

ALASKA STATE LEGISLATURE
SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

March 19, 2001
1:30 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Alan Austerman
Senator Randy Phillips
Senator Georgianna Lincoln
Senator Pete Kelly

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE BILL NO. 1

"An Act relating to the base student allocation used in the formula for state funding of public education; and providing for an effective date."

MOVED SB 1 OUT OF COMMITTEE

SENATE BILL NO. 59

"An Act relating to awards of federal funds to municipalities for road projects; and providing for an effective date."

MOVED CSSB 59 (CRA) OUT OF COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 13(JUD)

"An Act relating to municipal service areas and providing for voter approval of the formation, alteration, or abolishment of certain service areas."

MOVED SCS CSSS HB 13 (CRA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 24(EDT)

"An Act relating to use of borough revenues from a sales tax levied upon room rentals for a tourism marketing campaign."

MOVED CSHB 24(EDT) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

SB 1 - No previous action recorded.

SB 59 - See Transportation minutes dated 2/20/01 and 3/13/01.

HB 13 - No previous action recorded.

HB 24 - No previous action recorded.

WITNESS REGISTER

Tom Anderson
Anchorage School Board
Anchorage, AK 99513
POSITION STATEMENT: Testified on SB 1

Ernie Hall
Education Funding Task Force member
State Board of Education
No address provided
POSITION STATEMENT: Testified on SB 1

Eddy Jeans
Finance Director
Department of Education &
Early Development
801 W 10th St.
Juneau, AK 99801-1894
POSITION STATEMENT: Testified on SB 1

Mary Jackson
Staff for Senator Torgerson
Alaska State Capitol Room 427
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced SB 59

Tom Brigham
Director of Statewide Planning
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898
POSITION STATEMENT: Testified on SB 59

Representative Con Bunde
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 13

Representative Jim Whitaker
Alaska State Capitol Room 41
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 24

Tamara Cook, Director
Legislative Legal and Research Services
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Answered questions on HB 24

Debbie Tilsworth
975 Discovery Drive
Fairbanks, AK 99709
POSITION STATEMENT: Supports HB 24

Frank Rose
Chair of the Alaska Travel Industry Association Legislative
Affairs Committee
No address provided
Fairbanks, AK 99701
POSITION STATEMENT: Supports HB 24

Wanetta Ayers
Director of Community and Economic Development
Kenai Peninsula Borough
43335 K-Beach Road
Soldotna, AK 99669
POSITION STATEMENT: Supports HB 24

ACTION NARRATIVE

TAPE 01-10, SIDE A
Number 001

CHAIRMAN JOHN TORGERSON called the Senate Community & Regional Affairs Committee meeting to order at 1:30 p.m. Present were Senators Austerman, Phillips, Kelly and Chairman Torgerson.

The first order of business was SB 1.

#SB 1

SB 1-FOUNDATION FORMULA INCREASE

SENATOR WILKEN, prime sponsor, testified that this bill increases the base student allocation for educational funding from \$3,940 to \$4,085. The bill recognizes that, due to inflation, it costs more to operate a school today than it did when the base was set in 1998. The \$145.00 increase is composed of two components. The first is a .9 percent increase that recognizes the inflation rate for FY01 in Anchorage, AK. The second shows the 13.9 percent inflationary loss of the per student dollar since FY88. He stated, "SB 1 takes the 13.9 and divides it by five and suggests a five-

year plan to recoup the purchasing power of the student dollar that has been lost to inflation since 1988. Multiply \$3,940 by 2.78 and you have SB 1."

SENATOR WILKEN commented that increasingly, parents drop their children at school and expect to have an educated and well-mannered child at the end of the day. This costs money and resources. As performance standards become a reality, schools will be held more accountable for student learning. Additional classes, remedial opportunities and programs will make a difference in student performance but they will also have an impact on the financial resources of local schools.

SENATOR WILKEN maintained that Alaska's children have the right to be taught by the very best teachers possible who are held to the same performance standards as their students. It isn't easy to recruit and retain quality teachers without adequate funding. This is particularly problematic for schools that are remote and isolated. Addressing the teacher shortage experienced in Alaska means offering salaries and benefits that are competitive in the professional workforce. K-12 education is a number one priority for Alaska and should be recognized as such in the state budget.

SENATOR PHILLIPS asked for the total on the fiscal note for SB 1.

SENATOR WILKEN said that if it is added to the 2002 requirement for the foundation formula it's approximately \$30 million. If it's added to the spending for the 2001 foundation formula it's approximately \$20 million.

SENATOR PHILLIPS said that inflation isn't the only thing that affects the numbers. It's also based on a per capita or per student enrollment and that's why there is \$10 million less in the coming fiscal year than the current fiscal year.

SENATOR WILKEN said the reason that \$10.5 million less is required this year has nothing to do with student enrollment. It has everything to do with an \$8 million increase in the amount of money that organized Alaska is asked to pay for their education. This is assessed value. There's also about \$2.5 million more in Public Law 874 money coming from the federal government.

SENATOR PHILLIPS said there is no 10-year plan or vision for the State of Alaska and although he doesn't mind doing "something like this," he's disturbed by the lack of planning. It shows no proof of leadership.

SENATOR WILKEN shares his frustration but contends that SB 1 offers

a five-year plan for funding K-12 education using inflation as the guiding economic principle. This legislature cannot pass a 10-year plan binding the next four legislatures; it needs to work at melding all 60 legislators' plans on a biannual basis. It doesn't make sense to hold up educational plans for Alaska's children because we don't have a guiding master plan for the next 10 years. "This a component of the ten year plan, a five year plan and a two year plan. And the fact of the matter is, if we shirk our responsibility to fund K-12 today we surely will have a difficulty ten years from now with increased costs due to a non-educated populace.

CHAIRMAN TORGERSON commented that the Senators were talking about different things. He doesn't see SB 1 as a five-year plan because it's continued funding for education.

SENATOR PHILLIPS said that passing SB 1 would obligate future legislatures to fund it. He would like to develop a vision and then include SB 1 as a part but without a plan he doesn't see how it will fit. "It can't go by itself."

SENATOR WILKEN said the bill recognizes the increased costs of education, teacher shortages and increased costs of accountability. "This is a one year plan with four more years of suggestions on how to buy back the power of the student dollar."

SENATOR AUSTERMAN said it's an interesting debate that goes to the heart of the long-range plan issue. He asked where the \$30 million is supposed to come from.

SENATOR WILKEN said he is encouraging the legislature to fund the things that are important to him and to the people he represents. This is what the other 59 legislators are doing as well. If the money must come from the savings account then so be it; it's a good use for the savings account. When the savings are gone then another plan will be devised without taking money away from the working people of Alaska. It's obvious that the legislature is capable of solving this type of problem when there is need. The current issue is the priority placed on the education of Alaskan children, not where the money comes from.

SENATOR AUSTERMAN agrees that this is a good program and it will eventually force the development of a long-range plan and make Alaskan citizens more responsible for education. The savings account cushion should be used before Alaskans must pay.

Number 226

SENATOR KELLY reminded committee members that there are places in the budget where there is no discussion about more or less funding. The Health, Education, and Social Services (HESS) Budget has formulas attached to it that increase every year. Costs are increasing and the number of people signing up for services is also going up. This is what drives most of the budget discussion and yet it isn't ever questioned. It's a mistake to throw the contingency of a long-range plan in front of high priority needs for two reasons. "They're high priority needs. We're down here to do just a couple of things and one of them is to educate our children." Second, there is no such thing as a long-range plan. There is only a plan that is in front of each legislature and, two years at a time, legislators make decisions about what is before them at the time. It's not possible to devise a long-range fiscal plan that will solve future needs of the state. Decisions about need will be based on the situation at hand.

SENATOR LINCOLN said she is pleased to hear discussion about a long range fiscal plan as the Democratic Minority has been urging. She's disturbed that the educational plan is being piecemealed when there should be a package.

She asked what affect this legislation has on the supplemental funding floor and what the Governor's task force has recommended. She's in favor of increasing the base student allocation but she wants to know what else is needed to educate Alaskan students and get them through the qualifying exams.

CHAIRMAN TORGERSON cautioned that he would allow latitude in responding to the question but that the Governor's Task Force wasn't before the committee.

SENATOR WILKEN said SB 1 has no affect on the supplemental funding floor. He had no comment on the task force.

TOM ANDERSON, Anchorage School Board member, testified in support of the concept. He pointed out that inflation has increased about 30 percent in the last ten years while state funding has increased just five percent. Property assessments have increased markedly, placing an increased burden on property owners in organized boroughs to pay for education. Assessments have increased over \$8 million statewide. Ten years ago the state paid 73.7 percent of the budget while local taxes paid 23.7 percent. This year the state will pay 62.5 percent and local tax will pay 3.3 percent.

MR. ANDERSON said teacher and principal salaries are no longer competitive causing positions to be open in the Anchorage system. At the same time, there is a significant increase in the need for

special education and English as a second language (ESL) services. These are both expensive programs to implement and maintain. Finally, the Learning Opportunity Grant that was given has been helpful but isn't sufficient to enable them to meet the mandates of the Quality Schools Initiative. They are also struggling with changing curriculum to add standards based instructional materials. This involves increased time and teacher training. He noted the board supports making education a priority in any plan.

ERNIE HALL, Educational Funding Task Force member and member of the State Board of Education, testified in support of SB 1. Senator Wilken covered most of the issues addressed by the funding task force and SB 1 is a vehicle to fund what they have recommended.

CHAIRMAN TORGERSON asked what the recommendation was for this year's increase in the foundation formula.

MR. HALL said it was approximately \$34 million.

CHAIRMAN TORGERSON said that the fiscal note for the legislation is \$28.945 million and there is a list of what each district anticipates it will receive.

He asked whether there were any questions for Mr. Jeans.

SENATOR LINCOLN wondered where that money will come from to pay for the approximately \$29 million over the next five years.

EDDY JEANS, Finance Manager for the Department of Education and Early Development, said the department doesn't know where the money will come from at this time. On the fiscal note, it's been costed out as a general fund increase.

SENATOR LINCOLN asked how the department came up with \$28.975 million, while the task force figure is \$34 million.

MR. JEANS said the task force went through a laundry list of items that districts haven't received sufficient funding for over the last several years due to increased costs. When that list was costed out, it came to \$34.6 million.

[Tape malfunction.]

SENATOR AUSTERMAN moved SB 1 and fiscal note from committee with individual recommendations.

CHAIRMAN TORGERSON said the bill will be heard in the Health Education and Social Services (HESS) committee but it is primarily

a finance bill. He asked whether there were objections.

SENATOR PHILLIPS objected because there is no vision or long term plan in place and he feels that is necessary before any large appropriations are made. He believes policy could be set this year to be followed by future legislatures.

CHAIRMAN TORGERSON said planning is necessary but educational funding shouldn't be held up until a long-range plan is implemented. He supports moving the bill.

SENATOR LINCOLN said she, too, is concerned about the lack of long range plans but education is a top priority for the state and those needs must be addressed regardless. It is her hope that the Senate HESS Committee will delve into the issue further.

SENATOR KELLY asked when the minority was going to put out its plan.

SENATOR LINCOLN said it has been discussed in open caucus every year.

CHAIRMAN TORGERSON said there was objection to moving the bill and asked for a roll call. Senators Lincoln, Austerman, Kelly and Chairman Torgerson voted yea and Senator Phillips voted nay. The motion to move the bill passed four to one.

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#SB 59

SB 59-FEDERAL FUNDS TO MUNICIPALITIES FOR ROADS

MARY JACKSON, staff to Chairman Torgerson, introduced the bill for Chairman Torgerson, the prime sponsor.

MS. JACKSON told members that SB 59 establishes a new Municipal Road Projects Program (MRPP) that directly awards up to \$20 million in federal funds to municipalities for re-construction or construction projects that are eligible for federal funding.

The Department of Transportation and Public Facilities is responsible for developing a project application that sets out all information that will be requested by the department. The municipality is required to provide the federal match and the project must qualify for federal funding. The municipality must comply with all federal requirements for receipt and expenditures of the funds.

Municipal road projects are prioritized and higher priority is

given to reconstruction projects where the municipality agrees to accept maintenance responsibility once the project is completed. The state's road maintenance costs will decrease when roads are transferred to a municipality.

SENATOR PHILLIPS asked whether Anchorage supports the legislation.

MS. JACKSON said there isn't anything official from the Municipality of Anchorage.

SENATOR AUSTERMAN asked if the \$20 million is per municipality or total.

MS. JACKSON said it was the total amount awarded statewide.

SENATOR AUSTERMAN thought it should be clarified because the language leaves a question in his mind.

CHAIRMAN TORGERSON pointed out that ranking or prioritization is addressed on page 2.

TOM BRIGHAM, Director of Statewide Planning for the Department of Transportation and Public Facilities, responded to Senator Austerman's question by saying the department interprets the language to mean there is \$20 million allocated statewide. That could be one large project or several smaller ones.

CHAIRMAN TORGERSON pointed out that adding the word "statewide" wouldn't preclude all the money going to one district.

SENATOR PHILLIPS asked how the priorities would be set to determine where the \$20 million goes.

MR. BRIGHAM replied that this would constitute a piece of the community transportation program.

SENATOR PHILLIPS asked if it would be like Alaska Metropolitan Area Transportation Plans (AMATS).

MR. BRIGHAM said not exactly, this would be a piece of the program that goes to fund local community projects. They would develop selection criteria to prioritize community projects where communities would take ownership after the project is finished.

SENATOR PHILLIPS asked what would happen if the project cost was \$20 million.

MR. BRIGHAM said there are a number of prioritization factors such

as health and safety and quality of life. If the intent of the sponsor and legislature was to spread the amount over a number of small projects then the department would develop criteria to give points to small projects.

CHAIRMAN TORGERSON said that although the probability is low, all the money could go to one project so perhaps it would be beneficial to put a cap on any one project.

SENATOR AUSTERMAN was interested in assuring that all the money would not go to just one project as it did with the Whittier Tunnel.

CHAIRMAN TORGERSON suggested inserting "statewide" on page 1, line 8 after the word "awarded" as amendment #1.

SENATOR AUSTERMAN moved amendment #1.

SENATOR KELLY objected for the purpose of discussion asking whether they'd limited it enough.

CHAIRMAN TORGERSON said he wasn't sure they had.

SENATOR KELLY said there could still be three large projects. He then removed his objection.

CHAIRMAN TORGERSON agreed.

SENATOR LINCOLN thought it was still confusing. She asked whether this meant that we couldn't accept any more that \$20 million from the federal government.

CHAIRMAN TORGERSON said that of the total given by the federal government, \$20 million would be earmarked for these projects.

SENATOR LINCOLN asked why the limit was \$20 million.

CHAIRMAN TORGERSON said he'd be happy with a larger number but wasn't sure "how you'd get from here to there."

SENATOR LINCOLN pointed out that on page 2, line 2 it says the municipality must agree to match federal funds if required by federal law.

CHAIRMAN TORGERSON said this isn't a give away program. He asked Mr. Brigham if there is an average cost range for community transportation programs (CTP).

MR. BRIGHAM estimated they run between two and three million dollars.

CHAIRMAN TORGERSON asked whether a \$3 million cap should be placed on individual projects.

MR. BRIGHAM responded that it would depend on the objectives but that a three-mill cap on individual projects would spread the money around. With the match requirement and the fact that large projects require more complex engineering, larger communities will be the first to apply for these projects because they have the money and the capability. Anchorage could easily use the entire \$20 million in one year. If the intent is to make the funds available to a number of communities across the state then a cap is reasonable. A cap of three to four million dollars would catch about 75 percent of the projects in the state.

SENATOR PHILLIPS suggested inserting "The maximum amount for any single municipality shall not exceed \$3 million." on page 1, line 8, after "\$20,000,000." as amendment #2.

CHAIRMAN TORGERSON said amendment #2 would be held until committee members had a written copy to examine.

MR. BRIGHAM wanted to say that the following concerns aren't philosophical; they have had a number of prior conversations with the Chairman and other Senators around the basic concept. They have no problem with local governments taking additional responsibility for the design and delivery of local projects. They currently have a number of small local projects and they have been prioritizing spending federal funds on local streets.

He explained there's a great deal of difference between the administration of a federal and a state project. A local community can take state money and design and implement their project in the best way they are able. DOT oversight on this type of project is virtually nonexistent. Federal projects differ greatly. First, the Code of Federal Regulations must be followed on any federal project. Although small communities are frequently able to design and implement their projects, adhering to the federal environmental and right of way requirements is more that many small communities can do. DOT consequently spends much time helping these communities understand and comply with the regulations. Therefore there is project management time spent at both the local and the state level. The state is ultimately held responsible for community compliance with the federal regulations.

Number 548

CHAIRMAN TORGERSON said they'd had this discussion before and he's waiting for the department to bring him written suggestions to draft an amendment.

SENATOR LINCOLN asked why the oversight expenses aren't included as part of the fiscal note.

MR. BRIGHAM said it's impossible to quantify exactly because it's not an out of pocket cost. It's using more money for administration and less for construction.

SENATOR LINCOLN said it is difficult if a figure for additional project management isn't quantified. She suggested following up on Chairman Torgerson's request for language for an amendment.

MR. BRIGHAM said that if \$15-20 million in funding is moved from state administration to locally administrated projects, then that reduces some of the state administrative burden. However, there is still a great deal of state responsibility and therefore additional cost for those projects that get into trouble and need state administered oversight. The savings probably cancels the additional cost.

SENATOR AUSTERMAN observed that it would be difficult to determine administrative costs because the size of the community receiving the project monies might influence whether there is additional administrative cost or not. Larger communities have more personnel and resources and would be less likely to need more state oversight.

MR. BRIGHAM said that under perfect conditions, one project manager could easily handle a years worth of projects but when project problems occur effort multiplies.

SENATOR LINCOLN asked what impacts, if any, this bill would have on small communities.

MR. BRIGHAM said that medium to large communities generally have the capability to manage federal projects so it would be more difficult for small communities to compete.

SENATOR TORGERSON said this is so unless they hire an engineering firm like the large communities do. He asked whether Anchorage has experts on the payroll that can do large federal highway projects.

MR. BRIGHAM said he believes they're able to do that in house.

CHAIRMAN TORGERSON pointed out that small communities do lots of projects with federal money without in house expertise. In fact they're not expected to have the expertise, they hire an engineering firm for that.

MR. BRIGHAM agreed.

SENATOR AUSTERMAN asked if DOT envisions the funds going through the borough or directly to the community.

MR. BRIGHAM said the money certainly could go through the borough. They usually have the road powers and would be the recipient and responsible party. This makes particular sense for small communities and villages.

CHAIRMAN TORGERSON asked if there were any objections to amendment #1. (Inserting "statewide" on page 1, line 8 after the word "awarded")

SENATOR KELLY removed his objection. There were no other objections to amendment #1.

SENATOR PHILLIPS moved amendment #2. There were no objections.

SENATOR AUSTERMAN asked whether the Chair knew that municipalities paid up front then received federal reimbursement.

CHAIRMAN TORGERSON said he did know that was the process. Payments are incremental on larger projects but he wasn't sure about small projects.

SENATOR PHILLIPS moved CSSB 59 (STA) and fiscal note from committee with individual recommendations. There were no objections.

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#HB 13

HB 13-SERVICE AREAS:VOTER APPROVAL/TAX ZONES

CHAIRMAN TORGERSON said that committee members are familiar with SB 75, which is basically the same as HB 13. He asked Representative Bunde to outline the differences.

REPRESENTATIVE CON BUNDE, prime sponsor, said HB 13 is about smaller government, local control and privatization. The difference between HB 13 and SB 75 is that parks and recreation are included in SB 75.

CHAIRMAN TORGERSON said he has a committee substitute (CS) to include parks and recreation service areas.

REPRESENTATIVE BUNDE continued and said that HB 13 and SB 75 both deal with local control. Dissention arises in how you define local control, whether it is the voter or a governmental entity. The Eagle River Community Council, The Anchorage Municipal Assembly and individuals from some 200 road service areas support the bill. The legislation settles the debate about who is entitled to vote during the creation, alteration or abolishment of a service area.

Number 411

SENATOR PHILLIPS said he has two concerns. First, is the lack of "parks and recreation". Then on page 2, lines 21 & 22 he said he would like to change "six percent" to "three percent" at the request of the Chugiak fire department.

REPRESENTATIVE BUNDE said the six percent figure was selected because fire service areas with few homes would require elections much too frequently if the threshold is three percent. Other fire departments in the state have agreed on the six percent figure.

CHAIRMAN TORGERSON didn't see justification for the smaller number.

He called for a brief at ease.

CHAIRMAN TORGERSON called the meeting back to order. He said the CS before the committee adds parks and recreation to the bill on lines 10, 16 and 8.

SENATOR PHILLIPS moved committee substitute 22-LS0164\L, Cook 3/17/01 as the working document. There was no objection.

SENATOR PHILLIPS moved deleting "six" and adding the word "three" on page 2, line 22.

CHAIRMAN TORGERSON noted that there was objection.

REPRESENTATIVE BUNDE said that other volunteer fire departments in the state have agreed on the six percent figure after much compromise. He asked that the word "six" remain unchanged.

CHAIRMAN TORGERSON said he wasn't going to support the amendment that day but if good reasons were forthcoming, there was opportunity for a floor amendment.

He called for a roll call vote. Senators Lincoln, Austerman and Chairman Torgerson voted nay and Senator Phillips voted yea. The amendment failed three to one.

SENATOR PHILLIPS moved SCS CSSSHB 13(CRA) and zero fiscal note from committee with individual recommendations.

SENATOR LINCOLN objected to say that there was question about the constitutionality of SB 75 and there were two conflicting opinions given. This could be the case with HB 13 as well. She then withdrew her objection.

CHAIRMAN TORGERSON said those concerns have been heard previously. He isn't sure he shares the concern.

CHAIRMAN TORGERSON asked for objections and there were none. The bill moved from committee.

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Number 437

#HB 24

HB 24-BOROUGH REVENUES FOR TOURISM MARKETING

REPRESENTATIVE JIM WHITAKER, prime sponsor, testified that this is a simple bill that allows a local option with regard to use of borough revenues for an ongoing tourism marketing effort. He noted that Tam Cook was present to answer questions.

SENATOR PHILLIPS said he's not opposed to the concept but he wants to know how it becomes a local option. It says that the money is collected, put into a general pot and then it's distributed on an area wide basis. He doesn't believe the wording is specific enough to ensure that it is local option and asked for interpretation from Tam Cook.

TAMARA COOK, Director of Legislative Legal Services, said that existing statute is a simple statement that if a borough collects revenue on an area wide basis then it must use that money for an area wide function. If it collects money on a non-area wide basis, which is the territory within the borough that is outside of cities within the borough, then it must use it for a non-area wide function. The bill adds a subsection that says the principle above doesn't apply in a very narrow case. This means that if the revenue source at issue is a sales tax upon room rentals that is for a tourism marketing campaign, then whether the money was raised on an area wide basis or non-area wide bases is not an issue.

Furthermore, whether the tourism marketing campaign is performed on an area wide or non-area wide basis is not an issue because time because tourism marketing campaigns don't need to track the origin of the revenue. It is assumed that tourism marketing is so general to the region that identifying it as area wide or non-area wide function doesn't make sense. It benefits the people of the area that tourists are attracted to whether they visit the city or are out in the country.

CHAIRMAN TORGERSON said his understanding of the vote is that it was area wide and the city of Fairbanks was exempted.

REPRESENTATIVE WHITAKER said he's aware of no vote specifically related to the legislation.

CHAIRMAN TORGERSON said it wasn't this one in particular; it occurred when they put the bed tax on originally. It was an area wide vote.

REPRESENTATIVE WHITAKER said he thinks that's probably correct.

CHAIRMAN TORGERSON wondered why there is need for a bill if there was already an area wide vote.

REPRESENTATIVE WHITAKER said he asked the same question and the answer from Tam Cook was Title 29 requires a bill.

MS. COOK added, "Assuming that they wish to use it for a non-area wide function."

CHAIRMAN TORGERSON said they're not making that determination by calling tourism marketing a non-area wide function.

MS. COOK said, "In the case of Fairbanks, it may be because I think economic development is a non-area wide function for that borough. If you take a look at what the powers are of second-class boroughs you'll see that second-class boroughs can perform economic development. It's a general power without having to acquire the power from a city or have a vote on it. It's a granted general power, but only to exercise on a non-area wide basis."

CHAIRMAN TORGERSON said unless you have an area wide vote.

MS. COOK said, "No, because they would have to have the power transferred to them to become an area wide power for the borough to acquire it. They'd have to acquire that power from the cities, all the cities in the borough."

CHAIRMAN TORGERSON said he understood.

SENATOR PHILLIPS said that basically, the discussion was about second-class boroughs, not home rule.

MS. COOK said it could possibly apply to a home rule.

SENATOR PHILLIPS said to use Anchorage as an example.

MS. COOK said no, Anchorage is unified; it has no cities. It can't apply to a unified municipality because there are no cities. There's no distinction between area wide and non-area wide in a borough with no cities. There are home rule boroughs that have cities in them that aren't unified. If those boroughs happen to have a non-area wide source of revenue but are trying to exercise an area wide tourism marketing campaign, they would be faced with the same situation. When you're talking about home rule, what a borough does area wide versus non-area wide becomes a matter of their individual charter and wouldn't be reflected in statute. Therefore, it is theoretically possible to have a home rule borough that has an area wide tourism marketing power but was collecting revenue on a non-area wide basis. In that case, this bill would affect such a borough and allow them to spend that money.

SENATOR PHILLIPS said that with the exception of the unified boroughs, this bill affects the organized areas of the state.

MS. COOK said, hypothetically it could. "Whether or not a borough exercises its power on an area wide versus a non-area wide basis is very specific to that borough. It has to do, if it's general law, with whether the general law has granted them an area wide power or whether they have chosen to acquire it or whether they have gotten it when they filed their original petition for incorporation, they must list the powers they are going to exercise. So each of these boroughs, regardless of classification, might have variations in the relationship between the boroughs and the cities."

SENATOR PHILLIPS asked whether it would still require a vote in Representative Whitaker's area if the bill is passed and local option is allowed or whether it just happens automatically.

MS. COOK said it would happen automatically, but a vote is required in order to get a sales tax imposed originally.

SENATOR PHILLIPS said they've already done that.

MS. COOK said they've done that and apparently they have an area wide sales tax in that particular borough. This bill will say if

you have an area wide sales tax and it is on room rentals, or that portion on room rentals, that revenue could be used on a non-area wide basis for tourism marketing.

REPRESENTATIVE WHITAKER said the key word is could, it's still at the discretion of the local governing body.

SENATOR PHILLIPS said that's why he's referring to an area wide vote or through the assembly or city council. Somebody must make the determination.

MS. COOK said it would be up to the governing body; there is a prohibition in subsection (a) and this removes the prohibition and leaves the option open as to whether they chose to act or not.

SENATOR PHILLIPS said that, upon passage, this would be another decision made at the local level.

CHAIRMAN TORGERSON commented that they would have to adopt the power by ordinance.

SENATOR PHILLIPS agreed.

CHAIRMAN TORGERSON asked for assurance that this wouldn't give differential rates between a general law sales tax and a bed tax. "If they happen to put on a borough wide sales tax of four percent then they must raise or lower the bed tax to that same figure."

MS. COOK said it doesn't get into any issues of whether a sales tax rate has to be equal. [Tape indiscernible]

DEBBIE TILSWORTH, President of the Alaska Travel Industry Association in Fairbanks, testified that the statewide and local visitor industry supports HB 24. Currently the mayor and the borough are formulating the budget for FY02. It is important that destination-marketing funds be built into the budget and passage of this legislation will allow that.

Number 558

FRANK ROSE, Chair of the Alaska Travel Industry Association Legislative Affairs Committee, testified that, from their perspective, the funds for destination marketing should be available at the option of the local community. One of the issues in Fairbanks is that there has been considerable migration from city hotels to borough hotels. This has lowered the bed tax revenue in the city and increased the revenue available in the borough. Under current Title 29 provisions, they can't use that money for

destination marketing. There are other communities that could be similarly affected and this is why they urge passage of the bill.

SENATOR PHILLIPS asked Mr. Rose whether there is any known opposition to the bill in the community.

MR. ROSE said none that he's aware of but there may be some assembly members who will wonder what to do. However, since there is local option, "they're in the drivers seat."

WANETTA AYERS, Director of Community and Economic Development for the Kenai Peninsula Borough, testified in favor of HB 24. They currently fund tourism marketing through PILT funds via a contract with the Kenai Peninsula Tourism Marketing Council, which is a regional destination marketing organization. The Kenai Peninsula Borough is in favor of forming options to increase funding for destination marketing. HB 24 will provide borough governments with greater options to fund economic development through destination marketing.

CHAIRMAN TORGERSON commented that it doesn't affect his borough much since there is no borough wide bed tax.

MS. AYERS said that it might in the future.

SENATOR PHILLIPS moved HB 24 with zero fiscal note from committee with individual recommendations.

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CHAIRMAN TORGERSON adjourned the meeting at 3:15 p.m.