

ALASKA LEGISLATIVE COMMITTEE FILES 1985-1986 86/Z

4415 STRA HB 100 - HB 111 (FILE 1) 1994

Ross/Trent/O'Brien  
10/84

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
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PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

May 2, 1985

RECEIVED

MAY 3 1985

Honorable Marco Pignalberi  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Re: Due process and seizure of  
boats  
File No. 366-477-85

Dear Representative Pignalberi:

We are responding to your request for opinion concerning the constitutionality of AS 46.03.770 which authorizes the detention of a vessel which has illegally discharged oil or ballast water; by the terms of § 770, the detention may occur in advance of a hearing to contest the propriety of the detention. You raised this question at a hearing of the House Transportation Committee on HB 100 on the morning of May 1, 1985.

The question was resolved by the Alaska Supreme Court in the case of F/V American Eagle v. State, 620 P.2d 657 (Alaska 1980), which involved a forfeiture proceeding brought against a boat for alleged violations of Alaska's laws regarding the king crab fishery. The vessel was seized by state officials on January 15, 1976 while it was unloading crab in Pelican. The state thereafter filed a complaint for forfeiture of the vessel.

The Alaska Supreme Court held as follows:

The standards of due process under the Alaska and federal constitutions require that a deprivation of property be accompanied by notice and opportunity for hearing at a meaningful time to minimize possible injury. [citation omitted] Where property allegedly used in an illicit act is confiscated by government officials pending a forfeiture action, no notice or hearing is necessary prior to the seizure. [citation omitted] However, when the seized property is used by its owner in earning a livelihood, notice

Honorable Marco Pignalberi  
Alaska State House of Representatives

May 2, 1985  
Page 2  
366-477-85

and an unconditioned opportunity to contest the state's reasons for seizing the property must follow the seizure within days, if not hours, to satisfy due process guarantees even where the government interest in the seizure is urgent.

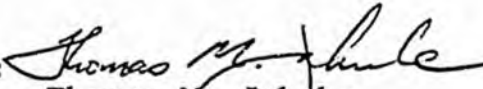
Id. at 666-667.

The American Eagle case involved a statute which, like AS 46.03.770, does not set forth detailed procedures for contesting seizures; rather, an aggrieved owner may proceed under any statute, court rule or legal theory that will afford redress, or the state may bring the matter before the court, as usually occurs. Significantly, the court in American Eagle applied a hindsight test under which it does not require the legislature to map out in advance the administrative or judicial procedures to be followed after a seizure. So long as there is, in fact, "notice and opportunity for hearing at a meaningful time to minimize possible injury," there is no violation of due process. The Alaska Supreme Court reaffirmed these principles last year in State v. F/V Baranof, 677 P.2d 1245 (Alaska 1984).

If we may be of further assistance to you, please do not hesitate to call upon us.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:   
Thomas M. Jahnke  
Assistant Attorney General

TMJ:jf

cc: Honorable Bill Ross  
Commissioner  
Department of Environmental  
Conservation

Madeline Levy  
Assistant Attorney General  
Anchorage, AGO

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER  
POUCH O, JUNEAU, ALASKA 99811

Telephone: (907)  
Address:  
(907) 465-2600

January 10, 1986

The Honorable Jack Coghill  
Chairman, Transportation Committee  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Coghill:

This letter is in reference to HB 100 (detention of vessels for oil spill violations) which is now before your committee for consideration. A copy of the bill is enclosed.

This legislation corrects an oversight which occurred when AS 46.03.760(b) was amended in 1976 to remove any ceiling for assessed oil spill damages. A simultaneous amendment should have been made to AS 46.03.770, removing the ceiling on bond limitations pending damage judgments, but that did not happen.

The effect of that oversight is that, while we could detain a vessel to secure \$30 million in oil spill damages, that vessel could be released after posting the \$100,000 maximum bond now required under § 770.

This serious discrepancy was discovered in January 1984 when the Greek vessel M/V CEPHEUS went aground near Anchorage, spilling in excess of 300,000 gallons of oil into Alaska waters. The State then sought a temporary restraining order and a \$20 million bond under AS 46.04.040. Judge Shortell awarded the requested bond only because the vessel was planning to offload in Alaska waters. Had the vessel planned to simply leave Alaska, he would probably have allowed it to do so after posting the \$100,000 bond.

DEC Position Paper

January 10, 1986

After the close call in the courtroom, the Attorney General's office suggested immediate amendment to § 770. It was stated that:

Section 770 should have been contemporaneously repealed and reenacted [with § 760(b)] to provide for a bond not to exceed the maximum amount of damages available under newly enacted 46.03.760 and 46.03.822. Unfortunately, section 770 was left untouched, but not unaffected, by the 1976 legislative changes.

I trust this summary conveys the importance of this legislation, but please let me know whether you require anything further. I would appreciate your using your good offices to see that this bill receives a hearing in your committee early enough in the session to assure its becoming law this year.

Sincerely,



Bill Ross  
Commissioner

Enclosure

cc: Hal M. Brown, Esq.  
Attorney General

Mr. James R. Ayers  
Director, Legislative Relations  
Office of the Governor

Ross/Trent/O'Brien  
copy copy

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**DEPARTMENT OF LAW**  
OFFICE OF THE ATTORNEY GENERAL

May 2, 1985

RECEIVED

MAY 3 1985

Honorable Marco Pignalberi  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Re: Due process and seizure of boats  
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The question was resolved by the Alaska Supreme Court in the case of F/V American Eagle v. State, 620 P.2d 657 (Alaska 1980), which involved a forfeiture proceeding brought against a boat for alleged violations of Alaska's laws regarding the king crab fishery. The vessel was seized by state officials on January 15, 1976 while it was unloading crab in Pelican. The state thereafter filed a complaint for forfeiture of the vessel.

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Honorable Marco Pignalberi  
Alaska State House of Representatives

May 2, 1985  
Page 2  
366-477-85

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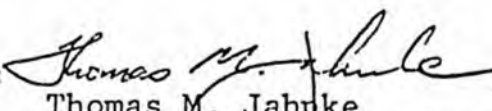
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If we may be of further assistance to you, please do not hesitate to call upon us.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:   
Thomas M. Jahnke  
Assistant Attorney General

TMJ:jf

cc: Honorable Bill Ross  
Commissioner  
Department of Environmental  
Conservation

Madeline Levy  
Assistant Attorney General  
Anchorage, AGO

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Case 10'Brien/Trent  
copy  
BILL SHEFFIELD, GOVERNOR

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PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

May 7, 1985

The Honorable John Sund  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

RECEIVED

MAY 9 1985

Re: HB 100

DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

Dear Representative Sund:

In a meeting of the House Resources Committee on HB 100 yesterday, there was some uncertainty about section two of the bill, which deletes the words "owning or" from AS 46.03.826(5). That provision currently provides that "owning or having control over a hazardous substance means producing, handling, storing, transporting or refining a hazardous substance...."

The problem the definition creates is this: The law imposes strict liability for hazardous substance spills on two classes of persons: (1) those who hold title to the substance, i.e., the owners; and (2) those who have control of the substance, e.g., the transporters or refiners. See AS 46.03.822. However, AS 46.03.826(5) defines "owners" to include only producers, handlers, storers, transporters or refiners; the definition of "owners" omits from the list of liable persons that person who actually has title to the substance. That omission may let the actual owner of the hazardous substance (who is blameworthy for selecting the handlers, transporters and refiners) off scot-free if a spill occurs.

The word "owner" has a clear definition in the common law and common usage. It is not necessary to define the term in the statute because the common law and common usage provide the definition applied in the Alaska courts. AS 01.10.010; AS 01.10.040. By removing the term from the definition section, we preserve its commonly-understood meaning and insure that both the owner's agents and the owner may be held strictly liable for

The Honorable John Sund  
Alaska State House of Representatives

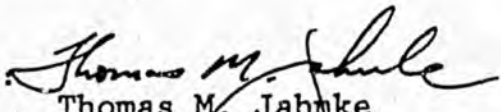
May 7, 1985  
Page 2

hazardous substance spills. This amendment is essential to insure the correct application of the law in the courts.

Thank you for your attention to our concerns.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:   
Thomas M. Jahnke  
Assistant Attorney General

TMJ:jf

cc: Honorable Bill Ross  
Commissioner  
Department of Environmental  
Conservation

Madeline Levy  
Assistant Attorney General  
Anchorage, AGO



HOUSE BILL 100

DETENTION OF VESSELS FOR OIL SPILL VIOLATIONS

---

BEFORE THE ALASKA SENATE

February 27, 1986

11:00 a.m.

PURPOSE

HB 100 makes AS 46.03.770 consistent with itself, and with AS 46.03.760, to assure that the State will have enough "money in hand" to cover any damage done in the event of an oil spill.

BACKGROUND

When enacted, AS 46.03.760 provided for penalties not to exceed \$100,000. In 1976, that statute was amended to remove any ceiling on assessed damages, but AS 46.03.770 retains an outdated reference to AS 46.03.760 and limits to \$100,000 any bond posted in lieu of vessel detention.

This renders § 770 inconsistent with itself, and the reference to 760(b) no longer makes sense.

Under the current law, the State could hold a vessel to secure \$30 million in oil spill damages, but that vessel could leave Alaska after posting a \$100,000 bond. Such a scenario does not provide the type of cost recovery guarantee that adequately protects state interests.

IMPETUS FOR HB 100

This serious discrepancy was discovered when the Greek vessel M/V CEPHEUS went aground near Anchorage, spilling in excess of 300,000 gallons of oil into Alaska waters.

The judge in that matter ruled that a \$20 million bond was necessary (based on the \$20 million financial responsibility requirement elsewhere in the law) because the vessel planned to continue offloading in Alaska waters. Had the vessel planned to simply leave Alaska, he would probably have allowed it to do so after posting the \$100,000 bond.

---

AS 46.03.770 should have been contemporaneously repealed and reenacted with § 760(b) to provide for a bond not to exceed the maximum amount of damages available under newly enacted 46.03.760 and 46.03.822.

---

\*Sec. 2, amending AS 46.03.826(5), merely restores the original, common sense meaning of the term "owner."

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

November 26, 1984

M E M O R A N D U M

TO: Honorable Bill Sheffield  
Governor

FROM: *Norm Gorsuch*  
Norman C. Gorsuch  
Attorney General

RE: Attached bill regarding detention of vessels for  
security for oil-pollution damages  
Our file: 377-001-85

Attached is a bill that was requested by the Department of Environmental Conservation, and approved by your office on July 30, 1984. The bill simply makes the bond posting provision in the statute on detention of vessels involved in oil spills consistent with the 1976 amendment of the statute providing for damages for oil pollution. This is intended as a simple, but important, housekeeping amendment.

A nearly identical bill, SB 534 (Department of Law file no. 377-136-84), was prepared by this department last year, and was introduced by the Senate Resources Committee. That bill was still in committee when the legislature adjourned. The version which is presented now adds one technical change. Section 2 clarifies the definition of "owner" with regard to strict liability for oil spills and other hazardous substances. This, too, is merely a technical housekeeping amendment.

Also attached is a draft transmittal letter to the legislature.

NCG:MRL:md

cc w/enc.: Hon. Richard Neve'  
Commissioner  
Department of Environmental  
Conservation

Madeleine R. Levy  
Assistant Attorney General  
Natural Resources Section  
Anchorage

Dept. of Environmental Conservation  
NOV 28 1984  
RECEIVED

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the detention of vessels as security for oil-pollution damages and clarification of a definition relating to discharge of hazardous substances. This bill is intended to correct two statutory oversights brought to light as a result of the January 21, 1984 oil spill from the M/V Cepheus.

AS 46.03.760, providing for civil actions for pollution, and AS 46.03.770, providing for detention of vessels as security for oil-pollution damages, were both enacted by ch. 120, SLA 1971. As enacted, AS 46.03.760(b) set a maximum of \$100,000 for liquidated damages to be assessed by the court in an oil-pollution case. And, as enacted, AS 46.03.770 provided for the court to release a detained vessel upon posting of a bond set by the court in an amount not to exceed \$100,000. AS 46.03.770 referred to AS 46.03.760(b), and the two \$100,000 provisions were compatible with each other.

However, in 1976, along with other amendments, AS 46.03.760(b) was amended to remove the \$100,000 liquidated damages maximum, but AS 46.03.770 was not correspondingly amended. It has never been amended. This bill seeks to correct that oversight. It removes the reference to \$100,000 and inserts a reference (in two places) to the

relevant civil penalty and damages statutes that were enacted and amended after AS 46.03.770 was enacted.

Second, AS 46.03.822 provides for strict liability for the discharge of hazardous substances, including oil, for a person owning or having control over the hazardous substance prior to its discharge. "Owning or having control over a hazardous substance" is presently defined in AS 46.03.826(5) in a manner which arguably negates the common sense definition of an owner. Section 2 of this bill corrects that problem by eliminating the word "owner" from the statutory definition section, thereby restoring the original meaning of that word.

Sincerely,

Bill Sheffield  
Governor

Offered: 2/24/86  
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 100 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to detention of vessels as security  
7 for oil-pollution damages; clarifying a definition  
8 relating to discharge of hazardous substances; and  
9 providing for an effective date."

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

11 \* Section 1. AS 46.03.770 is amended to read:

12 Sec. 46.03.770. DETENTION OF VESSEL WITHOUT WARRANT AS SECURITY  
13 FOR DAMAGES. A vessel that [WHICH] is used in or in aid of a  
14 violation of AS 46.03.740 - 46.03.750 may be detained after a valid  
15 search by the department, an agent of the department, a peace officer  
16 of the state, or an authorized protection officer of the Department of  
17 Fish and Game. Upon judgment of the court having jurisdiction that  
18 the vessel was used in, or was the cause of, a violation of AS 46.03.-  
19 740 - 46.03.750 with knowledge of its owner or under circumstances  
20 indicating that the owner should reasonably have had this knowledge,  
21 the vessel may be held as security for payment to the state of the  
22 amount of damages assessed by the court under AS 46.03.758, 46.03.760,  
23 and 46.03.822. If [AS 46.03.760(b), AND IF] the damages [SO] assessed  
24 are not paid within 30 days after judgment or final determination of  
25 an appeal, the vessel shall be sold at public auction, or as otherwise  
26 directed by the court, and the damages paid from the proceeds. The  
27 balance, if any, shall be paid by the court to the owner of the  
28 vessel. The court shall permit the release of the vessel upon posting  
29 of a bond set by the court in an amount not to exceed the maximum

1 amount of damages available under AS 46.03.758, 46.03.760, and  
2 46.03.822 [\$100,000]. The damages received under this section shall  
3 be transmitted to the proper state officer for deposit in the general  
4 fund. A vessel seized under this section shall be returned or the  
5 bond exonerated if no damages are assessed under AS 46.03.758, 46.03.-  
6 760, or 46.03.822 [AS 46.03.760(b)].

7 \* Sec. 2. AS 46.03.826(5) is amended to read:

8 (5) "[OWNING OR] having control over a hazardous substance"  
9 means producing, handling, storing, transporting, or refining a  
10 hazardous substance for commercial purposes immediately before entry  
11 of the hazardous substance in or upon the waters, surface, or  
12 subsurface lands of the state, and specifically includes bailees and  
13 carriers of a hazardous substance;

14 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
15 10.070(c).

Introduced: 2/6/76  
Referred: Resources

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 267 am H (e.date added)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

re-engrossed

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Department of Environmental  
7 Conservation; and providing for an effective date."

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

9 \* Section 1. AS 46.03.020(10)(C) is amended to read:

10 (C) protection of public water supplies by establish-  
11 ing minimum drinking water standards, and [SETTING] standards for  
12 the construction, improvement, and maintenance of public water  
13 supply systems;

14 \* Sec. 2. AS 46.03.030(b) is amended to read:

15 (b) The department may grant [PAY] to a municipality, as funds  
16 are available, up to the lesser of 50 [25] per cent of the eligible  
17 [ESTIMATED] cost or 50 per cent of the eligible [ESTIMATED] cost not  
18 financed [BORNE] by the federal government, [IF THERE IS FEDERAL  
19 ASSISTANCE,] for [OF] public water supply, treatment and distribution  
20 systems and public sewage collection, treatment and discharge facilities  
21 for which construction has not commenced on or before the effective date  
22 of this Act [SYSTEMS, INCLUDING COLLECTION AND IMPOUNDING FACILITIES,  
23 AND OF THOSE PORTIONS OF SEWERAGE SYSTEMS NOT COVERED BY (a) OF THIS  
24 SECTION]. The eligible [ESTIMATED] cost of a project or portions of a  
25 project [ANY PART OF A SYSTEM] will be as determined by the federal  
26 agency granting [WHICH GIVES] the most monetary assistance [OR, IF  
27 NONE, BY THE DEPARTMENT]. On projects or portions of projects, for which  
28 federal participation is not available, eligible costs will be deter-  
29 mined by the department. Projects [SYSTEMS] shall be constructed

1 in accordance with [ACCORDING TO] plans and specifications approved by  
2 [THE FEDERAL AGENCY WHICH GIVES THE MOST MONETARY ASSISTANCE OR, IF  
3 NONE, BY] the department.

4 \* Sec. 3. AS 46.03.100(a) is amended to read:

5 (a) A person who conducts an [A COMMERCIAL OR INDUSTRIAL] opera-  
6 tion which results in the disposal of solid or liquid waste material  
7 or heated process or cooling water into the waters or onto the land of  
8 the state must procure a permit from the department before disposing  
9 of the waste material or water. The permit must be obtained for  
10 direct disposal and for disposal into publicly operated sewerage  
11 systems.

12 \* Sec. 4. AS 46.03.110(a) is amended to read:

13 (a) An application for a permit shall be made on forms prescribed  
14 by the department or on forms prescribed by the United States Environ-  
15 mental Protection Agency and shall contain the name and address of the  
16 applicant, a description of his operations, the quantity and type of  
17 waste material sought to be disposed of, the proposed method of disposal,  
18 and any other information considered necessary by the department.  
19 Application for permit shall be made at least 60 days before commence-  
20 ment of a proposed discharge.

21 \* Sec. 5. AS 46.03.110 is amended by adding a new subsection to read:

22 (e) If the department has certified a National Pollutant Discharge  
23 Elimination System permit under sec. 401 of the Federal Water Pollution  
24 Control Act Amendments of 1972 (33 U.S.C. Sec. 1341), and the United  
25 States Environmental Protection Agency has issued that permit to a  
26 person, the department may waive the requirements of this section, and  
27 adopt the federal permit as the permit required under sec. 100 of this  
28 chapter.

29 \* Sec. 6. AS 46.03.180 is amended to read:

1           Sec. 46.03.180. CONFIDENTIALITY OF RECORDS. Records and informa-  
2           tion other than emission data in the possession of the department  
3           which relate to production or sales figures or to processes or produc-  
4           tion techniques of the owner or operator of an air contaminant source  
5           are considered confidential records of the department after application  
6           by the party and certification that their public disclosure would tend  
7           to adversely affect his competitive position.

8 \* Sec. 7. AS 46.03.720 is amended to read:

9           Sec. 46.03.720. CONSTRUCTION AND OPERATION OF CERTAIN FACILITIES  
10          PROHIBITED. (a) No person may construct, extend, install or operate  
11          a sewerage [SEWAGE] system or treatment works, or any part of a  
12          sewerage [SEWAGE] system or treatment works, until plans for it are  
13          submitted to the department for review[, ] and the department approves  
14          them in writing and issues a written permit. [THE DEPARTMENT MAY  
15          WAIVE THE REQUIREMENT THAT PLANS BE SUBMITTED TO IT.]

16          (b) No person may construct, extend, install or operate a public  
17          water supply system, or any part of a public water supply system  
18          until plans for it are submitted to the department for review and the  
19          department approves them in writing.

20          (c) The department may waive the requirements of this section.

21 \* Sec. 8. AS 46.03 is amended by adding a new section to read:

22          Sec. 46.03.755. DISCHARGE REPORTING. (a) A person in charge of  
23          a facility, operation or vessel, as soon as he has knowledge of any  
24          discharge from the facility, operation or vessel in violation of secs.  
25          740 or 750 of this chapter, shall immediately notify the department of  
26          the discharge.

27          (b) Notwithstanding (a) of this section, the department may enter  
28          into a written agreement with a person for the periodic reporting of  
29          minor discharges other than into the waters of the state.

1 \* Sec. 9. AS 46.03.760 is repealed and re-enacted to read:

2 Sec. 46.03.760. CIVIL ACTION FOR POLLUTION; DAMAGES. (a) A  
3 person who violates or causes or permits to be violated a provision of  
4 this chapter or a regulation, a lawful order of the department, or a  
5 permit or term or condition of a permit issued under this chapter is  
6 liable, in a civil action, to the state for a sum to be assessed by  
7 the court of not less than \$500, nor more than \$100,000 for the initial  
8 violation, nor more than \$5,000 for each day thereafter on which the  
9 violation continues, and which shall reflect, where applicable:

10 (1) reasonable compensation in the nature of liquidated  
11 damages for any adverse environmental effects caused by the violation,  
12 which shall be determined by the court according to the toxicity, de-  
13 gradability and dispersal characteristics of the substance discharged,  
14 the sensitivity of the receiving environment, and the degree to which  
15 the discharge degrades existing environmental quality;

16 (2) reasonable costs incurred by the state in detection,  
17 investigation, and attempted correction of the violation; and

18 (3) the economic savings realized by the person in not  
19 complying with the requirement for which a violation is charged.

20 (b) Actions under this section may not be used for punitive  
21 purposes, and sums assessed by the court must be compensatory and  
22 remedial in nature.

23 (c) The court, upon motion of the department or upon its own  
24 motion, may defer assessment of all or part of that portion of the sum  
25 imposed upon a person under (a)(3) of this section conditioned upon  
26 the person complying, within the shortest feasible time, with the  
27 requirement for which a violation is shown.

28 (d) As used in this section, "economic savings" means that sum  
29 which a person would be required to expend for the planning, acquisi-

1 tion, siting, construction, installation and operation of facilities  
2 necessary to effect compliance with the standard violated.

3 (e) In addition to liability under (a)--(d) of this section, a  
4 person who violates or causes or permits to be violated a provision of  
5 secs. 740--750 of this chapter is liable to the state, in a civil  
6 action, brought under sec. 822 of this chapter, for the full amount of  
7 actual damages caused to the state by the violation, including direct  
8 and indirect costs associated with the abatement, containment or  
9 removal of the pollutant, restoration of the environment to its former  
10 state, and all incidental administrative costs.

11 \* Sec. 10. AS 46.03 is amended by adding a new section to read:

12 Sec. 46.03.765. INJUNCTIONS. The superior court has juris-  
13 diction to enjoin a violation of this chapter, or of a regulation,  
14 lawful order of the department, or permit or term or condition of a  
15 permit issued under this chapter. In actions brought under this  
16 section, temporary or preliminary relief may be obtained upon a  
17 showing of an imminent threat of continued violation, and probable  
18 success on the merits, without the necessity of demonstrating physical  
19 irreparable harm. The balance of equities in actions under this  
20 section may affect the timing of compliance, but not the necessity of  
21 compliance within a reasonable period of time.

22 \* Sec. 11. AS 46.03.790 is repealed and re-enacted to read:

23 Sec. 46.03.790. CRIMINAL PENALTIES. (a) A person who violates  
24 or who causes or permits a violation of a provision of this chapter,  
25 or of a regulation, lawful order of the department, or permit or term  
26 or condition of a permit issued under this chapter is guilty of a  
27 misdemeanor, and, upon conviction, shall be punished by a fine of not  
28 more than \$25,000 and costs of prosecution.

29 (b) A person who wilfully violates a provision of this chapter, or

1 of a regulation, lawful order of the department, or permit or term or  
2 condition of a permit issued under this chapter is guilty of a  
3 misdemeanor, and, upon conviction, shall be punished by a fine of not  
4 more than \$25,000 and costs of prosecution, or by imprisonment for not  
5 more than one year, or by both fine, costs, and imprisonment.

6 (c) Each day on which a violation described in (a) or (b) of  
7 this section occurs is considered a separate violation.

8 (d) A person who fails to provide or falsely states information  
9 required under sec. 755 of this chapter is guilty of a misdemeanor,  
10 and, upon conviction, is punishable by a fine of not more than \$25,000,  
11 or by imprisonment for not more than one year, or by both. Each  
12 unlawful act constitutes a separate offense.

13 \* Sec. 12. AS 46.03.810(a) is amended to read:

14 (a) A person is guilty of creating or maintaining a nuisance if  
15 he

16 (1) places or deposits upon a lot, street, beach, or pre-  
17 mises, or upon[, ] or anywhere within 200 feet of a public highway,  
18 [UNLESS THE HIGHWAY ABUTS UPON TIDAL WATER,] any garbage, offal, dead  
19 animals, or any other matter or thing, which would be obnoxious or  
20 cause the spread of disease or in any way endanger the health of the  
21 community;

22 (2) allows to be placed or deposited upon any premises  
23 owned by him or under his control garbage, offal, dead animals, or any  
24 other matter or thing which would be obnoxious or offensive to the  
25 public or which would produce, aggravate, or cause the spread of  
26 disease or in any way endanger the health of the community.

27 \* Sec. 13. AS 46.03.822 is amended to read:

28 Sec. 46.03.822. STRICT LIABILITY FOR THE DISCHARGE OF HAZARDOUS  
29 SUBSTANCES. To the extent not otherwise preempted by federal law, a

1 person owning or having control over a hazardous substance which  
2 enters in or upon the waters, surface or subsurface lands of the state  
3 is strictly liable, without regard to fault, for the damages to persons  
4 or property, public or private, caused by the entry. [IF AN ACTION IS  
5 BROUGHT BY THE STATE TO RECOVER DAMAGES FOR OIL POLLUTION, LIABILITY  
6 IS LIMITED AS SPECIFIED IN SEC. 760(b) OF THIS CHAPTER.] In an action  
7 to recover damages, the person is relieved from strict liability,  
8 without regard to fault, if he can prove

9 (1) that the hazardous substance to which the damages  
10 relate entered in or upon the waters, surface or subsurface lands of  
11 the state solely as a result of

12 (A) an act of war,

13 (B) an intentional act or a negligent act of a third  
14 party, other than a party (or its employees) in privity of contract  
15 with, or employed by, the person,

16 (C) negligence on the part of the United States govern-  
17 ment or the State of Alaska, or

18 (D) an act of God; and

19 (2) in relation to (1)(B), (C) or (D) of this section, that  
20 he discovered the entry of the hazardous substance in or upon the  
21 waters, surface or subsurface lands of the state and began operations  
22 to contain and clean up the hazardous substance within a reasonable  
23 period of time.

24 \* Sec. 14. AS 46.03 is amended by adding a new section to read:

25 Sec. 46.03.850. COMPLIANCE ORDER. (a) When, in the opinion of  
26 the department, a person is violating or is about to violate a prò-  
27 vision of this chapter or a regulation or lawful order of the department,  
28 or a permit or a term of a permit issued by the department, the depart-  
29 ment may notify the person of its determination by personal service or

1 certified mail. The determination and notice do not constitute an  
2 order under sec. 820 of this chapter.

3 (b) The recipient of the determination must file with the depart-  
4 ment, within the time period specified in the notice, a report stating  
5 what measures have been and are being taken, or are proposed to be  
6 taken, to correct or control the conditions outlined in the notice.

7 (c) After the report is filed under (b) of this section or the  
8 time period specified for it has elapsed, the department may issue a  
9 compliance order in conformity with the authority of the department  
10 and the public policy declared in sec. 10 of this chapter. A copy of  
11 the compliance order shall be served personally or sent by certified  
12 mail to the person affected. A compliance order is effective upon  
13 receipt.

14 (d) Within 30 days after receipt, the recipient may request a  
15 hearing to review the compliance order. Failure to request a hearing  
16 within 30 days after the receipt of a compliance order constitutes a  
17 waiver of the recipient's right of review.

18 (e) The department shall hold a hearing within 20 days after  
19 receipt of a request for one under (d) of this section. After the  
20 hearing, the department may rescind, modify or affirm the compliance  
21 order.

22 (f) The attorney general shall seek enforcement of a compliance  
23 order.

24 \* Sec. 15. AS 46.03 is amended by adding a new section to read:

25 Sec. 46.03.875. REMEDIES CUMULATIVE. All remedies provided by  
26 this chapter are cumulative, and the securing of relief, whether in-  
27 junctive, civil or criminal, under a section of this chapter does not  
28 estop the state from obtaining relief under any other section of this  
29 chapter.

1 \* Sec. 16. AS 46.03.900(12) is amended to read:

2 (12) "other wastes" means garbage, refuse, decayed wood,  
3 sawdust, shavings, bark, trimmings from logging operations, sand, lime  
4 cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, heat from  
5 cooling or other operations, and other substances not sewage or  
6 industrial waste which may cause or tend to cause pollution of the  
7 waters of the state;

8 \* Sec. 17. AS 46.03.900(20) is amended to read:

9 (20) "standard" means the measure of purity or quality  
10 for air, water, and land [WATERS] in relation to their reasonable and  
11 necessary use as established by the department;

12 \* Sec. 18. AS 44.62.330 is amended by adding a new paragraph to read:

13 (43) Department of Environmental Conservation, except to  
14 the extent that secs. 360--400 of this chapter are inconsistent with  
15 the manner in which proceedings are initiated under the provisions of  
16 AS 46.03.

17 \* Sec. 19. AS 46.03.030(a), 46.03.130, 46.03.230(a), 46.03.240 and  
18 46.03.750(d) are repealed.

19 \* Sec. 20. This Act takes effect immediately in accordance with AS 01.10.  
20 070(c).

ballast water from a cargo tank of a tank vessel into the waters of the state. A tank vessel may not take on petroleum or a petroleum product or by-product as cargo unless it arrives in ports in the state without having discharged ballast from cargo tanks into the waters of the state and the master of the vessel certifies that fact on forms provided by the department.

(b) The master of a tank vessel may discharge ballast water from a cargo tank of his tank vessel if it is necessary for the safety of the tank vessel and no alternative action is feasible to assure the safety of the tank vessel. (§ 3 ch 120 SLA 1971; am § 19 ch 220 SLA 1976; am § 3 ch 266 SLA 1976; am § 3 ch 116 SLA 1980)

**Cross references.** — As to discharge of ballast into navigable waters, see AS 30.50.020.

**Effect of amendments.** — The 1980 amendment rewrote this section.

**Editor's notes.** — Section 11, ch. 266, SLA 1976, provides: "Severability. If any provision of this Act or the application of it to any person or circumstance is held

invalid, particularly those provisions that establish incentives for carriers to use vessels with certain safety or maneuvering capability features, the remainder of this Act and the application to other persons or circumstances, including but not limited to those provisions which create a coastal protection fund, shall not be affected."

**Sec. 46.03.755. Discharge reporting.** (a) A person in charge of a facility, operation or vessel, as soon as he has knowledge of any discharge from the facility, operation or vessel in violation of AS 46.03.740 or 46.03.750 shall immediately notify the department of the discharge.

(b) Notwithstanding (a) of this section, the department may enter into a written agreement with a person for the periodic reporting of minor discharges other than into the waters of the state. (§ 8 ch 220 SLA 1976; am § 4 ch 266 SLA 1976; am § 4 ch 116 SLA 1980)

**Effect of amendments.** — The 1980 amendment deleted "or AS 30.25.020" following "46.03.750" in subsection (a).

**Editor's notes.** — Section 11, ch. 266, SLA 1976, provides: "Severability. If any provision of this Act or the application of it to any person or circumstance is held

invalid, particularly those provisions that establish incentives for carriers to use vessels with certain safety or maneuvering capability features, the remainder of this Act and the application to other persons or circumstances, including but not limited to those provisions which create a coastal protection fund, shall not be affected."

**Sec. 46.03.758. Civil penalties for discharges of oil.** (a) The legislature finds that

(1) recent information discloses that the discharge of oil may cause significant short and long-term damage to the state's environment. Even minute quantities of oil released to the environment may cause high mortalities among larval and juvenile forms of important commercial species, may affect salmon migration patterns, and may otherwise degrade and diminish the renewable resources of the state;

(2) the exact nature and extent of oil pollution can be neither documented with certainty nor precisely quantified on a spill-by-spill basis; however, in light of the magnitude of harm which may be caused by oil discharges, and the vital importance of commercial, sport and subsistence fishing, tourism, and Alaska's natural abundance and beauty to the economic future of the state, and its quality of life, it is the judgment of the legislature that substantial civil penalties should be imposed for the discharge of oil, in order to provide a meaningful incentive for the safe handling of oil and to insure that the public does not bear substantial losses from oil pollution for which, because of its subtle, long-term or unquantifiable nature, compensation would not otherwise be received; and

(3) the handling of oil in large quantities is a hazardous undertaking which poses a significant threat to the economy and environment of the state, which can be substantially reduced only by the taking of rigorous safety precautions involving considerable expense; conversely, persons handling oil in smaller amounts pose a correspondingly lower risk to the economy and environment of the state, and are capable of safe oil handling practices at correspondingly lower costs; in order to provide an incentive which is effective, but not punitive, it is necessary and appropriate that the assessment of civil penalties for discharges of small quantities of oil be left for case-by-case judicial determination, while insuring, through the penalty provisions of this section, that the handling of oil in large quantities occurs in a manner which will not impair the renewable resources of the state.

(b) No later than the 10th day after the convening of the Second Session of the Tenth Alaska Legislature, the department shall submit to the legislature regulations establishing the following schedule of fixed penalties for discharges of oil:

(1) Subject to (3) of this subsection, the penalties for the following categories of receiving environments may not exceed

(A) \$10 per gallon of oil which enters an anadromous stream or other freshwater environment with significant aquatic resources;

(B) \$2.50 per gallon of oil which enters an estuarine, intertidal or confined saltwater environment; and

(C) \$1 per gallon of oil which enters an unconfined saltwater environment, public land or freshwater environment without significant aquatic resources.

(2) For discharges of oil which are caused by the gross negligence or intentional act of the discharger, or when the court finds that the discharger did not take reasonable measures to contain and clean up the discharged oil, the penalty shall be determined by multiplying the penalty established under (1) of this subsection by a factor of five.

(c) Regulations adopted under (b) of this section shall become effective 60 days after submission to the legislature, unless disapproved by a special concurrent resolution introduced in either house, and con-

curred in by a majority of the members in joint session within 60 days of the submission of the regulations. The department may periodically revise regulations adopted under (b) of this section. Revised regulations shall be submitted to the legislature no later than 10 days after the convening of the appropriate regular session of the legislature, and are subject to disapproval as specified in this subsection.

(d) The schedule shall vary according to the toxicity, degradability and dispersal characteristics of the oil. The schedule shall also vary according to the sensitivity and productivity of the receiving environment. Variations under this subsection may be by subcategories of receiving environments, specific receiving environments, or both. The maximum penalties established in (b) of this section shall apply to discharges in the most sensitive and productive of receiving environments within each category of receiving environment, and the penalty shall decrease for less productive or sensitive receiving environments.

(e) Upon the effective date of regulations adopted under (b) of this section, if a discharge of oil in excess of 18,000 gallons not permitted under applicable state and federal law occurs within the territorial jurisdiction of the state, or into or upon the adjacent outer continental shelf of the state, the following persons, in addition to the person causing or permitting the discharge, are jointly and severally liable to the state, in a civil action, for the full amount of penalties established in the regulations, or \$100,000,000, whichever is less,

(1) if the discharge occurs from any commercial or industrial facility other than a vessel or offshore platform, the owner, lessee (or permittee), and operator of the facility;

(2) if the discharge occurs from a vessel,

(A) the owner and operator of the vessel; and

(B) the owner of the oil carried as cargo on the vessel at the time the vessel was loaded, if the loading occurred within the territorial jurisdiction of the state, or at a deepwater port or other offshore storage facility adjacent to the state; however, if the owner of the oil temporarily transfers ownership of the oil to another person, and the transfer has the purpose or effect of evading the vicarious liability imposed by this section, the transferor will be considered the owner of the oil for the purposes of this subsection; and

(3) if the discharge occurs from an offshore platform, the lessee (or permittee) of the tract or acreage upon which the platform is situated, and the operator of the platform.

(f) The court shall deduct from the penalties for which the person charged is liable under (e) of this section that amount of oil which was removed from the environment as a result of a cleanup operation undertaken in conformity with applicable state and federal law, unless the oil was removed by an agency of state, local or federal government. The dispersal of oil through the use of chemical agents or other means is not considered removal for the purposes of this subsection. The court may estimate the amount of oil removed.

(g) Except as provided in (f) and (j) of this section, the entire penalty specified in the regulations shall be imposed, except that a person who discharges oil into a receiving environment may demonstrate, by a preponderance of evidence, that mitigating circumstances relating to the effects of the discharge would make imposition of the full penalty inappropriate. In determining whether mitigating circumstances exist, the court shall recognize that scientific knowledge pertaining to oil spills is very limited and if there is insufficient knowledge either to predict a base case or to show mitigating circumstances varying from that base case, the administratively established schedule of penalties shall apply. If mitigating circumstances are proven by a preponderance of the evidence, the court may reduce or totally eliminate the penalty, in accordance with the purposes of this section.

(h) A person otherwise liable for penalties under (e) of this section is not liable if he demonstrates, by a preponderance of the evidence, that the discharge occurred solely as a result of

(1) an act of God;

(2) an act of a third person with intent to cause a discharge, unless the third person is a person with whom the person charged is made jointly and severally liable under (e)(1) — (3) of this section;

(3) a negligent or intentional act of the State of Alaska or the United States; or

(4) an act of war.

(i) Notwithstanding AS 46.03.875, a person liable under this section is not also liable for the discharge of oil under AS 46.03.760(a). A person causing or permitting a discharge of oil of 18,000 gallons or less not permitted under applicable state or federal law is liable for that discharge under the penalty provisions of AS 46.03.760(a); however, the court may impose a penalty of less than \$500 for the discharge.

(j) The court may reduce the penalty imposed under this section if the person charged demonstrates, by a preponderance of the evidence, that the discharge was caused solely by a negligent act of a third person, unless the third person is a person with whom the person charged is made jointly and severally liable under (e)(1) — (3) of this section.

(k) Penalties received by the state under this section shall be deposited in the general fund and credited to a special account called the "oil spill mitigation account". The legislature may annually appropriate from the oil spill mitigation account a sum equivalent to the amount of penalties received under this section for the calendar year preceding the legislative session in which the appropriation is made, the appropriations to be made for the purpose of restoring and enhancing environments affected by oil pollution, including but not limited to the funding of aquaculture projects.

(l) As used in this section,

(1) "adjacent outer continental shelf" means that portion of the outer continental shelf which would be within the territorial jurisdiction of the state if its boundaries were extended seaward to the outer margin of the outer continental shelf;

(2) "confined saltwater environment" means a bay, sound or other partially enclosed saltwater body in which flushing through tidal or current action is significantly restricted;

(3) "discharge of oil" means the entry of oil into or upon the water or public land of the state (except oil discharges into an enclosed and impervious oil spill containment area), regardless of causation;

(4) "intertidal" means the ocean area between highest high water and lowest low water of tidal action;

(5) "offshore platform" means an offshore structure, whether floating or temporarily or permanently secured to the floor of the ocean or other water body, which is used primarily for the exploration for or production of oil or natural gas;

(6) "oil" means petroleum, crude oil, and any substance refined from petroleum or crude oil;

(7) "operator" means the person who, through contract, lease, sublease or otherwise, exerts general supervision and control of activities at the facility; the term includes, by way of example and not limitation, prime or general contractors, the master of a vessel (and his employer), or any other person who, through himself, his agents, or contractors, undertakes the general functioning of the facility;

(8) "vessel" means any form or manner of watercraft, whether or not capable of self-propulsion, except offshore platforms. (§ 1 ch 129 SLA 1977; am §§ 1-3 ch 128 SLA 1978; am § 110 ch 59 SLA 1982)

**Cross references.** — For provision that actions brought under this section may be brought directly against insurers or other persons providing evidence of financial responsibility, see AS 46.04.040(e).

**Effect of amendments.** — The 1978 amendment substituted the language beginning "and appropriate that the assessment of civil penalties" for "that the civil penalties imposed reflect a balance between the gravity of the discharge, the magnitude of risk, and the level of incentive necessary to induce safe operations" at the end of paragraph (3) of subsection (a), inserted "in excess of 18,000 gallons" near the beginning of the introductory paragraph of subsection (e), and added the second sentence of subsection (i).

The 1982 amendment, effective May 28, 1982, deleted "notwithstanding AS 30.25.20(b)" preceding "penalties" at the beginning of subsection (k).

**Editor's notes.** — Section 3, ch. 129, SLA 1977, provides: "If the application of AS 46.03.758 to discharges of oil solely into and upon the adjacent outer continental shelf of the state is held invalid, the application of that section to discharges of oil into and upon the water or public land within the territorial jurisdiction of the state is not affected by that holding. This severability provision is intended to clarify and not limit the severability provision of AS 01.10.030."

The schedule of civil penalties required by (b) of this section may be found at 18 AAC 510 — 18 AAC 600. The effective date (referred to in (e) of this section) of the regulation adopting the schedules is April 19, 1978.

AS 30.25.220, referred to in subsection (k), was repealed by § 11, ch. 116, SLA 1980. For provisions concerning oil pollution control, see AS 46.04.

**Sec. 46.03.760. Civil action for pollution; damages.** (a) A person who violates or causes or permits to be violated a provision of this chapter or AS 46.04, or a regulation, a lawful order of the department, or a permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under this chapter or AS 46.04 is liable, in a civil action, to the state for a sum to be assessed by the court of not less than \$500 nor more than \$100,000 for the initial violation, nor more than \$5,000 for each day thereafter on which the violation continues, and which shall reflect, when applicable,

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, which shall be determined by the court according to the toxicity, degradability and dispersal characteristics of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality;

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation; and

(3) the economic savings realized by the person in not complying with the requirement for which a violation is charged.

(b) Actions under this section may not be used for punitive purposes, and sums assessed by the court must be compensatory and remedial in nature.

(c) The court, upon motion of the department or upon its own motion, may defer assessment of all or part of that portion of the sum imposed upon a person under (a)(3) of this section conditioned upon the person complying, within the shortest feasible time, with the requirement for which a violation is shown.

(d) As used in this section, "economic savings" means that sum which a person would be required to expend for the planning, acquisition, siting, construction, installation and operation of facilities necessary to effect compliance with the standard violated.

(e) In addition to liability under (a) — (d) of this section, a person who violates or causes or permits to be violated a provision of AS 46.03.740 — 46.03.750 is liable to the state, in a civil action brought under AS 46.03.822, for the full amount of actual damages caused to the state by the violation, including direct and indirect costs associated with the abatement, containment or removal of the pollutant, restoration of the environment to its former state, and all incidental administrative costs. (§ 3 ch 120 SLA 1971; am § 9 ch 220 SLA 1976; am § 5 ch 266 SLA 1976; am §§ 5, 6 ch 116 SLA 1980)

**Cross references.** — As to oil pollution control, see AS 46.04. For provision that actions brought under subsections (a) and (e) of this section may be brought directly against insurers or other persons providing evidence of financial security, see AS 46.04.040(e).

**Effect of amendments.** — The 1980 amendment substituted "AS 46.04" for "AS 30.25.020" and for "AS 30.25" and substituted "approval, or acceptance" for "or certificate" in two places, all in the introductory paragraph of subsection (a), deleted "except disbursements for pollu-

tion abatement cost under AS 30.25.260(a)(2)" following "violation" in paragraph (2) of subsection (a), and deleted the former second and third sentences of subsection (e), which read, respectively: "That portion of the damages recovered by the state in a civil action brought under AS 46.03.822 attributable to costs incurred by the department in the abatement, containment or removal of the

pollutant resulting from a discharge of crude oil, refined petroleum products or their by-products shall be deposited in the coastal protection fund created under AS 30.25.220" and "Except for special risk charges collected under AS 30.25.270, a person holding a risk avoidance certificate may not be held liable for costs associated with the abatement, containment or removal of the pollutant."

#### NOTES TO DECISIONS

This section and AS 46.03.790 held not unconstitutional. — See *Stock v. State*, Sup. Ct. Op. No. 1076 (File No. 2007), 526 P.2d 3 (1974), decided prior to

the 1976 amendment of those sections. Quoted in *State v. Alaska Int'l Air, Inc.*, Sup. Ct. Op. No. 1409 (File No. 2808), 562 P.2d 1064 (1977).

**Collateral references.** — Injunction against pollution of stream by private persons or corporations. 46 ALR 8.

When statute of limitations commences to run as to action against municipality for damages to riparian premises by pollution of stream by discharge of sewage. 122 ALR 1509.

Tenant's remedy against stranger for wrongful pollution of waters. 12 ALR2d 1234.

Measure and elements of damages for pollution of well, cistern, or spring. 19 ALR2d 769.

Measure and elements of damages for pollution of stream. 49 ALR2d 253.

Landowner's right to relief against pollution of his water supply by industrial or commercial waste. 39 ALR3d 910.

Maintainability in state court of class action for relief against air and water pollution. 47 ALR3d 769.

Preliminary mandatory injunction to prevent, correct, or reduce effects of polluting practices. 49 ALR3d 1239.

Liability of water supplier for damages resulting from furnishing impure water. 54 ALR3d 936.

Validity of state statutory provision permitting administrative agency to impose monetary penalties for violation of environmental pollution statute. 81 ALR3d 1258.

Recovery in trespass for injury to land caused by airborne pollutants. 2 ALR4th 1054.

**Sec. 46.03.765. Injunctions.** The superior court has jurisdiction to enjoin a violation of this chapter or AS 46.04, or of a regulation, a lawful order of the department, or permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under this chapter or AS 46.04. In actions brought under this section, temporary or preliminary relief may be obtained upon a showing of an imminent threat of continued violation, and probable success on the merits, without the necessity of demonstrating physical irreparable harm. The balance of equities in actions under this section may affect the timing of compliance, but not the necessity of compliance within a reasonable period of time. (§ 10 ch 220 SLA 1976; am § 6 ch 266 SLA 1976; am § 7 ch 116 SLA 1980)

missioner presents an imminent or present danger to the health or welfare of the people of the state or would result in or be likely to result in irreversible or irreparable damage to the natural resources or environment, and it appears to be prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided, the department may, without prior hearing, order that person by notice to discontinue, abate or alleviate the condition or activity. The proscribed condition or activity shall be immediately discontinued, abated or alleviated.

(b) Upon receipt of an order of the department made under (a) of this section, the person affected has the right to be heard and to present proof to the department that the condition or activity does not constitute an actual or potential source of irreversible or irreparable damage to the natural resources or environment of the state, or that the order may constitute a substantial private hardship.

(c) In the commissioner's discretion or upon application made by the recipient of an order within 15 days of receipt of the order, the department shall schedule a hearing at the earliest possible time. The hearing shall be scheduled within five days of the receipt of the application. The submission of an application or the scheduling of a hearing does not stay the operation of the department's order made under (a) of this section.

(d) After a hearing the department may affirm, modify or set aside the order. An order affirmed, modified or set aside after hearing is subject to judicial review as provided in AS 44.62.560. The order is not stayed pending judicial review unless the commissioner so directs. If an order is not immediately complied with, the attorney general, upon request of the commissioner, shall seek enforcement of the order.

(e) The department may adopt additional regulations prescribing the procedure to be followed in the issuance of emergency orders. (§ 3 ch 120 SLA 1971)

**Sec. 46.03.822. Strict liability for the discharge of hazardous substances.** To the extent not otherwise preempted by federal law, a person owning or having control over a hazardous substance which enters in or upon the waters, surface or subsurface lands of the state is strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by the entry. In an action to recover damages, the person is relieved from strict liability, without regard to fault, if he can prove

(1) that the hazardous substance to which the damages relate entered in or upon the waters, surface or subsurface lands of the state solely as a result of

(A) an act of war,

(B) an intentional act or a negligent act of a third party, other than a party (or its employees) in privity of contract with, or employed by,

(C) negligence on the part of the United States government or the State of Alaska, or

(D) an act of God, and

(2) in relation to (1)(B), (C) or (D) of this section, that he discovered the entry of the hazardous substance in or upon the waters, surface or subsurface lands of the state and began operations to contain and clean up the hazardous substance within a reasonable period of time. (§ 1 ch 122 SLA 1972; am § 13 ch 220 SLA 1976)

*Cross references.* — For provision that actions brought under this section may be brought directly against insurers or other persons providing evidence of financial responsibility, see AS 46.04.040(e).

**Sec. 46.03.824. Damages.** Damages include but are not limited to injury to or loss of persons or property, real or personal, loss of income, loss of the means of producing income, or the loss of an economic benefit. (§ 1 ch 122 SLA 1972)

IDENTIFICATION	BILL NAME		BILL NUMBER HB 100	
			DATE INTRODUCED 1-23-85	
			RELATED BILLS PENDING	
SPONSOR(S) Rules Committee By Request of the Governor		REFERRALS		
INITIAL RESEARCH	INITIAL SUMMARY COMPLETED		LEGAL DIVISION SUMMARY ✓ - Doug Mertz will attend	
	SPONSOR CONTACTED FOR BACKUP MATERIALS ✓		DEPT OF LAW SUMMARY	
	AGENCY RESPONSE Comm. Ross will probably attend		FISCAL NOTE - 0 -	
			OTHER INTERESTED LEGISLATORS NOTIFIED	
BACKGROUND RESEARCH	SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES SB 534		OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, ETC	
	RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS Bradbury, Bliss - maritime alby's oppose			
HEARING PREPARATION	CHAIRMAN BRIEFED ✓		DATE & PLACE SET 1-22 Buttrouch	
	STAFF MEMO TO COMMITTEE ✓		TELECONFERENCE	
	BACKGROUND MATERIAL DISTRIBUTED		PSA/PRESS RELEASE	
	LIST OF WITNESSES Doug Mertz Bill Ross Jim Ayres		SUGGESTED AMENDMENTS/CS DRAFTED	

HB

111

File 1

# Alaska State Legislature

SENATOR  
JOHN B. "JACK" COGHILL  
Chairman

Senator Jan Falks—Vice Chairman  
Senator Mitch Abood  
Senator Paul Fischer  
Senator Joe Josephson



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## Senate Committee on Transportation

May 3, 1985

### MEMORANDUM

To: Committee members  
From: Committee staff *jm*  
Re: Background and analysis for CSHB 111 (Trans)am

On Monday, May 6, the committee will take up CSHB 111 (Trans)am, relating to local service roads and trails. This bill was introduced by the Governor as a housekeeping measure, and has been changed somewhat since its introduction.

Sections 1, 2, and part of 3 add language to allow for the use by the LSR&T program of a census other than the federal census. This change was made on the House floor with the general concern that with Alaska's dynamic, transient population, the federal census is too quickly outdated. The change would permit the use of a "state" census (provided such a census is ever instituted) or "other census approved by the department of community and regional affairs".

Sections 3, 4 and 6 delete the current inclusion of first class cities within the direct allocation portion of the program. Presently, and since 1982, each first class city is treated the same as a home rule city, a municipality or a borough, in that funds are allocated to it each year strictly by the formula. The net result has been that most of the allocations to first class cities are not enough to fund a project, even if the city saves up its allocations over five years, which they are allowed to do. By deleting first class cities, the boroughs (or DOT/PF for the unorganized borough) would decide which LSR&T requests would be funded in first class cities, based upon certain criteria (a listing of the criteria is included in the file).

Section 5 requires the commissioner's approval on design standards, right-of-way and widths for LSR&T projects involving federal-aid secondary routes.

Section 7 revises the definition of "local service road" to mean a road used by fewer than 750 vehicles a day, and is not on the primary, urban or interstate highway system.

Transportation committee members  
May 3, 1985  
Page 2

Section 8 provides an immediate effective date.

Materials included in the members files are:

- CSHB 111 (Trans)am
- CSHB 111 (Trans)
- Original version of HB 111
- Zero fiscal note and DOT/PF analysis
- Governor's transmittal letter
- Comparison of distribution formulas
- Short summary of LSR&T program
- Summary of LSR&T projects
- Criteria to be used to determine priority of submitted projects
- House floor amendment (from House journal)
- Appropriate statutes

Although FY86 funding for the LSR&T program was cut during the recent budget adjustments, a special appropriation of \$7 million is contained in HB 291, which has not yet emerged from House Finance.

Offered: 3/15/85  
Referred: Resources

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE  
2 CS FOR HOUSE BILL NO. 111 (Transportation) am  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to local service roads and trails;  
7 and providing for an effective date."

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

9 \* Section 1. AS 19.30.131(a) is amended to read:

10 (a) During each fiscal year the commissioner shall allocate sums  
11 appropriated or otherwise designated for expenditure upon local  
12 service roads for that fiscal year among the five allocation districts  
13 in the following manner: one-half in the ratio which the area of each  
14 allocation district bears to the total area of the state and one-half  
15 in the ratio which the population of each allocation district bears to  
16 the total population of the state as shown by the latest available  
17 federal or state census or other census approved by the Department of  
18 Community and Regional Affairs.

19 \* Sec. 2. AS 19.30.131(b) is amended to read:

20 (b) The commissioner shall also further allocate the sums in  
21 each allocation district to the boroughs within each allocation dis-  
22 trict in the following manner: one-half in the ratio which the area  
23 of each organized borough (excluding salt water areas) within that  
24 district bears to the total area of the allocation district and  
25 one-half in the ratio which the population of each organized borough  
26 area within that district bears to the total population of the  
27 allocation district as shown by the latest available federal or state  
28 census or other census approved by the Department of Community and  
29 Regional Affairs.

1           Sec. 19.30.161.   DESIGN STANDARDS, RIGHTS-OF-WAY AND WIDTHS.  
2           Design standards, rights-of-way and widths for each local service road  
3           and trail project must [SHALL] have the prior approval of the commis-  
4           sioner, unless the project is under the supervision of a local govern-  
5           ment that has assumed local road powers. If the project is under the  
6           supervision of a local government that has assumed road powers, and  
7           the project is not located on a federal-aid secondary route, design  
8           standards, rights-of-way and widths shall be established by the local  
9           government. If a project under the supervision of a local government  
10          that has assumed road powers is located on a federal-aid secondary  
11          route, design standards, rights-of-way, and widths must have the prior  
12          approval of the commissioner.

13          \* Sec. 6. AS 19.30.241(3) is amended to read:

14                  (3) "local government" means an organized borough of any  
15                  class, a unified municipality organized under AS 29.68.240 - 29.68.-  
16                  440, [A HOME RULE CITY,] or a city of any [THE FIRST] class;

17          \* Sec. 7. AS 19.30.241(4) is amended to read:

18                  (4) "local service road" means a public road that is used  
19                  by an average of fewer than 750 vehicles each day and that [WHICH] is  
20                  not designated as a route on the approved primary, urban, or inter-  
21                  state federal-aid highway system;

22          \* Sec. 8. This Act takes effect immediately in accordance with AS 01.-  
23          10.070(c).

Offered: 3/15/85  
Referred: Resources

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE  
2 CS FOR HOUSE BILL NO. 111 (Transportation)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to local service roads and trails;  
7 and providing for an effective date."

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

9 \* Section 1. AS 19.30.131(c) is amended to read:

10 (c) The commissioner shall also further allocate portions of the  
11 sum allocated to any borough, either organized or unorganized, and to  
12 any home rule [OR FIRST CLASS] city within the borough in the follow-  
13 ing manner:

14 (1) one-half in the ratio which the area of each home rule  
15 [OR FIRST CLASS] city bears to the total area of the borough excluding  
16 salt water areas; and

17 (2) one-half in the ratio which the population of each home  
18 rule [OR FIRST CLASS] city bears to the total population of the bor-  
19 ough as shown by the latest available federal census.

20 \* Sec. 2. AS 19.30.141 is amended to read:

21 Sec. 19.30.141. ACQUISITION AND CONSTRUCTION PROGRAMS. Before  
22 October 1 of each fiscal year each local government eligible for  
23 allocation of funds under AS 19.30.131 shall submit to the commis-  
24 sioner for approval a five-year plan for the acquisition and construc-  
25 tion of local service roads and trails. Before December 1 of each  
26 fiscal year the commissioner shall submit to the governor a five-year  
27 plan for the acquisition and construction of local service roads and  
28 trails, including the approved local government programs. An or-  
29 ganized borough shall include in its five-year plan local service road

1 acquisition and construction programs for all cities other than home  
2 rule [AND FIRST CLASS] cities within the boundaries of the borough.  
3 The commissioner shall include in the [HIS] five-year plan local  
4 service road and trail acquisition and construction within the unor-  
5 ganized borough.

6 \* Sec. 3. AS 19.30.161 is amended to read:

7 Sec. 19.30.161. DESIGN STANDARDS, RIGHTS-OF-WAY AND WIDTHS.  
8 Design standards, rights-of-way and widths for each local service road  
9 and trail project must [SHALL] have the prior approval of the commis-  
10 sioner, unless the project is under the supervision of a local govern-  
11 ment that has assumed local road powers. If the project is under the  
12 supervision of a local government that has assumed road powers, and  
13 the project is not located on a federal-aid secondary route, design  
14 standards, rights-of-way and widths shall be established by the local  
15 government. If a project under the supervision of a local government  
16 that has assumed road powers is located on a federal-aid secondary  
17 route, design standards, rights-of-way, and widths must have the prior  
18 approval of the commissioner.

19 \* Sec. 4. AS 19.30.241(3) is amended to read:

20 (3) "local government" means an organized borough of any  
21 class, a unified municipality organized under AS 29.68.240 - 29.68.-  
22 440, [A HOME RULE CITY,] or a city of any [THE FIRST] class;

23 \* Sec. 5. AS 19.30.241(4) is amended to read:

24 (4) "local service road" means a public road that is used  
25 by an average of fewer than 750 vehicles each day and that [WHICH] is  
26 not designated as a route on the approved primary, urban, or inter-  
27 state federal-aid highway system;

28 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.-  
29 10.070(c).

Introduced: 1/25/85  
Referred: Transportation and  
Resources

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

HOUSE BILL NO. 111

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to local service roads and trails;  
7 and providing for an effective date."

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

9 \* Section 1. AS 19.30.127 is repealed and reenacted to read:

10 Sec. 19.30.127. ALLOCATION DISTRICTS. (a) The state is divided  
11 into allocation districts that are identical to the department's  
12 operating regions.

13 (b) Where a department region boundary divides a local govern-  
14 ment unit, the allocation district boundary must be adjusted by the  
15 department to include the local government unit within the department  
16 region that contains the largest portion of the area of the local  
17 government unit.

18 \* Sec. 2. AS 19.30.131(a) is amended to read:

19 (a) During each fiscal year the commissioner shall allocate sums  
20 appropriated or otherwise designated for expenditure on [UPON] local  
21 service roads for that fiscal year among the [FIVE] allocation dis-  
22 tricts in the following manner: one-half in the ratio which the area  
23 of each allocation district bears to the total area of the state and  
24 one-half in the ratio which the population of each allocation district  
25 bears to the total population of the state as shown by the latest  
26 available federal census.

27 \* Sec. 3. AS 19.30.131(c) is amended to read:

28 (c) The commissioner shall also further allocate portions of the  
29 sum allocated to any borough, either organized or unorganized, and to

1 any home rule [OR FIRST CLASS] city within the borough in the follow-  
2 ing manner:

3 (1) one-half in the ratio which the area of each home rule  
4 [OR FIRST CLASS] city bears to the total area of the borough excluding  
5 salt water areas; and

6 (2) one-half in the ratio which the population of each home  
7 rule [OR FIRST CLASS] city bears to the total population of the bor-  
8 ough as shown by the latest available federal census.

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14 tion of local service roads and trails. Before December 1 of each  
15 fiscal year the commissioner shall submit to the governor a five-year  
16 plan for the acquisition and construction of local service roads and  
17 trails, including the approved local government programs. An or-  
18 ganized borough shall include in its five-year plan local service road  
19 acquisition and construction programs for all cities other than home  
20 rule [AND FIRST CLASS] cities within the boundaries of the borough.  
21 The commissioner shall include in the [HIS] five-year plan local  
22 service road and trail acquisition and construction within the unor-  
23 ganized borough.

24 \* Sec. 5. AS 19.30.161 is amended to read:

25 Sec. 19.30.161. DESIGN STANDARDS, RIGHTS-OF-WAY AND WIDTHS.  
26 Design standards, rights-of-way and widths for each local service road  
27 and trail project must [SHALL] have the prior approval of the commis-  
28 sioner, unless the project is under the supervision of a local govern-  
29 ment that has assumed local road powers. If the project is under the

1 supervision of a local government that has assumed road powers, and  
2 the project is not located on a federal-aid secondary route, design  
3 standards, rights-of-way and widths must [SHALL] be established by the  
4 local government. If a project under the supervision of a local  
5 government that has assumed road powers is located on a federal-aid  
6 secondary route, design standards, rights-of-way, and widths must have  
7 the prior approval of the commissioner.

8 \* Sec. 6. AS 19.30.241(3) is amended to read:

9 (3) "local government" means an organized borough of any  
10 class, a unified municipality organized under AS 29.68.240 -- 29.68.-  
11 440, [A HOME RULE CITY,] or a city of any [THE FIRST] class;

12 \* Sec. 7. AS 19.30.241(4) is amended to read:

13 (4) "local service road" means a public road that is used  
14 by an average of fewer than 750 vehicles each day and that [WHICH] is  
15 not designated as a route on the approved primary, urban, or inter-  
16 state federal-aid highway system;

17 \* Sec. 8. This Act takes effect July 1, 1985.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Page 1 of 3

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 111  
 Title: An act relating to local  
service roads and trails  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: DOT&PF  
 Program Category Affected: \_\_\_\_\_  
Design and Construction  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Capitol Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>
<b>CAPITAL</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Attached

Prepared By: Charles D. Karella Phone: 465-4070  
 Division: \_\_\_\_\_ Date: 10/19/84  
 Approved by Commissioner: *David...* Date: 11/15/84  
 Agency: Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

**ZERO FISCAL NOTE & ANALYSIS**

The proposed bill is strictly a housekeeping measure and has no fiscal impact on either the operating or capital budget. No additional positions are required.

The proposed bill revises A.S. 19.30 in five areas:

- 1) AS 19.30.127 and AS 19.30.131(a) are reworded to make allocation district boundaries coincide with DOT&PF regional boundaries. This simplifies the allocation process of LSR&T monies.
- 2) AS 19.30.131(c) and AS 19.30.141 removes first class cities from district allocation. This change returns the first class cities to their former status which allows them to receive adequate funds to construct a project.
- 3) AS 19.30.161 is reworded to require LSR&T projects constructed on a federal-aid secondary route to be approved by the Commissioner of DOT&PF. This language change is needed to assure that federal requirements for roadway width, design standards and right-of-way are met.
- 4) AS 19.30.241(3) is necessary to enable any political subdivision of the State to construct and maintain a project under the provisions of this act.
- 5) AS 19.30.241(4) is reworded to limit LSR&T construction to low volume roads. The break between high volume roads and low volume roads is 750 vehicles per day. Correction of an oversight of past legislation in defining specific routes of the Federal-aid highway system is necessary.

An Act relating to local service roads, trails and providing for an effective date.

These amendments to the Act are necessary in order to revise the out-of-date allocation areas, assure sufficient funding of projects under the priority system, clarify design standards for secondary federal routes, revise the local government definition to conform with other Alaska Statutes, limit LSR&T construction to low volume roads and correct an oversight of defining specific routes of the federal highway system.

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 23, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the local service roads and trails program. The bill makes minor amendments to existing statutes.

Section 1 repeals and reenacts AS 19.30.127. The current language establishes five allocation districts. The proposed language creates allocation districts by simply saying that they are identical to the Department of Transportation and Public Facilities' operating regions. When the local service roads and trails program was enacted in 1971 there were five highway districts within the Department of Highways. The allocation districts established in the statute coincided with those highway districts. Those allocation districts bear little relationship to the manner in which the state's highway program is administered today. There are currently three regional offices with headquarters in Anchorage, Fairbanks, and Juneau, respectively. This amendment will allow the program to be administered in a way that is consistent with the Department of Transportation and Public Facilities' current administrative structure. The amendment will enable the allocation districts to match any future changes in geographic organization of the department.

Additionally, sec. 1 of the bill provides a mechanism to address the problem of local governments which lie within two allocation districts. Subsection (b) of AS 19.30.127 will provide that the boundary between the allocation districts is to be adjusted to include the local government within the allocation district in which the largest portion of the local government's land is located.

Section 2 amends AS 19.30.131(a) by deleting the reference

GOVERNOR'S TRANSMITTAL LETTER

to five allocation districts. This amendment is necessary because of the new method of establishing the allocation districts found in sec. 1 of the bill.

Section 3 amends AS 19.30.131(c) by deleting first-class cities from direct allocations.

The need for this change is to provide first-class cities with adequate funds to construct local service roads. Presently, the law treats allocation of funds to first-class cities the same as home rule cities. Present allocations for most first-class cities are not adequate to construct a local service road project. This change in the law allows funding of projects for first-class cities through their respective borough or unorganized borough on a priority basis.

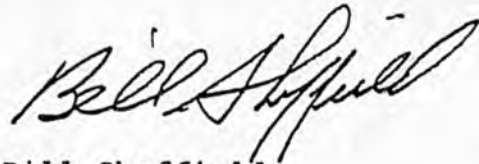
Section 4 amends AS 19.30.141 by deleting first-class cities from direct allocations as explained above.

Section 5 amends AS 19.30.161 by adding language requiring the prior approval of design standards, rights-of-way, and widths for projects which are constructed on a federal-aid secondary route, even though the project will be constructed by a local government that has assumed road powers. As a general proposition under the local service roads and trails program, if a local government has assumed road powers it is responsible for the maintenance of the facility after construction. Consequently, the state has little concern over the standards. In 1981, the nature of the program changed when AS 19.30.111 was amended to allow the use of program money on the federal-aid secondary highway system. These facilities can be quite complicated and the state is required to comply with various standards to continue to receive federal aid for the route. It is therefore appropriate that the commissioner of DOT/PF have a right of prior approval of design standards, rights-of-way, and width.

Section 6 amends AS 19.30.241(3) by adding language which includes second-class cities to conform with the definition of municipality in AS 29.78.010(8). This change is necessary to enable any political subdivision of the state to construct and maintain a project under the provisions of this bill.

Section 7 amends the definition of local service road to make it more precise.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield". The signature is written in dark ink and is positioned above the typed name.

Bill Sheffield  
Governor



# City of Nenana

State of Alaska

January 14, 1986

JAN 17 1986

Senator John B. Coghill  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Senator Coghill,

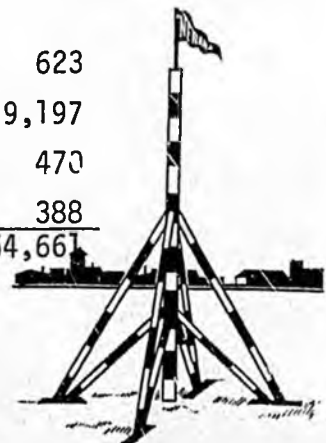
RE: LSR&T FUNDING LEVELS AND CSHB 111 \* CHANGES TO TITLE 19, CHAPTER 30

After considerable research, I have assembled some interesting facts and figures regarding Allocation District Number Two of the Local Service Roads and Trails (LSR&T) program, and the basis for the Area/Population formula.

There are five allocation districts among which LSR&T funding is shared. Allocation District Two, to which the City of Nenana belongs, gets 23.6% of the total LSR&T funding in any given particular year.

The following is a breakdown of the percentages within District Two, along with the area and population figures for each.

	<u>Percentage</u> (in hundreths)	<u>Area</u> (square miles)	<u>Population</u>
1. Fairbanks North Star Borough	.437	7,500	53,983
- within FNSB -			
a) City of Fairbanks	[.212]	[30]	[22,645]
b) City of North Pole	[.007]	[3]	[724]
2. North Slope Borough (Eastern Portion)	.119	41,615	623
3. Unorganized Borough	.437	133,387	9,197
4. City of Nenana	.004	9	470
5. City of Tanana	.003	1	388
TOTALS	<u>1.000</u>	<u>182,512</u>	<u>64,661</u>



Now, speaking to CSHB 111, the only substantive change proposed in this bill appears to be allowing a State census (or other census approved by C&RA) figure to be substituted for the Federal census figure. For Nenana this would mean a population of approximately 592 instead of 470. I imagine that other communities would also increase their population figure's allowing for the use of the State census figures. Then, referring back to the area/population table, and understanding that the percentage figure is a derivative of the pro-rated area/population products, one can deduce that the change proposed by CSHB 111 will have very little positive benefit for the City of Nenana.

What is needed is a change in the allocation formula. The cities of Nenana, and Tanana, and North Pole don't stand a chance against the boroughs when the only criteria used in dividing the funds are area and population.

We should probably eliminate first class and home rule cities from the allocation formula direct appropriation process, and allow for our projects to be funded from another source on a prioritized needs basis. This would hopefully bring us back to thinking of project funding as it relates to a project rather than an area-population formula.

It is difficult to do any kind of a road project with \$864! (The total of Nenana's allocation in 1985)

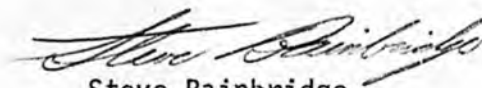
You might find the following table interesting as to Nenana's allocations in past years.

<u>YEAR</u>	<u>Total L.S.R. &amp; T Appropriation</u>	<u>Nenana's Allocation</u>
1980	Funded on a needs basis	\$30,000
1981	" " " " "	\$60,000
1982	-0-	-0-
1983	\$7.0 million	\$ 6,046
1984	\$3.5 million	\$ 3,023
1985	\$1.15 million	\$ 864
1986	In D.O.T.'s CIP budget at a ZERO FUNDING LEVEL (7 million to start)	?

Page 3  
January 14, 1986  
City of Nenana - LSR&T, CSHB 111

It looks as though, given the current proposed zero funding level for L.S.R. & T., that all the above discussion on a funding formula might be of little consequence this year. (I hear there is a L.S.R. & T funding request in HB291 - I will get a copy of this and provide you with some comments)

Sincerely,



Steve Bainbridge  
City of Nenana

SB/tli

DRAFT

DRAFT

Proposed Senate Transportation Committee substitute to CSHB 111 am

For an Act entitled: "An Act relating to local service roads and trails; and providing for an effective date."

\*Section 1. AS 19.30.131(a) is amended to read:

(a) During each fiscal year the commissioner shall allocate sums appropriated or otherwise designated for expenditure upon local service roads for the fiscal year among the five allocation districts in the following manner: one-half in the ratio which the area of each allocation district bears to the total area of the state and one-half in the ratio which the population of each allocation district bears to the total population of the state as shown by the latest available federal or state census or other census approved by the Department of Community and Regional Affairs.

\*Section 2. AS 19.30.131 (b) is amended to read:

*[And unincorporated Municipalities]*

(b) The commissioner shall also further allocate the sums in each allocation district to the boroughs within each allocation district in the following manner: one-half in the ratio which the area of each organized borough (excluding salt water areas) within that district bears to the total area of the allocation district and one-half in the ratio which the population of each organized borough area within that district bears to the total population of the allocation district as shown by the latest available federal or state census or other census approved by the Department of Community and Regional Affairs.

\*Section 3. AS 19.30.131(c) is amended to read:

(c) The commissioner shall also further allocate portions of the sum allocated to any organized borough, [EITHER ORGANIZED OR UNORGANIZED] and to any home rule [OR FIRST CLASS] city within the organized/borough in the following manner:

(1) one-half in the ratio which the area of each home rule [OR FIRST CLASS] city bears to the total area of the borough excluding salt water areas; and

(2) one-half in the ratio which the population of each home rule [OR FIRST CLASS] city bears to the total population of the borough as shown by the latest available federal or state census or other census approved by the Department of Community and Regional Affairs

DRAFT

DRAFT

DRAFT

\*Section 4. AS 19.30.141 is amended to read:

Sec. 19.30.141. ACQUISITION AND CONSTRUCTION PROGRAMS. Before October 1 of each fiscal year each local government eligible for allocation of funds under AS 19.30.131 shall submit to the commissioner for approval a five-year plan for the acquisition and construction of local service roads and trails. Before December 1 of each fiscal year the commissioner shall submit to the governor a five-year plan for the acquisition and construction of local service roads and trails, including the approved local government programs. An organized borough shall include in its five-year plan local service road acquisition and construction programs for all cities other than home rule [AND FIRST CLASS] cities within the boundaries of the borough. The commissioner shall include in the [HIS] five-year plan local service road and trail acquisition and construction within the unorganized borough.

\*Section 5. AS 19.30.161 is amended to read:

Sec. 19.30.161. DESIGN STANDARDS, RIGHTS-OF-WAY AND WIDTHS. Design standards, rights-of-way and widths for each local service road and trail project must [SHALL] have the prior approval of the commissioner, unless the project is under the supervision of a local government that has assumed local road powers. If the project is under the supervision of a local government that has assumed road powers, and the project is not located on a federal-aid secondary route, design standards, rights-of-way and widths shall be established by the local government. If a project under the supervision of a local government that has assumed road powers is located on a federal-aid secondary route, design standards, rights-of-way, and widths must have the prior approval of the commissioner.

\*Sec. 6. AS 19.30.241(3) is amended to read:

(3) "local government" means an organized borough of any class, a unified municipality organized under AS 29.68.240- 29.68.440, [A HOME RULE CITY,] or a city of any [THE FIRST] class;

\*Sec. 7. AS 19.30.241(4) is amended to read:

(4) "local service road" means a public road that is used by an average of fewer than 750 vehicles each day and that [WHICH] is not designated as a route on the approved primary, urban, or interstate federal-aid highway system;

\*Sec. 8. This Act takes effect immediately in accordance with AS 01.10.070(c)

## LOCAL SERVICE ROADS AND TRAILS PROGRAM

### Primary Functions:

The Local Service Roads and Trails (LSR&T) program was established by the State Legislature in 1971 to provide for special needs to "bush" communities, rural communities and communities both within and outside of organized boroughs.

Local Service Roads and Trails was designed to aid communities in accomplishing projects that do not have the financial means nor the technical expertise to achieve alone. These projects were to be in the nature of roads, trails, bridges and boardwalks specifically. Special exceptions are considered and granted if justification is sufficient.

The LSR&T Program is wholly State funded. Wherever costs are not prohibitive, generally within organized boroughs, projects are awarded by bid contract. In the remote areas where, because of location and size of the project bid contracts cost are prohibitive, LSR&T maintains its own small fleets of equipment or rents equipment, if available, and directs the operation of the projects.

The scope of LSR&T is basically three-fold. This is particularly true for "bush" projects. It provides:

1. Needed projects to communities that have not the capabilities of accomplishing alone.
2. A source of training for construction work by employing local residents as laborers and equipment operators.
3. Provides supplemental income to communities that are single-income or subsistence oriented.

### Project Limitation:

Local Service projects are confined to roads which are not part of the primary federal-aid system and are not the responsibility of corporate units or private individuals but are dedicated to public use. These projects cover wide ranging road needs. They include State recreation routes, connections between outlying villages and airports, villages and canneries, villages and port facilities, short routes needed to better integrate subdivision roads and State highways, and improvements to existing roads.

PROGRAM SUMMARY

## PLANNING

### Five Year Program

The allocation districts are the boundaries of the Highway Department established in 1970. The larger of the five districts being the Western District, engulfing nearly half of the land mass of Alaska, is administered by the Central and Northern Regions. This split jurisdiction is strictly an economic measure.

Whenever organized boroughs whose boundaries partially overlap allocation districts, the administrative responsibility lies with the primary region.

A construction program utilizing LSR&T construction equipment, State employees, village labor, and equipment rental when available, is the primary mode of operation in the unorganized boroughs of the Central, and Northern Regions. Programming the projects in the unorganized boroughs depends on requests from local governing bodies (both submitted and solicited), available road building materials, right-of-way access, and coordination of other projects in the area.

The State equipment fleet and maintenance personnel are utilized when local equipment is not available or when a contract for the work is not feasible.

The Local Service Roads and Trails Program is a vital link in the State road network. It is the only State program established for solving local transportation needs. During a typical construction season, several miles of new road, new and reconstructed boardwalk, year around foot trails, winter trail staking, foot bridges, paved bike paths and vehicle bridges are constructed with LSR&T funds.

These and other special projects are completed each year in answer to what the LSR&T is all about, "Get the people out of the mud". This program does a lot for all the people of Alaska and is presently performing a service the people of Alaska could not do without.

### Summary

#### I. Definition

##### A. Purpose

- a. To get people out of the mud
- b. Flexibility of Program
- c. To aid communities with no revenue
- d. Economy of operation

##### B. Type of Projects

- a. Local Service Roads
- b. Year around foot trails
- c. Winter trail staking
- d. Bicycle paths
- e. Erosion control
- f. Foot bridges
- g. Boardwalks

## II. Allocation

- A. F.Y. Year Legislation (6 million proposed)
- B. Five Year Duration
- C. 50-50 Factor, Area - Population
- D. Operating Budget - Program Support
  - a. Bridge Design - Headquarters
  - b. Road Design and Advertising - Region
  - c. R/W Certification - Region
  - d. Construction Review - Region
  - e. Administration Headquarters and Region

## III. Administration

- A. Allocation District - Regional Control
- B. Organized Boroughs and Home Rule Cities
  - a. Construction contract by Local Government
  - b. Local Government Labor and Equipment
- C. Unorganized Boroughs
  - a. Construction Contract by Local Government or State
  - b. Village or City Labor and Equipment
  - c. State Equipment and Village Labor
  - d. State Equipment and State Employees
  - e. State Equipment and Village State Employees

## IV. Five Year Program

- A. Project Selection
  - a. Organized Boroughs, First Class Cities and Home Rule Cities
    - 1. Select their own projects
    - 2. Able to change program at will
  - b. Unorganized Boroughs
    - 1. Cities and Villages select their own projects.
    - 2. Region sets priorities within funds available.
    - 3. Regions may subfill projects with funds available on non-federal routes.

## APPLICANT GUIDELINES

### Nature and Purpose of Program:

To provide State assistance in the development of roads and trails on routes that are not eligible for federal-aid matching funds.

### Who May Apply:

Each organized borough, first class city and home rule city is eligible for a direct allocation, based on their population and area. All other areas are considered unorganized boroughs and are eligible for projects administered by the Department, subject to priority scheduling within the respective allocation districts.

### Authorizing Legislation:

AS 19.30.111-251

### Administrative Agency:

Department of Transportation and Public Facilities, State of Alaska.

### Type of Assistance:

Financial and Engineering.

### How Program is Financed:

100% State. Organized boroughs and home rule cities may supplement their allocation with local funding in any amount. Unorganized borough areas will be encouraged to provide local participation whenever possible. Federal and State grants can be used in conjunction with LSR&T funds.

### How to Apply:

Each organized borough, first class city and home rule city may receive their allocation by submitting a five-year project program for the construction of such roads to their Regional DOT&PF Deputy Commissioner by October 1 of each year, indicating the priorities for construction on the program. When a project is approved, a project agreement will be drafted, and development of the project may proceed. No payment can be made for work done prior to execution of the project agreement.

Unorganized borough communities should provide input data for road needs in their areas to their Regional DOT&PF Deputy Commissioner, who will compile a five-year program and establish priorities for the unorganized borough projects within his jurisdiction. When a project is approved, the Department will proceed with development of the project.

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES  
STANDARDS AND TECHNICAL SERVICES DIVISION

BILL SHEFFIELD, GOVERNOR

P.O. Box 3-1000  
Juneau, Alaska 99802

PHONE: (907) 789-0841

FEB 28 1984

February 27, 1984

Re: Local Service Roads  
and Trails Program


File No: 2519

House Transportation Committee  
Pouch V  
Juneau, Alaska 99811

Dear Sir:

The attached document gives a brief summary of the Local Service Roads and Trails (LSR&T) Program.

Sincerely,



John J. Simpson, Director  
Standards and Technical  
Services Division

JJS:CDK:ct

Attachment

cc: Dan Malick, Acting Deputy Commissioner, Statewide Programs

# MEMORANDUM

State of Alaska  
Department of Transportation & Public Facilities

TO: John J. Simpson, Director  
Standards and Technical  
Services Division

DATE: February 10, 1984

FILE NO: 2519

TELEPHONE NO: 789-0841

FROM: Charles D. Karella  
LSR&T Engineer  
DC&M Standards

SUBJECT: LSR&T Program

This program is designed to accomplish the most with the least amount of State dollars under the rules and regulations of the Alaska State Statutes, 19.30.111 - 19.30.251.

## FUNDING

First Allocation	1971	\$ 6 Million
	1972	4 Million
	1974	8 Million
	1976	7 Million
	1978	15.8 Million
	1980	10 Million
Last Allocation	1983	7 Million
Total Allocation		\$60.8 Million

## Projects (Dollars)

Completed or under agreement	\$54.5 Million
Reimbursements remaining	6 Million

Under the present allocation, Local Governments throughout the State share 57% of each LSR&T Bond issue. The unorganized boroughs share in the remaining 43%. Annual expenditures average to this percentage.

## ANNUAL PROGRAM (Typical)

1. 150 Active Projects  
50 Road Projects Completed  
50 Miles of Road Completed  
2000 Miles of Winter Trail Staking  
Several Miles of Boardwalk  
Foot Trails and Bike Paths

2. Expenditures For Typical \$6.0 Million Annual Program

Roads \$4.5 Million (75%)  
Includes \$1.1 million (25%) for subdivision streets and roads.

Trail Staking	\$100,000	(2%)
Boardwalks	600,000	(10%)
Foot Trails	200,000	(3%)
Bike Paths	100,000	(2%)
Shelter Cabins	50,000	(1%)
State Maintenance Routes	250,000	(4%)
Engineering and Administration	200,000	(3%)

3.. Administrative support is \$200,000 or 3%

PROGRAM PHASE OUT

During the period of time the program was in a phase-out status (1/2/82 to 7/25/83) no planning for future LSR&T projects was accomplished. As a result, it has taken some time to accelerate the program. A Statewide five-year program has now been prepared, and by the end of calendar year 1984, the program should be up to its former capability once again.

MANAGEMENT

LSR&T Managers and Project Engineers are tailored after the early Alaska bush pilots. Quite often, they have to operate by the seat of their pants, which is why this program is successful.

LSR&T PROGRAM 1977-1981

1. 250 road projects completed.  
Average Length one mile.  
Average cost \$100,000.00
2. Expenditures \$25 Million.
- 3.\* \$19.0 million for road projects, includes five million for subdivision roads.
4. \$750,000 for project administration charged to projects.

\*It is difficult to define subdivision roads or streets, i.e. access roads to new subdivisions can be considered an intergal part of the subdivision network or in some communities, it may be the only transportation corridor available. For this report, subdivision roads are those roads or streets within subdivisions, designated as such, by the local entity.

5. One million dollars for program support (\$200,000 per year).
6. Administered several special legislative appropriated projects; totalling in excess of a million annually.

#### COST COMPARISON

The cost of a project constructed under contract ranges between 25% and 200% more than a comparable project constructed with local equipment rental when available or LSR&T equipment and local hire, depending on size and location. Much of this is due to our policy of paying the prevailing community wage.

#### PRESENT PROGRAM

See Attached.

#### SUMMARY

Over 95% of all Alaskan communities have had at least one LSR&T project since the program set out to "Get the people out of the mud" in 1971.

There are many reasons why the program is successful, least of which is the maximization of State dollars. The LSR&T Program offers more to a rural community than just a finished product; it offers a learning experience. Traditionally, LSR&T has been able to offer additional benefits to the community as the program is tailored to their needs.

The LSR&T program spends a considerable amount of time administering projects funded through special Legislative appropriations and grants. In administering these projects for the Department, the program guarantees the credibility of the State in its commitment to meet the transportation needs of the bush communities.

Attachment

cc: Loren Rasmussen, Chief, DC&M Standards

CDK:ct

PROJECTS FUNDED

CENTRAL REGION June 30, 1982 to January 31, 1984

Unorganized Boroughs <sup>(1)</sup>	33 Projects	\$2,483,730
Bristol Bay Borough	1 Proj.ct	54,753
Municipality of Anchorage	7 Projects	1,006,596
Matanuska-Susitna Borough	1 Project	211,600
Kenai Peninsula Borough	4 Projects	337,636
Kodiak Island Borough	1 Project	18,262
City of Kenai	3 Projects	84,288
Unalaska <sup>(2)</sup>	1 Project	25,443
TOTAL REGION	<u>18 Projects</u>	<u>\$1,738,578</u>

(1) Includes 12 projects funded with \$810,000 from 1983 allocation.

(2) Funded from 1983 allocation.

PROJECTS FUNDED

NORTHERN REGION June 30, 1982 to January 31, 1984

Unorganized Borough II	6 Projects	\$678,425
Unorganized Borough IV (N)	7 Projects	510,850
Unorganized Borough V (N)	2 Projects	56,520
Total Unorganized Boroughs	<u>15 Projects</u>	<u>\$1,245,795</u> (1)
CITY OF FAIRBANKS	(2) Projects	\$178,305
CITY OF NORTH POLE	(1) Project	11,243
Total Local Governments	<u>3 Projects</u>	<u>\$189,548</u> (2)
TOTAL REGION	18 Projects	<u>\$1,435,343</u>

(1) Includes 13 projects funded with \$1,175,000 from 1983 allocation.

(2) Includes 2 projects funded with \$164,500 from 1983 allocation.

93% of these projects were funded with 1983 allocation.

PROJECTS FUNDED

SOUTHEAST REGION June 30, 1982 to January 31, 1984

Unorganized Borough III	13 Projects	\$465,000 <sup>(1)</sup>
CITY OF HAINES	1 Project	\$ 34,000
CITY AND BOROUGH OF SITKA	3 Projects	251,000
CITY OF WRANGELL	1 Project	80,000
CITY OF PETERSBURG	1 Project	20,000
CITY AND BOROUGH OF JUNEAU	2 Projects	361,000
CITY OF KETCHIKAN	3 Projects	80,000
Total Local Government	<u>11 Projects</u>	<u>\$826,000</u> <sup>(2)</sup>
TOTAL REGION	24 Projects	\$1,291,000

(1) Includes 8 projects funded with \$144,000 from 1983 allocation.

(2) Includes 6 projects funded with \$291,000 from 1983 allocation.

don't know of any other way to do it."

Number 599

Representative Marrou: "Second class cities and second class boroughs are left out, they don't get anything?"

Commissioner Knapp: "They get it now."

Representative Marrou: "Even the third class borough?"

Commissioner Knapp: "Yes. You see the problem is you got the universe of people you distribute money to. The problem--and it is all done exactly the same way--the problem is that some elements of that universe are so small that the amount of money that they get doesn't do them or anyone else any good. If you could put it into some kind of nucleus-type effect, you could then have bigger numbers for the formula, put the money out, and maybe get some use out of it."

Number 607

Representative Davis, the issue of Pelican still unclear, wanted to know who makes the decisions in allocations.

→ Mr. Karella: "The department would make the decisions, but I would like, if you could bear with me, to read the requirements for prioritizing the projects. Pelican, for instance, is in an unorganized and that's eleven steps.

(1) The first priority step would be the number of projects done in the past with Local Service Roads and Trails funds.

(2) The amount of dollars funded in the past.

(3) The year the last project funded for the community.

(4) Local participation in funding of a project. If they furnish labor, equipment, or materials--quite often this happens.

(5) Availability of local equipment--do they have a back-hoe, a truck?

(6) Availability of local labor.

CRITERIA FOR PRIORITY

(7) The location of the Local Service Roads and Trails equipment. Our equipment is set up in the Northern Region and in the Central Region. We have one large fleet.

(8) The possibility of the Department of Transportation having a contract in the area.

(9) Maybe the department can get the job and tack it on an existing project.

(10) Whether the project is connected to the existing road system.

(11) Availability of a contractor on the site of the project during the proposed time of construction.

"With the organized boroughs, there are only six priority systems that we use.

(1) First off we use the need--just like Representative Shultz was talking about.

(2) The involvement of an L.I.D. For instance, in the Fairbanks North Star Borough they use the L.I.D. concept very heavily, so does Mat-Su. 'Local Improvement District.' If there is something like a road surface maintenance area, Fairbanks North Star Borough has 77 of them. That's how they funnel their dollars--into the road maintenance service areas who come up with half of the dollars which stretches their allocation quite strongly. They prefer that over anything else.

(3) The third priority is the viability..."

CHANGE TAPE #17, SIDE TWO

Number 004

Mr. Karella continued with the list of priorities for organized boroughs:  
"...several areas in the North Star would come up with priorities.

(4) Is the fundability transportation oriented? Is it going to be easier to maintain. It's a problem. You got to always look at the maintenance part of it.

(5) The number of past Local Service Roads and Trails projects--that's what they look

at too. If Seldovia had a project last year or two years ago and they don't have enough money for what they are asking for now and they are vying with the city of Soldotna, then the city of Soldotna would probably get the job.

(6) Again, they use the amount of dollars spent on these projects in the past.

"It's a real good priority system which the boroughs use and we use as administering the unorganized borough. The work in the past has been highly commended. It's a very young program--since 1971. It's been highly successful prior to 1981 when this change was made. There is going to be home rule cities that don't like it. The city of Nenana, said that 'We used to get a lot of money, now we don't get any.' Their apportionment went to a first class city. They were out of luck anyway when they became a home rule city."

Number 057

Representative Cato asked the committee whether it would be amenable if the staff, working with Mr. Karella, would work up a committee substitute. Representative Furnace so moved. Representative Cato repeated the motion and then brought before the committee a work draft of an appropriation bill entitled, "An Act making a special appropriation to the Department of Transportation and Public Facilities for local service roads and trails; and providing for an effective date." She read section one of the work draft: "The sum of \$7,000,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for allocations for local service roads and trails authorized under AS 19.30.111 - 19.30.251." She asked whether there were any problems with the appropriations bill.

Number 081

Representative Pignalberi questioned whether it were high enough. Representative Cato explained that Mr. Karella has said in the past that \$7,000,000 is an excellent sum to work with. Mr. Karella confirmed this. Representative Cato said that she would entertain a motion to pass the bill out of committee. Representative Furnace moved to pass the bill out of committee with individual recommendations, but

LEGISLATIVE CITATIONS

Representative Clocksin moved and asked unanimous consent that the House approve the citation In Memoriam - Arnold Muldoon. There being no objection, it was so ordered and the citation was referred to the Chief Clerk for transmittal to the Senate.

THIRD READING OF HOUSE BILLSCSHB 111(Trsp)

Representative Szymanski brought up reconsideration of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 111 (Transportation) (relating to local service roads and trails; effective date).

CSHB 111(Trsp) was read the third time.

Representative Szymanski moved and asked unanimous consent that CSHB 111(Trsp) be returned to second reading for the purpose of specific Amendment No. 3. There being no objection, it was so ordered.

Amendment No. 3 by Szymanski, Cotten, Pignalberi, Marrou, Shultz, Larson, M.W. Miller, Navarre, Hurley and Pourchot:

Page 1, after line 8, insert new bill sections to read:

\*\* Section 1. AS 19.30.131(a) is amended to read:

(a) During each fiscal year the commissioner shall allocate sums appropriated or otherwise designated for expenditure upon local service roads for that fiscal year among the five allocation districts in the following manner: one-half in the ratio which the area of each allocation district bears to the total area of the state and one-half in the ratio which the population of each allocation district bears to the total population of the state as shown by the latest available federal or state census or other census approved by the Department of Community and Regional Affairs.

\* Sec. 2. AS 19.30.131(b) is amended to read:

(b) The commissioner shall also further allocate the sums in each allocation district to

HOUSE FLOOR AMENDMENT

CSHB 111(Trsp)

the boroughs within each allocation district in the following manner: one-half in the ratio which the area of each organized borough (excluding salt water areas) within that district bears to the total area of the allocation district and one-half in the ratio which the population of each organized borough area within that district bears to the total population of the allocation district as shown by the latest available federal or state census or other census approved by the Department of Community and Regional Affairs."

Page 1, line 9:

Delete "Section 1." and insert "Sec. 3."

Renumber remaining bill sections.

Page 1, line 19:

After "federal", insert "or state"

After "census" insert "or other census approved by the Department of Community and Regional Affairs"

Representative Szymanski moved and asked unanimous consent that Amendment No. 3 be adopted.

Representative Pettyjohn objected and withdrew his objection.

There being no further objection, Amendment No. 3 was adopted.

CSHB 111(Trsp)am

The question to be reconsidered: "Shall CSHB 111(Trsp)am pass the House?" The roll was taken with the following result:

CSHB 111(TRSP) AM

Yeas:	39	Adams, Binkley, Boucher, Cato, Clocksin, Collins, Cotten, Davis, Duncan, Frank, Fuller, Furnace, Goll, Gruenberg, Grussendorf, Hanley, Herrmann, Hurley, Jenkins, Koponen, Larson, Marrou, Martin, Miller, M.M., Miller, M.W., Navarre, Pearce, Pettyjohn, Phillips, Pourchot, Rieger, Ringstad, Shultz, Sund, Szymanski, Taylor, Thompson, Uehling, Wallis
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