

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 25, 2004

1:35 p.m.

TAPE (S) 04-6

MEMBERS PRESENT

Senator Bert Stedman, Chair
Senator Thomas Wagoner, Vice Chair
Senator Gary Stevens
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 25

Recommending that certain federal funding restrictions be eased so that more villages in Alaska would qualify for assistance relating to flooding and erosion.

MOVED SJR 25 OUT OF COMMITTEE

SENATE BILL NO. 238

"An Act relating to initiative and referendum petitions; and providing for an effective date."

MOVED SB 238 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SJR 25

SHORT TITLE: FLOODING AND EROSION CONTROL ASSISTANCE

SPONSOR(S): SENATOR(S) OLSON

02/06/04	(S)	READ THE FIRST TIME - REFERRALS
02/06/04	(S)	CRA, STA
02/25/04	(S)	CRA AT 1:30 PM FAHRENKAMP 203

BILL: SB 328

SHORT TITLE: NATIONAL FOREST INCOME PROGRAM/DCED REGS

SPONSOR(S): SENATOR(S) STEDMAN

02/13/04	(S)	READ THE FIRST TIME - REFERRALS
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02/13/04 (S) CRA, FIN
02/23/04 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
02/23/04 (S) CRA, FIN
02/25/04 (S) CRA AT 1:30 PM FAHRENKAMP 203

WITNESS REGISTER

Senator Donny Olson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor SJR 25

Tony A. Weyiouanna Sr.
Shishmaref Village Transportation Planner
P.O. Box 72100
Shishmaref, AK 99772
POSITION STATEMENT: Gave a presentation on SJR 25

Luci Eningowuk
Chairperson,
Shishmaref Erosion and Relocation Coalition
P.O. Box 72100
Shishmaref, AK 99772
POSITION STATEMENT: Gave a presentation SJR 25

Kelly Eningowuk
Shishmaref Erosion and Relocation Coalition
P.O. Box 72100
Shishmaref, AK 99772
POSITION STATEMENT: Gave a presentation SJR 25

JULIE BALTAR
Director, Kawerak Transportation Project
P.O. Box 948
Nome, AK 99762
POSITION STATEMENT: Responded to questions on SJR 25

Art Ivanoff
Executive Officer of the Native Village of Unalakleet
Unalakleet, AK 99684
POSITION STATEMENT: Testified on SJR 25

DICK COOSE
Staff to Senator Bert Stedman
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced SSSB 328

BILL ROLFZEN

National Forest Receipt Program Administrator
Department of Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800

POSITION STATEMENT: Answered questions on the national forest receipt program as it relates to SSSB 328

ACTION NARRATIVE

TAPE 04-6, SIDE A

CHAIR BERT STEDMAN called the Senate Community and Regional Affairs Standing Committee meeting to order at 1:35 p.m. Present were Senators Gary Stevens, Wagoner, Elton and Chair Stedman. Senator Lincoln arrived a minute later.

SJR 25-FLOODING AND EROSION CONTROL ASSISTANCE

CHAIR BERT STEDMAN announced SJR 25 to be up for consideration. He asked Senator Olson to come forward to introduce the bill.

SENATOR DONNY OLSON, sponsor of SJR 25, read the sponsor statement.

SJR 25 is a resolution requesting the Army Corps of Engineers (Corps) ease their cost and benefit analysis for projects in rural Alaska.

I have proposed this resolution in response to many concerns voiced by my constituents with regard to the erosion and flooding problems that plague western Alaska. Currently many of the villages in western Alaska do not receiving the assistance needed for the protection of life and property.

On November 8, 2003 a winter storm hit western Alaska. This storm caused considerable damage to Unalakleet, Shishmaref, and some of Nome's surrounding areas. While the governor has declared a state of disaster because of this storm, the continued effects of erosion on the villages of Alaska are not going to be solved by emergency disaster.

SENATOR GARY STEVENS asked him to speak to the cost benefit analysis and how the Corps determines projects and what is wrong with their method.

SENATOR OLSON explained that the Corps looks at what it would cost to remedy a situation and then they look at what it will benefit. In this case, the erosion has gone on for many years and the benefit will be to a relatively small population.

As they ask questions, he charged, the Island of Shishmaref is eroding. Unfortunately the Corps doesn't take into consideration the culture, lifestyle and the social benefits associated with maintaining the integrity of the community.

CHAIR STEDMAN said the committee would look at a Power Point presentation then return with questions.

[A copy of the Shishmaref Erosion and Relocation Coalition booklet may be found in the bill file.]

TONY WEYIOWANNA SR., Shishmaref Village Transportation planner, identified himself.

LUCY ENINGOWUK, chairperson of the Shishmaref Erosion and Relocation Coalition, identified herself and advised that they have been working on the coalition since 1997 when they experienced the first damaging storm. The three entities in Shishmaref have joined together to work at solving this problem.

She explained that Shishmaref is located on a barrier island and the immediate concern is to get help providing erosion protection for the community. Beyond that, their goal is to move and reestablish Shishmaref on the mainland.

Shishmaref is one of the 18 to 20 communities in the Bering Strait region and the village is farther north than any other village. Transportation consists of a few trucks, snow machines, ATVs, small aircraft, and small boats.

LUCI ENINGOWUK continued to show pictures of community life, subsistence living and a number of different damaging storms.

SENATOR LINCOLN asked where the erosion is worst and whether any houses have been lost.

SENATOR OLSON pointed out that a number of houses have been moved back away from the water, but some have already gone in.

It's of particular concern that the bulk fuel tanks are ever closer to the edge. This is a threat to the community and the environment.

KELLY ENINGOWUK added they have already moved 18 homes. She continued to show pictures and outline what isn't there anymore.

SENATOR GARY STEVENS asked if this is the result of major climatic changes.

KELLY ENINGOWUK replied they believe it is a result of a warming trend that is noticeable in her lifetime.

SENATOR GARY STEVENS remarked the situation probably won't get better in that case.

KELLY ENINGOWUK agreed and explained that the bluffs are sandy so all that is holding it is the permafrost. Wave action melts the permafrost and the bluff fails, she said and proceeded to show examples including the near loss of their power supply. Other pictures showed that the community airstrip has been jeopardized as well.

SENATOR WAGONER asked to see a map showing the current location of the village and the proposed relocation site.

MR. WEYIOWANNA SR. produced a map showing that Shishmaref is located on Sarichef Island in the Chukchi Sea, about 120 miles north of Nome. The community voted to relocate to the mainland about 13 miles away - 10 miles across Shishmaref Inlet and about 3 miles inland.

SENATOR ELTON asked how fuel would be delivered to the new site and whether it would be possible to get a fuel barge inside the barrier islands.

MR. WEYIOWANNA SR. explained the study that relates to the placement of the fuel facility, the size needed and delivery particulars is a work in progress.

SENATOR OLSON added that fuel barges would travel up the river channel to a marina and a pipeline would run from there to the new village site.

SENATOR GARY STEVENS asked whether they expect that the barrier islands will one day be gone altogether at which time Shishmaref Inlet would be less protected from weather from the Chukchi Sea.

SENATOR OLSON pointed to shallow shoals offshore and explained that they help break wave action.

MR. WEYIOWANNA SR. reported that the community has been working with:

- The Natural Resource Conservation Service to select a relocation site,
- The U.S. Army Corps of Engineers - most recently to provide beachfront protection for teacher's quarters
- Tribal partnership program grant to assess current erosion and teacher relocation
- Alaska Division of Emergency Services
- Federal Emergency Management Agency (FEMA) and Alaska Community and Economic Development
- HUD Housing Authority to relocate homes
- Denali Commission

2:10 pm

KELLY ENINGOWUK said the request for state assistance is two fold:

- The immediate goal is to provide erosion control at the current village site
- The long term goal is to relocate the community

Recently the school underwent a \$10 million, state funded, renovation. Additionally, the Corps has authorized a Section 14 project to protect the school property with the proviso that the village provides up to \$400,000 in local match dollars. The village doesn't have that money and they are asking the state to help in any number of ways:

- Help the village receive a waiver so that the program would be 100 percent federal
- Ask the Army Corps of Engineers to consider the Kawerak Transportation Project of a riprap seawall as the local match
- Authorize state funds - up to for the local match

SENATOR GARY STEVENS asked if it makes sense to do temporary fixes when the long-term fix is to move the village.

KELLY ENINGOWUK said it does make sense because the village needs protection now. She said she doesn't foresee the move happening inside of five years.

SENATOR ELTON asked how much federal money the \$400,000 match would bring.

KELLY ENINGOWUK replied the cap is \$1 million for the Section 14 contract then cautioned that is just for the school property because those projects are limited to public facilities.

MR. WEYIOWANNA SR. pointed to pictures of single and double line gabions and explained that they typically last just one storm. The Corps of Engineers has admitted that even though the riprap project is designed to last 25 years, it might last just 10 years because of the rising sea level. Although this may appear to be a band-aid fix, it would allow them time to work on a plan to move the community.

KELLY ENINGOWUK said they have done research and believe this is the best cost effective solution.

SENATOR WAGONER asked how many people currently live in Shishmaref.

KELLY ENINGOWUK reported the population is about 600.

Continuing her presentation, she said the riprap seawall project to protect the main road starts in March, but they need erosion protection in other areas of the town as well. She noted they have local material and previously used gabions from failed seawalls that they are prepared to use.

TAPE 04-6, SIDE B
2:20 pm

Relocation, she repeated, is the long-term goal and they specifically ask for state help to:

- Request the federal government enact special measures to ensure Alaska villages qualify for and receive federal assistance for erosion protection and relocation
 - Coordinate effort between federal and state agencies
 - Ask (FEMA) to take the lead
- Request the federal government enact legislation that establishes Shishmaref as a demonstration project for both erosion and relocation assistance
- Request that various state agencies are fully involved and engaged in establishing a new community

- Full cooperation and coordination with federal agencies and local entities
- Ask various state departments to provide technical assistance and funding for establishing the new community

SENATOR GARY STEVENS noted there are between 150 and 200 communities that are facing erosion problems several of which are on Kodiak Island. He asked if they were actually asking the Legislature to support the request that is going through U.S. Senator Ted Stevens and the Corps.

KELLY ENINGOWUK agreed that is basically correct.

MR. WEYIOWANNA SR. repeated that the section-14 project requires a 35 percent match for a \$1 million project so the village needs between \$350,000 and \$400,000. Because they have no economic development and no tax base in their area, they don't have that money.

2:25 pm

SENATOR GARY STEVENS questioned how many millions of dollars would it take to satisfy both the immediate and the long-term goals. What would it cost to slow the erosion in the village and also to relocate the village?

KELLY ENINGOWUK said they don't have an estimate for Shishmaref, but for Kivalina the estimate is \$110 million.

SENATOR GARY STEVENS asked how many people live in Kivalina.

[Indiscernible answer - the 2003 state demographer estimate is 388]

SENATOR GARY STEVENS asked how much the temporary fix would cost.

KELLY ENINGOWUK replied they have pieces of it being done including the Kawerak Transportation Project, the Section 14 project, and several others. They do have equipment on site, but they need \$3.4 million for the section that isn't funded.

SENATOR ELTON referenced the request that the federal government enact special measures so that Alaska villages qualify for federal assistance and suggested an additional resolve that might read:

Be it further resolved that the Alaska State Legislature request that the federal government enact special measures to ensure Alaska villages qualify for and receive federal assistance for erosion protection and relocation and that a coordinated effort between the federal and state agencies be led by FEMA.

Although he wasn't sure that the sponsor is comfortable with FEMA as the lead agency, he thought that was key in the presentation; the village needs assistance that is provided in a coordinated way. Perhaps, he said, subsequent testifiers would comment on that.

CHAIR STEDMAN opened the floor to public testimony.

JULIE BALTAR, director of Kawerak Transportation Project, explained that Kawerak is the regional nonprofit corporation in the Bering Strait region and Kawerak supports Senator Olson's resolution.

She said they have had direct interaction with NRCS, the U.S. Army Corps of Engineers and a bit of contact with FEMA. After working with the Corps for over three and a half years, their observation is that the Corps isn't in a position to respond to an emergency because of cumbersome regulations and policies.

For example, U.S. Senator Ted Stevens got about \$1 million into Corps appropriations for assistance for Shishmaref for an expedited EIS in February 2002. It's now February 2004 and the Corps has just determined how they can expend those funds. Because of that inability to respond, Kawerak believes that if there were to be a joint agency response, FEMA is better positioned to take the helm.

Shishmaref coalition members met with U.S. Senators Stevens and Murkowski in January and a high-level multi agency meeting was suggested. They are waiting for a date to be set for that meeting, but believe the results of the meeting will provide great benefit to everyone that is working with erosion.

Shishmaref has plans and would like to relocate by 2009, she said, but at the current rate of erosion, there will be no village left to move unless more permanent erosion measures are put in place.

SENATOR LINCOLN noted that the federal government would have responded quickly with emergency help if the villagers had done

nothing and let the houses and other structures fall into the water. The villagers were proactive in trying to save both buildings and money and unfortunately, because of current federal regulations, their action disqualifies them from receiving the emergency help they need so badly.

She agreed with the resolution, but wondered whether there is any discussion in Washington D.C. to remedy the situation outlined above. Certainly it is cost effective to take care of the problem now.

SENATOR OLSON apologized that the Shishmaref delegation had to leave, but advised he would stay and answer questions. He described the working relationship between the city, the Native corporation and the IRA (Indian Reorganization Act) Council as the epitome of a successfully coordinated effort. Although Shishmaref illustrates the extreme problems that villages in Bush Alaska encounter with erosion, others such as Kivalena and Koyuk are similarly affected. He then asked Ms. Baltar to address Senator Lincoln's question about what is happening in Washington D.C.

MS. BALTAR reported that the president of Kawerak was in Washington D.C. and working on the issue of how the current regulations were not working. During discussions with the Alaska Delegation they learned that there is opportunity for considerable flexibility in interpreting the current regulations in statute. They hope that a multi agency meeting will provide the opportunity to exercise that flexibility and move forward without trying to make legislative changes.

SENATOR LINCOLN expressed the desire to have in hand the speech that U.S. Senator Stevens made to the joint body and noted that he spoke to the fact that he is concerned about erosion. She asked whether addressing the issue means that he intends to change some regulations.

MS BALTAR thought he was trying to do that and then remarked that the Corps' burdensome process adds millions of dollars to the cost estimates for these projects. That should be taken into consideration because Kawerak believes that it would cost much less to move a village than the amount that is currently projected.

CHAIR STEDMAN called on Art Ivanoff.

ART IVANOFF, executive director of the Native Village of Unalakleet, participated via teleconference and concurred with statements made by the Kawerak and Shishmaref representatives. He said it is significant that of the 213 villages in Alaska, flooding and erosion impact 184 and four are immanently threatened. Because global warming is occurring he wondered where the villages would be in 10 to 20 years.

He reported that the various entities have been working to change the federal cost benefit policy because most villages don't have the economies of scale or population base to justify the Corps spending money in the communities.

CHAIR STEDMAN asked Senator Olson if he wanted the committee to consider the suggested change.

SENATOR OLSON replied the recommendation was good, but the additional resolve could be inserted in another committee.

SENATOR LINCOLN made a motion to move SJR 25 from committee with individual recommendations and attached fiscal note. There being no objection, it was so ordered.

SB 328-NATIONAL FOREST INCOME PROGRAM/DCED REGS

CHAIR BERT STEDMAN announced SB 328 to be up for consideration. He said he was the sponsor and the bill was titled, "An Act relating to the national forest income program in the Department of Community and Economic Development and to the authority of the department to adopt regulations; and providing for an effective date." He asked his staff member to introduce the bill.

DICK COOSE, staff to the sponsor, Senator Bert Stedman, explained that, "This legislation makes the statutory changes required for the Department of Community and Economic Development to disburse the funds commonly referred to as the timber receipts." The original act dates to 1908 and calls for 25 percent of national forest timber receipts to be distributed to counties, boroughs, cities and rural school districts.

The "Secure Rural Schools and Community Self-Determination Act of 2000," substantively changed the timber receipt program he said,

The payments to the state under the "Secure Rural Schools Act" are stabilized for that period of 2002 to 2007 rather than fluctuate the way it had been and

dropping rather significantly due mainly to the reduction of timber sales on the national forest.

The distribution to the boroughs, the cities and the rural education attendance areas changed only in the fact that the new federal act required a 15 to 20 percent special projects out of that money and the balance of it be spent on the traditional schools and roads type things.

Special projects are defined in the Act and SB 328 allows the Department of Community and Economic Development to prepare the regulations that reflect this distribution and the accounting of the special projects and makes the technical corrections to the regulations.

SENATOR KIM ELTON asked him to elaborate on the special projects mentioned in the federal act.

MR. COOSE explained there are Title II and Title III special projects. Title II projects are accomplished by the Forest Service using a resource advisory committee while Title III special projects are controlled by the local borough through the local elected body. He added it is the local government that makes the choice with regard to which entity controls and does the project.

SENATOR ELTON asked if this is a new distribution of the timber receipts.

MR. COOSE said it is new because under the original legislation, 100 percent went to the local entities for schools and roads. That changed with the new act and now up to 15 percent of the total can be directed to special projects. The limitation is that any body receiving less than \$100,000 doesn't have to specially allocate 15 percent.

SENATOR ELTON asked if that means that now the only guarantee for schools and roads is 85 percent and the Forest Service or the local government determines the remaining 15 percent.

MR. COOSE said, "That's true."

SENATOR LINCOLN advised her wasn't sure what she was asking because the question came from a community. She read, "What is

the federal community development quota program and how does it relate to the forest receipts program?"

MR. COOSE replied they aren't related. Community development referred to in SB 328 relates to technical conforming changes and has nothing to do with national forest receipts.

SENATOR LINCOLN said she had a second question that asks, "Does this bill give the state authority to charge administrative costs to the forest receipts program over which they charge now?"

MR. COOSE said he too had that question and he isn't aware that it does give that authority, but he would defer to Mr. Rolfzen.

SENATOR LINCOLN noted that the new act changed the allocation for schools and roads from 100 percent to 85 percent. She continued, "I always get a little concerned when my colleague from the other side of the aisle is constantly asking, well what do we contribute in the rural areas towards schools." She didn't want to further erode funding for schools and then have to defend doing so at a later time. She asked Mr. Coon if he could help her respond.

MR. COOSE replied, "The positive thing about the Secure Rural Schools Act is it stabilized it at a higher level than what we were getting the last say 6 or 8 years because it was going down."

For example, as a result of the new act the Ketchikan Gateway Borough went from roughly \$100,000 to \$400,000 in forest receipts. Even though the federal law requires that they put 15 percent into special projects, they have had an overall gain.

SENATOR LINCOLN asked if Ketchikan could have used the full \$400,000 for schools and roads or did they lose 15 percent.

MR. COOSE said they were not able to use 15 percent, which amounted to \$60,000 in Ketchikan.

SENATOR LINCOLN said she wanted to hear Mr. Rolfzen's response.

BILL ROLFZEN, national forest receipt program administrator, Department of Community & Economic Development, explained that the federal legislation back in 2000 severed the tie between sharing income from timber harvest with local communities for schools and roads in favor of a guarantee for higher payments.

The compromise at the federal level came in the form of the 15 percent that is set aside for stewardship type projects on federal lands.

One eligible special project is search and rescue on federal land and Juneau has opted to set aside their 15 percent to help fund the helipad at the hospital for rescues that occur on federal lands surrounding Juneau.

SENATOR LINCOLN asked whether communities could use the 15 percent for education.

MR. ROLFZEN said there is one special projects category that calls for after school forest related education opportunities and the REAAs in particular have used their 15 percent for that sort of activity.

CHAIR STEDMAN asked him to elaborate on the fact that there is flexibility in the annual 15 percent allowing communities to respond to different projects.

MR. ROLFZEN explained that boroughs and communities have the option of setting aside a minimum of 15 percent and a maximum of 20 percent each year for special projects. So far, all entities have selected the minimum amount, he added.

The projects themselves provide considerable flexibility, he said, and then reiterated that this is a federal requirement that is implemented at the state level.

SENATOR GARY STEVENS confessed he wasn't sure that he followed the explanation entirely and asked if the forest income money that goes to communities for education becomes tied in with the contribution cap that boroughs have to fund education. If it's tied to the cap then it reduces the amount of money that local communities can contribute to education, but if it's independent then it is in addition to the cap.

MR. ROLFZEN replied, "It adds to their total. It has no impact on the state financial aid or the federal aid."

SENATOR GARY STEVENS said, "So a local community can put in its cap and then this adds additional monies to education."

MR. ROLFZEN nodded his head.

SENATOR ELTON followed up saying he thought timber receipts money figured into the foundation formula.

MR. ROLFZEN said it doesn't.

SENATOR ELTON questioned, "So it goes straight to the districts and then are our foundation formula dollars subtracted from the districts then, to reflect the receipt of those dollars?"

MR. ROLFZEN replied, "To my knowledge, it is not offset in any way a local aid for school districts."

SENATOR ELTON understood differently and asked for follow up because, "My understanding is that this reduces kind of the bite on our foundation formula - the receipt of those timber receipts and that has always been.... seen as a local contribution from those rural schools..."

Referring back to the discussion on how special receipts are used, he asked who decides how and where the local share of that 15 percent is used.

MR. ROLFZEN explained the Title III funds go straight to the borough and the borough assembly decides how to use the money.

SENATOR LINCOLN returned to the question of whether SB 328 gives the state authority to charge administrative costs to the forest receipts program over and above what is currently charged.

MR. ROLFZEN stated the state doesn't charge any administrative expense against the program and noted they submitted a zero fiscal note indicating no administrative cost. "We pass through every penny through to the communities," he asserted.

CHAIR STEDMAN asked Senator Elton whether he would like the bill held until he got an answer to the foundation formula question.

SENATOR ELTON noted the bill was moving to Finance and said he would ask his staff member who used to be special assistant on education and staff to the State Board of Education for clarification. He said he would pass that information he receives along to the committee and he didn't have any problem moving the bill forward.

SENATOR GARY STEVENS made a motion to move SSSB 328 from committee with individual recommendations and zero fiscal note. There being no objection, it was so ordered.

There being no further business to come before the committee,
Chair Stedman adjourned the meeting at 2:58 pm.