

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8194 HOUSE TRANSPORTATION

459

Port of

Anch.

Option and First Right of Refusal to Lease Real Property

This Agreement, made and entered into this 25th day of January, 199~~7~~³ by and between the Municipality of Anchorage, Alaska (the "Municipality") and CBA Technologies, Inc., a Massachusetts corporation ("CBA"), establishes the intent of the parties to enter into a long term real property lease of up to 100 acres of the North Tidelands property at the Port of Anchorage located within the municipality of Anchorage (the "Land"). In that regard, the parties have agreed as follows:

The Municipality hereby grants to CBA the first right of refusal for a period of up to one year to lease up to 100 acres of the Land subject to the terms and conditions as enumerated by this agreement.

In consideration, CBA shall continue to pursue the planning, development and operation of a materials loading facility for the export of coal (the "Facility").

CBA may exercise its right of first refusal to negotiate a lease agreement at any time during the term hereof upon written notice to the Municipality. Upon exercise of this right, the Municipality shall entertain negotiations with CBA for a long term lease of the designated unimproved parcel subject to the following terms and conditions:

1. An initial term of 35 years (the "Term") with two 30-year renewal options.

2. A negotiated annual base rent during the initial term of the lease of not more than \$.06 per square foot adjusted annually by reference to an index to be agreed upon but generally reflecting inflation and the real estate valuation of the property. The parties agree that in no event shall the aggregate rent for any year during the first 15 years of the initial term exceed \$250,000.00. Rent for option terms will be negotiated based upon fair market value at the end of the initial term.

3. Payment to the Municipality, on a monthly basis, of a wharfage fee for each ton of coal exported from the Municipality across or through the facility at a rate to be negotiated by the parties but which in no event shall exceed \$.50 per metric tonne of coal, subject to annual adjustment by reference to an index to be agreed upon by the parties.

4. CBA will deliver to the Municipality (a) a financial feasibility study (the "Feasibility Study") regarding the development of the project on or before six months from the date hereof and (b) a preliminary plan (the "Preliminary Plan") for the project by the later of six months following the date of delivery of the Feasibility Study or twelve months from the date hereof. Each of the Feasibility Study and the Preliminary Plan will contain such information as the parties shall agree but the Feasibility Study shall at a minimum include engineering plans, cost estimates, environmental assessments, infrastructure demands relating to rail and road access and other information having a

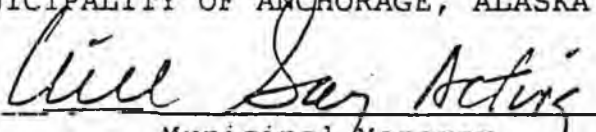
direct bearing on the Municipality's interests as potential lessor and operator of the Port of Anchorage. It is understood by the parties that these documents and their contents are to be considered matters of the public record.

5. Subject to the provisions of paragraph 4 herein, this Letter of Intent shall be open and irrevocable pursuant to the terms and conditions herein until the deadline for delivery of the Preliminary Plan pursuant to this letter.

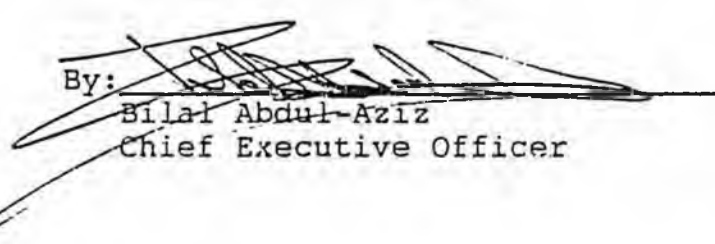
6. Both parties acknowledge that any lease agreed to shall be confirmed by the Assembly of the Municipality of Anchorage.

IN WITNESS WHEREOF, the parties acknowledge their agreement with the understanding expressed in the foregoing Letter of Intent by signing where indicated below.

MUNICIPALITY OF ANCHORAGE, ALASKA

By: 
Municipal Manager

CBA TECHNOLOGIES, INC.

By: 
Bilal Abdul-Aziz
Chief Executive Officer

Point of Contact for CBA Technologies
Possible North Tideland Project

Mr. William Hill, Jr., P.E.
Senior Vice President
Parsons Brinkerhoff Construction Services, Inc.
Spring Park Technology Center
475 Spring Park Place, Suite 500
Herndon, Virginia 22070
Phone: (703)834-3164
FAX: (703)435-9008



**PORT OF
ANCHORAGE**

DON DIETZ
Port Director

*2000 Anchorage Port Road
Anchorage, Alaska 99501
Telephone (907) 272-1531
FAX (907) 277-5636*



PORT OF ANCHORAGE

1993 CIB LEGISLATIVE REQUESTS



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INTRODUCTION

PRIORITIES FOR ALASKA'S CENTRAL PORT

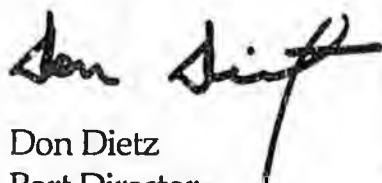
Dear Legislator:

The Port of Anchorage is Southcentral Alaska's regional port. It handles 80% of the state's cargo, generates thousands of jobs, and, as a Foreign Trade Zone, stimulates imports and exports. Due to its vital role in the Alaskan economy, it is appropriate for the state to fund the projects presented in this proposal as priorities in the Municipal Legislative Program.

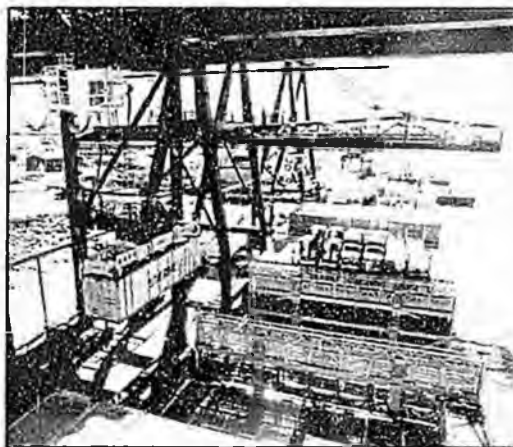
The Port facilities are sound, but many are over 30 years old and require substantial upgrading. At the same time, the Port must expand and modernize to reflect changes in shipping conditions. Over the past several years the Port of Anchorage has accomplished significant improvements, including the *successful* development of 17.45 leasable land-base acres in 1983 and 1986 using state grants. Since then, however, selected dock maintenance and land development within the port complex were deferred for several years during consideration of Fire Island as a regional port. Fire Island is no longer being considered a new regional port site in the near-term. Therefore, focus now must be on improving current working facilities at the Port of Anchorage.

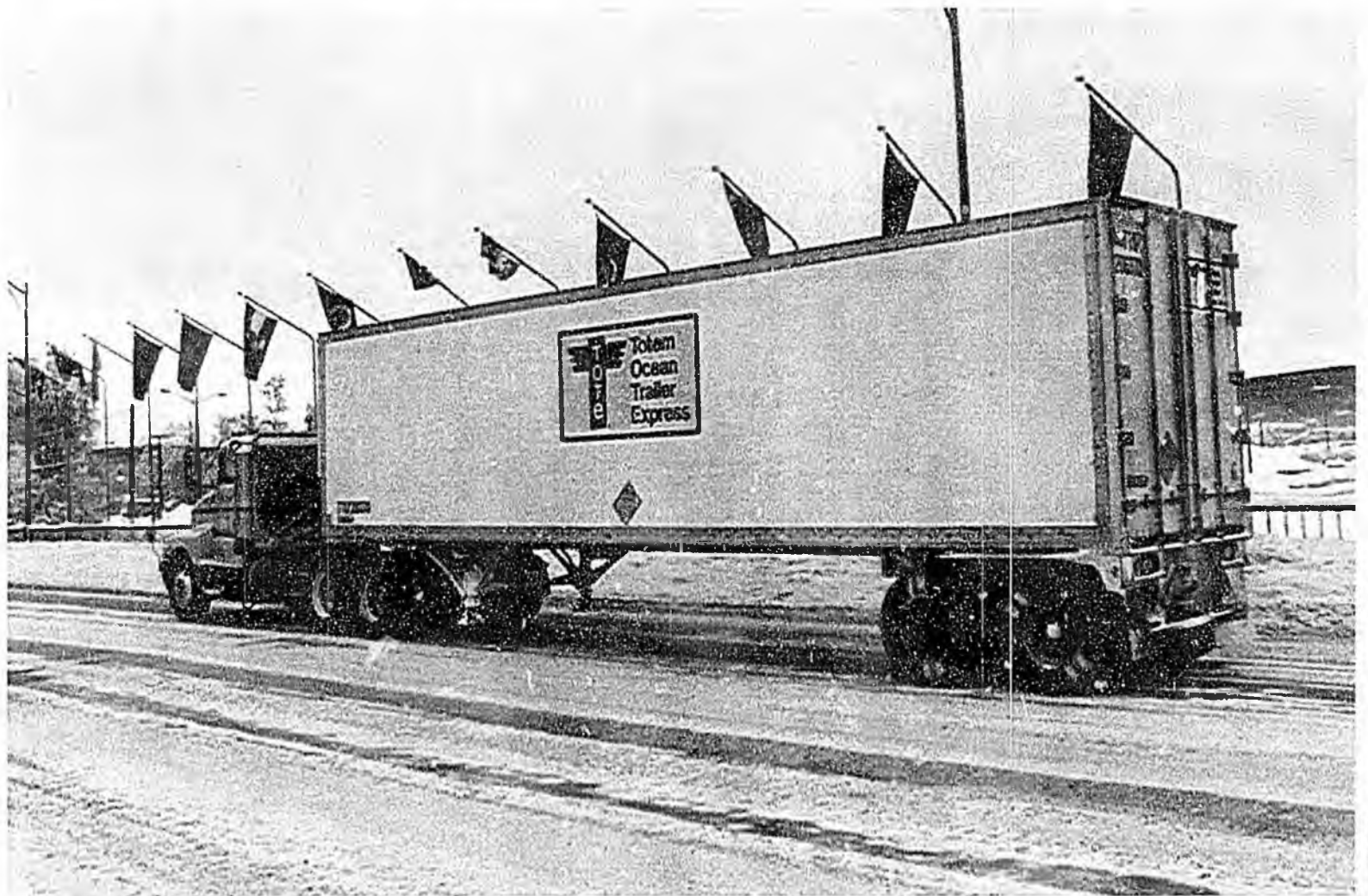
If the Port is to remain fully functional and competitive in the coming years, two projects which demand attention are: *Item A.* a new dock fendering system; and *Item B.* the development of 14-20 acres of land recently acquired by the Port. Your assistance in funding these projects will benefit the State of Alaska by improving the Port facilities which are so vital to the cost-effective movement of cargo to the Railbelt and beyond.

Sincerely,



Don Dietz
Port Director



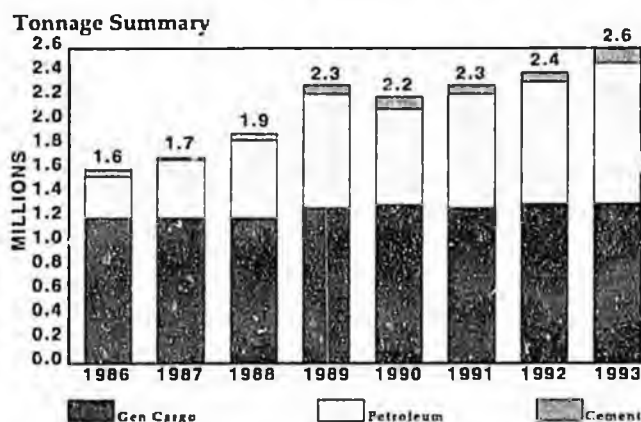


ECONOMIC ACTIVITY

AT THE PORT OF ANCHORAGE

The Port of Anchorage is the Railbelt's Regional Port. Almost every type of commercial commodity crosses its docks. The Port serves 80% of Alaska's populated area -- from Prudhoe Bay to Homer -- by means of rail, road and air connections.

Since 1986 general cargo tonnage has *increased* 21.6%. Imports and exports are on the rise. The costs of transportation and consumer goods are down.

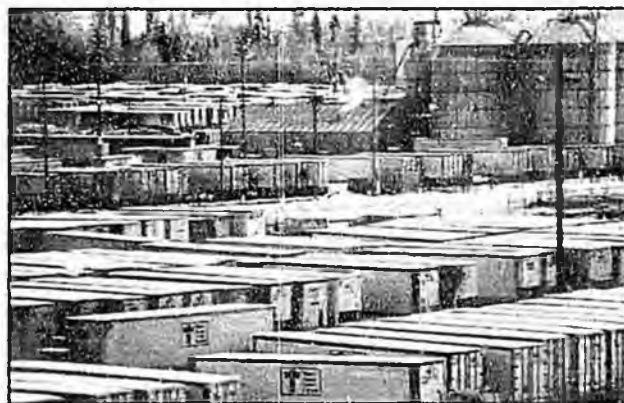


The economies of major containerized shipments into and out of Anchorage have even dropped low enough for shippers to consider regularly-scheduled liner service to Dutch Harbor and Kodiak.

These trends are attributable to more efficient ships, larger volumes, low-cost port operations, and competition

between carriers. The results are substantial, well documented *reductions* in the cost of transportation and the cost of living in the railbelt. These are trends the Port intends to continue.

However, the Port's existing 130-acre industrial site is *fully utilized* for commercial enterprises that use -- and pay -- for current Port operations. More developed land for containerized cargo, timber, and coal operations and facilities is vital if the region is to realize the full benefit of increased cargo and trade passing through the Port of Anchorage.

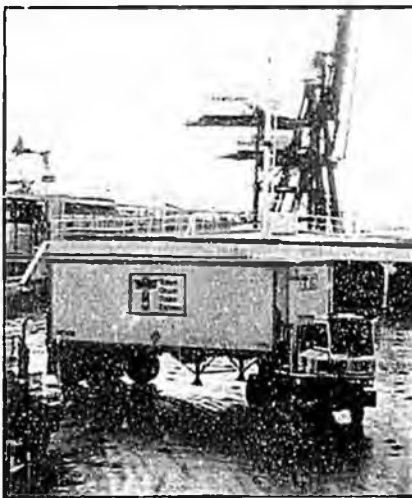
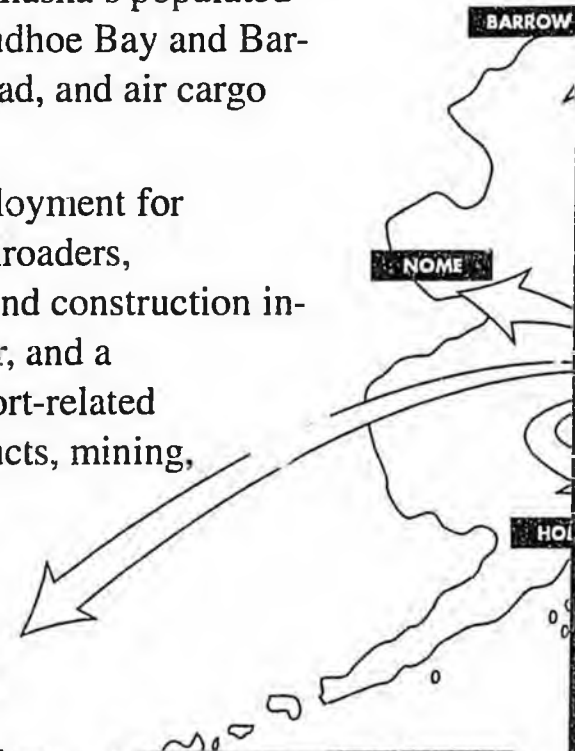


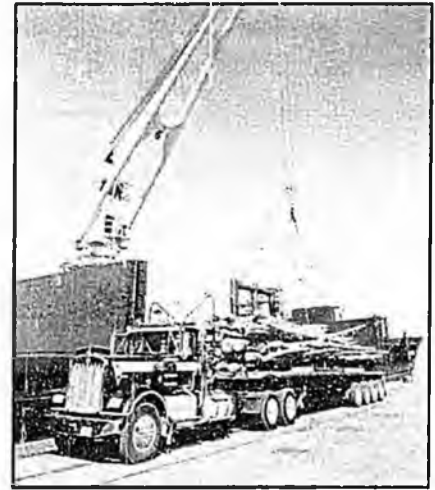
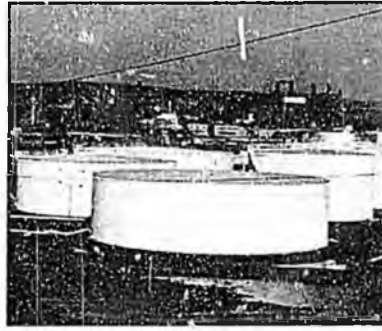


THE PORT OF A REGIONAL

Serves fully 80% of Alaska's populated area, from Homer to Prudhoe Bay and Barrow by means of rail, road, and air cargo connections.

Generates direct employment for stevedores, truckers, railroaders, warehousemen, the oil and construction industries, the FIRE sector, and a growing number of export-related jobs in petroleum products, mining, and manufacturing.





ANCHORAGE:

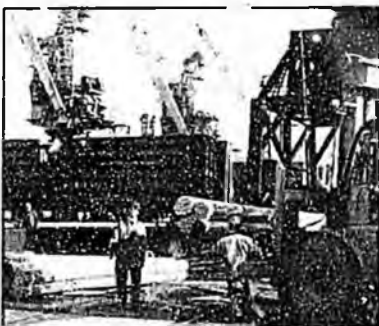
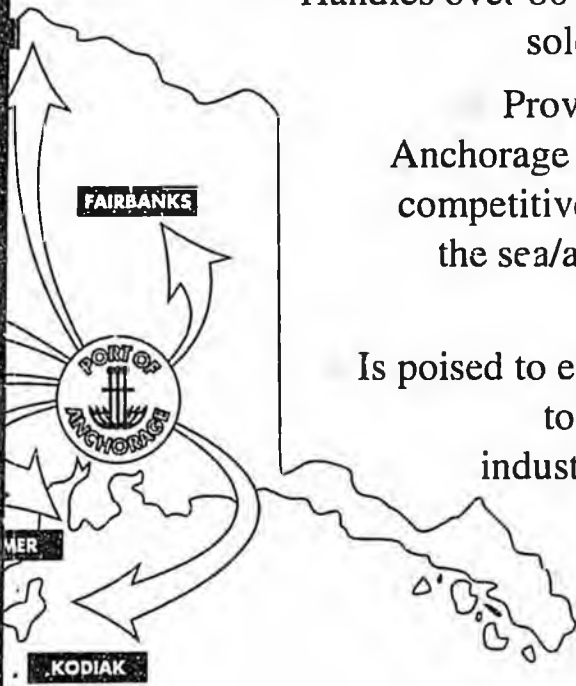
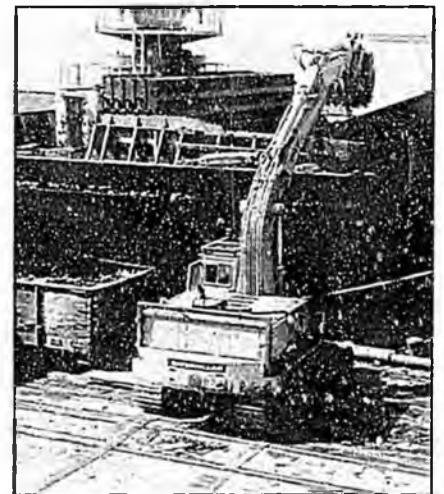
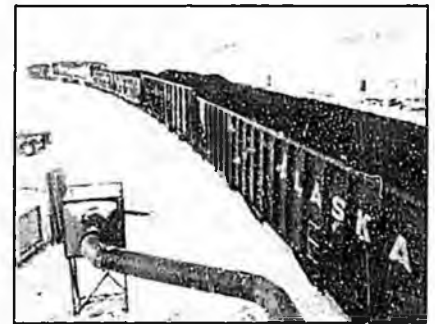
PERSPECTIVE

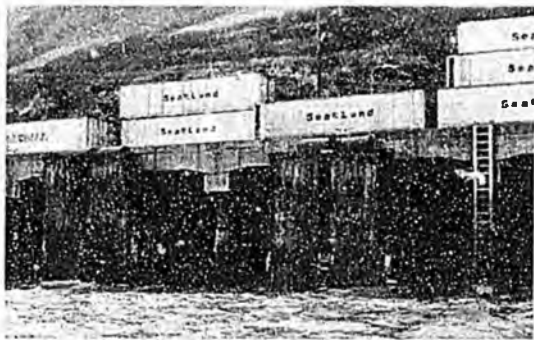
Handles over 80% of all consumer goods sold in the Railbelt Region.

Provides direct interties with Anchorage International Airport for competitive supplies of jet fuel and the sea/air movement of cargo to Bush Alaska.

Is poised to expand in direct response to and from export-related industries such as coal mining and forest products.

Offers Foreign Trade Zone services.





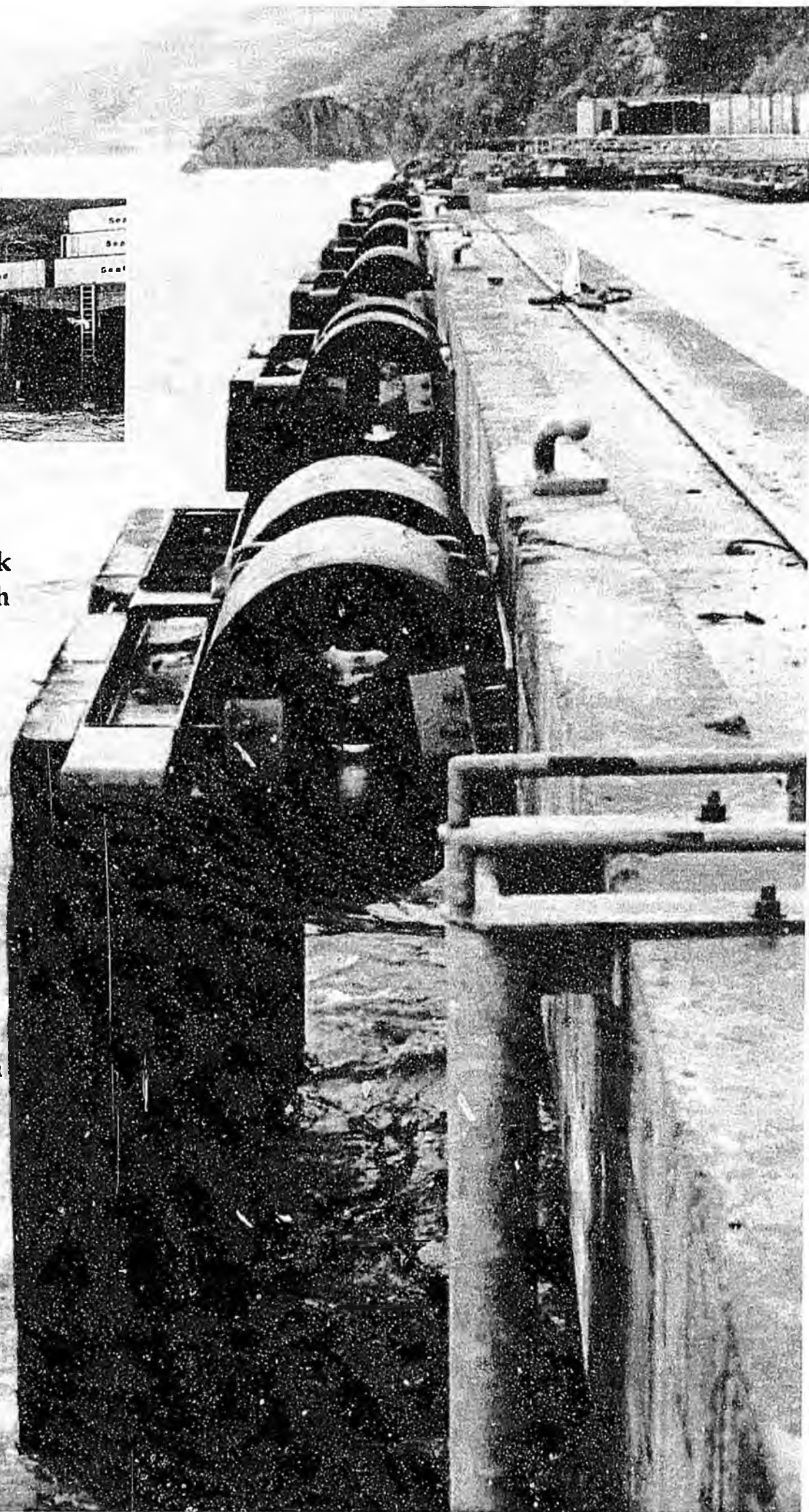
□ In the mid-80s the Port of Kodiak constructed this new dock fendering system with *state grants*.

□ Pictured are views of the new fendering system, which uses a rubberized, energy-absorbing design.

□ This type of fendering system is also in use at the Port of Anchorage's new POL Dock.

□ In both cases, the new fendering system has improved ship/barge berthing safety and has proved very successful from the Port users' operations perspective.

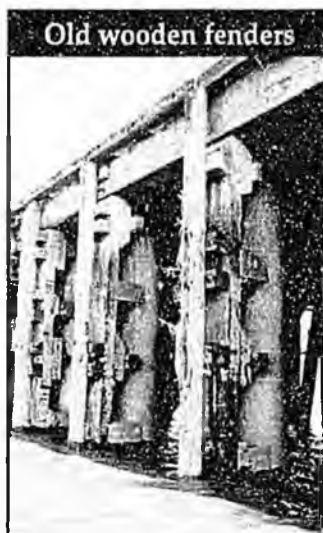
□ It has required *no maintenance*.



FENDERING REPLACEMENT

ITEM A IN THE CIB LEGISLATIVE REQUESTS

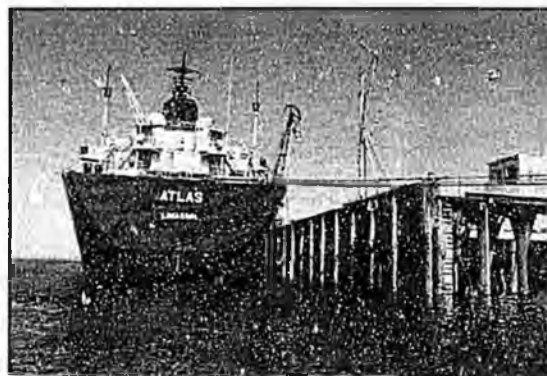
The Port of Anchorage requests state funds to upgrade the old wood timber dock fendering system. The existing dock fendering system was designed in 1960, over 30 years ago, to accommodate vessels that were in service at the time. Vessels then were smaller and lighter than vessels that now call at the Port. State-of-the-art fendering in 1960 consisted mainly of attached vertical wooden timbers which lacked the ability to absorb docking energies. Consequently, the larger present-day vessels docking at the Port of Anchorage regularly damage the old wooden fendering system. Repair and replacement of these wooden pilings is expensive, and very labor intensive.



The Port of Anchorage must replace the old timber fendering system with a new energy-absorbing rubberized system which will absorb expected berthing forces without causing unacceptable long-term effects to the dock structure. Under normal operating conditions, the new system will require *minimal* maintenance.



A preliminary consultant study has been conducted by the Port to estimate the cost of a fendering system which meets design criteria for vessel displacement, approach velocity, hull pressure, energy absorption, and ice loads. That estimate is \$7,000,000.





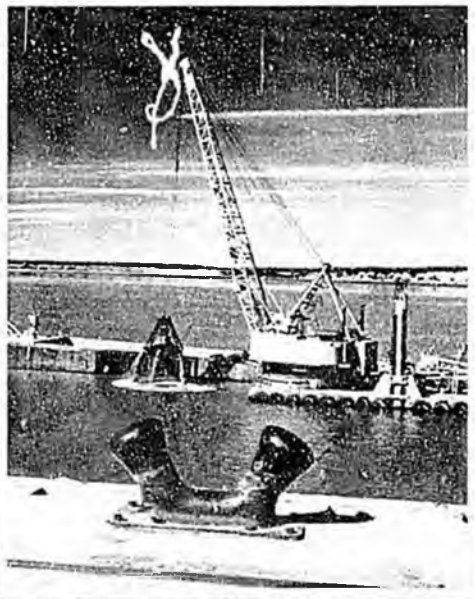
AERIAL VIEW: THE PORT OF ANCHORAGE

ITEM A: DOCK FENDERING REPLACEMENT

The new system will be maintenance-free.

ITEM B: LAND DEVELOPMENT

No state grant funds would be used for land acquisition.



POPULATION FIGURES 1992	STATE PORT & HARBOR GRANTS RECEIVED		
		\$ (MILLION) FY 1978-1993	\$ PER PERSON
HOMER	3,937	30.3	7,696.21
NOME	4,559	25.4	5,571.39
ST. PAUL	763	23.9	31,323.72
ST. GEORGE	138	19.9	144,202.89
KODIAK	7,229	14.9	2,061.14
SEWARD	2,699	13.9	5,150.05
ANCHORAGE	237,907	12.3	51.70

CARRIER TONNAGE ESTIMATES

FAIRBANKS	25-30%
PRUDHOE BAY	5%
KENAI	15-20%
ANCHORAGE	48%
BUSH	2%

CARRIER TONNAGE ESTIMATES

FAIRBANKS	13%
CORDOVA	1%
ANCHORAGE	86%

COMPARISION GENERAL CARGO TONNAGE FOR MAJOR ALASKA PORTS IN 1992

ANCHORAGE	1,498,570.1
DUTCH HARBOR	NOT AVAILABLE
HOMER	42,200.0
JUNEAU	NOT AVAILABLE
KODIAK	53,512.6
SEWARD	42,275.0
VALDEZ	16,665.0
WHITTIER	RAIL CAR DELIVERY ONLY

LAND DEVELOPMENT

ITEM B IN THE CIB LEGISLATIVE REQUESTS

The Port of Anchorage requests state funds to develop 14 to 20 acres of recently-acquired tidal and submerged land. As presently envisioned, this land would be utilized to support the Port's continuing growth in cargo and other potential export facilities for materials such as coal, forest products, and mineral concentrates. The funds would pay for the initial development phase of filling, paving, lighting, and providing utilities. Designs have been drawn up and wetlands permits have been received for portions of the proposed land development, so construction could begin immediately. No state grant funds would be used for land acquisition. The estimated cost is \$7,000,000.

The Port of Anchorage is simultaneously pursuing funding through AMATS to realign the road and rail approaches to and through the Port and to provide grade separations at busy intersections. Some of this land development would provide additional space for container operations, and the remainder would become part of the route for realigned access roads and rail spurs.

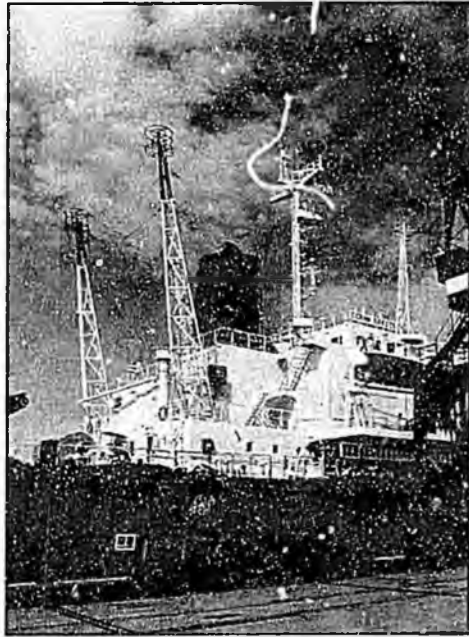
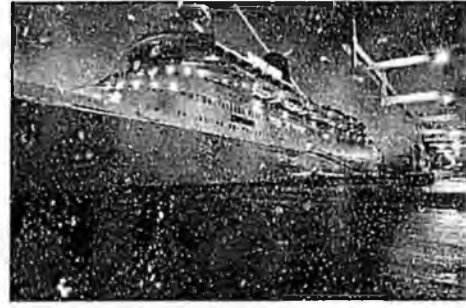
When all phases are completed, the Port of Anchorage will have made significant progress toward satisfying its mission: To provide a safe, efficient Port enterprise activity which *stimulates* economic development and the movement of goods into and out of Southcentral Alaska.

SUMMARY

1993 CIB LEGISLATIVE REQUESTS

The primary purposes of the projects described in this proposal are to reduce operation and maintenance costs for the existing dock, and to help accommodate growth at the Port of Anchorage. Estimated costs are summarized below:

ITEM A: Dock Fendering Replacement	\$ 7,000,000
ITEM B: Land Development	\$ 7,000,000
TOTAL	\$14,000,000



ALASKA'S HOME PORT

Linking Rail, Road, and Air Cargo from Homer to Prudhoe Bay

The Port of Anchorage is open year-round
Container, RO-RO, dry bulk, and petroleum facilities

Shipside to rail capability

Designated Foreign Trade Zone

Visitors welcome



PORT OF ANCHORAGE

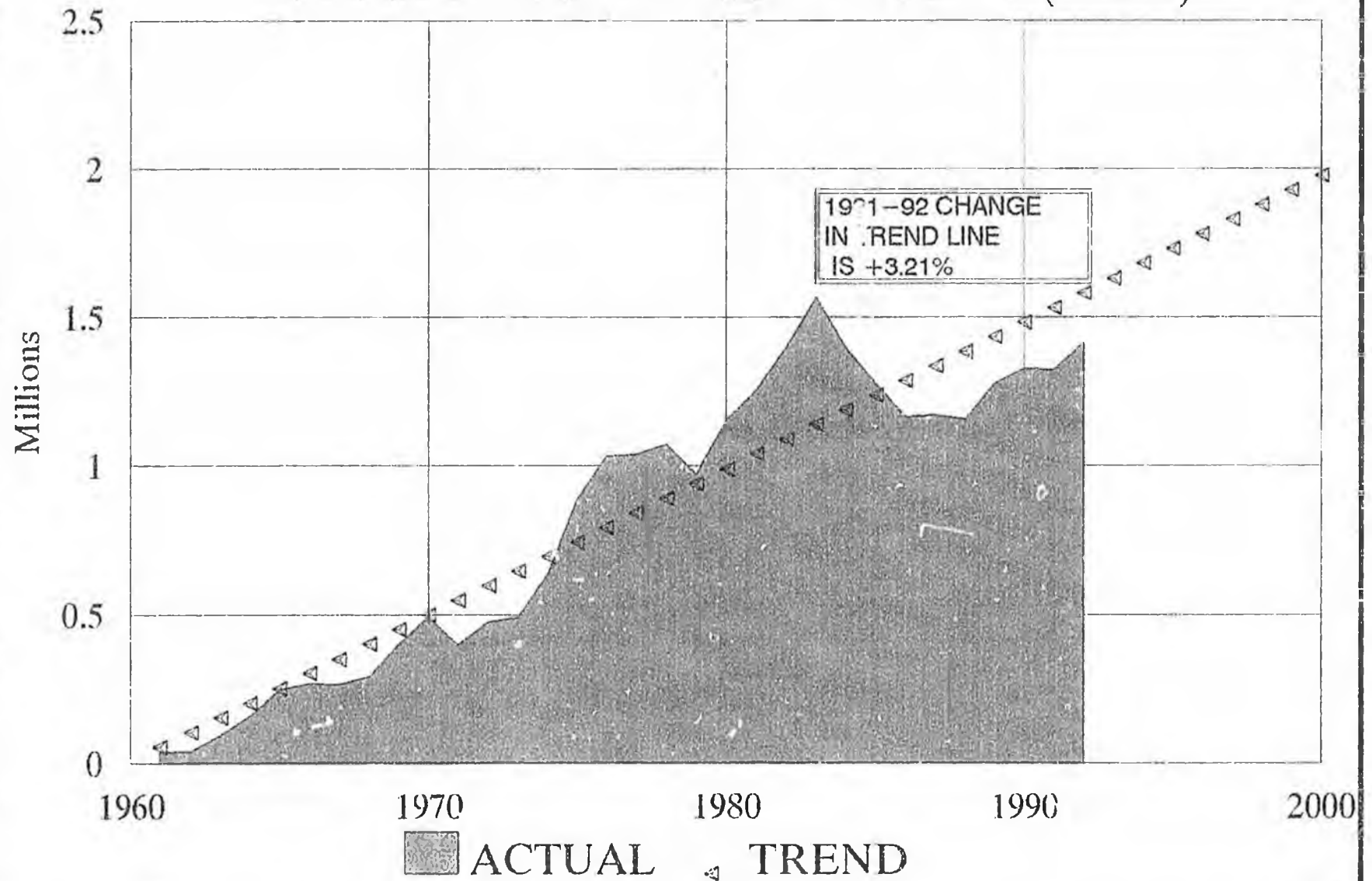
2000 Anchorage Port Road

Anchorage, Alaska 99501

(907) 272-1531 • FAX (907) 277-5636

PORT OF ANCHORAGE

GENERAL CARGO THROUGHPUT (TONS)



MUNICIPALITY OF ANCHORAGE
1993 LEGISLATIVE PROGRAM
Port of Anchorage
Regional Port Facilities Improvement

The regional Port of Anchorage's 110-acre industrial site is fully utilized for commercial enterprises that use, and pay for, port operations. This Port serves 80% of Alaska's populated area, from Homer extending all the way to Prudhoe Bay and Barrow by means of rail, road and air cargo connections. It handles over 90% of all consumer goods sold in the railbelt. The Port of Anchorage's leasable land base, including 17.45 acres developed in 1983 and 1986 with State grants, is now all under long-term leases or rental agreements. There is no developed land available to accommodate new road, rail, or utility corridor extensions for new cargoes or expansion of customer activity.

Between 1986 and 1992, the Port's general cargo tonnage increased 16.2%. However, due to land constraints, the major general cargo carriers have only been able to increase their land bases by 15.4%. Since general cargo is steadily increasing at an average rate of 2.75% per year, the shortage of available usable land at the Port is critical now and will continue to negatively impact Port users unless new facilities are developed.

As land accessibility and availability becomes more constrained, the operational costs of port users is increased and these costs must be passed on to consumers in the region served by the Port of Anchorage. The Port already has the land - we require funding assistance to gain access to it.

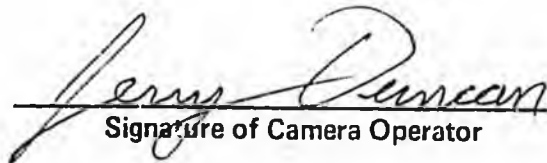
The requested State grant funds would be used to develop 14-20 acres of the Port's available land for road, rail corridors and utility corridor extensions, which should be adequate to meet the anticipated requirements resulting from increases in general cargo as well as allowing the Port to accommodate some new cargoes. No state grant funds would be used for land acquisition. A consultant's cost estimate for the development, to include road development, excavation, fill, paving, shore protection and utilities, is \$7,000,000.

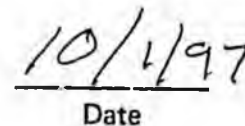


RECORDS CERTIFICATION



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


Signature of Camera Operator


Date

EEO

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Alaska House of Representatives

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Nome, Alaska 99762-1630
907-443-5036

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Juneau, Alaska 99801-1182
907-465-3789
Fax 907-465-3242



Chairperson
Transportation Committee

Military and Veterans
Affairs Committee

Member,
Finance Committee
Bush Caucus
Majority Whip

Eighteenth Legislature

HOUSE TRANSPORTATION COMMITTEE
TUESDAY, FEBRUARY 2, 1993

COMMITTEE AGENDA:

EXECUTIVE ORDER 87 - MOVING STATE FACILITY LEASING AND MANAGEMENT FUNCTIONS FROM THE DEPARTMENT OF ADMINISTRATION AND OTHER AGENCIES TO THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES.

I N D E X:

- I. FACT SHEET - EO 87
- II. LETTER, DATED JANUARY 11, 1993 TO THE HOUSE SPEAKER FROM THE GOVERNOR.
- III. EXECUTIVE ORDER 87
- IV. NEWSLETTER - FACILITIES MANAGEMENT UPDATE
- V. FISCAL NOTES - DATED 1/11/93 - 1. DOT&PF, 2. ADMIN. (GENERAL SERVICES), 3. ADMIN. (LEASING & FACILITIES)

Alakanuk, Chevak, Elim, Emmonak, Gambell, Golovin, Hooper Bay, Kotlik, Koyuk, Marshall, Mekoryuk, Mountain Village, Newtok, Nightmute, Nome, Pilot Station, Pitha's Point, Russian Mission, St. Mary's, St Michael, Savoonga, Scammon Bay, Shaktoolik, Sheldon Point, Stebbins, Toksook Bay, Tununak, Unalakleet, White Mountain

Staff: Elizabeth Walters, Jeannie Smith, Dr. Larry La Bolle

FACILITIES MANAGEMENT MERGER

Executive Order 87

- Approximately 250 employees are expected to be involved in the merger. These are existing maintenance personnel, design and construction project managers, leasing procurement officers, and administrative support personnel.
- Approximately 90 of these personnel exist in DOT&PF now, the remainder will merge from other departments.
- No personnel are expected to relocate to another community, but about 30-40 personnel may change building location.
- A rent structure to convert existing buildings maintenance funding to rent can be developed during FY94 and implemented in FY95 budget.

According to an inventory compiled in 1989, the state owns 7.5 million square feet of space, managed and maintained by personnel in ten departments. This does not include 4.7 million square feet of space occupied by the University system, or buildings owned by the international airports or State Authorities.

The FY93 budget appropriates approximately \$65 million to perform maintenance and related operations functions for the 7.5 million square feet. An additional \$39 million is appropriated to all branches of government for lease space payments.

One time costs: An estimate for costs associated with establishing consolidated facilities management is being developed. It is expected to be less than \$200,000.

Short-term costs and long-term projected savings: If we use appropriated capital funds to reduce energy consumption, savings accrued to the operating budget can be applied to elimination of the deferred maintenance backlog and compliance with physical requirements of the ADA. In FY93 DOT/PF will hire an energy management person to work with maintenance personnel to develop a plan for reducing energy consumption in our buildings. In FY93 \$2 million was appropriated to DOT/PF for energy and code upgrade. Additional amounts are requested in the FY94 capital budget for energy management as well as for ADA compliance.

The merger will prevent additional expense to the budget. It will be less costly to comply with ADA and code upgrade requirements with consolidated management than if many agencies are each separately responsible.

Information listed below is available:

- Business Plan
- Merger Impacts Analysis
- Facility Management UPDATE (newsletter)
- Efficiency Team summary recommendations
- Research Summary: Facility Management Models
- Interim Management Plan
- Transition Workplan
- Protection of Building Assets
- FY93 budget analysis

Please contact Kit Duke (562-2728) or Katy McHugh (465-3904) for a copy of any desired document.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1993

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an Executive Order relating primarily to the leasing of space for state agencies and the allocation and maintenance of space in state facilities.

The Order transfers, from the Department of Administration (DOA) to the Department of Transportation and Public Facilities (DOT/PF), the authority to execute leases for state facilities and to allocate space among state agencies. The Order also consolidates facilities management activities of the Department of Corrections (DOC) (related to prison industries) and the Department of Health and Social Services (DHSS) (related to juvenile corrections facilities) in DOT/PF.

These transfers of authority are necessary to allow the state to manage its leasing activities consistent with the long-term management of all of its public facilities. Under existing law, DOT/PF has broad authority to plan, construct, and manage state-owned facilities. However, many state agencies are housed in buildings leased from the private sector. Under the Executive Order, the private sector will still play a critical role in providing space for state agencies. What will change is the way the state analyzes leases of space and reaches its leasing conclusions. The result will be "smarter" decisions that better consider the state's long-term needs and ensure that the state gets the best bargain for its money.

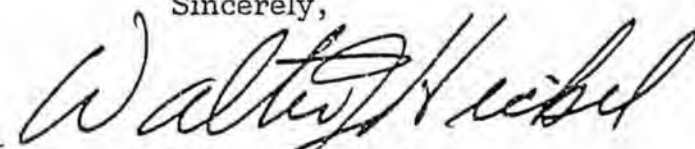
The Order also transfers to DOT/PF from DNR the disposal authority for lands acquired by DOT/PF under AS 35.20.010 - 35.20.070. This transfer is appropriate for consolidated facilities management because it enhances the state's ability, without increased administrative expense, to participate in modern leasing mechanisms. Under the Order, one agency, DOT/PF, will be responsible for land acquisition for public facilities and for procurement of the facilities, either through construction or leasing. Under one common technique for leasing

The Honorable Ramona L. Barnes
January 11, 1993
Page 2

buildings, the lessee conveys land to a developer, who constructs a building that the lessee then occupies under a lease/purchase agreement. Under existing authority, the state could use this technique only if DOT/PF acquired the land, DOA selected the lessor, and DNR conveyed interests in the land to the developer. This process is greatly simplified under the Order and will enable this type of conveyance to occur in a timely fashion at reduced cost, while still protecting the public interest.


The transfers made by this Executive Order will consolidate and streamline the state's facilities management activities. These transfers further the public interest and lead to a more intelligent use of the state's financial resources.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel
Governor

Facilities Management **UPDATE**



Volume 1, No. 1 January 1993

Welcome to the first edition of *FACILITIES MANAGEMENT UPDATE*. We will be using this newsletter routinely to bring you up to date on the merger of facilities management within state government.

Why is this merger being done? ASFA and the Governor's Efficiency Task Force have urged that a better job of asset protection and building management be done. The task force recommended consolidation of the various state buildings management functions into a single organization.

What is being done? Merging all state building management functions under single leadership; including operations and maintenance, leasing, space management and design and construction.

Who is in charge? The Commissioners of Administration and Transportation and Public Facilities were tasked with addressing this recommendation. Kit Duke, DOT&PF Assistant Commissioner was appointed to head up this effort. She has recruited a transition team to assist in researching and implementing the task force's recommendations. The team consists of nine individuals from six State agencies (see Page 4). We encourage you to speak with these representatives, and express your questions and concerns.

What are the goals? To maintain, manage and secure state facilities in a more cost effective and businesslike manner. Also to create a statewide perspective on state-owned facilities, their condition and what it costs to main-

tain and operate them.

When will this happen? The target date for the merger is July 1, 1993.

ENERGY MANAGEMENT

We must find the money to fund preventative maintenance. Chances are this money already exists in department budgets but is lost to inefficient mechanical systems and insufficiently insulated buildings. One of the areas we will focus on concerns the reduction of energy consumption within state-owned buildings.

The cost of basic heating, ventilation, and electrical needs are a fixed expense. If not efficiently controlled can consume a significant portion of an already strained maintenance operating budget. With existing technology and a common sense approach to conservation, relatively inexpensive modifications can be made to almost any facility that will result in eventual payback and funds to perform needed scheduled maintenance activities.

We intend to examine energy management systems including basic insulation and weather-stripping, window glazing, efficient HVAC (heating, ventilation and air conditioning) equipment, and lighting. DDC (Direct Digital Control) systems have already proven to offer substantial savings with minimal investment and such a system is capable of achieving optimum energy efficiency. Some manufacturers of DDC equipment go so far as

to offer creative financing packages whereby the purchase and installation of equipment is paid for out of energy cost savings.

WORKPLAN

To organize this effort and ensure an orderly transition, a draft workplan has been prepared. It includes 28 tasks in five emphasis areas and has been distributed to the transition team and members of the Alaska State Facilities Administrators, (ASFA). The five areas are: General Transition Issues, Employee Transfer Issues, Corporate Development Issues, Physical Plant Management Issues and Financial Issues.

WORKSHOP: 24 HOUR FACILITIES

Workshops were held November 23 and 24 with employees from the Dept. of Corrections, Health & Social Services, the Pioneer Homes and ASFA members. Guest speakers from British Columbia included Ray Parks, Facilities Manager, Ministry of Attorney General (similar to our Law & Corrections Departments) and Don Lebeter, Operations Superintendent from the British Columbia Buildings Corporation (BCBC).

Our guests were invited to explain the operations of their facilities management program. On November 24, we covered specifically how it applied to 24 hour facilities. British Columbia established their consolidated facilities management program, (British Columbia Buildings Corporation) fifteen years ago. Prior to that, facilities management was handled separately by each ministry (similar to the current state program). At the time of the merger, both guests were employed by the ministry. Since then Mr. Lebeter transferred to BCBC. Collectively, they have over 35 years of experience in corrections and fa-

ilities management.

Even though other states have merged their facilities management under similar programs, we chose the BCBC program to review in depth because of the similarities between Alaska and Canada; geographic and both have a large number of remote buildings. Those attending the workshop were able to voice concerns on how the merger would affect them, and draw on the experiences of our guest speakers. A detailed summary of issues was mailed to all participants and is available by request.

BETHEL MAINTENANCE COORDINATION PROJECT

One of the many challenges facing the new organization is the merger of existing multi-agency maintenance personnel and equipment. This project was conceived as a way to gather information on both the benefits and the problems of merging facility related resources. The project involves the departments of Corrections, Health & Social Services, Military & Veterans Affairs and Transportation & Public Facilities. Bethel was selected because of its size, the number of maintenance personnel from different agencies and the off road location.

An initial planning meeting was held in November to develop project parameters and goals. Detailed planning for the project began this month. Meetings will be held in February and the project will be underway by March 1. It will be monitored by facility managers from the agencies involved. Don Valesko, Business Manager, Local 71 is involved in the planning stages of the project as well as the progress review. Status reports will be provided in future editions of UPDATE.

DEPARTMENT TRANSITION PLANS

Each department will be asked to appoint an internal transition team, who will complete a transition plan. A transition plan outline is being developed and will be sent out in mid-January. These transition plans will provide us with department policies, budget status, financing/funding and data management of current facilities management programs. From this information, an action plan can be developed.

Development of transition plans is the first of many opportunities department program managers will have to give input to the merger.

QUESTIONS FROM YOU

1. If we transfer to the new agency, will we lose some of the benefits we now enjoy?

Employees will continue to be in the state employment system, with bargaining unit representation and will transfer to the new authority without a change in benefits.

2. Does the proposed merger involve some privatization of maintenance functions currently performed by state employees. Does this mean that some employees will lose their jobs?

We do not expect the level of maintenance workers to decrease due to the merger. There is a backlog of work, some of which may be contracted out; but it is agreed we cannot accomplish the required maintenance with fewer personnel.

3. Will the new organization require employees to relocate?

Employees will not be required to move from a community. Maintenance workers currently assigned to a facility are expected to remain reporting to and responsible for that facility. Over time, as deferred maintenance is taken care of, it is expected there will be less need for daily "crisis" response and that facilities with multiple maintenance personnel may be able to share these employees to accomplish preventative maintenance work at other facilities in a given community or region.

4. Has this new facilities organization been successful in other places?

Yes. Ex: The British Columbia Buildings Corporation, British Columbia, Canada (1977), (see related article, Page 1) and the States of Tennessee (1984) and Maryland.

5. Maintenance budgets are continually being cut to subsidize agency program needs. How will the new organization help solve this funding problem so that adequate preventative as well as emergency maintenance can be done?

Certain financial tools are necessary to ensure adequate funding. These include charging occupants rent for the use of space, a mechanism which allows us to collect and retain funding past fiscal year boundaries and a means to obtain capital for repair, replacement and code upgrade projects.

- The Executive Order establishing the new organization will be submitted to the Alaska State Legislature January 11, 1993.

The Legislature has 60 days for review and action.

- Kent Crandall, P.M., DOT&PF has awarded a contract to Charles Bettisworth & Co., Inc., to complete Inventory and Condition Surveys for state buildings. The surveys will provide an across the board representative sample of state owned facilities. Results will help determine the existing condition of the state's facilities, the extent of the deferred maintenance backlog, and the funding needed to correct identified code deficiencies.

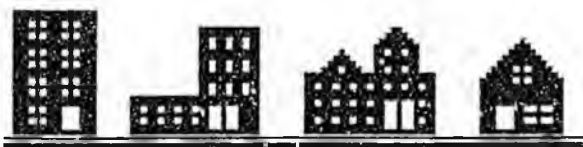
- Leann McGinnis has joined the transition team staff. She is responsible for several project communication tasks.

KIT DUKE'S MESSAGE

This merger is a major undertaking. Everyone's concern's and thoughts about making it a successful transition are important.

I have had occasion to meet with several groups of employees in Juneau and Anchorage, but we know those in other locations have many useful suggestions to offer about how we can be more effective.

We have received several notes and letters from maintenance personnel in several communities around the state. Please continue to contact me, Leann McGinnis or any of the Transition Team members with your suggestions.



TRANSITION TEAM MEMBERS

Cheryl Frasca, Deputy Director,
Office of Management & Budget
465-3568

Kathy Christy, Facilities Planner,
Dept. of Corrections
276-8122

Roger Patch, Director of Installations,
Dept. of Military & Veterans Affairs
428-6770

Newton Chase, Facilities Chief,
Dept. of Health & Social Services
465-3037

Janet Ignell, Human Resources Mgr.,
Dept. of Transportation/Public Fac.
465-4045

Jim Little, Buildings Maintenance Mgr.,
Dept. of Transportation/Public Fac.
451-2203

Boyd Brownfield, Director, D&C,
Dept. of Transportation/Public Fac.
266-1500

Dugan Petty, Director, GS&S,
Dept. of Administration, Leasing
465-2250

Representative: Vacant until Feb. 1993,
Administrative Directors Group

FISCAL NOTE

No. 1 V.
Bill Version: EO 87
(S) Publish Date: 1-11-93

Revision Date: _____ Department Affected: DOT&PF
Title: Executive Order: Consolidation of state
leasing, procurement and maintenance activities
for state buildings
for state buildings
Sponsor: Governor _____ Component:
Requestor: Governor _____ Component Serial Number:

EXPENDITURES REVENUES: (Thousands of Dollars)

	FY94	FY95	FY96	FY97	FY98	FY99
OPERATING						
PERSONAL SERVICES
TRAVEL
CONTRACTUAL
SUPPLIES
EQUIPMENT
LAND & STRUCTURES
GRANTS CLAIMS
MISCELLANEOUS
TOTAL OPERATING
CAPITAL
REVENUE FUND SOURCE

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	.	.	.	.	.	.
1003 GF MATCH	.	.	.	.	.	.
1004 GF	.	.	.	.	.	.
1005 GF PROGRAM RECEIPTS	.	.	.	.	.	.
1006 GF MHTA	.	.	.	.	.	.
OTHER	.	.	.	.	.	.
TOTAL FUNDING	.	.	.	.	.	.

POSITIONS

FULL-TIME	.	.	.	.	.	.
PART-TIME	.	.	.	.	.	.
TEMPORARY	.	.	.	.	.	.

Estimate of current year (FY93) impact: \$*

ANALYSIS: (Attach a separate page if necessary)

The reorganization of leasing, procurement and maintenance functions for state facilities will consolidate existing state responsibilities within the Department of Transportation and Public Facilities. The fiscal adjustments needed to implement this EO will be reflected in budget amendments for the Department of Administration and the Department of Transportation and Public Facilities. Detailed information reflecting all changes is being prepared by the departments.

Approximately \$31.2 million plus associated personnel and related costs will transfer from DOA to DOT/PF

Prepared by: Kel Duke
Division: Assistant Commissioner

Phone: 562-2728
Date: 1/6/93

Approved by Commissioner: Frank O. Durpin
Frank O. Durpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: 1/6/93

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For further distribution information call the Governor's Legislative Office

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 2
Bill Version: EO 87
(S) Publish Date: 1-11-93

Revision Date _____
Executive Order: Consolidation of State leasing, procurement and maintenance activities for State buildings
Sponsor: Governor
Requester: Governor

Department Affected: Administration
BRU: General Services
Component: Purchasing
COMPONENT SERIAL NO. 60

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

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

REVENUE	.	.	.	.	.	.
FUND SOURCE:	.	.	.	.	.	.

FUNDING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
1000 Federal Receipts
1003 GF Match
1004 GF
1005 GF Program Receipts
1008 GF MHTA
OTHER
TOTAL

POSITIONS	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
FULL-TIME
PART-TIME
TEMPORARY

Estimate of current year (FY93) impact: \$ 0

ANALYSIS (Attach a separate page if necessary) The reorganization of leasing, procurement and maintenance functions for State facilities will consolidate existing State responsibilities within the Department of Transportation and Public Facilities. The fiscal adjustments needed to implement this Executive Order will be reflected in budget amendments for the Department of Administration and the Department of Transportation and Public Facilities. Detailed information reflecting all changes is being prepared by the departments. Approximately \$250 0 in associated personnel costs will transfer from the Division of General Services to the Department of Transportation and Public Facilities

Prepared by Ducan Petty, Director
Division General Services

Phone: 465-2250
Date: 1/7/93

Approved by Commissioner Nancy Bear Usher
Agency: Administration

Date: 1/2/93

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STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 3
Bill Version: EO 87
(S) Publish Date: 1-11-93

Revision Date: _____
Title: Executive Order: Consolidation of State leasing, procurement and maintenance activities for State buildings.
Sponsor: Governor
Requestor: Governor

Department Affected: Administration
BRU: Leasing and Facilities
Component: Leases

COMPONENT SERIAL NO. 81

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

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

REVENUE FUND SOURCE:
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	.	.	.	.	.	.
1003 GF Match	.	.	.	.	.	.
1004 GF	.	.	.	.	.	.
1005 GF/Program Receipts	.	.	.	.	.	.
1006 GF/MHTIA	.	.	.	.	.	.
OTHER 1007 I/A Rec	.	.	.	.	.	.
TOTAL	.	.	.	.	.	.

POSITIONS:

FULL-TIME	.	.	.	.	.	.
PART-TIME	.	.	.	.	.	.
TEMPORARY	.	.	.	.	.	.

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.) The reorganization of leasing, procurement and maintenance functions for State facilities will consolidate existing State responsibilities within the Department of Transportation and Public Facilities. The fiscal adjustments needed to implement this Executive Order will be reflected in budget amendments for the Department of Administration and the Department of Transportation and Public Facilities. Approximately \$31.2 million will be transferred from the requested FY 94 Leases Component to the Department of Transportation and Public Facilities. Detailed information reflecting all changes is being prepared by the departments.

Prepared by: Duane Petty, Director
Division: General Services

Phone: 465-2250
Date: 1/7/93

Approved by Commissioner: Nancy Bear Usery
Agency: Administration

Date: 1/7/93

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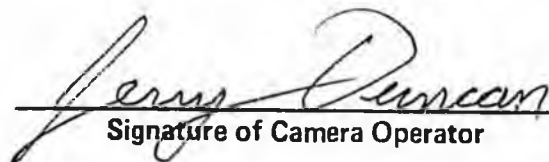
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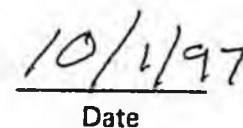


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Signature of Camera Operator


Date

HB

23

HOUSE TRANSPORTATION COMMITTEE
THURSDAY, FEBRUARY 11, 1993
CAPITOL, ROOM 17
5:00 P.M.

HB 23 - "AN ACT MANDATING THE SALE OF THE ALASKA RAILROAD; AND
PROVIDING FOR AN EFFECTIVE DATE."

I N D E X:

- I. ORIGINAL VERSION, HB 23
- II. SPONSOR STATEMENT, HB 23
- III. SECTIONAL ANALYSIS, HB 23
- IV. MEMO DATED NOV. 9, 1992 FROM GEORGE UTERMOHLE TO REP. MARTIN
RE: ALASKA RAILROAD TRANSFER ACT:RESTRICTION ON SALE
- V. POSITION PAPERS, HB 23 - (A.) ALASKA RAILROAD CORPORATION
(B.) COMMERCE & ECON. DEVP.
- VI. FISCAL NOTES - HB 23 / (A.) ALASKA RAILROAD CORPORATION
(B.) COMMERCE & ECON. DEVP.
- VII. MEMO DATED JANUARY 23, 1992 TO ALL LEGISLATORS FROM REP.
CHOQUETTE
- VIII. LETTER DATED JANUARY 27, 1993 TO REP. MARTIN FROM MR.
MCDONALD/CARLILE ENTERPRISES, INC.

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN

Terry II

HOME
355 DONNA DR., #11
ANCHORAGE, AK 99504
PHONE: 333-6990

DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

Alaska House of Representatives

SPONSOR STATEMENT

HB 23

"An Act mandating the sale of the Alaska Railroad."

Under the Alaska Railroad Transfer Act of 1983, the Alaska Railroad was transferred to the State of Alaska on January 6, 1985. Within ten years of the date of transfer, railroad-owned land may be purchased by a private entity, subject to restrictions on the state by the federal government. The provision preventing disposal of the land will expire on January 7, 1995.

In view that the federal restrictions on transfers will cease to apply, this will be an opportune time to work with private bidders at selling the Alaska Railroad. In that light, HB 23 provides the mechanism through which the process of the sale can be initiated. The parameters which are set in the bill distinguish a clear relationship between the governor and the legislature with regards to the bidding, overview and sale process.

In reference to the reasoning and justification of the sale, the bottom line is that the State's powers should not be broadened in such a manner that private enterprise activity is infringed upon. The recent profit disclosed by the railroad resulted from a \$4 million earning through real estate transactions. With respect to the transportation operations, which is realistically the underlying purpose for its inception, there was a \$2 million loss reported in 1992.

A recent audit by Mercer Management Consulting of Lexington found "the ARRC management to be somewhat fragmented, without a team focus, and apparently comfortable with the status quo", as stated in the February 8th Alaska Journal of Commerce. In addition, business clientele of the railroad, as well as competing enterprises have expressed concerns towards the ARRC (a state owned corporation), possessing the ability to generate revenues through real estate payments. Hence, it is time to privatize this arm of state government, allowing private bidders to purchase the organization, thereby allowing our free market system to flourish, while successfully reducing another segment of our oversized governmental bureaucracy.

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN

Item III

HOME
355 DONNA DR., #11
ANCHORAGE, AK 99504
PHONE: 333-6990

DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

Alaska House of Representatives

SECTIONAL ANALYSIS

HB 23

"An Act mandating the sale of the Alaska Railroad."

Section 1.

States that the governor shall issue a request by July 1, 1994, for proposals to purchase the Alaska Railroad after January 7, 1995. The governor will evaluate the proposals and will oversee that the State receives adequate compensation.

By January 6, 1996, the governor will enter into an agreement for the sale with the most responsive offeror. In addition, the governor shall contract with an appraiser and the report submitted will be distributed to the legislature by the 10th day of the Second Session of the Eighteenth State Legislature. During each legislative session, by the 10th legislative day he shall give a report regarding the progress of the sale. Upon the completion of the sale, the governor shall dissolve the Alaska Railroad Corporation.

Section 2.

Requires the Act to take effect immediately.

DIVISION OF LEGAL SERVICES**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

November 9, 1992

SUBJECT: Alaska Railroad Transfer Act: Restriction on the sale of the Alaska Railroad (Work Order No. 18-LS0177)

TO: Representative Terry Martin
ATTN: Tom Anderson

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum summarizes the provision of the federal Alaska Railroad Transfer Act (P.L. 97-468, Title VI) that restricts the ability of the legislature to sell the state-owned Alaska Railroad.

The Alaska Railroad Transfer Act became law January 14, 1983. The Act set out the terms under which the Alaska Railroad would be transferred to the State of Alaska. Ownership of the railroad was transferred to the state January 6, 1985.

The federal Act contains two provisions restricting the ability of the state to profitably dispose of the railroad within certain time periods following the transfer of the railroad to the state. One of those provisions has already expired; the other provision will expire in a few more years.

If, within ten years after the date of transfer to the State . . . , the Secretary finds that all or part of the real property transferred to the State under this title, . . . , is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property . . . shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad.

P.L. 97-468, sec. 610(a); 45 U.S.C. 1209(a).

Representative Terry Martin
November 9, 1992
Page 2

The apparent purpose of this provision is to discourage the state from disposing of railroad land in a manner that will cause the state-owned railroad to cease operation during the first ten years following the transfer. It is unclear as to what events would cause this provision to become operative. The phrase "prevent the State-owned railroad from continuing to operate" is particularly unclear. Does the phrase refer just to disposals of real property that would prevent the entire railroad from operating or just part of the railroad, such as between Anchorage and Whittier or Fairbanks and Eielson Air Force Base? Does this provision prevent the disposal of revenue producing land not used for the actual operation of the railroad if the disposal would endanger the long term financial viability of the railroad or does it refer only to disposal of land actually used for railroad operations?

It is evident that this provision virtually precludes any transfer of the railroad to private ownership that included a transfer of railroad land, because the transfer of the railroad to private ownership would prevent the state-owned railroad from continuing to operate. Though this provision is triggered only by the disposal of real property and thus could be avoided by not disposing of real property, it is difficult to envision anyone wanting to buy the railroad if they did not also get the land and buildings used by the railroad.

The ambiguity of this provision places a cloud over any disposal of railroad land until January 7, 1995 when this provision expires.

I am providing this information to you so that you are aware of this temporary impediment to profitable disposal of the Alaska Railroad.

If I can provide further assistance, please advise.

GU:gc
92-508.glc

Position Paper

HB-23

"An Act mandating the sale of the Alaska Railroad; and providing for an effective date."

The Alaska Railroad Corporation was created by an act of the Alaska State Legislature in 1984 (AS.42.40). This statute, as it was originally crafted provided that the Railroad be a self-sustaining entity, operated without state subsidy and wholly-owned by the State of Alaska. As mandated by the statute, the corporation is managed by a seven member Board of Directors appointed by the Governor. The Board has a fiduciary responsibility to manage the Corporation's legal and financial obligations and to ensure prudent operation of the Railroad according to sound business practices.

The Alaska Railroad Corporation Act (ARCA) embodied a public policy to create a legal and financially independent railroad. Eight years following transfer, that vision has proved to be attainable, accurate and well designed.

HB-23, as it is currently proposed, mandates that the Governor shall enter into an agreement to sell the Alaska Railroad to the most responsive offeror by January 6, 1996. The present statute (AS.42.40.940) currently provides for the sale or lease of the Railroad. Sale under this section of the law also requires approval by the Legislature. Accordingly HB-23 is redundant - the Governor is already empowered to sell or lease the Railroad (Sec. 42.40.940), subject to legislative approval.

Apart from redundancies, introduction of legislation of this nature has several undesirable peripheral effects. It tends to erode the Corporation's ability to negotiate effective long-term contractual arrangements with its large shippers. Financial institutions would view the corporation less favorably. Finally it sends a mixed message to employees who endured the anxieties of the transfer from Federal to State ownership in 1984-85.

Moreover, when ownership of the Alaska Railroad was transferred from the federal government, the State agreed to abide by the provisions of the transfer law passed by Congress in 1983. This law required the railroad to be a rail

carrier generating, retaining and managing its own revenues to better serve Alaska's transportation and development needs. In framing the public corporation's operating characteristics in ARCA to conform to this expectation, State leadership gave the Railroad enough independence to conduct its activities as a separate economic entity from the State.

Certain controls were imposed in recognition of state ownership and essential governmental accountability: open meetings requirements; Governor appointed board members; procurement and ethical codes substantially equivalent to State models; submission of financial and management audits, annual reports, oversight reports and legislative approval of land disposals.

This blend of substantial financial and operational independence, subject to State oversight, results in a quasi-public, quasi-private railroad armed with the flexibility it needs to quickly react to changing markets, operational needs and financial resources.

In the event that the Legislature enacts a law which would require sale of the Railroad, several questions should be answered:

Operational

What conditions, if any, will be added to the sale terms to insure continued rail operations as required by the federal transfer act? Will the new owner have the option to close unprofitable segments of the rail line in the interest of maximizing short term profits elsewhere? Will the new owner be required to service future state-funded expansions of the rail system?

Marketing

What will assure at least informal State oversight of anti-competitive railroad operations under private ownership? Will a private owner be required to be responsive to serving local freight and municipal needs? To what extent will a privately owned Railroad participate in unprofitable traffic flows based solely upon "economic development and jobs"?

Passenger Service

Will the State retain control of rail passenger service? Will it be economically feasible for the new owner to operate a passenger service? Will the State subsidize any loss which the new owner may endure? Will the State regulate rates for passenger service? What level or frequency of passenger service will the State require?

Real Estate

Will the sale agreement include sale of all rail lands including the right-of-way (ROW)? Will the State allow the lessee to purchase their leasehold interest prior to sale of the Railroad? If the rail lands are sold, what happens to those lease agreements between the Railroad and local governmental entities for those properties set aside for bike trails, parks, cemeteries etc.? Will the new owner receive surface rights, mineral rights or both?

Employee Concerns

Will the new owner be required to honor existing labor agreements? Will there be job protection clauses for current employees? And how will they affect the final sales price?

Summary

Through its ownership of the Alaska Railroad, the State and Municipalities receive many benefits that are not readily apparent; such as dollar per year leases for parks and trails, passenger services to Whittier and outlying points without State subsidy, and support for resource development that otherwise would have to come from public monies.

A bill to sell the Railroad on a date certain is nothing more than an auction, and the highest value may not be realized. Also, any conditions of sale relating to support of public services will reduce sale income accordingly.

In the final analysis, the Legislature will have to determine for itself whether the benefits of state ownership of a producing asset outweigh the burden of having to occasionally sort out some rather complex competitive issues. If under State ownership, the Railroad cannot enjoy the flexibility to react to market conditions using private business principles, then it should be sold. Otherwise, such a valuable investment should remain in State hands.

HB 23: "An Act mandating the sale of the Alaska Railroad; and providing for an effective date."

The Alaska Railroad Corporation was created by an act of the Alaska State Legislature in 1984 (AS 42.40). This statute, as it was originally crafted provided that the railroad be a self-sustaining entity, operated without state subsidy and wholly-owned by the State of Alaska. As mandated by the statute, the corporation is managed by a seven-member Board of Directors appointed by the Governor. The board has a fiduciary responsibility to manage the corporation's legal and financial obligations and to ensure prudent operation of the railroad according to sound business practices.

The Alaska Railroad Corporation Act (ARCA) embodied a public policy to create a legal and financially independent railroad. Eight years following transfer, that vision was proved to be attainable, accurate and well-designed.

HB 23, as it is currently proposed, mandates that the Governor shall enter into an agreement to sell the Alaska Railroad to the most responsive offeror by January 6, 1996. The present statute (AS 42.40.940) currently provides for the sale or lease of the railroad. Sale under this section of the law also requires approval by the Legislature. Accordingly, HB 23 is redundant - the Governor is already empowered to sell or lease the railroad (Sec. 42.40.940) subject to legislative approval.

Apart from redundancies, introduction of legislation of this nature has several undesirable peripheral effects. It tends to erode the corporation's ability to negotiate effective long-term contractual arrangements with its large shippers. Financial institutions would view the corporation less favorably. Finally, it sends a mixed message to employees who endured the anxieties of the transfer from federal to state ownership in 1984-85.

Moreover, when ownership of the Alaska Railroad was transferred from the federal government, the state agreed to abide by the provisions of the transfer law passed by Congress in 1983. This law required the railroad to be a rail carrier generating, retaining and managing its own revenues to better serve Alaska's transportation and development needs. In framing the public corporation's operating characteristics in ARCA to conform to this expectation, state leadership gave the railroad enough independence to conduct its activities as a separate economic entity from the state.

Certain controls were imposed in recognition of state ownership and essential governmental accountability; open meetings requirements; Governor-appointed board members; procurement and ethical codes substantially equivalent to

POSITION PAPER

HB 23

Page 2

state models; submission of financial and management audits, annual reports, oversight reports and legislative approval of land disposals.

This blend of substantial financial and operational independence, subject to state oversight, results in a quasi-public, quasi-private railroad armed with the flexibility it needs to quickly react to changing markets, operational needs and financial resources.

In the event that the Legislature enacts a law which would require sale of the railroad, several questions should be answered:

Operational

What conditions, if any, will be added to the sale terms to insure continued rail operations as required by the federal transfer act? Will the new owner have the option to close unprofitable segments of the rail line in the interest of maximizing short-term profits elsewhere? Will the new owner be required to service future state-funded expansions of the rail system?

Marketing

What will assure at least informal state oversight of anticompetitive railroad operations under private ownership? Will a private owner be required to be responsive to serving local freight and municipal needs? To what extent will a privately-owned railroad participate in unprofitable traffic flows based solely upon "economic development and jobs"?

Passenger Service

Will the state retain control of rail passenger service? Will it be economically feasible for the new owner to operate a passenger service? Will the state subsidize any loss which the new owner may endure? Will the state regulate rates for passenger service? What level of frequency of passenger service will the state require?

Real Estate

Will the sale agreement include sale of all rail lands, including the right-of-way (ROW)? Will the state allow the lessee to purchase their leasehold interest prior to sale of the railroad? If the rail lands are sold, what happens to those

lease agreements between the railroad and local governmental entities for those properties set aside for bike trails, parks, cemeteries, etc.? Will the new owner receive surface rights, mineral rights, or both?

Employee Concerns

Will the new owner be required to honor existing labor agreements? Will there be job protection clauses for current employees? And how will they affect the final sales price?

Summary

Through its ownership of the Alaska Railroad, the state and municipalities receive many benefits that are not readily apparent, such as dollar per year leases for parks and trails, passenger services to Whittier and outlying points without state subsidy, and support for resource development that otherwise would have to come from public monies.

A bill to sell the railroad on a date certain is nothing more than an auction, and the highest value may not be realized. Also, any conditions of sale relating to support of public services will reduce sale income accordingly.

In the final analysis, the Legislature will have to determine for itself whether the benefits of state ownership of a producing asset outweigh the burden of having to occasionally sort out some rather complex competitive issues. If under state ownership, the railroad cannot enjoy the flexibility to react to market conditions using private business principles, then it should be sold. Otherwise, such a valuable investment should remain in state hands.



Paul Fuhs, Commissioner

2-11-93

Date

Ham VI (2)

FISCAL NOTE

**STATE OF ALASKA
1993 LEGISLATIVE SESSION**

BILL NO. HB-23

Revision Date: _____ Dept. Affected: _____
 Title: MANDATE TO SELL THE ALASKA RAILROAD BRU: _____
 Sponsor: REPRESENTATIVE MARTIN Component: _____
 Requestor: _____ COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY84	FY85	FY86	FY87	FY88	FY89
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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

REVENUE FUND SOURCE:						
-----------------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1008 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY83) impact: \downarrow

ANALYSIS: (Attach a separate page if necessary)
 THE COSTS TO SELL THE ALASKA RAILROAD ARE UNKNOWN. HOWEVER, DURING THE TRANSFER PROCESS IN 1984-85, THE U.S. GOVERNMENT SPENT AN ESTIMATED \$1.7 MILLION FOR VARIOUS STUDIES, APPRAISALS AND FINANCIAL ASSESSMENT. THE STATE OF ALASKA EXPENDED AN ESTIMATED \$2.0 MILLION FOR ACQUISITION ASSESSMENTS, FACILITIES ASSESSMENTS, LEGAL ADVICE, ANALYSIS OF USRA EVALUATION, AND TRANSFER REPORT.

Prepared by: JAMES B. BLASINGAME
 Division: _____
 Approved by Commissioner: ROBERT S. HARTFIELD

Phone: (907) 265-2680
 Date: 2/8/93
 Date: 2/8/93

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 23

Revision Date: _____

Title: Mandate to sell the Alaska Railroad

Sponsor: Representative Martin

Requestor: _____

Department Affected: Commerce and Economic Development

BRU: _____

Component: _____

COMPONENT SERIAL NO. _____

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
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

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: _____

ANALYSIS: (Attach a separate page if necessary.)

The costs to sell the Alaska Railroad are unknown. However, during the transfer process in 1984-85, the U.S. Government spent an estimated \$1.7 million for various studies, appraisals and financial assessment. The State of Alaska expended an estimated \$2.0 million for acquisition assessments, facilities assessments, legal advice, analysis of U.S.R.A. evaluation, and transfer report.

Prepared by: James B. Blasingame
Division: Alaska Railroad Corporation

Phone: 265-2680
Date: 2/8/93

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

Date: 2/8/93

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Alaska State Legislature
House of Representatives

Item VII

INTERIM

3111 C Street
Anchorage, Alaska 99503
(907) 561-2032



SESSION

P.O. Box V
Juneau, Alaska 99811
(907) 465-2995

Representative Dave Choquette

To: All Legislators
From: Representative Dave Choquette
Date: January 23, 1992
Re: Alaska Railroad Corporation

The attached letter from the Alaska Railroad Corporation President, Bob Hatfield, Jr., is a result of a meeting Representative Hanley and I had in December with Mr. Hatfield, Mr. Yetter and Mr. Lounsbury. He has addressed my concerns regarding the Alaska Railroad Corporation competing with the private sector, the sale of the Alaska Railroad, and their compliance with Alaska Statutes.

I found this information informative and trust you will too.

January 2, 1992
Page Four

SALE OF ARRC

Alaska Statute 42.40 (Attachment III) establishing the ARRC was amended in 1988 to delete from its annual report specific "documentation of at least three offers to sell the corporation during the last five years." The language relating to "at least three offers" and "five years" has been deleted.

The intent of the change was to allow the legislature to make the decision when the Corporation should be offered for sale, thus not mandating the ARRC to offer or promote a sale situation. Of course, if an offer were received, then full disclosure would be provided appropriately. To date, we have not had any formal offers to purchase the Corporation.

For the Corporation and its employees, there are obvious advantages to placing the Corporation into private hands, such as increased profits, more flexibility, less governmental regulations/oversight and the ability to shed unprofitable segments (passenger services) which far outweigh the \$1 million in annual taxes.

* * *
* * *

Carlisle

ENTERPRISES, INC.

1524 Ship Avenue • Anchorage, AK 99501 • (907) 276-7797

Item VIII

January 27, 1993

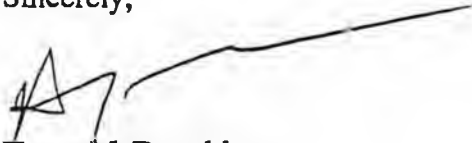
Rep. Terry Martin
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Rep. Terry Martin:

I want to express my support for your HB23 regarding selling the Railroad. Unfortunately, I feel that regardless of Legislative direction, the Railroad will not let itself be sold. There will be continuous roadblocks to the Sale even if your bill were to pass. As an alternative, I would suggest that all real estate and the lease income from the properties which are not directly related to the railroad operations be removed from Railroad ownership. In addition, Port facilities at Seward and Whittier could be separately sold or transferred to the municipalities. This would leave the railroad with all the essential assets for operation and would present a very clear picture to the legislature and Alaska Tax payers of the Railroads true operating profits and losses. We could then make a rational decision to subsidize, sell or let the railroad stand alone. Now, the railroad is being subsidized to the tune of millions (6) per year with real estate revenues totally unrelated to the operation of the Railroad.

Again, I commend your efforts to privatize the Railroad and hope your are successful to some degree.

Sincerely,



Harry McDonald
President

HM/klc

HB

26

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 11, 1993

FURTHER REFERRALS: Community & Regional Affairs
Judiciary
Finance

Date of Committee Action: 3-11-93

The TRANSPORTATION Committee considered:

HB 26

HOUSE BILL NO. 26

PROHIBITED HIGHWAY ADVERTISING

"An Act relating to the control of outdoor advertising."

RECOMMENDATIONS:

be replaced with _____ the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: H. Trans. letter of Intent dated 2/23/93

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Richard J. Daley</i>	*	<i>[Signature]</i>		X	
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

Richard J. Daley
 CHAIRMAN'S SIGNATURE



Official Business

Alaska State Legislature

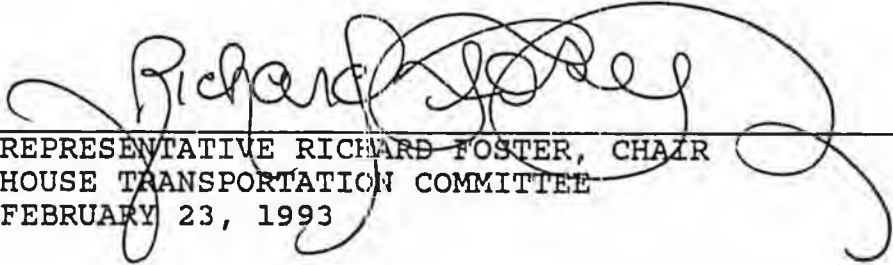
State Capitol

Juneau, Alaska 99801-1182

HOUSE TRANSPORTATION COMMITTEE
LETTER OF INTENT
HB 26

HB 26 - "AN ACT RELATING TO THE CONTROL OF OUTDOOR ADVERTISING."

THE HOUSE TRANSPORTATION COMMITTEE RESPECTFULLY REQUESTS THE NEXT COMMITTEES OF REFERRAL TO CONSIDER THE PENALTY SECTIONS INCLUDED IN THIS LEGISLATION. THE HOUSE TRANSPORTATION COMMITTEE REQUESTS THAT CONSIDERATION SHOULD BE GIVEN TO THE MERGENCE OF THE PENALTY PROVISIONS INTO ONE SECTION. THE PENALTIES SUGGESTED SHOULD NOT BE LESS THAN \$100 AND SHOULD NOT EXCEED \$2500, AND PROVISIONS WHICH PROVIDE FOR IMPRISONMENT IN JAIL SHOULD BE ELIMINATED.


REPRESENTATIVE RICHARD FOSTER, CHAIR
HOUSE TRANSPORTATION COMMITTEE

FEBRUARY 23, 1993



House Transportation Committee

DATE: 2-11-93

PLACE: @-17

SUBJECT OF MEETING:
HB 23
HB 26

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
JEFF OTTENSEN	DOTPF	3132 CHANNEL DR	99801	789-0796	465-6954	IF ASKED Y N	HB 26
GARY WILSON	Federal Highway	P.O. Box 021068 Juneau	99802	586-7430 789-9615	586-7430	Y N	" "
BOB RUBY	FED HWY ADMIN	PO BOX 21648 JUNEAU	99802	586-7150	586-7150	Y N	" "
Mark Hickey	ALASKA RAILROAD	211 4TH ST., SUITE 108	99801	789-9693	586-2263	Y N	23 UNAVAILABLE
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	



House Transportation Committee

*DRP
WMS
GIU
TEA
S/LE*

SUBJECT OF MEETING:

HB 26
Statewide aviation issues

DATE: *2-23-93*

PLACE: *C-17*

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
						Y	N	
<i>Helvi Sandvik</i>	<i>DRP PF</i>	<i>Box 196900, Anchorage, Ak</i>	<i>99519</i>		<i>266-1460</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>JEFF OTTESEN</i>	<i>DRP PF</i>	<i>3132 Channel Dr Juneau</i>	<i>99801</i>		<i>9656959</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>If asked HB 26</i>
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	

Sectional Analysis for
HB 26, Control of Outdoor Advertising

Section 1. Adds a new section, AS 19.25.091 which amends AS 19.25 to allow outdoor advertising outside of the right-of-way unless prohibited by federal law.

Adds a new section, AS 19.25.093 which prohibits outdoor advertising not permitted by AS 19.25.091.

Section 2. Replaces interstate, primary or secondary designations with state highway, which is a technical change.

Section 3 and Section 4. Adds in the new section numbers to the penalty for violation and unlawful advertising section, again, a technical change.

Section 5. Replaces "any" with "an", "which" with "that", and "interstate, primary or secondary systems in this state" with "state highway", all are technical changes.

Section 6. Technical change. Removes reference to interstate and primary systems. Conforming amendment to authority the state has to adopt regulations.

Section 7. Technical change. Rewords AS 19.25.180. States in clearer language that a municipality may enact more restrictive ordinances that regulate outdoor advertising.

Section 8. Adds in the two new sections, AS 19.25.091 and AS 19.25.093 into the penalty provision.

Section 9. Repeals AS 19.25.080, 19.25.090, 19.25.105 (a), and 19.25.105(c).

Section 10. Repeals 17 AAC 20.010. The regulation is too encompassing; the department will have to promulgate new regulations that would apply.

SPONSOR STATEMENT
FOR HB 26, CONTROL OF OUTDOOR ADVERTISING

HB 26 would conform Alaska state law to federal laws that affect outdoor advertising. Current state law prohibits outdoor advertising on interstate, primary and secondary highways, with exceptions including on-premise advertising, official signs and bus bench advertising. Federal law applies only to interstate and primary roads but allows for agreements to be formed between states and the Federal Highway Administration (FHWA).

There have been hundreds of illegal signs along Alaska's highways. Many signs encroached the right-of-way (ROW) or were off-premise signs which are not allowed by federal law. Passage of the federal Intermodal Surface Transportation Efficiency Act of 1991, (ISTEA), allowed states to use federal funds to remove illegal signs. The Alaska Department of Transportation and Public Facilities (DOT/PF) has actively pursued sign removal by notifying property owners that their sign is illegal.

For property owners along the primary system, such as the Parks Highway, on-premise signs are frequently not visible because the ROW is very wide and vegetation obscures the sign. The DOT/PF developed a policy in conjunction with the FHWA, the airspace leasing program, which allow for signs to encroach the ROW. New regulations were not promulgated and the public did not participate in the formation of the program. Instead, the property owner received a letter and 30 days notice to remove the sign or apply for an airspace lease. The costs for application include a \$100 application fee, a \$200 issuance fee, and a fair market annual fee (which runs about \$100 per year in my district). If it is necessary for the Department to conduct a survey, those costs would be passed on the property owner. While the issue remains as to the legality of the program (until regulations are promulgated), if DOT/PF doesn't continue with the program, no signs will be allowed to encroach in the ROW.

Some businesses, such as the Willow Trading Post, located 1/2 mile off the Parks Highway, had a directional informative sign on the Parks Highway. The only sign off-premise businesses qualify for is the Tourist Oriented Directional Sign (TODS). That sign is 18x90 inches, blue and white, generic sign. The application fee is \$100 and the signs cost about \$1000. This business believes that their sign is lost in the midst of the many signs at the intersection and their business suffers.

HB 26 could help some businesses along the primary road system since several exemptions are allowed by federal law:

- 1) Signs adjacent to the primary system within areas which are zoned industrial or commercial under the authority of state law,
- 2) Signs adjacent to the primary system within areas which are not zoned commercial or industrial, but have been established by agreement between the State and the Federal Secretary of

Transportation.

This bill would provide the mechanism for less restrictive signage in commercially zoned or unzoned areas which have commercial characteristics. Our local government has the authority to make zoning decisions and could work with residents to decide the signage controls in their area. DOT/PF could work to establish agreements with the FHWA.

I urge you to support the bill and will answer any questions you may have. I've provided the committee with some federal and state laws and information on the TODS and airspace leasing program to better help members understand the outdoor advertising laws and programs.



Department of Transportation
and Public Facilities

POSITION PAPER

BILL NO: HB 26

APPROVED:

A handwritten signature in black ink, appearing to read "J. W. ...".

TITLE: Prohibited Highway Advertising DATE: February 3, 1993

The proposed legislation would eliminate state prohibitions on outdoor advertising leaving only federal prohibitions. This would have the effect of allowing for outdoor advertising along highways which are not ultimately categorized as highways of national significance (HNS). Briefly, HNS-category roads are some (but not all) major arterials of the state such as Egan Drive, Seward Highway and the Alaska Highway.

This means that most lesser roads and some major highways would be unregulated with regard to outdoor advertising and that, subject to the property owner's approval, outdoor advertising in any form (off-site business advertising, bill boards, product advertising) would be permissible. Municipal zoning restrictions, if any, would still apply.

This bill will likely have both strong supporters and opponents. Having dealt with the enforcement of outdoor advertising for many years, the department is familiar with the many interest groups with a stake in this issue. Arguments can be made pro and con: "It makes it easier for business, but it blights Alaska; it improves the flow of information for traveler's but brings Alaska scenic standards down to those of ordinary states".

The issue of visual pollution from billboards should not be taken lightly. According to a *Sixty Minutes* program on outdoor advertising, Alaska is only one of four states which has not allowed billboards to encroach upon its scenic beauty. The Alaska Division of Tourism considers the highway system to be the single largest attraction for visitors to the state, based on the number of people who drive our highways just to see the grand majesty of Alaska.

One possible consequence will be that businesses on similar highway settings (depending upon the HNS classification) are treated differently under the law. The Seward Highway, south of the Sterling Highway, may contain outdoor advertising; the remainder will not. Most of the Richardson Highway will be eligible for outdoor advertising, but that portion north of Delta Junction will not. These "inequities" will create hard feelings and some difficulties in administering the law.

As a department charged with operating the state highway system, we are neutral toward the bill. It will bring both relief and additional work for our crews with little net change.

For Further Information contact Katy McHugh at 465-3900.

On one hand we must still ensure that signs are not placed within the right-of-way, and that HNS -category roads contain no outdoor advertising. Where permissible, the bill would relieve the pressure for illegal advertising, directing it to lawful locations.

However, as a department which is striving to emphasize the positive aspects of our highway system as a feature of national and international tourism, the environmental sensitivity of the new national transportation policy and marketing the uniqueness of Alaska through the new STEP program, we believe that this bill may have negative public relations consequences far outweighing any business advantages.

FISCAL NOTE

Revision Date: _____
Title: Prohibited Highway Advertising

Department Affected: DOT&PF
BRU: _____

Sponsor: Menard
Requestor: Menard

Component: _____
Component Serial Number: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
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
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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 FUNDING:	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: \$ _____

ANALYSIS: (Attach a separate page if necessary)

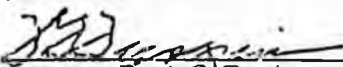
See attached page 2.

Prepared by: Jeffrey C. Ottesen

Phone: 465-2951

Division: Engineering & Operations Standards

Date: February 5, 1993

Approved by Commissioner: 
Frank C. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

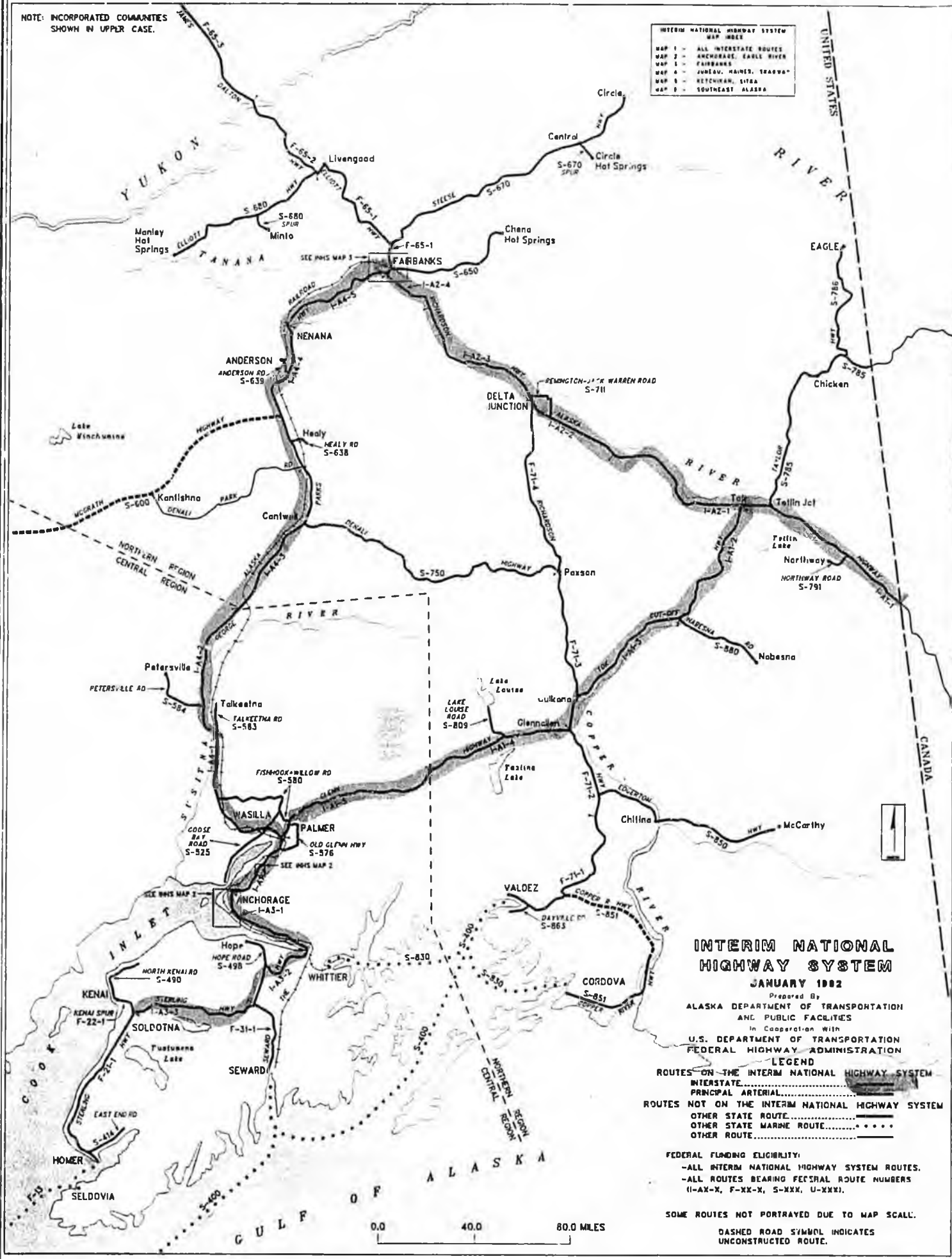
Date: February 5, 1993

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NOTE: INCORPORATED COMMUNITIES SHOWN IN UPPER CASE.

INTERIM NATIONAL HIGHWAY SYSTEM
MAP INDEX

- MAP 1 - ALL INTERSTATE ROUTES
- MAP 2 - ANCHORAGE, EARLE RIVER
- MAP 3 - FAIRBANKS
- MAP 4 - JUNEAU, HAINES, TREADAWAY
- MAP 5 - KETCHIKAN, SITKA
- MAP 6 - SOUTHEAST ALASKA



INTERIM NATIONAL HIGHWAY SYSTEM
JANUARY 1982

Prepared By
ALASKA DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

In Cooperation With
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

- LEGEND**
- ROUTES ON THE INTERIM NATIONAL HIGHWAY SYSTEM
 - INTERSTATE.....
 - PRINCIPAL ARTERIAL.....
 - ROUTES NOT ON THE INTERIM NATIONAL HIGHWAY SYSTEM
 - OTHER STATE ROUTE.....
 - OTHER STATE MARINE ROUTE.....
 - OTHER ROUTE.....

FEDERAL FUNDING ELIGIBILITY:
-ALL INTERIM NATIONAL HIGHWAY SYSTEM ROUTES.
-ALL ROUTES BEARING FEDERAL ROUTE NUMBERS (I-AX-X, F-XX-X, S-XXX, U-XXX).

SOME ROUTES NOT PORTRAYED DUE TO MAP SCALE.

DASHED ROAD SYMBOL INDICATES UNCONSTRUCTED ROUTE.

FISCAL NOTE

Revision Date:
Title: Prohibited Highway Advertising

Department Affected: DOT&PF
BRU:

Sponsor: Menard
Requestor: Menard

Component:
Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
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
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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 FUNDING:	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: \$ _____

ANALYSIS: (Attach a separate page if necessary)

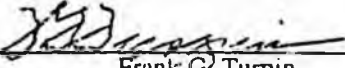
See attached page 2.

Prepared by: Jeffrey C. Ottesen

Phone: 465-2951

Division: Engineering & Operations Standards

Date: February 5, 1993

Approved by Commissioner: 

Phone: 465-3900

Frank G. Turpin

Agency: Department of Transportation and Public Facilities

Date: February 5, 1993

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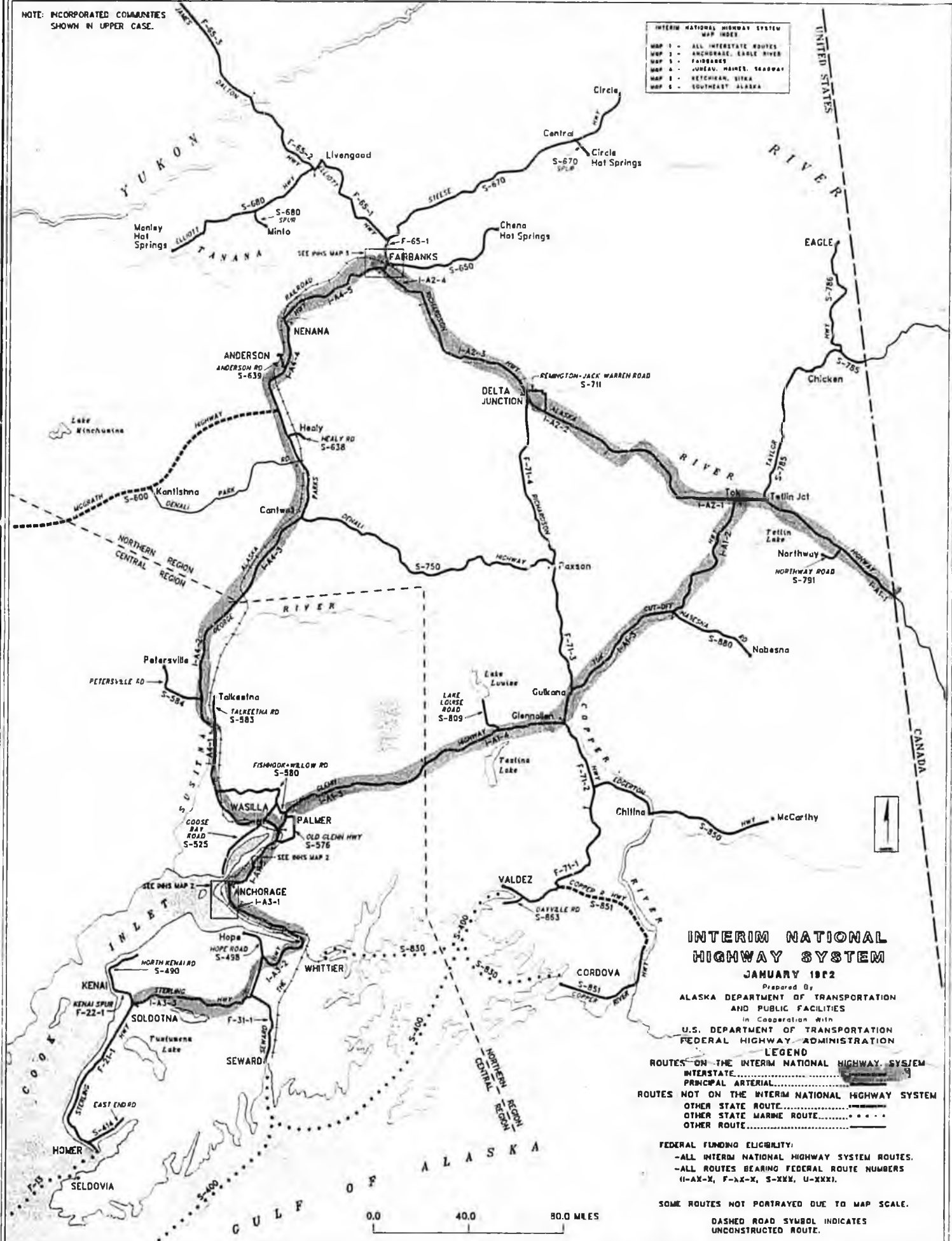
ANALYSIS (cont. from page 1):

The proposed changes would not materially alter the work required to enforce outdoor advertising laws. Efforts to verify that signs are not located within the right-of-way would likely increase as there would likely be more signs placed along the highway system. Further, on Highways of National Significance, where off-premises outdoor advertising would remain illegal, there is likely to be an increase in illegal signs as businesses try to "equalize" their visibility with businesses located along highways where the relaxed advertising standards would apply. These increases would be offset by the fact that many businesses could install legal outdoor advertising, reducing some enforcement activity.

In the long term, outdoor advertising signs may have to be acquired as property for highway expansion projects. Nationally, outdoor advertising signs can be worth substantial sums, which could cause some construction projects to be more expensive. These future costs are not estimable at this time.

NOTE: INCORPORATED COMMUNITIES SHOWN IN UPPER CASE.

INTERIM NATIONAL HIGHWAY SYSTEM MAP INDEX	
MAP 1	- ALL INTERSTATE ROUTES
MAP 2	- ANCHORAGE, EAGLE RIVER
MAP 3	- FAIRBANKS
MAP 4	- JUNEAU, MAINE, SEASIDE
MAP 5	- KETCHIKAN, SITKA
MAP 6	- SOUTHEAST ALASKA



INTERIM NATIONAL HIGHWAY SYSTEM
JANUARY 1962

Prepared By
 ALASKA DEPARTMENT OF TRANSPORTATION
 AND PUBLIC FACILITIES
 in Cooperation With
 U.S. DEPARTMENT OF TRANSPORTATION
 FEDERAL HIGHWAY ADMINISTRATION

- LEGEND**
- ROUTES ON THE INTERIM NATIONAL HIGHWAY SYSTEM
 - INTERSTATE.....
 - PRINCIPAL ARTERIAL.....
 - ROUTES NOT ON THE INTERIM NATIONAL HIGHWAY SYSTEM
 - OTHER STATE ROUTE.....
 - OTHER STATE MARINE ROUTE.....
 - OTHER ROUTE.....

FEDERAL FUNDING ELIGIBILITY:
 -ALL INTERIM NATIONAL HIGHWAY SYSTEM ROUTES.
 -ALL ROUTES BEARING FEDERAL ROUTE NUMBERS (I-AX-X, F-XX-X, S-XXV, U-XXX).

SOME ROUTES NOT PORTRAYED DUE TO MAP SCALE.
 DASHED ROAD SYMBOL INDICATES UNCONSTRUCTED ROUTE.

FEDERAL HIGHWAY ADMINISTRATION
400 SEVENTH ST., SW
ROOM 4223, HCC-10
WASHINGTON, D.C. 20590

TITLE 23 -- UNITED STATES CODE
HIGHWAYS

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TITLE 23-UNITED STATES CODE
HIGHWAYS
CHAPTER 1.-FEDERAL-AID HIGHWAYS

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Sec. 101. Definitions and declaration of policy

(a) As used in this title, unless the context requires otherwise-

The term "apportionment" in accordance with section 104 of this title includes unexpended apportionments made under prior acts.

The term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce) resurfacing, restoration, and rehabilitation, acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, elimination of roadside obstacles, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas. The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program.

The term "county" includes corresponding units of government under any other name in States which do not have county organizations, and likewise in those States in which the county government does not have jurisdiction over highways it may be construed to mean any local government unit vested with jurisdiction over local highways.

The term "Federal lands highways" means forest highways, public

and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.

(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State highway department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of such project. If any such railroad fails to discharge such liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(d) Survey and Schedule of Projects.- Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railroad-highway crossings.

(e) Special Rules.-

(1) Funds for Protective Devices.- At least 1/2 of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings.

(2) Set Aside for Public Information Programs.- \$250,000 of the amounts available for expenditure under this section in each fiscal year shall be expended for a public information program-

(A) which the Secretary determines will be effective in educating the public as to the hazards posed at

railway-highway crossings and the importance of heeding warning signals at such crossings; and

(B) which the Secretary determines will provide information necessary to diminish railway-highway crossing accidents.

(3) Procedures.- Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of this title.

(f) Twenty-five percent of the funds authorized to be appropriated to carry out this section shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(2) of this title, 25 percent of such funds shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(6) of this title, and 50 percent of such funds shall be apportioned to the States in the ratio that total railway-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.

(g) Annual Report.- Each State shall report to the Secretary of Transportation not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary of Transportation shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the house of Representatives not later than April 1 of each year, on the progress being made by the State in implementing projects to improve railway-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (d), and include recommendation for future implementation of the railroad highway crossings program.

(h) Use of Funds for Matching.- Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when local government produces matching funds for the improvement of railway-highway crossings.

Sec. 131. Control of outdoor advertising

(a) The Congress hereby finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in

areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, (3) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located, (4) signs lawfully in existence on October 22, 1965, determined by the State subject to the

approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, or historic or artistic significance the preservation of which would be consistent with the purposes of this section, and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term "free coffee" shall include coffee for which a donation may be made, but is not required.

(d) In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(e) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be required to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

(f) The Secretary shall, in consultation with the States, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to national standards to be promulgated by the Secretary.

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such

compensation shall be paid for the following:

(A) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(B) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(h) All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(i) In order to provide information in the specific interest of the traveling public, the State highway departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system.

(j) Any State highway department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State highway department shall be entitled to such payments unless the State maintains the control required under such agreement: Provided, That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

(l) Not less than sixty days before making a final determination to withhold funds from a State under subsection (b) of this

section, or to do so under subsection (b) of section 136, or with respect to failing to agree as to the size, lighting, and spacing of signs, displays, and devices or as to unzoned commercial or industrial areas in which signs, displays, and devices may be erected and maintained under subsection (d) of this section, or with respect to failure to approve under subsection (g) of section 136, the Secretary shall give written notice to the State of his proposed determination and a statement of the reasons therefor, and during such period shall give the State an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth his final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the state may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United states. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section or subsection (b) of section 136, the amount so withheld shall not be reapportioned to the other States as long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed \$20,000,000 for the fiscal year ending June 30, 1966, not to exceed \$20,000,000 for the fiscal year ending June 30, 1967, not to exceed \$2,000,000 for the fiscal year ending June 30, 1970, not to exceed \$27,000,000 for the fiscal year ending June 30, 1971, not to exceed \$20,500,000 for the fiscal year ending June 30, 1972, not to exceed \$50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967. Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.

(n) No sign, display, or device shall be required to be removed under this section if the Federal share of the just compensation

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to be paid upon removal of such sign, display, or device is not available to make such payment.

(o) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in such defined area.

(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).

(q) (1) During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c)(1) and 131(f) to develop signs which are functional and aesthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.

(2) Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public, be deferred until all other nonconforming signs are removed.

(r) REMOVAL OF ILLEGAL SIGNS.--

(1) BY OWNERS.--Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

(2) BY STATES.--If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs

of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.

(s) SCENIC BYWAY PROHIBITION.--If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section.

(t) PRIMARY SYSTEM DEFINED.--For purposes of this section, the terms "primary system" and "Federal-aid primary system" mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.

Sec. 132. Payments on Federal-aid projects undertaken by a Federal agency

Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency and the State makes a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency, the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations the estimated Federal share under the provisions of this title of the State's obligation so deposited or paid by such State. Upon completion of such project and its acceptance by the Secretary, an adjustment shall be made in such Federal share payable on account of such project based on the final cost thereof. Any sums reimbursed to the State under this section which may be in excess of the Federal pro rata share under the provisions of this title of the State's share of the cost as set forth in the approved final voucher submitted by the State shall be recovered and credited to the same class of funds from which the Federal payment under this section was made.

Sec. 133. Surface transportation program

(a) ESTABLISHMENT.--The Secretary shall establish a surface transportation program in accordance with this section.

(b) ELIGIBLE PROJECTS.--A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction

Intermodal Surface Transportation Efficiency Act of 1991 Amendments to 23 U.S.C. 131, Control of Outdoor Advertising

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Notice.

SUMMARY: On December 18, 1991, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, 105 Stat. 1914, was signed into law. Section 1046 of the ISTEA amended 23 U.S.C. 131 which deals with outdoor advertising control. This notice describes the impact of section 1046 on how States can provide for effective control of outdoor advertising in accord with regulations previously issued by the Federal Highway Administration (FHWA) in 23 CFR 750.705. This document is being issued to advise States that the ISTEA may require them to consider changes in their laws and administrative practices in order to remain eligible for full Federal-aid funding. The ISTEA itself provides no lead time for the States to come into compliance with these new provisions. A discussion of initiatives that will be considered in evaluating how "effective control" is maintained under the new requirements is a part of this notice.

Under section 1046, 23 U.S.C. 131 will continue to apply to the Interstate System and the Federal-aid primary system as they existed on June 1, 1991, and, when designated, all portions of the approved National Highway System. The three major amendments made to 23 U.S.C. 131 by section 1046 of ISTEA are: (1) An amendment prohibiting the erection of most new signs adjacent to

an Interstate or Federal-aid primary designated a Scenic Byway under a State Program; (2) a specific requirement that illegal signs be removed; and (3) a provision authorizing for the first time the use of Federal-aid highway funding to purchase signs that do not conform to outdoor advertising controls.

DATES: The ISTEA was signed into law on December 18, 1991, with the provision of new sections 131(s) and 131(r)(1) of title 23, U.S.C., effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Marlin E. Meese, Chief, Special Programs and Evaluation Branch, Office of Right-of-Way, HRW-12, (202) 366-2017; or Mr. Robert Black, Attorney, Office of Chief Counsel, HCC-31, (202) 366-1359, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 131 is the implementing authority within title 23, U.S.C., for the Highway Beautification Act of 1965, as amended. The basic principles of outdoor advertising control are in section 131. The original Act provided specific controls on the erection and maintenance of outdoor advertising signs and devices along the Interstate and Federal-aid primary highway systems. The Interstate and primary highway systems comprise only 306,000 miles of the 3.9 million miles of public roads and streets in the United States. Therefore, the outdoor advertising controls apply to less than 8 percent of the total national public road mileage. Statutory controls in section 131(c) limit signs which a State can permit to directional and official signs, sale or lease signs, out-lease signs, landmark signs, and free coffee signs. In addition, under section 131(d), States can permit signs in zoned or unzoned commercial or industrial areas adjacent to the controlled systems. Section 131(d) provides for an agreement between each State and the Secretary of Transportation regarding size, lighting, and spacing standards of signs in commercial and industrial areas.

Scenic Byway Prohibition

The ISTEA in section 1046(c) amended title 23, U.S.C., by adding section 131(s). The new section limits the erection of new advertising displays to those permitted under section 131(c) along road segments that are designated Scenic Byways which are on the Interstate System, the Federal-aid primary system (as it existed on June 1,

1991), or on the National Highway System, when designated. These routes, collectively, are referred to as the controlled systems for Highway Beautification Act purposes. Thus new signs which would have been permitted in commercial and industrial areas under section 131(d) are no longer permitted on scenic byway portions of the controlled system.

Based on the 1990 Scenic Byways Study (U.S. DOT/FHWA Publication No. PD-91-010, January 1991), all but 15 States have some form of scenic byways program. About 35,000 miles of roads had been designated as scenic as of December 1990, when the study was conducted. The study projected that only about 50,000 total miles would be designated. Of the total projected mileage, about 50 percent is located on the Interstate and Federal-aid primary systems. Almost all of the mileage already designated as scenic along a controlled highway system is on two lane roadways. Most scenic byways are two lane roadways in rural areas where commercial and industrial areas are fewer in number. Thus, while the scope of this new control is limited to only about 25,000 miles, it complements the actions already taken by the States in determining that these routes have particular scenic importance.

Removal of Illegal Signs

The ISTEA in section 1046(b) also added section 131(r) to title 23, U.S.C. This new section requires all owners of illegal signs to remove their illegal signs within 90 days. The section further states that in the event owners do not remove their illegal signs, the State, to exercise effective control, shall remove the signs. The section provides that States recover removal costs of unremoved illegal signs from the sign owner. This cost recovery provision is not part of "effective control" for purposes of the sanction provisions of the Highway Beautification Act (23 U.S.C. 131(b)).

The FHWA recognizes that most States have already caused the removal of a substantial number of the illegal signs within their boundaries. Some States, however, have significant numbers of illegal signs remaining. Based on State reports, a total of about 22,000 remaining illegal signs have been identified. The law gave sign owners only 90 days from the effective date of ISTEA on December 18, 1991, to remove their illegal signs. The short period given to the owners is an indication of the emphasis to be applied to remove illegal signs. In consideration of the period granted to the owners, and the specific

mandate to the States to conclude removals when the sign owner has not performed, the FHWA has set a goal of an additional 90 days through June 18, 1992, for the States to act on the removal of illegal signs as required by 23 U.S.C. 131(r)(2). The FHWA recognizes that State law or procedural impediments may have to be overcome before a State can fully comply with this objective. However, considering the short time frame stated in the legislation for the removal of illegal signs by the sign owners, and the specific tie of this action to effective control requirements, States must take immediate steps after March 18, 1992, to demonstrate reasonable progress in meeting the effective control responsibilities required by this amendment. Good faith efforts by a State, including efforts to seek legislative authority, to comply with the provisions quickly will be considered by the FHWA in deciding how to deal with a failure to achieve effective control. Cumbersome administrative or procedural requirements that do not provide for prompt removal of illegal signs are not consistent with the intent of this section.

Funding for Removal of Nonconforming Signs

A new funding source for outdoor advertising control was provided in section 1048(a) of the ISTEA. By amending 23 U.S.C. 131(m), highway trust funds apportioned under 23 U.S.C. 104 are now available for the removal of nonconforming signs (i.e., lawfully erected signs which do not conform to the control requirements of section 131 or stricter State laws). In addition, in section 1007 of the ISTEA, control and removal of outdoor advertising is identified as one of several eligible "transportation enhancement activities" under the new Surface Transportation Program (STP). This major new program requires that at least 10 percent of apportioned funds for the program must be directed toward "transportation enhancement activities."

Initially, Federal funds for the control of outdoor advertising came from the General Fund. Now, funds made available from the Highway Trust Fund for highway projects may be used for outdoor advertising control. This will have a profound impact on the ability and responsibility of States to remove outdoor advertising signs. Under section 131(n), the States are not required to remove nonconforming signs unless Federal funds are available to participate in the acquisition costs associated with their removal. In the years immediately following the passage of the Highway Beautification Act,

considerable sums were made available to inventory and remove nonconforming signs. However, funding was never sufficient to complete the acquisition process and no General Funds have been appropriated since 1983.

With this amendment made by the ISTEA, the States should have sufficient funds to remove nonconforming signs much more expeditiously. The change in the funding provided by the ISTEA, making available significant funds for the Federal share of just compensation payments and other control costs, will enable States to complete the removal of nonconforming signs in order to maintain effective control under Section 131(b). The timely removal of nonconforming outdoor advertising signs has always been part of "effective control." Failure to exercise effective control subjects a State to a 10 percent reduction of its Federal-aid highway apportionment, pursuant to 23 U.S.C. 131(b).

The FHWA estimates that about 92,000 nonconforming signs remain to be acquired. Most of these signs have been in place for over 20 years. Removal has been delayed, but now with increased Federal funding available to complete acquisition activities and ensure effective control, the law requires expedient removal.

The ISTEA authorizes \$121 billion over the next six years for highway programs, including the STP which is a block grant program designed to fund a wide range of transportation related projects. For Fiscal Year (FY) 1992 alone, over \$11 billion in Federal-aid under 23 U.S.C. 104 is being distributed to the States for highway construction and maintenance, and other transportation activities, including removal of outdoor advertising signs. The estimated total Federal share of the cost to acquire the remaining nonconforming signs is \$428 million. This amount represents just 4 percent of the total eligible Federal-aid funds available to the States in FY 1992. Thus, the FHWA considered requiring States to remove all nonconforming signs along controlled highways in the first year ISTEA funding is available.

However, the FHWA recognizes that while the ISTEA represents a dramatic increase in Federal-aid funding, the non-Federal share must come from State or local sources. Moreover, the impact on individual States in providing for immediate removal would vary. For example, a State with an inventory of just a few hundred nonconforming signs would have a more manageable acquisition task than a State with over 2,000 such signs.

In addition, the FHWA recognizes that other problems might hamper the immediate removal of all remaining nonconforming signs. First, many States have been inactive regarding a sign acquisition program, and might need to update their administrative tools and sign acquisition procedures. Second, we do not believe that the Congress intended that the removal of signs take precedence over all other title 23 projects and programs.

For these reasons, we believe the ISTEA requires States to begin immediate removal of nonconforming signs, and to make reasonable progress in completing their removal program expeditiously. The FHWA, however, has set a two year goal for complete removal of remaining nonconforming signs. The FHWA believes that 2 years provides States with adequate time to remove all nonconforming signs without unduly constricting Federally-funded highway construction and other projects. States should be prepared to justify any reason for concluding that this period would impose an undue hardship on their priorities and programs.

During the next two years period, more than \$24 billion Federal-aid dollars can be expected to be made available to the States for 23 U.S.C. 104 programs and projects. Considering the number of nonconforming signs remaining in the various States, most States could conclude their removal program using less than 2 percent of their 23 U.S.C. 104 funds within the two year period. Therefore, full acquisition and removal of the remaining nonconforming signs over the next two years would seem to be an achievable goal. By meeting this goal States will have removed all nonconforming signs on controlled Federal-aid highways by December 18, 1993.

The elements of removal programs will necessarily vary from State to State, and States should confer with the FHWA as to how best structure a removal program. In implementing removal programs, the States will have to review their existing priorities and formulate programs and processes that will maintain effective control. The States may wish to involve interested parties and affected entities such as other state and local agencies, sign owners, environmental groups and the business community, and establish priorities for sign removal.

This notice provides States and other interested parties a discussion of FHWA's goals and objectives, to assure effective control is maintained to achieve the full implementation of the objectives expressed in the 1965