

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 STRA 1 2 7 8 2

The Honorable Lyda Green

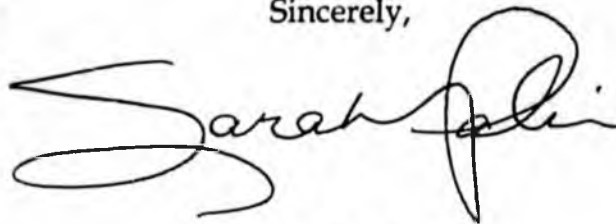
January 15, 2008

Page 2

The need for this new, permanent source of funding for transportation could not be more evident. Rutted pavements, delayed projects, and urban congestion are common problems in this state. Federal transportation dollars, though adequate in past decades, no longer meet all the basic needs of the state. Like education, transportation is a basic government service and one that affects the daily lives of all citizens. Other states are enacting their second and third tier of non-federal financing mechanisms. It is time for Alaska to enact its first.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink, reading "Sarah Palin". The signature is written in a cursive style with a large, looping initial "S" and a distinct "P" for "Palin".

Sarah Palin
Governor

Enclosure

STATE OF ALASKA

SARAH PALIN, GOVERNOR

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

3132 CHANNEL DRIVE
PO Box 112500
JUNEAU, ALASKA 99811-2500

FAX: (907) 586-8365
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January 23, 2008

The Honorable Albert Kookesh
Alaska State Legislature
State Capitol, Room 11
Juneau, AK 99801-1182

Dear Senator Kookesh:

I respectfully request a hearing on SB 236 establishing a state transportation fund. This powerful idea ensures a permanent solution to meet the state's transportation needs. Alaska's transportation needs now far exceed the capacity of long standing federal sources.

Transportation infrastructure is at the heart of a growing economy, and Alaska needs to take charge of this responsibility. The state funds generated by this transportation endowment offer significant advantages over the rule-bound federal sources, which often result in both project delays and much higher costs. Alaska can no longer expect to see an ever improving transportation system, without a sustained level of funding from our own contribution.

In the 1980's the state surplus was used to build as much as possible resulting in a severe boom then bust economy. When oil prices dropped, the state economy took a significant downturn. A transportation fund bridges over the lean years, ensuring a stable source of funding that leads to a positive economic environment.

Enclosed is a copy of the legislation, the Governor's transmittal letter, a sectional analysis and fiscal notes.

I look forward to discussing this important piece of legislation with you and your committee.

Sincerely,



Leo von Scheben, P.E., L.S., M.B.A.
Commissioner

Enclosures

cc: Russ Kelly, Legislative Director, Office of the Governor
Randy Ruaro, Special Staff Assistant, Office of the Governor
Mary Siroky, Legislative Liaison, Dept. of Transportation & Public Facilities

SB

249

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number 1
 Bill Version SB 249
 (S) Publish Date 1/25/08

Identifier (file name) 0049-CED-INV-01-24-08 Dept. Affected DCCED
 Title Alaska Capstone Avionics Revolving Loan Fund RDU Investments (122)
 Component New
 Sponsor Rules
 Requester By Request of Governor Component Number New

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	116.0		116.0	116.0	116.0	116.0	116.0	116.0
Travel	2.3		1.2	1.2	1.2	1.2	1.2	1.2
Contractual								
Supplies	0.5		0.5	0.5	0.5	0.5	0.5	0.5
Equipment	1.0							
Land & Structures								
Grants & Claims								
Misc: Capitalize Capstone Fund	4,800.0							
TOTAL OPERATING	4,919.8	0.0	117.7	117.7	117.7	117.7	117.7	117.7

CAPITAL EXPENDITURES								
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF	4,800.0						
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other: Capstone Fund (New)	119.8		117.7	117.7	117.7	117.7	117.7
TOTAL	4,919.8	0.0	117.7	117.7	117.7	117.7	117.7

Estimate of any current year (FY2008) cost: 00

POSITIONS

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time	2	0	2	2	2	2	2
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This legislation establishes a new loan fund called the Alaska Capstone Avionics Revolving Loan Fund (Capstone Fund). The fund would be capitalized by a general fund appropriation of \$4.8 million.

The purpose of the Capstone Fund is to increase the safety of intra-state air transportation in Alaska by providing low interest loans to aircraft owners so that they can purchase capstone avionics equipment. The department estimates that approximately 400 loans would be made in the first year for a total of \$4.8 million. Repayments to the fund and earnings retained by the fund would provide cash flow to make approximately 60 additional loans each year thereafter.

The department anticipates needing one new loan officer and one new loan closer for program outreach and to process new loan requests. Funds are also requested to cover travel, supplies and equipment expenses associated with the new positions.

Prepared by Greg Winegar, Director
 Division Investments
 Approved by Emil R. Notti, Commissioner
Commerce, Community, and Economic Development

Phone 907.465.2625
 Date/Time 1/24/08 8:48 AM
 Date 1/24/2008

**Sectional Analysis of
HB 340/SB 249 /25-GH2049A**

Prepared by Mary Ellen Beardsley
Alaska Department of Law
(907) 269-5200

Alaska Capstone Avionics Revolving Loan Fund

Summary: This bill creates the Alaska capstone avionics revolving loan fund (fund) within the Department of Commerce, Community, and Economic Development (department). The purpose of the fund is to increase safety of general aviation intrastate air transportation by providing low interest loans for the purchase and installation of capstone avionics equipment.

Section 1 creates a new article in AS 44.33. This new article establishes the fund and the Alaska capstone avionics revolving loan program.

AS 44.33.650 sets out the policy and purpose for the fund.

AS 44.33.655 creates the fund within the department. It further describes what the fund consists of: money appropriated, transferred, devised, donated, etc., to the fund; principal and interest payments or other income earned on the loans or investments in the fund; and money derived from the foreclosure of collateral securing the loans. This section further allows the money in the fund to be appropriated for costs of administering the fund.

AS 44.33.660 sets out the powers and duties of the department as they relate to the program. It allows the department to make loans for the purchase and installation of the equipment. The department may establish the terms of the loan, including extensions and assumptions; charge and collect fees for services provided under the program; and adopt regulations to carry out the purposes of the program.

AS 44.33.665 establishes the eligibility requirements for applicants. The applicant may be an individual, corporation, partnership, limited liability corporation, limited liability partnership, limited liability company, joint venture, or non-federal governmental entity. The applicant must own the aircraft and the aircraft must log a substantial percentage of its flight hours in Alaska.

AS 44.33.670 sets out limitations on the loans. The loan is not to exceed a term of 10 years (not including any extensions), interest must be at least 4% per year; the loan must be secured with acceptable collateral; and it may not exceed 80% of the cost of the equipment.

AS 44.33.675 establishes the foreclosure expense account within the fund. The money in this fund is to be used to offset expenses associated with the collection of defaulted loans or to protect the State's security interest in the collateral.

AS 44.33.680 allows the department to dispose of repossessed collateral in a manner which serves the best interest of the State.

AS 44.33.690 provides for definitions for "capstone avionic equipment," "capstone program," and "department."

Section 2 repeals AS 44.33.650 – 44.33.690 when the program sunsets in 2020.

Section 3 provides authority to the department to proceed with adopting regulations needed to implement the new program. These regulations will not become effective until the effective date of the Act.

The remaining sections establish when each section of the act is to take effect.

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/25/08

FURTHER: Finance

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

DATE TURNED
IN TO OFFICE: 2/12/08

Transportation Committee considered SENATE BILL NO. 249

SB 249 CAPSTONE AVIONICS FUND/LOANS

"An Act establishing the Alaska capstone avionics revolving loan fund and relating to the fund; and providing for an effective date."

and recommends:

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

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DCCED	1/24/08	✓			

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Wielechowski			✓	
	Wilford	X			
	Olsen	X			
CHAIR:	Kookesh	✓			

SENATE BILL NO. 249

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/25/08

Referred: Transportation, Finance

A BILL**FOR AN ACT ENTITLED**

1 **"An Act establishing the Alaska capstone avionics revolving loan fund and relating to**
2 **the fund; and providing for an effective date."**

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

4 *** Section 1.** AS 44.33 is amended by adding new sections to read:

5 **Article 6A. Alaska Capstone Avionics Revolving Loan Fund.**

6 **Sec. 44.33.650. Declaration of policy.** It is the policy of the state, under
7 AS 44.33.650 - 44.33.690, to increase the safety of air carrier, air taxi, and general
8 aviation intrastate air transportation in the state by providing low interest loans to
9 qualified applicants for the purpose of purchasing and installing capstone avionics
10 equipment.

11 **Sec. 44.33.655. Alaska capstone avionics revolving loan fund.** (a) There is
12 created within the Department of Commerce, Community, and Economic
13 Development a revolving loan fund to be known as the Alaska capstone avionics
14 revolving loan fund to carry out the purposes of AS 44.33.650 - 44.33.690.

1 (b) The Alaska capstone avionics revolving loan fund consists of the
2 following:

3 (1) money appropriated to, transferred to, or received by gift, devise,
4 bequest, or donation to the fund;

5 (2) principal and interest payments or other income earned on loans
6 or investments of the fund;

7 (3) money chargeable to principal or interest that is collected through
8 liquidation by foreclosure or other process on loans made under AS 44.33.650 -
9 44.33.690.

10 (c) Money in the fund may be used by the legislature to make appropriations
11 for costs of administering AS 44.33.650 - 44.33.690.

12 **Sec. 44.33.660. Powers and duties of the department.** The department may

13 (1) make loans to eligible applicants under AS 44.33.665 for the
14 purchase and installation of capstone avionic equipment;

15 (2) receive, take, hold, and administer any appropriation, gift, grant,
16 bequest, devise, or donation of money for the fund;

17 (3) establish amortization plans for repayment of loans, including
18 extensions of the terms of loans;

19 (4) allow an assumption of a loan if the applicant meets the
20 requirements established under this section;

21 (5) establish the rate of interest for loans consistent with law;

22 (6) charge and collect fees for services provided under
23 AS 44.33.650 - 44.33.690;

24 (7) adopt regulations, under AS 44.62, necessary to carry out the
25 provisions of AS 44.33.650 - 44.33.690, including regulations to establish reasonable
26 fees for services provided; and

27 (8) designate agents and delegate powers as necessary to the agents.

28 **Sec. 44.33.665. Eligibility.** (a) For an applicant to be eligible for a loan under
29 AS 44.33.650 - 44.33.690, the applicant must be the owner of an aircraft that logs a
30 substantial percentage of flight hours in the state as determined by the department.
31 For purposes of this subsection, an applicant may be an individual, corporation,

SB249

1 partnership, limited liability corporation, limited liability partnership, limited liability
2 company, joint venture, or non-federal governmental entity.

3 (b) After consultation with the Department of Transportation and Public
4 Facilities, the Department of Commerce, Community, and Economic Development
5 shall establish by regulation the standards for capstone avionics equipment eligible
6 for loans.

7 **Sec. 44.33.670. Limitations on loans.** A loan established under
8 AS 44.33.650 - 44.33.690

9 (1) may not exceed a term of 10 years, except for extensions under
10 AS 44.33.660;

11 (2) may not bear interest less than four percent per year;

12 (3) must be secured by collateral acceptable to the department; and

13 (4) may not exceed 80 percent of the cost of the eligible capstone
14 avionics equipment purchased with proceeds of the loan.

15 **Sec. 44.33.675. Special account established.** (a) There is established as a
16 special account within the Alaska capstone avionics revolving loan fund the
17 foreclosure expense account.

18 (b) The department may expend money credited to the foreclosure expense
19 account when necessary to protect the state's security interest in collateral on loans
20 granted under AS 44.33.665 or to defray expenses incurred during foreclosure
21 proceedings after a default by an obligor.

22 **Sec. 44.33.680. Disposal of property acquired by default or foreclosure.**
23 The department shall dispose of property acquired through default or foreclosure of a
24 loan made under AS 44.33.650 - 44.33.690. Disposal must be made in a manner that
25 serves the best interest of the state, and may include the amortization of payments
26 over a term of years.

27 **Sec. 44.33.690. Definitions.** In AS 44.33.650 - 44.33.690

28 (1) "capstone avionics equipment"

29 (A) means aviation navigation performance and safety
30 technological equipment eligible for financing through the capstone program;

31 (B) includes global positioning system-based avionics

1 equipment and data link communications suites;

2 (2) "capstone program" means a technology-focused aviation
3 program administered by the Federal Aviation Administration in this state;

4 (3) "department" means the Department of Commerce, Community,
5 and Economic Development.

6 * **Sec. 2.** AS 44.33.650, 44.33.655, 44.33.660, 44.33.665, 44.33.670, 44.33.675,
7 44.33.680, and 44.33.690 are repealed.

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

10 **TRANSITION: REGULATIONS.** The Department of Commerce, Community, and
11 Economic Development may immediately proceed to adopt regulations necessary to
12 implement the changes made in sec. 1 of this Act. The regulations take effect under
13 AS 44.62 (Administrative Procedure Act) but not before the effective date of the statutory
14 change.

15 * **Sec. 4.** Section 3 of this Act takes effect immediately under AS 01.10.070(c).

16 * **Sec. 5.** Section 2 of this Act takes effect July 1, 2020.

17 * **Sec. 6.** Except as provided in secs. 4 and 5 of this Act, this Act takes effect July 1, 2008.

Capstone Aviation Loan Fund

What is Capstone?

- Capstone is aviation positioning technology that allows equipped aircraft to interact with ground and satellite stations to provide pilots their exact location, airspeed and rate of ascent or descent in relation to the terrain and other aircraft, as well as providing real-time weather conditions.
- Aviation safety will be improved with an estimated 47% reduction in aircraft accidents and a 33% reduction in aircraft fatalities.
- Flights, once prohibited due to inclement weather conditions, (including medical evacuations) are possible with aircraft equipped with Capstone technology.
- The FAA selected Alaska as the site for its successful pilot project, installing stations in Southeast and the Bethel region.
- The FAA is now looking to expand the program to other regions of the state but have indicated that a certain number of additional aircraft must be equipped to justify the agency's increased investment of approximately \$500 million in ground infrastructure.
- It is looking to the State of Alaska to assist in this effort by helping aircraft owners to afford the cost of the equipment.

How will the loan program work?

- An owner of an aircraft operating primarily in Alaska can qualify for a loan of up to 80% of the cost to purchase and install Capstone equipment.
- Capstone equipment costs are expected to range between \$10,000 and \$20,000 depending on the type of aircraft.
- Loans are available for up to 10 years and would have a 4% interest rate.
- An average loan of \$12,000 would result in a monthly payment of \$122.
- The Department of Commerce, Community and Economic Development will administer the program.

Where does the money for the loan program come from?

- General Fund
- As a revolving loan fund, additional loans can be made from the repayments over the life of the program

FAA Capstone Program

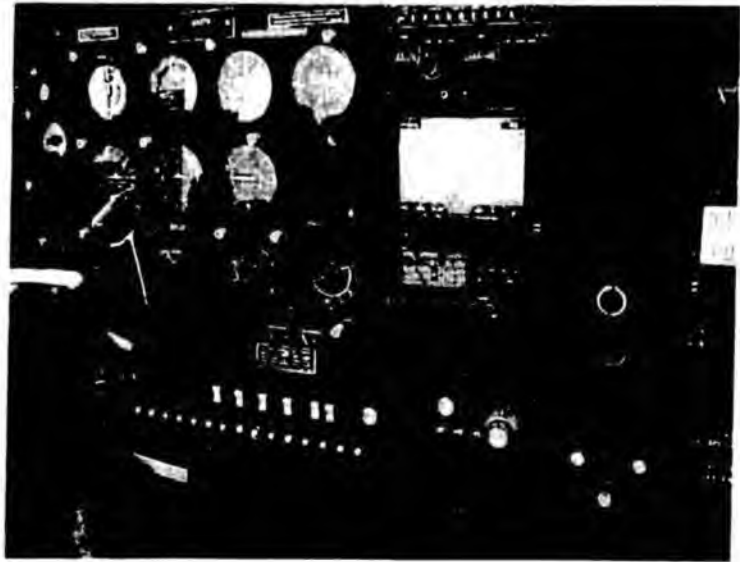
Why is the FAA Capstone program important?

Alaska experiences the highest aviation accident rate in the nation. The hazards of bad weather, rough terrain, and absence of radar coverage all contribute to the high Alaska accident rate. Congress funded a research and development program called Capstone in southwest and southeast Alaska that created a technology system to improve flight safety and community access in rural Alaska. Capstone demonstrated a 47% reduction in the aviation accident rate, and was so successful that FAA decided to implement the technology nationwide.

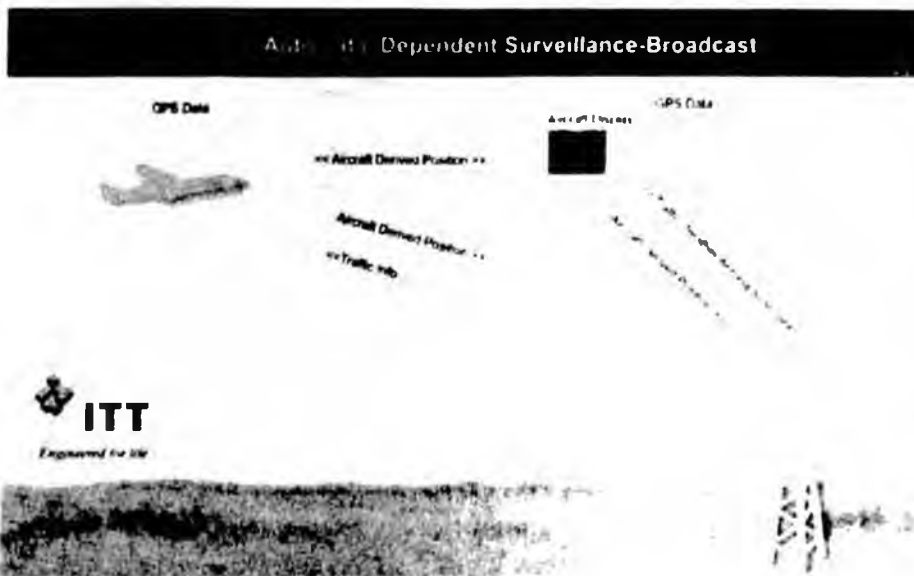
The Capstone system provides pilots better information and demonstrably improves aviation safety. In the event of an aircraft accident Capstone lets air traffic control know the precise aircraft location. This allows rescue workers to know exactly where they should go to locate the aircraft, greatly improves the chances of having a successful rescue effort, and substantially reduces search and rescue costs. Capstone provides all players in the aviation system with much more and better information to improve safety and rural community access for the flying public.

What is the FAA Capstone program?

Capstone is a cooperative effort by FAA and industry to improve aviation safety and community access by using a suite of new technologies that provides better flight information to pilots. Capstone equipped airplanes have a "moving map" video display screen, as can be seen in the picture to the right, which shows the pilot his own location relative to terrain, weather, orientation, and other aircraft in the vicinity. Furthermore FAA Air Traffic Control simultaneously receives aircraft position information that greatly enhances communication with and between pilots. Finally the Capstone system provides a Global Positioning System (GPS) instrument approach landing system, automated weather reporting, and communications.



The simple graphic below shows how the Capstone system works. The integrated Capstone system



technologies include ground based transmitters, communications equipment, transponders, Global Positioning System (GPS) navigation, surveillance, and weather reporting. FAA calls the system "Automatic Dependent Surveillance-Broadcast" (ADS-B).

**Sectional Analysis of
HB 340/SB 249 /25-GH2049\A**

Prepared by Mary Ellen Beardsley
Alaska Department of Law
(907) 269-5200

Alaska Capstone Avionics Revolving Loan Fund

Summary: This bill creates the Alaska capstone avionics revolving loan fund (fund) within the Department of Commerce, Community, and Economic Development (department). The purpose of the fund is to increase safety of general aviation intrastate air transportation by providing low interest loans for the purchase and installation of capstone avionics equipment.

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SB249

SARAH PALIN
GOVERNOR
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 24, 2008

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

Dear President Green:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill establishing the Alaska capstone avionics revolving loan fund and relating to the fund.

In Alaska, aviation is relied upon to move people, mail, and cargo throughout the state. Alaska has only 14,788 miles of public roads and many communities are not connected to the highway system. Ninety percent of Alaska is accessible only by air. Because of this situation, commuter and air taxi flights often serve in lieu of the traditional road system.

Alaska has seven times more licensed pilots than the national average, but it also has the highest aviation accident rate in the nation. One way to make Alaska's skies safer is with capstone avionic equipment. A study done in Alaska over a six year period determined that the accident rate of aircraft equipped with capstone avionic equipment decreased by 47 percent as compared to other aircraft operating without the equipment. The Federal Aviation Administration (FAA) estimates the adoption of this technology will result in a 33 percent reduction in fatal accidents statewide.

The FAA's Joint Resource Council estimates the benefits of the capstone project would be substantial. These benefits flow from a combination of fewer aviation accidents, improved search and rescue, greater precision in adverse weather and difficult terrain, and increased access to remote villages (including medical evacuations) when the system is fully deployed both on the ground and in the air. In addition, there will be socio-economic improvements for rural Alaska, due to a safer and more reliable transportation infrastructure.

This new technology requires both the installation of ground based infrastructure and capstone avionics in the cockpit to achieve these benefits. To be visible to the system, as well as to take advantage of all of capstones capabilities, an aircraft must be equipped with appropriate on-board avionics.

The Honorable Lyda Green

January 24, 2008

Page 2

The FAA has invested in Alaska by deploying, and continuing to deploy, new ground-based aviation safety and access infrastructure including communications, navigation, and weather reporting systems, and upgraded airport access in Alaska. Support for the acquisition of the onboard avionics necessary to utilize the FAA ground infrastructure will aid in securing the substantial benefits of this technology for Alaskans and enhance, encourage, and make the most of the FAA investment in Alaska.

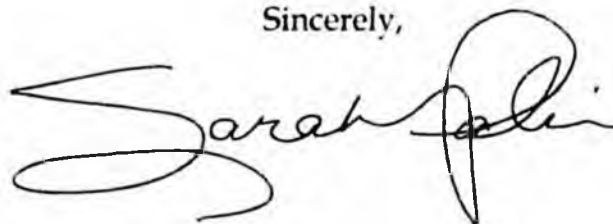
This bill would create the Alaska capstone avionics revolving loan fund within the Department of Commerce, Community, and Economic Development. The purpose of the fund would be to increase safety of air carrier, air taxi, and general aviation intrastate air transportation, by providing low-interest loans towards purchasing and installing capstone avionic equipment. An applicant for the low-interest loan must be an owner of an aircraft that is operated in the state. An applicant may be an individual, corporation, partnership, limited liability corporation, limited liability partnership, limited liability company, joint venture, or non-federal governmental entity.

The broad-based benefits of this legislation will help ensure that people can fly in a safer environment as they conduct their business and personal affairs

Under this new loan program, a loan for \$12,000 for avionics equipment at four percent over a ten-year term would result in a monthly payment of \$122 or an annual payment of \$1,480.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sarah Palin". The signature is written in black ink and is positioned below the word "Sincerely,".

Sarah Palin
Governor

Enclosure

STATE OF ALASKA

SARAH PALIN, GOVERNOR

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

3132 CHANNEL DRIVE
PO Box 112500
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FAX: (907) 586-8365
PHONE: (907) 465-3900

January 31, 2008

The Honorable Albert Kookesh
Alaska State Legislature
State Capitol, Room 11
Juneau, AK 99801-1182

Dear Senator Kookesh:

I respectfully request a hearing for SB 249 "An Act establishing the Alaska capstone avionics revolving loan fund". The loan provides funding for commercial operators and private aircraft owners to purchase "capstone" avionics. A capstone equipped plane has a video display showing the pilot his location relative to terrain, weather and similarly equipped aircraft in the vicinity.

This technology, which was cutting edge when it was tested as a pilot program in Bethel and Southeast Alaska, is being implemented nationally by the Federal Aviation Administration. The accident rate reduction in Alaska was 47% during the pilot program. Fatalities are estimated to be reduced by one third as a downed plane can be located quickly and precisely. Alaska's rural communities, who rely solely on air travel particularly in the winter, will have increased service, as capstone equipped planes will be able to land in inclement conditions.

The Department of Commerce, Community, and Economic Development will administer the loan program. The program is initially funded from the general fund; however, since it is a revolving loan fund, additional loans can be made from repayments over the life of the program. Loans will be available for up to 80% of the costs at an interest rate of 4% for 10 years.

January 31, 2008

Increasing so dramatically the safety of a mode of travel used by many Alaskans is one of the most important things we can do. I look forward to discussing this with you further.

Sincerely,



Leo von Scheben, P.E., L.S., M.B.A.
Commissioner

Enclosures: SB 249
Bill Analysis
Talking Points
FAA Capstone Program
DVD

cc: Russ Kelly, Legislative Director, Office of the Governor
Mary Siroky, Legislative Liaison, Dept. of Transportation & Public Facilities

SARAH PALIN
GOVERNOR
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
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January 24, 2008

The Honorable Lyda Green
President of the Senate
Alaska State Legislature
State Capitol, Room 111
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Alaska has seven times more licensed pilots than the national average, but it also has the highest aviation accident rate in the nation. One way to make Alaska's skies safer is with capstone avionic equipment. A study done in Alaska over a six year period determined that the accident rate of aircraft equipped with capstone avionic equipment decreased by 47 percent as compared to other aircraft operating without the equipment. The Federal Aviation Administration (FAA) estimates the adoption of this technology will result in a 33 percent reduction in fatal accidents statewide.

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This new technology requires both the installation of ground based infrastructure and capstone avionics in the cockpit to achieve these benefits. To be visible to the system, as well as to take advantage of all of capstones capabilities, an aircraft must be equipped with appropriate on-board avionics.

SEB

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FISCAL NOTE

**STATE OF ALASKA
2008 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: SB 265
 () Publish Date: _____

Identifier (file name): SB265-DPS-R&I-02-22-08 Dept. Affected: Public Safety
 Title: "An Act relating to drivers' licenses and identification cards issued to sex offenders and child kidnappers." RDU: Statewide Support
 Component: Records & Identification
 Sponsor: Senator McGuire
 Requester: Senate Transportation Committee Component Number: 1190

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required		Information				
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual	20.0						
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	20.0	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	20.0						
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	20.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This legislation requires the Division of Motor Vehicles (DMV) to verify that a person required to register as a sex offender or child kidnapper under AS 12.63 is in compliance with the registration requirements under that chapter as a condition of issuing or renewing the person's identification card or driver's license. It also requires sex offenders and child kidnappers to renew their identification card or driver's license annually rather than every five years as is the current requirement. (Continued)

Prepared by: David Schade, Director
 Division: Statewide Services
 Approved by: Walt Monegan, Commissioner
Department of Public Safety

Phone (907) 269-0202
 Date/Time 2/25/08 5:14 PM
 Date _____

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. SB 265

ANALYSIS CONTINUATION

To implement the screening requirements of this legislation, the DMV will need to compare information from their database against information from the Department of Public Safety's (DPS) sex offender registry database to determine 1) whether the person is someone required to register as a sex offender or child kidnapper and therefore subject to a one-year renewal, and 2) if so, whether the person is in compliance with the registration requirements.

Currently, there is no electronic telecommunications interface between DMV's database (Alaska License and Vehicle Information Network (ALVIN)) and DPS's database (Alaska Public Safety Information Network (APSIN)) that would facilitate the real-time screening process that this legislation proposes.

An interface will need to be built that will electronically submit a query from ALVIN to APSIN to conduct a search against specific data elements in the sex offender registry (e.g., name, social security number, date of birth, etc.) and provide a response back.

The cost to build an electronic interface that allows APSIN to receive the query from ALVIN and return a response is estimated to be \$20,000. This estimate includes the cost of a contract programmer for 200 hours at \$100 per hour for analysis, review, security, planning, testing, and implementation.

ALASKA STATE LEGISLATURE

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Chair
Senate State Affairs
Administrative Regulation Review

Member
Senate Judiciary Committee
Senate Resources Committee

SENATOR LESIL MCGUIRE

SPONSOR STATEMENT

SB 265 – Sex Offenders, Kidnappers Permanent Fund Dividend (for Blank CS to be adopted by Senate Transportation Committee)

One out of ten convicted sex offenders and child kidnappers in the State of Alaska are failing to keep their information current on the state Sex Offender Registry (SOR). SB 265 aims to bring these offenders into compliance by withholding their Permanent Fund Dividend until they have registered.

SB 265 would require that anyone applying for their PFD be screened against the Department of Public Safety's Sex Offender Registry. If the applicant is found to be a convicted sex offender and out of compliance with the SOR, the application would be rejected and a notice with instructions on how to update SOR information would be mailed to the applicant.

Information provided to the PFD is arguably the most accurate and up-to-date information in the state. SB 265 taps into this valuable resource to bring the one out of ten noncompliers on the SOR into compliance.

By creating an incentive for convicted sex offenders to keep their SOR information up to date, SB 265 would relieve law enforcement of the burden of having to dedicate the time, money, and resources to track down noncompliant offenders. Convicted sex offenders willingly updating their information would also relieve the court system of the burden of trying and convicting noncompliers.

But most importantly, SB 265 would increase the effectiveness of an already successful and popular SOR program. By ensuring up-to-date and accurate information is posted on the State SOR, SB 265 gives Alaskan citizens an improved means to identify convicted sex offenders who may be living in their communities.

25-LS1449E
Cook
2/25/08

CS FOR SENATE BILL NO. 265()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR MCGUIRE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the payment of permanent fund dividends to certain individuals**
2 **required to register as sex offenders or child kidnappers; and providing for an effective**
3 **date."**

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

5 *** Section 1. AS 43.23 is amended by adding a new section to read:**

6 **Sec. 43.23.021. Delayed payment of certain dividends. (a) Notwithstanding**
7 **other provisions regarding the payment of permanent fund dividends, if an individual**
8 **is required to register as a sex offender or child kidnapper under AS 12.63 and has not**
9 **registered or has not completed the required periodic verifications or notices required**
10 **under AS 12.63, payment of the dividend for that individual shall be delayed.**

11 **(b) If payment of a dividend is delayed, the department shall notify the**
12 **individual in writing of the delayed payment status, explain the requirements of this**
13 **section, and request proof of registration and compliance with the verifications and**
14 **notices required under AS 12.63. The dividend may not be paid unless, within one**

1 year after the notification, the department determines that the individual has registered
2 and is in compliance with the verifications and notices required under AS 12.63.

3 (c) Notwithstanding other provisions, a permanent fund dividend that has not
4 become payable to an individual under this section is not subject to levy, execution,
5 garnishment, attachment, or any other remedy for the collection of debt until that
6 dividend becomes payable or is paid to the individual.

7 (d) If an individual for whom payment of a permanent fund dividend has been
8 delayed but remains payable under (b) of this section dies before the dividend is paid
9 or payable, the department shall pay the dividend to a personal representative of the
10 individual's estate.

11 (e) The department shall include notice with the dividend application form of
12 the requirements of (a) and (b) of this section.

13 * Sec. 2. AS 43.23.025(a) is amended to read:

14 (a) By October 1 of each year, the commissioner shall determine the value of
15 each permanent fund dividend for that year by

16 (1) determining the total amount available for dividend payments,
17 which equals

18 (A) the amount of income of the Alaska permanent fund
19 transferred to the dividend fund under AS 37.13.145(b) during the current year;

20 (B) plus the unexpended and unobligated balances of prior
21 fiscal year appropriations that lapse into the dividend fund under
22 AS 43.23.045(d);

23 (C) less the amount necessary to pay prior year dividends from
24 the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and
25 43.23.055(3) and (7) [UNDER AS 43.23.055(3) AND (7)];

26 (D) less the amount necessary to pay dividends from the
27 dividend fund due to eligible applicants who, as determined by the department,
28 filed for a previous year's dividend by the filing deadline but who were not
29 included in a previous year's dividend computation;

30 (E) less appropriations from the dividend fund during the
31 current year, including amounts to pay costs of administering the dividend

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program and the hold harmless provisions of AS 43.23.075;

(2) determining the number of individuals eligible to receive a dividend payment for the current year and the number of estates and successors eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

(3) dividing the amount determined under (1) of this subsection by the amount determined under (2) of this subsection.

* Sec. 3. This Act takes effect January 1, 2009.

SENATE BILL NO. 265

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

BY SENATOR MCGUIRE

Introduced: 2/13/08

Referred: Transportation, State Affairs

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to drivers' licenses and identification cards issued to sex offenders and**
2 **child kidnappers."**

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

4 *** Section 1.** AS 18.65.310 is amended by adding a new subsection to read:

5 (k) Notwithstanding another provision of this section, the department may not
6 issue an identification card to a person who is required to register as a sex offender or
7 child kidnapper under AS 12.63 if the person has not registered or has not completed
8 the required periodic verifications or notices. An identification card issued to a person
9 who is required to register as a sex offender or chiid kidnapper under AS 12.63 expires
10 on the person's birthday in the first year following issuance of the card.

11 *** Sec. 2.** AS 28.15.031(b) is amended to read:

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

14 (1) whose license is suspended, revoked, canceled, or withdrawn in

1 this or any other jurisdiction except as otherwise provided in this chapter;

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

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

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

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

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

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

20 **(8) who is required to register as a sex offender or child kidnapper**
21 **under AS 12.63 and the person has not registered or has not completed the**
22 **required periodic verifications or notices.**

23 * Sec. 3. AS 28.15 is amended by adding a new section to read:

24 **Sec. 28.15.065. Restrictions on driver's license issued to a sex offender or**
25 **child kidnapper.** (a) Notwithstanding AS 28.15.101, a person who is required to
26 register as a sex offender or child kidnapper may not be issued a driver's license and
27 may not have a driver's license renewed unless the person has registered as required by
28 AS 12.63 and has provided all periodic written notices and verifications required
29 under that chapter.

30 (b) Notwithstanding AS 28.15.101, a driver's license issued to a person
31 required to register as a sex offender or child kidnapper under AS 12.63

1 (1) expires on the licensee's birthday, in the first year following
2 issuance of the license;

3 (2) may be renewed, and a renewed license expires on the licensee's
4 birthday in the year following the renewal.

ALASKA STATE LEGISLATURE

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Chair
Senate State Affairs
Administrative Regulation Review

Member
Senate Judiciary Committee
Senate Resources Committee

SENATOR LESLIE MCGUIRE

SPONSOR STATEMENT

SB 265 – Sex Offenders, Kidnappers Driver's License

One out of ten convicted sex offenders and child kidnappers in the State of Alaska are failing to keep their information current on the state Sex Offender Registry (SOR). SB 265 aims to bring these offenders into compliance by refusing them driver's licenses until they are registered.

SB 265 would require that anyone applying for an original or duplicate driver's license or a renewal or reinstatement of a driver's license be screened against the Department of Public Safety's Sex Offender Registry. If found to be noncompliant, an applicant would be denied their card and given instructions on how to update their information on the SOR.

SB 265 also requires that a driver's license issued to a convicted sex offender expires after one year, rather than the standard five-year expiration. This annual renewal process would compel sex offenders to keep their registry information up-to-date.

By creating an incentive for convicted sex offenders to keep their SOR information up to date, SB 265 would relieve law enforcement of the burden of having to dedicate the time, money, and resources to track down noncompliant offenders. Convicted sex offenders willingly updating their information would also relieve the court system of the burden of trying and convicting noncompliers.

But most importantly, SB 265 would increase the effectiveness of an already successful and popular SOR program. By ensuring up-to-date and accurate information is posted on the State SOR, SB 265 gives Alaskan citizens an improved means to identify convicted sex offenders who may be living in their communities.

S B

268



KABATA

KNIK ARM CROSSING

DOT&PF



KNIK ARM BRIDGE AND TOLL AUTHORITY (KABATA)

PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE

March 25, 2008

Senate Bill No. 268

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY SENATOR ELLIS

Introduced: 2/13/08

Referred: Transportation, Finance

House Bill No. 36:

IN THE LEGISLATURE
TWENTY-FIFTH LEGISLATURE

BY REPRESENTATIVE

Introduced: 2/13/08

Referred: Transportation

*This is scheduled 2 - 3
we can continue next
Tues? (There is the Rail Road)
(more people on line)*

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APPENDIX A.....

I. THE CONTEXT

A. The KAC Project. KABATA fully recognizes and understands:

- The KAC Project is one of the largest public works projects in Alaska, nearly equal to the Anchorage expansion and Anchorage's Highway-to-Highway project.
- The KAC Project has a high level of interest from the public, the Legislature, the media, and labor.
- Public awareness, understanding and participation are essential to any successful project.
- The KAC Project has attracted the investment interest of world class investors, financial institutions, and the private sector.

II. THE LEGISLATURE'S DIRECTIVES and LEGISLATIVE ACTIONS

A. The Legislature's Directive to KABATA

- *September 10, 2003.* The Legislature created and directed KABATA to build a Transportation Trust Fund Arm to advance the State's economic welfare and further the development of its transportation system. *

B. The Need for Supplemental Public and Private Sector Financing

- *March 2, 2006 and March 14, 2006.* In presentations to the House and Senate Transportation Committees KABATA advised that the KAC Project's federal-aid funding had to be supplemented by significant additional public and private sector financing and it was essential the public and private sectors were assured KABATA had the authority to do so.

II. THE LEGISLATURE'S DIRECTIVES and LEGISLATIVE ACTIONS
(CONTINUED)

C. Authorization for a Public-Private Partnership

- *June 14, 2006.* SCS CSHB 471 clarified KABATA's authority to obtain and explicitly authorized it to enter into public-private partnerships for the financial operation of the Knik Arm Bridge.

D. Proposed Limitation on KABATA's Authority to Enter Into Contracts

- *February 13, 2008:* SB 268 and HB 365 propose to severely limit KABATA's public-private partnership and other contracts.
 - **SB 268 and HB 365 are not compatible with the Legislature's mandate to build the Knik Arm Bridge nor with the procurement of a private partner to finance, design, and operate and maintain the KAC Project.**
 - These bills will almost certainly terminate the existing and prevent any future public-private partnership.
 - The bills are antithetical to maximizing the best value for the State.
 - The bills may well harm, if not preclude, the State's ability to use a public-private arrangement for other future projects.
 - A Summary of the SB 268 and HB 365 and KABATA's Analysis and Comments on the legislation is attached to this presentation as Appendix A.

III. PUBLIC-PRIVATE PARTNERSHIPS (P3) – A Mechanism to Fund Public Projects With

A. Purpose for the State (The Public Partner)

- Supplement federal-aid funds;
- Fulfill the need for additional financing; and
- Obtain a private sector partner to finance, design and construct the KAC Project and operate the toll bridge.
- Transfer a large portion, but not all, of project risk to the Private Partner.

III. PUBLIC-PRIVATE PARTNERSHIPS (P3) – A Mechanism to Fund Public Projects ***(CONTINUED)***

B. Purpose for the Developer (The Private Partner)

- A long-term (50-60 years) business investment to make a profit.
 - As an investment, the Private Partner is buying a stream of income over a long period.
 - The Private Partner is ***not*** entering into a typical design-build construction contract. The contract will be between the Private Partner and its construction contractor, not the Private Partner and the Government.

C. The P3 Agreement – A Typical Outline



- ***Between*** the Public Partner (Government) and a private sector company.
- ***Funding for design and construction*** of the Project:
 - *Private Partner* provides the majority (approximately 85-90%) of the funding in the form of private sector loans.
 - *Public Partner* invests a minor portion (approximately 10-15%) of the funding in the form of government funds allocated to the Project;
- ***Funding for operation and maintenance*** of the toll bridge:
 - *Private Partner* uses toll revenue it collects;
 - *Public Partner* commonly provides some financial support to reduce, but not eliminate, toll revenue if toll revenue is insufficient.
- ***Design and Construction-The Design-Build Contract:***
 - *Private Partner* offers firm technical proposals for construction.
 - *Private Partner* **alone** performs or contracts with a private sector company or consortium to design and construct the Project.
 - *Public Partner* establishes the design and construction **standards** that must be met.

III. PUBLIC-PRIVATE PARTNERSHIPS (P3) – A Mechanism to Fund Public Projects **(CONTINUED)**

➤ ***Financial Terms:***

- *Private Partner* offers firm financial commitments in its proposal.
- *Public Partner* establishes the minimum acceptable financial terms.

➤ ***Toll Revenue*** during the term of the P3 agreement:

- *Private Partner* collects the toll revenue and uses it to:
 - ✓ Maintain and operate the toll facility to quality standards;
 - ✓ Establish reserves for liabilities and future expansion or additions;
 - ✓ Pay its debts and loans;
 - ✓ Make a profit on its investment.
- *Public Partner* receives a share of toll revenue and uses it to:
 - ✓ Establish reserves for liabilities and future expansion or additions;
 - ✓ Pay its costs of operation; and then
 - ✓ At the end of the P3 agreement receives all future tolls.

➤ ***P3 Benefits***

- The State furthers the development of its transportation system as directed by the
- The State receives a valuable toll bridge with no deferred maintenance;
- The State uses primarily private sector money rather than government capital and maintain the Knik Arm Crossing;
- The State advances and stimulates the economic development of the State Legislature;
- Payment for the cost of the facility through user fees over a long period of time.
- Transfers a large portion of financing, construction and operations risk to the private

➤ ***P3 Disadvantages***

- The ultimate cost of the Project may be greater because a large portion of the tolls go to the Private Partner;
- The carrying costs of debt are greater because they occur over a longer period of time.

IV. THE P3 NATURE OF THE KAC PROJECT

A. The KAC Project – A “Greenfield” Project

- ***A “Greenfield” Project.*** In the public-private partnership context the KAC Project is a new project which means:
 - The Project is a new project with no history of past traffic volumes and toll revenue on which to predict the sufficiency of future revenue to pay loans, construction and operation costs, and return a net profit.
 - Instead, toll revenue is estimated on the basis of expert surveys, traffic studies, and other data to predict future traffic volumes and toll revenues.
- ***The Risk in a “Greenfield” Project.*** The lack of any past history of traffic volumes presents a significant investment risk to the Private Partner whether revenue will be sufficient to cover construction, maintenance and operation costs, and return a net profit.
 - That revenue risk of a “Greenfield” project will be reflected in whether and how much the Private Partner will invest.
 - In a “Greenfield” project, the Private Partner will invest less, because the risk is higher than if the facility had proven revenue record.

V. STATUS OF THE KNIK ARM CROSSING (KAC) PROJECT

A. The Final Environmental Impact Statement (FEIS) and Record of Decision (ROD)

- After three years of intense environmental investigation, analysis, documentation and public involvement by KABATA and its expert consultants, the FEIS was issued by the FHWA Administration (FHWA) December 20, 2007.
- The FHWA Record of Decision (ROD) on the KAC Project is nearing completion and

V. STATUS OF THE KNIK ARM CROSSING (KAC) PROJECT
(CONTINUED)

B. Private Activity Bonds

- The United States Department of Transportation (USDOT) has allocated the Project obligation of the Private Partner \$600 million of federal tax exempt private activity issued on behalf of the Private Partner.

C. TIFIA Subordinated Loan.

- KABATA has applied to make available a preliminary commitment of a federal, s sector loans) transportation loan of approximately \$261 million to and as an ob partner from the USDOT TIFIA Office. (TIFIA = the federal Transportation Infr Innovation Act.)
 - The TIFIA Credit Council is expected to act on the application in the near fu optimistic that it will be approved.

D. The Procurement KABATA is in the second stage of a two-step, formal and procurement process in accordance with and as authorized by the State Procurement Co

- First Step: Qualify Responsible Private Developers through a public Request Qualifications (RFQ). Two world renowned private partners have been qualified:

Knik Arm Crossing Constructors

Macquarie Bank Limited
Macquarie Holdings (USA) Inc.
Macquarie Securities (USA) Inc.
Kiewit/Manson JV
Kiewit Pacific Co.
Manson Construction Company
Parsons Transportation Group Inc.
Golder Associates Inc. & VMS Inc.

Knik Arm Crossing Consortium.

Bouygues Travaux Publics S
URS Corporation
ARUP Engineering Services
USKH Inc.

V. STATUS OF THE KNIK ARM CROSSING (KAC) PROJECT

D. The Procurement
(CONTINUED)

- **Second Step Part 1: Develop the Base Requirements for Proposals.** Over the past and its expert consultants have investigated, studied, analyzed the financial and value of the Project, its benefits to the State, the cost and economic risks associated with the means of delivery including design, permitting, construction and construction operation costs, its projected traffic and toll revenue, and its potential and probable risks. It also sought the views of the qualified private partners.
 - During and as a result of this part of the procurement process, there were issues with ADOT, the Governor, members of the Legislature, the qualified private partners. These are outlined below under LEGITIMATE CONCERNS.
- **Second Step Part 2: Request for Proposals (RFP) from the qualified private partner for design, construction, operation and maintenance of the KAC Project.**
 - The Request for Proposals is still under development.

VI. LEGITIMATE CONCERNS - The Public, The Legislature, The Governor, ADOT, Industry

A. The Concerns. Members of the Legislature, the Administration and the Department of Transportation, Public Facilities and members of the public have expressed legitimate concerns regarding the Project.

- The Project's expenditures;
- The cost of the Project;
- The Project's potential risk to the State and other federal-aid transportation program

These are KABATA's concerns as well.

VI. LEGITIMATE CONCERNS - The Public, The Legislature, The Governor, ADOT, Industry
(CONTINUED)

B. Resolving the Concerns - KABATA's Conditions to Proceeding.

- ***Satisfactory resolution*** of the concerns is required prior to issuing a Request for Proposal to potential private partners.
- ***A publicly supported State position endorsed by the Governor and Legislature*** on the KAC Project is fundamental to any realistic expectation that the State will receive offers from developers that maximize the State's best interests.
- ***Protection must be provided*** ADOT's transportation projects and federal-aid funds not adversely affected by the KAC Project.
- ***The State's best interests*** must be maximized with value and benefit to State's transportation systems and the public.
- ***Pending satisfactory resolution*** of concerns, an RFP will not be issued until but will be issued upon ***satisfactory resolution***.
- ***The RFP will be made publicly available when finalized.***

VII. THE WAY FORWARD.



A. KABATA's Primary Focus and Immediately Necessary Efforts.

- ***The FEIS and ROD.*** The primary responsibility and focus of KABATA's is to complete the NEPA environmental review process and obtain the necessary Record of Decision.
 - KABATA must support the FHWA in responding to comments on the FEIS and the Record of Decision.

VII. THE WAY FORWARD.

A. KABATA's Primary Focus and Immediately Necessary Efforts. **(CONTINUED)**

- ***Environmental Permits.*** KABATA must apply for and pursue the necessary environmental permits for the construction of the KAC while the FEIS remains current.
- ***Preserving the Private Activity Bond Allocation.*** KABATA must maintain the availability of the private partners of the USDOT allocation of \$600 million of federal tax exempt private activity bond use by the private partner.
- ***Preserving the TIFIA Loan.*** KABATA must maintain the availability of the \$2 billion TIFIA loan anticipated to be approved by the USDOT TIFIA office for borrowing by the private partner.
- ***Preserving the Interest of the Qualified Partners.*** KABATA must make every effort to preserve the interest of the qualified proposers in the KAC Project.

B. A Concurrent Process for Resolving Concerns & Proceeding Forward.

Concurrent with its pursuit of the ROD and environmental permits, maintaining the availability of the private activity bond funds and preserving the investment interest of the qualified private partners,

- KABATA will continue to consult with the Administration.
- KABATA will continue to consult and coordinate with the Office of the Governor, the Department of Transportation, Revenue, Law, Natural Resources, Environmental Conservation, and the University of Alaska.
- KABATA will review and continue to evaluate the financial feasibility, funding, and implementation of the KAC Project under a public-private partnership.
- KABATA supports an independent and objective evaluation of the financial feasibility of the KAC Project by an independent task force or work group.



VII. THE WAY FORWARD.

B. A Concurrent Process for Resolving Concerns & Proceeding Forward.
(CONTINUED)

- The independent evaluation would be open to public participation consistent with the State and its citizens.
- The independent evaluation would produce a report to the Governor, the Legislature its findings and evaluations together with recommendations for action by the Legislature and KABATA.
- The independent evaluation provides an expeditious process of providing the Legislature and the public at or prior to release of the request for proposals.
 - It is an appropriate and welcome step in the procurement process.
 - The qualified proposers likely will find this process to their advantage and submitting proposals.
- KABATA has demonstrated and will continue its engagement in and support involvement.

VIII. CONCLUSION AND RECOMMENDATION

- We recommend and the Legislature is respectfully urged to take no action on SB 268 and H
- KABATA also respectfully requests the Legislature to support KABATA's efforts in TH

APPENDIX A.
to
KABATA'S PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE
March 25, 2008

KABATA Summary, Analysis and Comments
Proposed Senate Bill 268 and House Bill 365

SUMMARY OF PROPOSED BILLS:

SB 268 and HB 365 amend AS 19.75.11(a)(5) to severely limit KABATA's ability to implement the Legislature's authority over the Knik Arm Crossing and KABATA's statutory authority to "make and execute agreements, contracts, and the financing design, construction, maintenance, improvement or operation of facilities, properties, or projects including incurring indebtedness, and public-private partnerships or other contracts in any form.

Any and all KABATA agreements, regardless of their nature or importance, would be subject to:

- a 60-day public comment period before entering into any proposed contract;
- a determination by the Authority after the comment period whether the agreement, contract, or project sufficiently maximizes the benefits to the people of Alaska, and
- A legislative hearing and approval of the agreement after receiving the KABATA determination

SB 268 and HB 365 also amend the Authority's powers and duties provided under AS 19.75.111(a)10 by:

- limiting toll rate increases to the Consumer Price Index for all urban consumers. Anchorage's current toll rate limitation would contradict compliance with 19.75.221(b) or of a provision of a trust entered into by the Authority;
- requiring approval of such toll change by the Commissioner Of Transportation And Public Facilities

SB 268 and HB 365 further amend AS 44.42.090 to establish the authority of the Commissioner Of Transportation And Public Facilities to approve toll rates.

APPENDIX A. to

KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE

March 25, 2008

KABATA Summary, Analysis and Comments

Proposed Senate Bill 268 and House Bill 365

**KABATA'S ANALYSIS, COMMENT
AND RECOMMENDATION ON SB 268 AND HB 365**

KABATA recommends against passage of SB 268 and HB 365. These bills, if enacted into law, will likely prevent any future procurement of a public-private agreement to finance and build the project. These bills do not protect the public interest.

Introduction:

A public-private partnership is an agreement between the government (in this instance KABATA) and a group of companies by which the private sector provides all or a material part of the money for and designs the toll bridge. In return, the government provides a small portion of the funds and shares the toll revenue which may recover its costs, pay its debt and make a reasonable profit on its investment. The government receives improved transportation infrastructure using primarily private sector moneys rather than its own government funds. The company that will be the private partner is selected through the use of a competitive procurement process where companies submit proposals (offers) to finance, design, construct, operate and maintain the bridge and specific

Their proposals will offer firm financing commitments and designs for construction.

In May 2003 (SB 213) and again in May 2006 (SCS CSHB 471) the Legislature established the powers and a Bridge and Toll Authority. SCS CSHB 471 explicitly authorized KABATA to enter into a public private partnership for the construction and operation of the Knik Arm Bridge. *After just one intervening session* of the Legislature, SB 268 and HB 365 propose to severely restrict the Authority's ability to carry out its mission to finance and construct the bridge to use a public-private partnership to do so. SB 268 and HB 365 also severely limit the Authority's ability to collect tolls.

Effect of SB 268 and HB 365 Generally

If enacted, SB 268 and HB 365 will likely result in the inability of KABATA to pursue the existing or any future public-private partnership.

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It is the apparent intent of SB 268 and HB 365 to limit KABATA's ability to enter into public-private partnerships requiring a *prior* public hearing and *prior* legislative approval. However, the actual language of these bills allows KABATA agreements, contracts, and other instruments without exception.

Effect of Proposed Legislation on Public-Private Partnerships

To compete for the contract, the private sector will have to spend between \$5 and \$10 million of their own money to prepare offers. To prepare binding financial and technical offers, they must investigate project characteristics, prepare the project, prepare cost estimates, perform traffic and revenue studies, develop operations and maintenance plans, analyze and comment on prospective contract documents with KABATA, negotiate a design and construction contract, ensure financial feasibility and obtain the necessary equity investments and loans needed to fund their offers. If the project is not approved, the private sector is subject to the political risk of legislative approval, in addition to the competitive risk, they will not expect to receive the \$5 million necessary to prepare an offer. Instead, they will choose to drop out of the procurement.

Further, under the current procurement, the private sector is required to irrevocably offer firm financial commitments for the project. To review and compare the private sector offers and enter into a binding contract with the state, it takes approximately three to six months. That is the absolute maximum time the private sector can reasonably hold firm commitments without a risk of increased costs and lower value to the public. The recent and continuing volatility in capital markets may limit their ability to hold financial commitments to an even shorter period of time.

Any extended public hearing and legislative review process will negate the ability to obtain firm financial commitments and value to the state.

Status of Procurement

KABATA has followed Alaska's Procurement Code and regulations as well as best industry practices in competitive procurement. It has hired the leading experts in the industry and with their assistance is developing Proposals and associated documents, including a draft Public-Private Agreement (PPA), in response to which the private sector will make their competing offers in an auction bid format to maximize value to the state and protect the public interest.

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The proposal process will take 6-8 months because of the complexity of preparing a responsive offer, commence with release of the RFP. Issuance of the RFP does not cast the request for proposals in concrete - amended during the proposal process. Neither issuance of the RFP nor receipt of proposals will result in KABATA Board will have full discretion to decide whether either offer meets the proposal requirements and to the State.

Public Involvement

KABATA has demonstrated its engagement in and support of public involvement through 10 Gov't meetings, 4 other Community Council meetings, 8 non-governmental organization meetings, 16 meetings groups, 6 formal public open house presentations and public hearings, 5 other public information meetings, 2 on Draft EIS, 2 public surveys, and 49 other meetings with gov't agencies, interested groups and individuals outreach to 23 cooperating and participating government agencies through 6 interagency group meetings, 39 interagency meetings and 11 native tribal meetings.

KABATA has also made extensive documents and information available through its website including reports, informational presentations, project documents, the Draft and Final EIS, surveys, open houses and minutes, annual reports, comment forms, schedules and EIS activities,

KABATA is committed to continuing that public and agency outreach and dialogue. The request for proposal agreement and related documents, has always been assumed and intended to be a publicly available document private sector. An expeditious process of providing information to the Legislature and the public at or prior for proposals is an appropriate and welcomed step in the procurement process. Hopefully the private sector advantage and remain interested in submitting proposals.

Capping Toll Rate Increases

Private sector lenders and equity investors will provide 85-90% of the project funding. Obviously, without it not feasible. Lenders and equity investors will not fund against a revenue stream that is subject to political

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order for the private sector to borrow funds and raise equity investment against the stream of toll revenue, must be certain and set forth in the agreement.

The authority recommends that a base maximum toll rate be established within the PPA rather than by law. The PPA already cap annual toll rate increases by the three year rolling average of Anchorage CPI-U as suggested.

A number of contingent compensation events where the risk is retained by KABATA could be covered by toll rates above the maximum base toll rate. KABATA also needs to retain the flexibility of using toll rates for the term of the agreement on a revenue neutral basis to the developer. Statutorily limiting toll rate setting, rather than in the best interest of the state or the Alaskan public and will not be acceptable to the private sector.

ADOT Commissioner's Approval of Toll Rates

The legislature contemplated a deliberative body to protect the public interest in toll rate setting when it is established under AS 19.75. The powers of toll rate setting are vested in the board of directors, which is comprised by persons that include the Commissioner of Revenue, the Commissioner of Transportation and Public Facilities, three persons appointed by the Governor, and two state legislators – one from the Senate and one from the House. This deliberative body – the oversight of the Knik Arm Crossing Project. As such it provides a much broader perspective of the toll rate setting than the Commissioner of ADOT alone.

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Consultant's Legal Review of Proposed Legislation

Nossaman Guthner Knox and Elliot, LLP, the nationally preeminent law firm representing solely government P3 transportation transactions, is KABATA's P3 legal counsel and has provided KABATA the following observations:

The legislation would vest in KABATA authority to increase toll rates, fees and other charges only by CP consistent with the toll regulation already contemplated, it does create certain unnecessary barriers and problems:

1. The new language is written in a way that implies the Authority would need to take a new action to That clearly will not work.
2. The bill would preclude use of value pricing (we call it "traffic management pricing") as a means to n of project expansion. The provision contemplates higher pricing - beyond CPI increases - in peak hour peak, to result in overall revenue neutrality.
3. The bill might be construed to preclude introduction of video toll premiums if the developer later want open road tolling. Query whether this would be a "periodic change" in the tolls, or an allowed "initial dete
4. The bill could preclude a decision to increase toll rate caps as the means for KABATA to pay for a C PPA currently provides this as the exclusive means to compensate for real property taxes on the Developer:
5. The bill could preclude surcharging tolls with any tax imposed on gross toll receipts, as now conte Again that depends on whether this would be a "periodic change" in the initial toll or an "initial determinat
6. The bill could preclude flexibility by the developer in adjusting its actual toll rates inside the cap. It using value pricing underneath the cap. It could be precluded from seasonal pricing.
7. The requirement for approval of each change by the DOT commissioner is a likely show stopper, esp require a separate regulatory decision for each increase. The financial markets will not accept pc adjustments. Nor is this necessary to protect the public interest. The authority already is vested with the the public interest regarding toll rates. The board bears this public responsibility, and the Commissio Other board members represent other constituencies, giving the board a broader perspective of the public i

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8. CPI limits on fees and other charges is not necessarily a good idea, at least when applied to violation for incidental charges such as account maintenance fees, paper statement fees, and the like.

9. It appears the language in the bill would not preclude use of a 3-year rolling average CPI, but we raise about.

Contract approval by the Legislature certainly deserves comment from the qualified proposers. We strongly support the quick and sure death of this procurement. Layering on top of an already challenging project a new process will likely destroy the current P3 procurement.

Even if the current P3 procurement could be preserved, the time period required for the public and legislative process would undermine the state's ability to receive or hold firm financial proposals. Current market conditions make this difficult. KABATA might have to offer longer interest rate benchmark protections. And with the process of issuing the RFP, it is possible that the legislative review would not finish in one session and would be carried over.

LEGAL SERVICES

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MEMORANDUM

March 13, 2008

SUBJECT: Sectional summary of SB 268 (Work Order No. 25-LS1480\A)

TO: Senator Johnny Ellis
Attn: Max Hensley

FROM: Brian J. Kane *BJK*
Legislative Counsel

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

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

Section 1 of the bill amends AS 19.75.111(a)(5) to make certain agreements, contracts, and other instruments the Knik Arm Bridge and Toll authority wants to enter into subject to the provisions of AS 19.75.345. The section also amends AS 19.75.111(a)(10) to set limits regarding the ability of the authority to increase the amount for fees, tolls, or other charges and requires the commissioner of transportation and public facilities to approve the changes.

Section 2 of the bill adds a new section to AS 19.75 directing opportunity for public review and requiring notice and legislative approval for certain agreements, contracts, and other instruments involving the authority. The section establishes a process for public review, legislative review, and legislative approval for agreements, contracts, and other instruments proposed to be entered into under AS 19.75.111(a)(5)(B).

Section 3 of the bill amends AS 44.42 by adding a new section requiring the commissioner of transportation and public facilities to consider proposed changes to tolls, fees, and other charges and possibly approve them in relation to the Knik Arm Bridge and Toll Authority.

BJK:med
08-184.med

ALASKA STATE LEGISLATURE

Senate Labor and Commerce
Committee, Chair

•
Legislative Budget and Audit
Committee

•
Senate Rules Committee

•
Committee on Committees



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SENATOR JOHNNY ELLIS
SENATE MAJORITY LEADER

SECTIONAL ANALYSIS SB 268: Knik Arm Bridge & Toll Authority Oversight

Section 1. Amends AS 19.75 to make the ability of the Knik Arm Bridge and Toll Authority (KABATA) to enter into agreements regarding facilities or properties subject to the limitations described in section 2 and limits toll increases on facilities owned or controlled by KABATA to the rate of inflation or to remain in compliance with other provisions of state law or previous bond agreements. All increases must be approved by the commissioner of the Department of Transportation and Public Facilities (DOT).

Section 2. Adds new section to AS 19.75 to require that contracts as described in section 1 be submitted for 60 days of public comment followed by 60 days for legislative approval.

Section 3. Adds new section to AS 44.42 to give the commissioner of DOT authority to approve changes in tolls or fees charged in relation to contracts as described in section 1.