

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11378 SENATE TRANSPORTATION

The expenses of the arbitration, including the arbitrator's fee, shall be borne by the Nonsignatory Contractor and/or the Union, unless otherwise directed by the arbitrator. Each party shall pay its own attorney's fees.

- 12.2 The arbitrator(s) shall not have authority to render a decision involving a jurisdictional dispute or a decision the effect of which would amend, modify, alter, delete from, add to, or supersede any provision of this Agreement or its intent.

ARTICLE XIII
Jurisdictional Disputes

- 13.1 The assignment of work for Signatory Contractors will be solely the responsibility of the Employer performing the work involved. In such assignment, the Employer will assign work in accordance with historical practices for building, highway and heavy construction work, and such assignments will be according to area practices, decisions and agreements of record, and in compliance with applicable provisions of Prevailing Wage regulations.
- 13.2 Signatory Contractors agree that all jurisdictional disputes over division of work with crafts affiliated with the Alaska Building and Construction Trades Council, AFL-CIO, will be settled in accordance with the procedural rules and regulations of the Plan for the Settlements of Jurisdictional Disputes in the Construction Industry, effective June 1, 1984, or any successor plan. All Signatory contractors of this Project agree to assign work and be bound to the terms and conditions of the Plan for the Settlement of Unions agree that the assignments of the Employer shall be followed until the dispute is resolved in accordance with the section. It is not the intent of this section to disregard the Jurisdiction of Unions not a party to such resolution. Individuals violating this article shall be subject to immediate discharge. Any Union violating this Article shall forfeit any further claim to the disputed work.
- 13.3 The assignment of work for Nonsignatory Contractors will be solely the responsibility of the Employer performing the work involved. In such assignments the Employer will assign work in accordance with historical practices for building, highway and heavy construction work, and such assignments will be according to area practices and in compliance with applicable provisions of Prevailing Wage regulations. Should a Nonsignatory Contractor be unable to resolve an assignment of work dispute, the Owner shall after investigation resolve the dispute and the Nonsignatory Contractor agrees to abide by the Owner's decision. The Employer's assignment of work shall be adhered to until the dispute is resolved.

ARTICLE XIV
Construction

- 14.1 This agreement is deemed to be made, and shall be subject to, construed and enforced in accordance with the laws of the State of Alaska, and the Charter and Revised Codes of the Owner. Venue for any legal action relating to this Agreement shall lie in the _____.

ARTICLE XV
General Savings Clause

- 15.1 It is not the intent of the parties to this Agreement to violate any Federal, State or local laws governing the subject matter contained herein, and any final determination that any provision of this Agreement violates any law or is otherwise not binding and enforceable shall have no effect on the validity of the remaining provisions of the Agreement. All parties who are signatory to the terms of this Agreement agree that if any of the provisions contained herein is finally held or determined to be illegal, unenforceable, not binding, or void by a court of final and competent jurisdiction, an effort will be made by the parties hereto to promptly enter into negotiations concerning the clauses affected by such decision for the purpose of achieving conformity with the requirements of any applicable law or conflicting law so violated.

ARTICLE XVI
Local Collective Bargaining Agreements

- 16.1 This Agreement recognizes that each individual Signatory Contractor, as defined in Article 1.8, is currently signatory to one or more Collective Bargaining Agreements which would otherwise be applicable to and govern portions of the individual Signatory Contractor's construction work performed at this Project. As to each individual Signatory Contractor, this Agreement shall incorporate by reference all provisions, not inconsistent with this Agreement, of said individual Signatory Contractors' current Collective Bargaining Agreement(s) with a Union signatory to this Agreement and shall be binding upon said individual Signatory Contractor and said Union. A copy of each current Collective Bargaining Agreement along with a list of which agreement a Signatory Contractor is currently signatory to shall be on file with the Manager and available for inspection.
- 16.2 In the event the Local Area Collective Bargaining Agreement is revised by mutual agreement of the Signatory Contractors and local Unions who are parties to such agreement, then, if such revision is not inconsistent with the provisions of this Agreement, appropriate changes will automatically be made to reflect such revision in the Local Area Collective Bargaining Agreement at such time as the local Union gives written notice to the Owner of such revisions, with an attached copy of the duly executed Local Area Collective Bargaining Agreement and an updated list of Contractors signatory to the revised Local Area Collective

Bargaining Agreement. Such changes shall be effective as of the effective date of such revision of the Local Area Collective Bargaining Agreement.

- 16.3 In the event of any conflict between the provisions of this Agreement and those of a Local Area Collective Bargaining Agreement, the provisions of this Agreement shall take precedence. This Agreement shall not govern, and shall have no force or effect with respect to any work other than work on this Project for the Owner. No provision of this Agreement shall be construed to require any Contractor or Subcontractor to be bound by or to become signatory to any Collective Bargaining Agreement which the Contractor or Subcontractor is not otherwise bound to or signatory to, and no Nonsignatory Contractor is required to become bound to, abide by or, become signatory to any Local Area Collective Bargaining Agreement by virtue of becoming bound to or signing this Agreement.
- 16.4 No provision in any Local Area Collective Bargaining Agreement shall be incorporated pursuant to Section 16.1 which discriminates against the Project or which was negotiated by the parties thereto to have special application to the Project.

ARTICLE XVII **Amendment**

- 17.1 No alterations, amendments or modifications hereof shall be valid unless executed by an instrument in writing by the parties with the same formality as this Agreement. Neither this Agreement, nor any term hereof, can be changed, modified or abandoned, in whole or in part, except by an instrument in writing, and no subsequent oral agreement shall have any validity whatsoever. The Owner shall furnish sufficient copies of such amendments or modifications to the other parties.

ARTICLE XVIII **Entire Agreement**

- 18.1 The parties agree that this Agreement is intended to cover all matters affecting wages, hours, and terms and conditions of employment on the Project and that, during the term of this Agreement, neither the Contractor, the Owner, nor the Unions will be required to negotiate on any further matters affecting these or any other subjects not specifically set forth in this Agreement except by mutual agreement of the parties involved.

ARTICLE XIX

Term of Agreement

- 19.1 This Agreement shall be effective as of the date hereinabove written, and shall remain in effect until (date of the final completion and acceptance of the Contractor's work at the Project).

ARTICLE XX
Project Access

- 20.1 Duly authorized representatives of the Unions signatory to this Agreement shall have access to the Project site, provided they do not interfere with the work of employees or the delivery of supplies, equipment, tools or materials to the Project, and provided they comply with job and safety rules established and posted by the Employer(s) and/or the Owner.

ARTICLE XXI
Signature Page

IN WITNESS WHEREOF, these parties hereto have caused this Agreement to be executed as of the day and year first above written.

ATTEST

(NAME OF OWNER)

(NAME OF CONTRACTORS)

(NAME OF UNIONS)

RECOMMENDED AND APPROVED:

(Signature, Name, Title, & Name of Each Organization for Owner's representatives, organized labor's representatives and Contractors or their representatives)

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

"UNFAIR" CLAUSES IN
PROJECT LABOR AGREEMENTS

The following clauses or variations of these clauses are to be avoided in a Project Labor Agreement (PLA) in order to make the PLA fair for all workers and their employers, regardless of union status:

UNION SECURITY

- 7.1 The Contractors/Employers recognize the Union(s) as the sole bargaining representative of all craft employees working on the project(s).
- 7.2 All employees who are employed by Contractors/Employers to work on the Project will be required to become members of and maintain membership in the appropriate Union after seven (7) days of consecutive or cumulative employment on a construction contract subject to this Agreement. Membership under this section shall be satisfied by the tendering of periodic dues and fees uniformly required to the extent required by law.

REFERRAL

- 8.1 The Union(s) shall be the primary source of all craft labor employed on the project(s) at any given time. However, Contractors/Employers not already signed to an appropriate collective bargaining agreement shall be permitted to transfer their Journeyman level key personnel, provided they have cleared through the appropriate union hall, as provided in section 8.2, for a specific construction trade, from one job to another into or within any labor market area with the following guidelines: (1) 15% of the positions, for any single Contractor/Employer, may be journey level key personnel at any one point in time. (2) The Contractor is allowed to have a maximum of fifteen (15) key personnel. (3) The Contractor shall be allowed one (1) key personnel regardless of the calculation, as long as one or more person(s) has been dispatched from the local Union Hiring Hall. (4) An employee shall be considered a member of a Contractor/Employer's key personnel for the purpose of this Article if the employee's name appears on the Contractor/Employer's active payroll for 60 of the 100 working days before award of the construction contract.
- 8.2 Contractors/Employers shall be bound by and utilize the registration facilities and referral systems established or authorized by the signatory unions when such procedures are not in violation of federal law.

BENEFITS

- 9.1 Contractors/Employers agree to pay contributions to the established vacation, pension or other form of deferred compensation plan, apprenticeship, and health benefit funds in the amounts designated in the master agreements of the appropriate local unions. Contractors/Employers shall not be required to pay contributions to any other trust funds to satisfy their obligation under this Article except respective trades shall continue to pay all trust fund contributions as outlined in such collective bargaining agreements.
- 9.2 By signing this Agreement, Contractors/Employers adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in 9.1, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds.

APPRENTICESHIP TRAINING

- 11.1 On all construction projects undertaken by the [Name of Public Agency/Entity], regardless of whether a PLA is used on the particular project, an employee from each contractor's or subcontractor's regular workforce must be enrolled and participating in an apprenticeship program which has graduated apprentices annually for at least the past five years.

The above clauses are some of the clauses that are usually utilized in union-only PLAs. These provisions are objectionable to merit shop workers because these workers usually have to pay into union trust funds for benefits that they either already have with their current employer or in which they will never vest because they will not stay with the Union after the PLA project. These clauses also require workers to join the union or to make benefit contributions into the union trust funds along with paying union dues. Under the referral provision of union PLAs, as much as 85% of workers are discriminated against because they have chosen to work for merit shop contractors and are prohibited from working on a project.



Alaska Chapter

Associated Builders and Contractors Voice of the Merit Construction Industry

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Main
ABC Goals
Apprenticeship
Calendar
Committees
Contractor Resources
Find Your Legislator
Member Services
Membership Directory
Newsletter
Online Plans Service
Position Papers
Project Labor Agreements

ABC NATIONAL

ABC Goals

Project Labor Agreements

Lea

Our Goal: To successfully defeat union-only Project Labor Agreements (PLAs)

Construction unions have recently been aggressively attempting to negotiate union-only Project Labor Agreements (PLAs) with owners to require all workers on a project to join a union as a condition of employment. While in an open shop competitive environment, open shop general contractors may use union contractors and union general contractors may use open shop subcontractors. Project Labor Agreements mean that open shop subcontractors must become signatory to a union in order to get the job. ABC of Alaska works tirelessly in opposition of union-only PLAs through communication, education and grassroots lobbying.

Open shop contractors represent an estimated 75% of the construction workforce in Alaska. ABC is documenting this percentage and educating the general public, legislators and construction buyers on the true make-up of the construction industry in Alaska.

With a larger work force base and no seniority rules, open shop contractors are more flexible in their ability to hire locally. The net effect of union-only agreements is that "travelers" are brought in from outside Alaska to work on projects while local laborers and construction professionals remain unemployed. An open and competitive bidding process assures government and industry that every project has access to the full spectrum of crafts available.

PLA advocates contend they do not prejudice an open shop contractor, but they can sign a job agreement for the project. However, open shop contractors are prejudiced by PLAs because most of their employees will never see a benefit from signing with the union. For specialty trades that are on a project for a short time, employees will not qualify for medical insurance and will not become vested in the retirement program, thereby forfeiting the major part of their fringe benefit package.

In short, competition helps control excesses. It makes no more sense to have a union only construction industry than it does to have only one political party, Republican or Democrat!

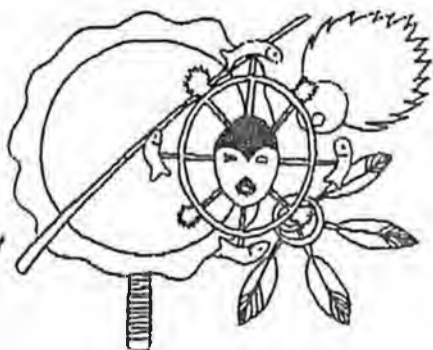
ABC Success Stories

With the help of Senator John Cowdery, ABC played a key role in the defeat of a union-only Project Labor Agreement on the Ted Stevens Anchorage International Airport project. Our members sent so many faxes to the Governor's office that they asked Senator Cowdery to call off the fax campaign as his fax machine was jamming!

Nationally, ABC was influential in the development of President Bush's Executive Order

Order prohibiting the use of PLAs on government projects. ABC filed a brief in support of the Executive Order and continues to support the legal battle to keep the Executive Order in place.

[Learn more](#)



Nunakauyak Traditional Council

TO ALL ALASKA STATE LEGISLATURES

Senator John Cowdery under Senate Bill 40 and Representative Jim Holm under House Bill 67 have introduced the bills which will affect the capital projects by "Force Account" in which we know will have devastating impact in our region and local economy.

With limitation on State-funded projects to no more than \$250,000 will not support local economy whatsoever. This limitation and phasing out construction jobs under force account will not help high unemployment rate in rural communities. Big construction companies and non-residents will only benefit from construction jobs instead..

Villages do not even have economic base in which to support their own projects whether they are funded by the State or Federal government. The tribes or Tribal organizations have exercised their right to govern themselves by handling projects under force account thereby guaranteeing jobs to local residents who are jobless and have families to support. Big construction firms from outside of or even those based in Alaska do not always have that guarantee and instead bring in crews with them. This type of construction project do not support local economy.

The Alaska State Legislatures would be more lenient to its constituent's needs and well-being by helping them to protect their interest and allow them to continue to handle their own projects under force account. As a long time Tribal Council employee, I see many benefits that local force account projects provides to those who took part in construction projects which also help provide local economy little by little.

On the behalf of Nunakauyak Traditional Council (NTC) and many tribal governments and tribal organizations within AVCP/Calista region, I would like to humbly ask Senator Cowdery and Representative Holm to listen and reconsider or withdraw their bills immediately.

Last but not least, I would like to ask all Alaska State Legislatures to vote these bills down if the bills are not withdrawn by its original authors.

ON THE BEHALF OF NUNAKAUYAK TRADITIONAL COUNCIL

James Charlie, Sr., Director
Tribal Support Services

cc: Mr. David B. Tim, NTC Chairman
Editor, The Delta Discovery
Editor, The Tundra Drums

**NATIVE VILLAGE OF TUNUNAK
TUNUNAK IRA COUNCIL
PO BOX 77; TUNUNAK, ALASKA 99681
PHONE:(907)652-6527 FAX:(907)652-6011**

TO: ALASKA STATE LEGISLATORS

Date: March 12, 2003

FROM: James G. James, Tribal Administrator



Re: Senate Bill 40 and House Bill 67

MESSAGE:

Once again the construction of capital projects by force account within the State of Alaska has been put into place in question.

The Bill which has been sponsored by Senator John Cowdery and Representative Jim Holm would limit the construction of state funded capital projects by force account to those projects under \$250,000.00.

It will have a big impact especially to rural areas in which the majority of village members are in dire need of jobs and economic opportunities because of high costs of living.

I have seen many of our people that are in need to feed their baby and to clothe them with proper clothings during harsh winter months. A can of evaporated milk costs \$1.55 per can and the baby formula can costs nearly \$20.00 or more depending on the price market up. The clothings price are devastating compare to Anchorage prices. Although, people that are on welfare or on any assistance through State and Federal Assistance programs are just a quarter worth.

We urge you not to pass those two bills because it won't help the real Alaskans who needs it the most.
Thank You.



Position Paper on Force Account Construction

ABC Alaska believes in a system of free enterprise and open competition. This premise is generally embraced by the State of Alaska as evidenced by the language existing in Alaska Statutes AS 19.10.170 and AS 35.15.010 which state it is the general policy of the state to require construction under bid contract in accordance with the state procurement code. Additionally, Alaska Statutes require: "*A contractor or subcontractor who performs work on public construction in the state, as defined by AS 36.95.010, shall pay not less than the current prevailing rate of wages for work of a similar nature in the region in which the work is done.*"

The intent of the Legislature is clear: public works ought regularly to be constructed in compliance with state procurement code and shall be regulated by "Little Davis Bacon" laws establishing prevailing wage rates. Force Account Construction by the state subverts this intent, bypassing the competitive bid process inherent in the state procurement code and hiring its own forces to complete construction work at sub-standard wages.

The two compelling arguments for Force Account Construction are cost savings and local hire. The cost savings are claimed by reduced labor costs and by the fact that the state does not have to make a profit. The payment of lower than prevailing wage has been used as the justification for avoiding federal procurement law by citing reduced project costs. In effect, the state is paying sub-standard construction wages on government work, eliminating opportunities for private sector employers who would be required to conform to federal Davis-Bacon or Little Davis Bacon regulations on that same work. In short, this practice places the state in direct competition with private sector employers, a practice in direct conflict with privatization goals that have been expressed by the legislature over the past several years.

It may be argued that the published prevailing wage does not reflect local conditions. If this is the case, there is a mechanism in place to address the variation. 8 AAC 30.050 states "*A region may be subdivided into zones if the commissioner determines that the prevailing wage rate has local variations within the region...*" and "*Special prevailing wage rate determinations may be requested for special projects or special worker classifications, if the work to be performed does not conform to traditional public construction for which a prevailing wage rate has been established under (a) of this section.*" This would be in keeping with the intent of the Legislature and also protect the rights of the workers.

The contention that the state does not have to make a profit and therefore can operate at a lower cost is also misleading. While the state may not include a risk factor in its estimate, risk is still there. Delays and cost overruns will be borne solely by the state. Under bid contract, these risks and costs are borne by the contractor. The state will have no incentive for cost control and innovation as is routine in the competitive bid process. The notion that the State can compete with private industry on a level playing field is highly questionable and again flies directly in the face of the state privatization goal.

The local hire issue is also compelling and should not be ignored. Again, local residents are best served by a level playing field. Providing an accurate prevailing wage and including "helpers" in the job classifications will allow local residents the best opportunity to compete in the marketplace.

Senate Bill No. 40 and House Bill No. 67 will help limit the State's ability to engage in force account construction. The same language should be added to AS 44.33.300 and we, as a community, should then focus our efforts on improving the implementation of existing prevailing wage regulations to provide opportunities for local hire in a free and open competitive bidding environment.

SB

53

From the office of . . . Senator John J. Cowdery
State Capitol Building, Rm #101
Juneau, AK 99801
907-465-3879 phone
907-465-2069 fax

MEMORANDUM

DATE: February 5, 2003
TO: John
FROM: Richard
RE: Request for hearing for SB 53 in SEN TRANS

OK on 18th

Notes:

SB 53 is a bill from SEN. OGAN. The bill requires a drivers license suspension in the case of a fatal accident where a driver is at fault but not legally negligent or criminal.

SEN. OGAN pushed this bill through last session (as REP. OGAN) and it died in Senate Finance because of an objection by Sen. Kelly. You were a "do pass" in Judiciary.

Would you like this scheduled? It can be scheduled for the 18th along with force accounts, or it can be held at a time that the schedule is clear.



SENATOR SCOTT OGAN Alaska State Legislature

Senate District #1 Lazy Mountain * Butte * Chugiak * Peters Creek * Fairview Loop

Knik-Goose Bay * Big Lake * Houston * Willow * Talkeetna * Trapper Creek

State Capitol, Room 103, Juneau Alaska 99801 * (907) 465-3878 * 1 (800) 862-3878 * Fax (907) 465-3265

Senator_Scott_Ogan@legis.state.ak.us

Http://www.akrepublicans.org/ogan

January 31, 2003

The Honorable John Cowdery, Chair
Senate Transportation Committee
Alaska State Legislature
State Capitol, Room 101
Juneau AK 99801

RE: SB 53 (Revoke Driver's License for Fatal Accident)

Dear Senator ~~Cowdery~~:

JOHN

Senate Bill 53 was introduced January 31, 2003 and referred to your committee. I am writing to request that the bill be scheduled for a hearing at your earliest convenience.

Included with this letter of request are the bill, my sponsor statement, a sectional analysis, and supporting documents. Other letters of support may be forthcoming.

If you have any questions about the bill or require further information, please feel free to call me at any time. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Scott Ogan", followed by a horizontal line.

Senator Scott Ogan

Enclosures

RECEIVED BY
FEB 05 2003



SENATOR SCOTT OGAN **Alaska State Legislature**

Senate District H Lazy Mountain * Butte * Chugiak * Peters Creek

Knik-Goose Bay * Big Lake * Houston * Willow * Talkeetna * Trapper Creek

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Senator_Scott_Ogan@legis.state.ak.us

Http://www.akrepublicans.org/ogan

January 31, 2003

SPONSOR STATEMENT

SB53: REVOKE DRIVER'S LICENSE FOR FATAL ACCIDENT

The bill requires that a court revoke the driving privileges of a driver who violates the traffic laws, and the violation contributes to an automobile accident that results in a death. Drivers who violate traffic laws may not have committed a crime, but if their poor driving causes the death of another person, their driving privileges should be revoked. Several traffic deaths occur in Alaska every year when a driver causes the death of another by poor driving and the only consequence is a small fine. This is very difficult for the families of the victims. Under these circumstances, Senate Bill 53 provides revocation of driving privileges for a period of up to three years. This period would be concurrent with any other revocation that might apply, and the court may grant a limited license if the court finds the limited license will not endanger the public.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 5, 2003

SUBJECT: Traffic accident involving a fatality (SB 53)

TO: Senator Scott Ogan
Attn: Karen

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

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

Section 1. Requires the Alaska Supreme Court and municipalities to establish rules that require a court appearance when a person is cited for a traffic offense that involves a motor vehicle accident that results in a fatality.

Section 2. Provides for driver's license revocation of up to three years when a person is convicted of violating traffic laws, the violation caused an accident and a fatality, and the violation was a significant contributing cause of the accident. Allows the court to grant limited license privileges, and allows a family representative of the person who died in the accident to testify.

Section 3. Provides for indirect amendment of Rules 43 and 43.1 of the Alaska Rules of Administration and provides that section 1 only takes effect if section 1 receives a two-thirds majority vote of each house of the legislature.

Section 4. Provides that the Act applies to accidents that occur on or after the effective date of the Act.

Section 5. Effective date.

MFF:med
03-106.med

February 5, 2003

Senator Scott Ogan
State Capitol
Juneau AK 99801

In Support of Senate Bill 53

Our family has experienced the unfortunate and untimely loss of our son through a motor vehicle accident in March of 1994. At the time of his accident, there were and still are no laws in affect in our state to deal with this situation.

The young man involved in the accident received no punishment of any kind, again, because of the way our laws are set up in the state of Alaska. He did not receive anything but a basic slap on the hand and was involved in another vehicle accident in the months following this accident.

As one can imagine, this was very disturbing to our family. We attended his hearing at traffic court in Palmer and even the judge apologized to us for being unable to do anything due to the way the laws read in our state. He received 300 hours of community service for the deaths of two young men and then was later involved in another vehicular accident involving the deaths of two more young men.

Had this law been in place at that time, at least this young man would not have been behind the wheel of a car and been involved in further accidents. There were witnesses to the accident but all of this was to no avail. They were not even allowed to testify at the hearing.

In summary, we not only had to deal with the unexpected loss of our nineteen-year-old son, but also the emotional trauma of knowing an injustice had taken place and no recompense was to follow.

There needs to be some kind of accountability put on the driver in this type of accident. I believe SB 53 would be a step in the right direction and put the responsibility on the driver.

Sincerely,

Nancy Campbell
P.O. Box 3075
Palmer AK 99645



SENATOR SCOTT OGAN Alaska State Legislature

ACTUAL CASES SUPPORTING SB53

Here are four actual cases of the type that SB53 is intended to address.

Case 1 – A man driving along Glenn Highway into Anchorage one summer afternoon fell asleep at the wheel and violated a traffic regulation by driving onto the bike path. His car struck and killed a woman riding her bicycle on the bike path.

Case 2 – A woman drove from Anchorage to Cooper Landing, where she violated a traffic law by crossing the double yellow line and crashing into another car head on, killing the driver of the other car.

Case 3 – A teenage girl drove down Dimond Boulevard in Anchorage late at night. She violated a traffic law by driving over the median and collided with another vehicle head-on, killing the driver of the other car.

Case 4 – On a winter night, the driver of a pick-up truck on C Street in Anchorage was going under the posted speed limit, but still too fast for icy conditions. This is a violation of the state's "basic speed" law, which prohibits driving faster than is safe under existing road and weather conditions. The driver lost control and crossed into the opposite lane, hitting another car, and killing Albert Taylor's son.

In all these cases, alcohol and drug tests were negative, and there were no reported erratic driving prior to the collisions. There was no evidence of mechanical causes for the collisions.

No criminal prosecutions were possible because the state could not prove that the driver acted recklessly or with criminal negligence.

Rule 43. Bail Forfeiture Schedules.

(a) **Procedure for Adopting Bail Forfeiture Schedule.** The supreme court will consider adopting a bail forfeiture schedule only when so authorized by statute. The agency charged with enforcement under a statute for which a bail forfeiture schedule has been authorized shall forward to the administrative director its recommendations for a proposed schedule, listing offenses by number, describing the offenses, and proposing a bail forfeiture amount. The proposed schedule shall be accompanied by commentary explaining the basis for the agency's recommendation, and by a copy of the proposed citation form. The supreme court shall consider the recommendation, and shall determine whether to adopt a bail forfeiture schedule, and if so, shall determine which offenses are amenable to disposition by bail forfeiture and whether the bail forfeiture amounts are appropriate. The administrative director shall notify the agency when an order adopting the schedule is issued.

(b) Procedures for Amending Bail Forfeiture Schedules.

(1) By July 1 of each year, each agency charged with enforcement under a statute for which a bail forfeiture schedule has been authorized shall forward to the administrative director of the Alaska Court System its written recommendation concerning whether the schedule must be amended to reflect any legislative and regulatory changes, or whether policy considerations warrant revisions. Any proposed amendments shall be accompanied by commentary. The supreme court shall consider the agency's recommendations and determine by October 1 whether to adopt them. If it will be impractical for the court to respond by that date, the administrative director will inform the agency of the date by which the response can be expected. The administrative director shall notify the agency when an order amending the schedule is issued.

(2) In addition to the provisions of paragraph (b)(1), an agency may request a bail forfeiture schedule amendment whenever the need arises.

(3) Any person or agency may request a bail forfeiture schedule amendment at any time by proposing an amendment in writing to the chief justice or to the administrative director.

(Adopted by SCO 651 effective July 1, 1985; amended by SCO 1180 effective July 15, 1995)

Rule 43.1. Traffic Bail Forfeiture Schedule.

Pursuant to AS 28.05.151, the following vehicle and traffic offenses are amenable to disposition without court appearance upon payment and forfeiture of the bail amounts listed. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the bail amount for that offense listed below. An offense for which a bail forfeiture amount has been established shall be charged on a citation which meets the requirements of District Court Criminal Rule 8(e) and shall not be filed, numbered or processed as a criminal case.

Effective April 30, 1999, the bail amounts listed below are doubled for violations of AS 28 and regulations adopted under AS 28 committed within a highway work zone, as that term is defined in AS 28.40.100 and 13 AAC 40.010(b).

Pursuant to AS 28.15.131 and 13 AAC 04.008, a citation for an offense listed as "Corr" must be dismissed (or voided) if proof of correction is presented to an inspection official within the time allowed. If the required repair is not made, the offense may be disposed of without court appearance upon payment and forfeiture of the bail amount listed.

Effective August 27, 1998, as a condition of the disposition of an offense without appearance, the defendant shall pay the surcharge prescribed in AS 12.55.039 in addition to the bail forfeiture amount listed below. A court may allow a defendant who is unable to pay the surcharge to perform community work under AS 12.55.055(c) in lieu of the surcharge. The surcharge must be deposited into the general fund in a separate account designated for such surcharges.

Sec. 28.05.151

CITATIONS FOR SCHEDULED VEHICLE AND TRAFFIC OFFENSES.

(a) The supreme court shall determine by rule or order those motor vehicle and traffic offenses, except for offenses subject to a scheduled municipal fine, that are amenable to disposition without court appearance and shall establish a scheduled amount of bail, not to exceed fines prescribed by law, for each offense. A municipality shall determine by ordinance the municipal motor vehicle and traffic offenses that may be disposed of without court appearance and shall establish a fine schedule for each offense.

(b) The supreme court shall establish a scheduled amount of bail allowing disposition of a citation for a violation of AS 28.05.095 without court appearance.

(c) *Effective January 1, 1996* The supreme court shall require as a condition of the disposition of an offense without appearance that a person charged with any offense for which a bail forfeiture amount has been adopted shall pay a surcharge of \$10 in addition to the bail forfeiture amount established by the supreme court. The surcharge required to be paid under this subsection shall be deposited into the general fund and accounted for under AS 37.05.142.

Sec. 28.15.261

DEFINITIONS FOR AS 28.15.221 - 28.15.261.

In AS 28.15.221 - 28.15.261

(1) "licensee" includes, but is not limited to, an applicant for a new driver's license if the applicant's license was revoked under AS 28.15.221 - 28.15.261;

(2) "traffic laws" means statutes, regulations, and municipal ordinances governing the driving or movement of vehicles.

Sec. 28.15.181

COURT SUSPENSIONS, REVOCATIONS, AND LIMITATIONS.

(a) Conviction of any of the following offenses is grounds for the immediate revocation of a driver's license, privilege to drive, or privilege to obtain a license:

- (1) manslaughter or negligent homicide resulting from driving a motor vehicle;
- (2) a felony in the commission of which a motor vehicle is used;
- (3) failure to stop and give aid as required by law when a motor vehicle accident results in the death or personal injury of another;
- (4) perjury or making a false affidavit or statement under oath to the department under a law relating to motor vehicles;
- (5) operating a motor vehicle or aircraft while intoxicated;
- (6) reckless driving;
- (7) using a motor vehicle in unlawful flight to avoid arrest by a peace officer;
- (8) refusal to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle, commercial motor vehicle, or aircraft while intoxicated, or authorized under AS 28.35.031(g);
- (9) driving while license, privilege to drive, or privilege to obtain a license, canceled, suspended, or revoked, or in violation of a limitation.

(b) A court convicting a person of an offense described in (a)(1) - (4), (6), or (7) of this section shall revoke that person's driver's license, privilege to drive, or privilege to obtain a license for not less than 30 days for the first conviction, unless the court determines that the person's ability to earn a livelihood would be severely impaired and a limitation under AS 28.15.201 can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public. If a court limits a person's license under this subsection, it shall do so for not less than 60 days. Upon a subsequent conviction of a person for any offense described in (a)(1) - (4), (6), or (7) of this section occurring within 10 years after a prior conviction, the court shall revoke the person's license, privilege to drive, or privilege to obtain a license and may not grant the person limited license privileges for the following periods:

- (1) not less than one year for the second conviction; and
- (2) not less than three years for a third or subsequent conviction.

(c) A court convicting a person of an offense described in (a)(5) or (8) of this section arising out of the operation of a motor vehicle, commercial motor vehicle, or aircraft shall revoke that person's driver's license, privilege to drive, or privilege to obtain a license. The revocation may be concurrent with or consecutive to an administrative revocation under AS 28.15.165. The court may not, except as provided in AS 28.15.201, grant limited license privileges during the minimum period of revocation. The minimum periods of revocation are:

- (1) not less than 90 days if the person has not been previously convicted;
- (2) not less than one year if the person has been previously convicted once;
- (3) not less than 3 years if the person has been previously convicted twice;
- (4) not less than 5 years if the person has been previously convicted more than

twice.

(d) A court convicting a person of an offense described in (a)(9) of this section shall revoke that person's driver's license, privilege to drive, or privilege to obtain a license for not less than the minimum period under AS 28.15.291(b)(4).

(e) *Repealed, Sec. 34 ch 119 SLA 1990.*

(f) The court may terminate a revocation for an offense described in (a)(5) or (8) of this section if

(1) the person's license, privilege to drive, or privilege to obtain a license has been revoked for the minimum periods set out in (c) of this section; and

(2) the person complies with the provisions of AS 28.15.211(d) and (e).

(g) In this section, "previously convicted" has the meaning given in AS 28.35.030.

Sec. 28.15.165

ADMINISTRATIVE REVOCATIONS AND DISQUALIFICATIONS RESULTING FROM CHEMICAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS.

(a) A law enforcement officer shall read a notice, and deliver a copy of it, to a person operating a motor vehicle, commercial motor vehicle, or aircraft, if a chemical test administered under AS 28.33.031(a) or AS 28.35.031(a) or (g) produces a result described in AS 28.35.030(a)(2); a chemical test administered under AS 28.33.031(a) produces a result described in AS 28.33.030(a)(2); or the person refuses to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) or (g). The notice must advise that

(1) the department intends to revoke the person's driver's license, privilege to drive, or privilege to obtain a license, refuse to issue an original license to the person, or disqualify the person;

(2) the person has the right to administrative review of the action taken against the person's license or determination not to issue an original license;

(3) if the person has a driver's license or a nonresident privilege to drive, the notice itself is a temporary driver's license that expires seven days after it is delivered to the person, except that if the person was operating a commercial motor vehicle the person will be ordered out of service for 24 hours under AS 28.33.130;

(4) revocation of the person's driver's license, privilege to drive, or privilege to obtain a license, a determination not to issue an original license, or a disqualification of the person, takes effect seven days after delivery of the notice to the person unless the person, within seven days, requests an administrative review.

(b) After reading the notice under (a) of this section, the law enforcement officer shall seize the person's driver's license if it is in the person's possession and shall deliver it to the department with a sworn report describing the circumstances under which it was seized. If the person was operating a commercial motor vehicle, the officer shall order the person out of service under AS 28.33.130.

(c) Unless the person has obtained a temporary permit or stay of a departmental action under AS 28.15.166, if the chemical test administered under AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's license, privilege to drive, or privilege to obtain a license, shall refuse to issue an original license, and, if the chemical test administered under AS 28.33.031(a) produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a chemical test authorized under AS 28.33.031(a), shall disqualify the person. The department's action takes effect seven days after delivery to the person of the notice required under (a) of this section, and after receipt of a sworn report of a law enforcement officer

(1) that a chemical test administered under AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a chemical test administered under AS 28.33.031(a) produced a result described in AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) or (g);

(2) that notice under (a) of this section was provided to the person; and

(3) describing the

(A) circumstances surrounding the arrest and the grounds for the officer's belief that the person operated a motor vehicle, commercial motor vehicle, or aircraft while intoxicated in violation of AS 28.33.030 or AS 28.35.030; or

(B) grounds for the officer's belief that the person operated a motor vehicle or commercial motor vehicle that was involved in an accident causing death or serious physical injury to another person.

(d) The period of revocation of a driver's license, privilege to drive, privilege to obtain a license, refusal to issue an original license, or disqualification shall be for the appropriate minimum period for court revocations under AS 28.15.181(c) or court disqualifications under AS 28.33.140. A department hearing officer may grant limited license privileges in accordance with the standards set out in AS 28.15.201 to a person whose driver's license or nonresident privilege to drive was revoked under this section. The department may terminate a revocation imposed under this section and issue a driver's license to the person, if the license, privilege to drive, or privilege to obtain a license was revoked for an offense described in AS 28.15.181(a)(5) or (8) and the person meets the conditions set out for termination of a revocation by the court under AS 28.15.181(f).

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 53
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title License revocation for traffic offense BRU Motor Vehicles
Involving fatality Component _____
 Sponsor Senator Ogan
 Requester (S) TRA Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	1.0	1.0	1.0	1.0	1.0	1.0

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

POSITIONS	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 There will be approximately 10 revocations per year and the reinstatement fee for each driver is \$100. The 10 revocations is only a very small fraction of the total revocation workload and will not require extra expenditure.

Prepared by: Kevin Jardell, Assistant Commissioner Phone (907)-465-5568
 Division Dept. of Admin. Date/Time 2/17/03 1:37 PM
 Approved by: Mike Miller, Commissioner Date 2/17/2003
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 53
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to disposition of a traffic offense BRU Criminal Division
involving the death . . . revocation of driving privileges. . ." Component All
 Sponsor Senator Ogan
 Requester Senate Transportation Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill would allow the revocation of driving privileges for up to three years of a person who drives a vehicle, including a commercial vehicle, that is involved in a fatal traffic accident if the person is convicted of a violation of traffic laws in connection with the accident, and the violation of the traffic laws was a significant contribution to the accident that resulted in the death of another person.

 Because conviction of the traffic offense may result in loss of a valuable license, the person has a right to a jury trial. However, a jury trial on traffic matters is a relatively short time commitment. The Department of Law estimates less than a dozen of these trials will occur statewide per year, and does not anticipate a measurable fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division: Attorney General's Office Date/Time 2/11/03 9:12 AM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/11/2003
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 53
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title License revocation for traffic offense BRU Legal and Advocacy Services
Involving fatality Component Public Defender Agency
Sponsor Senator Ogan
Requester (S) TRA Component No. 1651

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	***	***	***	***	***	***
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY2003) cost: ***
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	***	***	***	***	***	***
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
The Public Defender Agency's operations may be affected by this bill. Drivers generally do not have a right to a court-appointed attorney in traffic violation proceedings. However, the Alaska Supreme Court has held that a person has a right to a jury trial (and court-appointed counsel) for offenses which may result in loss of valuable license such as a driver's license. Baker v. City of Fairbanks, 471 P.2d 386 (Alaska 1970). The Public Defender Agency does not anticipate many of these cases and does not have a reliable way of estimating the costs. Therefore, the fiscal impact is indeterminate.

Prepared by: Linda K. Wilson, Deputy Director
Division: Public Defender Agency
Approved by: Mike Miller, Commissioner
Agency: Department of Administration

Phone (907)-334-4416
Date/Time 2/17/03 1:30 PM
Date 2/17/2003



Sen. John J. Cowdery, Chair

Senate Transportation Committee

Call: 465-4921 Fax: 465-2069

CONTENTS OF PACKET: SB 53

- A SB 53 version 23-LS0432\A**
- B Fiscal Notes (Administration, Dept. of Law)**
- C Sponsor Statement**
- D Sectional Analysis**
- E Cases in support of legislation**
- F Legal Information**
- G Statute Packet**

- Sen. Pres. THERRIAULT
- Sen. WAGONER
- Sen. LINCOLN
- Sen. OLSON

Taylor, Albert (Lewis)
From: Taylor, Albert (Lewis)
Sent: Monday, February 10, 2003 9:52 AM
To: 'Senator Scott Ogan'
Subject: FW: Senate Bill #53

-----Original Message-----

From: Taylor, Albert (Lewis)
Sent: Monday, February 10, 2003 9:46 AM
To: 'Senator Scott Ogan'
Subject: Senate Bill #53

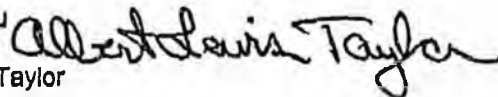
Senator Ogan

I was lead to believe that driving is a privilege. If a motor vehicle operator / driver chooses to drive irresponsibly, (breaking traffic laws and killing others), then their driving privileges should be taken from them. There are too many deaths on our roads and highways brought on by negligence due to the actions of careless and irresponsible drivers.

Senate Bill #53 would be a step towards holding these irresponsible and careless drivers accountable for there actions. Also, it will be an encouragement for others to drive more responsibly.

I would like to encourage you and your fellow legislatures to pass this bill.

Thank You



Albert Lewis Taylor
POB111033
Anchorage Alaska

(907-3447486)

tiak@Alaska.net

Rule 43. Bail Forfeiture Schedules.

(a) **Procedure for Adopting Bail Forfeiture Schedule.** The supreme court will consider adopting a bail forfeiture schedule only when so authorized by statute. The agency charged with enforcement under a statute for which a bail forfeiture schedule has been authorized shall forward to the administrative director its recommendations for a proposed schedule, listing offenses by number, describing the offenses, and proposing a bail forfeiture amount. The proposed schedule shall be accompanied by commentary explaining the basis for the agency's recommendation, and by a copy of the proposed citation form. The supreme court shall consider the recommendation, and shall determine whether to adopt a bail forfeiture schedule, and if so, shall determine which offenses are amenable to disposition by bail forfeiture and whether the bail forfeiture amounts are appropriate. The administrative director shall notify the agency when an order adopting the schedule is issued.

(b) Procedures for Amending Bail Forfeiture Schedules.

(1) By July 1 of each year, each agency charged with enforcement under a statute for which a bail forfeiture schedule has been authorized shall forward to the administrative director of the Alaska Court System its written recommendation concerning whether the schedule must be amended to reflect any legislative and regulatory changes, or whether policy considerations warrant revisions. Any proposed amendments shall be accompanied by commentary. The supreme court shall consider the agency's recommendations and determine by October 1 whether to adopt them. If it will be impractical for the court to respond by that date, the administrative director will inform the agency of the date by which the response can be expected. The administrative director shall notify the agency when an order amending the schedule is issued.

(2) In addition to the provisions of paragraph (b)(1), an agency may request a bail forfeiture schedule amendment whenever the need arises.

(3) Any person or agency may request a bail forfeiture schedule amendment at any time by proposing an amendment in writing to the chief justice or to the administrative director.

(Adopted by SCO 651 effective July 1, 1985; amended by SCO 1180 effective July 15, 1995)

Rule 43.1. Traffic Bail Forfeiture Schedule.

Pursuant to AS 28.05.151, the following vehicle and traffic offenses are amenable to disposition without court appearance upon payment and forfeiture of the bail amounts listed. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the bail amount for that offense listed below. An offense for which a bail forfeiture amount has been established shall be charged on a citation which meets the requirements of District Court Criminal Rule 8(c) and shall not be filed, numbered or processed as a criminal case.

Effective April 30, 1999, the bail amounts listed below are doubled for violations of AS 28 and regulations adopted under AS 28 committed within a highway work zone, as that term is defined in AS 28.40.100 and 13 AAC 40.010(b).

Pursuant to AS 28.15.131 and 13 AAC 04.008, a citation for an offense listed as "Corr" must be dismissed (or voided) if proof of correction is presented to an inspection official within the time allowed. If the required repair is not made, the offense may be disposed of without court appearance upon payment and forfeiture of the bail amount listed.

Effective August 27, 1998, as a condition of the disposition of an offense without appearance, the defendant shall pay the surcharge prescribed in AS 12.55.039 in addition to the bail forfeiture amount listed below. A court may allow a defendant who is unable to pay the surcharge to perform community work under AS 12.55.055(c) in lieu of the surcharge. The surcharge must be deposited into the general fund in a separate account designated for such surcharges.

SB

54

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/31/03

FURTHER: Labor and Commerce

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Transportation Committee considered SENATE BILL NO. 54

SB 54 OVERTIME PAY FOR AIRLINE EMPLOYEES

"An Act exempting flight crew members of certain air carriers from overtime pay requirements."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
01-				

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>[Signature]</i> dson	✓			
<i>[Signature]</i> thewriault	✓			
<i>[Signature]</i> Wagner	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i> John J. Coudery Coudery	✓			



Sen. John J. Cowdery, Chair

Senate Transportation Committee

Call: 465-4921 Fax: 465-2063

CONTENTS OF PACKET: SB 54

- A SB 53 version 23-LS0438\D**
- B Fiscal Note**
- C Sponsor Statement**
- D ERA aviation letter in support**
- E Background flow chart:**
- F Some statutes**

- Sen. Pres. THERRIault
- Sen. WAGONER
- Sen. LINCOLN
- Sen. OLSON

A BILL

FOR AN ACT ENTITLED

“An act relating to an exemption from the requirement for payment for overtime for certain employees in the airline industry; and providing for an effective date.”

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

Section 1. AS 23.10.060(d) is amended by adding a new paragraph to read:

(19) work performed by a flight crew member employed by an interstate air carrier subject to subchapter II of the Railway Labor Act (45 U.S.C. 181-188); for purposes of this exemption, flight crew is defined as the pilot, co-pilot, flight engineer and flight attendant.

Section 2. This Act takes effect immediately under AS 01.10.070(c).

Attachment 1

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 54
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Overtime Pay for Airline Employees BRU: Labor Standards & Safety
Sponsor: Senator Olson Component: Wage and Hour
Requester: Senate TRA Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill codifies existing department policy based on the Attorney General's 1980 interpretation of the exempt status of flight crews employed by air carriers subject to 45 USC 181 - 188.

The State of Alaska overtime laws are pre-empted by the federal Railway Labor Act. Since the early 1980's the department has held that flight crews on subject airlines are not under the state's jurisdiction with regard to state overtime laws. However, the department's opinion has not stopped former employees from bringing private lawsuits. By placing this into the law, the likelihood of such private causes of action will be greatly reduced and air carriers will be saved the considerable expense of having to defend themselves in court.

Prepared by: Hall Denton, Acting Director Phone: 465-4855
Division: Labor Standards & Safety Date/Time: 2/14/03 3:04 PM
Approved by: Greg O'Claray, Commissioner Date: 02/14/03
Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 54
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Overtime Pay for Airline Employees BRU: Labor Standards & Safety
Sponsor: Senator Olson Component: Wage and Hour
Requester: Senate TRA Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill codifies existing department policy based on the Attorney General's 1980 interpretation of the exempt status of flight crews employed by air carriers subject to 45 USC 181 - 188.

The State of Alaska overtime laws are pre-empted by the federal Railway Labor Act. Since the early 1980's the department has held that flight crews on subject airlines are not under the state's jurisdiction with regard to state overtime laws. However, the department's opinion has not stopped former employees from bringing private lawsuits. By placing this into the law, the likelihood of such private causes of action will be greatly reduced and air carriers will be saved the considerable expense of having to defend themselves in court.

Prepared by: Hali Denton, Acting Director Phone: 465-4855
Division: Labor Standards & Safety Date/Time: 2/14/03 3:04 PM
Approved by: Greg O'Claray, Commissioner Date: 02/14/03
Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 94
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Overtime Pay for Airline Employees BRU: Labor Standards & Safety
 Component: Wage and Hour
 Sponsor: House Transportation by Request
 Requester: House L&C Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill codifies existing department policy based on the Attorney General's 1980 interpretation of the exempt status of flight crews employed by air carriers subject to 45 USC 181 - 188.

The State of Alaska overtime laws are pre-empted by the federal Railway Labor Act. Since the early 1980's the department has held that flight crews on subject airlines are not under the state's jurisdiction with regard to state overtime laws. However, the department's opinion has not stopped former employees from bringing private lawsuits. By placing this into the law, the likelihood of such private causes of action will be greatly reduced and air carriers will be saved the considerable expense of having to defend themselves in court.

Prepared by: Hall Denton, Acting Director Phone: 465-4855
 Division: Labor Standards & Safety Date/Time: 2/14/03 3:05 PM
 Approved by: Greg O'Clary, Commissioner Date: 02/14/03
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

Alaska State Legislature



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Juneau, Alaska 99801-1182
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SENATOR DONALD C. OLSON

DISTRICT S

Alakanuk
Ambler
Anaktuvuk Pass
Atkasuk
Barrow
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Chevak
Deering
Diomedes
Elim
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Nunam Iqua
Pitka's Point
Point Hope
Point Lay
Savoonga
Scammon Bay
Selawik
Shaktolik
Shishmaref
Shungnak
St. Mary's
St. Michael
Stebbins
Teller
Toksook Bay
Tununak
Unalakleet
Wainwright
Wales
White Mountain

SB 54 SPONSOR STATEMENT

By Senator Olson

I introduced SB 54 to bring certainty to the interpretation of existing federal and state wage and hour statutes as they pertain to payment of overtime in the air transportation industry. Because of the uniqueness of their working conditions, flight crews have been considered professionals that are exempt from the standard 8 hour work day, 40 hour week and associated overtime pay requirements [AS 23.10.055(9)]. In conjunction with the maximum flight hour requirements set by the Federal Aviation Administration, these exemptions at both the state and federal level have allowed the industry to structure wage and hour schedules best suited to the work requirements of their flight crew personnel.

Several Alaska court decisions have raised a question about the correct application of state wage and hour laws and the application of overtime exemptions. Indeed, the confusion has stimulated other court challenges.

SB 54 explicitly adds flight crews to the list of occupations and employment situations that are exempt from Alaska's overtime wage and hour requirements. The bill cites the provisions of the federal Railway Labor Act that governs air carriers in order to provide consistency between federal and state applications of the exemption.

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ALASKA AIR CARRIERS ASSOCIATION

929 E. 81st, Suite 108
Anchorage, Alaska 99518
(907) 277-0071 Fax (907) 277-0072

February 18, 2003

The Honorable John Cowdery
Chairman
Alaska Senate Transportation Committee
State Capitol
Juneau AK 99801-1182

Dear Senator Cowdery:

The Alaska Air Carriers Association considers the passage of SB 54 a priority.

Current practice among the majority of our members is to accept the Alaska Department of Labor, Wage and Hour Administration's interpretation of flight crew as exempt from overtime rules. This approach to calculating payroll is an industry standard used in all other states.

During an informal poll of members, it was found that flight crew from the various Alaska-based companies prefer their exempt status primarily due to their employers' abilities to create flexible work schedules.

SB 54 brings stability to Alaska law as applied to flight crews of air carriers governed by the Railway Labor Act. Passage will ensure that the State's executive branch interpretation of the Alaska's wage and hour overtime law is the same as that applied by Alaska courts. SB 54 will also harmonize Alaska with industry practices nationwide.

The bill applies to the flight crews of any air carrier in the state engaged in interstate work, foreign work, or carriage of United States Post Office mail. The only flight crews unaffected are those who perform work for air carriers who operate only in-state charter/air taxi work.

Please consider the AACGA as a resource during the debate of SB 54.

Sincerely,

Karen E. Casanovas
Executive Director

- AKA MADRA
- ALASKA AIRWAYS
- ALASKA BARGE SERVICE
- ALASKA AVIATION TECHNOLOGY
- ALASKA BUS SERVICE
- ALASKA CARDO SERVICE
- ALASKA CENTRAL EXPRESS
- ALASKA FLIVERS
- ALASKA REPAIR AND SERVICES
- ALASKAN ADVENTURES
- ARCTIC ALASKA
- ARCTIC CIRCLE AIR
- ARCTIC TRANSPORTATION SERVICES
- BARREN AVIATION
- BEAR AIR
- BEARING AIR
- BRAN AIR
- BRANCH RIVER AIR SERVICE
- BOATON DAY AIR SERVICE
- C-AIR
- COASTAL HELICOPTERS
- CFA AIR SERVICE
- CAPP AIRWAYS AIR SERVICE
- CLEARWATER AIR
- CRANE AIR
- CRUISE AIRWAYS
- ERA AVIATION
- EVERGREEN HELICOPTERS
- F.S. AIR SERVICE
- FIDELITY & PLUMB
- FLY GIRL AIR
- FOUR E AIR
- FRESHWATER ADVENTURES
- FRONTIER PLUMB SERVICE
- GADSDEN FLYER AIR
- GRANT AVIATION
- HARBOR AVIATION
- HAWK AIRWAYS
- HIGH ADVENTURE AIR SERVICE
- HULLAY AIR BUS
- HUMMER AIR
- ICEBERG AIR SERVICE
- ILUMNA AIR TAXI
- INLET AIR
- JAPAN AIRLINES
- JULIA AIR
- KACHEMAK AIR SERVICE
- KATMAI AIR
- LAKE & PENINSULA AIRLINES
- LARK CRAB AIR
- LARAVIC FLYING SERVICE
- LEADERS EDGE AVIATION
- LYNDEN AIR CARDO
- MENIABY AIR SERVICE
- MOOSE AIR
- NEB SEARCH & RESCUE
- NORTHERN AIR CARDO
- NORTHERN AIR FUEL
- NORTHERN FRONTIER HELICOPTERS
- ONION AIR SERVICE
- PENINSULA AIRWAYS
- POLAR EXPRESS
- PORUM AIR
- RUSTY PLUMB SERVICE
- SEASIDE AVIATION
- SEANAW AIR
- SEASIDE AIR SERVICE
- SEY TRAVELERS ALASKA
- SOUTHCENTRAL AIR
- SEVEN AIRWAYS
- SHORELINE AVIATION
- TALON AIR SERVICE
- TAMARACK FLYING SERVICE
- TANANA AIR SERVICE
- TACHAN AIR SERVICE
- TALON FLYING SERVICE
- TUCKER AVIATION
- ULTIMATE ADVENTURES
- UMAT ENTERPRISES
- WILLAG AVIATION
- WARRIOR ADVENTURES
- WARD AIR
- WINGS
- WINGS OF ALASKA
- WILSON MOUNTAIN AIR
- WYCH AIR SERVICE





Era Aviation, Inc.

6160 Carl Brady Drive
Anchorage, Alaska
99502

FEB 07 2003

February 3, 2003

The Honorable Con Bunde
The Honorable Donny Olson
State Capitol
Juneau AK 99801-1182

RE: Proposed Overtime Exemption Bill for Interstate Air Carriers

Dear Senators Bunde and Olson:

Thank you for agreeing to sponsor the attached proposed legislation regarding the exemption of flight crew personnel employed by Interstate Air Carriers from the state's overtime exemption laws. The Alaska Air Carriers Association (AACCA) has made this legislative amendment a priority and fully supports its passage.

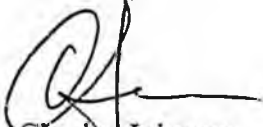
Era has become increasingly concerned with the uncertainty associated with the appropriate wage and hour treatment of its flight crews under Alaska wage and hour laws. The Alaska Department of Labor, Wage and Hour Section has assisted the Alaska based interstate air carrier industry by providing a chart that outlines the treatment of air carriers under the Alaska Wage and Hour Act. (See Attachment 2). Era is paying its flight crew employees in a manner consistent with this directive. However, the Alaska state courts have clouded this approach. In Dayhoff v. Temsco Helicopters, Inc., 848 P2d 1367 (Alaska 1993), the Alaska Supreme Court concluded that a helicopter pilot was owed overtime, while in a later Era case, an Alaska Superior Court judge denied overtime to a fixed wing co-pilot. (See Attachments 3 and 4). The non-Alaska based interstate air carriers, such as Alaska Airlines, Delta Airlines, and various air cargo carriers, do not really have a stake in this issue because the pay of their flight crews is governed by collective bargaining agreements, which preempt the state's overtime laws. Era, like most of the Alaska based interstate air carriers, is non-unionized. Thus, there are no labor agreements that take us outside the state's wage and hour laws. Even though we adhere to the Alaska Department of Labor's pay policy guidance, there is no guarantee that a court will not choose to interpret the state's overtime laws differently in the future, thereby exposing us to liability for two years of back wage recalculations.

We believe that the proposed exemption would remove this uncertainty by codifying the existing position of the Alaska Department of Labor, Wage and Hour Section administrators. The proposed exemption would not change the way the law is currently being administered. The codified exemption would however, provide a clear, consistent rule for the interstate air carrier industry and remove any uncertainty as to how a court would address overtime issues in the future.

Letter to The Honorable Con Bunde and
The Honorable Donny Olsen
February 3, 2003
Page 2 of 2

Thank you for your assistance in this matter. If you have any questions about this letter or its attachments, please feel free to give me a call at 907-266-8361.

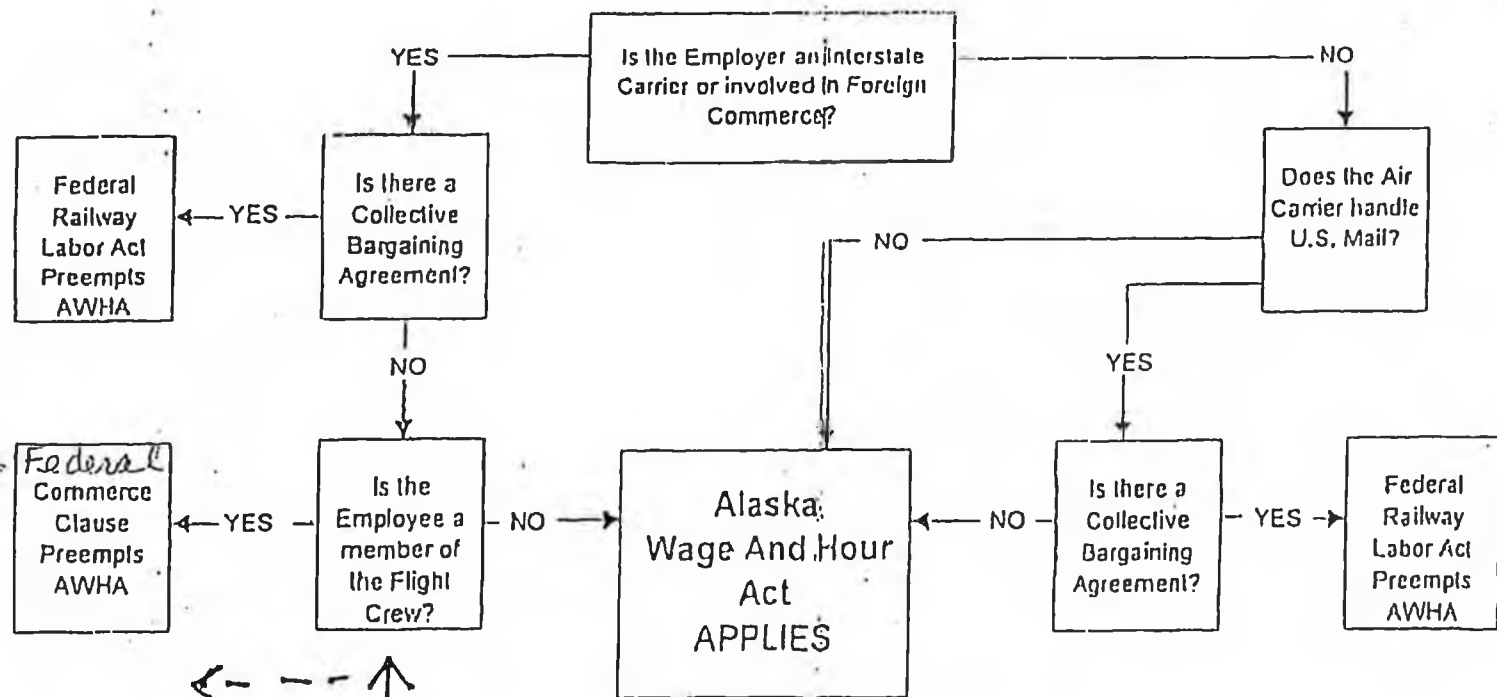
Sincerely,



Charles Johnson
President

Cc: Karen Casanovas, Executive Director AACA
Paul Landis, Senior Vice President, Era
Kip Knudson, Manager of Government Affairs, Era
Marcia Davis, General Counsel, Era
David Parish

AIR CARRIERS & The Alaska Wage And Hour Act (AWHA)



← - - - ↑
 proposed
 (19) captures
 this exemption
 from AWHA

DAYHOFF VS. TEMSCO HELICOPTERS, INC.

1372 Alaska

848 PACIFIC REPORTER, 2d SERIES (1993)

burden to prove the exemption is applicable. *Reeves v. International Tel. & Tel. Corp.*, 357 F.Supp. 295, 298 (W.D.La.1973), *aff'd*, 616 F.2d 1342 (5th Cir.1980), *cert denied*, 449 U.S. 1077, 101 S.Ct. 857, 66 L.Ed.2d 800 (1981). "Exemptions are to be narrowly construed against the employer." *Id.* at 297. "If there is a reasonable doubt as to whether an employee meets the criteria for exemption, the employee should be ruled non-exempt." *Adam v. United States*, 26 Cl.Ct. 782, 786 (Cl.Ct.1992). All four elements must be met before an employee is found exempt. *Id.*

The parties agree that Dayhoff was a salaried employee, compensated on a *fac* basis. The parties dispute the level of education required of Dayhoff, what Dayhoff's primary duty was, how to characterize the discretion exercised by Dayhoff, and if the character of work was intellectual or physical.

Dayhoff claims the knowledge required to become a commercial pilot is not the type of advanced learning needed to qualify as a professional. Dayhoff also claims his primary duty was not professional because approximately 62% of his time was spent performing non-aviation duties. Even while flying, Dayhoff had no discretion as his actions were controlled by superiors. The only discretion and judgment exercised was in the physical operation of the aircraft.

Temasco argues that Dayhoff's primary duty was to be a pilot. He was hired as a pilot and his time was spent flying or waiting to fly. Temasco contends that being a commercial helicopter pilot requires knowledge of an advanced type. Further, Temasco argues that a commercial helicopter pilot is required to consistently exercise discretion and judgment.

[12, 13] The applicability of exemptions are questions of fact to be determined considering the individual's duties and other qualifications, and not upon how the employer classified the employee. *Reeves*, 357 F.Supp. at 302-03. A trial court must make a finding of fact in determining an employee's status. *Dalheim v. KDFW-TV*, 918 F.2d 1220, 1226, 1228 (5th Cir.

1990). While both parties moved for summary judgment on this issue, we first review the grant of summary judgment in favor of Temasco. We must view the facts in a light most favorable to Dayhoff. Dayhoff was primarily self-educated. He claims that for approximately 62% of his time he performed non-aviation duties. Dayhoff had no significant authority to control decisions regarding flight assignments or routes. The only discretion Dayhoff exercised was in the physical operation of his aircraft. Viewing the facts in the light most favorable to Dayhoff, Temasco does not meet the burden of showing that the exemption is applicable. Dayhoff can, at most, be classified as a highly trained technician and not as a professional.

Next we review the denial of Dayhoff's motion for summary judgment. For this purpose we view the facts in the light most favorable to Temasco. It is undisputed that Dayhoff obtained his commercial helicopter license through self study and obtained his flight instructor certificate after only ten hours of formal instruction. This is not the type of advanced study required to classify an employee as a professional. Further, the discretion exercised by Dayhoff in flying a helicopter is not the type of discretion which characterizes a person as a professional for purposes of this exemption.

On the basis of the foregoing we conclude that the FAA does not preempt the AWhA, that the AWhA is not violative of the commerce clause, and that Dayhoff is not a professional for purposes of the AWhA exemption.

B. DAYHOFF DOES NOT HAVE A CAUSE OF ACTION UNDER THE ALASKA LITTLE DAVIS-BACON ACT (ALDBA).

1. ALDBA provides a private cause of action.

ALDBA was modeled after the Davis-Bacon Act, 40 U.S.C. § 276 (1988). ALDBA stipulates that a contractor or subcontractor on a public construction contract must pay its employees the prevailing

Lindfors v. Era Aviation, Inc., Case No. 3AN-95-10086 Civil, Alaska
Superior Court, Third Judicial District (1998)

defendant's witnesses not credible does not mean that the defendant acted in bad faith.

2. The plaintiff's motion for JNOV regarding her overtime claim is DENIED. The evidence, considered in a light most favorable to the defendant, supports a jury finding that Ms. Lindfors was an exempt professional employee under AS 23.10.055(9). A

Ms. Lindfors participated in hundreds of hours of specialized training prior to obtaining her co-pilot position. That training included intellectual disciplines such as mathematics, aerodynamics, weather, navigation and similar studies. 8 AAC 15.910(a)(11)(A). From this evidence the jury could reasonably conclude that Ms. Lindfors was not a technician, but a highly trained professional charged with exercising substantial judgment and discretion to protect the lives and safety of ERA's commercial airline passengers. *Id.*; 8 AAC 15.910(a)(11)(B)(i).²

3. The defendant's motion for JNOV, new trial or remittitur is DENIED.

ERA's motion for JNOV restates legal arguments raised and decided during trial. Those arguments are rejected for the reasons stated at trial and as follows. Ms. Lindfors' complaint, amended complaint and other pretrial pleadings provided notice to ERA that Lindfors was seeking recovery for disparate treatment in promotions, retaliation for filing a Human Rights Commission complaint and constructive discharge for intolerable working conditions. Although Lindfors' proposed jury instructions combined these claims, the court had discretion and the responsibility to instruct the jury regarding each separate claim, if doing

²The court's 9/28/98 order denying Lindfors' motion for summary judgment addresses the other issues germane to the professional employee exemption.

SB

71

Alaska State Legislature

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Senate District X

MEMORANDUM

Date: February 20, 2003

To: Senator John Cowdery, Chairman
Senate Transportation Committee

From: Senator Ben Stevens *BSt*

Re: Hearing Request for Senate Bill 71

I respectfully request a hearing for Senate Bill 71 in the Senate Transportation Committee. Senate Bill 71 requires the Department of Transportation as well as municipalities to expend no more than 10 percent of federal-aid highway funds for transportation enhancement projects.

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 2/18/03

FURTHER: Finance

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Transportation Committee considered SENATE BILL NO. 71

SB 71 TRANSPORTATION ENHANCEMENT PROJECTS

"An Act relating to funding for transportation enhancement projects."

and recommends:

- be replaced with _____ CS SB 71 (05831H) (TRA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DOT&PF	2/27		✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Richard Lincoln</i>				✓
<i>Thomas Olson</i>	✓			
<i>Steve Hennault</i>			✓	
<i>Wagner</i>	✓			
CHAIR: <i>John Coe</i>	✓			

DANA L. OLSON
HC-30 BOX 5438
WASILLA, AK 99654

SB 71 (Senate transportation) Feb 27, 2002.

I believe the objectivity of
AS 19.05.125 purpose is in conflict
with SB 71. AS 19.05.125 "A common
defense to United States"

I raise the issue of sufficiency of
the term municipality to tax in order
to address homeland security, and
thus "A common defense to United States"

The word transportation enhancement
project has no definition under this
chapter and is too vague and overbroad.
Please define specifically this term.

I expect that means to address
homeland security under NATIONAL
Security can not be ~~not~~ abridged
by AK Legislature.

Sincerely
Dana L. Olson

Alaska  Program
Trails & Recreational Access for Alaska

How much is just right?

Alaska DOT&PF

February 27, 2003

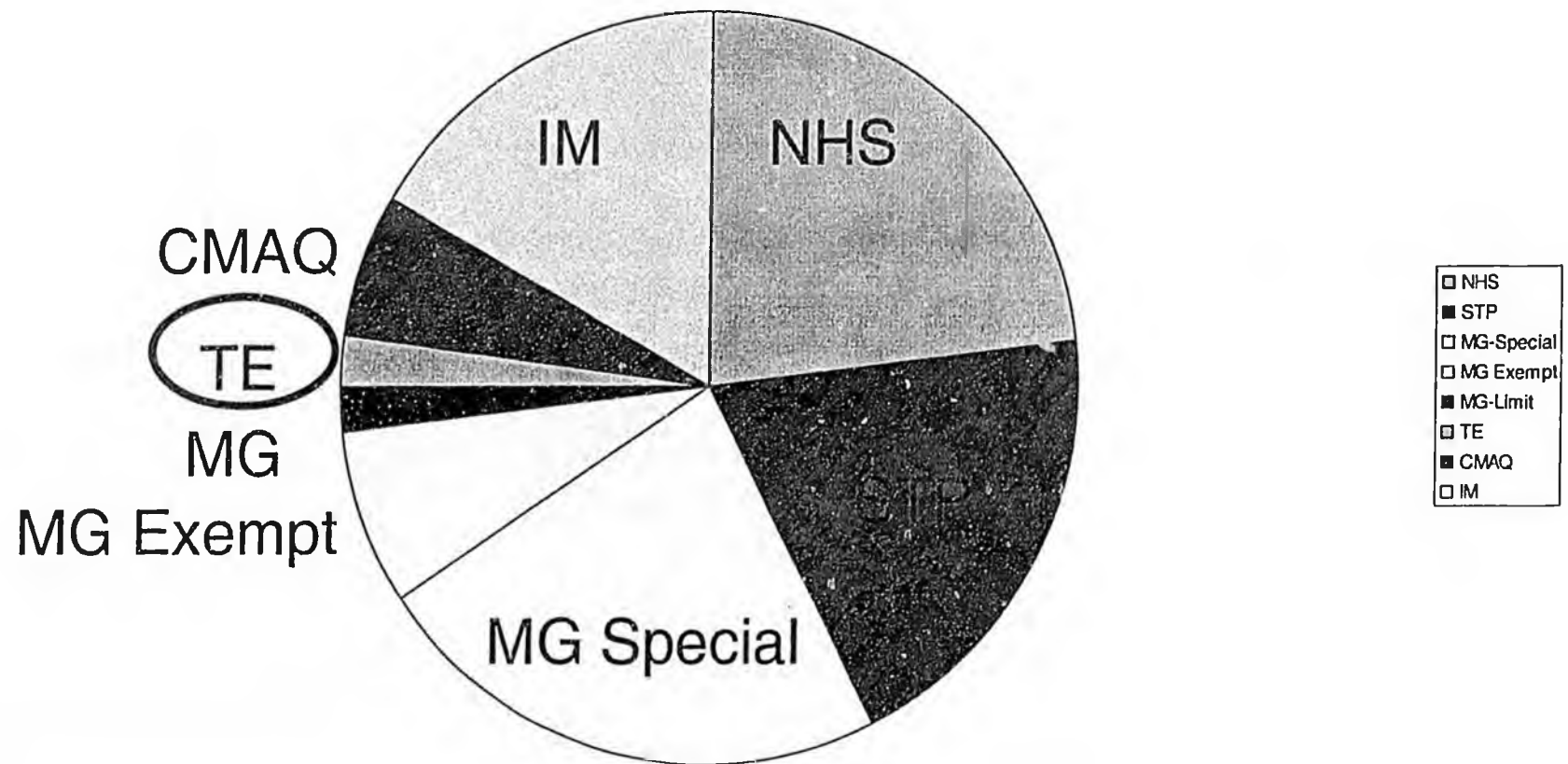
Background on TRAAK

- Established as policy in 1995
- Established as regulation in 2002
- Approximates the TE (transportation enhancement) requirement in federal law
- TRAAK generally includes:
 - Trails
 - Waysides and rest stops
 - Interpretative facilities
 - Landscaping and amenities

Transportation Enhancement

- Required minimum spending level (10%) in FHWA rules
- 10% TE rule applies to one funding category, STP, not the entire FHWA funding program
- TE sub-category created in 1991
- The STP category was reduced in 1997, thus reducing TE funding also.

Federal Apportionments FFY '02



In FFY 2002 TE = 2.5% of total \$302 Million

FFY 2003 and 2004 apportionment levels not yet know.

Public Interest in TRAAK

- Very strong interest in communities.
- Often more popular than road projects. ?
- Other benefits:
 - Safety (example Kasilof River wayside)
 - Tourism (waysides, reststops)
 - Air Quality (urban trails)
 - Public health, recreation (trails and waysides)

Kasilof River Access Safety Problem



TE Required vs. Actual TRAAK

• TE Minimum		• TRAAK Program	
• '98	\$5.3	• '98	\$17.3
• '99	\$6.6	• '99	\$25.9
• '00	\$7.5	• '00	\$28.4
• '01	\$8.2	• '01	\$28.0
• '02	\$8.4	• '02	\$28.4
• '03	\$7.2	• '03	\$30.2 Original
		• <u>'03</u>	<u>\$22.0 Amended</u>

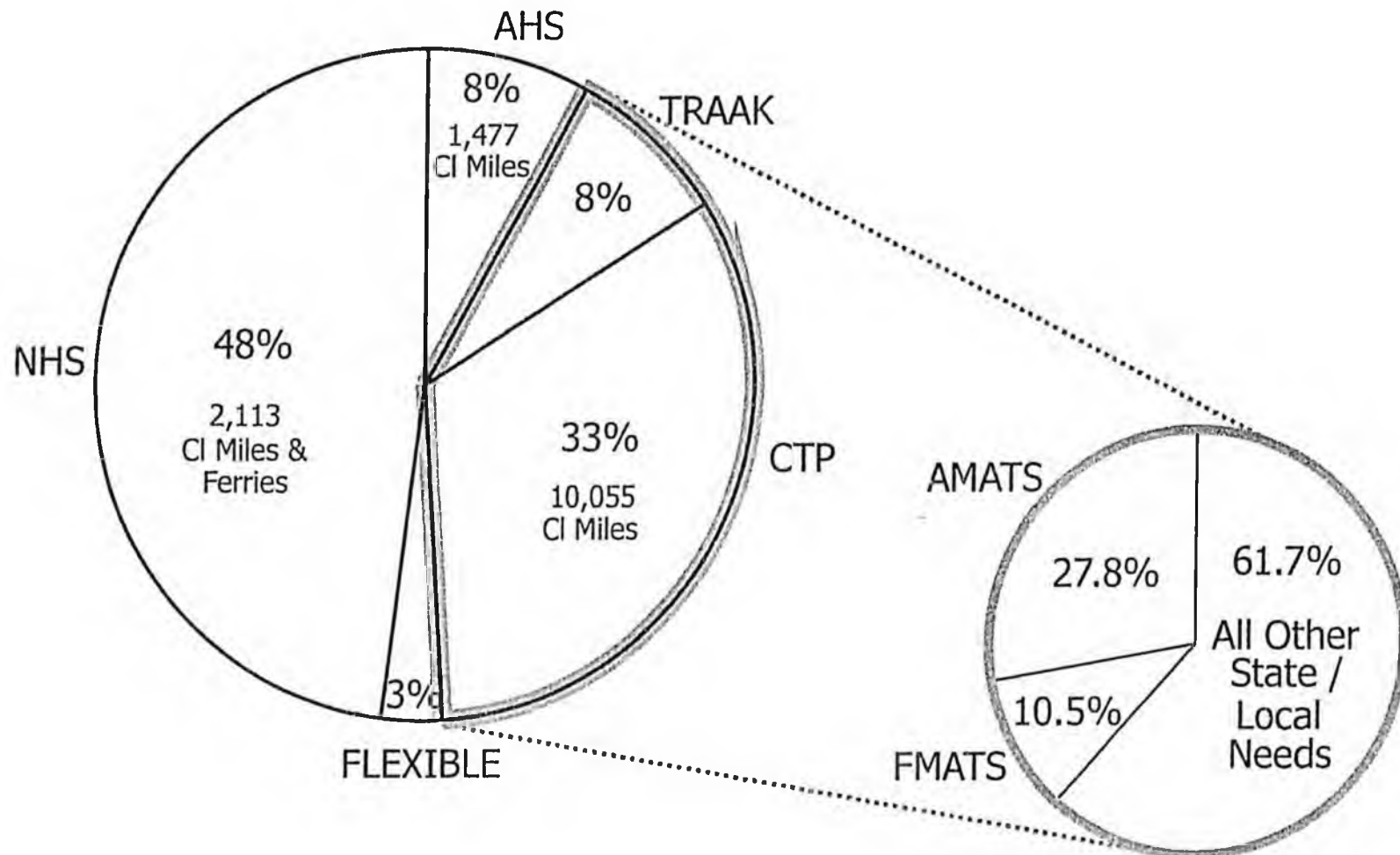
Dollars in millions.

TRAAK Nominations 2004 and Beyond

- Central Region*: 52 projects, \$65.9 M
- Northern Region: 75 projects, \$56.7 M
- Southeast Region: 21 projects, \$15.0 M
- Total backlog = \$330 Million

* Excludes AMATS as they do not nominate to the state list.

Distribution of Federal-Aid Transportation Formula Funds Per 17 AAC 05.155-200



Comparison to Other Needs

- Community Transportation backlog = \$3.12 Billion
- Ratio of CTP to TRAAK (need vs. funds)
- Need ~ 9:1
- Funding ~ 4:1

Example of Pressing Highway Need Elsewhere

Only road to Lake
and Peninsula
Borough, including
6 villages.
Identified freight
savings of >\$3
million annually!



**Neglected bridge, Chinkelyes Creek
Williamsport-Pile Bay Road
(Replaced by Bailey Bridge in 2002)**

Conclusion

- Funds applied to TRAAK program are not in balance with other allocations:
 - Tremendous reservoir of unmet roads needs
 - New resource and community access roads program
 - Several mega projects now being advanced
- Department intends to reduce TRAAK program in 2004-2006 STIP, regardless

Potential Impact to MPOs

- Reducing TRAAK funds will not impact MPOs funding levels if:
 - Funding is allocated to CTP program
 - Allocation to NHS or AHS would result in reduction to MPOs
- Department proposes to reallocate TRAAK to CTP

Alaska State Legislature

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Senate District N

SPONSOR STATEMENT

Committee Substitute for SB 71: Transportation Enhancement Projects

Federal law, TEA-21, and its predecessor, ISTEA, mandate that states expend at least 10% of federal Surface Transportation Program funds on enhancements such as trails and landscaping. Over the past several years, the State of Alaska has expended amounts well beyond the minimum requirements for enhancements projects that could otherwise be applied to roadway construction and improvement projects. CS for Senate Bill 71 decreases the amounts allocated for the TRAAK program and other enhancement projects to be in line with federal minimum requirements to free up millions of dollars to be available for roadway construction and improvement projects.

The Committee Substitute for Senate Bill 71 proposes to reduce the Department of Transportation's allocation of non-restricted federal apportionments to projects classified under the Trails and Recreational Access Program (TRAAK). Under current DOT regulations, the department allocates at least 8% percent to TRAAK projects; CS for SB 71 reduces the allocation to not more than 4%. The bill redirects the other 4% into the DOT allocation for projects classified under the Community Transportation Program, increasing this program's allocation to 37%.

Administrative Order #161 of the previous administration in 1996 established the Trails and Recreational Access for Alaska (TRAAK) program to address features such as trails, scenic highways, recreational access points and interpretive facilities. From 1998 to 2003, over \$150 million was allocated for the TRAAK projects while the federal minimum for transportation enhancement (i.e. trails, landscaping scenic beautification) expenditures was \$43 million; more than a 200% increase. These expenditures do not include separated bike paths or waysides that were included in individual construction projects in the National Highway System program, the Alaska Highway system or Community Transportation Program.

Only a municipality that is federally recognized as a Municipal Planning Organization (MPO) would be impacted by this section (b) of this legislation, which are Anchorage and Fairbanks. In 1998, the Anchorage Metropolitan Area Transportation Solutions (AMATS) adopted a policy of programming 15% of its transportation funding allocation for enhancements. The three-year average at 15% for transportation enhancements from 2000-2002 Transportation Improvement Program averaged roughly \$5.5 million. The Department of Transportation is expecting the Anchorage share of TEA-21 federal-aid transportation funds to increase within the next Statewide Transportation Improvement Program. With the anticipated overall increase, 10% of the three-year average of federal-aid highway funds allocated to AMATS during 2004-06 will be roughly \$5.8 million, slightly more than what was allocated during 2000-2002.

An Overview of TRAAK Accomplishments

November 2002

Since its inception, the TRAAK program and Citizen's Advisory Board have provided a forum for interagency cooperation and public participation in transportation, trail and outdoor recreation projects and programs administered by the State of Alaska, and promoted the development of a statewide network of trails for recreation and transportation. Key participants in the TRAAK program include the Governor, the TRAAK Citizen's Advisory Board, Alaska Department of Transportation & Public Facilities, Alaska Department of Natural Resources, Alaska Department of Fish & Game, Alaska Department of Community & Economic Development, and most importantly, Alaska's citizens.

The cooperative efforts of the TRAAK team have made significant improvements in the quality of life and economy of many Alaska communities by enhancing facilities enjoyed by Alaska residents and visitors through the following accomplishments:

- The addition of over 170 miles of new pathways for bicyclists, pedestrians, skiers and other users.
- Upgrades to more than 250 miles of the National Highway System to include wide, paved shoulders ideal for long distance bicyclists.
- The construction of sidewalks, boardwalks, pathways, pedestrian crossings, etc. in more than 40 communities from Akutan to Yakutat.
- Waysides, rest areas, trailheads, and scenic overlooks have been constructed or improved on every major highway in the state.
- New and improved interpretive exhibits that tell of Alaska's native culture, fisheries, wildlife, geology and natural history.
- The connection of more than 70 communities in Alaska with 3500 miles of marked trails through the Winter Trail Marking projects funded through the flexible funding provisions of ISTEA and TEA-21.
- Improved access throughout the state for those with disabilities.
- The development of Alaska Recreational Trails Plan and designation of the Alaska Trails System.
- The development of SEATrails, a regional trails system in Southeast Alaska.
- Support for the designation of Scenic Byways in the state.
- The award of 154 Recreational Trails grants totaling \$2.4 million to local trail clubs, municipalities, and agencies for both motorized and non-motorized trail development, improvement and maintenance.

Many TRAAK projects have received state and national recognition for their design excellence and for their benefit to community or state. For example, the Haines Chilkat Bald Eagle Wayside and Trail projects received national recognition in 2000 from the American Association of State Highway and Transportation Officials (AASHTO) and other organizations for supporting quality of life projects. AASHTO Executive Director John Horsley, who gave the awards on behalf of six transportation and environmental organizations, said, "These state transportation agencies understand the importance of managing these programs to build better communities. We are proud of their accomplishments and encourage other states to take notice of their outstanding achievements."

TRAAK Projects

The following highlights many of the projects by type that were funded through the TRAAK Program between 1996 and 2002 that have improved the quality of life for many Alaskans.

Trail Marking & Signage

- ♦ Mark and maintain the Kuskokwim 300 Trail.
- ♦ Mark the Eureka Summit Trail in Eureka.
- ♦ Install markers between Wasilla Lake and Lake Lucille.
- ♦ Install signs and markers along Lake Louise trails.
- ♦ Establish markers for trails in and out of Kotlik.
- ♦ Install interpretive signs for the Gruening State Historic Park in Juneau.
- ♦ Install Gold Rush Centennial signs in Mat-Su.
- ♦ Install northern region gold rush interpretive signs in Fairbanks.
- ♦ Install markers along the Denali Highway Trail between Cantwell and Paxson.

Pathways & Trails

- ♦ Construct and improve trails at Goldeneye Duck Pond in Fairbanks.
- ♦ Improve trails to White Mountain east of Nome.
- ♦ Improve the Nancy Lake-Housion-Big Lake trails system.
- ♦ Upgrade various trails in Homer including the Beluga Slough Trail.
- ♦ Develop ski trails in the Golden Fin area of Seward.
- ♦ Construct trail improvements designed by area students in downtown Glennallen.
- ♦ Improve and expand 29 miles of trails between Sand Point and the Rec. Cove Lake area.
- ♦ Upgrade and sign trails in Tenakee Springs.
- ♦ Construct a trailhead and footbridge for the Rabbit Creek Trail.
- ♦ Develop alternative access for motorized recreational vehicles to the Upper Mineral Creek Valley near Valdez.
- ♦ Improve recreational trails in Beaver.
- ♦ Improve trail access at Halibut Cove and Point Bridget State Park in Southeast Alaska.
- ♦ Upgrade the Otterbahn Trail in Seldovia.
- ♦ Develop a waterfront trail in the Orca Inlet Recreational Wayside Area in Cordova.
- ♦ Restore the historic Sunnahae Trail in Craig.
- ♦ Improve trailhead at Creamer's Field Migratory Waterfowl Refuge near Fairbanks.
- ♦ Restore the Summit Lake Trail on Kodiak Island.
- ♦ Improve the Red Shirt Lake Trail.
- ♦ Improve the Point MacKenzie/Little Su Trailhead.
- ♦ Improve the Crooked Lake/Iron Dog Trail in the Mat-Su Borough.
- ♦ Expand the Starrigavan Valley Trail in Sitka.
- ♦ Improve the Front Road/Silver Salmon Lake Trail.
- ♦ Construct pedestrian facilities in downtown Ketchikan.
- ♦ Construct a separate pathway along Tongass Highway near Saxman.
- ♦ Construct the Sawmill Creek Road scenic turnout in Sitka.
- ♦ Construct a pathway, boardwalk and viewpoints along the Haines Highway in the Chilkat Bald Eagle Preserve. (2000 TEA Challenge Award for Excellence)
- ♦ Rehabilitate Anchorage ski trails.
- ♦ Complete the Kenny Lake pathway on the Edgerton Highway.
- ♦ Construct two-miles of trails at Shuyak Island State Park on Kodiak Island.
- ♦ Improve trails for subsistence and wood gathering near Fort Yukon.
- ♦ Construct the Twin Bears Camp Overlook Trail.
- ♦ Construct the Odiak Pond Boardwalk and Gazebo in Cordova.

- ♦ Construct a 48-mile snowmobile recreation trail in the Chena Hot Springs area
- ♦ Upgrade 80-miles of trails in the Kachemak Bay trail system.
- ♦ Construct a pathway for students in Craig.
- ♦ Construct the Unity Trail between Kenai and Soldotna.
- ♦ Reroute and construct snowmobile trails in Hatcher Pass.
- ♦ Construct the Homer Spit pathway.
- ♦ Improve the Angel Rocks trail near Fairbanks.
- ♦ Improve 18-miles of the Salcha trail system and construct a pedestrian bridge.
- ♦ Improve the Montana Creek trail in Juneau.
- ♦ Improve the Spaulding Meadow trail in Juneau.
- ♦ Tonsina Creek Footbridge repairs and tidal trail improvements in Seward.
- ♦ Upgrade the Aurora Dog Musers winter trail near Wasilla.
- ♦ Improve trailhead and trail facilities at Alpenglow Ski Area
- ♦ Improve the trailhead at the sled dog trail in Beach Lake Park in Anchorage.
- ♦ Improve trails within the Edmonds Lake Park in Anchorage.
- ♦ Construct trails at Isatquaq Lagoon in Anchorage.
- ♦ Improve access and repair the Lake Creek snowmobile trail in Juneau.
- ♦ Improve the Lower Lunch Falls Loop trail.
- ♦ Reconstruct portions of the Thimbleberry Lake trail near Sitka.
- ♦ Reconstruct portions of the Ruth Arcand Park trail.
- ♦ Construct trails at the Friends of Eagle River Nature Center.
- ♦ Construct the Poopdeck trail in Homer.
- ♦ Construct the Eagle Beach trailhead and wayside in Juneau.
- ♦ Improve trails in Halibut Cove near Homer.
- ♦ Improve the Birch Hill trail in Fairbanks with lighting.
- ♦ Improve the Hay Flats trail in Palmer.
- ♦ Construct the Yakutat Rail Trail.
- ♦ Restore and upgrade the University of Alaska Fairbanks trail system.
- ♦ Develop the Blueberry Hills Snowmachine trail in Juneau.
- ♦ Rebuild 1.5 miles of trail in Ft. Abercrombie State Historical Park.

Mapping and Easement Recording

- ♦ Record trail easements in the Matanuska Valley and Kenai Peninsula.
- ♦ Survey and map trails statewide.
- ♦ Develop maps and brochures for trails in the Chena Flood Control Project in Fairbanks, and the Lake Louise recreational trail system.
- ♦ Survey the Copper Basin 300 Historical Trail near Glennallen.
- ♦ Vacate and realign a portion of the Iditarod Trail in the Mat-Su Borough.
- ♦ Trail right-of-way recording by DNR.

Pedestrian Bridges

- ♦ Tudor Road multi-purpose trail bridge
- ♦ Replace the Mill Loop Trail Bridge in Independence Mine State Historic Park.
- ♦ Construct pedestrian bridges at Mendenhall River, Little Willow Creek, Kashwitna River, and Sheep Creek.
- ♦ Construct three bridges for creek crossings in the Homer area.

Waysides

- ♦ Wrangell Petroglyphs Wayside in Wrangell
- ♦ Bird Point Wayside near Girdwood
- ♦ Totem Bight State Historic Park wayside in Ketchikan.
- ♦ Castle Hill Scenic Overlook in Sitka.
- ♦ Denali view scenic overlooks in Denali State Park.

- ♦ Kepler-Bradley Scenic Overlook in Mat-Su.
- ♦ Matanuska Glacier Overlook on the Glenn Highway
- ♦ Solstice Point and Yukon Crossing Wayside at Mile 57 of the Dalton Highway
- ♦ Lake Aleknagik Wayside in Southwestern Alaska
- ♦ Tanana River Native Veteran's Memorial Bridge Wayside in Nenana
- ♦ Solstice Point and Yukon Crossing Wayside on the Dalton Highway
- ♦ Multiple waysides in Hatcher Pass
- ♦ Petersburg Bojer Wikan Fishermen's Memorial Park
- ♦ Chilkat Bald Eagle Haines Council Grounds
- ♦ Worthington Glacier Scenic Viewing Area on the Richardson Highway
- ♦ McHugh Creek Overlook on the Seward Highway
- ♦ Channel Drive Wayside in Juneau
- ♦ East Fork Chulitna wayside in Cantwell
- ♦ Cooper Landing scenic overlook and boat ramp

Educational

- ♦ Trail etiquette and safety education in the Fairbanks Northstar Borough.
- ♦ Trail hardening research by the RTCA.
- ♦ Trail design and construction training for volunteers statewide.
- ♦ Develop interpretive aids for the Lowenfels Nature Trail in Anchorage.
- ♦ Avalanche safety education workshops.
- ♦ Develop and install information kiosks and safety brochures in the Lower Susitna Drainage trail.

Other

- ♦ Complete the Four Corners Tram in Girdwood.
- ♦ Restore the Lavelle Young Wheelhouse.
- ♦ Construct numerous enhancements to the Seward Highway Scenic Corridor.
- ♦ And many other projects that support the improvement and maintenance of Alaska's trails.

THE
FOLLOWING
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COPIES

Establishing Anticipated Funding Levels

One of the key elements of the STIP is the federal requirement that it be based on anticipated funding for transportation from all sources. The federal-aid surface transportation funding program, TEA-21, expires September 30, 2003. We have assumed that the new authorizing law will be similar.

Estimate of Surface Transportation Funding – Figure 5

Year		2004	2005	2006	2007	2008	2009
NHS & Ferry	48%	189.9	196.2	202.7	209.4	216.3	223.4
AHS	8%	31.7	32.7	33.8	34.9	36.1	37.2
CTP	33%	173.1	177.5	181.9	186.5	191.3	196.2
TRAAK	8%	31.7	- 32.7	33.8	34.9	36.1	37.2

All values in millions of dollars except as noted; the remaining 3% is used when strict balancing within one category is not possible.

Surface Transportation Funding Sources

Funding available to the state comes from several funding agencies, most notably the Federal Highway Administration and Federal Transit Administration. The state receives several categories of funding from each of these agencies. Each category, called apportionment, has distinct rules for project eligibility, match ratios, and other programming factors.

Tentative apportionment designations are identified for proposed projects. These apportionment assignments are estimates and are subject to change. The alpha abbreviations shown in parentheses are used in the STIP project tables to identify the apportionment planned for funding each project. The following paragraphs describe these apportionment categories, eligible project types, their apportionment code and the ratio of federal funds.

Interstate Maintenance (IM) – Funds used for resurfacing, restoration, rehabilitation and reconstruction of the Interstate Highway System.⁴ The federal funds ratio is 93.4% (i.e., 93.4% of

⁴ Alaska's unique situation, granted in federal law, 23USC Section 118(e), allow these funds to be expended on any public road.

the eligible project cost is paid for by federal funds and the remaining 6.6% is paid for by state matching funds.)

State Planning and Research (PLNG) – These funds are designated for the mandatory planning and research tasks the department undertakes including preparation of the Statewide Transportation Plan (SwTP) and State Transportation Improvement Program (STIP), statistical measurements of the transportation system (traffic volumes, pavement condition, accident locations, causes and severity, and physical characteristics of roads and highways), mapping, management systems, engineering and economic studies and applied research. The federal funds ratio is 80%.

Metropolitan Planning (URPL) – In Alaska, these funds can be used in any urban area within the state. Planning processes and special planning studies are eligible activities within this program. The federal funds ratio is 90.97%.

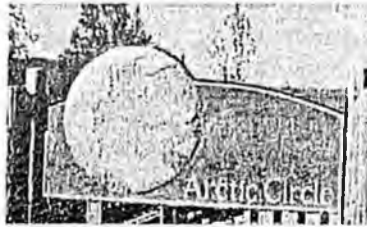
National Highway System (NHS) – A system of highways considered most important to interstate travel, national defense, connection with other modes of transportation, and are essential to international commerce.⁵ The system includes the current interstate highways and much of the old primary system. Federal law designated Alaska's final system of NHS routes in December 1995. Currently 2,100 miles of highway and 1,900 miles of ferry routes, including designated terminals and all vessels of the Alaska Marine Highway System are eligible for NHS funding. The federal funds ratio varies and is either 93.4% if spent on an interstate route, or otherwise, usually 90.97%.

Congestion Mitigation/Air Quality (CMAQ) – These funds are for projects, which can be proven to reduce traffic congestion and/or improve air quality in federal-designated nonattainment areas. Projects such as park and ride lots, transit bus replacement, vehicle inspection and maintenance program improvements, signal coordination, ride-sharing and paving for dust control, qualify for these funds. Carbon monoxide-related projects have priority over

⁵ Alaska's unique situation, granted in federal law, 23USC Section 118(e), allow these funds to be expended on any public road.

airborne dust related projects under the rules applicable to this apportionment. The federal funds ratio varies and is either 90.97% or 100% depending upon the specific category of work.

Safety (SA) – Safety projects include hazard elimination, railroad crossing, and railroad protective devices. In order to qualify, the project must be identified through the Highway Safety Improvement Program, which seeks to identify hazardous locations throughout the state based on accident histories. The federal funds ratio varies and is either 90% or 100%



Dalton Highway – Arctic Circle

depending upon the specific category of work.

Transportation Enhancements (TE) – Transportation enhancements have been of particular interest to the general public and users of nontraditional transportation related facilities. The Governor has appointed a TRAAK Citizens Advisory Committee to recommend policy and programs to the Commissioner for implementation and operation of transportation enhancements. The federal funds ratio is 90.97%.

Transportation enhancement activities are defined as: "*with respect to any project or the area to be served by the project, any of the following activities if such activity relates to surface transportation:*

1. *Provision of facilities for pedestrians and bicycles;*
2. *Provision of safety and educational activities for pedestrians and bicyclists;*
3. *Acquisition of scenic easements and scenic or historic sites;*
4. *Scenic or historic highway programs (including the provision of tourist and welcome center facilities);*
5. *Landscaping and other scenic beautification;*
6. *Historic preservation;*

7. *Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals);*
8. *Preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails);*
9. *Control and removal of outdoor advertising*
10. *Archaeological planning and research*
11. *Environmental mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality which maintain habitat connectivity; and*
12. *Establishment of transportation museums.*

Surface Transportation Program (STP) – The funds may be used on projects ranging from new construction to resurfacing, and may also be used for transit projects.⁶ The federal funds ratio varies typically 93.4% if spent on interstate routes or 90.97% otherwise. (For simplicity, we include in this category, other federal-aid highway program funds which have equal flexibility, such as Minimum Guarantee.)

Scenic Byways – This is a small category designated for planning, design and development of scenic byways programs on existing highways. The funds Alaska receives under this program are based on successful competition with applicants nationwide. The federal funds ratio is 80%.

Ferry Boat Discretionary Funds (FBD) – Each year, the Federal Highway Administration receives applications from states for the nationwide allocation of Ferry Boat Discretionary funds. Projects must be for the construction or improvements to ferryboats or ferry terminal facilities on National Highway System routes. Funds are available only in the year approved. The federal funds ratio is 80%. Alaska does not anticipate funding from this source at the present

⁶ Alaska's unique situation, granted in federal law, 23USC Section 118(e), allow these funds to be expended on any public road.

time (because of the earmarked funding described below), but we routinely make application for these funds.

Ferry Boat Discretionary Funds – Alaska Earmark (FBDA) – TEA-21, Section 1207 set aside \$10 million annually for capital projects on the Alaska Marine Highway System as described in the above category. The Federal funds ratio is 80%.

High Priority (HIPRI) – In TEA-21, Section 1602, Congress earmarked funds for over 1,800 projects in many states. Alaska received over \$68 million for sixteen projects. These funds are not available for other projects. The federal share is 80%.

Bridge Discretionary Program (BDP) – This is a nationwide competitive program for rehabilitation or replacement of bridges that more than \$10 million. The bridges must be on a federal-aid highway. The federal share is 80%.

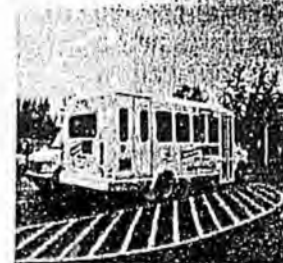
Federal Lands Highway Program – Other federal surface transportation funding programs, not generally allocated to the states, include the Park Roads and Parkways, Forest Highways, and Indian Reservation Roads. This program is managed by the Western Federal Land Highway Division, part of the Federal Highway Administration in Vancouver, Washington. In addition, there is a competitive program called Public Lands Discretionary funding which the state does often apply for. The list of projects funded from this source must be included in the STIP. The federal funds ratio is 100%. The individual programs are described below:

- Park Roads and Parkways – planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within national parks.
- Forest Highways (FH) – planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within the National Forest. These funds may be seen in conjunction with projects on Prince of Wales Island.
- Indian Reservation Roads – transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within Indian reservations.

- Public Lands Discretionary Funds (PLD) – This is a nationwide competitive program. Eligible projects are on roads that are in or adjacent to federal lands. Most of the projects will be found in the Alaska Highway System.

Transit Funding Sources (Federal Transit Administration)

Elderly and Persons with Disabilities Program (5310) – This program consists of pass-through grants to nonprofit organizations for the purchase of vehicles and related equipment, facilities and transportation services. The vehicles will be used to transport the elderly and persons with disabilities. The Alaska Department of Transportation and Public Facilities established a committee to review the projects submitted to use these funds. DOT&PF applies to FTA for approval of projects. The federal funds ratio is 80%.



Accessible Transit Van
Mat-Su Borough

Non-urbanized Area Formula Program (5311) – This program provides funding to enhance the access of people in non-urbanized areas to health care, shopping, education, employment, public services and recreation and to assist in the maintenance, development, improvement, and use of public transportation systems in rural and small urban areas. The Rural Transit Assistance Program (RTAP) is a component of this program. RTAP funds provide training and technical assistance to transit operators. The federal funds ratio is 80% for capital projects and up to 50% for operating assistance.

Capital Program (5309) – This funding provides capital assistance for fixed guideway modernization, construction and extension of new fixed guideway systems, and bus and bus-related equipment and construction projects. Urbanized and non-urbanized areas are eligible to receive these funds. Twenty percent of the funds are available on a discretionary basis for buses and bus related facilities. Eligible applicants for these funds are states and local public bodies.

Glossary of Terms

511 – New Federal Communications Commission designated three character number to access information about travel conditions. Alaska DOT&PF will coordinate this new number with the CARS database to provide accurate information about travel and road weather information. Part of the Alaska iways program.

ADOT&PF – Alaska Department of Transportation and Public Facilities – The agency within Alaska state government empowered to own, operate, plan, design and construct transportation facilities.

ADEC – Alaska Department of Environmental Conservation – The agency within Alaska state government responsible for air quality programs, including transportation air quality matters.

AHS – Alaska Highway System – The Alaska Highway System is composed of those transportation facilities, excluding those on the National Highway System, that provide greater utility to Alaska as a whole, than to individual communities.

AIP – Airport Improvement Program – A schedule of projects for airports throughout the state, funded with Federal Aviation Administration funds.

AMATS – Anchorage Metropolitan Area Transportation Study – A joint local-state planning and programming organization, designated as the Metropolitan Planning Organization for Anchorage and charged with developing a Transportation Improvement Program for the Anchorage urbanized area in compliance with the current surface transportation act (TEA-21).

AMHS – The Alaska Marine Highway System – The department's system of vessels, terminals and routes that link most of Alaska's coastal communities from the Aleutians to Southeast.

Apportionments – Program funding levels authorized by TEA-21 from the federal Highway Trust Fund. These amounts are calculated annually and distributed to states. They are available for four years, typically. Expenditures of apportionments are generally subject to and limited by annually appropriated obligation authority.

Bridge Discretionary Program – A competitive program administered by the FHWA for major bridge replacement or for new bridges that replace ferry routes.

BIA – Bureau of Indian Affairs – Some TEA-21 funds are allocated directly to the BIA for ultimate distribution to Alaska Native villages. These funds must be included in the STIP but are not controlled or allocated by the State.

CARS – Condition Acquisition and Reporting System – A web-based database, with map interface, for entering and reporting information about travel conditions. Part of the Alaska iways program.

CMAQ – Congestion Mitigation/Air Quality – A specific funding program of TEA-21 targeted to reducing air pollutants in nonattainment areas, specifically Anchorage and Fairbanks.

Conformity – A federal required process used to ascertain if proposed transportation plans or projects will reduce emissions of pollutants in areas which are considered to be in nonattainment. Generally speaking, plans, such as the TIP and STIP and individual projects must be reviewed for conformity. Absent a finding of conformity, such decisions, except for specified categories of projects, plans or projects cannot be implemented in the nonattainment areas.

CTP – Community Transportation Program – A program of the Alaska Department of Transportation and Public Facilities that addresses a wide range of community transportation modes, including rural and urban roads, and transit.

CVISN – Commercial Vehicle Information System and Network – a federal program to improve the efficiency and safety reviews of commercial vehicles involving electronic transfer of information between states, and automatic weighing and identification of commercial vehicles as they pass weigh stations. It is part of the Alaska iways program.

Discretionary Funding – Several dedicated funding sources wherein projects compete nationally including Ferry Boat, Bridge and Public Lands.

Environmental Justice – An emerging federal requirement, based on Title VI of the 1964 Civil Rights Act and Executive Order #12898, 1994. The essence of this Executive Order, pertaining to transportation issues, is the requirement that the delivery of transportation benefits shall be equitable with regard to populations protected under the Civil Rights Act.

FMATS – Fairbanks Metropolitan Area Transportation System – Portions of the City of Fairbanks, the City of North Pole, and the Fairbanks North Star Borough were designated the Fairbanks Urbanized Area by the US Census Bureau on May 1, 2002. FMATS planning organization has been in place for some time, but it will become more formal with this new urbanized area designation. It will become the designated Metropolitan Planning Organization which will select projects to be included in a metropolitan Transportation Improvement Program, similar to Anchorage.

Federal Lands Highway Program – A funding program for public highways on federal lands administered directly by the FHWA. In Alaska this program uses a three-agency project selection committee including FHWA, the US Forest Service and ADOT&PF. These funds must be included in the STIP but are not controlled or allocated by the state.

Ferry Boat Discretionary Program – A program administered by the FHWA for ferry and terminal projects. Under TEA-21 Alaska receives \$10 million annually in specified funds from the program and is further eligible for nationwide competition for the unspecified portion of the program.

FAA – Federal Aviation Administration – The federal agency of the US Department of Transportation responsible for funding airport and aviation projects.

FFY – Federal Fiscal Year – The period October 1 – September 30. For example, the FFY 2001 is the period October 1, 2000 – September 30, 2001.

FHWA – Federal Highway Administration – The federal agency of the US Department of Transportation responsible for funding highways, trails and ferry projects.

FRA – Federal Rail Administration – The federal agency of the US Department of Transportation responsible for railroad issues.

FTA – Federal Transit Administration – The federal agency of the US Department of Transportation responsible for funding transit projects.

High Priority Funding – Dedicated funds for specific projects established in federal law. Also known as demonstration (demo) or earmarked projects.

ISTEA – Intermodal Surface Transportation Efficiency Act of 1991 – An act of Congress providing funding authorization for highways, safety, and mass transportation for a six-year period for federal fiscal years 1992 through 1997. This law was responsible for some new programs, such as CMAQ and Transportation Enhancements, implementing the STIP planning requirements.

ITS – Intelligent Transportation System – A range of technologies designed to improve the effectiveness of existing and new transportation investments. There are several possible ITS applications within Alaska that are under consideration.

Iways – The department's name and logo for several intelligent transportation system projects.

MPO – Metropolitan Planning Organization – The forum for cooperative transportation decision making for an urbanized area involving multiple government agencies. In Alaska, Anchorage is the only MPO. AMATS (Anchorage Metropolitan Area Transportation Study) is the Anchorage MPO and includes representation of ADOT&PF, ADEC, and the Municipality of Anchorage. The Fairbanks urban area is now eligible to form an MPO and this effort is underway.

NAAQS – National Ambient Air Quality Standard – Standards established in the Clean Air Act for various pollutants. Those most concerning Alaska transportation issues are CO (carbon monoxide) and PM (particulate matter – dust and smoke).

Needs List – Transportation Needs and Priorities in Alaska – A document of the Alaska Department of Transportation and Public Facilities that lists all desired transportation projects in the state, including highways, ferries, trails, transit, airports, harbors, and buildings. The Needs List is used as a starting point for preparation of the STIP.

NHS – National Highway System – The most important highways and ferry routes in the United States. Congress must approve NHS designations based on recommendations by the FHWA.

Nonattainment Area – A designated geographic area, which based on long-term air quality sampling, has been found to be in nonattainment for one or more NAAQS. In Alaska, there are four nonattainment areas: Juneau-Mendenhall Valley, Anchorage, Eagle River and Fairbanks.

Obligation Authority – The total amount of federal highway funds that can be authorized for projects in a given FFY. This amount results from annual Congressional appropriations and has historically been less than the annual total program apportionments authorized by TEA-21 and predecessor legislation.

PEB – Project Evaluation Board – The board empowered to evaluate and score projects; it is a team of six managers from the Alaska Department of Transportation and Public Facilities. There is a board for surface transportation and another for aviation.

PIP – Public Involvement Procedure – An established set of procedures providing for public involvement followed in preparing the SwTP and the STIP. The PIP is required under federal regulation, and changes to the PIP must be undertaken with a public review process.

Public Lands Discretionary – A program administered by the FHWA under Federal Lands Highways for highways on public lands. Alaska can apply for nationwide competitive funds annually.

Regional Transportation Plan – Also known as an "area transportation plan", a detailed multimodal plan for a region or geographical area within Alaska prepared by the ADOT&PF. As defined, the regional transportation plans are an element of the SwTP and comprise the recommended projects for the SwTP for a given region. Several regional transportation plans are currently in progress. The plans for Southeast Alaska and Prince William Sound are complete.

RWIS – Road Weather Information System – A system of roadside sensors, communications and data management to sense, receive and portray highway travel conditions. Part of the Alaska Iways program.

SIP – State Implementation Plan – A state (ADEC) prepared plan defining how the NAAQS will be met in areas currently defined by the US EPA as not meeting national standards for air quality. Transportation elements called for in the SIP are eligible for CMAQ funds and must be implemented in the year defined in the SIP.

SIB – State Infrastructure Bank – A FHWA program originally seeded with \$2.5 million for Alaska. After depositing the seed funding and match funding, and possible other state funds into the bank, the State can use the bank to make loans, back bond issues, and accelerate State federal-aid highway projects. The bulk of the initial SIB program has been loaned to the Whittier Project and will be repaid with tunnel toll revenues.

STIP – State Transportation Improvement Program – A staged, multi-year, statewide, intermodal program of surface transportation projects which is governed by surface transportation regulations and funded primarily with surface transportation program funds. The STIP is prepared by ADOT&PF and is approved by FTA and FHWA.

SwTP – Statewide Transportation Plan – A federally required plan upon which projects in the STIP must conform. In Alaska the SwTP is a policy plan for the state as a whole. Regional plans are prepared for individual areas of the state, which outline recommended projects and are each an element of the Statewide Plan.

TEA-21 – Transportation Equity Act for the 21st Century – The most current law describing the surface transportation policy of the United States and making program allocations for funding in various categories to the states. The law is valid from 1998 – 2003.

TCM – Transportation Control Measure – A project or strategy to reduce air pollution from transportation sources. Encouraging motorists to plug in their engine heaters during cold weather can reduce carbon monoxide, and a program of public ads to encourage this behavior is a TCM.

TIP – Transportation Improvement Program – Also known as the AMATS-TIP, a subset of the STIP developed by AMATS for transportation projects within urban Anchorage. When the Fairbanks urbanized area establishes its Metropolitan Planning Organization, it too, will develop a Transportation Improvement Program.

TRAAK – Trails and Recreational Access for Alaska – A program of the ADOT&PF and the Alaska Department of Natural Resources that address trails, scenic highways, recreational access points and interpretive facilities.

WIM – Weigh in motion – Sensors placed in the highway at key locations to identify the weight of passing vehicles. This data is required to fulfill national reporting standards to the US DOT. It is also used in some cases for weight enforcement of highway loads, and to help engineers establish future design standards based on actual traffic using the roadway. Part of the Alaska iways program.