

12068

SENATE

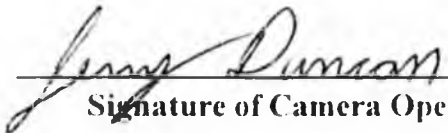
TRANSPORTATION



RECORDS CERTIFICATION



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Signature of Camera Operator

11/20/07
Date

LIST

OF

FILES

2005-2006

SENATE TRANSPORTATION COMMITTEE

LIST OF FILES (PAGE 1)

MICROFICHE #

SB 16

SB 18

SB 40

SB 63

SB 85

SB 92/HB 115

SB 133

SB 153

SB 174

SB 183

SB 261

SB 266

SB 271

SB 273

SB 300

SB 303

SB 304

SB 308

HB 42

HB 115/SB 92

HB 266

HB 268

HB 403

SB

16

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/14/05

FURTHER: Finance

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

DATE TURNED IN TO OFFICE: 4/1/05

Transportation Committee considered SPONSOR SUBSTITUTE FOR SENATE BILL NO. 16

SB 16 POWERS/DUTIES DOTPF/TRANSPORTATION PLAN

"An Act relating to the powers and duties of the Department of Transportation and Public Facilities; repealing the requirement for a long-range program for highway construction and maintenance; and repealing a requirement that public facilities comply with energy standards adopted by the Department of Transportation and Public Facilities."

and recommends:

- be replaced with _____ CS SSSB 16 (TRA)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/> Same Title	
<input checked="" type="checkbox"/> New Title <i>di data</i>	
House Bill:	
<input type="checkbox"/> Same Title	
<input type="checkbox"/> Technical Title Change	
<input type="checkbox"/> New Title w/ SCR # _____	

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOT PF	7/21/05			✓	1
DPS	3-22-05			✓	2

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Gene Theriault</i> Theriault			X	
<i>John Cawdry</i> Cawdry			X	
<i>French</i> French			X	
<i>Kookesh</i> Kookesh			X	
CHAIR: <i>Huggins</i> Huggins	X			

STATE OF ALASKA

**DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
OFFICE OF THE COMMISSIONER**

FRANK H. MURKOWSKI, GOVERNOR

3132 CHANNEL DRIVE
JUNEAU, ALASKA 99801-7898

TEXT: (907) 465-3652
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PHONE: (907) 465-3900

March 16, 2005

The Honorable Charlie Huggins
Chair, Senate Transportation
State Capitol, Room 417
Juneau, AK 99801

Dear Senator Huggins:

I respectfully request that you schedule Senate Bill 133 for a hearing before the Senate Transportation Committee. This bill would establish an ongoing statutory advisory board within the Department of Transportation and Public Facilities to make recommendations to the commissioner of DOT&PF with respect to aviation functions of state government.

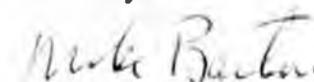
Governor Murkowski originally created the board in January 2003 under AS 44.19.028 by Administrative Order No. 204. To avoid dissolution, the board was renewed in June of 2004 through Administrative Order No. 215. This bill would continue the existence of the board without need for annual administrative renewals.

The statutory Aviation Advisory Board would have the same composition as the current 10-member interim board, with representatives of various stakeholders in aviation matters. However, one additional board member is added to provide for an uneven number of votes on the board. The governor would appoint board members to staggered three-year terms. Like the existing interim board, members would serve without compensation, other than coverage of travel and per diem expenses. All members would serve at the pleasure of the governor.

The DOT&PF manages and operates the Ted Stevens Anchorage International Airport, Fairbanks International Airport and more than 260 rural airports across the state. Steady dialogue and ongoing coordination between the state and the aviation industry are critical to the state's aviation policy as well as airport management and operations. By the same token, board members would have a continual opportunity to share their industry perspectives and make recommendations to the commissioner of DOT&PF.

I urge your prompt and favorable action on this measure.

Sincerely,



**Mike Barton
Commissioner**

FRANK H. MURKOWSKI
GOVERNOR

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March 4, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill establishing a permanent Aviation Advisory Board in statute.

This bill would establish a permanent advisory board within the Department of Transportation and Public Facilities (DOTPF) to make recommendations to the commissioner of DOTPF with respect to that department's aviation functions. On January 15, 2003, I created a temporary interim Aviation Advisory Board by Administrative Order No. 204. I reestablished the temporary board through Administrative Order No. 215, dated June 25, 2004. This bill would make the board permanent.

The permanent board would have the same composition as the current 10-member interim board, with representatives of various stakeholders in aviation matters. However, one additional board member would be added, to provide for an uneven number of members and thus avoid tie votes. The governor would appoint board members to staggered three-year terms. As is the case for members of the existing interim board, members would serve without compensation, other than coverage of travel and per diem expenses for members who are not state officers or employees. All members would serve at the pleasure of the governor.

This bill would afford the commissioner of the DOTPF valuable input from the perspective of the aviation industry and the two largest airport hub communities regarding state aviation policy and management. It would ensure that those same stakeholders would have an ongoing opportunity to advise and make recommendations to the commissioner of DOTPF.

I urge your prompt and favorable action on this measure.

Sincerely yours,

Handwritten signature of Frank H. Murkowski in cursive script.
Frank H. Murkowski
Governor

Enclosure



AIRCRAFT OWNERS AND PILOTS ASSOCIATION

March 15, 2005

Nona Wilson
Legislative Liaison
Alaska Department of Transportation and Public Facilities
3132 Channel Drive, Suite 300
Juneau, AK 99801-7898

Dear Ms. Wilson:

The Aircraft Owners and Pilots Association (AOPA) is a membership association consisting of over 400,000 pilots and aircraft owners nationwide, 4,600 of whom reside in the state of Alaska. AOPA is committed to ensuring the continued viability, growth, and development of aviation and airports in Alaska and the United States.

The Aircraft Owners and Pilots Association strongly supports Senate Bill 133, regarding the establishment of an aviation advisory board for the Department of Transportation and Public Facilities. Given the huge role that aviation plays in the transportation system of Alaska, it is vital to have a forum for the aviation community to provide input on policy and management issues to the department.

On behalf of the 4,600 AOPA members in Alaska, we thank Governor Murkowski for sponsoring this bill.

Sincerely,

Tom George
Alaska Regional Representative

TOM GEORGE
ALASKA REGIONAL REPRESENTATIVE
PERSONAL ADDRESS: P.O. BOX 83750 FAIRBANKS, AK 99708
907-388-9955 (PHONE) 907-455-9001 (FAX)
E-MAIL: tom.george@aopa.org

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 133
 (S) Publish Date: 3/7/05

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title: Establish Aviation Advisory Board RDU: Administration & Support
in Statute Component: Commissioner's Office
 Sponsor: House Rules
 Requester: Governor's Office Component No.: 530

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Department of Transportation has issued a zero fiscal note for this legislation due to the fact that DOT/PF has already requested \$20,000 of general funds in its 2006 operating budget. The amount would cover board member per diem and travel, and minor room rental and supplies expenses.

Prepared by: Nona Wilson Phone: 465-3904
 Division: Legislative Liaison, DOT&PF Date/Time: 2/28/05 1:39 PM
 Approved by: Mike Barton Date: 2/28/2005
 Agency: Commissioner, DOT&PF

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION
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March 17, 2005

The Honorable Gary Stevens
Alaska State Legislature
State Capitol, Room 103
Juneau, Alaska 99801-1182

Dear Senator Stevens:

Thank you for taking the time to meet with my staff on this important legislation. As you know, the state statutes governing transportation planning have recently been used in litigation to halt or at least slow down the accomplishment of strongly supported transportation improvements.

Tragically, the litigation induced delay of the project to build a road and bridge between Iliamna and Nondalton may have led to the drowning deaths of two young men who recently attempted to cross the Newhalen River and broke through the ice. A third person only narrowly averted his death by struggling back to shore.

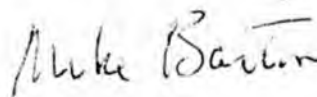
The state has spent more than \$200,000 in legal costs, and at least another \$100,000 in planning costs to comply with the court interpretation of the transportation planning duty found in AS 44.42.050(a). The current draft of CS SSSB 16 would modify this transportation planning duty to a more reasonable standard, and one that is not as readily used to halt important transportation projects. Of course, these state costs are trivial in comparison to the loss of life and physical dangers forced on Alaska citizens who must travel across thin ice in the dark of winter to seek basic consumer goods and services.

Aside from the obvious gravity of what might have been avoidable loss of life, the current statute language remains a tool available to any person or group seeking to halt or delay other needed transportation projects. This legislation is needed to ensure that the roads, buses, trails, airports, ferries and other basic transportation needs are not needlessly halted for reasons of process rather than substance.

My staff stands ready to discuss the specifics of this legislation and why we endorse its passage. I would also note that we have recently begun the administrative process to change the regulations (17 AAC 05.120-990) that govern the transportation project selection. This change, which is driven by the court ruling in question, has increased the costs of nominating projects for every community in the state. Should CS SSSB 16 become law, we will immediately take steps to remove this new and expensive regulatory burden on our communities.

I applaud your attention to this matter, and by copy of this letter to Senate leadership and committee chairs assigned to consider this legislation I hope to encourage its passage. I understand the Representative Elkins is considering introducing a companion bill, and have copied him on this letter to illustrate our support and the statewide urgency for this legislation.

Sincerely,



Mike Barton
Commissioner

cc: Senator Ben Stevens, Senate President
Senator Charlie Huggins, Chair, Senate Transportation
Representative Jim Elkins, Chair, House Transportation
Kevin Jardell, Legislative Director, Office of the Governor
Linda Hay, Deputy Legislative Director, Office of the Governor
Nona Wilson, Legislative Liaison, DOT&PF

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Senator Gary Stevens
Alaska State Legislature

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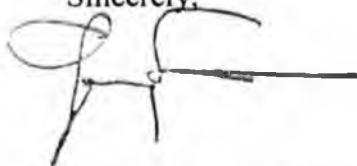
Memorandum

DT: March 14, 2005
TO: Senator Charlie Huggins
Senate Transportation Committee
FR: Senator Gary Stevens
RE: SB 16

I would like to request a Transportation Committee hearing at your earliest convenience on Senate Bill 16, "An Act relating to the powers and duties of the Department of Transportation and Public Facilities; repealing the requirement for a long-range program for highway construction and maintenance; and repealing a requirement that public facilities comply with energy standards adopted by the Department of Transportation and Public Facilities." At the suggestion of the bill drafter, and with the consent of the department, a proposed committee substitute is enclosed for your consideration.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to be 'G. Stevens', with a long horizontal line extending to the right.

Senator Gary Stevens

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Senator Gary Stevens

Alaska State Legislature

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Sponsor Statement for CS for SSSB 16

CS for SSSB 16: "An Act relating to the powers and duties of the Department of Transportation and Public Facilities; repealing the requirement for a long-range program of highway construction and maintenance; and repealing a requirement that public facilities comply with energy standards adopted by the Department of Transportation and Public Facilities."

While CS for SSSB 16 is essentially a housekeeping bill, this important measure will update several statutes related to the Department of Transportation and Public Facilities (DOT&PF).

Passage of this bill will remove the requirement that the department conduct a cost-benefits analysis for all projects at the planning stage, 10, 20 or even more years in advance. Opponents of certain DOT&PF projects have utilized this obsolete statute to halt construction through litigation. Without this change the department believes they will have to divert a large fraction of transportation funding to conducting cost-benefit studies in order to prevent additional lawsuits.

The sponsor substitute also removes language restricting the department's ability to pass through other grant funding it receives. It further clarifies that only grants authorized through Legislative appropriation may be awarded, and requires the department to retain its eligibility to receive federal funding.

Additionally, CS for SSSB 16 removes the department from participation in setting "thermal and lighting energy standards." As other national and local organizations are now responsible for performing these tasks, DOT&PF no longer has a role in establishing these standards.

CS for SSSB will change the powers and duties for DOT&PF to reflect the world in which it now operates as changes in other laws, technology, budgetary changes and governmental reorganization have intervened in such a way to make portions of the existing powers and duties language obsolete. I urge your support of this important measure.

ALASKA STATE LEGISLATURE



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Senator Gary Stevens

CS SS SB16 Section Analysis

Section 1:

This section contains two housekeeping measures concerning the department's powers. In AS 19.05.040(3) the word "it" is clarified by substituting the phrase "real property." In AS 19.05.040(13) the word "department" replaces the phrase "Highway Safety Planning Agency." The substitution of "department" for the phrase "Highway Safety Planning Agency" will broaden the department's ability to distribute grant funds. The current language acts to restrict the department's ability to lawfully pass along other grant funding it receives, such as for the transit and scenic byways programs. It also clarifies that only grants authorized by appropriation by the Legislature may be awarded.

Section 2.

This section amends AS 44.42.020(a) and is largely a house keeping measure. The changes clean up sections of the powers and duties for DOT&PF to reflect the world in which it now operates. Changes in other laws, technology, budgetary changes and governmental reorganization have intervened in such a way to make portions of the existing powers and duties language obsolete. In addition it adds a duty to periodically study alternatives available to finance transportation systems in order to sustain and improve the state's transportation system.

Section 3.

AS 44.42.050(a) is amended to clarify the planning process and require the department to retain its eligibility to receive federal funding. The changes ensure that the State's transportation planning process will remain efficient and in line with current practice. The requirement for annual plan updates has been changed to periodic in line with current funding and staffing levels available. Updating all transportation plans within the state on an annual basis would be wasteful of state and federal funds. Importantly, in response to a state court ruling, the section is amended to eliminate a mandatory consideration of costs and benefits that has been interpreted to require a formal process, significantly increasing planning and project costs.

Section 4.

This section amends AS 44.42.050(d) to bring the statute in line with current practice of the capital budget approval process and federal requirements. The requirement for a one-year capital budget instead of two years is consistent with current budget practice.

Section 5.

This section changes AS 46.11.900(8) by removing the department from participation in setting "thermal and lighting energy standards." DOT no longer has a role in establishing these standards; other national and local organizations are now responsible for such standards.

Section 6.

This section repeals duplicative language in AS 19.10.140, titled "Long-range program for highway construction and maintenance" and AS 46.11.010, titled "Thermal and lighting energy standards for public buildings. Repeal of AS 19.10.140 is consistent with the clarification of the planning process proposed in Section 3 of the bill. Repeal of AS 46.11.010 is consistent with the proposed language in Section 5 of the bill.

17 AAC 05.175. PROJECT NEEDS LIST AND EVALUATION

(a) Projects nominated for a project needs list under 17 AAC 05.160 may, after public review and comment, be incorporated in the STIP. Except for projects classified in the National Highway System, classified under 17 AAC 05.170(c) in the Alaska Highway System, or exempt under 17 AAC 05.200, the department will evaluate and score projects regionally and statewide according to criteria applicable to each transportation program.

(b) For rural and urban streets projects classified under 17 AAC 05.170(d) (Community Transportation Program), the evaluation criteria are

- (1) economic benefits resulting from the project;
- (2) the project's effect upon health and quality of life;
- (3) whether the project enhances the safety of the traveling public;
- (4) whether the project improves intermodal transportation or lessens redundant facilities;
- (5) whether a municipality, another state agency, or a federal agency has made a contribution to finance capital costs;
- (6) whether a municipality, another state agency, or a federal agency has made a commitment to assume ownership or to finance maintenance and operations costs;
- (7) whether the project will lower state maintenance and operation costs;
- (8) environmental approval readiness;
- (9) whether the project involves only surface rehabilitation;
- (10) evaluation of cost, length, and the existing roadway's average annual daily traffic count;
- (11) whether the project replaces deficient bridges;
- (12) whether the project corrects deficient roadway width, grade, or alignment;
- (13) the functional classification of the project;
- (14) the degree to which the project exhibits innovation in the manner in which it addresses the project's challenges; and
- (15) the degree of public support.

(c) For remote roads and trails projects classified under 17 AAC 05.170(j) (Community Transportation Program), in communities not connected to the continental road network by road or ferry, the evaluation criteria are

- (1) economic benefits resulting from the project;
- (2) the project's effect upon health and quality of life;
- (3) whether the project enhances the safety of the traveling public;
- (4) whether the project improves intermodal transportation or lessens redundant facilities;
- (5) whether a municipality, another state agency, or a federal agency has made a contribution to finance capital costs;
- (6) whether a municipality, another state agency, or a federal agency has made a commitment to assume ownership or to finance maintenance and operations costs;
- (7) whether the project lowers state maintenance and operations costs;
- (8) environmental approval readiness;

(9) whether the project improves access to water sources, landfills, sewage lagoons, sanitary waste disposal sites, health care, airports, subsistence harvest sites, or a river or ocean;

(10) whether the project preserves an existing facility;

(11) whether the project is a joint project with

(A) the Department of Environmental Conservation;

(B) the United States Department of Interior, Bureau of Indian Affairs;

(C) the United States Department of Health and Human Services, Indian Health Service;

(D) a tribal entity;

(E) a federal or state agency other than one identified in (A) - (C) of this paragraph;

(12) the degree to which the project exhibits innovation in the manner in which it addresses the project's challenges; and

(13) the degree of public support.

Table 15
Recommended Priority Order for Road Construction
Alaska Peninsula Corridor

Segment	Estimated Capital Cost
Chignik Intertillage Road	\$28,146,000
Chignik to Port Heiden	\$84,630,000
Chignik to Perryville	\$56,166,500
Perryville to Ivanof Bay	\$13,650,000
Port Heiden to Ugashik	\$119,847,000
Ugashik to Pilot Point	\$53,067,000
Pilot Point to Egegik	\$74,802,000
Egegik to South Naknek	\$129,205,000

Air Transportation System

A number of aviation improvement projects are currently programmed for airports in the Alaska Peninsula Corridor:¹⁷

Programmed Projects (FY 2004–2006)

Location	Description	Estimated Capital Cost
Perryville	Airport Improvements	\$2,500,000

Future Projects (FY>2006)

Chignik	Airport Lighting and Resurfacing	\$1,400,000
Chignik Lagoon	Interim Improvements ¹	\$1,000,000
Chignik Lake	Airport Improvements	\$2,800,000
False Pass	Airport Lighting	\$420,000
Pilot Point	Runway Extension	\$3,000,000

¹ Need documented on Aviation Needs List but project should be reevaluated pending completion of Chignik Area Airport Master Plan

¹⁷ The projects included in this table are based upon the DOT&PF FFY 02-07 AIP Spending Plan, March 2004. In an effort to report only projects of regional significance, equipment purchases and other "operational" expenditures are not included.

Table 16
Cost and Effectiveness Measures of Proposed Roadway Segments
Alaska Peninsula Corridor

Segment	Annual O&M Cost	Annualized Capital Cost @ 7% Interest	Annualized Capital Cost plus O&M Cost	Estimated Annual Freight Cost Savings ¹	Net Annualized Cost	Alaska Peninsula Roadway System Only		Full System	
						Estimated Annual 2020 Person Trips	Net Annualized Cost per Person Trip	Estimated Annual 2020 Person Trips	Net Annualized Cost per Person Trip
South Naknek to Egegik	\$877,500	\$12,196,040	\$13,073,500	\$0	\$13,073,500	--	NA	149,500	\$87.45
Egegik to Pilot Point	\$739,800	\$7,060,780	\$7,800,600	\$367,300	\$7,433,300	21,300	\$348.98	120,100	\$61.89
Pilot Point to Ugashik	\$159,300	\$5,009,150	\$5,168,500	\$469,000	\$4,699,500	31,800	\$147.78	95,200	\$49.36
Ugashik to Port Heiden	\$1,185,300	\$11,312,710	\$12,498,000	\$35,700	\$12,462,300	32,400	\$384.64	93,300	\$133.57
Port Heiden to Chignik	\$837,000	\$7,988,470	\$8,825,500	\$639,500	\$8,186,000	42,700	\$191.71	71,100	\$115.13
Chignik Intervillage Road	\$305,100	\$2,911,930	\$3,217,000	\$1,094,800	\$2,122,200	109,600	\$19.36	110,800	\$19.15
Chignik to Perryville	\$541,350	\$5,301,720	\$5,843,100	\$445,800	\$5,397,300	26,800	\$201.39	27,500	\$196.27
Perryville to Ivanof Bay	\$135,000	\$1,288,460	\$1,423,500	\$73,000	\$1,350,500	12,500	\$108.04	12,800	\$105.51

¹..The calculation of freight cost savings is described in Appendix B: Freight Cost Savings. The freight cost savings are based on 1999 freight costs. Since freight costs have increased considerably since 1999 it is likely that higher freight cost savings would be realized with implementation of the roadway segments.

Table 11 + Table 15 = plus
page 50
Future costs
(Project)
Table 2

Table 11 + Table 15 = plus
Recommended Priority Order for Road Construction
Cook Inlet to Bristol Bay Corridor

Segment	Estimated Capital Cost
Williamsport to Pile Bay	\$22,285,000
Iliamna to Nondalton	\$12,520,000
Naknek to South Naknek	\$30,602,000
Pile Bay to Pedro Bay to Iliamna	\$51,870,000
Iliamna to Igiugig	\$87,880,000
Igiugig to Naknek	\$127,675,000

Table 12 describes cost and effectiveness measures for each of the Cook Inlet to Bristol Bay Corridor roadway segments. The first recommended segment, Williamsport to Pile Bay, has the lowest net annualized cost of the group. The second segment, Iliamna to Nondalton, has the second lowest net annualized cost of the group and the second lowest net annualized cost per person trip accommodated, assuming implementation of the Cook Inlet to Bristol Bay Roadway System.¹³ The third segment, Naknek to South Naknek, has the second lowest net annualized cost per person trip accommodated assuming implementation of the Cook Inlet to Bristol Bay Roadway System and the Alaska Peninsula Roadway System. The Naknek to South Naknek connection, by providing access for South Naknek residents to the communities on the north side of the Naknek River and to the regional airport at King Salmon, would shift the purpose of the South Naknek airport away from its current role as primary community access. With a bridge connection to South Naknek, the appropriate roles and ownership of all the airports in the Bristol Bay Borough, South Naknek, Naknek and King Salmon, should be re-examined.

Some roadway projects for this area are currently in the Statewide Transportation Improvement Program.¹⁴ These include:

Programmed Projects (FY 2004–2006)

Location	Description	Estimated Capital Cost
Iliamna/ Nondalton	Iliamna-Nondalton Road Completion and Newhalen River Bridge Construction ¹	\$9,700,000
King Salmon	Naknek Lake Access Road Improvements (Earmark)	\$3,379,000

¹ All work on the Iliamna-Nondalton project has been stopped. The Alaska Superior Court ordered the State of Alaska Department of Transportation and Public Facilities on January 5, 2004 to "cease any action to construct, contract to construct, or produce final design of the Iliamna-Nondalton road and bridge project until the economic costs of the project are considered in the next revision to the Southwest Regional Transportation Plan as required by AS 44.42.050, or until further order of this court." (Case No. 3AN-02-09363CI)

Future Projects (FY > 2006)

Naknek / King Salmon	Pathway Construction	\$3,000,000
Pedro Bay	Rushing Creek Bridge replacement	\$1,448,000

¹³ The Iliamna to Nondalton segment was also examined as a stand-alone project, i.e. assuming its completion without implementation of the Cook Inlet to Bristol Bay Roadway System. Under this assumption the segment would have a Net Annualized Cost of \$971,860; 75,300 estimated annual 2020 person trips; and a Net Annualized Cost per Person Trip of \$12.91.

¹⁴ The projects included in this table are taken from the 2004-2006 Statewide Transportation Improvement Program dated November 2003.

Completion of the Newhalen River Road to Nondalton will provide Nondalton residents with land access to the regional airport at Iliamna. Construction of a bridge and road connection from South Naknek to Naknek would similarly provide South Naknek residents with land access to the regional airport at King Salmon. Thus the airports at Nondalton and South Naknek would see altered aviation use patterns as a result. The roles of these airports and the question of their continued ownership and operation by DOT&PF warrants further study as the road projects are developed.

Intermodal Connections

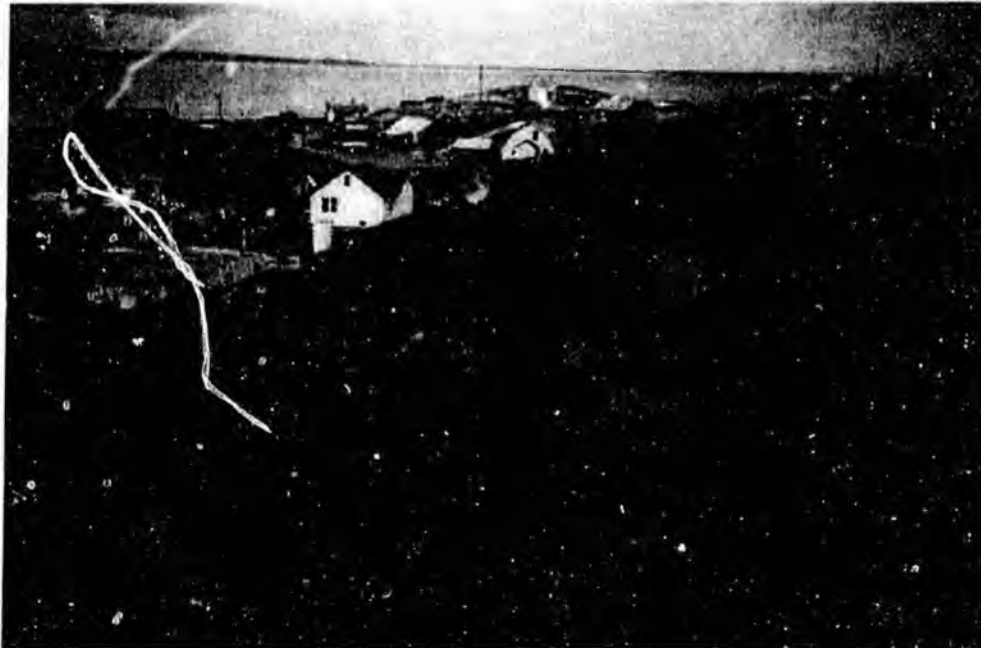
With development of the Cook Inlet to Bristol Bay roadway system, the primary modes for travel in the corridor will be by land and by air. The most significant intermodal connection needed will include dock and harbor facilities at Williamsport and Pile Bay to connect marine traffic in Cook Inlet to the roadway system.¹⁶

Proposed Projects		
Location	Description	Estimated Capital Cost
Williamsport	Navigation Improvements	\$3,822,000
Pile Bay	Public Dock and Boat Launch	\$1,200,000

Additional marine facilities may also be needed at communities on Iliamna Lake, particularly in the time period after construction of the Williamsport to Pile Bay Road but before construction of remaining segments of the Cook Inlet to Bristol Bay roadway system. During this interim period freight carried over the road from Williamsport to Pile Bay would be transported over the lake to the other communities.

¹⁶ The information in this table was provided by Victor Winters, State Harbors Engineer.

Alaska Peninsula Corridor



Pilot Point

Land Transportation System

The Southwest Alaska Transportation Plan proposes the development, over time, of a roadway system along and across the Alaska Peninsula. Ultimately this system could connect to the Cook Inlet to Bristol Bay roadway system at South Naknek and extend on the south to Ivanof Bay. The roadway system would provide many of the same sorts of benefits to Alaska Peninsula communities as the benefits of the Cook Inlet to Bristol Bay roadway system described in the previous section. As with the Cook Inlet to Bristol Bay roadway system, a key component of the Alaska Peninsula roadway system is providing inland communities and communities on Bristol Bay with a road connection to an all-season port. In the case of the Alaska Peninsula roadway, this intermodal connection would occur at Chignik. This would afford Alaska Peninsula residents not only access to ship and barge freight services at Chignik but also access to AMHS service to the Aleutians, Kodiak and the Kenai Peninsula.

The roadway segments in the corridor will need to be developed over time. Table 15 presents a recommended priority order for construction of the segments. The first priority segment would be the Chignik Intervillage Road, followed by a trans-Peninsula connection between Chignik and Port Heiden.

Table 12
Cost and Effectiveness Measures of Proposed Roadway Segments
Cook Inlet to Bristol Bay Corridor

Segment ¹	Annual O&M Cost	Annualized Capital Cost @ 7% Interest	Annualized Capital Cost plus O&M Cost	Estimated Annual Freight Cost Savings ²	Net Annualized Cost	Cook Inlet to Bristol Bay Roadway System Only		Full System	
						Estimated Annual 2020 Person Trips	Net Annualized Cost per Person Trip	Estimated Annual 2020 Person Trips	Net Annualized Cost per Person Trip
Williamsport to Pile Bay	\$209,250	\$2,577,550 ³	\$2,786,800	\$3,848,400	\$0	1,900	\$0.00	5,000	\$0.00
Pile Bay to Pedro Bay to Iliamna	\$513,000	\$4,896,160	\$5,409,200	\$2,247,800	\$3,161,400	22,900	\$138.05	33,300	\$94.94
Iliamna to Nondalton	\$225,450	\$1,181,810	\$1,407,260	\$115,800	\$1,291,460	99,300	\$13.01	114,900	\$11.24
Iliamna to Igiugig	\$756,000	\$8,295,250	\$9,051,300	\$1,974,700	\$7,076,600	115,800	\$61.11	126,300	\$56.03
Igiugig to Naknek	\$1,012,500	\$12,051,620	\$13,064,100	\$599,100	\$12,465,000	127,500	\$97.76	214,450	\$58.13
Naknek to South Naknek	\$61,290	\$2,888,830	\$2,950,120	\$83,900	\$2,866,220	115,400	\$24.84	278,300	\$10.30

¹ For each roadway link, capital and O&M costs were estimated for both paved and unpaved options. This table reports the figures for the paved option only.

² The calculation of freight cost savings is described in Appendix C: Technical Memorandum on Revised Cost and Effectiveness Measures. The freight cost savings are based on 1999 freight costs. Since freight costs have increased considerably since 1999 it is likely that higher freight cost savings would be realized with implementation of the roadway segments.

³ The capital cost used in this calculation includes the Williamsport to Pile Bay roadway improvements as well as navigation improvements at Williamsport and construction of a public dock and boat launch at Pile Bay.

Air Transportation System

A number of aviation improvement projects are currently programmed for airports in the Cook Inlet to Bristol Bay Corridor:¹⁵

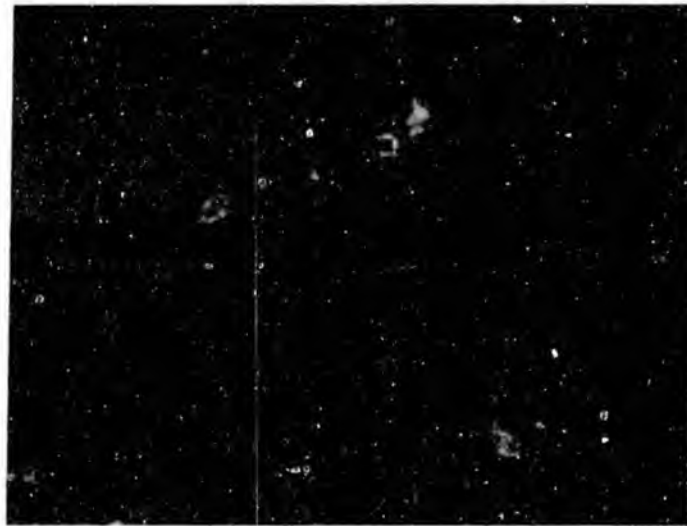
Programmed Projects (FY 2004–2006)

Location	Description	Estimated Capital Cost
Kokhanok	Airport Improvements	\$5,600,000

Future Projects (FY > 2006)

Igiugig	Runway Extension and Resurfacing	\$3,700,000
King Salmon	Airport Improvements Stages 1 & 2	\$29,800,000
Kokhanok	Runway Extension	\$3,800,000
Naknek	Airport Improvements ¹	\$12,400,000
South Naknek	Runway and Crosswind Runway Rehabilitation	\$2,200,000

¹ Need generated from Naknek Airport Master Plan, but not recommended by Southwest Transportation Plan (pending completion of Naknek crossing road link and area aviation needs study)



Kokhanok Airstrip

Runway length improvements needed at Community airports in the Cook Inlet to Bristol Bay Corridor are shown in Tables 13 and 14.

¹⁵ The projects included in this table are based upon the DOT&PF FFY 02-07 AIP Spending Plan, March 2004. In an effort to report only projects of regional significance, equipment purchases and other "operational" expenditures are not included.

Table 13
Cost and Effectiveness Measures of Proposed Airport Runway Extensions
Community Airports Associated with Iliamna Hub

	Projected 2020 Population	Projected 2020 Enplanements	Projected 2020 Air Freight (lbs.) ¹	Assumed Design Aircraft	Existing Runway		Adequate for Design Aircraft? ²	Meet Desired Standard?	Needed Runway			Estimated Capital Cost
					Length	Width			ARC	Length	Width	
Kokhanok	250	2,050	506,000	Cessna 208	2,900	60	Yes	No	A-II	3,300	75	\$3,800,000
Pedro Bay	60	590	122,000	Cessna 208	3,000	65	Yes	No	A-II	3,300	75	\$2,500,000
Port Alsworth	150	850	1,013,000					Note 3				

¹ Assumes implementation of Williamsport to Pile Bay road and harbor improvements.

² Due to terrain limitations it may not be possible to construct a full 3,300-foot length.

³ This airport is not owned and operated by Alaska DOT&PF.

Table 14
Cost and Effectiveness Measures of Proposed Airport Runway Extensions
Community Airports Associated with King Salmon Hub¹

	Projected 2020 Population	Projected 2020 Enplanements	Projected 2020 Air Freight (lbs.) ²	Assumed Design Aircraft	Existing Runway		Adequate for Design Aircraft? ²	Meet Desired Standard?	Needed Runway			Estimated Capital Cost
					Length	Width			ARC	Length	Width	
Igiugig	90	580	182,000	Piper PA-32	3,000	75	Yes	No	A-I	3,300	75	\$1,000,000
Levelock	170	1,160	574,000	Piper PA-32	3,280	75	Yes	Yes	A-I	ok	ok	NA
Naknek	060	Note 3		Piper PA-32	1,950	60	Yes	No	A-1	3,300	75	\$23,538,000
South Naknek	170	Note 3		Piper PA-32	3,310	60	Yes	Yes	A-1	3,300	75	\$2,200,000

¹ Community airports in Egegik, Pilot Point, and Ugashik that are served through the King Salmon hub are discussed in the following section, Alaska Peninsula Corridor.

² Assumes implementation of Williamsport to Pile Bay road and harbor improvements.

³ Naknek and South Naknek airport use patterns would undoubtedly be affected by a road crossing of the Naknek River. This question warrants a road link and area aviation needs study of the King Salmon/Naknek/South Naknek communities.

The word "periodically" was used in:

AS 44.42.020(a)(11) to describe how often the department shall evaluate the cost, efficiency and commercial availability of alternative fuels; and

AS 44.42.020(a)(15) to describe how often the department would study alternative available to finance transportation systems.

The department believes that the word "periodically" is the best word to be used in both of these instances. Both of these sections of the statute address situations that change infrequently, but when change occurs the changes should be addressed. Putting them on a hard schedule ignores the reality of the situation. Setting a concrete time frame may well result in staff inefficiencies. The effect on staff is magnified by the fact that both of these duties are unfunded.

If the word "periodically" is not acceptable, the department presents the following alternatives in order of preference:

1. The phrase "as needed" or "as the commissioner deems appropriate" could be substituted for the word "periodically."
2. The word "periodically" could be defined in regulation.
3. The phrase "as directed by the legislature" could be substituted for the word "periodically."
4. Lacking the alternatives above, the department suggests inserting "not less than every 5 years."

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730 I Street, Suite 226
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March 25, 2005

Senator Charles Huggins
Chair, Senate Transportation Committee
State Capitol, Rm. 417
State Juneau, Alaska 99801

Fax: 907-465-3265

Attention: Ms. Debby Grundmann

Re: Work Draft, of 3/4/05, Committee Substitute for Sponsor Substitute for SB 16 (CSSSSB 16).

Dear Senator Huggins:

Thank you for inviting suggestions regarding Sections 3 and 4 of the work draft of CSSSSB 16, dated 3/4/05.

Section 3 would amend AS 44.42.050(a), which concerns long range transportation plans. The amendment would repeal a requirement that DOT&PF consider costs of improvements to existing facilities and costs and benefits of new facilities in the long range plans.

Section 4 would amend AS 44.42.050(d), which concerns the capital budget. The amendment would require that DOT&PF prepare a list of projects for at least the following two years and estimate funds anticipated, total costs of all projects, and the cost, location and description of each project, but not the benefits of new facilities such as new roads and highways.

Two things are worth noting about the current statute, attached. First, it does not require consideration of costs and benefits for improvements to existing facilities, such as existing roads or airports, as DOT&PF misspoke at the hearing on March 22, 2005. Benefits must be considered for new facilities, not improvements to existing ones. That distinction makes sense. When a facility already exists, people have some idea of its benefits. Second, the statute does not prohibit a new facility, such as a new road, that has a poor benefit-cost ratio. It just requires that information be obtained, considered and available to the Legislature, the public and the governor to assist deciding which projects to fund. Good information about costs and benefits is fundamental to good decisions about which new roads to build.

Because these amendments involve the capital budget, they involve the role of the Legislature in funding transportation projects. Because most transportation funds are federal, federal planning requirements apply. Their effect is to limit the Legislature's role as follows. The Legislature may delete any project from the capital budget. However, the Legislature cannot add a project that would use federal funds if the project is not the product of the federally-

Senator Huggins, Attn: Ms. Grundmann
Sen. Transportation Comm.
Re: SB 16
March 23, 2005
Page 2

required planning process and included in the federally-approved 3-year Statewide Transportation Improvement Program required by 23 USC 135.

If enacted, sections 3 and 4 will mean that DOT&PF will continue to provide the Legislature, the public and the governor with information on costs, but DOT&PF no longer provide information on the benefits of new roads and new facilities. With information to compare costs to benefits, the Legislature will have no ability to delete poorly justified projects and demand better ones in the next capital budget that have gone through the federally required planning process. The Legislature's role will be then essentially that of a rubber stamp. That is why information on cost-versus-benefit is critical to making informed decisions.

For example, the long range *Southwest Alaska Transportation Plan* contains more than a billion dollars in proposed roads. Some of these, such as the \$12.5 million Iliamna-Nondalton road and bridge project, and \$22.3 million Williamsport-Pile Bay road project, the legislature has already funded, or started to fund. When DOT&PF told the Senate Transportation Committee that these two projects pencil out as the most economically justified and cost-effective in the *Southwest Alaska Transportation Plan*, DOT&PF did not tell the committee that the cost-benefit justifications for these projects in the plan depend on, and are in terms of, two scenarios - (1) completing the Cook Inlet to Bristol Bay Corridor costing \$332,832,000, and (2) completing the Cook Inlet to Bristol Bay Corridor (\$332,832,000), the Alaska Peninsula Corridor (\$559,513,500), and the Dillingham-Bristol Bay Area Corridor (\$228,475,000), yielding a total cost of \$1,120,820,500. In other words, you will have to spend between \$332,832,000 and \$1,120,820,500 to make the Williamsport-Pile Bay and Iliamna-Nondalton projects pencil out as economically justified in terms of the quantified costs and benefits.

The question is whether you think that the public, the governor, and the Legislature deserve to know that information? I do. My clients do. The court did. DOT&PF does not. Sections 3 and 4 would mean that DOT&PF would not have to produce such information on cost-effectiveness.

Nevertheless, there may be reasons to otherwise amend AS 44.42.050(a) and (d).

First, DOT&PF testified on March 22, 2005 that the requirements (that it consider costs of improvements to existing facilities and costs and benefits of new facilities) apply to projects as minor as installing a stop sign. Senator Cowdery, I believe, suggested that some dollar amount below which the requirements would not apply and above which they would, might make sense. That idea has merit. The Legislature can come up with a reasonable dollar amount. I would suggest on the order of five hundred thousand to a million dollars.

Second, DOT&PF testified with respect to new roads, that its ability to consider and document costs and benefits increases as the specifics of a project evolve - from a concept in a long range, 20-year, transportation plan which addresses projects collectively, to actual project-specific implementation in a 3-year statewide transportation improvement program which drives

MAR. 25. 2005 12:46PM

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Senator Huggins, Attn: Ms. Grundmann
Sen. Transportation Comm.
Re: SB 16

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Page 3

DOT&PF's portions of the capital budgets. It makes that as a project evolves from a concept to eventual final design, the ability to estimate costs increases as location, design, mitigation and other requirements become specific. The same is probably not true of benefits. They are as identifiable at the outset as they are at the final design stage.

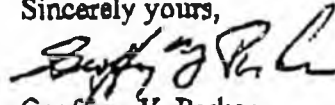
not true

The question then is: What quality of consideration of costs and benefits makes sense as a project for new road progresses from a concept to eventual final design? A concept in a long range plan is cheap, and constructing a final design can cost hundreds of millions of dollars. That implies a solution.

I suggest that you tailor the requirement for considering costs and benefits for new facilities to the stage of planning at issue. When long range, 20-year planning is at issue, then a modest level of examination of costs and benefits makes sense for a conceptual level of planning. However, when the Legislature is being asked to approve actual project-specific funding and construction costs of many millions of dollars in a capital budget (and usually committing the state to future maintenance), a more thorough examination of costs and benefits serves the Legislature, the governor and the public.

Attached is a revision of sections 3 and 4 of the bill. The revisions would create a dollar amount below which the requirements of AS 44.42.050(a) would not apply and above which they would. The revision would require a modest level of cost-benefit scrutiny when a new facility is in a long range plan and a more thorough level of scrutiny as it evolves to project-specific implementation.

Sincerely yours,



Geoffrey Y. Parker

Attachments

MAR. 25. 2005 12:47PM

NO. 019

P. 5

THE LAW OFFICE OF

GEOFFREY Y. PARKER

Phone: (907) 222-6459
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730 I Street, Suite 226
Anchorage, Alaska 99501

TO: Senator Charles Huggins

Fax: 907-465-3265

FROM: Geoffrey Y. Parker 

Re: Sections 3 and 4 of CSSSSB 16

Date: March 24, 2005

Here is language I suggest.

* Sec. 3. AS 44.42.050(a) is amended to read:

(a) The commissioner shall develop [ANNUALLY] a comprehensive, intermodal, long-range transportation plan for the state. The plan may be developed in multiple regional long range plans covering different areas of the state. The plan, or regional plans, shall address logical, cost-effective components of intermodal transportation, including modes of transportation, transportation corridors, systems, and other distinct subjects relevant to transportation planning. The commissioner may revise the plan or regional plans as appropriate, and sh. ll do so at least every seven years. In developing and revising the state plan, the commissioner shall consider means and costs of improving existing modes and facilities. [STATE AND FEDERAL SUBSIDIES.] and the costs and benefits of new transportation modes and facilities, except that the commissioner need not consider in a long range plan the costs or benefits of a project estimated to cost less than five hundred thousand dollars. In the long range plan or plans, the consideration of costs, or costs and benefits, need not be as thorough or detailed as in section (d). [THE COMMISSIONER SHALL ALSO CONSIDER THE RECOMMENDATION OF THE ALASKA TRANSPORTATION PLANNING COUNCIL.] The long range plan or plans shall be submitted to the governor for review and approval and submitted by the governor to the legislature.

* Sec. 4. AS 44.42.050(d) is amended to read:

(d) The commissioner shall develop annually a descriptive list [PLAN MUST INCLUDE A DESCRIPTION] of projects recommended by the department to be scheduled [PLANNED] for design, [AND] construction, or other necessary activities for a period not less than [THE FOLLOWING] two years. The descriptive list [DESCRIPTION] shall be consistent with and is in addition to the long-range plan required by (a) of this section [AND BY AS 19.10.140]. The descriptive list [DESCRIPTION] must include (1) an estimate of the federal, state and other funds necessary to fund the projects on the list, (2) a description, location and itemization of the estimated cost for each project, (3) for each project that is a new facility estimated to cost in excess of five hundred thousand dollars, a description of the quantified and unquantified costs and benefits reasonably anticipated over the life of

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February 18, 2005
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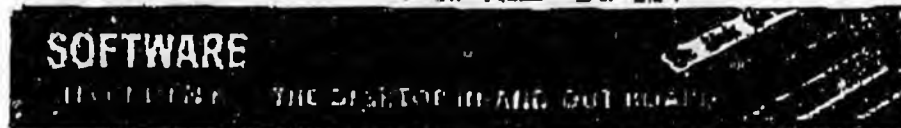
the project that is more detailed than that provided in the long range plan under subsection (a), and (4) the total cost of all projects in the list. The commissioner shall propose and forward the descriptive list to the governor for review and approval and inclusion, as approved, in the capital budget [A CONSTRUCTION PROGRAM] that includes the projects to be undertaken during the following two years, including recommended project priorities. The governor shall forward the descriptive list, as approved, to the legislature. Funds for transportation construction projects and necessary contingencies shall be itemized as allocations within the bill for the General Appropriations Act. For purposes of this subsection, costs include but are not limited to capital costs borne by the state and economically quantifiable costs borne by the public.



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Alaska Statutes.

Title 44. State Government

Chapter 42. Department of Transportation and Public Facilities

Section 50. State Transportation Plan.

previous: Section 40. Departmental Organization.

next: Section 55. State Public Facilities Plan. [Repealed, Sec. 19 Ch 6 SLA 1998].

AS 44.42.050. State Transportation Plan.

(a) The commissioner shall develop annually a comprehensive, intermodal, long-range transportation plan for the state. In developing and revising the state plan, the commissioner shall consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities. The commissioner shall also consider the recommendation of the Alaska Transportation Planning Council. The plan shall be submitted to the governor for review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

(1) consult and cooperate with officials and representatives of the federal government, other governments, interstate commissions and authorities, local agencies and authorities, interested corporations and other organizations concerning problems affecting transportation in the state; and

(2) request from an agency or other unit of the state government or of a political subdivision of it, or from a public authority, the assistance and data that may be necessary to enable the commissioner to carry out responsibilities under this section; every such entity shall provide the assistance and data requested.

(c) Copies of the plan, as revised, shall be kept on file as a public document in the office of the commissioner and at each regional office of the department.

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: Alaska Statutes: AS 44.42.050. State Transportation Plan.

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(d) The plan must include a description of projects planned for design and construction for the following two years. The description is in addition to the long-range plan required by (a) of this section and by AS 19.10.140. The description must include an itemization of the estimated cost for each project and the total cost of all projects. The commissioner shall propose and forward to the governor for review and approval and inclusion, as approved, in the capital budget a construction program that includes the projects to be undertaken during the following two years, including recommended project priorities. Funds for transportation construction projects and necessary contingencies shall be itemized as allocations within the bill for the General Appropriations Act.

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SOFTWARE

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If it is critical that the precise terms of the Alaska Statutes be known, it is recommended that more formal sources be consulted. For statutes adopted after the effective date of these statutes, see, [Alaska State Legislature](#). If any errors are found, please e-mail Touch N' Go systems at [E-mail](#). We hope you find this information useful.

Last modified 3/12/2004

Subject: C&B rewrite SB 16

From: Jeff Ottesen <jeff_ottesen@dot.state.ak.us>

Date: Tue, 29 Mar 2005 16:35:50 -0900

To: Deborah Grundmann <Deborah_Grundmann@legis.state.ak.us>, Nona Wilson <nona_wilson@dot.state.ak.us>

CC: Doug Letch <doug_leitch@legis.state.ak.us>, Pete Christensen <peter_christensen@dot.state.ak.us>

Deborah,

Geoff Parker's suggestion is somewhat helpful, and also adding to the problem. It helps in that it sets a threshold (which is too small as I will show) and it hurts in that it requires cost and benefit consideration two times instead of one time! (Once when you prepare the long range plan, and again when a project that flows from the plan is placed into the STIP or funding document.)

The suggestion of a dollar threshold is well intentioned, but impractical. Here's why:

- 1) Many small projects are grouped into programs, to make their delivery more efficient. (Example is safety projects, ITS projects, transit projects, etc.) Do we apply the dollar threshold to the program amount, or the individual projects that flow from the program? To avoid hitting the threshold, projects will be artificially divided or segregated.
- 2) A dollar threshold quickly grows out of date. This statute was last modified in the late 1970's. It is very hard to come back on a 10-15 year basis and adjust dollar thresholds to a new relevant level.
- 3) The department conducts numerous "non-project projects": we inspect bridges, count traffic, audit gas tax receipts, and more, using federal transportation dollars and showing this non-project projects in the STIP. Applying cost-benefit consideration to such may yield non-sensical results and much of this work is federally required, so there is really no discretion in performing the work.
- 4) Local project sponsors are still required to perform their C-B studies BEFORE THEY APPLY FOR FUNDING, since the state cannot even evaluate their projects without this information at hand.

My suggestion avoids all the above problems and focuses the requirement for C-B consideration by focusing on only new projects, that are transportation in nature and are not local in purpose:

Sec 5. AS 44.42.050(e) is amended by adding a new subsection to read:

(e) In evaluating new highways, airports, terminals, ferries and other major components for inclusion in the plan, the commissioner shall prepare a cost-effectiveness analysis using a consistent methodology to the greatest extent possible. Cost-effective analysis is not required for projects that involve the rehabilitation and maintenance of the existing transportation system, or which primarily serve local transportation needs.

Jeff Ottesen <jeff_ottesen@dot.state.ak.us>

Director

Alaska Dept. of Transportation

Division of Program Development

24-LS0161V
Utermohle
3/4/05

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 16()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR GARY STEVENS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers and duties of the Department of Transportation and
2 Public Facilities; repealing the requirement for a long-range program for highway
3 construction and maintenance; and repealing a requirement that public facilities comply
4 with energy standards adopted by the Department of Transportation and Public
5 Facilities."

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

7 * Section 1. AS 19.05.040 is amended to read:

8 Sec. 19.05.040. Powers of department. The department may

9 (1) acquire property;

10 (2) exercise the power of eminent domain;

11 (3) take immediate possession of real property, or any interest in real
12 property [IT] under a declaration of taking or by other lawful means;

13 (4) acquire rights-of-way for present or future use;

- 1 (5) control access to highways;
- 2 (6) regulate roadside development;
- 3 (7) preserve and maintain the scenic beauty along state highways;
- 4 (8) dispose of property acquired for highway purposes;
- 5 (9) accept and dispose of federal funds or property available for
- 6 highway construction, maintenance, or equipment;
- 7 (10) enter into contracts or agreements relating to highways with the
- 8 federal government, municipalities, a political subdivision, or with a foreign
- 9 government, if the contract is approved by the federal government;
- 10 (11) establish, levy, and collect tolls, fees, charges, and rentals for the
- 11 use of state roads, highways, bridges, tunnels, crossings, and causeways;
- 12 (12) exercise any other power necessary to carry out the purpose of
- 13 AS 19.05 - AS 19.25; and
- 14 (13) award and administer grants authorized by appropriation by
- 15 the legislature [NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF
- 16 THE DUTIES AND EXECUTION OF THE POWERS OF THE HIGHWAY
- 17 SAFETY PLANNING AGENCY].

18 * Sec. 2. AS 44.42.020(a) is amended to read:

- 19 (a) The department shall
- 20 (1) plan, design, construct, and maintain all state modes of
- 21 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
- 22 and similar facilities;
- 23 (2) study existing transportation modes and facilities in the state to
- 24 determine how they might be improved or whether they should continue to be
- 25 maintained;
- 26 (3) study alternative means of improving transportation in the state
- 27 with regard to the economic costs of each alternative and its environmental and social
- 28 effects;
- 29 (4) develop a comprehensive, long-range, intermodal transportation
- 30 plan for the state;
- 31 (5) study alternatives to existing modes of transportation in urban areas

1 and develop plans to improve urban transportation;

2 (6) cooperate and coordinate with and enter into agreements with
3 federal, state, and local government agencies and private organizations and persons in
4 exercising its powers and duties;

5 (7) manage, operate, and maintain state transportation facilities and all
6 docks, floats, breakwaters, and buildings, including all state highways, vessels,
7 railroads, pipelines, airports, and aviation facilities;

8 (8) study alternative means of transportation in the state, considering
9 the economic, social, and environmental effects of each alternative;

10 (9) coordinate and develop state and regional transportation systems,
11 considering deletions, additions, and the absence of alterations;

12 (10) develop facility program plans for transportation and state
13 buildings, docks, and breakwaters required to implement the duties set out in this
14 section, including but not limited to functional performance criteria and schedules for
15 completion;

16 (11) supervise and maintain all state automotive and mechanical
17 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
18 Fish and Game or the Department of Public Safety; for state vehicles maintained by
19 the department, the department shall periodically [ANNUALLY] evaluate the cost,
20 efficiency, and commercial availability of alternative fuels [NATURAL GAS] for
21 automotive purposes, and the purpose for which the vehicles are intended to be used,
22 and convert or purchase vehicles to use alternative fuels [UTILIZE NATURAL
23 GAS] whenever practicable; the department may participate in joint ventures with
24 public or private partners that will foster the availability of alternative fuels
25 [NATURAL GAS] for all automotive fuel consumers;

26 (12) supervise aeronautics inside the state, under AS 02.10;

27 (13) [COMPLETE AND MAINTAIN A CURRENT INVENTORY
28 OF PUBLIC FACILITIES, INCLUDING A PROJECTION OF THE
29 SERVICEABILITY OF THE FACILITIES AND PROJECTIONS OF
30 REPLACEMENTS AND ADDITIONS TO FACILITIES NEEDED TO PROVIDE
31 THE LEVEL OF SERVICES PROGRAMMED BY THE VARIOUS USER

1 AGENCIES, FOR MUNICIPALITIES WITH POPULATIONS OF LESS THAN
2 12,000 AND FOR UNINCORPORATED COMMUNITIES, AND PERFORM
3 THOSE DUTIES ON A COOPERATIVE BASIS WITH LARGER
4 MUNICIPALITIES;

5 (14) ADOPT ENERGY PERFORMANCE STANDARDS FOR
6 PUBLIC FACILITIES OF THE STATE, THE CONSTRUCTION OF WHICH
7 BEGINS AFTER JULY 1, 1980; THE STANDARDS SHALL BE BASED ON
8 THERMAL AND LIGHTING ENERGY STANDARDS ESTABLISHED BY THE
9 AMERICAN SOCIETY OF HEATING, REFRIGERATION AND AIR
10 CONDITIONING ENGINEERS AS ADAPTED FOR APPLICATION IN HIGH
11 LATITUDE, COLD CLIMATE ENVIRONS;

12 (15) PROVIDE PLANNING ASSISTANCE, INCLUDING BUT NOT
13 LIMITED TO ENERGY AUDITS AND RELATED TECHNICAL SERVICES, TO
14 SCHOOL DISTRICTS AND REGIONAL EDUCATIONAL ATTENDANCE
15 AREAS TO DEVELOP AND IMPLEMENT

16 (A) STANDARDS FOR THE DESIGN, CONSTRUCTION,
17 AND OPERATION OF RURAL EDUCATIONAL FACILITIES; AND

18 (B) ENERGY CONSERVATION MEASURES FOR RURAL
19 EDUCATIONAL FACILITIES;

20 (16)] implement the safety and financial responsibility requirements
21 for air carriers under AS 02.40;

22 (14) [(17)] inspect weights and measures;

23 (15) periodically study alternatives available to finance
24 transportation systems in order to provide an adequate level of funding to sustain
25 and improve the state's transportation system.

26 * Sec. 3. AS 44.42.050(a) is amended to read:

27 (a) The commissioner shall develop [ANNUALLY] a comprehensive,
28 intermodal, long-range transportation plan for the state. The plan may be developed
29 in multiple documents that address logical components, including geographic
30 areas, modes of transportation, transportation corridors, systems, and other
31 distinct subjects relevant to transportation planning. The components of the plan

1 shall be revised as the commissioner determines appropriate. In developing and
2 revising the state plan, the commissioner shall conform to the requirements for the
3 eligibility and use of federal and other funds, as applicable. Upon approval of
4 each component of the plan by the commissioner, the commissioner shall
5 transmit notice of the approval of that component to the governor and
6 [CONSIDER MEANS AND COSTS OF IMPROVING EXISTING MODES AND
7 FACILITIES, STATE AND FEDERAL SUBSIDIES, AND THE COSTS AND
8 BENEFITS OF NEW TRANSPORTATION MODES AND FACILITIES. THE
9 COMMISSIONER SHALL ALSO CONSIDER THE RECOMMENDATION OF
10 THE ALASKA TRANSPORTATION PLANNING COUNCIL. THE PLAN SHALL
11 BE SUBMITTED TO THE GOVERNOR FOR REVIEW AND APPROVAL AND
12 SUBMITTED BY THE GOVERNOR] to the legislature.

13 * Sec. 4. AS 44.42.050(d) is amended to read:

14 (d) The commissioner shall develop a list [PLAN MUST INCLUDE A
15 DESCRIPTION] of projects scheduled [PLANNED] for design, [AND] construction,
16 or other necessary activities for a period of not less than [THE FOLLOWING] two
17 years that is consistent with the plan developed under (a) of this section. The list
18 of projects [DESCRIPTION] is in addition to the long-range plan required by (a) of
19 this section [AND BY AS 19.10.140]. The list of projects [DESCRIPTION] must
20 include an estimate of federal, state, and other funds anticipated to be received to
21 fund the projects and a description, location, and itemization of the estimated cost
22 for each project and the total cost of all projects. [THE COMMISSIONER SHALL
23 PROPOSE AND FORWARD TO THE GOVERNOR FOR REVIEW AND
24 APPROVAL AND INCLUSION, AS APPROVED, IN THE CAPITAL BUDGET A
25 CONSTRUCTION PROGRAM THAT INCLUDES THE PROJECTS TO BE
26 UNDERTAKEN DURING THE FOLLOWING TWO YEARS INCLUDING
27 RECOMMENDED PROJECT PRIORITIES. FUNDS FOR TRANSPORTATION
28 CONSTRUCTION PROJECTS AND NECESSARY CONTINGENCIES SHALL BE
29 ITEMIZED AS ALLOCATIONS WITHIN THE BILL FOR THE GENERAL
30 APPROPRIATIONS ACT.]

31 * Sec. 5. AS 46.11.900(8) is amended to read:

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(8) "thermal and lighting energy standards" means the thermal and lighting energy standards

(A) established by the American Society of Heating, Refrigeration, and Air Conditioning Engineers as revised

[(i) BY THE COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES UNDER AS 44.42.020(a) FOR PUBLIC FACILITIES; OR

(ii)] by the Alaska Housing Finance Corporation for buildings and structures that are not public facilities; or

(B) developed in regulations adopted

[(i) BY THE COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES UNDER AS 44.42.020(a) FOR PUBLIC FACILITIES; OR

(ii)] by the Alaska Housing Finance Corporation for buildings and structures that are not public facilities.

* Sec. 6. AS 19.10.140 and AS 46.11.010 are repealed.

L

Sec 5. AS 44.42.050 is amended by adding a new subsection to read:

(e) In evaluating new highways, airports, terminals, ferries and other major components for inclusion in the plan, the commissioner shall prepare a cost-effectiveness analysis using a consistent methodology ~~to the greatest extent possible~~. Cost-effective analysis is not required for projects that involve the rehabilitation and maintenance of the existing transportation system, or which primarily serve local transportation needs.

Comment: This language leaves many details unspecified. What is "major"? What is the nature of the methodology of performing a "cost-effectiveness analysis"? What categories of projects primarily serve "local" transportation needs. Defining such arcane details is best left to the regulation process, which is an involved public process, subject to legislative oversight. The authority to fulfill this requirement for detail is currently found in this area of the statutes at:

Sec. 44.42.030. Regulations.

The department may adopt regulations under AS 44.62 (Administrative Procedure Act) to implement, interpret, or make more specific its powers and duties.

Issues of Concerns with Mandatory Consideration of Costs and Benefits
Statement by Alaska DOT&PF
March 31, 2005

Statute is not clear as to what constitutes “*consideration of costs and benefits*”

- CBR (cost-benefit ratio) is but one method of engineering economics
- Other legitimate methods include NPW (net present worth), CEM (cost effectiveness measures) and EUAC (equivalent uniform annual cost)¹.
- Other societal mandates often left out of strict economic considerations including LEC (least environmental cost), (EJ) environmental justice and SCP (safety conscious planning).

Statute has little if no flexibility regarding consideration of costs and benefits

- Requires such consideration on every new project regardless of usefulness
- Puts at risk all projects currently in progress (even under construction) that were selected for capital budget without consideration the Superior Court believes is necessary.
- Effectively requires cost-benefit consideration for all projects since cost is required to be considered in all cases and must be put into some context.

Statute would divert public money to cost-benefit consideration even when not meaningful

- Many project categories are not well suited to C-B consideration:
 - Rural Alaska projects provided as a basic public service but serve a small population base such as airports or sanitation roads
 - Urban Alaska projects that serve non-traditional transportation needs such as buses, trails or beautification
 - “Projects” required to fulfill one or more federal or state mandates such as traffic data collection, or environmental mitigation

Statute applies to statewide transportation plan, prior to project selection for capital budget

- Strict interpretation may prevent the following methods of project selection unless added to the statewide transportation plan:
 - Projects nominated by local governments
 - Projects selected by members of Legislature or Congress (earmarks)
 - Projects that arise unexpectedly due to natural disasters or other external causes (example: new retail store needing access).

Statute does not apply to alternative selection during project development

¹ Fricker and Whitford, Fundamentals of Transportation Engineering, Pearson Prentice Hall, 2004

- C-B (or other engineering economic methods) are often used during project design to evaluate alternatives
- Such tools are often used to select among competing choices, even on projects with low overall economic benefits (example: airport layout for small village)
- Proposed change in statute does not affect this use of C-B consideration

Statute is being used to argue against projects with C-B ratio less than 1.0

- In Trout Unlimited lawsuit, the plaintiff's attorney argues state should not build projects with ratio less than 1.0
- Most rural and urban projects would be at risk of this interpretation
 - Ferry projects
 - Transit and bus
 - Trails and beautification
 - Environmental remediation
 - Low volume roads and bridges
 - Airport improvements and relocations
- While current statute does not mandate only projects with positive C-B ratio be selected, this appears part of the motive behind the lawsuit in question

Statute is not in touch with the reality of transportation needs in Alaska

- Alaska is inherently a place where low population and vast land area make transportation critical, but often requiring a subsidy.
- Ironically, the recent Congressional justification for Denali Commission funding for transportation argued that transportation in rural areas is vital to our future:

"... The majority of Alaskan communities remain unconnected. Alaska has been left far behind the rest of the Nation, with a road system that is no system at all. If the highway system is the Nation's skeleton, Alaska is still missing its arms and legs.

As a result, many Alaskan communities are punished with third-world conditions and an extraordinarily high cost of living, and the Nation as a whole is that much poorer because Alaska's tremendous natural wealth cannot be shared.

...²

Alaska has long-suffered the measure of costs versus benefits

Alaska has long suffered the punitry of being a place with high costs but low benefits. At the time of the Alaska purchase in 1867, Secretary of State, William H. Seward overcame national ridicule (the tag of "Seward's Folly was applied) and strenuous objections to persuade Congress to proceed with the purchase of

² Senator Lisa Murkowski, US Senate Floor speech on amendment to S1072, February 12, 2004

Alaska for \$7.2 million. Similarly, for nearly 40 years after the federal-aid highway program was started in the early 1900's, Congress denied Alaska access to this funding, because it felt the transportation needs in Alaska were so great the federal program could not be exposed to such costs. Now, as then, important transportation needs in Alaska often must be built as a public good, even where indicators such as cost-benefit analysis are used to oppose such projects. In 1867, those who sought to deny the purchase of Alaska spoke of 'folly' as to the value of the Alaska purchase. For Alaskans today, the age old 'folly' argument seems to never really die!

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730 I Street, Suite 226
Anchorage, Alaska 99501

March 25, 2005

Senator Charles Huggins
Chair, Senate Transportation Committee
State Capitol, Rm. 417
State Juneau, Alaska 99801

Fax: 907-465-3265

Attention: Ms. Debby Grundmann

Re: Work Draft, of 3/4/05, Committee Substitute for Sponsor Substitute for SB 16 (CSSSSB 16).

Dear Senator Huggins:

Thank you for inviting suggestions regarding Sections 3 and 4 of the work draft of CSSSSB 16, dated 3/4/05.

Section 3 would amend AS 44.42.050(a), which concerns long range transportation plans. The amendment would repeal a requirement that DOT&PF consider costs of improvements to existing facilities and costs and benefits of new facilities in the long range plans.

Section 4 would amend AS 44.42.050(d), which concerns the capital budget. The amendment would require that DOT&PF prepare a list of projects for at least the following two years and estimate funds anticipated, total costs of all projects, and the cost, location and description of each project, but not the benefits of new facilities such as new roads and highways.

Two things are worth noting about the current statute, attached. First, it does not require consideration of costs and benefits for improvements to existing facilities, such as existing roads or airports, as DOT&PF misspoke at the hearing on March 22, 2005. Benefits must be considered for new facilities, not improvements to existing ones. That distinction makes sense. When a facility already exists, people have some idea of its benefits. Second, the statute does not prohibit a new facility, such as a new road, that has a poor benefit-cost ratio. It just requires that information be obtained, considered and available to the Legislature, the public and the governor to assist deciding which projects to fund. Good information about costs and benefits is fundamental to good decisions about which new roads to build.

Because these amendments involve the capital budget, they involve the role of the Legislature in funding transportation projects. Because most transportation funds are federal, federal planning requirements apply. Their effect is to limit the Legislature's role as follows. The Legislature may delete any project from the capital budget. However, the Legislature cannot add a project that would use federal funds if the project is not the product of the federally-

Senator Huggins, Attn: Ms. Grundmann
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Re: SB 16
March 23, 2005
Page 2

required planning process and included in the federally-approved 3-year Statewide Transportation Improvement Program required by 23 USC 135.

If enacted, sections 3 and 4 will mean that DOT&PF will continue to provide the Legislature, the public and the governor with information on costs, but DOT&PF no longer provide information on the benefits of new roads and new facilities. With information to compare costs to benefits, the Legislature will have no ability to delete poorly justified projects and demand better ones in the next capital budget that have gone through the federally required planning process. The Legislature's role will be then essentially that of a rubber stamp. That is why information on cost-versus-benefit is critical to making informed decisions.

For example, the long range *Southwest Alaska Transportation Plan* contains more than a billion dollars in proposed roads. Some of these, such as the \$12.5 million Iliamna-Nondalton road and bridge project, and \$22.3 million Williamsport-Pile Bay road project, the legislature has already funded, or started to fund. When DOT&PF told the Senate Transportation Committee that these two projects pencil out as the most economically justified and cost-effective in the *Southwest Alaska Transportation Plan*, DOT&PF did not tell the committee that the cost-benefit justifications for these projects in the plan depend on, and are in terms of, two scenarios - (1) completing the Cook Inlet to Bristol Bay Corridor costing \$332,832,000, and (2) completing the Cook Inlet to Bristol Bay Corridor (\$332,832,000), the Alaska Peninsula Corridor (\$559,513,500), and the Dillingham-Bristol Bay Area Corridor (\$228,475,000), yielding a total cost of \$1,120,820,500. In other words, you will have to spend between \$332,832,000 and \$1,120,820,500 to make the Williamsport-Pile Bay and Iliamna-Nondalton projects pencil out as economically justified in terms of the quantified costs and benefits.

The question is whether you think that the public, the governor, and the Legislature deserve to know that information? I do. My clients do. The court did. DOT&PF does not. Sections 3 and 4 would mean that DOT&PF would not have to produce such information on cost-effectiveness.

Nevertheless, there may be reasons to otherwise amend AS 44.42.050(a) and (d).

First, DOT&PF testified on March 22, 2005 that the requirements (that it consider costs of improvements to existing facilities and costs and benefits of new facilities) apply to projects as minor as installing a stop sign. Senator Cowdery, I believe, suggested that some dollar amount below which the requirements would not apply and above which they would, might make sense. That idea has merit. The Legislature can come up with a reasonable dollar amount. I would suggest on the order of five hundred thousand to a million dollars.

Second, DOT&PF testified with respect to new roads, that its ability to consider and document costs and benefits increases as the specifics of a project evolve - from a concept in a long range, 20-year, transportation plan which addresses projects collectively, to actual project-specific implementation in a 3-year statewide transportation improvement program which drives

Senator Huggins, Attn: Ms. Grundmann
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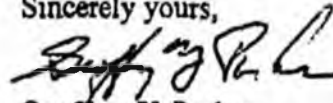
DOT&PF's portions of the capital budgets. It makes that as a project evolves from a concept to eventual final design, the ability to estimate costs increases as location, design, mitigation and other requirements become specific. The same is probably not true of benefits. They are as identifiable at the outset as they are at the final design stage.

The question then is: What quality of consideration of costs and benefits makes sense as a project for new road progresses from a concept to eventual final design? A concept in a long range plan is cheap, and constructing a final design can cost hundreds of millions of dollars. That implies a solution.

I suggest that you tailor the requirement for considering costs and benefits for new facilities to the stage of planning at issue. When long range, 20-year planning is at issue, then a modest level of examination of costs and benefits makes sense for a conceptual level of planning. However, when the Legislature is being asked to approve actual project-specific funding and construction costs of many millions of dollars in a capital budget (and usually committing the state to future maintenance), a more thorough examination of costs and benefits serves the Legislature, the governor and the public.

Attached is a revision of sections 3 and 4 of the bill. The revisions would create a dollar amount below which the requirements of AS 44.42.050(a) would not apply and above which they would. The revision would require a modest level of cost-benefit scrutiny when a new facility is in a long range plan and a more thorough level of scrutiny as it evolves to project specific implementation.

Sincerely yours,



Geoffrey Y. Parker

Attachments

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Fax: (907) 248-7304

E-mail: gparker@gcl.net

730 I Street, Suite 226
Anchorage, Alaska 99501

TO: Senator Charles Huggins

Fax: 907-465-3265

FROM: Geoffrey Y. Parker 

Re: Sections 3 and 4 of CSSSSB 16

Date: March 24, 2005

Here is language I suggest.

* Sec. 3. AS 44.42.050(a) is amended to read:

(a) The commissioner shall develop [ANNUALLY] a comprehensive, intermodal, long-range transportation plan for the state. The plan may be developed in multiple regional long range plans covering different areas of the state. The plan, or regional plans, shall address logical, cost-effective components of intermodal transportation, including modes of transportation, transportation corridors, systems, and other distinct subjects relevant to transportation planning. The commissioner may revise the plan or regional plans as appropriate, and shall do so at least every seven years. In developing and revising the state plan, the commissioner shall consider means and costs of improving existing modes and facilities, [STATE AND FEDERAL SUBSIDIES,] and the costs and benefits of new transportation modes and facilities, except that the commissioner need not consider in a long range plan the costs or benefits of a project estimated to cost less than five hundred thousand dollars. In the long range plan or plans, the consideration of costs, or costs and benefits, need not be as thorough or detailed as in section (d). [THE COMMISSIONER SHALL ALSO CONSIDER THE RECOMMENDATION OF THE ALASKA TRANSPORTATION PLANNING COUNCIL.] The long range plan or plans shall be submitted to the governor for review and approval and submitted by the governor to the legislature.

* Sec. 4. AS 44.42.050(d) is amended to read:

(d) The commissioner shall develop annually a descriptive list [PLAN MUST INCLUDE A DESCRIPTION] of projects recommended by the department to be scheduled [PLANNED] for design, [AND] construction, or other necessary activities for a period not less than [THE FOLLOWING] two years. The descriptive list [DESCRIPTION] shall be consistent with and is in addition to the long-range plan required by (a) of this section [AND BY AS 19.10.140]. The descriptive list [DESCRIPTION], must include (1) an estimate of the federal, state and other funds necessary to fund the projects on the list, (2) a description, location and itemization of the estimated cost for each project, (3) for each project that is a new facility estimated to cost in excess of five hundred thousand dollars, a description of the quantified and unquantified costs and benefits reasonably anticipated over the life of

17 AAC Proposed Amendments
February 18, 2005
Page 2

the project that is more detailed than that provided in the long range plan under subsection (a), and (4) the total cost of all projects in the list. The commissioner shall propose and forward the descriptive list to the governor for review and approval and inclusion, as approved, in the capital budget [A CONSTRUCTION PROGRAM] that includes the projects to be undertaken during the following two years, including recommended project priorities. The governor shall forward the descriptive list, as approved, to the legislature. Funds for transportation construction projects and necessary contingencies shall be itemized as allocations within the bill for the General Appropriations Act. For purposes of this subsection, costs include but are not limited to capital costs borne by the state and economically quantifiable costs borne by the public.



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Alaska Statutes.

Title 44. State Government

Chapter 42. Department of Transportation and Public Facilities

Section 50. State Transportation Plan.

previous: Section 40. Departmental Organization.

next: Section 55. State Public Facilities Plan. [Repealed, Sec. 19 Ch 6 SLA 1998].

AS 44.42.050. State Transportation Plan.

(a) The commissioner shall develop annually a comprehensive, intermodal, long range transportation plan for the state. In developing and revising the state plan, the commissioner shall consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities. The commissioner shall also consider the recommendation of the Alaska Transportation Planning Council. The plan shall be submitted to the governor for review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

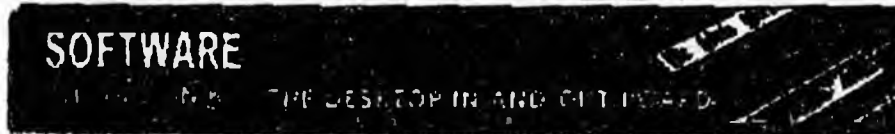
(1) consult and cooperate with officials and representatives of the federal government, other governments, interstate commissions and authorities, local agencies and authorities, interested corporations and other organizations concerning problems affecting transportation in the state; and

(2) request from an agency or other unit of the state government or of a political subdivision of it, or from a public authority, the assistance and data that may be necessary to enable the commissioner to carry out responsibilities under this section; every such entity shall provide the assistance and data requested.

(c) Copies of the plan, as revised, shall be kept on file as a public document in the office of the commissioner and at each regional office of the department.

(d) The plan must include a description of projects planned for design and construction for the following two years. The description is in addition to the long-range plan required by (a) of this section and by AS 19.10.140. The description must include an itemization of the estimated cost for each project and the total cost of all projects. The commissioner shall propose and forward to the governor for review and approval and inclusion, as approved, in the capital budget a construction program that includes the projects to be undertaken during the following two years, including recommended project priorities. Funds for transportation construction projects and necessary contingencies shall be itemized as allocations within the bill for the General Appropriations Act.

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If it is critical that the precise terms of the Alaska Statutes be known, it is recommended that more formal sources be consulted. For statutes adopted after the effective date of these statutes, see, [Alaska State Legislature](#). If any errors are found, please e-mail Touch N' Go systems at [E-mail](#). We hope you find this information useful.

Last modified 3/12/2004

Deborah Grundmann

From: Jeff Ottesen [jeff_ottesen@dot.state.ak.us]
Sent: Tuesday, March 29, 2005 4:36 PM
To: Deborah Grundmann; Nona Wilson
Cc: Douglas Letch; Pete Christensen
Subject: C&B rewrite SB 16

Attachments: jeff_ottesen.vcf



jeff_ottesen.vcf
(566 B)

Deborah,

Geoff Parker's suggestion is somewhat helpful, and also adding to the problem. It helps in that it sets a threshold (which is too small as I will show) and it hurts in that it requires cost and benefit consideration two times instead of one time! (Once when you prepare the long range plan, and again when a project that flows from the plan is placed into the STIP or funding document.)

The suggestion of a dollar threshold is well intentioned, but impractical. Here's why:

- 1) Many small projects are grouped into programs, to make their delivery more efficient. (Example is safety projects, ITS projects, transit projects, etc.) Do we apply the dollar threshold to the program amount, or the individual projects that flow from the program? To avoid hitting the threshold, projects will be artificially divided or segregated.
- 2) A dollar threshold quickly grows out of date. This statute was last modified in the late 1970's. It is very hard to come back on a 10-15 year basis and adjust dollar thresholds to a new relevant level.
- 3) The department conducts numerous "non-project projects": we inspect bridges, count traffic, audit gas tax receipts, and more, using federal transportation dollars and showing this non-project projects in the STIP. Applying cost-benefit consideration to such may yield non-sensical results and much of this work is federally required, so there is really no discretion in performing the work.
- 4) Local project sponsors are still required to perform their C-B studies BEFORE THEY APPLY FOR FUNDING, since the state cannot even evaluate their projects without this information at hand.

My suggestion avoids all the above problems and focuses the requirement for C-B consideration by focusing on only new projects, that are transportation in nature and are not local in purpose:

Sec 5. AS 44.42.050(e) is amended by adding a new subsection to read:

(e) In evaluating new highways, airports, terminals, ferries and other major components for inclusion in the plan, the commissioner shall prepare a cost-effectiveness analysis using a consistent methodology to the greatest extent possible. Cost-effective analysis is not required for projects that involve the rehabilitation and maintenance of the existing transportation system, or which primarily serve local transportation needs.

Karen Sawyer

AS

From: Nona Wilson [nona_wilson@dot.state.ak.us]
Sent: Tuesday, March 22, 2005 3:54 PM
To: Deborah Grundmann
Cc: Sen. Charlie Huggins
Subject: 17 AAC 05 Evaluation Criteria

Attachments: 17 AAC 05 Eval Criteria.doc; nona_wilson.vcf



17 AAC 05 Eval
Criteria.doc (3...



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(414 B)

Senator Huggins--

The information you requested concerning evaluation criteria in this afternoon's S Trans meeting.

Nona

17 AAC 05.175. PROJECT NEEDS LIST AND EVALUATION

(a) Projects nominated for a project needs list under 17 AAC 05.160 may, after public review and comment, be incorporated in the STIP. Except for projects classified in the National Highway System, classified under 17 AAC 05.170(c) in the Alaska Highway System, or exempt under 17 AAC 05.200, the department will evaluate and score projects regionally and statewide according to criteria applicable to each transportation program.

(b) For rural and urban streets projects classified under 17 AAC 05.170(d) (Community Transportation Program), the evaluation criteria are

- (1) economic benefits resulting from the project;
- (2) the project's effect upon health and quality of life;
- (3) whether the project enhances the safety of the traveling public;
- (4) whether the project improves intermodal transportation or lessens redundant facilities;
- (5) whether a municipality, another state agency, or a federal agency has made a contribution to finance capital costs;
- (6) whether a municipality, another state agency, or a federal agency has made a commitment to assume ownership or to finance maintenance and operations costs;
- (7) whether the project will lower state maintenance and operation costs;
- (8) environmental approval readiness;
- (9) whether the project involves only surface rehabilitation;
- (10) evaluation of cost, length, and the existing roadway's average annual daily traffic count;
- (11) whether the project replaces deficient bridges;
- (12) whether the project corrects deficient roadway width, grade, or alignment;
- (13) the functional classification of the project;
- (14) the degree to which the project exhibits innovation in the manner in which it addresses the project's challenges; and
- (15) the degree of public support.

(c) For remote roads and trails projects classified under 17 AAC 05.170(d) (Community Transportation Program), in communities not connected to the continental road network by road or ferry, the evaluation criteria are

- (1) economic benefits resulting from the project;
- (2) the project's effect upon health and quality of life;
- (3) whether the project enhances the safety of the traveling public;
- (4) whether the project improves intermodal transportation or lessens redundant facilities;
- (5) whether a municipality, another state agency, or a federal agency has made a contribution to finance capital costs;
- (6) whether a municipality, another state agency, or a federal agency has made a commitment to assume ownership or to finance maintenance and operations costs;
- (7) whether the project lowers state maintenance and operations costs;
- (8) environmental approval readiness;

(9) whether the project improves access to water sources, landfills, sewage lagoons, sanitary waste disposal sites, health care, airports, subsistence harvest sites, or a river or ocean;

(10) whether the project preserves an existing facility;

(11) whether the project is a joint project with

(A) the Department of Environmental Conservation;

(B) the United States Department of Interior, Bureau of Indian Affairs;

(C) the United States Department of Health and Human Services, Indian Health Service;

(D) a tribal entity;

(E) a federal or state agency other than one identified in (A) - (C) of this paragraph;

(12) the degree to which the project exhibits innovation in the manner in which it addresses the project's challenges; and

(13) the degree of public support.

**Information to Consider
On Questions Raised Concerning CS SSSB16
April 18, 2005**

Section 2, page 3, lines 27-31 & page 4 lines 1-2 delete (13):

Public Facilities Inventory for Small Local Government

DOT&PF's role in overseeing the building programs for smaller local governments has been inactive and unbudgeted for nearly 20 years. Retaining this language perpetuates a statutory duty that the department is not staffed or budgeted to perform.

Section 2, page 4, lines 5-11 delete (14):

Adopt Energy Performance Standards

DOT&PF's role in adopting energy performance standards has changed over time. This duty was first established after the energy crisis of the 1970's when no such standards existed. Overtime, national standards bodies have established such standards and they continue to update them based on the latest research and technology. DOT&PF is not staffed or budgeted to duplicate these efforts. Retaining this language perpetuates a statutory duty that the department is not staffed or budgeted to perform.

Section 2, page 4, lines 12-15 delete (15):

Planning Assistance to REAAs

DOT&PF's role in overseeing the building programs for REAA's has been inactive and unbudgeted for nearly 20 years. Retaining this language perpetuates a statutory duty that the department is not staffed or budgeted to perform.

Section 2, page 4, lines 23-25 New (15):

Study Finance of Transportation Systems:

Going back to statehood, the department has been proactive in the area of studying transportation finance. Statewide transportation plans written in the early 1960's had significant analysis of the trends and adequacy in revenue. More recently, just a few years ago, it was DOT&PF which studied the new financing concept known as *Garvee Bonds* which was eventually approved for the bonding of several projects.

Additionally, the department already studies and takes action in several key areas of transportation revenues:

- ferry passenger and vehicle revenues
- airport landing, fuel, and concession fees
- oversize and weight fees on highways
- toll revenue on bridges and tunnels
- traffic impact fees from local agencies and developers

Looking to the near future, there is a revolution occurring in how transportation projects are financed elsewhere. Tried and true revenue approaches, such as gas taxes and bonds, are being supplanted by new and innovative techniques such as time of day tolls, and tolls

based on the weight of vehicles. These new revenue approaches require an integration of technology in the roadway and with user vehicles. For example, the Oregon DOT is now experimenting with chips in vehicles that report on total mileage driven and a mileage fee to the state is deducted automatically when the vehicle is fueled.

The new duty being added does not bestow any further implementation power. DOT&PF is simply being told to "*study alternatives available to finance the transportation system.*" Asking DOT&PF to identify new concepts and opportunities for transportation finance does not usurp or overlap the powers of the Department of Revenue, for DOT&PF is not empowered to act upon these recommendations. As the agency charged with a responsibility for the statewide transportation system, authorizing them to *at least every four years study* the adequacy of the revenue needed to *sustain and improve the system* is reasonable. Should these recommendations move to implementation, the need for outreach and cooperation with Revenue, the Governor's office and Legislature is still essential.

**Transportation CS SS SB 16
Before Senate Transportation Committee**

**Prepared by:
Alaska Department of Transportation and Public Facilities
March 22, 2005**

Thank you Mr. Chairman:

I believe the legislation before you is some of the most important you will consider this year. While the bill is long and tedious, it addresses something we can all agree with. Transportation is vital to the state, and many important projects must continue to be built to serve the state. As my testimony will show, without this legislation, many such projects may be in jeopardy or costs of "process rather than pavement" will be higher.

This latest version of Transportation Committee Substitute for SB 16 contains both housekeeping and substantive measures.

Housekeeping:

To preserve time I will not address the house keeping measures other than to say they clean up sections of the powers and duties for DOT&PF to reflect the world we now operate within. Changes in other laws, technology, budgetary changes and governmental reorganization have intervened in such a way to make a part of our powers and duties language obsolete.

Specifically, I am referring to **Sections 2, 4, 5 and 6** shown in grey as house keeping measures.

Substantive:

The remaining sections of the bill (**Sections 1 and 3**) are more substantive. They are directed at two specific goals:

- Ensuring that federal funds we receive for grant programs can lawfully be administered and awarded.
- Ensuring that the state's transportation planning process is efficient, in line with current practice and federal influence, and most importantly not subject to additional litigation using the same arguments used on the Iliamna to Nondalton project.

Section 1

The change to paragraph (13) is very important. Currently the department is operating without legal authority to issue grants other than from the Highway Safety Office. Yet we routinely receive federal funds for other purposes and award them in a grant process. The two most common examples of this occur in the area of Federal Transit funds for rural communities and transit vans for the elderly and disabled persons, and grants in the area of Scenic Byways.

Section 2

All but the last change in this section relates to natural evolution in the department's duties and technology. The department no longer has a building program that involves local governments. The department no longer sets energy standards; this is done by national standard groups and generally adopted by local government in their building codes. The addition of a new duty concerning the study of alternative financing mechanisms is important. There is a rapid change occurring in transportation finance nationally, and we believe it will become an increasingly important area of examination.

Section 3

From the department's perspective, this is the most important section in the bill. The language in this section has been the subject of litigation in state court. As now constructed it is both nearly impossible to fully comply with, and results in very expensive costs for project proponents.

The section now literally requires that the entire long-range transportation plan for the state, for all modes of transportation be updated annually. The department currently expends more than \$8 million annually on transportation planning but does not have the resources to meet even a five-year cycle of plan updating. The very lengthy process of plan preparation and the associated public process can take several years. We would not recommend enlarging the funding directed at planning nor adding the staff required to meet an annual cycle, thus we recommend the flexibility contained in this bill.

The removal of the requirement for "*consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities.*" is also vital. This requirement has been at the heart of the litigation. A judge's ruling has now confirmed that a project selected for funding by the state must fulfill this requirement. Taken literally, this means:

- Every senior van, every bus, every repair to state ferries, every maintenance project to roads and every trail project must undergo a consideration of benefits and/or costs;
- No exceptions in current law apply to emergencies such as flood damage, or earthquake repairs;
- No exception can be applied to federally funded "projects" that are not easily measured, such as training, research, planning and bridge inspection;
- No exception in the current law permits projects that meet basic needs to be exempted, such as runway lights for small villages or a "make it black" project on rural subdivision roads; and,
- No exception exists for projects authorized by direct legislative appropriation, Congressional earmark or even by the voters through bond issues.

Due to the court ruling and the current language of the statute, the department recently adopted regulations that require a cost-effectiveness study for every project in the STIP scoring process. This requirement falls heavily on local governments, which must now undertake these studies before they request federal funds. But the legal advice of the

Department of Law was that we had no choice in this action. Should SB 16 pass as written we will immediately move to strike this provision from the regulations.

Section 4

The changes in this section are recommended. They update the process of submitting a capital budget including the STIP process to more closely follow both the practice of the Legislature and the federal agencies that fund the STIP.

Section 5

This change is needed to reflect the changes in time that have caused the department to no longer have a role in the setting of thermal and lighting energy standards.

Section 6

This section assists the cleanup of statutes by dropping sections that are duplicative and thus confusing to the public and the department.

Discussion on Why a Mandatory 'Costs and Benefits'
Consideration is Not Always Meaningful
Alaska Department of Transportation and Public Facilities
March 22, 2004

AS 44.42.050 (a) requires the department to: "...consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities."

On the surface, this requirement seems both reasonable and valuable. However, there are many times the department undertakes new projects but does not spend the time or money to conduct such formal costs and benefits analyses. The most common examples are projects for rural areas where long distances and a small population base would make such efforts nonsensical—basic transportation elements are routinely needed regardless of their costs.

A recent court decision on a request for a preliminary injunction found the department at fault for not using a benefit-cost (B-C) analysis* on a project linking two rural villages (summary of lawsuit attached). It is typical of many other rural projects we have undertaken, in that it provides a basic transportation system, but would not benefit from a detailed benefit-cost analysis.

Categories of transportation projects not suited to selection using B-C analysis
Rural Alaska abounds in transportation needs that are provided as a basic public service. Virtually none of these would rise to a positive benefit-cost ratio because the small population base. Examples include:

- Ferries and ferry terminals
- Airports that meet minimum standards for length, width, adequate approaches, lighting and aprons/taxiways.
- Village roads to basic community services (e.g., sewage lagoons, water sources, airports, sanitary landfills, barge landing sites).
- Trail marking.

Even in the more populated regions of Alaska many categories of transportation projects would not be expected to present a positive benefit-cost ratio. Examples of such projects include:

- Rail-highway grade separation projects

* Technically, the statute requires consideration of only "means and costs" for projects improving existing transportation modes and facilities, and consideration of "costs and benefits" for new transportation modes and facilities. In practice it is very difficult to just consider "costs" unless there is some measure of what costs are achieving, thus the department has essentially been forced to use the same type of cost and benefit consideration for all projects.

- Paving of local (residential) roads
- Landscaping and beautification projects
- Trails and amenities
- Pollution and environmental mitigation features needed to meet legal and permit requirements
- Transit investments (buses, bus stops, transit centers)

Many other transportation "projects" are undertaken to fulfill one or more mandates, none of which can be readily quantified as to their "benefits."

- Projects undertaken to meet regulatory requirements (e.g., ferry modernization, data collection of truck weights and classes, bridge scour monitoring).
- Transportation "non-project" projects such as training, EEO compliance, bridge inspection, management systems and similar.
- Programs aimed at serving disadvantaged groups such as transit vans for elderly, disabled and other groups.

Finally, the department often undertakes projects because a member of Congress or the Legislature placed them in the capital budget. Such projects do not receive the normal prior planning or detailed evaluation. The state has very little choice but to accept the project funds for the stated purpose, or to not use the funding.

Why B-C analysis would continue to be used where it makes sense

Formal benefit and cost (B-C) analysis is a tool that is most often used to evaluate among and between different alternatives for a given project or range of options. In such cases, the tool helps to compare and contrast different choices in solving a transportation requirement. For example, in the development of the Southeast Alaska Transportation Plan, a number of different B-C analyses were prepared to better understand vastly different types of system options. Even in rural Alaska, the tool is used to help identify the most "cost-effective" solution, even if the costs still outweigh the benefits.

For the project at issue in the litigation, benefit cost analysis was prepared for the bridge crossing, considering different structural systems, pier options and span length. However, we did not perform an overall benefit-cost analysis, primarily because the project in question scored very highly on other considerations.

The department and two MPOs (AMATS and FMATS) maintain several different types of management systems, such as: Bridge, Pavement, Congestion, Safety and Maintenance. Each management system is a complex "B-C tool" aiding decision makers.

Summation

B-C analysis is a good technique and is routinely used in some circumstances even where not required by statute. However, under the current construction of the transportation planning statute, and the court's recent interpretation, every new project undertaken must receive this type of analysis. including projects already in the development stage. For the reasons stated it

is not meaningful nor a prudent use of project funds to routinely require these B-C analyses on every type and scale of project.

The real issue is whether we should perform B-C analysis where it is not practicable, nor a prudent use of public funds. With the current one-size fits all statute we have no discretion, as confirmed by the court. Without some relaxation of this requirement, delayed projects and higher project costs are unavoidable.

Case Status:
In the Superior Court for the State of Alaska
Third Judicial District at Anchorage

Alaska State Council of)
Trout Unlimited, Robert B.)
Gillam,)
)
Plaintiffs,)
)
vs)
)
State of Alaska, Alaska)
Department of Transportation)
and Public Facilities,)
)
Defendants.)
_____)

Filed: July 25, 2002

Case: 3AN-02-0763CI

July 25, 2002 - Plaintiffs filed suit seeking "injunctive and declaratory relief against the Alaska Department of Transportation and Public Facilities (DOT & PF) for having violated AS 44.42.020 and AS 44.42.050 by scheduling for construction in 2003 a proposed, approximately 19-mile rural road¹ and bridge project from Iliamna, Alaska to Nondalton, Alaska in Southwest Alaska...."

May 1, 2003 - Plaintiff's filed for a preliminary injunction that defendants be restrained from constructing or contracting to construct the Iliamna - Nondalton project.

January 5, 2004 - Preliminary injunction granted to Plaintiffs. DOT&PF was ordered to **cease any action** to construct, contract to construct, or produce final design of the Iliamna-Nondalton road and bridge project **until the economic costs of the project are considered** in the next revision to the "Southwest Regional Transportation Plan" as required by AS 44.42.050, or until further order of this court. (Emphasis added.)

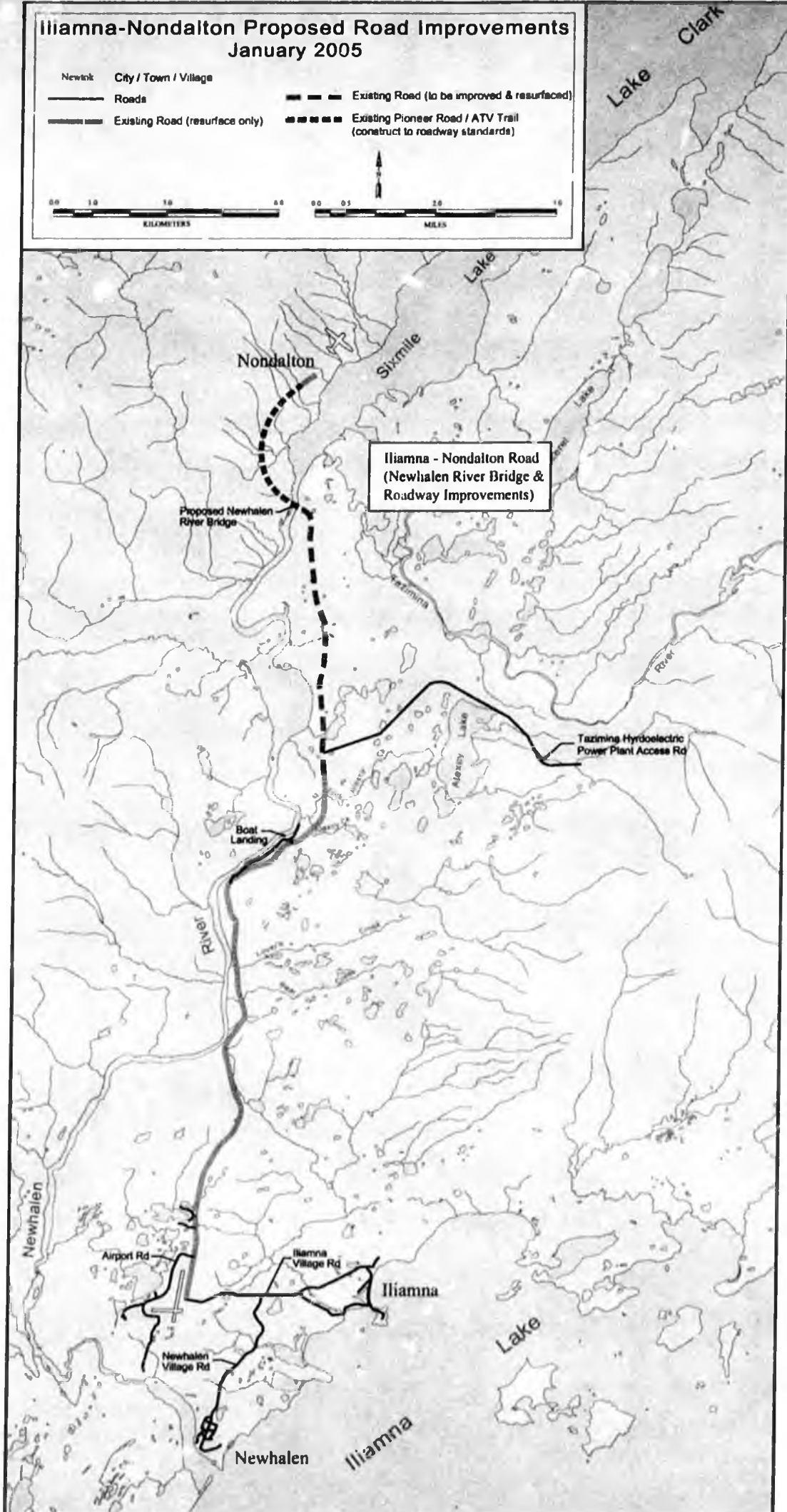
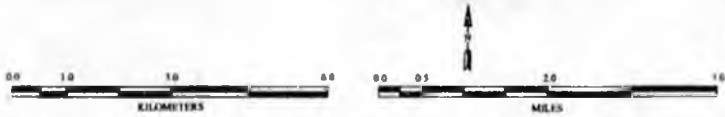
September 30, 2004 - "Southwest Alaska Transportation Plan" was revised. The revision consisted of extracting the Iliamna-Nondalton Road/Bridge project and the Aleknagik/Wood River Bridge project from the Plan baseline and subjecting them to the cost effectiveness methodology used to evaluate the other capital projects in the Plan. The two projects were subjected to an economic analysis that was incorporated into the Plan.

January 14, 2005 - The preliminary injunction was lifted. It is unclear at this time whether the remaining causes of action filed in the lawsuit will be litigated.

¹ The road already exists, in different forms and (absent the bridge), from Iliamna to Nondalton. Going north from Iliamna, roughly the first 11.5 miles is paved, the next 4.5 miles to the site of the proposed bridge is a gravel road and the remaining 2.5 miles from the other side of the river to Nondalton is in the form of a pioneer road.

Iliamna-Nondalton Proposed Road Improvements January 2005

- | | | | |
|-------|--------------------------------|-------|--|
| — | City / Town / Village | — — — | Existing Road (to be improved & resurfaced) |
| — | Roads | — — — | Existing Pioneer Road / ATV Trail (construct to roadway standards) |
| — — — | Existing Road (resurface only) | | |



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Fax: (907) 465-3517
Toll Free: 1-800-821-4925

Senator Gary Stevens Alaska State Legislature

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Kodiak, Alaska 99615
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Sponsor Statement for CS for SSSB 16

CS for SSSB 16: "An Act relating to the powers and duties of the Department of Transportation and Public Facilities; repealing the requirement for a long-range program of highway construction and maintenance; and repealing a requirement that public facilities comply with energy standards adopted by the Department of Transportation and Public Facilities."

While CS for SSSB 16 is essentially a housekeeping bill, this important measure will update several statutes related to the Department of Transportation and Public Facilities (DOT&PF).

Passage of this bill will remove the requirement that the department conduct a cost-benefits analysis for all projects at the planning stage, 10, 20 or even more years in advance. Opponents of certain DOT&PF projects have utilized this obsolete statute to halt construction through litigation. Without this change the department believes they will have to divert a large fraction of transportation funding to conducting cost-benefit studies in order to prevent additional lawsuits.

The sponsor substitute also removes language restricting the department's ability to pass through other grant funding it receives. It further clarifies that only grants authorized through Legislative appropriation may be awarded, and requires the department to retain its eligibility to receive federal funding.

Additionally, CS for SSSB 16 removes the department from participation in setting "thermal and lighting energy standards." As other national and local organizations are now responsible for performing these tasks, DOT&PF no longer has a role in establishing these standards.

CS for SSSB will change the powers and duties for DOT&PF to reflect the world in which it now operates as changes in other laws, technology, budgetary changes and governmental reorganization have intervened in such a way to make portions of the existing powers and duties language obsolete. I urge your support of this important measure.

Figure 4: Alaska Peninsula Corridor

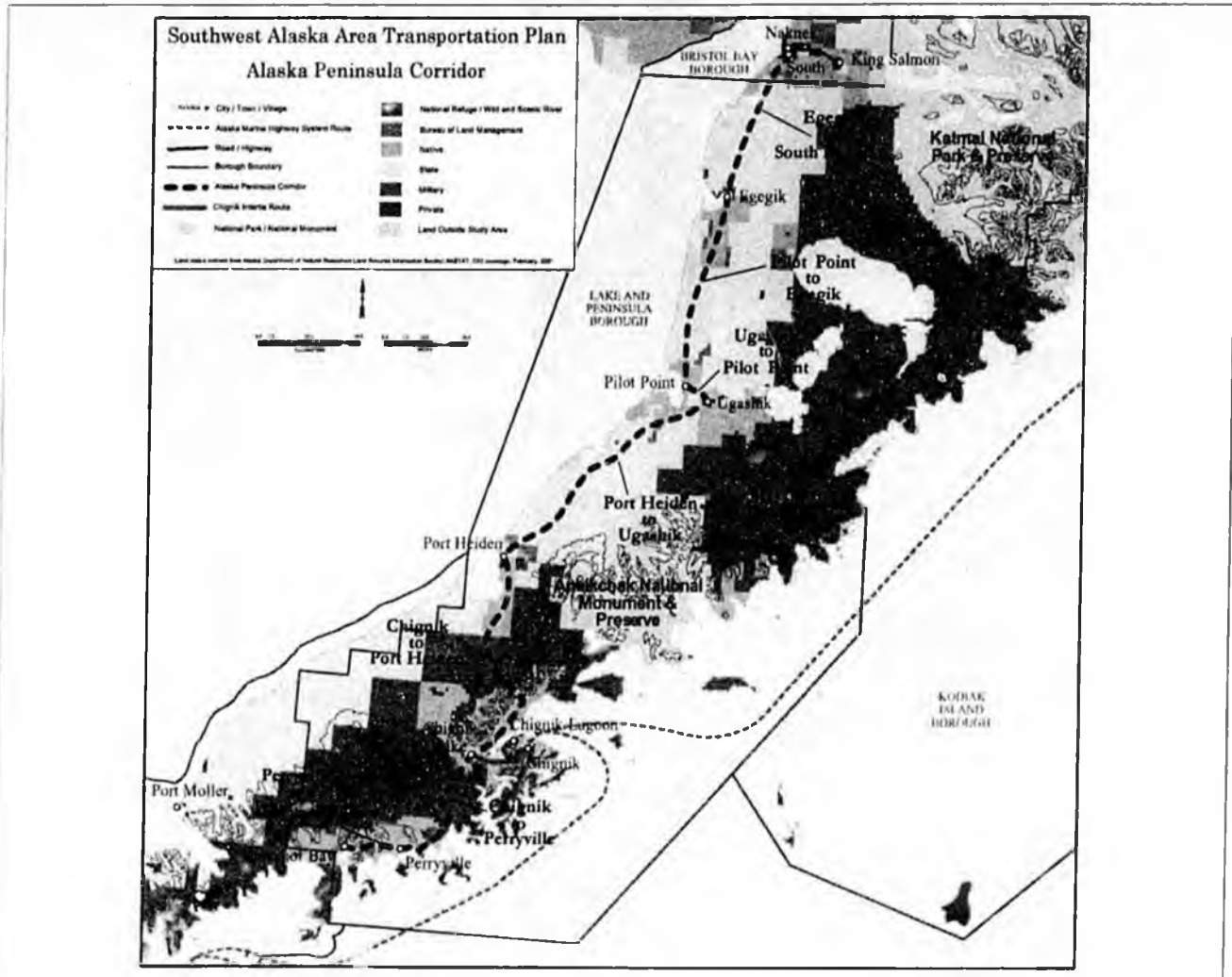


Table 16 describes cost and effectiveness measures for each of the Alaska Peninsula roadway segments. The first recommended segment, the Chignik Intertown Road, is the only segment listed that is likely to be built within the next 20 years. However changing circumstances, such as those listed on page S-10, could trigger consideration of an earlier implementation for some of the segments. The Chignik Intertown Road has the lowest net annualized cost per person trip accommodated and the second lowest net annualized cost. It also serves an intermodal purpose. Connecting the three villages in the Chignik Bay area would reduce the need for a separate airport at each village and might allow for a single airport to serve all three villages. For this reason an airport master plan should be initiated concurrent with the road project to determine aviation needs with the road in place and to plan suitable solutions for the residents connected by the road. In addition, the Chignik Intertown Road would provide Chignik Lake and Chignik Lagoon with access to the seaport facilities at Chignik. The next logical link would be an extension of the road network to Port Heiden, linking the Chigniks with the very capable and comparatively more reliable air facility at Port Heiden. The development of this next link depends upon population growth, economic growth and the adequacy (or inadequacy) of airport improvements in the Chigniks for meeting community needs.

SB 16 CHANGES

The Senate Transportation Committee adopted CS For Sponsor Substitute For Senate Bill 16 (TRA)

Changes are:

Page 1, line 5: After "Facilities;" added "and providing for an effective date." This was done because the previous version of the bill did not have an effective date.

Page 1, lines 7 through 11: deleted Section 1 from Sponsor Substitute for Senate Bill 16 and renumbered Section 2 as Section 1.

Page 2, Line 14. Amended previous Section 2, subsection 13 to read "award and administer grants authorized by appropriation of the legislature." This change clarifies that only grants authorized by appropriation by the Legislature may be awarded.

Page 3, Line 19, in sub-section 3 relating to the cost, efficiency and commercial availability of alternative fuels, "periodically" was replaced with "every five years" This change eliminates the ambiguous nature of the word "periodically".

Page 4. New subsection 15 related to study of alternatives available to finance transportation systems replaces "periodically" with "at least every four years". This change ensures that each administration has a role in the process.

Page 5, lines 13-19. This section amends AS 44 42.050(d) to bring the statute in line with current practice of the capital budget approval process and federal requirements. The requirement for a one-year capital budget instead of two years is consistent with current budget practice.

Page 5 line 31, and Page 6, lines 1-5. This section adds a new subsection (c) to AS 44.42.050 requires a cost-effectiveness analysis when evaluating new highways, airports, terminals, ferries, and other major components for inclusion in the plan. It excludes a cost-effectiveness analysis for projects that involves rehabilitation and maintenance of an existing system or that primarily serve local transportation needs. This language replaces the cost benefit language to be deleted from AS 44.42.050(a) with a more practicable standard.

Page 6, line 13. This change delays the effective date of Section 5 of the bill until July 1, 2006. The intent of the delay is to allow the department time to implement the requirement for cost-effectiveness analysis.

Sponsor Statement for CS for SSSB 16
(Updated April 5, 2005)

CS for SSSB 16: "An Act relating to the powers and duties of the Department of Transportation and Public Facilities; repealing the requirement for a long-range program of highway construction and maintenance; and repealing a requirement that public facilities comply with energy standards adopted by the Department of Transportation and Public Facilities."

While CS for SSSB 16 is essentially a housekeeping bill, this important measure will update several statutes related to the Department of Transportation and Public Facilities (DOT&PF).

Passage of this bill will remove the requirement that the department consider cost & benefits for all projects, but will add language requiring a cost-effectiveness analysis when evaluating new highways, airports, terminals, ferries, and other major components except those that only serve local needs. In the recent past, opponents of DOT&PF projects vital to the health and wellbeing of Alaska's citizens have utilized some of these obsolete statutes to halt construction, costing the state valuable time and money in litigation, while significantly increasing project costs.

This bill also removes language restricting the department's ability to pass along other grant funding it receives, such as money for the transit and scenic byways programs. It further clarifies that only grants authorized through Legislative appropriation may be awarded, and requires the department to retain its eligibility to receive federal funding.

Additionally, CS for SSSB 16 changes statute by removing the department from participation in setting "thermal and lighting energy standards." With other national and local organizations now responsible for such standards, DOT&PF no longer has a role in establishing these standards.

Changes in other laws, technology, budgetary changes and governmental reorganization have intervened in such a way to make portions of the existing powers and duties language obsolete. This bill will change the powers and duties for DOT&PF to reflect the world in which it now operates. I urge your support of this important measure.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SSSB16(TRANS)-DOT-CO-
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title Powers and Duties DOT/PF RDU Administration & Support
 Component Commissioner's Office
 Sponsor Sen. G. Stevens
 Requester Senate Transportation Component No. 530

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nona Wilson Phone 465-3904
 Division: Legislative Liaison, DOT&PF Date/Time 3/21/05 11:52 AM
 Approved by: Mike Barton Date 3/21/2005
 Agency: Commissioner, DOT&PF

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB016-DPS-ASTD-3-22-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to the powers and duties of the RDU Alaska State Troopers
Department of Transportation and Public Facilities..." Component AST Detachments
 Sponsor Senator Gary Stevens
 Requester Senate Transportation Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
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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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this bill is not anticipated to have a fiscal impact on the Department of Public Safety.

Prepared by: Lieutenant Todd Sharp
 Division: Alaska State Troopers
 Approved by: Commissioner William Tandeske
 Agency: Department of Public Safety

Phone 907-465-3223
 Date/Time 3/22/05 9:52 AM
 Date 3/22/2005

SB

18



SENATOR KIM ELTON

SB 18 – Automobile Black Box Notification

Sponsor Statement

Many cars (over 40 million nation-wide) carry a tattletale, and few Alaskans know it. Event data recorders (EDRs), also called Sensing and Diagnostic Modules (SDMs) record a 5-30 second loop of information, including vehicle and engine speed, throttle position, brake pedal position, seatbelt switch (on/off), and sometimes steering position.

These black box recorders were created largely to help manufacturers improve air bag technology by collecting data from the few seconds just before an accident. They have served, and continue to serve that purpose well.

Few people know their vehicles are recording their every move. Fewer still are aware that data from these recorders are the latest tool in prosecuting traffic incidents. There is no law or controlling jurisprudence on who owns the data on these recorders, or how it can be accessed. SB 18 requires manufacturers to notify Alaskans that these devices are in the automobiles they buy. It also makes clear that when you buy a vehicle, you own the data it collects. While ensuring access to information for law enforcement purposes, the bill prevents access by others without the owner's consent.

Six states, with strong bi-partisan support, have passed legislation similar to SB 18. At least 15 other states are considering such bills this year.

American auto manufacturers have made tremendous strides in passenger safety by developing, and later refining airbag technology. Many of these refinements were possible because EDRs and SDMs provided actual crash data essential to improving airbags. For this reason, leading organizations like the Auto Alliance and the National Motorists Association support the technology. These same organizations, along with such organizations as the Consumer's Union and the Electronic Privacy Information Center, also support telling consumers these black boxes are there.

I respectfully ask for your support.

ALASKA SENATE

STATE CAPITOL • JUNEAU, ALASKA 99801-1182 • (907) 465-4947 • FAX (907) 465-2108
SENATOR_KIM_ELTON@LEGIS.STATE.AK.US

Paul Wiley

From: Paul Wiley
Sent: Wednesday, April 05, 2006 4:56 PM
To: Deborah Grundmann
Subject: RE: SB 18

Deb,

Sen. Elton will be presenting SB 18 tomorrow in (S) TRA. I will be along to assist with information.

Kevin O'Neill, staffer for Assemblyman Tim Leslie, R-Tahoe City, CA. will also be testifying. Tim Leslie passed very similar legislation in the California State Legislature a few years ago with strong bi-partisan support.

I am trying to reach some other folks, but as of now this is the only confirmation.

Now, I believe you said you were interested in (1) *what* information is recorded by the technology and (2) *who* has access to the information.

(1) Data collected can include all or some of the following: seat belt status (on or off); forward post-crash velocity changes; acceleration patterns; braking patterns; steering wheel position and patterns; vehicle speed as well as engine speed (RPMs); percent throttle, etc.

The data collected varies from manufacturer to manufacturer, as well as from year to year, as technology, and the ability to decipher the data the technology records, evolves.

(2) It is somewhat more difficult to find the answer to this question, which is part of the reason for the introduction of SB 18. The technology was originally invented, and continues to be used, for the advancement of vehicular safety. However, it is being used in litigation more and more often; sometimes in favor of the vehicle owner, but in most cases against him/her. Many of these cases in which EDR data has been used to convict, or acquit, a defendant have been positive and just. Yet, because of some flaws in retrieving the data, as well as the data itself, some individuals have been wrongfully accused because of misrepresentation of the data harvested.

The technology, as well as the ability to investigate the EDR data, will continue to improve. This bill does not hinder the positive uses of EDRs.

Should local police officers be allowed to harvest one's EDR data without a court order? Can an insurance company extract the data without a client's consent in order to deny them, or set their rates? It is difficult to say, but as of now the odds are not in favor of the individual consumer.

The fact is, the owner of the vehicle should own this data and should be aware of the technology that is recording their every move. The information recorded is being put to more and more uses everyday. The question of who owns the data, who can access it and how, should be set in Alaska Statute before consumer privacy-and-property-rights are lost completely. They are already in jeopardy.

We look forward to answering any further questions tomorrow afternoon.

Paul A. Wiley
Office of Senator Kim Elton
State Capitol, Room 115
Juneau, AK 99801

4/6/2006

Phone: 907-465-3723
Fax: 907.465.2108

From: Deborah Grundmann
Sent: Wednesday, April 05, 2006 3:19 PM
To: Paul Wiley
Subject: SB 18

Hi,
Who will be presenting SB 18 for the Committee tomorrow? Also, do you have anyone else to testify?
Thanks
deb

4/6/2006

The following is an excerpt from the homepage of the Auto Alliance- a leading advocacy group for the automobile industry on public policy issues representing such groups as DaimlerChrysler, BMW, General, Mazda, Mitsubishi, Porsche, Toyota and Volkswagen, Ford Motor Co.:

Balancing Safety and Privacy

EDRs are a public safety matter, because EDRs advance safety for everyone on the road. At the same time, consideration should be given to consumer privacy concerns as the safety community is advancing auto safety.

Alliance members support these key points.

Consumer Information: The Alliance supports providing consumers with important information on their autos, including EDRs. Notification of the presence of EDRs is provided in the owner's manual, along with information on what data are collected, how the data is used and consumer ownership of data.

Consumer Ownership of Data: The Alliance advocates that data gathered by an EDR remains the sole property of the vehicle's owner or lessee, and the permission of the owner or lessee is required to access the data.

Service Agreement Notification: The Alliance supports requirements that subscription service providers notify their customers if crash-related information will be recorded and transmitted. Subscription services include Automatic Collision Notification.

Your new car is recording . . . you

The Beacon Journal | Oct 31 2004

'Event data recorder,' recording speed, seat belt use in millions of cars, raises privacy questions.

Did you know that more than 40 million of the newest cars on the road have black boxes in them that record such things as speed and whether the driver was wearing a seat belt seconds before a crash?

You're not alone. Most people don't.

That's the problem that consumer advocates have with the devices, which are also called "event data recorders."

"A lot of people have no idea that they're inside (their cars)," said Mantill Williams, national director of public affairs for AAA, the nation's largest auto club.

While they differ from the black boxes in airplanes, which record conversations in the cockpit, black boxes in automobiles do record some data about the car's speed in rapid deceleration before a crash. The devices vary slightly according to manufacturer, but only record about 10 to 30 seconds worth of data.

But that still makes people nervous. Akron resident Roger Forte said the black boxes invade privacy.

"Big Brother is really coming down on us hard and people don't know it," he said. "I drag-race and like high performance cars. I can see in the future getting a notice in the mail saying I was going 20.5 miles per hour in a school zone on such and such a day or I was going 56 miles in a 55 zone. "

The leader in placing the black boxes in vehicles is General Motors. All passenger vehicles since 1998 with air bags have the devices, spokesman Alan Adler said. Up to 90 percent of new model vehicles of all makes have the boxes, according to the National Highway Traffic Safety Administration.

But Adler said there's a lot of misconceptions about the devices. They don't record where you were or what you were doing. They collect certain bits of speed data to determine whether the air bag system operated correctly.

Adler said GM is also concerned about consumers' privacy and said that anytime data from the devices are used, it is with the consumers' consent.

But consumer advocates say they're also worried about the data being used against consumers.