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APPROVED

DEC 12 1975

THE WHITE HOUSE

WASHINGTON

December 10, 1975

ACTION

Last Day: December 13

Posted 12/13  
To ARCH/UBS 12/15

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: S. 1245 - Alaska Highway Amendment

Attached for your consideration is S. 1245, sponsored by Senator Stevens, which would remove a provision in the Federal Aid Highway Act of 1973 which requires Canada to grant a perpetual right-of-way for part of the Alaska Highway. The Canadian Government has considered this requirement an infringement upon its sovereignty.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, NSC, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 1245 at Tab B.



DEC 11 1975



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 8 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1245 - Alaska Highway Amendment  
Sponsor - Sen. Stevens (R) Alaska and Sen. Gravel  
(D) Alaska

Last Day for Action

December 13, 1975 - Saturday

Purpose

To remove a requirement that Canada provide a perpetual right-of-way for a portion of the Alaska Highway which cuts through Canada.

Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval
Department of State	Approval

Discussion

S. 1245 would remove a provision in the Federal Aid Highway Act of 1973 which requires Canada to grant a perpetual right-of-way for part of the Alaska Highway.

The Highway Act authorized the reconstruction of a 322-mile segment of the Alaska Highway which extends through Canada. It also required Canada to grant a perpetual right-of-way for public use of the road. The Canadian Government considers this requirement an infringement upon its sovereignty and has refused to enter into a construction agreement (required before

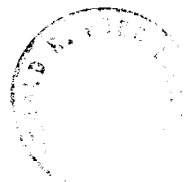
funds can be obligated) on the Highway until it is removed.

Approval of this enrolled bill would allow the agreement between the United States and Canada to be concluded with a mutually satisfactory number of years specified in it for the right-of-way. Currently, a 25-year period with an option for renewal is being discussed. Accordingly, we recommend approval.

Finally, it should be noted that no final decision has been made on future support for improving the road. Alaska has strongly supported the reconstruction of this portion of the Highway since it provides an all weather link between Fairbanks and Haines, a year round port near Juneau which can be reached through an inland waterway. Current estimates are that it will cost \$120 million over 9 years to fix the road. The 1973 Act authorized \$58.7 million for this purpose and Congress has appropriated \$4.8 million, an amount which can be obligated if this bill is signed. This project will be included in a decision paper that is being prepared at your request on funding of all "place named" highway projects.

*James M. Frey*  
Assistant Director  
for Legislative Reference

Enclosures





GENERAL COUNSEL

OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

DEC 3 1975

Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

This is in reply to your request for the views of the Department of Transportation concerning S. 1245, an enrolled bill

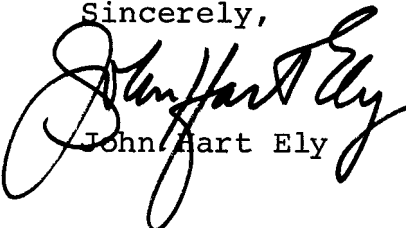
"To amend section 218 of title 23, United States Code."

The enrolled bill would eliminate from 23 U.S.C. 218(a)(1) the requirement that the Government of Canada shall hold inviolate for public use the right-of-way of the Alaska Highway and the Haines Cutoff Highway in Canada. The Canadian Government has objected to the requirement as an infringement upon its national sovereignty.

This Department favors this legislation, which would facilitate construction of the Alaska Highway and insure that the necessary Canadian right-of-way will be provided.

We recommend that the President sign the enrolled bill.

Sincerely,

  
John Hart Ely





DEPARTMENT OF STATE

Washington, D.C. 20520

DEC 3 - 1975

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D.C. 20503

Dear Mr. Lynn:

S. 1245, an Act to amend section 218 of title 23, United States Code, would remove an impediment to the conclusion with Canada of mutually satisfactory arrangements for reconstruction of a portion of the Alaska Highway.

The Department of State is in favor of the Act and recommends its approval by the President.

Sincerely yours,

*Robert J. McCloskey*

Robert J. McCloskey  
Assistant Secretary for  
Congressional Relations



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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

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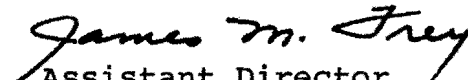
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Assistant Director  
for Legislative Reference

Enclosures



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1247

Date: **December 8**

Time: **403pm**

FOR ACTION: Steve McConahey *oh* cc (for information): Jack Marsh  
Max Friedersdorf *oh* Jim Cavanaugh  
Ken Lazarus *oh*  
NSC/S *oh*

FROM THE STAFF SECRETARY

DUE: Date: **December 10**

Time: **noon**

SUBJECT:

S. 1245 - Alaska Highway Amendment

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1247

Date: December 8

Time: 403pm

FOR ACTION: Steve McConahey  
Max Friedersdorf  
Ken Lazarus  
NSC/S

cc (for information): Jack Marsh  
Jim Cavanaugh

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SUBJECT:

S. 1245 - Alaska Highway Amendment

ACTION REQUESTED:

\_\_\_\_\_ For Necessary Action

\_\_\_\_\_ For Your Recommendations

\_\_\_\_\_ Prepare Agenda and Brief

\_\_\_\_\_ Draft Reply

For Your Comments

\_\_\_\_\_ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. -- Ken Lazarus 12/9/75

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Steve M. Cavanaugh  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1247

Date: December 8

Time: 403pm

FOR ACTION: Steve McConahey  
Max Friedersdorf  
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James H. Cavanaugh  
For the President

THE WHITE HOUSE

WASHINGTON

December 10, 1975

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX L. FRIEDERSDORF *M. L.*  
SUBJECT: S. 1245 - Alaska Highway Amendme nt

The Office of Legislative Affairs concurs with the agencies  
that the subject bill be signed.

Attachments

MEMORANDUM

NATIONAL SECURITY COUNCIL

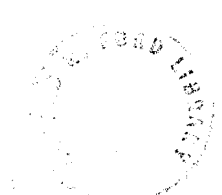
December 10, 1975

MEMORANDUM FOR: JIM CAVANAUGH

FROM: Jeanne W. Davis *JWD*

SUBJECT: S. 1245 - Alaska Highway Amendment

The NSC Staff concurs in Enrolled Bill S. 1245.



# Calendar No. 351

94TH CONGRESS }  
1st Session }

SENATE

REPORT  
No. 94-363

## ALASKA HIGHWAY

August 1 (legislative day, July 31), 1975.—Ordered to be printed

Mr. GAVEL, from the Committee on Public Works,  
submitted the following

### REPORT

To accompany S. 1245

The Committee on Public Works, to which was referred the bill (S. 1245) to amend section 218 of title 23, United States Code having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### DESCRIPTION OF LEGISLATION

The Federal-Aid Highway Act of 1973 authorized the reconstruction of part of the Alaska Highway in Canada. In connection with this project, the Act described certain responsibilities of the United States and Canadian governments.

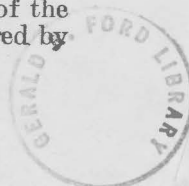
All necessary agreements have been reached except that relating to a provision in the 1973 Act that right-of-way provided by Canada for the Alaska Highway "shall forever be held inviolate as a part of such highways for public use." The Canadian government believes this to be an infringement on its sovereignty. Accordingly, it has approved the intergovernmental agreement contingent upon removal of this requirement from the law.

A fiscal year 1975 appropriation of \$4.825 million for Alaska Highway reconstruction cannot be obligated until final agreement is reached between the two government.

The bill makes the necessary change in the law by deleting a portion of section 218(a)(1). This action is supported by the Department of Transportation.

#### COST OF LEGISLATION

Section 252(a)(1) of the Legislative Reorganization Act of 1970 requires publication in the report of the committee's estimate of the costs of the reported legislation, together with estimates prepared by



any Federal agency. The bill authorizes no additional costs beyond those authorized previously in Section 218, title 23, U.S. Code.

### ROLLCALL VOTES

Section 133 of the Legislative Reorganization Act of 1970 and the rules of the Committee on Public Works require that any rollcall votes be announced in this report. No rollcall votes were taken during Committee consideration of this bill. The measure was ordered reported by voice vote.

### CHANGES IN EXISTING LAW

In compliance with subsection (4) of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Sec. 218. Alaska Highway.

(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. No expenditures shall be made for the construction of such highways until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

(1) will provide, without participation of funds authorized under this title all necessary right-of-way for the reconstruction of such highways [which right-of-way shall forever be held in-violate as a part of such highways for public use];

(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

(b) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary.

## ALASKA HIGHWAY

NOVEMBER 12, 1975.—Committed to the Committee of the White House on the State of the Union and ordered to be printed

MR. JONES of Alabama, from the Committee on Public Works and Transportation, submitted the following

### REPORT

together with

### ADDITIONAL VIEWS

[To accompany S. 1245]

The Committee on Public Works and Transportation, to whom was referred the bill (S. 1245) to amend section 218 of title 23, United States Code, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The Federal-Aid Highway Act of 1973 authorized necessary reconstruction work on a part of the Alaska Highway extending through Canada to the southern border of Alaska. The Act requires that prior to the expenditure of funds, an agreement be reached between the governments of the United States and Canada. This agreement must provide that the Canadian Government will maintain the highway in proper condition to serve the needs of present and future traffic. The Canadian Government is to provide all necessary rights-of-way for the reconstruction of these highways.

These provisions as well as others present no problem. One provision of the Act, that the right-of-way provided by the Canadian Government, "shall forever be held inviolate as a part of such highways in public use," cannot be agreed to by the Canadian Government. The Canadian Cabinet accordingly has approved entry into the agreement contingent upon removal of this provision.

An appropriation of \$4,825,000 for fiscal year 1975 for Alaska Highway reconstruction cannot be obligated until the two governments conclude a final agreement.

This bill makes the necessary change in law by removing the requirement in section 218(a)(1) of the 1973 Act that the right-of-way shall forever be inviolate.



COMPLIANCE WITH CLAUSE 2(1) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

(1) With reference to Clause 2(1) (3) (A) of Rule XI of the Rules of the House of Representatives, no separate hearings were held on the subject matter of this legislation by the Subcommittee on Investigations and Review.

(2) With respect to Clause 2(1) (3) (C) of the Rules of the House of Representatives, the Committee has not received an estimate and comparison prepared by the Director of the Congressional Budget Office under section 408 of the Congressional Budget Act.

(3) With respect to Clause 2(1) (3) (D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to the subject matter.

(4) With reference to Clause 2(1) (4) of rule XI of the Rules of the House of Representatives, the following information is provided:

S. 1245, as reported, does not authorize any additional cost to the United States.

Accordingly, the Committee has determined that the enactment of this legislation will not have an inflationary impact on prices and costs in the operation of the national economy.

COST OF LEGISLATION

In accordance with Rule XIII(7) of the Rules of the House of Representatives the following information is furnished on the cost to the United States in carrying out S. 1245 in Fiscal Year 1976 and in each of the five following fiscal years.

There is no additional cost to the United States.

With reference to section 308 (a) of the Congressional Budget Act of 1974, S. 1245, as reported, does not provide any new budget authority or any new increased tax expenditures.

VOTE

The Committee ordered the bill reported by voice vote.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, existing law in which no change is proposed is shown in roman):

SECTION 218 OF TITLE 23, UNITED STATES CODE

§ 218. Alaska Highway

(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out the funds appro-

riated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. No expenditures shall be made for the construction of such highways until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways [which right-of-way shall forever be held in-violate as a part of such highways for public use];

(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

(b) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary.

#### ADDITIONAL VIEWS OF CONGRESSMAN BUD SHUSTER

This Committee, in the Federal-Aid Highway Act of 1973, authorized the reconstruction of 322 miles of the Alaska Highway in Canada from the Alaskan border to Haines Junction in Canada and the Haines Cut-off highway from Haines Junction in Canada to the South Alaskan Border. The Federal Highway Administration has estimated that 75 to 85 percent of the traffic on this stretch through Canada is American traffic, and little enduring benefit will accrue to the Canadian people as a result of this reconstruction.

Precedent to any obligation of federal funds on this project, an agreement must be reached between the U.S. and Canadian governments. An agreement has been reached on all points but one, and it is to this one remaining point that this legislation addresses itself.

The Canadian government has already agreed to maintain the highway upon completion, continue to grant reciprocal recognition of vehicle registration and drivers licenses, and not impose any tolls or taxes on the use of the highway. They could not agree, however, to grant perpetual right-of-way, as they view this as an infringement on their sovereignty.

S. 1245 does nothing more than remove the clause from Section 218 of Title 23 that requires perpetual right-of-way so that an agreement of a defined number of years can be reached. An FY 1975 appropriation of \$4.825 million cannot be obligated until an agreement is reached.

I have been informed that both the State Department and the Federal Highway Administration are in accord in urging enactment of this bill.

A concern that was noted during subcommittee mark-up is worth repeating here: are we adequately protecting the interests of the United States and its people?

I have received every assurance from the Federal Highway Administration that adequate safeguards will be included in any agreement with Canada regarding the availability of right-of-way on this project, and neither the Federal Highway Administration nor the State Department would permit an agreement that will not fully protect United States interests.

Therefore, I urge enactment of this legislation.

BUD SHUSTER.

○

(5)



S. 1245

# Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,  
one thousand nine hundred and seventy-five*

## An Act

To amend section 218 of title 23, United States Code.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (1) of subsection (a) of section 218 of title 23, United States Code is amended to read as follows:*

*“(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways;”.*

*Speaker of the House of Representatives.*

*Vice President of the United States and  
— President of the Senate.*

December 2, 1975

Dear Mr. Director:

The following bills were received at the White House on December 2nd:

S. 267 ✓  
S. 1245 ✓  
H.R. 6692 ✓  
H.R. 10027 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C.

