

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

4419 STRA HB 409 - HB 436 1298

TABLE 1 (CONTINUED)

SURVEY OF THE STATES: SCHOOL BUS DRIVER REQUIREMENTS, SAFETY PROGRAMS AND RELATED LEGISLATION

STATE	REQUIREMENTS FOR SCHOOL BUS DRIVER LICENSE	REQUIREMENTS FOR SCHOOL BUS DRIVER TRAINING	DRIVER MANUAL	SAFETY EQUIPMENT PILOT PROGRAMS	RELATED LEGISLATION
Nebraska	Regular license; bus driver permit; annual phys. exam; age 18-65; annual written & road tests; good driving record check.	10 hrs state-approved training.	No	None	No
Nevada	Class 11 license every 4 yrs; phys. exam every 2 yrs; annual written exam.	20 hrs state pre-svc (10 hrs classroom/10 hrs road) & annual refresher course.	No	None	No
New Hampshire	Regular license; bus driver certificate; minimum age 18; English-speaking written test; criminal & driving record check.	State-approved training; 8 hrs pre-service road & classroom instruction; 6 hrs in-service annually.	Yes	None	Yes (two 1985 seat belt bills defeated)
New Jersey	Regular license; certificate every 2 yrs; 3 yrs driving experience; minimum age 18; physical exam; written & road tests; driving record check.	No state requirement; state assistance to local districts offering training.	Yes	None	Yes (seat belt)
New York	Regular license; phys. exam every 2 yrs; no driving record (3 yrs) or criminal record (5 yrs); written & road tests every 2 yrs; 3 yr employment check; annual driving record check; age 21-65.	2 hrs state pre-svc classroom instruction; 2 hrs twice a year in-service training; additional local training optional.	Yes	None	No
Ohio	Chauffeur's license; annual bus certificate; minimum age 18; physical exam; written & road tests; annual driving record check.	20 hrs state pre-svc (12 hrs classroom/8 hrs road); 2 hrs annual in-service training; some local districts require more.	Yes	None	Yes (require safety sensors)

TABLE 1 (CONTINUED)

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STATE	REQUIREMENTS FOR SCHOOL BUS DRIVER LICENSE	REQUIREMENTS FOR SCHOOL BUS DRIVER TRAINING	DRIVER MANUAL	SAFETY EQUIPMENT PILOT PROGRAMS	RELATED LEGISLATION
Oklahoma	Chauffeur's license; 5-yr certificate; annual phys. exam; minimum age 18; clear driving record for 3 yrs; at age 64 1-yr certificate.	5-day (25 hrs) state pre-service workshop; local in-service training each semester.	Yes	None	No
Oregon	Chauffeur's license; age 18-70; physical exam; road test; criminal & driving record checks; first aid certificate.	20 hrs state pre-svc training (10 hrs classroom/10 hrs road); refresher course every 4 years.	Yes	Experimenting with safety sensors and retroreflective markings.	No
Pennsylvania	Regular license; bus license; annual phys. exam; minimum age 18; road & written tests.	State-approved local pre-svc: 7 hrs classroom/3 hrs road; in-service: 10 hrs every 4 years.	Yes	Pilot study with safety sensors.	No
Rhode Island	Chauffeur's license; 1 yr driving experience; age 18-65; annual physical exam; driving record checks; character references.	State-approved pre-service training: 9 hrs classroom/1 hr road; 3 hrs in-svc annually for renewal.	No	None	No
South Carolina	Regular license; bus certificate; age 16-65; no accidents or violations; initial phys. exam; written test.	State training.	Yes	Walk arm (crossing gate) required on 1985 buses.	No
South Dakota	Regular license; bus license; bus certificate every 3 yrs; annual phys. exam; minimum age 18; road & written tests.	No state requirement; about 1/3 drivers attend annual seminars sponsored under federal funding.	Yes	None	No
Tennessee	Special chauffeur's license; 5 yrs driving experience; maximum age 70; annual phys exam; over 55 semi-annual physical exam.	20 hrs state pre-service classroom instruction; districts may require more training.	Yes	Crossing gate required; safety sensors, steering stabilizers, and p.a. systems being tested	No

TABLE 1 (CONTINUED)

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Texas	Chauffeur's license; 3-yr bus certificate; annual phys. exam; minimum age 18.	20 hrs state pre-service classroom training (plus road experience); 8 hrs refresher training.	Yes	None	No
Utah	Regular license, S1 license; written & road tests.	24-hr state course; 8 hrs in-service training locally; 8 hrs first aid training every 4 years.	Yes	Experimenting with automatic traction device and school bus alert system.	No
Vermont	Regular license; minimum age 18 written & road tests every 4 yrs; physical exam.	8 hrs State pre-svc classroom training; 8 hrs in-service training every 4 years; local district may require more training.	Yes	Bus inspections required 3 times a year.	Yes (seat belt bill which no progress)
Virginia	Regular license; written & road tests; phys. exam; two character references; age 17-70; driving & criminal record checks.	Local classroom and road training by state-educated instructors; 4 hrs in-svc each year; districts may require first aid course.	Local manuals	None	No
Washington	Regular license with 1-2 yrs driving experience; bus certificate every 4 yrs; annual phys. exam; minimum age 18; first aid certificate every 3 yrs; criminal & driving record checks.	Local training by state-educated instructors; generally pre-service and in-service training.	Yes	None	No

TABLE 1 (CONTINUED)

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West Virginia	Chauffeur's license; bus certificate; age 18-70; 1-yr driving experience; annual phys. exam; written test; driving record check; first aid certificate.	30 hrs state pre-service classroom instruction; district may require road training; 16 hrs in-svc training.	Yes	Experimenting with safety sensors, roof escape hatches and automatic tire chains; may require fiberglass lamination on seats and strobe on stop arm	Yes (requiring strobe lights on roof)
Wisconsin	Regular license, no criminal record for 5 years; written & road tests; phys. exam.	No state requirement; local district may require attendance at annual state workshops.	Yes	None	No
Wyoming	Class S license; minimum age 18; written & special road tests; annual physical exam.	No state requirement; many local districts have training programs.	Yes	Local districts testing safety sensors (state not involved).	No

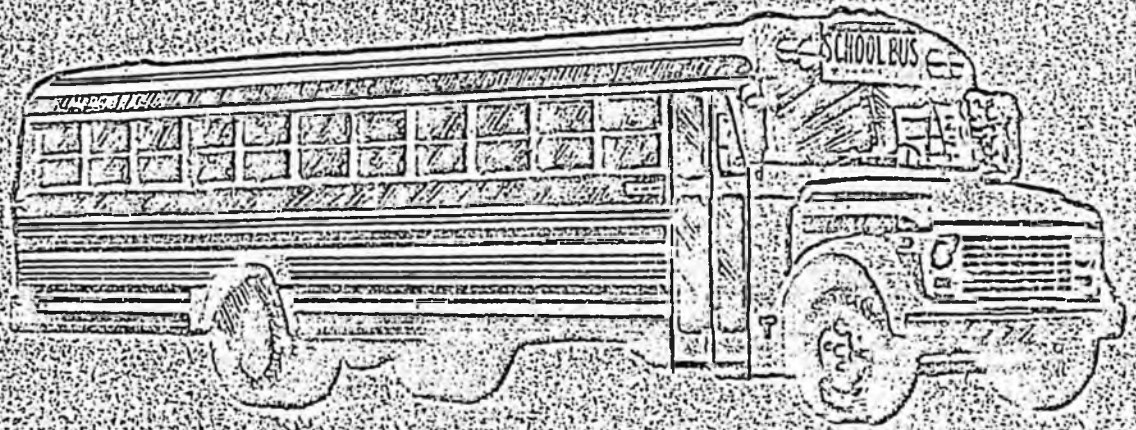
Prepared by the House Research Agency, November 1985.

ATTACHMENT A
Alaska School Bus Drivers Manual
Revised 1981

#3

Alaska School Bus Drivers Manual

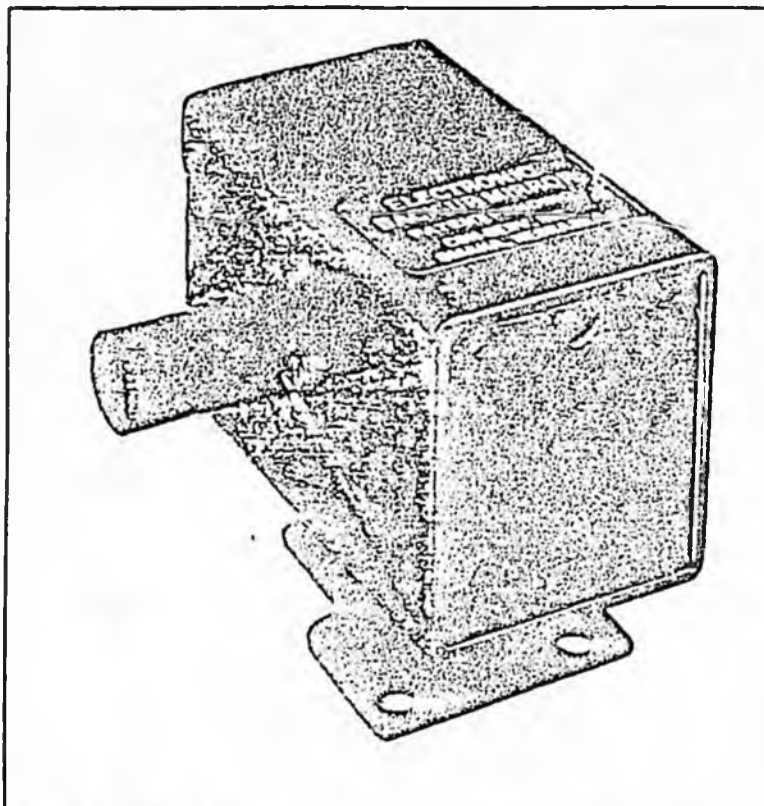
Revised 1981



ATTACHMENT B
New Product Update

Con-Serv, Inc.

NEW PRODUCT UPDATE



Introducing Con-Serv's New Safety Sensor™

Because of everyone's interest in pupil safety, Con-Serv, Inc. has introduced a revolutionary product — the Safety Sensor — a device that eliminates blind spots on any vehicle and is uniquely suited to school buses.

Many school bus operators have nightmares about student safety and property damage claims due to blind spots on a school bus.

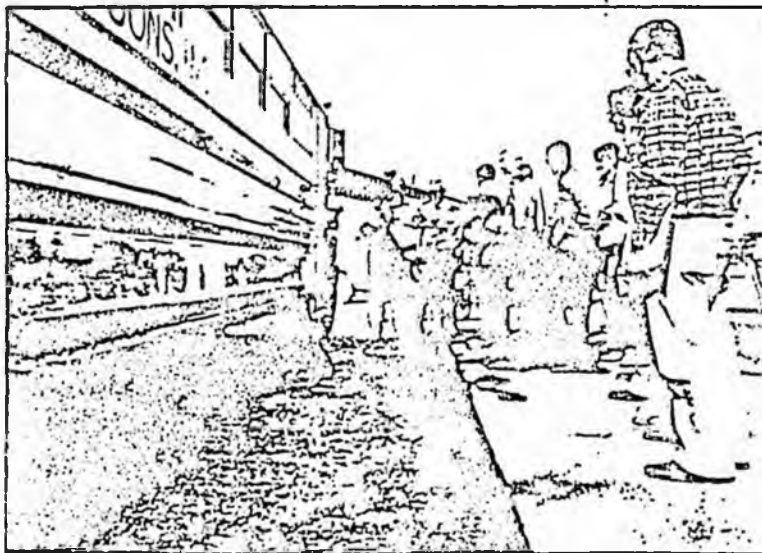
For example:

A recent tragedy in the Midwest concerning a student being run over by a school bus sent chills and nausea through the community.

A 200-bus fleet in the Midwest reports \$50,000 in property damage for just 14 months.

Extensive testing has proven blind spots can be eliminated. Savings in property damage, downtime, and litigation due to personal injuries more than justify the \$225 for this modern radar-operated device.

Even the hazard of the rear dual tires on the entrance and exit side, where reportedly 3 out of 14 fatalities occur, can be eliminated. Tests have shown that this innovative new product can be positioned to give warning of a child near the rear or front of the bus.



As the bus moves forward, the Safety Sensor alerts the driver to the boy's presence. The Safety Sensor unit mounted for rear dual tires signals the driver and saves the boy from harm.

Sovereign Immunity Question Becomes A Growing Concern

Recent actions by courts and legislative bodies have left the issue of "sovereign immunity" in a state of ambiguity. School administrators and elected officials are very uncertain of their liability when entering into litigation. The courts have established precedent where school administrators and board members have been sued because the bus driver is considered an agent of that district.

When it comes to protecting young and handicapped children on school buses, the pivotal question is this: Have you done everything you can with the

most up-to-date equipment to keep these children from getting hurt? In legal terminology it is a "state-of-the-art" question. Are you using the best available safety devices? The key to the defense of school boards and administrators is (1) the existence of sound transportation policies, (2) transportation personnel training and (3) use of "state-of-the-art" equipment.

The above is reprinted from "Safety Update/Handicapped Transportation" with the permission of William L. Bainbridge, Ph.D., Director, Public Priority Research Associates, Inc., Columbus, Ohio.

Safety Sensor was designed to eliminate blind spots. Safety Sensor can reduce the staggering number of accidents that occur when bus drivers are unable to see students around their wheels.



Transportation superintendents at the Nebraska Transportation Conference inspect the Safety Sensor.

What is the Most Common Cause of School Bus Fatalities?

Most school bus fatalities have occurred at the loading and unloading point, rather than in moving accidents. On the average, for the past three years, 53 deaths per year were caused by the driver not seeing small children who stopped for various reasons around the wheels of the bus and were run over.

The above is an excerpt from "Safety Legislation Concerning School Buses", prepared for the 34th Annual Southeastern State Pupil Transportation Conference by the American Transportation Corporation, Conway, Arkansas.

Almost One Fourth of the Country Has Already Approved and/or Purchased the Safety Sensor

Eleven state approvals have been given to Con-Serv's Safety Sensor and numerous cities in each of those states have already placed orders. Units are being shipped to Nebraska, West Virginia, Virginia, Georgia, Florida, Texas, Tennessee, Arkansas, North Carolina, Ohio, and Oklahoma.

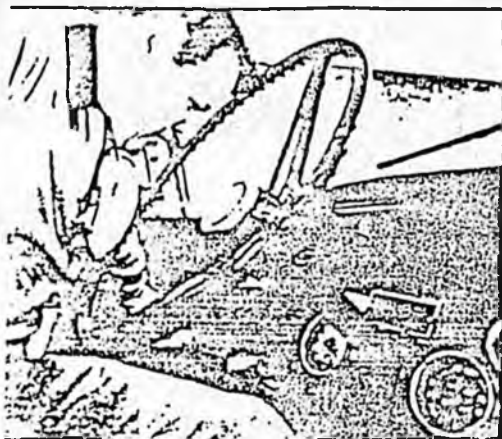
Many other states are now investigating the Safety Sensor's life-and-property-protecting features.

Reactions to the Safety Sensor from Various Pupil Transportation Groups

Nebraska: "With a device like this, we should be able to eliminate our pupil fatalities!"

West Virginia: "This product should be mandatory on every school bus in the country."

Florida: "I really like the Safety Sensor and am going to put it on all my buses!"



Jim Miner, Con-Serv's Quality Assurance Manager, points out the Safety Sensor's audio alarm and warning light.



Dean Bergman, Nebraska's State Director of School Transportation (center), discusses the Safety Sensor's many advantages with Con-Serv's representative, George Sturmon.

Principle of Operation

The Safety Sensor is a microwave radar device which uses the doppler shift principle to detect the presence of a moving target within the transceiver range. The unit is totally electronic and is composed of a transceiver, an antenna, an intermediate frequency amplifier and an audio alarm.

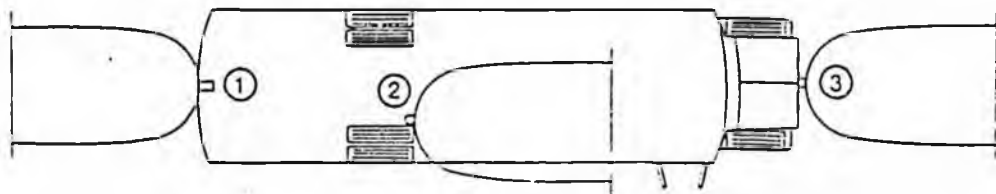
The Safety Sensor's transceiver is unaffected by magnetic fields. Its amplifier is designed to interface with any existing switch in order to activate the

circuit during a chosen operation of the vehicle. ("Chosen operations" may include opening the bus door, turning on the parking lights, putting the vehicle in reverse, etc.) The amplifier drives the audio alarm and warning lights mounted in the vehicle cab.

Mud, dirt, ice or snow have no effect on the operation of Safety Sensor. Microwave radar penetrates and detects any moving or stationary object.

When a vehicle is placed in operation and is moving, the Safety Sensor will detect any stationary or moving object. Upon detection, a buzzer will activate and notify the operator that a hazard exists and that he should apply his brake.

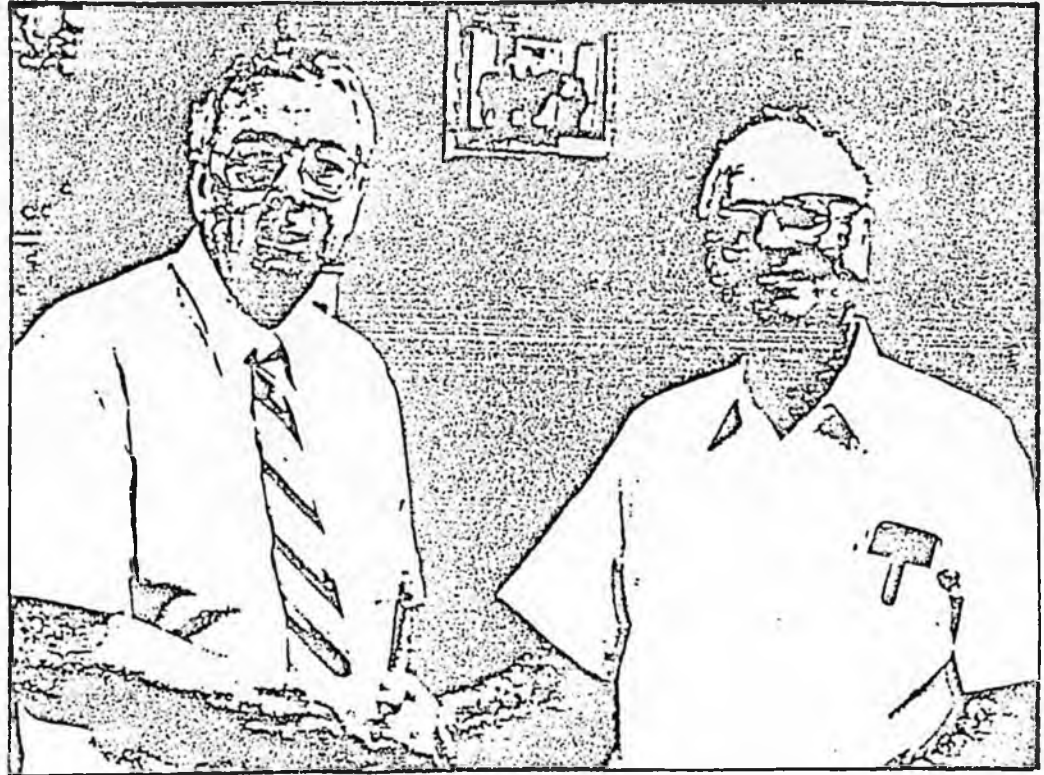
Placements of the Safety Sensor



The unit is activated when door opens and remains activated to detect any object or human until 10 seconds after door closes. This enables the driver to be warned of any human in the path of the wheels until he is well away from his original stationary position.

- 1 Safety Sensor placement for reverse travel
- 2 Safety Sensor placement to protect pupils from rear dual tires
- 3 Safety Sensor placement to protect small children crossing in front of bus

A. E. "Tony"
Dombrowski,
President of
Con-Serv, Inc., and
L. B. Billingsley,
President of
Billingsley Parts &
Equipment, finalize
their agreement.



Con-Serv, Inc. has appointed Billingsley Parts & Equipment to be Safety Sensor's national distributor. Safety Sensor is Con-Serv's new life- and property-protecting device, created especially for the school bus after-market.

For more information on the Safety Sensor, contact:



Toll Free
1-800-231-2312 - U.S.
1-800-392-6496 - Texas

**safety
sensor™**

by Con-Serv, Inc.
3801 Oahman Ave.
Omaha, NE 68107
(402) 733-8961

Bulk Rate
U. S. Postage
PAID
Huntsville, TX 77340
Permit No. 72

HOUSE TRANSPORTATION
STANDING COMMITTEE

May 9, 1985
7:00 a.m.

Members Present: Representative Bette Cato, Chairman
Representative Mike Davis, Vice-Chairman
Representative Dick Shultz
Representative Marco Pignalberi

Members Absent: Representative Adelheid Herrmann
Representative Walt Furnace
Representative Andre Marrou

COMMITTEE CALENDAR

HB 409 "An Act relating to licensing of school bus drivers; and providing for an effective date." Original sponsor: Representative Roger Jenkins.

HB 413 "An Act providing for the issuance of general obligation bonds in the amount of \$350,000,000 for the purpose of paying the cost of transportation projects; calling for a special election on the question; and providing for an effective date." Original sponsor: Representative Red Boucher.

WITNESS REGISTER

Representative Red Boucher
Alaska State Legislature
Pouch V
Juneau, AK 99811
Telephone: (907) 465-4931
Position Statement: As sponsor of HB 413, he urged that it do pass.

Representative Roger Jenkins
Alaska State Legislature
Pouch V
Juneau, AK 99811
Telephone: (907) 465-4530
Position Statement: As sponsor of HB 409, he urged that it do pass but he did not object to holding the bill in committee so that more work could be done on it.

Bill Brown
Division of Motor Vehicles

The Department of Public Safety
Pouch N
Juneau, AK 99811
Telephone: (907) 465-4335
Position Statement: Testified on HB 409.

Chip Dennerlein
Municipality of Anchorage
Pouch 6-650
Anchorage, AK
Telephone: (907) 264-4960
Position Statement: Observer.

Mayor Tony Knowles
Municipality of Anchorage
Pouch 6-650
Anchorage, AK 99502 (Via Teleconference)
Telephone: (907) 4960
Position Statement: Strongly supported HB 413.

Saundra C. Hutchins, Chairman
The Alaska School Bus Safety Committee
P.O. Box AB
Palmer, AK 99645 (Via Teleconference)
Telephone: (907) 745-4822
Position Statement: Testified on HB 409.

Romayn Kareen
Pupil Transportation Officer
The Department of Education
Pouch F
Juneau, AK 99811
Telephone: (907) 465-2890
Position Statement: Testified on HB 409.

PREVIOUS ACTION

HB 409: Read the first time on 04/29/85 and referred to TRSP, SA and Rules; no previous committee action to record.

HB 413: Read the first time on 05/01/85 and referred to TRSP, Fin and Rules; no previous committee action to record. Today TRSP reported out with 2DP, 3NR.

ACTION NARRATIVE

TAPE #42 SIDE ONE
Recording
Number 005

Chairman Cato called the meeting to order at 7:19 and noted that there was not yet a

quorum. She started the meeting anyway so that Mayor Tony Knowles, who was under a time constraint, could testify via the Legislative Teleconference Network on HB 413, sponsored by Representative Red Boucher and entitled, "An Act providing for the issuance of general obligation bonds in the amount of \$350,000,000 for the purpose of paying the cost of transportation projects; calling for a special election on the question; and providing for an effective date."

Let the record show the following members present: Representative Davis, Representative Pignalberi, and Representative Cato.

Number 015

Mayor Knowles: "Thank you, Representative Cato. Thank you for the opportunity to give testimony on House Bill Number 413. I would like to register with the committee the whole-hearted support of Anchorage in support of the bill sponsored by Representative Boucher and Cotten which would provide for the issuance of \$350,000,000 worth of bonds for the transportation projects all across the state. Obviously, I can not speak to the needs of areas other than Anchorage, but I do note that within that bill that the projects listed, most of which are part of the state and federal highway system, are completely supported through a public process in Anchorage that I have never seen the likes of which in a town that is unique in its diversity, this is the one area of consensus, of the greatest consensus that I have seen--particularly in light of the falling revenues, I applaud Representatives Boucher, Cotten, and other supporters of this measure for coming up with a financing package. If there are other packages, obviously that can meet the financial requirements of the state that still require the completion of the projects, that too would be satisfactory to Anchorage. If it's an important enough project, then we are whole-heartedly in support. I can represent numerous public groups that have formally endorsed the specific bill as well as the Anchorage Assembly."

Number 059

Representative Cato: "Thank you, Mayor

indirectly considered as user's fees for the services and roads that Anchorage does provide? Therefore, to me it's still a disproportionate amount concerning the people having to get there. If they don't have any roads in their district to get to Anchorage, then Anchorage is going to have to suffer also."

Mayor Knowles: "Perhaps in response to your question, there is no city in the nation that through its own, that I am aware of, that through its own financial resources pays for the state and federal road system."

Number 482

Representative Shultz commented that Anchorage isn't the only place which faces rapid growth. He mentioned that several communities in his district have an even higher rate of growth than Anchorage."

Number 494

Representative Davis thanked the mayor for his comments. Representative Cato also thanked the mayor for his testimony.

Number 505

Representative Cato then brought before the committee HB 409, sponsored by Representative Jenkins and entitled, "An Act relating to licensing of school bus drivers; and providing for an effective date." She asked Representative Jenkins to testify on his bill, but he deferred his testimony so that people on the teleconference network could testify. Representative Cato then asked Romaine Kareen of the Department of Education to testify on the bill.

Ms. Kareen thanked the committee for hearing the bill and Representative Jenkins for sponsoring HB 409. Ms. Kareen: "Regarding Section 2(b)(6) that requires drivers to complete a state-approved school bus driver training course. The Alaska School Bus Driver Training Committee is formulating the master plan for a state-wide, mandatory school bus driver training program. We hope to have the plan completed by July and ready for implementation fiscal year 87 and we will need an appropriation to complete that project and implement the master plan. I just want to know that the work was in process regarding the driver training program."

Representative Gato then asked Sandra Hutchins of Mat-Su to testify.

Ms. Hutchins: "I am the Pupil Transportation Coordinator for the Mat-Su school district and I am here to offer testimony on behalf of the Alaska Association for Pupil Transportation which is the district administrator's association and the Alaska School Bus Safety Week Committee which is sponsored by the Department of Education representing school districts and contractors.

"...We support the specifics of the bill. Looking at section 28.15.046(b) and looking down at number (4) and number (5) together. We very much support the criminal and background check both nationally and a state check back through the years. We feel that we have a responsibility to our parents and to our community to hire people who drive school bus drivers that have a good moral background. We feel we have a responsibility to make sure that they are trained properly and competent and able to do the job. We are concerned about individuals who do have a background that is not suitable for contact with children and looking down at section (c), in the same section, and looking at items (1), (2), (3), (4), (5), and (6) and (7) which are interconnected with numbers (4) and (5). We feel that it is very important that we don't have people who don't have this kind of background.

"There are some specific problems with (4) and (5) which are more procedural than in concept. The bill, as I understand it, indicates that we would have, that we would not be able to license and use an individual to drive a school bus until the national and the two-year state background check is complete. In talking with Bill Brown in Juneau in the Department of Public Safety and with Mr. Dave Garrison who is the aide for Representative Jenkins, we understand that that national background check could take as much as seven weeks. Also, that the state two-year check could take the same length of time and certainly up to a month. If this were true and if we were not allowed to license or use an individual to drive a

school bus until that criminal check has been completed, we would, by necessity, have to begin the hiring process and the licensing process as early as the month of June and possibly the end of June in order to have individuals to drive in the last week of August which is when many of our school districts open.

"Procedurally, that is not possible. The school bus drivers support themselves in the summer by other jobs. Many of them fish. The day after the last day of school, most of them are gone. If we were to have to fall into the way the bill is now written, we might even have to put together and give a screen in the month of May when we still have these people aboard just to get the screen process done.

"What we would like to suggest is that the provision be made similar to that which worked for the present law relating to teachers. Is that they are certified by the state and they may be hired by the district pending a background check, a criminal background check which is very similar to what is being suggested here. We would like to suggest is that we be allowed to licensed and to use these people pending the criminal background check which would make it, procedurally, we would be able to handle. Otherwise, it is not unlikely that we would end up on the first day without everybody that we needed in those buses. We don't want people driving a bus who have this kind of a background. But, procedurally, I am not sure that it will for us as it is presently written. There is strong feeling among school district people and the contractors that procedurally this won't work as it is presently written.

"I'd like to move to section, let me see, the same section. Go down to number (d). And this has to do with not licensing an individual who has been convicted of DWI and within two years and not licensing him at all if he has had two or more within twenty years. I very strongly support this provision. It is a source of problem now. We often do not know when an individual has been convicted of a DWI. We may have a bus driver out there there who has gotten a DWI

ticket in a private vehicle and we can find out--we have a chance generally. Very strongly support this provision. There needs to be some method to ensure, procedurally, that we will know when these things will occur. We have the same problem with (4) and (5). There needs to be some procedure to assure that school districts will know when an individual does have a DWI because otherwise, the individual is not going to tell us. We have that problem now. We have people who do get DWI and you just, sometimes you find about it and you then you are able to act. Very strong support for number (d)./

/"We very much support number (6) going back. This particular provision has to do with a mandated school bus driver training course./ The Department of Education over the last year has been working with a large committee which represents a cross-section of a school district administrators and contractors to develop a standardized school bus training program. The hope is that it will be mandated as a minimum guide for all districts. That plan is not developed--as I understand it, it is in the final draft and will be ready for the review process with district and administrators and with the Department of Education. It then must be approved by the state school board. We very much support that kind of training program. The problem with it here with this particular bill is that it is not ready. The other problem is that this bill would be effective in 1985. The driver training program is not in place and has not been reviewed. There's no fiscal note for it. And there will be some cause to get it started. We think that it is a very necessary thing to have a mandated program. /If there is some way of keeping this provision in the bill and not allowing for a later date for implementation, we would very much support that. /We support a mandated driver training program. We need to standardize a program across the state and we need to set the minimums and some very good work has been taking place in that area...This bill does not state who would be responsible for developing that driver program. This particular bill comes under Public Safety and I don't know if that

necessarily means that the Department of Public Safety would then be responsible for a driver training program for school bus drivers. That may not be true. We would like to see the Department of Education charged with that responsibility because they are closer to this area than is the Department of Public Safety."

Number 651

Representative Cato: "In the position paper, you might be interested in this fact: we have considered deleting that number (6) from Robert Sundberg it says in regard to AS 28.15.046(b)(6)--this will require the state to have an approved school bus driver training course. The Department of Education is currently working on a master plan to include, so they are well aware of what you're doing. It does not appear that it will be complete by the effective date of this bill. Without such a program, no school bus driver permits could be issued. Each contractor presently has a training board program; however, they are not state approved. What was the completion date that you thought perhaps that if things went well, that you would be able to have the plan in place for a state-approved driver's training school?"

Ms. Hutchins: "Looking at the status and talking with Ms. Kareen, that probably they will have that in place as even as the fall. However, there's no fiscal note for it yet. So that would mean, at least a year before it could be implemented."

Ms. Kareen: "There will be an appropriation required for implementation for this driver training program to get it coordinated, to get the materials to sell it, to conduct work shops for instructors to go back to the respective areas and to train the school bus drivers, to conduct workshops for school districts, and we will have to develop a local plan for their own area for the required school bus driver training needs in their respective areas. So it will take at least a year to get it off the ground in an appropriation required for that. If we had monies in our FY 87 budget, we could begin working July 1, 1986 and could have the workshops conducted etcetera I would think by June 30, 1987."

Number 680

Representative Cato thanked the teleconference participants for their contribution. Ms. Hutchins thanked Representative Jenkins for sponsoring the bill.

Representative Cato then called to the table Bill Brown of the Department of Public Safety, Division of Motor Vehicles.

Mr. Brown: "This basically does two things as far as changing from the present system. We do a background check at this time; however, it's strictly of Alaska arrests. We, therefore, find out of an arrest in another state only if that person has been arrested up here also and therefore the record from the other state has been forwarded to Alaska. The two changes is, number 1, it requires the check to be made before the license is issued and, number 2, it requires..._a national check_."

CHANGE TAPE #42 TO SIDE TWO

Number 003

Mr. Brown described the current system of criminal checks and the issuance of school bus driver permits. Discussion then ensued on this topic.

Mr. Brown: "There's a couple concerns. One of them, I just hit on today: on subsection (e) on page three, on lines 12-14 where it refers to 'listed under (c) of this section,' it should also include, 'under (c) or (d) of this section' if (d) is not added there. You can only count DWI's within Alaska. If (d) is added to that subsection (e), we could also count DWI's that occur in another in another state because (d) is very specific. It refers to DWI under an Alaska statute. Possibly, the statute section would not have to appear on lines 7 of page 3 and just refer to convictions of driving while intoxicated." /

"...Another concern, of course, that we have is in regards to and it was expressed by Ms. Hutchins is is the time period that it takes to get a result of a fingerprint search-- possibly, is something that the department would have to work on. In our position paper we indicated that it would be a three week lag. In my opinion, that's a minimum

at this specific time. It's the mail process that's the delay and not the computer process in Anchorage."

Number 069

Representative Pignalberi expressed his concern of how this bill affects school bus drivers and the contractors. Representative Cato expressed her belief that the bill does not go far enough and that it should apply to janitors and other people who are around school children. She asked Representative Jenkins if he could work on this bill during interim so that it would encompass this issue. Representative Jenkins did not object to this and said that he would work on this during interim. Representative Cato announced, then, that HB 409 would be held in committee.

Number 241

Representative Pignalberi moved to pass out of committee HB 413, "An Act providing for the issuance of general obligation bonds in the amount of \$350,000,000 for the purpose of paying the cost of transportation projects; calling for a special election on the question; and providing for an effective date." Representative Cato repeated his motion and asked if there were any objections. Being none, so ordered.

Representative Cato asked if there was further business to be brought before the committee. Being none, she adjourned the meeting at 8:11.

HOUSE TRANSPORTATION COMMITTEE
January 22, 1986
7:00 a.m.

Members present:

Rep. Bette Cato, Chairman
Rep. Mike Davis, Vice-Chairman
Rep. Richard Shultz
Rep. Marco Pignalberi
Rep. Adelheid Herrmann
Rep. Andre Marrou
Rep. Walt Furnace

COMMITTEE CALENDAR:

HB 409 "An Act relating to licensing of school bus
drivers; and providing for an effective date."

WITNESS REGISTER:

Rep. Roger Jenkins
P.O. Box V
Juneau, Alaska 99811
Position: Witness and Sponsor - In favor of the bill

Bill Brown
Division of Motor Vehicles
Department of Public Safety
P.O. Box N
Juneau, Alaska 99811
Phone: 465-2650
Position: Witness - In favor of the bill

Romayne Kareen, Administrator
School Transportation Program
Department of Education
P.O. Box F
Juneau, Alaska 99811
Phone: 465-2890
Position: Witness - In favor of the bill

Sandra C. Hutchins, Chairman
The Alaska School Bus Safety Committee
P.O. Box AB
Palmer, Alaska 99645
Phone: 745-4822
Position: Witness - In favor of the bill

PREVIOUS ACTION

ACTION NARRATIVE

TAPE ONE SIDE ONE
Number 000

The House Transportation Committee was called to order by Rep. Cato at 7:04 with the following members present: Rep. Shulz, Rep. Herrmann, Rep. Furnace.

Rep. Cato addressed HB 409 and reminded the committee to review the minutes from 05/09/86 when the bill was first heard and introduced Rep. Jenkins, the sponsor.

Number 040

Rep. Marrou joined the committee.

Rep. Jenkins testified that HB 409 would set minimum requirements for school bus drivers and puts the State Department of Public Safety regulations into law as well as add the following:

- (1) Applicants must complete a state approved school bus driver training course.
- (2) Applicants must supply the Department of Public Safety with sufficient information to complete national criminal records checks.
- (3) The applicant must successfully complete a background check within the state or states which he or she has resided for at least the past 2 years.
- (4) The applicant must not have been convicted of a felony or misdemeanor involving distribution of a controlled or imitation controlled substance.
- (5) The applicant must not have been convicted of a felony or misdemeanor involving distribution of a controlled or imitation controlled substance.
- (6) The applicant must not have been convicted of driving while intoxicated within two years or must not have been convicted of multiple DWI's.
- (7) The applicant must bare the cost of background checks.

Rep. Pignalberi joined the Committee.

Rep. Jenkins reviewed a fiscal note and the sectional analysis from Legal Services.

Number 183

Rep. Cato suggested that Sec. 28.15.046 section b, number 6, be deleted by mutual consent of all members present due to a lack of an educational program at present.

Rep. Jenkins agreed.

Rep. Marrou questioned whether there are presently any problems which this bill is based upon.

Rep. Jenkins said he knows of 2 major accidents in the Eagle River area.

Rep. Marrou questioned whether those accidents would have been prevented by this bill.

Rep. Jenkins said he thinks so.

Rep. Marrou questioned whether such a small fiscal note is accurate. He also refuted having 20 years for the length of time which persons with various criminal records can receive a license.

Rep. Jenkins said the numbers in the bill all came from the current Public Safety Regulations.

Number 302

Rep. Pignalberi said the title is too narrow for the scope of the bill since it applies to all commercial vehicles and compared it to HB 133 which passed into law last year.

Rep. Jenkins said the major difference between the bills is that HB 409 specifies age 19 rather than 21.

Rep. Pignalberi asked about the applicant's cost of obtaining a background check and asked if teachers are required to have a background check as well.

Rep. Jenkins said that other witnesses present were more informed this information.

Number 372

Bill Brown of Division of Motor Vehicles approached the committee and answered questions that the committee had previously asked. He specifically addressed the severity of the 20 years penalty for two or more DWI's or other criminal offenses.

Number 441

Rep. Cato inquired into the difference between last year's and the more recent fiscal note.

Bill Brown said the first one was based on pure estimation because they did not have a database when devised and the newer note is based on actual numbers which have been tallied since the first note was written.

Number 453

Rep. Shultz asked, "Have you run this by the school bus contractors...how would a contractor that lives at Grizzly Lake, for example, have a training program?"

Bill Brown replied that he assumed the training program details would be handled by the Department of Education.

Rep. Shultz asked if the applicants did have to go to Anchorage for the training program, who would pay.

Bill Brown said he would like the Dept. of Education to answer that. He said he did not get input from any of the contractors.

Rep. Schultz said the committee should solicit input on this legislation from the bus contractors.

Number 492

Rep. Marrou stated that he objects to the fiscal notes because they seem arbitrarily constrewed.

Bill Brown said the purpose of the fiscal note is to cover the background check because the Dept. of Public Safety will have to write checks in their name to the F.B.I. and applicants will write their \$12 check to the department: in effect, the fiscal note would just finance these transactions.

Rep. Marrou said this bill would not cost Alaska any money and therefore should not have a fiscal note.

Number 534

Rep. Pignalberi inquired as to the cost to the applicant.

Bill Brown said the applicants would need to pay the \$12 plus an annual \$2 school bus license which they are already paying at present.

Rep. Pignalberi asked for a reiteration on the time-lapse problem in procuring a background check.

Bill Brown said if the person has stayed in Alaska for the last 2 years, the search should only take 2 to 3 weeks but if the person resided out of the state within the last 2 years, the search has to be made south and it takes 6 or 7 weeks to get results. Additionally, it takes another week for the Dept. of Public Safety to process the application.

Rep. Pignalberi asked, "Do you have the authority to give them an interim license and let them work pending completion of the background check?"

Bill Brown told the committee they would have to amend this bill to allow that.

Number 572

Rep. Cato asked the committee and sponsor to consider an amendment that would allow the Department of Public Safety to issue temporary licenses until the background check has been completed.

Rep. Furnace objected to the temporary license amendment because he feels 3 weeks is reasonable time for an Alaskan to wait and 2 months is reasonable for a nonresident.

Rep. Marrou agreed with Rep. Furnace.

Rep. Cato asked if there is a motion to amend.

Rep. Pignalberi asked if the committee could work on the bill after the meeting.

Rep. Cato said the committee does not have to pass the bill today.

Number 606

Rep. Pignalberi declared a possible conflict of interest because he provides consulting services to a company that bids and does not now have bus contracts in the municipality of Anchorage.

Rep. Cato said that she thought the relationship was too remote.

Number 610

Sandra Hutchinson introduced herself and voiced her support for HB 409 and specified, "On page two of HB 409, line 5, ...talking about a clarification if the one year period is for licensing... We would support a clarification that specifies that the applicant for school bus license must have been licensed as an Alaskan driver for the one year immediately proceeding....

"On line number 9 and looking at number 4 and number 5 together, we're talking again about the background check: the national background check, the state of Alaska background check and the out-of-state check. This area is a real concern both to the contractors and to the school districts. It has been a concern and a problem for some time. The problem is that you get drivers who have a criminal, even a criminal action in process, you don't know about it or they've had previous criminal actions and convictions and you don't know about it. They could pick

up DWI's and you don't know about it. It has created problems in both the district operations and the contractor operations and particularly in the high growth areas. We support a background check: national, state and out-of-state, we think it's very important. The problem is with the timing and we would like to see the out-of-state background check moved up to number 4 to fall into the same provisions as the national background check. We read the bill to indicate that you must have successfully completed a state background check, an out-of-state background check, and apply for the national background check to be issued a pending license until the national background check has cleared. What we'd like to do is move the out-of-state background check to the same provision as the national because of the time frames. It is extremely long. The people who are being licensed as school bus drivers, maybe half of them are from other states. The real problem would be that many of the contractors would not be able to staff school buses with drivers in time, unless you start licensing in June. And because school bus driving is a seasonable work, they work during the winter, they drive school bus and when May comes you have an exodus. They're finding summer work to supplement their winter work. School bus driving is part-time, it does not provide full-time employment and therefore these people often work in the summer. So starting in June to do your training and background check is a real problem. We would like to request consideration of moving the requirement for the out-of-state background check to the same provision as the national background check which will give us a little more time.

"Number 6 is one of the most critical parts of this bill as (indiscernable) ask for reconsideration of your amendment. I have been with the school district ten years. I have been chairman of the state committee and the association for three. I've been in pupil transportation all of that time. I cannot remember a time when school bus driver training has not been an issue both to the contractors and the districts and we are not separated on this issue. We need a uniform mandatory training program. Training in the districts starts at little to nothing to expensive programs. Depending on what districts require or how well they monitor their programs of the contractors. The districts get the kind of program based on what they ask for and how well they make sure it happens. We do not have a uniform program. We do not have a mandatory program. At least two years ago, the Department of Education appointed a committee of districts and contractors to sit down and develop a uniform mandatory program that would work for small districts and large districts. At the time this bill came up, it was not complete. It has been completed over the summer. The department of Education did provide in their budget to

implement the program. It was sent to the Governor and it was cut in the Governor's office. Along with that program, was a school bus inspection program. It was a combination program where they utilized the same personnel to save money. So we lost the funding for both programs. At least two years ago the state also appointed an inspection committee to address the school bus inspection problems. Also again a committee of school district and contractors. The conference committee substitute bill 133, did not address school bus safety problems. We need a mandatory program for school bus training that program has been developed it is being prepared in final draft for the state school board.

"I would like to refer you now for the specifics of that program to Romaine Karen who is here as the Transportation Officer for the state. It has full support and participation of contractors and school districts over a two year period. The program provides for training of an instructor from each of the districts or from each of the contractors. It provides for the basic minimums of a program. The school district and the contractor then have the option to put together a program that fits their district, meeting the basic minimums. They do that on site, they don't have to go to Anchorage. The program provided for an instructor that would go to their district and to the contractor to prepare, to train for them their own instructor, someone qualified in their own district to carry on from year to year. The fiscal note that was attached to that program was very small."

SIDE TWO
Number 000

Rep. Cato asked if the committee did not delete section 6, if there would be time in the hiring of bus drivers for them to have already had the training course prior to being hired.

Sandra Hutchinson replied that the program provides for phasing in and it only applies to new contracts. She said, "...We really would suggest that number 6 be amended to designate the Dept. of Education as the agency to develop and implement and to monitor a mandatory driver training program, that there be a fiscal note attached, and that the provisions of the training program provide for new training for new people and for a much lesser refresher course for incoming drivers. There is time to put that in effect even for districts that do not have ongoing contracts however the program would apply as far as a mandatory program to districts with new contracts because it needs to be included in that contract that you would give your contractor. Otherwise it's something that your ongoing contractor would not be required to fill because

there is a cost to the district and to the contractor and there is a gearing up for it so there is a phase in of that situation. You don't go out and suddenly require everybody to do it because everybody's not prepared. But in a period of time and most of the contracts turn over in a five year period and we're not all on the same schedule, every year there's a few contracts. I think we had nine contracts come up this year. So there's a phase-over, in a period of five years everybody would be on it."

Rep. Pignalberi asked Sandra Hutchins if it would be acceptable to her if the committee reinstated a provision like section 6 but which would approve private driver training programs rather than create a "little bureaucracy in that department to establish and administer a driver training program."

Sandra Hutchins replied, "I think under the present program this could be done because the state would simply set the minimums and then the district submits their own program from the contractor. The contractor actually has his own program. He submits it to the district for approval and it goes to the state. So that would not preclude a private (indiscernable)."

Number 087

Rep. Marrou agreed with Rep. Pignalberi. He said that she made a "good case" for setting up private driving schools or the Mat-Su school district setting up a driving school. He noted that none of the other school districts in the state were present.

Sandra Hutchins said she was not representing Mat-Su. She said this issue has been researched and is the development of several district's work. She said the problem is that many districts do not require training and half the fatality statistics for students are caused by the driver which directly relates to training. She included, "The recommendations from the National Traffic Safety Administration to the National Highway Traffic Association, that agency which promulgates the rules for safety regarding school buses, was that rather than seat belts, money needs to be spent on driver training that provides for proper training of the drivers when transporting students because that's where the problems are. What we have is little or no training to considerable amounts of training and some of the districts like mine require it. We monitor it and we make sure the training happens, it's not happening: and that's the issue.

Number 130

She continued, "In response to the question of the bureaucracy:... in a sense, it all is. We're simply moving it from one state agency to another which we feel more appropriately is assigned.

Number

Rep. Pignalberi asked if there was a way to shift the emphasis away from state government.

Sandra Hutchins replied, "I think if you look at the program you'll see that the only thing that the state government will be doing here is (1) to require the mandatory program and to issue the basic minimums, (2) approve those programs (which are) set up by districts through your contractor that it does meet the basic minimums and (3) to provide a trainer to train those areas where they do not have access to the facilities and to the expertise.."

Number 170

Rep. Davis joined the committee.

Rep. Shultz asked how many times fatalities have occurred in the state in the last decade.

Sandra Hutchins said once last year to her knowledge and referred him to Romyne Kareen. She said that statewide half of fatalities are caused by the driver, the other half are caused by motorists who pass when buses stop.

Rep. Shultz asked how Alaska compared to the rest of the states statistically with accidents and fatalities.

Sandra Hutchins replied that she believed it was a good record but again referred him to Romyne Kareen.

Number 205

Rep. Schultz asked if she could credit the good safety record to the conscientious and concerned contractors.

Sandra Hutchinson agreed and said the reason that we don't have more children killed by the bus drivers is because we do have some training programs.

Rep. Marrou said he agrees with Rep. Shultz. He said that since school bus driving is essentially run on a district or private enterprise level, it is logical to keep it that way.

Rep. Cato explained that the school districts are funded by the state in full.

Rep. Herrman inquired if indeed all of the contractors support school bus training.

Sandra Hutchins said that contractors did and testified this last spring.

Rep. Davis asked for information specifying which districts currently don't train. He expressed concern for backup drivers having training and licensing in the case of absences.

Sandra Hutchins replied that she didn't have that information with her. She also said that the contractors always have backup drivers available who go through licensing and full training.

Number 356

Rep. Cato instructed the committee staff to work with Rep. Jenkin's staff and bring this bill up the following week. She introduced Romyne Kareen.

Romyne Kareen responded to previous questions:

To Rep. Shultz she said there have been three fatalities in Alaska in the last three years involving school buses.

To Rep. Pignalberi she said that school bus drivers contract for lengths which vary from 3 to 5 years.

To Rep. Marrou and Rep. Pignalberi, regarding private enterprise, she said it wasn't the intent of the department's request for an appropriation to establish a bureaucracy and the department could contract with private industry to work closely with the department.

Number 405

Rep. Pignalberi asked how many employees are presently in the school district transportation administrator's office. He also asked if there is presently a standard for driver's training.

Romyne Kareen replied that she is the only one in that office and that there is only a federal standard, standard 17 that highly recommends 40 hours of training. However, the state of Alaska has not adopted standard 17. She added that at this point they have a "master plan" for a required program but they are not financially "geared up" to implement this plan.

Rep. Pignalberi asked that if section 6 were passed in some form, if the school districts would be left on their own to

work out the mechanics of a problem, either through a contractor or through their own means.

Romayne Kareen agreed and said that the program would begin in the development phase in July 1, 1986, pending an appropriation, and the implementation would begin July 1, 1987.

Rep. Pignalberi was concerned that the program budget impact would be larger than fiscal note showed. He suggested putting legislative intent language in the bill to ask the Department of Education "to go as far as they can with the master plan and come in for funding next year."

Number 454

Romayne Kareen listed the fiscal note figures and what they included. The fiscal note would be delivered to the committee legislators later in the day.

Rep. Cato asked Rep. Pignalberi to work with the sponsor and the Department of Education and Sandra Hutchins to change the bill so it can be scheduled next week.

Romayne Kareen said at that time she would bring some contractors to testify at that time.

Number 608

Rep. Cato adjourned the meeting at 8:20.

HOUSE TRANSPORTATION COMMITTEE
January 28, 1986
7:00 a.m.

Members present:

Rep. Bette Cato
Rep. Mike Davis
Rep. Dick Shultz
Rep. Adelheid Herrmann
Rep. Andre Marrou
Rep. Walt Furnace

COMMITTEE CALENDAR:

CS HB 409 "An Act relating to training and licensing of school bus drivers; and providing for an effective date."

WITNESS REGISTER:

Loretta Nistler
Alaska Motor Coaches
P.O. Box 988
Delta Junction, Alaska 99737
Position: Witness - in favor of the bill

Tom Hyatt
President, Alaska School Transportation Association
P.O. Box 770350
Eagle River, Alaska 99577
Phone: 694-2921
Position: Witness - in favor of the bill

Bob Shefchik
Transportation Coordinator
North Star Borough School District
578 Canoso Road
North Pole, Alaska 99705
Phone: 488-6550
Position: Witness - in favor of the bill

Steve Kalmes
Director Transportation Services for
Anchorage School District
3500 Tudor Road
Anchorage, Alaska
Phone: 563-3022
Position: Witness - in favor of the bill

Don Swain
Director of Personnel Safety Training for
Transportation and Marketing Services
1224 27th Street
Fairbanks, Alaska 99701
Phone: 456-1598
Position: Witness - in favor of the bill

Lola May Field
Laidlaw Transit
P.O. Box 2560
Soldotna, Alaska 99669
Position: Witness - in favor of the bill

Christine Flegel
1040 E. 1st Avenue
Anchorage, Alaska
Phone: 276-7823
Position: Observer

Henry Hammond
1040 E. 1st Avenue
Anchorage, Alaska
Phone: 276-7823
Position: Observer

PREVIOUS ACTION:

HB 409:	DATE	PAGE	ACTION
	04/29/85 (H)	1159	READ THE FIRST TIME WITH REFERRAL(S)

ACTION NARRATIVE

TAPE ONE SIDE ONE

(A mix up with the tape begins the recording at 056. Numbers 000 to 056 are the completion of the meeting, which were actually taped over the beginning in error.)

Rep. Cato called the meeting to order at 7:00 a.m. with Rep. Marrou, Rep. Shultz, Rep. Furnace, Rep. Herrmann present.

Rep. Cato suggested that a motion be made to adopt the CS.

Number 056

Rep. Marrou objected to the adoption of the CS based on his

understanding that the fiscal note in committee does not apply to the CS and in his opinion, a driver training is not needed.

All present voted to adopt the CS except Rep. Marrou.

Rep. Cato described the four changes the CS has brought to HB 409:

(1) A section has been added to allow the Department of Education to develop, implement and monitor a mandatory driver training program.

(2) The out-of-state criminal check has been added to the section which covers that national background check in order to allow the Department of Safety to issue a temporary license pending investigation of the national and out-of-state check.

(3) A technical amendment was needed to include "driving while intoxicated" for purposed of determining whether an applicant has been convicted of an offense of this section.

(4) The effective date was changed to September 1, 1987, as the Department of Education would begin the development phase of the training course in July 1, 1986 pending an appropriation and would be implementing this program in 1987.

Rep. Davis joined the committee at 7:07.

Rep. Davis moved that the committee delete the words "and 5" from page 3, line 19.

There were no objections to that motion.

Number 134

Rep. Jenkins, the sponsor, spoke generally on behalf of the bill and the recent committee substitute of the bill.

Bob Shefchik testified from Fairbanks in favor of the bill.

Loretta Nistler testified from Delta Junction in favor of the bill.

Rep. Davis voiced his concern for the impact of this bill on smaller school districts.

Number 287

Lola May Field testified from Soldotna in favor of the bill.

Number 317

Don Swain testified from Fairbanks in favor of the bill.

Rep. Davis said that he would telecopy the CS to Fairbanks for Don Swain to look at.

Bill Brown clarified the subject of background checks for Don Swain.

Rep. Herrmann asked how far the \$104,000 in the fiscal note would go.

Tom Hyatt testified from Anchorage in favor of the bill.

Number 445

Steve Kalmes testified from Anchorage in favor of the bill.

Rep. Davis asked how much an average school bus driver earns.

Steve Kalmes said between \$8 and \$12 per hour.

Rep. Davis asked if there is a particularly high turnover due to the pay.

Steve Kalmes said he saw more of a problem with the time lapses due to background checks and training.

TAPE ONE SIDE TWO

Number 000

Rep. Cato explained to Steve Kalmes that the CS would take care of his concern by providing for temporary licensing.

Rep. Davis requested Legislative Information to telecopy Steve Kalmes a copy of the CS.

Rep. Herrmann asked Mr. Hyatt if all the school bus contractors in the state are members of his organization.

Tom Hyatt said most of them are.

Number 062

Romayne Kareen testified in favor of the bill and volunteered to answer questions.

Rep. Davis asked if the fiscal note applied with the CS as it did the original bill.

Romayne said the driver training portion of the bill hasn't changed and the Department of Education's note was still accurate.

Rep. Davis asked where the temporary license costs would be counted.

Number 118

Rep. Furnace asked if the committee should view the two most recent fiscal notes to get the whole fiscal impact: one from Dept. of Public Safety and the most recent from Dept. of Education.

Romayne Karen clarified that the Public Safety fiscal note balance was zero.

Number 142

Rep. Marrou said the fiscal note from the Dept. of Education is obsolete and does not apply to the CS.

Romayne Karen restated that the same program has been brought forth to the CS and, therefore, the same fiscal note applies.

Rep. Marrou said the CS establishes a school bus driver training course but the original bill specifies a "state approved" training course.

Rep. Davis expressed his interpretation of the bill.

Number 215

Rep. Cato said she agreed with Rep. Davis.

Rep. Herrmann asked Romayne Karen for clarification on contractor requirements pertaining to this bill.

Number 278

Rep. Shultz asked Bill Brown if the Division of Motor Vehicles could include in their regulations the temporary licensing procedure.

Rep. Cato said the committee will request a written commitment from the Dept. of Public Safety that they will adopt a temporary licensing procedure.

Romayne Karen asked why the bill referenced the Dept. of Public Safety rather than the Dept. of Education.

Ronda Cargill clarified that the Dept. of Education is to oversee and coordinate the Dept. of Public Safety's shared role in regard to the bill's program.

Number 349

Rep. Marrou voiced his opposition to the "excessive" times stipulated in HB 409 and CS HB 409 in regard to DWI's and child molesters.

Rep. Marrou moved that the 20 years be changed to 10 on page 2, line 22 1/2, and on page 3, line 11 1/2, change 20 years to 5 years.

Rep. Davis objected to the motion.

Rep. Jenkins added that he derived these numbers for years from the Division of Motor Vehicle regulations.

Number 425

Rep. Shultz requested that the motion be divided into two parts.

Rep. Marrou restated the motion: page 2, line 22 1/2, change 20 years to 10 years.

Rep. Davis, Rep. Furnace, Rep. Herrmann and Rep. Cato objected to the motion. Rep. Marrou and Rep. Shultz voted yes. The motion was denied.

Rep. Marrou moved that page 3, line 11 1/2, change 20 years to five years.

Bill Brown clarified, "The current regulation in regards to the second DWI is permanent (license forfeiture) for school bus drivers".

Rep. Shultz said, "twenty years is about as close to permanent as you can get".

Every representative voted no on the second motion except Rep. Marrou.

Rep. Shultz moved that page 3, line 11 1/2, be changed from 20 years to 10 years.

This amendment was passed by Rep. Cato, Rep. Shultz, Rep. Herrmann, and Rep. Davis voting yes.

Rep. Shultz moved that CS 409 with the amendment be moved out of committee with individual recommendations.

HOUSE STATE AFFAIRS
STANDING COMMITTEE
February 3, 1986
3:00 p.m.

Members Present:

Rep. Katie Hurley, Chair
Rep. Bette Cato
Rep. Virginia Collins
Rep. Roger Jenkins

COMMITTEE CALENDAR

CSHB 409 (Transportation):

An Act relating to training and licensing of school bus drivers.

Campaign Financing Work Session

WITNESS REGISTER:

Bill Brown, Chief
Driver Services
Division of Motor Vehicles
P.O. Box 20

Juneau, AK 99802

Phone: 465-4335

Position Statement: Available to answer questions on CSHB 409.

Romayne Kareen
Pupil Transportation Officer
Department of Education
Pouch F

Juneau, AK 99811

Phone: 465-2865

Position Statement: Available to answer questions on CSHB 409.

Theda Pittman, Director
Alaska Public Offices Commission
610 "C" Street, Suite 211
Anchorage, AK 99501

Phone: 276-4176

Position Statement: Comments on proposed campaign finance legislation.

PREVIOUS ACTION

HB 409

04/29/85 (HO 1159 Read the first time - referrals
01/29/86 (H) 1916 TRSP RPT CS new title
3DP 1NR 1DNP
2 fiscal notes HSE SUPPL 78
State Affairs, Finance, Rules

ACTION NARRATIVE

TAPE 72 SIDE ONE

Number 000

The House State Affairs Committee meeting was called to order at 3:00 p.m. Members present were Rep. Hurley, Chair, and Reps. Cato, Collins, and Jenkins.

Number 015

Chair Hurley brought CSHB 409 (Transportation) before the committee for consideration.

Number 020

Rep. Jenkins, sponsor of the bill, thanked Chair Hurley for her prompt scheduling of the bill and stated that it has had three hearings in House Transportation Committee resulting in a good committee substitute.

Rep. Jenkins said that the legislation takes existing Alaska State Department of Public Safety regulations and implements them into statute and adds provisions for a bus driver training course, national criminal records check, and state background check. In addition, CSHB 409 states that individuals cannot be licensed if they have been convicted of certain felonies and misdemeanors.

Rep. Jenkins concluded by stating that the bill has wide support from school districts and school bus contractors.

Number 225

Rep. Cato stated that the bill received close scrutiny in the Transportation Committee and she feels it is a good bill.

Number 236

Chair Hurley announced that Bill Brown from the Department of Public Safety and Romaine Kareen from the Department of Education were available to answer questions if needed.

Number 260

Rep. Cato moved that CSHB 409 (Transportation) be passed out of committee with individual recommendations. There being no objections, the motion carried.

Number 323

Chair Hurley brought before the committee the subject of proposed campaign finance legislation. She stated that Theda Pittman, Director of the Alaska Public Offices Commission, was connected by teleconference to offer comments and answer questions should the need arise during discussion.

Chair Hurley said that it was not the committee's intent to take a negative stand on the Senate's legislation. In addition, she stated that the committee has a very rough draft before them to consider and discuss some policy decisions.

Number 358

Senator Bill Ray relayed information from the Senate State Affairs Committee. He stated that the committee had met today with the Attorney General and the Committee's legal counsel. A disagreement over several points involving penalties and enforcement resulted in a meeting being scheduled to work on a compromise.

Number 406

Chair Hurley thanked Senator Ray for his comments and asked him to tell Senator Abood that the House State Affairs Committee has no desire to compete with the Senate's legislation and is only considering a working draft to speed up the process due to the shortness of the session.

Number 445

The committee discussed contribution limits for political action groups.

Number 681

Rep. Boucher asked the chair if it would be possible to obtain information on the increased cost of campaigns.

Number 703

Ms. Pittman reported that her office had figures on campaign expenses and that in 1972 it cost \$331.00 to

purchase what now costs \$1,000. In addition she gave comparative figures for the average cost of running for the House and Senate in 1976 and 1982.

Number 832

Chair Hurley asked Ms. Pittman's opinion of SB 356, Sec. 15.14.350 regarding confidentiality of investigations.

Number 850

Ms. Pittman responded that she feels that the language overlooks what generally happens when an individual files a complaint. She stated that it is difficult to maintain confidentiality when the person filing the complaint often takes the matter to the press at the same time that they file with her office.

TAPE 72 SIDE TWO

Number 120

Chair Hurley stated that the committee will follow up on this issue and determine if language can be drafted which would address this concern.

Number 138

The committee discussed the reporting of expenditures.

Number 312

Chair Hurley stated that the committee will not consider the sections on violations and enforcement until the Senate has held their meeting to discuss these issues.

Number 489

Ms. Pittman announced that the next meeting of the Alaska Public Offices Commission is scheduled for February 27 and 28, 1986 in Anchorage.

Number 497

Chair Hurley thanked Ms. Pittman for her participation and stated that the committee would continue to work on various aspects of campaign finance legislation but postpone further discussion until the Senate State Affairs Committee has made some decisions regarding their bill.

Number 526

The meeting was adjourned at 4:15 p.m.

HOUSE FINANCE COMMITTEE
February 28, 1986
1:30 p.m.

(Tape HFC 86-19, Side 1, #000-end)

CALL TO ORDER

Chairman Adams called the meeting of the House Finance Committee to order at 1:30 p.m.

PRESENT

All members of the Committee were present except Representatives Duncan, Ringstad and Uehling. ALSO PRESENT: Representative Jenkins; Commissioner Nordale, Department of Revenue; Bruce Botelho, Deputy Commissioner, Taxation, Department of Revenue; Dorothy Jones, Mayor, Mat-Su Borough; Robert Van Hook, Tax Counsel, SOHIO Alaska Petroleum Company; and Jim Palmer, Associate Director, Government Affairs, SOHIO Alaska Petroleum Company.

SUMMARY INFORMATION

HB 409 An Act relating to licensing of school bus drivers; and providing for an effective date.

Transportation Committee Substitute reported out of committee with a "do pass" recommendation and two zero fiscal notes.

HB 502 An Act relating to disclosure of state tax assessments of the Department of Revenue.

Bill HELD in committee. Scheduled for further hearing on Monday, March 2.

HB 409

HB 409 - An Act relating to licensing of school bus drivers; and providing for an effective date.

Chairman Adams informed members the bill would require the Department of Education to train school bus drivers. He said the Department had been in the process of gearing up for this training for some time and the bill would also require school bus drivers to be licensed. Chairman Adams said in order to get a license a person would have to submit to a fingerprint check, which the applicant must pay for, and a person convicted of various felonies would be prohibited from getting a school bus driver's license. According to Chairman Adams, Department of Education had requested over \$100,000 to train bus drivers, and even though the bill would not go into effect until the 1987 school year, they wished to start training this coming fiscal

year. At the suggestion of Representative Larson, Education Subcommittee Chairman, a zero fiscal note was prepared by Chairman Adams. He indicated that intent language would be added in the Department's budget to require the department to pay for the training with part of the \$24 million they are requesting for pupil transportation.

REPRESENTATIVE JENKINS, SPONSOR OF THE BILL, informed members the bill had received hearings in several committees and was widely supported by school districts, school bus contractors and many individuals. He said the bill received community-wide support as well and encouraged its approval. He summarized the bill and changes made by the Transportation Committee.

DOROTHY JONES, MAYOR, MAT-SU BOROUGH, informed members they support CS HB 409 (Transportation) and urge its passage. Ms. Jones said parents like to have the feeling when their child gets on the bus they are entrusting them to a school district where safety is paramount. She encouraged the Committee to support the bill.

Representative Rieger MOVED to report out of committee CS HB 409 (Transportation) along with two zero fiscal notes dated 2/27/86 and 1/28/86. There being NO OBJECTION, it was so ordered and CS HB 409 (Transportation) was reported out of committee with a "do pass" recommendation and two zero fiscal notes.

HB 502

HB 502 - An Act relating to the disclosure of state tax assessments of the Department of Revenue.

COMMISSIONER NORDALE, DEPARTMENT OF REVENUE, referenced the Finance Committee Substitute work draft for HB 502, providing members with copies of suggested amendment changes (Attachment 1). Commissioner Nordale felt the bill would provide an excellent procedure to enable the Department of Revenue and the Legislature to establish, what she felt, the appropriate relationship with regard to the oversight of taxation matters, development of legislation, and conveyance of information necessary for informed decisions by the Legislature. According to Commissioner Nordale, the Department of Revenue had worked with members of the Committee to develop a bill which would address a number of issues and it was her feeling the Committee Substitute was the best draft obtainable at the time. She noted the procedure established in the bill was closely patterned after the federal procedure establishing the relationship between the U.S. Department of Treasury, IRS and Congress. Commissioner Nordale said due to the fact state tax laws are patterned closely after federal law, seeking federal basis for the procedure offers the Department precedential value.

Commissioner Nordale referenced the proposed amendments discussing each one briefly. She said their amendment number one, would insert on page 2, line 24 a new subsection 2, dealing with confidentiality of information. She noted their concern that all employees of the Legislature be covered by the requirement of confidentiality. Additionally, the Department recommended the deletion on page 4, line 4 of the language which would read "but the committee may not designate an employee or agent who has responsibility for a different investigations of the same taxpayer or third party". She said their reading of the proposed language is that it implies the Legislature could not adequately screen its own employees and the language suggested constriction on the Legislature to employ individuals who are not appropriate.

Amendment number 3, to insert at page 4, line 23 after "receipt", the word "safekeeping", would provide a mechanism for retaining confidential information as confidential according to Commissioner Nordale. She said it is a word used in agreements between the State of Alaska, Department of Revenue, and U.S. Internal Revenue Service and is frequently used in statute. The last amendment, to insert at page 4, line 26 a new subsection (k) to read: " (k) Nothing in this section permits the disclosure to the legislature of confidential information provided by the Internal Revenue Service under exchange agreements with the department" was specifically asked for by the IRS for inclusion in the bill. Commissioner Nordale encouraged the adoption of the new subsection to avoid any jeopardy of exchange agreements between the Department and Internal Revenue Service. There was discussion concerning the proposed amendments.

ROBERT VAN HOOK, TAX COUNSEL, SOHIO ALASKA PETROLEUM COMPANY, provided members with testimony outlining reasons for their opposition to HB 502 (Copy of testimony is on file). He said HB 502 would empower a legislative panel to perform functions properly delegated to the Department of Revenue and would increase the likelihood of litigation. Mr. Van Hook said despite sanctions against disclosure of confidential information, SOHIO expressed concern that unauthorized disclosure of confidential information would result and such disclosure would cause material competitive prejudice.

Representative Szymanski questioned the effects of the bill on SOHIO regarding the tax audit process. Mr. Van Hook said the scope of the review is not identified at any time. He said they read the bill to say information could be submitted as soon as they file a return. He said there are no limitations outlined in the legislation as to what powers are included in the oversight function. He said federal law is more specific. There was discussion concerning SOHIO's internal controls for maintaining confidential information in-house.

Representative Cotten discussed SOHIO's concern that a Legislative panel could exceed permissible oversight functions, raising new issues and performing a secondary review of proposed audit settlements essentially performing an executive branch function. Mr. Van Hook discussed the concern in relationship to proposed settlements and settlement agreements. There was discussion concerning language contained in sections 2 and 3 dealing with disclosure and legislative immunity.

Representative Pourchot referred to SOHIO's proposal that HB 502 provide for notice to the taxpayer that the taxpayer's records have been requested and which records had been turned over to the legislative committee. He asked if there was a problem with this type of inclusion feeling it a reasonable request. Commissioner Nordale said they would discourage consideration of the amendment as the general practice is to avoid specific identity with respect to information so long as it does not diminish the real information which is necessary. Representative Pourchot did not see the notice having to be made prior to receipt of information by the Committee except in a case where information was being requested for a specific taxpayer. There was further discussion concerning types of information necessary for review.

(Tape Change, Side 2)

Representative Cotten MOVED AND ASKED UNANIMOUS CONSENT that the Committee adopt the Committee Substitute work draft dated 2/27/86 for HB 502. There being NO OBJECTION, it was so ordered.

Representative Binkley expressed his support of HB 502 noting the authority to review assessments is powerful and the Legislature needs to be careful as to assigning the authority to Legislative Committees. He MOVED to delete on page 3, line 24 after "may" the words "with the written concurrence of the speaker of the House of Representatives or the president of the Senate" and insert the words "by simple resolution" and on page 3, line 29, delete the word "request" and insert "resolution". There was discussion concerning the effects of the amendment in relationship to a committee of the legislature.

RECESS

Chairman Adams called a recess at 2:25 p.m. He recalled the meeting to order at 2:27 p.m. informing members he would continue to accept motions and conceptual motions with the intent the subcommittee would meet, incorporate said motions into a new draft Committee Substitute, and bring the bill before the Committee on Monday, March 3.

Representative Cotten MOVED AND ASKED UNANIMOUS CONSENT to adopt amendments number one through four as presented by the Department of Revenue and contained in Attachment 1. There being NO OBJECTION, it was so ordered.

Representative Pourchot MOVED to adopt a "conceptual amendment" to be contained on page three, line 29 which would state "notification shall be provided to a particular taxpayer when tax return information for that taxpayer has been requested". There being NO OBJECTION, it was so ordered.

ADJOURNMENT

The meeting adjourned at 2:30 p.m.

(Tape HFC 86-19, Side 1)

(Tape HFC 86-19, Side 2, #000-#194)

(8) who is required under ch. 20 of this title to furnish proof of financial responsibility and who has not done so. (§ 19 ch 178 SLA 1978)

NOTES TO DECISIONS

Stat'd in Commercial Fisheries Entry 2011 (File No. 4464), 606 P.2d 1255 (1980).
Comm'n v. Apokedak, Sup. Ct. Op. No.

Collateral references. — 5 Am. Jur.,
Automobiles, § 151.

Sec. 28.15.041. Classification of drivers' licenses. (a) The commissioner shall provide by regulation for the classification of drivers' licenses. The regulations shall specify license classifications which are reasonably necessary for the safe operation of the various types, sizes and combinations of motor vehicles. The regulations shall also establish medical standards, standards of driving conduct and proficiency, and other standards governing the issuance, renewal, or denial of these licenses. The department may examine each applicant to determine his qualifications according to the class of license applied for, and upon issuing a driver's license the department shall indicate on the license the classification for which an applicant for a license has qualified by examination. The regulations and any subsequent modifications under this section become effective only if approved by a concurrent resolution adopted by a majority vote of each house of the legislature.

(b) No person may drive a school bus transporting school children, or a bus transporting school-age children or another motor vehicle when in use for the transportation of persons for compensation until he has applied for and has been issued a license for that purpose under (a) of this section. The department may not issue a license under this subsection unless the applicant is at least 19 years of age, has had at least one year of driving experience, and the department is satisfied as to the applicant's good character, competence and fitness to be licensed; nor may the department issue the license until proper application has been made and all required driving, written, and physical examinations have been successfully completed. A license issued under this subsection expires on September 1 of the year following issuance. Application for renewal may be made by submitting to the department the results of a current physical examination and paying the required fee. (§ 19 ch 178 SLA 1978)

Sec. 28.15.051. Instruction permit, temporary driver's license and special driver's permit. (a) Except as provided in (b) of this section, a person who is at least 14 years of age may apply to the

department for an applicant has suc § 81 of this chapt an instruction per permit in his imm motor vehicle on a to exceed two year at least 19 years of the type or class control over the v who accompanies drives a motorcycl

(b) The departm restricted instruct restricted period to is enrolled in a d driving and is appi permit allows the p possession, to drive an approved instru the permittee is dr under the immedi

(c) The departm applicant for a driv or class of motor ve tigation and determ ability to receive a d applicant's immedi A temporary driver been issued or has

(d) The departm who is at least 14 guardians for the p may be issued upon scribed tests and fi driver's license. Th ordinance prohibits under the age of 14 nonareawide basis basis is acquired ur

(e) Notwithstand ment may issue a sp age of 16 years be licenses to be issue individual basis by

5856. Setting Aside Sentence

Chapter 07. Administration of Public Schools..

Article

1. Department of Education (§§ 14.07.020, 14.07.058)

Article 1. Department of Education.

Section

20. Duties of the department

58. Alaska School Activities Association

Sec. 14.07.020. Duties of the department. (a) The department shall

(1) exercise general supervision over the public schools of the state except the University of Alaska;

(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;

(3) provide advisory and consultative services to all public school governing bodies and personnel;

(4) prescribe by regulation a minimum course of study for the public schools;

(5) establish, in coordination with the Department of Health and Social Services, a program for the continuing education of children who are held in detention facilities in the state during the period of detention;

(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the state fire marshal and the state sanitarian, standards in addition to the requirements of AS 18.15.145 that will assure healthful and safe conditions in the public and private schools of the state including a requirement of physical examinations and immunizations in pre-elementary schools; the standards for private schools may not be more stringent than those for public schools;

(8) exercise general supervision over pre-elementary schools that receive direct state or federal funding;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private schools which request accreditation and which meet accreditation standards prescribed by regulation by the depart-

regard to teachers of this title. Anchor- Anchorage School No. 2537 (File No. 182).

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ment; nothing in this paragraph authorizes the department to require religious or other private schools to be licensed;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

(12) provide educational opportunities in the areas of vocational education and training, basic education, and fire-service training to individuals over 16 years of age who are no longer attending school;

(13) administer the grants awarded under AS 14.11.020.

(b) In this section "pre-elementary school" means a school for children ages three through five years if the school's primary function is educational. (§ 1 ch 98 SLA 1966; am § 2 ch 69 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 190 SLA 1975; am § 6 ch 50 SLA 1977; am §§ 1-3 ch 126 SLA 1978; am § 10 ch 147 SLA 1978; am § 1 ch 86 SLA 1979; am § 24 ch 59 SLA 1982; am §§ 1, 2 ch 92 SLA 1982; am § 2 ch 11 SLA 1984; am § 1 ch 32 SLA 1984)

Effect of amendments. — The first 1984 amendment designated the previously undesignated introductory language as subsection (a) and added subsection (b). The 1984 amendment also, in subsection (a), substituted "state fire marshal and the state sanitarian" for "Department of Health and Social Services" and inserted "including a requirement of physical examinations and immunizations in pre-elementary schools" in paragraph (7); in paragraph (8), deleted "In cooperation with the Department of Health and Social Services" at the beginning and substituted "pre-elementary schools that receive direct state or federal funding" for "public

and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4); pre-elementary schools in this paragraph means schools for children ages three through five years when the school's primary function is educational"; and, in paragraph (10), deleted "elementary and secondary" following "accredit private" and added "nothing in this paragraph authorizes the department to require religious or other private schools to be licensed" at the end.

The second 1984 amendment inserted "in addition to the requirements of AS 18.15.145" in paragraph (7).

Sec. 14.07.058. Alaska School Activities Association. (a) There is created within the Department of Education the Alaska School Activities Association.

(b) The purposes of the association are to provide for the efficient governing of interscholastic activities through the promotion of those activities and other interschool contests or programs sanctioned by the association and to assist in the promotion of those other activities and interests as it may from time to time elect.

13 AAC 06.060. PERIODIC INSPECTION REQUIRED. Annulled under AS 44.62.320, passed 5/26/76.

13 AAC 06.070. OFFICIAL INSPECTION STATIONS. Annulled under AS 44.62.320, passed 5/26/76.

13 AAC 06.080. DISPLAY OF CERTIFICATE OF INSPECTION. Annulled under AS 44.62.320, passed 5/26/76.

13 AAC 06.090. PROHIBITED PRACTICES.
(a) No person may perform repairs or adjustments upon a vehicle that are not in accord with acceptable or customary repair practices or not in accordance with the provisions of this title or applicable statutes.

(b) No person may willfully conceal or misrepresent the identity or condition of a vehicle, nor make a false or misleading statement or present false evidence in connection with the inspection, repair, or adjustment of a vehicle.

(c) Annulled under AS 44.62.320, passed 5/26/76.

(d) Annulled under AS 44.62.320, passed 5/26/76.

(e) Annulled under AS 44.62.320, passed 5/26/76.

(f) No police officer or other person authorized by the department to conduct inspections under this chapter may order, direct, recommend, or influence the repair or adjustment of a vehicle or its equipment by a particular person, or perform repair or adjustment at a roadside inspection area for compensation, nor may a person solicit in any manner, at a roadside inspection area or upon a surrounding or an adjacent highway, any repair or adjustment business for compensation. (Eff. 12/31/69, Reg. 31; am 7/5/75, Reg. 54)

Authority: AS 28.05.030
AS 28.35.230

Editor's Note: The penalty for violation of traffic regulations is provided by statute. Re: AS 28.35.230.

CHAPTER 08.
DRIVER LICENSING AND
SAFETY RESPONSIBILITY

Article

1. School Bus Driver Permit (13 AAC 08.005-13 AAC 08.060)
2. Safety Responsibility (13 AAC 08.075-13 AAC 08.110)
3. Classified Driver's Licenses (13 AAC 08.140-13 AAC 08.160)
4. Traffic Violations Demerit Point System (13 AAC 08.210-13 AAC 08.290)
5. Standards for Licensing of Drivers (13 AAC 08.310-13 AAC 08.400)
6. Mandatory Auto Insurance (13 AAC 08.410-13 AAC 08.440)

ARTICLE 1.
SCHOOL BUS DRIVER PERMIT

Section

05. Application of regulations
10. Denial of permit
15. Application requirements
20. Examination of applicants
25. Medical standards
30. Permit to be carried and exhibited
35. Restricted permit
40. Cancellation of permit
45. Suspension or revocation of permit
50. Period of suspension or revocation
55. Re-examination
60. Definitions

13 AAC 08.005. APPLICATION OF REGULATIONS. 13 AAC 08.005 - 13 AAC 08.060 apply to a person who operates a school bus when it is transporting a child, other than his own, to or from school or a school activity. (Eff. 12/31/69, Reg. 31)

Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.010. DENIAL OF PERMIT. (a) A school bus driver permit may not be issued to an applicant who

(1) has been convicted with such frequency of serious traffic offenses as to indicate a disregard for traffic laws and the safety of others;

(2) has not been licensed to operate a motor vehicle for at least one year before the date of application;

(3) is not at the time of application validly licensed to operate a motor vehicle in Alaska or does not have a valid unlimited Alaska driver's license in his possession;

(4) has not attained the age of 19;

(5) has been convicted of any of the following offenses within 20 years of the time of application: sexual abuse of a minor; sexual assault; incest; unlawful exploitation of a minor; contributing to the delinquency of a minor; felony offense involving distribution of prohibited drugs; or promoting prostitution in the first or second degree.

(b) Repealed 5/2/81.
(Eff. 12/31/69, Reg. 31; am 5/2/81, Reg. 78)
Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.015. APPLICATION REQUIREMENTS. Applicants for an original school bus driver permit shall, at the time of application, furnish the following to the examiner in order for the application to be accepted:

(1) a completed health history on a form prescribed by the Department of Public Safety;

(2) two sets of applicant fingerprint cards.
(Eff. 12/31/69, Reg. 31; am 5/2/81, Reg. 78)
Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.020. EXAMINATION OF APPLICANTS. (a) The school bus driver's written examination may not be administered to an applicant more than twice during any 12 consecutive months, and a one-week waiting period is required between the two tests allowed. A score of 80 is required to pass, and the test shall be comprised of questions concerning

(1) traffic laws and regulations; and

(2) school bus drivers' operating regulations promulgated by the Department of Education.

(b) The driving examination shall be administered in the type of equipment which the

applicant is to operate, and the equipment shall be furnished by the applicant or his employer. The driving examination may not be administered to an applicant more than twice during any 12 consecutive months, and a one-week waiting period is required between the two tests allowed. A score of less than 31 is required to pass, and the examination shall consist of at least the following maneuvers:

(1) with engine off, starting engine and moving into the rest of the required maneuvers;

(2) two right-hand turns and two left-hand turns;

(3) where practical and possible, a railroad crossing stop;

(4) the use of special lighting and other special equipment required by regulation;

(5) movement through intersections controlled by signs or signals, unless such signs or signals are not available in the area of the examination;

(6) simulated loading and unloading of children.

(c) Where it is impractical for the department to administer the driving test, and upon agreement with the employer or other person acceptable to the department, the driving examination may be administered by the employer or other person acceptable to the department who shall certify to the proficiency of the applicant's driving skills by signing the examination form as the "examiner." (Eff. 12/31/69, Reg. 31)

Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.025. MEDICAL STANDARDS. (a) A school bus driver permit may not be issued to a person who does not meet the following minimum standards as certified by a medical doctor, a physician's assistant licensed by the State Medical Board, or an advanced nurse practitioner licensed by the Board of Nursing, on the form required in 13 AAC 08.015(1):

(1) the person must be free of communicable disease at the time of examination;

(2) the person must have a chest X-ray or "skin test" that shows the person to be free of tuberculosis;

(3) the person's visual acuity may not be less than 20/30 in one eye and 20/200 in the other eye, either with or without corrective lenses;

(4) the person may not have monocular vision;

(5) the person may not have a history of fainting spells, dizziness, convulsions, epilepsy, or cardiac ailment during the 12 consecutive months immediately preceding the examination;

(6) the person must have normal use of both hands, arms, and feet;

(7) the person may not have a physical disability that would prevent safe operation of a school bus under all driving conditions;

(8) the person may not presently be under treatment for excessive use of alcohol or drugs.

(b) Except as provided in (c) of this section, a renewal of a school bus driver permit may not be granted unless the requirements of (a)(1) – (8) of this section are met.

(c) When a person has a "skin test" that does not show the person to be free of tuberculosis, a chest X-ray is not required under (a)(2) of this section if within 18 months before the skin test the person had a chest X-ray that showed him to be free of tuberculosis. Nothing in this section, however, prevents the person conducting the examination from concluding that the X-ray is necessary for diagnostic purposes and requiring that an X-ray be taken.

(d) A report of an examination performed under this section by a physician's assistant or an advanced nurse practitioner must be signed by that person, and include the name of the collaborating physician. (Eff. 12/31/69, Reg. 31; am 5/2/81, Reg. 78; am 8/12/82, Reg. 83)

Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.030. PERMIT TO BE CARRIED AND EXHIBITED. A driver of a school bus shall have in his immediate possession his school bus driver permit and his driver's license when operating a school bus transporting a child to or from school or a school activity and shall, upon the request of a police officer, display and

temporarily give to the police officer for examination his school bus driver permit. (Eff. 12/31/69, Reg. 31; am 5/2/81, Reg. 78)

Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.035. RESTRICTED PERMIT. A school bus driver permit shall, depending upon the type of vehicle in which the driving examination was given, be restricted as follows:

(1) if the examination was given in a school bus with a manufacturer's rated capacity of less than 24, the permit shall be restricted on its face to "15 passengers or less";

(2) if the examination was given in a school bus with a manufacturer's rated capacity of 24 or more, the permit shall be unrestricted and allows operation of any school bus. (Eff. 12/31/69, Reg. 31)

Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.040. CANCELLATION OF PERMIT. The department will, in its discretion, cancel a school bus driver permit for the following:

(1) unintentional, erroneous information or improper application;

(2) repealed 5/2/81.
(Eff. 12/31/69, Reg. 31; am 5/2/81, Reg. 78)

Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.045. SUSPENSION OR REVOCATION OF PERMIT. (a) A school bus driver permit will, in the department's discretion, be suspended by the department for

(1) driving a school bus in violation of the permit restrictions;

(2) conviction of a traffic offense which results in a limitation being placed on the driver's license, except an offense which requires revocation under (b) of this section;

(3) conviction of an offense which results in suspension or revocation of the driver's license, unless suspension or revocation is for a conviction of an offense which requires revocation under (b) of this section.

(b) A school bus driver permit will be revoked for

- (1) conviction of driving while intoxicated;
- (2) conviction of reckless driving;
- (3) conviction of a third offense of driving in violation of permit restrictions;
- (4) any reason that would be grounds for denial under 13 AAC 08.010;
- (5) knowingly making a false statement or concealing a material fact or otherwise committing a fraud in an application for a permit;

(6) repealed 5/2/81.
(Eff. 12/31/69, Reg. 31; am 5/2/81, Reg. 78)
Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.050. PERIOD OF SUSPENSION OR REVOCATION. (a) The period of suspension of a school bus driver permit is as follows:

- (1) violation of permit restrictions — first offense 30 days, second offense six months;
- (2) for the duration of a limitation placed on the driver's license as provided by 13 AAC 08.045(a)(2);
- (3) for the duration of the suspension or revocation of the driver's license as provided by 13 AAC 08.045(a)(3).

(b) the period of revocation of a school bus driver permit is as follows:

- (1) one year for first conviction of driving while intoxicated or reckless driving, and permanent revocation for conviction of a second offense or the first offense if it occurred while driving a school bus;
- (2) one year for third offense of driving in violation of permit restrictions;
- (3) until applicant is eligible for reissuance is for a reason which would be grounds for denial under 13 AAC 08.010;
- (4) one year for knowingly making a misrepresentation in an application for a permit;

(5) repealed 5/2/81.
(Eff. 12/31/69, Reg. 31; am 5/2/81, Reg. 78)
Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.055. RE-EXAMINATION. Upon written request of a police officer, the Department of Education, or the employer of a school bus driver, the department will, in its discretion, upon giving 10 days' notice to the school bus driver, require him to submit to a part or all of the examination requirements. After examination the department will, in its discretion, if the school bus driver did not satisfactorily pass examination, revoke his permit until the examination is passed. Refusal or neglect to submit to re-examination will result in revocation of the permit until the examination is satisfactorily completed. (Eff. 12/31/69, Reg. 31; am 5/2/81, Reg. 78)

Authority: AS 28.05.011
AS 28.15.041

13 AAC 08.060. DEFINITIONS. In 13 AAC 08.005 — 13 AAC 08.060, unless context requires otherwise

(1) "convicted with such frequency of serious traffic offenses" means one conviction of driving while intoxicated or reckless driving during the 12 months immediately before application, or four convictions for any other violation of traffic law or regulations while driving a motor vehicle during the 24 months immediately before application, or two or more convictions for driving while intoxicated or reckless driving at any time before application;

(2) repealed 5/2/81;

(3) repealed 5/2/81;

(4) "permit" means a school bus driver permit issued by the department;

(5) "unlimited Alaska driver's license" means an Alaska driver's license which is not limited under the provisions of AS 28.15.201;

(6) "department" means Alaska Department of Public Safety. (Eff. 12/31/69, Reg. 31; am 5/2/81, Reg. 78)

Authority: AS 28.05.011
AS 28.15.041

Editor's Note: The regulations of the Department of Education governing the operation of school buses may be found in 4 AAC 01.100 - 4 AAC 01.104.

**ARTICLE 2.
SAFETY RESPONSIBILITY**

Section

- 75. (Repealed)
- 80. Application of regulations
- 85. Reports required
- 90. Security deposit
- 95. Release from liability
- 100. Agreement for payment of damages
- 105. Form of notice
- 110. Proof of financial responsibility for the future

13 AAC 08.075. DECLARATION OF INTENT. Repealed 1/26/79.

13 AAC 08.080. APPLICATION OF REGULATIONS. 13 AAC 08.080 - 13 AAC 08.110 apply to

(45) "safety zone" means the area of space officially set apart within a roadway for the exclusive use of pedestrians, and which is protected or marked by signs which are plainly visible at the time it is used as a safety zone;

(46) "school bus" means every motor vehicle that complies with the color and identification requirements set forth in the edition of Minimum Standards for School Buses and Minimum Standards for Alaska School Buses, which is in effect on the effective date of this section, and is used to transport children to or from school or in connection with school activities; it does not include buses operated by common carriers for the urban transportation of school children;

(47) "semitrailer" means a vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property, drawn by a motor vehicle, and constructed so that part of its weight rests upon or is carried by another vehicle;

(48) "sidewalk" means that portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines, and intended for use by pedestrians;

(49) "snowmobile" means a motor vehicle designed to travel over ice or snow, and supported in part by skis, belts, cleats, or low-pressure tires;

(50) "solid rubber tire" means a tire of rubber or other resilient material which does not depend upon compressed air for the support of the load;

(51) "specially constructed vehicle" means vehicle required to be registered under 28.10, which is not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and which is not materially altered from its original construction;

(52) "special mobile equipment" means a vehicle which is not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to ditch digging apparatus, well boring apparatus,

construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and drag lines, and self-propelled cranes and earthmoving equipment; it does not include house trailers, mobile homes, off-highway vehicles, dump trucks, truck-mounted transit mixers, cranes, or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(53) "stand" or "standing" means the halting of a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in receiving or discharging passengers,

(54) "stop" or "stopping" means a complete cessation from movement, or the halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal;

(55) "street" means a highway as defined in AS 28;

(56) "through highway" means a highway or portion of highway on which vehicular traffic has preferential right-of-way, the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on the highway in obedience to a stop sign, yield sign or other official traffic-control device;

(57) "tow car" means a motor vehicle which is equipped for towing vehicles by means of a crane, hoist, tow bar, tow line or dolly, and is used primarily for towing or otherwise rendering assistance to other vehicles;

(58) "trailer" means a vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle; it includes semitrailers and pole trailers;

(59) "transporter" means a person in the business of delivering vehicles which are required

Chapter 04. Vehicle Lighting, Brakes and Other Equipment.

13 AAC 04.097. SPECIAL SCHOOL BUS LIGHTING EQUIPMENT. (a) A school bus must, in addition to other equipment and distinctive markings required by this chapter, be equipped with signal lights mounted as high and as widely spaced laterally as practicable, which must display to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level. The lights must be visible at 500 feet in normal sunlight. The alternately flashing red lights must be illuminated by the driver of the school bus when, but only when, the bus is stopped for the purpose of receiving or discharging school children, except that the lights may not be illuminated in

(1) a designated school bus loading or unloading area where the bus is entirely off the roadway and a child being received into or discharged from the bus is not required to cross the roadway; or

(2) an intersection or other place where traffic is controlled by a traffic-control signal or by a police officer.

(b) A school bus must be equipped with yellow signal lights mounted near each of the four red lights required in (a) of this section and at the same level but closer to the vertical centerline of the bus. These lights must display two alternately flashing yellow lights visible to the front and rear of the bus for a distance of at least 500 feet in normal sunlight. The yellow flashing lights must be illuminated by the school bus driver at least 100 feet, but not more than 500 feet, before every stop at which the alternately flashing red lights are illuminated, at which time the alternately flashing yellow lights authorized by this section must be turned off.

(c) Every school bus must have indicator lights readily visible to the driver of the bus, which automatically indicate to the driver of the bus when any of the alternately flashing lights authorized by this section are illuminated. (Eff. 6/28/79, Reg. 70)

Authority: AS 28.05.011

Editor's Note: This section is based partially on the former 13 AAC 04.090(b) and 150(c)-(e).

13 AAC 04.247. COLOR AND SPECIAL EQUIPMENT ON SCHOOL BUSES. (a) Every school bus used for pupil transportation must be painted National School Bus Chrome Yellow (National Bureau of Standards Color #1305). No other vehicle may display this color. A bus originally painted and used as a school bus which is no longer used as a school bus must be painted a color other than National School Bus Chrome Yellow before it may be driven on a highway or vehicular way or area.

(b) When transporting a school child to or from a school activity, a school bus must display signs as follows:

(1) the words "SCHOOL BUS" in black letters at least eight inches in height on a contrasting background, plainly visible to the front and rear; and

(2) the words "UNLAWFUL TO PASS WHEN RED LIGHTS FLASH" in black letters at least four inches but not more than six inches in height on a white background on the rear of the bus.

(c) A school bus with a manufacturer's rated capacity of 24 or more students must be equipped with a stop arm mounted on the left side of the vehicle. The lights on the stop arm must be automatically activated with the red flashing lights required by sec. 97(a) of this chapter. The stop arm must be at least 17 inches high at the side opposite the hinge and, when fully extended, extend 19 inches from the bus. The word "STOP" must be displayed on the stop arm in white letters on a red background, and two alternately flashing red lights must be mounted, one above the other, on the left side of the arm, which must flash and be visible to the front and rear when the arm is fully extended.

(d) The signs required by (b) of this section may not be displayed nor may the stop arm required by (c) of this section be extended on a school bus during times it is being used to transport persons not under the supervision of a school. (Eff. 6/28/79, Reg. 70)

Authority: AS 28.05.011

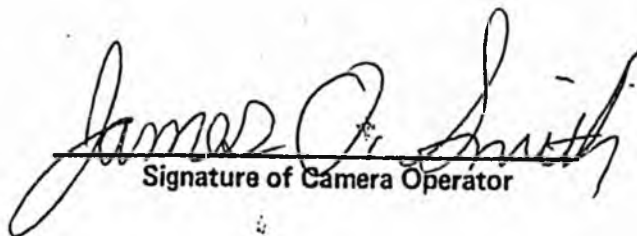
Editor's Note: This section is based in part on 13 AAC 04.150.

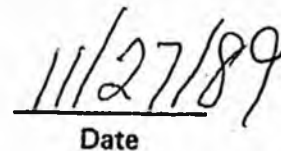


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Signature of Camera Operator


Date

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4 3 6

Alaska State Legislature

Senate Transportation Committee



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

Douch V
Juneau, Alaska 99811

May 2, 1986

TO: All Committee Members

FROM: Committee Staff

RE: CS HB 436 (Rules), "An Act requiring a properly equipped and staffed caboose on certain trains."

CS HB 436 would require a caboose on trains that exceed 1,000 feet in length, excluding 1) a train made of only locomotives and passenger coaches; 2) a train 1,825 feet in length composed of flat cars or trailers or containers on flat cars, on which toxic materials are carried in the first 1000 feet of the train; 3) or when an emergency situation prevents compliance.

A defective car may be entrained behind the caboose and moved to the nearest repair point if necessary.

Each violation of this section is punishable by a fine of not less than \$500 or more than \$1000.

The Alaska Railroad does not view this as a safety issue, but more as a collective bargaining issue. The railroad would like this to be a matter of contract negotiations rather than a legislatively mandated decision.

On the other hand, the United Transportation Union believes that there is a genuine issue of safety involved and for this reason should be legislatively mandated.

The backup information in the committee packets takes up each of these positions.

The committee staff has a drafted committee substitute which modifies the exceptions to include trains with baggage cars, increases the length of flat cars with containers or trailers to 2500 feet in length and provides that if the railroad and the appropriate collective bargaining unit do not include provisions relating to cabooses on trains in their agreements, then cabooses are not necessary.

Offered: 4/2/86
Referred: Rules

Original sponsors: Cato, Hurley,
Koponen, et al.

1 IN THE HOUSE

BY THE RULES COMMITTEE

2

CS FOR HOUSE BILL NO. 436 (Rules)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act requiring a properly equipped and staffed
caboose on certain trains."

7

8

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

9

* Section 1. AS 42.30 is amended by adding new sections to read:

10

ARTICLE 6. CABOOSE REQUIRED.

11

Sec. 42.30.250. CABOOSE REQUIRED. (a) A train that exceeds

12

1,000 feet in length including locomotives shall have a properly
maintained and equipped caboose, that is staffed by a qualified train
conductor or brakeman, attached as the rear car while the train is
moving over tracks outside a yard or terminal.

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16

(b) This section applies to a railroad that transports goods or
passengers for a fee.

17

18

Sec. 42.30.260. EXCEPTIONS. (a) AS 42.30.250 does not apply

19

(1) to a train composed only of locomotives and passenger
coaches;

20

21

(2) to a train not exceeding 1,825 feet in length, includ-
ing locomotives, composed only of trailer on flat car equipment or
container on flat car equipment provided that any hazardous or toxic
materials on the train are located in the first 1,000 feet of the
train as measured from the lead locomotive; or

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25

26

(3) if an emergency occurs in route that prevents compli-
ance with that section.

27

28

(b) Notwithstanding AS 42.30.250, a defective car that cannot be
entrained except behind the caboose may be attached as the rear car on

29

1 a train and moved to the nearest terminal where it can be repaired.

2 Sec. 42.30.270. PENALTY. Violation of AS 42.30.250 is an of-
3 fense punishable by a fine of not less than \$500 and not more than
4 \$1,000. Each violation is a separate offense.

Introduced: 5/9/85
Referred: State Affairs
and Transportation

1 IN THE HOUSE

BY CATO

2

HOUSE BILL NO. 436

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act requiring a properly equipped and staffed
caboose on certain trains."

7

8

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16

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17

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18

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19

(1) to a train composed only of locomotives and passenger

20

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21

(2) if an emergency occurs in route that prevents compli-

22

ance with that section.

23

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24

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25

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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 3/6/86, 7:00 am
House State Affairs Committee 2/14/86, 3:00 pm
House Rules Committee 4/1/86, 8:01 am

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

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PHONE: (907) 465-3600
465-3603

May 6, 1986

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

Re: CS for HB 436

Dear Mr. Call:

I would like to call your attention to two typographical errors in our bill review letter to you dated May 2, 1986.

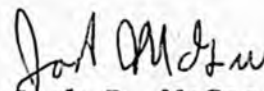
On page 1 and elsewhere in our letter, the bill under review is referred to as HB 436. The more accurate identification of the bill reviewed is CS for HB 436. (A copy of CS for HB 436, the bill we reviewed in our May 2 letter, is attached.)

On page 2, approximately nine lines up from the bottom, a reference is made to HB 341. The intended reference here should have been to CS for HB 436.

Sincerely,

HAROLD M. BROWN
ATTORNEY GENERAL

By:


Jack B. McGee

Assistant Attorney General

JBM:ebc
Enclosure

Offered: 4/2/86
Referred: Rules

Original sponsors: Cato, Hurley,
Koponen, et al.

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 436 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring a properly equipped and staffed
7 caboose on certain trains."

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

9 * Section 1. AS 42.30 is amended by adding new sections to read:

10 ARTICLE 6. CABOOSE REQUIRED.

11 Sec. 42.30.250. CABOOSE REQUIRED. (a) A train that exceeds
12 1,000 feet in length including locomotives shall have a properly
13 maintained and equipped caboose, that is staffed by a qualified train
14 conductor or brakeman, attached as the rear car while the train is
15 moving over tracks outside a yard or terminal.

16 (b) This section applies to a railroad that transports goods or
17 passengers for a fee.

18 Sec. 42.30.260. EXCEPTIONS. (a) AS 42.30.250 does not apply

19 (1) to a train composed only of locomotives and passenger
20 coaches;

21 (2) to a train not exceeding 1,825 feet in length, includ-
22 ing locomotives, composed only of trailer on flat car equipment or
23 container on flat car equipment provided that any hazardous or toxic
24 materials on the train are located in the first 1,000 feet of the
25 train as measured from the lead locomotive; or

26 (3) if an emergency occurs in route that prevents compli-
27 ance with that section.

28 (b) Notwithstanding AS 42.30.250, a defective car that cannot be
29 entrained except behind the caboose may be attached as the rear car on

1 a train and moved to the nearest terminal where it can be repaired.

2 Sec. 42.30.270. PENALTY. Violation of AS 42.30.250 is an of-
3 fense punishable by a fine of not less than \$500 and not more than
4 \$1,000. Each violation is a separate offense.

ALASKA STATE AFL-CIO

2501 Commercial Dr.
Anchorage, Alaska 99501
(907) 338-6284



819 1st Ave.
Fairbanks, Alaska 99701
(907) 456-2030

May 2, 1986

MANO FREY
Executive President

Dixie Hudish
AFL-CIO Legislative
Representative

TESTIMONY ON CS HB 436 "Caboose Bill"

Mr. Chairman, members of the Committee:

For the record, my name is Dixie Hudish and I'm here representing the Alaska State AFL-CIO.

The Alaska State AFL-CIO wishes to go on record in support of CS.R 436.

This bill which requires the Alaska Railroad to properly equip and staff a caboose on certain trains, is essentially and unequivocally a safety issue. The Alaska Railroad management, in their previous testimony before the House State Affairs and Transportation Committees, would have us believe otherwise, as they state the Alaska Railroad Corporation has already been directed by the Legislature to provide a safe railroad operation. We contend it is one thing to direct the Alaska Railroad to run a safe operation and it is another thing to legislate safe operations..

The Alaska Railroad management also contends that the legislature should not be interfering with how they run the railroad. Let me assure you that when the Alaska Railroad Coproration Act was established, the residents of Alaska did not "give up" their legilative ability to regulate rail safety. Uppermost, we should keep in mind

that the Alaska Railroad is owned by the State and the right to regulate rail safety is the State of Alaska's responsibility. The State should do no less than to insure not only the safety of its employees but of the public.

Many of you have heard that modern technology now provides various automated devices that are supposed to reduce the risk of operating caboosless trains, yet all these devices cannot replace the manned caboose, as was clearly pointed out by a Federal Judge in Nebraska in a court decision issued in May, 1985. Judge Urbom concluded in his decision that there is ample evidence that a crew member at the end of a train may see a safety threat that the electronic detector cannot see. The State had shown that detectors are fallible, that in the past they have failed to detect problems that the caboose crew was able to discover before they led to derailments and that the retention of the manned caboose plays a real role in the detection of equipment defects before they can cause derailments.

With increased transportation of hazardous and toxic materials on the Alaska Railroad, the safety of the public demands the stiffest assurance of rail safety on our trains. As we all know, it only takes one derailment incident involving hazardous and toxic materials to affect an entire community. The AFL-CIO is not saying that keeping cabooses on trains will insure no accidents. We are saying, that requiring cabooses on certain trains over 1,825 feet in length, with insurance that hazardous and toxic materials will be carried up front on the first 1,000 feet of the train, will certainly decrease the possibility of an incident.

Further, the Alaska Railroad management pointed out in their previous testimony before the House State Affairs Committee, that eliminating cabooses would be an economic saving factor. I would like to reply by quoting Craig Stoskopf, Safety Representative for the United Transportation Union in his letter to the Anchorage Daily Times, as I couldn't say it better. As quoted,

"an employee spotting trouble early can mean the difference between an incident and disaster costing millions of dollars and loss of life. Any short term cost savings would be instantly nullified in such a disaster."

We do not believe it is worth the dollars in labor costs to the Alaska Railroad to compromise the safety of the public and the train crew involved.

With this, the Alaska State AFL-CIO urges the Senate Transportation Committee to support CSHB 436.

Thank you

Alaska State Legislature

Senate Transportation Committee



Douch V
Juneau, Alaska 99811

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

DAVE ROYER
ATTNEY

May 2, 1986

TO: Senator Coghill

FROM; EZ

Today the committee will hear CSHB 436 (Rules), the caboose bill. We will hear from Rep. Cato, the Railroad and the United Transportation Union. The Railroad will testify via teleconference.

(Hear from Cato first, then the Railroad, then the Union.)

After the testimony explain why you feel it should be a collective bargaining issue and draw the committee's attention to the committee substitute.

Paul Fischer will probably be amenable to moving the CS before the committee.

Buddy Gray
12 years ARR

Ray Pinder
36 years ARR

R. PALMER
33 years ARR

Gerald Maloney - 1942
Int. V. Pres. - I.T.U.

Mervel Frank
49 years

Dixie Hudish
30 years mfg-Dispatcher
AFLCIO

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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465-3603

May 2, 1986

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

Re: Legal Review of HB 436

Dear Mr. Call:

You have requested our review of HB 436 with particular reference to § 1207(a)(4) of the Alaska Railroad Transfer Act (45 U.S.C. § 1201 et seq.).

Proposed Sec. 42.30.250(a) of this bill requires any train operating in Alaska that is more than 1000 feet long to have "a properly maintained and equipped caboose" attached as the rear car and staffed by a train conductor or a brakeman. This requirement does not apply to trains operating inside a railroad yard or terminal area. 1/

Since the only trains now operating in Alaska are those of the Alaska Railroad Corporation, our review of this bill must begin with a brief discussion of the practical effect of this bill on the Alaska Railroad and then an analysis of § 1207(a)(4) of the Alaska Railroad Transfer Act as it relates to this effect.

Except for passenger trains, it is our understanding that the Alaska Railroad presently operates only one train, the

1/ Other exceptions to this requirement include 1) trains exclusively composed of passenger coaches, 2) trains exclusively composed of flat cars carrying trailers or containers, provided such trains do not exceed 1825 feet in length and provided that any hazardous or toxic material are located in the first 1000 feet of the train, and 3) an emergency that prevents compliance with this requirement. See Sec. 42.30.260 of the bill.

Mr. Blake Call, Secretary
Senate Transportation Committee
Re: HB 436

May 2, 1986
Page 2

Arctic Fox, without a caboose. This train operates with a crew of two persons, both of whom are required to be in the locomotive unit of the train. 2/ Should this bill become law, the Arctic Fox would fall within the criteria of Sec 42.30.250 and would be required to operate with a caboose. This would mean at least one additional crew member for this train, i.e., a train conductor or a brakeman. The practical effect of HB 436 on the Alaska Railroad thus would be to specify a minimum number of crew members that must be employed in the operation of one of its trains. And herein lies a legal difficulty. § 1207(a)(4) of the Alaska Railroad Transfer Act (ARTA) exempts the Alaska Railroad from any "requirement of any state or local law which specifies the minimum number of crew members needed to operate a train." § 1207(a)(4) of ARTA reads as follows:

The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

On its face, § 1207(a)(4) appears to conflict with HB 341. If in fact this is the case, it is clear that the federal law must prevail. 3/

Now as to whether there is a real conflict here, it might be argued that § 1204(a)(4) should be interpreted to refer only to state or local laws in existence at the time of the passage of ARTA and is not meant to include state laws that might be passed after the effective date of ARTA. 4/ Such an interpretation, if correct, would remove the possibility of a conflict with ARTA.

2/ This factual data is taken from the position paper submitted by the Alaska Railroad on HB 436 dated February 14, 1986.

3/ Article VI, § 2 of the U.S. Constitution (the Supremacy Clause) requires that when a state and federal law conflict, the state law must yield to the federal law. See Tarbles case, 80 U.S. 397 (1872).

4/ There is of course a vast difference in meaning between "any state or local law" and "any existing state or local law."

Mr. Blake Call, Secretary
Senate Transportation Committee
Re: HB 436

May 2, 1986
Page 3

There are, however, two major difficulties with the view that § 1204(a)(4) refers only to "existing" state laws. The first is that this is not what § 1204(a)(4) says; its text is clear and unambiguous. There is no particular mystery or complexity surrounding the concept of "existing laws." If this concept had been the one intended by Congress, it surely would have used the word "existing" in the section. That Congress obviously did not leads one to the reasonable judgment that they did not intend to limit the prohibition of § 1204(a)(4) to existing state laws. This being the case, established canons of statutory interpretation do not comfortably permit one to read the word "existing" into § 1207(a)(4). See, 2A, N Singer, Sutherland Statutory Construction (4th ed. 1984), §§ 4601, 46.01; Also see Wilson v. Municipality of Anchorage, 669 P.2d 569 (Alaska 1983). Accordingly, it is our opinion that a court construing § 1207(a)(4) of ARTA would rely on its plain meaning and would interpret the phrase "any law" to encompass both existing state laws and state laws enacted after the passage of AKTA.

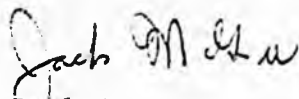
Secondly, it is difficult to make much sense of the meaning of § 1207(a)(4) if it is to be read to refer only to existing state laws. Such an interpretation would mean that if there were any such state laws in existence at the time of the passage of ARTA, a state legislature, at some time after the effective date of ARTA, could simply repeal and then reenact the law thereby avoiding the § 1207(a)(4) prohibition. Since a law is never presumed to codify unreasonableness or futility, an interpretation leading to such a result is not likely to be readily accepted by a court. See 2A, N. Singer, Sutherland Statutory Construction, (4th ed. 1984), § 45.12; Also see Markham v. Cabell, 326 U.S. 404 (1945) and Glover v. Marine Banks of Beaver Dam, 345 N.W.2d 449 (Wisc. 1984).

In summary, it is our opinion that HB 436, should it be enacted into law, would more likely than not be found to conflict with § 1207(a)(4) of ARTA.

Sincerely,

HAROLD M. BROWN
ATTORNEY GENERAL

By:


Jack B. McGee
Assistant Attorney General

JBM:bap

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 2, 1986

SUBJECT: Requiring cabooses on certain trains
(CSHB 436(Rules))

TO: Representative Bette Cato

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

You have asked whether CSHB 436(Rules) requiring a properly equipped and staffed caboose on a train conflicts with 45 USC 1207(a)(4) (Alaska Railroad Transfer Act) which provides

The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

Since CSHB 436(Rules) requires that a caboose be used on a train and that it be staffed by a train conductor or brakeman, an argument could be made that this constitutes a specification of the minimum number of crew members in violation of the federal law. However, I believe that the better interpretation would be that CSHB 436(Rules) does not violate the federal law because it does not directly specify a minimum number of total crew members on a train, but only that, whatever the number of crew members may be, one conductor or brakeman staff the caboose.

This interpretation is supported by the history behind enactment of 45 USC 1207(a)(4). That provision was intended to avoid a law in Alaska that very specifically established minimum crew sizes for trains and that was repealed under chapter 40, SLA 1983. Before its repeal AS 23.10.420 provided

(a) No person operating an Interstate Commerce Commission-regulated railroad offering passenger service in this state may operate a train or engine, outside of

yard limits, regardless of the form of energy used for propulsion, unless it meets the following requirements:

(1) a passenger train shall have at least a minimum passenger crew, which shall consist of one locomotive engineer, one locomotive fireman (or helper), one conductor, one brakeman, and one flagman;

(2) a freight train shall have at least a minimum freight crew, which shall consist of one locomotive engineer, one locomotive fireman (or helper), one conductor, and two brakemen;

(3) a light engine without cars shall have at least a minimum light engine crew, which shall consist of one locomotive engineer, one locomotive fireman (or helper), and one conductor.

(b) Except for hostling movements and duties as negotiated for each railroad company, no person operating an Interstate Commerce Commission-regulated railroad offering passenger service in this state may operate an engine or locomotive, regardless of the form of energy used for propulsion, for switching cars or in transfer movements, unless every engine or locomotive is manned by a minimum crew consisting of one locomotive engineer, one conductor, and one brakeman.

(c) In this section "engine" includes connected, multiple units under single control

(d) A person who violates a provision of this section may be fined up to \$500 upon conviction. Each violation constitutes a separate offense.

Since CSHB 436(Rules), while it contains a requirement regarding the staffing of trains, does not specify a minimum number of crew members like former AS 23.10.420 did and because the federal law prohibits the state from applying a law that ". . . specifies the minimum number of crew members . . ." but does not directly prohibit the state from enacting laws establishing other requirements regarding the staffing of trains, I believe that CSHB 436(Rules) could withstand a challenge if enacted. However, at the very best CSHB 436(Rules) would be open to a challenge under the federal law and it cannot be determined with certainty what the outcome to such a challenge would be.

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January 30, 1986

HAND-DELIVERED

Clinton Gray
Legislative Representative
UNITED TRANSPORTATION UNION

Re: Alaska Caboose Legislation

Dear Mr. Gray:

The State Legislature is currently considering Senate Bill 313 and House Bill 436, which provide for a properly equipped and staffed caboose on freight trains over 1,000 feet in length. The bill is a public safety measure. Four other states have passed legislation requiring cabooses on freight trains, they are Virginia, Oregon, Montana, and Nebraska. I understand also that many states are adopting regulations or considering legislation on this same issue. While this legislation is not a "jobs" bill, it may effect the minimum number of crew members required to be employed for the operation of a train. Accordingly, you have asked whether this state enactment would be prohibited under the Alaska Railroad Transfer Act. For the reasons set out below, it is my opinion that the Alaska caboose legislation now proposed does not violate, and is not prohibited by, the Alaska Railroad Transfer Act (ARTA).

ARTA at 45 U.S.C. §120-7(a)(4) provides that:

(a)(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any state or local law which has specified the minimum number of crew members which must be employed in connection with the operation of such trains.

The question of whether this federal law prohibits Alaska from regulating its own railroad can be approached in a number of ways. I will begin with a review of the legislative history.