

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 86 / 2

10698 SENATE TRANSPORTATION

543

## APPENDIX C

### Proposed Short Tour Itinerary (Natural History Tour)

- Mile 0: George Parks Highway - pick up at various area hotels along.
- Mile 3.4: NPS Headquarters - discussion on historical element, taiga forest, moose habitat.
- Mile 7.0: Taiga/Tundra Ecotone - caribou and occasional bear habitat.
- Mile 9.4: First view of Mount McKinley.
- Mile 12.8: Historic Savage Cabin - interpretation by NPS ranger, short loop trail through taiga forest with interpretation stations.
- Mile 14.8: Savage River - glacial valley, possible sheep or wolf sightings.
- Mile 17.3: Primrose Ridge - mountain view and rest stop.
- Mile 22.7: Sanctuary River - scenic vistas, alternating taiga and tundra, possible moose sightings.
- Mile 30.1: Teklanika Rest Stop - visitor shelter, viewing platform, restrooms, loop trail, interpretive stations and NPS interpreters.
- Miles 30.1: Return to George Parks Highway.

# ***ALASKA DEMOCRATIC PARTY***

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## **RESOLUTION 97-012**

### **SUPPORT FOR KANTISHNA HOLDINGS INC.'S PROPOSED NORTHERN RAILROAD RIGHT-OF-WAY TO WONDER LAKE**

Whereas, Denali National Park (Denali) is the top visitor destination in Alaska and a critical element in the Alaska Visitor/Tourism industry and access into Denali is extremely restricted due to the limited existing transportation infrastructure; and

Whereas, the existing park road in Denali is at its carrying capacity and is creating adverse impacts on the environment; management problems for the National Park Service; a bottleneck in the visitor/tourism delivery system of Alaska; access problems for park inn holders; and

Whereas, no new road access into the interior of Denali is being proposed by the local, state, or federal government; and

Whereas, the National Park System Advisory Board's December 14, 1994, Resolution accepting the "Denali Task Force Report" specifically endorsed the creation of a new northern railroad route to Wonder Lake; and

Whereas, Kantishna Holdings Inc. has proposed the Denali Railway System to ensure long-term resource protection at Denali and to provide year-round access to the interior of Denali; and

Whereas, Kantishna Holdings Inc. has petitioned the Secretary of the Interior to create a new northern railroad right-of-way to the area of Wonder Lake on which to build the Denali Railway System; and

Whereas, the proposed Denali Railway System is an environmentally sound and sensible undertaking which will commit substantial private financial investment in permanent infrastructure in Alaska and the creation of hundreds of new jobs in Alaska's economy; and

Whereas, the visitor/tourism industry of the entire State of Alaska will be enhanced by the year-round operation of new infrastructure created by the Denali Railway System; and

Whereas, all of Alaska's "Railbelt," including the community served by the Interior Democrats will benefit from the 500 permanent jobs and other economic development activities created by the construction and operation of the Denali Railway System; and

Whereas, the Interior District Democrats in convention, the National Park System Advisory Board, the Alaska Legislature (HIR 28 [1994]) and (SJR 25 [1997]), the Denali Borough, the Fairbanks North Star Borough, the City of Nenana, the City of Fairbanks, the City of Seward, the Matanuska-Susitna Borough, the Alaska State Commission on Federal Areas, the Alaska Visitors Association, the Fairbanks Building and Construction Trades Council (AFL-CIO), and the

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Associated General Contractors of Alaska have all endorsed creating a new northern railroad right-of-way in Denali National Park and Kantishna Holdings Inc.'s proposal; and

Whereas, the Interior Democratic Committee recognizes that the above elements of petition with additional post-date endorsements shown in bold print, did comprise a Resolution of Endorsement previously passed by the Interior Democrats in convention;

Now therefore be it resolved that the State Central Committee of the Alaska Democratic Party supports Interior Democrats and the proposal as indicated above; and

Let it be further resolved that the State Central Committee of the Alaska Democratic Party encourages the Secretary of the Interior to direct the National Park Service to act upon the proposal by Kantishna Holdings Inc. to create said railroad right-of-way immediately; and

Let it be finally resolved that the State Central Committee of the Alaska Democratic Party strongly encourages the Governor of Alaska, his commissioners and staff, and the Alaska Legislature to give their fullest support to the creation of the Denali Railway System as proposed by Kantishna Holdings Inc.

*Done in  
Open Meeting  
of the  
State Central Committee  
ALASKA DEMOCRATIC PARTY  
September 13, 1997  
Fairbanks, Alaska*

*s/Carolyn Covington*

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Carolyn Covington, Secretary

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**A RESOLUTION SUPPORTING A NORTHERN TRANSPORTATION  
CORRIDOR ENVIRONMENTAL IMPACT STATEMENT (EIS)  
STUDY FOR DENALI NATIONAL PARK AND PRESERVE**

**BY**

**THE ASSOCIATED GENERAL CONTRACTORS OF ALASKA**

**WHEREAS**, the United States Congress has allocated High Priority funds from the United States Department of Transportation, Federal Highway Administration to the State of Alaska in the amount of \$1,300,000 and

**WHEREAS**, Senator Frank Murkowski supports the use of this funding toward developing a Northern Transportation Corridor into Denali National Park and Preserve (the Park), and

**WHEREAS**, the State of Alaska has not taken any action to use the High Priority funding on a Northern Transportation Corridor investigation into the Park, and

**WHEREAS**, local governments may assume responsibility of State of Alaska transportation projects under "Transfer of Responsibility Agreements" with the Alaska Department of Transportation & Public Facilities, and

**WHEREAS**, the Denali Borough has passed a Resolution to become the local sponsor for the preliminary engineering (an Environmental Impact Statement) toward developing a northern transportation corridor into the Park, and

**WHEREAS**, the proposed Environmental Impact Statement is required under the National Environmental Protection Act in consideration of any federal actions including funding for the transportation corridor investigations, and

**WHEREAS**, High Priority funded projects require a 20% local funding match, and

**WHEREAS**, the present public transportation system into the Park severely restricts the number of tourists wishing to travel into the Park, and

**WHEREAS**, investigation into a northern transportation corridor into the Park could provide the foundation for a future transportation system that could accommodate large numbers of visitors now denied access, and

WHEREAS, the Associated General Contractors of Alaska, represented by 596 member companies support expansion of transportation access projects important to both the state and nation.

NOW, THEREFORE BE IT RESOLVED THAT the Associated General Contractors of Alaska requests the Alaska Department of Transportation & Public Facilities recognize the Denali Borough as the project sponsor and prioritize the project in the State Transportation Improvement Program for both authorization to begin work and funding.

BE IT FURTHER RESOLVED THAT the Associated General Contractors of Alaska requests the State Administration and the State legislature to provide the matching funds to fully utilize the federal dollars available for this important project.

BE IT FURTHER RESOLVED THAT this resolution be distributed to:

Senator Frank Murkowski  
Senator Ted Stevens  
Representative Don Young  
Governor Tony Knowles  
The Alaska Legislature  
Commissioner, Department of Transportation & Public  
Facilities  
Mayor John Gonzales, Denali Borough  
Superintendent, Denali National Park and Preserve

APPROVED this 10th day of November 2000 by the Board of Directors of the Associated General Contractors of Alaska.



Michael Miller, President

# ALASKA RAILROAD CORPORATION



*Executive Office*  
*(907) 265-2414*  
*FAX (907) 258-1458*

November 2, 1993

Mr. Laurence H. Irving, President  
Mr. Joseph N. Fields, Director  
Kantishna Group Incorporated  
P. O. Box 71047  
Fairbanks, AK 99707-1047

Re: Letter of Interest

Dear Sirs:

It was a pleasure to meet with you and Mr. Trueblood recently to discuss Kantishna & Wonder Lake Railroad Project and its relationship to the Alaska Railroad.

The Alaska Railroad serves as a major component of the tourism infrastructure in the State of Alaska providing service from Seward to Fairbanks and all points in between. Denali National Park is one of the main destinations for visitors to Alaska and is served daily during the summer season by the Alaska Railroad.

The development of rail spur and facilities in Denali National Park as proposed by the Kantishna Group, Inc., could serve to eliminate the bottleneck in the visitor delivery system in Alaska that currently limits the expansion of this very important industry.

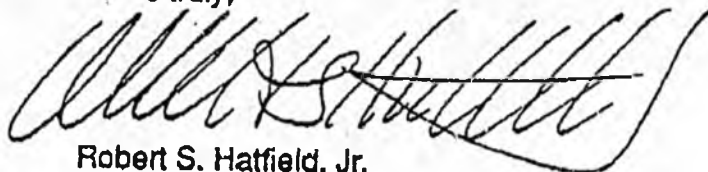
This letter is to formally confirm our interest in participating in your project to the extent we can under the laws and regulations which govern us. Specifically, we are prepared to work with Kantishna Group, Inc., to establish areas of mutual potential benefit such as:

- Use of ARRC land for switching, electrical intertie and terminal use;
- Management and operations;
- Engineering and Construction;
- Reservations and Marketing; and
- Other activities which may prove mutually beneficial.

Mr. Laurence H. Irving  
Mr. Joseph N. Fields  
November 2, 1993  
Page Two

We look forward to meeting with you soon to discuss your basic needs and in what way the Alaska Railroad Corporation can assist you.

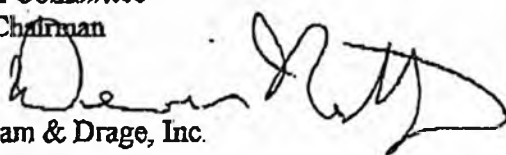
Yours truly,

A handwritten signature in black ink, appearing to read "Robert S. Hatfield, Jr.", written in a cursive style.

Robert S. Hatfield, Jr.  
President and Chief Executive Officer

February 8, 2001

Memo To: Senate Transportation Committee  
Sen. John Cowdery, Chairman

From: Dennis Nottingham   
Peratrovich, Nottingham & Drage, Inc.  
1506 West 36<sup>th</sup> Avenue  
Anchorage, Alaska 99503

Regarding Senate Bill No. 3 relating to appropriation for state matching funds for Denali Park Northern Access federal funding, please pass this important legislation.

Right-of-way reservation for future park access is important to the public in general and specifically tourists.



Heinrich Springer  
PO Box 232114  
Anchorage, AK 99523 USA

Tel. 001-907-346-2121  
FAX " " " 1932

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7. Febr. 2001

To  
The Senate Transportation Committee  
Senator John Cowdery, Chm.  
Juneau, Ak.

via FAX 1-907-465-2069

Subject: SB No. 3, Northern Denali Nat. Park access, appropriation.

Dear Senator Cowdery and committee members:

Thank you for a chance to comment on this bill. Unfortunately I am unable to participate in the teleconference at 1:30 PM tomorrow, therefor please accept this letter for your records.

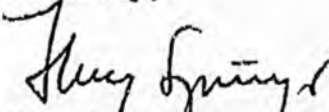
I have worked on this matter during last year and am in full support of this bill.

Congress included over 1 Million dollars in the FHWA budget under "High Priority Funding". This appropriation requires a match fund from other than federal sources.

This is a worthwhile project and long overdue and it is hard to understand why the appropriation has been sitting there un-used for so long, when it is considered a "high priority". This money, administered by the Denali Borough under a TORA agreement, can be used to get the necessary preparatory activities under way. This could include the project evaluation, EIS statements, technical considerations, ROW investigation, geological consideration etc. Considering that tourism is considered one of the State's most important "clean" industries this project should go on "fast track".

I recommend a favorable action to secure the necessary matching funds from State sources and designate the project as "high priority".

Sincerely,

  
Heinrich Springer

**S B**

**44**




# SENATOR JERRY WARD

ALASKA STATE LEGISLATURE

## MEMORANDUM

**TO:** Senator John Cowdery, Chair  
Senate Transportation Committee

**FROM:** Senator Jerry Ward 

**DATE:** March 1, 2001

**SUBJECT:** SB 44 and SB 45 Request for Hearing

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I respectfully request you hear SB 44 and SB 45 bills relating to the establishment of an Alaska Toll Bridge and Causeway Authority and appropriation for the design for the Knik Arm Crossing. Enclosed is a Sponsor Statement for these bills.

Thank you for your consideration of this request. If you or your staff should have any questions, please contact me at 465-4940.

JW/lrb



**SENATOR JERRY WARD**  
ALASKA STATE LEGISLATURE

**SPONSOR STATEMENT FOR SB 44 AND SB 45**

**Establishment of an Alaska Toll Bridge and Causeway Authority and  
appropriation for the Design of Knik Arm Crossing**

The proposed legislation would appropriate \$1 million in state general funds to form the authority, and to design a crossing that will span Cook Inlet from the Port of Anchorage to Point McKenzie. Eighty percent of the construction costs will be covered by federal funds. The Causeway Authority will issue transportation bonds for up to 20% of the costs, and collect tolls to re-pay the bonds.

I introduced the same legislation during the 13<sup>th</sup> legislature. Now with Congressman Young's leadership we can finally cross the Knik Arm. When Congressman Don Young was elected to chair the U.S. House Transportation Committee, he announced two priorities that he would be working on. One was providing federal funds to help build the Knik Arm Crossing. The Alaska Toll Bridge and Causeway Authority created in this proposed bill has been intended for decades in various legislation and would oversee the use of federal funds appropriated for this project.

# FISCAL NOTE

**STATE OF ALASKA  
2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 44  
 Publish Date: 01/17/2001

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title: SB 44: An Act establishing an Alaska Toll BRU: \_\_\_\_\_  
Bridge and Causeway Authority Component: \_\_\_\_\_  
 Sponsor: Senator Jerry Ward  
 Requester: \_\_\_\_\_ Component Number: \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	435.0	448.0	461.0	474.0	488.0	502.0
Travel	40.0	40.0	40.0	40.0	40.0	40.0
Contractual	100.0	50.0	50.0	50.0	50.0	50.0
Supplies	20.0	5.0	5.0	5.0	5.0	5.0
Equipment	50.0	5.0	5.0	25.0	5.0	5.0
Land & Structures						
Grants & Claims						
Miscellaneous	48.0	48.0	48.0	48.0	48.0	48.0
<b>TOTAL OPERATING</b>	<b>693.0</b>	<b>596.0</b>	<b>609.0</b>	<b>642.0</b>	<b>636.0</b>	<b>650.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	693.0	596.0	609.0	642.0	636.0	650.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>693.0</b>	<b>596.0</b>	<b>609.0</b>	<b>642.0</b>	<b>636.0</b>	<b>650.0</b>

Estimate of any current year (FY2001) cost: 693.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time	6	6	6	6	6	6
Part-time						
Temporary						

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

SEE ATTACHED.

Prepared by: Kurt Parkan, Deputy Commissioner Phone 465-6977  
 Division: Commissioner's Office Date/Time 3/28/01 5:00 PM  
 Approved by: Joseph L. Perkins, Commissioner Date \_\_\_\_\_  
 Agency: DOT&PF

For distribution information, call the Governor's Legislative Office

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The Following assumptions were used:

**Personal Services:** The Bridge and Causeway Authority would require at least six staff, including an Executive Director and engineering, budget/financial, program, and clerical support. Staffing to be filled at the following levels:

- Executive Division Director - Range 24A including benefits: \$106,415 annually
- Financial officer - Range 20A including benefits: \$80,101 annually
- Engineering Assistant III - Range 20A including benefits: \$80,101 annually
- Planner III - Range 19A including benefits: \$74,962 annually
- Admin Manager I, Range 15A including benefits: \$56,588 annually
- Admin Clerk II, Range 8A including benefits: \$36,669 annually

Total on-going professional services: \$434,836 annually. Three percent salary increases yearly over the six-year interval.

**Travel:** Travel and per diem expenses calculated based on 4 of 6 appointed Board members traveling to Anchorage from Juneau and/or Fairbanks once monthly for Board meetings. Standard per diem rates were used. The travel budget also includes in-state staff travel, lodging and meal allowances; no inflationary increases included.

**Contractual:** Contractual items to include extensive legal services in the first year (necessary to set up the Authority), and ongoing computer office system support. This does not include costs associated with appointment of any other consultants or advisors.

**Equipment:** Equipment would include a computer system with server, office copiers, fax machine, phones and cell phones. Computer system upgrades to occur every third year.

**Miscellaneous:** Assumes the necessity of leased office space at \$4000.00/month including utilities.



# Alaska State Legislature

Please enter into the record my testimony to the State Transportation  
 committee name  
 committee on Knik Crossing SB 44,45, dated 7/3/01  
 bill/subject

Drove 42 miles to testify in support  
 of the Knik Crossing only to hear the  
 meeting adjourn.

I am on the Mat-Su Assembly  
 and believe this project will solve a lot  
 of problems in both Anchorage and the valley,  
 and also believe it is not nearly as  
 expensive nor ~~even~~ impossible as previously  
 thought.

Signed: Larry McWilbriss  
 Testifier

Representing (Optional)  
#CO4-9302 Palmer, AK 99645  
 Address  
745-6591  
 Phone No.

**Subject: SB 44 & 45 (Knik Crossing Bill) , ITG Funding Issues**

**Date:** Sun, 18 Mar 2001 14:47:39 -0900

**From:** Jeffrey Schmitz <jschmitz@gci.net>

**To:** Drue Pearce <Senator\_Drue\_Pearce@legis.state.ak.us>,  
Norm Rokeberg <Representative\_Norman\_Rokeberg@legis.state.ak.us>

**CC:** Senator John Cowdery <Senator\_John\_Cowdery@legis.state.ak.us>,  
Senator Jerry Ward <Senator\_Jerry\_Ward@legis.state.ak.us>,  
Senator Kim Elton <Senator\_Kim\_Elton@legis.state.ak.us>,  
Senator Robin Taylor <Senator\_Robin\_Taylor@legis.state.ak.us>,  
Senator Gary Wilken <Senator\_Gary\_Wilken@legis.state.ak.us>

Jeff Schmitz  
911 Fairwood Driv  
Anchorage, Alaska 99518  
907 344 0991

Ladies and Gentlemen of the Legislature,

Our collective time is valuable so I will combine the issues that concern me and try to be short.

First, SB 44 and it's companion, the \$1,000,000 SB 45 are cause for concern. Before embarking on the politically sexy projects like this, the ones that are boring, ugly and politically risky have to be addressed. While I am aware of many of the fortuitous conditions vis a vis our congressional delegation and the funding possibilities, I am also concerned that we have not addressed any of the underlying financial issues here at home. We have, among many other problems, a State transportation, communication and physical plant infrastructure that is crumbling for lack of adequate funding, an education system that is lacking, a 500 million dollar CBR draw, and to top it all off, no plan at all for balancing income and expenditures. The prospect of bridge crossings of either Knik or Turnagain Arms are marvelous. The Knik proposal would give me personally far speedier access to our family cabin than what I have now. But at the same time I look beyond the free Federal lunch to life afterwards and the costs entailed. Things like all the needs that go with access and development of an area that has little or nothing. Roads, EMS, Police, Fire, Schools, Transportation Maintenance stations, Search and Rescue obligations and the communications needs to support all that, to mention only a few. Another issue to consider here is the infrastructure in Anchorage. First, there is none to support a bridge crossing. Looking beyond that, the present road system in Anchorage is back to it's usual status of being at least ten years behind the demands placed on it. All the present traffic that would utilize a crossing would flow through a presently non existent road system in the Port of Anchorage area in addition to the bulk of that resulting from commercial and residential development in the Point McKenzie area. APD, AFD and the EMS services for Anchorage are already strained; where would the money come from to staff up for the already mentioned increases? The list goes on much further if one really digs into it. But the bottom line is we cannot afford the bargain until we figure out how to effectively provide for what we already have in place and dig ourselves out of the hole we find ourselves in now. One only has to look at past "Authorities" created by the State and see what the prospects are likely to entail. While there have been a few successes, the body count of the failures still litter the landscape. If a Knik bridge were commercially viable the private sector would be knocking the doors down to build it and we as a State would be left only with the far side governmental obligations that go with development. No one is knocking that door down so we are not only going to find ourselves in another Alaska Power Authority, Barley or Dairy bind but a Point McKenzie one as well when we have to provide the above mentioned needs.

Next, as a State communication worker, I am intimately involved with trying to maintain a viable system that serves all the agencies charged with providing the services mandated by their missions. Fire, EMS, DOT, Troopers, Fish and Wildlife, DOA, DMV and a host of others depend on the communications resources of the State as provided by the Information Technology Group. ( ITG) As with much of the rest of the State infrastructure, the last ten years has been something of a disaster. The combination of a failed funding scheme in the form of an ISF ( Internal Service Fund or more popularly known as chargeback) and budget cuts have left our asset base reeling. Adding to this list is the damage

inflicted by last two years of attempting to contract out to the private sector those services currently provided in the form of the Telecommunications RFP. My purpose here is not to advocate one way or another on that issue. We have to let the process play out to one conclusion or another. What can be done is to take the knowledge gained so far and put it to work. Whether we continue as we are now or contract, financially the results are going to have similar prospects. While not privy to the proposals as submitted by prospective contractors, we will find in that scenario that cheaper is not going to be part of the package and the Legislature is going to be tapped for funding the result. Conversely, if the State continues to provide services we are going to have to change how we do business and we are going to have to increase funding. Either way, more funding is going to be required simply to dig out of the ten year hole and then maintain what we have. This is where you as legislators have the unenviable task of getting the fundamentals in place to enable us as a State to once again look to a progressive future. Those fundamentals include realistic, viable funding methods for State agencies and revenue plans to support them. Then spending a million bucks to establish a Bridge Authority has a chance of making some sense.

Jeff Schmitz

BILL ID: SB 44

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SENATE BILL NO. 44

01 "An Act establishing an Alaska Toll Bridge and Causeway Authority; and providing for  
02 an effective date."

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

04 \* Section 1. AS 44.42 is amended by adding new sections to read:

05 Article 2. Alaska Toll Bridge and Causeway Authority.

06 Sec. 44.42.110. Establishment of authority. There is established the Alaska  
07 Toll Bridge and Causeway Authority. The authority is a public corporation of the  
08 state in the department but with separate and independent legal existence.

09 Sec. 44.42.120. Membership of authority. The authority consists of the  
10 commissioners of transportation and public facilities, community and economic  
11 development, and revenue, or their designees, and four public members who are  
12 residents appointed by the governor. The public members of the authority serve at the  
13 pleasure of the governor for staggered terms of five years. A vacancy among the  
14 public members of the authority is filled by appointment by the governor. A person  
01 selected to fill a vacancy among the public members holds office for the balance of the  
02 term for which the member's predecessor is appointed.

03 Sec. 44.42.130. Officers and quorum. The members shall elect officers they  
04 determine desirable. The powers of the authority are vested in the members, and four  
05 members of the authority constitute a quorum. Action may be taken and motions and  
06 resolutions adopted by the authority at a meeting by the affirmative vote of at least  
07 four members. The public members of the authority serve without compensation but  
08 are entitled to per diem and travel expenses authorized by law under AS 39.20.180.

09 Sec. 44.42.140. Staff. The authority shall employ an executive director who  
10 may, with the approval of the authority, employ additional staff as necessary. In  
11 addition to its staff of regular employees, the authority may contract for and engage  
12 the services of legal and bond counsel, consultants, experts, and financial and  
13 technical advisors the authority considers necessary for the purpose of conducting  
14 studies, investigations, hearings, or other proceedings. The members of the authority  
15 shall establish the compensation of the executive director, who is subject to the  
16 provisions of AS 39.25.

17 Sec. 44.42.150. Powers and duties of the authority. (a) In furtherance of its  
18 corporate purposes and in addition to its other powers, the authority may

19 (1) sue and be sued;

20 (2) have a seal and alter the seal at the pleasure of the authority;

21 (3) make and alter bylaws for its organization and internal

22 management;

23 (4) acquire real or personal property, whether by purchase, gift, lease,  
24 or exchange, where, in the judgment of the authority, the action is in furtherance of its  
25 corporate purposes;

26 (5) adopt regulations governing the exercise of its corporate powers;

27 (6) issue bonds to carry out any of its corporate purposes and powers,  
28 including the acquisition, design, or construction of a project to be owned or leased, as  
29 lessor or lessee, by the authority, or the acquisition of an interest in a project or the  
30 establishment or increase of reserves to secure or to pay the bonds or interest on them,  
31 and the payment of all other costs or expenses of the authority incident to and  
01 necessary or convenient to carry out its corporate purposes and powers;

02 (7) sell, lease as lessor or lessee, exchange, donate, convey, or  
03 encumber in any manner, by mortgage or by creation of any other security interest,  
04 real or personal property owned by the authority or in which the authority has an  
05 interest when, in the judgment of the authority, the action is in furtherance of its  
06 corporate purposes;

07 (8) accept gifts or grants and enter into contracts or other transactions  
08 with any person;

09 (9) deposit or invest its funds, subject to agreements with bondholders;

10 (10) enter into contracts with the United States or a person and, subject  
11 to the laws of the United States, with a foreign country or its agencies for the  
12 financing, design, construction, acquisition, operation, and maintenance of all or any  
13 part of a toll bridge or causeway, either inside or outside the state, and for the security  
14 of any bonds of the authority issued or to be issued for the project;

15 (11) apply to the appropriate agencies of the state, the United States, a  
16 foreign country, and any other proper agency for the permits, licenses, or approvals as  
17 may be necessary; may design, construct, maintain, and operate toll bridges and  
18 causeways in accordance with licenses and permits; and may obtain, hold, and use the  
19 licenses and permits in the same manner as any other person;

20 (12) perform reconnaissance studies, feasibility studies, and  
21 engineering, survey, and design with respect to toll bridges and causeways;

22 (13) enter into contracts or agreements with respect to the exercise of  
23 any of its powers, and do all things necessary or convenient to carry out its corporate  
24 purposes and exercise its powers;

25 (14) maintain complete and separate financial account of each toll  
26 bridge and causeway;

27 (15) utilize a design and construction contract for projects over  
28 \$100,000,000; in this paragraph "design and construction contract" means one contract  
29 for both design and construction of a toll bridge or causeway;

30 (16) establish, levy, and collect tolls and other charges it considers  
31 necessary for a project sufficient to pay costs of operation, maintenance, rehabilitation,  
01 and improvement; may pay the cost of acquisition, design, or construction, including  
02 the payment, amortization, and retirement of bonds or other securities or obligations  
03 assumed, issued, or incurred by the authority, together with interest; and may provide  
04 reserves for those purposes;

05 (17) pledge the tolls and other revenues, subject to prior pledges, as  
06 security for the repayment with interest of money borrowed by the authority or  
07 advanced to the authority for its authorized purposes and as security for the  
08 satisfaction of any other obligations assumed by the authority in regard to loans or  
09 advances;

10 (18) receive and accept funds from the state or the federal government  
11 or a municipality upon a cooperative or other basis for the design and construction of a  
12 toll bridge or causeway authorized under AS 44.42.110 - 44.42.290.

13 (b) The authority shall coordinate the exercise of its powers to plan, design,  
14 construct, operate, and maintain toll bridges and causeways with the department.

15 Sec. 44.42.160. Limitation on powers. The authority has only those powers  
16 expressly granted or reasonably implied under AS 44.42.110 - 44.42.290 or reasonably

17 necessary or convenient to carry out its corporate purposes and to exercise the powers  
18 expressly granted in or reasonably implied under AS 44.42.110 - 44.42.290. The  
19 authority does not have powers of eminent domain, taxation, land use planning,  
20 zoning, permitting, or other similar governmental powers.

21 Sec. 44.42.170. Bonds for the authority. The authority may borrow money  
22 and may issue bonds on which the principal and interest are payable from money  
23 derived from the tolls, fees, charges, and other revenue from projects financed under  
24 AS 44.42.110 - 44.42.290. Before issuing bonds for a project, the authority shall  
25 submit to the state bond committee a description of the bond issue and an independent  
26 economic feasibility analysis of the project and expected revenues. This information  
27 may be contained in a preliminary prospectus, offering circular, or official statement  
28 relating to the bond issue. Bonds may not be issued unless the state bond committee  
29 finds, based upon the information submitted by the authority under this section and  
30 other information that is reasonably available to the committee, that the project  
31 revenues can be reasonably expected to be adequate for payment of the principal and  
01 interest on the bonds to be issued and that issuance of the bonds by the authority  
02 would not be expected to adversely affect the ability of the state or its political  
03 subdivisions to market bonds. Bonds may not be issued unless approved by law.

04 Sec. 44.42.180. Trust indentures and trust agreements. (a) At the  
05 discretion of the authority, an issue of bonds may be secured by a trust indenture or  
06 trust agreement between the authority and a corporate trustee, by a secured loan  
07 agreement or other instrument, or by a resolution giving powers to a corporate trustee,  
08 by means of which the authority may

09 (1) make agreements with the trustee or the holders of the bonds that  
10 the authority determines to be necessary or desirable, including agreements as to the

11 (A) application, investment, deposit, use, and disposition of

12 (i) the proceeds of bonds of the authority;

13 (ii) money or other property of the authority; or

14 (iii) money or other property in which the authority has

15 an interest;

16 (B) fixing and collecting of tolls, charges, fees, or other  
17 consideration for and the other terms to be incorporated in contracts with  
18 respect to a project;

19 (C) assignment by the authority of its rights in contracts with  
20 respect to a project or in a mortgage or other security interest created with  
21 respect to a project to a trustee for the benefit of bondholders;

22 (D) terms and conditions under which the authority may issue  
23 additional bonds;

24 (E) vesting in a trustee of rights, powers, duties, funds, or  
25 property in trust for the benefit of bondholders, including the right to enforce  
26 payment, performance, and all other rights of the authority or of the  
27 bondholders, under a lease, power of contract, contract of sale, mortgage,  
28 security agreement, or trust agreement with respect to a project by injunction  
29 or other proceeding or by taking possession of by agent or otherwise and  
30 operating a project and collecting rents or other consideration and applying the  
31 same in accordance with the trust agreement;

01 (2) pledge, mortgage, or assign money, leases, agreements, property,  
02 or other rights or assets of the authority either presently in hand or to be received in  
03 the future, or both; and

04 (3) provide for any other matters that affect the security or protection  
05 of the bonds.

06 (b) Notwithstanding any other provisions of AS 44.42.110 - 44. 42.290, the  
07 trust agreement must contain an agreement by the authority that the authority will at  
08 all times maintain rates, tolls, fees, or charges sufficient

09 (1) to pay the costs of operation and maintenance of the project and the  
10 principal of and interest on bonds issued under the trust agreement as the bonds  
11 severally become due and payable;

12 (2) to provide for debt service coverage as considered necessary by the  
13 authority for the marketing of its bonds; and

14 (3) to provide for renewals, replacements, and improvements of the  
15 project, and to maintain reserves required by the terms of the trust agreement.

16 (c) For the purpose of securing one or more issues of its bonds, the authority  
17 may establish one or more special funds, called "capital reserve funds," and shall pay  
18 into those capital reserve funds the proceeds of the sale of its bonds and any other  
19 money that may be made available to the authority for the purposes of those funds.  
20 The funds shall be established only if the authority determines that the establishment  
21 would enhance the marketability of the bonds. All money held in a capital reserve  
22 fund, except as provided in this section, shall be used as required solely for (1) the  
23 payment of the principal of and interest on bonds or of the sinking fund payments with  
24 respect to those bonds, (2) the purchase or redemption of bonds, or (3) the payment of  
25 a redemption premium required to be paid when those bonds are redeemed before  
26 maturity. However, money in a fund may not be withdrawn from the fund at any time  
27 in an amount that would reduce the amount of the fund to less than the capital reserve  
28 requirement set out in (d) of this section, except for the purpose of making, with  
29 respect to those bonds, payment, when due, of principal, interest, redemption  
30 premiums, and the sinking fund payments for the payment of which other money of  
31 the authority is not available. Income or interest earned by or increment to a capital  
01 reserve fund due to the investment of the fund or any other amounts in the fund may  
02 be transferred by the authority to other funds or accounts of the authority to the extent  
03 that the transfer does not reduce the amount of the capital reserve fund below the  
04 capital reserve fund requirement.

05 (d) If the authority decides to issue bonds secured by a capital reserve fund,  
06 the bonds may not be issued if the amount in the capital reserve fund is less than the  
07 amount that may be established by resolution of the authority, called the "capital  
08 reserve fund requirement," unless the authority, at the time of issuance of the  
09 obligations, deposits in the capital reserve fund from the proceeds of the obligations to  
10 be issued or from other sources an amount that, together with the amount then in the  
11 fund, will not be less than the capital reserve fund requirement.

12 (e) In computing the amount of a capital reserve fund for the purpose of this  
13 section, securities in which all or a portion of the funds are invested shall be valued by  
14 some reasonable method established by the authority by resolution. Valuation on a  
15 particular date shall include the amount of any interest earned or accrued to that date.

16 (f) The chair of the authority shall annually, not later than January 2, deliver to  
17 the governor and the legislature a certificate stating the sum, if any, required to restore  
18 any capital reserve fund to the capital reserve fund requirement. The legislature may  
19 appropriate a sum, and all sums appropriated during the then current fiscal year by the  
20 legislature for restoration shall be deposited by the authority in the proper capital  
21 reserve fund.

22 (g) Nothing in this section creates a debt or liability of the state.

23 (h) If the authority decides to issue bonds secured by a capital reserve fund,  
24 the bonds may not be issued until 30 days after the authority has mailed notification to  
25 the state bond committee and the Legislative Budget and Audit Committee by certified  
26 mail of its intention to establish a capital reserve fund to secure the bond issue. The  
27 notification must include the amount of the capital reserve fund to be established, the  
28 amount of bonds proposed to be issued, and the total cost of the project for which the  
29 bonds are to be issued. The notification shall be accompanied by an estimate by the  
30 authority of the need to withdraw money from the capital reserve fund during the term  
31 of the bond issue, the amount that may be necessary to withdraw, and the time at  
01 which withdrawals are estimated to be needed. The authority shall annually prepare a  
02 revised estimate, considering the same factors, and a statement of all withdrawals that  
03 have occurred from the date of issuance of the bonds to the end of the calendar year.  
04 The revised estimate and statement shall be submitted to the state bond committee and  
05 the Legislative Budget and Audit Committee by January 30 of the succeeding year.

06 Sec. 44.42.190. Validity of pledge. It is the intention of the legislature that a

07 pledge made in respect of bonds shall be perfected and shall be valid and binding from  
08 the time the pledge is made, that the money or property so pledged and thereafter  
09 received by the authority shall immediately be subject to the lien of the pledge without  
10 physical delivery or further act, and that the lien of the pledge shall be valid and  
11 binding against all parties having claims of any kind in tort, contract, or otherwise  
12 against the authority irrespective of whether the parties have notice. Neither the  
13 resolution, trust agreement, nor any other instrument by which a pledge is created need  
14 be recorded or filed under the provisions of the Uniform Commercial Code to be  
15 perfected or to be valid, binding, or effective against the parties. This section does not  
16 affect title to or conveyances of real property, and does not limit the applicability of  
17 AS 40.17.080(b).

18 Sec. 44.42.200. Nonliability on bonds. (a) Neither the members of the  
19 authority nor a person executing the bonds is liable personally on the bonds or is  
20 subject to personal liability or accountability by reason of the issuance of the bonds.

21 (b) The bonds issued by the authority do not constitute an indebtedness or  
22 other liability of the state or of a political subdivision of the state, but shall be payable  
23 solely from the income and receipts or other funds or property of the authority. The  
24 authority may not pledge the faith or credit of the state or of a political subdivision of  
25 the state, except the authority, to the payment of a bond, and the issuance of a bond by  
26 the authority does not directly or indirectly or contingently obligate the state or a  
27 political subdivision of the state to apply money from, levy, or pledge any form of  
28 taxation to the payment of the bond.

29 Sec. 44.42.210. Pledge of the state. The state pledges to and agrees with the  
30 holders of bonds issued under AS 44.42.110 - 44.42.290 and with the federal agency  
31 that loans or contributes funds in respect to a project that the state will not limit or  
01 alter the rights and powers vested in the authority under AS 44.42.110 - 44.42.290 to  
02 fulfill the terms of a contract made by the authority with the holders or federal agency  
03 or in any way impair the rights and remedies of the holders until the bonds, together  
04 with the interest on them with interest on unpaid installments of interest, and all costs  
05 and expenses in connection with an action or proceeding by or on behalf of the  
06 holders, are fully met and discharged. The authority is authorized to include this  
07 pledge and agreement of the state, insofar as it refers to holders of bonds of the  
08 authority, in a contract with the holders and, insofar as it relates to a federal agency, in  
09 a contract with the federal agency.

10 Sec. 44.42.220. Exemption from taxation. The real and personal property of  
11 the authority and its assets, income, and receipts are declared to be the property of a  
12 political subdivision of the state and, together with any project financed under  
13 AS 44.42.110 - 44.42.290, are exempt from all taxes and special assessments of the  
14 state or a political subdivision of the state. All bonds of the authority are declared to  
15 be issued by a political subdivision of the state and for an essential public and  
16 governmental purpose and to be a public instrumentality. The bonds, the interest on  
17 the bonds, the income from the bonds and the transfer of the bonds, and all assets,  
18 income, and receipts pledged to pay or secure the payment of the bonds or interest on  
19 the bonds shall at all times be exempt from taxation by or under the authority of the  
20 state, except for inheritance and estate taxes and taxes on transfers by or in  
21 contemplation of death. Nothing in this section affects or limits an exemption from  
22 license fees, property taxes, or excise, income, or other taxes provided under any other  
23 law, nor does it create a tax exemption with respect to the interest of any business  
24 enterprise or other person, other than the authority, in any property, assets, income,  
25 receipts, project, or lease, whether or not financed under AS 44.42.110 - 44.42.290.

26 Sec. 44.42.230. Bonds legal investments for fiduciaries. The bonds of the  
27 authority are securities in which all public officers and bodies of the state and all  
28 municipalities and municipal subdivisions, all insurance companies and associations  
29 and other persons carrying on an insurance business, all banks, bankers, trust  
30 companies, savings banks, savings associations, including savings and loan  
31 associations and building and loan associations, investment companies and other  
01 persons carrying on banking business, all administrators, guardians, executors,

02 trustees, and other fiduciaries, and other persons who are now or may afterward be  
03 authorized to invest in bonds or other obligations of the state may properly and legally  
04 invest money including capital in their control or belonging to them. Notwithstanding  
05 any other provision of law, the bonds of the authority are also securities that may be  
06 deposited with and may be received by all public officers and bodies of the state and  
07 all municipalities and municipal subdivisions for any purpose for which the deposit of  
08 bonds or other obligations of the state is now or may afterward be authorized.

09 Sec. 44.42.240. Audit. The legislative auditor shall audit or cause to have  
10 audited annually the financial records of the authority. The legislative auditor may  
11 prescribe the form and content of the financial records of the authority and shall have  
12 access to these records at any reasonable time.

13 Sec. 44.42.250. State appropriations for toll bridges and causeways not  
14 affected. AS 44.42.110 - 44.42.290 do not prevent the state from making  
15 appropriations for or in aid of the acquisition, design, or construction under  
16 AS 44.42.110 - 44.42.290 of a toll bridge or causeway, or property, franchise, or right  
17 appurtenant to a toll bridge or causeway, or the transportation facilities of a toll bridge  
18 or causeway, or for the purpose of making preliminary surveys, plans, and estimates of  
19 the cost of a toll bridge or causeway and meeting other preliminary expenses the  
20 legislature considers proper.

21 Sec. 44.42.290. Definitions. In AS 44.42.110 - 44.42.290,

22 (1) "authority" means the Alaska Toll Bridge and Causeway Authority;

23 (2) "toll bridge or causeway" or "project" means a bridge or causeway  
24 constructed or acquired under AS 44.42.110 - 44.42.290 on which tolls are charged,  
25 together with all appurtenances, additions, alterations, improvements, replacements,  
26 approaches, lands, and interests therein used, and buildings and improvements as may  
27 be determined by the authority.

28 \* Sec. 2. AS 39.50.200(b) is amended by adding a new paragraph to read:

29 (57) Alaska Toll Bridge and Causeway Authority (AS 44.42.110).

30 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
31 read:

01 INITIAL TERMS. The governor shall designate the terms of the public members of  
02 the authority first appointed under AS 44.42.120 as follows: one public member shall serve a  
03 term of two years, one public member shall serve a term of three years, one public member  
04 shall serve a term of four years, and one public member shall serve a term of five years.

05 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

## **BILL ID: SB 45**

00 SENATE BILL NO. 45

01 "An Act making an appropriation for the design of the Knik Arm crossing; and  
02 providing for an effective date."

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

04 \* Section 1. The sum of \$1,000,000 is appropriated from the general fund to the Alaska  
05 Toll Bridge and Causeway Authority for the design of the Knik Arm crossing in Cook Inlet.

06 \* Sec. 2. The appropriation made by this Act is for a capital project and lapses under  
07 AS 37.25.020.

08 \* Sec. 3. This Act takes effect on the effective date of an Act passed by the Twenty-Second  
09 Alaska State Legislature and enacted into law that establishes the Alaska Toll Bridge and  
10 Causeway Authority.

**SITE: Mat-Su LIO**

**COMMITTEE: STRA**

**DATE: 04-03-01**

**SUBJECT OF MEETING:**

SB 45

SB 44

**UPDATE #:update: Added SB 44**

# PLEASE SIGN IN

**PLEASE PRINT:**

**NAME**

**ADDRESS (MAILING & ZIP)**

**REPRESENTING**

**DO YOU WANT**

**TO TESTIFY?**

**Y or N**

NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	DO YOU WANT TO TESTIFY? Y or N
Larry DeVilbiss			YES HB 45 & 44

llo

We faxed and mailed this to Senate Transportation this afternoon.  
The participant was surprised to have driven 42 miles to hear  
the committee adjourn.

We might not have been able to catch him before he left home, but we  
could have tried.

*Charlotte*

**S B**

**4 5**



**SENATOR JERRY WARD**  
ALASKA STATE LEGISLATURE

**SPONSOR STATEMENT FOR SB 44 AND SB 45**

**Establishment of an Alaska Toll Bridge and Causeway Authority and  
appropriation for the Design of Knik Arm Crossing**

The proposed legislation would appropriate \$1 million in state general funds to form the authority, and to design a crossing that will span Cook Inlet from the Port of Anchorage to Point McKenzie. Eighty percent of the construction costs will be covered by federal funds. The Causeway Authority will issue transportation bonds for up to 20% of the costs, and collect tolls to re-pay the bonds.

I introduced the same legislation during the 13<sup>th</sup> legislature. Now with Congressman Young's leadership we can finally cross the Knik Arm. When Congressman Don Young was elected to chair the U.S. House Transportation Committee, he announced two priorities that he would be working on. One was providing federal funds to help build the Knik Arm Crossing. The Alaska Toll Bridge and Causeway Authority created in this proposed bill has been intended for decades in various legislation and would oversee the use of federal funds appropriated for this project.




# SENATOR JERRY WARD

ALASKA STATE LEGISLATURE

## MEMORANDUM

**TO:** Senator John Cowdery, Chair  
Senate Transportation Committee

**FROM:** Senator Jerry Ward 

**DATE:** March 1, 2001

**SUBJECT:** SB 44 and SB 45 Request for Hearing

---

I respectfully request you hear SB 44 and SB 45 bills relating to the establishment of an Alaska Toll Bridge and Causeway Authority and appropriation for the design for the Knik Arm Crossing. Enclosed is a Sponsor Statement for these bills.

Thank you for your consideration of this request. If you or your staff should have any questions, please contact me at 465-4940.

JW/lrb

**SB**

**59**

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: SB 59  
 Bill Version: \_\_\_\_\_  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title: An Act...Awards of Federal Funds to BRU: DOT&PF Capital Budget  
Municipalities for Road Projects... Component: DOT&PF Capital Budget  
 Sponsor: Senators Torgerson & Taylor  
 Requester: \_\_\_\_\_ Component Number: \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>(1,500.0)</b>	<b>(1,500.0)</b>	<b>(1,500.0)</b>	<b>(1,500.0)</b>	<b>(1,500.0)</b>	<b>(1,500.0)</b>
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>(1,500.0)</b>	<b>(1,500.0)</b>	<b>(1,500.0)</b>	<b>(1,500.0)</b>	<b>(1,500.0)</b>	<b>(1,500.0)</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

SB 59 requires that the local government sponsor provide the local match for their project. This will have the effect of reducing state local match need by approximately \$1.5M per year.

Key points: the state cannot "grant" Federal Highway funds; DOT&PF remains "on the hook" and responsible for the satisfaction of federal requirements. The state can obligate the local sponsor to meet those requirements through a project agreement, but cannot transfer the ultimate responsibility for proper use of the funds. The engineering capability of most Alaska communities is very modest; the federal requirements are substantial. Our experience is that local staff have basically no experience meeting federal environmental (NEPA) and federal right-of-way acquisition requirements.

The result is that both the local sponsor and DOT must exercise project oversight, which expands the cost of the project administration and construction engineering. For projects that have problems, this duplication of oversight is substantial, leaving less of the project funds to be used for actual construction than would be the case if DOT&PF administered the project.

Prepared by: Thomas Brigham, Director Phone 465-6978  
 Division: Planning, DOT&PF Date/Time 3/15/01 11:55pm  
 Approved by: Joseph L. Perkins, Commissioner Date \_\_\_\_\_  
 Agency: DOT&PF

For distribution information, call the Governor's Legislative Office

SB 59

DATE: JILL

MEMORANDUM

State of Alaska  
Department of Transportation & Public Facilities  
Administrative Services

cc: CHAS  
JACK  
THOMAS  
FRANK  
Bever

TO: Distribution

DATE: February 11, 2000

FAX NO: (907) 465-3124  
TELEPHONE NO: (907) 465-3911

FROM: Nancy J. Shagle  
Director

SUBJECT: FY01 ICAP

Attached is the rate sheet generated from the FY2001 DOT&PF Indirect Cost Allocation Plan. The indirect cost rates on line 15 are those that projects will be charged during FY01. We are attempting to cover only our actual costs, so the rates being charged are not the full amount allowable under OMB Circular A-87 (see calculated rates on line 14).

The rates and the amounts to be recovered appear to be an increase over the current year, but actually reflect a change in categorizing costs to projects. It has been determined that a large amount of personal services previously charged as direct project costs should be charged as indirect. The shift affects those people who provide general support to all projects and can not easily identify tasks to specific projects. The overall costs to projects should not be affected since this is just a change in category of expenditure and not an increase.

This information is being provided to you now to assist you in determining project funding requirements for FY01. Please make sure that your project managers and client agencies are informed of this information. This plan is being reviewed by Internal Review and has been submitted to Federal Highway Administration for their approval.

If you have any questions, please call Dorothy Krieger at 465-8982 or send an e-mail message.

Attachment

RECEIVED  
FEB 14 2000  
Stwd. Design & Eng. Svcs  
Director's Office

INDIRECT COST RECOVERY RATES FOR FY 2001

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES								
RATE DETERMINATION	1 Federal Highway CIP	3 State Highway CIP	5&6 Airports CIP	7 Public Facilities CIP	13 Transportation Planning CIP	14 Harbors CIP	15 Reimb/Misc. CIP	Total
<b>DETERMINATION OF UNDER/(OVER) RECOVERY</b>								
1 COA99 Distribution base for COA99, (Direct Labor)	33,547,630	111,581	8,555,646	1,131,930	4,989,827	219,200	961,020	49,516,834
2 Times Calculated Rate Applied during COA99	10.28%	72.15%	41.76%	50.55%	8.01%	40.08%	69.9%	
3 Indirect costs that would have been recovered. [(line 1 * line 2)]	3,448,696	80,576	3,572,838	572,191	399,685	87,855	671,561	9,562,402
4 Actual indirect costs recovered during FY99	2,083,279	26,417	2,149,260	224,489	235,424	38,553	155,565	4,912,987
5 Indirect Costs for COA99 (A-87 eligible costs)	6,387,856	451,593	2,771,881	487,287	974,550	363,291	586,832	12,023,290
Less greater of line 3 or line 4.	3,448,696	809,576	3,572,218	572,191	399,685	87,855	671,561	9,562,402
6 Over/(Under) Collection. [(line 5 - line 3)]	2,939,160	(357,983)	(800,917)	(84,904)	574,865	275,436	(84,729)	2,460,888
<b>RATE CALCULATION</b>								
7 Indirect Costs for COA99 (A-87 eligible costs)	6,387,856	451,593	2,771,881	487,287	974,550	363,291	586,832	12,023,290
8 Additional indirect costs from CAP's & former direct.	4,635,031	236,295	1,984,891	320,798	(18,892)	368,761	217,234	7,794,118
9 Over/(Under) Collection from line 6.	2,939,160	(357,983)	(800,957)	(84,904)	574,865	275,436	(84,729)	2,460,888
10 Total all indirect costs for 2001	14,012,047	329,905	3,955,815	723,181	1,530,523	1,007,488	719,337	22,278,296
11 Distribution Basis: Direct Prj Costs less Ovhd, (ICAP)	237,436,456	8,054,420	105,713,709	17,075,419	9,914,199	19,584,138	11,854,920	409,633,261
12 Less costs switched from direct to indirect	(4,685,031)	(236,295)	(1,984,891)	(320,798)	18,892	(368,761)	(217,234)	(7,794,118)
13 Total all direct costs for 2001	232,751,425	7,818,125	103,728,818	16,754,621	9,933,091	19,215,377	11,637,686	401,839,143
14 Calculated Rate. [(line 10)/line 13]	6.02%	4.22%	3.81%	4.32%	15.41%	5.24%	6.18%	6.46%
15 Rate Charged July 1, 2000 (Rate charged during FY2001)	4.00%	2.00%	2.00%	2.00%	4.00%	2.00%	2.00%	2.57%
<b>INFORMATION PURPOSES ONLY</b>								
Estimated Indirect costs recovered at stated rate. [(line 13 * line 15)]	9,310,057	156,363	2,074,576	335,092	397,324	384,308	232,754	12,890,473
ICAP funded expenditure authorization budgeted 2001								12,300,000
Indirect Costs for COA99 (A-87 eligible costs)	6,387,856	451,593	2,771,881	487,287	974,550	363,291	586,832	12,023,290
Actual indirect costs recovered during FY99	2,083,279	26,417	2,149,260	224,489	235,424	38,553	155,565	4,912,987
Actual Under/(Over) Collection of A-87 Indirect Costs	4,304,577	425,176	622,621	262,798	739,126	324,738	431,267	7,110,303



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907)586-1325, Fax (907)-463-5480

February 21, 2001

Senator John Torgerson  
State Capitol  
Juneau, AK 98111

Re: **SB 59** "relating to awards of federal funds to municipalities for road projects"

Dear Senator Torgerson,

Today the Alaska Municipal League Legislative Committee Public Works and Infrastructure Subcommittee **voted unanimously to support SB 59**. Members commented that they are often frustrated by the State process to set local road construction priorities and that this bill provides an optional tool for a municipality to better serve the needs of its citizens.

This bill was discussed as part of a general devolution of responsibilities to municipalities that may improve local service, but may also contribute toward increased local taxes. The subcommittee suggested that the legislature also consider increasing road revenue sharing back to its statutory level of \$2500 per mile (currently it is less than \$500), creation of a municipal dividend, or similar measure to provide additional resources.

Thank you for your efforts on behalf of municipalities.

Sincerely,

Kevin Ritchie  
Executive Director



# ALASKA STATE LEGISLATURE

## SENATOR JOHN TORGERSON

- ◆ CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
- ◆ CHAIR, SENATE RESOURCES COMMITTEE

Session:

State Capitol, Room 427, Juneau, AK 99801  
Telephone 907/465-2828 Fax 907/465-4779

District:

45457 Kenai Spur Hwy.: Suite 101B, Soldotna, AK 99669  
Telephone 907/260-3042 Fax 907/260-3044

## SB 59 – FEDERAL FUNDS TO MUNICIPALITIES FOR ROADS

### Sponsor Statement

SB 59 establishes a new Municipal Road Projects Program (MRPP) that directly awards up to \$20 million of federal funds to municipalities for re-construction or construction projects that are eligible for federal funding.

The Department is responsible for developing a project application that sets out all information that will be requested by the Department. The municipality is required to provide the federal match and the project must qualify for federal funding. The municipality must comply with all federal requirements for receipt and expenditures of the funds.

The department also develops priorities for all municipal road projects, but is required to assign a higher priority to projects that involve reconstruction of current state maintained roads when the municipality agrees to accept maintenance responsibility at the completion of the project. The municipality becomes responsible for all aspects of the project, including the match requirements for the federal funding. This will also reduce the state's road maintenance costs when roads are transferred to a municipality.

The bill provides for a system so a municipality can be the recipient of federal funds and provide necessary improvements for local roads. This process is currently in place in many states and in fact, Alaska is one of very few states that do not provide for pass through funding to local governments.

I urge your support for this bill.

JT/mj: SB 2 (S-HESS) Sp St

### REPRESENTING THE KENAI PENINSULA

*Anchor Point Bear Creek Clam Gulch Cooper Landing Crown Point Fritz Creek Happy Valley Halibut Cove Homer Hope Kachemak City Kachemak Selo  
Kasilof Lowell Point Moose Pass Nanwalek Nikolaevsk Ninilchik Port Graham Razdolna Seward Seldovia Soldotna Stariski Sterling Vozienska*



# ALASKA STATE LEGISLATURE

## SENATOR JOHN TORGERSON

- ◆ CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
- ◆ CHAIR, SENATE RESOURCES COMMITTEE

### Session:

State Capitol, Room 427, Juneau, AK 99801  
Telephone 907/465-2828 Fax 907/465-4779

### District:

45457 Kenai Spur Hwy.; Suite 101B, Soldotna, AK 99669  
Telephone 907/260-3042 Fax 907/260-3044

## SB 59 -- Federal Funds to Municipalities for Roads

### Sectional Analysis

Sec. 1: This adds a new Article 4 – Awards of Federal Funds to Municipalities for Road Projects to AS 19.05.

#### New 19.05.150

- Authorizes a program for federal fund awards, maximum \$20 million, to municipalities for roads, subject to appropriations.
- Language that the awards do not lapse under AS 37.25.010.

#### New 19.05.155

Sets out the process by which a municipality applies to the department for the federal money for a road project. Requires that the municipality provide the matching funds and that they agree to comply with all federal regulations. Requires the department to not accept applications unless the project qualifies for federal funding.

#### New 19.05.160

- Authorizes the department to set a priority process for projects, but requires a higher priority be assigned to reconstruction/rehabilitation of a road that will be transferred to a municipality for maintenance.
- Requires the department to include the municipal road projects in the STIP in priority order establish above, unless a project is prohibited under federal law.

Sec. 2: Effective date of the bill.

JT/mj: SB 59(S-TRA)SA: 2-15-01

### REPRESENTING THE KENAI PENINSULA

*Anchor Point Bear Creek Clam Gulch Cooper Landing Crown Point Fritz Creek Happy Valley Halibut Cove Homer Hope Kachemak City Kachemak Selo  
Kasilof Lowell Point Moose Pass Nanwalek Nikolaevsk Ninilchik Port Graham Ruzdolna Seward Seldovia Soldotna Stariski Sterling Voznesenka*





# ALASKA STATE LEGISLATURE

## SENATOR JOHN TORGERSON

- ◆ CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
- ◆ CHAIR, SENATE RESOURCES COMMITTEE

Session:

State Capitol, Room 427, Juneau, AK 99801  
Telephone 907/465-2828 Fax 907/465-4779

District:

45457 Kenai Spur Hwy.; Suite 101B, Soldotna, AK 99669  
Telephone 907/260-3042 Fax 907/260-3044

DATE: February 8, 2001

TO: Senator John Cowdery, Chair  
Senate Transportation Committee

FROM: Senator John Torgerson

RE: Hearing on SB 59

I would appreciate your scheduling a hearing on SB 59 – An Act relating to awards of federal funds to municipalities for road projects; and providing for an effective date.

As you know, the transportation network in Alaska encompasses routes maintained by entities other than the State of Alaska. However, the current process in the Statewide Transportation Improvement Plan does not provide for a direct pass through of federal funds to municipalities.

This bill makes that process available.

I will of course provide a sponsor statement and other information you require. Thank you for your time and consideration.

### REPRESENTING THE KENAI PENINSULA

Anchor Point Bear Creek Clam Gulch Cooper Landing Crown Point Fritz Creek Happy Valley Halibut Cove Homer Hope Kachemak City Kachemak Selo  
Kasilof Lowell Point Moose Pass Nanwalck Nikoluevsk Ninilchik Port Graham Razdolna Seward Seldovia Soldotna Stariski Sterling Voznesenka



# ALASKA STATE LEGISLATURE

## SENATOR JOHN TORGERSON

- ◆ CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
- ◆ CHAIR, SENATE RESOURCES COMMITTEE

Session:


State Capitol, Room 427, Juneau, AK 99801  
Telephone 907/465-2828 Fax 907/465-4779

District:

45457 Kenai Spur Hwy.; Suite 101B, Soldotna, AK 99669  
Telephone 907/260-3042 Fax 907/260-3044

DATE: February 23, 2001

TO: Senate Transportation Committee

FROM: Mary Jackson 

RE: Additional information on SB 59 – Federal Funds to  
Municipalities for Roads

### Attached

- ◆ Support Letter dated 2/21/01 from Alaska Municipal League – 1 page
- ◆ ICAP Information – 3 pages (2/2/01)

### REPRESENTING THE KENAI PENINSULA

*Anchor Point Bear Creek Clam Gulch Cooper Landing Crown Point Fritz Creek Happy Valley Halibut Cove Homer Hope Kachemak City Kachemak Selo  
Kasilof Lowell Point Moose Pass Nanwalek Nikolaevsk Ninilchik Port Graham Razdolna Seward Seldovia Soldotna Stariski Sterling Voznesenka*

**S B**

**8 8**

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

P.O. BOX 110300  
DIMOND COURT HOUSE, 6<sup>TH</sup> FLOOR  
JUNEAU, ALASKA 99811-0300  
PHONE: (907)465-3600  
FAX: (907)465-6735

March 14, 2001

The Honorable Jerry Ward  
Alaska State Senate  
State Capitol, Room 423  
Juneau, AK 99811

Re: SB 88 relating to metropolitan planning organizations and the metropolitan planning organization for the Anchorage metropolitan area

Dear Senator Ward:

On February 20, 2001, I testified before the Senate Transportation Committee that the provisions of SB 88 that appoint a senator and a representative to sit on the Anchorage area metropolitan Transportation Study board violate the dual office holding provisions of the Alaska Constitution. At the end of my testimony you asked that I put my conclusion in writing.

Art. II, § 2 of the Alaska Constitution provides:

SECTION 5. DISQUALIFICATIONS. No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

(Emphasis added). Under these provisions a member of the legislature may not hold any other office during the member's term. Similar provisions prohibiting dual office holding exist for the governor in Art. III, § 6, and for justices of the supreme court and judges under Art. IV, § 14.

The Department of Law has issued three formal attorney general's opinions regarding dual office holding, which I have enclosed with this letter. In the past inter-branch task forces, have been formed to assemble and disseminate information, but did not assume any

The Honorable Jerry Ward  
Re: SB 88

March 14, 2001  
Page 2

duties assigned any branch of government. These sorts of bodies have not been seen to violate the constitution's prohibitions against dual office holding. On the other hand, if a legislator, or a judge, holds a position in an executive branch agency or a political subdivision, and the duties of the position require the office holder to take action regarding the management of the agency, the prohibition against dual office holding is violated.

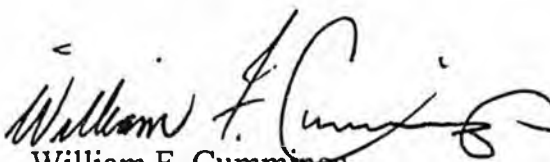
Under SB 88, a senator and a representative will be appointed to sit on the board that allocates federal surface transportation money in the Anchorage area. At the present time there are three voting members of the board appointed by the mayor of Anchorage and two state employees, who sit in an advisory capacity. Under the bill, the board's composition and functioning change. Three members voting members will still be appointed by the mayor. In addition, two voting members would be appointed by the governor, and two voting members by the presiding officers of the Senate and the House of Representatives, a senator and a member of the House of Representatives whose districts include at least a portion of the Municipality of Anchorage. A quorum of the board is a majority of the voting members.

We believe that the prohibition against dual office holding by legislators would be violated. The board would be making decisions on which projects will receive allocated federal money, when they will receive it, and in what order specific projects will be built. These functions are clearly more than collection or dissemination of information and under current practice, these functions are clearly municipal managerial responsibilities.

If you have any questions on this matter, please feel free to contact me.

Sincerely yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:   
William F. Cummings  
Assistant Attorney General

WFC:pvp

Enclosure(s)

cc: Mike Abbott, Legislative Director  
Deborah Behr, Dept. of Law  
Chrystal Smith, Dept. of Law  
Don Smith, Senate Transportation Committee  
Senator Randy Phillips, Attn: Kim Ross

# STATE OF ALASKA

DEPARTMENT OF LAW

OPINION NO. 26  
JAY S. HAMMOND, GOVERNOR

June 29, 1976

The Honorable Lowell Thomas, Jr.  
Lieutenant Governor  
State of Alaska  
Pouch A, State Capitol  
Juneau, Alaska 99811

Re: Legality of legislators running  
for other house following increase  
in legislative salary.

Dear Lieutenant Governor Thomas:

You have asked whether, under Warwick v. State, 548 P.2d 384 (Alaska 1976), a member of one house of the legislature may run for a seat in the other house, when the pay for that seat in the other house has been increased by the legislature in which the candidate served. While the Alaska courts have not ruled on the issue, it is our view that the answer is yes.

The question arises from Article II, section 5 of the Alaska Constitution which provides in part:

During the term for which elected  
and for one year thereafter, no legis-  
lator may be nominated, elected, or  
appointed to any other office or position

The Honorable Lowell Thomas, Jr.  
Lieutenant Governor

June 29, 1976  
Page Two

of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

The purpose of the prohibition is to remove temptation and improper motives from considerations of legislators in voting for increased salaries or the creation of new offices. Warwick v. State, supra, at 388. Because prohibitions like this are contrary to general public policy which favors eligibility for office, they are usually given a literal construction and are rarely expanded beyond their literal terms. Id. at 389. Where there is doubt as to their coverage, courts have emphasized that when the office is elective, the preference for eligibility is stronger, since voters thereby exercise a direct control. Id.

In connection with legislative office,

the relevant terms of the prohibition are as follows:

During the term for which elected and  
for one year thereafter, no legislator  
may be nominated, elected, or appointed  
to any other office . . . the salary or  
emoluments of which have been increased,  
while he was a member. Alaska Constitution.  
art. II, §5 (emphasis added).

Reading the prohibition purely literally, it does  
not apply to a legislator's running for a seat in the other house  
of the legislature. His office, that of a "legislator," remains  
the same. While the term of office differs (four years for members  
of the senate, two years for members of the house) and the consti-  
tuency may differ, the "office" of "legislator" is constant.

This literal interpretation gives full effect to  
the purpose of the prohibition (to prevent improper motives  
in voting on a salary increase). Indeed, expanding the coverage  
of the provision would not further the purpose of the section  
but would in fact be irrational. This is so because the members  
of both houses receive the same salary and emoluments. There is

The Honorable Lowell Thomas, Jr.  
Lieutenant Governor

June 29, 1976  
Page Four

no question that, following a salary increase, a legislator may run for re-election to his own seat. No possible purpose is served then by barring a legislator from running for a seat in the other house.

The question you have raised was touched on by Judge Carlson in his opinion in Warwick but not in any detailed fashion. In his Memorandum of Decision, Judge Carlson noted that originally, the proposed section 5 contained an express provision allowing election to the other house of the legislature and that it was stricken from the final document. This, in the Judge's passing view appeared to raise questions concerning eligibility in situations like this, though as he noted, "this does not appear to have been the framers' intent". In fact, however, the exception Judge Carlson made reference to had no relation to the prohibition in issue here. It was, rather, an exception to an altogether different prohibition, and both that prohibition and that exception were deleted by the framers.

As originally proposed, section 5 provided:

No legislator or other elective or  
appointive officer of this state shall

The Honorable Lowell Thomas, Jr.  
Lieutenant Governor

June 29, 1976  
Page Five

file or run for election to any other state office until his services have been terminated, but a member of one house of the legislature may be nominated or elected to the other house. 6 Proceedings Alaska Constitutional Convention, App. V, at 30 (emphasis added).

This is the prohibition and exception which were deleted by the framers. The purpose of that provision was not to eliminate temptation and improper motivation in voting on salary increases or creating offices but rather to "prevent any state official from using his office or expense account as a vehicle for campaigning for another office." Committee on Legislative Branch, Commentary, on file with Legislative Affairs Agency; quoted by the lower court in its Memorandum Decision, supra, at 10 and in Begich v. Jefferson, 441 P.2d 27, 30, text and n. 7 (Alaska 1968). The framers decided that this prohibition went too far in that it would, with but the single exception expressed in the provision, require any public official who sought higher office to resign. Accordingly, they deleted the prohibition, including the exception, which-- without the prohibition--was meaningless. 3 Proceedings Alaska

The Honorable Lowell Thomas, Jr.  
Lietenant Governor

June 29, 1976  
Page Six

Constitutional Convention 1801-1816. The distinction between the two prohibitions and their respective exceptions was noticed and described in the course of the debate. Id. at 1803 (dialogue of Taylor and Sundborg).

Accordingly, while the Supreme Court has limited the exceptions to the operation of section 5 to those expressly made by the Alaska Constitution, Warwick v. State, supra; Beigich v. Jefferson, supra, no exception is required here, because the prohibition has no application to a legislator's running for legislative office and it should not be expanded to apply to one's doing so. Cf. Warwick v. State, supra, at 389.

Sincerely yours,

Avrum M. Gross  
Attorney General

AMG:db:RWP

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH. R. - STATE CAPITOL  
FILING 95811

December 27, 1976

The Honorable Christopher R. Cooke  
Judge of the Superior Court  
P. O. Box 555  
Bethel, Alaska 99559

Re: Prohibition against  
dual office holding.

Dear Judge Cooke:

You have asked whether as a judge you may also continue to be a regent of the University of Alaska. Your situation is that you are a member of the Board of Regents and have recently been appointed to the Superior Court. Judges of the Superior Court are prohibited from holding "any other office or position of profit under the United States, the State, or its political subdivisions." Art. IV, §14 (emphasis added).

### Introduction

While the answer to your question should be plain on its face, there exist in Alaska a number of commissions in the executive branch whose membership includes legislators and one commission whose membership includes two legislators and the Chief Justice of the State Supreme Court. The question is whether these memberships offend the prohibition against dual office holding, and if not, whether membership on the Board of Regents by a governor, legislator or judge

is also valid. It is our opinion that neither the prohibition against dual office holding nor the separation of powers doctrine absolutely forbids the formation of inter-branch commissions but that the Board of Regents is not an inter-branch commission, and a judge may not, therefore, sit as a regent while holding office. \*/

#### Discussion

At the outset it should be noted that the prohibition against dual office holding is literally enforced in Alaska. State v. Jefferson, 441 P.2d 77 (Alaska 1968). The purpose of the prohibition is ". . . to guard against conflicts of interest, self-aggrandizement, concentration of power, and dilution of separation of powers in regard to the exercise . . . of the executive, judicial, and legislative functions of our state government." Id., at 35. The Alaska Supreme Court has concluded that the very limited exceptions to the prohibition necessarily result in its very broad application. Id., at 30-33. In essence, because only service in the armed forces and election to or employment by a constitutional convention are excluded, the prohibition must include all other offices and positions of profit. Id.

Judges and justices are not only prohibited from holding any other office under the United States and the State (as are legislators) but also from holding any office

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\*/ By the same token, neither a legislator, art. II, §5, nor the Governor, art. III, §6, may sit as a regent.

of a political subdivision (as is the governor). Plainly, the framers of our constitution imposed a broad bar against conflicts of interest on the judiciary and the chief executive. Alaska Constitution, Art. II, §5; art. III, §6; art. IV, §14. In essence, that is the legal context in which your question arises. We turn next to the existing situation with respect to the inter-branch commissions and the board of regents.

The Alaska Commission on Postsecondary Education consists of persons who represent the University of Alaska, the SJC, the Department of Education, the general public, vocational education groups, local college advisory councils, and the legislature. AS 14.40.903(a). The commission is "advisory," on the one hand, AS 14.40.909(a), and something of a clearinghouse, on the other. AS 14.40.909(b)(2)(4). However, it does appear to exercise some sovereign, executive powers. AS 14.40.909(b)(1), (4), (5), and (6), and AS 14.40.909(c) (in part). To the extent that it does so, the presence of members of the legislature on the commission appears to violate the prohibition against dual office holding, Alaska Constitution, art. II, §5, and the separation of powers doctrine. Hampton, Jr. & Co. v. United States, 276 U.S. 394, 405-406 (1928); Book v. State Office Bldg. Commn., 149 N.E. 2d 273, 296 (Ind. 1958); Saxby v. Sonnemann, 149 N.E. 526, 528 (Ill. 1925). \*/

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\*/ Because it is not germane to your question, we do not discuss the highly questionable method employed for appointing the members of this commission under AS 14.40.903(a). Suffice to say that they are of dubious validity. Buckley v. Valeo, 424 U.S. 1 (1976). Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

The Governor's Commission on the Administration of Justice, AS 44.19.746--758, is essentially an intra-governmental, inter-branch clearinghouse. It is a means for providing advice and exchanges of information and recommendations between the branches on matters of criminal justice. While this commission may incidentally exercise some administrative power, AS 44.19.756, there is nothing to indicate that this exercise is not in furtherance of each branch's separate powers or that any branch encroaches upon or tries to exercise the powers of another. The executive functions of the commission's staff are expressly under the executive branch, AS 44.19.758. Were the legislative or judicial members of this commission to exercise powers of the executive branch, the validity of their membership would be much in doubt. Since all laws are presumed to be constitutional, and there is nothing to show that the law establishing the governor's Commission on the Administration of Justice is being applied in an unconstitutional manner, it is proper to view the membership of the legislators and the Chief Justice as additional to their other duties, i.e., as legislative and judicial functions, representing their respective branches of the government. \*/

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\*/ We do not comment on the apparent disparity between the state and federal laws on how this representation should be achieved. Compare AS 44.19.748 and 754 with 42 U.S.C.A. §3723. Suffice to say that there is nothing wrong per se with such representation qua representation.

Again, we emphasize that, were the legislators or the chief justice to exercise the administrative or law enforcement powers of the executive branch through their membership on this commission, then the prohibition against dual office holding, Alaska Constitution, art. II, §5, and art. IV, §14, and the separation of powers doctrine would be violated.

The Commission on the Conference of the Law of the Sea, AS 44.19.789, also in the office of the governor and also with members from the legislature, is essentially an advisory group. It gathers and disseminates information. Since both the executive and legislative branches may perform such functions, no reason appears why they may not do them together. Cf., Buckley v. Valeo, 424 U.S. 1 (1976). The legislators appointed to this commission may in no way exercise or encroach on the powers of the executive branch. They serve on it merely as representatives of the legislative branch in furtherance of its law making functions.

The Alaska International Development Commission, AS 44.19.400, is also in the office of the governor. Its members include, inter alia, the State's congressional delegation and a state senator and representative. AS 44.19.410. The Governor is chairman. AS 44.19.430. Its functions are almost purely advisory and informational, i.e., it has no power to execute. AS 44.19.440. The presence of legislators on this commission is plainly in a representative capacity and violates neither the prohibition against dual office holding nor the separation of powers doctrine.

The Rural Affairs Commission is also in the office of the governor, AS 44.19.720, and legislators may be appointed to it. AS 44.19.722(b). This commission's sole functions are to gather and to disseminate information and make recommendations. As with similar bodies discussed above, no reason occurs why legislators may not serve on such a body in a representative capacity.

Again, we emphasize that we are observing--as we must--the presumption that a statute is constitutional. Nothing on the face of the several statutes examined here--with the exception of AS 14.40.909(b)(1), (4)--(6) and AS 14.40.909(c) (in part)--requires the members of one branch to exercise the powers of another branch or to exercise the powers of another office, i.e., each merely performs additional duties in his capacity as legislator, governor, administrator, and, in one instance, as chief justice. Accordingly, absent a factual showing of encroachment--or of acting in another capacity--we find no other constitutional offense. See, e.g., State v. Powell, 142 N.E. 401, 403 (Ohio 1924). If--in fact--an encroachment or dual office holding were to exist, then the presumption of constitutionality would be rebutted, and our opinion would be different.

The Board of Regents of the University of Alaska is altogether different from these advisory and clearinghouse commissions. "The University of Alaska shall be governed by a board of regents." Alaska Constitution, Art. VII, §3. Its function is to ". . . formulate policy and appoint the president of the university." Id. The latter is ". . . the

executive officer of the board." Id. Governing, formulating university policies, and appointing university presidents are executive functions. Compare, Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). At any event, it seems rather obvious that they are not functions of the judicial branch. Compare, Alaska State-Operated School System v. Mueller, 536 P.2d 99, 103 (Alaska 1975).

In establishing the Alaska Commission on Post-secondary Education, the Alaska Legislature expressly affirmed . . . the legal authority for the operation and management of the statewide university system remains with the Board of Regents of the University of Alaska . . ." AS 14.40.901(b). This authority over the "operation and management" of the university arises from the Alaska Constitution, Art. VII, §3, and is more particularly provided for by statute. AS 14.40.170, 250, 280, 350, and 360. All the powers devolved upon the board are essentially administrative, i.e., to execute in accordance with law.

It simply is not within the province of the office of a judge of the Superior Court to manage and control the university's property and invest its money, execute its leases, select its lands, hire and fire its presidents, set salaries, and otherwise manage the university. These are not judicial functions.

You suggest that the position of regent is neither an office nor a position of profit as those terms are used in the constitution. The very limited exceptions from the application of those terms expressly made in the constitution,

Art. II, §5 (legislators), Art. XII, §3 (general exemption), precludes our arriving at that conclusion. While not a position of profit, i.e., not salaried employment, the position of regent of the University of Alaska is--almost by definition--an office of the State. First, it is one of the few offices provided for by the constitution. Art. XII, §3. Second, regents are appointed to their positions by the Governor, subject to confirmation by the legislature. *Id.* They have fixed terms of office. AS 14.40.140. They exercise a specific and significant share of the sovereign power of the State which is expressly provided for by constitution and statute. These factors are those which characterize an office of government. See, Beigich v. Jefferson, 441 P.2d 27, 31 n. 10 (Alaska 1968). Both Black's and Words and Phrases so thoroughly confirm this view that further citation would be wastefully redundant.

A judge does not sit on the Board of Regents in a representative capacity of the judicial branch. When he sits as a regent he is not exercising judicial power but rather certain executive powers of control vested in the regents over the State's sole institution of higher learning. This he may not do. Alaska Constitution, Art. IV, §14. The University of Alaska is an instrumentality of the State, and membership on its Board of Regents is necessarily an office under the State. Compare, University of Alaska v. National Aircraft Leasing, Ltd., 536 P.2d 121 (Alaska 1975) with, Beigich v. Jefferson, 441 P.2d 27 (Alaska 1968).

The Honorable Christopher R. Cooke

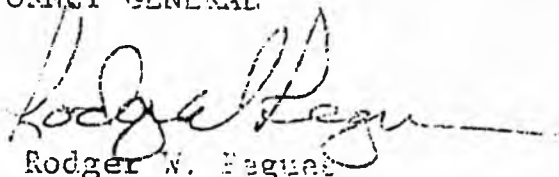
December 27, 1976

Page Nine

Accordingly, it is our view that it would be improper for you to continue to serve as a regent of the University of Alaska. We would appreciate your resignation from that office at your earliest convenience.

Sincerely,

AVRLM M. GROSS  
ATTORNEY GENERAL

By:   
Rodger W. Feguel  
Assistant Attorney General

cc: Hon. Jay Hammond, Governor  
Hon. Robert Boochever, Chief Justice  
Mr. Robert Hiatt, President, University of Alaska  
Mr. Arthur H. Snowden, Administrative Director,  
Alaska Court System

November 16, 1977

The Honorable George Holman  
Senator  
Pouch V  
Juneau, Alaska 99811

Re: Constitutionality of  
legislators serving on  
state bond committee -  
Our file J-66-265-78

Dear Senator Holman:

You have asked whether it would be constitutional for the chairman of the House and Senate finance committees to be members of the State Bond Committee.

The short answer is no.

The Alaska Constitution provides for the separation of powers between the legislative, judicial, and executive branches of the government. Hammer v. Hammond, 553 P.2d 1 (Alaska 1976); Leeze v. Martin, 379 P.2d 447 (Alaska 1963). The doctrine of the separation of powers precludes one branch from exercising the power of another. Hampton Jr. & Co v. United States, 276 U.S. 394 (1928). Nor may one branch intrude into the functions of another. Mabury v.

Senator Hohman  
November 16, 1977  
Page 12

Madison 5 U.S. (1 Cranch) 137, 170-171 (1803); Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). The State Bond Committee is within the executive branch and performs executive functions. AS 37.15.101 - 160; cf., Walker v. Alaska State Mtg. Ass'n., 416 P.2d 245 (Alaska 1966). Accordingly, membership on the committee by members of the legislature would violate the separation of powers doctrine.

Additionally, the Alaska Constitution prohibits members of the legislature from holding any other office. Alaska Const., art. II, §5; Begich v. Jefferson, 441 P.2d 27 (Alaska 1968). While some jurisdictions allow inter-branch committees for financial matters, e.g., Woodward v. Riley, 152 So 2d 41 (La. 1963), the prohibitions contained in art. II, §5 are literally and strictly enforced in Alaska. Warwick v. State ex rel. Chance, 548 P.2d 384 (Alaska 1976); Begich v. Jefferson, 441 P.2d 27 (Alaska 1968). Membership on the state bond committee would constitute dual-office holding for legislators and violate the prohibition. Cf., Book v. State Office Bldg. Comm., 169 N.E. 2d 273 (Ind. 1958); Opinion of the Justices, 17 N.E. 2d 337, 316-317 (Mass. 1939).

Finally, the appointing authority for offices in the executive branch is the governor. Bradner v. Hammond,

Senator Honman  
November 16, 1977  
Page #3

553 P.2d 1 (Alaska 1976); Alaska Const., art. VII, §525, 26. He appoints the heads of the principal departments, and therefore, no problem arises from a statute which provides for several of them to serve, ex officio, as members of the bond committee, i.e., they are, in fact, appointed by the governor. But if the law were to designate legislative committee chairmen, i.e., persons appointed by the legislature or its officers, to hold an office in the executive branch, then there would be a serious constitutional problem. Buckley v. Valeo, 424 U.S. 1 (1976); cf., Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

It is not our opinion that either the separation of powers doctrine or the prohibition against dual-office holding absolutely forbids the formation of inter-branch committees. Those inter-branch committees which are established as clearinghouses for an exchange of ideas and advice on a given subject and which do not exercise sovereign power, i.e., which do not make, execute, or declare the law, do not offend either prohibition. cf., Buckley v. Valeo, 424 U.S. 1 (1976); State v. Powell, 142 N.W. 451 (Ohio 1924). But acting for the State to carry out the laws which authorize the issuance of bonds is, by definition, executing law, and that function does fall within the terms of the

Senator Hohman  
November 13, 1977  
Page #4

prohibition. Put another way, discussing and advising on the matter may be done by an inter-branch committee; deciding upon and acting on the matter may not.

Very truly yours,

AVRIL M. GROSS  
ATTORNEY GENERAL

By: Rodger W. Pegues  
Assistant Attorney General

RWP:jeh

03/05/01 MON 14:30 FAX 907 3434313

MOA CLERK

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Von Gemmingen, Van Ertan  
Traini, Tescha, Ahnau,  
Taylor, Clementson,

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CLERK'S OFFICE

APPROVED

Date 2-27-01

Submitted by: Assemblymembers Fairclough,  
Tremaine

Prepared by: Assembly Office

For reading: FEBRUARY 27, 2001

ANCHORAGE, ALASKA  
AR NO. 2001-44

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY OPPOSING SENATE  
BILL 88, "AN ACT RELATING TO METROPOLITAN PLANNING ORGANIZATIONS AND TO  
ESTABLISHMENT OF A METROPOLITAN PLANNING ORGANIZATION FOR THE ANCHORAGE  
METROPOLITAN AREA, AND PROVIDING FOR AN EFFECTIVE DATE"

WHEREAS, the current Metropolitan Planning Organization consists of two Assemblymembers,  
the Mayor, and two representatives from the State of Alaska (Department of Transportation and  
Department of Environmental Conservation); and

WHEREAS, the Municipality and the State currently have a balanced and cooperative working  
relationship in the development of transportation and air quality plans; and

WHEREAS, 23 United States Code 134 states that a metropolitan planning organization is  
designated "by agreement among the Governor and the units of general purpose local government."; and

WHEREAS, the Municipality and the Governor must agree to any changes in the existing  
Metropolitan Planning Organization's membership; and

WHEREAS, the action to change the AMATS process, entered into unilaterally by the State of  
Alaska could endanger federal highway funding for Anchorage, which is intended to be handled  
cooperatively between the Municipality and the State; and

WHEREAS, the Assembly does not support inclusion of voting (or nonvoting) members from the  
Senate and the House.

NOW, THEREFORE, the Anchorage Assembly resolves:

Section 1: That the Assembly opposes Senate Bill 88 which modifies the membership of the  
Metropolitan Planning Organization.

Section 2: That the Municipal Clerk forward copies of this resolution to the Governor and the State  
Legislature upon passage and approval.

PASSED AND APPROVED by the Anchorage Municipal Assembly this 27<sup>th</sup> day of  
February, 2001.

Fay Von Gemmingen  
Chair

ATTEST:

Lizbeth Ferguson  
Municipal Clerk

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB88  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
Title: An act relating to metropolitan planning BRU: Central Region Planning  
organizations and to establishment... Component: Central Region Planning  
Sponsor: Senator Phillips  
Requester: Senate Transportation Component Number: 557

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 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

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

Prepared by: Dennis R. Poshard Phone 465-3904  
Division: Commissioner's Office Date/Time 2/20/01 11:11 AM  
Approved by: Joseph L. Perkins, P.E. Date 2/20/01  
Agency: Commissioner

For distribution information, call the Governor's Legislative Office



**ALASKA STATE LEGISLATURE**  
**SENATOR RANDY PHILLIPS**  
Senate District L

Session (Jan-May)  
State Capitol, Rm 103  
Juneau, AK 99801  
(907) 465-4949  
(907) 465-4979 Fax  
Toll Free Anchorage Area  
800-478-4950

Interim  
P.O. Box 142  
Eagle River, AK 99577  
(907) 694-4949  
(907) 694-4948 Fax

February 13, 2001

Honorable John Cowdery  
Senate Transportation Committee  
State Capitol  
Juneau, AK 99801

Re: SB88 Metropolitan Planning Organizations  
**Sponsor Statement**

Dear Chairman Cowdery,

SB88, "An Act relating to metropolitan planning organizations and to establishment of a metropolitan planning organization for the Anchorage metropolitan area," would add two legislators on certain metropolitan planning organizations.

The purpose of SB88 is to assist in making the Anchorage Metropolitan Area Transportation Study, (AMATS), more responsive to the needs of communities. Many legislators feel that they are asked to approve state funding for the development of a multi-modal transportation system--including those projects that have not been established as local community priorities. Legislators have a direct link to constituents and community councils where many of the needs are initiated, and therefore, should have more input into the AMATS Policy Committee.

SB88 adds two legislators from the Anchorage Caucus to the AMATS Committee, increasing the voting Policy Committee from five to seven representatives, and will provide a more adequate level of citizen representation.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Phillips".

Senator Randy Phillips



**ALASKA STATE LEGISLATURE**  
**SENATOR RANDY PHILLIPS**  
Senate District L

Session (Jan-May)  
State Capitol, Rm 103  
Juneau, AK 99801  
(907) 465-4949  
(907) 465-4979 Fax  
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800-478-4950

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(907) 694-4949  
(907) 694-4948 Fax

February 13, 2001

Honorable John Cowdery  
Senate Transportation Committee  
State Capitol  
Juneau, AK 99801

Re: SB88 Metropolitan Planning Organizations  
**Request for Hearing**

Dear Chairman Cowdery,

As sponsor of SB88, "An Act relating to metropolitan planning organizations and to establishment of a metropolitan planning organization for the Anchorage metropolitan area," I respectfully request a hearing in the Senate Transportation Committee as soon as possible.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Phillips".

Senator Randy Phillips



**SB**

**100**

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SS SB 100  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title An Act relating to regulation and BRU Motor Vehicles  
operation of electric personal ..... Component Motor Vehicles  
Sponsor Senator Halford  
Requester S(TRA) Component No. 2348

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>(84.1)</b>	<b>(84.1)</b>	<b>(84.1)</b>	<b>(84.1)</b>	<b>(84.1)</b>	<b>(84.1)</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill exempts construction and farm vehicles from registration if they are operated 30 days or less on the highway. This will result in a loss of revenue from registration fees. There are 35,604 vehicles registered in the 4 commercial truck registration weight categories. This estimate is based on a minimum assumption that 100 vehicles in the 4 commercial registration weight categories, and 100 farm vehicles will not pay registration fees.

Prepared by: Charles R. Hosack  
Division: Motor Vehicles  
Approved by: Jim Duncan, Commissioner  
Agency: Department of Administration

Phone 269-5559  
Date/Time April 3, 2002  
Date 4/4/2002

22-LS0595L  
Ford  
4/4/02

**CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 100( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR HALFORD**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to regulation and operation of electric personal motor vehicles."**

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

3 **\* Section 1. AS 28.05.011(a) is amended to read:**

4 (a) The commissioner of public safety shall, unless otherwise provided by  
5 statute, adopt regulations in compliance with AS 44.62 (Administrative Procedure  
6 Act) necessary to carry out the provisions of this title and other statutes whose  
7 administration is vested in the Department of Public Safety. The regulations must  
8 include [, BUT ARE NOT LIMITED TO:]

9 (1) rules of the road relating to the driving, stopping, standing, parking,  
10 and other conduct of vehicles, to pedestrians, and to official traffic control devices;  
11 regulations adopted under this paragraph may not prohibit the use of an electric  
12 personal motor vehicle on a sidewalk, bike path, or vehicular way or area  
13 restricted to the use of pedestrians;

14 (2) minimum equipment for vehicles, including [, BUT NOT  
15 LIMITED TO,] minimum standards of compliance to be met by manufacturers and

1 vehicle sales and repairs businesses;

2 (3) inspection of vehicles other than commercial motor vehicles, and  
3 the removal of vehicles from areas of public use when they are found to be in a  
4 defective or unsafe condition;

5 (4) abandonment of vehicles;

6 (5) management of records of the Department of Public Safety  
7 required for that department's administration of this title and its regulations adopted  
8 under this title, including provisions for ensuring the accuracy of information  
9 contained in automated and manual information retrieval systems;

10 (6) definitions of words and phrases used in this title and in regulations  
11 adopted under this title unless otherwise provided by statute;

12 (7) certification and regulation of junk yards;

13 (8) regulations necessary to implement requirements imposed by  
14 federal law or regulation that relate to commercial motor vehicles and that are needed  
15 to avoid loss or withholding of federal highway money, other than requirements  
16 relating to a commercial motor vehicle driver's licensing program or a commercial  
17 motor vehicle safety inspection program.

18 \* **Sec. 2.** AS 28.10.011 is amended to read:

19 **Sec. 28.10.011. Vehicles subject to registration.** Every vehicle driven,  
20 moved, or parked upon a highway or other public parking place in the state shall be  
21 registered under this chapter except when the vehicle is

22 (1) driven or moved on a highway only for the purpose of crossing the  
23 highway from one private property to another, including an implement of husbandry  
24 as defined by regulation;

25 (2) driven or moved on a highway under a dealer's plate or temporary  
26 permit as provided for in AS 28.10.031 and 28.10.181(j);

27 (3) special mobile equipment as defined by regulation;

28 (4) owned by the United States;

29 (5) moved by human or animal power;

30 (6) exempt under 50 U.S.C. App. 501-591 (Soldiers' and Sailors' Civil  
31 Relief Act);

- 1 (7) driven or parked only on private property;
- 2 (8) the vehicle of a nonresident as provided under AS 28.10.121;
- 3 (9) transported under a special permit under AS 28.10.151;
- 4 (10) being driven or moved on a highway, vehicular way, or a public
- 5 parking place in the state that is not connected by a land highway or vehicular way to
- 6 (A) the land-connected state highway system; [,] or
- 7 (B) a highway or vehicular way with an average daily traffic
- 8 volume greater than 499;
- 9 (11) an implement of husbandry operated in accordance with the
- 10 provisions of AS 19.10.065;
- 11 (12) an electric personal motor vehicle.

12 \* Sec. 3. AS 28.15.021 is amended to read:

13 **Sec. 28.15.021. Persons exempt from driver licensing.** The following

14 persons are exempt from driver licensing under this chapter:

15 (1) an employee of the United States government while operating a

16 motor vehicle owned by or leased to the United States government and being operated

17 on official business, unless the employee is required by the United States government

18 or an agency of that government to have a state driver's license;

19 (2) a nonresident who is at least 16 years of age and who has a valid

20 driver's license issued by another jurisdiction; however, an Alaska driver's license

21 must be obtained by the end of a 90-day period after entry into the state;

22 (3) a member of the armed forces of the United States who has a valid

23 driver's license issued by another jurisdiction when the permanent residence of the

24 member is maintained in that jurisdiction;

25 (4) a person when driving an implement of husbandry, as defined by

26 regulation, that is only temporarily driven or moved on a highway;

27 (5) a person when operating an electric personal motor vehicle.

28 \* Sec. 4. AS 28.40.100(a) is amended by adding a new paragraph to read:

29 (26) "electric personal motor vehicle" means an electric personal

30 assistive mobility device that is a self-balancing vehicle with two nontandem wheels,

31 designed to transport only one person, has an electric propulsion system, and has a

1

maximum speed of not more than 15 miles an hour.



ALASKA STATE LEGISLATURE  
Senator Rick Halford  
*President of the Senate*

While in Session:  
State Capitol  
Juneau, AK 99801-1182  
907-465-4958

While in Interim:  
P.O. Box 670190  
Chugiak, AK 99567  
907-694-4958

SPONSOR STATEMENT  
Senate Bill 100

"An act relating to regulation and operation of electric personal motor vehicles and to vehicle registration"

In the fall of 2001, a new clean fuel and quiet technological transportation device was unveiled to the nation. It is referred to as an Electric Personal Assistance Mobility Device. The intent of Senate Bill 100 is to define the regulation and operation of electric personal motor vehicles in state law and to clarify the regulation of farm and construction vehicles.

An Electric Personal Assistance Mobility Device is a self-balancing two non-tandem wheeled device that transport a single person with a no-emissions electric propulsion system. The maximum speed of this device is 15 miles or less. Its footprint is narrower than the average adult's shoulders and is no longer than a large shoe. When operated, the mobility device uses the same space as a pedestrian and takes up less space than a bicycle or other tandem-wheeled transportation. Because of its revolutionary dynamics, it can turn in place without impacting any nearby object. The device works seamlessly with the body's movements as the gyroscope and tilt sensors monitor the user's center of gravity 100 times a second. As a person leans slightly forward, the mobility device moves forward and such backwards.

As an electric wheelchair, this new personal assistance mobility device may provide increased and welcomed independence for both the elderly and the disabled, not to mention its many other uses. It was invented to act more in the capacity of a pedestrian rather than a motor vehicle and should therefore be regulated as such. In this light, the National Highway Traffic Safety Administration ruled this device is not a motor vehicle and should not be under their jurisdiction.

To date, twelve states have signed similar legislation into law, four states have bills awaiting Governor signature and the remaining thirty-four states have bills in the legislative process.

In addition, Senate Bill 100 clarifies farm and construction vehicles subject to registration. Under this legislation, farm or construction vehicles used at least 90% of their time on private land, such as a farm, are not required to be registered. This amendment makes it legal for a non-registered flatbed vehicle, used primarily to haul hay on the farm, to travel occasionally on the highway without penalty.

I appreciate the committee's favorable consideration of this legislation. Thank you.

**SB**

**111**

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 111  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affect: Revenue  
 Title: Bonds to Fund Ports and Harbors BRU: Alaska Housing Finance Corp  
harbors Component: Operations  
 Sponsor: Senator Taylor  
 Requester: Senate Transportation Component Number: 110

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 SB111 authorizes the Alaska Housing Finance Corporation to issue general obligation bonds of the corporation to pay for \$34,627,500 in improvements for ports and harbors statewide. The bill is written as a retroactive amendment to Ch. 130, SLA 2000, which authorized financing for ports, harbors, the university, senior housing and student housing.

Bonds for the projects authorized in Ch. 130 have already been sold, with AHFC's \$50 million dividend pledged as a debt service payment for the bonds through fiscal year 2007. Additional bonding capacity of AHFC for state capital projects is currently zero. Therefore, this fiscal note is drafted as a zero based on the belief that additional AHFC state capital project bonding capacity is unavailable.

Prepared by: John Bitney, Legislative Liaison Phone 330-8445  
 Division: Alaska Housing Finance Corporation Date/Time 3/19/01 12:00 AM  
 Approved by: Larry Persily, Deputy Commissioner Date 03/19/2001  
 Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

22-LS0621F

Cook

3/23/01

**CS FOR SENATE BILL NO. 111(TRA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SECOND LEGISLATURE - FIRST SESSION**

**BY THE SENATE TRANSPORTATION COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR TAYLOR**

**A BILL**  
**FOR AN ACT ENTITLED**

1 "An Act relating to the issuance of certificates of participation to finance deferred  
2 maintenance and construction projects for certain public harbor facilities; giving notice  
3 of and approving the entry into, and the issuance of certificates of participation in, lease-  
4 financing agreements for those public harbor facility projects; repealing a provision  
5 relating to the financing of construction and renovation of facilities for certain ports and  
6 harbors; and providing for an effective date."

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

8 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
9 to read:

10 FINDINGS; INTENT. (a) Except for the harbors and docks in Nome and Adak, the  
11 facilities described in sec. 2 of this Act are currently owned by the state and are in need of  
12 substantial investment in capital maintenance and upgrades. The City of Nome is in need of  
13 additional money for a capital project at the Nome harbor and dock. The Adak harbor and

1 dock facilities are currently in federal ownership but will pass to local Alaska interests in the  
2 fall of 2001.

3 (b) The legislature intends to provide for the required investment, and intends transfer  
4 of ultimate ownership of and responsibility for the state-owned harbor facilities to local  
5 municipalities.

6 (c) The legislature intends to provide public investment in the Adak harbor and dock  
7 facilities under this Act if the ownership of the harbor and dock facilities is ultimately vested  
8 in the City of Adak.

9 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11 HARBOR FACILITIES LEASES AUTHORIZED. (a) The Department of  
12 Transportation and Public Facilities is authorized and directed to develop a plan for  
13 improvement and financing of the state-owned harbor facilities listed in (b) of this section and  
14 for the transfer of ownership and responsibility for the improved facilities, subject to the  
15 limitations set out in this Act, to the municipalities listed in (b) of this section. The  
16 Department of Transportation and Public Facilities is authorized to lease the harbor facilities  
17 from the municipalities listed in (b) of this section, including the City of Nome, under the  
18 authority of AS 35.10.110.

19 (b) The Department of Transportation and Public Facilities shall allocate the net  
20 proceeds derived from the lease-financing agreements authorized in sec. 6 of this Act for  
21 capital maintenance and upgrade projects, including the City of Nome's project and the Adak  
22 project, to the following harbor facility projects, in the amount allocated for each facility:

23 FACILITY/PROJECT	23 ALLOCATION
24 (1) Whittier - Whittier Small Boat Harbor	\$2,449,000
25 (2) Valdez - Valdez Small Boat Harbor	3,212,000
26 (3) Seldovia - Seldovia Small Boat Harbor	2,628,000
27 (4) Petersburg - North Harbor, Middle Harbor, South Harbor	3,729,000
28 (5) Juneau - Auke Bay Harbor, Aurora Basin, Harris Harbor, 29 Douglas Harbor and Dock, North Douglas Launch 30 Ramp, Taku Harbor	7,119,000
31 (6) Ketchikan - Thomas Basin Harbor, Ryus Float, Bar Harbor	

1	South, Bar Harbor North, Hole-in-the-Wall Harbor,	
2	Knudson Cove Harbor	7,876,000
3	(7) Sitka - Thomsen Harbor, Crescent Harbor,	
4	Sealing Cove Harbor	4,469,000
5	(8) Cordova - Cordova Harbor	4,876,000
6	(9) Klawock - Klawock Harbor and Seaplane Float	896,000
7	(10) Yakutat - Yakutat Harbor	526,000
8	(11) Wrangell - Standard Harbor, Reliance Float, Inner Harbor	
9	Fish and Game Dock, Shoemaker Harbor	3,492,000
10	(12) Nome - Nome Harbor and Dock	1,000,000
11	(13) Adak - Adak Boat Harbor	500,000

12 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 DELEGATION OF AUTHORITY FOR LEASE-FINANCING AGREEMENTS. The  
15 Department of Transportation and Public Facilities is delegated the Department of  
16 Administration's authority under AS 36.30.085 to enter into lease-financing agreements for  
17 the harbor facility projects described in sec. 2 of this Act.

18 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

20 PROVISIONS REGARDING ESTABLISHMENT OF THE CITY OF ADAK AND  
21 THE ADAK HARBOR AND DOCK FACILITIES. (a) Adak is a naval air station that has  
22 closed. The Adak Reuse Corporation has developed, with financial assistance from the  
23 federal government, a reuse plan for the redevelopment of the former naval air station and its  
24 facilities to support fishing operations in the North Pacific Ocean and the Bering Sea. In the  
25 fall of 2001, the Adak Reuse Corporation will receive title to the former naval air station from  
26 the federal government. The Adak community is presently not incorporated as a municipality  
27 under state law. The Local Boundary Commission has approved the community's application  
28 to establish a second class city at Adak. The division of elections has scheduled for April 3,  
29 2001, a local election in Adak to approve its incorporation as a second class city.

30 (b) The commissioner of transportation and public facilities is authorized to enter into  
31 a lease with the Adak Reuse Corporation for the Adak harbor and dock facilities under the

1 terms the commissioner determines appropriate, so long as title to the harbor and dock  
2 facilities is vested in the City of Adak at the end of the lease term.

3 \* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 LEASE-FINANCING PAYMENTS. (a) The lease payments owed under lease-  
6 financing agreements executed under sec. 3 of this Act are subject to annual appropriation by  
7 the legislature.

8 (b) The legislature intends that the marine motor fuel tax collected under  
9 AS 43.40.010 will provide enough revenue to the general fund to make all lease payments;  
10 however, if that revenue source is insufficient, the payments may be made from any other  
11 valid revenue source, subject to appropriation.

12 \* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 NOTICE OF THE ENTRY INTO AND FINANCING OF LEASE-FINANCING  
15 AGREEMENTS. (a) Subject to annual appropriation, the Department of Transportation and  
16 Public Facilities is authorized to enter into lease-financing agreements for the harbor facility  
17 projects described in sec. 2 of this Act.

18 (b) The state bond committee is authorized to provide for the issuance of certificates  
19 of participation in one or more series in the aggregate principal amount of \$42,772,000 for the  
20 cost of the projects described in sec. 2 of this Act. The estimated total cost of construction,  
21 acquisition, and equipping the projects is \$42,772,000. The estimated annual amount of rental  
22 obligations under the lease-financing agreements is \$4,525,000. The estimated total lease  
23 payments for the full term of the lease-financing agreements is \$66,335,500. In this  
24 subsection, "costs of construction" includes credit enhancement and underwriting expenses,  
25 rating agency fees, bond counsel fees, financial advisor fees, printing fees, trustee fees,  
26 capitalized interest, and interest earnings used for lease payments.

27 (c) Under terms approved by the Department of Transportation and Public Facilities,  
28 the leasehold interests of the state in projects described in sec. 2 of this Act that are financed  
29 under this section may terminate following the payment and retirement of the certificates of  
30 participation or at another later date as considered reasonable by the Department of  
31 Transportation and Public Facilities. The plan prepared by the Department of Transportation

1 and Public Facilities under sec. 2 of this Act may provide for the transfer of title to some or all  
2 of the state-owned harbor facilities to the municipalities identified in sec. 2 of this Act, with a  
3 leaseback to the department, as long as the title to the state-owned facilities transfers to  
4 municipal ownership no later than the final payment and retirement of all certificates of  
5 participation issued to finance the respective projects.

6 (d) The state bond committee may contract for credit enhancement, underwriting,  
7 credit ratings, bond counsel, financial advisor, printing, and trustee services that the  
8 committee considers necessary in financing the projects described in sec. 2 of this Act.

9 \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11 NOTICE AND APPROVAL OF AGREEMENTS. Section 6 of this Act constitutes  
12 the notice and approval of the lease-financing agreements described in sec. 2 this Act that is  
13 required by AS 36.30.085.

14 \* **Sec. 8.** AS 29.60.700 is repealed

15 \* **Sec. 9.** This Act takes effect July 1, 2001.

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Senator  
John J. Cowdery

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Juneau, AK 99801

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## FAX COVER

DATE: 3/23/01 TIME: 8:40

TO: TAMARA COOK

FAX: 465-2029 PHONE: \_\_\_\_\_

FROM: AM SMITH - SENATE TRANSP.

FAX: \_\_\_\_\_ PHONE: \_\_\_\_\_

NUMBER OF PAGES: (INCLUDING COVER) \_\_\_\_\_

NOTES: Attached are the amendments  
to SB 111 -

as we discussed on the phone  
I believe these amendments would  
create a bill identical to SB 118 -

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**Changes required to comply with amendments made to SB 111  
by Transportation Committee on March 22, 2001:**

**Number 1**

**Amend to allow public investment in Adak harbor provided  
ownership is ultimately vested in the City of Adak.**

**Number 2**

**Amend to add Adak - \$500,000; Yakutat - \$526,000 and  
Juneau - \$7,119,000.**

**Number 3**

**Amend to change mechanism of funding to Certificates of  
Participation.**