

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION COMMITTEE

April 30, 2002
1:36 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Robin Taylor

COMMITTEE CALENDAR

HOUSE BILL NO. 374

"An Act naming the David Douthit Veterans' Memorial Bridge."

MOVED HB 374 OUT OF COMMITTEE

SENATE BILL NO. 362

"An Act relating to rights-of-way."

MOVED SB 362 OUT OF COMMITTEE

SENATE BILL NO. 271

"An Act establishing the Alaska Marine and Rail Transportation Authority; establishing the marine and rail transportation fund; relating to ferries and ferry terminals; relating to the Alaska Railroad Corporation; and providing for an effective date."

MOVED CSSB 271(TRA) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 32

Proposing amendments to the Constitution of the State of Alaska relating to a marine and rail transportation fund.

MOVED CSSJR 32(TRA) OUT OF COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 474(RES)

"An Act relating to public rights-of-way and easements for surface transportation affecting the Anchorage Coastal Wildlife Refuge."

MOVED SCS CSHB 474(RES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 397(STA)

"An Act exempting a person driving certain motor vehicles, aircraft, or watercraft from driver licensing requirements; and providing for an effective date."

MOVED SCS CSHB 397(TRA) OUT OF COMMITTEE

PREVIOUS SENATE COMMITTEE ACTION

HB 374 - See State Affairs minutes dated 4/11/02.

SB 362 - No previous action to consider.

SB 271 - See Transportation minutes dated 2/26/02.

SJR 32 - See Transportation minutes dated 2/26/02.

HB 474 - No previous action to consider.

HB 397 - No previous action to consider.

WITNESS REGISTER

Representative Ken Lancaster
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 374

Ms. Vicki Kindseth
Staff to Senator Lyda Green
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 362.

Mr. Bob Doll, Director
Southeast Region
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Opposed SB 271.

Mr. Lauren Gehrhart
Southeast Conference
No address provided

POSITION STATEMENT: Opposed SB 271.

Ms. Carol Carroll

Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724
POSITION STATEMENT: Commented on SB 271.

Mr. Bob Loeffler, Director
Division of Mining, Land and Water
Department of Natural Resources
550 W 7th Ave., Ste 1070
Anchorage AK 99501
POSITION STATEMENT: Commented on SB 271.

Mr. Dick Mylius
Resource Assessment and Development Manager
Division of Mining, Land and Water
Department of Natural Resources
550 W 7th Ave., Ste 1070
Anchorage AK 99501
POSITION STATEMENT: Commented on SB 271.

Mr. Craig Puddicombe
POB 225
Palmer AK 00645
POSITION STATEMENT: Supported SB 362.

Mr. Mike Conner
HC04 Box 7094
Palmer AK 99645
POSITION STATEMENT: Opposed SB 362.

Mr. James Kracker
POB 1888
Palmer AK 99645
POSITION STATEMENT: Opposed SB 362.

Ms. JoAnne Fitzgerald
HC34 Box 2259
Wasilla AK 99654
POSITION STATEMENT: Opposed SB 362.

Mr. Ken Fitzgerald
HC34 Box 2259
Wasilla AK 99654
POSITION STATEMENT: Opposed SB 362.

Mr. Jack Dunham
POB 615
Palmer AK 99654
POSITION STATEMENT: Commented on SB 362.

Representative Joe Green
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 474.

Mr. Chip Dennerlein, Director
Division of Habitat and Restoration
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226
POSITION STATEMENT: Commented on HB 474.

Mr. Dennis Poshard, Legislative Liaison
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898
POSITION STATEMENT: Opposed HB 474.

Representative Vic Kohring
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 397.

Mr. Del Smith, Deputy Commissioner
Department of Public Safety
PO Box 111200
Juneau, AK 99811-1200
POSITION STATEMENT: Commented on HB 397.

Mr. Frank Sacco
Alaska Native Medical Center
13040 VanScheber Dr.
Anchorage AK 99516
POSITION STATEMENT: Commented on HB 397 and childrens' helmet
law.

Ms. Mary Leemhuis
Alaska Native Health Center
4315 Diplomacy Dr.
Anchorage AK 99508
POSITION STATEMENT: Commented on HB 397.

Mr. Bill Reed, Surgeon
Providence Regional Hospital
8701 Sultana Dr.
Anchorage AK
POSITION STATEMENT: Commented on HB 397.

Mr. Steve Tower, Orthopedic Surgeon
Alaska State Medical Association

7645 Griffin St.
Anchorage AK

POSITION STATEMENT: Commented on HB 397.

Mr. Charles Hosack, Deputy Director
Division of Motor Vehicles
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: No position on HB 397.

Mr. Scott Hamann
ABATE
PO Box 934
Kenai AK 99611

POSITION STATEMENT: Commented on HB 397.

Mr. Mike Krieber
Staff to Representative Kohring
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on HB 397.

ACTION NARRATIVE

TAPE 02-19, SIDE A

Number 001
#HB374

HB 374-NAMING DOUTHIT VETERANS' MEMORIAL BRIDGE

CHAIRMAN JOHN COWDERY called the Senate Transportation Committee meeting to order at 1:36 p.m. and announced HB 374 to be up for consideration.

REPRESENTATIVE KEN LANCASTER, sponsor of HB 374, said the designated bridge spans the Kenai River at Soldotna. Sergeant David Douthit is the only Alaskan to give his life during the 1991 Gulf War. He died on February 27, 1991 and is survived by his widow, Jesse, their daughter, Rebecca, and his parents who continue to live in Soldotna.

SENATOR WARD moved to pass HB 374 out of committee with individual recommendations. There were no objections and it was so ordered.
#

#SB362

SB 362-VACATE RS2477 RIGHT OF WAY ON USS 5265

CHAIRMAN COWDERY announced SB 362 to be up for consideration.

MS. VICKI KINDSETH, staff to Senator Lyda Green, sponsor of SB 362, said the legislation was introduced to address the concerns of Mr. Craig Puddicombe and his partner, Mr. Jack Dunham, about the RS2477 right-of-way through their property on the Knik Glacier Trail, USS 5265, Section 34, Township 16 North, Range 5 East, Seward Meridian. She explained:

Mr. Puddicombe came to our office after exhausting efforts through DNR to accomplish a vacate process on his property in the Mat-Su.

The Knik Glacier Trail begins in Palmer and ends at a mining camp located approximately 3 miles up Metal Creek and was used as a continuous route. However, there is an existing RS2477 recognized by DNR for the area since 1995 that does not go through USS 5265. The intent of this bill is to vacate an RS2477 on private property when there is already an existing established RS2477 route for the area that provides access around private property.

The vacation of rights-of-way is found in AS 19.30.410. The vacate may be approved by the legislature.

CHAIRMAN COWDERY announced that they would hear the bill later in the meeting when the teleconference difficulties were fixed.

#

#SB271

SB 271-MARINE AND RAIL TRANSPORTATION AUTHORITY

CHAIRMAN COWDERY announced SB 271 to be up for consideration.

SENATOR WARD, sponsor of SB 271, moved to adopt the proposed committee substitute (CS) to SB 271, Version C, labeled Utermohle, 4/19/02. There were no objections and it was so ordered [TAPING DIFFICULTIES].

He said he thought it is in the best interests of the State of Alaska to form an authority, give it a half million acres of ground and start the ferry system on its way to becoming a self-sufficient transportation system. After talking to members, it became clear that combining the Alaska Railroad and the Alaska Marine Highway System (AMHS) would not happen so a committee substitute was drafted to remove the Alaska Railroad.

MR. BOB DOLL, Director, Southeast Region, Department of

Transportation and Public Facilities (DOTPF), said:

The bill has two major impacts. First, it creates a new administrative and operating regime for the Alaska Marine Highway System. That new regime would isolate the Marine Highway System from the public contact process that the department has in place and which we believe should be maintained and strengthened.

Secondly, it attempts to create a funding mechanism for the Marine Highway through the sale of public land. In the light of these primary impacts in the bill, the department does not support SB 271.

With regard to funding the Marine Highway through the sale of land, I'll be brief since that's not my expertise. Land located along the railroad right-of-way, of course, has an inherent value from the fact that it is linked to a transportation method that also links the communities along the way. There is no analogy for the Marine Highway System's routes. It is our understanding that the land contemplated for sale by SB 271 is already available for sale. We are skeptical that SB 271 would create a market for public land that does not already exist. If the land in question does, in fact, find buyers, the resource will have a finite life that we'll eventually find ourselves in much the same circumstances as today.

Turning to the operating regime for the Marine Highway, there are a number of issues that the bill raises. The first is that the bill would remove the Marine Highway from the Department of Transportation. The Department is the logical location for an organization whose primary function is to provide a public transportation system, one that is responsive to public needs and imaginative in meeting them. The creation of a Marine Highway Authority will not improve public access to the Marine Highway operations and planning, but would rather isolate it in its direction from the public's influence. We believe such an isolation is not in Alaska's interest.

Secondly, the bill sets up a new competition for federal funds, the results of which are difficult to predict. Currently, the Department is by federal law the conduit by which federal highway transportation funds are allocated to the state. Within the

Department, the Marine Highway competes with all other transportation modes for the use of those funds and, to date, the Marine Highway has competed quite successfully. The bill provides for Marine Highway Authority participation in the Department's planning process, but the Department would have a drastically reduced interest in the operation and maintenance of the Marine Highway System.

I have real concerns about the continued ability of a Marine Highway Authority to compete for federal funding in a department from which it has been severed. The bill does nothing to change the Marine Highway's dependence upon legislative support for its mission. Even if the funding scheme for land sales were wildly successful, approval by the legislature would still be required for the annual [indisc.] and for most of the remaining functions now performed with legislative authorization. Its employee organizations would bargain collectively with a board of directors, but the outcome would still require ratification by the legislature. It is not apparent to us how the Marine Highway System would benefit from an isolation of the executive functions while preserving intact its current relationship with the legislature.

In summary, Mr. Chairman, we believe that the relocation of the Marine Highway under a Marine Highway Authority would degrade rather than improve the marine highway needs of Alaskans. It will not improve [indisc.] nor improve the system's ability to attract and retain the competent and dependable employees it requires. Further, it will weaken the Marine Highway's ability to compete with federal funding and create tensions among transportation objectives, which do not now exist. Thank you for your attention and I'll be happy to address any questions the committee may have.

CHAIRMAN COWDERY asked if this bill passes, whether the resources it generates will go to the Marine Highway System.

MR. DOLL replied that he thought that was the intention.

CHAIRMAN COWDERY asked him if the Marine Highway System is healthy enough that it does not need any new sources of dollars.

MR. DOLL replied, "We've always had a requirement to appear before the legislature for public funding, yes."

CHAIRMAN COWDERY asked whether he would he support the bill if the Marine Highway System was removed from the executive budget.

MR. DOLL replied that he would have to examine the outcome as he wasn't sure of all of the implications.

SENATOR ELTON said he was interested in Mr. Doll's comments about the sale of land being inadequate to sustain the operations of the Marine Highway System. He said he didn't see anything in the bill that addresses the sale of land other than giving the Authority the ability to turn land back to the Department of Natural Resources for sale with the proceeds of the sale going to the original land owner, not to the Authority. He asked Mr. Doll or the sponsor to point out the provision that allows the sale of land to generate funds for the Authority.

MR. DOLL replied that he was relying on AS 37.14.570 on page 20. He thought that was what that fund was intended to do.

SENATOR WARD said that is correct; that is the intention.

SENATOR ELTON said the section that provides for the Acquisition and Management of Property on page 6, line 15, of Version C gives the Authority the ability to purchase property in AS 19.55.230 when it addresses the disposal of land or rights in land. It says:

The Authority may vacate land or rights in land acquired for the Alaska Marine Highway System by executing and filing a deed in the appropriate recording district. Upon vacating, title reverts to the person's heirs, successors or assigns in whom it was vested at the time of the taking. The Authority may also transfer land not considered necessary for the use by the Alaska Marine Highway System to the Department of Natural Resources for disposal with the proceeds of disposal credited to the funds from which the purchase of the land was originally made.

He thought that meant that if they dispose of land, they don't have access to the proceeds from the disposal of it.

SENATOR WARD responded:

If they give the land to the Department of Natural Resources to sell it, it's credited to the funds from which the purchase of land was originally made that would revert back to the original fund that is within the Authority's jurisdiction to spend. That is the way the drafter said to do this. That's the procedure that

you actually go through in order to get the proceeds back into the fund that the Authority has the authority over to extend. That absolutely was the intent. The intent was to give a half million acres to this Authority and for them sell it, lease it, barter it, exchange it, chop trees down on it, pave over it, do whatever they want, but to start deriving some kind of income off of the half million acres.

SENATOR ELTON asked Mr. Doll what the relationship is now between the Marine Highway System and the national highway system and whether the state could be in danger of severing that relationship by the establishment of an authority.

MR. DOLL replied:

Each state highway agency, the Department of Transportation in our case, is the federally statutorily required channel through which federal transportation funds flow. The only exception is where there may be a local municipal transportation authority of which Anchorage is the only example in Alaska. That relationship would not be disturbed, but the bill attempts to assert the interests of the Marine Highway by making very specific the Authority's participation in the Department's planning process, which of course, also includes programming funds. Thus far that system has worked quite well, in my view. The Department, I think has been generous with regard to federal highway funds and maintaining particularly in recent years when we've had to go to a great deal of effort to keep the ships regulatorily compliant. A lot of money has gone into that process.

If the Authority is set up as a separate agency within the state, and if the department has no interest or concern for its operation, I'm apprehensive that in some future relationship the interests of the Department and the Marine Highway will be reflected in a degree to which it supports the division of those federal funds throughout the state. And, of course, there's always competition for those funds. Now the department has an interest in how the Marine Highway operates. If we separate that, I honestly can't forecast what that would produce. I know that the competition for highway, bridge and tunnel construction is real and the requirements throughout Alaska. What it would be in the future is really difficult to forecast.

SENATOR WARD asked Mr. Doll if his concern is that this bill may cause a reduction in federal contributions and support because of the separation. He said that is the opposite of what he thinks would happen. He thinks it would be very good for the Marine Highway System to be an entity of its own and to be able to compete in that process. For the last five years it has appeared to him that the Marine Highway System needs a better standing within DOTPF's discussion of priorities.

MR. DOLL replied:

My concept of how things are working at the moment are that when I come to the commissioner with a requirement for a federal project and when we study them within the total DOT context, we represent those as transportation projects for which the Department is responsible. The Department has an interest in how well the Marine Highway operates... Every one of those incentives to provide adequate funding for the Marine Highway is present and we take advantage of that. If we change the circumstances so that the Department is no longer responsible for the Marine Highway's operation, I'm not sure how powerful my arguments would be and I'm not sure how powerful the arguments of the Authority would be given the fact that the Department is no longer responsible for its operation.

SENATOR WARD said just for the record, most of the language for the Authority in the bill was completely gleaned out of Senator Taylor's bill.

SENATOR TAYLOR asked Mr. Doll to characterize the financial success of the Railroad and the Marine Highway over the last 10 years. He asked Mr. Doll why the Railroad has been successful and the Marine Highway has been an "abject failure."

MR. DOLL said he wasn't qualified to comment on the Railroad's success, but its reputation is very good, but it also has a great many assets that it capitalizes on - not the least of which are all the cruise ship docks that it utilizes. There is no comparable real estate asset available to the Marine Highway System.

SENATOR TAYLOR asked him if he knew what the railroad's primary assets are from which its profits come.

MR. DOLL replied that he had no idea.

SENATOR TAYLOR said it is all land. He said the Senate just passed a bill extending some of the railroad's leases from 35

years to 55 years, because the people who lease land from them want to lease it for a longer period.

MR. DOLL replied:

You're well aware that land alongside a railroad has inherent value. There is no comparable land available to anybody else in Alaska. The Railroad is capitalizing on the fact that its land lies along a communications link that links community centers, population centers as well as being available to the transportation link itself. There is no comparable land available to us.

I don't know, and I'm not prepared to suggest to the committee that I know how much revenue this proposal would generate. I have no way of estimating that and I've not seen any estimates of it.

I'm only suggesting that the concept that some substitute for legislative funding can be found to operate the Marine Highway is, I think, speculation and I would not like to see a situation develop where the legislature believes it has a substitute for GF funding for the Marine Highway and in fact that does not exist. I would like to have the continued legislative support that we've had in the past and I don't think a substitute exists for that in the potential for sale of raw land throughout Alaska.

SENATOR ELTON asked, regarding the original question regarding the federal funding, if the AMHS has an ability to work with an authority or is its ability in distributing federal funds limited to working with the Department of Transportation or an organization such as AMATS.

MR. DOLL replied that the federal statutory requirement is that they operate through the state highway agency. They would not be able to deal directly with the Marine Highway Authority.

SENATOR ELTON said he remembered discussions about the railroad and that its profit center is the leases that it has for fiber optics. He said one way he would view this bill more favorably is to allow the lease for the submarine fiber optic cable to revert to the Marine Highway Authority. Then they would have taken an initial step toward financial viability for the Marine Highway System.

CHAIRMAN COWDERY said he didn't agree that their profit is the fiber optics lease. In his town, the whole Ship Creek basin is owned by the railroad and they lease land. He thought the

railroad's biggest revenue source is the real estate it owns.

SENATOR WARD said when the Railroad was originally transferred to the State from the federal government, land for tracks and close to the tracks was transferred along it. An additional 47,000 acres that was transferred was not near the Railroad; it owned the land to supplement its operation. The location of the 500,000 acres given to the Authority will not make any difference. The Authority could do whatever it wanted to do with its land. The Railroad's land is the reason it is making a profit this year.

SENATOR TAYLOR asked Mr. Doll what the AMHS would do if it doesn't do this. He thought the AMHS is in desperate condition now.

MR. DOLL replied:

I don't believe there is any substitute for dollars to operate a ferry system and I believe that administrative restructuring is going to get us where we need to go. The Department is working diligently and successfully to reduce the cost of operating the Marine Highway System and I think at the same time improve the service to riders. I also believe that there is no substitute for money to keep the system going. I'm not a fiscal expert, but I recognize that support for the Marine Highway in terms of funding has certainly been declining and the situation that the Senator describes is doubtlessly true. The Department will continue to work hard to reduce the cost of operating the system and improve their service to its passengers and I think the remaining issues are exactly what we're talking about here.

SENATOR TAYLOR asked if land isn't a stable way for the AMHS to acquire an income stream, what Mr. Doll would suggest to them as policy makers to set up to provide the AMHS with the type of stable income stream it needs.

MR. DOLL replied that there were various proposals for raising money and he wasn't qualified to comment on them. He would have no way of knowing if it's likely that substantial funds would come from the proposed projects. He thought the AMHS will still need the support of the legislature to get the kind of funding it needs.

SENATOR TAYLOR asked Mr. Doll if he read anything in the bill that said the legislature would not still have an obligation to support the AMHS until this proposal was running.

MR. DOLL replied that he didn't have any anticipation of that. He wouldn't want anyone to conclude that because the land was made available and if it didn't bring in the funds that were needed that the legislature had washed its hands of that concern. That would be an unfortunate outcome.

SENATOR TAYLOR said they had never done that with the University, the Railroad or the Mental Health Trust lands. Over the years, there has been no indication that that would happen.

SENATOR WARD added that he talked to former Senator Lloyd Jones who is now affiliated with the Transportation Committee under Congressman Don Young and both of them have assured him that this process is not only something that is being done in some places, but it's a completely appropriate one and wouldn't affect federal funding.

TAPE 02-19, SIDE B

MR. LAUREN GEHRHART, Executive Director, Southeast Conference, said they were formed in 1958 to promote the formation of the Alaska Marine Highway System. He said they recently became aware of the changes in the bill and are concerned that caution is taken with how the Authority would be formed. They want an opportunity to talk with the sponsors about it. No one knows what kind of a revenue stream could be anticipated out of 500,000-acre land grant.

He also thought that other efficiencies could still be explored. He told the committee that the Southeast Conference had been tracking these issues closely over the last few years and decided recently it should attempt to perform its own study of the problems and potential solutions. The Conference has obtained grant money and is engaged in a study process right now to identify all different kinds of ferry operations around the world, primarily in the U.S. They want to learn from other people's experiences what might adopt best to this region. They expect to have preliminary findings by the middle of next month and hope to provide the next legislature and governor with a detailed analysis and recommendations.

SENATOR WARD asked him how long his organization has been in existence.

MR. GEHRHART replied that it was founded in 1958 in Petersburg by civic leaders who saw a need for a marine highway.

SENATOR WARD asked if the Southeast Conference supported the marine highway authority bills sponsored by former Senator Lloyd Jones or Senator Robin Taylor.

MR. GEHRHART replied that he didn't know for certain if those bills were supported by the Conference. They have paid a lot of attention to the problems it has experienced over the last 16 years. He stated, "The way the system was designed in 1962 seemed to work just fine then. Obviously, our needs have changed, situations have changed, funding is different. So we need to address that."

SENATOR WARD said he was not familiar with the Southeast Conference and he didn't ride the Marine System any more than he had to, but he said this is the same authority bill as the other two. He thought there was a philosophical difference about whether the AMHS should remain a line item agency or become an Authority with 500,000 acres in addition to other revenue streams. He asked Mr. Gerhardt if he saw a bright future for the Marine Highway System the way it is now.

MR. GERHARDT replied:

I think our organization is on record supporting the Marine Highway System, because it is our highway system. The issue about this particular piece of legislation - I know there are some changes in what's shown here as the organizational structure and that's very important to us. I know that there were issues in the prior bills just how this body is constituted and what their authority is. The new wrinkle that you have here obviously is the land grant, which I think is innovative thinking. I'm glad to see people trying to solve the issue of the recurring budget problems the system faces. To answer your question about the future of the Marine Highway System, yes we have concerns. We know that it's a struggle every year to get adequate funding to operate the system and we know that there are efficiencies that can be realized by some changes perhaps. We are very concerned though, that we would make sure what we would come up with here would truly fix the system and doesn't end up spinning it off into the nether world.

SENATOR WARD asked if he was opposed to the Marine Highway System becoming an authority if it could be set up in a manner he is comfortable with.

MR. GEHRHART replied that they are not opposed to anything that will address their problems. In their study, they are attempting to determine whether an authority or some other structure would better address them.

SENATOR WARD asked what other structures he had come up with.

MR. GEHRHART replied that the study is ongoing.

SENATOR WARD said he had been studying this for five years. People had been taking money out of the fund and now it is gone. He maintained, "This might not be the right answer, but nobody else has come up with one including your group that is now going to study it a little more..."

SENATOR ELTON said he wanted to put the sponsor more at ease on this and said:

The Southeast Conference has done an absolutely incredible job in bringing all of the communities together in Southeast Alaska on issues as diverse as the Southeast Regional Transportation Plan, education, fishing issues, a lot of the economic issues that drive this. And I can assure the members of this committee...about the integrity and the work ethic of the Southeast Conference. I don't think that their purpose in reviewing the system that we have now and other models that could be applied to the Marine Highway System is simply an effort to produce another report, because this is an organization that is results oriented and I've got an awful lot of comfort in the notion that whatever they propose is going to be taken seriously by people who depend on this transportation system.

SENATOR ELTON asked Ms. Carroll if land that was available for the trust was open to public selection and, if so, what amount of interest has been expressed by the public in lands that have sufficient value to enhance the Marine Highway.

MS. CAROL CARROLL, Department of Natural Resources (DNR), replied that all of the land that the state owns has been classified and what is classified as available for different purposes is certainly available for people to come to the state and say they would like to lease it or hold a timber sale.

SENATOR ELTON asked what kind of public interest DNR gets from people who want access to those lands. He asked if the Authority controlled those lands, would there be a higher public interest in the use of them than with DNR.

MS. CARROLL said as she understands it, if there is a good prospect for something, that activity would be taking place right now.

SENATOR TAYLOR asked what the average price per acre was for land

that had been sold by the State of Alaska since statehood.

MR. BOB LOEFFLER, Director, Division of Mining, Lands, and Water, replied a rough estimate is \$750 and a lot of that land is extremely remote.

SENATOR TAYLOR said that goes all the way back to when lands were sold at a 50% discount etc.

MR. LOEFFLER said he didn't believe that was correct, but that figure included lands sold since 1980. He offered to get the committee better information.

SENATOR TAYLOR asked if DNR just had a land sale on Prince of Wales and what the price per acre was.

MR. LOEFFLER said he would have to look up that information.

SENATOR TAYLOR said he thought the lots were 2.5 to 3 acres and some sold for over \$40,000, about \$15,000 per acre. He said using an average of \$10,000 per acre times 500,000 acres equals \$5 billion. He remarked, "That probably wouldn't be enough the way our current ferry system is operating. I think they could run that stuff down a rat hole and still be trying to sell ferries two years later..."

He asked Mr. Loeffler to explain the difference in management style between the lands DNR managed for over 30 years for the University of Alaska and the \$1.5 million made off of it and the over \$45 million the University has made off exactly the same land using its management style in about the last nine years since they took it over.

MR. DICK MYLIUS, Resource Assessment and Development Manager, DNR, explained that the University had a windfall and that was revenue that was almost entirely from state lands, not University lands.

SENATOR TAYLOR noted that that timber was cut off of state land, which is the same land Senator Ward is talking about in this bill. The land was turned over to the University and they chose to harvest the timber and make money off of it.

MR. MYLIUS responded that they had very extensive harvests in that area before, during and after that sale, but it's not under his division.

SENATOR WARD moved to pass CSSB 271(TRA), Version C, from committee with individual recommendations.

SENATOR ELTON objected and said that he wasn't arguing that the

problems facing the Marine Highway System and all of our transportation systems are not significant, however:

It's a lack of money to do the maintenance, which means that we don't do deferred maintenance, which means that we're doing the most expensive maintenance of all. It's not a problem that's unique to the Marine Highway System and I guess that when people say, 'If not this, what?' my suggestion is that we spend the money we need to do to maintain our transportation infrastructure. We're not doing it with harbors, we're not doing it with ports, we're not doing it with the Marine Highway System, we're not doing it with our roads and highways. So the problem faced by the Marine Highway System is not unique. I guess the only other thing that I would say is that after an hour of testimony, we've come up with a different way of managing our Marine Highway System and I'm much more comfortable with the approach that's being adopted by the Southeast Conference. I guess the last thing that I want to say is I think I've heard some comments here that cast aspersions on to the managers that may even suggest that the present managers of the Marine Highway System are perfectly capable of tossing away \$1 billion and I find that suggestion offensive and I don't think it's true and I think that if that's the basis upon which this bill is going to move forward, it's the wrong reason for this bill to move forward.

SENATOR WARD said he thought this was a good bill and he wouldn't care if all the people that currently run the Marine Highway System were appointed by the governor to run the new authority. He didn't think that was the point. He noted:

The point is we need to separate the Marine Highway Authority away from the current position that it is as a line item agency and we need to give it a half million acres and more for a land base and other things...

SENATOR WARD called for a roll call vote on his motion to move CSSB 271(TRA) from committee. SENATORS WARD, TAYLOR, WILKEN, and COWDERY voted in favor; SENATOR ELTON voted against.

SENATOR ELTON moved for reconsideration.

SENATOR WARD noted that the committee would have to rescind its action.

#

#SJR 32

SJR 32-CONST. AM:MARINE/RAIL TRANSPORTATION FUND

SENATOR WARD brought before the committee a proposed committee substitute, CSSJR 32(TRA), 4/18/02 Version C, and moved its adoption as the working document before the committee. He asked for unanimous consent.

CHAIRMAN COWDERY announced that without objection, the motion carried.

SENATOR WARD moved to pass CSSJR 32(TRA) from committee with individual recommendations.

SENATOR ELTON objected so that he could see a copy of it. After a brief examination, he asked if the net effect of the bill is to create a dedicated fund.

SENATOR WARD replied that is correct.

SENATOR ELTON maintained his objection.

CHAIRMAN COWDERY called for a roll call vote. SENATORS WARD, TAYLOR, WILKEN and COWDERY voted in favor and SENATOR ELTON was opposed.

CHAIRMAN COWDERY announced that the bill moved from committee.
#

#SB362

SB 362-VACATE RS2477 RIGHT OF WAY ON USS 5265

CHAIRMAN COWDERY announced SB 362 to be up for consideration.

MR. CRAIG PUDDICOMBE, co-owner of property USS 5265, said he asked Senator Green to sponsor this bill. [Indisc.] He read the DNR decision regarding vacating the right-of-way and said, "This has been a 12-year long battle for us for something that should have never happened. This vacate is very important to us."

MR. MIKE CONNER said he was a defendant in this court case. He said if this right-of-way is vacated, the state would be transferring a public asset to a private interest. Second, even though the state asked for jurisdiction at remand, the state's request was confused by the court and he is not sure what interest would be vacated, since it doesn't have lease or owner jurisdiction over it. Finally, he said that he and others have used the right-of-way for subsistence purposes for about 30 years. The land has long been classified since state ownership for public recreation and mining, not private interest or as a

private preserve.

SENATOR TAYLOR asked him what he thought land was worth in that area per acre.

MR. CONNER said he did not know.

SENATOR TAYLOR asked him if it was valuable land.

MR. CONNER responded that he hadn't checked the assessment, but he thought it was about \$5,000.

SENATOR TAYLOR asked if there are about 30,000 acres of state owned land in that area.

MR. CONNER replied that there was about 250,000 square miles of state land accessible by a single right-of-way.

SENATOR TAYLOR asked if he had an alternative route to get to his subsistence activities.

MR. CONNER replied he did not and that no alternative route is possible due to the nature of the country and the court made that same determination.

SENATOR TAYLOR said he had a map that shows an alternative route and asked him if he was familiar with that map.

MR. CONNER replied that they were just handed the bill with nothing else attached to it.

CHAIRMAN COWDERY asked Mr. Puddicombe to speak to the alternative route.

MR. PUDDICOMBE said DNR's final departmental decision, dated 1995, is the alternative access. That is the RS 2477 4D area. He noted it was not "appealable" and dismissed by the courts. He explained that there are now two of them; one was put on his private property by the Supreme Court after the State of Alaska made that final departmental decision. He asked members to read DNR's decision.

SENATOR TAYLOR said he was looking at the map and he was referring to the route labeled "alternate."

MR. PUDDICOMBE said the alternate route is the state's decision. The other route clearly goes right through private property.

SENATOR TAYLOR asked how he acquired title to that property.

MR. PUDDICOMBE replied he acquired it from Mr. Doug Sumner.

SENATOR TAYLOR asked if he was the first person after patent.

MR. PUDDICOMBE replied that he was the patent person.

SENATOR TAYLOR asked if he got patent from the state or federal government.

MR. PUDDICOMBE'S replied it was a federal patent that was deeded to the state.

MR. PUDDICOMBE said:

What I'm trying to say here is if you look at the map and you look three five-acre parcels surrounded by all this state land, you've got an RS2477 right through the center of it - a hundred foot right-of-way that does not go anywhere. Are you still listening?...We already have an established existing RS2477 for the area determined by the administration of DNR in 1994...What me and my co-owners are saying is why have two in the same area - they are only 500 yards apart - when both of them are equal, better and comparable to this whole 25 mile trail...that goes to the glacier. It also jogs off and goes three or four miles to a mining claim..

SENATOR TAYLOR asked what position DNR has taken on this bill.

MR. LOEFFLER said he wanted to give members some background on this.

We would like to give the background, the full information so that you understand where our previous decision came from, but we neither support nor oppose this bill.

CHAIRMAN COWDERY asked for further public testimony.

MR. JAMES KRACKER said he could get 1,000 signatures against this bill for them in a couple weeks. It would be against the public's interest and his interests, as well. [Most of Mr. Kracker's testimony was indiscernible.] He felt Mr. Puddicombe got what he deserved.

MS. JOANNE FITZGERALD said she represented herself and the public and acknowledged that she is involved in the Fitzgerald versus Puddicombe court case. She noted that Mr. Puddicombe stated that his file has a copy of the DNR's final determination, but he

didn't mention that in September 2000, DNR made a thorough review that included public comments and the Commissioner denied the request for vacation on this road. DNR determined that the alternate does not provide safe access to the mining claim for most of the public. The Supreme Court determined that the alternative route was too dangerous for the public. The vacation was also denied at the Mat-Su Borough level. There doesn't seem to be any health or safety issues for this request and there doesn't seem to be any reason to give up the right-of-way of the public that would close off a major part of the Knik Glacier trail and access for miners to their claims and subsistence hunters.

MR. KEN FITZGERALD said there is a history of 80 or 90 years of use on the trail and Mr. Puddicombe even admitted under oath that he had used the trail prior to the purchase of the land.

CHAIRMAN COWDERY asked what the width of the trail.

MR. FITZGERALD replied that it is a 100 ft. right-of-way after the Supreme Court decision. He added it is the only safe and dependable route to the area.

CHAIRMAN COWDERY asked how they traverse this trail.

MR. FITZGERALD replied by snow machine, four-wheeler, or pickup truck.

3:05 p.m.

SENATOR WARD asked Mr. Puddicombe if the trail was disclosed when he purchased the property.

MR. PUDDICOMBE replied no, it was a private driveway at that time.

SENATOR WARD asked how he got to the property.

MR. PUDDICOMBE replied by swamp buggy.

SENATOR WARD asked if he used the RS2477 trail.

MR. PUDDICOMBE replied that it wasn't an RS2477 then. He added, "That happened in October of 1995."

SENATOR WARD asked when he purchased it.

MR. PUDDICOME replied in 1983. He said that none of the miners appealed the state's decision. They were all going to live with it. He said they were going to destroy his property when they could have other access.

MR. KRACKER said he and DNR offered to get together to try to take another right-of-way and Mr. Puddicombe refused any settlement. The only one who is destroying property is Mr. Puddicombe. The 100 ft. width is not by court order, but was based on legislative action.

SENATOR TAYLOR said it looked to him like the reason they have this bill before them is that Mr. Puddicombe needs to have the bill passed to convey the right-of-way back to him and asked if that was right.

MR. PUDDICOMBE asked to read the sponsor statement: "The intent of the bill is to vacate an RS2477 on private property when there is already an existing established RS2477 route for the area to provide access around the private property."

TAPE 02-20, SIDE A

SENATOR TAYLOR asked him if he had to have the property vacated to clear title to his property so it's not encumbered by a state right-of-way.

MR. PUDDICOMBE replied that was correct. He has owned the land for 53 years and DNR had done a very careful on-site investigation.

SENATOR TAYLOR asked Mr. Loeffler why DNR did not administratively vacate that RS2477 easement as provided by state law.

MR. LOEFFLER replied:

In 2001, we went out to look at it with respect to vacation. As you may know, the vacation standard is three-fold - one vacated by the legislature, two if requested by the municipality and with an alternate route to provide reasonable access and the municipality has requested it or three, our vacation standard is there another - you may not vacate an RS2477 right-of-way unless a reasonable and comparable established alternative right-of-way on each tract does exist and is sufficient to satisfy access in the reasonably foreseeable future.

We went out there and determined that reasonably foreseeable uses included [indisc.] mining vehicles, recreation and things of that nature. When we looked at the alternative trail and determined there were a

number of sections that were steep for mining
[indisc.].

They determined the alternative trail was too steep without additional construction and did not meet the standards of AS 19.34.10.

SENATOR TAYLOR said he appreciated that explanation and said he was one of the authors of that proviso that he just read through, because they had encountered difficulties all over the state with RS2477 rights-of-way suddenly appearing on people's land that they were unaware of. He wanted to make certain there were good alternatives available and to give the department the authority to exercise some discretion in this regard. It sounds like DNR exercised that discretion and with good reason.

SENATOR WARD said he hadn't been down this trail and asked why they didn't just go around the property and not up the hill.

MR. LOEFFLER replied that the alternative route had been established through many years of use.

SENATOR WARD asked if it was within his ability under current law to establish an alternative route that goes behind the people's property and not up the hill.

MR. LOEFFLER replied that it would take very little construction to establish an alternative route that is suitable.

We do not have the money in our budget to go around doing [this] for his RS2477 or for the many others that have similar requests. With the expenditure of limited funds we would be very happy to permit and flatten an alternative route that would allow for a vacation by Mr. Puddicombe.

SENATOR WARD asked how many feet they were talking about with the parcels involved.

MR. LOEFFLER replied that it was roughly a half-mile trail.

SENATOR WARD said he thought it looked like he was talking about less than 1000 ft. of trail in order to clear that lot.

MR. LOEFFLER said it looked like the least expensive alternative construction would be to do some work in a few of the steep spots.

SENATOR WARD said it seemed that something wasn't right, because the alternative trail is very steep and it seems if they just

scooted around the outside of that one parcel, they would be downhill, at least, and not going up the mountain.

MR. LOEFFLER replied that he didn't have a map in front of him, but they would be happy to permit someone to make an alternative trail, if they wished to do so, but the alternative trail in their view would be only for construction on less than five locations before it would satisfy the criteria in AS 19.34.10.

SENATOR TAYLOR said looking at the map, it looked like for years there had been two trails there. One trail was for moving mining equipment up and that's the one on Mr. Puddicombe's property. The other trail looks like a shortcut.

SENATOR WARD asked if DNR had the ability to grant a waiver on a trail if there no is alternative trail to go to.

MR. LOEFFLER replied absolutely.

SENATOR WARD asked what would be the criteria for the law.

MR. LOEFFLER replied that the criteria for vacation is reasonably comparable to establishing an alternative right-of-way to satisfy all present and reasonably foreseeable uses.

MR. FITZGERALD said the alternative route would cut into the 80s and on Mr. Puddicombe's original patent issued by the federal government, the road is as surveyed [indisc.].

MR. JACK DUNHAM said the trail through his property had to be blasted to be able to get through.

SENATOR WILKEN said he wanted to talk to the sponsor of this bill before they moved it from committee and asked Mr. Loeffler to look at the map called "The Preliminary Across the Middle" - USS 5265, which shows the west boundary is 484 ft. He asked if there were any private parcels like it between the northern boundary and point C.

MR. LOEFFLER replied yes, USS 5839, which is roughly the same size as USS 5265. He said their west borders are not directly parallel.

SENATOR WILKEN asked how long of a trail would be needed to get to the existing trail that would intersect to point C.

MR. LOEFFLER said he thought it would be somewhat longer, but that it would be less extensive to render the alternative trail [indisc.].

SENATOR WILKEN asked if it would be easier to make the alternate

trail a better trail than to build a new trail along the west boundary of USS 5265 and the piece that's on top of it.

MR. LOEFFLER replied it would.

SENATOR TAYLOR asked for a ballpark figure of what it would cost to go in there and blast the alternative trail so it was useable.

MR. LOEFFLER replied that there were five steep sections and two side slopes and he didn't know how much it would cost.

SENATOR WARD moved to pass SB 362 from committee with individual recommendations.

SENATOR ELTON objected. SENATORS WILKEN, WARD, TAYLOR and COWDERY voted in favor; SENATOR ELTON voted against. SB 362 moved to the next committee.

#

#HB474

HB 474-ANCHORAGE COASTAL WILDLIFE REFUGE

CHAIRMAN COWDERY announced HB 474 to be up for consideration.

REPRESENTATIVE JOE GREEN, sponsor of HB 474, said that HB 474 is a protection bill that deals with a very unique saltwater marsh that in 1971 was called the Potter Point State Game Refuge and later in 1988 was changed to the Anchorage Fish and Wildlife Refuge. He explained that it is a very unique saltwater marsh that is home for a variety of winged and four-legged creatures and has a very critical portion of its habitat right at the juncture of the southwest boundary and the Refuge. For some time, the Department of Transportation has been looking at extending the existing Tony Knowles Coastal Trail up near the airport for about 12 miles diagonally along the boundary of the Refuge and private property down to the Potter Marsh. Unfortunately that trail that has been so predominant for the last two-plus years is right through this very critical habitat area. This bill is an attempt to try and protect that area, not to prevent putting a trail there.

REPRESENTATIVE GREEN explained that \$2.2 million has been spent so far on this issue and there is still no EIS. About three years ago, both bodies passed legislation requiring consideration of other trails. That legislation was vetoed by the Governor with his assurance that consideration would be given to the situation, but that [consideration] has been slipshod. People who have been trying to protect this area came up with an alternative gold route that has more exposure to the Inlet than the orange route if vegetation could be cut.

In January, Chip Dennerlein, Director, Division of Habitat and Restoration, said ADF&G had been working on this issue. He agreed that the only draft that was shown could not be permitted and he outlined several reasons why. Another route was found, the fuscia route, but Representative Green said he hasn't been able to get a copy of it. He said that is an example of the kind of problems they had been having all along. He suggested that as this bill moves, things will happen on the other end.

MR. CHIP DENNERLEIN, Director, Division of Habitat and Restoration, Alaska Department of Fish and Game (ADF&G), agreed with some of Representative Green's comments. He said their concern was with the specific location of the trail and that there were species that were unique to Anchorage and shared by other states. One of the highly sensitive areas where they did not want a trail has 1,600 - 1,800 snow geese grazing on it today. They had a 6,500-people heart run this weekend and they wouldn't want to propose a trail where those kinds of activities would happen. They worked out an alignment that would be a viable alternative that would let people enjoy wildlife but avoid some of the sensitive areas.

Currently the trail is a federal highway project that is subject to the process and environmental provisions in the Federal Highway Act and NEPA. The Federal Highway Administration (FHA) has reviewed all of the information in the alternative and has now released the sole approved list of viable and reasonable alternatives that the public will get to review. They will get to choose one of the alternatives or mix and match among them. The orange route does not exist anymore, but the fuscia route does.

MR. DENNERLEIN said pre-approval of a right-of-way by the legislature would be problematic. He offered to let the legislature know of his decision.

SENATOR WARD asked where the fuscia route went.

MR. DENNERLEIN explained that the fuscia route avoids going below the bluff between the [indisc.] spill area and Johns Park. It's part of the old Huffman alignment. It comes back through Johns Park and through the Furrow Creek Gully and avoids the rifle range.

SENATOR WARD asked if all the routes had property analyses.

MR. DENNERLEIN replied yes and said the problem with the gold route is that it would have a very large impact on private property.

SENATOR WARD asked if the section from Johns Park to Ocean View Bluff takes any private property.

MR. DENNERLEIN said that DNR could better answer that question, but, in the area he was referring to, there was a right-of-way that avoids the property. He thought there was a right-of-way acquisition and that someone had donated some land. No property is taken along Ocean View Dr., along the bluff or property.

SENATOR WARD said he had lived in that area a long time and asked him if he didn't think this would cause damage to any wildlife and where he got his information. He asked what studies he had done to show that there is an affect on wildlife there.

3:55 p.m.

MR. DENNERLEIN replied those would be from nesting surveys, a 1997 Survey of Wildlife Patterns, a study on the use of the refuge by mammals by Rick Sinnott, and a shorebird and migratory use report. He said there are several critical points around the Campbell Creek area. He said there was no way to put a route through the area that wouldn't have serious adverse impacts at some point in the year.

TAPE 02-20, SIDE B

He said the only way to address the area Representative Green was concerned about would be to move the trail to the top of the bluff.

MR. DENNIS POSHARD, Legislative Liaison, Department of Transportation and Public Facilities (DOTPF), said DOTPF recognizes the concerns of Representative Green's constituents, but believes this bill is not necessary. He explained:

Number one, we're already following a federally recognized and mandated process, the federal NEPA process. And that process appears to be working, albeit a contentious, painful process. I think that we're going to ultimately get to the right outcome.

Secondly, this area has already been designated a Refuge by state statute. That Refuge has a specific management plan in place and ADF&G is responsibly managing that refuge. You've heard Chip Dennerlein mention that he would not at all permit certain routes that were being considered and that in other areas he would be adamant that mitigation occur before he would permit.

In response to Senator Taylor's question on funding, Anchorage Metropolitan Area Transportation Study (AMATS) gets about \$8

million every year to go towards trails specifically within the Anchorage metropolitan area. They have every right under federal law to determine how that funding gets spent. The state has no authority to tell them how it gets spent.

SENATOR WARD moved HB 474 out of committee with individual recommendations.

SENATOR ELTON objected saying that he would vote no. He said it is a tough issue for him because he feels like he's taking the conservative point of view by saying that he's going to tip the scales in favor of access and away from habitat, which is unusual. He also suggested that the legislature is not the best planning and zoning commission.

SENATORS WILKEN, WARD, and COWDERY voted in favor; SENATOR ELTON voted against and HB 474 passed from committee.

#

#HB397

HB 397-EXEMPTIONS FROM DRIVER'S LICENSING

CHAIRMAN COWDERY announced CSHB 397(STA) to be up for consideration.

SENATOR WARD moved to pass CSHB 397(STA) from committee.

CHAIRMAN COWDERY objected and asked the sponsor if he had worked out the problems from the previous meeting with Senator Wilken.

REPRESENTATIVE VIC KOHRING, sponsor of HB 397 said he didn't think they had worked out the problems, although they had a meeting.

SENATOR WARD moved to withdraw his motion and asked for unanimous consent. There were no objections and it was so ordered.

REPRESENTATIVE KOHRING explained that CSHB 397(STA) removes the license requirement for an off-road vehicle, which is defined as snow machines, boats, ATVs, etc. Having a driver's license to drive a car in a city street is not germane to driving an ATV or snow machine.

4:10 p.m.

SENATOR WILKEN said he had the opportunity to ride his ski-doo this weekend and went 85 mph. If this bill is passed, all proof of responsibility and restrictions for a 13-year old to jump on that machine and drive it will be gone. He would suggest that is like giving 13 year olds a lethal weapon. It seems strange to him that at 14, a license is required to operate an automobile, but

at 13, 14 or 15 no license is required to get on any snow machine that will kill. According to testimony, there are 350 accidents per year. He maintained, "This bill is a very dangerous bill. This bill, should it go through, will kill kids and I just don't think that's really what we want to do."

He said the committee is deliberating this bill because an overzealous park ranger unadvisedly wrote a citation for a child on a kiddi cat. He remarked, "We have taken that event and changed it into what I consider to be a huge bill that once again puts our youth at risk."

He suggested addressing the following issues:

- If the unlicensed operator is within reasonable proximity to and under supervision of a licensed adult
- Damages or injuries caused as a result of an unlicensed operator are the responsibility of the parent or the legal guardian of the operator
- The legislation is effective upon approval of the SNOTRAC safety course by the Alaska Department of Public Safety
- This issue will be reviewed in five years

He said the committee heard testimony that SNOWTRAC is developing a safety program. He commented that if the licensing requirement is lifted, there should at least be some place to send children to get some level of training. He said without changes he remains adamantly opposed to the bill.

SENATOR WARD said someone can cross a road, but if someone is traveling from point A down a road to get to another snow mobile trail, there is no local ordinance that says that is legal. Those people are illegally going down that road. It's permissible to go across a road. He also said that not everyone abuses the law and in fact the ones that abuse it usually aren't kids.

SENATOR ELTON asked what the net effect of this amendment would be on a youngster in Bush Alaska where they have no highway system, and a snow machine is often used to get to school, do a trap line, or go to a grandmother's house.

SENATOR WARD said the youngster would need to have an adult with them.

SENATOR WILKEN said he wanted to go back to the issue of what problem they are trying to solve. He stated:

This law has been on the books for decades. Suddenly it rises because of some incident - it rises to some notoriety... So we have an administrative problem that

we're going to take what I consider to be a very major step that puts kids at risk.

SENATOR ELTON agreed with what Senator Wilken was saying and tended to agree up to a point with what needs to be done and that clearly there is a safety issue. In his mind there is a dramatic difference between recreational use in areas where a snow machine will be on a road system in which you have to obey the laws of the land as written for operators of a motor vehicle. In some areas of the state, mostly the Bush, having a snow machine isn't a matter of choice, it's a matter of necessity for all ages of users.

SENATOR WILKEN said they are not just talking about snow machines, but ATVs, jet skis, watercraft, river boats, and basically any propelled vehicle.

REPRESENTATIVE KOHRING said he also thought that safety is a concern. He suggested passing the bill to decriminalize the use of off-road vehicles without a driver's license and next session look at the suggestions from the SNOTRAC Board.

CHAIRMAN COWDERY asked if the people who make snow cats for kids would be put out of business.

SENATOR WILKEN responded that Arctic Cat doesn't make them any more, but Ski-doo does and they are limited to about 120 cc and go about 8 mph. Those machines will still get produced and he thought at 8 mph you're going to be within reasonable proximity of your parent. He is bothered with the issue of the 13-year old.

REPRESENTATIVE KOHRING pointed out that a safe speed and safe driving are still applicable whether there's a license law or not.

4:25 p.m.

SENATOR WARD explained that his grandchildren have earned the right to drive their off road vehicles and he thought there were enough laws to take care of the situation exactly the way it is and there is nothing they can legislate to stop a 13 year old from going out of control. He thought they needed to enforce the current laws.

MR. DEL SMITH, Deputy Commissioner, Department of Public Safety, said that the State Troopers are somewhat ambivalent about any change in the law recognizing that they patrol a part of Alaska that uses off road vehicles for their primary source for transportation. Requiring a driver's license is not an enforcement priority for them for a number of reasons. It is down on the list of the seriousness of things. They are trying to deal

with other issues and with having enough staff to patrol. A snow machine can outrun a car and they don't have very many snow machine incidents.

SENATOR WILKEN asked how many citations had been written for kids operating snow machines without driver's licenses.

MR. SMITH replied that it is extremely rare.

SENATOR WILKEN asked if he thought enforcement efforts would increase or decrease if this law doesn't pass.

MR. SMITH replied that he would say [it would not change] given their situation and the prioritization of their response.

SENATOR WARD pointed out that Senator Wilken said that Fairbanks has an ordinance that allows snow mobilers to go down a road to get from one trail to another, but he said it is impossible for a local entity to adopt such an ordinance because it would be in conflict with state law, which says you can go across a road in order to get across it. There's nothing that says you can go down a road to get to another trail. Otherwise you could use the argument that you can drive from Willow to Big Lake.

MR. SMITH said he was quoting 13 AAC and the 90-degree crossing roadways is what it refers to. People are not to travel the roadways, but he is not prepared to comment more.

SENATOR WARD said the troopers in his area have told all operators, whether of ATVs, snow machines or dirt bikes to stay off the roadways.

SENATOR WARD said the in the northern part of Seldovia, most people use ATVs and four-wheelers to get from house to house so, so there is a conflict because kids are breaking the law now.

MR. FRANK SACCO, Chief, Surgery Service, Alaska Native Medical Center, said he acted as director of the Trauma Service and had been taking care of patients, a majority of whom are from the Bush. He shares some of the concerns about the way the law is written, but he thought they would be remiss if they didn't look at the overall problems with snow machines and especially with children. He said he sees about one child per month with a serious head injury from riding a snow machine without a helmet. He has never treated one who was wearing a helmet. He thought they are the same as life preservers for kids on boats. He strongly urged that the bill require the use of helmets for children. He sees six-year olds driving four-year olds around on ATVs and he thought there needs to be some laws about those situations.

SENATOR WARD asked if passing a helmet law would stop the irresponsible parents who were allowing a six-year old to drive a four-wheeler.

MR. SACCO replied that he didn't think they could legislate personal responsibility for everyone, but he thought a helmet law for kids would increase usage of them.

SENATOR WARD asked if Mr. Sacco had asked any Native organizations how they would feel about a helmet law.

MR. SACCO said he is speaking for the Alaska Native Medical Board (ANPHB) and they support of taking measures for children.

MS. MARY LEEMHUIS, ANMC, said she does a lot of family teaching and children come in with too many brain injuries. Most people don't realize that it doesn't take a lot of speed to cause severe injury to the brain and even death. A helmet would protect the brain of a child. Any time the brain is knocked around it can bleed and tear and that's what sometimes causes irreversible damage.

TAPE 02-21, SIDE A

4:47 p.m.

MR. BILL REED, Providence Hospital surgeon, said that recent patients who are involved in snow machine accidents are exposed to much greater forces than they have ever seen before, predominantly because of the speed involved. The velocity is what determines the extent of the injury. In addition, the terrain that people travel on in Alaska is much more difficult. He stated:

The point we are trying to make here is that right now the only law that controls children on snow machines restricts people who are 16 that don't have a license. Our concern is that this is a flawed law. It could be improved upon and I think that Senator Wilken's proposals go a long way to that improvement...

CHAIRMAN COWDERY asked what percentage of the patients are adults.

MR. REED replied about 50% were over the age of 18.

SENATOR WARD asked if he was advocating a helmet law for people under the age of 14.

MR. REED said in his opinion a helmet law is an important consideration and that compensation for the victims of accidents

should be part of this too.

MR. STEVE TOWER, Orthopedic Surgeon, Alaska State Medical Association, said he has 14 years of experience in medical practice in Alaska. He told members:

The Alaska State Medical Association supports legislation regarding snow machines and ATVs that defines and enforces elements of safe machine operation, defines and enforces appropriate training and documentation of machine operators, would define age restrictions for machine operators and define and enforce safe machine operation in the presence of pedestrians and supports mandatory use of appropriate helmets by those 16 years of age or younger, either operating these machines or transporting the machine.

The reason for this stance, which was passed overwhelming by the delegates of the Alaska State Medical Association, is the huge mass of trauma grief we're seeing on an annual basis, which is increasing at a rate of 10% a year. You all should know the scope of the problem. This is the second leading cause of death and injury in our children age 10 to 14. These machines are known in Alaska to be ten times more hazardous to operate than a road vehicle. I congratulate Senate Ward with being able to sit there without the state of nervous anxiety while a seven-year old operates one without adult supervision. I think that's absolutely idiotic and the data supports me there.

We know these machines kill 30 to 50 Alaskans per year. They hospitalize 300 to 400 Alaskans a year. This consumes \$2,000 to \$3,000 days per year to treat the injuries, most cost of which is borne by the state. One quarter of those killed or hospitalized are minors. A quarter of those hospitalized are brain injured and this is the main driver of long-term medical expense. For a brain-injured patient, only a fraction of medical and social expense is derived in the acute hospitalization and about 8 to 10 times that initial expense is extracted from society at a later date. Only a small fraction of these people are ever employable and in many of these families, a family member has to quit work to care for them at home. It's for these reasons the State Medical Society is vehemently opposed to HB 397. This is an idiotic piece of legislation, which was a hip shot and a problem that doesn't exist...

SENATOR WARD asked what he was advocating for.

MR. REED replied that he wanted a mandatory helmet law for people 16-years old or younger if they operate or transport snow machines and ATVs.

SENATOR WARD said he wasn't ready to pass a law like that today. He also thanked him for his service to the community.

MR. CHARLES HOSACK, Deputy Director, Division of Motor Vehicles (DMV), said he would answer questions.

SENATOR WARD asked if the DMV had a position on mandating that everyone under the age of 16 wear a helmet.

MR. HOSACK replied no.

SENATOR WARD asked him to get one, please.

MR. SCOTT HAMANN, ABATE, said you can't make criminals of good people and no one even knew this bill existed. He goes out every weekend with about 30 kids from their church and has a good time and they shouldn't be criminals. He said there are laws on the book right now that deal with reckless endangerment and things like that and troopers have the discretion to enforce them.

CHAIRMAN COWDERY asked if snow machine shops sell safety accessories like helmets of different sizes.

MR. HAMANN replied they do. He thought the freedom of choice works because about 75% people wear helmets on their own.

CHAIRMAN COWDERY commented that every shop he's been in tries to sell him everything.

SENATOR WILKEN said he wanted the bill's sponsor to comment on his four suggestions; the issue of safety and an alternative to this disqualification and a way to review it in five years.

REPRESENTATIVE KOHRING said those are not unimportant considerations, but they should be looked at in different legislation on safety. He appreciates Senator Wilken's concerns and didn't want to down play the issue of safety.

SENATOR ELTON moved amendment 1, on page 2, line 7, which says a person who is at least 16 years of age with a valid driver's license from a jurisdiction other than Alaska can drive a motor driven cycle with a provision that an Alaska driver's license for driving a motor driven cycle be obtained by the end of a 90-day period after entering the state.

He explained the purpose of the amendment is to address situations in which a tourism entrepreneur in a community may want to rent Vespas and mopeds to tourists. Language on page 1, line 11 provides that a non-resident who is at least 16 years of age and who has a valid driver's license issued by another jurisdiction [may drive] a Vespa or moped, however an Alaska driver's license must be obtained after a 90-day period of entering the state. There is dispute among attorneys as to whether or not that exemption applies to motor driven cycles. In our state there is an M1 qualification that applies to motorcycles and an M2 qualification, which applies to Vespa scooter, mopeds, etc. In most states a driver's license allows you to use a Vespa or a moped; in Alaska it doesn't. This would provide that tourists who are getting off a ship and want to rent one can do it. If they stay, they can't. This has nothing to do with discussions on the bill so far, but it does provide an economic opportunity for tourism entrepreneurs.

CHAIRMAN COWDERY asked if this would apply to dirt bikes or motorcycles.

SENATOR ELTON replied that drivers would need an M1 qualification on their driver's license. This only applies to the M2 qualification.

MR. MIKE KRIEBER, staff to Representative Kohring, explained that HB 397 would exempt the license requirement for off road bikes.

SENATOR ELTON said there was a difference of opinion among attorneys about whether language on page 1 of HB 397 would actually allow his constituent to have the vehicle rental business. He said this is a common business in other tourism destinations and would provide an economic opportunity for a lot of people.

SENATOR WARD asked if the City and Borough of Juneau can allow it now without a state law.

SENATOR ELTON replied that state law prevails.

SENATOR WARD asked Mr. Hosack what he thought about the amendment.

MR. HOSACK responded that they would have some concerns over it. Anyone operating a motorcycle in Alaska is required to have a motorcycle endorsement, either M1 or M2, the M2 is for small bikes under 50 cc. He would be concerned if the amendment allows non-residents a privilege that is not allowed to residents, especially over the size of the power of a vehicle and in a crowded city environment such as in some southeastern

communities. He opposed the amendment.

SENATOR ELTON said he could understand DMV's concern and stated:

I would just suggest that if other jurisdictions are licensing people for the operation of these machines, we ought to reciprocate unless they are going to be here for longer than 90 days.

SENATOR TAYLOR said he would object to the amendment only because he thought it was covered by language on paragraph 2 on line 11. He is somewhat surprised by the response from DMV and thought they might amend the legislation to include it.

SENATOR WARD said part of the problem is that some states provide for a driver's license that authorizes a person to drive a motorcycle, too. Those 16 year olds from those states who come to Alaska would be able to rent a motorcycle, but Alaskan kids would not because Alaska now has dual licensing. In Nevada one license covers all, like it used to here.

MR. KRIEBER said that all ages are required to have an endorsement for motorcycles.

SENATOR TAYLOR asked what impact this would have on stand up two-wheelers.

SENATOR ELTON replied that his understanding is that in the legislation regarding personalized motor vehicles no license would be required and the legislation limited the restrictions on where they could go.

SENATOR WILKEN clarified that under regulation 2.455, section 3, it is legal in Fairbanks to drive on a road if you're making your way to a trail. The city has a prerogative to adopt that policy. You can also ride on a bridge as long as you don't obstruct traffic and obey traffic rules. He commented, "At least in this city, they can have a 13-year old on a snow machine on a city street going to the trail and it would be legal."

SENATOR WARD said that is in violation of state law.

SENATOR ELTON said that he was ready to vote on the amendment, which inserted on page 2, after line 7, "a person who is at least 16 years of age with a valid driver's license."

SENATOR TAYLOR noted that this amendment shifts the intent of the bill from just off road vehicles to on road.

SENATOR WARD added and to out-of-state people.

SENATOR TAYLOR said it didn't mention anything about the size of the vehicle.

SENATOR ELTON responded that the definition of a motor driven cycle is 50 cc's or less.

SENATOR TAYLOR asked what something above 50 cc's called.

SENATOR ELTON replied that would be a motorcycle requiring an M1 qualification on the driver's license.

CHAIRMAN COWDERY asked if the amendment would require a title change.

SENATOR ELTON replied that from opinions he has received it works.

SENATOR WARD maintained his objection because it treats Alaska citizens as second class people.

CHAIRMAN COWDERY asked for the vote. SENATORS TAYLOR, ELTON, WILKEN voted in favor; SENATORS WARD and COWDERY voted against; and Amendment 1 was adopted.

SENATOR WARD moved to pass SCS CSHB 397(TRA) from committee with individual recommendations.

SENATOR WILKEN said it is a dangerous bill.

SENATOR ELTON agreed and thought they should spend a little bit of time to figure out how to make it work so that it addresses the safety issue and the different kinds of uses across the state.

SENATOR TAYLOR said they wouldn't have this bill before them if it weren't for a bizarre incident. He thought that there had been great testimony, but it is a complicated subject. He said that watercraft in the Bush is one of our single biggest killers. There were no objections and it was so ordered. People will act irresponsibly, but he asked how to regulate that. He remarked, "We're killing more people on snow machines than we are by drunk drivers and yet we're falling all over ourselves down here to penalize and pass laws and do additional things on drunk drivers."

CHAIRMAN COWDERY called for the vote. SENATORS ELTON, WARD, TAYLOR, and COWDERY voted in favor; SENATOR WILKEN voted against and the bill passed from committee as amended.

#

CHAIRMAN COWDERY adjourned the meeting at 5:30 p.m.