

**ALASKA LEGISLATURE**

**2262**

**HOUSE and SENATE FINANCE COMMITTEE FILES,**

**2001 - 2002**

In effect, the amendments would:

- create separate voting districts for each affected city and for the non-city area;
- grant each voting district, no matter how large or small in population, one vote – for or against – on a consolidation or merger proposal;
- weight votes of residents of small districts more heavily than votes of residents of populous districts;
- require separate approval by all districts, regardless of the overall vote, to approve a proposal;
- grant borough residents living outside cities veto power over borough consolidation or merger proposals; and
- disregard the will of the majority about their preferred form of local government.

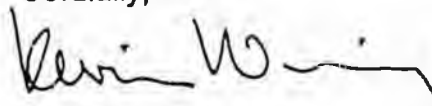
This proposed change constitutes a major departure from constitutional principles and from long-established legislative policy.

Article X, Section 1 of Alaska's constitution provides for "a minimum of local government units, and to prevent duplication of tax-levying jurisdictions." The effect of the proposed amendment would be to perpetuate duplication of government units and tax-levying jurisdictions, regardless of the will of the majority of local voters.

For 30 years, legislative policy has allowed consolidation or merger proposals to be decided by a majority vote of affected residents. That policy is in harmony with constitutional principles to encourage efficiency and fiscal accountability in local government. The proposed amendments would reverse this legislative policy.

Thank you for the Judiciary Committee's consideration of the Commission's views on this matter.

Cordially,



Kevin Waring  
Chairman

Attachment:

Copy with attachment to:

The Honorable Dave Donley, Vice-Chair, Senate Judiciary Committee  
The Honorable Gene Therriault, Senate Judiciary Committee  
The Honorable John Cowdery, Senate Judiciary Committee  
The Honorable Johnny Ellis, Senate Judiciary Committee  
The Honorable Jim Whitaker, Prime Sponsor, HB 296

# STATE OF ALASKA LOCAL BOUNDARY COMMISSION

## STATEMENT OPPOSING SENATE CS FOR CS FOR HOUSE BILL NO. 296(CRA)

May 1, 2002

### Legislative Policy Should Complement Constitutional Principles.

Clearly, the legislature has the prerogative and duty, subject to the veto power of the governor, to set public policy regarding the manner in which municipal government mergers and consolidations occur under the local option method set out in AS 29.06.100 – 29.06.160.<sup>1</sup>

Ideally, that legislative policy should be in harmony with constitutional principles regarding local government.

### Alaska's Constitution Promotes City and Borough Consolidation.

Principles of Alaska's constitution encourage consolidation and other methods of combining city and borough governments. The drafters of the Local Government Article of Alaska's Constitution "viewed the long-term relationships between the borough and the city as a gradual evolution to unified government."<sup>2</sup>

Indeed, the express purpose of the Local Government Article of Alaska's constitution is to "provide for maximum local self-government *with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions.*" (Article X, Section 1 – emphasis added) The Alaska Supreme Court held with respect to combining city and borough governments through unification that:

Unification is consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units.

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<sup>1</sup> Article X, Section 3 of Alaska's constitution provides, in part, "[m]ethods by which boroughs may be . . . merged, consolidated . . . shall be prescribed by law." Article X, Section 7 states, in part, that cities "may be merged, consolidated . . . in the manner provided by law." Article II, Section 15 provides that, "The governor may veto bills passed by the legislature. . . . He shall return any vetoed bill, with a statement of his objections, to the house of origin." Article II, Section 16 provides that, "[u]pon receipt of a veto message during a regular session of the legislature, the legislature shall meet immediately in joint session and reconsider passage of the vetoed bill . . ."

<sup>2</sup> *Final Report on Borough Government*, p. 17, Alaska Legislative Council and the Local Affairs Agency (1961)

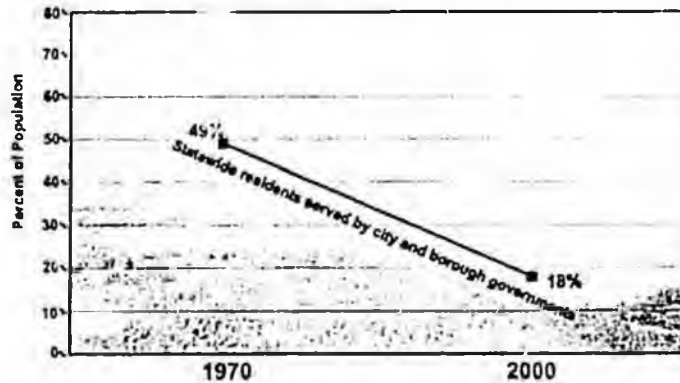
It is also noteworthy that the Task Force on Governmental Roles, established by the 1991 Legislature to examine State policies regarding local government, concluded as follows:<sup>3</sup>

Unification of borough and city administrations should be encouraged wherever possible to provide for more efficient and cost-effective service delivery.<sup>4</sup>

Alaskans have embraced the constitutional principles encouraging the combination of city and borough governments.

Since 1970, the percentage of Alaskans who live within both a city and borough government has declined by approximately two-thirds.

Then (1970) & Now (2000)  
Residents served by city and borough governments



#### Long-Standing Legislative Policy Harmonizes with Constitutional Principles.

Legislative policy concerning merger and consolidation of city and borough governments was set in 1972 when State statutes for city governments (AS 29) and borough governments (formerly AS 07) were first brought together in Title 29 of the Alaska Statutes. The policy provided that local option municipal merger and consolidation proposals would be determined by majority rule (i.e., by a majority of the total votes cast on the proposal).

**2,241 Haines Voters**



The legislature addressed concurrent majority voter approval for unification when it amended the statutes concerning unification in 1989. When the legislature amended the statutes concerning consolidation in 1994 and again in 1999, however, it did not make similar changes in consolidation election procedures. This indicates that the present difference in statutory language regarding voting procedures for unification and consolidation is purposeful and reflects differing legislative intent.

While HB 296 would not apply to the pending Haines consolidation proposal, it is useful for illustrative purposes to discuss the effects of the bill in terms of an actual proposal. Under current law, the pending Haines consolidation proposal will be determined by a majority of the votes cast among the 2,241 voters of the Haines Borough

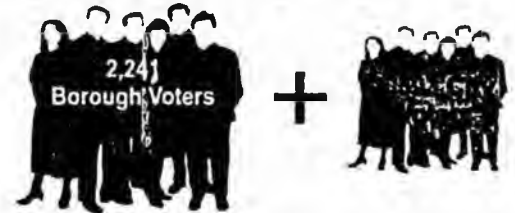
<sup>3</sup> *Task Force on Governmental Roles, Final Report* (July 10, 1992).

<sup>4</sup> The term unification was expressly described in the report as a term used in a colloquial sense that included consolidation.

The majority rule standard facilitates merger and consolidation of city and borough governments and conforms to constitutional principles to the maximum extent possible.

**CS for House Bill No. 296(CRA) Moderately Alters Established Policy.**

CS for House Bill No. 296(CRA), which passed by the House on March 15, 2002 by a wide margin (36 yeas 0 nays, 3 excused and 1 absent), would have altered the thirty-year-old policy of the legislature by placing additional limitations on merger and consolidation.



Arguably, any additional limitations on merger and consolidation procedures would be counter to the principles set out in Article X, Section 1 of Alaska's constitution. However, in terms of the merger and consolidation proposals that have come before the LBC in the past, the change set out in CS for House Bill No. 296(CRA) appears limited in scope.

Under CSHB 296(CRA), outcome of the pending Haines consolidation proposal would require approval by a majority of the votes cast among the 1,593 voters of the City of Haines and a majority of the voters cast among the 2,241 voters of the Haines Borough

Moreover, there is some institutional rationale for the change already set out in CS for House Bill No. 296(CRA). It requires that merger and consolidation under the local option would be subject to approval by a majority vote in each affected municipal government.

This policy change would make requirements for merger and consolidation of municipal corporations (i.e., cities and boroughs) similar to the requirements for merger of private sector corporations, where a majority of the shareholders of each corporation must approve a merger.



Given the limited policy effect and some institutional rationale for CS for House Bill No. 296(CRA), the Local Boundary Commission did not object to that measure at that time.

**Senate Committee Amendment Constitutes Severe Policy Change.**

At the urging of the sponsor of HB 296, the Senate Community and Regional Affairs Committee made far-reaching amendments to the legislation approved by the House.

Under the proposed amendment, outcome of the pending Haines consolidation proposal would require approval by a majority of the votes cast among the 1,593 voters of the City of Haines and a majority of the voters cast among the 648 voters of the Haines Borough living outside the City. 1,593 Borough voters inside the city would be disenfranchised.

The amendments by the Senate CRA Committee would make a local option consolidation of a city and borough subject to approval by voters in the city and also by voters in the portion of the borough outside the city.

That amendment has the effect of severely limiting the prospects for consolidations. The amendment is also patently unfair. It ignores the fact that citizens of a city within a borough are citizens of both local governments. It creates an exclusive voting right for selected borough voters – those who live outside cities.

To apply the earlier analogy of the merger of two private sector corporations, the Senate CRA Committee amendment is equivalent to limiting the shareholders who own stock in both corporations to voting their stake in only one of the corporations. Clearly, the amendment disenfranchises the borough voters who live within the city.

**Senate Amendment Also Rejects Principles of "One Person-One Vote", "One Count", and "Majority Rule".**

The Senate CRA Committee amendments reject the principles of "one person - one vote", "one vote count", and "majority rule". Instead, the amendments put in place the principles of unrepresentative government: "weighted votes", "multiple counts", and "minority veto".

As noted, current law provides that a local option consolidation or merger petition may be approved by a majority of voters who reside in the area to be included in the consolidated or merged municipality.

The Senate CRA Committee amendments change how votes are counted. Approval of a consolidation or merger proposal would require separate approval by a majority of voters in each city included in the proposal, and by a majority of voters who reside outside cities. In effect, the amendments would:

- create separate voting districts for each city and for the non-city area;
- grant each voting district, no matter how large or small in population, one vote – for or against – on a consolidation or merger proposal;
- weight votes of residents of small districts more heavily than votes of residents of large districts;
- require separate approval by all districts, regardless of the overall vote, to approve a proposal;
- grant borough residents living outside cities veto power over borough consolidation or merger proposals; and
- disregard the will of the majority about their preferred form of local government.

The current provisions for local option merger and consolidation are wholly consistent with the long-standing procedures for incorporation of an unorganized region as a borough under AS 29.05. For example, when the Haines Borough was formed, the law did not require voter approval in the City of Haines and, separately, in that portion of the Haines Borough outside the City of Haines.

**All Voters Should be Treated Equally.**

The Commission maintains, as a general rule, all voters should be treated equally. Without that principle, there are numberless different parochial classifications into which local voters might be subdivided to thwart "one person - one vote" and majority rule. In fact, the principles in Article X of Alaska's Constitution discourage narrowing voter classifications for municipal consolidation elections. Those principles were addressed by the Alaska Supreme Court with respect to unification in City of Douglas v. City and Borough of Juneau, 484 P.2d 1040, (Alaska 1971).

# SENATE COMMITTEE REPORT

DATE: 4/18/02

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 5/2/02

Judiciary Committee considered CS FOR HOUSE BILL NO. 296(CRA)  
HB 296 MUNICIPAL MERGER AND CONSOLIDATION

"An Act relating to mergers and consolidations of municipalities."

and recommends:

- be replaced with S CS CS HB 296 (JUD)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DC ED	2/28/02		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>John J. Condees</i>	✓			
<i>John G. Ellis</i>	✗			
<i>Paul Theriault</i>	x			
CHAIR: <i>John L. Taylor</i>	✓			

# SENATE COMMITTEE REPORT

DATE: 3/18/02

FURTHER: Judiciary  
Finance

DATE TURNED  
IN TO OFFICE: 4/17/02

Community and Regional Affairs Committee considered

CS FOR HOUSE BILL NO. 296(CRA)

HB 296 MUNICIPAL MERGER AND CONSOLIDATION

"An Act relating to mergers and consolidations of municipalities."

and recommends:

- be replaced with S CS CSHB 296 (CRA)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

Senate Bill:

- same title
  - new title
- House Bill:
- same title
  - technical title
  - new: SCR # \_\_\_\_\_

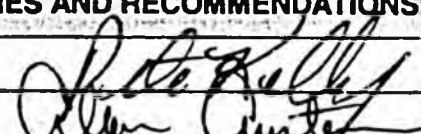
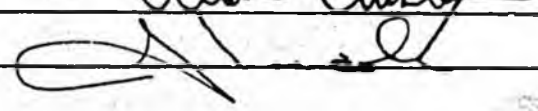
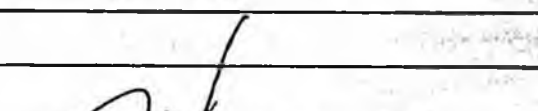
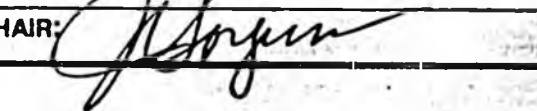
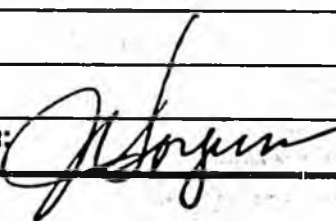
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DCSA	2/28		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			✓	
	✓			
			✓	
				
CHAIR: 	✓			

HB 296-MUNICIPAL MERGER AND CONSOLIDATION  
SENATE FINANCE COMMITTEE

SIGN - IN

NAME: Jan Wrenthorn Subject/Bill No: 296  
Co./Dept./Title: Skagway business person Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

**HB**

**297**

**HFIN**

**FILE**



# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSHB 297(JUD)  
 (H) Publish Date: 2/8/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affectec: Corrections  
 Title "An Act relating to aggravating factors BRU Administration and Operations  
sentencing." Component All  
 Sponsor Representative Meyer  
 Requester House Judiciary Committee Component No. 694

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	***	***	***	***	***	***

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	***	***	***	***	***	***

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill would create a new aggravator in sentencing for offenders who supplied alcohol or controlled substances to the victim in sexual assault offenses. Offenders can already be charged with other crimes in these circumstances, e.g., Misconduct Involving a Controlled Substance or Furnishing Liquor to a Minor, so the Department of Corrections is not anticipating a large impact as a result of this legislation, therefore, we are submitting an indeterminate fiscal note.

Prepared by: Candace Brower Phone 465-4652  
 Division Commissioner's Office Date/Time 1/29/02 2:19 PM  
 Approved by: Margaret Pugh, Commissioner Date 1/29/02  
 Agency Department of Corrections

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 297(JUD)  
 (H) Publish Date: 2/8/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act related to aggravating factors in sentencing." BRU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 Sponsor: Rep. Meyer  
 Requester: House Judiciary Component No. 1631

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation would add an aggravator in felony sentencing if the defendant is convicted of a sexual offense and supplied alcohol or a controlled substance to the victim in connection with the offense. The Public Defender Agency believes this bill will have a fiscal impact on the workload of the Agency, but not on the caseload of the Agency, but cannot quantify it, and therefore an indeterminate fiscal note is submitted.

Prepared by: Barbara Brink, Director Phone (907) 334-4416  
 Division: Public Defender Agency Date/Time 1/29/02 3:42 PM  
 Approved by: Jim Duncan, Commissioner Date 1/29/2002  
 Agency: Department of Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 297(JUD)  
 (H) Publish Date: 2/8/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title "An Act related to aggravating factors at BRU Criminal Division  
sentencing." Component All  
 Sponsor Representative Meyer  
 Requester House Judiciary Committee Component No. \_\_\_\_\_

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 CF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 297 adds supplying alcohol or a controlled substance to a victim of a sexual offense as an aggravating factor to be considered at sentencing.

Passage of this legislation is not expected to have a fiscal impact on the Department of Law. The bill adds an additional factor for the judge to consider at sentencing, but will not add new hearings, extend the length of current proceedings, nor make them more difficult.

Prepared by: Joan M. Kasson Phone (907) 465-5370  
 Division Attorney General's Office Date/Time 1/25/02 2:19 PM  
 Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 1/25/2002  
 Agency Department of Law

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 297(JUD)  
(H) Publish Date: 2/8/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
Title: "An Act related to aggravating factors at BRU: Criminal Division  
sentencing." Component: All  
Sponsor: Representative Meyer Component No. \_\_\_\_\_  
Requester: House Judiciary Committee

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 CF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 297 adds supplying alcohol or a controlled substance to a victim of a sexual offense as an aggravating factor to be considered at sentencing.

Passage of this legislation is not expected to have a fiscal impact on the Department of Law. The bill adds an additional factor for the judge to consider at sentencing, but will not add new hearings, extend the length of current proceedings, nor make them more difficult.

Prepared by: Joan M. Kasson Phone: (907) 465-5370  
Division: Attorney General's Office Date/Time: 1/25/02 2:19 PM  
Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date: 1/25/2002  
Agency: Department of Law

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 297(JUD)  
 (H) Publish Date: 2/8/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act related to aggravating factors in sentencing." BRU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 Sponsor: Rep. Meyer  
 Requester: House Judiciary Component No.: 1631

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation would add an aggravator in felony sentencing if the defendant is convicted of a sexual offense and supplied alcohol or a controlled substance to the victim in connection with the offense. The Public Defender Agency believes this bill will have a fiscal impact on the workload of the Agency, but not on the caseload of the Agency, but cannot quantify it, and therefore an indeterminate fiscal note is submitted.

Prepared by: Barbara Brink, Director Phone: (907) 334-4416  
 Division: Public Defender Agency Date/Time: 1/29/02 3:42 PM  
 Approved by: Jim Duncan, Commissioner Date: 1/29/2002  
 Agency: Department of Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSHB 297(JUD)  
 (H) Publish Date: 2/8/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
 Title: "An Act relating to aggravating factors  
sentencing." BRU: Administration and Operations  
 Component: All  
 Sponsor: Representative Meyer  
 Requester: House Judiciary Committee Component No. 694

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would create a new aggravator in sentencing for offenders who supplied alcohol or controlled substances to the victim in sexual assault offenses. Offenders can already be charged with other crimes in these circumstances, e.g., Misconduct Involving a Controlled Substance or Furnishing Liquor to a Minor, so the Department of Corrections is not anticipating a large impact as a result of this legislation, therefore, we are submitting an indeterminate fiscal note.

Prepared by: Candace Brower Phone 465-4652  
 Division: Commissioner's Office Date/Time 1/29/02 2:19 PM  
 Approved by: Margaret Pugh, Commissioner Date 1/29/02  
 Agency: Department of Corrections



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 19

## SPONSOR STATEMENT

### CS HB 297(JUD)

**"An Act related to aggravating factors at sentencing."**

When drugs or alcohol are used to lower the inhibitions of a person to a point where they become the victim of a sexual assault, the seriousness of the crime should be elevated in the eye of the court.

CS HB 297(JUD) adds an aggravating factor to AS 12.55.155 that declares if a defendant supplied drugs or alcohol to the victim, in furtherance of the offense, the defendant may be held to a higher degree of punishment. An aggravating factor is an element or circumstance involved in the commission of a crime that elevates its seriousness; a fact justifying more than the usual measure of damages or punishment.

AS 12.55.125 lists presumptive terms of sentencing. CS HB 297(JUD) will allow a judge to increase a presumptive sentence up to the maximum term of imprisonment for that offense.

For example, the presumptive sentence for a first time offender convicted of a sexual assault in the first degree is eight years. With this new aggravator, the judge could increase the sentence to up to 30 years, which is the maximum allowed.

It is important to remember that an aggravator is applied at sentencing. The defendant will have already been convicted of sexual assault.

\*\*\*

2/5/02

JAN 25 2002



January 22, 2002

Representative Kevin Meyer  
Alaska State Capitol Rm. # 110  
Juneau, AK 99801-1182

Dear Representative Meyer:

I am writing on behalf of the Board of Directors of Standing Together Against Rape, Inc. (STAR) in Anchorage, Alaska. As you are aware, STAR is a non-profit agency whose mission is to support and advocate for victims of sexual violence and their loved ones.

We are writing today to express our support for House Bill 297 to add *supplying alcohol or a controlled substance to a victim as an aggravating factor for sentencing*. On January 16, at a regular meeting of the Board of Directors, the Board voted to support this bill.

Thank you for your continued efforts on behalf of victims of sexual assault and abuse.

Sincerely,

Karen Bitzer  
Executive Director

# STATE OF ALASKA

JAN 25 2002

## DEPARTMENT OF PUBLIC SAFETY

### COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

TONY KNOWLES, GOVERNOR

P.O. BOX 111200  
JUNEAU, ALASKA 99811-1200  
PHONE: (907) 465-4356  
FAX: (907) 465-3627  
OFFICE ADDRESS: 450 WHITTIER ST.

January 23, 2002

The Honorable Kevin Meyer  
Alaska State House of Representative  
State Capitol, Room  
Juneau, AK 99801-1182

Dear Representative Meyer:

As the state council charged with providing leadership in meeting the needs of victims of domestic violence and sexual assault, the Council on Domestic Violence and Sexual Assault strongly supports House Bill 297, "an Act relating to aggravating factors at sentencing." This bill would allow for stiffer sentences for sexual predators in Alaska, and could be a strong deterrent for perpetrators who intentionally use drugs or alcohol to lower the inhibitions of their victims.

Many sexual assaults in Alaska involve alcohol or other drugs. Victims debilitated by intoxication often present little or no resistance during the assault; nor do they clearly recall the event later. These factors allow the perpetrators to commit serious crimes, seemingly without accountability or punishment. House Bill 297 can help keep Alaskans safe not only by serving as a deterrent, but also by giving courts the option to impose longer sentences for those who commit the crime of sexual assault by intentionally sedating their victims. The Council supports your efforts to increase the penalty for committing this horrible crime in Alaska and appreciates your concern for the protection and safety of Alaskans.

Sincerely,



Barbara Thompson  
Chair

## **ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT**

130 Seward, Rm 209  
Juneau, Alaska 99801

(907) 586-3650 ph  
(907) 463-4493 fx

To: Representative Meyer  
From: Lauree Hugonin *LH*  
Date: 1/23/02  
Re: HB297

Thank you for introducing HB297, an Act related to aggravating factors at sentencing. The Network supports adding this aggravating factor for judges to consider in sentencing convicted sex offenders.

The Alaska Network on Domestic Violence and Sexual Assault (Network) is the statewide coalition of community domestic violence and sexual assault intervention programs for Alaska. Twenty full member and five supporting member programs provide shelter, advocacy, crisis intervention, and, information and referral services to victims seeking assistance in ending the violence being perpetrated against them. The Network works to promote institutional and systemic change necessary to end violence against women.

People who choose to commit sex offenses often look for people who are vulnerable and can offer the least resistance. They often try and increase that vulnerability through the deliberate use of alcohol or controlled substances.

In 1997, the legislature passed legislation to add flunitrazepam (rohypnol) and gamma-hydroxybutrate (GHB) to the schedule 4-A drug list. Both are commonly known as "date rape" drugs and "forget pills". Sex offenders use these drugs to keep victims from being able to resist and as a defense against being caught. Because survivors will have been heavily sedated, they probably will not have complete recall of the sexual assault. They may be uncertain about exactly what happened and who was involved. The inability of a victim to recall facts makes prosecution of a sexual assault where these drugs were used very difficult.

We have heard anecdotally of an increase in GHB use in sexual assaults on the Kenai Peninsula. Well publicized, your bill can send a strong message to those offenders that the penalties they face will be increased and maybe some of them will make the choice not to offend.

STATE OFFICE  
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



**Business Manager**

Joseph Young  
Anchorage

**Board of Directors**

Leo Brandlen, President  
Anchorage

Chuck Kopp, Vice President  
Kenai

Michael Corkill, Past President  
Mesa, AZ

Kim Wannamaker, Member  
Kenai  
Pres. Kenai Chapter

Terry Games, Member  
Anchorage  
Pres. Anchorage Chapter

Jella Long, Member  
Wasilla  
Pres. Mat-Su Chapter

Lonnie Hatman, Member  
Fairbanks  
Pres. Farthest North Chapter

Jerry Nankervis, Member  
Juneau  
Pres. Capital City Chapter

Andrea Jacobson, Member  
Ketchikan  
Pres. First City Chapter

James See, Member  
Craig  
Pres. Prince of Wales Chapter

John Lucking, Jr., Member  
Unalaska  
Pres. Aleutian Islands Chapter

Thecia LaLonde, Member  
Wrangell  
Pres. Wrangell Chapter

January 31, 2002

Representative Kevin Meyer  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Meyer:

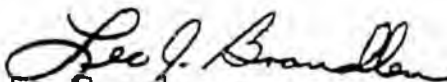
Thank you for introducing House Bill 297 (22-LS1186A) related to aggravated factors of sentencing as it pertains to providing alcohol or a controlled substance to a victim.

The APOA State Board of Directors recently met and after discussing proposed legislation, decided to unanimously support this bill.

We believe that this legislation will assist prosecutors in the sentencing of offenders in cases where the offender has given the victim alcohol or drugs to take advantage of the victim such as in cases involving "date rape" drugs and the like.

Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

  
Leo Brandlen  
State President

**HB**

**297**

SFIN

FILE

HB 297

was referred to the  
Senate Finance  
Committee

No hearing was held  
on this bill



OFFICIAL BUSINESS

Alaska State Legislature  
Senate  
Office of the Secretary

STATE CAPITOL, ROOM 213  
JUNEAU, ALASKA 99801-1182  
(907) 465-3701  
FAX: 465-2832  
EMAIL: senate\_secretary@legis.state.ak.us

FOR YOUR IMMEDIATE ATTENTION

DATE: April 4, 2002  
TO: Finance Committee *Mindy #520*  
(~~Senator Donley and Senator Kelly - Room 532~~)  
FROM: Office of the Senate Secretary  
SUBJ: Waived Bill(s)

The CoChair of the Committee noted above has waived referral on the following bill(s):

**RETRIEVE**

CS FOR HOUSE BILL NO. 297(JUD)  
"An Act related to aggravating factors at sentencing."

Please give the bill file(s) to the page for forwarding to the next Committee of referral.

Thank you.

**HB**

**298**

SFIN

FILE

**SENATE FINANCE COMMITTEE REPORT**

DATE: 3/28/02

APR 04 2002

FURTHER:

DATE TURNED IN TO OFFICE: 4/04/02

Finance Committee considered **CS FOR HOUSE BILL NO. 298(L&C)**  
**HB 298 LEGISLATIVE APPROVAL OF RAILROAD LEASES**

"An Act relating to authorizing the Alaska Railroad Corporation to lease land for a period of up to 55 years."

and recommends:

- be replaced with CS HB 298 (FIN)
- adopt previous CS FORTHCOMING
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

- Senate Bill:**  
 same title  
 new title
- House Bill:**  
 same title  
 technical title  
 new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
Admin	4/3/02	175.0		2

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
AK RR	1/3/02		✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Lyle M...</i>	✓			
<i>...</i>	✓			
<i>...</i>	✓			
<i>...</i>	✓			
<i>...</i>	✓			
COCHAIR: <i>Walter D...</i>		✓		
COCHAIR: <i>...</i>	✓			



# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 298(TRA)  
 (H) Publish Date: 2/1/02

Revision Date/Time (Note if correction): 01/30/2002 Dept. Affected: ARRC  
 Title: An Act relating to Legislative Approval BRU: \_\_\_\_\_  
 of Railroad land leases Component: \_\_\_\_\_  
 Sponsor: Representative Murkowski  
 Requester: House Transportation Component No. \_\_\_\_\_

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 HB 298 will not have a fiscal impact on the State of Alaska. This change in statute will make large commercial and residential development on Alaska Railroad lands more viable by making it easier for the Railroad to lease lands that are currently underdeveloped in Seward, Anchorage, Healy and Fairbanks.

Prepared by: Wendy Lindskoog, Director of External Affairs Phone 907-265-2498  
 Division: Alaska Railroad Corporation Date/Time 1/30/02 10:59 AM  
 Approved by: Deborah B. Sedwick, Commissioner Date 1/30/2002  
 Agency: Department of Community & Economic Development

ADOPTED

Conceptual  
amendment  
#1  
22-LS1192V

Effective date,  
"11 immediate."

CS FOR HOUSE BILL NO. 298(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/6/02

Referred: Rules

Sponsor(s): REPRESENTATIVE MURKOWSKI

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to authorizing the Alaska Railroad Corporation to lease land for a  
2 period of up to 55 years."

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

4 \* Section. 1. AS 42.40.285 is amended to read:

5 Sec. 42.40.285. Legislative approval required. Unless the legislature  
6 approves the action by law, the corporation may not

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

9 (2) issue bonds;

10 (3) extend railroad lines; this paragraph does not apply to a spur,  
11 industrial, team, switching, or side track;

12 (4) lease land for a period in excess of 55 [35] years unless the  
13 corporation reserves the right to terminate the lease if the land is needed for railroad  
14 purposes;

1                   (5) apply for or accept a grant of federal land within a municipality;  
2 before approving an action under this paragraph, the legislature must determine that  
3 the federal land is required for essential railroad purposes; this paragraph does not  
4 apply to the application for or acceptance of a grant of federal land associated with

5                               (A) the Anchorage-Wasilla line change project on Elmendorf  
6 Air Force Base and Fort Richardson;

7                               (B) the Fairbanks intermodal rail yard expansion project;

8                               (C) a conveyance of rail properties of the Alaska Railroad  
9 under the original Alaska Railroad Transfer Act of 1982 as set out in Title VI,  
10 P.L. 97-468; in this subparagraph, "rail properties of the Alaska Railroad" has  
11 the meaning given in 45 U.S.C. 1202(10).

Final proof

Conceptual Amendment #1

22-LS1192\1

Laura  
Approved  
4/4/02  
1:35p.m.

SENATE CS FOR CS FOR HOUSE BILL NO. 298(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES MURKOWSKI, Mulder

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to authorizing the Alaska Railroad Corporation to lease land for a  
2 period of up to 55 years; and providing for an effective date."

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

4 \* Section 1. AS 42.40.285 is amended to read:

5 Sec. 42.40.285. Legislative approval required. Unless the legislature  
6 approves the action by law, the corporation may not

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

9 (2) issue bonds;

10 (3) extend railroad lines; this paragraph does not apply to a spur,  
11 industrial, team, switching, or side track;

12 (4) lease land for a period in excess of 55 [35] years unless the  
13 corporation reserves the right to terminate the lease if the land is needed for railroad  
14 purposes;

1  
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12

(5) apply for or accept a grant of federal land within a municipality:  
before approving an action under this paragraph, the legislature must determine that  
the federal land is required for essential railroad purposes; this paragraph does not  
apply to the application for or acceptance of a grant of federal land associated with

(A) the Anchorage-Wasilla line change project on Elmendorf  
Air Force Base and Fort Richardson;

(B) the Fairbanks intermodal rail yard expansion project;

(C) a conveyance of rail properties of the Alaska Railroad  
under the original Alaska Railroad Transfer Act of 1982 as set out in Title VI,  
P.L. 97-468; in this subparagraph, "rail properties of the Alaska Railroad" has  
the meaning given in 45 U.S.C. 1202(10).

\* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

*Conceptual  
Amendment  
#1*



Official Business

# Alaska State Senate

## Senate Finance Committee

*Faxed 11:40 AM 4/4/02*

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

DATE: 4/4/02 TIME: 11:40 AM

TO: Legal

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: ROBIN PAUL  
SENATE FINANCE CMTE. ASST. SECRETARY  
PHONE: 465-2618  
FAX: 465-2187

*22-LS1192\J*

NOTES: Need a Final of CS HB 298 (FIN)  
with Conceptual Amendment adopted to include:  
an immediate effective date.

*Call if you have any questions!  
Thanks  
Robin*

# ALASKA STATE LEGISLATURE

*Chair:*  
LABOR AND COMMERCE

*Member:*  
MILITARY AND VETERANS AFFAIRS  
COMMUNITY AND REGIONAL AFFAIRS  
LEGISLATIVE COUNCIL  
JOINT ARMED SERVICES



**REPRESENTATIVE LISA MURKOWSKI**  
Government Hill • Elmendorf • East Anchorage

*Session:*  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-3783  
FAX: (907) 465-2293  
Representative\_Lisa\_Murkowski@legis.state.ak.us

*Interim:*  
716 WEST 4TH AVENUE  
ANCHORAGE, AK 99501-2133  
PHONE: (907) 269-0174  
FAX: (907) 269-0177

## Sponsor Statement

### HB 298

### “An Act relating to authorizing the Alaska Railroad Corporation to lease land for a period of up to 55 years”

At the request of the Alaska Railroad Corporation, I have introduced House Bill 298, extending the length of time the Alaska Railroad Corporation (ARRC) can lease lands from the current 35 years to 55 years.

This change in statute will help cultivate economic development in communities along the Railbelt by making commercial and residential development on Alaska Railroad lands more viable. On any existing ARRC lease with a term longer than 35 years, an option to extend leases beyond that time includes a termination clause. This clause allows the ARRC to terminate any lease after 35 years in the event the land is needed for railroad purposes.

While the 35-year lease limit is adequate for most of ARRC's tenants, it is an obstacle in leasing lands to large commercial and residential developers who need to secure long-term financing for their investments. Financial lenders are reluctant to invest in large-scale projects requiring substantial equity participation when there is no guarantee the land will be available beyond 35 years. It will also make ARRC's leasing practices more consistent with other state agencies. Both the University of Alaska and the Department of Natural Resources can lease land for up to 55 years.

The proposed extension of allowable lease term is supported by the following businesses, individuals and organizations: Anchorage Historic Properties, Anchorage Neighborhood Housing Services, Mel Tipton (Ship Creek tenant and commercial developer), Seward Ship's Drydock, Inc., Dowl Engineers, Northrim Bank, AIDEA, Yukon Fuel, Kantishna Holdings, Inc., A&A Construction and Development, Inc., the Anchorage Chamber of Commerce, City of Seward, Anchorage Assembly, and Fairbanks Chamber of Commerce. I urge your support of this legislation.

## **House Bill 298, Railroad Leasing Policy Frequently Asked Questions**

### **How much land does the Alaska Railroad own?**

The Alaska Railroad Corporation (ARRC) owns approximately 36,000 acres of real estate.

Total right-of-way acres =	12,415
Total "reserve" acres	23,813

Of the 23,813 acres of reserve land, 17,970 are available for lease, which represents about 49.6% of the land owned by the Railroad. The remaining 5,843 acres within the reserves is used for operating purposes including yards, tracks etc. The Railroad has approximately 260 tenants scattered from Fairbanks to Seward and even in Valdez.

### **What is considered reserve land?**

"Reserve" is a federal term of art – in this case it refers to land originally set aside or "reserved" by the federal government for use of the Alaska Railroad. These lands are larger parcels (i.e. not a skinny right-of-way strip) sited in strategic locations for both operational and non-operational purposes. These uses have historically included rail, yards, railroad facilities and lease by third parties. Most of the railroad's lands available for lease lie in these contiguous land areas called reserves.

### **What are considered rail right-of-way and operating lands?**

More than half of ARRC's land is dedicated to supporting and maintaining the corporation's primary activity – freight and passenger transportation services. These lands encompass the railroad's 200-foot right-of-way (100 feet on either side of the track) as well as lands containing spurs, industrial track, yard, dock, and depot facilities.

### **Does this legislation affect ROW leases?**

This legislation does not affect right-of-way and other operating lands that lie within the reserve areas. Most operating lands are located in our reserves. Right-of-way lands are rarely leased, and even then are restricted to terms of less than 18 years to avoid triggering certain onerous provisions in the federal transfer act.

**Why were the leases originally set at 35 years before being subject to a termination clause?**

The answer is not clear. Discussions regarding the lease terms and rates took place in legislative work sessions that were not officially recorded meetings. These sessions took place during the time the Railroad was being transferred from the federal government to the State of Alaska and the Alaska Railroad Corporation enabling legislation was being drafted.

At the time of transfer there was much debate regarding the development of a consistent and reasonable policy for leasing railroad land. People involved in discussions during the transfer time don't remember a specific reason for reducing the maximum lease length for railroad land but said the decision could have been influenced by the following issues.

At the time of transfer, there was a pending lawsuit from the "Alaska Railroad Leaseholders Association" many who asserted that certain leases were sweetheart deals and others were not. There were concerns within the legislature and administration that the railroad's practice was to issue long-term leases at rental rates that were below Fair Market Value (FMV). Lastly, there was considerable sentiment in the legislature to privatize the railroad within a fairly short time, which might well have fueled the desire for shorter lease terms. Out of these concerns, came a statutory requirement for Fair Market Value leases and legislative approval for any lease longer than 35 years.

**Who supports this bill?**

The proposed extension of allowable lease terms to 55 years is supported by the following businesses, individuals and organizations:

Anchorage Historic Properties  
Anchorage Neighborhood Housing  
Mel Tipton (*Anchorage business man and Railroad lessee*)  
Seward Ship's Drydock  
Dowl Engineers  
Northrim Bank  
AIDEA  
Yukon Fuel  
Kantishna Holdings

A&A Construction and Development  
Alaska State Chamber of Commerce  
Anchorage Chamber of Commerce  
City of Seward  
Anchorage Assembly  
Fairbanks Chamber of Commerce

**Who opposes this bill?**

As of December 2001, there has been no expressed opposition to this proposal.

### **What commercial and residential developments are driving this legislation?**

- Ship Creek Development in Anchorage
- Chena Landings Development in Fairbanks
- Anchorage Neighborhood Housing project using HUD financing that requires a 50-year lease.
- Major hotel, restaurant, office space, retail space or commercial development such a convention center.

### **Wasn't legislation recently passed allowing for longer leases in Healy?**

House Bill 344 was passed during the 2000 legislative session giving the Railroad flexibility to issue a lease in the Tri-Valley subdivision in excess of 35 years without reserving the right to terminate the lease if the land is needed for railroad purposes. The long-term lease affecting the Tri-Valley subdivision enabled families in Healy to qualify for more affordable loans. This bill applied only to the Tri-Valley subdivision area and not to the entire Railroad Healy Reserve.

### **How does a lease differ from a permit?**

Leases give tenants the exclusive use of the property, precluding even railroad use. If for five or more years in length, they must be approved by the Alaska Railroad Corporation Board of Directors. Public notice must be given before a lease is issued, and the Board's action approving or disapproving is taken at a public meeting.

Permits are a non-exclusive right to be on railroad land. They run the gamut from short-term entries by people like surveyors or customers needing temporary storage space, to longer, more intensive uses like utilities, roadways, pipelines or fiber optics facilities. Typically, more than half of our permits can be cancelled on short notice, are issued for less than five years, and are for uses not involving a significant investment of capital. These kinds of permits do not require Board approval or public notice. However, permits that represent a considerable investment by the permittee or are of a nature that makes them functionally irrevocable (such as a public utility line) do require public notice. The most significant of these are "corridor permits", where the user installs a longitudinal facility taking advantage of the right-of-way as a utility corridor. These not only require public notice and Board approval, but also are also longer term and charge a FMV rate of compensation.

**How is the public assured proper input in the Railroad's long-term leasing decisions?**

- All Alaska Railroad Board of Directors meetings are open to the public and offer an opportunity for public comment. These meetings are advertised at least five days in advance in at least three newspapers of general circulation along the Railbelt. The Railroad typically advertises in the Anchorage Daily News, Fairbanks News Miner and Seward Phoenix Log.
- All leases are subject to a public notice process: Previously issued leases that don't alter use are subject to a minimum 15-day public notice period. Property that has not been leased before or is being leased again but with changed zoning is subject to a minimum 30-day public notice period. The notice is published in a local newspaper (or posted in a public location if there is no newspaper). It invites comment up to the expected date of Board action.

Introduced By: Governmental Affairs  
Other Review: Transportation  
Date Introduced: November 5, 2001  
Date Passed: December 10, 2001  
Date Transmitted: December 11, 2001

**RESOLUTION 01-1210**

**A RESOLUTION BY THE GREATER FAIRBANKS CHAMBER OF  
COMMERCE SUPPORTING LEGISLATION AUTHORIZING THE  
ALASKA RAILROAD TO LEASE LAND FOR 55 YEARS**

WHEREAS legislation authorizing the Alaska Railroad Corporation (ARRC) to lease land for 55 years will cultivate economic development in Alaska communities along the railbelt by making commercial and residential development on ARRC lands more feasible; and

WHEREAS ARRC's current statutory limit is a 35-year lease. Proposed legislation would amend AS 42.40.285 (4) enabling the Alaska Railroad Corporation (ARRC) to lease lands within its Anchorage, Fairbanks, Seward and Healy Terminal Reserves for up to 55 years rather than 35 years without first gaining legislative approval; and

WHEREAS today, ARRC can extend leases beyond 35 years subject to a termination clause defined by AS 42.40.285 (4). The clause states ARRC can terminate any lease with a term in excess of 35 years in the event the land is needed for railroad purposes after the initial 35 years; and

WHEREAS financial lenders are reluctant to lend on large-scale projects requiring substantial equity when there is no guarantee the land will be available beyond 35 years; and

WHEREAS ARRC's statutory constraints limit the ability for developers of large-scale commercial and residential projects to secure financing because certain banking regulations require ground lease maturity to exceed loan maturity by 10 years; and

WHEREAS when developers provide significant infrastructure or operational improvements, it is beneficial to have a lengthened lease term allowing companies to amortize debt over a longer span of time; and

WHEREAS increasing the lease term to 55 years would increase financing options and, therefore, investor interest; and

**Benefactors**

Alaska Airlines

Alaska  
Communications  
Systems

Alaska Railroad

Alaska Pipeline  
Service Company

AT&T Alascom

Exploration  
(Alaska) Inc.

CellularOne

Chili State Bank

Design Alaska

Fairbanks Building &  
Construction Trades  
Council "The Unions"

Fairbanks Natural  
Gas, LLC

Fairbanks Urgent  
Care Center

First National Bank  
Alaska

Flowline Alaska

Fort Knox Mine

Golden Heart Utilities

Golden Valley  
Electric Association

K. Janitorial

Bank of Alaska

McKinley Bank

North Star Computing

Northrim Bank

Phillips Alaska, Inc.

Stina's Flowers & Gifts

Tanana Valley Clinic

Third Sector  
Technologies, Inc.

Totem Ocean  
Trailer Express

Usibelli Coal Mine

WebWeavers

Fargo Bank Alaska

Wendy's

Westmark  
Fairbanks Hotel &  
Conference Center

Williams Alaska

GREATER \* FAIRBANKS  
**CHAMBER**  
**OF COMMERCE**

250 Cushman St., Suite 2D, Fairbank., AK 99701-4665  
 phone: (907) 452-1105, fax: (907) 456-6968

e-mail: staff@fairbankschamber.org  
 website: www.fairbankschamber.org

WHEREAS this change would result in increased business activity on railroad property by making improvements more attractive to investors/users. This also creates long term benefits to the surrounding communities by providing an economic and tax base; and

WHEREAS the proposed legislation would make ARRC's leasing practices more consistent with other state agencies. The University of Alaska and the Department of Natural Resources can both lease land for up to 55 years:

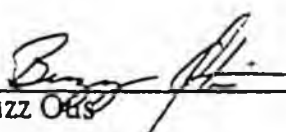
NOW THEREFORE BE IT RESOLVED that the Greater Fairbanks Chamber of Commerce views legislation authorizing ARRC to lease land for 55 years as an important step toward promoting economic development in railbelt communities where certain high value Railroad lands are currently underdeveloped.

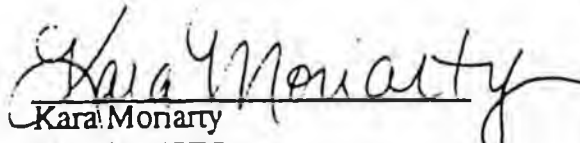
BE IT FURTHER RESOLVED that the Greater Fairbanks Chamber of Commerce supports and seeks to assist ARRC in obtaining legislative approval to lease land for up to 55 years in its Seward, Anchorage, Healy and Fairbanks Reserve Lands.

BE IT FURTHER RESOLVED that this resolution be distributed to:

Governor Tony Knowles  
 Interior Delegation  
 Senator Loren Leman  
 Alaska Railroad Corporation

PASSED in Fairbanks, Alaska this 10th day of December, 2001 by the Greater Fairbanks Chamber of Commerce Board of Directors.

  
 Buzz Oles  
 Board Chair

  
 Kara Moriarty  
 President/CEO

- Benefactors**
- Alaska Airlines
  - Alaska Communications Systems
  - Alaska Railroad
  - Alaska Pipeline Service Company
  - T&T Alascom
  - BP Exploration (Alaska) Inc.
  - CellularOne
  - Central State Bank
  - Design Alaska
  - Fairbanks Building & Construction Trades Council "The Unions"
  - Fairbanks Natural Gas, LLC
  - Fairbanks Urgent Care Center
  - First National Bank Alaska
  - Flowline Alaska
  - Fort Knox Mine
  - Golden Heart Utilities
  - Golden Valley Electric Association
  - K. Janitorial
  - Bank of Alaska
  - McKinley Bank
  - North Star Computing
  - Northrim Bank
  - Phillips Alaska, Inc.
  - Prima's Flowers & Gifts
  - Prima Valley Clinic
  - Third Sector Technologies, Inc.
  - Totem Ocean Trailer Express
  - Tabelli Coal Mine
  - WebWeavers
  - Wells Fargo Bank Alaska
  - Wendy's
  - Westmark Fairbanks Hotel & Conference Center
  - Williams Alaska

Alaska State Chamber of Commerce

Priority 2002 - 32

Authorization for the Alaska Railroad to lease land

The Alaska State Chamber of Commerce urges the Administration and Legislature to support a change allowing authorization of the Alaska Railroad to lease land for 55 years within its Anchorage, Fairbanks, Seward and Healy Terminal Reserves. The Alaska Railroad needs the flexibility to offer 55-year lease terms on a variety of Railroad properties to promote economic development in railbelt communities where certain high value Railroad lands are currently underdeveloped.

Rationale:

The Alaska Railroad Corporation's (ARRC) current statutory limit is a 35-year lease. The ARRC can extend leases beyond 35 years subject to a termination clause defined by AS 42.40.285 (4). The clause states the ARRC can terminate any lease with a term in excess of 35 years in the event the land is needed for railroad purposes after the initial 35 years.

Financial lenders are reluctant to lend on large-scale projects requiring substantial equity when there is no guarantee the land will be available beyond 35 years. Increasing the lease term to 55 years would allow companies to amortize debt over a longer span of time and increase financing options.

The ARRC's statutory constraints limit the ability for developers of large-scale commercial and residential projects to secure financing because certain banking regulations require ground lease maturity to exceed loan maturity by 10 years. The change to 55 year leases from 35 also creates long-term benefits to surrounding communities by providing an economic and tax base.

ADOPTED

November 1, 2001

BY

Pamela La Bolle

Pamela La Bolle  
President

BY

Helvi K. Sandvik

Helvi Sandvik  
Chair



Anchorage • Star of the North  
Chamber of Commerce

A Resolution Supporting Legislation  
Authorizing the Alaska Railroad to Lease Land for 55 years  
Resolution 01/02 - 04

WHEREAS, legislation authorizing the Alaska Railroad Corporation (ARRC) to lease land for 55 years will cultivate economic development in Alaska communities along the railbelt by making commercial and residential development on ARRC lands more feasible; and

WHEREAS, ARRC's current statutory limit is a 35-year lease. Proposed legislation would amend AS 42.40.285 (4) enabling the Alaska Railroad Corporation (ARRC) to lease lands within its Anchorage, Fairbanks, Seward and Healy Terminal Reserves for up to 55 years rather than 35 years without first gaining legislative approval; and

WHEREAS, the Alaska Railroad owns 36,000 acres of land. Of that, the proposed legislation would apply to approximately 8,000 acres of reserve land: some 300 acres in Seward, 1000 acres in Anchorage, 6,000 acres in Healy and 450 acres in Fairbanks; and

WHEREAS, today, ARRC can extend leases beyond 35 years only if it subjects the lessee to a termination clause defined by AS 42.40.285 (4). The clause states ARRC can terminate any lease with a term in excess of 35 years in the event the land is needed for railroad purposes after the initial 35 years; and

WHEREAS, financial lenders are reluctant to lend on large-scale projects requiring substantial equity when there is no guarantee the land will be available beyond 35 years; and

WHEREAS, ARRC's statutory constraints limit the ability for developers of large-scale commercial and residential projects to secure financing because certain banking regulations require ground lease maturity to exceed loan maturity by 10 years; and

WHEREAS, when developers provide significant infrastructure or operational improvements, it is beneficial to have a lengthened lease term allowing companies to amortize debt over a longer span of time; and

WHEREAS, increasing the lease term to 55 years would increase financing options and, therefore, investor interest; and

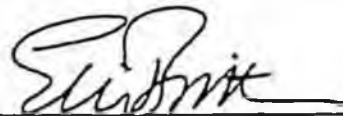
WHEREAS, this change would result in increased business activity on railroad property by making improvements more attractive to investor/users. This also creates long term benefits to the surrounding communities by providing an economic and tax base; and

WHEREAS, the proposed legislation would make ARRC's leasing practices more consistent with other state agencies. The University of Alaska and the Department of Natural Resources can both lease land for up to 55 years; and

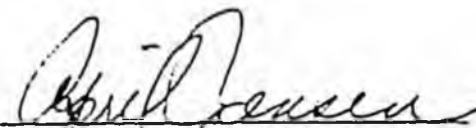
NOW THEREFORE BE IT RESOLVED, that the Anchorage Chamber of Commerce views legislation authorizing ARRC to lease land for 55 years as an important step toward promoting economic development in railbelt communities where certain high value Railroad lands are currently underdeveloped.

BE IT RESOLVED, that the Anchorage Chamber of Commerce supports and seeks to assist ARRC in obtaining legislative approval to lease land for up to 55 years in its Seward, Anchorage, Healy and Fairbanks Reserve Lands.

Approved this 2<sup>nd</sup> day of November 2001.



Eric Britten, 2001-2002 Chair



April Jensen, President

Sponsored by: Janke

**CITY OF SEWARD, ALASKA  
RESOLUTION 2001-136**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEWARD,  
ALASKA, SUPPORTING LEGISLATION AUTHORIZING THE ALASKA  
RAILROAD TO LEASE LAND FOR 55 YEARS**

**WHEREAS**, legislation authorizing the Alaska Railroad Corporation (ARRC) to lease land for 55 years will cultivate economic development in Alaska communities along the railbelt by making commercial and residential development on ARRC lands more feasible; and

**WHEREAS**, ARRC's current statutory limit is a 35-year lease. Proposed legislation would amend AS 42.40.285 (4) enabling the ARRC to lease lands within its Anchorage, Fairbanks, Seward and Healy Terminal Reserves for up to 55 years rather than 35 years without first gaining legislative approval; and

**WHEREAS**, today, ARRC can extend leases beyond 35 years subject to a termination clause defined by AS 42.40.285 (4). The clause states ARRC can terminate any lease with a term in excess of 35 years in the event the land is needed for railroad purposes after the initial 35 years; and

**WHEREAS**, financial lenders are reluctant to lend on large-scale projects requiring substantial equity when there is no guarantee the land will be available beyond 35 years; and

**WHEREAS**, ARRC's statutory constraints limit the ability for developers of large-scale commercial and residential projects to secure financing because certain banking regulations require ground lease maturity to exceed loan maturity by 10 years; and

**WHEREAS**, when developers provide significant infrastructure or operational improvements, it is beneficial to have a lengthened lease term allowing companies to amortize debt over a longer span of time; and

**WHEREAS**, increasing the lease term to 55 years would increase financing options and, therefore, investor interest; and

**WHEREAS**, this change would result in increased business activity on railroad property by making improvements more attractive to investor/users. This also creates long term benefits to the surrounding communities by providing an economic and tax base; and

**WHEREAS**, the proposed legislation would make ARRC's leasing practices more consistent with other state agencies. The University of Alaska and the Department of Natural Resources can both lease land for up to 55 years.

CITY OF SEWARD, ALASKA  
RESOLUTION 2001-136

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NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, that:

Section 1. The City of Seward views legislation authorizing ARRC to lease land for 55 years as an important step toward promoting economic development in railbelt communities where certain high value railroad lands are currently underdeveloped.

Section 2. The City of Seward supports and seeks to assist ARRC in obtaining legislative approval to lease land for up to 55 years in its Seward, Anchorage, Healy and Fairbanks Reserve Lands.

Section . This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Seward, Alaska, this 22nd day of October, 2001

THE CITY OF SEWARD, ALASKA

*Ed. Blatchford*

Edgar Blatchford, Mayor

AYES: Blatchford, Brossow, Branson, Calhoon, Clark, Orr, Shafer

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST:

*Patrick Reilly*

Patrick Reilly  
City Clerk

(City Seal)





**Yukon Fuel Company**

7041 Sandwood Pl  
Anchorage, AK 99507  
Tel: (907) 777-6605  
Fax: (907) 777-6650  
www.yukonfuel.com

Monday, April 23, 2001

Mr. James Kubitz, Vice President Real Estate  
Alaska Railroad  
327 W Ship Creek Ave  
P.O. Box 107500  
Anchorage, AK 99510-7500

Dear Mr. Kubitz:

We support the Alaska Railroad plan to seek the ability to offer longer-term real-estate leases. As you know we have been working with the Railroad to develop some new industrial areas.

Longer terms would be more attractive to our company because we will be able to amortize our investments over a longer span.

Please feel free to use this letter if this will help to allow the Railroad to extend its lease contracts beyond the current levels.

Yours truly,

Clayton Sheiver  
VP Assistant General Manager

# A & A CONSTRUCTION & DEVELOPMENT, INC.

202 East Trent Avenue, Suite 400, Spokane, Washington 99202

(509) 624-1170 fax (509) 624-1255

April 25, 2001

Alaska Railroad Corporation  
Attn: Karen Morrissey  
Real Estate Department  
Fax: 907-265-2450

Ladies and Gentlemen:

A & A Construction & Development, Inc. has developed and built four (4) hotels in the state of Alaska. Three of those are in Anchorage and one is in Fairbanks. The Anchorage Comfort Inn and the Fairbanks Comfort Inn are both on land leased from the Alaska Railroad Corporation pursuant to a ground lease.

When these leases were negotiated, the maximum initial term which we were told was available was only 35 years. Building a major improvement such as a hotel on a parcel of leased ground with only a 35 year duration presents significant problems. These include realizing the rate of return necessary to amortize the necessary debt over the term of the lease while at the same time providing an internal rate of return necessary to attract investors.

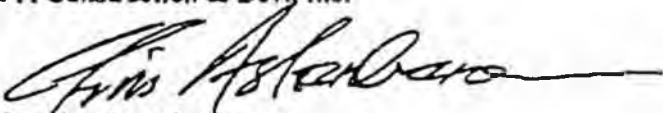
Although agreements can be reached for an extension of the original term, our experience has been that such extensions are difficult to obtain because of the mind set that the initial maximum term should be sufficient. Additional concerns arise with the potential failure to give notice for any extension that is typically required even when an extension is available.

There would seem to be little justification in limiting a ground lease for a major improvement to 35 years. The presumption would almost seem to be that the owner of the ground, as Lessor, would hope to receive a windfall by an early termination of the lease with the improvements then vesting in the Lessor.

My partner and I would very much like to construct further improvements on ground owned by the Alaska Railroad Corporation. We are reluctant to do so, however, unless the lease term can be increased.

Very Truly Yours,

A & A Construction & Dev., Inc.

  
Christopher R. Ashenbrener  
CORPORATE COUNSEL

CRA:sf



April 26, 2001

Chris Anderson  
Leasing Supervisor  
Alaska Railroad Corporation  
PO Box 107500  
Anchorage, Alaska 00510-7500

VIA FACSIMILE 265-2450

Dear Chris:

I am writing to support your efforts to amend AS 42.40.285(4) allowing Alaska Railroad Corporation (ARC) to lease land for 55 years.

This change would allow greater flexibility for lenders as regulations require ground lease maturity exceed loan maturity by 10 years. It will also make purchase and improvement more attractive to investor/users, which should result in increased business activity on railroad property.

Longer-term ground leases will increase financing options, investor interest and business development. Northrim Bank fully supports and commends your efforts.

Sincerely,



Ken R. Ferguson  
Vice President

Bayview Commercial Building, LLC  
619 E. Ship Creek Ave., Suite 250  
Anchorage, Alaska 99501  
Phone 907-279-7654  
Fax 907-278-0685

April 23, 2001

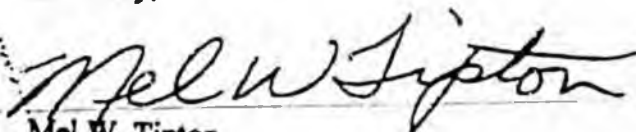
Jim Kubitz, Vice President Real Estate  
Alaska Railroad Corporation  
327 W. Ship Creek Avenue  
Anchorage, Alaska 99510-7500

Dear Mr. Kubitz:

As the owner of the Bayview Commercial Building located at 619 E. Ship Creek Avenue, I want to support the efforts you have been making to eliminate obstacles to create a more developer friendly process in leasing Alaska Railroad land. One of the obstacles still remaining is the restriction you have to leasing land beyond 35 years. Businesses and developers need to have a longer-term lease available in order to reinvest and find the financing to make major investments on railroad land. We support your efforts to extend your lease term from 35 to 55 years.

If you have any questions or would like to discuss this further, please call me at 279-7654.  
Thank you.

Sincerely,



Mel W. Tipton  
Manager

cc. Reading file  
Karen Morrissey



## SEWARD SHIP'S DRYDOCK, INC.

P.O. Box 944  
Mile 7 Nash Road  
Seward, Alaska 99664-0944

Tel: (907) 224-3198  
Tel: (907) 224-5640  
Fax: (907) 224-5376

April 24, 2001

Jim Kubitz, Vice president Real Estate  
Alaska Railroad Corporation  
327 W. Ship Creek Avenue  
Anchorage, Alaska 99510-7500

Dear Mr. Kubitz,

As the owner of three companies in Seward, I would like to extend my support to the efforts to obtain legislation to extend the land lease terms of the Alaska Railroad Corporation from 35 years to 55 years.

To obtain financing and make major investments on Alaska Railroad property this extension is critical to businesses and developers.

We are extremely supportive of your efforts in this obtaining this legislation.

Sincerely,

A handwritten signature in cursive script that reads "James T. Pruitt". The signature is written in black ink and is positioned above the printed name and title.

James T. Pruitt  
President



April 23, 2001

Jim Kubitz, Real Estate Division  
Alaska Railroad Corp.  
P.O. Box 107500  
Anchorage, AK 99510

Dear Jim:

Anchorage Historic Properties was founded 15 years ago as a non-profit organization dedicated to identifying and preserving structures of historical significance to Anchorage. Our board of directors and membership believe that we can only build a strong future for our city by recognizing the importance of its past.

To effectively accomplish our mission, the Alaska Railroad needs to be able to extend its property leases beyond the currently ineffective 35-year term. We strongly support the passage of AS 42.40.285, extending Railroad land leases to a 55-year term. This would greatly enhance the ability of organizations like ours to preserve structures situated on railroad property, and make long-term financing feasible.

We appreciate the Alaska Railroad's continued commitment to helping Anchorage Historic Properties and our vital role in the community.

Sincerely,

Craig Harpel  
Executive Director  
Anchorage Historic Properties

CC Reading File  
Karen Morrissey



April 24, 2001  
W.O. D01100

Mr. Jim Kubitz  
Vice President, Real Estate  
Alaska Railroad Corporation  
P.O. Box 107500  
Anchorage, Alaska 99510-7500

Subject: Real Estate Leasing

Dear Mr. Kubitz:

As you are aware, DOWL Engineers (DOWL), deals with a large number of developers and development projects throughout Alaska.

DOWL has been involved with many projects on leased land. Historically, most developers have desired "fee simple" ownership as a first choice. However, when that option is not available and leasing is the only option, the key issue is the "duration" of the lease. Obviously, the longer the lease term, the more financially feasible the project usually becomes. Thirty-five year leases have been shown to be inadequate for many projects.

Longer-term leases can be a significant incentive to promote development. Lease rates will presumably have a market based escalator so that the Alaska Railroad Corporation (ARRC) would get a market-based return over the life of the lease. Fifty-five year leases are not uncommon, especially where developers are asked to provide significant infrastructure/operational improvements.

I would strongly recommend that the ARRC consider 55-year leases for its properties. I believe the flexibility associated with this added incentive will promote major investments throughout the railbelt, resulting in favorable economic growth and a more financially viable Alaska Railroad.

If you have any specific questions or need additional information, please contact me at your convenience.

Very truly yours  
DOWL Engineers

A handwritten signature in cursive script that reads 'Timothy C. Potter'.

Timothy C. Potter  
Director of Planning

D01100.Kubitz.TCP.042401.kms



*Building Better  
Neighborhoods*

Anchorage Neighborhood Housing Services, Inc.

480 West Tudor Road, Anchorage, Alaska 99503 • (907) 243-1558 • Fax (907) 243-3214 • [www.akahns.org](http://www.akahns.org)

April 20, 2001

Ms. Karen J. Morrissey  
Director of Real Estate  
327 W. Ship Creek Avenue  
Anchorage, Alaska 99501

Dear Ms. Morrissey:

On behalf of Anchorage Neighborhood Housing Services, Inc., I would like to express our support of the Alaska Railroad Corporation's efforts to obtain legislation that would extend the land lease term from 35 years to 55 years.

Anchorage Neighborhood Housing Services, Inc. is working on the development of a 20 unit senior housing complex on Alaska Railroad property located in the Government Hill area. The housing would be developed utilizing Housing and Urban Development (HUD) 202 senior housing funds. HUD requirements for site control require a 50-year lease period in order to be eligible for financing. Therefore, changes in the land lease term are crucial to the development of future senior housing in Government Hill community.

We are highly supportive of your efforts in obtaining this legislation.

Sincerely,

Mary Jane Michael  
CEO and Executive Director



Mr. James W. Kubitz  
Vice President, Real Estate & Project Planning  
327 Ship Creek Avenue,  
Anchorage, Alaska 99501  
April 23, 2001

Re: Lease term or length

Dear Jim:

I have recently learned that the Alaska Railroad Corporation (ARC) is considering the extension of lease term length from 35 years to 55 years.

This is an outstanding proposal that will be applauded by everyone seeking to develop any major project on ARC lands.

The financial markets will be exceedingly receptive to such an increase in term length as the additional term allows for the aggregation of capital that would not be ordinarily available for the shorter term and is seeking the added security a 55 year lease offers.

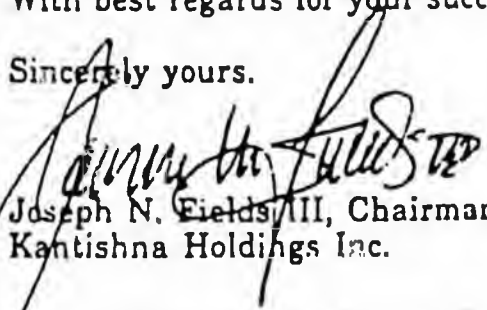
Major projects developers in Europe, like Eurotunnel PLC, creators of the rail link under the English Channel (chunnel) utilized the longer terms to aggregate the equivalent of USD 26 Billion in refinancing with over 200 participating banks, and that is exclusive of the high speed rail links from Calais to Paris and Brussels. The same can be said for financings in mining in Kalamantan (Borneo) and on the rail link from Blackpool, England to Edinburgh, Scotland.

The extended lease term is not limited to Europe or Asia but also is utilized in all parts of NAFTA to secure financing for major projects that have the capability of generating return over a longer period while creating long term benefits to the communities they are developed in. In some cases, the intent is to create a local cultural mainstay industry in the economy, a place where several generations will work and prosper. It is called economic stability.

I strongly urge you to adopt this very good, "Common Sense", policy at the earliest opportunity.

With best regards for your success I remain,

Sincerely yours,

  
Joseph N. Fields III, Chairman  
Kantishna Holdings Inc.



ALASKA INDUSTRIAL DEVELOPMENT  
AND EXPORT AUTHORITY



813 WEST NORTHERN LIGHTS BLVD. • ANCHORAGE, ALASKA 99503 • 907 / 269-3000 • FAX 907 / 269-3044  
TOLL FREE (ALASKA ONLY) 888 / 300-8534

April 23, 2001

Chris Anderson  
Leasing Supervisor  
Alaska Railroad Corporation  
PO Box 107500  
Anchorage, AK 99510-7500

VIA FACSIMILE 265-2450

Dear Chris:

This letter is in support of Alaska Railroad Corporation's (ARC) efforts to amend AS 42.40.285(4), which would allow ARC to lease land for a period of up to 55 years without prior legislative approval.

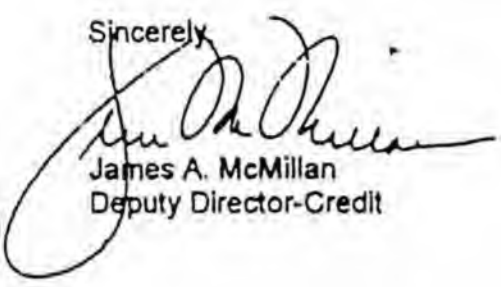
As you are aware, Alaska Industrial Development and Export Authority (AIDEA) provides financial assistance to Alaskan businesses through a loan participation program, whereby AIDEA purchases a portion of a loan originated by a financial institution. The benefit of this program is long-term financing, up to 40 years for certain projects, and fixed interest rates.

As the statute currently reads, if AIDEA was to participate in a project that qualified for a 40-year term, the maximum lease term would preclude AIDEA from establishing a 40-year term. Current AIDEA regulations require the term of a ground lease to extend 10 years beyond the term of the loan.

A change to the statute as ARC proposes would provide the flexibility needed for AIDEA to participate in all types of projects on ARC leased land.

Please let me know if I can be of any further assistance.

Sincerely,

  
James A. McMillan  
Deputy Director-Credit

CLERK'S OFFICE

APPROVED

Date 11-13-01

Submitted by: Assemblymember TESCHE

Prepared by: Department of Assembly

For reading: November 13, 2001

ANCHORAGE, ALASKA

AR NO. 2001-328

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING  
SENATE BILL 209, AUTHORIZING THE ALASKA RAILROAD TO LEASE LAND FOR  
55 YEARS.

WHEREAS, a proposed bill - Senate Bill 209 - would authorize the Alaska Railroad Corporation (ARRC) to lease land for 55 years; and

WHEREAS, this proposed legislation will cultivate development in Alaska communities along the railbelt by making commercial and residential development on ARRC lands more feasible; and

WHEREAS, ARRC's current statutory limit is a 35-year lease - the proposed legislation would amend AS 42.40.285(4) enabling the ARRC to lease lands within its Anchorage, Fairbanks, Seward, and Healy Terminal Reserves for up to 55 years rather than 35 years without first gaining legislative approval; and

WHEREAS, today, ARRC can extend leases beyond 35 years subject to a termination clause defined by AS 42.40.285(4) - the clause states ARRC can terminate any lease with a term in excess of 35 years in the event the land is needed for railroad purposes after the initial 35 years; and

WHEREAS, financial lenders are reluctant to lend on large-scale projects requiring substantial equity when there is no guarantee the land will be available beyond 35 years; and

WHEREAS, ARRC's statutory constraints limit the ability for developers of large-scale commercial and residential projects to secure financing because certain banking regulations require ground lease maturity to exceed loan maturity by 10 years; and

WHEREAS, when developers provide significant infrastructure or operational improvements, it is beneficial to have a lengthened lease term allowing companies to amortize debt over a longer span of time; and

WHEREAS, increasing the lease term to 55 years would increase financing options and, therefore, investor interest; and

2  
3  
4 WHEREAS, this change would result in increased business activity on railroad  
5 property by making improvements more attractive to investor/users. This also creates long  
6 term benefits to the surrounding communities by providing an economic tax base.

7  
8 NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

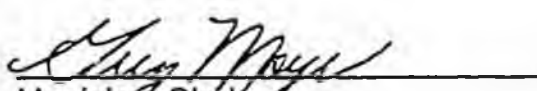
9  
10 Section 1: That the Assembly supports Senate Bill 209 authorizing ARRC to lease  
11 land for 55 years.

12  
13 Section 2: That the Assembly views this legislation as an important step toward  
14 promoting economic development in railbelt communities where certain high value railroad  
15 lands are currently underdeveloped.

16  
17 PASSED AND APPROVED by the Anchorage Assembly this 13<sup>th</sup> day of  
18 November, 2001.

19  
20  
21   
22 \_\_\_\_\_  
23 Chair

24  
25 ATTEST:

26  
27  
28   
29 \_\_\_\_\_  
30 Municipal Clerk  
31  
32



**HB**

**3000**

**HFIN**

**FILE**



# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 300  
 (H) Publish Date: 2/22/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: All  
 Title An Act relating to the procurement of certain BRU All  
travel services Component All  
 Sponsor Representative Hayes  
 Requester House State Affairs Component No. All

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

Note: Amounts do not include inflation unless otherwise stated below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>

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

<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify)						
<b>TOTAL</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Estimated impact is based on the following assumptions and calendar year 2001 data, provided by the State's travel card provider. The assumption is that state agencies will absorb the cost in existing budgets.

Total number of tickets purchased	49,308
less purchased direct from Airlines	11,195
Tickets purchased from travel agents	38,113
less tickets from contract travel agents (fees charged)	9,514
Tickets purchased from travel agents who waived fees	28,599
Cost of paying fees for services currently received at no cost	\$228,792
(28,599 tickets X assumed fee of \$8)	

Prepared by: Vern Jones Phone 465-5684  
 Division Division of General Services Date/Time 02/04/02  
 Approved by: Jim Duncan, Commissioner Date 2/7/2002  
 Agency Department of Administration

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 300  
(H) Publish Date: 2/22/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: All  
Title: An Act relating to the procurement of certain BRU: All  
travel services Component: All  
Sponsor: Representative Hayes  
Requestor: House State Affairs Component No. All

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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Prepared by: Vern Jones Phone 465-5684  
Division: Division of General Services Date/Time 02/04/02  
Approved by: Jim Duncan, Commissioner Date 2/7/2002  
Agency: Department of Administration

House Committees

Labor & Commerce  
Military & Veterans Affairs  
State Affairs  
Regulation Review

Alaska State Legislature  
**Representative  
Joe Hayes**

119 N. Cushman, Ste. 205  
Fairbanks, AK 99701  
(907) 456-7423 / Fax: 451-9293  
*While in Juneau*  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-3466 / Fax: 465-2937

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Representative Joe Hayes  
Sponsor Statement  
HB 300

HB 300 will allow for the exemption of contracts for certain types of travel services including airplane travel, hotel accommodations and travel agency services from the procurement procedures of AS 36.30.

Recently Alaska Airlines adopted a policy similar to other major airlines capping travel agent commissions from 5% of the total ticket price to \$10 and \$20 for one-way and roundtrip airline tickets, respectively. Due to the cap it has become necessary for many travel agencies to rely on agency fees to stay in business.

Since HB 300 will exempt certain travel services from the procurement procedures codified in AS 36.30, administrative agencies will be able to choose travel providers on a case-by-case basis. This will foster competition by allowing for the consideration of all agencies.

Passing the bill will give all travel agencies an opportunity to provide state travel, thus protecting and fostering Alaskan jobs and businesses. Protecting Alaska's economy is extremely important and HB 300 will aid in that endeavor.

I ask for your support in passing this legislation.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 15, 2002

**SUBJECT:** Sectional Summary of HB 300 relating to the procurement of certain travel services (Work Order No. 22-LS1195\A)

**TO:** Representative Joe Hayes  
Attn: Melinda

**FROM:** *JB*  
Theresa L. Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Provides legislative findings and intent for the bill.

Section 2. Excludes from the state's procurement code (AS 36.30) contracts for travel services, except for motor vehicle rentals.

Section 3. States that sec. 2 of the bill does not apply to ongoing contracts entered into before the effective date of the Act.

If I may be of further assistance, please advise.

TLB:med  
02-008.med

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 110200  
JUNEAU, ALASKA 99811-0200  
PHONE (907) 465-2200  
FAX (907) 465-2135

April 5, 2002

AAA Travel  
9191 Old Seward Hwy. # 20  
Anchorage, AK 99515-2040

Dear Travel Agent:

The most recent round of commission cuts by airlines is forcing the State of Alaska to change the way it purchases travel. As you may know, unless we conduct a competitive procurement, the State is statutorily able to transact business only with travel agents who have agreed to waive fees for their services. Now that most airlines have quit paying commissions, we believe it is highly unlikely travel agents can continue waiving fees for state travel.

One strategy suggested by travel agents is to set a fee threshold that could be paid to any travel agent for state travel. This is not permissible under present procurement law, which requires competitively awarded contracts when the State expends money.

However, the legislature is considering House Bill 300, which would exempt travel services from the normal competitive requirements of the procurement law. Should HB 300 become law, we would have the option of working with travel agents to establish a fee threshold that could be paid by state agencies to any travel agent in locations where we have no existing contracts.

We continue to monitor the progress of HB 300; its ultimate fate will dictate the State's course of action.

In the meantime, we are preparing to pursue a competitive procurement for the locations where we presently have no contracts, in the event HB 300 or similar legislation fails to pass this session. These locations include Anchorage, Fairbanks, and several smaller communities. Under current law, this procurement would result in single vendors in each location. On April 18<sup>th</sup>, we will mail each travel agent in these locations a copy of the competitive solicitation.

I wanted to let you know where things stand in this fast-changing area. I understand recent changes have made your economic situation difficult. The State of Alaska benefits greatly from the services of professional travel agents. We hope to continue these positive relationships to most efficiently accomplish the mission of government.

Sincerely,



Jim Duncan  
Commissioner



## Travel industry braces for new profit obstacles

The New York Times

NEW YORK—A little more than 20 years ago, Valerie Ann Wilson used family money to open a travel agency.

It was a gamble for Wilson, now 59, who had two young daughters and had not been working.

The bet more than paid off. The agency, Valerie Wilson Travel, has grown into a New York business with nearly 300 employees, including Wilson's two daughters, Jennifer Wilson-Buttigieg, 34, and Kimberly Wilson Wetty, 31. Last year, the agency had \$260 million in sales. And on Sept. 10, this was looking to be one of the agency's best years ever.

Then, on Sept. 11, two planes smashed into the World Trade Center, another hit the Pentagon and another crashed in a field in Pennsylvania. Matters were made worse by the looming recession and the November crash of Flight 587 in Belle Harbor, Queens.

Now some forecasters are warning that waves of failures, bankruptcies and layoffs are about to sweep through the industry.

"There were definitely signs even before the government said that it was a recession, but we thought we would be fairly insulated," said Wilson-Buttigieg, the executive vice president who has been managing the agency since her mother had a heart attack earlier this year. "I don't think anyone realized the ramifications of how Sept. 11 would affect corporate and leisure travel and how long it might be before we recover."

Wilson-Buttigieg said it would be hard to pick a business that has been hit harder by the events of the last few months. The American Society of Travel Agents estimates that its members lost \$1.35 billion just in the four weeks after the attack because of the drop in bookings for flights, hotel rooms, rental cars and cruises.

But even before Sept. 11, agencies had begun to feel the effect of large cuts made by corporations in their travel and entertainment budgets because of the slowing economy.

In addition, the airline industry cut commissions to travel agencies in August to \$20 per domestic flight, from \$50.

After the attack, Wilson decided against trying to recoup that lost revenue immediately at the cost of the consumer.

There may be more people flying again, but business at most Manhattan agencies, which may well be the hardest hit in the country, is down anywhere from 40 to 65 percent, according to the agencies. Hundreds of employees have been laid off at Manhattan agencies alone, agency officials said, and many smaller operations, with high fixed costs and little room for revenue growth, seem on the verge of going out of business.

"Other parts of the country are rebounding a lot faster than big cities, and I think other big cities are coming back quicker than New York," said Andy Pesky, the president of ProTravel-Zenith Group. The high-end company, is based on Madison Avenue and has offices in Milan, London, Beverly Hills, Calif., and elsewhere in the United States and Europe. "The phones are ringing," Pesky said, "but people are more likely to be calling to cancel a trip than make a reservation."

Sweeping changes in the airline business changed the lives of travel agents well before Sept. 11.

The most fundamental shift came in the mid-1990s, when the airline industry decided it was going to gradually reduce the commissions it paid travel agents for bringing in customers. Before the most recent reductions — to flat fees of \$50 per ticket, then \$20 per ticket — commissions on domestic flights had dropped to 8 percent from 10 percent in 1995.

Another major change in the industry has been a wave of mergers of small companies. The Internet also undercut agents by offering discounted tickets that could be bought in bulk.

## Travel Agency Services Briefing Paper

Amber -  
If you have  
any questions,  
please call  
me -  
Kam  
465-3435

### Statement of the Problem:

State agencies cannot purchase travel agency services in some communities without paying fees. Payment of fees requires competitive bidding.

### Discussion:

In October, airlines cut travel agent commissions from 8% to 5%. This 37.5% reduction was another step in a continuing trend that is putting severe economic pressure on travel agents. Many responded by initiating fees for their services.

State government has a long history of relying on the private sector for professional travel services. Because no public funds were spent for these services, each state office was able to use the travel agent of their choice and strong loyalties developed.

When fees were introduced for these services, the issue of competitive procurement arose. The State of Alaska spends over \$16 million a year on airline tickets; a fee as low as 1% results in \$160,000 spent for services. Likewise a fee of 5% would result in \$800,000 being spent for travel agent services. State law requires formal competitive bids for purchases of this size. Such a process would result in all state travel purchases being made from the limited number of successful bidders.

### Actions Taken to Date:

In November, after receiving the recommendation of Administrative Solutions Team, we sent letters to 170 travel agents across the state asking if they would waive service fees for state purchases. Many have responded that they are willing to do so. These travel agencies have been posted to a Department of Administration, Division of Finance web site for use by state agencies in making travel purchases. Most communities where the state purchases travel have at least one travel agency listed, and urban areas have several. This approach has allowed us to avoid competitively bidding travel agency services in these communities and the ensuing impact that bidding would have on travel agencies that were not successful bidders.

Unfortunately, there are a few key communities where there are no travel agencies willing to waive service fees for state purchases. At this time, we are contemplating conducting competitive bids in Bethel, Cordova, Haines, Kotzebue, Nome, Petersburg and Wrangell. This would provide state employees in these locations the ability to obtain professional travel services locally while paying the lowest service fee possible. It would not preclude purchases using a 1-800 number or over the internet, two options that are becoming increasingly common, especially for routine commercial travel within Alaska.

The Administrative Solutions Team is currently reviewing the proposed locations as well as a draft "Request for Quotes" document. The criteria outlined in the RFQ requires the

Final  
in Draft / Travel

travel agency to be licensed and bonded by the Airline Reporting Committee (ARC) and to maintain an office in the community. Feedback from state agencies on the draft document is expected by January 14<sup>th</sup>, and procurements could proceed before the end of January.

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**Recommended Action:**

Proceed with competitive bids in the proposed communities. Solicit every travel agency in each community. Contract awards would be mandatory for state travel purchases in that location when the services of a travel agent are used.

# Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

August 29, 1991

The Honorable Walter J. Hickel  
Governor, State of Alaska  
P.O. Box A  
Juneau, Alaska 99811-0101

Dear Governor Hickel:

I am writing to bring to your attention the disastrous effects on travel agencies in Juneau and other Alaska communities if your administration goes forward with its plan to consolidate all state travel into a contract with a single agency. While such a plan might save the state one or two percent of the cost of airline tickets, that savings is more than offset by the certain bankruptcies of many small travel agencies in Alaska and the ensuing loss of jobs and revenue in local communities.

Approximately half of Alaska's 112 travel agencies rely on the state for a portion of their business. The typical agency outside of Anchorage has an average gross sales volume of \$2-4 million and shows a net profit of only \$15,000 - \$40,000 annually. Given the 10% fixed gross margin of the industry (from the 10% commission), a typical small agency operates on a net margin of 1-2%. This means that if sales decline by 15%-20% the business is no longer able to break even, much less show a profit.

Here in Juneau at least two agencies depend on the state for more than half of their volume of sales, and one other transacts 40% of its business with the state. In most small towns in Alaska the situation is the same; the majority of the agencies rely on the state for at least 25% of their business. The proposed consolidation of state travel would bring many of the 50 small agencies doing business with the state below their break-even points and would undoubtedly force many into bankruptcy. The net result of the state's actions would be to force more than 35 currently profitable travel agencies out of business.

I urge you to review specific figures regarding airline price structuring and the cost of doing business for travel agencies. I believe you will find potential savings relatively small and the

District 4B — Juneau

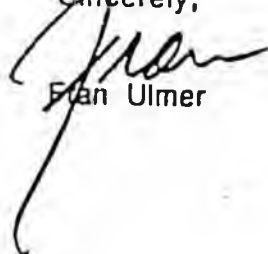
P.O. Box V • Juneau, Alaska 99811-3100 • (907) 465-4947

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Governor Walter J. Hickel  
August 29, 1991  
Page 2

impact on individual agencies large. While I applaud your efforts to find efficiencies, it is no benefit to Alaskans to pinch pennies while taking away their jobs. For the sake of economically healthy communities in Alaska, look to the airlines and other large vendors for savings on state travel costs.

Sincerely,



Fran Ulmer

cc: Nancy Bear Usera  
Millet Keller  
Shelby Stastny