

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION COMMITTEE

March 13, 2001
1:33 p.m.

MEMBERS PRESENT

Senator John Cowdery, Chair
Senator Jerry Ward, Vice Chair
Senator Robin Taylor
Senator Gary Wilken
Senator Kim Elton

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE BILL NO. 59

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

MOVED SB 59 OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 119

"An Act naming the William R. Wood Fairbanks International Airport; and providing for an effective date."

MOVED SSSB 119 OUT OF COMMITTEE

SENATE BILL NO. 83

"An Act relating to construction of highways by the Department of Transportation and Public Facilities."

MOVED SB 83 OUT OF COMMITTEE

SENATE BILL NO. 100

"An Act relating to the regulation of aeronautics and communications and to civil liability relating to aircraft runways, airfields, and landing areas."

MOVED CSSB 100(TRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

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

SB 83 - No previous Senate action.

SB 100 - No previous Senate action.

SB 119 - No previous Senate action.

WITNESS REGISTER

Mr. Kurt Parkan
Deputy Commissioner
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Supports SB 119. Opposed to SB 83.

Ms. Mary Jackson
Aide to Senator Torgerson
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Answered questions about SB 59.

Mr. Tom Brigham
Division of Statewide Planning
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Answered questions about SB 59.

Mr. Mark O'Brien
Chief Contracts Officer
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Answered questions about SB 59.

Mr. Bob Poe
Alaska Energy Authority
No address available

POSITION STATEMENT: Explained AEA's method of using force accounts.

Mr. Nick Tucker
Emmonak, AK

POSITION STATEMENT: Opposed to SB 83.

Mr. Walton Smith
City Manager
St. Mary's, AK

POSITION STATEMENT: Opposed to SB 83.

Mr. Roger Smith

No address provided

POSITION STATEMENT: Opposed to SB 83.

Jerry Drake
Bethel City Council
Bethel, AK

POSITION STATEMENT: Opposed to SB 83.

Steve Weaver
Alaska Native Tribal Consortium
No address provided

POSITION STATEMENT: Opposed to SB 83.

Senator Rick Halford
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 100.

Juli Lucky
Staff to Senator Halford
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Answered questions about CSSB 100(TRA).

ACTION NARRATIVE

TAPE 01-8, SIDE A

Number 001

CHAIRMAN JOHN COWDERY called the Senate Transportation Committee meeting to order at 1:33 p.m. Present were Senators Taylor, Wilken, Elton and Chairman Cowdery. The first order of business to come before the committee was SB 119.

#SB 119

SB 119-WILLIAM R. WOOD FAIRBANKS INTL AIRPORT

SENATOR GARY WILKEN, sponsor of SB 119, explained that the purpose of SB 119 is to acknowledge the Legislature's gratitude to William R. Wood by naming the Fairbanks airport after him. Mr. Wood died about two weeks ago at the age of 94, after over 41 years of service to Alaska. Mr. Wood's accomplishments were many. He was the president of the University of Alaska from 1960 to 1973, during a period of expansion. He retired and became President Emeritus in 1975. He was elected mayor of the City of Fairbanks in 1978 and founded the Fairbanks Industrial Development Corporation, which is a mechanism to promote the development of Fairbanks and Interior Alaska. He was the first chairman of the Fairbanks Area Community Hospital Foundation, the founder and executive director of Festival

Fairbanks for 20 years, a creator of and visionary for the Golden Heart Plaza, and a columnist for the Fairbanks Daily News Miner for 20 years. In 1985, Mr. Wood was elected Alaskan of the Year. In 1985-86, he was Rotary District 5010 Governor, which encompasses all of Alaska, the Yukon, and the eastern half of the country formerly known as Russia. He established the Wood-Nanook Varsity Talent Search and Grant Endowment at the University. In the year 2000, he was awarded the Service Above Self Award, the Rotary International's highest award for an individual. He also authored three books of poetry.

SENATOR WILKEN read the following paragraphs from an editorial dated March 4, 2001 in the Fairbanks Daily News Miner about Mr. Wood.

In a 1983 Daily News Miner article, Dr. Wood was quoted as saying he would want to be remembered 'as an individual who left the place a little better than he found it.'

Add to that philosophy his penchant for progressive ideas and you have a remarkable man of vision. He forwarded so many ideas that sometimes those around him - people one would suppose have had younger and fresher minds - had a hard time keeping up.

Predictably, such a man could not accomplish so much with everyone liking every idea. He was criticized for his support of Project Chariot, a government plan born in the late 1950s in search of the 'peaceful use of the atom.' This idea would have used an atomic blast to create a port off Alaska's northwest coast. The thought sounds ludicrous in this new millennium, but in its day it was an example of the vision exercised by progressive thinkers.

Some still exercise their powers of hindsight to criticize. Our newspaper says thank God that Dr. Wood exercised his considerable powers of forethought to touch this earth far beyond the scope of immortality.

His community service mirrored his university career in many ways. He came along to build and to keep us looking forward. What is even more remarkable about his community work is his inestimable hours spent day after day, year after year, for no recompense but to satisfy his want to make things 'a little better.'

For decades to come, Fairbanks will see the mark of Dr. Wood, a Midwest farm boy, the sailor, the scholar, the husband, the father, the teacher, the university president, the mayor, the statesman, the grandpa who chose to make Fairbanks home.

SENATOR WILKEN noted that at the March 3 funeral service for Dr. Wood, a letter from Senator Stevens was read that acknowledged Dr. Wood's contributions. Senator Wilken stated, "A community builds a new airport every hundred years. Our good Lord makes a Bill Wood every hundred years. This is perfectly appropriate for the people that come and go from the City of Fairbanks to be reminded on a daily basis the value of volunteerism, the value of vision that was set forth by Dr. Wood."

MR. KURT PARKAN, Deputy Commissioner of the Department of Transportation and Public Facilities (DOTPF), said DOTPF and the Administration support SB 119. He pointed out that Dr. Wood was a very diligent charter member of the Airport Community Council in Fairbanks. DOTPF does not believe this bill will have any fiscal impact as signage will be taken care of in DOTPF's existing budget.

SENATOR TAYLOR moved SB 119 from committee with individual recommendations and then objected to his motion for the purpose of discussion.

SENATOR TAYLOR said he received correspondence this week from about six or seven people in the Fairbanks area; two or three support SB 119 and two or three oppose it. He wondered whether any community resolve is forthcoming, perhaps from the City of Fairbanks or the Fairbanks North Star Borough. He acknowledged that SB 119 has a long way to go in the process and said he would follow the lead of the Fairbanks' delegation on this matter.

CHAIRMAN COWDERY noted a [sponsor] substitute to SB 119 was before the committee.

SENATOR WILKEN informed the committee that next Thursday a resolution to rename the Fairbanks' airport will be before the Fairbanks Northstar Borough Assembly. He expects the resolution to receive overwhelming support but he noted some concern has been expressed that the airport should be named after someone from the aviation community. He said he appreciates Senator Taylor's comment but he has not found anyone in the aviation community who has given what Bill Wood has given to the community and the state. He informed those who expressed concern about SB 119 that he is open to suggestions, but whomever they suggest would have to have reached the level of participation that Bill Wood did.

SENATOR TAYLOR moved SSSB 119 from committee with individual recommendations to the next committee of referral.

CHAIRMAN COWDERY announced that hearing no objections, the motion carried.

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#SB 59

SB 59-FEDERAL FUNDS TO MUNICIPALITIES FOR ROADS

CHAIRMAN COWDERY announced that SB 59 was heard by the committee at a previous hearing but was held while the committee awaited information on the bill. He asked Mary Jackson to testify on the measure.

MARY JACKSON, legislative aide to Senator Torgerson, sponsor of SB 59, said at the last hearing a question was posed about the indirect cost allocation plan. She submitted information to that committee on that question from a similar project in Homer. In addition, she submitted a letter in support of SB 59 from the Alaska Municipal League. She offered to answer questions.

There being no questions or further testimony, SENATOR TAYLOR moved SB 59 from committee with individual recommendations.

SENATOR ELTON objected and noted that one concern about SB 59 expressed at the last hearing was that the amount of money available is like a balloon in that if it is squeezed in one area, it expands elsewhere. He asked what component of transportation dollars this money will come from.

MR. TOM BRIGHAM, Statewide Planning Director, DOTPF, explained that the funds would come from a part of the program called the community transportation program. That program funds state-owned and local-owned community roads.

SENATOR ELTON asked if that is the component DOTPF uses to work with communities to identify local projects that will be transferred to those communities after the state has funded the projects.

MR. BRIGHAM answered that applies to a portion of the program: to projects that were locally owned prior to the improvement project that came along to the tune of about \$50 million in 1999 and \$45 million in 2000. That component also covers state-owned roads that are transferred to local communities for ownership and maintenance once the improvement project is done.

SENATOR ELTON asked whether this bill could affect DOTPF's ability to reduce future expenses on those roads that would otherwise be turned over to local communities and reduce DOTPF's ability to accomplish road maintenance projects on the locally-owned roads.

MR. BRIGHAM said it could have some of those effects. The discussion at the last hearing on SB 59 was to the point in terms of which communities actually have the capability of managing a federal project. Federal funding is not like a state grant for a road project, which is much simpler. You only get a promise of money if the project is done correctly. He thought the point at the last meeting was that it is the large communities with engineering capabilities that would tend to be eligible for most of this money.

SENATOR ELTON removed his objection.

There being no further objections, CHAIRMAN COWDERY announced that SB 59 had moved from committee.

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Number 1139

#SB 83

SB 83-CONSTRUCTION OF HIGHWAYS BY DOTPF

CHAIRMAN COWDERY, sponsor of SB 83, explained that force accounts are part of the state budget system. No limit has ever been placed on the amount that can be spent using a force account. SB 83 limits force account spending, after hearings have taken place and a finding of fact has been established, to \$250,000. He sponsored this bill because many people have expressed concern that the force account system might be abused and that projects that cost more than \$250,000 should be let for competitive bid.

MR. KURT PARKAN, Deputy Commissioner of DOTPF, said DOTPF does not support SB 83. DOTPF believes that force accounts provide an opportunity to take care of problems and projects in the state that are suited for that type of construction. Force account work amounts to 3 or 4 percent of DOTPF's total program budget: of that 3 or 4 percent, about 50 percent goes to private firms. DOTPF sees force accounts as one tool in its toolbox. DOTPF prefers to maintain flexibility to use that mechanism in the future and a cap of \$250,000 will restrict DOTPF's abilities.

CHAIRMAN COWDERY asked Mr. Parkan how DOTPF would interpret the word "highways" in the title of the bill.

MR. PARKAN said DOTPF would interpret that to apply to projects that are funded through the Federal Highway Administration (FHA) and subject to FHA requirements.

CHAIRMAN COWDERY asked if a gravel road would fall under SB 83.

MR. PARKAN said in his view gravel roads would fit within SB 83. He noted AS 19.45.001 contains a definition for "highway" that reads:

(9) "highway" includes a highway (whether included in primary or secondary systems), road, street, trail, walk, bridge, tunnel, drainage structure and other similar or related structure or facility, and right-of-way thereof, and further includes a ferry system, whether operated solely inside the state or to connect with a Canadian highway, and any such related facility;

CHAIRMAN COWDERY said he was aware of the statutory definition but wanted to make sure it was understood that the word "highway" includes just about everything.

SENATOR WARD asked what cap would be appropriate.

MR. PARKAN said that no cap would be appropriate.

SENATOR WARD asked if \$2 billion would be appropriate.

MR. PARKAN stated that DOTPF prefers the statute as written.

SENATOR WARD said with no restriction, a project could be estimated in the billions.

MR. PARKAN repeated that DOTPF's history of force account use shows the amount has been 3 to 4 percent of DOTPF's total program budget. DOTPF does not spend a lot of money using force accounts and he does not anticipate that it will.

SENATOR WARD asked how much 3 or 4 percent equals.

MR. PARKAN said DOTPF's program equals about \$400 million so 4 percent would amount to about \$16 million.

SENATOR WARD asked if DOTPF would like the amount in SB 83 to be changed to \$16 million.

MR. PARKAN stated that DOTPF does not want any cap.

SENATOR WARD asked, if the Chairman wants a number in the bill, whether \$16 million is the most that DOTPF would use.

MR. PARKAN said the largest project DOTPF has done using force accounting has cost about \$4 million.

SENATOR WARD asked Mr. Parkan whether \$4 million or \$16 million is acceptable, if a cap is put in.

MR. PARKAN said he is not willing to get into hypotheticals.

SENATOR WARD commented that \$4 million is the real number and \$16

million is hypothetical.

Number 1599

SENATOR ELTON asked Mr. Parkan to review a list of the opportunities that force accounting provides to DOTPF.

MR. PARKAN said a couple come to mind. In rural Alaska, where village safe water projects are constructed by the Department of Environmental Conservation (DEC), a portion of a project may be suited for some federal funding to, for example, improve a boardwalk or a road. DOTPF would give DEC a portion of the money to take advantage of combining the two projects. A second example would be when DOTPF uses its own staff to do deferred maintenance work in the summer. Over the last several years, DOTPF has increased its use of federal funds for minor maintenance projects.

SENATOR ELTON indicated that he has seen opportunities using this kind of an approach to train local workers so that some of the dollars stay in the rural community.

MR. PARKAN agreed that DOTPF is doing some training with a federal grant, which allows for local hire.

Number 1599

SENATOR ELTON pointed out that none of the opportunities listed by DOTPF have a connection to a dollar amount, be they local job opportunities, job training, or deferred maintenance.

CHAIRMAN COWDERY asked what the low and high limits are for projects that went out to competitive bid in rural Alaska. He asked whether DOTPF competitively bids \$1 million projects.

MR. PARKAN replied that projects that cost over \$100,000 generally go out to competitive bid.

CHAIRMAN COWDERY explained that he introduced this bill because almost everyone involved in construction supports some limit. He said he understands the St. Mary's project will cost \$3.5 million for 7 or 8 miles of road.

MR. PARKAN said the St. Mary's project cost a little over \$3 million for 5 miles of road.

CHAIRMAN COWDERY said he was told that money was spent to hire people in the community because they had a bad fishing season. He wondered who will fish this year if everyone is working on the road.

MR. PARKAN stated that fishing jobs are not DOTPF's responsibility

so he cannot answer that question. He does know that there is an interest in construction jobs by rural Alaskans throughout the state. The St. Mary's project will hire local Alaskans; about \$900,000 of that project will be spent on local hire.

CHAIRMAN COWDERY asked if the road workers will be paid Davis Bacon wages, as they would if paid by private contractors.

MR. PARKAN replied they will be state employees and hired as Local 71 employees.

CHAIRMAN COWDERY said, as a former contractor who did several million dollars worth of work in rural Alaska, he always looked to hire local people. However, private contractors are always stuck with paying Davis Bacon wages. He asked if DOTPF does not think local workers are worth Davis Bacon wages and why those workers will be made state employees.

MR. PARKAN said the local workers will be temporary employees.

SENATOR TAYLOR asked Mr. Parkan to address the question about Davis Bacon wages.

MR. PARKAN said they will be hired at the state employee wage rate, which is less than the Davis Bacon wage. He noted that most of these projects are in rural Alaska and are contracted out and subject to Davis Bacon wages so there are plenty of opportunities for people to earn Davis Bacon wages. The DOTPF jobs provide an opportunity for local hire and training. He estimated about 17 people will be hired for the St. Mary's job. He repeated that force accounts are just one of many tools used by DOTPF and he does not believe it is overused.

CHAIRMAN COWDERY asked what the cost of the project would be if Davis Bacon wages are paid for this project.

MR. PARKAN said the cost of all state workers will be approximately \$34,000 per week while the cost for contracted workers will be about \$58,000.

SENATOR WILKEN commented that he appreciates the need for force accounting but he has two concerns. He is concerned about the growth of force accounting. From 1998 to 2000, not including the St. Mary's project, DOTPF has increased the use of force accounting by 50 percent. If this legislation is a reaction to what the legislature sees as a dangerous trend, in some respect SB 83 is a defense to limiting that growth while recognizing the need for local participation for a follow up or a small concurrent project. Second, Fairbanks' contractors complained to him that the St. Mary's project was ready to go out to bid when someone stepped in and pulled the \$3 million off the table. The project is now going

to be done with state money and state workers. SB 83 is a reaction to that type of activity.

SENATOR WILKEN referred to a letter he received from the Association of General Contractors (AGC) that speaks to the economic upheaval in the communities hardest hit by the crash in the fishing industry. He said he understands and appreciates that problem and that the state has thrown hundreds of millions of dollars to those communities to help them recover from that crash. At the same time, DOTPF is going to take money from the Fairbanks contractors and train people to get their commercial drivers' licenses to get through the summer. He questioned the logic because those people will be fishing next summer. He felt that SB 83 is the Legislature's attempt to say, "No more St. Mary's." He pointed out there was another group of force accounting projects that all cost around \$230,000. He suggested that may be where the sponsor got the number.

SENATOR WILKEN questioned whether the existing force accounting system is in the best interest of Alaskans and whether it is fair to private industry that is battling for these projects and has every right to expect an opportunity to bid on the projects. He stated that he supports SB 83 although he does not know what the cap should be set out. He thought Senator Ward was asking for DOTPF's help to get that number.

MR. PARKAN responded that the total program has grown considerably over the last several years so the total dollars going to force accounts will continue to increase, but the total percent is holding steady. Another component of that growth is that DOTPF has been spending more money on deferred maintenance for highways. Regarding the discussion about training people to get CDLs, DOTPF sees that as an opportunity to develop a regionally-based workforce. Hopefully, those workers will be able to go to another project. Contractors will be able to hire local people and not pay moving costs. Mr. Parkan said he appreciates the sponsor's sensitivity to the St. Mary's project but at this time, he is in no position to discuss caps or limits.

SENATOR WILKEN pointed out that DOTPF has gone directly to federal agencies on its own and asked whether it can use federal monies for preventive maintenance and repairs. The state could not do that before, now it can. His contractors feel that force accounting is okay to patch a few miles of highway but not to rebuild ten miles of highway. That is the balance that needs to be reached with the force account issue.

CHAIRMAN COWDERY asked how much money will be spent on training.

MR. MARK O'BRIEN, Chief Contracts Officer for DOTPF, told the committee that about \$20,000 has been expended to date for CDL

training in St. Mary's.

CHAIRMAN COWDERY asked if that will be the total cost for the training.

MR. O'BRIEN said that will be strictly for the CDL training, which is the first phase of the training. Training for other types of heavy equipment will be given.

Number 2207

CHAIRMAN COWDERY said he didn't have a problem with DOTPF using force accounting if it has put a project out and no one bid on it, but when the private sector is interested, the project should go to bid. He asked if any DOTPF has put any requests for proposals out in rural Alaska for projects over \$250,000 that have received no interest from the private sector.

MR. PARKAN said DOTPF gets several responses to every offering. He said, "A lot of people are working out there and yet we still have capacity for more jobs, more projects."

CHAIRMAN COWDERY said when the St. Mary's project first surfaced, there was also talk of doing a similar project in Emmonak. He asked why the Emmonak project was dropped.

MR. PARKAN said his understanding is that the Emmonak project was an airport project and that force accounting would not be suitable for it.

CHAIRMAN COWDERY asked what the value of that project would have been.

MR. PARKAN said it was under \$10 million.

SENATOR WILKEN clarified that Mr. Parkan was correct. According to DOTPF's budget, force accounting has increased 50 percent from 1998 through 2000 while DOTPF's total budget has increased 46 percent.

SENATOR ELTON encouraged committee members to consider that training people in a local community to do other jobs does not necessarily displace them from the fishing industry. The fishing industry lasts several weeks at the most in many of these areas and a lot of the skills those people learn through this kind of a process can be used to keep an airport open in the winter. Senator Elton noted that there is a lot of enthusiasm about the fortunate placement of Congressman Young as Chairman of the House Transportation Committee and Senator Stevens on the Appropriations Committee and the dollars coming to Alaska through the Denali Commission. He asked Mr. Parkan how much growth may occur in the force accounting component of DOTPF's budget and whether that is

because it only works for certain projects.

Tape 01-8, Side B

MR. PARKAN said DOTPF expects to maintain the same level of about 3 to 4 percent in the future as the program grows. DOTPF will be limited by its own staff constraints.

CHAIRMAN COWDERY asked if the project specifications would be the same using a force account or a competitive bid.

MR. O'BRIEN said they would be the same. DOTPF's construction manager will manage those projects using the same requirements as a private sector contractor.

CHAIRMAN COWDERY asked if there is an adequate amount of aggregate in St. Mary's.

MR. O'BRIEN said he believes there is.

CHAIRMAN COWDERY asked if the equipment to be used in St. Mary's is in place.

MR. O'BRIEN said it is; the City of St. Mary's is in the process of acquiring sufficient equipment to handle this project.

SENATOR TAYLOR said he is torn on this legislation because the Davis Bacon legislation was a policy call orchestrated by special interest groups to make sure they got paid the highest and best wages they could for doing state projects. He said,

Now it appears that some of those folks have given a buy or a pass to this Administration that on some smaller projects in some areas where he wants to seek political favor they can go out and they can do other things. It's interesting. I don't see or sense any of those things going on in my district. Apparently, we're not favored with wanting to assist local employment in an area devastated by the loss of the timber industry but if somebody has a bad fishing run up north, all of a sudden we thrown out all the laws and we can just change everything and every one of our friends and special interest groups will go along with us to do this.

I haven't heard a single thing come out of this Administration yet from your discussion and I'd appreciate it if I'm wrong in my interpretation but it appears to be social engineering with a tremendous political bent thrown in and all of it trying to be

justified on, well, we're going to get local employment out of this process.

I haven't heard anything yet that says anything different. You're still going to spend the same amount of money, there's no saving there. You're still going to build the same road, according to exactly the same specs, but we throw out all of these processes of everything from Davis Bacon to lowest bid. It reminds me a great of what Bill Sheffield attempted to do with Lennie Arsenault. You know, you've got a building for sale or rent and, what the heck, Lennie, I'll just a deal with you. I don't have to go through the state procurement code and I don't have to abide by any of these rules. I'll just do it because it's a nice thing for me to do to help out the plumbers' union in Fairbanks. He almost got indicted over that. I'm trying to understand where we draw the line at any given point. Do you have to have a bad fish run before this Administration will show up in your community and help you out? Or do you just have to have a road project and be somebody that they'd want to favor?

Maybe I'm missing something here, Mr. Chairman, but I'm having a hard time understanding it. Coming from small communities, where we get damn little in the way of capital projects and we have to beg DOT to ever come down there and even resurface a road, it kind of surprises me that they're falling all over themselves to help somebody else up north to make sure local folks get hired. They've never once done that with us. They never offered to come to Wrangell and put everybody on the payroll down there and take care of everybody in town and train them how to operate things, let the city go buy brand new equipment - because that's what's happening here. Apparently the city's going to buy the equipment based on this contract. What happens when the job's over. Does the state own that equipment or does St. Mary's?

MR. PARKAN answered that St. Mary's owns the equipment. He explained that, according to statute, projects that are contracted out are subject to Davis Bacon wages. The cost of the St. Mary's project was estimated to be 15 percent higher if it was contracted out. DOTPF has done a force account project in Ketchikan on the Married Man trail.

CHAIRMAN COWDERY pointed out the committee was provided with a book about DOTPF projects that used force accounts in the past.

Number 2148

SENATOR WARD said the Governor did not want to declare the Kenai area a disaster area when it had a disastrous fishing season, even though the North Road is falling apart. He asked if there is anyway to get a force account to get that road fixed.

MR. PARKAN said DOTPF is taking care of a lot of the needs in Kenai with its programs.

SENATOR WARD said certainly not on the North Road, which has 487 potholes as of this morning.

MR. PARKAN pointed out that the state's road needs far exceed DOTPF's ability to meet those needs.

SENATOR WARD said maybe force accounting is part of the problem.

SENATOR ELTON commented that the force accounting procedure that has been used is not illegal - the statute gives DOTPF a great deal of latitude in its use. He noted that if force accounting allows DOTPF to spend less on a project, that may enable DOTPF to fix those potholes in Kenai a little bit faster.

CHAIRMAN COWDERY said, with that thought, we could eliminate competitive bidding and do all projects with state equipment.

SENATOR TAYLOR asked, even if force accounting were illegal, where he would find anyone to enforce it in this Administration.

CHAIRMAN COWDERY said Senator Elton is correct in saying that DOTPF has acted legally according to statute, but the purpose of SB 83 is to put a limit in statute. Some people believe that the force account system is being abused. He then took public testimony.

Number 2020

MR. BOB POE, Executive Director of the Alaska Energy Authority (AEA), said he wanted to speak to the suggestion to extend the concept of a cap on force account projects to other parts of the Executive Branch.

MR. POE said three issues are at the heart of force accounting: the economic impact of the project on the community; the overall cost of the project; and sustainability - how do we make sure the community has the ownership and the knowledge about the project to help it reach its economic life. The force account system has been the most effective approach AEA has to maximize local hire. It leaves a lot more of the economic benefit in the community than just the project. It provides the community members an opportunity to earn money and to get skills. It also gives the community a

greater sense of pride and community ownership in the project.

MR. POE explained that AEA is using a slightly different model for its force accounts. AEA recently awarded six contracts to construction managers. It is in the process of reviewing proposals for design and construction. The proposals were solicited through competitive bid and contractors will use the private sector to do a lot of things related to the projects. In the construction management contracts, AEA also asked that the contractors submit proposals for improving training, perhaps on a regional basis, to develop skills in those communities. As an example, Houston Contractors has a very real need to hire rural employees to work on the pipeline. They are losing Native employees through attrition or retirement. Houston is very interested in developing skills among rural Alaskans and attracting those people to work on the pipeline. Houston has partnered with the AFL-CIO to develop training programs for electricians, welders, pipe fitters, plumbers sandblasters, painters and heavy equipment operators, using apprenticeship wages. AEA tries to use force accounts to leave benefits in communities and to use the private sector to leverage AEA's ability to not add a lot of state employees. AEA contracts with each city; those employees working on a force account actually work for the city. Using a force account typically does result in a lower wage scale and reduces transportation and out-of-town housing costs. Using a construction management approach has lowered AEA's costs because of onsite quality control. The construction managers find a foreman who then works for the city. The design costs are lower since a complete bid package is done. Greater consistency among projects occurs because parts and equipment can be standardized. He said that AEA would argue that there are real benefits to force accounts and AEA is using a model that makes sense for both the private sector and communities.

Number 1813

CHAIRMAN COWDERY asked Mr. Poe if AEA requires any bonding.

MR. POE said he did not know the answer but he is sure that bonding is required on the construction management contracts as part of a normal state contract.

SENATOR WARD asked if AEA has created any state employees to do any of the work.

MR. POE said it has not.

MR. NICK TUCKER, a resident from Emmonak representing himself, said he is opposed to limiting any funds that will stop rural Alaska from moving into the mainstream of the 21st Century and help economic development and the education that rural children are getting now. Local hire and training help the young people of

Emmonak. He is concerned that creating two classes of people, urban and rural, with only urban citizens being qualified to work, will be very dangerous. He is a commercial fisherman who was extremely hurt by the two fishing disasters. He was a member of the Raven Commission under Governor Hickel. The Emmonak region has one of the lowest per capita incomes in the state and country. It has no timber or major industries, only a very small scale fishery. When that fishery is hurt, people are hurt. The opportunity for any level of training and education is very important to the people in the villages.

CHAIRMAN COWDERY commented that the way that DOTPF is managing force accounts is creating a rural-urban divide because contractors from rural Alaska could bid on such a project. The fact that the urban contractors do not have the opportunity to bid these projects creates a divide.

MR. TUCKER said he is awed at how creative Alaska Natives are. They need to have the same opportunities as urban people. He noted people in the village are very thankful to have year round jobs to put food on the table.

CHAIRMAN COWDERY said he did a bank erosion project in Kotlik. He hired eight urban people and about 30 local people for that project because it was cheaper. He hired the eight urban people because he needed qualified people to meet certification requirements.

MR. TUCKER asked the committee to keep in mind that putting any limit on force accounts will inhibit the growth of rural communities while the state is working very hard to get people off of welfare.

MR. WALTON SMITH, city manager of St. Mary's, said in response to the concern that training local residents will affect the fishing industry, that there are more than 600 fish permit holders in that area and each has a helper. Less than 5 percent of the fishers will be put to work on the construction project and St. Mary's does not expect to have a fish opening next summer anyway.

CHAIRMAN COWDERY pointed out that was the reason DOTPF gave for using a force account to do the St. Mary's project.

MR. SMITH stated the Wade Hampton unorganized borough has one of the highest unemployment rates; chronic unemployment is over 30 percent and with a poor fishing industry, it is worse. The St. Mary's project has allowed 39 people to get CDL training. CDLs are required and there is a special federal exemption for Alaska for off road CDLs. This project has provided a great opportunity to meet some requirements that were already in effect. He noted that regarding the comment that these operators will not be paid Davis Bacon wages, these operators, many of whom are unemployed, will

work a 60 hour work week with time and one-half for overtime, which will equal between \$1400 and \$1650 per week. Contrasted with no income, he does not feel they are being cheated by not earning Davis Bacon wages. The City of St. Mary's has done millions of dollars of force account work on water and sewer projects in the last few years, including some money from DOTPF for some road work. That allowed more pipe to be put in the ground and improved public health than would have been possible had higher wages been paid. Using the force account system allows "more bang for the buck."

Regarding welfare reform, the new federal law limits the amount of time a person can stay on welfare. If no training and no jobs are available, people will go hungry. He is concerned about comments that using force accounts is a dangerous trend and that abuses are occurring; he does not believe anything illegal is going on. One condition for a best interest finding is the declaration of a disaster, which occurred in St. Mary's several years ago and continues in effect right now. The City of St. Mary's is not buying brand new equipment for this project - it cannot afford to. He said regarding the argument that force accounts take something away from someone else, Anchorage has had one of its biggest years ever for contractors with state highway funds. The City of St. Mary's project represents less than 3 percent of DOTPF's budget. He applauds the Governor and the Commissioner of DOTPF because they have helped, with the decision to use force accounting on the St. Mary's project, economic development and diversification, which is what the residents of St. Mary's need. Passage of SB 83 will create two classes of Alaskans.

CHAIRMAN COWDERY asked how many "belly dumps" the City of St. Mary's owns.

MR. SMITH said it owns none, and it does not plan to acquire any. St. Mary's has three 12 yard end dumps, which are not adequate, and it will be purchasing three used off-road haulers.

CHAIRMAN COWDERY asked if St. Mary's has compactors, water trucks and asphalt equipment.

MR. SMITH said that St. Mary's has no asphalt equipment. It has compactors, a grader, three CATS, three end-dumps and two excavators.

CHAIRMAN COWDERY asked if a contractor came in to do this job and asked to lease equipment from St. Mary's, the city would be in a position to do that.

MR. SMITH said right now that equipment is very valuable to St. Mary's. In the past, contractors have rented equipment and returned it in poor condition. St. Mary's is reluctant to lease the equipment now but it will be in a better position to make

equipment available to a contractor when its fleet is larger.

CHAIRMAN COWDERY said when he rented equipment, there was a standard for the normal wear and tear.

MR. SMITH noted the city has had people rent a truck to haul equipment from the airport and although the truck can carry 6,000 pounds, 22,000 pounds of freight was carried in one trip.

SENATOR WARD asked Mr. Smith if the City of St. Mary's considered hiring the employees instead of having them be state employees.

MR. SMITH said it did and advocated for that for over two years but DOTPF felt that because it would be directly responsible for the money and directly responsible to the Federal Highway Administration (FHA), city hire would not be appropriate. The city has hired an engineer to provide supervision over qualified superintendents who will run the job and train workers.

SENATOR WARD asked Mr. Smith if DOTPF told him the city could not hire city employees and if that was because the cost would be different.

MR. SMITH said DOTPF felt, because of the FHA objections that the money might not be appropriately used, that this mechanism would best meet the needs of the City of St. Mary's and FHA requirements.

SENATOR WARD said he does not believe that is an FHA requirement. He then asked how many of the 39 people who have been trained in St. Mary's are from Anchorage.

MR. SMITH said as far as he knows, none.

SENATOR WARD asked where they are from.

MR. SMITH said as far upriver as Russian Mission and as far downriver as Kotlik.

Number 749

SENATOR WILKEN asked how much the three 17 yard off road haulers are worth.

MR. SMITH said by the time they are delivered to St. Mary's they will cost under \$140,000 each. They are used pieces of equipment.

SENATOR WILKEN asked if that is part of the \$3 million contract.

MR. SMITH said it is not. The city is getting a rate that is close to Blue Book. In the last five years, the city has exported gross sales of over \$500,000 in gravel. The city anticipates additional

contracts and believes the additional work it does on gravel will pay for the equipment in a couple of years.

SENATOR WILKEN asked if the city is using city, not state, funds to purchase the equipment.

MR. SMITH said that is correct.

SENATOR WILKEN asked if that equipment will be used as the city sees fit to make money.

MR. SMITH said that is correct and it is being viewed as an economic development project as it will help replace aging equipment. He noted the city has sold over 30,000 tons of crushed rock in the last three years.

CHAIRMAN COWDERY asked if the 5 to 8 miles of road that will be built will be a state road and whether the city's off road vehicles will be legal to haul on it.

MR. SMITH said as far as he knows, there should be no problem. His only concern has to do with coatings.

CHAIRMAN COWDERY asked if Mr. Smith thinks the state will waive the regulations to allow the city's vehicles to use the road regardless of weight.

MR. SMITH said the state has done so for private contractors for years.

CHAIRMAN COWDERY pointed out they haven't had a road.

MR. SMITH explained that the road has been there since 1993 -this project will rehabilitate the road.

SENATOR TAYLOR asked if the road will be paved.

MR. SMITH said they have had some discussion about high float and oil emulsion that is known as "a poor man's paving." Once that is done, track vehicles will not be allowed on the road and they will have to transport with a low boy.

SENATOR TAYLOR asked what amount of return the city anticipates receiving off of this contract for use of the three 17 yard Volvos it is purchasing.

MR. SMITH said, as with a contractor, it depends on how many hours the equipment is down, how many flat tires they have, and how fast his mechanic is.

SENATOR TAYLOR said at best it will be 50 percent, at worst maybe

25 percent. His engineer thinks the state has underestimated the length of time the project will take.

SENATOR TAYLOR asked if, when the city went to its banker, it contemplated a certain amount of return on this equipment from this job.

MR. SMITH said his bank anticipates that the city should be able to net around \$150,000 per year over the next ten years.

SENATOR TAYLOR asked if a major portion of the cost of the equipment will be amortized back to the city off of both gravel sales and this project.

MR. SMITH said that is true and that is why it is an economic development project. Right now the city has three 12 yard end dumps but it could carry the same amount with one 17 yard truck in the same amount of time so it should make the city more competitive in gravel sales along the Yukon.

Number 428

SENATOR TAYLOR asked what the primary source of employment is in St. Mary's.

MR. SMITH said St. Mary's has a single site school district and two local stores. He assumes about 12 jobs are in the local stores; those jobs pay about \$5 or \$6 per hour.

SENATOR TAYLOR asked what the population of St. Mary's is.

MR. SMITH said about 500 people live in St. Mary's.

SENATOR TAYLOR said he can sympathize with St. Mary's in its desire to put more pipe in the ground and get the road project going as there isn't a small community in the state that wants to do the same. He expressed concern that the other communities are always saddled with Davis Bacon wage requirements and that small communities are treated differently.

MR. SMITH said he believes it is because of the relative poverty in St. Mary's. The residents of St. Mary's are exceedingly poor and the area has very limited resources. Something needs to be done to train the local people and make them more versatile. This project is truly a community development project.

SENATOR TAYLOR said he doesn't get much support from this Administration for similar projects. He said he is amazed St. Mary's is even getting a road repaved.

Number 184

CHAIRMAN COWDERY asked if St. Mary's would still sell the gravel to the low bidder if the project was done with a competitive bid.

MR. SMITH clarified that he was speaking about gravel sales in the future, not for this project. He said his understanding is that the majority of the gravel for this project will come out of pits that are being opened up by the state.

SENATOR TAYLOR asked where those pits would be located and why the state wouldn't use the aggregate right there since the city has a rock crusher.

MR. SMITH said a majority of the rock, which will amount to 150,000 cubic meters, will be "pit-run" material for the base course. It will not be crushed so the state will be opening up at least two other pits between the city and the airport at a high point so the trucks will go uphill empty and downhill loaded. If the state used the city pit, which is close to town, the costs would be horrendous.

CHAIRMAN COWDERY asked Mr. Smith if he believes the state would open up pits to furnish the aggregate necessary if the private sector bid the job.

MR. SMITH said the pits the state will open are not owned by the state - they are owned by Chulista. The state is negotiating for use of those pits.

CHAIRMAN COWDERY thanked Mr. Smith for his testimony and asked Mr. Head to testify.

MR. ROGER HEAD, RV Management Services, said that most of the work his firm does is in rural Alaska, the majority being in the Lower Yukon-Kuskokwim area. He is very familiar with the unemployment situation in that area, which is at about 22 percent right now. The unemployment rate in that area has traditionally been the highest in the state for the last ten years.

TAPE 01-9, Side A

MR. HEAD said DOTPF has a number of mechanisms that prevent the overuse of force accounting. The federal government has very stringent policies on its funds. He is concerned that this legislation will create additional restrictions that are unnecessary and will not be in the public interest.

MR. JERRY DRAKE, from Bethel, representing himself, said he is a member of the city council. The city council passed a resolution in support of St. Mary's ability to operate a force account. In his opinion, the purpose of SB 83 is to prevent the possibility of

abusing the force account system. Every dollar pumped out of the state has checks and balances so that it won't be abused. He stated that very few communities are able to do a force account project because they do not have the infrastructure necessary to support the project. That being the case, force accounts have a built-in limit already. In his view, anytime the state allows a community to do a force account project, everybody wins. Every dollar spent in local wages is spent back in the community and helps that economy.

MR. STEVE WEAVER, Alaska Native Tribal Health Consortium, said one of the Consortium's responsibilities is the operation of sanitation facilities and construction programs in partnership with the 220 federally recognized tribes of Alaska. Most of those projects are funded through cooperative agreements with multiple federal and state agencies. Some of those projects include contributions from DOTPF for improvements, such as boardwalks and access roads. The local governments that the Consortium works with often select force accounts as a means of constructing these facilities. Force accounts are an improved construction option for all of the Consortium's funding agencies. It is one of several options available to local governments. The Consortium recommends that option remain available in the communities' toolboxes.

CHAIRMAN COWDERY announced that no one else wanted to testify and that he would like to move SB 83 to its next committee of referral.

SENATOR WARD moved SB 83 and its accompanying fiscal note from committee with individual recommendations.

SENATOR ELTON objected and said that he sees no connection at all in controlling the use of force accounting by putting an arbitrary cap on those accounts.

A roll call vote was taken. The motion to move SB 83 from committee carried with Senators Ward, Taylor, Wilken, and Cowdery voting "yea," and Senator Elton voting "nay."

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CHAIRMAN COWDERY announced that SB 83 moved to the Senate Finance Committee.

#SB 100

SB 100-REGULATION OF AERONAUTICS

CHAIRMAN COWDERY stated that SB 100 was before the committee and that he did not intend to move the bill today. He asked Senator Halford, sponsor of SB 100, to present the bill.

SENATOR RICK HALFORD explained that the state air commerce laws are primarily based on a 1960 act that was carried from the 1927 and

1939 acts. Those laws are out-of-date. A number of provisions do not apply and have been superceded by federal law or they are in direct conflict with the current state policy so they have not been enforced. DOTPF did most of the research on which provisions of the statutes need to be repealed. DOTPF also recommended an amendment. Both a House and Senate bill have been introduced on the survival gear provisions. The existing provisions are not only out-of-date, they are impossible to meet if a plane flies to Canada. He informed committee members that the House bill is close to passing and he suggested the contents of SB 100 be added to the House bill.

CHAIRMAN COWDERY repeated his intention not to pass SB 100 from committee today.

SENATOR ELTON asked for clarification of Sections 3, 4 and 5. He noted the sponsor statement states that Section 3 specifies that an airport must be public or if private, open, for a person to be charged with obstructing the airport or runway. He reads those sections to remove the provision under which an operator of an aircraft can be charged with DWI.

SENATOR HALFORD said that is certainly not his intent.

SENATOR ELTON said he didn't think so. He also asked for clarification of the definition of "intoxicating liquor" in section 4. He questioned whether, under Section 5, a person who is convicted is punishable by a fine of not more than \$500, which is considerably less than the DWI provisions.

SENATOR TAYLOR noted a committee substitute had been prepared.

SENATOR ELTON acknowledged that those sections were removed from the committee substitute.

SENATOR WARD moved to adopt CSSB 100(TRA) as the working document of the committee (Version F). There being no objection, the motion carried.

SENATOR ELTON clarified that the provisions he was speaking to are now included in Sections 6, 7, and 8 of the committee substitute.

CHAIRMAN COWDERY said, to his understanding, if certain conditions prevail, a pilot can land anyplace.

SENATOR HALFORD asked Juli Lucky to provide the committee with a sectional analysis of the committee substitute.

MS. JULI LUCKY, staff to Senator Rick Halford, said in Section 1, the reference to the Department of Commerce and Regional Affairs (CRA) was changed to the Department of Transportation because it now deals with DOT. Sections 3, 4, and 5 are new sections that specify when a private airport must be open for a person to be charged with obstructing an airport or runway. Section 9 adds a few survival rations and specifies that larger planes are exempt, which is in statute. Section 10 contains references to statutes and penalty sections. She pointed out Section 10 speaks to Senator Elton's question. Section 11 deals with civil liability. Section 12 contains a technical change, and Section 13 contains the repealers.

MS. LUCKY stated that regarding Sections 6, 7, and 8, which Senator Elton questioned, those sections were recommended by the Alaska State Troopers. The DWI provision is covered under AS 28.35. The troopers found that having DWI laws in two places was duplicative and confusing. The troopers requested that the references to AS 28 regarding DWI be removed and changed to controlled substances, which is consistent with the other statutes. She explained the part that was in the aviation statutes will be taken care of in the DWI statutes.

SENATOR ELTON said his concern is which provisions are applied, especially on the penalty side. For a violation of the chapter that is covered under Section 6, he would rather have the penalties in AS 28.35 applied than the \$500 cap.

MS. LUCKY said, to her understanding, one reason the troopers want the DWI removed from this section of the aviation statutes is to avoid confusion. Therefore, DWI will not be covered in Title 2; the reference will be moved to AS 28.

SENATOR ELTON offered to follow up with Ms. Lucky and the troopers on that question before the next meeting.

Number 1038

SENATOR HALFORD said, regarding the questions that relate to closing a public versus a non-public runway, at the time the original acts were passed, there was a real effort to maintain every possible runway. Since then, liability questions and private property questions have arisen. Sections 3, 4, and 5 apply to those questions. He felt those sections are the most substantive in the bill; the rest of the bill consists of DOTPF recommendations.

SENATOR TAYLOR asked Senator Halford if it would do any damage to

insert "or rotor wing" in Section 5.

SENATOR HALFORD said he didn't think so.

SENATOR TAYLOR pointed out that would cover helicopter landing opportunities also. He said he raised the question because federal agencies have closed off the entire national forest and wilderness in Southeast to helicopter landings unless the pilot can prove he or she has landed in that spot in the past.

SENATOR HALFORD did not think SB 100 would preempt the federal government from doing that.

SENATOR TAYLOR agreed but said SB 100 will impact state lands and private lands.

SENATOR HALFORD responded, "Well, it's navigable water and public lands so it's not the private property and it's subject to public safety and a basic notice requirement."

SENATOR TAYLOR asked Senator Halford to consider the inclusion of helicopters as a proposed amendment. He referred to Section 11, regarding civil liabilities, and said his primary concern is to make sure the runways that section applies to are privately owned. He does not think the bill contains a clear definition of a private airstrip that welcomes the public and a private landing strip where others are not welcome to land.

SENATOR HALFORD said the two questions regarding the ability to close and where liability accrues are clearly tort questions, which is why he asked Senator Taylor if he wanted the Judiciary Committee to hear the bill.

SENATOR TAYLOR said he thinks the bill is a good draft but he is concerned that commercial activity is considered to be the triggering device. One could have a totally private landing strip that the owner uses for a guiding business, which is commercial. He pointed out that one of the triggers in Section 11 is whether a fee is charged for landing but it does not address a runway owner who leases hangar space.

SENATOR HALFORD said he is counting on Senator Taylor to figure those answers out. He indicated he is trying to remove the disincentive for an individual to maintain or have anything to do with a runway because of the potential liability. The other problem is that there are airports all over that aren't listed in the airmen's guide because owners don't want people to know they are there. Some are on public property adjacent to private

property. No one wants to maintain those runways.

SENATOR TAYLOR said he has asked to have some research done and hopes to come up with some answers but he does not know that any lawsuits have ever been filed in Alaska involving a runway.

SENATOR HALFORD pointed out that the bill contains a large repealer section to the old Title 2. The sections in the bill that are significant are the issues they have been discussing.

Number 1415

CHAIRMAN COWDERY asked why weapons were not included in Section 9. He asked if that issue has been addressed in the House bill.

SENATOR HALFORD said that is addressed in the House bill. The weapon requirement was taken out for flights to Canada only. He pointed out that this is an area where the existing state law has not been enforced for decades. The bill initially, at the request of DOTPF, repealed the whole section but the Department of Public Safety (DPS) wanted to have something in the bill. DPS wanted a general statement so that there was some requirement they could go after but that looked like it might lead to selective enforcement and not be a good way to go. He then went back and tried to come up with the simplest and shortest version of a list that was an update from the original list. He didn't include a firearm at that point. He pointed out that pilots who make a living flying generally carry a lot more than what is required by the list.

CHAIRMAN COWDERY repeated that SB 100 will be held in committee.

MR. KURT PARKAN, Deputy Commissioner of DOTPF, informed the committee that Carl Sevey (ph) is an engineer in the statewide aviation section of DOTPF. Mr. Sevey worked with Senator Halford's staff on SB 100; he is available for questions.

There being no further questions or comments from committee members, CHAIRMAN COWDERY said he would wait for the House bill and work with both bills. He then adjourned the meeting at 3:38 p.m.
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