

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4417 STRA HB 201 - HB 321

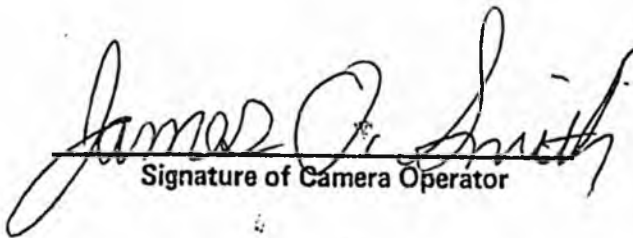
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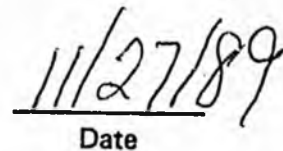


# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

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201

## HYDER, Alaska

Known as "The Friendliest Ghost Town in Alaska". Hyder has an interesting history. The community is located on the fringe of Misty Fiord National Monument and the Tongas National Forest.

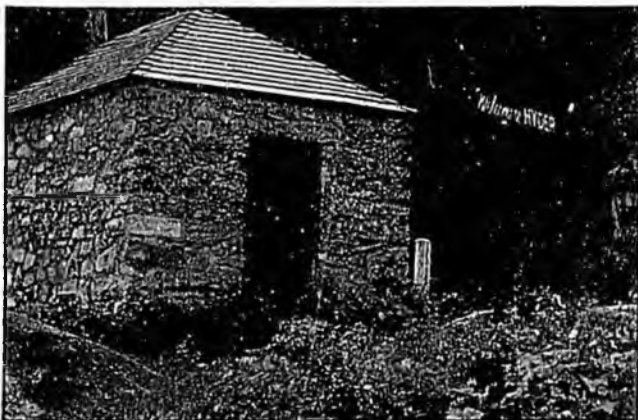


Photo by T.W. Parkin

The U.S. Corps of Engineers Storehouse No.4, located on the International Border, is the oldest masonry structure in Alaska. It is listed in the National Register of Historic Sites.

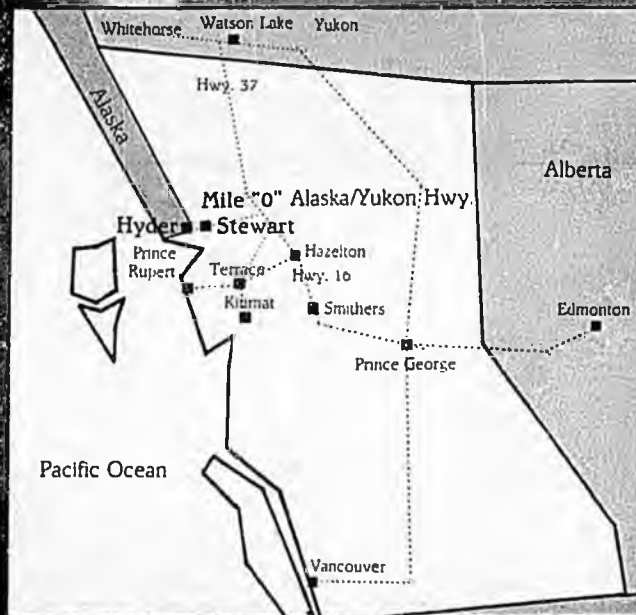
While in Hyder visit bars, gift shops, and cafes, or visit old mine sites worked at the turn of the century by prospectors hoping to find the "Mother Lode". At Fish Creek two miles northeast of Hyder see North America's largest species of Chum Salmon spawn during the months of July and August.

Before leaving don't forget the friendly tradition of being "Hyderized".

# STEWART BRITISH COLUMBIA

## HYDER ALASKA

*Your Gateway to  
Alaska and  
the Yukon!*



For information contact:  
**Stewart - Hyder  
Chamber of Commerce**  
Box 306, Stewart, B.C.  
V0T 1W0

# STEWART, British Columbia

Located at the head of the Portland Canal Stewart has seen many changes take place. The town literally grew overnight as gold discoveries attracted over 10,000 prospectors and merchants to the area in 1906. Evidence of this exciting era still exists. Pilings, once used to support buildings above the tide flats, can still be observed along the shoreline.



Photo by L. Horne

*On the way to Stewart why not stop at the fish ladder near Nass Bridge. Reportedly over 25,000 fish use this ladder annually.*

Highways 37, tourists have realized the beauty of the region.

Several major movies have been filmed on

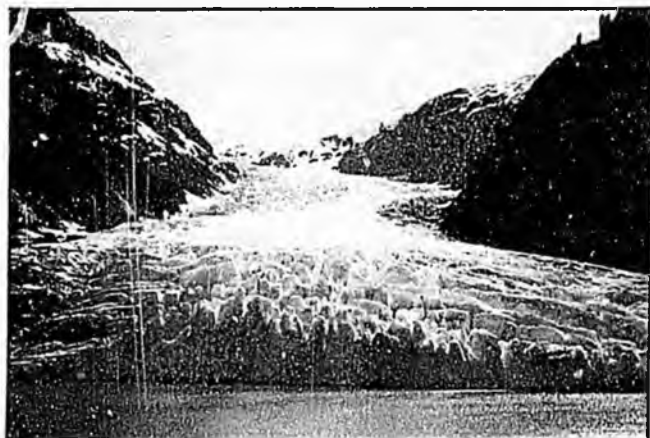


Photo by B. Wellwood

*A breathtaking view of the Bear Glacier awaits all travellers on their way to Stewart. This beautiful ribbon of ice is located just 30 km east of Stewart.*

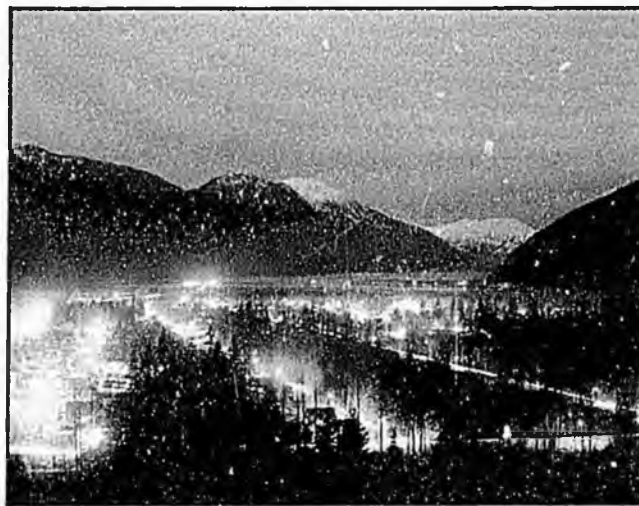


Photo by R. Eckert

*The evening lights of Stewart are a welcome sight for travellers on the Portland Canal.*

location in the Stewart area. The first film, 'Bear Island', involved such stars as Donald Sutherland and Vanessa Redgrave. As the number of tourists increases each year, the town of Stewart meets their needs. A beautiful tent-camper park has been set up in town. A variety of accommodations and services are available in both communities.

## Events

Stewart-Hyder can boast of having the longest birthday party in North America. They begin celebrating on July 1st in Stewart and end on July 4th in Hyder. One special attraction is the international bed race which begins in Alaska and ends in British Columbia.

## Alaska

Every year more tourists realize that they no longer have to travel for days on gravel roads to visit Alaska. With the last 28 km of road slated to be paved in 1984, people may now visit Alaska with a pleasant, relaxing drive.

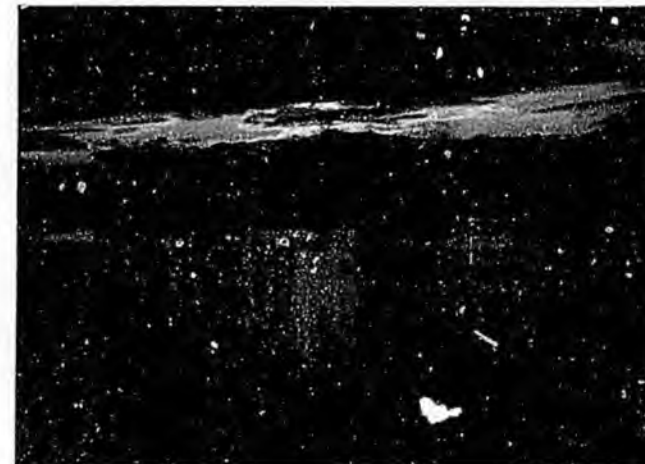


Photo by L. Perry

*After a day on the lake, fishermen can relax to the splendor of a sunset over Meziadin Lake.*



Photo by L. Horne

*Stewart's splendid marina is the gateway to exciting fishing or magnificent scenery. Charter trips are available.*



*This frozen waterfall is only one of the many sights that makes winter hiking much more rewarding.*

Photo by L. Horne

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENC.: LIBRARY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

*House Transportation Committee 2/28/1985, 7:00 am*

# Alaska State Legislature

SENATOR  
JOHN B. "JACK" COGHILL  
Chairman



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4921

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

## Senate Committee on Transportation

April 19, 1985

### MEMORANDUM

To: Committee members  
From: Committee staff *jm*  
Re: File information on HB 201

On Monday, the committee is scheduled to hear HB 201, which would appropriate \$22,000 to DOT/PF for weekly ferry service from Ketchikan to Hyder. This service would begin in 1987, if Hyder gets a dock and ferry terminal, however, the companion bill appropriating \$2.1 million for construction of the facilities, HB 202, has been held up in House Finance.

There remains the possibility, however, that the ferry could use docking facilities in Stewart, B.C. (about a mile away), until the terminal is built in Hyder.



13

Prince Rupert

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Introduced: 2/15/85  
Referred: Transportation and Finance

<u>Funding Information</u>	
General Fund	\$22,000
Other Funds	-0-
	<u>\$22,000</u>

1 IN THE HOUSE

BY TAYLOR AND SUND

2

HOUSE BILL NO. 201

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act making a special appropriation to the Depart-

7

ment of Transportation and Public Facilities to

8

provide Weekly summer Marine Highway service to

9

Hyder; and providing for an effective date."

10

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

11

\* Section 1. The sum of \$22,000 is appropriated from the general fund

12

to the Department of Transportation and Public Facilities for expenses

13

incurred in providing Weekly summer Marine Highway service to Hyder for the

14

fiscal year ending June 30 1986.

15

\* Sec. 2. This Act takes effect July 1, 1985.

*Experimental*



## HYDER COMMUNITY ASSOC. INC.

P.O. BOX F  
HYDER, ALASKA 99923 (604) 636-9148

March 25, 1985

### MARINE HIGHWAY SERVICE — HYDER, ALASKA

The Southeast Alaska Transportation Plan published by the Alaska Department of Transportation in June, 1980 recommended that ferry service be introduced to Hyder in 1985.

The Governor's Alaska Marine Highway Task Force recommended in February, 1984 that ferry service would be economically viable and should be introduced between Ketchikan and Hyder in 1986.

Hyder is connected with Highway 16 via 141 miles of excellent paved highway, and provides a shorter highway route to the lower 48 states than from Prince Rupert.

The M/V Aurora is based at Ketchikan and has sufficient time in its current summer schedule to provide weekly round trips between Ketchikan and Hyder with no negative effect on the communities now served. The Aurora is currently crewed on a full time basis, and the only additional expense to provide service between Ketchikan and Hyder would be for fuel.


The Marine Highway Task Force projects that the proposed route would generate capacity passenger and vehicle loads in both directions, and increase revenues. Service with the Aurora on this route would provide an alternate to the Prince Rupert gateway, with an increase in the level of service between British Columbia and Southeastern Alaska.

Currently there are twenty-eight adults unemployed in Hyder, Alaska. Our year round population is one-hundred. Stewart, 1.5 miles away, has a population of approximately 1000. Hyder has three bars, three cafes, three gift shops, one grocery store and a motel. There is only one bar open now. One cafe is open on a full-time basis. One gift shop is open on a full-time basis. Needless to say these businesses are not covering their expenses of operation. The proposed service would provide a needed economic stimulus for the people of Hyder, Alaska.

The children who attend public school are bused into Stewart, B. C. Our electricity is furnished by B. C. Hydro. Our telephone area code is (604) British Columbia. If you call Alaska long distance information you will be informed that there is no such place as Hyder, Alaska. Now we only receive mail once per week — weather permitting. We have gone as long as six (6) weeks without mail service. A round trip charter to Ketchikan can cost as high as \$1,000.00.

Documented Canadian border crossing statistics show in excess of 20,000 visitors entering between May—August, 1985. These figures are based on a 40/hr work week.

I hope these ideas will assist you in your deliberations on establishing a terminal and ferry service at Hyder and that a favorable response can be obtained.

  
John W. Chatham, President

Hyder Position

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: HB 201  
 Title: An act making appropriation to  
 DOT&PF to provide weekly summer Marine Highway service  
 to Hyder.  
 Sponsor: Taylor & Sund  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: DOT&PF  
 Program Category Affected: Transportation  
 BRU, Program or Subprogram(s) Affected:  
Alaska Marine Highway System

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>		-0-	-0-	-0-	-0-	-0-
100 PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
200 TRAVEL		1.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		6.0	12.7	13.5	14.3	15.1
400 SUPPLIES		3.5	7.4	7.8	8.3	8.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		10.5	22.2	23.5	25.0	26.4
<b>CAPITAL</b>						
<b>REVENUE</b>		1.2	2.5	2.7	2.9	3.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		10.4	22.0	23.3	24.3	25.2
FEDERAL FUNDS						
OTHER PGM Rec.		.1	.2	.2	.2	.2
<b>TOTAL</b>		10.5	22.2	23.5	25.0	26.4

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

- See Attached -

Prepared By: Joe D. Camp Phone: 465-3950  
 Division: Alaska Marine Highway System Date: 2/25/85

Approved by Commissioner: [Signature] Date: 2/27/85  
 Agency: DOT&PF

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

Fiscal Note

7/1/84

## ANALYSIS HB 201

Service to Hyder could not begin until a suitable docking and terminal facility were constructed. Engineer estimates for site selection, design and construction would require from eighteen (18) to twenty-four (24) months.

### Assumptions:

Assuming an eighteen (18) month time frame to put the facility on-line, terminal and vessel operating costs would not be required in FY 86 and in FY 87 only for the last quarter. FY 88 and onward, would require full funding for the operation of a summer schedule.

While the terminal building would be heated, lighted and have restroom facilities no state employee would be stationed in Hyder. A contractual arrangement with the City of Hyder or a local resident is opted and payment for services would be from ticket sale commissions generated by the contractor.

A link between Hyder and Ketchikan added to the present routes would provide a new option for travelers. This could result in an increase in traffic.

POSITION

HYDER, ALASKA - MARINE HIGHWAY SERVICE

The Department of Transportation and Public Facilities has no position on the concept of weekly Marine Highway summer service connecting to the land highway system of Hyder, Alaska. Such service would provide an alternate connection to the British Columbia land highway network, serve an increased number of Alaskans and provide a potential for increased visitor trade. This service is to be studied in the update of the Southeast Transportation plan due to be completed in December, 1985.

Docking, transfer and terminal facilities must be provided in Hyder before such service can begin.

Site selection, design and construction would require 18 to 24 months; therefore, if House Bill 202 is passed, service could begin in the summer of 1987 at the earliest.

A vessel could be made available to provide this service by shifting the summer season weekly port call of the M/V AURORA from Prince Rupert, B.C., to Hyder.

The distance from Ketchikan to Hyder is 130 nautical miles, compared to a distance of 92 nautical miles between Ketchikan and Prince Rupert. This results in a one way running time from Ketchikan to Prince Rupert of six hours and thirty minutes, versus slightly more than nine hours to Hyder for the M/V AURORA. Schedule time is available as indicated below.

Normal summer schedules call for the M/V AURORA to provide a connection to Prince Rupert on Tuesdays. This could be approximated from Hyder as follows:

CURRENT AURORA SCHEDULE

MON	LV	Hollis	7:30 AM
MON	AR	Ketchikan	10:15 AM
MON	AR	Ketchikan	2:45 PM
MON	AR	Hollis	5:30 PM
MON	AR	Hollis	7:15 PM
MON	LV	Ketchikan	11:15 PM
TUE	AR	Pr Rupert	*6:30 AM
TUE	LV	Pr Rupert	*10:30 AM
TUE	LV	Ketchikan	5:15 PM
TUE	LV	Hollis	9:15 PM

ETC - ETC

\* Prince Rupert time

PROPOSED HYDER SERVICE

MON	LV	Hollis	7:30 AM
MON	AR	Ketchikan	10:15 AM
MON	LV	Ketchikan	2:45 PM
MON	AR	Hollis	5:30 PM
MON	LV	Hollis	7:00 PM
MON	LV	Ketchikan	10:45 PM
TUE	AR	Hyder	8:00 AM
TUE	LV	Hyder	10:00 AM
TUE	LV	Ketchikan	8:00 PM
TUE	LV	Hollis	11:30 PM

ETC - ETC

DOT Position

DSS

- Stocks
- Management tactics
- Inside business



# A hidden Hyder

## Ferry plan sets Southeast town abuzz

by **Chriss Swaney**  
Times Business Writer

Hyder — Residents of this tiny southeast Alaskan community say the zip code is the only connection they have with their state and nation.

But "Alaska's Friendliest Ghost Town," — the inscription on a sign at the outskirts of the unpaved 250-acre community — may yet overcome its isolation if the legislature approves a bill that would provide weekly ferry service to the community and \$2.1 million to build a dock and terminal there.

Hyder, located about 100 miles northeast of Ketchikan at the head of the Portland Canal, has no roads to Alaskan cities nor any regular marine or airline transportation. Flights must be chartered from Ketchikan and cost \$250 one way. However, costs can reach more than \$1,500 if snow or fog forces Bush pilots to bypass Rudyard Pass — a faster aerial route to Hyder.

Because of its remoteness, residents use Canadian money, hospitals, telephone exchanges and schools. Although Hyder has a small grocery store, residents say they drive two miles to nearby Stewart,

B.C. to purchase dairy products.

"We need a dock and ferry terminal to keep the community alive," said John Chatham, administrator of the Hyder Community Association Inc. "We've been isolated too long," he said.

Many residents don't even know who their local representatives are because the community of 100 is bordered on the north and west by the Tongass National Forest and British Columbia on the east, Chatham said.

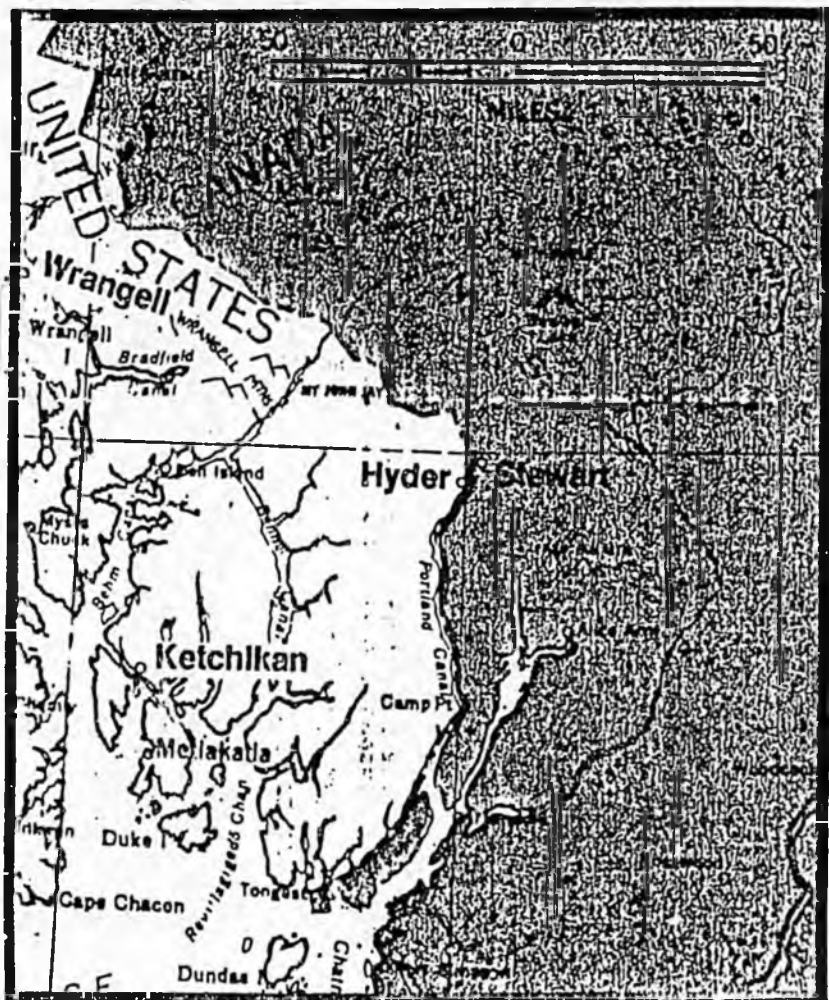
But the entire community recently jumped aboard Rep. Robin Taylor's bandwagon to lobby for construction of the ferry dock and terminal.

Taylor, R-Wrangell, introduced a bill to the legislature earlier this year asking for funds to build the ferry dock and terminal. The bill is now being studied by the House Finance Committee.

"We hope to see some kind of movement on the bill in the next couple of weeks," Taylor said. "I think Hyder residents have finally realized that the squeaky wheel does get some oil," he said.

Meanwhile, the economy of Hyder remains flat. Two of the community's three

See Hyder, page D-3



Times Art Department

Hyder, 'Alaska's friendliest ghost town' is two miles away from Stewart, B.C.

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# Hyder wants dock

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Continued from page D-1

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tourist gift shops are closed and the 11-room hotel is closed indefinitely. Sales also are down for the community's three bars and the one gift shop still open.

Dorothy Britton, owner of the "This and That Gift Shop" which is still open, said the proposed ferry terminal would help community morale and business. "We get about 60,000 tourists (mostly Canadians) each summer but things die in the winter and fall because of our remoteness," Britton said.

"We love the beauty of the area but we also need to be able to support ourselves," she said.

Another problem for Hyder businesses was the recent closure of two mines in Stewart. "Our bars and gift shops used to get a lot of business from the miners but now things are real

slow," said Lawrence Marx, who has lived in Hyder the past 25 years.

Most Hyder residents are self-employed in construction, lumber and tourist-related jobs. A few residents work in California and live in Hyder during the summer.

"There are no food lines or anything yet because of the depressed economy, but we have delivered some canned goods and wood to several families," said preacher Don Hagen of the Brookside Baptist Church in Hyder.

Kathy Tschakert, whose 9-year-old daughter Amanda attends a Canadian school, said construction of the ferry dock would make Hyder residents feel more a part of their state and nation. "The Canadian schools are fine but I wish my daughter was singing "The Star Spangled Banner" instead of "Oh Canada."

CITY OF KETCHIKAN, ALASKA

RESOLUTION NO. 85-1424

A RESOLUTION REQUESTING THE IMPLEMENTATION OF ALASKA MARINE HIGHWAY SERVICE BETWEEN KETCHIKAN AND HYDER, ALASKA AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Southeastern Alaska Transportation Plan published by the Alaska Department of Transportation in June, 1980 recommended that ferry service be introduced to Hyder in 1985, and

WHEREAS, the Governor's Alaska Marine Highway Task Force recommended in February, 1984 that ferry service would be economically viable and should be introduced between Ketchikan and Hyder in 1986, and

WHEREAS, Hyder is connected with Highway 26 via 141 miles of excellent paved highway and provides a shorter highway route to the lower 48 states than from Prince Rupert, and

WHEREAS, the Marine Highway Task Force projects that the proposed route would generate capacity passenger and vehicle loads in both directions and increase revenues, and

WHEREAS, service on this route would provide an alternate to the Prince Rupert gateway with an increase in the level of service between British Columbia and Southeastern Alaska, and

WHEREAS, the proposed service would provide a needed economic stimulus for the people of Hyder, Alaska.

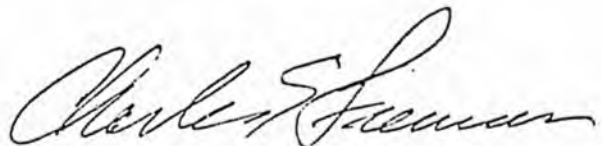
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Ketchikan, Alaska, as follows:

Section 1. The City of Ketchikan strongly urges the State of Alaska to implement Alaska Marine Highway service between Ketchikan and Hyder, Alaska as soon as possible.

Section 2. The City Council hereby directs the City Clerk to distribute copies of this resolution to Governor Sheffield, Commissioner Knapp, Senator Ziegler, Representatives Sund and Taylor and Mr. John Chatham, President, Hyder Community Association, P.O. Box F, Hyder, Alaska 99923.

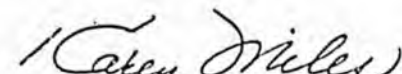
Section 3. This resolution shall become effective immediately upon passage and approval.

PASSED AND APPROVED by the Council of the City of Ketchikan, Alaska, this 21st day of February, 1985.



Charles E. Freeman, Mayor

ATTEST:



Karen Miles, City Clerk

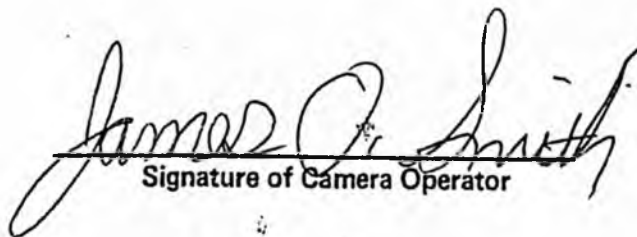
City of Ketchikan Resolution

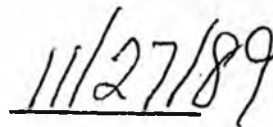


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Signature of Camera Operator

  
Date

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907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

*House Transportation Committee 3/20/1985, 7:00 am*

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

**REQUEST**

Bill/Resolution No.: HB 223  
 Title: Designation of the Dillingham  
to Aleknagik Road  
 Sponsor: Herrmann  
 Requestor: House Transportation  
 Date of Request: 3-19-85

**FISCAL DETAIL**

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

**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>	-0-	-0-	-0-	-0-	-0-	-0-

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

HB 223 has no impact on the Department of Transportation  
and Public Facilities.

Prepared By: William R. Snell (signed) Phone: 266-1462  
 Division: Central Region Planning Date: 3-19-85

Approved by Commissioner: *David Hays* Date: 3-19-85  
 Agency: DOT&PF

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84



Dept. of Transportation & Public Facilities

# *Position Paper*

**BILL NO:** HB 223

**APPROVED:** R. J. Knapp  
Commissioner

**TITLE:** Designation of the Dillingham  
to Aleknagik Road

**DATE:** March 19, 1985

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The Department of Transportation and Public Facilities takes no position on this bill except to encourage coordination with local governments to ensure acceptance of this designation.

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES**

**DIVISION OF PARKS AND OUTDOOR RECREATION**

225A CORDOVA STREET  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-2653

MAILING ADDRESS:  
POUCH 7001  
ANCHORAGE, ALASKA 99510

March 19, 1985

The Honorable Bette Cato  
Chair, House Transportation Committee  
Alaska House of Representatives  
Pouch V (MS 3100)  
Juneau, AK 99811

Dear Representative Cato:

The creation of the Wood-Tikchik State Park in 1978 was a significant step to protect the waters in which one-third of the Bristol Bay Sockeye Salmon spawn, an area of unique and outstanding scenic grandeur and to enhance our state's important tourism industry. At 1.5 million acres, this state recreation unit comprises one-half of the acreage of the entire state park system. It is the largest state park in America, and was popularly received by local residents.

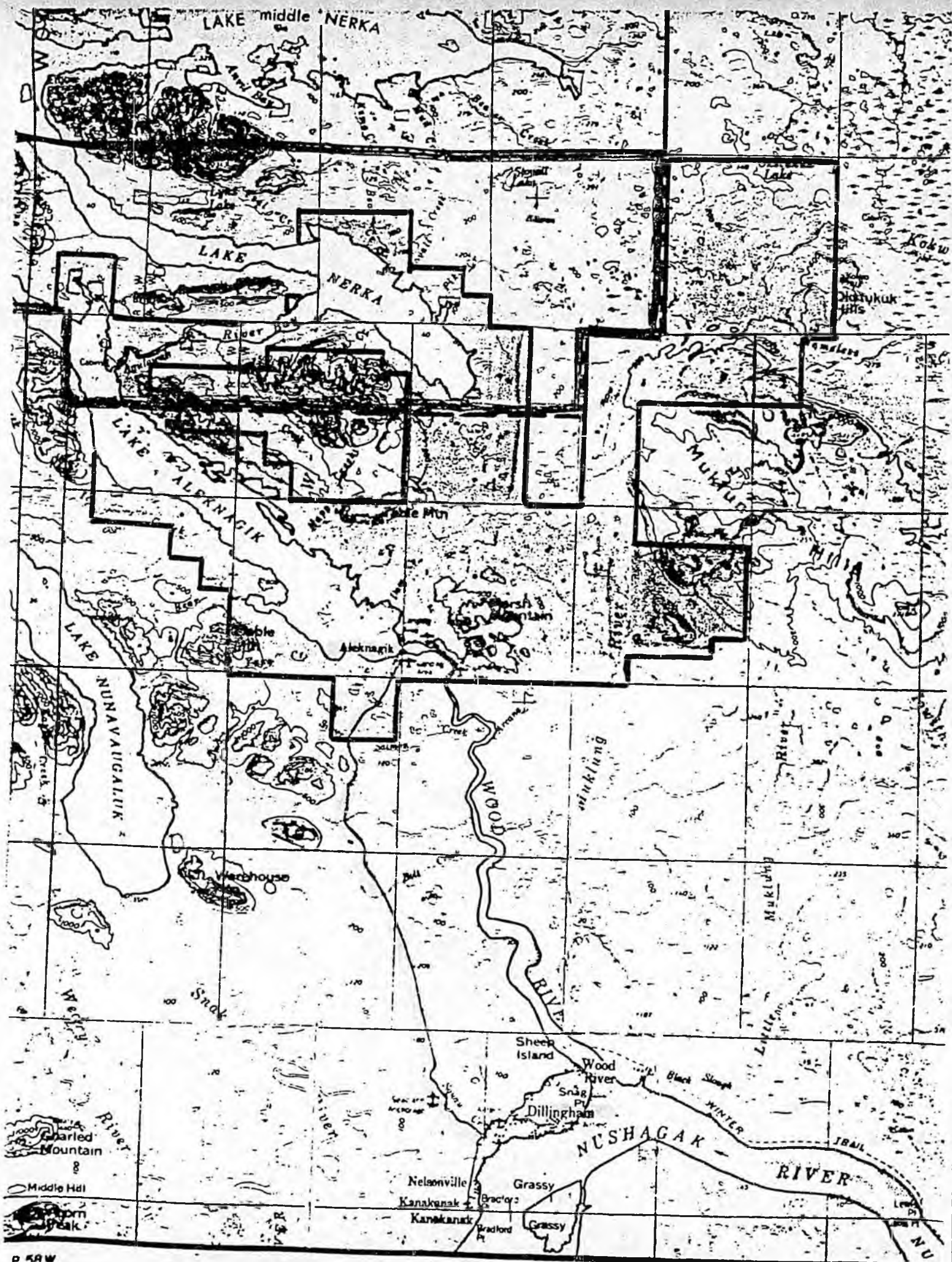
House Bill 223 by Representative Herrmann is a fine bill, which I wholly support. The road between Dillingham and Aleknagik receives increasing recreation and subsistence user traffic to gain access to this outstanding park. To name the road "Gateway to Wood-Tikchik State Park" is a proper and appropriate action and I hope the House Transportation Committee supports the passage of Representative Herrmann's bill.

Sincerely,



Neil C. Johannsen  
Director

cc: Members, House Transportation Committee  
The Honorable Esther C. Wunnicke



MAR 19 1985

**CITY OF ALEKNAGIK**  
P.O. Box 88  
ALEKNAGIK, ALASKA 99555  
(907) 842-5953

March 18, 1985

Representative Adelheid Herrmann  
House of Representatives  
District 26  
Fouch V  
Juneau, AK 99811

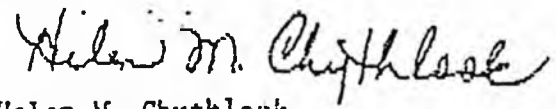
Dear Representative Herrmann:

At the most recent City Council meeting, consideration was given to your proposed Bill to designate the road between Dillingham and Aleknagik, the gateway to Wood-Tikchik State Park.

The City Council supports this proposal, especially in light of the increased use this road is experiencing. As you know, the road provides a vital link between the regions largest City (Dillingham), and the Park.

Sincerely,

CITY OF ALEKNAGIK



Helen M. Chythlook  
City Administrator

cc: City Mayor  
City Council

"An Act relating to designation of the Dellington  
to Alekageok road."

DATE INTRODUCED

4-15

RELATED BILLS PENDING

REFERRALS

Trans.

Finance

SPONSOR(S)

~~Alto~~ AD SI HEID Herrmann

INITIAL SUMMARY COMPLETED

LEGAL DIVISION SUMMARY

DEPT OF LAW SUMMARY

SPONSOR CONTACTED FOR BACKUP MATERIALS

FISCAL NOTE

AGENCY RESPONSE

OTHER INTERESTED LEGISLATORS NOTIFIED

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES

OTHER STATE OR FEDERAL  
PRECEDENTS, REGULATIONS, ETC

RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS

CHAIRMAN BRIEFED

DATE & PLACE SET

STAFF MEMO TO COMMITTEE

TELECONFERENCE

BACKGROUND MATERIAL DISTRIBUTED

PSA/PRESS RELEASE

LIST OF WITNESSES

SUGGESTED AMENDMENTS/CS DRAFTED

IDENTIFICATION

INITIAL RESEARCH

BACKGROUND RESEARCH

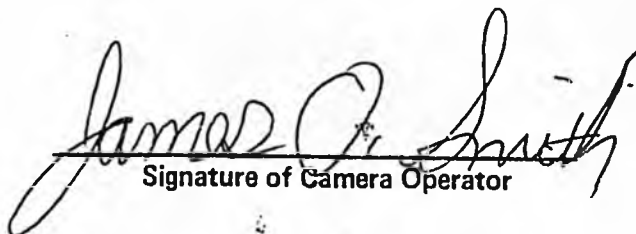
HEARING PREPARATION

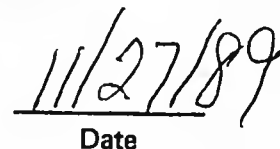


# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

HB

240

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : SCSCS HB 240 Trans  
 Title : "An Act relating to overtaking  
 and passing school buses."

Sponsor : Thompson, et.al  
 Requestor : Senate Transportation  
 Date of Request : February 26, 1986

**FISCAL DETAIL**

Agency Affected : Department of Education  
 BRU : K-12 Support

Components : Pupil Transportation

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by : Mary Hakala  
 Division : Commissioner's Office

Phone : 465-2800  
 Date : February 26, 1986

Approved by Commissioner : Harold Reynolds, Jr.  
 Agency : Department of Education

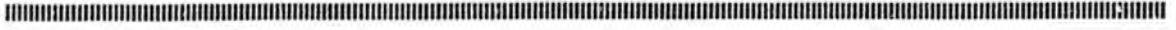
Date : February 26, 1986

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



# School buses & seat belts



A discussion



Alaska Department of Education  
Pouch F, Juneau, AK 99811  
August 1985



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# Foreword

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**T**he success of seat belts in reducing injuries and deaths in automobile accidents appears at first glance to apply also to school buses. Yet school buses are not equipped with seat belts. Why not?

Next to parents, those most concerned about the safety of children on school buses are the people responsible for the pupil transportation program. These people—school bus drivers, school bus driver instructors, and school district administrators involved in the day-to-day operation of school vehicles—are familiar with the many issues concerning seat belts on school buses. The subject has been studied for many years at the national and state levels, and much information is available on both sides of the issue.

The purpose of this publication is to provide

- information on why seat belts are not installed on school buses
- research results on the use of seat belts on school buses
- the positions of national and state safety organizations on the seat belt issue.



# School buses and safety

## Why seat belts are used in automobiles

One purpose of seat belts is to prevent the person wearing them from being thrown out of a vehicle during a collision. But, unlike automobiles, school bus seats are not located opposite a door which could open and allow passengers to be ejected upon impact. School buses usually have only two doors. Neither is located beside a passenger seat.

A second purpose of seat belts is to prevent the wearer from striking sharp objects in the vehicle during an accident. Again, automobiles and school buses are not the same. School buses do not have steering wheels, dashboards, and door and window handles protruding into the passenger compartments. The only person in a school bus threatened by these objects is the bus driver, who wears a seat belt.

## Other differences between automobiles and school buses

Passengers in school buses are protected by careful padding of seats, seat backs, sides and aisles. During a sudden impact the padding cushions students and absorbs most of the impact.

The outer construction of school buses and automobiles also is different. A school bus is encased in a metal frame much like a metal rib cage. In comparison, modern automobiles have little reinforcement. Also the passenger compartment in buses is well above the bumper height of automobile bumpers, so the impact of a collision is not at the same height as an automobile. And the impact is not as great on the passengers. This is the reason why interstate buses, public transit buses and school buses are exempt from safety belt requirements. They have a natural safety edge because they are bigger and heavier than automobiles and their interiors are designed to provide much more safety.

School buses are safer for other reasons as well. Other drivers easily see them because of their bright yellow color, flashing lights, special markings and low traveling speed. School buses are also recognized for



### Federal school bus standards

the special cargo they carry—our children. These factors make drivers more cautious around school buses.

**T**he National Highway Traffic Safety Administration in the 1970s studied how to improve the interior of the passenger compartment of school buses. The research, based on many crash tests, resulted in major seating and body design recommendations. The federal government used these recommendations to require bus manufacturers to change the way school bus interiors were designed. The design changes required in school buses made after April 1, 1977 were:

- Seats were redesigned to meet specific spacing requirements.
- Seats were to be fully padded in front and back. Seat backs were heightened. These newly designed seats provided a padded cavity for passengers—a concept called compartmentalization—which crash tests proved to provide the most effective protection in a collision.
- School bus bodies were greatly strengthened to withstand heavy impacts from the side, front and rear. Improvements also were made to school bus roofs for protection in case of roll over.

Improvements were made to school bus fuel tanks and lines to lessen the possibility of fuel spillage during collision.

### Compartmentalization

**H**ow does compartmentalization work? Upon vehicle impact, an unbelted child will slide forward on the seat and into the padded back of the seat ahead. This distributes the forces of impact and injuries most likely will be minor. On the other hand, the lap-belted child's hips will act as a fulcrum, throwing the upper body forward with great force. This may cause severe injuries to the abdominal region because of the pressures involved.

that 40 inches or more of unobstructed space is required in front of a lap-belted passenger to avoid upper body and head injuries. Since school bus seats are closely spaced, the lap-belted child's throat or head will most likely strike the back of the seat ahead during an accident. In such cases, the head or throat will receive all the forces of the impact and could result in severe physical injuries.





# Positions

The National Highway Traffic Safety Administration, the National Safety Council, and the National School Transportation Association have stated that current school bus safety standards in force since 1977 provide adequate protection for school bus passengers. The following are the positions of those organizations:

## National Highway Traffic Safety Administration

The U.S. Department of Transportation in Issue Paper HS-806-000 dated September, 1981 states:

“The National Highway Traffic Safety Administration agrees that children should be protected on school buses but does not support a requirement for seat belts for passengers in large school buses. Improving the seating compartment eliminates the need for seat belts and provides sufficient crash protection.”

## National Safety Council

The National Safety Council in its policy statement *Protecting Pupil Passengers in School Buses* dated June 28, 1984, states:

“The Council recommends that until further research and testing demonstrate that pupils will be safer by the installation of seat belts in school buses, the Council believes that passive protection provided by compartmentalization as required by the current (1977) federal standard on school bus seating and crash protection protects seated pupil passengers in school buses with gross vehicle weight ratings (GVWR) greater than 10,000 pounds.”

## National School Transportation Association

The Board of Directors of the National School Transportation Association (NSTA) in its Spring, 1984 special edition of *National School Bus Report*, states:



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**Canadian  
Government**

“Those of us who work with the children and school buses every day feel that every new item that is added or changed on school buses should be well tested and engineered prior to being mandated as a regulation. That is why NSTA will continue to support the compartmentalization concept until documented research establishes that seat belts on school buses will raise the level of protection for the occupants.”

**S**chool bus tests have shown that in some crashes belted passengers suffer more severe injuries than those not belted. A case in point is the most recent crash tests by the Canadian government.

In 1984 the Canadian government sponsored crash testing to determine the effectiveness of seat belts in three sizes of school buses. Results of the crash testing were summarized in the December 19, 1984 issue of the *Bulletin*, published by the Supply and Services Division of the Canadian government, and a February 1985 technical memorandum on automotive safety entitled *School Bus Collision Tests*, published by Transport Canada of the Canadian government. These publications state:

“Transport Canada has reaffirmed that the safety features Canada (same as U.S. Federal Motor Vehicle Safety Standards) has incorporated into its school buses—well-padded, high-backed, energy-absorbing seats, spaced at controlled intervals—provide a safe environment without seat belts.”

“The use of lap seat belts in any of the 3 sizes of recent model school buses which were tested may result in more severe head and neck injuries for a belted occupant than for an unbelted one in a severe frontal collision.”



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### State of Arkansas

**O**n March 25, 1983 a school bus accident in Jonesboro, Arkansas, killed nine persons including four students. The tragedy heightened concern for school bus safety among parents, interested citizens, school officials and legislators. Because of the accident, the Arkansas Legislature studied whether to install seat belts on school buses. In its September 20, 1984 report entitled *Feasibility of Requiring School Districts to Install Seat Belts on School Buses* the Arkansas Legislative Council concluded:

“It appears that based on the costs, the lack of data indicating a great fatality decline with the installation of seat belts, the possible dangers which could arise from the installation of the seat belts themselves, and the outstanding safety records of school buses in general, the issue of seat belts in school buses could be left as a decision to be made by individual school districts and should not be mandated by the legislature.”

### State of New Jersey

**I**ndependent groups in New Jersey have thoroughly studied over the last 15 years the subject of seat belts on school buses. The groups have not recommended installation of belts. A March 1, 1983 letter written by the New Jersey Department of Education regarding the research states:

“In any decision-making process involving the safety and well being of transported students, the bus internal and external safety environment must be carefully analyzed. Such questions as, ‘Is what we are proposing more safe, less safe or as safe as what we already have?’ (should be raised). It is apparent that there still are too many safety trade offs that, under highly critical questioning, prohibit mandated seat belts at this time.”



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#### State of Minnesota

In 1984 the Minnesota Legislature created a task force to answer concerns about school bus safety after fatal school bus accidents. The task force recommended against mandating seat belts in school buses.

#### State of Maryland

The Maryland Department of Education has concluded that seat belts would not improve the safety of pupils on school buses and may even present hazards to their safety. In the publication *Concerns about Seat Belts on School Buses* dated January, 1985, the department made these findings:

- If the bus rolls over on its side or roof during an accident, passengers may suffer serious injuries when releasing their seat belts because the bus roof would be three to four feet from their heads. Also, young children may find it difficult to unfasten a seat belt because of their suspended weight.
- If the school bus catches fire, particularly with unconscious children aboard, rescuers may not have enough time to release seat belts for as many as 60 children.

#### State of Alaska

The Department of Education in 1983 appointed a committee of school bus company representatives and school transportation officers to study school bus safety issues. In February 1985 the committee issued a resolution that since has been endorsed by the Alaska School Transportation Association and the Alaska Association for Pupil Transportation. The resolution states:

“The Alaska School Bus Safety Committee is agreed in its opinion that no legislative or regulatory action be taken in the State of Alaska to require seat belts on school buses until an authoritative body of test data has been produced showing conclusively that the overall safety of the ridership on pupil transportation buses is significantly enhanced.”



## The real danger

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According to the National Safety Council, in 1983 55 pupils were killed in school bus accidents nationwide. Ten were school bus passengers and 45 were pedestrians approaching or leaving a loading zone.

Evidence does not show that fatalities inside the bus could have been prevented by seat belts. Most school bus accidents resulting in fatalities inside the bus involve another large vehicle such as a tractor-trailer combination or a railroad train. A section of the bus is usually torn away, intruded into or crushed. In these types of accidents it is sometimes evident that students would have suffered more severe injuries or even suffered a greater number of fatalities if they had been belted in some seat locations.

According to the National Safety Council, the greatest danger area for children is outside the school bus in an area known as "the loading zone." The loading zone is the area where pupils wait for the bus in the morning and get off the bus in the afternoon. Of the 45 fatalities in this area during 1983, more than half were killed when hit by the bus they regularly rode. The others were killed by motorists who failed to stop for school buses loading and unloading passengers.

The Alaska School Bus Safety Committee recommends that efforts be increased to lower loading zone fatalities. The committee's resolution:

"Alaska pupil transportation professionals should continue their ongoing efforts to reduce the incidence of external loading zone fatalities which exceed internal crash fatalities by a ratio of approximately 3 to 1 through state regulation of roadworthiness, in-depth school bus driver safety training, and preventative maintenance program for buses and that these same pupil transportation professionals should work diligently to develop a comprehensive program to promote loading and unloading zone safety awareness in the students' minds through classroom curriculum, in the motoring publics' mind through the public media, and in the parents' minds through use of parent-teacher associations and other concerned citizen groups."



# Conclusion

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**T**he Department of Education has carefully reviewed available information about using seat belts in school buses. In light of the evidence, the department has concluded that it cannot support seat belt use in school buses until further testing shows that it is safer than compartmentalization.

Until such time, the department supports the position favoring compartmentalization of the National Highway Traffic Safety Administration, the National Safety Council and the National School Transportation Association.

The department also supports the Alaska School Bus Safety Committee's resolution that encourages greater efforts to reduce external loading zone fatalities. The department also encourages all concerned Alaskans to work with the Alaska School Bus Safety Committee in promoting programs on safety awareness in the loading and unloading zone area.



An Equal Opportunity Employer  
Bill Sheffield, Governor

Failed to be added  
by committee 2/24

DEPARTMENT OF LAW PROPOSED CS  
FOR SCS CSHB 240 (TRANSPORTATION)

Subsections (a), (b), and (c) remain the same.

(d) A driver who violates this section is guilty of an infraction and, in addition to other penalties provided by law, is subject to a mandatory assessment of six demerit points under AS 28.15.221 -- 28.15.261.

(e) A vehicle owner, or in the case of a leased vehicle, a lessor, may be punished by a civil penalty not to exceed \$100 if the vehicle owned or leased by the person is operated in violation of this section. It is an affirmative defense to a civil penalty under this subsection that 1) the owner's or lessor's vehicle was stolen; 2) the driver of the vehicle was convicted under (d) of this section; or 3) the lessor of the leased vehicle has disclosed to law enforcement authorities the name and address of the person who was the lessee of the motor vehicle at the time of the offense. Demerit points under AS 28.15.221 -- 28.15.261 may not be assessed against an owner or lessor who has been punished by a civil penalty under this subsection. This subsection does not prohibit or limit the prosecution of a vehicle driver for violating (a) or (b) of this section.

(f) This section does not preclude prosecution for any other infraction or criminal offense that may have been committed.

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(f) This section does not preclude prosecution for any other infraction or criminal offense that may have been committed.

KODIAK ISLAND BOROUGH  
RESOLUTION NO. 85-38-R

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY SUPPORTING  
COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 240 CONCERNING OVERTAKING AND PASSING  
SCHOOL BUSES.

WHEREAS, Committee Substitute for House Bill No. 240 has been intro-  
duced which increases the regulations on passing school buses and stiffens the  
penalties for violations of this law, and

WHEREAS, school bus passing has been a serious problem in the Kodiak  
Island Borough during the current school year, and

WHEREAS, the State Troopers and City Police cannot be everywhere at  
once which means a greater deterrence must be placed in this law to encourage  
citizens to abide within the law, and

WHEREAS, the school children must be protected while loading and  
unloading on school buses.

NOW, THEREFORE, BE IT RESOLVED that the Kodiak Island Borough Assembly  
strongly supports Committee Substitute for House Bill No. 240 and urges that  
it be passed and signed into law, and

BE IT FURTHER RESOLVED that copies of this resolution be sent to the  
following individuals:

The Honorable Bill Sheffield, Governor of Alaska  
The Honorable M. Mike Miller, Chairman House Judiciary Committee  
The Honorable Fred F. Zharoff, Senator District N  
The Honorable David W. Thompson, Representative District 27

PASSED AND APPROVED this 4th day of April, 1985.

KODIAK ISLAND BOROUGH

By Thomas H. Peterson  
Borough Mayor

ATTEST:

By Shirley Miller, CMC  
Borough Clerk

# Alaska State Legislature

## Senate Transportation Committee



Sen. John B. (Jack) Coghill, Chairman  
Sen. Paul Fischer, Vice-chairman  
Sen. Mitch Abood  
Sen. Jan Fuks  
Sen. Joe Josephson

Douch V  
Juneau, Alaska 99811

February 10, 1986

TO: All Members of the Committee

FROM: Committee staff

RE: HB 240

In today's packet you will find:

1. a sectional analysis of HB 240
2. a DOE position paper
3. resolutions in support of HB 240 from the Kenai Peninsula Borough, the Kodiak Assembly and the Alaska School Bus Committee
4. the Association of Alaska School Boards position paper
5. the Department of Public Safety position paper

HB 240 clearly defines what the penalties will be for passing or overtaking a school bus while the bus is loading or unloading. This new section is added to the miscellaneous provisions under Title 28, Motor Vehicles.

One convicted of this infraction will receive 6 points on his driver's license. A total of 12 points within one year will result in suspension, revocation or denial of a driver's license. The enclosed sectional analysis addresses under what circumstances one will be cited.

A RESOLUTION OF  
THE ALASKA SCHOOL BUS SAFETY COMMITTEE  
RELATIVE TO SCHOOL BUS STOP ARM VIOLATIONS

WHEREAS, the safety of all Alaska school children who are transported to and from school is jeopardized by motorists who pass school buses displaying the red flashing stop lights while loading and unloading school children, and

WHEREAS, these violations occur in rural areas as well as in urbanized areas each school day in Alaska where an estimated 2,000 violations occur each school year with a negligible citation and conviction rate estimated to be less than 1%, and

WHEREAS, in the absence of identification and conviction of these motorists there exists no effective deterrent to the continuing lack of sensitivity to the safety of Alaska school children and is a discouragement to pupil transportation professionals in Alaska, and

WHEREAS, current reporting requirements set out in Alaska state law for stop arm violations have proven to be usually impossible to satisfy in the everyday work situation, and

WHEREAS, conviction of motorists who commit these violations and endanger the lives of Alaska school children is effectively stifled because of these onerous requirements,

NOW THEREFORE BE IT RESOLVED, that the Alaska School Bus Safety Committee urges the Alaska State Legislature to strengthen the current law to allow for citation and vigorous prosecution of the registered owner of the vehicle responsible for violating the law.

Alexandra C. Hutchins  
Chairperson  
Alaska School Bus Safety Committee

February 27, 1985  
Date

### The Real Danger Zone

According to National Safety Council statistics, 55 pupils were killed in school bus transportation accidents during 1983. Ten were passengers on school buses, and 45 were pedestrians either approaching or leaving a loading zone.

Of the fatalities inside the bus, no evidence exists that seat belts would have prevented any of these. Most school bus accidents resulting in fatalities inside the bus, involve another large vehicle such as a tractor-trailer combination or a railroad train. Usually a section of the bus is torn away or there is a serious intrusion into, or compression of, the passenger compartment. In these types of accidents it is sometimes evident that if pupils had been belted in some seat locations they would have suffered more severe injuries and/or a greater number of fatalities.

As can be surmised from the National Safety Council statistics, the greatest danger area for children is outside the school bus, in the loading zone--the area where pupils wait for the bus in the morning and are discharged from the bus in the afternoon. Of the 45 fatalities in this area during 1983, more than half were killed when hit by the bus they regularly rode. The others, by passing motorists who disobeyed the law requiring motorists to stop for school buses loading and unloading passengers.

The Alaska School Bus Safety Committee recommends that emphasis be placed on reducing the incidence of external loading zone fatalities. Their Resolution dated February 27, 1985 states the following:

Alaska pupil transportation professionals should continue their ongoing efforts to reduce the incidence of external loading zone fatalities which exceed internal crash fatalities by a ratio of approximately 3 to 1 through state regulation of roadworthiness, in-depth school bus driver safety training, and preventative maintenance program for buses and that these same pupil transportation professionals should work diligently to develop a comprehensive program to promote loading and unloading zone safety awareness in the students' minds through classroom curriculum, in the motoring public's mind through the public media, and in the parents' minds through use of parent-teacher associations and other concerned citizen groups.

### Conclusion

The Department of Education has carefully reviewed all material that we have been able to obtain on the subject, including information on recent crash testing done in Canada. Results of that testing indicate that in certain situations, belted passengers suffer more severe injuries than those not belted.

Introduced by: Dimmick  
Skogstad, Keene  
Carey, Walli  
Date: Mar. 19, 1985  
Vote: 10 Yes, 5 No  
Action: Adopted

KENAI PENINSULA BOROUGH

RESOLUTION 85-49

URGING PASSAGE OF HOUSE BILL 240 BY THE LEGISLATURE.

WHEREAS, the safety of our children when transported to and from school is of paramount importance; and

WHEREAS, the most dangerous part of the trip is exiting the bus on a travelled roadway at the students regular stop.

WHEREAS, there have been increasing reports of vehicles passing school buses when they are stopped to let children on or off, threatening the lives and safety of the children; and

WHEREAS, House Bill 240 would allow prosecution of the owner of a vehicle identified as driving in violation of the law requiring vehicles to stop when the school bus is loading and unloading, and may help to cut down the number of violators and potential accidents;

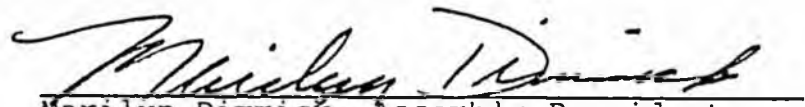
NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Kenai Peninsula Borough Assembly supports House Bill 240 and urges passage immediately.

Section 2. That this resolution shall take effect immediately upon its adoption.

Section 3. That a copy of this resolution shall be sent to Governor William J. Sheffield, to Senators Edna DeVries, Paul Fischer, Jalmar M. Kerttula, and John C. Sackett, to Representatives Bette Catc, Andre Marrou, Mike Navarre, Kay Wallis, Mike Szymanski, David Thompson, Robin Taylor, and John L. Sund.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 2nd DAY OF April, 1985.

  
Marilyn Dimmick, Assembly President

ATTEST:

  
Joan Brindley  
Borough Clerk

Kenai Peninsula Borough Position

**ASSOCIATION OF ALASKA**

**SCHOOL BOARDS**

**1985**

**FINAL**

**RESOLUTIONS**

Passed At November 1985 Annual Meeting

*Association of Alaska School Boards Position Paper*

REQUIRE WARNINGS BE ISSUED TO OWNERS OF VEHICLES  
ACCUSED OF PASSING SCHOOL BUSES LOADING OR UNLOADING STUDENTS

WHEREAS, Alaska law requires all vehicles approaching a school bus loading or unloading children to come to a full stop without passing the bus until the bus warning lights have been turned off; and

WHEREAS, this practice is common to all states and communities to protect children from potential accidents in traffic; and

WHEREAS, persons acting in a reckless manner that endangers the lives of children must be assured of penalties that are swift, sure and of suitable consequence to deter similar behavior; and

WHEREAS, laws in other states successfully support more active prosecution and punishment of drivers who endanger children's lives by illegally passing school buses while students are boarding or leaving the school bus,

THEREFORE BE IT RESOLVED, that the Association of Alaska School Boards supports changes in the law that allow the school bus driver or others reporting violations of this law to the local law enforcement agency to identify the vehicle license number and/or description of vehicle, date and time of the alleged violation to secure a warning against the owner of vehicle reportedly endangering children's lives.

Sectional Analysis of HB 240 ( )

Section 1 AS 28.35 is amended by adding a new section. Section 28.35.145(a) requires that a driver of a vehicle that meets or overtakes a school bus stopped on a highway or vehicular way or area must stop at least **30** feet before reaching the school bus when the bus has red lights flashing. The driver must remain stopped until the bus proceeds, or the red lights are extinguished.

Subsection (b) requires that the driver of a vehicle yield the right of way to a person crossing a highway or vehicular way or area to embark on or disembark from a school bus, regardless of whether the school bus has red lights flashing or whether the person crosses outside of a crosswalk.

Subsection (c) provides that the driver of a vehicle on a highway with separate roadways is not required to stop for a school bus on a different roadway or, when driving on a controlled access highway, for a school bus stopped in a loading zone if pedestrians are not permitted to cross the highway.

Subsection (d) provides that if convicted, the driver is guilty of an infraction and subject to a mandatory assessment of six demerit points. An infraction carries a maximum penalty of a \$300 fine.

Subsection (e) is an entirely new subsection, and does not appear in HB 240 (Judiciary). This subsection provides that an owner, or in the case of a leased vehicle a lessee, is subject to a civil penalty not to exceed \$100 if a vehicle owned or leased is operated in violation of this section. There are two exceptions to this provision. If the vehicle is stolen, or if the driver is convicted under subsection (d), the owner or lessee cannot be penalized. Also a lessor is not responsible if the lessor keeps a record of the name and address of the lessee. This subsection also provides that no loss of driver's license, privilege to drive, or assessment of demerit points can occur if this subsection is violated. Also this subsection specifies that it does not prohibit or limit prosecution of a vehicle driver under subsection (a) or (b). The subsection is patterned after a Minnesota statute, Minn. Stat. 169.44 (1) (c) (2), and is in substance identical to that law.

Ford ✓  
12/6/85

Original sponsors: Thompson, Cato  
and Sund

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 240 ( )

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 overtaking and passing school  
7 buses."

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

9 \* Section 1. AS 28.35 is amended by adding a new section to read:

10 Sec. 28.35.145. OVERTAKING AND PASSING SCHOOL BUS. (a) The  
11 driver of a vehicle that meets or overtakes a school bus stopped on a  
12 highway or vehicular way or area shall stop not less than 30 feet from  
13 the school bus before reaching it when there are in operation on the  
14 school bus flashing red lights as required by regulation. The driver  
15 may not proceed until the school bus proceeds and the flashing lights  
16 are no longer illuminated.

17 (b) When a school bus is stopped on a highway or vehicular way  
18 or area, whether or not there are in operation on the school bus  
19 flashing red lights as required by regulation, the driver of a vehicle  
20 shall yield the right-of-way to a person crossing a highway, vehicular  
21 way, or area to embark on or disembark from the school bus, whether or  
22 not the person is crossing within a marked crosswalk.

23 (c) The driver of a vehicle on a highway with separate roadways  
24 is not required to stop when meeting or passing a school bus that is  
25 on a different roadway or, if upon a controlled access highway, when a  
26 school bus is stopped off the highway in a loading zone that is part  
27 of, or adjacent to, the controlled access highway, and pedestrians are  
28 not permitted to cross the highway.

29 (d) A driver convicted under this section is guilty of an

1           infraction and, in addition to other penalties as provided by law, is  
2           subject to a mandatory assessment of six demerit points under  
3           AS 28.15.221 - 28.15.261.

4           (e) A vehicle owner, or in the case of a leased vehicle a les-  
5           see, may be punished by a civil penalty not to exceed \$100, if the  
6           vehicle owned or leased by the person is operated in violation of this  
7           section. The owner or lessee may not be penalized if the vehicle was  
8           stolen, or the driver of the vehicle is convicted under (d) of this  
9           section. This subsection does not apply to a lessor of a vehicle if  
10          the lessor keeps a record of the name and address of the lessee. A  
11          violation of this subsection may not result in the loss of a driver's  
12          license or privilege to drive and does not constitute grounds for  
13          assessment of demerit points under AS 28.15.221 - 28.15.261. This  
14          subsection does not prohibit or limit the prosecution of a vehicle  
15          driver for violating (a) or (b) of this section.



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCHV  
JUNEAU, AK 99811  
465.3759

House HESS Committee

Letter of Intent

CSHB 240 (HESS)

It is the intent of the House Health, Education, and Social Services Committee in passing out this bill that the Supreme Court specify in its court rules that a court appearance be required for a violation of AS 28.35.145 (a) or (b).

---

Representative Max F. Gruenberg, Jr.  
Co-Chair  
House HESS Committee

---

Representative Niilo Koponen  
Co-Chair  
House HESS Committee

# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

### DIVISION OF MOTOR VEHICLES

BILL SHEFFIELD, GOVERNOR

P.O. BOX 100960  
ANCHORAGE, ALASKA 99510-0960  
PHONE: (907) 269-5551

December 16, 1985

The Honorable Max F. Gruenberg, Jr.  
Co-Chair, House HESS Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

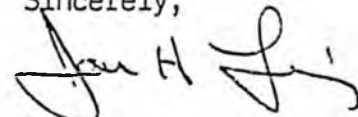
Dear Representative Gruenberg:

I have reviewed HB-240 (Draft) you sent. It does not appear that the Division of Motor Vehicles would have a problem with this bill, however I have one reservation.

Under paragraph (e) of the bill, I question what recourse an owner would have if a civil penalty is imposed on them and they choose to contest the penalty. If the court system is the owner's recourse there would no fiscal impact on DMV. However, if this bill visualizes the Division of Motor Vehicles' administrative hearing officers as an avenue of recourse to affected owners, there would be a fiscal impact that would need to be evaluated.

If we don't receive further correspondence from you on this matter it will be assumed that the court system will be any affected owner's recourse. In the event the Division of Motor Vehicles will be involved in reviews of penalties, please advise and we'll prepare a fiscal note.

Sincerely,



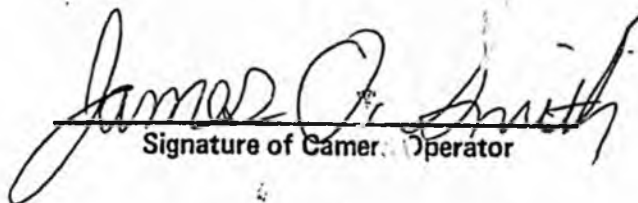
John H. Lucking  
Director

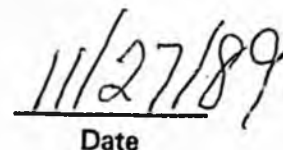


# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camer. Operator

  
Date

H B

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STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 16, 1986

SUBJECT: P.L.O. 1613, P.L.O. 601, and related problems  
[CSHB 321(Finance) am]

TO: Senator John Coghill, Chair  
Senate Transportation Committee

FROM: Richard A. Bradley  
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Before preceding with the sectional analysis, it may be useful to offer some background comments.

In 1940, in order to protect the roads that promoted the development of the Territory of Alaska, the Department of the Interior withdrew 150 feet of public lands along both sides of several "through roads," including the Glenn, Richardson, and Haines highways. [Public Land Order (PLO) 601.] Congress criticized these withdrawals as excessive, stating that they hindered commercial and private development, and, in 1956, enacted a law providing that if the Secretary [of the Interior] revoked such a withdrawal "the lands involved shall be subject to disposal only under laws specified by the Secretary of the Interior, subject to easements as established by the Secretary." [43 U.S.C. 971a.] The law authorized the Secretary to "sell such restored lands for not less than their appraised value, giving an appropriate preference right to the holders of adjoining

*Sectional Analysis*

claims or entries and to owners of adjoining private lands. [43 U.S.C. 971b.]

In 1958 the Department issued PLO 1613 revoking the earlier withdrawals, replacing them with easements, offering for sale "the lands released from withdrawal \* \* \* which, at the date of this order, adjoin lands in private ownership," and providing that released lands which on the same date "adjoin lands in valid unperfected entries, locations or settlement claims, shall be subject to inclusion in such entries, locations and claims." [PLO 1613.] Owners of private lands and holders of such entries were given a preference right to purchase the adjoining released lands or to amend their entries to include them, respectively . . . .

Many adjoining landowners or entry holders applied for the released lands located between the adjoining lands and the centerline of the highway, made the required payments, and received receipts, but their applications were not processed [by BLM or the Interior Department] for many years. Many who applied subsequently sold the lands adjoining the released lands. In August 1984 BLM issued decisions granting the released lands to the original applicants. In these consolidated appeals, present adjoining landowners claim the released lands should have been granted to them.

Appellants argue that Congress intended that the released lands be granted to owners of adjoining lands . . . . The released lands are important, and sometimes essential, to the present owners of the adjoining lands for access to those lands . . . and of no practical use to the original applicants, some of whom are deceased persons . . . .

BLM's decisions state that when the "purchase price was received \* \* \* and a receipt for the purchase price was issued \* \* \* equitable title vested in the applicant \* \* \*" [Citations omitted.] Once equitable title vests, in BLM's view, "the Secretary has no discretion in the issuance of a patent and events subsequent to such vesting can have no bearing upon the claimant's right to patent," citing Wyoming v. United States, 225 U.S. 489 (1921).

BLM's decisions must be affirmed. [Emphasis and bracketed material added.]

Senator John Coghill  
Page 3  
April 16, 1986

The above quote is from the decision of the Interior Board of Land Appeals, Robert and Patricia Bailey, IBLA 84-874 et al., decided November 22, 1985.

CSHB 321(Fin) am is a response to the land title situation described in the Bailey decision; the Bailey decision, in fact, implicitly invites this legislation (as I note below).

Section 1 of the bill amends AS 09.25.050 by adding a new subsection. The section itself now provides:

Sec. 09.25.050. CONCLUSIVE EVIDENCE OF ADVERSE POSSESSION. The uninterrupted adverse notorious possession of real property under color and claim of title for seven years or more is conclusively presumed to give title to the property except as against the state or the United States.

Sec. 50(b) as added in Section 1 of the bill is significant; it provides that except for the "easement created by Public Land Order 1613 [the reservation of the highway itself], adverse possession will lie against property that is held by a person who holds equitable title from the United States" under PLO 1613.

Recall that the Bailey decision holds that those who applied for the land and received a receipt from BLM have "equitable title." If the applicant has not been in "possession" of the land, then the present person in possession may gain title to the land by the principles of adverse possession under AS 09.25.050, above.

Section 2 of the bill add a new section to AS 09.45, "Actions Relating to Real Property".

Sec. 09.45.015(a) establishes a "statutory presumption" that a patent for land that was issued after April 7, 1958 (the date of PLO 1613) to land that adjoined a highway reservation listed in section 1 of PLO 1613 is presumed to have conveyed land up to the center-line of the highway subject only to the reservation for the highway itself created by PLO 601 as well as any highway easement created by PLO 1613. The statutory presumption would be of use to a person litigating the title to the land released from PLO 601 by PLO 1613.

Senator John Coghill  
Page 4  
April 16, 1986

Sec. 09.45.015(b) makes a similar point in a different way: it provides that the burden of proof in litigation involving title to the released land is "on the person who claims that the patent did not convey an interest in land up to the center-line of the highway."

Section 3 of the bill provides for an immediate effective date.

If I may be of further assistance, please advise.

RAB:mkr  
m4/123

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

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

P.O. Box K  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

465-3603

April 17, 1986

Mr. Blake Call, Secretary  
Senate Transportation Committee  
Alaska State Legislature  
P. O. Box V  
Juneau, AK 99811

Re: CS for House Bill 321 (Finance) am

Dear Mr. Call:

You have requested our review of the above bill, a copy of which is attached. A brief analysis follows.

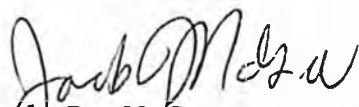
This bill has undergone a considerable number of revisions since its original introduction. In its original form, the bill appeared to eliminate certain valuable public highway easements created by Public Land Order 1613. As a result, the state would have had to incur considerable expenses in re-acquiring these easements. In its present form (CS for HB 321 (Finance) am), the existence of these highway easements is protected. Section 1 of the bill, while it allows one to assert a claim of adverse possession against certain real property, makes it clear that an adverse possession claim cannot be made against a public road easement. Similarly, section 2 of the bill, while it creates a presumption that certain conveyances conveyed land up to the center-line of a PLO 1613 highway, makes it clear that such conveyances are subject to any highway easements created by PLO 1613.

In sum, the present version of this bill does not jeopardize the existence of any public highway easements.

Sincerely,

HAROLD M. BROWN  
ATTORNEY GENERAL

By:

  
Jack B. McGee  
Assistant Attorney General

JBM:ebc  
Enclosure


A.G.'s Opinion



Dept. of Transportation & Public Facilities

# Position Paper

**BILL NO:** CS HB 321 (Fin) am

**APPROVED:**   
R. J. Knapp  
Commissioner

**TITLE:** An Act relating to adverse claims and boundary disputes; and providing for an effective date

**DATE:** 4/11/86

---

CS for House Bill No. 321 (Finance) recognizes and excepts the reservations and easements created by Public Land Orders 601 and 1613. The bill places the burden of proof in litigation involving land adjoining a highway reservation created by Public Land Order 601 or a highway easement created by Public Land Order 1613 on the person who claims that the conveyance did not convey an interest in land up to the centerline of the highway.

This bill should have no fiscal impact on the Department of Transportation and Public Facilities nor involve the Department in disputes between claimants.

**DOT POSITION**

For further information call Susan Fleischhauer at 465-3900.

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 2/18/86

**REQUEST**

Bill/Resolution No.: SSHB 321  
 Title: An Act Relating to adverse claims and boundary disputes; and providing for an effective date.  
 Sponsor: Cotten and Marrou  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: \_\_\_\_\_  
 BRU: \_\_\_\_\_  
 \_\_\_\_\_  
 Components: \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		-0-				
TRAVEL		-0-				
CONTRACTUAL		-0-				
SUPPLIES		-0-				
EQUIPMENT		-0-				
LAND & STRUCTURES		-0-				
GRANTS, CLAIMS		-0-				
MISCELLANEOUS		-0-				
TOTAL OPERATING		-0-				

CAPITAL		-0-				
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REVENUE		-0-				
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND		-0-				
FEDERAL FUNDS		-0-				
OTHER		-0-				
TOTAL		-0-				

**POSITIONS :**

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

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

SSHB 321 has no measurable fiscal impact on the Department of Transportation and Public Facilities.

Prepared by: Milton H. Lentz, CRA *(Signature)* Phone: 465-2985  
 Division: Engineering and Operations Standards Date: 2/18/86

Approved by Commissioner: *(Signature)* Date: 2/18/86  
 Agency: Department of Transportation and Public Facilities

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



IN REPLY REFER TO:

## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF LAND APPEALS

4015 WILSON BOULEVARD  
ARLINGTON, VIRGINIA 22203

ROBERT AND PATRICIA BAILEY ET AL.

IBLA 84-874 et al.

Decided November 22, 1985

Consolidated appeals from decisions of the Bureau of Land Management, Alaska State Office, determining that equitable title vested in Public Land Order No. 1613 applicants, approving issuance of patents, and rejecting Alaska State selection A-061179, in part, and conflicting Public Land Order No. 1613 applications. A-063457, et al.

Affirmed.

1. Act of Aug. 1, 1956—Patents of Public Lands: Generally—Public Lands: Alaska—Public Sales: Preference Rights—Withdrawals and Reservations: Revocation and Restoration

Equitable title vests in preference right applicants for public lands, restored in accordance with 43 U.S.C. § 971a through e (1982) and Public Land Order No. 1613, when they have paid the purchase price and received a receipt from BLM, and BLM may properly grant them patents even though they have subsequently sold the lands adjoining the public lands.

APPEARANCES: Donald D. Hopwood, Esq., of Anchorage, Alaska, for appellants; 1/ Robert C. Babson, Esq., Office of the Regional Solicitor, Anchorage, Alaska, for the Bureau of Land Management.

1/ For appearances on behalf of other appellants, see Appendix A. Under the circumstances, we do not decide whether all of these appearances conform to the requirements of 43 CFR 1.3 governing who may practice before the Department.

*Bailey Decision*

## OPINION BY ADMINISTRATIVE JUDGE IRWIN

In 1949, in order to protect the roads that promoted the development of the Territory of Alaska, the Department of the Interior withdrew 150 feet of public lands along both sides of several "through roads," including the Glenn, Richardson, and Haines highways. 2/ Congress criticized these withdrawals as excessive, stating that they hindered commercial and private development, and, in 1956, enacted a law providing that if the Secretary revoked such a withdrawal "the lands involved shall be subject to disposal only under laws specified by the Secretary of the Interior, subject to easements as established by the Secretary." 3/ The law authorized the Secretary to "sell such restored lands for not less than their appraised value, giving an appropriate preference right to the holders of adjoining claims or entries and to owners of adjoining private lands." 4/

In 1958 the Department issued PLO 1613 revoking the earlier withdrawals, replacing them with easements, offering for sale "the lands released from withdrawal \* \* \* which, at the date of this order, adjoin lands in private ownership," and providing that released lands which on the same date "adjoin lands in valid unperfected entries, locations or settlement claims,

2/ Public Land Order No. (PLO) 601, Aug. 10, 1949, 14 FR 5048 (Aug. 16, 1949); see also PLO 757, Oct. 16, 1951, 16 FR 10749.

3/ 43 U.S.C. § 971a (1982).

4/ 43 U.S.C. § 971b (1982). The purpose of the law was to "permit the disposal of lands restored from [such] withdrawals \* \* \* in such a manner as to recognize the equities of those landowners who have acquired lands abutting such withdrawals prior to their restoration." S. Rep. No. 2641, 84 Cong., 2d Sess., reprinted in 1956 U.S. Code Cong. & Ad. News 4052. 43 U.S.C. § 971a also authorizes the Secretary to permit amendment of the land-description of an unpatented claim or entry on adjoining land to include restored lands, notwithstanding any statutory limitation on the area which may be included in such a claim or entry.

shall be subject to inclusion in such entries, locations and claims." 5/ Owners of private lands and holders of such entries were given a preference right to purchase the adjoining released lands or to amend their entries to include them, respectively, for which they could apply any time after the date of the order by giving notice to the Bureau of Land Management (BLM). Failure to pay for the land or to make any required payments would cause a preference right claimant to lose his preference.

Many adjoining landowners or entry holders applied for the released lands located between the adjoining lands and the centerline of the highway, made the required payments, and received receipts, but their applications were not processed further for many years. 6/ Many who applied subsequently sold the lands adjoining the released lands. In August 1984 BLM issued decisions granting the released lands to the original applicants. 7/ In

5/ PLO 1613, Apr. 7, 1958, 23 FR 2376 (Apr. 11, 1958). Entries, locations and claims specifically named as included in Paragraph 8 of PLO 1613 were certificates to purchase under the Alaska Public Sale Act, 48 U.S.C. § 364a through e, (see 43 U.S.C. §§ 687b-687b-5, repealed by § 703(a), P.L. 94-579, 90 Stat. 2789), and leases with option to purchase under the Small Tract Act, 43 U.S.C. § 682a, repealed by § 702, P.L. 94-579, 90 Stat. 2787.

6/ An adjoining landowner's application form read:

"I am the owner of the land described below and hereby make application to purchase the land lying between my property and the centerline of the Glenn Highway. I understand that patent, when issued, will be subject to an easement on this land for highway purposes, and to any other valid existing rights. I also understand that patent to the land between my property and the highway centerline will not be issued until the land has been surveyed and the plat of survey is filed in the Anchorage District and Land Office. I further understand that it is my responsibility to keep the Anchorage District and Land Office informed of any change of my address or transfer of title."

7/ In early November 1984, BLM published a legal notice of the list of the applications approved in the August decisions and mailed the notice to current owners of the adjoining lands. The notice gave current owners until Dec. 15, 1984, to file appeals. Because of our disposition of these appeals we need not decide whether the notice complies with 43 CFR 4.411(a) or whether persons who were served with the August decisions could file an appeal until Dec. 15, 1984, in accordance with the notice.

these consolidated appeals, present adjoining landowners claim the released lands should have been granted to them.

Appellants argue that Congress intended that the released lands be granted to owners of adjoining lands and that when the original applicants for the released lands sold their adjoining lands to appellants they intended to convey their rights to the released lands along with the adjoining lands. The released lands are important, and sometimes essential, to the present owners of the adjoining lands for access to those lands, appellants argue, and of no practical use to the original applicants, some of whom are deceased persons or dissolved corporations. Failure to grant them legal title to the released lands between the highway and their adjoining lands will cause great hardship, appellants claim.

BLM's decisions state that when the "purchase price was received \* \* \* and a receipt for the purchase price was issued \* \* \* equitable title vested in the applicant \* \* \*." Equitable title vests then under 43 U.S.C. § 971b and PLO 1613, BLM states, because under the analogous provisions of the Isolated Tracts Act, 43 U.S.C. § 1171 (repealed by section 703(a), Federal Land Policy and Management Act of 1976, 90 Stat. 2789), it vests when a preference right applicant has tendered the purchase price and been issued a cash certificate by the Department. Willcoxson v. United States, 313 F.2d 884 (D.C. Cir.), cert. denied, 373 U.S. 932 (1963). 8/ Once equitable title vests, in BLM's view, "the Secretary has no discretion in the issuance of a patent and events subsequent to such vesting can have no bearing upon the

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8/ BLM Answer at 7.

claimant's right to patent," citing Wyoming v. United States, 255 U.S. 489 (1921). 9/

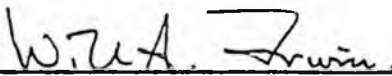
[1] BLM's decisions must be affirmed. The language of the Act involved gives the Secretary the discretion to sell the released lands to adjoining landowners and to permit the holders of unperfected claims on adjoining lands to amend their land descriptions to include released lands. The language of 43 U.S.C. §§ 971a and 971b is that the Secretary "may sell" the restored lands and "may permit the amendment" of land descriptions to include them. Like the Isolated Tracts Act, supra, and unlike the statutes involved in the cases cited by appellants (e.g., Payne v. Central Pacific Railway Co., 255 U.S. 228 (1921)), the Act does not entitle one to rights in lands if he proves he meets the statutory requirements, but authorizes the Secretary to take action in his discretion. Willcoxson v. United States, supra at 888; Lewis v. Udall, 374 F.2d 180 (9th Cir. 1967); Estate of Lyle K. Gross, 77 I.D. 174 (1970); Jack H. Stockstill, 1 IBLA 278 (1971). In PLO 1613 the Secretary specified what a preference right claimant must do: give notice to BLM and pay for the land within the time specified by BLM. Once a claimant did these things and BLM accepted the payment and issued the receipt for the purchase price, his equitable title to the released land he applied for vested. The United States is therefore obligated to perform its duty to issue the patent, after completion of the appropriate survey and other ministerial acts. Benson Mining Co. v. Alta Mining Co., 145 U.S. 428 (1892). Whether the claimant (or his successor) intended to convey--or will be deemed to have conveyed--the released land when he sold his adjoining lands during

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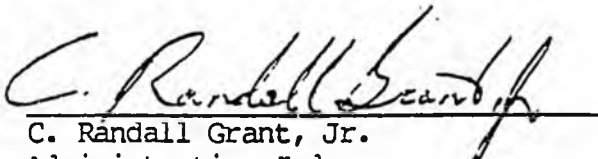
9/ Id.

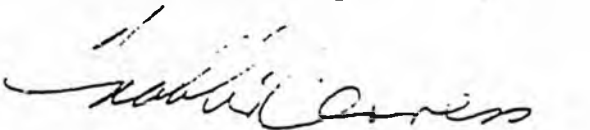
the pendency of the claim is a matter of state law dependent on the circumstances of the transaction, 10/ not a matter for the Department to adjudicate. Finally, we must observe that although the delay in acting on the applications has certainly inconvenienced appellants, it was not for their benefit that the statute was enacted but rather for "landowners who \* \* \* acquired lands abutting [the] withdrawals prior to their restoration," i.e., for the original applicants. 11/ BLM's decisions are therefore consistent both with applicable case law and with the intent of Congress.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

  
\_\_\_\_\_  
Will A. Irwin  
Administrative Judge

We concur:

  
\_\_\_\_\_  
C. Randall Grant, Jr.  
Administrative Judge

  
\_\_\_\_\_  
Franklin D. Arness  
Administrative Judge

10/ See for example, Willis v. City of Valdez, 546 P.2d 570, 575 (Alaska 1976); Sabo v. Horvath, 559 P.2d 1038, 1041-42 (Alaska 1976).

11/ Sen. Rep. No. 2641, supra note 4.

## APPENDIX A

<u>IBLA Case No.</u>	<u>Appellant</u>	<u>BIM Case No.</u>	<u>PLO 1613 Applicant</u>	<u>Appearances for Appellants</u>
1. 84-875	Lige & Ruth Wierzbicki	A-063521	Gilbert A. Henkens, Jr.	M. Ashby Dickerson, Esq. of Anchorage, Alaska
2. 84-876	Carolyn & Joseph Vallieres; John and Dorothy Liska	A-063459	Janelle F. Lamay	John & Dorothy Liska, <u>pro</u> <u>sese</u> ; Carolyn & Joseph Vallieres, <u>pro sese</u> .
3. 84-877	Wayne Cousineau	A-063526	E. G. Fenn	Wayne Cousineau, <u>pro se</u> .
4. 84-878	A & S Construction, Inc.	A-063525	Gilbert A. Henkens, Jr.	Salvatore Aiello, president, A & S Construction Co., Inc.
5. 84-879	Salvatore Aiello & Wayne Cousineau	A-063455	Matanuska Telephone Association, Inc.	Salvatore Aiello & Wayne Cousineau, <u>pro sese</u> .
6. 84-880	William E. & Jeannette Knowlton	A-063455	Ralph M. Anderson	William E. & Jeannette M. Knowlton, <u>pro sese</u> .
7. 84-881	William E. & Jeannette Knowlton	A-063452	Ralph & Lavenia Doyle	William E. & Jeannette M. Knowlton, <u>pro sese</u> .
8. 84-882	William E. & Jeannette Knowlton	A-063453	Ralph M. Anderson	William E. & Jeannette M. Knowlton, <u>pro sese</u> .
9. 84-883	Harold V. & Marga M. Jurgensen	AA-3794	William J. Hendrickson	Harold V. & Marga M. Jurgensen, <u>pro sese</u> .
10. 84-884	Rogers & Babler	A-063462 (conflicts with AA-51038)	Virgil D. & Lou B. Stone	Michael W. Price, Esq. of Anchorage, Alaska
11. 84-904	Jay D. & Florence Kay Williams	A-063471	McKinley Heights, Inc.	Jay D. & Florence Kay Williams, <u>pro sese</u> .

<u>IBLA Case No.</u>	<u>Appellant</u>	<u>BIM Case No.</u>	<u>PLO 1613 Applicant</u>	<u>Appearances for Appellants</u>
12. 85-21	Arthur F. Wallace	A-063495	Einer Huseby	Thillman, F. Wallace
13. 85-24	Kathryn Dawson	A-063464	Gene E. & Ruth Ann Needels	Kathryn Dawson, <u>pro se.</u>
14. 85-128	R. L. Pellissier	A-063469	Gordon H. Lee	R. L. Pellissier, <u>pro se.</u>
15. 85-129	R. L. Pellissier	A-063470	McKinley Heights, Inc.	R. L. Pellissier, <u>pro se.</u>
16. 85-130	Forest E. & Mary M. Burlew	A-063529	General Supply Company, Inc.	Forest E. & Mary M. Burlew, <u>pro sese.</u>
17. 85-138	John C. & Barbara L. Franklin	A-063498	Harry Goudchaux	John C. & Barbara L. Franklin, <u>pro sese.</u>
18. 85-139	Chugiak-Eagle River Industries	A-063477 A-063478	William H. Stephens, Jr. Cleda A. Stephens	Ruth Callan, Office Mgr., Chugiak Eagle River Industries
19. 85-140	MaryAnn C. Yoakum	A-063528	Gilbert A. Henkens, Jr.	MaryAnn Yoakum, <u>pro se.</u>
20. 85-174	Peters Creek Chapel, Inc.	A-063481 A-063482	Victory Tabernacle, Inc. Joann C. Jensen	Robert J. Byron of Chugiak, Alaska
21. 85-175	L. G. Gardner	A-063497	Clarence C. Call	L. G. Gardner, <u>pro se.</u>
22. 85-186	Kit J. & Dillia Vercella	A-063527	Gilbert A. Henkens, Jr.	Kit J. & Dilia Vercella, <u>pro sese.</u>
23. 85-198	Billy E. & Pat M. McGowen	A-063513 A-063514	Robert E. & Katherin G. Fleming Harold P. Groseth	Ray D. Gardner, Esq. of Anchorage, Alaska

<u>IBLA Case No.</u>	<u>Appellant</u>	<u>BLM Case No.</u>	<u>PLO 1613 Applicant</u>	<u>Appearances for Appellants</u>
24. 85-200	Jeff & Darlene Hunter Gary & Donna Young	A-063521	Gilbert A. Herkens, Jr.	Jeff & Darlene Hunter, <u>pro sese.</u> Gary & Donna Young, <u>pro sese.</u>
25. 85-201	Harold & Marga Jurgensen	AA-3794	William J. Hendrickson	Harold V. & Marga M. Jurgensen, <u>pro sese.</u>
26. 85-207	Bruce A. & Melody G. Swanson	A-063449	First Baptist Church of Birchwood	Bruce A. & Melody G. Swanson, <u>pro sese.</u>
27. 85-208	Lawrence D., Cecillia M., & George M. Allen	A-063449	Kerman O. Boyman	Lawrence D., Cecilia M. & George M. Allen, <u>pro sese.</u>
28. 85-209	Roland N. & Marie S. Ericson	A-063483	Mont S. Johnson, Jr.	Roland N. & Marie S. Ericson, <u>pro sese.</u>
29. 85-210	James A. Stokes	A-063502 (conflicts with AA-05976)	Herbert S. Johnson, Jr.	James A. Stokes, <u>pro se.</u>
30. 85-211	Burton Carver & Co., Inc.	A-063510	William G. & Theo. E. Knight	Dave R. Christianson, Esq., Anchorage, Alaska
31. 85-212	Estate of William G. Knight	A-063511 A-063517	Clarence C. Call Pearl M. Johnson	Ashley Schmiedeskamp, Rainier Bank, Anchorage, Alaska
32. 85-213	William H. Martin	A-064410	Geneveive M. Hayes	William H. Martin, <u>pro se.</u>
33. 85-214	Estate of Ray Allen Williams	A-064413	Glen Griffin	Roger R. Williams, P.R. for Estate
34. 85-231	Samuel S. & Christine S. Taylor	A-063525	Gilbert A. Henkens, Jr.	Samuel S. & Christine S. Taylor, <u>pro sese.</u>

IBLA 84-874, et al.

<u>IBIA</u> <u>Case No.</u>	<u>Appellant</u>	<u>BLM</u> <u>Case No.</u>	<u>PLD 1613</u> <u>Applicant</u>	<u>Appearances for</u> <u>Appellants</u>
35. 85-232	Frieda Rokita	A-063470	McKinley Heights, Inc.	Frieda Rokita, <u>pro se.</u>
36. 85-233	James A. Stokes	A-063504	Daniel & Margaret Berg	James A. Stokes, <u>pro se.</u>
37. 85-234	Claire C. Morton	A-063476	Saima E. Ising	Claire C. Morton, <u>pro se.</u>
38. 85-255	Frank F. Mullins; Jonathan Dettridge	A-063465	McKinley Heights, Inc.	Frank F. Mullins, <u>pro se.</u>
39. 85-598	Bruce A. Swanson	AA-54199 (conflicts with AA-6661A; AA-54873	Christa L. Burg	Bruce A. Swanson, <u>pro se.</u>

RTH RANGE | WEST OF THE SEWARD MERIDIAN ALASKA

STATUS OF PUBLIC DOMAIN  
LAND AND MINERAL TITLES

MTP  
SUPPL SEC 30

NO 12

INDEX TO SEGREGATED TRACTS				
RESURVEY	ORIGINAL SURVEY			
TRACT NO	T	R	SEC	SUBDIVISION

FOR ORDERS EFFECTING DISPOSAL OR USE OF UN-IDENTIFIED LANDS WITHDRAWN FOR CLASSIFICATION MATERIALS WATER RIGHTS OTHER PUBLIC PURPOSES REFER TO INDEX OF MISCELLANEOUS DOCUMENTS.

SUBJ TO 150' C/L East (Glenn Hwy) 1/4 of 8/1/1956 (TO 51st 85th; 48 USC 420-425) & PLO 1613 4/7/1958 (23 FR 2378)

A058730 SS 2/18/1963 entire to

A05178 SS entire to Excl Pat lands

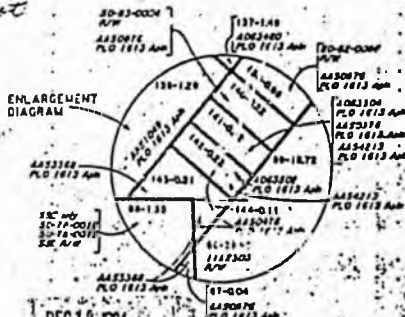
A0687 East Dead REA 25' C/L (81 51st 441-444) or to the following:  
Sec 30: lots 6, 7, 8, 37, 38, 60, 67, 68, 85, 88, 97, 98  
104, 105, 106, 107

\* A06881-EE East pursuant to Sec 17(b)(3) of Pl. 92-203 12/18/1971 Excluding

PLO 5164 3/16/1972 wd Cl by Stell PLO 92-203 12/18/1971 affects 101 to

Patented to *Electric* (there is other land in this township that is patented but it is not near the highway)

The individuals owning these lots adjacent to the highway have an appeal for PLO 1613 lots.



WARNING: THIS PLAN IS THE BUREAU'S RECORD OF TITLE AND SHOULD BE USED ONLY AS A GRAPHIC DISPLAY OF TOWNSHIP SURVEY DATA. RECORDS HEREON DO NOT REFLECT TITLE CHANGES WHICH MAY HAVE BEEN EFFECTED BY LATERAL MOVEMENTS OF RIVERS OR OTHER BODIES

DEC 16 1954

SUPPL NO 12

TO: Members, House Committee  
on Finance.

DATE: March 12, 1986

FROM: Rep. Sam Cotten

RE: Proposed CS for HB  
321

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The proposed CS for HB 321 aims to resolve rights-of way problems plaguing Chugiak area residents living along the Old Glenn Highway; it also affects similarly situated residents living on other Alaska highways. The problem stems from the federal government awarding ownership of a narrow strip of land in front of the lots to someone else.

The situation dates back almost 30 years when the Act of August 1, 1956 and Public Land Order 1613 (in 1958) allowed people to purchase highway lots and file for patents to the abutting highway easements. The intent of the law was to award the highway easement to the abutting landowner. However, after a decades-long delay, BLM has only recently started issuing these patents. In doing so, BLM has decided to award the patents to the original applicants, who in many cases, no longer live there, rather than the abutting owners. (In some cases the original applicants have died, in other cases the land has changed hands several times.) This administrative delay by BLM has meant that current highway residents face the situation of having someone else claim ownership to the highway easement they thought they owned. This clearly contradicts the intent of the law.

The situation has caused much distress and confusion among Chugiak area residents in particular. The lots have little value except nuisance value. The lots are fairly small, and are long narrow strips. They are also subject to highway easement which diminishes any potential value.

The original version of HB 321 required involvement by the Department of Transportation and would have used condemnation as the method to gain the P.L.O. lots. The proposed CS would solve the problem without cost to the state.

The proposed CS for HB 321 gives the abutting lot owner the

COTTEN MEMO

ability to gain possession of the P.L.O. highway lots, subject to any P.L.O. easements, by use of adverse possession laws. The bill changes the existing law of adverse possession, by allowing adjoining owners to count time they occupied the highway lot while legal title was held by the federal government toward the seven year period required to gain title to the land. This is legal, as the federal government has determined that title is transferred upon payment of the purchase price of the highway lot.

Additionally, the bill provides that in cases where the existing owner believes the sale included the highway lot, the highway lot owner has the burden of proving that the deed clearly excluded the highway lot. If the highway lot owner fails to meet this burden, the adjoining land owner will get the highway lot in a quiet title action.

Passage of this bill would give the affected highway property owners a way to resolve a serious problem. The Dept. of Transportation has issued a zero fiscal note for the proposed CS.