

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**April 01, 2003**  
**9:02 AM**

**TAPES**

SFC-03 # 37, Side A  
SFC 03 # 37, Side B  
SFC 03 # 38, Side A

**CALL TO ORDER**

Co-Chair Gary Wilken convened the meeting at approximately 9:02 AM.

**PRESENT**

Senator Lyda Green, Co-Chair  
Senator Gary Wilken, Co-Chair  
Senator Con Bunde, Vice Chair  
Senator Robin Taylor  
Senator Ben Stevens

**Also Attending:** SENATOR JOHN COWDERY; GEORGE LAVASSEUR, Acting State Maintenance Engineer, Office of the Commissioner, Department of Transportation and Public Facilities; BILL CORBUS, Commissioner, Department of Revenue; RICHARD SCHMITZ, Staff to Senator Cowdery; MARK O'BRIEN, Chief Contracts Officer, Contracting, Procurement and Appeals, Office of the Commissioner, Department of Transportation and Public Facilities;

**Attending via Teleconference:** Offnet: JIM JOHNSON, President, Johnson Tire Service; CHUCK MCGEE, US Representative for Ugigrip; RICHARD NORDNESS, Executive Director, Northwest Tire Dealers Association; BRUNO WESSEL, Bruno Wessel Inc., Member, National Safety Council, and Member, Scandinavian Tire and Rim Organization; EDEN LARSON, President and Chief Executive Officer, Associated Builders and Contractors of Alaska; From Mat-Su: CLINT QUIGGLE; From Kenai: HANNELE ZUBECK, Associate Professor, School of Engineering, University of Alaska-Anchorage; From Fairbanks: ROGER BURNS; JEFF ALLING, Alcan Builders, and Member, Associated Builders and Contractors of Alaska; From Anchorage: DON VALESKO, Business Manager, Local 71;

**SUMMARY INFORMATION**

SB 106-FEE FOR STUDDERED TIRES

The Committee heard from the Department of Transportation and Public Facilities, the Department of Revenue, the University of Alaska, members of the public and industry representatives.

SB 40-CONSTRUCTION OF HIGHWAYS BY DOTPF

The Committee heard from the sponsor, the Department of Transportation and Public Facilities and industry representatives. The bill was held in Committee.

SB 115-CORRECTIONAL INDUSTRIES PROGRAM EXPENSES

This bill was scheduled but not heard.

Co-Chair Wilken indicated the presence of students representing the Close-up program.

#SB106

CS FOR SENATE BILL NO. 106(TRA)

"An Act relating to studded tires; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken explained this bill "imposes a ten dollar fee on retail sales of studded tires in Alaska."

GEORGE LAVASSEUR, Acting State Maintenance Engineer, Office of the Commissioner, Department of Transportation and Public Facilities testified this bill would impose the \$10 surcharge on the purchase of all studded tires beginning July 1, 2003. He cited Department of Revenue estimates this would generate approximately \$2 million annually and would cost approximately \$50,000 to administer. He noted businesses collecting this surcharge would be allowed to retain five-percent of the surcharge, up to \$1,000, to cover expenses.

Mr. Lavasseur commented that many drivers use studded tires as an aid to winter driving to improve traction on icy surfaces. He shared that an analysis of Alaska winter driving conditions found that primary roads with highest traffic roads are covered with ice or snow only about five-percent of the time. The remaining "studded tire season" he reported that pavements are bare and/or dry.

Mr. Lavasseur instructed that pavement in Alaska wears at a rate of ".3 inches per million studded tire passes," which he translated "we lose about a dump truck full of asphalt" every four million cars with studded tires traveling over a mile of roadway. He added that each studded tire causes approximately \$50 worth of damage over its life. He informed that the Department of Transportation and Public Facilities expends over \$5 million annual to repair ruts caused by studded tires.

Mr. Lavasseur directed attention to a photograph and stated the condition of the road depicted is typical of "what we're seeing" in portions of Southcentral Alaska, as well as in Juneau.

Senator Bunde relayed that he has heard that this damage caused by studded tires does not occur on roadways in Interior Alaska. He had been told this is due to the usage of different asphalt applications.

Mr. Lavasseur attributed the lesser-studded tire wear to less vehicle traffic and different weather conditions in Interior Alaska. He stated that more icepack is present on Interior roads during a larger percentage of time.

Senator Bunde asked if the different damage rates are in any way related to the materials and application methods used.

Mr. Lavasseur answered it is not related. He stressed the Department is "doing several things" to attempt to improve asphalt performance. He admitted that the asphalt used in Alaska, which originates as North Slope crude oil, is soft. He listed the additives to strengthen the asphalt, including the use of larger and harder rock material imbedded in the asphalt. He qualified that rock in Alaska is very soft due to the areas geological newness. He listed the two hard rock sources in Alaska, one at Cantwell and the other near Haines and informed of the high cost to transport the hard rock to the road sites.

Mr. Lavasseur gave the Egan Expressway in Juneau as an example and detailed the project utilizing materials from Haines and Washington State. He remarked this project is "holding up quite well." He spoke to the difficulty in locating hard rock sources in the interior regions of the State.

Senator Bunde asked if it has therefore been determined that it is less expensive to repave the road than to import hard rock.

Mr. Lavasseur replied that no studies have been conducted to

research this matter; however the "economy" in utilizing Alaskan hard rock is "very important" to the refiners in Alaska. He added that it is expensive to barge hard rock into the State. He informed that the Department is initiating a project to ascertain the amount of hard rock in the area near Cantwell.

Senator Bunde interpreted the witness' testimony to state that roads in Alaska are "softer" due to the intent to subsidize asphalt production from North Slope crude oil.

Mr. Lavasseur countered that "a combination of factors" are responsible. He stated that the Department is "fixing" the Alaskan asphalt utilizing modified asphalt.

SENATOR JOHN COWDERY told of studies conducted on certain streets in Anchorage, which show minimal development of ruts due to the addition of rubber and other materials to the asphalt.

Mr. Lavasseur added that speed also impacts the wear of pavement.

Senator Cowdery indicated the cost per studded tires is approximately \$11 more per tire than non-studded tires. He opined that "lightweight" studded tires hit the pavement with the same force and cause the same amount of damage. He then told of an "ice tire" developed in Finland that could be utilized year-round. Although the cost of these tires is higher, he asserted options other than studded tires are available.

Co-Chair Wilken drew attention to a packet of the "lightweight" studs, which he would share with Committee members.

Senator Taylor spoke of cement roads in Wrangell and the process of two-inch overlays of asphalt on other roads. He compared the wear on both road types and questioned why cement is not more widely used.

Mr. Lavasseur replied that Portland cement is excellent for use in areas with a stable base. However, in areas with unstable bases he stated the cement cracks, noting that most of Southcentral Alaska has an unstable base due to freezing and thawing.

Senator Taylor challenged that the base of Egan Expressway is stable. He asked if the Anchorage area roads were "that unstable" that cement pavement would be unviable.

Mr. Lavasseur answered yes.

Senator Taylor suggested chains would cause greater damage to roads

then studded tires.

Mr. Lavasseur detailed "an aggressive chemical program" of magnesium chloride utilized in Southcentral Alaska to keep roads as ice free as possible throughout the winter.

Senator Cowdery asked the witness to compare damage caused by cars versus trucks.

Mr. Lavasseur listed the width of cars versus trucks noting the width of the ruts match the width of mid-size passenger cars, indicating the majority of the damage is caused by cars.

Mr. Lavasseur then showed a photo of a lightweight studded tire. He described how the ruts are caused and reported that for every one million passes, approximately one-tenth of an inch of roadway is eroded. He stated that with the 40,000 vehicles traveling the Glenn Highway daily, the damage accumulates in a short period of time and the road must be repaired every two to three years.

Mr. Lavasseur stressed that the ruts cause hydroplaning when filled with rainwater, and also hamper the visibility of drivers traveling behind a vehicle riding in a rut as the water sprays. He furthered.

Senator Taylor asked if differential exists between the wear of cement and asphalt.

Mr. Lavasseur told of his experiences in the 1960s with cement roads in the State of Minnesota. He stated that studded tires caused significant damage to the cement roads and therefore the cement roads were discontinued.

BILL CORBUS, Commissioner, Department of Revenue, read a statement into the record as follows.

The Governor and I very much appreciate this Committee's consideration of this important legislation. As you may be aware, the companion bill, House Bill 173 was substantially changed in the House Transportation Committee last week to apply a \$2 fee on all tires. The Governor is not opposed to the changes contained in CS HB 173.

Why is this legislation necessary? SB 106 is a critical and necessary element of the Governor's overall budget investment plan and investment plan for FY 2004 and he recently submitted it to you for your consideration. Governor Murkowski's primary mission is to build a robust growing economy and generate sufficient State revenue to fund programs and services that

Alaskans need and expect. Passage of SB 106 will ensure increased State revenues and may prevent elimination or diminution of other important programs and services.

What this legislation will accomplish. SB 106 will attach a fee of \$10 per studded tire sold in Alaska to begin in July 1, 2003. Businesses, including tire dealers, service stations and garages will fill out monthly reports of studded tire sales and remit the fees to the Department of Revenue containing five percent of the fees not to exceed \$300 per month.

Anticipated additional revenue to the State of Alaska is approximately \$2 million. The amendment contained in CS HB 173 to apply a \$2 fee to all tires is expected to generate revenue of approximately \$2.5 million.

Impact on Alaskan businesses. Although Alaskan businesses will be called upon to collect and remit the fees, SB 106 allows studded tire sellers to retain their administrative costs up to five percent, not exceeding \$300 per month. I believe this allowance is fair.

In conclusion the fee of \$10 per studded tire is necessary and essential to the Governor's spending and investment plan for Alaska. The Department of Revenue can and will efficiently administer the fee as discussed in the Department's fiscal note. I urge and appreciate your serious consideration of this legislation and ask that you pass it out of Committee today with your support for enactment this session.

Senator Bunde voiced concern about the volume of paperwork and asked if quarterly reports have been considered.

Mr. Corbus was unsure if this had been considered and indicated the Department would not oppose a quarterly reporting method.

Senator Taylor asked if the intent is to dedicate the revenues generated by the fee to highway maintenance or repairs.

Co-Chair Wilken answered the revenues would be deposited into the State general fund.

JIM JOHNSON, President, Johnson Tire Service, testified via teleconference from an offnet location in Anchorage and referenced his written testimony [copy on file]. He told of testimony given by physicians and engineers serving on the Swedish Road and Transport Research Institute (VIT) at the 1994 Winter Cities Conference, attesting to the increased deaths and property damage that would be

caused by a discontinuance of studded tires. As a result of these findings, he informed that the VIT participated in development of lightweight environmental studs weighing 1.1 grams and also recommended better road construction, particularly to the road base. He relayed that the VIT charged the Alaska Department of Transportation and Public Facilities with building "terrible roads" and recommended the use of the lightweight studded tires, which would minimize damage. He stated that his company introduced environmental lightweight studs to North America in 1994 in an attempt to be "good corporate citizens".

Mr. Johnson opined that the damage caused by studded tires is less significant than claimed by others and pointed out that the annual cost of \$5 million to repair roads has not increased since 1993, which he calculated would have increased over time without the use of the newer lightweight studded tires. He claimed the damage is the result of poor quality road base, which is not rectified with resurfacing.

Mr. Johnson charged that this legislation would impact lower income residents, who might not be able to afford the \$40 additional cost to purchase studded tires. He reported, "Studded tires is the most proven safety device that is known to man." He attested that although ice tires, also known as "friction" tires, have improved driving safety, they do not compare to the starting and stopping ability and the length of wear of studded tires. He questioned why lightweight studded tires were not mandated rather than the fees for all studded tires proposed in legislation. He suggested assessing a \$2 fee for all tire purchases and utilize the revenues for better road construction. He predicted that if better roads were constructed damage would decrease by 30 percent, and mandated use of lightweight studs would decrease road damage by 15 percent.

Mr. Johnson remarked this legislation would benefit no party, and the issue was creating revenue rather than the use of studded tires. He remarked, "If you're going to tax safety, you have a problem."

Senator Cowdery referenced a study conducted by the University of Alaska and asked if the use of studded tires has resulted in a per capita decline in the number of accidents.

Mr. Johnson did not know, but emphasized that if motorists were discouraged from purchasing studded tires, fatalities and property damage would increase and more sand, gravel and chemicals would be required to provide better traction on roads.

Senator Cowdery asked the number of states with similar weather

conditions to Alaska that ban studded tire use.

Mr. Johnson listed Wisconsin and Minnesota, but pointed out that no bans have been issued since 1975 and that studded tire use is permitted on emergency vehicles. He stressed that injury rates "skyrocketed" when the bans were implemented.

Senator Cowdery asked about bans on studded tire use in Canada.

Mr. Johnson that use of studded tires is permitted in Canada with the exception of Toronto.

Senator B. Stevens asked if the witness has reviewed the committee substitute for HB 173, which would impose a \$2 fee for the purchase of all tires.

Mr. Johnson supported that bill.

Senator B. Stevens took issue with the assertion that more accidents would occur. He stated that he has driven in the State his entire life, never with studded tires and has had no accidents. He questioned the applicability of the statistics showing increased accidents in Wisconsin and Minnesota following the studded tire ban, suggesting that winter conditions over the time period could have been more severe than average.

Mr. Johnson and Senator B. Stevens debated the issue.

CHUCK MCGEE, United States representative for Ugigrip, testified via teleconference from an offnet location in opposition to the bill. He told about the lightweight tire studs manufactured by Ugigrip and other manufacturers, which have been proven to reduce road wear. He attested to the better braking and traction capabilities of studded tires, citing the Swedish VTI studies. He stated that any cost increase would cause drivers to not use studded tires. He spoke to the benefits of the newer studs and the lesser damage caused by them.

RICHARD NORDNESS, Executive Director, Northwest Tire Dealers Association, testified via teleconference from offnet site in the state of Washington in opposition to the bill. He stated the Association's position that studded tires is an important safety feature for Alaskan residents. He remarked that a \$10 per studded tire fee would have a negative impact on winter driving safety, as many motorists could not afford the \$40 total and that many drivers would chose to not purchase the tires.

Mr. Nordness also opposed tire dealers acting as tax collectors. He

told of efforts in conjunction with legislatures in Washington, Oregon to promote the use of lightweight studs.

Co-Chair Green clarified the Association represents tire dealers in the states of Alaska, Oregon and Washington.

Mr. Nordness affirmed.

Co-Chair Green asked if the Association conducted a comparison of the licensing and taxation of vehicles registered in the three states.

Mr. Nordness replied the Association had not conducted such studies.

Co-Chair Green predicted the total licensing and taxation cost for vehicles is significantly less in Alaska.

Senator Bunde asked if studded tires are permitted in Oregon and Washington.

Mr. Nordness answered they are.

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BRUNO WESSEL, Bruno Wessel Inc., Member, National Safety Council, and Member, Scandinavian Tire and Rim Organization, testified via teleconference from an offnet location in Sarasota, Florida, told of his experiences as an importer of tire studs since the 1960s. He opposed this bill, as some motorists could not afford the tax. He disputed the excuse that ice is only present on roadways five percent of the year, arguing that in Minnesota it was learned this was the time that 90 percent of accidents occurred.

Mr. Wessel spoke to the ineffectiveness of overlaying roads because the ruts return rapidly. He stressed that the roads must be "milled", or ground out, before being relayed. He referenced "government studies" that found that one truck is equal to 6,000 car passes.

Mr. Wessel also spoke of the VTI and reiterated that findings that reduced studded tire use would increase accidents and fatalities. He asserted that studded tires have "the added benefit of roughening road and roughening the ice," which provides better traction for vehicles without studded tires.

Senator Cowdery commented he has observed vehicles in Alaska's body shops for repair that had studded snow tires.

Mr. Wessel emphasized that although some vehicles with studded tires would be involved in accidents, they would be less likely than vehicles without studded tires. He informed that he was a delegate at the Winter Cities Conference in 1994 and has traveled to Alaska on several occasions.

CLINT QUIGGLE testified via teleconference from Mat-Su as a private citizen about his 36 years "in the tire business" and in opposition to this bill. He suggested the focus is on tax revenue, but stressed the safety issue. He stressed that studded tires prevent accidents and save lives, particularly on ice covered roads. He predicted that because some motorists could not afford the tax they would continue to drive with old studded tires or without studded tires.

Senator Cowdery asked if witness agreed the average cost per studded tire is \$11 higher than for non-studded tires.

Mr. Quiggle responded the amount varies from \$10 to \$12 per tire.

Senator Cowdery asked if the witness had experience with ice tires.

Mr. Quiggle reported that after driving with studded tires for 30 years, he experimented with ice tires this year. He liked the tires, but stressed that in the event the vehicle slides, the ice tires respond significantly slower than studded tires.

Senator Cowdery indicated most modern cars have an ABS brake system and he told of his driving experience with ice tires on the hills in Juneau.

HANNELE ZUBECK, Associate Professor, School of Engineering, University of Alaska-Anchorage, testified via teleconference from Kenai about a study she conducted on the social-economical impacts of studded tire use in Alaska. The preliminary report, titled "Socio-Economic Effects of Studded Tire Use in Alaska: Interim Executive Summary-March 10, 2003" is on file. Her recommendation is that a \$10 fee per studded tire would encourage the use of driving with old studded tires, which may not provide adequate traction but would instill driver confidence. She predicted this would increase the accident rate. She furthered the same impact would result if a \$2 fee were imposed on the sale of all tires, as proposed in HB 173. She suggested a higher fee for the conventional heavy studs, which would encourage drivers to select lightweight studs and have less impact on the State's economy.

Ms. Zubeck addressed the matter of soft asphalt informing that hardening the asphalt is possible; however, cracking and other problems would occur. She stated that aggregate is the actual issue.

Ms. Zubeck listed the states that currently ban the use of studded tires and noted Illinois is the only state where icy road conditions are present.

Senator Taylor asked the witness repeat of the conclusions of the preliminary report.

Ms. Zubeck detailed the findings of the studies, in comparison to data learned from research conducted in Sweden and Norway. She qualified that the annual estimated damage amount of \$5 in Alaska is inaccurate and should be reevaluated.

Ms. Zubeck testified that studded tire use reduces accident rates and that reducing studded tire use would increase the overall costs, despite savings in road maintenance and revenue generated from the studded tire fee.

Senator Taylor appreciated the University of Alaska's efforts on this matter.

Senator Cowdery asked if the ruts caused by studded tires are a safety issue as well.

Ms. Zubeck answered, "absolutely". She noted the absence of studies of summertime accidents, as most studies concentrate on winter accidents. She remarked that that information on hydroplaning is important to collect and analyze.

Senator B. Stevens referenced certain information contained in the section of the preliminary report relating to pavement wear as follows.

- Traffic conditions (decrease wear by decreasing traffic volume and proportion of studded tires, decreasing winter speed limits and increasing lane widths); and
- Weather conditions (decrease wear by keeping the road surface dry).

Senator B. Stevens commented that the Legislature does not have the authority or ability to decrease traffic and keep road surfaces dry.

Ms. Zubeck clarified that salting the roads would assist in keeping them dry and that subsidized public transportation could reduce the amount of traffic in urban areas. She noted that parking costs in Helsinki, Finland are high and that with the availability of "park and ride" and other public transportation programs, vehicle traffic into the city has been reduced.

ROGER BURNS testified via teleconference from Fairbanks in reference to the VTI report and a State of Alaska report, AK-RD-96-1, issued in 1996 [copies on file]. He commented on the amount of anecdotal testimony about road conditions. He reiterated earlier testimony that "putting consumers in harm's way" for the purpose of collecting \$2 million in taxes is "unconscionable". Since this is a revenue source proposal rather than a matter of safety, he supported the house bill plan to impose a \$2 fee on the purchase of all new tires, as it would raise \$2.5 million per year. He asserted that all studies show that studded tires reduce accidents and he opined that purchasers should chose tires based on the conditions of the roads they drive. He noted that the roads in Fairbanks have ice and snow more often than roads in other parts of the State.

Senator Bunde affirmed the witness supports a tax on the purchase of all tires.

Senator Taylor associated himself with the previous speaker that the purpose of this bill is to generate funds. He noted the funds would not be dedicated for road maintenance. He supported the house bill proposal to add a tax to the sale of all new tires. He suggested it would remove the arguments for and against studded tires, which should be addressed in separate legislation.

Senator Taylor offered a motion to amend SB 106 to reflect the language contained in CS HB 173 to impose a \$2 fee on the sale of all new tires [This conceptual amendment was not numbered].

Co-Chair Wilken requested the motion be removed to all a committee substitute to be drafted for Committee review.

Senator Taylor agreed and the motion was WITHDRAWN without objection.

Senator Bunde indicated he would offer amendments for the purpose of discussion, although he did not intend action to be taken at this meeting.

Amendment #2: This amendment deletes "studded" from the title of the committee substitute. The amended title reads as follows.

"An Act relating to tires; and providing for an effective date."

This amendment also eliminates the proposed \$10 fee imposed on the retail sale of studded tires and imposes a fee of \$2.50 on the retail sale of all motor vehicle tires.

This amendment also deletes the language in Sec. 43.98.025(b), relating to a \$10 fee for the installation of studs on a motor vehicle license, and inserts new language to read as follows.

(b) In addition to the fee imposed under (a) of this section, a fee of \$5 a tire is imposed on the retail sale of tires studded with metal studs or spikes weighing more than 1.1 grams each embedded in the periphery of the tire surface and protruding beyond the tread surface of the tire, or on the installation for a fee of metal studs or spikes weighing more than 1.1 grams each on a motor vehicle tire in the state.

Senator Bunde moved for adoption of the amendment.

Co-Chair Wilken objected for discussion.

Senator Bunde spoke to the amendment. He recommended a fee of \$2.50 for each tire rather than \$2 proposed in the house bill based on conversations with retailers indicating that because tires are usually sold in sets of four, the \$10 total fee would be easier to account.

Senator Bunde removed his motion to adopt the amendment without objection and Amendment #2 was WITHDRAWN.

Amendment #3: This conceptual amendment changes the remittance period for submission of the collected fees by retailers to the State from monthly to quarterly. The amended language of Sec. 43.98.025(d) reads as follows.

(d) A seller shall collect the fee from the purchaser. A seller shall file a return on a form prescribed by the department and remit the fee collected to the department on a quarterly basis of the sale or installation.

Senator Bunde moved for adoption.

Senator Bunde removed his motion to adopt Amendment #3 without objection and the amendment was WITHDRAWN.

Co-Chair Wilken requested members submit suggestions for

incorporation into a committee substitute and ordered the bill HELD in Committee.

Co-Chair Wilken understood that Department of Transportation and Public Facilities vehicles are exempt from weight limits. He requested Mr. Lavasseur to provide an explanation on the matter.

#SB40

SENATE BILL NO. 40

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

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated, "SB 40 allows the use of force account construction only for highway construction projects estimated to cost \$250,000 or less. Projects greater than \$250,000 will be subject to a competitive bid process as outlined in State statute."

RICHARD SCHMITZ, Staff to Senator Cowdery, stressed importance of the competitive bidding process to State government operations. He explained this is to ensure fairness and to garner the best prices available. He noted the current system does not accurately compare the expense of private ownership of equipment and contract employees with that of State-owned equipment and State employees.

Mr. Schmitz spoke to a handout [copy on file], which reads as follows.

Re: SB 40 alternatives:

Is DELIVERY ORDER CONTRACTING an alternative?

- DOC is used by, and was developed by, the Department of Defense (it's called JOC by the Army, SABER by the Air Force) and is being increasingly used by local governments and educational facilities.
- DOC is a competitively bid, fixed price, indefinite quantity, indefinite delivery (IDIQ), general construction contract.
- The contract typically has a base year with 2 to 4 option years.
- The contract sets parameters such as location of work, type of work to be done, design criteria, etc.
- A DOC contract uses unit price guides (UPG) and/or a

unit-price book (UPB) to establish a price for a multitude of lines items of work. A typical UPB has about 40,000 line items in order to cover just about every imaginable task. Items that are not in the book are then negotiated, priced, and added to the UPB. A UPG uses computer cost databases, etc.

- The contractor bids a coefficient that is a markup or markdown to the UPB items, rather than a dollar price.

What you get with a Delivery Order Contract:

- On-call general contractor where prices for line items of work are predetermined.
- A contract that is easy to manage.
- A contract that puts more money into "hard construction" instead of soft upfront costs.

Mr. Schmitz surmised this legislation would provide incentive to the Department of Transportation and Public Facilities to institute new methods of contracting for smaller projects.

SENATOR JOHN COWDERY told of contractors that bid on a \$3 million project located in Saint Mary's, in which the Department elected to utilize a force account. He opined this was an abuse of the force account. He reported that many states have defined maintenance and construction, separated by dollar amounts. He intended to provide a "level playing field", understanding that the Department must have the ability to utilize a force account. He considered the \$250,000 limit to be adequate and would provide necessary latitude. He relayed he had asked the Department the lowest cost of a project located in rural Alaska, in which a request for bids would be issued. He was told the amount was between \$75,000 and \$100,000.

Senator Cowdery stated this legislation would "get the State out of the construction business".

Senator Taylor asked if this legislation would prevent abuses.

Senator Cowdery responded it would require competitive bid. He noted that currently no limitation is imposed.

Senator Taylor asked the regulatory authorization under which the Department makes the decision that only certain contractors could bid on a project. He gave the construction of high-speed ferries as an example.

GEORGE LAVASSEUR, Acting State Maintenance Engineer, Office of the Commissioner, Department of Transportation and Public Facilities

responded he would provide an answer at a later time at Co-Chair Wilken's request.

Mr. Lavasseur testified to his 29 years in Southcentral Interior Alaska maintaining highways. He gave a history of the force account method beginning with a meeting eight years ago in Washington D.C with the National Highway Administration, where he learned that other states have the same problem of infrastructure without adequate funding to maintain it. As a result, congressional approval was granted to allow the use of federal funds for maintenance purposes, including pavement life extension, bridge repair and gravel-to-pavement programs. Before this authorization, he reminded that for several years during the 1980s, the State did not have enough funds to maintain highways.

Mr. Lavasseur told of significant damage caused by the melt of discontinuous permafrost and the use of federal funds in the force account to maintain road smoothness, and to rehabilitate older pavements. He listed the type of projects undertaken with these funds, including boardwalks, community roads and capital projects performed by the Department maintenance staff. Of the \$42,600,000 appropriated for this purpose in 2003, 86 percent is paid to private contractors. He detailed the percentages allocated to private contractors and Department staff in each region, based on the availability of hot asphalt.

Mr. Lavasseur indicated photos showing heavy equipment, and the process of repairing roads in the Northern Region.

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Mr. Lavasseur asserted the force account method allows efficiencies for maintenance work done in Interior Alaska. He elaborated that the Department combines maintenance resources from a variety of "camps", which allows reduced per diem costs and better mobilization of units. He cautioned that if this type of work were contracted to the highest bidder, the costs would increase. He listed design problems, since typical as-built specifications are not available for 150 to 200 sections of a particular road that could be worked on. He added that the sections only measure between 50 to 300 feet rather than one continuous section and that he has learned from private contractors they are not interested in these projects. He attributed this to the short construction season and the large area in which equipment and manpower must be distributed. He noted that when a project is comprised of one section measuring three or more miles, a private contractor is employed, as the

Department only addresses spot repairs. He assured that all crushing is done by the private sector, amounting to over \$1 million annually in the Northern Region. In addition, he reported that all the emulsion is purchased from the private sector for approximately \$2.5 million annually, and rollers, belly dumps, tractor-trailers, and milling machines are rented from the private sector.

Mr. Lavasseur stressed the Department performs some of the maintenance work because of the lower costs associated with not paying Davis-Bacon Act wages, bypassing bid packages, preparing construction engineering on the grade, and not paying for a profit. He also spoke of the need to employ the "highly-trained" Department staff for at least nine months per year, explaining that previously the winter seasonal workers fished commercially during the summer months before the fishing industry declined.

Mr. Lavasseur informed that the Department has been able to adapt to lower budget appropriations, inflation and unfunded salary increases because of cost saving efforts such as these.

Mr. Lavasseur assured the Department was committed that the abuses of the past would not occur under the leadership of the current Murkowski Administration. He warned that passage of this bill would have a "devastating effect" on the highway maintenance program.

Senator Taylor asked if a series of repairs along 50 miles of a highway could be divided into separate projects, each costing less than \$250,000 and complying with the provisions of this legislation.

Mr. Lavasseur predicted the costs would be higher than \$250,000. He voiced concern that the Department would be limited by the \$250,000 maximum amount and indicated he preferred a \$1 million limit. He gave the repairs needed to the Alaskan Highway between Tok and the Canadian border as an example of this. He stated that private contractors would be hired to make repairs to the larger sections of the highway, but the Department would conduct the repairs on damaged sections of only several hundred yards in length. He detailed the process of staging equipment and a two-year supply of materials in key locations along the highway. He calculated the cost of repairs utilizing this method at approximately 65 cents per square foot, or \$100,000 per square mile of area actually repaired. He predicted that to divide the repairs into smaller projects would increase the cost significantly.

Senator Taylor restated his scenario suggesting the Department could address the smaller repair sections as separate projects, yet

still utilize the efficiencies of stockpiled materials and equipment.

Mr. Lavasseur expressed the Department would not chose to violate the intent of the bill. He qualified that if the division of repairs as Senator Taylor described were specified in the legislation, the Department could utilize the practice.

Senator Cowdery countered Mr. Lavasseur's comments pointing out that the private sector also has a trained workforce. He mentioned one project covering 38 miles. He relayed that he spoke with Commissioner Barton about day-labor contracts to address larger projects and had received assurance this would be done.

EDEN LARSON, President and Chief Executive Officer, Associated Builders and Contractors of Alaska, testified via teleconference from an off net location to dispute the Department testimony. She characterized this legislation as designed to prevent abuses to the force account system in the future. While she was assured the current Administration would not commit such abuses, she voiced concern that the proposed limitation must be imposed to prevent future administrations from committing abuse. She furthered that the limitation would allow the Department to perform efficiently.

Senator Cowdery asked the size of the membership of the organization.

Ms. Larson listed 145 contractors, their associates and suppliers, representing approximately 4,000 employees in the State.

DON VALESKO, Business Manager, Local 71, testified via teleconference from Anchorage representing Department of Transportation and Public Facilities the 500 to 600 employees who perform road and facility maintenance. He voiced concerns with this legislation, particularly the impact it would have on regular maintenance operations, such as snow removal. He detailed the high cost of clearing roads after a heavy snowfall, which must be bid upon under the provisions of this bill. He understood one incident brought this issue to light, but stressed that one incident should not "dictate bad legislation".

Senator Cowdery told of research indicating the definition of maintenance is "tighter" in other states, and that many states categorize projects costing less than \$50,000 as maintenance and those over \$50,000 as construction. He asked if the witness would favor such definitions.

Mr. Valesko did not, because snow removal after even lighter

snowfall would require the bidding process. He stated that the time involved with the bidding process would cause unnecessary delays in clearing the roadways.

Senator Cowdery asked what information the witness based his comments on.

Mr. Valesko calculated the \$200 daily salary paid to an operator plus the \$200 daily cost for equipment, multiplied by the 30 operators working five days per week in the Anchorage area to be \$60,000 per week. He remarked this would place snow removal services in the category of construction, which he disputed.

JEFF ALLING, Alcan Builders, and Member, Associated Builders and Contractors of Alaska, testified via teleconference from Fairbanks, in support of the bill. He agreed this legislation was prompted by an incidence of abuse committee by the prior gubernatorial administration. He expressed the intent is not to hamper snow removal efforts, but rather to prevent the State from competing with private industry on large construction projects.

Mr. Alling told of bidding on a University of Alaska project and the use of multipliers to simplify the process.

Mr. Alling questioned the representation by Mr. Valesko of union members.

Senator Bunde asked if the employees of Alcan Builders are union members.

Mr. Alling replied they are not, although he stated the company engages unionized subcontractors and they "work together quite happily".

Senator Cowdery asked if most of the private contractors pay Davis Bacon Act wages to its employees.

Mr. Alling answered yes.

Senator Taylor understood the presence of a systemic problem of the distinction of the Department between construction and maintenance. He commented that in British Columbia, Canada, maintenance operations have been contracted to the private sector with significant savings realized. He suggested the definition of maintenance and construction should be given further consideration, because this legislation as written, could result in "more disservice than good."

Senator B. Stevens asked if Mr. Lavasseur has reviewed the handout titled, "Air Force Guide: Simplified Acquisition of Base Engineer Requirements (SABER)" [copy on file]. He asked if the information contained in this report address preventive maintenance.

Mr. Lavasseur affirmed and explained that due to permafrost melt the destruction of roads has increased rapidly, and more resources have been necessary to perform repairs.

Senator B. Stevens echoed Senator Taylor's assertion that the issue is based on the definitions of construction and maintenance. Senator B. Stevens characterized snow removal as one type of maintenance, yet preventative maintenance is more a type of construction.

Senator B. Stevens next questioned the zero fiscal note, citing the second paragraph of the analysis, which reads as follows.

Since it is not possible to determine which projects will be considered for FAC [Force Account Construction] over the next six years, we will base the projected savings on Calendar Year 2002. The estimated savings on 2002 force account projects (greater than \$250,000) was \$4,267,700. Assuming the amount of force account projects remains constant over the next six years, the lost savings would total \$25,606,200.

Senator B. Stevens asked if expenses would increase over \$25 million.

Mr. Lavasseur replied it would for the period of time indicated [six years]. He elaborated this would be due to the costs of issuing bid packages, engineering design, advertising and construction management.

Senator B. Stevens indicated a fiscal note to separate legislation applying to FY 01 [bill number and further information not provided], estimated savings of \$120 million utilizing a force account. He cited the analysis of the unspecified fiscal note as reading "Assuming the force account managed costs over the next six years, loss of savings would be a total of \$120 million." He requested reconciliation of the information of the two fiscal notes and the aforementioned Air Force report. He suggested the matter could be discussed after this meeting concludes.

Mr. Lavasseur agreed to explain the matter.

Senator B. Stevens noted the funding has been accounted more often as "one line item" and wanted to understand the reason.

Mr. Lavasseur indicated the majority of the projects in question have been gravel-to-pavement.

Co-Chair Wilken asked the year the federal government ruled that federal National Highway System funds could be used for maintenance purposes as well as construction projects.

Mr. Lavasseur answered 1998.

MARK O'BRIEN, Chief Contracts Officer, Contracting, Procurement and Appeals, Office of the Commissioner, Department of Transportation and Public Facilities, testified via teleconference from an offnet location that he could answer questions posed by Committee members.

Mr. O'Brien addressed Senator B. Stevens's queries regarding the fiscal notes, stating that the differences reflect a change in how the savings was calculated. He explained, "there were significant savings factors back in 2000 that resulted in estimates of savings as high as 55 and 60 percent." He informed that upon review of competitive bids and "the current marketplace", the savings estimates have been recalculated to 20 to 25 percent and the current fiscal note reflects a savings of 28 percent. He noted this percentage is based on a comparison of Davis Bacon Act wages, profit and construction engineering expenses.

Mr. O'Brien next spoke to the definitions of maintenance and construction projects, indicating AS 19.45.001(2) provides the definition of construction as "...construction or any derivation meaning 'construction, reconstruction, alteration, improvement or major repair...'" and (10) provides the definition of maintenance. He assured this legislation would not hamper routine maintenance projects, such as snow removal. However, he pointed out that because the construction definition does not specifically define major repair, uncertainty over the classification of resurfacing projects would require the \$250,000 provision.

Senator Taylor asked how the matter could be resolved. He questioned the imposition of an "arbitrary number" and the situation of the cost of a project exceeding \$250,000 and automatically becoming a major repair that is subject to the bidding process. He requested further clarification of the definition of repair and major repair.

Mr. O'Brien ascertained the definition of repair was unrelated to the provisions of this legislation, surmising that maintenance would continue to be categorized as repair rather than as construction and not subject to the provisions of the force

account, although he assured he would review the matter.

Mr. O'Brien agreed with earlier testimony that most construction should be undertaken through the competitive bid process and informed that currently 97 percent of the work is handled in this manner. He noted that of the three percent of the work done through the force account process, half is contracted by competitive sealed bid. He stressed that less than one-half percent of the work is therefore not undertaken through competitive bid.

Mr. O'Brien reported that community roads and boardwalk projects, which require considerable maintenance activity, is often transferred from the Department to the Bureau of Indian Affairs or Indian Health Agency undertaking other projects in the area. He stated it is often in the State's best interest and is cost effective to do so, as the other agencies have staff, equipment and materials on hand to perform the work. He noted this practice would be prohibited under the provisions of this legislation.

Senator Cowdery asked the dollar amount of the three percent of the projects not currently addressed through the competitive bid process.

Mr. O'Brien replied that \$61 million was expended through the force account during the years 1998 through 2002. During the same period, he continued, the entire program expended \$2,279,000,000. He calculated the force account comprised 2.68 percent of the total expenditure.

Co-Chair Wilken ordered the bill HELD in Committee.

#### **ADJOURNMENT**

Co-Chair Gary Wilken adjourned the meeting at 11:13 AM