

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7927 HOUSE LABOR & COMMERCE

192

January 25, 1993

To: Reps. Hudson, Green, Mulder, Porter, Williams, Sitton, Mackle  
FR: Patti Rizer, 5530 Rabbit Creek Road, Anchorage, 345-1743  
RE: HB 41

We already have an inherent risk of skiing statute in Alaska. Twenty-four other states have very similar legislation. HB 41 greatly expands the inherent risk of skiing definition and places all the responsibility on the skier. HB 41 is special-interest legislation designed to give carte blanche immunity to a specific industry.

Why should Alaskans grant this special-interest legislation on behalf of the ski industry? Would we exempt the airline industry for their negligence? For example, if Alaska Airlines said, "As long as we have fuel in the tanks, we are immune from any other negligence" and a plane crashes, would we want to grant them this type of immunity? This is just what this bill says...as long as ski area operators put up certain warnings, they cannot be held liable. All risks rest with the skier.

This bill says that if the skiing industry places signs and does a few other minimal tasks, they are responsible for nothing. P. 2 No. 8 and 9 say ski area operators are financially and physically incapable of controlling conditions. Seibu Corporation is required by the U.S. Forest Service to have a Snow Safety Plan. This plan is prepared by the U. S. Forest Service in concurrence with Seibu. One of the stated objectives of their plan is as follows:

One of the prime objectives in winter sports is to prevent accidents related to ski lifts, tows, avalanche and terrain hazards.

One of Seibu's stated to and agreed to duties is as follows:

Taking reasonable care to identify and mitigate hazards on primary ski slopes.

This legislation will allow ski area operators to evade these agreed-to objectives and duties and will in no way promote safety.

Skiers don't expect "croquet lawns" as stated on P. 2 No. 9. Skiers expect a reasonably safe environment for skiing and accountability on the ski area operator's part.

P. 3 No. 12 says "it is impractical to expect the operator to eliminate or mitigate these hazards"—mitigating hazards is part of the ski area operator's responsibilities.

P. 3 No. 4 wants to exclude a comparative negligence or comparative fault analysis—no industry enjoys this immunity. Will this law set a precedence for other industries to ask for an exclusion of comparative negligence? Whom are we protecting?

Paying \$30 a day for a lift ticket helps cover insurance. The ski industry says prices will go up without this legislation. Colorado passed a similar bill two years ago. The immunity now enjoyed by ski operators did not result in lower insurance rates (they were already going down) nor did the immunity (which supposedly translated into savings) result in lower lift tickets.

Colorado's bill places the greatest responsibility on the skier of any other state's ski bill. How can we reward Alaska ski area operators with such a bill when Alaska ski resorts don't compare at all to Colorado's runs, employees (especially pro patrol staff), high-tech equipment, and other amenities? Who will oversee the Alaska ski industry and make sure they are providing a reasonably safe environment? In addition, if there is an accident, consumers should always be able to ask who is at fault. When we asked the U.S. Forestry Service in Alaska if they investigated our son's death at Mt. Alyeska, they told us, "No one asked us to."

I feel there may be too much of a risk if we take this bill paragraph by paragraph. It is much better to kill the whole bill. Even a comparative negligence clause won't be of any help to consumers because this bill is so broad and encompassing of what the inherent risks of skiing are; i.e. "risks of skiing rests only with the skier."

Ski areas are capable of insuring through ticket sales. If the skier is at fault, the industry doesn't have to pay. That is the way the statute is now. This law goes way beyond inherent risks.

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THE POOR QUALITY OF THE ORIGINAL**

# Aspen, Deer Valley at top of price mountain

Lift tickets for 1992-93 will cost as much as \$46 during peak holiday time

By John Meyer  
Rocky Mountain News Staff Writer

Aspen and Utah's Deer Valley appear to be the price leaders in the ski industry again this winter.

But if you're wondering which has the most expensive ticket, it depends on how you look at it.

Aspen Skiing Co.'s regular season ticket window price will be \$43, an increase of \$2 over last year. Deer Valley will charge \$42, as will Vail.

But Deer Valley will charge \$46 during the busy December holiday period. During Aspen's holiday period, Dec. 19 to Jan. 2, the rate will be \$45.

Aspen will sell discounted tickets at Front Range King Soopers stores again this winter. There, tickets for Aspen Mountain and Snowmass will cost \$38. A Butter-milk-only ticket will be available for \$26.

Ticket window prices attract a lot of attention when they are announced, but Front Range skiers seldom pay the full ticket window price.

"You can count on one hand the number of people from Denver who are going to buy a \$43 or a \$45 lift ticket in Aspen," said John Lay, president of Colorado Ski Country USA.

SKI AREA	1991-92	1992-93	1992-93 (HOLIDAY)
Aspen Mountain	\$43	\$45	\$45
Arrowhead	\$23	\$28	\$33
Aspen Highlands	\$30	\$30	\$25
Aspen Mountain	\$41	\$43	\$38
Beaver Creek	\$40	\$42	\$42
Breckenridge	\$46	\$38	\$28 or \$28
Butter Milk	\$41	\$43	\$26
Copper Mountain	\$35	\$37	\$30
Crested Butte	\$39	\$40	\$28
Ellora	\$25	\$27	\$23
Keystone	\$37	\$38	\$30
Loveland	\$28	\$30	\$24
Monarch	\$25	\$26	\$24
Powderhorn	\$25	\$25	N/A
Purgatory	\$34	\$35	\$34
Silver Creek	\$24	\$26	\$24
Ski Cooper	\$18	\$22	\$20
Ski Summit	\$25	\$25	\$25
Snowmass	\$38	\$38	\$38
Steamboat	\$37	\$39	N/A
Telluride	\$35	\$38	N/A
Vail	\$42	\$42	\$42
Winter Park	\$34	\$35	\$35

Other lift tickets available locally (making me a little bit of a skier) are: Grand, Vail, Breckenridge, and Copper Mountain. The holiday price (Dec. 19 to Jan. 2) for Aspen Skiing Co. mountain will be \$45.

The largest increase in the state this year is Arrowhead at \$5. Ski Cooper increased its price \$4, while Telluride and Crested Butte each went up \$3. Most lift ticket prices have been known for more than a month, but Aspen announced its prices only this week. Breckenridge, which was considering \$38 or \$39 for its full-fare price, has settled on \$38. The off-site discount for

Breckenridge has not been decided, but it should be \$28 or \$29. Breckenridge's Summit County neighbors, Keystone and Copper Mountain, will charge \$30 at Front Range outlets, as will Winter Park.

Colorado ski areas set a record last year with 10.4 million skier visits. But J. William Berry, publisher of the *Ski Industry Newsletter*, says it's too early to predict what kind of season is in store for Colorado areas.

"I think you've got a hell of a problem — air fares," Berry said. "Nobody knows what's going to happen there. With air fares being rather high, things could get a little tight."

But Lay said key indicators are up. More people are booking vacations and buying skis or ski-related goods.

"Our numbers as of right now are ahead of last year at this time," Lay said. "The sale of soft goods and hard goods is dramatically more robust than it was a year ago."

Harry Baxter of the Jackson Hole area in Wyoming said people appear to be waiting to see how much snow that area gets before booking. Uncertainty over air fares is inhibiting advance sales, he said.

But Lay says Colorado Ski Country is "very bullish" on the coming season.

"The national economy is bottoming out," Lay said. "We're encouraged by what appears to be a stronger economy on both coasts vs. last year."

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## Skiing

From B1

who headed the OU study. "When the liability is unlimited, the only thing insurance companies can do to protect themselves is raise the rates," Goeldner said. "If the Legislature hadn't taken that action, we wouldn't see the declines we have."

But Epstein said it will take two years before the impact of the new law is felt because pending lawsuits fall under the old, unlimited liability law.

"If these insurance reductions are taking place under the old law," he asked, "what's the need to change it?"

Indeed, insurance rates were reduced partly because of safety promotions and physical improvements such as re-designing trails that merge to make the slopes safer for skiers, said Dick Williams, vice president of Pettib-Morry Co. in Denver, an insurance brokerage representing 120 ski areas nationwide, including most Colorado ski resorts.

"But there is no question that the enactment of the skier liability law has helped sort out the picture," Williams said. "The lines of liability are drawn."

Since ski areas have blamed higher lift ticket prices on insurance, "there should be a flip side to that," said Jim Lee, a lobbyist for the Colorado Trial Lawyers Association.

"If insurance premiums went down, I hope we can look forward to a reduction in lift ticket prices," Lee said.

But Goeldner said labor costs and resort improvements — not insurance rates — have caused lift ticket inflation.

"In Colorado, there has been \$500 million of new facilities in the last decade," Goeldner said. "Consumers just love the quad chairlifts, the improved trails, snowmaking and snow grooming. When you make an investment like that, you expect a return on it, and you raise prices."

# Ski area insurance dropping despite industry's claims

## Lawyers opposing liability cap say the Legislature was snowed

By Dave Corbin/Gazette Telegraph

Ski area insurance costs are declining, contrary to what members of the industry claimed in pushing through a state law that limits their liability in ski accidents.

And even though ski operators historically have cited soaring insurance costs as a cause for lift ticket inflation, don't expect prices to tumble, industry observers say.

Insurance premiums for ski resorts decreased 10 percent in the 1989-90 season and 6.5 percent the year before, according to "The 1989-90 Economic Analysis of North American Ski Areas" by the University of Colorado at Boulder Business Research Division.

Ski industry lobbyists had cited skyrocketing insurance in getting a law passed last year that caps resort liability for a skier's injuries at \$1 million. The law, which took effect this past season,

doesn't limit a skier's ability to sue for injuries involving ski lifts.

"The Legislature was misled," said Joe Epstein, president of the Colorado Trial Lawyers Association, which opposed the law. "They were stampeded by the insurance industry and ski operators. This tells me it was a phony deal to begin with."

It wasn't phony, ski lobbyists say. Insurance premiums more than doubled from 1984 to 1988, while some deductibles went from \$100,000 to \$1 million, according to Colorado Ski Country USA, a trade group and a supporter of the new law.

The increases sent the ski industry and others such as day-care centers and dude ranches to the Legislature for relief, said Ski Country spokeswoman Kathleen Shaw.

But Epstein said the increases weren't justified by the insurance industry.

"If we had a tougher review by the (state) insurance commission, it would expose this," he said. "The insurance industry created an unrealistic pressure on the ski areas. This limited liability law is the result, and the consumer gets screwed."

Once the law was passed, insurance rates dropped quickly, said Charles Goeldner, a marketing professor

See SKIING/B8

**The insurance industry created an unrealistic pressure on the ski areas . . .**

**Colorado Trial Lawyers Association President Joe Epstein**

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## 2.87 New "Inherent Risk" Law for Colorado Skiers

by James H. Chalot, P.O.

Amendments Colorado's Ski Safety Act may soon face constitutional challenge as the new statute places the risk of injury from most downhill accidents upon the skier. The amendments were written and supported by the politically influential Colorado Ski USA. In the recent gubernatorial election, the challenger accused the incumbent governor of accepting a \$5,000.00 campaign contribution from Colorado Ski USA on the same day the governor signed the amendments into law. The Colorado Trial Lawyers Association, lawyers who typically represent victims in injury cases, opposed the amendments.

However, two changes were made to the Bill before it became law which increased protection to skiers in two specific instances.

As originally proposed, the law would have quietly revamped Colorado law relating to ski lift accidents. As written the Bill would have limited the duty of ski areas to merely abide by the regulations imposed upon ski area operators by the Colorado Passenger Tramway Safety Board.

Colorado has long imposed upon ski area operators a common law duty to exercise the highest degree of care commensurate with the practical operation of the lift. The rule has been applied along with the requirement under the Ski Act that lifts be operated within tramway and ANSI guidelines. As originally proposed, the amendments would have limited the ski area operator's duty to simply comply with the tramway board regulations. These regulations are routinely reviewed and amended by a tramway board dominated by the ski industry. However, the House committee added: "Nothing in this section shall be construed to limit the liability of the ski area operator for injury caused by the use or operation of ski lift." (C.R.S. § 33-44-103(10) as amended S.B. 90-80). Thus ski area operators still have a duty to operate their lifts in conformity with the highest standard of care.

Reckless skiers have often argued that the victim of a skier/skier collision should be found to have assumed the risk of a collision. The amendments specifically noted that ski area operators would be immune from claims by skiers for injuries

resulting from the so-called "inherent danger" of skiing. Other than inherent danger was the risk of skiers colliding. Thus, one could easily see reckless skiers looking to the ski act for solace in their argument that a risk assumed when skiing includes collisions between skiers.

In an action which reflects the growing trend toward emphasis on safe skiing, the House committee revised the Bill to include the following language: "Notwithstanding any provision of law or statute to the contrary, the risk of a skier/skier collision is neither an inherent risk nor a risk assumed by a skier in action by one skier against another." (C.R.S. § 33-44-109(1) as amended S.B. 90-80). This section prohibits the assumption of risk defense by the reckless skier and reaffirms each skier's responsibility to ski within control and in such a manner as to not endanger anyone or cause injury.

### SENTENCE METED OUT IN SKI COLLISION

Terrence Coghlan entered into a plea agreement in which he pled guilty to one misdemeanor and to one petty offense on May 21, 1990. The plea ends a case which began on February 24, 1989 when Coghlan collided into Russell Whittman while skiing at Steamboat. Whittman's leg was severely fractured. The accident drew national publicity to the issue of ski safety.

Coghlan pled guilty to Reckless Endangerment, a misdemeanor, and to Leaving the Scene of a Ski Collision in violation of Colorado's Ski Act, C.R.S. § 33-44-109(10). Judgment and Sentence were deferred as to the Ski Act offense. On the misdemeanor, the court imposed a sixty day jail sentence concurrent to a sentence Coghlan is serving on an unrelated case.

As part of the bargain, Coghlan is required to make a \$2,000.00 contribution to the handicap skier program, a \$2,000.00 payment to the District Attorney for travel and investigative expenses, and nominal payments for Court costs and to the Victim's Assistance Fund.

Heavy fines and potential jail sentences meted out in other recent reckless skiing cases underscore the trend towards enhanced liability, both civil and criminal, imposed upon skiers who recklessly collide or cause injury to others on the hill.

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ARTICLE 44

Ski Safety and Liability

33-44-101.	Short title.	33-44-107.	Duties of ski area operators — signs required for skiers' information.
33-44-102.	Legislative declaration.	33-44-108.	Ski area operators — additional duties.
33-44-103.	Definitions.	33-44-109.	Duties of skiers — penalties.
33-44-104.	Negligence — civil actions.	33-44-110.	Competition.
33-44-105.	Duties of passengers.	33-44-111.	Statute of limitation.
33-44-106.	Duties of operators — signs.		

33-44-101. Short title. This article shall be known and may be cited as the "Ski Safety Act of 1979".

Source: L. 79, p. 1237, § 1.

Law reviews. For article, "Changes in Colorado Ski Law", see 13 Colo. Law. 407 (1984).

33-44-102. Legislative declaration. The general assembly hereby finds and declares that it is in the interest of the state of Colorado to establish reasonable safety standards for the operation of ski areas and for the skiers using them. Realizing the dangers that inhere in the sport of skiing, regardless of any and all reasonable safety measures which can be employed, the purpose of this article is to supplement the passenger tramway safety provisions of part 7 of article 5 of title 25, C.R.S.; to further define the legal responsibilities of ski area operators and their agents and employees; to define the responsibilities of skiers using such ski areas; and to define the rights and liabilities existing between the skier and the ski area operator and between skiers.

Source: L. 79, p. 1237, § 1.

33-44-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Base area lift" means any passenger tramway which skiers ordinarily use without first using some other passenger tramway.

(2) "Competitor" means a skier actually engaged in competition or in practice therefor with the permission of the ski area operator on any slope or trail or portion thereof designated by the ski area operator for the purpose of competition.

(3) "Conditions of ordinary visibility" means daylight and, where applicable, nighttime in nonprecipitating weather.

(4) "Passenger" means any person who is lawfully using any passenger tramway.

(5) "Passenger tramway" means a device as defined in section 25-5-702 (4), C.R.S.

(6) "Ski area" means all ski slopes or trails and other places under the control of a ski area operator and administered as a single enterprise within this state.

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(7) "Ski area operator" means "operator" as defined in section 25-5-702 (3), C.R.S., and any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas, including an agency of this state or a political subdivision thereof.

(8) "Skier" means any person utilizing a ski area for the purpose of skiing or for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, or any other device.

(9) "Ski slopes or trails" means those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subsection (8) of this section. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subsection (9) or in subsection (8) of this section, however, shall imply that ski slopes or trails may not be restricted for use by persons using skis only or for use by persons using any other device described in subsection (8) of this section.

Source: L. 79, p. 1238, § 1.

**33-44-104. Negligence - civil actions.** (1) A violation of any requirement of this article shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of the person violating such requirement.

(2) A violation by a ski area operator of any requirement of this article or any rule or regulation promulgated by the passenger tramway safety board pursuant to section 25-5-710 (1) (a), C.R.S., shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of such operator.

(3) All rules adopted or amended by the passenger tramway safety board on or after July 1, 1979, shall be subject to sections 24-4-103 (8) (c) and (8) (d) and 24-34-104 (9) (b) (II), C.R.S.

Source: L. 79, p. 1238, § 1; L. 80, p. 789, § 28; L. 81, p. 1179, § 10.

**33-44-105. Duties of passengers.** (1) No passenger shall board a passenger tramway if he does not have sufficient physical dexterity, ability, and knowledge to negotiate or use such facility safely or until such passenger has asked for and received information sufficient to enable him to use the equipment safely. A passenger is required to follow any written or verbal instructions that are given to him regarding the use of the passenger tramway.

(2) No passenger shall:

(a) Embark upon or disembark from a passenger tramway except at a designated area except in the event of a stoppage of the passenger tramway (and then only under the supervision of the operator) or unless reasonably necessary in the event of an emergency to prevent injury to the passenger or others;

(b) Throw or expel any object from any passenger tramway while riding on such device, except as permitted by the operator;

(c) Act, while riding on a passenger tramway, in any manner that may interfere with proper or safe operation of such passenger tramway;

(d) Engage in any type of conduct that may contribute to or cause injury to any person;

(e) Place in an uphill track of a J-bar, T-bar, platter pull, rope tow, or any other surface lift any object that could cause another skier to fall;

(f) Embark upon a passenger tramway marked as closed;

(g) Disobey any instructions posted in accordance with this article or any verbal instructions by the ski area operator regarding the proper or safe use of a passenger tramway unless such verbal instructions are contrary to this article or the rules promulgated under it, or contrary to posted instructions.

Source: L. 79, p. 1239, § 1.

Law reviews. For note, "Exculpatory Clauses and Public Policy: A Judicial Dilemma", see 53 U. Colo. L. Rev. 793 (1982).

**33-44-106. Duties of operators - signs.** (1) Each ski area operator shall maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers. Signs shall be prominently placed on each passenger tramway readable in conditions of ordinary visibility and, where applicable, adequately lighted for nighttime passengers. Signs shall be posted as follows:

(a) At or near the loading point of each passenger tramway, regardless of the type, advising that any person not familiar with the operation of the device shall ask the operator of the device for assistance and instruction;

(b) At the interior of each two-car and multicar passenger tramway, showing:

(I) The maximum capacity in pounds of the car and the maximum number of passengers allowed;

(II) Instructions for procedures in emergencies.

(c) In a conspicuous place at each loading area of two-car and multicar passenger tramways, stating the maximum capacity in pounds of the car and the maximum number of passengers allowed;

(d) At all chair lifts, stating the following:

(I) "Prepare to Unload", which shall be located not less than fifty feet ahead of the unloading area;

(II) "Keep Ski Tips Up", which shall be located ahead of any point where the skis may come in contact with a platform or the snow surface;

(III) "Unload Here", which shall be located at the point designated for unloading;

(IV) "Safety Gate", which shall be located where applicable;

(V) "Remove Pole Straps from Wrists", which shall be located prominently at each loading area;

(VI) "Check for Loose Clothing and Equipment", which shall be located before the "Prepare to Unload" sign.

(e) At all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, stating the following:

(I) "Remove Pole Straps from Wrists", which shall be placed at or near the loading area;

(II) "Stay in Tracks", "Unload Here", and "Safety Gate", which shall be located where applicable;

(III) "Prepare to Unload", which shall be located not less than fifty feet ahead of each unloading area.

(f) Near the boarding area of all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, advising passengers to check to be certain that clothing, scarves, and hair will not become entangled with the lift;

(g) At or near the boarding area of all lifts, regarding the requirements of section 33-44-109 (6).

(2) Other signs not specified by subsection (1) of this section may be posted at the discretion of the ski area operator.

(3) The ski area operator, before opening the passenger tramway to the public each day, shall inspect such passenger tramway for the presence and visibility of the signs required by subsection (1) of this section.

(4) The extent of the responsibility of the ski area operator under this section shall be to post and maintain such signs as are required by subsection (1) of this section in such condition that they may be viewed during conditions of ordinary visibility. Evidence that signs required by subsection (1) of this section were present, visible, and readable where required at the beginning of the passenger tramway operation on any given day raises a presumption that all passengers using said devices have seen and understood said signs.

Source: L. 79, p. 1240, § 1.

**33-44-107. Duties of ski area operators - signs required for skiers' information.** (1) Each ski area operator shall maintain a sign and marking system as set forth in this section in addition to that required by section 33-44-106. All signs required by this section shall be maintained so as to be readable and recognizable under conditions of ordinary visibility.

(2) A sign shall be placed in such a position as to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift depicting and explaining signs and symbols which the skier may encounter at the ski area as follows:

(a) The ski area's least difficult trails and slopes, designated by a green circle and the word "easiest";

(b) The ski area's most difficult trails and slopes, designated by a black diamond and the words "most difficult";

(c) The ski area's trails and slopes which have a degree of difficulty that falls between the green circle and the black diamond designation, designated by a blue square and the words "more difficult";

(d) Danger areas, designated by a red exclamation point inside a yellow triangle with a red band around the triangle and the word "Danger" printed beneath the emblem;

(e) Closed trails or slopes, designated by an octagonal-shaped sign with a red border around a white interior containing a black figure in the shape of a skier with a black band running diagonally across the sign from the upper right-hand side to the lower left-hand side and with the word "Closed" printed beneath the emblem.

(3) If applicable, a sign shall be placed at or near the loading point of each passenger tramway, as follows:

"WARNING: This lift services (most difficult) or (most difficult and more difficult) or (more difficult) slopes only."

(4) If a particular trail or slope or portion of a trail or slope is closed to the public by a ski area operator, such operator shall place a sign notifying the public of that fact at each identified entrance of each portion of the trail or slope involved. Alternatively, such a trail or slope or portion thereof may be closed with ropes or fences.

(5) The ski area operator shall place a sign at or near the beginning of each trail or slope, which sign shall contain the appropriate symbol of the relative degree of difficulty of that particular trail or slope as set forth by subsection (2) of this section. This requirement shall not apply to a slope or trail designated "easiest" which to a skier is substantially visible in its entirety under conditions of ordinary visibility prior to his beginning to ski the same.

(6) The ski area operator shall mark its ski area boundaries in a fashion readily visible to skiers under conditions of ordinary visibility. Where the owner of land adjoining a ski area closes all or part of his land and so advises the ski area operator, such portions of the boundary shall be signed as required by paragraph (e) of subsection (2) of this section. This requirement shall not apply in heavily wooded areas or other nonskiable terrain.

(7) The ski area operator shall mark hydrants, water pipes, and all other man-made structures on slopes and trails which are not readily visible to skiers under conditions of ordinary visibility from a distance of at least one hundred feet and shall cover such obstructions with a shock-absorbent material that will lessen injuries. Any type of marker shall be sufficient, including but not limited to wooden poles, flags, or signs, if the marker is visible from a distance of one hundred feet and if the marker itself does not constitute a serious hazard to skiers.

Source: L. 79, pp. 1242, 1245. § § 1, 1.

Applied in *Rimkus v. Northwest Colo. Ski Corp.*, 706 F.2d 1060 (10th Cir. 1983).

**33-44-108. Ski area operators - additional duties.** (1) Any motorized snow-grooming vehicle shall be equipped with a light visible at any time the vehicle is moving on or in the vicinity of a ski slope or trail.

(2) Whenever maintenance equipment is being employed to maintain or groom any ski slope or trail while such ski slope or trail is open to the public, the ski area operator shall place or cause to be placed a conspicuous notice to that effect at or near the top of that ski slope or trail.

(3) All snowmobiles operated on the ski slopes or trails of a ski area shall be equipped with at least the following: One lighted headlamp, one lighted red tail lamp, a brake system maintained in operable condition, and a fluorescent flag at least forty square inches mounted at least six feet above the bottom of the tracks.

(4) The ski area operator shall have no duty arising out of its status as a ski area operator to any skier skiing beyond the area boundaries marked as required by section 33-44-107 (6).

(5) The ski area operator, upon finding a person skiing in a careless and reckless manner, may revoke that person's skiing privileges.

Source: L. 79, p. 1242. § 1.

Warning sign must be posted when maintenance equipment is present on slopes for purposes of "grooming and maintaining" a slope.

but is not actively "grooming" in that particular location. *Phillips v. Monarch Recreation Corp.*, 668 P.2d 982 (Colo. Ct. App. 1983).

**33-44-109. Duties of skiers - penalties.** (1) Each skier solely has the responsibility for knowing the range of his own ability to negotiate any ski slope or trail and to ski within the limits of such ability.

(2) Each skier has the duty to maintain control of his speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, the primary duty shall be on the person skiing downhill to avoid collision with any person or objects below him. It is presumed, unless shown to the contrary by a preponderance of the evidence, that the responsibility for collisions by skiers with any person, natural object, or man-made structure marked in accordance with section 33-44-107 (7) is solely that of the skier or skiers involved and not that of the ski area operator.

(3) No skier shall ski on a ski slope or trail that has been posted as "Closed" pursuant to section 33-44-107 (2) (e) and (4).

(4) Each skier shall stay clear of snow-grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails.

(5) Each skier has the duty to heed all posted information and other warnings and to refrain from acting in a manner which may cause or contribute to the injury of the skier or others. Each skier shall be presumed to have seen and understood all information posted in accordance with this article near base area lifts, on the passenger tramways, and on such ski slopes or trails as he is skiing. Under conditions of decreased visibility, the duty is on the skier to locate and ascertain the meaning of all signs posted in accordance with sections 33-44-106 and 33-44-107.

(6) Each ski used by a skier while skiing shall be equipped with a strap or other device capable of stopping the ski should the ski become unattached from the skier. This requirement shall not apply to cross country skis.

(7) No skier shall cross the uphill track of a J-bar, T-bar, platter pull, or rope tow except at locations designated by the operator; nor shall a skier place any object in such an uphill track.

(8) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, the skier shall have the duty of avoiding moving skiers already on the ski slope or trail.

(9) No person shall move uphill on any passenger tramway or use any ski slope or trail while such person's ability to do so is impaired by the consumption of alcohol or by the use of any controlled substance, as defined in section 12-22-303 (7), C.R.S., or other drug or while such person is under the influence of alcohol or any controlled substance, as defined in section 12-22-303 (7), C.R.S., or other drug.

(10) No skier involved in a collision with another skier or person in which an injury results shall leave the vicinity of the collision before giving his name and current address to an employee of the ski area operator or a member of the voluntary ski patrol, except for the purpose of securing aid for a person injured in the collision; in which event the person so leaving the scene of the collision shall give his name and current address as required by this subsection (10) after securing such aid.

(11) No person shall knowingly enter upon public or private lands from an adjoining ski area when such land has been closed by its owner and so posted by the owner or by the ski area operator pursuant to section 33-44-107 (6).

(12) Any person who violates any of the provisions of subsection (3), (9), (10), or (11) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

Source: L. 79, p. 1243, § 1; L. 82, p. 255, § 17.

**33-44-110. Competition.** (1) The ski area operator shall, prior to the beginning of a competition, allow each competitor a reasonable visual inspection of the course or area where the competition is to be held.

(2) The competitor shall be held to assume the risk of all course conditions including, but not limited to, weather and snow conditions, course construction or layout, and obstacles which a visual inspection should have revealed. No liability shall attach to a ski area operator for injury or death of any competitor proximately caused by such assumed risk.

Source: L. 79, p. 1243, § 1.

**33-44-111. Statute of limitation.** All actions against any ski area operator or its employees brought to recover damages for injury to person or property caused by the maintenance, supervision, or operation of a passenger tramway or a ski area shall be brought within three years after the claim for relief arises and not thereafter.

Source: L. 79, p. 1243, § 1.

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# Colorado Revised Statutes

1992 CUMULATIVE SUPPLEMENT

VOLUME 14

1984 REPLACEMENT VOLUME

NATURAL RESOURCES I

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Edited, Collated, Revised,  
Annotated, and Indexed

Under the Supervision and Direction of the

COMMITTEE ON LEGAL SERVICES

by

CHARLES W. PIKE OF THE COLORADO BAR

REVISOR OF STATUTES

AND THE

OFFICE OF LEGISLATIVE LEGAL SERVICES

*To be Reenacted by the General Assembly of the State of Colorado  
as the Statutory Law of Colorado of a General and Permanent  
Nature in the 1993 Session*

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The phrase "incidental to the use of land" requires that a nexus exist between the commercial or business enterprise and the use giving rise to the injury. *Smith v. Cutty's Inc.*, 742 P.2d 347 (Colo. App. 1987).

## ARTICLE 44

### Ski Safety and Liability

**Law reviews:** For article, "1990 Update on Colorado Tort Reform Legislation", see 19 Colo. Law. 1529 (1990); for article, "Allocation of the Risks of Skiing: A Call for the Reapplication of Fundamental Common Law Principles", see 67 U. L. Rev. 165 (1990).

33-44-103.	Definitions.	33-44-111.	Statute of limitation.
33-44-107.	Duties of ski area operators - signs and notices required for skiers' information.	33-44-112.	Limitation on actions for injury resulting from inherent dangers and risks of skiing.
33-44-108.	Ski area operators - additional duties.	33-44-113.	Limitation of liability.
33-44-109.	Duties of skiers - penalties.	33-44-114.	Inconsistent law or statute.

#### 33-44-101. Short title.

##### Law reviews.

For article, "The Development of the Standard of Care in Colorado Ski Cases", see 15 Colo. Law. 373 (1986).

**33-44-103. Definitions.** (8) "Skier" means any person using a ski area for the purpose of skiing; for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, a snowboard, or any other device; or for the purpose of using any of the facilities of the ski area, including but not limited to ski slopes and trails.

(10) "Inherent dangers and risks of skiing" means those dangers or conditions which are an integral part of the sport of skiing; including changing weather conditions; snow conditions as they exist or may change, such as ice, hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface or subsurface conditions such as bare spots, forest growth, rocks, stumps, streambeds, and trees, or other natural objects, and collisions with such natural objects; impact with lift towers, signs, posts, fences or enclosures, hydrants, water pipes; other man-made structures and their components; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including but not limited to roads and catwalks or other terrain modifications; collisions with other skiers; and the failure of skiers to ski within their own abilities. The term "inherent dangers and risks of skiing" does not include the negligence of a ski area operator as set forth in section 33-44-104 (2). Nothing in this section shall be construed to limit the liability of the ski area operator for injury caused by the use or operation of ski lifts.

**Source:** (8) amended and (10) added, L. 90, p. 1540, § 2, effective July 1.

**Cross references:** For the legislative declaration contained in the act amending subsection (8) and enacting subsection (10), see section 1 of chapter 256, Session Laws of Colorado 1990.

The term "ski area" does not include an area devoted to the parking of motor vehicles and the operation of shuttle buses. Therefore, none of

the provisions of this act are applicable. *McLean v. Winter Park Recreational Ass'n*, 762 P.2d 751 (Colo. App. 1988).

### 33-44-104. Negligence - civil actions.

This article applies to ski accident cases and not § 13-21-115. *Calvert v. Aspen Skiing Co.*, 700 F.Supp. 520 (D. Colo. 1988).

This article would apply to ski accident cases which involve dangerous conditions that are

ordinarily present at ski areas and § 13-2-115 would protect skiers against those dangerous conditions that are not commonly present at ski areas. *Giebink v. Fischer*, 709 F. Supp. 1012 (D. Colo. 1989).

**33-44-107. Duties of ski area operators - signs and notices required for skiers' information.** (2) (d) Danger areas, designated by a red exclamation point inside a yellow triangle with a red band around the triangle and the word "Danger" printed beneath the emblem. Danger areas do not include areas presenting inherent dangers and risks of skiing.

(7) The ski area operator shall mark hydrants, water pipes, and all other man-made structures on slopes and trails which are not readily visible to skiers under conditions of ordinary visibility from a distance of at least one hundred feet and shall adequately and appropriately cover such obstructions with a shock-absorbent material that will lessen injuries. Any type of marker shall be sufficient, including but not limited to wooden poles, flags, or signs, if the marker is visible from a distance of one hundred feet and if the marker itself does not constitute a serious hazard to skiers. Variations in steepness or terrain, whether natural or as a result of slope design or snowmaking or grooming operations, including but not limited to roads and catwalks or other terrain modifications, are not man-made structures, as that term is used in this article.

(8) (a) Each ski area operator shall post and maintain signs which contain the warning notice specified in paragraph (c) of this subsection (8). Such signs shall be placed in a clearly visible location at the ski area where the lift tickets and ski school lessons are sold and in such a position to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift. Each sign shall be no smaller than three feet by three feet. Each sign shall be white with black and red letters as specified in this paragraph (a). The words "WARNING" shall appear on the sign in red letters. The warning notice specified in paragraph (c) of this subsection (8) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height.

(b) Every ski lift ticket sold or made available for sale to skiers by any ski area operator shall contain in clearly readable print the warning notice specified in paragraph (c) of this subsection (8).

(c) The signs described in paragraph (a) of this subsection (8) and the lift tickets described in paragraph (b) of this subsection (8) shall contain the following warning notice:

#### WARNING

Under Colorado law, a skier assumes the risk of any injury to person or property resulting from any of

subsection (8) 1990.

re applicable, national Ass'n,

nd § 13-2-115 use dangerous nly present at 709 F. Supp.

required for exclamation ple and the ot include

d all other visible to t least one ostructions of marker s, or signs, he marker steepness naking or s or other is used in

h contain (8). Such where the be recog- t of each ree feet. his para- d letters. (8) shall imum of

s by any g notice

and the tain the

the inherent dangers and risks of skiing and may not recover from any ski area operator for any injury resulting from any of the inherent dangers and risks of skiing, including: Changing weather conditions; existing and changing snow conditions; bare spots; rocks; stumps; trees; collisions with natural objects, man-made objects, or other skiers; variations in terrain; and the failure of skiers to ski within their own abilities.

Source: (2)(d) and (7) amended and (8) added, L. 90, p. 1541, § 3, effective July 1.

Cross references: For the legislative declaration contained in the act amending subsections (2)(d) and (7) and enacting subsection (8), see section 1 of chapter 256, Session Laws of Colorado 1990.

33-44-108. Ski area operators - additional duties. (5) The ski area operator, upon finding a person skiing in a careless and reckless manner, may revoke that person's skiing privileges. This subsection (5) shall not be construed to create an affirmative duty on the part of the ski area operator to protect skiers from their own or from another skier's carelessness or recklessness.

Source: (5) amended, L. 90, p. 1542, § 4, effective July 1.

Cross references: For the legislative declaration contained in the act amending subsection (5), see section 1 of chapter 256, Session Laws of Colorado 1990.

33-44-109. Duties of skiers - penalties. (1) Each skier solely has the responsibility for knowing the range of his own ability to negotiate any ski slope or trail and to ski within the limits of such ability. Each skier expressly accepts and assumes the risk of and all legal responsibility for any injury to person or property resulting from any of the inherent dangers and risks of skiing; except that a skier is not precluded under this article from suing another skier for any injury to person or property resulting from such other skier's acts or omissions. Notwithstanding any provision of law or statute to the contrary, the risk of a skier/skier collision is neither an inherent risk nor a risk assumed by a skier in an action by one skier against another.

(2) Each skier has the duty to maintain control of his speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, the primary duty shall be on the person skiing downhill to avoid collision with any person or objects below him.

Source: (1) and (2) amended, L. 90, p. 1542, § 5, effective July 1.

Cross references: For the legislative declaration contained in the act amending subsections (1) and (2), see section 1 of chapter 256, Session Laws of Colorado 1990.

The term "responsibility" as used in subsection (2) encompasses the legal concept of

"fault". In effect, the statute creates a rebuttable presumption that the skier is at fault

whenever he collides with an object listed in subsection (2), and "fault" may be defined as the equivalent of negligence. *Pizza v. Wolf Creek Ski Development Corp.*, 711 P.2d 671 (Colo. 1985).

Given the connection between "responsibility" and "negligence", in the context of a skiing accident case, the term "responsibility" may be equated with the concept of "negligence" for purposes of applying the presumption contained within subsection (2). *Pizza v. Wolf Creek Ski Development Corp.*, 711 P.2d 671 (Colo. 1985).

The phrase "natural object" is not unconstitutionally vague. *Pizza v. Wolf Creek Ski Development Corp.*, 711 P.2d 671 (Colo. 1985).

Skiers as a group do not constitute a suspect class, and being free from a legislatively imposed rebuttable presumption of negligence is not a fundamental right. *Pizza v. Wolf Creek Ski Development Corp.*, 711 P.2d 671 (Colo. 1985).

Evidentiary presumption contained in subsection (2) places upon skier the burden of rebutting the presumption by presenting evidence of the ski area operator's negligence which outweighs the presumption of the skier's sole negligence. *Pizza v. Wolf Creek Ski Development Corp.*, 711 P.2d 671 (Colo. 1985).

Presumption is not unconstitutionally vague in describing rebuttal burden. *Pizza v. Wolf Creek Development Corp.*, 711 P.2d 671 (Colo. 1985).

**33-44-111. Statute of limitation.** All actions against any ski area operator or its employees brought to recover damages for injury to person or property caused by the maintenance, supervision, or operation of a passenger tramway or a ski area shall be brought within two years after the claim for relief arises and not thereafter.

Source: Entire section amended, L. 90, p. 1543, § 6, effective July 1.

Cross references: For the legislative declaration contained in the act amending this section, see section 1 of chapter 256, Session Laws of Colorado 1990.

This section and not former § 13-80-110 is the applicable statute of limitations for actions to recover damages for an injury in a ski area. *Schafer v. Aspen Skiing Corp.*, 742 F.2d 580 (10th Cir. 1984).

Three-year statute of limitations in this section does not violate equal protection or constitutional provisions governing special legislation, grant of special privileges or immunities, or access to courts. *Schafer v. Aspen Skiing Corp.*, 742 F.2d 580 (10th Cir. 1984).

Neither § 2-4-107 nor 2-4-108 applicable in determining the computation of the statute of

limitations in this section. *Schafer v. Aspen Skiing Corp.*, 742 F.2d 580 (10th Cir. 1984).

Statute not applicable to action resulting from injury occurring in a parking lot. Since the term "ski area" does not include an area devoted to the parking of motor vehicles and the operation of shuttle buses, none of the provisions of this act, including the statute of limitations in this section, are applicable. *McLean v. Winter Park Recreational Ass'n*, 762 P.2d 751 (Colo. App. 1988).

**33-44-112. Limitation on actions for injury resulting from inherent dangers and risks of skiing.** Notwithstanding any judicial decision or any other law or statute to the contrary, including but not limited to sections 13-21-111 and 13-21-111.7, C.R.S., no skier may make any claim against or recover from any ski area operator for injury resulting from any of the inherent dangers and risks of skiing.

Source: Entire section added, L. 90, p. 1543, § 7, effective July 1.

Cross references: For the legislative declaration contained in the act enacting this section, see section 1 of chapter 256, Session Laws of Colorado 1990.

**33-44-113. Limitation of liability.** The total amount of damages which may be recovered from a ski area operator by a skier who uses a ski area

for the purpose of skiing or for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, a snowboard, or any other device and who is injured; excluding those associated with an injury occurring to a passenger while riding on a passenger tramway, shall not exceed one million dollars, present value, including any derivative claim by any other claimant, which shall not exceed two hundred fifty thousand dollars, present value, and including any claim attributable to noneconomic loss or injury, as defined in sections 13-21-102.5 (2) (a) and (2) (b), C.R.S., whether past damages, future damages, or a combination of both, which shall not exceed two hundred fifty thousand dollars. If, upon good cause shown, the court determines that the present value of the amount of lost past earnings and the present value of lost future earnings, or the present value of past medical and other health care costs and the present value of the amount of future medical and other health care costs, or both, when added to the present value of other past damages and the present value of other future damages, would exceed such limitation and that the application of such limitation would be unfair, the court may award damages in excess of the limitation equal to the present value of additional future damages, but only for the loss of such excess future earnings, or such excess future medical and other health care costs, or both. For purposes of this section, "present value" has the same meaning as that set forth in section 13-64-202 (7), C.R.S., and "past damages" has the same meaning as that set forth in section 13-64-202 (6), C.R.S. The existence of the limitations and exceptions thereto provided in this section shall not be disclosed to a jury.

**Source:** Entire section added, L. 90, p. 1543, § 7, effective July 1.

**Cross references:** For the legislative declaration contained in the act enacting this section, see section 1 of chapter 256, Session Laws of Colorado 1990.

**33-44-114. Inconsistent law or statute.** Insofar as any provision of law or statute is inconsistent with the provisions of this article, this article controls.

**Source:** Entire section added, L. 90, p. 1543, § 7, effective July 1.

**Cross references:** For the legislative declaration contained in the act enacting this section, see section 1 of chapter 256, Session Laws of Colorado 1990.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. CSHB 41 (L&C)**

Revision Date: \_\_\_\_\_  
 Title: Civil liability for skiing accidents  
 Sponsor: Reps. Phillips, Hudson, Porter, Toohy  
 Requestor: \_\_\_\_\_

Department Affected: Commerce and Economic Development  
 BRU: Insurance  
 Component: Operations  
**COMPONENT SERIAL NO. 354**

**Expenditures/Revenues:**

<b>OPERATING EXPENDITURES</b>	<b>FY 95</b>	<b>FY 96</b>	<b>FY 97</b>	<b>FY 98</b>	<b>FY 99</b>	<b>FY 00</b>
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
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<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0
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**FUND SOURCE**

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of current year (FY 94) cost: \$ 0

**POSITIONS**

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

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

No fiscal impact.

Prepared by: Joan Brown, Administrative Officer *J. Brown* Phone: 465-2597  
 Division: Insurance Date: 12-9-93

Approved by Commissioner: Paul Fuhs *P. Fuhs*  
 Agency: Commerce and Economic Development Date: 12/13/93

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**FISCAL NOTE**

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

Bill No. HB 41

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to civil liability for BRU: Trial Courts  
skiing accidents... Components: \_\_\_\_\_  
 Sponsor: Phillips  
 Requestor: Labor & Commerce COMPONENT SERIAL NO. 000 | 000 | 000 | 788

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

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

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

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228  
 Division: Alaska Court System Date: 01/22/93  
 Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 01/22/93  
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 41

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

Department Affected: Commerce and Economic Development

Title: An Act relating to civil liability for skiing accidents . . . .

BRU: Insurance

Component: Insurance Operations

Sponsor: Reps. Phillips, Hudson, Porter

Requestor: Labor and Commerce, Judiciary, Finance

COMPONENT SERIAL NO. 354

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared by: Dave Walsh

Phone: 465-2515

Division: Insurance

Date: January 21, 1993

Approved by Commissioner: Paul Fuhs

Agency: Commerce and Economic Development

Date: 1-22-93

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FISCAL NOTE

BILL NO. HB 41

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Revision Date: January 22, 1993  
 Title: "... relating to liability for skiing accidents, operations of ski areas..."  
 Sponsor: Representative Phillips  
 Requestor: House Labor & Commerce

Department Affected: Department of Law  
 BRU: Legal Services  
 Component: Operations  
 COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
FUND SOURCE:						

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
 Please see the attached analysis.

*Richard I. Peques*

Prepared by: Richard I. Peques, Director  
 Division: Administrative Services Division

Phone: 465-3672  
 Date: January 22, 1993

Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law

Date: January 22, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 41

ANALYSIS (Continued):

This bill adds a new chapter to AS 05 that defines the responsibilities of ski area operators and defines the responsibilities of skiers using ski areas. The bill further defines the liabilities of both ski operators and skiers, and the bill excludes comparative negligence or comparative fault analysis where an injury is the result of an inherent risk of skiing. The bill has the effect of reversing Hiibschman v. City of Valdez. The bill should not have a direct fiscal impact on the Department of Law, because the state is not a ski area operator in the sense of commercially or municipally operated ski areas.

It should be noted, however, that dedicated trails on state lands, or in state parks, may fall within the definition of ski area when the trails are used for cross country skiing. The bill does require ski area operators to extensively mark skiing routes with signs. It is doubtful that the Department of Natural Resources will have adequate funds for staff to comply with this requirement. Failure to do so could result in liability for the state in the event of an accident. Consequently, the Department of Law could be called upon to defend such liability claims at some time in the future. The department's defense costs are passed on to the Division of Risk Management in cases involving personal injury claims. We cannot predict these possible costs at this time, because information is not available which would indicate the number or severity of future claims.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO : HB 41

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

Department Affected: Labor

Title: "An Act relating to civil liability  
for skiing accidents..."

BRU: Labor Standards & Safety

Component: Mechanical Inspection

Sponsor: Representatives Phillips, Hudson, Porter

Requestor: Representative Phillips

COMPONENT SERIAL NO. 346

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

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

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

Prepared by: Donald G. Study, Director Phone: 465-6003  
Division: Labor Standards and Safety Date: 1/22/93

Approved by Commissioner: Charles W. Mahlen  
Agency: Department of Labor Date: 1/25/93

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# ALASKA ADVENTURE CHARTERS

SPORTFISHING - INLAND PASSAGE CRUISES - MINING SUPPORT - S.E. ALASKA CRUISES

*For File*

*R. M. C.*

November 3, 1993

Representative Bill Hudson  
Room 108 - State Capitol  
Juneau, AK 99801-1182

Dear Representative Hudson:

Alaskans depend more each year on tourist dollars for their basic income - I'm part of that industry.

I have read both S.B. #44 and H.B. #41. This is important legislation that will help allow the survival of a viable tourist industry.

I'm writing several legislators to urge them to support these bills. Thanks for introducing this legislation.

Sincerely,

*Troy C. Erwin*

Troy C. Erwin

*civil liability for skiing accidents*

*File*

Senate & Labor Commerce Committee

Letters of Support for SB 44 - Civil Liability for Skiing Accidents

Anchorage Convention & Visitors Bureau

Alaska Visitors Association

Anchorage Economic Development Corporation

United Brotherhood of Carpenters and Joiners of America

Local Union No. 1281

Alaska Hotel & Motel Association

Days Inn

Westmark Hotels



**Westmark**

**HOTELS**

ALASKA/YUKON

January 19, 1993

Senator Tim Kelly  
Alaska State Legislature  
Juneau, AK 99801

Dear Senator Kelly:

Please accept this letter as Westmark Hotels support of Bill SB 44 pertaining to civil liability for skiing accidents.

This bill will increase the economic development of tourism in our state during the winter months and bring our state skiers liability laws on equal footing with those laws in other Western States.

Sincerely,

William J. Dugdale  
General Manager  
WESTMARK ANCHORAGE HOTEL



## *Alaska Ski Areas Association*

7015 ABBOTT ROAD  
ANCHORAGE, ALASKA 99516  
(907) 346-1446

Alaska State Senate  
Senate Labor & Commerce  
Juneau, Alaska  
Attention: Tim Kelly, Chair

1-20-93

Dear Mr Kelly:

I was at Tuesdays public hearing but did not get a chance to testify so I am writing in support of SB 44. I am the Chairman of the Alaska Ski Areas Association and also the General Manager of Hilltop Ski Area here in Anchorage.

There are 13 downhill ski areas in Alaska: Cleary Summit, Ski Land, Ravenwood and Birch Hill all near Fairbanks. Black Rapids near Delta Junction. Hilltop, Hillberg, Arctic Valley and Alpenglow in Anchorage. Alyeska Resort in Girdwood. The Coast Guard Hill in Kodiak. Mt. Eyak in Cordova, and Eaglecrest near Juneau. In addition there are numerous organizations that prepare and operate Nordic trails: Chena Hot Springs Resort, Hatchers Pass Lodge and Anchorage Nordic Ski Club to name a few.

There are many inherent risks in any sport. Skiing is no exception. Ski area operators sell access to a winter alpine or nordic environment not to a perfectly groomed danger free slope. This environment includes all manner of risks: weather, slopes, forest growth, snow conditions as well as some man made obstacles. All skiers should recognize that ski area operators and track setters can not modify even a small portion of this environment. There is no way to make skiing absolutely "safe". Individual skiers must bear some of the responsibility for their participation in the sport.

Since 1980 Alaska has had a statute relieving ski area operators of liability for injuries or property damage which arise from the inherent risks of skiing. The purpose of this statute was to recognize that a ski area operator could not eliminate these risks, and to ensure that a ski areas could obtain insurance and continue to provide skiers the opportunity to enjoy their favorite winter outdoor recreation. An effective law will continue to be important in providing the legal climate necessary to further development of winter tourism facilities in Alaska.

In December of 1991 the Alaska Supreme Court interpreted the statute as not preventing suits by injured skiers. Claiming an operator had failed to make the slopes "safe" for patrons. This ruling defeats the purpose of the statute and leaves operators and skiers in substantial danger that Alaska ski areas will not be able to obtain insurance at reasonable rates. Assuming that a ski area can still operate, ticket prices will have to increase substantially in order to cover the increased insurance premiums.

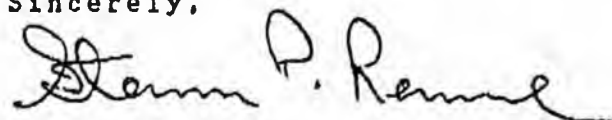
As a result of that Supreme Court decision the City of Valdez can no longer offer it's residents the recreation of downhill skiing. If this legislation does not pass perhaps other ski areas around the state will fall under the load of escalating premiums and frivolous law suits.

There is a segment of the community that believes that this legislation is proceeding only to protect a multinational corporation (Seibu) from liability. Most of the ski areas within the state are very small and most are products of the communities that they are located in. This legislation will affect all of them not just one of them and in most cases if insurance premiums rise as a result of poor legislative protection it will become cost prohibitive to operate. The ski areas are not trying to hide from their responsibilities to provide safety for the skiing public because we recognize that if we fail to do that soon we will be out of business.

Alaska has a lot to be proud of. Last year an Alaskan skier by the name of Hilary Lindh came home from the Olympics with a Silver Medal. If we fail to support this legislation where will the Hilary Lindh's of the future get a chance to practice and excel in this sport?

I urge you to please support this legislation!!

Sincerely,



Steven P. Remme  
ASAA Chairman

SENT BY: ANCHORAGE HILTON HOTEL: 1-19-93 :12:08PM :

9072657175-

# 1



## Alaska Hotel & Motel Association

P.O. BOX 104800 • ANCHORAGE, ALASKA 98510 • (907) 344-4778

January 18, 1993

Senator Tim Kelly  
State Capitol  
Room 101  
Juneau, AK 99801-1182

Dear Senator Kelly:

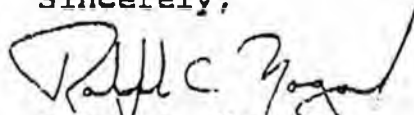
As President of the Alaska Hotel Motel Association, I would like to clarify our position as being POSITIVE in regards to Senate Bill #44 pertaining to civil liability for skiing accidents.

This bill will definitely increase economic development in tourism in our State because it will put our skier liability laws on equal footing with the laws in other Western ski areas in the United States. We will then be able to compete with these States and Canada. Even our own hotel, the Anchorage Hilton, of which I am the General Manager, will benefit because guests will come to ski Alyeska and possibly stay at our property, or any one of the other properties in the downtown area, on their way to or from Alyeska.

On behalf of all our membership, we firmly believe this bill should definitely be passed as quickly as possible to assist Alyeska.

Thank you for your assistance.

Sincerely,

  
Ralph C. Nogal

RCN/eh

Post-It™ brand fax transmittal memo 7371 # of pages > 1  
From D. J. W. W. W.



## Alaska Hotel & Motel Association

PO BOX 103900 • ANCHORAGE, ALASKA 99510 • (907) 344-1778

January 19, 1993

Subject: SB-44, Civil Liability for Skiing Accidents

The Alaska Hotel and Motel Association supports SB-44 as written. The Alaska Hotel and Motel Association believes that many individual sports, including skiing, have inherent dangers which vary depending upon the individual participants judgement and skills. It would be impossible for a ski area operator to fully guarantee the total safety of every individual skier in every circumstance because of the natural varying inherent dangers of the sport.

The Alaska Hotel and Motel Association believes that ski area operators in the State of Alaska should be permitted to compete fairly with other ski areas throughout the USA and the world. To handicap Alaskan ski area operators through unfair or unnecessary legislation, will only serve to reduce the number of skiers who choose to ski in Alaska. This would certainly have a negative effect on the many supporting businesses of the ski industry, such as hotels and lodges, restaurants, transportation etc..

Max J. Lowe, CHA  
Past Chairman  
Alaska Hotel and Motel Association

sp



UNITED BROTHERHOOD OF  
**Carpenters and Joiners of America**

LOCAL UNION NO. 1281

407 DENALI

PHONE 276-3533

ANCHORAGE, ALASKA 99501  
FAX: 276-7962



January 18, 1993

Dear Alaska Legislators:

This is a statement of support for SB 44, as submitted by Sen. Kelly

If Alaska is to grow and prosper in the clean, ecologically sound and renewable area of Tourism this bill should be supported.

The bill would put Alaska on even footing with the rest of the western United States. That, coupled with our natural beauty and long winters, should give Alaska a leg up for future economic development.

The only people that I can imagine not supporting SB 44 would be those people not willing to take responsibility for their own actions or lawyers looking for a little action.

Sincerely,

Phillip A. Thingstad  
Business Manager  
Carpenters Local 1281

PAT/we



**ANCHORAGE**  
ECONOMIC  
DEVELOPMENT  
CORPORATION

Honorable Tim Kelly  
111 Capitol  
PO Box V  
Juneau, AK 99811

Dear Senator Kelly:

The Anchorage Economic Development Corp. (AEDC) supports SB44, Civil Liability for Skiing Accidents.

As you know, the AEDC's mission is to stimulate economic development. One industry we focus on because of its tremendous potential is tourism. We have fully supported Seibu Alaska's Alyeska Resort expansion and support development of the Glacier/Winner Creek areas as well.

Alaska's ski resort success will depend on how effectively we compete with other developable areas in the northwest United States and Canada. Passing SB44 is critical to Alaska's winter tourism because it will put Alaska on equal footing with its competitors on the issue of skier liability.

Because this bill will so greatly benefit an industry still in its infancy in Alaska, and will only harm a small sector of the economy (trial lawyers) in Alaska, the AEDC fully supports passing SB44.

Sincerely,

Scott E. Hawkins  
President

#93-01

**Resolution in Support of Ski Safety and  
Inherent Risks of Skiing Legislation**

Whereas, skiing in Alaska has inherent risks caused by terrain, weather, equipment and individual skiers, and

Whereas, financially sound ski areas are a significant part of Alaska's winter tourism industry and resident recreation, and

Whereas, the steady growth of winter tourism provides jobs for residents and revenue to the state, and

Whereas, the rising cost of insurance and increasing threat of lawsuits as a result of not recognizing the sport's inherent risk could force the price of skiing to grow so much that the majority of Alaskans and visitors could not afford the sport, threatening the continued operation of many ski areas, and

Whereas, this issue has been recognized by other states, primarily in the western United States, where skiing is an important part of their winter tourism industry, through the enactment of appropriate liability laws, and

Whereas, if the inherent risk of skiing is not recognized and controlled in the state of Alaska, the state will remain non competitive in its efforts to attract winter visitors who would utilize established ski resorts and winter recreational areas,

Now Therefore Be It Resolved, that the Anchorage Convention and Visitors Bureau Board of Directors, on behalf of its more than 900 members, unanimously supports the passage of Senate Bill 44 and House Bill 41.

Adopted by the Anchorage Convention & Visitors Bureau  
Board of Directors March 26, 1992

Larry G. Anderson  
Chairman  
Anchorage Convention & Visitors Bureau

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Convention & Visitors  
Bureau**

*Our Community's Way  
of Attracting and  
Serving Visitors*

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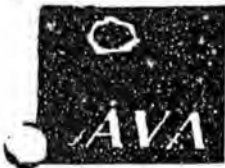
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# ALASKA VISITORS ASSOCIATION

501 West Northern Lights, Suite 201 • Anchorage, Alaska 99503

Tel: (907) 276-6663 • Fax: (907) 258-4036

1991-92

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Karen Cowart

Executive Director

#92-03

## RESOLUTION IN SUPPORT OF INHERENT RISKS OF SKIING LEGISLATION

WHEREAS, the sport of skiing is practiced by a large number of Alaskans and attracts visitors to the state who provide significant contributions to the state economy through the construction and operation of skiing facilities, and

WHEREAS, skiing is a critical element of efforts to increase fall/winter/spring visitation, and

WHEREAS, skiing is an exhilarating sport, the enjoyment of which includes several components: exercise, enjoyment of the outdoors, physical and mental challenges, and the excitement of taking risk, and

WHEREAS, skiing is conducted in an environment that includes natural variations of terrain, weather, and snow conditions and necessary man-made amenities created and maintained by ski area operators, and

WHEREAS, the sport of skiing is accompanied by inherent risks of accident and injury, and

WHEREAS, the Alaska Legislature in 1980 recognized these inherent risks and the individual skiers responsibility to assume them by enacting AS 09.65.135, "Limitations on Claims Arising From Skiing," and

WHEREAS, the Alaska Supreme Court, in *Hubschman vs. City of Valdez et al.* rendered an opinion that undermines the intent and effectiveness of the act, and

WHEREAS, the cost of insurance and defense from suits involving the inherent risks of skiing are certain to rise dramatically as a result of the ruling, causing increases in ticket prices and threatening the continued operation of some areas, and

WHEREAS, legislation has been introduced to clarify provisions of the act and restore its effectiveness,

NOW THEREFORE BE IT RESOLVED, that the Alaska Visitors Association Board of Directors, on behalf of the membership and tourism industry part represents, endorses adoption of revision to AS 09.65.135, "Limitations on Claims Arising From Skiing," and will join public and private organizations seeking passage of Senate Bill 403 and House Bill 491.

Adopted by the Alaska Visitors Association

Board of Directors

February 21, 1992

Juneau, Alaska

Post-It™

To  
C

with 11/2

JAN 19 '93 11:22 DAYS INN

P.1/1



Plaza Inn Hotels, Inc. d/b/a Days Inn - Anchorage  
321 East Fifth Avenue  
Anchorage, Alaska 99501-2654  
(907) 276-7226  
Fax (907) 278-6041

*January 18, 1992*

*Senator Tim Kelly  
Capitol Building  
Juneau, AK 99801*

*Dear Senator Kelly:*

*RE: SB44*

*Unfortunately due to prior commitments I will be unable to attend the hearing on the Skier liability law. In lieu of not attending I would like to advise you of my concerns on this law!*

*As an avid skier and frequent user of the ski trails not only at Alyeska, but Alpenglow and Hilltop, I recommend that Alaska's skier liability law be brought into conformance with laws in other western states. Alaska can not afford to have laws more restrictive than it's competition. The potential for a world class resort, and the further development that it could bring, must be addresssed at all levels. This development could be the start of winter tourism to rival other western states and Canada. Please Let's do what we can to remove any barricades to future development.*

*Thank You.*

*Dennis J. Lavey  
Managing Partner*



## Alaska Action Trust

P.O. Box 102323 • Anchorage, Alaska 99510  
 Office: 540 "L" Street, Suite 206 • Anchorage, AK 99501  
 (907) 258-4040 • FAX (907) 276-7185

### FAX TRANSMITTAL

**TO:** Representative Hudson, Chair of House Labor & Commerce  
 Representative Green, Vice-Chair of House Labor & Commerce  
 Representative Mulder  
 Representative Porter  
 Representative Williams  
 Representative Sitton  
 Representative Mackie

**FROM:** Dennis Mestas

**DATE:** January 22, 1993

**RE:** HB 41

\*\*\*\*\*

On behalf of the Academy of Trial Lawyers, I have been asked to express our strong opposition to HB 41. HB 41 would grant immunity for negligent maintenance, construction and design activities that would virtually insulate the ski area from any liability for the operation of the ski area operations.

The state law Seibu wishes to repeal and revise via a via HB 41 was largely the result of one lawsuit which was filed against Seibu. In that case, a 16 year old boy was skiing on the newly opened night skiing area at Alyeska when he skied over an unmarked, unsigned, unlighted 15 foot drop-off that was in a shadowed area in the middle of the night skiing course. The shadows that obscured the drop-off were a result of Seibu placing the largest group of lights on the course immediately behind a grove of trees. As the case developed, it appeared that Seibu failed to advise the lighting engineers of the trees' existence (according to the lighting engineer) and Seibu somehow failed to notice the trees when it was placing the lights behind them. This is somewhat difficult to do when each light must be separately aimed with a sighting mechanism on it. Further, neither Seibu nor the lighting engineer noticed the trees and the shadow after the system was built and the area was open. This young boy was paralyzed for life from the waist down when he went off the drop-off and landed on a flat "cat track" - a road.

The drop-off was created by a road cut made by a dozer as it cut through the ridge comprising the ski area between lifts 1 and

4. Seibu left a near 90 degree cut-bank in the middle of the ski area instead of shaving off its upper edge to make a "roll." An expert, who was a former National Ski Areas Association president and extremely revered figure in the national ski industry, testified that the situation was "murderous and totally unacceptable." He further indicated it was far beyond the role (pale) of normal industry standards and was an easily, cheaply remedied situation.

I take the time to briefly set forth some of these facts as you should note that a provision of the proposed bill includes among the "inherent risks of skiing" variation or steepness in terrain "man-made structures, and their components ... including roads and catwalks or other terrain modifications". Thus, Seibu and other ski areas seek to be immunized for design and construction activities which are clearly avoidable, controllable and their responsibility and which are clearly not "unavoidable, natural consequences of the sport of skiing." According to the ski experts in the above case against Alyeska (Schlaak v. Seibu) such design and construction activities involving roads, lights, signs and trail marking are an integral part of the safety considerations that have to be kept in mind in making slopes safe for skiers during the design, construction and maintenance process.

It should be kept in mind that skiing is not much different than driving a car. The same human reactions and human frailties relating to vision, reaction time and attention are present. Thousands and thousands of people are travelling these "ski roads including many, many children." They deserve the same sort of consideration regarding a safe traffic design including elimination of hazards when reasonably possible as well as appropriate signs and warnings of hazards. Virtual cliffs constructed in the middle of a ski run because of improper road cutting certainly do not qualify for the rubric of "inherent hazards of skiing." Nor do other hidden hazards known to the ski area which the skier does not and cannot know of, such as snow making equipment.

Further, in this regard, I believe it is appropriate to refer to the recent Supreme Court decision which Seibu and others are apparently so desperate to make an end run around. The case is Hilbschman v. City of Valdez, et al. One of the thrusts of that opinion was that the present statute codified the common law that ski areas were not liable for injuries caused by the inherent risks of skiing. As the Supreme Court noted, it is only in this situation where the injuries or deaths are caused solely by such inherent risks that the lack of liability is apparent. Such risks are the natural and unavoidable risks -- the risks that cannot be controlled.

Perhaps even more importantly, the Supreme Court noted that the legislature in passing "tort reform" indicated a very strong statutory policy was present (as you will no doubt recall) to the

effect that each party should only bear its own risk, i.e. the "tort reform" statutes.

Thus, we now have several and not joint liability. While at one point "tort reformers" wanted every party to be responsible for its own fault, now Seibu and others seek to avoid any responsibility which runs directly against the clear intent of legislature in passing "tort reform" and mandating complete several liability. Thus, the Supreme Court noted that it would not be consistent to allow ski areas to escape liability while promoting the concept of true several liability. Here, the ski areas, of course, do not object to several liability, they just do not want to be among the "several."

Finally, we believe HB 41 is brought before the legislature because of not only the recent Hiibschman decision but also because of a recent death that occurred at Seibu's resort at Alyeska. On December 8, 1991, Bart Rizer, a 12 year old boy, died of hypothermia on an open slope in the bowl at Alyeska. Approximately four feet of snow had fallen in the 48 hours before his death and the bowl had not previously been open for skiing and had not been groomed. December 8, 1991, was a Sunday. On Saturday, skiing had been allowed on the ridge from the roundhouse down where a packed base was present. On Sunday, in the late afternoon, Seibu opened the bowl for skiing even though the bowl had not been adequately signed or roped off so as to warn skiers of extremely dangerous and indeed life threatening snow conditions that were present in some areas. Further, there was not even sufficient grooming done to allow the ski patrol to visually inspect and gain access to all parts of the bowl to check for downed skiers when the final sweep of the hill was made after the bowl was closed at 3:30 p.m. Many skiers had to be literally dug out of the snow as it was "bottomless powder" up to skiers' chests when off their skis.

While making a run through the bowl shortly before it closed, Mr. Rizer fell while proceeding down a short steep slope known as "Horror Hill" which is virtually in the middle of the bowl and is not obscured by trees. Unknown to Bart was the fact that extremely deep, treacherous snow was on Horror Hill. The snow was so deep that when he fell head first into it he was buried upside down up to his knees and was unable to extricate himself. When the final sweep was made a very short time later, Mr. Rizer was not found and he died of hypothermia after being abandoned on the mountain.

Apparently, he was in a very small hollow where he could not be seen from the only packed area down through the bowl. Seibu had packed one narrow track up through the bowl and therefore, this portion of Horror Hill could not be visualized from immediately below it as it could be when the whole area is packed because the snow was five or six feet deep and the ski patrol would have found it extremely difficult to walk through this deep snow across the bottom of the hill scrutinizing it for downed skiers. Similarly,

because of the deep snow, a walk across the top of the hill could not be made without extreme difficulty. Apparently, one ski patrolman may have skied down a small portion of Horror Hill, but did not see Bart due to the snow condition and his location. There is no way that a proper sweep could have been made of this area given the extreme snow and the limited number of ski patrollers. Thus, for no good reason, a very bright and promising young man is dead.

You will note that a portion of the proposed bill is focused on grooming operations. Further, a portion of it is also focused at every possible snow condition. If this bill is passed as written, it would even insulate Alyeska from foreseeable avalanches that could kill hundreds of people because "snow on the ground is constantly changing". This is truly outrageous.

Seibu is required by the U.S. Forest Service to have a snow safety plan. This plan is prepared by the U.S. Forest Service in concurrence with Seibu. One of the stated objectives of their plan is as follows:

One of the prime objectives in winter sports administration is to prevent accidents related to ski lifts, tows, avalanche and terrain hazards.

One of Seibu's stated and agreed to duties is as follows:

Taking reasonable care to identify and mitigate hazards on primary ski slopes.

Thus, the Forest Service is directly involved in monitoring and requiring safe operation of Seibu's ski area at Alyeska. Most of the ski area is on Forest Service land and is governed by Forest Service Management regulations. All aspects of ski safety are addressed in this plan. These include signs far beyond those included in the present statute including cautionary signs, daily trail and snow condition signs, area map with trail locations, avalanche signs, and trail markers. There are many other provisions of the ski plan that are focused at safety.

The question is this, if Seibu and other ski areas on public Forest Service land are already required to try to achieve maximum public safety, why are they now trying to escape responsibility for what they are required to do? Why should Seibu be insulated for negligent use of our land? The clear import of Forest Service regulation and the Forest Service mandated safety plan is to maximize public safety, not eliminate it. HB 41 will cause further erosion of safety procedures at Alyeska and other ski areas rather than enhancing the stated Forest Service goal of maximum safety for recreational users of federal land.

15140 Mesa Place  
Anchorage, AK 99516  
January 25, 1993

Rep. Bill Hudson  
Alaska State Legislature  
State Capitol  
Juneau, Ak 99801-1182

VIA FACSIMILE 465-6770

Dear Rep. Hudson:

I wish to express my concern with HB 41 and specifically the language in the bill that would relieve ski resort operators of any liability. Even though ski operators can not change the terrain, I expect them to mitigate hazards dealing with the environment including avalanches, mechanical safety of the lifts, and daily changes in the weather that might cause unsafe skiing conditions. You might assume that ski operators all have a snow safety plan in place, but I know some do not, or they do not follow their plans; therefore there must be a way to ensure that the customer is assured of the safest conditions possible.

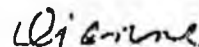
If you traveled to a new, unfamiliar ski area, don't you think it would be reasonable to expect the professionals of the area to be constantly evaluating the changing weather and snow conditions, including avalanche dangers? Do you think you should be responsible for those decisions? What do you think Alaskan tourists would expect from our ski operators?

Do not be misled by the ski resort operators who say that the price of lift tickets will go up if they are aren't given immunity from liability; a similarly passed law in Colorado did not result in lower tickets or insurance.

If you believe that giving ski operators immunity from liability is a good thing, would you also agree that air taxi operators should be relieved of liability from accidents resulting from all weather hazards. One reason we have FAA rules is to help mitigate changing weather conditions--passengers can't be expected to do that, and neither can all taxi operators be expected to operate in the safest possible manner unless there are rules with severe consequences for failure to comply.

And so must there also be ramifications for ski operators who might not always act responsibly. They should not be immune, and in fact, many ski operators use public lands for their operations and so are required to operate under detailed management plans. Why then are they asking to be released from such responsibilities on our public lands? And do you intend to vote to release them from immunity?

Sincerely,



Dianne Holmes  
345-1514

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# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 14, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/13/93

The LABOR AND COMMERCE Committee considered:

HB 50

HOUSE BILL NO. 50

AUTHORIZING POWER TRANSMISSION INTERTIES

"An Act authorizing the Anchorage to Kenai Peninsula and the Healy to Fairbanks power transmission interties and approving the design and construction costs of the interties; and providing for an effective date."

RECOMMENDATIONS:  the same title  
 be replaced with CS HB 50  a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note DCED

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>John Reed</i>	✓	<i>Brian Portis</i>		✓	
<i>Joe Sutton</i>	✓	<i>[Signature]</i>		✓	
<i>W.S. Williams</i>	✓	<i>[Signature]</i>		✓	
		<i>Bill Hudson</i>		✓	

*Bill Hudson*  
 \_\_\_\_\_  
 CHAIRMAN'S SIGNATURE

# Alaska State Legislature



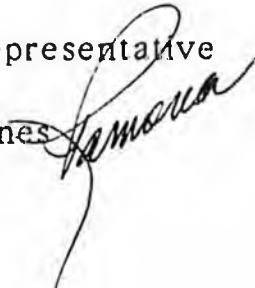
Speaker of the House of Representatives

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3720

## MEMORANDUM

TO: Members of the House of Representative

FROM: Representative Ramona Barnes   
Speaker of the House

DATE: February 10, 1993

RE: History of the Railbelt Energy Fund

Attached are copies of 2 documents from my files which will give you a history of the Railbelt Energy Fund and my position on the Northern and Southern Interties.

I hope this information is helpful to you. If you would like additional information, please give me a call and I will be happy to talk with you.

**SPEECH**

**RURAL ALASKA POWER ASSOCIATION**

**OCTOBER 15, 1991**

**REP. RAMONA BARNES**

**It is a pleasure to be invited to speak to your organization. I know you've already been welcomed to Anchorage, but I'd feel neglectful if I didn't add my voice to the chorus, and tell you I hope you'll enjoy being here and come back often.**

**I want to congratulate the Rural Alaska Power Association on the two years of its existence, and commend its efforts and the success with which they have met. The role of your group is an especially important one, because a unified voice is so vital to you. Clearly, your combined efforts can be more effective than all your separate strivings, and take it from one who knows, a Legislature can hear better when many voices speak as one.**

**I consider it an honor to be invited to speak before you today, and I hope I may rightly take it as acknowledgement of the work I have done in the legislature in recent years to support the interests of your association. I don't mean to suggest that I have worked exclusively for the members of RAPA, but neither have I worked only for Anchorage, or the Railbelt, or any other regional interest. For those of you who are not familiar with the creation of Power Cost Equalization and the Railbelt Energy Fund, I would like to provide a little history.**

**In 1981, Senate Bills 25 & 26 created the energy plan for Alaska. This plan included the 4 Dam Pool, Power Cost Equalization and a clause that was known as the blackmail clause. This clause in essence said that the grants that were given to the 4 Dam Pool would be paid back to the state, plus interest, if by the year 1991 there was less than \$1 billion to construct**

**Susitna/Watana Dam and an intertie system for the railbelt.**

**In 1984, the representatives of the 4 Dam Pool came back to Juneau seeking to have the blackmail clause removed from the statutes due to cost overruns that would require additional funds. Their claim was that unless the state gave them another outlay of cash they would not be able to bond at a favorable rate due to the existence of the blackmail clause in statute.**

**At that time, Senator Frank Ferguson, in my opinion one of the best senators to ever serve in the Alaska Legislature, and I were appointed by our respective bodies of the legislature to negotiate the removal of the blackmail clause from the statutes and come up with something more equitable for the railbelt.**

**What was finally agreed on by the legislature and the administration, was the removal of the blackmail clause in exchange for \$200 million per year to be appropriated in the same manner as the Senior Citizens Longevity Bonus, as an example. In addition to that appropriation, there was to be \$100 Million deposited into the Bradley Lake Dam account. At that time, we also increased the per kilowatt amount to be subsidized by Power Cost Equalization.**

**This then, became law. Although this continuing appropriation was no different from any other that is required annually, the environmental community took it to court and a ruling was made that one legislature could not bind another, even though it was no different than numerous other annual appropriations. That first \$200 Million plus the \$100 Million for Bradley Lake Dam**

were the only funds ever deposited into the energy account.

In 1990, a deal was cut to raid the fund and approximately \$ 123 million was spent on various capital projects, very few of which had anything to do with energy. There is currently \$100 million in an intertie reserve account, but there are some legislators working very hard to spend this money on anything but interties. The southern intertie from Anchorage to the Kenai Peninsula needs very badly to be improved and upgraded for reliability. Everytime there is an avalanche or an ice storm in Turnagain Arm, parts of this intertie are lost, resulting in a loss of power to many small communities between Anchorage and Soldotna. The completion of the Bradley Lake Hydroelectric project will alleviate the power losses to Kenai and Homer to some extent, but a reliable source of power between Anchorage and the Peninsula is vital.

It is perceived by many citizens of Alaska that members of the legislature from Anchorage, Fairbanks and most of Southeast Alaska only have the interests of their areas in mind. It is supposed that the credo of urban legislators is "on my honor I will do my best, to take what I can and to heck with the rest". I suppose over the years I've known a few members who thought that way, but I submit to you that they were not paying very close attention. What is in the interests of Tanana and Egegik and Nome is in the interests of Anchorage; and what benefits Gustavus and Fort Yukon and Barrow benefits Fairbanks; and Southeast Alaska's interests are no further spearated from rural Alaska than any others. Economic activity in any part of the state is to the advantage of all parts of the state --- in

differing degrees, of course ---- but we function essentially as a single economic entity.

It is for that reason that I continue to support major power projects in the state including generation facilities and interties. It is for the very same reason that I support the many interties which are on the shelves at the Power Authority. These projects are ready to go as soon as money can be made available. There are also a number of small hydro projects around the state -- in rural Alaska -- waiting to go. In addition, there are waste heat recovery projects, coal generation sites and experimental projects.

Rural Alaska is not being ignored, as witness of course, the P.C.E. program, but do not forget the other efforts being made in your behalf to improve living conditions, business opportunities and health and safety.

Many people suppose that the state had paid entirely for or is paying for power sources elsewhere in Alaska. Not True! The federal government, of course, owns the Snettisham project in southeast, and the consumers are paying to retire the bonds which financed it. Presently the state is in the process of taking over Snettisham to guard against power cost increases in the future should the federal government revise its cost recovery policies. Consumers will continue to pay to retire the bonds which will finance that acquisition. The state will then own that very valuable asset. The request is presently under consideration by the congress, and action could come most any time.

Bradley Lake, near Homer, the most recent addition to the state's power pool, is a good example of the same sort of situation. There were legislative grants for

parts of that project, however, half of it was financed by bond issues, which consumers, through local utilities, will pay to retire. When the bonds are retired, the state will own the project.

On the subject of Bradley Lake, I would like to extend my sincere congratulations to Charlie Bussell and his entire organization. A great deal of credit is due the agency for Bradley's successful completions substantially under budget, but even more on the quality of the project. I was at the project site for the groundbreaking ceremony five years ago, and again last month for the dedication. It's a picturebook project, in a spectacular setting which remains magnificent to see. The agency's and the contractor's meticulous attention to caring for the environment established records and actually enhanced the environment in certain cases. The overall project was such a success that it won the Civil Engineering Achievement of the Year award from the Northwest Section of the American Society of Civil Engineers. It has been nominated by them for the same distinction nationally. Once again, Alaskans can be proud.

I cannot speak for the Energy Authority as to what the future might hold. Although, one cannot fail to be impressed with the amount of money, the share of effort and the number of undertakings dedicated to rural Alaska. At a glance it would almost seem an agency designed solely for rural Alaska. It is not, of course, but the villages are certainly very much a part of its mission and concern. There are very few people in Alaskan villages that have not met one of A.E.A.'s circuit riders, or one of the technicians or engineers or emergency response people representing the Energy Authority. For a relatively small agency, the A.E.A.

reaches and affects more individual Alaskans than almost any other --- and its mission, without exception, is to improve their lot.

The legislature has generally been very supportive of this vital agency. In my efforts on its behalf over the years I have had a lot of company on both sides of the aisle. I see no reason to expect that to change; in fact I anticipate improvement of that support, particularly after the next election. Organizations such as yours, becoming more acutely aware of the role they can play in governmental policies and decisions, will work with local legislators and other individuals of influence, with other associations having shared interests, and with businesses and industries having common goals. Together you will bring your influence to bear, and draw attention to the everyday needs and uncommon urgencies which can only be attended by your government.

I commend your activity and urge your participation. You may be assured that my office doors are always open --- both here and in Juneau --- and I often don't know when a person comes through one of those doors whether he lives in my district or not. He is a constituent, in either case. He is a constituent of the Alaskan Government, and I am one of its servants.

I hope the remainder of your meeting is a success, and that you'll all enjoy your stay in Anchorage.



OFFICIAL BUSINESS

# Alaska State Legislature

House of Representatives

REPRESENTATIVE  
RAMONA L. BARNES  
DISTRICT 14

ANCHORAGE  
2230 PARSON  
ANCHORAGE ALASKA 99504  
(907) 337-7737  
(907) 561-2038  
BOX V  
JUNEAU ALASKA 99811  
(907) 465-3438

## POSITION PAPER

RAILBELT ENERGY

APRIL 10, 1991

The following summary compares the existing power demand for the various areas of the railbelt to the existing generating capacity and transfer capability.

The existing interties between Anchorage and Fairbanks consist of a 138KV line between Anchorage and Wasilla, a 345KV line between Wasilla and Healy, and a 108KV line between Healy and Fairbanks.

It is important to understand that the amount of electricity that is put into the line is not the same amount that comes out on the other end. Fairbanks has been purchasing approximately 70MW from Chugach Electric in Anchorage which provides them with about 62MW by the time the power gets to Fairbanks. Therefore, at peak times Fairbanks must fire up its oil generation. The increased cost to the consumer in Fairbanks is approximately 1 cent per kilowatt hour. Assuming an average residential consumer uses 100,000 kilowatts per month, this equates to about \$10.00 per month increase in cost for the Fairbanks residential consumer.

The peak demand for the Fairbanks area is 115 - 120 MW. Fairbanks has two utility companies - Golden Valley Electric and Fairbanks Municipal Utility.

Golden Valley Electric has a coal fired generation plant at Healy capable of generating 25MW of power plus oil fired generation of approximately 150 MW.

Fairbanks Municipal Utility has a 20MW coal fired plant in Fairbanks plus oil fired generation.

This is a total of 45MW of coal fired generation available to

Fairbanks in addition to the oil fired capability. As oil is more expensive than gas from Cook Inlet, Fairbanks buys as much power as it can get over the intertie and supplements any additional requirements with oil fired generation. To summarize, Fairbanks can produce with coal fired generation all but 80MW of the Fairbanks needs during peak demand.

The City of Fairbanks has more than enough oil and generating capacity to meet current demand. The problem is that the cost of generating electricity with oil is significantly more expensive than generating electricity with gas or coal.

This then brings us to the Healy Coal project. In 1989, the Legislature segregated \$30 million within the Railbelt Energy Fund as a contingent appropriation for the construction of a coal co-generation plant at Healy. This appropriation lapsed back into the Railbelt Energy Fund without restrictions on June 30, 1990. The Legislature appropriated \$25 million to the Alaska Industrial Development and Export Authority to help fund the Healy Co-Generation project in 1990.

What does the term co-generation mean? The Federal definition of co-generation is "the utilization of at least 5% of generated energy output for heat load rather than for electric utility use in the electrical grid or area". Usibelli had planned and has requested AIEDA, the proposed project owner, to include provisions in the project design for utilizing heat from the new plant for coal processing (beneficiation). The availability of heat from the plant will depend upon the timing of the coal beneficiation plant, demand for electricity, and the economics of heat sales to Usibelli. Beneficiation is the process of treating coal including crushing coal, turning coal into liquid, drying of coal, and other techniques which enhance the energy value of extracted coal. Coal drying is one of the simplest forms of beneficiation.

Usibelli now exports coal to Korea. With current processing, approximately 1/4 of the tonnage is water. This led to the initial idea of developing a coal drying facility. However, upon further investigation, it became apparent that the quantity of heat necessary to run such an operation in comparison to the monetary benefits to be gained would not be economically feasible in today's market.

At present, the Department of Energy will only support the electrical generation part of the Healy project. DOE is looking for new combustion technology and has awarded a grant in the amount of \$93 million dollars for the construction of the new coal fired power generation plant at Healy.

This new plant will be capable of using "waste coal" whereas the existing plant at Healy can use only pure coal. The surface

of the coal seam must be continually scraped to remove the final amount of overburden (dirt) and expose a clean coal surface. The result of this continual scraping is "waste coal" or coal that is mixed with dirt. In the past, Usibelli has had no market for this "waste coal" and it has been shoved aside and/or buried. The new plant will provide a means to utilize more of the coal resource and minimize loss.

Usibelli is continuing to look at new technologies with the ultimate goal of exporting more coal and coal products. One distinct possibility lies in "carbon marbles" (or pellets) which can be used in place of coke from coking coal for steel making. This is a specialized product which has high potential for market expansion. The demand for coking coal in the Pacific Rim is several million tons per year. It is unknown at this time how much of that market could be captured by Alaskan coal products. At present, the Pacific Rim nations are importing coking coal from as far away as the eastern U.S. via the Panama Canal. Pacific Rim coke prices are reported in excess of \$100 per ton compared to approximately \$40 per ton for raw steam coal from Australia, the chief competitor in Pacific Rim steam coal markets. With Alaska's unique location, we should be able to tap a significant portion of the market. Usibelli anticipates a determination of the potential Alaska market share within one year and anticipates coming on line with a co-beneficiation project at about the same time the new generation plant comes on line.

When considering the cost/benefit of the new generation plant, one must take into consideration several factors. A new plant will enhance conservation of the coal resource (the new plant will be able to burn "waste coal"). New jobs will be created. More pure coal will be utilized thus producing more royalty revenue for the state which helps diversify our economy. And an economic supply of power will be available to the residents of Fairbanks. This would also enhance reliability of the entire grid system from Fairbanks to the Kenai Peninsula.

It is felt that there will be an increased need for base load capacity in this area around the turn of the century. With the Federal grant dollars, this plant will be producing the lowest cost power available around the year 2000. The cost of electricity from the new coal plant is expected to be 4.5 cents per KW hour as compared to a new diesel plant at 6 cents per KW hour, or a new gas fired plant at 4 cents per KW hour.

There are other factors also that should be considered when evaluating this project. We have for a long time held the position that we must diversify our economy and lessen our dependence on oil. Alaska has an abundant supply of natural resources, however most of those resources remain undeveloped or not developed to their maximum economic potential. Coal is

such a resource.

Enhanced processing (beneficiation) will aid in the maximum development of this resource which in turn will produce increased revenues to the state. When considering the potential of increased royalties to the state coffers, one must understand how royalties are calculated.

New leases and leases where royalty adjustments have taken place are based upon a percentage of the "adjusted gross value" (AGV), which is essentially equivalent to a "mine mouth" value for coal. That is, basic production costs are included but transportation and processing are not. Therefore, the royalty basis or AGV would increase only if a beneficiation plant could pay a higher price for raw coal feed to the plant. Some existing leases are still based on a fixed royalty per ton. The primary increase in payments to state coffers would come from the increased quantity of coal produced. Both the power plant and a beneficiation plant would result in increased payments to the state because of increased production.

The next project that must be touched on is the Full Upgrade of the Anchorage - Fairbanks Intertie. The estimated cost of this project is \$118 million dollars. AEA has concluded that the benefit value of a full upgrade is not sufficient to justify spending \$118 million dollars. The full upgrade of the line would increase the maximum power transfer from the existing 62MW output to 225MW output, substantially more than is anticipated being needed in the foreseeable future and would not be cost effective.

The \$10 million dollar partial upgrade on the northern intertie includes upgrading the entire line from Anchorage to Fairbanks. Equipment would be installed on the line that would bring the line up to within acceptable standards of stability. Stability, however, is not the only consideration. Reliability of the line is equally important. It is important to remember that when you upgrade a line and increase the transfer level you also increase the level of losses. This upgrade will only increase the transfer capability from the present 62MW output to 84MW output. Hence, the need to go beyond the partial upgrade for the northern part of the grid area.

Most of the power that is lost in transmission along the Anchorage - Fairbanks route is lost between Healy and Fairbanks. Consequently the recommendation of a second 138KV line between Healy and Fairbanks is warranted. The proposal includes splitting the power at Healy with 1/2 the power going up the existing line and the other 1/2 going up the new line. This will reduce power losses during transmission.

There is also an assumption among the electrical engineers that

by putting in the second line, the transfer capability of the entire circuit would be increased by an additional 20MW as well as reducing power transmission losses.

The railbelt utility companies hired AEA's consultant to look at whether it would be worth spending the required \$58.7 million for the potential increase in benefits that would be derived.

The opinion set forth in 1990 by the consultant is that there would be a \$60 million dollar additional benefit. There are perhaps some weaknesses and soft points that could be pointed out in looking at the cost benefit analysis but AEA has not taken a position on the analysis at this time.

Chugach Electric is now selling power to Fairbanks and the profits generated from these sales are to the direct benefit of the Anchorage consumer. If Healy comes on line, one might assume that there would be an increase in rates to the Anchorage consumer. According to Chugach Electric, any increase would be minimal and would only occur if Anchorage were to remain stagnant with no growth, an unlikely scenario.

The following numbers represent the peak demand needs and the generating capacity in the railbelt area.

LOCATION	PEAK DEMAND	GENERATING CAPACITY	LOCATION OF AND TYPE OF GENERATION
*****			
Fairbanks	120 MW	25 MW <u>20 MW</u> 45 MW	Coal - Healy Coal - Fairbanks Coal Generation
Anchorage	550 MW	360 MW 330 MW 30 MW <u>60 MW</u> 780 MW	Gas - Beluga Gas - ML&P Gas - Eklutna Gas - International
Kenai	80 MW	15 MW 40 MW <u>80 MW</u> 135 MW <u>+100 MW</u> 235 MW	Hydro - Cooper Lake Gas - Soldotna Gas - Bernice Lake Hydro - Bradley Lake

TOTAL: 750 MW of Power needed in the Railbelt Area

TOTAL GAS/HYDRO GENERATION AVAILABLE - 1060 MW

Upon first glance, one might assume that we have all the power we need. This simply is not the case when you consider reliability, transmission efficiency, and balance of the costs of the different methods of producing electricity. Additionally, one must realize that power generating plants cannot operate continually at maximum capacity. Gas fired plants are required to keep a substantial spinning reserve. Besides malfunctions which require generators to be shut down, they are also shut down for routine maintenance. This then requires additional backup to meet demand.

Now lets examine a potential outage scenario. Assume Beluga <360MW> goes down, Anchorage can draw 60 MW from Fairbanks over the existing line from the north, and 60 MW from Kenai over the existing line from the south. This combined with other Anchorage generation could provide 530 MW assuming that all other generation is up and working. Anchorage would still be down 20MW if this occurred during peak demand. This analysis is based on existing demand (turned down economy). The scenario will worsen as Anchorage rebuilds its economy.

Out of Municipal Light & Power's 330 MW generating capacity, 3 old turbines which generate 50 MW of power are due to be retired sometime within the near future. ML&P's report states that the remainder of their units are newer and they don't anticipate any major problems or upgrades until the year 2015. It is not economically feasible to design a system that will always meet the peak demand.

The next question examined was the need for the new southern intertie. The existing line is poor for bulk transmission. The line is scheduled for rebuilding and upgrade over the next 10 - 15 years. Technical studies say that with the addition of certain equipment, the existing Kenai transmission line can deliver 75 MW and still remain within the stability limits. Stability, however, is not the only consideration. Although the upgrading and rebuilding of the line will bring it up to a higher capacity, it will not address the reliability problems.

Reliability is very much a problem with the existing intertie between Anchorage and the Kenai Peninsula because it is primarily above ground and is routed along Turnagain Arm. Reliability problems include the line's vulnerability to avalanches, high winds, heavy snowfall and other natural occurrences.

The following table shows outages that have occurred since 1984.

1984 - 3 occurrences	1988 - 8 occurrences
1985 - 0 occurrences	1989 - 4 occurrences
1986 - 1 occurrence	1990 - 4 occurrences
1987 - 2 occurrences	1991 - 1 occurrence YTD

These outages were all the result of natural occurrences. The new proposed intertie would eliminate many of the problems encountered with the existing line because of better routing. The proposed new intertie will be of wood pole construction and will be built along one of two routes. The preferred route is through the Kenai National Wildlife Refuge (fairly level terrain) to Turnagain Arm where it would go under Turnagain Arm in a submarine crossing returning to the surface approximately 9 miles south of Potter Marsh. Limited segments between Turnagain Arm and Anchorage would go underground. The alternate route is along the coast from Kenai to North Kenai, then under Turnagain Arm in a submarine crossing at Point Possession returning to the surface near Point Woronzoff. The alternative coastal route will be more expensive but may need to be utilized if right-of-way problems cannot be resolved with the U.S. Fish and Wildlife Service. Either route will provide a more congenial environment.

Presently, most of the power on the Kenai Peninsula comes from Beluga. When Bradley Lake Hydro comes on line, this scenario will change. Bradley Lake is designed to generate 90 MW of power, however when the reservoir is full, generating capacity increases to approximately 119 MW. If we were to transfer this 119 MW over the existing line, we would have approximately 110 MW when the power arrived in Soldotna. If the reservoir were low, we would have approximately 100 MW of power arrive in Soldotna.

Using the anticipated 100 MW of power from Bradley Lake Hydro coupled with 15 MW of hydro power available from Cooper Lake, Kenai will have a total of 125 MW of hydro generated power available on the Kenai Peninsula. This is in addition to the generating capacity of existing gas turbines. At present, Kenai gets 60 MW from Beluga. Any power needed over the 60 MW from Beluga and the 15 MW from Cooper Lake comes from gas generated power plants at Bernice Lake or Soldotna.

After Bradley Lake comes on line, Kenai will have an excess of 35 MW of hydro power to deliver north if it is needed or wanted. The existing line can deliver this with no problem as far as capacity is concerned. The problem arises in the stability and reliability of the existing line.

The addition of a second 138 KV line would definitely improve reliability. The other consideration in evaluating the necessity of this line is that Bradley Lake cannot operate at maximum capacity full time. It can only operate at maximum capacity when the reservoir is full. Two lines routed through different environs would virtually eliminate transmission line power outages in southcentral Alaska.

One must also consider if the capability of shipping power north

is really necessary considering that Anchorage power suppliers are required to have spinning reserves of 45 MW. This means that Anchorage electric sources are not generating the total power they are capable of generating and could increase that generation by the "flick of a switch", so to speak. However, remaining spinning reserves available in Anchorage are not sufficient to make up the deficit in available power were Anchorage to lose Beluga.

The next topic discussed was the alternate Anchorage - Fairbanks route through Palmer - Glennallen - Delta to connect with Golden Valley's line to Fairbanks which would then provide a tie-in with the Valdez line to the Solomon Gulch hydro plant. The cost of this route would be somewhere in the neighborhood \$200 million dollars. There has been some concern that Solomon Gulch is spilling water (equating to approximately 12 million KW hours during the summer months.) Solomon Gulch operates at less than capacity during the winter months because of the low water level in the reservoir. It is the opinion of the AEA, however, that the benefits to be derived from installation of this line would not be worth the cost.

One must also consider that the lines between Anchorage and Palmer are not that good. There are lines along two routes. One line goes along the west side of Knik Arm from Beluga to Wasilla to Palmer - 138KV line. The other line goes from Anchorage to Eklutna to Palmer - 115 KV line. The northeast intertie route would not provide Anchorage with a full 2nd route. It would provide no more for Anchorage than the limited upgrade proposed and would cost significantly more.

Another consideration would be to construct an intertie from Glennallen to Delta. This would provide the missing link from Solomon Gulch to the Golden Valley Electric system at Delta running north to Fairbanks. During the summer months, Copper Valley Electric would be able to supply additional power to Fairbanks during the summer months should it be needed and would be able to purchase power from Golden Valley Electric or Chugach Electric during winter months. This would add to the total electrical grid system for southcentral Alaska. The current cost of construction of this line is estimated at \$92.5 million. AEA has not issued an opinion on the economic feasibility of this abbreviated project.

The question arose as to whether we could sell power to the Federal government for the Back Scatter Radar Site. Because of the critical nature of the radar site, reliability and stability are very important. AEA has been advised that there is no possibility of selling power to the Federal Government for this project.

Over one-half of Alaska's total population lives along the

railbelt area of the state. It is important that there be reliable sources of power available to this population. Most the state's businesses are also located in this area. If there were to be a major devastation of power sources in the railbelt area today, the mainstream of Alaska's citizenry would be affected. The majority of Alaska's businesses would be affected. If we are to have stability in our economy, we must ensure that there is stability and reliability in our power supplies. Businesses cannot operate in the dark or in the cold.

Additionally, if we intend to expand our economic base, we must be able to provide power to developing businesses. It is only reasonable to believe that new businesses will most likely be considered in areas of population density. If one were to ask the question about where there is population density, the answer would most assuredly be along the railbelt.

Another project that is badly needed is the Seward Intertie. The existing line to Seward has been down many times over the past few years. This line, like the existing southern intertie is extremely vulnerable to avalanches. When this line was built, it was routed along the roadway because of accessibility with the equipment that was available at the time. The new Seward intertie will be routed over more desirable terrain in areas of substantially less vulnerability.

There are many energy projects in the state which can be justified. Alaska spends millions of dollars annually on various projects. Knowing this, it is hard to fathom that many of our residents do not have the benefit of electricity other than through home generated power. It is also hard to fathom that the most highly populated regions of the state are vulnerable to complete power outages without the potential of bringing power in from an alternative source in sufficient quantity to meet at least minimum demand. This potential problem can be solved by construction of the new interties.

The benefits to be derived from the construction of the northern and southern interties and the new coal fired generating plant at Healy include the following:

1. Reliability - Interties affect system reliability which can be measured by the number, duration, and magnitude of customer outages.
2. Economy Energy Transfers - Savings are realized when lower cost energy is brought in from other areas to displace higher cost energy generated locally.
3. Transmission Efficiency - Transmission losses are reduced thus providing a cost savings.

4. State Revenue - State revenues will increase as new interties will lead to the use of more coal and gas, even with Bradley coming on line. Gas and coal will displace oil fired generation.

5. Capacity Sharing - Interties allow separate areas to share capacity thus deferring increasing plant capacities in each geographic location.

6. Operating Reserve Sharing - Interties allow separate areas to share operating reserves and therefore reduce operating costs.

The benefits that reduce to dollars and cents present the following picture:

<u>Project</u>	<u>Cost Benefit Ratio</u>
Healy-Fairbanks 138KV Intertie	1.64
Kenai-Anchorage 138KV Intertie	4.4
Anchorage-Fairbanks Limited Upgrade	4.45

Last but certainly not least is the realization that if these interties are funded this year, we are looking at a minimum of five years to completion. It is imperative that we look at long range planning and not just at the present. Alaska's economy has been in a slow down mode for the last few years, but this will not last forever. The pioneering spirit that built Alaska lives on and Alaska will prosper in the future but we must be wise with our resources, be they money, minerals, fish, or timber and we must plan for the future. We the members of the Legislature are the stewards of our state. Let us use that stewardship to keep Alaska as the Great Land.

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

April 13, 1993

**SUBJECT:** Sectional Summary of CSHB 50 (L&C). (Authorizing power transmission interties and approving design and construction costs; relating to procurements for transmission lines; creating the four dam pool account)

**TO:** Representative Bill Hudson, Chair  
House Labor and Commerce Committee

**FROM:** Teresa B. Cramer *TBC*  
Legislative Counsel

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

**Section 1** sets out the legislative intent and findings.

**Sec. 2** amends the State Procurement Code to exempt the contracts described, for design and construction of electric transmission lines, from the requirements of the procurement code if the Alaska Energy Authority and the public utilities have satisfied the requirements set out in subparagraphs (A) and (B).

**Sec. 3** establishes the four dam pool account in the power development revolving loan fund.

**Secs. 4, 5, and 8** authorize the design and construction of power transmission interties between Anchorage and the Kenai Peninsula and between Healy and Fairbanks at the stated costs, contingent on the Alaska Energy Authority and the electric utilities satisfying the requirements set out in sec. 8.

**Sec. 6** authorizes the Alaska Energy Authority to design and construct a power transmission intertie between Sutton and Glennallen at the stated cost, contingent on the authority and the participating electric utilities satisfying the requirements set out in subsections (b) and (c).

Representative Bill Hudson

April 13, 1993

Page 2

Sec. 7 authorizes the Alaska Energy Authority to design and construct a power transmission intertie between the Swan Lake and Tyee Lake hydroelectric projects at the stated cost.

Sec. 9 is an immediate effective date.

TC:pl

93-294.plm



**ARECA**

Electric Service for 500,000 Alaskans

Alaska

Rural

Electric

Cooperative

Association, Inc.

703 W. Tudor Rd., #200  
Anchorage, AK 99503  
(907) 561-6103  
FAX (907) 561-5547

February 10, 1993

Rep. Bill Hudson, Chairman  
Labor and Commerce Committee  
House of Representatives  
Juneau, Alaska 99801

Dear Chairman Hudson:

Unfortunately, my travel schedule makes it impossible for me to attend your committee's hearing tomorrow on HB 50 and HB 51. Please accept this letter as comments on those bills from this association.

We have long been the primary advocates of construction of the Railbelt interties authorized by HB 50 and financed by HB 51. We remain strong advocates of those projects, and we encourage the committee to act favorably on them.

It is important to note, however, that construction of these two interties will still leave a number of other important energy needs unsatisfied. Although it has not been introduced yet, we understand that Gov. Hickel plans to introduce an attractive plan which would build a Southeastern intertie, an intertie from Sutton to Glennallen and assure funding of the power cost equalization program for 20 years in addition to constructing the Railbelt interties contained in the bills currently before your committee.

We ask that your committee favorably report HB 50 and HB 51, but we further ask that if the long-anticipated Governor's bill comes before your committee, that it receive the same expeditious consideration.

Sincerely,

David Hutchens  
Executive Director

**Alaska State Legislature**



WHILE IN SESSION  
PO BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3779

HOUSE MAJORITY LEADER

HOME ADDRESS  
PO BOX 169  
KENAI, ALASKA 99811  
(907) 262-9368

DISTRICT 5

**Representative Mike Navarre**

February 2, 1993

Representative Bill Hudson, chair  
Labor and Commerce committee  
Alaska State House of Representatives

Re. HB50 and HB51

Dear Representative Hudson:

Please schedule for hearing HB50 and HB51. These two bills are both required for the construction of interties in the Kenai/Anchorage area and the Healy/Fairbanks area. HB50 provides the authorizing legislation for the construction of the interties as required by AS 44.83.185. HB51 is the actual appropriation bill for this purpose.

I have attached a sponsor statement with additional information regarding these two bills as well as some back-up documentation.

We would request bill scheduling for the week of February 8th. If that is not possible, please schedule for the week of February 22. The utility personnel that may wish to testify will all be at an annual meeting the week of February 15, making it impossible to attend.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Mike".

Representative Mike Navarre

# Alaska State Legislature



WHILE IN SESSION  
PO BOX 7  
JUNEAU, ALASKA 99811  
907-465-3779

HOUSE MAJORITY LEADER

HOME ADDRESS  
PO BOX 169  
KENAI, ALASKA 99811  
907-262-9366

DISTRICT 5

## Representative Mike Navarre

### Sponsor Statement HB 50 and HB 51

In 1985, the legislature created the Railbelt Energy Fund. It amounted to \$285 million general funds; the amount remaining from appropriations previously made to the Susitna hydroelectric project. The Railbelt Energy fund represented the legislature's attempt to equalize the improvements being made statewide to provide cheaper and more efficient energy. At the time the Susitna hydroelectric project was abandoned due to cost, no ready solutions to the energy problems of the Railbelt were developed. The Governor convened a Railbelt Energy Council to develop region-wide energy plans.

In 1990 the legislature appropriated all but \$100 million of the Railbelt Energy fund for capital projects. The \$100 million balance was placed into the Railbelt Intertie Reserve, again specifically to address the problems of providing better energy service to the railbelt area. To date no appropriations have been made for interties and the account balance has grown to \$116.1 (as of January, 1993) due to the accumulation of interest earned.

The Alaska Energy Authority has conducted extensive studies to analyze the feasibility of interties for the railbelt. After consideration of a variety of alternatives, it was determined that the best, most economical solution was the construction of two 138kV interties: one between Kenai and Anchorage, and the other between Healy and Fairbanks.

HB 50 is the authorizing legislation for the Alaska Energy Authority to design and construct the interties. Authorizing legislation is required by AS 44.83.185(c). The authorizing legislation contains

the full anticipated cost of the interties, although section 3 makes the authorizations contingent upon the participating utilities picking up 50 percent of the construction costs and all of the operation and maintenance costs of the line. Authorization of the full amount is necessary under the statutory requirements.

HB 51 is the appropriation bill making an appropriation of \$90 million from the Railbelt Intertie reserve fund to the Alaska Energy Authority for the states 50% share of the line costs.

# Reliable Railbelt Energy Through Intertie Upgrades

## Intertie proposal

The railbelt electrical utilities, representing some 300,000 residential, commercial and industrial consumers, proposes that the state of Alaska provide substantial financing assistance for the construction of two new sections of 138 kilovolt (kV) transmission intertie line - one between the Kenai Peninsula and Anchorage and a section between Healy and Fairbanks.

The Alaska Energy Authority estimates both sections will cost \$152 million or \$160.7 million (depending on Kenai-Anchorage line routing) in 1991 dollars. An AEA feasibility study, released in early 1991, concludes that benefits would exceed costs for the two interties.

The 138 kV Kenai-Anchorage southern intertie would bring Bradley Lake hydroelectric power into the Railbelt grid system. The Healy-Fairbanks northern intertie would allow more low-cost power to flow throughout the Railbelt. Together, the new lines would add reliability to the whole grid.

## Making it work

Last session, the Legislature put unappropriated funds from the Railbelt Energy Fund into an "Interties Reserve Account" within the General Fund. It contains \$100 million plus interest.

Utilities serving the Railbelt region are asking the Legislature to appropriate this account to the Alaska Energy Authority (AEA) for construction of the proposed intertie sections. Additional state funding or financing of \$25 million is also sought.

Railbelt utilities will sign an agreement with the Energy Authority to pay full debt service. The utilities will continue to make payments to the state after capital costs are paid during the useful life of the lines.

Also, the utilities will cover costs of maintenance

and operation over the life of the new interties under a separate agreement with AEA.

These agreements show the utilities' willingness to share intertie costs so this vital upgrade of the Railbelt energy system can be built in a timely manner - and without putting a cost burden on consumers or the state.

## Interties make sense

Interties are solid energy projects that bear economic analysis while yielding measurable benefits for some three-fourths of Alaska's population.

Alaska is looking at a window of opportunity to make the best use of its hydro generation capacity and lock in energy security and reliability for the railbelt population center. The 90-megawatt Bradley Lake project will be on line in a matter of months.

The state has a major investment in this \$330 million hydro project. Upgrading the Railbelt intertie grid will allow Bradley Lake to reach its fullest potential.

The Legislature has specifically set aside a \$100 million account to make sure Bradley Lake achieves its highest and best use and that Alaskans have access to reliable, economical power.

The next step is to upgrade the intertie system so consumers from Homer to Fairbanks can be assured of a strong, stable power transmission system plus access to more low-cost generation. Also, commercial and industrial growth hinges on reliable, affordable energy.

Upgrading the interties through a state-utilities partnership makes economic sense. The state will pay not one penny of operations and maintenance costs for this energy infrastructure. Some 300,000 Railbelt consumers experience no rate shock from this project and reap long-term energy savings.

Now is the time to secure reliable energy delivery for the whole Railbelt region with state funding assistance for the interties.



# Advantages of an Upgraded Railbelt Intertie System

- ✓ **Reliability** - Power outages can cost millions of dollars in repair expenses, loss of business and loss of product and perishable goods. Upgrading the Railbelt power grid with two new sections of 138 kilovolt line will ease the strain on the system and help decrease the number and severity of transmission and generation related outages.
- ✓ **Economy Energy Transfer** - An improved transmission system will allow energy produced at low cost in one area to displace higher-cost energy in another area. This "economy energy" interchange between Anchorage and Fairbanks, for example, is now limited by the capacity of the existing fully loaded intertie line.
- ✓ **Hydro-thermal Coordination** - Thermal power plants operate most efficiently at or near full loading but load demands don't always allow this. Bradley Lake hydro generation can be used to increase the efficiency of gas-fired plants in the Railbelt by adding to or subtracting from the natural Railbelt electricity demand. This is called reshaping demand. A new Kenai-Anchorage intertie will increase this hydro-thermal coordination capability, thus creating greater savings through efficient power generation.
- ✓ **Less Line Loss** - The upgraded intertie system can yield savings through more efficient transmission of electricity. This is because the normal loss of energy in the lines due to resistance is decreased.
- ✓ **Capacity Sharing** - Power generation plants serving Anchorage, Fairbanks and the Kenai Peninsula are designed to produce more power than is normally needed so as to meet peak loads and emergency situations. With the two new intertie sections in service, power producers could share each other's reserve generating capacity. This ability to share excess capacity defers or avoids the need to add new units or build expensive new power plants as energy needs increase. An associated benefit comes in savings on standby generation unit maintenance. Capacity sharing allows utilities to use standby units less often to meet peak loads so money is saved as units require less scheduled maintenance, last longer, and use less fuel.

## Associated Benefits

- ✓ **Utility Coordination** - With a stronger, more efficient transmission grid in place, Railbelt utilities can better coordinate operations and planning functions. Power providers working in harmony can lower costs for consumers.
- ✓ **Fuel Supply Competition** - An upgraded transmission system that handles loads better will allow electric utilities to access a variety of energy sources, thus boosting competition among fuels and suppliers.

## Summary

Building the two new intertie sections in a timely manner will create a stable, reliable and more economical power delivery system to serve Alaska's major population and support economic growth within the region for decades to come.

# Railbelt Energy Chronology

- Mid 1970s** Alaska State Legislature develops energy agenda, focusing attention in the Railbelt section of the state on the Susitna hydro project. Alaska Power Authority created to manage energy projects.
- 1979-1984** Legislature appropriates more than one billion dollars to proposed hydro projects, including \$300 million toward construction of Susitna. Most of the other funds appropriated paid for power generation projects at Ketchikan, Sitka, Petersburg-Wrangell, Valdez and Kodiak.
- 1985** Oil prices drop. Susitna determined to be too costly. Licensing application withdrawn. Project closed out.
- 1986** Legislature creates Railbelt Energy Fund for left over Susitna appropriations. Fund earmarked for energy projects in the Railbelt. Amount: \$285 million. Governor empanels Railbelt Energy Council to develop region-wide energy plans.
- 1987** Council recommends construction of intertie between Kenai Peninsula and Anchorage and capacity upgrade of transmission intertie between Anchorage and Fairbanks.
- 1987** Intertie construction bill introduced, passes Senate, dies in House Resources Committee. Fund balance cut to \$235 million through change of funding source and \$50 million set aside for Bradley Lake hydro project.
- 1989** Railbelt Intertie Feasibility Study commissioned by Alaska Energy Authority (formerly APA) showing low benefit-to-cost ratios at proposed line rating of 230 kilovolts.
- Late 1989** Railbelt utilities release new analysis of state's feasibility study. Analysis done by same research firm using same data and assumptions but this time based on 138 kV ratings. Benefit-cost ratios show as positive for both intertie sections with this lower kilovolt line rating.
- 1990** ARECA and Railbelt members begin concerted effort to win legislative support for construction of 138 kV interties.
- May 1990** Interties construction legislation passes Senate, stalled in House. Railbelt Energy Fund tapped for capital projects. Legislature votes in compromise measure to put \$100 million in unappropriated Railbelt Energy fund monies in Interties Reserve Account within general fund. Money earmarked for interties construction.
- Oct. 1990** Energy Authority begins research and regulatory work on proposed interties as required by law on all energy project developments.
- Dec. 1990** ARECA and member co-ops renew efforts to win legislative support for state funding assistance and authorization to build 138 kV interties.
- Jan. 1991** Energy Authority study estimates interties cost at between \$152 million and \$160.7 million in 1991 dollars. House bills are introduced to authorize interties construction and state funding at \$125 million.

**RAILBELT INTERTIE  
FEASIBILITY STUDY**

**DRAFT REPORT**

**Prepared by  
Alaska Energy Authority  
January 1991**

# 1. INTRODUCTION

## 1.1 OBJECTIVE

The purpose of this document is to review the feasibility of two 138 kV intertie projects: one between Soldotna and Anchorage, the other between Healy and Fairbanks. These projects are identified in Ch. 208, Sec. 159, SLA 1990, which appropriated \$100 million plus interest earnings to a Railbelt intertie reserve. This is intended to comply with the project review requirements contained in AS 44.83.181.

## 1.2 BACKGROUND

The Railbelt Intertie Reconnaissance Study was completed by the Alaska Energy Authority (the "Authority") and approved by the Office of Management and Budget in 1989. Among the projects evaluated, three are of particular relevance to this feasibility study:

- 1) construction of a new 230 kV transmission line between Soldotna and Anchorage;
- 2) full upgrade of the Anchorage-Fairbanks intertie, including a new 345 kV line between Healy and Fairbanks plus a new 345 kV line south of Willow;
- 3) limited upgrade of the Anchorage-Fairbanks intertie consisting only of electrical equipment to allow a limited increase in transfer capacity over the existing line.

For each of these intertie projects, the reconnaissance study provides preliminary engineering and design, environmental impact analysis, and construction cost estimates. Also provided are fuel price forecasts, electricity demand forecasts, and economic evaluation of each project. Among the conclusions of the economic analysis were the following:

- 1) The proposed 230 kV intertie between Soldotna and Anchorage and the proposed full upgrade of the Anchorage-Fairbanks intertie to 345 kV are not economically feasible; i.e. projected costs exceed estimated benefits for both projects.
- 2) The limited upgrade of the Anchorage-Fairbanks intertie is economically feasible.

As these findings emerged, the Railbelt electric utilities proposed two scaled-down intertie alternatives that had the potential to capture most of the benefits of the larger projects but at reduced cost. These scaled-down alternatives are the subject of this feasibility study and are described as follows:

- 1) A new intertie between Soldotna and Anchorage constructed at 138 kV (instead of 230 kV as initially proposed);
- 2) Upgrade of the Anchorage-Fairbanks intertie consisting of a new 138 kV line between Healy and Fairbanks, plus electrical equipment needed for increased transfer capability.

The Railbelt utilities then sponsored an economic analysis of the scaled-down alternatives, which concluded that both proposals are economically feasible. This analysis was adopted as an addendum to the Railbelt Intertie Reconnaissance Study by the Authority Board of Directors in February 1990. Appendix A contains a complete list of volumes included in the reconnaissance study.

### 1.3 FEASIBILITY STUDY OVERVIEW

Essentially all of the information required for a feasibility study is also needed to produce a reconnaissance study, specifically:

- preliminary engineering and design of proposed projects;
- capital and operating costs of proposed projects;
- environmental impact analysis;
- other parameters needed for economic assessment including fuel price forecasts, electricity demand forecasts, and discount rate;
- benefit/cost analysis.

The approach adopted here is to use information developed for the reconnaissance study as much as possible, supplementing where necessary within time and funding constraints. The main subjects of the feasibility study are covered as follows:

#### **Engineering and Design**

This category includes specification of physical design, route selection and right-of-way, and definition of project capability. In other words, the purpose of this section is to describe what the project is, where it is intended to go (including associated right-of-way issues), and what effect it is expected to have in the areas of power transfer capability and transmission losses.

For the southern line (i.e. between Soldotna and Anchorage), most of the information for this section is drawn from prior studies. For the northern line (i.e. the Anchorage-Fairbanks upgrade that includes a new Healy-Fairbanks line), additional work has been performed for this feasibility study to better define the

electrical equipment required for the upgrade and the impact of the upgrade on power transfer capability.

### **Capital and Operating Costs**

Cost estimates were developed in the reconnaissance study for the southern 230 kV line and for the northern 345 kV upgrade, and were subsequently adjusted as the project definition evolved. A capital cost estimate for the scaled-down alternatives was most recently prepared by the Authority in February 1990. However, a cost estimate from an independent source must also be prepared according to the project review requirements in AS 44.83.185. This has now been completed and represents the most recent and thorough cost estimate available regarding the scaled-down alternatives. As a result, the independent estimate of construction cost is presented in this feasibility study and is recommended for project planning.

Projected operating and maintenance costs have been reviewed by Authority staff and re-estimated for this study.

### **Environmental Impact Analysis**

All of this section is taken directly from the reconnaissance study.

### **Economic Parameters**

Fuel price forecasts, electricity demand forecasts, and discount rate are also taken directly from the reconnaissance study.

### **Project Benefits**

There was substantial investment during the reconnaissance study in the attempt to quantify the benefits of these transmission projects, and there was substantial debate about the results as well. Much of the benefit for these projects falls into categories where quantification is difficult: e.g. improved reliability, improved system coordination, removal of certain operating constraints, increased access to Bradley Lake spinning reserve. An attempt could be made to sharpen these benefit estimates if funds were committed for additional system modeling and analysis. However, funds for more economic studies have not been made available; and even with additional studies, a clear resolution of these issues might not be achieved.

The basic approach of this document is to present and discuss the benefit assessments included in the reconnaissance study, supplemented by comments subsequently made by outside observers regarding the overall adequacy of the Railbelt transmission system. This discussion provides the basis for the Authority's conclusions on project feasibility.

## 1.4 CONCLUSIONS

The estimated project costs are as follows:

### ESTIMATED PROJECT COSTS (Millions of January 1991 Dollars)

	<u>Construction Cost</u>	<u>Annual O&amp;M Cost<sup>a</sup></u>	<u>Present Value of Total Cost<sup>b</sup></u>
Soldotna-Anchorage 138 kV ("Enstar" route)	\$74.6	\$0.3	\$81.0
Soldotna-Anchorage 138 kV ("Tesoro" route)	\$83.2	\$0.4	\$90.6
Healy-Fairbanks 138 kV (incl. SVS additions)	\$77.5	\$0.1	\$79.8

<sup>a</sup> Represents levelized annual cost. Annual O&M costs are expected to increase over time, as described in Chapter 3.

<sup>b</sup> Includes present value of O&M costs for 40 years for the Soldotna-Anchorage line, and for 50 years for the Healy-Fairbanks line.

The expected value of benefits previously developed for the Soldotna-Anchorage line ranges from \$63.9 million to \$125.5 million in January 1991 dollars.<sup>1</sup> This implies a benefit-cost ratio for the "Enstar" route ranging from .8 to 1.5; and for the "Tesoro" route ranging from .7 to 1.4. The expected value of benefits previously developed for the Healy-Fairbanks line (including electrical equipment) is \$108.2 million in January 1991 dollars,<sup>1</sup> which implies a benefit-cost ratio of 1.4.<sup>2</sup>

As discussed in Chapter 6, the ranges of these estimates are due in large part to the nature of the benefits that the studies attempt to quantify. The Authority has not adopted or rejected any specific benefit estimate or numerical benefit-cost ratio. Overall, however, the Authority's conclusion is that the life-cycle benefits for each project will exceed project costs based on the following considerations:

<sup>1</sup> Based on 1990 dollar estimates presented in Chapter 6, escalated by 2.25% to convert to January 1991 dollars for consistency with project costs.

<sup>2</sup> If \$29.6 million in additional benefits due to reconstruction of the existing line were included, the benefit-cost ratio would increase to 1.7. These benefits are discussed on pages 6-17 and 6-18.

For the Soldotna-Anchorage line, benefit-cost ratios above and below 1.0 have been estimated in a context of uncertainty. These ratios are based on a corresponding range of benefit estimates. In view of the arguments presented, the assumption adopted here is that the value of quantified benefits will fall somewhere between the upper and lower estimates that have been developed.

In addition, however, an overall perspective on transmission system adequacy must also be factored in to the judgment on the merits of the proposed intertie. As reported in Chapter 6, the North American Electric Reliability Council (NERC) has stated the following:

"The existing single line transmission [interconnection] between the Kenai Peninsula and the Anchorage Bowl ... pose[s] a significantly higher than traditional reliability risk for system-wide blackouts due to single contingency outages... In terms of traditional reliability criteria, the proposed Soldotna-[Anchorage] 138 kV transmission line ... is necessary to help improve the reliability of electric supply to the Kenai Peninsula, the Anchorage Bowl, and the Fairbanks area."

Also reported in Chapter 6 are remarks prepared by Power Technologies, Inc. (PTI), technical consultant to the Authority on transmission issues:

"At 75 MW export, the Kenai-Anchorage tie operation goes beyond the Railbelt practice of lean system design. Nowhere in the Railbelt is so much resource so critically dependent on stability aids and a single line... A new line from the Kenai area to Anchorage would provide Kenai-Anchorage interconnection reliability at least on a par with most of the remainder of the Railbelt system."

Beyond the quantified benefit estimates, then, these observations make it clear that a second line between the Kenai Peninsula and Anchorage is necessary to meet prevailing industry standards of transmission reliability. The economic studies summarized above combined with these observations are the basis for the Authority's conclusion that life-cycle benefits of the proposed Soldotna-Anchorage intertie will exceed project costs.

For the Healy-Fairbanks transmission proposal, the benefit estimate developed earlier suggests a substantial excess of benefits over costs. As discussed in Chapter 6, alternative assumptions are possible (such as treatment of the "North Pole operating constraint") that could reduce the benefit estimate. There are also compensating factors not considered in the analysis (such as continued Fairbanks access to power from the south during reconstruction of the existing line) that could increase the benefit estimate. After review of these competing arguments, the Authority's conclusion is that the overall benefit-cost ratio reported above is a reasonable indicator of project economics, and that any net downward adjustment that might result

from further analysis is unlikely to reverse the favorable outcome of the assessment.

An alternative framework for evaluating the project is to consider the electrical equipment as a separable first stage of the upgrade, and to then assess whether the incremental benefits of a new Healy-Fairbanks line exceed the incremental costs of the line. The analysis to date suggests that the incremental benefit-cost ratio for the line itself is close to 1.0. However, there are factors in addition to those considered in the prior analysis that would produce a more clearly favorable outcome:

- a. As noted above and in Chapter 6, there will be a program of reconstruction of the existing Healy-Fairbanks line that would be expected to cause extensive interruption of power flow to Fairbanks from the south. Construction of a second line as proposed would produce significant savings by allowing reconstruction of the existing line without power flow interruption.
- b. Again, an overall perspective on transmission system adequacy is provided by NERC and PTI. The NERC conclusion is as follows:

"The proposed Healy-[Fairbanks] 138 kV transmission line is needed for the reliability of electric supply to the Fairbanks area... [B]ased on traditional planning criteria, the tie is required to assure an adequate source-to-load path from Healy to the Fairbanks area. In fact, under traditional reliability criteria, a second transmission line between the Anchorage Bowl and the Fairbanks area would likely be required..."

PTI adds the following comment on Fairbanks reliability assuming a new 50 MW coal-fired power plant is constructed at Healy as presently planned:

"New generation at Healy combined with a new line between Healy and Fairbanks may raise reliability of electrical service in the Fairbanks area nearly to that presently available in the Anchorage area. With a second line between Healy and Fairbanks, and a system design that will withstand loss of a 50 MW unit at Healy or [loss of] a line from Healy to Fairbanks, blackouts in the Fairbanks area should be far less frequent than at present."

The quantified results of the prior benefit assessment combined with these important perspectives form the basis for the Authority's conclusion that life-cycle benefits will exceed project costs for the overall Healy-Fairbanks project (including electrical equipment) and for the Healy-Fairbanks line itself.



## Homer Electric Association, Inc.

CORPORATE OFFICE  
 3977 Lake Street  
 Homer, Alaska 99603-7680  
 Phone (907) 235-8167  
 FAX (907) 235-3313

Central Peninsula Service Center  
 280 Airport Way  
 Anchorage 99501  
 Kenai, Alaska 99611-5280  
 Phone (907) 233-5831  
 FAX: (907) 283-7122

February 5, 1993

Representative Bill Hudson  
 State Capitol  
 Juneau, AK 99801-1182

Dear Representative Hudson:

RE: Construction of the Proposed Railbelt Interties

Homer Electric Association serves approximately 19,000 consumers including several large industrial consumers on the Kenai Peninsula. Our service area is interconnected to the Railbelt grid via a single circuit 30-year-old transmission intertie. A second transmission intertie between Anchorage and Soldotna is needed to ensure reliability, to provide for future growth for the Kenai Peninsula area and to allow full utilization of the Bradley Lake Hydroelectric Project. We have been working closely with other Railbelt utilities and the Alaska Rural Electric Cooperative Association for some time to obtain state support for construction of these needed facilities using the Intertie Reserve Fund. Homer Electric supports construction of the Anchorage to Soldotna intertie because:

**THERE IS ONLY ONE TRANSMISSION TIE BETWEEN ANCHORAGE AND THE KENAI PENINSULA.**

The existing tie-line is over thirty years old and its condition is rapidly deteriorating. It is subject to numerous outages caused by equipment failure, high winds, avalanches, and poor soil conditions. When the line fails, the Kenai Peninsula often experiences power outages which have severe negative impact on public safety, health, and economic activities.

**HEA'S INDUSTRIAL CUSTOMERS REQUIRE A HIGH DEGREE OF RELIABLE ELECTRIC SERVICE.**

HEA has a number of industrial customers in the refining and petrochemical businesses. They have documented significant economic losses each time their power supplies are interrupted, even if only for a very short time. These economic losses are shared by the state through royalty and tax payments not collected on the lost production. Since they run 24 hours per day, it is never made up.

Interties  
February 5, 1993  
Page 2

If reliable electric service is not provided by HEA, the industrial customers have the option to shift to alternative energy sources, including cogeneration. This would result in all other HEA consumers making up for the lost revenues by paying higher rates. The proposed Anchorage-Soldotna Intertie is the only way to provide the degree of reliability needed by HEA's consumers, especially our industrial customers. In addition, with recent new discoveries in Cook Inlet there is potential for significant growth in the industrial sector in addition to residential and commercial activity. The Anchorage-Soldotna intertie would provide much needed capacity and reliability required for this growth.

**ELECTRIC POWER PRODUCTION FROM THE BRADLEY LAKE HYDROELECTRIC PROJECT IS RESTRICTED.**

Railbelt utilities at times cannot schedule generation of their Bradley Lake energy shares because of transmission system limitations. This causes them to produce power with expensive natural gas when they could have otherwise produced it with inexpensive Bradley Lake energy. This restriction also means the utilities cannot fully rely on the Bradley Lake Project to provide emergency power reserves for all consumers on the Railbelt.

**ECONOMIC DEVELOPMENT DEPENDS ON ADEQUATE AND RELIABLE ELECTRIC POWER SUPPLIES.**

Industry (and possibly large commercial enterprises) will not locate in areas which lack good, basic infrastructure such as adequate and reliable electric power supplies. The cost of providing reliable electric service is factored into decision-making concerning the timing and size of their operations. This is a critical issue to Southcentral Alaska in light of the new oil discoveries in Cook Inlet. If these discoveries prove viable (as they now appear), construction of the Anchorage-Soldotna Intertie would occur just in time to serve the associated new industrial, commercial, and residential electric loads. Accordingly, to a great extent new jobs are made possible by having adequate and reliable electric power supplies.

**THE LIVES OF PEOPLE LIVING ON THE KENAI PENINSULA ARE ENHANCED BY A MORE RELIABLE ELECTRIC POWER SUPPLY.**

A certain number of power outages (blackouts) are a fact of life for the people on the peninsula. This is unfortunate because blackouts adversely affect public health and safety, community services, personal convenience, and the financial well-being of business in HEA's service territory. A new Anchorage-Soldotna

Interties  
February 5, 1993  
Page 3

intertie has the potential to measurably reduce the number of blackouts on the Kenai Peninsula, improving the quality of life for all its residents.

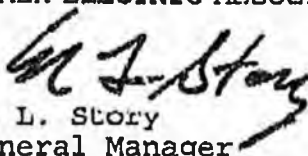
**THE RAILBELT UTILITIES WILL PAY ALL COSTS ABOVE \$90 MILLION.**

The Healy-Fairbanks and Anchorage-Soldotna Interties have a combined cost estimate of about \$180 million. The utilities have agreed to pay \$90 million in addition to the \$90 million matching State contribution. They will also pay all operation and maintenance costs throughout the life of the interties. The State is asked to contribute \$90 million from the estimated \$115 million Railbelt Intertie Reserve Fund (remaining from the original \$285 million Railbelt Energy Fund) to help the residents of the Railbelt region build the interties. This will keep the rate impacts of intertie construction to a bearable level which regional consumers can afford to pay.

At this time Representative Navarre has introduced HB50 and HB51 to partially fund intertie construction through a state contribution (grant) of \$90 million to the Railbelt utilities. Homer Electric Association requests that you support Representative Navarre's efforts in the House and later support Conference Committee efforts to arrive at a final and viable solution contingent upon an intertie funding bill being introduced by the Governor into the Senate.

Sincerely,

HOMER ELECTRIC ASSOCIATION, INC.

  
N. L. Story  
General Manager

NLS/js

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 50

Revision Date: \_\_\_\_\_  
Title: Authorization of Anchorage-Kenai and Healy-Fairbanks interties  
Sponsor: Navarre et al.  
Requestor: \_\_\_\_\_

Department Affected: Commerce and Economic Development  
BRU: Alaska Energy Authority  
Component: AEA Agency Operations  
COMPONENT SERIAL NO. 7304010100

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY 93) impact: 0

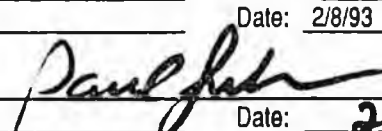
ANALYSIS: (Attach a separate page if necessary.)

Project authorization by itself has no fiscal impact. See cost analysis for HB 51 for projection of fiscal impact due to construction and operation of Anchorage-Kenai and Healy-Fairbanks interties.

Prepared by: Richard Emeiman  
Division: Alaska Energy Authority

Phone: 561-7877  
Date: 2/8/93

Approved by Commissioner: Paul Fuhs  
Agency: Commerce and Economic Development

  
Date: 2-10-93

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