

**ALASKA LEGISLATURE**

**2263**

**HOUSE and SENATE FINANCE COMMITTEE FILES,**

**2001 - 2002**



## Northern Lights Travel

605 Old Steese Hwy., Suite 117 • Fairbanks, Alaska 99701  
Phone (907) 451-7111 • 1-800-478-7048 • Fax (907) 451-8701

January 31, 2002

Representative Joe Hayes  
(907) 465-2937 FAX

Dear Mr. Hayes,

I would like to lend my support to HB300. Travel agencies are facing greater financial challenges every year as the airlines continue to decrease our commissions. Service fees are a must for travel agencies to continue to survive.

The STATE should NOT be exempt from paying for services from any business. We provide a valuable service. I do not want to see our public servants wasting time and money trying to be travel agents, when a call to a professional and efficient travel agent can have a state employee off the phone and the internet in minutes. Currently the State does not pay for the service of ticket delivery or the additional time spent if a ticket has to be changed and reissued.

Thank you, Mr. Hayes for supporting HB300. Please let me know if I can assist, in any way, to help pass this bill.

Sincerely,

Northern Lights Travel  
Yulanda Johansen, CTC  
Owner

Alaska Native Owned

Email: [yulanda@northernlightstravel.com](mailto:yulanda@northernlightstravel.com)



# Vagabond Travel

January 29, 2002

Representative Joe Hayes  
907/485 2977 Fax

Dear Mr. Hayes;

I would like to lend my support to HB300. Travel agencies are facing great financial challenges as we see our airline commissions shrinking with every passing year. Service fees have become a way of life in the travel agent industry and without them few of us could remain in business. The state should not be exempt from paying for services from any business. We provide a great service, as anyone who has sat on hold with the airlines or fumbled through an internet booking can attest to. Quite frankly, I do not want to see our public servants wasting time and money trying to be travel agents, when a call to a professional and efficient travel agent can have a state employee off the phone in minutes. The state does not even pay for the service of ticket delivery or the additional time spent if a ticket has to be changed and reissued.

My hat is off to you Mr. Hayes, please do not hesitate to contact me if there is anything further I can do in this endeavor.

Sincerely,

  
Ramona Oxendine  
Manager/partner

Becky's Travel Services  
3035 Mountainwood Circle  
Juneau, AK 99801  
(907) 784-5576

Re: Bill 300

I am Becky with Becky's Travel Service and I have been in the Travel Industry for 18 years. With the commission cuts and losing my state travel, I don't know how long I will be able to stay in business. Most of my revenue comes from State Travel and my clients were forced to go through only one agency. That made things really hard on my business. I hope this bill gets passed so they can choose who they prefer to use and help all the agencies stay in business.

Sincerely,  
Becky Thomas

January 14, 2002



To: Rep. Hayes  
FAX: 907 465-2937

F

From: Carol Callahan, Owner/Partner  
Sweetwater Travel  
FAX: 907 452-2154

Subject: House Bill No. 300

House bill sounds great. Short and sweet and shows all of the agencies intent of using more than one provider and being able to charge fees, which are essential for the existence of smaller agencies. Hope it flies.

*Carol Callahan*

December 27, 2000

Kymm Bowthorpe  
3262 Mendenhall Loop Rd. #2  
Juneau, AK 99801  
790-3282-h

Senator Kim Elton  
State Capitol Room 504  
Juneau, AK 99801-1182

Dear Mr. Elton,

I am writing to you today regarding an issue that I believe is a very serious one, the State of Alaska and its travel.

As a former travel consultant of 15 years, I have seen many arguments the state has made against putting its travel out to bid. Enclosed you will find a letter written by Fran Ulmer to our former governor, Walter Hickle, concerning the subject.

At this point I believe it is time for the state to make a major change. Several travel agencies in Juneau, as well as around the state, have gone out of business in the last couple of years. For some, it was due to the airlines cutting their commissions, for others it was a direct result of the states unwillingness to pay service fees in support of local businesses.

I have also enclosed a research paper that I have done on the subject. I do hope you will take the time to look it over. I believe this is a serious issue and one that needs your attention.

Thank you for your time.

Sincerely,



Kymm Bowthorpe

## The Future of State Travel

This past year has been a real test for the travel agents in our state. The airlines have cut their commissions in half. What once was a thriving enterprise is now a business struggling to hang on by its fingernails. Even when commissions were 10 percent of airline ticket sales, the agencies were only making it with about a 1 percent profit margin. When the airlines cut commissions, agencies were forced to charge their customers service fees, or risk going out of business altogether. In our little town of Juneau, two years ago there were eight travel agencies, now only three remain (those who started charging the fees). The agencies that tried to hold out on charging fees, just to keep some of their corporate and State of Alaska business, have failed.

The State of Alaska has refused to pay agencies fees from the very beginning. With some agents not charging state travelers a service fee, it was easy for the state to get away with not paying service fees. To me this very practice goes against the state's willingness to support local businesses. Because the state's travel is such a large amount of business, agencies were willing to forgo charging the state travelers a fee, just to get their business. However, the agency not charging a service fee to the state has paid the ultimate price. Southeast Executavel, one of the agencies not charging state travelers service fees, closed their doors this past Friday, December 8<sup>th</sup>.

Just the mere mention of The State of Alaska and travel in the same sentence is enough to start an argument in some political circles. For many years the state has been trying to cut expenses, but travel seems to be the one area where the government is reluctant to make a change in the way they are currently doing business. At the moment, the State of Alaska has a travel policy listed in The State of Alaska Administrative Manual for its travelers to follow. The state currently has its travelers make their own arrangements with whomever or however they wish. Employees are simply trusted to make their arrangements in the best interest of the state. Kim Garnero, Director of Finance at The Department of Administration, says that the state wants its travelers to have a choice when it comes to making travel arrangements (pers commun). However,

with the state unwilling to pay travel agency service fees, the travelers ultimately will not have a choice.

Another point Garnero makes in regard to contracting out the state's travel business is that right now the procurement code requires the state to competitively bid where competition exists, and choose the lowest cost provider of the services needed. This is being interpreted to mean that if an agency is not charging a fee, then they must be the lowest cost provider. But what guarantee is there? How does the state know it is not being overcharged for an airline ticket? Maybe a lower fare was available, but the agent was instructed to sell the state traveler the higher fare. Maybe there was a lower rate at the hotel, but the agent gave them the higher one because they knew it was within the allowed per diem. At this time some travel agencies are charging fees and some are not. In Juneau, for instance, there is one that does not charge fees and two that do charge service fees. Since some are not charging a fee, there is no need for the state to competitively bid out its travel. Therefore, travelers are forced by the state to use the agencies that do not charge service fees regardless of the level of service the agency is providing. The state wants its travelers to book whatever is in the best interest of the state, but how do travelers know if they are getting the best deal for the state? Why does the state leave it up to the traveler to ensure it is getting the best deal? Why is it assumed by the state that if it is not paying a fee for a service, it is getting the best deal?

If the State of Alaska contracted out its travel, it would ensure that its travelers received the best possible service, as well as saving the state time and money in the long run. Travel agencies currently can help businesses negotiate with vendors (car rental companies, hotels, and airlines), track travel expenses, provide very detailed reporting for accounting purposes, and save the travelers time when arranging travel. Some agents will even reconcile billings and travel claims. All of these services can be negotiated in a contract. Travel companies will usually try to negotiate as much service into a contract as a customer calls for.

Sharon Lowe, Administrative Manager for Public Health, Department of Health and Social Services, says that when she needs to travel, all she wants to do is call someone up, tell them where she is going, that she needs a car and a hotel, and have them fax the confirmation to her (pers commun). She does not want to spend time searching

for everything she needs on-line, nor does she wish to make a multitude of phone calls to all the separate vendors. She does not want her staff to waste their time searching for everything as though they were amateur travel arrangers. She needs a professional to handle her travel for her. If Sharon and her staff are doing their own travel arranging, as many state workers are, by the time they are finished researching everything, it probably would have cost the state less to go ahead and pay a travel agent a service fee to do the work for them. After speaking in depth with Sharon on the subject, as well as other coworkers, this seems to be the consensus. State travelers do not want to spend their time researching travel, they want to be able to call a professional and have them handle it and spend their time doing the work the state hired them to do.

A travel professional that is skilled at booking government reservations, which by the way is a specialty in the travel business, is a highly revered individual. They usually have many years of experience and know which vendors will give government travelers the best deals. When I called American Express Travel and spoke to Sanci Raynor (pers commun), a Government Travel Counselor, she was able to tell me right off the top of her head how much a government rate is at the Hilton in Anchorage, and at the Warwick in Seattle. She knows exactly who has the lowest government rate for a car rental, and what the best deal on an airline ticket is. The software that is available to a travel professional is different than what is available to the public. A travel agent has all the airline rates on one screen, enabling her/him to see just who has the lowest fares. The same goes for car rentals and hotels. If state travelers are using unskilled agents or the Internet to book their travel, perhaps they are not using all of the travel discounts they could be.

Because the Internet has become a whole new world for travelers, there is a myth that John Q. Public now has as much knowledge in regard to travel as a professional travel consultant does. The reality is that when John Q. Public is booking his own complicated reservations to Sydney, Australia on-line he will spend as much as four hours researching, then only to find he booked himself on a misconnect (he didn't give himself enough time to catch his connection). When he arrives in Sydney, trying to get through customs turns into a nightmare. There was no one on the Internet to advise him that he needed a passport and a visa to enter the country. Finally he makes it out of the airport only to find that he booked his hotel for the wrong day (he forgot about the

international date line) and now he has no where to stay. All of these things could have been avoided by using a professional.

Another thing you may not realize about booking airline tickets on-line that involve more than one carrier is you and your luggage may have problems making it to your destination. When you have one ticket that is Juneau to Seattle on Alaska Airlines and another ticket Seattle to Minneapolis on Northwest Airlines, Alaska Airlines is only obligated to protect you to Seattle if you get weathered in. In other words since your ticket on Alaska is only to Seattle, they do not have to rebook you on any Northwest Flights. So technically Northwest could make you purchase a new ticket once you arrive in Seattle. Any seasoned traveler knows this is not something they want to have to deal with, especially if they are on business travel.

Something else the state may want to take a hard look at is negotiating with vendors. Travel agencies will negotiate on behalf of the state for special rates. Some travel companies, such as American Express Travel, already have negotiated rates in place for their clients. Shannon Wiley, Manager of the Juneau American Express Travel office, told me that her company has negotiated rates with car rental companies, hotels, and airlines world wide that any of their customers can use (pers commun). Up to this time, the state has not had any luck negotiating a special rate with any airline; however, with the buying power of a large travel company, it may have a better chance. For example, Greer's Creek Mining Company has a 5 percent discount on most domestic carriers and an even larger discount on international carriers. That may not sound big when you are talking about one airline ticket, but when you are talking about thousands of tickets, it adds up.

With travel companies willing to track travel expenses and reconcile billings and travel claims, what state traveler or state accountant wouldn't want to contract it out? The money the state spends on these activities alone would most likely pay for the contract within the first month. The state has a very outdated accounting system. Corporate travel companies spend millions on keeping their systems up to date to keep up with their customers' needs. They have programmers and state-of-the-art computer equipment. The state would just have to ask for what they want in backroom services, and the travel company would most likely be able to accommodate them.

Contracting out travel is the way corporate America and even the Federal Government does their travel business. They have come to realize that outsourcing is the best option for such a complicated task. Companies that don't want to be in the travel business are leaving it up to the professionals. The State of Alaska needs to move into the twenty-first century. If it were to contract out its travel, it would save time for its accountants as well as its travelers. Outsourcing allows state workers the opportunity to cut down travel problems by using a professional agent and the state would have more negotiating power with vendors. All of these things together make good business sense and would save a great deal of money for the state in the long run.

### Works Cited

- Administrative Manual. State Procurement Code, State of Alaska,  
December 1, 1999.
- Garnero, Kim. Personal Interview. December 4, 2000.
- Lowe, Sharon. Personal Interview. November 28, 2000.
- Raynor, Sanc. Personal Interview. November 29, 2000.
- Wiley, Shannon. Personal Interview. December 9, 2000

### Works Consulted

- Administrative Manual. State Procurement Code, State of Alaska.  
December 1, 1999.
- Garnero, Kim. Personal Interview. December 4, 2000.
- Lowe, Sharon. Personal Interview. November 28, 2000.
- Raynor, Sanc. Personal Interview. November 29, 2000.
- Wiley, Shannon. Personal Interview. December 9, 2000

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 300  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): (Rev. 4/8/02) Dept. Affected: All  
Title An Act relating to the procurement of certain travel services. BRU All  
Component All  
Sponsor Representative Hayes  
Requester House Finance 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> | *       | *       | *       | *       | *       | *       |

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

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

**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)

With the recent round commission cuts, most airlines are now paying no commissions to travel agents. This situation will effectively end the ability of travel agents to waive fees for state travel. To address this change under current procurement law requires competitive solicitation which will culminate in contract awards to a single travel agent in each location where we currently do not have contracts.

HB 300 would eliminate the requirement for competitive procurements and allow the State to set a reasonable threshold that could be paid to all travel agents in locations without current contracts. The difference between this threshold and a competitively procured fee is impossible to predict, but the \$8 estimate used on the original fiscal note is a conservative guess. The number of tickets purchased in 2001 on which fees were waived was 28,599. At \$8 per ticket, the estimated savings of competitively procuring travel agent services is \$228,792.

Prepared by: Vern Jones Phone 465-5684  
Division Division of General Services Date/Time 04/08/02  
Approved by: Jim Duncan, Commissioner Date 4/8/2002  
Agency Department of Administration

**HB**

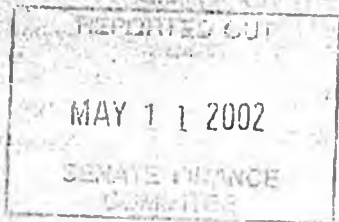
**3000**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/6/02



FURTHER:

DATE TURNED IN TO OFFICE: 5/11/02

Finance Committee considered **HOUSE BILL NO. 300**  
**HB 300 PROCUREMENT OF TRAVEL SERVICES**

"An Act relating to the procurement of certain travel services."

and recommends:

- be replaced with CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous S CS HB 300 (STA)
- 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):**

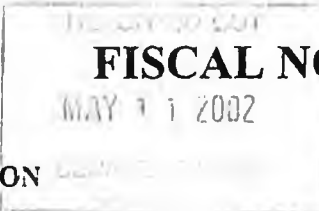
| Department | Date | Fiscal | Zero | FN# |
|------------|------|--------|------|-----|
|            |      |        |      |     |
|            |      |        |      |     |
|            |      |        |      |     |
|            |      |        |      |     |
|            |      |        |      |     |

**PREVIOUS FISCAL NOTE(S):**

| Department | Date   | Fiscal | Zero | FN# |
|------------|--------|--------|------|-----|
| DOA        | 2/7/02 | *      |      | 1   |
|            |        |        |      |     |
|            |        |        |      |     |
|            |        |        |      |     |
|            |        |        |      |     |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS:    | Do PASS                             | DO NOT PASS | No REC                              | AMEND |
|------------------------------------|-------------------------------------|-------------|-------------------------------------|-------|
| <i>[Signature]</i>                 |                                     |             | <input checked="" type="checkbox"/> |       |
| <i>[Signature]</i>                 |                                     |             | <input checked="" type="checkbox"/> |       |
| <i>[Signature]</i>                 | <input checked="" type="checkbox"/> |             |                                     |       |
| <i>[Signature]</i>                 |                                     |             | <input checked="" type="checkbox"/> |       |
| <b>COCHAIR:</b> <i>[Signature]</i> |                                     |             | <input checked="" type="checkbox"/> |       |
| <b>COCHAIR:</b> <i>[Signature]</i> |                                     |             | <input checked="" type="checkbox"/> |       |



# 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 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> |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                        |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|
| 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>             | <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        |
| <br>Cost of paying fees for services currently received at no cost | <br>\$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

(Revised 0/2001 OMB)

**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



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.

In February 2002, 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. March 2002 brought even worse news to the agencies when the airlines declared that all airline commissions would cease. Alaska Airlines has not yet cut their commissions to travel agents, but it is expected that they will by May 2002. Due to the abatement of commissions, 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. The existence of competition is important to ensure the State will get the best price available. If we allow several travel agencies to go out of business, we can be certain a monopoly will ensue and the state will be forced to pay whatever price is set by the few existing agencies.

Passing the bill will give all travel agencies an opportunity to provide state travel, thus protecting and fostering Alaskan jobs and businesses. I ask for your support in passing this legislation.

---

**District 30**

representative\_joe\_hayes@legis.state.ak.us

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

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

**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) 456-7425 / Fax: 451-9293

*While in Juneau*  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-3466 / Fax: 465-2937



**Memorandum**

**Subject:** Sectional Summary of HB 300 relating to the procurement of certain travel services

**From:** Representative Joe Hayes

**Date:** May 3, 2002

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**Section 1.** Excludes from the state's procurement code (AS 36.30) contracts for travel services, except for motor vehicle rentals.

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

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**District 30**

representative\_joe\_hayes@legis.state.ak.us



HB 300 Testimony  
House State Affairs hearing  
2/21/02 8:00 am

Room 102 Capital

Hello, my name is Kim Garner and I work as the director of finance in the Department of Administration.

I am not an expert on procurement issues, but I am familiar with the business relationship between the State of Alaska and travel agencies.

State government has a long history of relying on the private sector for professional travel services. Until a few years ago, these services were free to travelers because travel agencies relied on commissions from the travel providers such as airlines and hotels. 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.

In October 1999, airlines cut travel agent commissions from 8% to 5%. This 37.5% reduction was an early step in a trend that has continued to place severe economic pressure on travel agents. With ever declining commissions from airlines, more and more travel agencies have responded by initiating fees for their services.

When fees are introduced for travel services, the issue of competitive procurement arises. The State of Alaska spends over \$16 million a year on airline tickets; a fee as low as 1% results in \$160,000 spent statewide for services. Current procurement law requires formal competitive bids for purchases of this size. The result is that all state travel purchases are then made from the successful bidder.

Our policy has been to obtain travel agent services without paying fees whenever possible. To that end, the Department of Administration has maintained a web site listing travel agents willing to provide services free of charge to State agencies. State agencies may use any of the travel agencies listed or any other travel agency willing to waive fees for their business.

In communities where no travel agencies were willing to provide free services, we competitively established a travel agent contract in accordance with the Procurement Code. This has resulted in single award contracts for the communities of Juneau, Wrangell, Petersburg, Haines, Cordova, Seward, and Dillingham. Fees paid under these contracts range from \$5 to \$20 for an airline ticket.

#### Effects of the bill

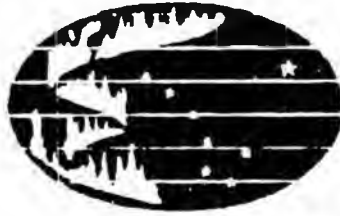
If this legislation passes, travel related services would be exempted from the procurement code. In that case, the Department of Administration will meet with industry representatives to establish a reasonable fee schedule, which will become the "benchmark" for doing business with the State.

Any travel agency willing to provide services at or below the benchmark will be eligible to receive State business. State employees could choose to use any eligible travel agency.

To sum up, passage of the HB 300 would eliminate the requirement for competitive procurement in order to pay fees, but it would not prevent establishing future travel agency contracts when in the State's best interest. It would have no effect on our current travel agency contracts since they are preexisting and legally binding.

I would be happy to answer any questions.

Thank you.



## Northern Lights Travel

606 Old Steese Hwy., Suite 117 • Fairbanks, Alaska 99701  
Phone (907) 451-7111 • 1-800-478-7048 • Fax (907) 451-8709

January 31, 2002

Representative Joe Hayes  
(907) 465-2937 FAX

Dear Mr. Hayes,

I would like to lend my support to HB300. Travel agencies are facing greater financial challenges every year as the airlines continue to decrease our commissions. Service fees are a must for travel agencies to continue to survive.

The STATE should NOT be exempt from paying for services from any business. We provide a valuable service. I do not want to see our public servants wasting time and money trying to be travel agents, when a call to a professional and efficient travel agent can have a state employee off the phone and the internet in minutes. Currently the State does not pay for the service of ticket delivery or the additional time spent if a ticket has to be changed and reissued.

Thank you, Mr. Hayes for supporting HB300. Please let me know if I can assist, in any way, to help pass this bill.

Sincerely,

Northern Lights Travel  
Yulanda Johansen, CTC  
Owner

Alaska Native Owned

Email: [yulanda@northernlightstravel.com](mailto:yulanda@northernlightstravel.com)



# Vagabond Travel

January 29, 2002

Representative Joe Hayes  
907/485 2927 Fax

Dear Mr. Hayes;

I would like to lend my support to HB300. Travel agencies are facing great financial challenges as we see our airline commissions shrinking with every passing year. Service fees have become a way of life in the travel agent industry and without them few of us could remain in business. The state should not be exempt from paying for services from any business. We provide a great service, as anyone who has sat on hold with the airlines or fumbled through an internet booking can attest to. Quite frankly, I do not want to see our public servants wasting time and money trying to be travel agents, when a call to a professional and efficient travel agent can have a state employee off the phone in minutes. The state does not even pay for the service of ticket delivery or the additional time spent if a ticket has to be changed and reissued.

My hat is off to you Mr. Hayes, please do not hesitate to contact me if there is anything further I can do in this endeavor.

Sincerely,



Ramona Oxendine  
Manager/partner



SENATOR KIM ELTON

F

March 5, 2002

Mrs. Cassandra Ritter Days  
PO Box 33716  
Juneau, Alaska 99803

Dear Cassandra:

Thanks for your letter concerning the travel industry in Alaska. Small business is an important part of the Alaskan economy and it's discouraging to see that executive and legislative actions may have had a negative impact on small travel businesses in order to save approximately 2 percent on the cost of state travel.

It is not good for our economy to simply focus on the 2 percent and not reflect on what ripples through the private sector. I wanted to let you know that Representative Joe Hayes (D-Fairbanks) has introduced a bill that will eliminate this procurement process for the for travel agents. I've attached the copy of Rep. Hayes' bill, HB 300. Please call my office if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be "Kim Elton".

Senator Kim Elton

cc: Representative Hayes



907-522-1299

F

March 1, 2002

Representative Joe Hayes  
Alaska State Capitol, Room 422  
Juneau, AK 99801-1182

Dear Representative Hayes:

Thank you for sponsoring House Bill (HB) 300. I also want to thank other members of the House State Affairs Committee for their approval of the legislation on February 21, 2002. Airlines Online & Travel Services Network, Inc (Airlines Online) supports passage of HB 300.

Airlines Online is a full-service travel agency certified by the Airlines Reporting Corporation (ARC). We have been headquartered in Anchorage since 1992. Airlines Online provides both traditional and internet based travel and travel management services on a global basis for corporate, government, and leisure clientele. First and foremost, our professional staff provide unparalleled customer service. Airlines Online is a member of the Alaska Business Travel Association, American Society of Travel Agents, and other travel organizations.

I learned about this legislation by viewing a video of the February 21 hearing. If enacted, HB 300 will amend AS 36.30 to allow travel agencies to charge service fees for travel services purchased by state employees. Director Kim Garnero, Division of Finance, testified the legislation would not sever existing travel agency/state fee based contracts currently in force in a few communities.

At the hearing, Director Garnero also clarified the fiscal note for an \$8 roundtrip ticket service fee was an estimate and indicated it was still subject to input from travel industry representatives. **Airlines Online requests to be among the industry representatives queried for input by the legislature and Director Garnero regarding the fiscal note and bill language.** Airlines Online would also appreciate being informed of future hearings in the House and Senate related to this legislation.

Airlines Online suggests HB 300 should include a provision requiring the state to establish a minimum standard for mandatory data reporting by all travel agencies

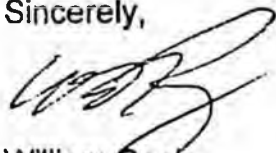
authorized to sell travel to state employees and assess fees. This reporting requirement would generate information needed by state managers to evaluate whether employees purchased fares in compliance with travel parameters established by the state. Such a standard would also enable the state to better monitor whether travel agencies are offering lowest logical fares meeting state travel regulations and policies. These types of record keeping and reporting requirements are currently used for our corporate clientele. The federal government mandates similar requirements.

Please keep in mind that reporting requirements are not intended to make a travel agency into an enforcer of state policies. Instead, they merely require travel agencies to supply reports to the state on a timely basis that identify the costs of the lowest logical fares offered to employees by a travel agency versus the costs of the tickets employees actually chose to purchase. Based on our experiences with other clientele, this reporting can lead to tremendous savings and better adherence to travel policies. There are similar advantages associated with ticket purchases from travel agencies versus direct purchases from air carriers.

Airlines Online also recommends the state reassess its general travel policies to insure they are current and more likely to result in lowest logical fare purchases.

I look forward to contributing to the fiscal note discussions and learning when the next hearing will be held. Please let me know if you require additional information.

Sincerely,



William Beck

President

Bbeck@airlinesonline.com

cc: House State Affairs Committee  
House Finance Committee  
Representative Brian Porter, House Speaker  
Senator Rick Halford, Senate President  
Governor Tony Knowles  
Lt. Governor Fran Ulmer  
Jim Duncan, Commissioner of Administration  
Kim Garner, Director of Finance

22February02

House State Affairs  
To Representative John B. Coghill, Jr.

House Bill 300

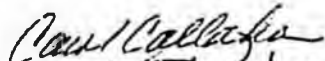
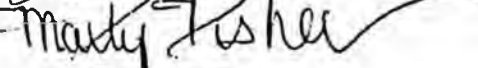
Your statewide travel agency network must implement service fees against the State of Alaska's travel procurement. This implementation is primarily a result of the airline industries commission cuts and subsequent cuts made by related travel industry options.

We believe these fees ultimately save money. We are an unbiased travel source. The airline industry wants to remove itself from the "high rent" computer systems we have and become solely an internet commodity. At that point, price comparisons, itinerary options, and change options become extremely limited and expensive, with Dracula in control of the blood bank.

Sweetwater Travel has been a vital and successful travel agency for over fifteen years, supporting our community and state with revenues and payrolls. We would like to keep our revenue intact, and in the State of Alaska.

Thank you for your consideration of this house bill.

Sincerely,

Carol Callahan   
Marty Fisher   
Sweetwater Travel - Partners

CC: Representative Joe L. Hayes

**Cyndi's****Cruise and Travel**

February 13, 2002

HB 258

I am writing this in response to a bill that is going to be proposed. We are totally against this bill because it is unfair to businesses that only earn a portion of the gross sales. As most of you know, the travel industry has changed drastically. The airlines have cut our commissions down to 5% of the gross base fare without taxes and on top of that, it's capped at \$20.00. That is the most money we can make on an airline ticket. If this bill is passed, it will cause our agency to close its doors as well as most other travel agencies in Alaska. Please reconsider passing such a financially devastating bill that will ruin the small businesses of Alaska.

Sincerely,

Cyndi Isaak, Owner

**415-5th Street • Douglas, Alaska 99824**

Phone: 907-364-3435 • Fax: 907-364-3475

e-mail: [cyndi-travel@gci.net](mailto:cyndi-travel@gci.net)

Becky's Travel Services  
3035 Mountainwood Circle  
Juneau, AK 99801  
(907) 787-5576

Re: Bill 300

I am Becky with Becky's Travel Service and I have been in the Travel Industry for 18 years. With the commission cuts and losing my state travel, I don't know how long I will be able to stay in business. Most of my revenue comes from State Travel and my clients were forced to go through only one agency. That made things really hard on my business. I hope this bill gets passed so they can choose who they prefer to use and help all the agencies stay in business.

Sincerely,  
Becky Thomas

January 14, 2002



To: Rep. Hayes  
FAX: 907 461-2937

F

From: Carol Callahan, Owner/Partner  
Sweetwater Travel  
FAX: 907 452-2154

Subject: House Bill No. 300

House bill sounds great. Short and sweet and shows all of the agencies intent of using more than one provider and being able to charge fees, which are essential for the existence of smaller agencies. Hope it flies.

*Carol Callahan*

December 27, 2000

Kymm Bowthorpe  
3262 Mendenhall Loop Rd. #2  
Juneau, AK 99801  
790-3282-h

Senator Kim Elton  
State Capitol Room 504  
Juneau, AK 99801-1182

Dear Mr. Elton,

I am writing to you today regarding an issue that I believe is a very serious one, the State of Alaska and its travel.

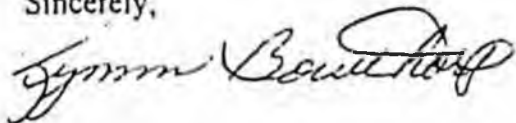
As a former travel consultant of 15 years, I have seen many arguments the state has made against putting its travel out to bid. Enclosed you will find a letter written by Fran Ulmer to our former governor, Walter Hickle, concerning the subject.

At this point I believe it is time for the state to make a major change. Several travel agencies in Juneau, as well as around the state, have gone out of business in the last couple of years. For some, it was due to the airlines cutting their commissions, for others it was a direct result of the states unwillingness to pay service fees in support of local businesses.

I have also enclosed a research paper that I have done on the subject. I do hope you will take the time to look it over. I believe this is a serious issue and one that needs your attention.

Thank you for your time.

Sincerely,



Kymm Bowthorpe

## The Future of State Travel

This past year has been a real test for the travel agents in our state. The airlines have cut their commissions in half. What once was a thriving enterprise is now a business struggling to hang on by its fingernails. Even when commissions were 10 percent of airline ticket sales, the agencies were only making it with about a 1 percent profit margin. When the airlines cut commissions, agencies were forced to charge their customers service fees, or risk going out of business altogether. In our little town of Juneau, two years ago there were eight travel agencies, now only three remain (those who started charging the fees). The agencies that tried to hold out on charging fees, just to keep some of their corporate and State of Alaska business, have failed.

The State of Alaska has refused to pay agencies fees from the very beginning. With some agents not charging state travelers a service fee, it was easy for the state to get away with not paying service fees. To me this very practice goes against the state's willingness to support local businesses. Because the state's travel is such a large amount of business, agencies were willing to forgo charging the state travelers a fee, just to get their business. However, the agency not charging a service fee to the state has paid the ultimate price. Southeast Executavel, one of the agencies not charging state travelers service fees, closed their doors this past Friday, December 8<sup>th</sup>.

Just the mere mention of The State of Alaska and travel in the same sentence is enough to start an argument in some political circles. For many years the state has been trying to cut expenses, but travel seems to be the one area where the government is reluctant to make a change in the way they are currently doing business. At the moment, the State of Alaska has a travel policy listed in The State of Alaska Administrative Manual for its travelers to follow. The state currently has its travelers make their own arrangements with whomever or however they wish. Employees are simply trusted to make their arrangements in the best interest of the state. Kim Gamero, Director of Finance at The Department of Administration, says that the state wants its travelers to have a choice when it comes to making travel arrangements (pers commun). However,

with the state unwilling to pay travel agency service fees, the travelers ultimately will not have a choice.

Another point Garnero makes in regard to contracting out the state's travel business is that right now the procurement code requires the state to competitively bid where competition exists, and choose the lowest cost provider of the services needed. This is being interpreted to mean that if an agency is not charging a fee, then they must be the lowest cost provider. But what guarantee is there? How does the state know it is not being overcharged for an airline ticket? Maybe a lower fare was available, but the agent was instructed to sell the state traveler the higher fare. Maybe there was a lower rate at the hotel, but the agent gave them the higher one because they knew it was within the allowed per diem. At this time some travel agencies are charging fees and some are not. In Juneau, for instance, there is one that does not charge fees and two that do charge service fees. Since some are not charging a fee, there is no need for the state to competitively bid out its travel. Therefore, travelers are forced by the state to use the agencies that do not charge service fees regardless of the level of service the agency is providing. The state wants its travelers to book whatever is in the best interest of the state, but how do travelers know if they are getting the best deal for the state? Why does the state leave it up to the traveler to ensure it is getting the best deal? Why is it assumed by the state that if it is not paying a fee for a service, it is getting the best deal?

If the State of Alaska contracted out its travel, it would ensure that its travelers received the best possible service, as well as saving the state time and money in the long run. Travel agencies currently can help businesses negotiate with vendors (car rental companies, hotels, and airlines), track travel expenses, provide very detailed reporting for accounting purposes, and save the travelers time when arranging travel. Some agents will even reconcile billings and travel claims. All of these services can be negotiated in a contract. Travel companies will usually try to negotiate as much service into a contract as a customer calls for.

Sharon Lowe, Administrative Manager for Public Health, Department of Health and Social Services, says that when she needs to travel, all she wants to do is call someone up, tell them where she is going, that she needs a car and a hotel, and have them fax the confirmation to her (pers commun). She does not want to spend time searching

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.

2000

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.



☒ Sec. 39.20.140. Travel costs and travel outside the state.

(a) The Department of Administration may not pay an official or employee for per diem or transportation costs unless the travel is clearly necessary to benefit the state.

(b) The Department of Administration may not reimburse an official or employee or pay for more than the lowest tourist class fare for the most direct route unless

(1) tourist class accommodation is not available;

(2) waiting for tourist class accommodation would occasion a delay harmful to the state; or

(3) the Department of Administration finds that travel by tourist class accommodation is not in the best interest of the state, and authorizes other accommodation.

(c) When the Department of Administration authorizes more expensive travel under (b) (3) of this section, it shall file a justification for that authorization with the travel voucher. When fares other than tourist class are authorized under (b) of this section, the Department of Administration may not reimburse the official or employee or pay for more than the lowest first class fare available.

(d) Officials and employees are authorized to travel only the least number of days necessary to transact the business involved, to secure return passage, and to return.

(e) Every official and employee shall, unless otherwise authorized by law to travel outside the state, obtain prior approval for travel outside the state from the head of the official's or employee's department or from an immediate supervisor, or from the Department of Administration if the official or employee is not within a department or is not under the direct supervision of an official or supervisor. If an employee deviates materially from the travel authorized under this section, the employee must obtain approval for the deviation from the person who approved the travel before the Department of Administration may reimburse the employee for the travel.



Good Afternoon Chair members of the committee.

Thank you for hearing HB 300.

Given the rather full agenda, I will keep my introduction of this bill brief as to give those waiting on line and here in Juneau the opportunity to testify.

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.

When I first introduced this bill, the travel agencies were not facing as dismal of a situation as they currently are. When I introduced this bill at the beginning of session, 3 AK Airlines had recently followed the rest of the airlines and capped commissions at 10 and 20 for one way and round trip tickets, respectively. Now all major airlines excluding AK Airlines have cut commissions completely. This presents a dire strait situation for AK travel agencies.

2 Currently, Alaska only allows the use of agencies that do not charge fees. This has excluded many agencies in the state from competing for State travel because it is difficult to provide travel without charging a fee. Especially since these businesses already operate on small margins, usually 1-2%.

Passing this bill will give all travel agencies in the state an opportunity to provide state travel. Additionally, it time for the state to pay for services rendered. Since the airlines have cut commissions, any travel the agency arranges for the state will essentially cost the agency money.

I have agents on line and here in Juneau ready to testify, so I would like to entertain any questions you have at this time so they can testify.

TONY KNOWLES, GOVERNOR

**DEPARTMENT OF ADMINISTRATION**

*DIVISION OF GENERAL SERVICES*

P.O. BOX 110210  
JUNEAU, ALASKA 99811-0210  
PHONE: (907) 465-2250  
FAX: (907) 465-2189

May 11, 2002

Senator Jerry Ward  
State Capitol, Room 427  
Juneau, AK 99801-1182

Dear Senator Ward:

In today's Senate Finance Committee hearing on HB 300, you asked several questions about establishing a contract in which Alaska Airlines would provide the State of Alaska with the frequent flier mileage benefits accrued by its employees.

I have had several discussions with representatives of Alaska Airlines in the past regarding this issue. Alaska Airlines has been unwilling to enter into a contract with the State. I know of no legal method to compel an airline to respond to a solicitation or enter into a contract with the State, regardless of the terms or conditions. Such an agreement would have to be voluntary.

Notwithstanding the issues surrounding union bargaining agreements and employee contract rights, if the State were to require its employees to establish Alaska Airlines mileage accounts that would accrue to the State, they would only be of significant value if the State were able to combine the miles. However, Alaska Airlines has been unwilling to allow the combining of mileage benefits. Even if Alaska Airlines did provide mileage benefits to the State, without the ability to combine the mileage accounts of its employees, there would be negligible benefit - the miles would be widely distributed in individual accounts.

I hope this answers the questions you asked regarding HB 300. Please feel free to contact me if you need further information.

Sincerely,



Vern Jones  
Chief Procurement Officer

Cc: Senate Finance Committee members

**State of Alaska**  
**Department of Administration**  
**Division of Finance**



## Authorized Travel Agencies

Anchorage and Southcentral Region  
Fairbanks and Interior/Northern Region  
Juneau and Southeast Region  
Kodiak and Southwest Region  
Seattle, WA and lower 48

Loading  
 Navigation...

### Travel Agency

### Contact Information

#### Anchorage and Southcentral Region

|   |   |
|---|---|
| Arctic Travel   | 423 E. 5th Avenue<br>Anchorage, Alaska 99501                                    |
| AST Travel  | 3858 Lake Street, Ste. 21<br>Homer, Alaska 99603                                |
| Beyond Travel   | 7110 Arlene St.<br>Anchorage, Alaska 99502                                      |
| Cordova Travel Services<br>(See <u>Section 12</u> of the Contract Award Manual for fee structure)                 | P.O. Box 118<br>Cordova, Alaska 99574   |
| Frontier Travel<br>(e-tickets only)   | 3601 C St., Suite 234<br>Anchorage, AK 99503                                    |
| Homer Travel Services   | 90 Sterling Highway<br>No. 10<br>Homer, Alaska 99603                            |
| Navigant / World Express Travel<br>(To avoid STR fee, use only CTA or credit card)<br><u>Contract information</u> | 300 4th Ave.<br>Seward, Alaska 99664  |
| One Stop Travel   | Non Stop Air Service<br>1501 Huffman Rd. Ste. 197<br>Anchorage, AK 99515        |
|   | Sears Mall<br>600 E. Northern Lights<br>Anchorage, Alaska 99503                 |
|   | Muldoon<br>7731 E. Northern Lights Blvd., Ste 291<br>Anchorage, Alaska 99504    |
|   | Northway Mall<br>3101 Penland Pkwy, G29<br>Anchorage, Alaska 99508              |
|   | 5th Ave. Mall<br>320 W. 5th Ave. #302<br>Anchorage, Alaska 99501                |
|   | Dimond Mall Location<br>800 E. Dimond Blvd., Ste 123<br>Anchorage, Alaska 99515 |
|   | Palmer<br>1150 S. Colony #5   |

Palmer, Alaska 99654

Soldotna Branch  
131 C Warehouse Ave.  
Soldotna, Alaska 99669

Kenai  
11312 Kenai Spur Hwy Ste 3  
Kenai, Alaska 99611

Eagle River  
11901 Business Blvd. Ste 103  
Eagle River, Alaska 99577

Wasilla Branch  
500 Main Street  
Wasilla, Alaska 99654

1415 East Tudor Road  
Anchorage, Alaska 99507

100 Meals Avenue  
Valdez, Alaska 99686

1590 Financial Drive  
Wasilla, Alaska 99654

**US Travel**  
(To avoid STR fee, use only CTA or credit card)

#### Fairbanks and Interior Northern Region

**Allegro Travel**

29 College Road, Suite 11  
Fairbanks, Alaska 99701

**Northern Lights Travel**

505 Old Steese Hwy.,  
Suite 117  
Fairbanks, Alaska 99701

**One Stop Travel**

Fairbanks Branch  
3627 Airport Way, Ste 11A  
Fairbanks, Alaska 99701

**Progressive World Travel, Inc.**

1922 Peger Road  
Fairbanks, Alaska 99709

**Santa's Travel World**

133 Santa Claus Lane  
North Po.e, Alaska 99705

**Sunshine Travel**

1200 Noble Street  
Fairbanks, Alaska 99701

**The Travel Cafe, Inc.**

3206 Airport Road  
Fairbanks, Alaska 99709

**US Travel**  
(To avoid STR fee, use only CTA or credit card)

P.O. Box 357  
Barrow, Alaska 99723

1211 Cushman Street  
Fairbanks, Alaska 99701

Prudhoe Bay Hotel  
Prudhoe Bay, Alaska 99734

**Vagabond Travel**

805 Airport Road, Suite 2  
Fairbanks, Alaska 99701

#### Juneau and Southeast Region

**Kruzoff Travel**

204B Katlian St.  
Sitka, Alaska 99835

**Ohana Travel**3304 Ohana Court  
Ketchikan, Alaska 99901**The Travel Connection**(See Section 12 of the Contract Award Manual for fee structure)P.O. Box 645  
Haines, Alaska 99827**Tyee Travel, Inc.**(See Section 12 of the Contract Award Manual for fee structure)P.O. Box 738  
112 Federal Way, Suite 206  
Wrangell, Alaska 99929**US Travel**(More Information)111 South Seward Street  
Juneau, Alaska 99802

(To avoid STR fee, use only CTA or credit card)

1007 Water Street  
Ketchikan, Alaska 99901

(To avoid STR fee, use only CTA or credit card)

P.O. Box 498  
Mellakalla, Alaska 99926**Viking Travel, Inc.**(See Section 12 of the Contract Award Manual for fee structure)P.O. Box 787  
Petersburg, Alaska 99983**Kodiak and Southwest Region****Navigant / WorldExpress Travel**(To avoid STR fee, use only CTA or credit card)  
Contract information104 Main Street  
Dillingham, Alaska 99576**Arctic Travel**423 E 5th Avenue  
Anchorage, Alaska 99501**US Travel**

(To avoid STR fee, use only CTA or credit card)

565 Ballyhoo Drive  
Dutch Harbor, Alaska 99692340 Mission Road  
Kodiak, Alaska 99615**Seattle, WA and lower 48****US Travel**

(To avoid STR fee, use only CTA or credit card)

5470 Shilshole, Suite 600  
Seattle, WA 98107

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W3C **WAI-A**  
WCAG 1.0

## MEMO TO FILE

DATE: May 3, 2002

TO: Finance Committee

BILL/RES. NO.: **HB 300** Procurement of Travel Services

ATTENTION: Heidi, Vicki  
Senate Secretary's Office

This bill/resolution has not yet received a do pass recommendation.

Please leave this note in the file.

Thank you.

# SENATE COMMITTEE REPORT

DATE: 4/22/02

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 5/3/02

State Affairs Committee considered **HOUSE BILL NO. 300**  
**HB 300 PROCUREMENT OF TRAVEL SERVICES**  
 "An Act relating to the procurement of certain travel services."

and recommends:

- be replaced with S CS HB 300 (STA)
- 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# |
|------------|------|--------|------|-----|
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**PREVIOUS FISCAL NOTE(S):**

| Department | Date | Fiscal       | Zero | FN# |
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|            |      |              |      |     |
|            |      |              |      |     |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | NO REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>Kathleen E Kelly</i>         |         |             | ✓      |       |
| <i>Ben Stinson</i>              |         |             | /      |       |
|                                 |         |             |        |       |
|                                 |         |             |        |       |
| CHAIR: <i>Gene Herrault</i>     |         |             | ✓      |       |

HB 300-PROCUREMENT OF TRAVEL SERVICES  
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: Van Jones Subject/Bill No: HB 300  
Co./Dept./Title: Dept. Admin Chief Procurement Officer Phone: 965-5684  
Address: PO Box 110210' Bureau Zip: 99801

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

SITE: ANCHORAGE LIO

COMMITTEE: Senate Finance

DATE: 5-11-02

SUBJECT OF MEETING:

HB 300

UPDATE #: 1



P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

DO YOU WANT  
TO TESTIFY?  
Y or N

| <u>P R I N T</u> YOUR NAME | ADDRESS (MAILING & ZIP) | REPRESENTING      | DO YOU WANT<br>TO TESTIFY?<br>Y or N |
|----------------------------|-------------------------|-------------------|--------------------------------------|
| ✓ Sally Huntley            |                         | Frontier Travel   | Y - HB300                            |
| Email address:             |                         |                   |                                      |
| ✓ Bill Beck                |                         | Airlines - Online | Y - HB300                            |
| Email address:             |                         |                   |                                      |
|                            |                         |                   |                                      |
| Email address:             |                         |                   |                                      |
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| Email address:             |                         |                   |                                      |

**HEB**

**302**

HFIN

FILE

Amendment 1A

Adopted  
4/18/02

Offered in the House

HB 302 Version 22-LS1205\C"

By: \_\_\_\_\_

Page 15, line 4      Delete "Twenty-Second"  
                                 Insert "Twenty-Third"

Page 15, line 6      Delete "First"  
                                 Insert "Second"

Adopted

22-LS1205\C.1  
Chenoweth  
4/18/02

AMENDMENT 2

OFFERED IN THE HOUSE

BY REPRESENTATIVE WHITAKER

TO: HB 302

1 Page 16, line 13, following "DIRECTORS.":

2 Insert

3 "(a) The governor shall appoint the initial members of the board of directors of the  
4 Alaska Gas Corporation under AS 41.41.020, added by sec. 2 of this Act, not later than 30  
5 days after the date of submission of the report to the governor under sec. 5(a) of this Act and  
6 only if the report that is submitted to the governor concludes that construction and operation  
7 of a natural gas transmission pipeline project, as defined in AS 41.41.990, added by sec. 2 of  
8 this Act, by a public corporation is feasible.

9 (b)"

# LEGAL SERVICES

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## MEMORANDUM

April 19, 2002

**SUBJECT:** CSSB 302 (Finance) (Work Order No. 22-LS1205\F)

**TO:** Representative Bill Williams, Co-Chair  
House Finance Committee  
Attn: Mike Tibbles

**FROM:** Jack Chenoweth  
Assistant Revisor of Statutes 

In the committee-adopted final that accompanies this memo, I have made as many of the committee-requested amendments as possible. However, I did not make the change of reference to the Joint Committee on Natural Gas Pipelines at page 15 of the draft committee substitute that the committee considered exactly as the committee directed. That joint committee, established under 2001 Legislative Resolve 32, terminates (as provided in that resolution) at the convening of the 23rd Legislature, next January 21st. So it is not in order simply to substitute "Twenty-Third" for "Twenty-Second" at page 15, line 4 of the draft the committee had under consideration. Because it is also at least legally questionable that one legislature may exercise authority by resolution to establish a committee structure that extends the life of a legislative committee into a following legislature, I hesitate to suggest that the life or duration of the joint committee be extended by adoption of a further resolve.

Instead, this committee substitute should be amended to do what I understand the committee contemplates. That amendment would authorize continuation of the joint committee for one year as a matter of uncodified statute. The text of the amendment would read substantially as follows:

Amendment to CSHB 302 (Fin):

Page 15, line 4, following "Resolve 32)", insert:  
", as extended by this subsection,"

Page 15, line 10, following "feasible", insert:

"Notwithstanding the termination date of that joint committee described in the concurrent resolution by which it is established, the existence and authority of the joint committee is extended until January 31, 2004. The joint committee, as extended, has the organization, powers, and duties described in the concurrent resolution by which the joint committee is

Representative Bill Williams

April 19, 2002

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established and as described in this section. At the convening of the First Regular Session of the Twenty-Third Alaska State Legislature, the presiding officers of the respective houses of the legislature may reconstitute the membership of the joint committee."

\*

This responds to the immediate drafting question. Even so, I need to caution that having a *joint legislative committee*, through contract, take responsibility for preparation of a report the content of which would give effect to the permanent law provisions of this bill (see CSHB 302 (Finance), page 16, lines 16 - 18) raises two significant delegation questions. The first calls up legislative branch involvement in carrying out the execution of laws otherwise committed to or the responsibility of the executive branch (delegation of executive branch authority to the legislative branch),<sup>1</sup> while the second raises the question of whether the legislature may, by law, delegate legislative authority to one of its own committees. Further, the committee's addition of the limitation on removal of members of the board of the corporation only for cause further implicates the separation of power. The Alaska Supreme Court has interpreted article III, section 26, Constitution of the State of Alaska, as setting the outside boundaries of the legislature's authority with respect to appointments.<sup>2</sup> The power to appoint carries with it, implicitly, the power to remove. Since this is a public corporation, not treated as a "section 26" board, it is doubtful that the legislature may curtail the governor's ability to remove the board members.

To expedite further action on CSHB 302 (Finance), at this point, I can only warn that these questions arise out of the committee's action in amending this bill and do not here propose to discuss them.

cc: Representative Jim Whitaker, bill sponsor (memo only)

Representative Eldon Mulder, House Finance Committee co-chair (memo only)

JBC:lmb

02-071.lmb

Enclosure

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<sup>1</sup> There are trial court decisions concluding that the legislature cannot use money for the routine execution of the law. *Legislature v. Hammond*, 1-JU-80-1163 Civil, Superior Court, First Judicial District (holding invalid an appropriation to the Legislative Council for a feasibility study involving the Yukon-Kuskokwim Crossing); *Compact v. Faiks*, 3-AN-88-8459 Civil (legislature may not make money available by transfer to the Municipality of Anchorage for a Navy home port feasibility study).

<sup>2</sup> *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

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## MEMORANDUM

April 2, 2002

**SUBJECT:** House Bill 302 -- sectional analysis  
(Work Order No. 22-LS1205(C))

**TO:** Representative Jim Whitaker

**FROM:** Jack Chenoweth  
Assistant Revisor of Statutes

The principal purpose of this measure is to establish the Alaska Gas Corporation as a public corporation and to define the structure, management, responsibilities, and operation of the corporation. The chief mission of the Alaska Gas Corporation is to facilitate the commercial development of the state's North Slope natural gas reserves.

**Bill section 1**, an uncodified provision, sets out the findings and intent that have influenced development of the legislation.

**Bill section 2:** These provisions set out in a new chapter of title 41 of the Alaska Statutes (AS 41.41) the corporate structure, powers, and responsibilities of the Alaska Gas Corporation. The chapter is arranged by articles.

### *Article 1.*

The sections identified as AS 41.41.010 - 41.41.130 are set out to define the organization of the corporation:

**AS 41.41.010** establishes the corporation, enumerates its purposes, and affirms that it is intended to be a public corporation of the state.

**AS 41.41.020** creates the corporation's board of directors, a board composed of six public members. The general qualifications of persons to serve as members are stated, and the corporation's obligation to establish its organization is set out.

**AS 41.41.030** sets overlapping four-year terms for the members and authorizes reappointment.

**AS 41.41.040** circumscribes the governor's authority to remove members and sets out procedures to be followed relating to removal and filling of the vacancy created.

AS 41.41.050 defines quorum and voting requirements.

AS 41.41.060 prescribes compensation for members and authorizes payment of per diem and travel expenses comparable to those provided to state employees for members.

AS 41.41.070 authorizes the board to employ an executive director who, in turn, is assigned responsibility for selection and employment of additional staff "with the approval of the board." The concluding subsection authorizes the corporation to contract for specialized services.

AS 41.41.080: Provisions of law requiring disclosure of financial and business interests (AS 39.50) are made applicable to members of the board. In addition, provision is made for specific disclosure of information concerning a board member's or employee's involvement in an entity or project "in which assets of the corporation are invested."

AS 41.41.090 sets out the budgetary and financial relationship between the corporation and the state's budget and fiscal procedure acts.

AS 41.41.100 authorizes the Legislative Budget and Audit Committee to undertake post audit and performance evaluation of corporate obligations.

AS 41.41.110 prescribes publication of an annual report of the corporation and the contents of the report.

AS 41.41.120 bars the corporation from using its resources to finance or influence political activities.

AS 41.41.130 defines information in the corporation's possession that is or is not to be treated as a public record under AS 40.25.110 - 40.25.140 and sets limits on the use or disclosure of confidential, non-disclosable information.

#### *Article 2.*

The one section in this article, AS 41.41.200, enumerates general powers of the corporation.

#### *Article 3.*

The sections identified in AS 41.41.300 - 41.41.410 generally bear upon the corporation's issuance of securities (bonds and notes and other evidence of debt). Much of the material

is technical boilerplate and is included so that, as a public corporation, under article IX, section 11 of the state constitution, the corporation enjoys full authority to contract debt based on its ability to repay out of its anticipated future revenues:

**AS 41.41.300:** This section authorizes issuance of revenue bonds and related evidence of debt, using provisions not unlike those included in chapters establishing other public corporations of the state to facilitate the use of debt obligations.

**AS 41.41.310** prescribes permissible covenants that the corporation's board may make in conjunction with issuance of revenue bond debt.

**AS 41.41.320** makes the level of the corporation's authorized debt subject to legislative authorization.

**AS 41.41.330** permits the board to contract for the services of an independent financial advisor in conjunction with private sale of debt instruments.

**AS 41.41.340** describes the nature of the corporation's pledge of its assets or revenues to payment of principal and interest on corporation-issued debt.

**AS 41.41.350** details use of "capital reserve funds" to meet repayment obligations in conjunction with the corporation's indebtedness.

**AS 41.41.360** addresses remedies available to holders of debt obligations and their representatives to enforce the timely payment of an obligation or a related obligation.

**AS 41.41.370** makes the corporation's obligations negotiable instruments.

**AS 41.41.380** explicitly makes the corporation's obligations permissible investments for public officers and for others handling surplus funds as identified in the section's text.

**AS 41.41.390** authorizes use of refunding bonds as a device to adjust the corporation's bond obligations to obtain the benefit of more advantageous terms and conditions.

**AS 41.41.400** affirms that, because the corporation's obligations are revenue-based debt instruments, the credit of the state is not pledged. Liability on the debt instrument is limited to the assets and revenues of the corporation.

**AS 41.41.410** releases the corporation's officers from personal liability with reference to action taken by the corporation with respect to a debt obligation.

*Article 4.*

The one section in this article, AS 41.41.450, authorizes the Alaska Gas Corporation to acquire and hold property and interests in property "necessary or convenient for the financing of the [Trans Alaska Gas Pipeline] project."

*Article 5.*

The article contains general provisions:

AS 41.41.900 reaffirms the blanket immunity from taxation that the Alaska Gas Corporation enjoys and provides a general tax exemption provision: the corporation and its operations and earnings are exempt from taxes and assessments in the state; bonds and security instruments are exempted from taxes and assessments made by the state.

AS 41.41.990 sets out a series of definitions for terms used in the chapter.

**Bill section 3** amends AS 39.25 to add employees of the Alaska Gas Corporation as members in the exempt service under the State Personnel Act.

**Bill section 4** amends AS 39.50.200 to add the Alaska Gas Corporation's board of directors and executive director as persons who are subject to the state's general conflict of interest law (AS 39.50).

**Bill section 5:** This uncodified provision directs the preparation and delivery of a "project plan" or feasibility study for planning, design, construction, and operation of a gas transmission pipeline. The specific points that are to be covered or addressed in the feasibility study and a time line for its presentation are set out.

**Bill section 6** prescribes initial terms of office for the initially appointed members of the corporation's board of directors in order to establish overlapping terms of office.

JBC:med  
02-343.med

# LEGAL SERVICES

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## MEMORANDUM

January 21, 2002

**SUBJECT:** Applying the standard applicable under article XI, section 4, Constitution of the State of Alaska, is House Bill 302 ("An Act establishing the Alaska Gas Corporation . . . ") "substantially the same measure" as Initiative 01GSLN ("The All-Alaskan Gasline Initiative")? (Work Order No. 22-LS1205/C)

**TO:** Representative Jim Whitaker

**FROM:** Jack Chenoweth  
Assistant Revisor of Statute



### *Question presented:*

You have asked whether House Bill 302, "An Act establishing the Alaska Gas Corporation . . . ", would be found to be "substantially the same measure" as Initiative 01GSLN, the "All-Alaskan Gasline Initiative." A determination that the bill, passed by the current legislature and enacted into law, is substantially the same measure as the initiative would void the initiative petition thereby requiring the lieutenant governor to order the initiative, if properly filed, removed from the November general election ballot.

### *Short answer:*

For the reasons considered and discussed below, in my judgment the differences between the initiative and the bill should not be sufficient to defeat a determination by the lieutenant governor that the bill and the initiative are substantially the same.

### *Discussion:*

The applicable constitutional provision is set out in the last sentence of article XI, section 4 of the state constitution:

**Initiative Election.** An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing. *If, before the election, substantially the same measure has been enacted, the petition is void.*

The provision is supplemented by a statute, AS 15.45.210:

**Determination of void petition.** If the lieutenant governor, with the formal concurrence of the attorney general, determines that an act of the legislature that is substantially the same as the proposed law was enacted after the petition had been filed, and before the date of the election, the petition is void and the lieutenant governor shall so notify the committee.

The test for invalidating the petition under the "substantially the same measure" standard is considered by the Alaska Supreme Court in *Warren v. Boucher*, 543 P.2d 731 (Alaska 1975). The nub of the test appears in the following two paragraphs:<sup>1</sup>

---

<sup>1</sup> To accommodate analysis in the text of this memo, I want to set out the extent of the court's discussion in its entire context:

. . . In order to interpret this language [i.e. the meaning of "substantially the same measure"] we must analyze its functional relationship to other constitutional provisions. We must infer the purposes and intentions of the framers from the language of the constitution itself, with careful regard for the apparent aims which the framers had in mind.

The words "substantial" or "substantially" are relative, inexact terms. Their meaning is quite elusive. *Application of Scroggin*, 103 Cal. App. 2d 281, 229 P.2d 489 (1951). The meaning of such terms can be derived only [by] reference to all the circumstances surrounding the context in which they are used. *Atchison, T. & S.F. Ry. v. Kings County Water District*, 47 Cal.2d 140, 302 P.2d 1, 3 (1956). So here, we believe that the term "substantially the same measure" must be viewed against the total structure contemplated in Art. XI of our constitution in the matter of direct legislation.

. . . By providing that the legislative enactment of substantially the same measure could have the effect of voiding an initiative, the framers empowered the legislature to cut off initiated legislation from consideration and vote by the general public. The manner in which Art. XI, Sec. 4, was amended in the constitutional convention makes this clear. The original proposal at the convention would have required that an initiative could be voided only by legislative enactment of "the measure initiated". Read literally, this would require that the language of both measures be identical. However, as discussed above, the final constitutional language requires merely that "substantially the same

measure" be enacted by the legislature in order to void an initiative petition.

*It is clear that the legislative act need not conform to the initiative in all respects, and that the framers intended that the legislature should have some discretion in deciding how far the legislative act should differ from the provisions of the initiative. The question, of course, is how great is the permitted variance before the legislative act becomes no longer substantially the same.*

*Upon reflection we have concluded that the legislature's discretion in this matter is reasonably broad. If in the main the legislative act achieves the same general purpose as the initiative, if the legislative act accomplishes that purpose by means or systems which are fairly comparable, then substantial similarity exists. It is not necessary that the two measures correspond in minor particulars, or even as to all major features, if the subject matter is necessarily complex or if it requires comprehensive treatment. The broader the reach of the subject matter, the more latitude must be allowed the legislature to vary from the particular features of the initiative.*

...

The constitution thus vests broad authority in the legislature to vary the terms of an initiated law, after its adoption, by the process of amendment. This power amounts to a check or balance against the initiative process. No doubt the legislature was given this power to assure that initiatives which were ill-advised, which might seriously cripple or frustrate the sound workings of government, or which might be impracticable, could be altered or corrected rapidly by the legislature. It was obviously intended by the framers that the initiative process should not be permitted to disrupt vital governmental functions or to impose intolerable burdens upon established administrative systems. To this end the legislature was given the ability to substitute its judgment for that of the proponents of an initiative.

What is significant to us here is the effect which the amendatory power of the legislature has upon our interpretation of the words "substantially the same measure." For if the legislature has broad power of amendment, it follows that it has broad power to change an initiative by an enactment covering the same subject as the initiated measure. In short, we must interpret Art. XI, Sec. 4, broadly and not narrowly as to the scope of legislative power. . . .

It is clear that the legislative act need not conform to the initiative in all respects, and that the framers intended that the legislature should have some discretion in deciding how far the legislative act should differ from the provisions of the initiative. The question, of course, is how great is the permitted variance before the legislative act becomes no longer substantially the same.

Upon reflection we have concluded that the legislature's discretion in this matter is reasonably broad. If in the main the legislative act achieves the same general purpose as the initiative, if the legislative act accomplishes that purpose by means or systems which are fairly comparable, then substantial similarity exists. It is not necessary that the two measures correspond in minor particulars, or even as to all major features, if the subject matter is necessarily complex or if it requires comprehensive treatment. The broader the reach of the subject matter, the more latitude must be allowed the legislature to vary from the particular features of the initiative.

*Warren v. Boucher*, 543 P.2d 731, at 736.

Dissimilarities in the statement of findings and intent of the respective measures aside, House Bill 302 differs substantively from the initiative<sup>2</sup> in these significant aspects:

- (1) the description of the "services and functions" of the corporation, coupled with the definition of the term "project" and the manner of treatment of the obligation to develop a "project plan";
- (2) the size of the board, qualifications of its members, duration of terms of the members' board service, and compensation due members for their services;
- (3) the issue of legislative confirmation of board members;
- (4) differences in treatment of the corporation's/authority's legal representation;

---

*Warren v. Boucher* 543 P.2d 731, at 735 - 736 (emphasis added; notes omitted).

<sup>2</sup> If the initiative appears on the ballot and is approved by the voters, it has to be codified. Just to have it on record, assuming that the text of the initiative set out on the state Internet entry is accurate, there are several minor editorial matters that need attention: in AS 41.41.310(8), the word "provide" was omitted and should be reinserted before "for"; the section catchline for AS 41.41.410 duplicates the catchline for the preceding section, is inappropriate as to the section's contents, and should be revised to read "Officers not liable."

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(5) the matter of the disposition of corporate/authority earnings "in excess of future operating needs";

(6) the explicit handling in the initiative, omitted from the bill, of the subjects of "project term agreements with labor organizations," employment opportunities for state residents, and the use of experienced Alaska businesses; and

(7) the express power given to the authority (but not to the corporation) to "acquire natural gas supplies."

I'll briefly discuss each in order.

**1. The description of the "services and functions" of the corporation, coupled with the definition of the term "project" and the manner of treatment of the obligation to develop a "project plan":**

The initiative assigns the authority a different mandate than does the bill. In the description of the "services and functions" set out in the initiative's AS 41.41.010, in the initiative's definition of "project" for the new chapter, and in the description of the project plan in an uncodified section at the end of the initiative, the scope of the project incorporates reference to a pipeline system to tidewater and a spur line to southcentral Alaska, and makes reference to gas (as LNG) distribution to Yukon River and coastal communities. The bill, as you know, addresses only the delivery to the interior and then along the Alaska Highway to Canada or to tidewater, or both.

The initiative and the bill both include provisions applicable to early development of a project plan. Though the elements that the plan is to address are not congruent, there is overlap. What differs, of course, is the identity of the entity to undertake the plan--a legislative joint committee under the bill and the new authority under the initiative--and the requirement of the bill that the project plan determine "whether the construction and operation of a natural gas transmission pipeline project by a public corporation is feasible," while the initiative seems to presuppose the project's feasibility and the board of directors of the proposed authority is directed to begin by producing a development plan.

These differences are not insignificant. The bill, clearly, reflects an immediate concern by the legislature that the North Slope's reserves be made available overland to domestic North American and overseas markets, while the initiative omits overland domestic North American market considerations and focuses on overseas shipments and opportunities for instate use. Because of the magnitude of the financing attending construction of one or two pipelines, the legislature is understandably more cautious about the project's feasibility and requires evidence of operational success rather than starting from the assumption, as the initiative does, that the project's success may be inferred.

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But, while not insignificant, the differences do not seem to me to be fatal to a determination that the bill is "substantially the same measure" as the initiative. *Warren v. Boucher* acknowledges the opportunity of the legislature to "vary from the particular features of the initiative" while achieving the same general purpose. That, arguably, is exactly what is happening. The approach used in the bill is more conservative in its initial approach and takes cognizance of circumstances (specifically, overland transportation of natural gas to domestic North American markets) that may not have been commercially viable when the initiative was crafted. These differences should not, in my view, be regarded as sufficient to defeat a determination that the bill and the initiative are substantially the same.

**2. The size of the board, qualifications of its members, duration of terms of the members' board service, and compensation due members for their services:**

Differences between the initiative and the bill relating to six versus seven board members, qualifications of appointees, duration of service, and compensation payable are technical matters and should not, in my judgment, be sufficient to defeat a determination that the bill and the initiative are substantially the same.

**3. Legislative confirmation of board members:**

The state constitution does not now authorize legislative confirmation of members of public corporations (by whatever name denominated). The initiative requires legislative confirmation of board members; the bill omits the requirement. The bill avoids the constitutional argument and, consistent with language in *Warren v. Boucher* speaking to the authority of the legislature to take corrective action, improves (legally speaking) the content of the initiative on this point. The difference is not, in my judgment, sufficient to defeat a determination that the bill and the initiative are substantially the same.

**4. The corporation's/authority's legal representation:**

The initiative expressly assigns legal representation to the attorney general; the bill omits the express provision and adds selection of legal counsel as a discretionary power of the board. While, under the bill, the attorney general may nevertheless assert authority to represent the proposed corporation under powers spelled out in AS 44.23.020, the difference in treatment of this issue as between the initiative and the bill is not, in my judgment, sufficient to defeat a determination that the bill and the initiative are substantially the same.

**5. The matter of the disposition of corporate/authority earnings "in excess of future operating needs":**

The bill, but not the initiative, provides that

Earnings of the corporation in excess of future operating needs shall accrue and be transferred to the state general fund once each year, not later than January 15, after the first full year of operation.

Its inclusion in the bill is arguably a reflection of the third paragraph of the bill's statement of findings ("the production of oil and gas from state land is an important source of revenue to the state and job opportunities for all people of the state;") and is not inconsistent with inclusion of similar approaches in other chapters establishing and defining the powers and duties of state public corporations requiring disclosure (if not actual transfer) of fund balances in excess of operating requirements. Again, under the analysis of *Warren v. Boucher*, the court acknowledges that the legislature has latitude to vary from the content of an initiative if the subject matter is "necessarily complex". Identifying the corporation's activities as a potential general fund revenue source is surely a matter of more concern to the legislature than to sponsors of the initiative. *Warren v. Boucher* allows this variance, it seems to me, and the difference in treatment of this issue as between the initiative and the bill is not, in my judgment, sufficient to defeat a determination that the bill and the initiative are substantially the same.

**6. Explicit handling in the initiative, omitted from the bill, of the subjects of "project term agreements with labor organizations," employment opportunities for state residents, and the use under contract of experienced Alaska businesses:**

As between the initiative and the bill, treatment of these matters differ. The initiative adds mandatory no-strike "project term agreements," resident hire, and business contractor and supplier preference provisions; the bill omits mandatory language but does require documentation of compliance or expected compliance with related requirements in conjunction with development of the project plan expected to make a determination that "construction and operation of a natural gas transmission pipeline project . . . is feasible." Moreover, the bill's approach arguably starts from recent legislative experience in this area wherein some substantially similar requirements were not directly addressed in law but were required to be added as contract terms. So, for example, the Stranded Gas Development Act, ch. 104, SLA 1998, directs the commissioner of revenue to address use of Alaska businesses and state residents as a condition of a contract providing incentives under that Act to encourage investment to develop stranded gas resources, while, earlier, legislation authorizing amendment of the Northstar Unit oil and gas leases, ch. 139, SLA 1996, addressed resident employment and in-state business contracting requirements by legislative intent statements attending legislative approval of the measure.

Admittedly these differences are also material. In contrast to the mandatory language of the initiative, the legislature's approach is, understandably, relatively more cautious, and may simply reflect its appreciation of the constitutional constraints that do attach to state-initiated mandatory resident hire or local action requirements. To that end, substitution of the approach set out in the bill is defensible under that part of the *Warren v. Boucher* analysis that expresses legislative power to address initiative provisions that were "ill-

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advised" or that might be "[legally] impracticable." On that basis, difference in treatment of this issue as between the initiative and the bill should not, in my judgment, be sufficient to defeat a determination that the bill and the initiative are substantially the same.

**7. The express power given to the authority (but not to the corporation) to "acquire natural gas supplies."**

Both the initiative and the bill permit the corporation/authority to acquire property. The initiative adds, at its AS 41.41.200(6), language by which the board, "in furtherance of its corporate purposes," may "acquire natural gas supplies." If the bill is enacted, presumably the board of the corporation would not have need of this express authority--the bill contemplates operation and maintenance of the natural gas pipeline system would involve third-party contracts. On the other hand, if it becomes clear that the corporation must own natural gas if construction and operation of the project are to be successfully undertaken, the absence of language expressly permitting acquisition of gas supplies should not defeat the exercise of general authority by the corporation to acquire gas supplies as "property." Presumably, the project plan development provisions will provide guidance as to whether or not state intervention and acquisition of gas supplies would be essential to successful development and operation of the completed project.

This provision frames what I believe may be the chief characteristic difference between the approach set out in the initiative and the one proposed in the bill. The initiative sponsors' statement declares that the authority is established for the purpose that it would "acquire and condition North Slope natural gas." In contrast, the bill directs use of third parties for the development and operation of the natural gas pipeline system contemplated. Again, the difference in approach may simply reflect an appreciation that the measure proposed and enacted should reflect the state's role as a project facilitator rather than assuming active development and operational responsibility. The legislature understands--the initiative sponsors may not--that the state Right-of-Way Leasing Act and federal legislation favoring expanded development of a domestic North American natural gas system for Alaska North Slope gas already provide guidance to and incentive for private, not state-directed, design, construction, and operation of either a tidewater delivery system, an overland delivery system, or both. While I recognize that this characteristic difference is important, nothing in the *Warren v. Boucher* analysis compels the conclusion that, as to a matter that is "necessarily complex" and that surely requires "comprehensive treatment," the legislature may not exercise its discretion and "substitute its judgment for that of the proponents of the initiative." As to a project of this size, the legislature surely has latitude to determine the manner in which limited state resources may be committed to achieve the outcome sought by you and the initiative sponsors. Differences in this treatment as between the initiative and the bill should not, in my judgment, be sufficient to defeat a determination that the bill and the initiative are substantially the same.

Representative Jim Whitaker

January 21, 2002

Page 9

The constitutional provision and statute first cited assign determination of whether or not an enacted bill represents "substantially the same measure" as a valid initiative to the lieutenant governor. My reading of the test and its application to HB 302 and Initiative 01GSLN lead me to conclude that the proposed legislation has the same general purpose as the initiative and is fairly comparable in its choice of means or system to what has been described in the initiative. Some of the differences do not seem to me to be material. Insofar as the differences are material, because the bill's variant provisions arguably serve to sidestep possible legal and practical shortcomings of the initiative as submitted, they should be regarded as consistent with the legislature's authority to substitute its judgment and to take corrective action.

On that basis, then, it is my judgment that differences between the initiative and the bill as introduced should not be sufficient to defeat a determination by the lieutenant governor that the bill and the initiative are substantially the same. Whether or not she would make the determination that the bill and initiative are, under the standard of *Warren v. Boucher*, substantially the same measure is not for me to say.

JBC:med

02-029.med

Walter J. Hickel

Box 101700  
Anchorage, Alaska 99510-1700  
907-276-7400

Distributed By  
Representative Scott Ogan  
District 27

March 23, 2001

The Honorable Scott Ogan  
Alaska State House of Representatives  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

FAX 907-465-3265

Dear Representative Ogan,

While I had hoped to visit you and the House Special Committee on Oil and Gas before the end of March, I'm not able to do so because I'm traveling to Moscow for a meeting of Northern Forum leaders. Nevertheless, I want to compliment you and the Committee on its efforts to understand where Alaska stands in world markets for natural gas.

Any successful gas project requires willing buyers, willing sellers, willing transporters, and financing. My work in this area has been to try to bring those elements together, and I hope your committee can do the same.

If I were there, I would make three points.

First, Alaska has to look out for its own interests. In the late 1970s, an overland project failed – but not before Alaska's efforts helped Canadian reserves get to market. If overland was the best way to go, we would have an oil pipeline to Bellingham today. We don't. Tidewater gives us the most options, and while we can pursue an overland route, we can't allow the tidewater option to be ignored by the state or the producers. We must aggressively pursue Asian markets, and that means ensuring that a gas supply is independently offered for sale. So far, that has not been done. Instead, we're telling the Asian market we're not ready to sell.

Second, I've attached an excerpt from a talk the late Senator Bob Bartlett gave to Alaska's Constitutional Convention. He warned about companies with assets Outside Alaska warehousing assets they acquire in Alaska. Of course, no oil company would admit that they are warehousing gas, or keeping it out of the market because it has other supplies available. But a state owner of such a large resource has to protect itself, because it could happen. It is clear to me we haven't protected ourselves.

What do we do? We must be tough. Our options range from a reserve tax to taking back the resource for non-performance. Neither of these options would

be necessary if a sufficient gas supply to serve the LNG route were committed to an independent marketing effort.

Third, we must learn our lessons from the oil line: Unless structured correctly, a pipeline owned by producers is likely to result in tariff, royalty, and tax disputes because of a conflict in incentives between profits from transportation and profits from wellhead production. Since TAPS began, the state has had to collect close to \$10 billion in dispute because of the way the Trans-Alaska Pipeline was structured. Two options could help head off similar disputes on gas. First may be requiring an independent transportation company to carry the gas. Second may be having the state take an ownership interest in the pipeline at least equal to its royalty interest in the gas. Ken Thompson's trading hub idea also has merit in heading off this kind of conflict.

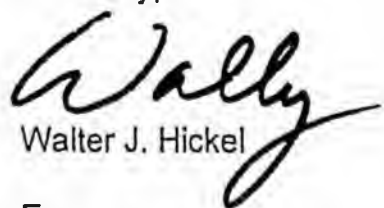
At least two transport companies have invested millions of dollars designing and permitting systems to deliver North Slope gas. The state is doing nothing I'm aware of to help bring these investors together with the producers.

I look forward to further discussion with you on my return. I'm doing what I can, as an individual, to urge producers, transporters, buyers, and financiers to get together. The state must help to do the same.

If this letter is presented to your Committee in my absence, Mead Treadwell – who works with me – can attempt to answer any questions you have.

With best regards.

Sincerely,

  
Walter J. Hickel

Enc.

Excerpt from

MEETING THE CHALLENGE

By

Delegate E. L. Bartlett

Alaska Constitutional Convention

University of Alaska

November 8, 1955

...  
The various bills for statehood enabling legislation which have been introduced in the Congress in recent years have uniformly called for large grants of land from the United States public domain to be made to the State of Alaska. The figure mentioned has been in excess of 100 million acres, an area roughly equal to the total land area of the State of California. The 100 million acre figure would appear to be approximately the figure which will finally be adopted.

The State of Alaska would choose almost all this acreage from the lands not included in present federal reservations and withdrawals, or which is otherwise unappropriated. The 100 million plus acres represent a veritable empire, a wealth of land and resources never before conferred on any state, saving only Texas which, upon its entry into the Union, was allowed to retain all its public lands. Alaska will receive also, in addition to the 100 million acre plus grant, an uncounted but tremendous acreage of submerged lands, land which under decisions of the Supreme Court of the United States have been held in trust for the future state. These submerged lands include lands under the beds of navigable rivers, lakes, and streams; the tidelands proper; and the submerged soils of the marginal sea out to the three-mile limit.

...  
Two very real dangers are present. The first, and most obvious, danger is that of exploitation under the thin disguise of development. The taking of Alaska's mineral resources without leaving some reasonable return for the support of Alaska governmental services and the use of all the people of Alaska will mean a betrayal in the administration of the people's wealth. The second danger is that outside interests, determined to stifle any development in Alaska which might compete with their activities elsewhere, will attempt to acquire great areas of Alaska's public lands in order NOT to develop them until such time as, in their omnipotence and the pursuance of their own interests, they see fit. If large areas of Alaska's patrimony are turned over to such corporations the people of Alaska may be even more the losers than if the lands had been exploited.

# Alaska State Legislature

Representative Jim Whitaker  
House of Representatives  
District 31



Session  
Capitol Building, Room 411  
Juneau, Alaska 99801  
Phone: (907) 465-3004  
Fax: (907) 465-2070

Interim  
119 N. Cushman St. Suite 213  
Fairbanks, AK 99701  
Phone: (907) 452-1088  
Fax: (907) 452-1146

## Sponsor Statement House Bill 302 – Alaska Gas Corporation

Article VIII, Section 2 of the Constitution of the State of Alaska specifies that, "the legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people." For many years, the State of Alaska has relied heavily on the production of oil to foster its livelihood, provide opportunities for its people, and generate revenues to ensure continued prosperity. We have all seen and enjoyed the positive effects of oil development. However, oil price fluctuations and reduced competition resulting in reduced production have adversely affected the State's ability to provide a secure economic future. As we face an enormous budget deficit, we must look beyond our reliance on oil production, budget cutting, and taxation as the only means of ensuring a long-term fiscal solution. It is incumbent upon the leaders of this state to recognize that further resource development is critical in order to secure an additional and substantial revenue stream to the State of Alaska. Conservatively, 100 trillion cubic feet of natural gas is stranded on the North Slope, and the failure to recognize this vital resource as a valuable commodity is in direct conflict with the provisions of the Constitution of the State of Alaska.

In order to facilitate the extraction and sale of natural gas, House Bill 302 establishes the Alaska Gas Corporation. The prime responsibility of the corporation is to provide for a basic commodity transportation system: a natural gas pipeline system; open to all potential competitors, and open to all realistic market access opportunities.

Overcoming a number of impediments is essential in order for a project of this nature to become a reality. We have extensively studied the economics, market viability, financial needs, and regulatory obstacles associated with the construction and operation of this project. However, in order to truly understand the economic viability of the Alaska Gas Corporation, we must turn to professionals in the engineering, financial and market sectors in order to establish absolute economic feasibility, and an associated project plan.

House Bill 302 requires a natural gas pipeline feasibility study and plan be completed and presented to the twenty-third Alaska State Legislature and the Governor. This report shall contain specific information pertaining to technical, financial, regulatory and market access matters relating to the project. The passage of HB 302 is of paramount importance in order to move forward and develop our natural resources in the maximum best interest of the citizens of the State of Alaska.

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 302  
(H) Publish Date: 4/8/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title Alaska Gas Corporation BRU Administration and Support  
Component Commissioner's Office  
Sponsor Representative Whitaker  
Requester House Oil and Gas Committee Component No. 123

**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> |

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| <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>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**

|           |  |  |  |  |  |  |
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| Full-time |  |  |  |  |  |  |
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| Temporary |  |  |  |  |  |  |

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

This legislation directs the Joint Committee on Natural Gas Pipelines to submit a project plan by January 2003 on "whether the construction and operation of a natural gas transmission pipeline project ... by a public corporation is feasible." The plan would include findings, recommendations and conclusions from engineering and consulting firms on a detailed list of gas supply, financial, regulatory, market, local-hire and local-buy matters. If the project is judged feasible, the legislation directs that a new entity within Revenue, the Alaska Gas Corporation, would be responsible for one or more of the following: design, construction, operation and maintenance of the pipeline.

Because a legislative committee would pay for and manage the feasibility study, that portion of this legislation would not effect the department's operating budget.

And because the feasibility of the project, and the state's possible role in construction and/or operation of the project, would be determined by the feasibility study, it is premature at this time for the department to estimate any budgetary needs for the new public corporation.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469  
Division Department of Revenue Date/Time 4/1/02 7:20 PM  
Approved by: Wilson Condon, Commissioner Date 4/1/2002  
Agency Department of Revenue

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 16, 2002

FURTHER REFERRALS:

Date of Committee Action: 4/18/02

The FINANCE Committee considered:

HB 302

HOUSE BILL NO. 302

ALASKA GAS CORPORATION

"An Act establishing the Alaska Gas Corporation, a public corporation, and providing for its structure, management, responsibilities, and operation, and requiring the development of a project plan to evaluate whether construction and operation of a natural gas transmission pipeline project by the corporation is feasible."

Recommends it be replaced with CS HB 302 (FIN)  Same Title  New Title  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_

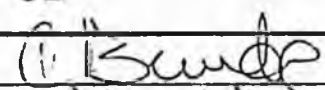

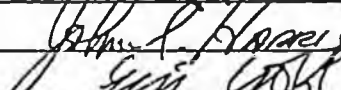
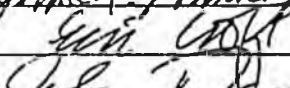
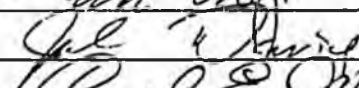
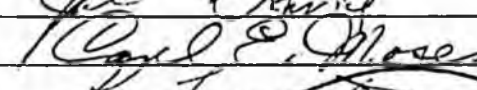
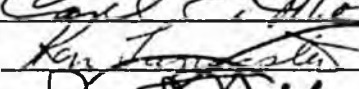

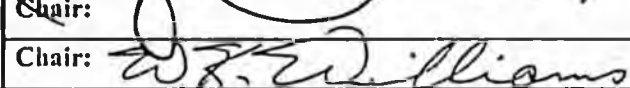
- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev. for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LAA
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

| <b>NEW FISCAL NOTES</b>            |      |        |        |      |
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| <b>PREVIOUS FISCAL NOTES</b> |     |        |        |      |
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| <u>Signing with recommendations</u>  | Printed Last Name | DP | DNP | NR | AM |
|--|-------------------|----|-----|----|----|
|         | Sundt             |    |     |    | ✓  |
|         | Whitaker          | ✓  |     |    |    |
|         | HARRIS            | ✓  |     |    |    |
|         | CROFT             |    |     |    | ✓  |
|         | DAVIDS            |    |     |    | ✓  |
|         | MOSES             |    |     | ✓  |    |
|         | Lancaster         | ✓  |     |    |    |
|         | FOSTER            | X  |     |    |    |
| Chair:  |                   | ✓  |     |    |    |

Amended pg  
3

**HOUSE BILL NO. 302**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE WHITAKER

Introduced: 1/14/02

Referred: House Special Committee on Oil and Gas, Resources, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing the Alaska Gas Corporation, a public corporation, and providing  
2 for its structure, management, responsibilities, and operation, and requiring the  
3 development of a project plan to evaluate whether construction and operation of a  
4 natural gas transmission pipeline project by the corporation is feasible."

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

6 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
7 to read:

8 FINDINGS AND INTENT. (a) The legislature finds that

9 (1) art. VIII, sec. 1, Constitution of the State of Alaska, provides that it is the  
10 policy of the state to encourage the settlement of its land and the development of its resources  
11 by making them available for maximum use consistent with the public interest;

12 (2) art. VIII, sec. 2, Constitution of the State of Alaska, requires the legislature  
13 to provide for the utilization, development, and conservation of all natural resources  
14 belonging to the state, including land and waters, for the maximum benefit of its people;

1 (3) the production of oil and gas from state land is an important source of  
2 revenue to the state and job opportunities for all the people of the state;

3 (4) natural gas located on the North Slope is a valuable resource to the state  
4 that has not been produced for sale in the market place;

5 (5) the amount of natural gas located on the North Slope is substantial and, if  
6 sold, will generate significant revenue to the state and opportunities and benefits to its people  
7 for many years into the future;

8 (6) maximum benefit to the people of the State of Alaska by the sale of North  
9 Slope natural gas may be realized only through public ownership of a corporate entity that  
10 performs the essential government function of providing transportation infrastructure that  
11 otherwise may not be provided; and

12 (7) failure to produce and sell the natural gas resource located in the state for  
13 the maximum benefit of its people is in direct conflict with the provisions of the Constitution  
14 of the State of Alaska.

15 (b) The intent of this Act is to

16 (1) provide the people of the state the maximum benefit possible through  
17 extraction of natural resources as required by the Constitution of the State of Alaska;

18 (2) foster and promote the long-term economic growth and development of the  
19 state;

20 (3) recognize that the production, ownership, and sale of natural gas is in the  
21 long-term and maximum best interest of the citizens of the state;

22 (4) establish a means by which the state can bring North Slope natural gas  
23 resources to market;

24 (5) create a public corporation with the powers, duties, and functions  
25 necessary to facilitate the ownership of transportation infrastructure required for the sale of  
26 North Slope natural gas;

27 (6) require the corporation to contract with private sector entities for the  
28 following services and functions in order to bring natural gas from the North Slope to market:

29 (A) the design and construction of the natural gas pipeline system; and

30 (B) the operation and maintenance of the natural gas pipeline system.

31 \* **Sec. 2.** AS 41 is amended by adding a new chapter to read:

1 **Chapter 41. Alaska Gas Corporation.**

2 **Article 1. Establishment of the Corporation.**

3 **Sec. 41.41.010. Establishment of the corporation.** (a) There is established  
4 the Alaska Gas Corporation, the purpose of which is to provide one or more of the  
5 following services and functions in order to bring natural gas from the North Slope to  
6 market:

7 (1) the design and construction of the project; and

8 (2) the operation and maintenance of the project.

9 (b) The corporation is a public corporation and an instrumentality of the state  
10 within the Department of Revenue.

11 (c) The corporation has a legal existence independent of and separate from the  
12 state.

13 (d) The transportation of natural gas from the North Slope by the Alaska Gas  
14 Corporation is an essential government function of the state.

15 (e) The corporation may not be terminated as long as it has bonds, notes, or  
16 other obligations outstanding.

17 **Sec. 41.41.020. Corporation governing body.** (a) The corporation shall be  
18 governed by a board of directors consisting of six members appointed by the governor  
19 from the public, who may not hold another state or federal office, position, or  
20 employment, either elective or appointive, except as a member of the armed forces of  
21 either the United States or this state.

22 (b) The members of the board must have recognized competence and wide  
23 experience in finance, business management, and gas industry-related endeavors.

24 (c) The board shall annually elect a chair, and may elect other officers, from  
25 among its members.

26 **Sec. 41.41.030. Term of office.** The members of the board shall be appointed  
27 for terms of four years, and they may be reappointed. The terms of the members shall  
28 be staggered so that no more than two terms of members expire each year.

29 **Sec. 41.41.040. Removal and vacancies.** (a) The governor may remove a  
30 member of the board from office <sup>for cause,</sup> A removal by the governor must be in writing and  
31 must state the reason for the removal. A member who is removed by the governor

1 may not participate in board business and may not be counted for purposes of  
2 establishing a quorum after the member receives written notice of removal from the  
3 governor. A member who is removed by the governor is not entitled to honoraria, per  
4 diem, or travel expenses authorized under AS 44.41.060 for work performed after the  
5 member receives the written notice of removal.

6 (b) The governor shall promptly fill a vacancy on the board by appointment.  
7 An appointee to a vacancy shall hold office for the balance of the term for which the  
8 appointee's predecessor on the board was appointed.

9 (c) A vacancy on the board does not impair the authority of a quorum of the  
10 board to exercise all the powers and perform all the duties of the board.

11 **Sec. 41.41.050. Quorum and voting.** Four members of the board constitute a  
12 quorum for the transaction of business and the exercise of the powers and duties of the  
13 board. Action may be taken only upon the affirmative vote of a majority of the full  
14 membership of the board.

15 **Sec. 41.41.060. Compensation of board members; per diem and travel**  
16 **expenses.** (a) Members of the board receive an honorarium of \$400 for each day  
17 spent at a meeting of the board or at a meeting of a subcommittee of the board or at a  
18 public meeting as a representative of the board.

19 (b) Members of the board are entitled to per diem and travel expenses  
20 authorized for boards and commissions under AS 39.20.180.

21 **Sec. 41.41.070. Corporation staff.** (a) The board may employ and determine  
22 the salary of an executive director.

23 (b) The executive director may, with the approval of the board, select and  
24 employ additional staff as necessary.

25 (c) An employee of the corporation, including the executive director, may not  
26 be a member of the board. The executive director and the other employees of the  
27 board are in the exempt service under AS 39.25.110.

28 (d) In addition to its employees, the corporation may contract for and engage  
29 the services of bond counsel, legal counsel, consultants, experts, and financial advisors  
30 the corporation considers necessary for the purpose of developing information,  
31 furnishing advice, or conducting studies, investigations, hearings, or other

1 proceedings.

2 **Sec. 41.41.080. Conflicts of interest.** (a) Members of the board and the  
3 executive director of the corporation are subject to the provisions of AS 39.50.

4 (b) If a member of the board or an employee of the corporation acquires,  
5 owns, or controls an interest, direct or indirect, in an entity or project in which assets  
6 of the corporation are invested, the member shall immediately disclose the interest to  
7 the board. The disclosure is a matter of public record and shall be included in the  
8 minutes of the board meeting next following the disclosure.

9 **Sec. 41.41.090. Corporation budget.** (a) The revenue earned by corporate  
10 operations must be identified as the source of the operating budget of the corporation  
11 in the state's operating budget under AS 37.07 (Executive Budget Act).

12 (b) Earnings of the corporation in excess of future operating needs shall accrue  
13 and be transferred to the state general fund once each year, not later than January 15,  
14 after the first full year of operation.

15 **Sec. 41.41.100. Audits.** The Legislative Budget and Audit Committee may  
16 provide for an annual post audit and annual operational and performance evaluations  
17 of the corporation's operations and budget.

18 **Sec. 41.41.110. Reports and publications.** (a) By September 30 of each  
19 year, the board shall publish a report of the corporation for distribution to the governor  
20 and the public. The board shall notify the legislature that the report is available.

21 (b) The report must include financial statements audited by independent  
22 outside auditors and a statement of the amount of money received by the corporation  
23 from its operations during the period covered.

24 **Sec. 41.41.120. Political activities.** The resources of the corporation may not  
25 be used to finance or influence political activities.

26 **Sec. 41.41.130. Public access to information.** (a) Information in the  
27 possession of the corporation is a public record, except that information that discloses  
28 the particulars of the business or affairs of a private enterprise or investor is  
29 confidential and is not a public record for purposes of AS 40.25.110 - 40.25.140.  
30 Confidential information may be disclosed only for the purposes of an official law  
31 enforcement investigation or when its production is required in a court proceeding.

1 (b) The restrictions of (a) of this section do not prohibit the publication of  
 2 statistics presented in a manner that prevents the identification of particular reports,  
 3 items, persons, or enterprises.

4 **Article 2. Powers of the Corporation.**

5 **Sec. 41.41.200. Powers of the corporation.** In furtherance of corporate  
 6 purposes, in addition to other powers, the corporation may

- 7 (1) sue and be sued;
- 8 (2) adopt a seal;
- 9 (3) adopt, amend, and repeal bylaws and regulations;
- 10 (4) make and execute contracts and other instruments;
- 11 (5) in its own name acquire property, lease, rent, convey, or acquire  
 12 real and personal property; a project site or part of a project site may be acquired by  
 13 eminent domain;
- 14 (6) issue bonds and otherwise incur indebtedness in accordance with  
 15 AS 41.41.300 - 41.41.410 in order to pay the cost of a project;
- 16 (7) accept gifts, grants, or loans from and enter into contracts or other  
 17 transactions regarding gifts, grants, or loans with a federal agency or an agency or  
 18 instrumentality of the state, a municipality, private organization, or other source;
- 19 (8) enter into contracts or agreements with a federal agency, agency or  
 20 instrumentality of the state, municipality, or public or private individual or entity, with  
 21 respect to the exercise of its powers;
- 22 (9) charge fees or other forms of remuneration for use of properties  
 23 and facilities of the corporation;
- 24 (10) defend and indemnify a current or former member of the board or  
 25 an employee or agent of the authority against the costs, expenses, judgments, and  
 26 liabilities as a result of actions taken in good faith on behalf of the authority; and
- 27 (11) purchase insurance to protect its assets, services, and employees  
 28 against liabilities that may arise from authority operations and activities.

29 **Article 3. Revenue Bonds and Notes.**

30 **Sec. 41.41.300. Bonds and notes of the corporation.** (a) The corporation,  
 31 by resolution, may issue revenue bonds and bond anticipation notes in order to provide