and more profitable access to their customers. The Company's business segments will be:

- Secondary processing of bottomfish based on Alaskan raw material of blocks and fillets from pollock and cod (frozen products).
- Secondary processing of surimi based on Alaskan raw material of surimi blocks, a fish paste primarily made from minced Alaskan pollock (frozen products).
- Secondary Processing of salmon based on Alaskan wildlife salmon (frozen products).
- Primary processing of salmon (chilled products).
- Freight forwarding of salmon and other native fish owned by ASC and others (chilled products).
- Commercial cold storage services for seafood and non-seafood products.

Secondary processing consists of adding value to primary processed raw materials such as fish blocks and individual quick frozen fillets (IQF's). The finished product consists of a portion controlled piece of fish and added coatings, sauces or toppings in order to prepare it for consumption.

When fully on-line, the Facility will have the capacity per day to process (raw material) approximately 210,000 pounds ("lbs") of bottomfish products, 13,000 lbs of surimi products and 180,000 lbs of salmon (during the salmon season). Upon completion, it will have a cold storage capacity of approximately 45 million lbs of seafood and non-seafood products and a chill room capacity for receiving and shipping of chilled fish of approximately 2.2 million lbs. The fish resources of the Bering Sea and the Gulf of Alaska will provide the raw materials for the Company's seafood processing business segments. In 1991, Alaskan waters within the Alaskan Exclusive Economic Zone ("EEZ") produced 4.4 billion lbs of bottomfish which included cod and pollock, the most important species for ASC's production. The salmon harvest was a 60-year record of 725 million lbs.

U.S. fisheries harvest all bottomfish coming from the EEZ. The primary processing (heading, gutting, filleting and in certain cases mincing) and freezing into IQF fillets and fish blocks is done on shore based primary processing plants and on board catcher/processing ships, within hours after the catch so as to avoid spoilage. The resulting products (fish blocks and IQF fillets) are shipped by refrigerated cargo ships to Japan, Korea, Europe and the contiguous 48 states (the "Lower 48") for secondary processing.

ASC offers the opportunity for Alaska to have secondary (value added) processing take place within the State, resulting in a substantial number of year round jobs for Alaskans. ASC will be a major customer of shore based primary processors, buying substantial quantities of product from them, which will eliminate their transportation disadvantage.

ASC offers other Alaskan processors the opportunity to store frozen seafood and offers other food businesses the opportunity to store non-seafood products on a commercial basis. Commercial fisheries can take advantage of ASC's location to store their products in Anchorage and reduce their transportation and storage costs. ASC will provide greater flexibility to other food businesses and distributors by providing them the ability to store larger quantities in Anchorage instead of the Lower 48.

ASC offers freight forwarding of chilled fish products to other Alaskan processors. ASC's logistic capabilities and chill room capacity located close to the airport are essential for air transportation of chilled fish in a regularly scheduled and therefore cost efficient manner.

### The Facility

ASC has located several sites on which it has negotiated an acceptable price. They are zoned for processing, storage, wholesaling and distribution operations. All have sewer, water and utility services up to or near the property line which are considered by ASC to be satisfactory for the contemplated uses. Before notice to proceed is given to the contractor, a complete geotechnical study will be done. There are various permits and approvals that are required to be obtained prior to the start of construction and operation of the Facility. ASC is confident that the Facility will receive all these necessary permits on a "fast track basis" based on assurances from the city.

The sites have been selected because of their access to all forms of transportation. They are two to seven minutes from the Anchorage International Airport and about 15 minutes from the Port of Anchorage. All have direct rail access by rail from a spur off the main line to the property boundary via a dedicated easement.

ASC has entered into a \$62,736,000 lump sum turnkey fixed price contract with National Projects, Inc., a subsidiary of Morrison-Knudsen Corporation, ("National") for the design and construction of the Facility. The cost of processing equipment is not included in the contract price. ASC will procure all processing equipment directly from the vendors. Allowances, rather than fixed prices, are included for landscaping, stonework, permits, signs and installation of the first processing line. The contract calls for a construction schedule of 20 months with liquidated damages in the amounts of \$29,000 per day for late completion subject to a cap of \$1,500,000. The contract also provides National with a \$14,500 per day early completion bonus.

The Facility will consist of approximately 245,000 square feet. The first floor will be used for processing, freezing and storage of fresh and frozen fish and other foods. The second floor will be used for sanitary facilities, an employee lunchroom, administrative offices, and a guest lunchroom. The Facility will include a paved parking area and the dock areas will be paved as well, to accommodate refrigerated vans and other trucks. In addition, the truck staging area will provide space for refrigerated vans. The fish processing, processing support and office areas, dock facilities and cold storage building will be constructed with concrete and steel. In the cold storage area, the structure will be approximately 63 feet high, while the racks used to store product will be approximately 50 feet high. The energy building will house the refrigeration equipment, battery charger and heating equipment as well as the maintenance department.

The Facility will use state-of-the-art equipment designed to include the latest proven technological developments. The heart of the ASC seafood processing system will be two secondary bottomfish processing lines, one for battered and breaded products (sometimes called "B&B"), and one line for prepared foods. There will also be a line for the secondary processing of surimi and a line for secondary processing of fish blocks into portions and headed and gutted salmon into steaks. The Facility will have a single line for primary salmon processing (i.e., heading, gutting and filleting). Such salmon then will be either flown out fresh as chilled fillets or glazed and blast frozen in preparation for cold storage as frozen fillets and headed and gutted salmon for later steaking.

ASC's state-of-the-art equipment will make it possible to process chilled and frozen products in a cost efficient manner. Strict hygiene and quality control standards, which meet or exceed U.S. inspection criteria, will ensure that the finished products can meet customers' demands for the highest quality.

### Employment

When fully on line, ASC's operations will provide approximately 450 new year round jobs to Alaskans who will be employed directly at the Facility. In addition, numerous other existing and newly created jobs will be supported in the businesses that serve and service the Facility. For example, many jobs will be created in the transportation sector (airline, railroad and trucking). Also, the wages paid to the employees at ASC and the related service businesses will benefit the local economy according to the economic multiplier for the community.

While Anchorage can provide a well educated labor force, ASC will need to train new staff at many different levels of the organization. For this reason, and because ASC needs to start up new functions in the areas of technical operations, processing, sales/marketing, logistics and administration, a start up schedule for the operation has been carefully worked out. ASC's production and service activities will be ramped up over several years and the employees will be hired in accordance with this schedule.

### Location

The Facility's location in Anchorage will place it close to the bottomfish harvesting grounds and at the center of the four major Alaskan salmon fishing areas. Anchorage is a beautiful modern city, the largest in Alaska, with a year-round moderate climate and a population of approximately 225,000 people. The Anchorage location will provide a competent and stable labor force and a readily available supply of workers, many already experienced in seafood processing.

Transportation of frozen raw materials to the Facility and of frozen finished products to the market will be by surface transportation.

To get the chilled fish products to the U.S. market and abroad ASC will take advantage of Anchorage International Airport, which is the biggest air cargo center in the U.S. The airport provides access to all destinations served by the eleven international and ten domestic airline companies operating there. Major air cargo carriers such as Japan Airlines and Korea Airlines have facilities at the airport and United Parcel Service and Federal Express have recently completed major international cargo and package terminals as well.

### Raw Materials

ASC, with its location in Anchorage, Alaska, will have access to one of the world's most important fisheries. The Alaska Seafood Center will process three of the top four fish species in the U.S., based on landed seafood tonnage - Alaska Pollock #1, Salmon #3, and Cod #4. In 1990, Alaska handled 5.4 billion pounds of landed fish, five times as much as the state with the second highest tonnage, Louisiana (which is predominantly shrimp). Based on the dollar amount of seafood products, Alaska handled five times as much fish as the second highest state, Massachusetts. Alaska is a reliable and well-managed source of high quality fish. Access to high quality raw materials is a worldwide problem for the seafood industry. In the northern hemisphere there are only three major areas (the North Sea in Europe, the Grand Banks of New England and Nova Scotia, and Alaska) that have the shallow cold water which can support commercial levels of bottomfishing. The processing industries of the North Sea and the Grand Banks lack adequate raw materials because the fish stock has been greatly overfished. Alaskan fisheries, however, are not overfished and are extremely well managed by Federal and State authorities. ASC will have direct access to the world's largest fishery of high quality wild salmon, unlike other processors which may use farmed salmon, which is often of lower quality and is often chemically treated.

ASC has entered into contracts with three suppliers which either procure or otherwise control seafood products in adequate quantities and qualities to more than meet its requirements. ASC also has received expressions of interest from other seafood product suppliers.

### Demand for Seafood Products

As the U.S. population ages and becomes more health conscious, Americans are turning to fish, among other items, as an essential part of a healthy low cholesterol and low fat diet. Consumer expenditures for fish in 1990 totalled \$26.7 billion, of which one-third was sold in stores (primarily supermarkets) and two-thirds were sold through the food service sector, including restaurants. The demand for seafood in the U.S. has been steadily increasing over the last ten years based on an increased consumption per capita and a growing U.S. population.

The National Fisheries Institute indicates that if the 20 pound per capita goal for the year 2000 is met (1990 consumption was 15.5 pounds per capita), U.S. consumers will eat over 5.3 billion pounds of seafood. Comparing this to the 3.9 billion pounds consumed in 1990, an additional 1.4 billion pounds of edible weight of seafood must enter the market by the year 2000. 75 percent of this growth can be attributed to the increase in per capita consumption. Although domestic fish consumption has grown at a rapid rate, Americans still eat approximately one-tenth as much fish as the Japanese and one-fourth as much as the Europeans. ASC believes that this also supports the estimated growth of domestic consumption in the coming years.

The countries in the Far East, i.e. Japan, Taiwan and Korea represent strong markets for seafood products. Because of the lack of raw material, European countries such as France, Italy and Spain also represent markets with sharply increasing demands for frozen and especially chilled seafood products.

### The Market

ASC has successfully developed a market niche for selling its products through extensive studies of the market and competitors and by working with several large buyers of seafood products. ASC's concept for doing business with its customers will be:

- ASC will work with a few large customers on a long term contractual basis.
- ASC will not develop its own brand name but instead will be a reliable supplier of customized private label seafood products based on consistent quality and availability.
- ASC will provide its customers with a one-stop shopping program based on a full range of value added table ready seafood products made from Alaskan raw materials.
- ASC will provide research and development services by working with the customers to develop their private label program of customized products.

In this way ASC will meet the customers needs; for fewer, larger, more reliable, flexible, quality oriented suppliers that will work with them in a one-stop shopping program to develop and maintain their private label products.

ASC will sell its processed seafood products to wholesale grocery and food service distributors, retail supermarket chains, institutional food service establishments, seafood and family style restaurant chains and fast food chains. ASC will market its fresh and frozen seafood products in the United States and abroad through a direct sales organization, brokers and distributors.

ASC contemplates that the Facility will offer services such as cold storage and freight forwarding of chilled fish on a commercial basis.

### Cold Storage

ASC believes that there will be a demand for commercial cold storage services because no large-scale, centralized cold storage facilities exist in Alaska. At present, salmon cold storage is handled primarily by staging refrigerated vans around local processing plants during the salmon season and then bringing the salmon directly to Japan by tramper or taking it through Anchorage for further shipment to Seattle by barge for longer term storage. This approach is costly and inefficient and lowers product quality. Local commercial fishermen can take advantage of ASC's Anchorage based facility to reduce transportation costs and increase product quality. Alaska imports the majority of its foodstuffs from the Lower 48 by barge, which takes from five to seven days to reach Anchorage from Seattle. There is little cold storage in the State and none that could service the overall demand in Anchorage for any extended period of time. The State and Anchorage can take advantage of the greater flexibility by storing imported foodstuffs in Anchorage, i.e., closer to the end users.

### Freight Forwarding

ASC will provide freight forwarding services for chilled fish products owned by ASC and others. The facility will be located close to Anchorage International Airport and will have the necessary chill room capacity and size of operation to work with the airlines on a regularly scheduled and therefore cost efficient basis.

### Ownership and Management of ASC

All of the outstanding stock of ASC is currently owned by members of the family of Howard M. Benedict, President and Chief Executive Officer of ASC. Howard M. Benedict is President of The Benedict Companies formed in New Haven, Connecticut in 1947, and a principal of various other corporate and partnership interests of the Benedict family. For 35 years, he has been actively engaged in commercial real estate development. Over the past several years, Mr. Benedict expanded into other diversified business interests. As an outgrowth of his real estate activities in Anchorage, he became interested in broadening his economic base in Alaska and in 1986 began work which led to the development of ASC. Keld Andersen, an experienced Danish seafood executive, has been appointed Chief Operating Officer and Managing Director of ASC.

Experienced Management. From 1985 to 1989, Mr. Keld Andersen, Chief Operating Officer and Managing Director of ASC, was the general manager of a large modern seafood processing plant, Royal Greenland, in Aalborg, Denmark, which produces ready-made fish dishes, smoked salmon and Greenland turbot, shrimp in brine and other advanced seafood products. During the Royal Greenland plant's development stage, Mr. Andersen was in charge of all feasibility studies, preliminary engineering and construction. After completion of the Royal Greenland plant, Mr. Andersen was in charge of the entire processing plant and was also involved in the marketing and distribution of finished products. During the years 1975-85, Mr. Anderson was Technical Director for one of Denmark's largest primary seafood processors, Skagerak Fiskeexport A/S, and General Manager for a large commercial cold storage operation.

### Financing

Based on construction cost estimates provided by ASC, the total Facility cost is projected to be \$146.4 million. The construction takeout and term financing structure is assumed to be a combination of strategic limited partnership equity and term debt.

ASC is seeking strategic partners and/or investors to invest up to \$50 million equity in the Company. The strategic partners would provide, in addition to the capital investment, significant marketing and distribution expertise for the fish products produced by the Facility.

The debt financing which will be solicited from commercial banks, insurance companies and institutional investors will be arranged after the equity investment has been committed. The Construction Loan will be for 100% of the Facility cost and, at completion will be replaced by the equity investment with the remaining term debt amortized over seven years.

### Sources and Uses of Funds

The following table shows the estimated cost of the Facility and the sources of permanent financing (\$ in thousands).

<b>Sources:</b>	
Senior Debt	\$ 68,432
Tax Exempt Debt	40,000
Equity	<u>50,000</u>
Total Sources of Funds	<u>\$158,432</u>
<b>Uses:</b>	
Turnkey Fixed Price Construction Contract	\$ 62,736
Allowance for ASC-Designated Equipment	27,132
Construction Contingency <sup>(1)</sup>	5,989
Land	6,432
Construction Management	2,780
Start-Up Expenses	11,886
Insurance	525
Placement, Legal, Engineering, Accounting and Miscellaneous Fees and Third-Party Reimbursables	8,775
Development Fee	2,000
Lender Fees	3,254
Escalation	7,199
Capitalized Interest	<u>7,724</u>
Total Construction Financing	<u>146,432</u>
Working Capital Reserve	5,000
Debt Service Reserve	<u>7,000</u>
Total Term Financing	<u>158,432</u>
Total Uses of Funds	<u>\$158,432</u>

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(1) Includes a 5% building contingency and a 10% equipment contingency.



ALASKA INDUSTRIAL DEVELOPMENT  
AND EXPORT AUTHORITY

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## BUSINESS ASSISTANCE PROGRAM FACT SHEET

**What it is:** A guarantee program on bank originated loans for 1) new loans; and 2) refinancing of existing loans.

**Funds Covered:** Outstanding principal balance and liquidation expenses not to exceed \$1,000,000 cumulative.

### Application Types:

- A) Short Form — New loans of \$75,000 or less
  - Loan summary including bank's loan approval form and a bank certification that credit has been checked and is satisfactory is the required documentation. This streamlined approval process may be unsecured. The loan guarantees are available to all Alaskan businesses, but targeted especially to assist entrepreneurs in rural areas.
- B) Regular Form Application — All loans over \$75,000.
  - Documents required include loan summary including bank's loan approval form; signed loan application; financial statement; project description/use of proceeds detail; credit history; three years tax returns; appraisal; environmental risk assessment; and if a refinance, existing loan facts.

### Other Requirements:

- A) 75% loan to value (LTV) maximum;
- B) Terms: 1 - 20 years depending on security
- C) Alaskan resident

### Additional Information/Concerns:

• Since inception in 1988, 5 loan guarantees ranging from \$25,600 to \$211,000 have been made. While under-utilized to date, changes made by the 1992 Legislature made bank-recommended improvements to the program and interest has increased.

• The Rural Development Initiative Fund (RDIF) established by the Legislature in 1992 through SB 238 and is operated jointly by the Department of Community and Regional Affairs and AIDEA. The RDIF was designed to assist rural Alaskan entrepreneurs who may not currently be served by commercial financial institutions. The Business Assistance program is key to facilitating the RDIF.

• The Business Assistance program is scheduled to sunset on July 1, 1993. Despite its limited use to date AIDEA believes the Business Assistance program is a helpful "tool" to assist in developing and expanding small businesses throughout Alaska.



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March 22, 1993

The Honorable Senator Drue Pearce  
Alaska State Legislature  
State Capitol  
Juneau, AK 99811

Dear Honorable Senator Pearce:

I would like to take this opportunity to provide you with an update on the Rural Development Initiative Fund (RDIF) loan program. As you will recall, the RDIF program was established by the Alaska Legislature in 1992 to provide business loans to rural Alaskans. The RDIF program targets small businesses that may not be eligible for traditional commercial financing.

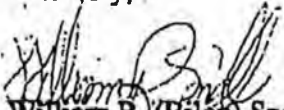
Throughout the latter part of 1992 AIDEA worked closely with commercial lenders and the Department of Community and Regional Affairs (DCRA) in finalizing the emergency regulations and other administrative details of the program. Working in concert with DCRA we produced a brochure for statewide distribution and also bought air time for a paid public service announcement on the Alaska Public Radio Network, whose member stations reach virtually every part of rural Alaska. The response has been overwhelming.

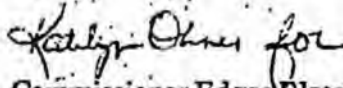
DCRA has been literally flooded with loan applications (over 300). Interest has been so high that radio announcements were canceled after running less than three weeks. Total FY 93 funding for the RDIF program was \$500,000. We share concerns with DCRA that given limited program funding and a maximum loan amount of \$100,000 (\$200,000 for two or more borrowers), the RDIF program will run out of money in a few months. It is critical that there is not a gap in available funding for RDIF loans during the first year of lending activity.

The program also faces an additional challenge: the RDIF program operates under AIDEA's Business Assistance Program, which is scheduled to be sunset on July 1, 1993. AIDEA fully supports the language in HB 110 and companion bill SB 79 which extends the sunset date to July 1, 1994. In our letters of February 17 and March 8, we provided the House State Affairs Committee and the Senate Health and Social Services Committee respectively with an overview of the Business Assistance Program. To date the Business Assistance Program has been underutilized but remains a valuable tool to assist in developing and expanding small businesses throughout Alaska. At the request of financial institutions, changes were made to the Business Assistance program in 1992 under SB 226 and the Authority has seen an increased interest in the program.

I am enclosing a copy of the RDIF brochure. If I can answer additional questions about this exciting new program, or about our Business Assistance Program, please do not hesitate to contact me.

Sincerely,

  
William R. (Riley) Snell  
Executive Director

  
Commissioner Edgar Blatchford  
Dept. of Com. and Regional Affairs