

12075

SENATE

TRANSPORTATION

(5) one public member, appointed by the governor, who is a resident of the Matanuska-Susitna Borough and who has knowledge of local transportation issues;

(6) one nonvoting member who is a member of the state house of representatives appointed by the speaker of the house and who serves at the pleasure of the speaker of the house; the speaker of the house shall consider the appointment of a legislator elected from a house district that lies entirely or partially within the Municipality of Anchorage or the Matanuska-Susitna Borough for appointment under this paragraph; and

(7) one nonvoting member who is a member of the state senate appointed by the president of the senate and who serves at the pleasure of the president of the senate; the president of the senate shall consider the appointment of a senator elected from a senate district that lies entirely or partially within the Municipality of Anchorage or the Matanuska-Susitna Borough for appointment under this paragraph.

(b) The public members of the board shall serve for staggered terms of five years and may be reappointed to a single successive five-year term. A public member may only be removed for cause.

(c) If a vacancy occurs in a public member's seat on the board, the governor shall make an appointment, effective immediately, for the unexpired portion of that member's term.

**Sec. 19.75.041 Operation of authority.**

(a) The powers of the authority are vested in the board.

(b) Three voting members of the board constitute a quorum.

(c) The governor shall designate one member of the board to serve as the chair of the board. The voting members of the board shall elect other officers they determine desirable.

(d) Action may be taken and motions and resolutions adopted by the board at a meeting by the affirmative vote of at least three voting members.

(e) The public members of the board shall receive a stipend of \$300 a day while performing business of the authority.

(f) The members of the board serving under AS 19.75.031(a)(1), (2), (6), and (7) serve without compensation but are entitled to per diem and travel expenses authorized by law under AS 39.20.180.

**Sec. 19.75.051 Executive director.**

The authority shall employ an executive director who may not be a member of the board. The executive director shall serve at the pleasure of the board. The board shall establish the duties and compensation of the executive director.

**Sec. 19.75.061 Employment of personnel.**

The executive director may hire employees of the authority. The board shall prescribe the duties and compensation of authority employees.

**Sec. 19.75.071 Personnel exempt from State Personnel Act.**

The executive director and employees of the authority are in the exempt service under AS 39.25 (State Personnel Act).

**Sec. 19.75.081 Legal advisor.**

The attorney general is the legal counsel for the authority. The attorney general shall advise the authority in legal matters and represent it in suits.

**Sec. 19.75.111 Powers and duties of the authority.**

(a) Except as otherwise explicitly made applicable to the authority, the performance of the authority's duties and the exercise of its powers, including its powers to issue bonds and otherwise incur debt, shall be governed exclusively by this chapter. In furtherance of its purposes, the authority may

(1) own, acquire, construct, develop, create, reconstruct, equip, operate, maintain, extend, and improve the Knik Arm bridge and its appurtenant facilities;

(2) sue and be sued;

(3) adopt a seal;

(4) adopt, amend, and repeal regulations under AS 44.62 and establish bylaws;

(5) make and execute agreements, contracts, and all other instruments with any public or private person, governmental unit or agency, corporation or other business entity lawfully conducting business within the United States for the exercise of its powers and functions under this chapter and for the financing, design, construction, maintenance, improvement, or operation of facilities, properties, or projects of the authority, including making and executing contracts with any person, firm, corporation, governmental agency, or other entity for the purpose of

(A) incurring indebtedness, obtaining investments in the authority's projects, acquiring or granting lump sum payments for services in advance or in arrears, grants, and other financing; and

(B) entering into public-private partnerships or service contracts in any form;

(6) in its own name acquire, lease, rent, sell or convey real and personal property;

(7) issue and refund bonds [AND OTHERWISE INCUR INDEBTEDNESS.] in accordance with this chapter [AS 19.75.211], in order to pay the cost of the Knik Arm bridge and its appurtenant facilities; the authority may also secure payment of the bonds or other indebtedness as provided

in this chapter [AS 19.75.221];

(8) incur other indebtedness, including lines of credit and indebtedness to the Federal Highway Administration, United States Department of Transportation, under 23 U.S.C. 601 - 610 ~~401-464~~<sup>3</sup> (Transportation Infrastructure Finance and Innovation Act of 1998), as amended;

(9) apply for and accept gifts, grants, or loans from a federal agency or an agency or instrumentality of the state, or from a municipality, private organization, or other source, including obtaining title to state, local government, or privately owned land, directly or through a department of the state having jurisdiction of the land;

(10) [(9)] fix and collect fees, rents, tolls, rates, or other charges for the use of the Knik Arm bridge and appurtenant facilities, or for a service developed, operated, or provided by the authority; notwithstanding AS 37.10.050(a), fees, rents, tolls, rates, and other charges fixed and collected under this paragraph may exceed the actual operating cost of the use of the bridge, facility, or service;

(11) bring civil actions, refer criminal actions to the appropriate authority, and take other actions or enter into agreements with law enforcement and collection agencies to enforce the collection of its fees, rents, tolls, rates, other charges, penalties, and other obligations;

(12) [(10)] pledge, encumber, transfer or otherwise obligate fees, rents, tolls, rates, charges, or other revenue of the authority as security for bonds or other indebtedness or agreements of the authority;

(13) [(11)] deposit or invest its funds, subject to agreements with bondholders;

(14) [(12)] procure insurance against any loss in connection with its operation;

(15) [(13)] contract for and engage the services of consultants, experts, and financial and technical advisors that the authority considers necessary for the exercise of its powers and functions under this chapter;

(16) [(14)] apply for, obtain, hold, and use permits, licenses, or approvals from appropriate agencies of the state, the United States, a foreign country, and any other proper agency in the same manner as any other person;

(17) [(15)] perform reconnaissance studies and engineering, survey, and design studies with respect to the Knik Arm bridge and its appurtenant facilities;

(18) [(16)] exercise powers of eminent domain or file a declaration of taking as necessary for the Knik Arm bridge and appurtenant facilities under AS 09.55.240 - 09.55.460 to acquire land or an interest in land;

(19) [(17)] confer with municipal and other governments, metropolitan planning organizations, and the department, concerning the Knik Arm bridge;

(20) [(18)] do all acts and things necessary to carry out the powers expressly granted or necessarily implied in this chapter; nothing in this chapter limits the powers of the authority that are expressly granted or necessarily implied.

(b) The authority shall

(1) prepare an annual report of its operations to include a balance sheet, an income statement, a statement of changes in financial position, a reconciliation of changes in equity accounts, a summary of significant accounting principles, an auditor's report, comments regarding the year's business, and prospects for the next year; the report shall be completed by the third day of each regular session of the legislature, and the authority shall notify the governor, the commissioner of the department, the presiding officers of each house of the legislature, and the Legislative Budget and Audit Committee that the report is available;

(2) comply with the provisions of AS 37.07 (Executive Budget Act), except that AS 37.07 does not apply to the activities of the authority that relate to the authority's borrowing of money as provided in this chapter, including the issuing of its obligations or evidence of that borrowing and the repayment of the debt obligation;

(3) establish a personnel management system for hiring employees and setting employee-benefit packages;

(4) establish procedures, rules, and rates governing per diem and travel expenses of the employees of the authority in substantial conformity to statutes, procedures, rules, and rates applicable to state employees of similar state entities;

(5) coordinate the exercise of its powers to plan, design, construct, operate, and maintain the Knik Arm bridge with the department, and with the mayors of the Municipality of Anchorage and the Matanuska-Susitna Borough.

(6) have the exclusive authority to determine and fix fees, rents, tolls, rates, and other charges, including the tolls for the use of the bridge and apartment facilities and for the use of all other properties under the control of or owned or managed by the authority.

**Sec. 19.75.113. Assets, funds, and revenue of the authority.**

(a) The Department of Revenue shall separately account for all funds, assets, and revenue of the authority.

(b) The deposit or investment of money in the authority's funds may be made as the board determines. The interest earned on or profits derived from the deposit, investment, or sale of an investment by the authority are funds of the authority.

**Article 2. Powers and Duties.**

**Sec. 19.75.211. Bonds of the authority.**

(a) Notwithstanding any other provision of law, the [THE] authority may borrow money and issue and refund bonds on which the principal and interest are paid out of and secured by the gross revenue derived

by the authority from the ownership, use, and operation of its toll facilities, including [PAYABLE FROM] money derived from the fees, rents, tolls, rates, charges, and other revenue of the authority under this chapter and any other revenue or money that the legislature may appropriate, except a state tax or license. Before issuing bonds for the Knik Arm bridge, the authority shall submit to the state bond committee a description of the bond issue and a preliminary prospectus, offering circular, or official statement relating to the bond issue. Bonds may not be issued unless the state bond committee finds, based upon the information submitted by the authority under this section and other information that is reasonably available to the committee, that the Knik Arm bridge revenue and other revenue available to the authority can be reasonably expected to be adequate for payment of the principal of and interest on the bonds to be issued and that issuance of the bonds by the authority would not be expected to adversely affect the ability of the state or its political subdivisions to market bonds. [BONDS MAY NOT BE ISSUED UNLESS THE PRINCIPAL AMOUNT OF THE BOND ISSUE IS AUTHORIZED BY LAW.]

(b) The bonds of the authority may be sold in the amounts or series and at the time determined by its board of directors. Bonds, or a series of bonds, may not be sold if the effective interest rate over the life of the bonds exceeds 11 percent a year or a rate of interest that is 125 percent of the rate of the Bond Buyer Index of 20 Municipal Bond Average Yields for the week previous to the date of the sale of the bonds, whichever is higher.

(c) The authority may issue bonds in an aggregate amount not to exceed \$500,000,000, plus the cost of issuance.

(d) The amount of refunding bonds that may be issued by the authority and bond premiums may not be included in the aggregate amount, but may be in addition to the amount authorized by (c) of this section.

#### **Sec. 19.75.221 Trust indentures and trust agreements.**

(a) In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee, by a secured loan agreement or other instrument, or by a resolution giving powers to a corporate trustee, by means of which the authority may

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

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

(i) the proceeds of bonds of the authority;

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

(iii) money or other property in which the authority has an interest;

(B) fixing and collecting of fees, rents, tolls, rates, or other charges;

(C) assignment by the authority of its rights in any contract with respect to the Knik Arm bridge or in a mortgage or other security interest created with respect to the Knik Arm bridge to a trustee for the benefit of bondholders;

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

(E) vesting in a trustee of rights, powers, duties, money, or property in trust for the benefit of bondholders, including the right to enforce payment, performance, and all other rights of the authority or of the bondholders, under a lease, power of contract, contract of sale, mortgage, security agreement, or trust by injunction or other proceeding or by taking possession by agent or otherwise, and operating the Knik Arm bridge and collecting rents or other consideration and applying the same in accordance with the trust agreement;

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

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

(b) Notwithstanding any other provisions of this chapter, the trust agreement must contain an agreement by the authority that the authority will at all times maintain fees, rents, tolls, rates, or other charges sufficient to

(1) pay the costs of operation and maintenance of the Knik Arm bridge and its appurtenant facilities and the principal of and interest on bonds issued under the trust agreement as the bonds severally become due and payable;

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

(3) provide for renewals, replacements, and improvements of the Knik Arm bridge, and to maintain reserves required by the terms of the trust agreement.

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

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

(e) In computing the amount of a capital reserve fund for the purpose of this section, securities in which

all or a portion of the fund is invested shall be valued by some reasonable method established by the authority by resolution. Valuation on a particular date shall include the amount of any interest earned or accrued to that date.

(f) If the authority decides to issue bonds secured by a capital reserve fund, the bonds may not be issued until 30 days after the authority has mailed notification to the state bond committee and the Legislative Budget and Audit Committee by certified mail of its intention to establish a capital reserve fund to secure the bond issue. The notification must include the amount of the capital reserve fund to be established, the amount of bonds proposed to be issued, and the total cost for which the bonds are to be issued. The notification shall be accompanied by an estimate by the authority of the need to withdraw money from the capital reserve fund during the term of the bond issue, the amount that may be necessary to withdraw, and the time at which withdrawals are estimated to be needed. By January 30 of each year, the authority shall prepare, and provide to the state bond committee and the Legislative Budget and Audit Committee, a revised estimate, considering the same factors, and a statement of all withdrawals that have occurred from the date of issuance of the bonds to the end of the preceding calendar year.

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

(h) Notwithstanding any other provision of law, the authority may establish other funds and reserves as the board of directors may determine reasonable and prudent for the issuance of bonds or for the conduct of the business and affairs of the authority. The interest earned on or profit derived from these funds and reserves shall be the property of the authority.

#### **Sec. 19.75.231 Validity of pledge.**

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

#### **Sec. 19.75.241 Nonliability on bonds.**

(a) Neither the members of the board nor a person executing the bonds of the authority is liable personally on the bonds or is subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state other than the authority, but shall be payable solely from the income, receipts, or other money or property of the authority. All documents prepared by and used in or for the issuance of bonds by the authority must state that they are prepared by or for the authority.

(c) The authority may not pledge the faith or credit of the state or of a political subdivision of the state other than the authority, and the issuance of a bond by the authority does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply money from, levy, or pledge any form of taxation to the payment of the bond or to make payments due on the bonds from any source

of funds not pledged for repayment of the bonds.

(d) Each obligation issued under this chapter other than a state guaranteed bond shall contain on its face a statement that the authority is not obligated to pay it nor the interest on it except from the revenue or assets of the authority and that neither the faith and credit nor the taxing power of the state or of any political subdivision of the state is pledged to the payment of the principal of or the interest on the obligation.

**Sec. 19.75.251 Pledge of the state.**

The state pledges to and agrees with the holders of bonds issued under this chapter and with a federal agency that loans or contributes money in respect to the Knik Arm bridge that the state will not limit or alter the rights and powers vested in the authority under this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency or in any way impair the rights and remedies of the holders until the bonds, together with the interest on them, with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority may include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders and, insofar as it relates to a federal agency, in a contract with the federal agency.

**Sec. 19.75.261 Exemption from taxation.**

The real and personal property of the authority and its assets, income, and receipts are declared to be the property of a political subdivision of the state and are exempt from all taxes and special assessments of the state or a political subdivision of the state. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose. The bonds, the interest on the bonds, the income from the bonds and the transfer of the bonds, and all assets, income, and receipts pledged to pay or secure the payment of the bonds or interest on the bonds are, at all times, exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income, or other taxes provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project, or lease, regardless of whether financed under this chapter.

**Sec. 19.75.271 Bonds legal investments for fiduciaries.**

The bonds of the authority are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies, and other persons carrying on banking business, all administrators, guardians, executors, trustees, and other fiduciaries, and other persons who are now or may afterward be authorized to invest in bonds or other obligations of the state may properly and legally invest money, including capital in their control or belonging to them. Notwithstanding any other provision of law, the bonds of the authority are also securities that may be deposited with and may be received by all public officers and bodies of the state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may afterward be authorized.

**Sec. 19.75.281 Audit.**

The legislative auditor annually shall audit, or cause to have audited, the financial records of the authority. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to these records at any reasonable time.

**Sec. 19.75.291 State appropriations for Knik Arm bridge and appurtenant facilities not affected.**

This chapter does not prevent the state from making appropriations for or in aid of the acquisition, design, construction, or operation of the Knik Arm bridge and its appurtenant facilities.

**Sec. 19.75.301 Insurance.**

The authority shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability, and property damage that may arise from or be related to its operation and activities, naming the state as an additional insured.

**Sec. 19.75.311 Safeguarding of money.**

The authority shall maximize revenue from and deposit all money in depositories acceptable to the commissioner of revenue and otherwise safeguard the money under instructions as the commissioner of revenue may from time to time issue.

**Sec. 19.75.321 Fidelity bond.**

The authority shall obtain a fidelity bond in an amount determined by the board, for the members of the board and any official responsible for authority accounts and finances. A bond must be in effect for the tenure of the bonded person.

**Sec. 19.75.330. Bond terms.**

(a) The bonds of the authority mature at the time fixed by the board. The bonds may be subject to redemption before their fixed maturities as determined by the board and with the premium fixed by the board, but a bond may not be subject to redemption before its fixed maturity date unless the right to redeem that bond is expressly mentioned on the face of the bond. The bonds

- (1) may be in denominations determined by the board;
- (2) may be issued in coupon form or in fully registered form, and may be registrable as to principal or both principal and interest, all under regulations and conditions the board provides;
- (3) are payable as to principal and interest at the place determined by the board;
- (4) shall be signed on behalf of the authority as the board may direct; the signatures may be facsimile signatures; each of the interest coupons attached to the bonds shall be signed by the facsimile signatures of the officials as the board may direct;

(5) shall have the seal of the authority impressed, printed, or lithographed on them; and

(6) shall be issued under and subject to the terms, conditions, and covenants, providing for the payment of the principal of and interest on the bonds and the other terms, conditions, covenants, and protective features safeguarding this payment and relating to the maintenance, operation, and improvement of the toll facilities as found necessary by the board, which covenants may include a provision requiring the setting aside and maintenance of certain reserves to secure the payment of the principal and interest.

(b) The board may select a trustee or trustees for the holders of the bonds or any series of the bonds, for the safeguarding and disbursement of any of the money in any of the funds created under this chapter or for the duties of authentication, delivery, and registration of the bonds as the board may determine. The board shall fix the rights, duties, powers, and obligations of the trustee or trustees.

(c) In determining the matters and questions relating to the issuance and sale of the bonds and the fixing of the maturities, terms, conditions, covenants, and other subjects of the bonds as provided in (a) and (b) of this section, the decisions of the board shall be those found to be reasonably necessary for the best interests of the authority and the construction, operation, and maintenance of its facilities, and those that will accomplish the most advantageous sale of the bonds, giving due regard to

(1) necessary or normal costs of maintenance and operation;

(2) renewals and replacements of and repairs to the toll facilities;

(3) all improvements to toll facilities and property of toll facilities owned, used, operated, or leased in connection with toll facilities;

(4) the future growth and expansion of all of the facilities; and

(5) the possibility of additional revenue bond financing for toll facilities purposes. A decision of the board as expressed in any bond resolution, is final when any bonds have been issued under the bond resolution.

(d) A bond resolution may provide that the bonds issued must contain a recital that the bonds are issued under this chapter, and any bonds containing this recital are conclusively considered to be valid and to have been issued in conformity with this chapter.

(e) The validity of the authorization and issuance of bonds is not affected by any proceeding for the acquisition or construction of the additions, improvements, or facilities for which the bonds have been issued or by any contract in connection with the acquisition or construction.

#### **Sec. 19.75.332. Bond resolution.**

When issuing bonds of the authority, the board shall adopt the bond resolution and prepare all other documents and proceedings necessary for the issuance, sale, and delivery of the bonds or any part or series of them. The bond resolution shall fix the principal amount, denomination, date, maturities, place or places of payment, rights of redemption, if any, terms, form, conditions, and covenants of the bonds or each series of them. The board shall also determine and provide for the date and manner of sale of the bonds, and shall provide where the notice of sale, if any, is to be published.

**Sec. 19.75.334. Enforcement by holder.**

The holder of any bonds or the trustee for the holders of the bonds or any series of them, may, by appropriate proceedings in state court, compel the transfer, setting aside, and payment of money and the enforcement of all of the terms, conditions, and covenants as required and provided in AS 19.75.330 and 19.75.332 and in the bond resolution.

**Sec. 19.75.336. Bond negotiability.**

The bonds and the coupons attached to them are fully negotiable instruments under the laws of the state.

**Sec. 19.75.338. Refunding.**

(a) The bonds or any part of them may be refunded at or before their maturity by the issuance of refunding revenue bonds of the authority if, in the opinion of the board, refunding is advantageous to and in the best interest of the authority.

(b) The issuance of refunding bonds need not be authorized by an act of the legislature. The board shall adopt the resolution authorizing refunding and prepare all other documents and proceedings necessary for the issuance, exchange or sale, and delivery of the bonds. All provisions of AS 19.75.211 - 19.75.271 and AS 19.75.330 - 19.75.340 applicable to revenue bonds are applicable to the refunding bonds and to the issuance, sale, or exchange of the bonds, except as otherwise provided in this section.

(c) Refunding bonds may be issued in a principal amount sufficient to provide money for the payment of all bonds to be refunded by them and, in addition, for the payment of all expenses incident to the calling, retiring, or paying of the outstanding bonds, and the issuance of the refunding bonds. These expenses include the difference in amount between the par value of the refunding bonds and any amount less than par for which the refunding bonds are sold, any amount necessary to be made available for the payment of interest on the refunding bonds from the date of sale of them to the date of payment of the bonds to be refunded or to the date on which the bonds to be refunded will be paid under the call of the bonds or agreement with the holders of them, and the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing on the outstanding bonds to the date of the call or retirement.

**Sec. 19.75.340. Bonds as legal investments.**

Bonds of the authority, including toll facilities bonds, are legal investments for all banks, trust companies, savings banks, savings and loan associations, and other persons carrying on a banking business, all insurance companies and other persons carrying on an insurance business, and all executors, administrators, trustees, and other fiduciaries. The bonds may be accepted as security for deposits of all money of the state and its political subdivisions.

Article 3. General Provisions.

**Sec. 19.75.911 Exemption from local regulation.**

Notwithstanding any contrary provision of law, the activities of the authority are exempt from land use planning, zoning, permitting, or other similar governmental powers of political subdivisions of the state.

**Sec. 19.75.915. Liability for payment of tolls.**

(a) The owner of a vehicle using a facility owned, controlled, or managed by the authority for which a toll or fee is imposed is liable for the payment of the toll or fee solely because of the vehicle ownership, unless the vehicle, except a rental vehicle, is used without the owner's knowledge and incurs the toll or fee during operation.

(b) Unpaid tolls or fees due the authority by a person entitled to receive an Alaska permanent fund dividend shall be a lien on and entitled to payment from the permanent fund dividend of the person from the date the authority notifies the Department of Revenue of the amount due and owing 30 days after the due date.

(c) Upon agreement between the authority and the commissioner of administration, a vehicle owner liable for an unpaid toll or fee due the authority may, after 30 days after the due date, be barred from obtaining or renewing a driver's license or a vehicle registration or license, regardless of whether the vehicle was used at the authority's facilities or incurred the toll or fee, until the toll or fee is paid in full.

**Sec. 19.75.920. Statutory construction.**

This chapter shall be liberally construed in order to carry out the purposes for which it was enacted. All existing laws in conflict with this chapter are superseded as necessary to accomplish the purposes of this chapter.

**Sec. 19.75.980. Definitions.**

In this chapter, except as otherwise provided and unless the context requires otherwise,

- (1) "authority" means the Knik Arm Bridge and Toll Authority;
- (2) "board" means the board of directors of the authority;
- (3) "department" means the Department of Transportation and Public Facilities;
- (4) "state bond committee" means the state bond committee created by AS 37.15.110.

**Sec. 19.75.990 Short title.**

This chapter may be cited as the Knik Arm Bridge and Toll Authority Act.

SB 303 AND HB 471 CONFORMING AMENDMENTS to OTHER STATUTES

**Title 28. Motor Vehicles**  
**Chapter 15. Drivers' Licenses;**  
**Article 1. Issuance, Expiration and Renewal of Licenses.**

**Sec. 28.15.031 Persons not to be licensed.**

(a) The department may not issue a driver's license to a person who is

(1) under the age of 16 years, except that the department may issue a permit under AS 28.15.051 or a restricted license under AS 28.15.121; or

(2) at least 16 years of age but not yet 18 years of age unless the person meets the requirements of AS 28.15.057.

(b) The department may not issue an original or duplicate driver's license to, nor renew or reinstate the driver's license of, a person

(1) whose license is suspended or revoked, except as otherwise provided in this chapter;

(2) who fails to appear in court for the adjudication of a certain vehicle, driver, or traffic offense when the person's appearance is required by statute, regulation, or court rule;

(3) who is an habitual user of alcohol or another drug to such a degree that the person is incapable of safely driving a motor vehicle;

(4) [REPEALED (5)] when the department, based upon medical evidence, has determined that because of the person's physical or mental disability the person is not able to drive a motor vehicle safely;

(5) [(6)] who is unable to understand official traffic control devices as displayed in this state or who does not have a fair knowledge of traffic laws and regulations, as demonstrated by an examination;

(6) [(7)] who has knowingly made a false statement in the person's application for a license or has committed fraud in connection with the person's application for, or in obtaining or attempting to obtain, a license, or who has not applied under oath on the form provided for the purpose of obtaining or attempting to obtain a license or permit; [OR]

(7) [(8)] who is required under AS 28.20 to furnish proof of financial responsibility and who has not done so; or

(8) who is liable for an unpaid toll or fee under AS 19.75.915(c).

**Title 43. Revenue and Taxation.  
Chapter 23. Permanent Fund Dividends.**

**Sec. 43.23.065 Exemption of and levy on permanent fund dividends.**

(a) Except as provided in (b) of this section, 20 percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. No other exemption applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend that has not been delivered to the debtor may be served on the commissioner by certified mail, return receipt requested. Upon receipt of a writ by certified mail, return receipt requested, the commissioner shall deliver that portion of the dividend executed upon to the court along with the case name and number.

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support services agency under AS 25.27.140 - 25.27.220;

(2) court ordered restitution under AS 12.55.045 - 12.55.051, 25.12.55.100, or AS 47.12.120(b)(4);

(3) claims on defaulted education loans under AS 43.23.067;

(4) court ordered fines;

(5) writs of execution under AS 09.35 of a judgment that is entered

(A) against a minor in a civil action to recover damages and 30 court costs;

(B) under AS 34.50.020 against the parent, parents, or legal guardian of an unemancipated minor;

(6) a debt owed by an eligible individual to an agency of the state, including the University of Alaska, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;

(7) a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2);

(8) an unpaid toll or fee under AS 19.75.915(b).

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\* \* \*

**SB**

**304**

# ALASKA STATE LEGISLATURE

## SENATE TRANSPORTATION COMMITTEE

### Committee Members

Senator Huggins, Chairman  
Senator Cowdery, Vice-Chair  
Senator Therriault  
Senator Kookesh  
Senator French



State Capitol, Room 417  
Juneau AK 99801-1182  
907-465-3878  
Fax: 907-465-3265

### Sponsor Statement

#### Senate Bill 304

**"An Act relating to the privileges of airport parking shuttles and to fees or charges imposed on a person who is not a lessee or holder of a privilege to use the property or a facility of an airport."**

Under Alaska law, commercial vehicles that deliver people to the airport fall into one of four general categories: courtesy vehicles, taxis, limos, shuttles, buses, or tour passenger vehicles. Depending upon the vehicle's classification, a fee is charged for what is essentially use of the airport's curb and roadway. The authority for the setting of these specific rates can be found in AS 02.15.090 which requires the fees charged to be "reasonable and uniform for the same class of privileges and services... and [to be established] with due regard to the property and improvements used and the expense of operation by the state."

At present, the rates charged by the Department of Transportation for these different vehicles to utilize the airport curb at the Anchorage International Airport varies from \$50.00 per year for a courtesy vehicle, taxi, or limo, to \$100 per year for a tour passenger vehicle, up to a maximum of \$1000.00 per year for a regularly scheduled bus.

In early 2005, the Department of Transportation proposed regulations, which would charge "off-airport valet parking services" a tax equal to 8% of their gross revenues. This change would constitute a drastic shift from the statutory language, which requires that the fees charged be "reasonable and uniform for the same class of privileges and services." While other courtesy services such as free hotel shuttles are charged a \$50 per vehicle fee, the proposal would charge free parking shuttles 8% of gross sales or \$250 annual minimum (whichever is greater). The two services are essentially the same class because both are "a free courtesy"; both offer an airport patron an off-site service and both require the same amount of accommodations on part of the Airport.

The purpose of SB304 is to clarify the law with regard to the charging of off-airport businesses who simply drop patrons at the curb or pick them up upon return and reflects the sentiment that the Department should set rates, which are based on use and not as a percentage of gross revenues. SB304 simply and specifically directs the Department that charges for usage must be consistent with other services that receive similar privileges and accommodations, may not be on a gross revenue basis and shall not have the effect of singling out one type of accommodations because it may currently or in the future compete with the airport.

## Ted Stevens Anchorage International Airport Rental Car Concessions

Anchorage Airport Concession	FY02	FY03	FY04	FY05
On-Airport RAC* Gross Revenues	\$ 35,759,984	\$ 35,338,712	\$ 38,416,289	\$ 39,268,002
Off-Airport RAC Gross Revenues**	\$ 1,079,382	\$ 968,124	\$ 129,815	\$ 253,275
Total	\$ 36,839,366	\$ 36,306,836	\$ 38,546,104	\$ 39,522,077

\*RAC = Rent-A-Car

\*\*Includes only gross revenues for Airport related business.

On-Airport RAC Concession Fees (10%)	\$ 3,897,364	\$ 4,303,847	\$ 4,440,204	\$ 3,936,130
Off-Airport RAC Concession Fees (8%)	\$ 100,669	\$ 85,367	\$ 9,593	\$ 16,338
Total	\$ 3,998,033	\$ 4,389,214	\$ 4,449,797	\$ 3,952,468

1. In FY03 (December 2002) Thrifty Rental moved from off-airport to an on-airport rental car concessionaire.
2. In FY05 (May 2005) Enterprise became eighth on-airport rental car concessionaire.

Comments: Overall concession revenues may fall below or above the 10 or 8 percent respective fees because of cash basis accounting principles and end-of-the-year adjustments for each concession agreement.

Although off-airport rental car revenues appear low recently, the numbers could rise dramatically depending upon incentives, such as a lower concession fee.

## TED STEVENS ANCHORAGE INTERNATIONAL AIRPORT PARKING REVENUES

### FY03

Gross	\$4,817,000	Concession Agreement <sup>1</sup>
Net	\$2,204,000	Concessionaire's check to the Airport

### FY04

Gross	\$4,456,000	Concession Agreement <sup>1</sup>
Net	\$2,009,000	Concessionaire's check to the Airport

### FY05

Gross	\$4,686,000	Concession Agreement <sup>1</sup>
Net	\$2,462,000	Concessionaire's check to the Airport <sup>2</sup>

### \*FY06

**\*Note: July and August were under the concession agreement, i.e., all expenses were paid by the concessionaire. Beginning September 1, 2005, the concession agreement was replaced with a management agreement. Under the management agreement, the Airport pays all operating expenses and a management fee but retains all parking revenues.**

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<sup>1</sup> Garage and Shuttle Expenses paid by Concessionaire out of gross revenues.

<sup>2</sup> Concessionaire percentage rent increased during this year from 46% to 55%.

Dated: 4/3/06

# Ted Stevens Anchorage International Airport Concessions

Anchorage Airport Concessions	Percentage Rent
-------------------------------	-----------------

\*Most concessionaires pay the greater of a minimum annual guarantee or a percentage of gross sales

<b>Food &amp; Beverage (HMSHost)</b>	
Food	10.00%
Alcohol	15.00%
Vending/Starbucks Merchandise	15.00%
Employee Cafeteria	5.00%

<b>News &amp; Gifts (Hudson News)</b>	
Books, Magazines, Newspapers	14.00%
Health & Beauty Aides/Sundries/Food	18.00%
Gifts/Retail	24.00%

<b>Specialty Retail (Sourdough Mercantile)</b>	
Books	11.00%
Gifts/Retail	17.00%
Alaska Made Products	13.00%
Seasonal Kiosks	10.00%

<b>DVD Rental/Sales (InMotion)</b>	
DVD Rentals	13.00%
Retail	10.00%

<b>Public Pay Phones (GCI)</b>	
Pay Phones & Long Distance	15.00%

<b>Luggage Carts (FSS)</b>	
	10.00%

<b>Duty Free/ North Terminal News &amp; Gifts</b>	
General Merchandise	12.50%
Books/Magazines	13.00%

<b>On-Airport Rental Car Permit</b>	
	10.00%

<b>Off-Airport Rental Car Permit</b>	
	8.00%

<b>Relaxation Center (The Right Touch)</b>	
	5.00%

<b>Display Advertising (Interspace)</b>	
	40.00%

<b>Alaska Railroad Consideration &amp; Rent</b>
Constructed \$2 million tunnel for Airport
Land Rent (\$.08/sf/yr * 27,350 sf = \$2,188/yr for first 24yrs)
Passenger Access Fees* After first 5 years

**Deborah Grundmann**

---

**From:** Mark Pfeffer [mpfeffer@kpb-alaska.com]  
**Sent:** Tuesday, March 28, 2006 12:04 PM  
**To:** Deborah Grundmann  
**Subject:** Testimony re off airport fee

Dear Representative \_\_\_\_\_

This is in reference to House Bill 304.

This bill as currently written includes an exemption of the existing "percentage of gross" fee that is charged by the airport system for those rental car companies operating off airport.

We are opposed to this revision for the following reasons;

- The fee is part of a balance of revenue and expense crafted by the airport and a majority in interest of the rental car industry operating on airport. Removal of this fee for off airport rental car companies will provide an unfair competitive advantage, allowing these companies to receive all of the benefits of access and marketing to airport passengers without a commensurate charge to do so
- The 8% fee currently charged off-airport rental customers is less than the 10% fee charged to on airport customers to reflect the inconvenience of utilizing a shuttle versus direct access.
- The reduced income from off airport rental car fees would be absorbed by the airlines landing at the airport as increased landing fees necessary to balance the airports revenue and expenses. This could result in higher rate structures for airline passengers, spreading the cost advantage enjoyed by off airport rental car customers to the balance of the public traveling by air.
- The competitive advantage afforded off airport companies could be enough of an advantage to cause some airport rental car business to move off airport impacting revenue projections for on airport facilities in the future.
- The shuttles for off airport rental car customers differs from shuttles for other functions in the following ways;
  - **Lodging:** there currently are no hotels operating on airport. All passengers needing lodging are free to make a marketplace choice for lodging based on cost and convenience. For those passengers utilizing a shuttle to their accommodation, the cost of that convenience is factored into the proprietors cost structure for that customer. For those off airport hotels without a shuttle service, passengers may achieve less cost for less convenience, finding their own means to transit to the hotel. All places of lodging have equal access to the customer base presented by the airport and are free to determine their own competitive strategy for marketing to that base, a per trip fee or annual fee for shuttle access to the customer base or no fee for no shuttle access. Additionally, more access to that customer base may be achieved by lodging proprietors with or without shuttle by paying for advertising rights at the airport. Again, a fair and balanced business choice for each private sector business to make with regard to access to the airport customer base.
  - **Off airport parking:** currently any private sector off airport parking is in competition only with the public sector parking provided by the airport. Again, the public is free to choose based on convenience and cost. There is no private sector on airport parking competing with any private sector off airport parking. Therefore there is no private sector business being granted a competitive advantage to the airport customer base, by special fee structures. The fee charged for off airport shuttles for private sector parking should be weighed as a fee charged to encourage or discourage competition with the public sector facility. a key question should be does the public sector have the right to protect its competitive advantage by charging a higher fee? Does the higher fee charged benefit the public at large? (Yes). Does the higher fee dampen competition with the public sector and therefore deny the public alternative choices? (Yes). Is this appropriate?
  - **Rental Cars:** there is no public sector rental car business only private sector. Each private sector

rental car business is free to make its own competitive choices regarding access to the customer base at the airport. If you access that customer base you should pay a fee, if you do not access that base then you should not. The amount of the fee, which is determined by the public sector, should not provide a disproportionate competitive advantage to one class of private sector companies over another. Therefore the fee currently imposed by the airport to off airport rental car customers utilizing an on airport shuttle is set at 8% to reflect the less convenient access, but high enough to reflect the access granted to the market base. This fee should not be waived to the mere fraction reflected by a "charge per trip" or "nominal annual fee" rate structure since the point of the fee is not a charge for operations on airport but a charge for access granted to the customer base. An important corollary point is that fees for actually operating on airport (versus just accessing the airport by shuttle) are in addition to the 8% or 10% fee charged for granting access to the market base. As with hotels that choose to advertise at the airport, private sector rental car companies are free to choose if the competitive advantage of actually operating on airport justifies the expense charged for the right to do so. The separate fee structure of 8% versus 10% is purely for the right to access the customer base and the difference of 2% is an appropriate amount given the difference in service.

- Currently, passengers may on their own reconnaissance, seek out and utilize off airport rental cars without paying the 8% fee. This is the case so long as the customer finds his own way or makes his own arrangements to gain access to a rental car off airport. The right to operate a shuttle at the airport for its customers is what the off airport rental Car Company chose to purchase in order to gain access to the customer base. Additionally, the fee is charged only for those customers utilizing the convenience.
- If the percentage of gross fee structure is removed from off airport rental car companies, they then have been granted a competitive advantage, and they could use this advantage to gain market share of the airport customer base. Therefore the public sector (airport) has diminished the amount of market base that it sold to on airport rental car companies for the cost of the 10% fee (and those additional charges for operating on airport).

## **GROUND TRANSPORTATION FEES**

### **17 AAC 42.095**

<b>COURTESY VEHICLE, TAXI CAB</b>	<b>\$50 PER VEHICLE PER YEAR</b>
<b>LIMOUSINE</b>	<b>\$500 FOR THE FIRST VEHICLE AND \$50 FOR EACH THEREAFTER PER YEAR</b>
<b>TOUR BUS</b>	<b>\$100 PER VEHICLE PER YEAR OR \$50 PER VEHICLE PER YEAR IF LESS THAN 10 TRIPS</b>
<b>SCHEDULED BUS SERVICE</b>	<b>\$1,000 PER VEHICLE PER YR.</b>
<b>OFF AIRPORT SHUTTLE</b>	<b>\$500 FOR THE FIRST VEHICLE AND \$50 FOR EACH VEHICLE THEREAFTER PER YEAR</b>
<b>OFF AIRPORT CAR RENTAL</b>	<b>GREATER OF 8% OF GROSS SALES OR \$250 ANNUAL MINIMUM</b>

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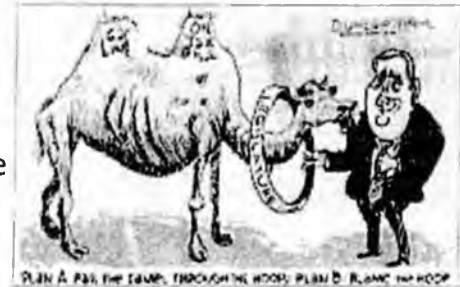
From the Office of  
Senator John Cowdery

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**Parking problem****Anchorage airport fee proposal takes aim at low-cost competition***(Published: March 16, 2006)*

If you're looking to save money on parking during your next flight out of town, be forewarned. A proposed change in shuttle van access charges at Anchorage International Airport could push up off-site parking rates.

*(Peter Dunlap-Shohl)*

The airport lost \$1 million of parking business when a cheaper private parking lot opened down the road. The state Department of Transportation has responded by trying to jack up the rates private parking services have to pay for permission to shuttle passengers in and out of state-owned airport terminals.

If a business tried to pull a trick like that against a competitor, it would get a visit from the anti-trust police.

Airport officials say they aren't trying to pad their own agency's budget, they're just trying to save money for airlines. If parking and other concession revenues fall short of paying the airport's operating expenses and bonds, airlines have to make up the difference with higher landing fees. The airport is just the middleman that collects whatever money is needed.

Middleman the airport may be, but it's a middleman with monopoly power that can be abused. It controls access to a lucrative business environment. It can pick winners and losers by the rules it sets.

If the airport's going to play this kind of anti-competitive game, it could get really creative. It could take aim at all kinds of people who shop off-airport to avoid the high prices charged in the airport's captive market.

Hey buddy, you got a sandwich in your bag there? You're cutting into Burger King's revenues inside the terminal. It'll cost you an extra buck when you check in for your flight.

Ma'am, is that a book in your carry-on bag? Sorry, you'll have to pay the airport's new "Reading Material Importation Fee." It's only fair. Otherwise, you're depriving airport bookstores and magazine stands of their rightful business.

Silly isn't it? But no more so than jacking up the access fee for off-airport discount parking services.

The clumsy way the airport has structured the huge proposed fee increase -- 8 percent of gross sales, instead of the current flat fee for each shuttle van -- makes it doubly bad. There appears to be some question whether hotels would have to pay a huge portion of their gross sales just for the privilege of sending courtesy vans to and from the airport.

Fortunately, the airport's anti-competitive gambit has caught legislators' attention. A pending bill would allow a higher flat fee for parking lot shuttle buses, but it would block the exorbitant percent-of-the-gross fee proposed by the airport. If the airport won't straighten up and fly right, the legislature will have to keep this idea locked safely in a hangar.

**BOTTOM LINE:** That off-site airport parking lot has a big, ugly sign, but it shouldn't have to pay exorbitant fees to access Anchorage International Airport.

### **Right call**

#### *Video gaming initiative is 0 for 4*

Lt. Gov. Loren Lemman made the right call earlier this week when he refused to certify a ballot initiative from backers of a casino for video gaming and other activities.

The sponsors, represented by Anchorage attorney Ken Jacobus, lost again because they continue to sponsor a statewide initiative to confer special advantages to a potential owner of property in South Anchorage, Victoria Scott, who would be allowed to open a gaming establishment while other potential operators would need voter approval.

The Alaska Constitution doesn't allow special-interest initiatives. There's a place for special-interest proposals: the Alaska Legislature. Seriously, lobbyist jokes aside, lawmakers have the legal ability to pass special-interest legislation. But the Constitution bars such law-making by citizens initiative.

Heeding the Constitution, the Department of Law recommended -- for the fourth time -- that Lt. Gov. Lemman reject the casino initiative. Mr. Jacobus had argued that a competitive advantage -- restricting other casinos in the market -- is fair for the petition backers to recoup their investment in the initiative. What?

No. No. No. No.

If initiative backers want a shot at gambling establishments in Alaska, let them put a fair initiative on the ballot. This deck was stacked in one person's favor. No straight table would tolerate it. Nor does the Alaska Constitution.

Wonder if these folks play poker like they do initiatives.

**BOTTOM LINE:** Video gaming initiative goes down again. Please, nobody help it up.

### **Jeff King**

#### *Iditarod champ at 50*

With a great lead dog, his best team and a lifetime of hard-earned mushing expertise, Denali's Jeff King won his fourth Iditarod Trail Sled Dog Race early Wednesday.

He needed all of the above plus a little luck in the blowing snow between Kaltag and Unalakleet to stay ahead of Doug Swingley. He joined Mr. Swingley, Susan Butcher and Martin Buser as four-time winners. Rick Swenson has won five.

Yes, Mr. King may have invented a sled you can sit on, but it's clear the 50-year-old musher still has the legs to ride the runners.

improvements of proposed facilities, and the generation of optimum revenue for the fund.

(e) The department shall actively supervise the operations under each exclusive contract for the sale and delivery of in-bond merchandise in order to ensure the effectiveness of the operations. To supervise contract operations under this section, the department shall develop and implement guidelines that provide for review of the reasonableness of price schedules, quality and assortment of merchandise, and customer service.

(f) Nothing in this section applies to deliveries of in-bond merchandise as cargo to airlines. (§ 2 ch 111 SLA 1982; am § 1 ch 21 SLA 1988)

**Cross references.** — For legislative findings, see § 1, ch. 111, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

**Sec. 02.15.095. Courtesy cars.** Notwithstanding the provisions of AS 02.15.090(a), the department may not exclude from the streets, roads, highways, parking facilities, or other portions of a state-operated airport designated for operation or parking of ground transportation vehicles, nor may the department prohibit from picking up and discharging passengers, those motor vehicles commonly known as "courtesy cars" owned or operated by hotels, motels, or other similar places of public accommodation for the transportation of their guests to and from the airport at the request of the guest and for which service no charge is made to the guest. (§ 1 ch 9 SLA 1974)

**Sec. 02.15.100. Liens.** The department may enforce the payment of any charges for repairs, improvements, storage, or care of personal property made or furnished by the department or its agents, in connection with the operation of an airport or air navigation facility owned or operated by the state. The state has those lien rights generally allowed by law to secure payment for those services. (§ 5 E ch 123 SLA 1949; added by § 1 ch 117 SLA 1959)

### Article 3. Utilities and Encroachments at State Airports.

Section	Section
102. Use of airports for utilities	110. Unauthorized encroachments
104. Relocation of utility facilities incident to airport projects	112. Notice of removal of unauthorized encroachment
106. Encroachment permits	114. Removal at owner's expense after noncompliance; removal expense
108. Relocation or removal of encroachment	

**Sec. 02.15.102. Use of airports for utilities.** A utility facility may be constructed, placed, or maintained across, along, over, under, or within a state airport only in accordance with regulations adopted or procedures prescribed by the department and only if authorized by a written permit issued by the department. The department may charge a fee for a permit issued under this section. (§ 1 ch 142 SLA 1986; am § 4 ch 36 SLA 1990)

**Sec. 02.15.104. Relocation of utility facilities incident to airport projects.**  
(a) If, incident to the construction of an airport project, the department determines and orders that a utility facility located across, along, over, under, or within a state airport must be changed, relocated, or removed, the utility owning or maintaining the facility

**PROPOSED CHANGES TO  
17 ALASKA ADMINISTRATIVE CODE  
CHAPTER 42**

17 AAC 42.105(a)(5) is amended to read:

(5) a valet parking service or airport parking service:

(Eff. 1/14/2001, Register 157; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_\_)

Authority:	AS 02.15.020	AS 02.15.220	<u>AS 37.15.500</u>
	AS 02.15.060	AS 02.15.230	AS 37.15.540
	AS 02.15.090	[AS 37.15.470]	

17 AAC 42.105 is amended by adding a new subsection to read:

(o) for purposes of this section, an activity is conducted on an airport if the activity, including any transportation offered or arranged by the operator of the activity,

(1) is conducted all or in part within the airport boundary; or

(2) derives business from an airport and offers or arranges for transportation

between an off-airport location and a location on the airport.

(Eff. 1/14/2001, Register 157; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_\_)

Authority:	AS 02.15.020	AS 02.15.220	<u>AS 37.15.500</u>
	AS 02.15.060	AS 02.15.230	AS 37.15.540
	AS 02.15.090	[AS 37.15.470]	

17 AAC 42.990(24)(B)(iii) is amended to read:

(iii) a valet parking service or airport parking service:

(Eff. 1/14/2001, Register 157; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_\_)

Authority: AS 02.15.020 AS 02.15.090 AS 37.15.500  
AS 02.15.060 AS 02.15.200

17 AAC 42.990 is amended by adding two new subsections to read:

(78) "airport parking service" means the activity of providing vehicle parking for airport users or visitors; however, "airport parking service" does not include the incidental provision of vehicle parking by a business or activity for users of or visitors to only that business or activity;

(79) "valet parking service" means the activity of providing or offering to provide vehicle parking for airport users or visitors and in which

(A) the parking service parks or otherwise drives or offers to drive a customer's vehicle; or

(B) the parking service offers or arranges for transportation of an airport user or visitor between the parking location and a location on the airport.

(Eff. 1/14/2001, Register 157; am \_\_\_ / \_\_\_ / \_\_\_\_, Register \_\_\_\_\_)

Authority: AS 02.15.020 AS 02.15.090 AS 37.15.500  
AS 02.15.060 AS 02.15.200

## GROUND TRANSPORTATION FEES 17 AAC 42.095

COURTESY VEHICLE, TAXI CAB	\$50 PER VEHICLE PER YEAR
LIMOUSINE	\$500 FOR THE FIRST VEHICLE AND \$50 FOR EACH THEREAFTER PER YEAR
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SCHEDULED BUS SERVICE	\$1,000 PER VEHICLE PER YR.
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OFF AIRPORT CAR RENTAL	GREATER OF 8% OF GROSS SALES OR \$250 ANNUAL MINIMUM

*when* ✓

Week parking      R

Diamond 1,200 Cars  
500,000 payroll  
25 people  
Ramp pass - 500 Ea  
20 Fee?  
Transponder:

# AK Statutes

## Sec. 02.15.090. Operation and use privileges.

(a) In operating an airport or air navigation facility owned or controlled by the state, the department may enter into contracts, leases, and other arrangements covering periods not exceeding 55 years with a person, municipality, or the United States, granting the privilege of using or improving an airport or air navigation facility or a portion of it or space in it for commercial, governmental, or other public purposes, including private plane tie down, or conferring the privilege of supplying goods, commodities, services, or facilities at an airport or air navigation facility. The department may establish the terms and conditions and fix the charges, rentals, and fees for the privileges or services that are reasonable and uniform for the same class of privilege or service. Charges, rentals, or fees authorized by this subsection may be fixed for the international airports by order of the commissioner or by negotiated or competitively offered contract. Notwithstanding AS 37.10.050(a), the fixing of charges, rentals, or fees as permitted under this subsection is not subject to the adoption of regulation provisions of AS 44.62 (Administrative Procedure Act). The terms, conditions, charges, rentals, and fees shall be established with due regard to the property and improvements used and the expense of operation to the state. However, use of state land and buildings by the Alaska Wing, Civil Air Patrol and its squadrons shall be permitted without rental charges. If the department permits space in state-owned or state-controlled airports to be used as lounges for members of the United States armed forces, the Alaska National Guard, the Alaska Naval Militia, or the Alaska State Defense Force, and if the lounges are operated by persons exempt from taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code), rent may not be charged for the use of the space. The department shall provide for public notice and an opportunity to comment before a charge, rental, or fee is fixed by order of the commissioner as permitted under this subsection. The public may not be deprived of its rightful, equal, and uniform use of the airport, air navigation facility, or a portion of them.

(b) The department may by contract or other arrangement, upon a consideration fixed by it, grant to a qualified municipality or person for a reasonable period of time the privilege of operating, as agent of the state or otherwise, an airport owned or controlled by the state. A municipality or person granted that privilege may not operate the airport other than as a public airport or enter into a contract, lease, or other arrangement in connection with the operation that the department may not have undertaken under (a) or (c) - (e) of this section.

(c) Notwithstanding the right of the public to rightful, equal, and uniform use under (a) of this section, before the expiration of a land lease, including the termination of a lease in holdover status, entered into under this section, the lessee may apply for a new lease, or for an extended term under the existing lease, for the same land. The commissioner shall approve the application for a new land lease or an extended term under this section without offering the land to other persons for leasing if

(1) the lessee is in compliance with the terms and conditions of the existing or holdover lease; and

(2) the continued use of the leasehold is consistent with written airport operation policies and is in the state's best interest.

(d) A land lessee owns title to the permanent improvements that the lessee constructed or purchased during the term of the lease, unless the lease expressly provides that the state is the owner of the permanent improvements.

(e) At the expiration, termination, or cancellation of a land lease entered into under this section,

(1) a lessee who owns the improvements under (d) of this section shall continue to

own the permanent improvements that the lessee constructed or purchased on a leasehold if the lessee is granted under (c) of this section a new lease or an extended term for the same land;

(2) a lessee may sell the permanent improvements owned by the lessee to a succeeding lessee of the same land;

(3) at the option of the lessee, the permanent improvements owned by the lessee may be sold by the state at public auction with the proceeds from the sale of the improvements going to the lessee, less administrative costs of the auction and obligations owed under the lease to the state; the successful bidder has the same right to enter into a new lease under (c) of this section without the department offering the land to other persons for leasing;

(4) after notice by the department, the permanent improvements owned by the lessee shall be removed at the lessee's sole expense if

(A) the permanent improvements do not comply with written airport operational policies or are not in the state's best interest;

(B) the permanent improvements are not sold under (2) or (3) of this subsection; or

(C) the department makes written findings that the permanent improvements are a hazard to the public health and safety;

(5) title to the permanent improvements vests in the department if the state purchases or otherwise contracts for the ownership of the permanent improvements, or if the lessee abandons the permanent improvements.

(f) The department shall require as a term of all aviation-related contracts, leases, and other arrangements for use or occupancy of an airport operated by the department, including the international airports, that the parties to the contract, lease, or other arrangement, including the department, shall be required to reimburse each other according to the principles of comparative fault for amounts paid others for personal injury and property damage. The apportionment of liability among the parties to an agreement under this subsection may not affect the rights of persons who are not parties to the agreement.

(g) If the department determines that it is in the best interests of the state to require that persons holding aviation-related leases, permits, or concession contracts for use or occupancy of an airport operated by the department, including international airports, provide insurance coverage, the department shall develop and adopt by regulation guidelines for the types and limits of insurance coverage required for aviation-related leases, permits, or concession contracts. The department may authorize a variation from the coverage required by the regulation if the department finds in writing that the variation is necessary considering the best interests of the state and the unique circumstances underlying a specific aviation-related lease, permit, or concession contract.

(h) For the privilege of occupying or using a state-owned facility on an airport, which facility is or will be acquired, constructed, equipped, installed, or improved with the proceeds of indebtedness, the payment of which, with approval of the commissioner, is or will be secured solely by proceeds from customer facility charges, the department may require all persons under contract to occupy or use all or a portion of the planned facility, and shall require occupants or users of all or a portion of the facility, to collect from their customers a uniform customer facility charge and remit the proceeds to (1) the department if the state on behalf of the department incurred the indebtedness; or (2) a trustee or another third party bound to use the proceeds for the principal, interest, reserves, and any other applicable requirements of the indebtedness

documentation if the state on behalf of the department did not incur the indebtedness. The commissioner shall set the customer facility charge at an amount projected to generate proceeds sufficient to satisfy all requirements established by the indebtedness documentation, including payment of principal and interest on the indebtedness, maintenance of any reserves, and satisfaction of any other requirement of the indebtedness documentation. The commissioner shall periodically adjust the amount of the customer facility charge to reflect changes in the amounts necessary to pay the principal of and interest on the indebtedness, to maintain any required reserves, and to satisfy all other requirements established by the indebtedness documentation and to reflect changes in the number of occupants, users, or customers of the facility. The proceeds of the customer facility charge are not revenue of the state securing any other indebtedness. The commissioner may impose charges authorized by this subsection for the international airports by order or by negotiated or competitively offered contract. The department shall provide for public notice and an opportunity to comment before a charge is set by order of the commissioner under this subsection. Notwithstanding AS 37.10.050(a), the setting of charges under this subsection is not subject to the adoption of regulation provisions of AS 44.62 (Administrative Procedure Act).

(i) In addition to requiring collection of a customer facility charge to be applied as described in (h) of this section, the department may require occupants or users of, or persons under contract to occupy or use, all or a portion of a state-owned facility on an airport, which facility is or will be acquired, constructed, equipped, installed, or improved with the proceeds of indebtedness, the payment of which is secured solely by proceeds of a customer facility charge, to collect from their customers a uniform customer facility maintenance charge and to remit the proceeds to (1) the department if the state on behalf of the department incurred the indebtedness; or (2) a trustee or another third party if the state on behalf of the department did not incur the indebtedness. The commissioner shall set the customer facility maintenance charge at an amount projected to generate proceeds sufficient to pay some or all, as determined by the commissioner, of the costs, fees, and expenses required to operate and maintain the facility, including costs of insurance and maintenance of reserves for the facility. The commissioner shall periodically adjust the amount of the customer facility maintenance charge to reflect changes in costs, fees, and expenses to operate and maintain the facility, including costs of insurance and maintenance of reserves for the facility and to reflect changes in the number of occupants, users, or customers of the facility. If the proceeds of the customer facility maintenance charge are remitted to a trustee or another third party as set out in this subsection, the proceeds of the customer facility maintenance charge are not, unless otherwise contractually required, revenue of the state securing any indebtedness. The commissioner may impose charges authorized by this subsection for the international airports by order or by negotiated or competitively offered contract. The department shall provide for public notice and an opportunity to comment before a charge is set by order of the commissioner under this subsection. Notwithstanding AS 37.10.050(a), the setting of charges under this subsection is not subject to the adoption of regulation provisions of AS 44.62 (Administrative Procedure Act).

History -

(Sec. 5 E ch 123 SLA 1949; am Sec. 1 ch 117 SLA 1959; am Sec. 3 ch 36 SLA 1990; am Sec. 1 ch 33 SLA 1993; am Sec. 2, 3 ch 105 SLA 1996; am Sec. 1 ch 18 SLA 1998; am Sec. 1 ch 25 SLA 2000; am Sec. 1 ch 70 SLA 2000; am Sec. 3 ch 56 SLA 2001; am Sec. 1 ch 99 SLA 2001; am Sec. 1, 2 ch 5 SLA 2005)

Revisors Notes -

In 2003, in subparagraph (e)(4)(B), "(2) or (3) of this subsection" was substituted for "(e)(2) or (3) of this section to conform to the style of the Alaska Statutes.

#### Cross References -

For legislative findings and purpose concerning the enactment of subsections (c)-(e) in Sec. 3, ch. 105, SLA 1996, see Sec. 1, ch. 105, SLA 1996 in the Temporary and Special Acts.

#### Amendment Notes -

The 1996 amendment, effective September 23, 1996, inserted a section reference near the end of subsection (b) and added subsections (c)-(e).

The 1998 amendment, effective July 29, 1998, added the third sentence from the end of subsection (a).

The first 2000 amendment, effective August 2, 2000, substituted "Defense Force" for "Militia" in the third sentence from the end of subsection (a) and made a stylistic change.

The second 2000 amendment, effective May 23, 2000, made the same substitution as the first 2000 amendment.

The first 2001 amendment, effective September 27, 2001, added subsections (f) and (g).

The second 2001 amendment, effective July 11, 2001, added the fourth sentence in subsection (a).

The 2005 amendment, effective April 2, 2005, in subsection (a) deleted the former fourth sentence, relating to a uniform customer facility charge; and added subsections (h) and (i).

#### Editors Notes -

Section 15(a), ch. 56, SLA 2001, provides that the provisions of (f) and (g) of this section "apply to aviation-related contracts, concession contracts, leases, permits," and other arrangements for use or occupancy of a state-operated airport entered into on or after September 27, 2001. See Sec. 15(a), ch. 56, SLA 2001, in the 2001 Temporary and Special Acts.

Section 15(b), ch. 56, SLA 2001, provides that the provisions of (f) and (g) of this section "apply to aviation-related contracts, concession contracts, leases, permits," and other arrangements for use or occupancy of a state-operated airport in effect on September 27, 2001, if the parties agree to modify the agreement to conform to provisions of (f) and (g) and regulations adopted under those subsections or if unilateral modification of the agreement by the Department of Transportation and Public Facilities is consistent with the state constitution.

#### Decisions -

State cannot be indemnified for own negligence. - Administrative regulation requiring that all airport terminal leases contain an indemnity provision was invalid to the extent that it required airport lessees to indemnify the state for its own negligence in the operation, maintenance or design of the taxiways and runways of Anchorage International Airport. *State v. Korean Air Lines Co.*, 776 P.2d 315 (Alaska 1989).

Public duty exception to rule allowing indemnification of an indemnitee for its own negligence prevented the state from seeking indemnification from an airline terminal lessee for the state's own negligence in the operation, maintenance or design of the taxiways and runways of Anchorage International Airport. *State v. Korean Air Lines Co.*, 776 P.2d 315 (Alaska 1989).

Legislative intent. - By enacting AS 02.15.120, 02.15.160, and this section, the legislature intended to insure that airport facilities would be made available, on a priority basis, to that segment of society for which those facilities are designed: Those persons operating aircraft or machinery used incidentally to the operation of aircraft. *Planchich v. State*, 693 P.2d 855 (Alaska 1985).

Competitive bid procedure for leases. - Where, under its "bonus bid" system, the state Department of Transportation offered a property lease to the bidder making the largest bonus payment regardless of the lease term sought, each bidder was free to choose a lease length on which to bid and to make a bonus offer, and this fact, coupled with the fact that the annual rental

was set at the same rate as that for similarly situated property, supported a finding that the department's competitive bid procedure fell well within its statutory authority. *Romann v. State, Dep't of Transp. & Pub. Facilities*, 991 P.2d 186 (Alaska 1999).

Collateral Refs -

Airport operations or flight of aircraft as nuisance. 79 ALR3d 253.

Sec. 02.15.091. Sale and delivery of in-bond merchandise at international airports.

(a) Under (b) and (c) of this section, the department shall allow the sale and delivery of in-bond merchandise at an international airport only by an exclusive contract.

(b) While the exclusive contracts for the sale and delivery of in-bond merchandise at international airports that exist on June 15, 1982 are in effect, the department may not permit or confer a right on any other person to offer to sell, sell, or deliver in-bond merchandise at an international airport.

(c) After the exclusive contracts existing on June 15, 1982 are no longer in effect, the department shall enter into one exclusive contract and, on its expiration, additional successive exclusive contracts for the sale and delivery of in-bond merchandise at each international airport. Except under the existing and future exclusive contracts described in this section, the department may not permit or confer a right upon any person to offer to sell, sell, or deliver in-bond merchandise at an international airport.

(d) The department shall offer the exclusive contracts required by this section by competitive bid or by competitive proposals. If the department offers the exclusive contracts by competitive bid, the department shall award the contracts after considering the generation of maximum revenue for the International Airports Revenue Fund established by AS 37.15.430. If the department offers the exclusive contracts by competitive proposals, the department shall award the contracts after considering factors that include depth of management, financial ability, demonstrated experience at other locations, quality of services and products, success in marketing programs, character and improvements of proposed facilities, and the generation of optimum revenue for the fund.

(e) The department shall actively supervise the operations under each exclusive contract for the sale and delivery of in-bond merchandise in order to ensure the effectiveness of the operations. To supervise contract operations under this section, the department shall develop and implement guidelines that provide for review of the reasonableness of price schedules, quality and assortment of merchandise, and customer service.

(f) Nothing in this section applies to deliveries of in-bond merchandise as cargo to airlines.

History -

(Sec. 2 ch 111 SLA 1982; am Sec. 1 ch 21 SLA 1988)

Cross References -

For legislative findings, see Sec. 1, ch. 111, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

**SB**

**308**

# ALASKA STATE LEGISLATURE TRANSPORTATION COMMITTEE

## Committee Members

Senator Huggins, Chairman  
Senator Cowdery, Vice-Chair  
Senator Therriault  
Senator Kookesh  
Senator French



State Capitol, Room 417  
Juneau AK 99801-1182  
907-465-3878  
Fax: 907-465-3265

April 24, 2006

To: All House Members  
From: Senator Charlie Huggins  
Subject: SB 308 - AK RR Bond Bill

---

SB 308 "An Act authorizing the Alaska Railroad Corporation to issue revenue bonds to finance rail transportation projects that qualify for federal financial participation; and providing for an effective date," passed from House Finance today Monday, April 24, 2006. This legislation has been requested for a vote on the House Floor.

SB 308 is companion legislation to HB 491, sponsored by the House Transportation committee.

Representative Gatto, Co-Chair of the House Transportation Committee will be requesting signatures for the House "Chit" sheet. Your support of this legislation is very much appreciated.

Thank you.

Attachment

# ALASKA STATE LEGISLATURE TRANSPORTATION COMMITTEE

## Committee Members

Senator Huggins, Chairman  
Senator Cowdery, Vice-Chair  
Senator Therriault  
Senator Kookesh  
Senator French



State Capitol, Room 417  
Juneau AK 99801-1182  
907-465-3878  
Fax: 907-465-3265

3/14/06

## Sponsor Statement

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**SB 308 "An Act authorizing the Alaska Railroad Corporation to issue revenue bonds to finance rail transportation projects that qualify for federal financial participation; and providing for an effective date."**

Senate Bill 308 will authorize the Alaska Railroad to issue up to \$165,000,000 in tax exempt bonds backed by Federal Transit Administration (FTA) formula funds received annually by the Railroad. Bond proceeds will be used to finance FTA-eligible rail transportation projects focused on accelerating the Railroad's mainline track and bridge rehabilitation program by as much as ten years.

The Alaska Railroad corridor between Anchorage and Fairbanks handles more than 600 passenger trains per year and over 30,000 carloads of fuel and other hazardous materials annually. Accelerating the Railroad's track and bridge rehabilitation program in this corridor is important for the following reasons:

- Greatly enhances safety. Investment in this corridor will substantially reduce derailments caused by track failure.
- Increases capacity and speed important to meet growing passenger demand.
- Enhancing passenger capacity and safety allows the railroad to better support gas pipeline construction and other freight services.
- Reduces maintenance upkeep and operating cost.
- Consistent with the Railroad's #1 corporate priority to improve safety through track and bridge rehabilitation.
- Provides for stability, clarity and capital budget discipline.

Specifically, in the Anchorage to Fairbanks corridor, the program will result in 100% continuous welded rail to reduce "joint batter" which can lead to broken rail that causes derailments. Concrete ties and new 141 pound welded rail will be placed on all curves over six degrees to increase stability. Wood tie installment will create a tie replacement cycle which would not exceed 10 years (allowing for a replacement rate of 25% to 30% per year each 10 years).

In no event will the general credit of the state or Railroad be pledged for the repayment of these bonds. AS.42.40 requires that all liabilities incurred by the Alaska Railroad

shall be satisfied "exclusively" from the assets or revenue of the Alaska Railroad and not the State.

Debt payment for the bonds will come from a portion (between 30% to 50%) of the FTA formula funds which are statutorily mandated by Federal law and received annually by the Railroad. Issuing debt backed by FTA formula funds is authorized through FTA regulation and has already been used by other rail transit authorities in the lower 48 states.

While the Alaska Railroad will have the flexibility to issue the bonds in a single issuance or in several issuances, the current plan is to issue bonds in 2006, 2009 and 2012 with each issuance having a 12-year payoff schedule. The Alaska Railroad Board of Directors is required to approve each bond issuance and associated projects.

While mainline track and bridge refurbishment is the main project identified for this program, a portion of the bond proceeds will also be used for FTA-eligible technology upgrades and passenger equipment.

**Staff Contact:**

**Deborah Grundmann 465-4711**

# Alaska Railroad Corporation

## Legislative Request for Bonding Approval

Presented by

Pat Gamble, President / CEO

Bill O'Leary, VP Finance / CFO





## Request Legislative Approval

ARRC desires to issue one or more series of capital grant receipts revenue bonds or notes, in aggregate not to exceed \$165 million



## WHAT?

1996-2006

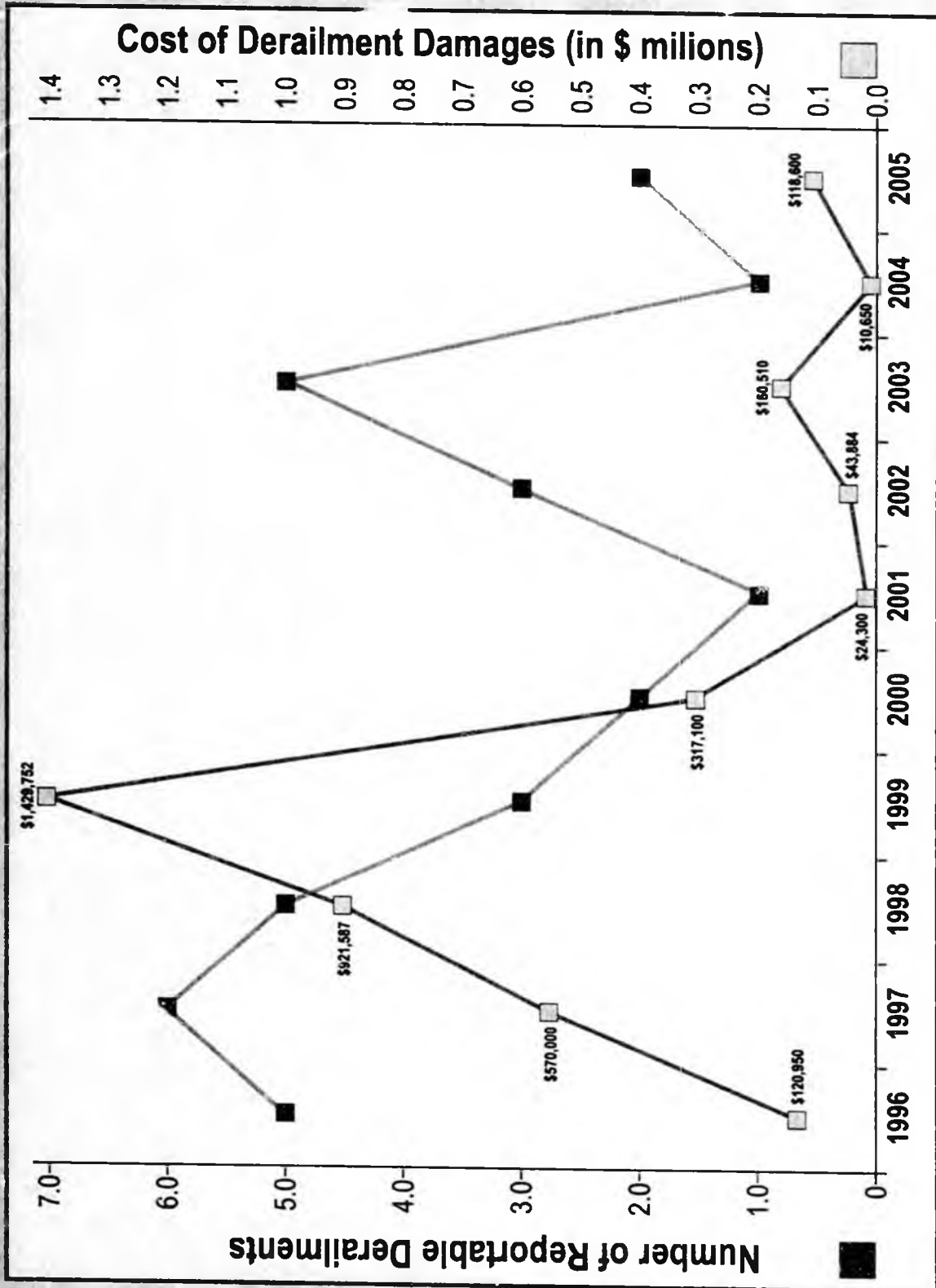
### Rehabilitate Mainline Substandard or Potentially Unsafe Track

- Single most important purpose for the use of federal funds
- Top capital investment effort and #1 priority since 1996... \$220 million already invested

80% 60 to 80 per yr  
50 to 70 debt  
Arch - FBKS

.6 Factor

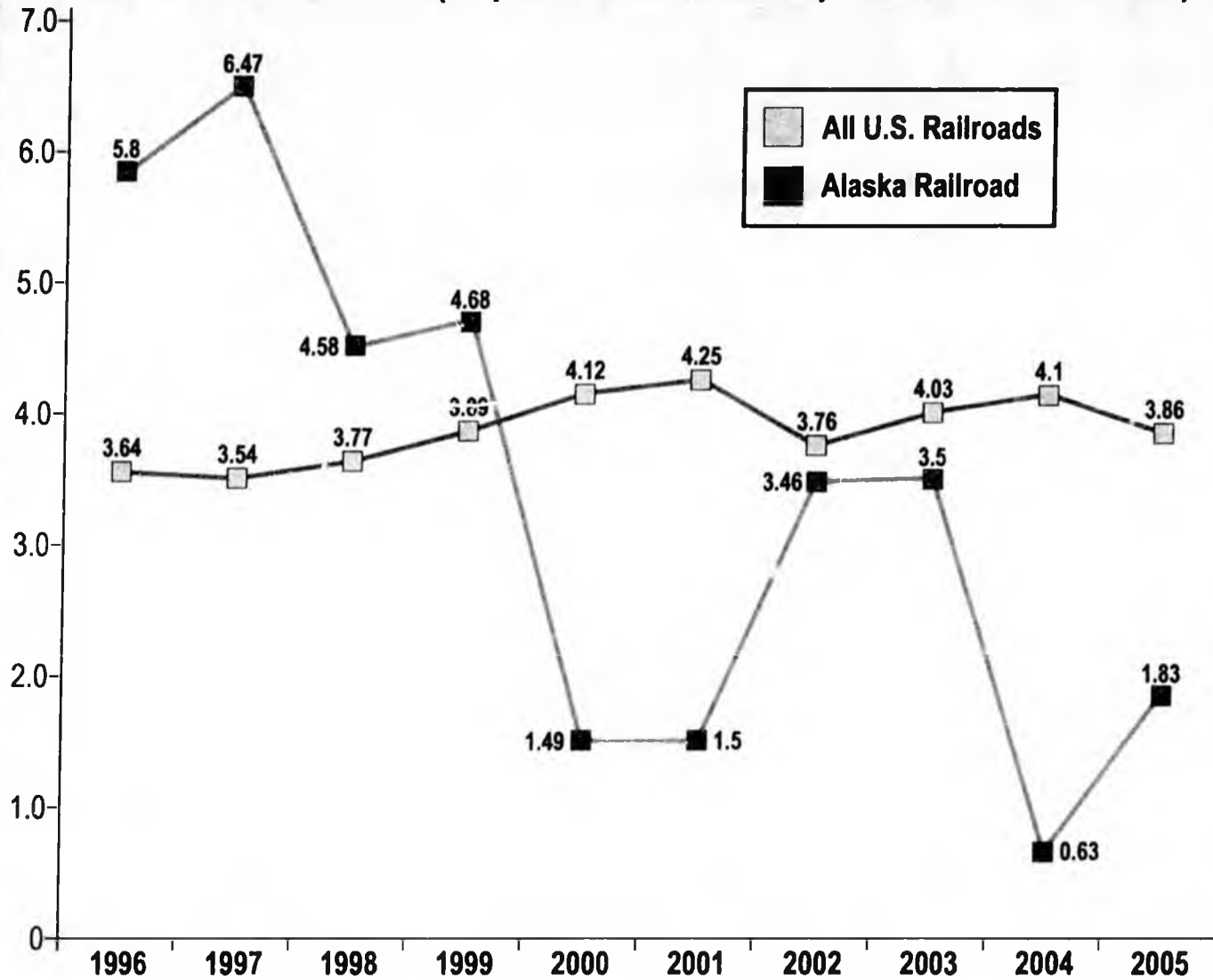
# Derailments, 1996 - 2005





# Train Accident Rate

Train Accident Rates (Reportable Accidents per million train miles)





## Project Information

- 100% CWR from Anchorage to Fairbanks (355 miles)
- 85,000 concrete ties on curves less than 6 degrees (32 miles)
- Wooden ties all upgraded to 35-year cycle
- All ballast reset
- Complimented by ARRC Bridge Program... \$30 million
- Complimented by ARRC Collision Avoidance Program... \$13 million



## WHY?

- Consistent with #1 priority
- Faster “take” of safety benefits and risk reduction of non-human factors
- Continued mitigation effort
  - More than 600 passenger trains per year
  - 800 million gal. refined product/hazardous materials (30,000 carloads)
  - 60% = hazardous cargo proportion
- Builds clarity and budget discipline into capital program
  - Debt service schedule drives yearly capital apportionment
- Accelerates eventual outcome by as much as 10 years



## Why Now?

- SAFETEA-LU makes it possible
- Formula Funds increased 6-fold
- No undue risk to railroad or state
- Consistent with corporate priority
- Materials costs escalating annually
- Growing passenger train demand requires nothing less
- Desire to get pre-pipeline work done ASAP
- No impact to previous capital plan

State Risk



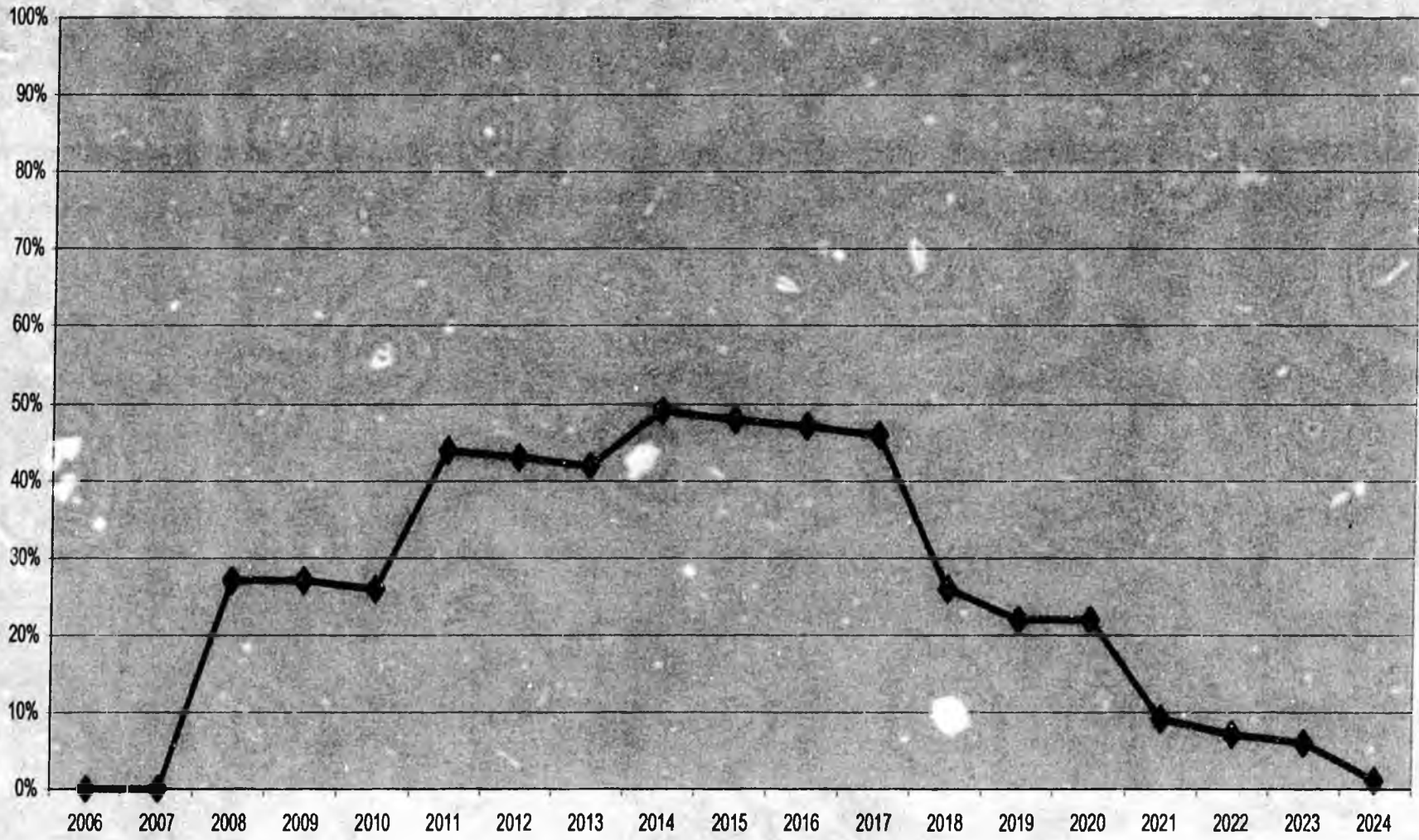
## Proposed Financing

- \$165 million authorization requested
- Currently planning three bond sales over next six years
  - Maximum annual debt service: \$19.1 million or 49% of available FTA/match for year
- <sup>2014</sup> ARRC Board approval required for each project and bond sale



# Debt Service as a Percent of Formula Funds/Match

Percent of FTA Formula Funds/Match Used for Debt Svc





## Appendix

- Joint Elimination
- Mainline Traffic Density History
- Joint Elimination Graph
- ARRC Tie Age Distribution Graph



## Joint Elimination Needed

- ARRC has 80,000 joints in need of replacement in the next 5 years
- Pre 1985 Joints (24" 4 hole bars) fail with accumulated tonnage
- Failures begin at about 150 Million Gross Tons (MGT)
- Almost all joints fail by 300 MGT
- Joints are eliminated by welding rail into Continuous Welded Rail (CWR)



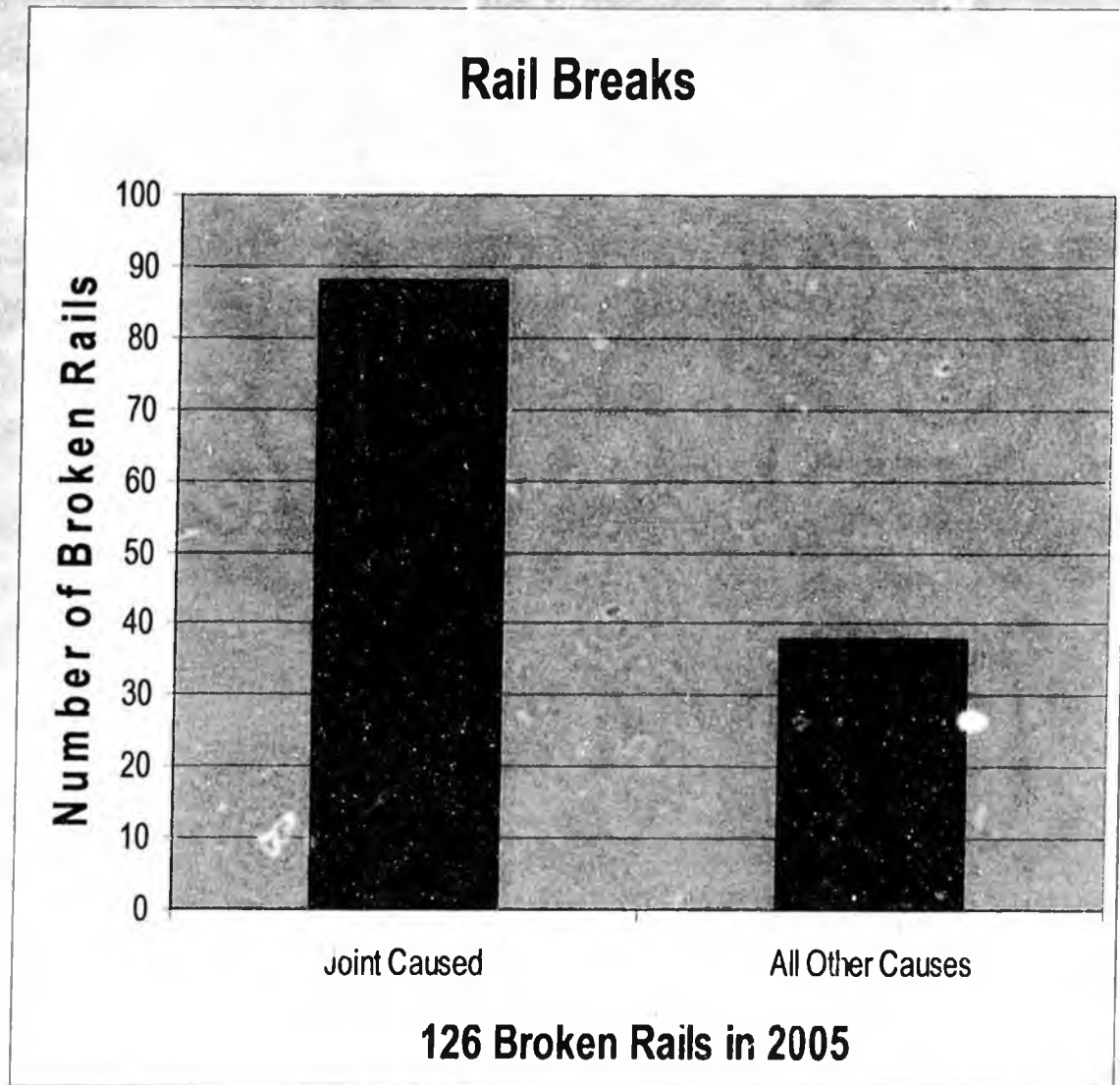
## Mainline Traffic Density History

<b>Location</b>	<b>Annual MGT's (Million Gross Tons)</b>	<b>Accumulated MGT's 1950-2005</b>
<b>Portage to Anchorage</b>	<b>3</b>	<b>110</b>
<b>Anchorage to Matanuska</b>	<b>15</b>	<b>325</b>
<b>Matanuska to Healy</b>	<b>8.5</b>	<b>187</b>
<b>Healy to Fairbanks</b>	<b>8.5</b>	<b>210</b>



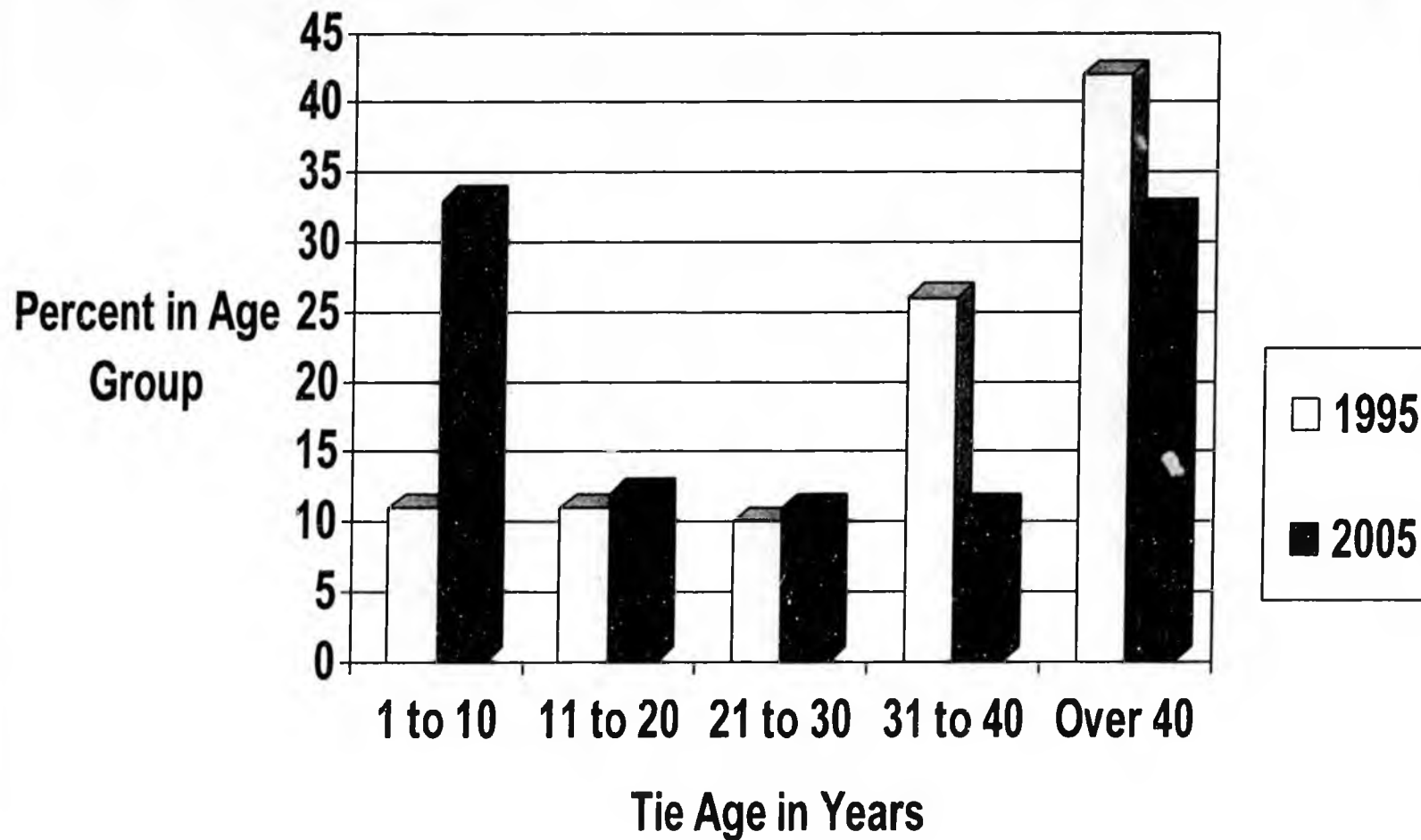
## Joint Elimination Needed

- Joint batter causes broken rail
- ARRC has excessive numbers of joint breaks





# ARRC Tie Age Distribution



# ALASKA RAILROAD CORPORATION

Corporate: P.O. Box 107500, Anchorage, AK 99510 • 327 Ship Creek Avenue, Anchorage, AK 99501



February 21, 2006

## Executive Summary

### Long Term Track Rehabilitation

Today our Financial Advisor Team finished the research and calculations that would allow ARRC to propose bonding for up to \$165 million in order to accelerate our remaining priority track rehabilitation needs. It would focus primarily on the Anchorage to Fairbanks corridor. Debt payment would be sourced entirely from FTA formula fund entitlements.

This corridor handles over 30,000 carloads of fuel and other hazardous materials annually. Acceleration of programmed investment in this corridor will substantially remove the classic cause of derailments due to track failure and materially reduce maintenance upkeep.

While the overall corridor has seen considerable investments and improvements since 1995, there is still much to be done to bring it up to ARRC standards. For example, our Railroad is being upgraded through Anchorage to Fairbanks with 100% Continuous Welded Rail (CWR). Concrete ties and new 141# welded rail will go in on all curves over 6°. Wood tie installment will create a tie cycle which would not exceed 10 years. In other words, wood ties will be replaced at a rate of 25% to 30% per each 10-year cycle. Ballast renewal and track surfacing will continue as usual in order to keep slow orders to a minimum and the main track capable of full speed. Bridge maintenance and upgrades to a few major structures will not be compromised and will also continue to be accomplished.

The end result of this program will give us 100% welded rail between Anchorage and Fairbanks (355 miles) by the end of the 2012 season. About 85,000 concrete ties will be installed by the end of 2010, strengthening all 32 miles of our 6° and sharper curves. All remaining wood ties between Anchorage and Fairbanks will receive a replacement tie cycle between 2006 and 2010. In summary, the north corridor initiative as planned will speed up the eventual end result by 7 years or more.

The line south of Anchorage to Seward carries only one-tenth as much gross tonnage as the line north of Anchorage, and very little of that is fuel. To fully upgrade the south end to standard of 100% CWR and concrete ties in curves over 6° will cost an additional \$60 million. Therefore full refurbishment of the

## Executive Summary

### Page 2

south end is not part of this particular effort because it is not yet warranted by evidence of tonnage wear and tear. We will refurbish the curves as necessary, however, and wood tie gangs will actually meet the Anchorage to Seward wood tie needs by the end of 2012.

This broad track refurbishment strategy, coupled with the Collision Avoidance Program scheduled for full implementation in the Fall of 2007, will enable important velocity and capacity increases that should consistently lower the Anchorage - Fairbanks transit time down to around 10 hours. By lowering the northern corridor transit time we create the potential to cycle more trains, and only use a single crew per trip because they can stay within their hours. We also create the potential for scheduled swapping of crews mid-trip so that they can return home same day within their hours. Considerable savings in labor and lodging expenses are finally coming within reach due to the efficiency created by this plan.

This refurbishment project is the single most important investment the Railroad will make since its purchase by the State of Alaska.

# ALASKA RAILROAD CORPORATION



Corporate Address: P.O. Box 107500, Anchorage, Alaska 99510  
327 West Ship Creek Avenue, Anchorage, Alaska 99501  
[www.alaskarailroad.com](http://www.alaskarailroad.com)

*Executive Office*  
*Telephone: 907-265-2403*  
*Facsimile: 907-265-2312*

February 15, 2006

Governor Bill Sheffield  
Chairman, ARRC Board of Directors  
3125 Susitna View Court  
Anchorage, AK 99517

Dear Governor Sheffield,

At the strategic planning session a few months ago management received the okay from the Board to consider alternative uses of debt to accomplish our mission. Using all the financial tools available to a dynamic business like ours just makes good sense, assuming risk is treated with the respect it deserves. We just this week completed an extensive study with our financial advisors on use of debt for capital improvements. There is great utility in what we came up with, but precious little time to act in order to be effective in 2006. And thus this letter.

We began with the premise that the single most fundamental purpose for the use of federal funds has been investment by the Alaska Railroad in the rehabilitation of main line substandard or unsafe track. This has been ARRC's top capital investment priority since 1996.

Since the first \$10 million in 1996, we have put roughly \$220 million into such improvements. Results have dramatically validated our objective. Safety related incidents are at an all time low. What's more, average velocity, a by-product of the recapitalization program, is at a high and growing. As an example, our average operating time between Anchorage and Fairbanks is just under 12 hours, a reduction of 2 hours since 2001. In other words, main line refurbishment has proven to be the overall single most valuable investment we have made.

While we are not yet finished, we are within striking distance of the goal we have been pursuing for nearly 10 years now ... completing the rails, ties, ballast, and bridge programs between Anchorage and Fairbanks. We want to accomplish the remainder of that goal in the shortest time and most efficient way. We want to prepare a way ahead that minimizes risk associated with extended operations on the remaining old track and maximizes the operational utility that comes with new

Governor Bill Sheffield  
February 15, 2006  
Page 2

track. And so we have derived an initiative to accelerate the process which would leverage our recently increased FTA formula funds through a much more robust, focused program of construction.

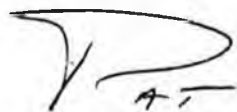
Regular yearly increased formula funding has suggested a financial way forward to us, using a "Garvee bond" approach that avoids risking railroad earnings or assets. This type of capital financing is already being used successfully by other FTA formula funded railroads. The debt service for this bonding proposal would be met through ARRC FTA formula funding and would be apportioned over a program period of 10 years. (The ARRC is guaranteed those funds each year by law. During this period we will renew our efforts to increase the formula basis from the present 60% to 100%.)

I believe the rationale we will present is compelling. I wish to gain Board approval and then get support and bonding approval in Juneau during this 2006 legislative session. Therefore, time is of the absolute essence in order to get going or we lose a year.

We feel this initiative is a bold but warranted move by the Alaska Railroad to fulfill the promise it made to the State, the railbelt communities, and to our senior Senator who personally has done so much to support our main line safety efforts, and to help us improve the safety of the Alaska Railroad as effectively and as quickly as possible. Shortening the completion of main line refurbishment by some 10 years, this proposal accomplishes our number 1 capital investment priority and gains the attendant safety and efficiency at the soonest possible time.

I respectfully request your support for a Special Board Meeting February 27 or February 28 to hear us out.

Sincerely,

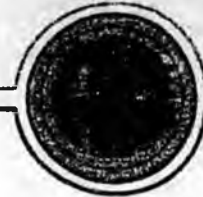


Patrick K. Gamble  
President and Chief Executive Officer

*Boss, we really  
need this one.*

cc: Vice-Chair Joe Ralston

# ALASKA RAILROAD CORPORATION



Corporate Address: P.O. Box 107500, Anchorage, Alaska 99510  
327 Ship Creek Avenue, Anchorage, Alaska 99501

*Finance Division*  
*Telephone (907) 265-2516*  
*Facsimile (907) 265-2517*

Date: February 21, 2006  
To: ARRC Board of Directors  
Through: Pat Gamble, President & CEO  
From: Bill O'Leary, VP Finance & CFO  
Re: Leveraging of Federal Transit Administration Funds

In essence, ARRC management is proposing to solve a timing issue related to when capital funds will be available compared to when the funds are needed. The resolution to this issue is to advance funds through the conservative use of debt – issuing bonds secured solely by cash flows to be received from Federal Transit Administration (FTA) formula funds. In conjunction with other fund sources available to ARRC, the proceeds of these bonds will be used to permit acceleration of track rehabilitation work, granting ARRC the benefits of these efforts in a considerably earlier timeframe than if bonds were not used. Such practice has been followed by numerous other railroads and is accepted by the financial markets and grantor agencies.

In advance of the public Board meeting scheduled for March 1<sup>st</sup>, I am enclosing draft materials related to the proposed financing for your review. Included within this packet are the following:

1. A high-level summary of the two scenarios we will be discussing at the meeting
2. Two spreadsheets detailing these scenarios, differing only in whether Federal Railroad Administration monies are included as a source of funds for 2007 – 2010
3. A detail listing of capital projects proposed for the 2006 – 2024 timeframe

We look forward to presenting details to you at the Board meeting. Please contact me at (907) 265-2516 if you have any questions.

**HB**

**42**

# SENATE COMMITTEE REPORT

DATE: 2/18/05

FURTHER: Community and Regional Affairs

DATE TURNED IN TO OFFICE: 3/3/05

Transportation Committee considered HOUSE BILL NO. 42

HB 42 JOE WILLIAMS, SR., COASTAL TRAIL

"An Act naming the Joe Williams, Sr., Coastal Trail."

and recommends:

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

**Senate Bill:**  
 Same Title  
 New Title

**House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
H.TRA/DOT	2/9/05			✓	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
French	X			
Kookesh	X			
<del></del>	<del>X</del>			
Cowdey	X			
CHAIR:  Huggins	X			

**Deborah Grundmann**

---

**From:** Jos Govaars  
**Sent:** Tuesday, March 01, 2005 11:53 AM  
**To:** Deborah Grundmann  
**Subject:** RE: HB 42

Its a bike path/trail adjacent to the Highway and was funded by Rep Williams about 13 years ago. As far as I can recall it was built about 10 years ago It was placed in the construction budget by Rep Williams and I have no clue how much it cost because it was constructed along with the highway when it was redone. Im worthless when it comes to much more than that... sorry, I hope I helped, are you going ot come up for it?

---

**From:** Deborah Grundmann  
**Sent:** Tuesday, March 01, 2005 8:31 AM  
**To:** Nora Wilson  
**Subject:** HB 42

'ti,  
Regarding HB 42 up in STRA today, I've been told it is a state trail is that correct? Also can you give me info on when built and the cost and any other info I might find useful?  
Thank you.


# City of Ketchikan



JAN 26 2005

334 Front Street  
Ketchikan, Alaska 99901  
Phone 907-225-3111  
Fax 907-225-5075

January 21, 2005

Representative Jim Elkins   
Alaska House of Representatives  
State Capitol, Room 416  
Juneau, AK 99801-1182

Dear Representative Elkins:

I am writing in support of House Bill 42 "An Act naming the Joe Williams, Sr., Coastal Trail."

Mr. Williams was a highly respected tribal and political leader in Saxman and Ketchikan for many years. Naming the trail that connects these two communities would honor Mr. Williams and memorialize his efforts over a long period of time to make our communities better places to live.

Sincerely,

Bob Weinstein  
Mayor

# KETCHIKAN GATEWAY BOROUGH

**OFFICE OF THE BOROUGH MAYOR**  
**Michael B. Salazar**

344 FRONT STREET  
KETCHIKAN, ALASKA 99901  
PHONE: 907.228.6605  
FAX: 907.247.8439

Office of Representative Elkins

JAN 27 2005

January 21, 2005

Representative Jim Elkins  
Alaska State Legislature  
State Capitol, Room 416  
Juneau, AK 99801-1182

Dear Representative Elkins:

I would like to offer my full support for House Bill No. 42 which names the bike path adjacent to the South Tongass Highway, between the City of Ketchikan and the City of Saxman, as the "Joe Williams, Sr., Coastal Trail." It is a fitting way to honor Mr. Williams, who has contributed so much to the community of Ketchikan.

Sincerely,

  
Michael B. Salazar  
Mayor

# City of Saxman

19 January 2005

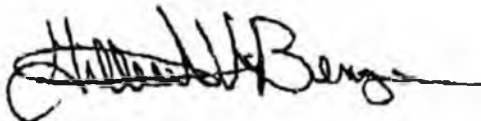
Representative Jim Elkins  
Capitol Building  
Juneau, Alaska 99801

Dear Representative Elkins:

The City Council members of the City of Saxman would like to thank you for introducing House Bill 43, regarding naming the 'bike path' the "Joe Williams Sr. Coastal Trail". Joe Williams Sr. was a political leader for Saxman from a very early age until his death. He was Mayor of Saxman for 38 years as well as being Tribal President during the same time period. He was also Alaska Native Brotherhood Camp 15 President and Grand President of the Alaska Native Brotherhood. Joe Williams, Sr. worked hard at connecting the community of Ketchikan and Saxman in more ways than the highway. Joe Williams, Sr. was highly respected in Saxman, Ketchikan and throughout South East Alaska, no matter the culture. He was of the Raven moiety, of the Beaver Clan and instrumental in preserving the Tlingit Culture in Saxman.

Naming this Coastal Trail after Joe Williams, Sr. will ensure his memory. His legacy will be remembered and cherished by the people of the communities of Saxman and Ketchikan for many years to come. Thank you very much.

Respectfully yours,



Gilbert Bengé  
Mayor of Saxman

# ALASKA STATE LEGISLATURE

## INTERIM

50 Front Street  
Suite 203  
Ketchikan, Alaska 99901  
Phone (907) 247-4672  
Fax: (907) 225-8546



## SESSION

Suite 416  
State Capitol Building  
Juneau, Alaska 99801  
Phone: (907) 465-3424  
Fax: (907) 465-3793

## REPRESENTATIVE JIM ELKINS

### Sponsor Statement

House Bill 42 will rename the three miles of trail alongside the South Tongass Highway between Ketchikan and Saxman, Alaska the Joe Williams Sr., Coastal Trail.

Joe was an advocate for the construction of a trail alongside the South Tongass Highway between the Cities of Ketchikan and Saxman. Residents of these communities for many years, without the means of transportation, commonly walked the three miles between towns alongside the road with tragic results.

After the trail was completed, it quickly became a favorite walking and bicycling path used by visitors and locals alike. Set between the Ocean and the Highway the Joe Williams Sr. Coastal Trail is both scenic and historically important to the people of the Ketchikan Area.

Joe's son, William K. "Bill" Williams, while serving as a member of the Alaska State House of Representatives, worked diligently to obtain funding for the construction of this traditional path between these two communities.

This Legislation honors the memory of a highly respected member of the Native Community in Southeast Alaska, and will help recognize the Twelve Years of service to the people of the State of Alaska by his son.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 42  
 (H) Publish Date: 2/9/2005

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title Joe Williams, Sr. Coastal Trail RDU Administration and Support  
 Component Commissioners Office  
 Sponsor Rep. Elkins  
 Requester (H) Transportation Committee 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

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

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

Estimate of any current year (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 only foreseeable cost to DOT&PF would be a minimal cost for the production of signs used to identify the trailhead and DOT&PF has agreed to absorb these costs internally.

Prepared by: Jos Govaars Phone 465-6873  
 Division: (H) TRA Committee Aide Date/Time 2/9/05 3:16 PM  
 Approved by: Rep Elkins Date 2/9/2005  
 Agency: Co-Chair (H) Transportation Committee