

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

February 24, 2009

1:02 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Craig Johnson, Vice Chair
Representative Kyle Johansen
Representative Cathy Engstrom Munoz
Representative Mike Doogan
Representative Max Gruenberg

MEMBERS ABSENT

Representative John Harris

COMMITTEE CALENDAR

HOUSE BILL NO. 133

"An Act relating to traffic control devices on highways and claims related to those devices; relating to designation of highway systems; making conforming amendments; and providing for an effective date."

- HEARD AND HELD

FEDERAL STIMULUS PACKAGE UPDATE BY THE DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES (DOT&PF)

- HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 133

SHORT TITLE: TRAFFIC CONTROL DEVICES/HWY DESIGNATIONS

SPONSOR(S): REPRESENTATIVE(S) WILSON

02/13/09	(H)	READ THE FIRST TIME - REFERRALS
02/13/09	(H)	TRA, FIN
02/24/09	(H)	TRA AT 1:00 PM CAPITOL 17

WITNESS REGISTER

KEITH UNDERKOFFLER, Intern
Representative Peggy Wilson

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 133 on behalf of the prime sponsor, Representative Peggy Wilson.

MARK NEIDHOLD, P.E., Chief
Design and Construction Standards
Division of Design and Engineering Services
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of HB 133.

SEAN LYNCH, Assistant Attorney General
Civil Division
Transportation Section
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 133.

JEFF OTTESEN, Director
Division of Program Development
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 133.

FRANK RICHARDS, Deputy Commissioner
Office of the Commissioner
Department of Transportation & Public Facilities (DOT/PF)
Juneau, Alaska

POSITION STATEMENT: Presented an update on the Federal Stimulus funding.

ACTION NARRATIVE

[1:02:29 PM](#)

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 1:02 p.m. Representatives Doogan, Gruenberg, Johnson, and Wilson were present at the call to order. Representatives Munoz and Johansen arrived as the meeting was in progress.

[1:02:38 PM](#)

HB 133-TRAFFIC CONTROL DEVICES/HWY DESIGNATIONS

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 133, "An Act relating to traffic control devices on highways and claims related to those devices; relating to designation of highway systems; making conforming amendments; and providing for an effective date."

[1:03:29 PM](#)

KEITH UNDERKOFFLER, Intern, Representative Peggy Wilson, Alaska State Legislature, read a prepared statement, as follows:

Fundamentally there is no more important principle with regard to traffic control devices than uniformity. When drivers see a red octagon they know to stop. When they see a green light they know to go and so forth. The certainty in the driver's mind of what action to take is increased because of his/her familiarity with uniform signs. No where is there, say, a green light that is intended to mean stop. This is precisely the issue that HB 133 addresses.

Currently, the Alaska Traffic Manual (ATM), produced by the federal government and supplemented by the State of Alaska is not set out in statute and therefore local governments and private developers are able to use signs unfamiliar to drivers, making the roads more dangerous. This practice violates the federal Uniform Vehicle Code and could easily be ended by affirming the ATM in statute. Further, HB 133 ensures that the appropriate design is used for any given situation. The ATM makes very particular use of the phrases may, should, and shall, intending the "shall" statements to be mandatory regulations, the "should" statements to be recommendations, and the "may" statements to be permissible installations. Again, the intent of HB 133 in confirming these statements is uniformity. If regions or municipalities differentiated in their understanding of these statements driver safety would be compromised because they would not always know what to expect in each situation. By confirming a uniform, mandatory standard set out by the federal and state government, HB 133 makes it clear what exactly the state or municipality has to do to protect its citizens. It provides clear requirements and makes traffic control device installation uniform across the board. All

Alaskans will benefit from knowing exactly what each traffic control device means.

[1:06:49 PM](#)

CHAIR WILSON stated that she does not intend to move HB 133 today.

[1:07:09 PM](#)

REPRESENTATIVE GRUENBERG thanked the bill sponsor and her staff for the well drafted statement as well as the work that is being done on traffic control devices.

[1:07:16 PM](#)

MARK NEIDHOLD, P.E., Chief, Design and Construction Standards, Division of Design and Engineering Services, Department of Transportation & Public Facilities (DOT&PF), explained that he is responsible for the development of the department's statewide procedures and standards for the design and construction of highways and airports. Additionally, he is responsible for the implementation of those procedures and standards by the regional offices. Alaska uses the national Manual on Uniform Traffic Control Devices (MUTCD), and an Alaska supplement to provide the direction and uniformity with respect to traffic control devices. The MUTCD is the federal standard while the Alaska supplement amends the federal document to address unique situations in Alaska. The Alaska Traffic Manual is a compilation of the two manuals mentioned and is approved by the Federal Highway Administration (FHWA). He related that traffic control devices is the term the DOT&PF uses to describe all signs, signals, and markings as well as other devices that are used to warn, guide, regulate and inform traffic. He opined that markings are fairly self-explanatory. First, signs including stop signs, yield signs, curb warning signs, speed limit signals, and street signs. Second, signals include the 3-ball traffic signals used for vehicular direction, pedestrian signals, and railroad crossing signals. Third, markings include the paint lines so the stripes on the side of the road, the painted crosswalks, turn only arrow and the gore chevrons that mark interchanges. Traffic control devices are a compilation of all three devices. The ATM provides the direction regarding placement and application of those devices.

[1:10:04 PM](#)

MR. NEIDHOLD stated that the ATM also provides where and when not to use the devices or direction to avoid overusing the devices. He opined that to preserve the highest level of safety to the public, uniformity is necessary statewide. He offered a scenario in which a person encounters many bump signs, but doesn't experience a bump. The person is conditioned to ignore the sign and not slow down for the signs. When the person does not slow down but encounters a sign followed by a bump, an accident or injury could occur.

1:11:22 PM

MR. NEIDHOLD related that if speed signs are misused, the consequences are more severe since driving around curves at a high rate of speed could easily result in an accident. This bill makes the ATM the standard to ensure public safety and clarifies the department's role in classifying and designating highways. He explained the department would be able to designate and classify roads, apply different funding categories, and different design standards for road including sidewalk, curve radius and other requirements. He concluded by stating the DOT&PF supports HB 133 since it adopts the traffic manual and makes it the uniform statewide standard.

1:12:45 PM

REPRESENTATIVE GRUENBERG inquired as to whether a definition for traffic control devices is provided in statute.

MR. NEIDHOLD offered that the definition is included in the ATM manual.

REPRESENTATIVE GRUENBERG said he thought that it would be helpful for the public to know what is intended and not just the traffic control person.

1:14:14 PM

REPRESENTATIVE JOHNSON asked if the ATM will apply to trails as well. He inquired as to whether the DOT&PF will need to put numbers on houses or mailboxes. He also asked if a big problem exists in Alaska.

MR. NEIDHOLD responded that the ATM does not cover mailboxes and house numbering, and is specific to traffic control devices that are used to warn, inform and regulate. In further response to Representative Johnson, answered that the ATM addresses

pedestrian signage and contains many levels of guidance depending on the location and the use. He explained that it would include bicycle paths and some trails, but not trails in remote Alaska or West Glacier Trail at the Mendenhall Glacier.

REPRESENTATIVE JOHNSON asked if the Joseph C. Williams, Sr. Coastal trail in Ketchikan would need different signage.

MR. NEIDHOLD said he was not familiar with the coastal trails. He offered to provide information to the committee.

REPRESENTATIVE JOHANSEN clarified that the trail in question is the Joseph C. Williams, Sr. trail.

MR. NEIDHOLD, in response to Chair Wilson, stated that the only signage that would be changed by the bill would be to replace signs that do not meet the national standard, such as if a community erected a pink stop sign.

[1:18:40 PM](#)

MR. NEIDHOLD, in response to Representative Doogan, agreed that it would be safe to assume that signage put up by the DOT&PF would meet the signage standards in the ATM.

[1:19:22 PM](#)

REPRESENTATIVE MUNOZ inquired as to whether the rule apply to municipalities

MR. NEIDHOLD answered yes.

MR. NEIDHOLD, in further response to Representative Munoz, said he did not know for certain if the requirements would cause any financial burden. He recalled that some municipalities have supported adopting the ATM. He also explained that projects designed by local governments using federal "pass through dollars" are using current ATM standards. Thus, he said he would not anticipate any impact on those projects.

[1:20:34 PM](#)

REPRESENTATIVE GRUENBERG referred to Section 5, to paragraph 13 of HB 133, to the definition of "traffic control device" that includes devices such as pedestrian facilities, bicycle trails, and multi-use pathways. He inquired as to whether any other items should be included in the definition.

MR. NEIDHOLD said that the definition is based on the national standard so he is comfortable that the definition is comprehensive. He acknowledged he had forgotten the definition for traffic control device was included in the bill.

[1:21:55 PM](#)

REPRESENTATIVE JOHNSON inquired as to whether HB 133 adopts the federal standards for signage.

MR. NEIDHOLD related that the federal rule requires states to use the national standard.

[1:22:50 PM](#)

REPRESENTATIVE JOHNSON asked for clarification as to whether the standards are construction standards such as for curb and gutter or solely for signage.

MR. NEIDHOLD related his understanding that lane width, curb and gutter relates to the DOT&PF's role in classification. He explained that the classification defines which design standard will be used. Thus, the bill clarifies the DOT&PF's role in the act of classifying the routes.

REPRESENTATIVE JOHNSON related his understanding that the Municipality of Anchorage holds discussions about classification of routes such as whether the road is a collector or feeder road. He further asked whether the state is supplanting the MOA's ability to classify a road differently than the DOT&PF would classify a road. He offered that signs would be one thing, but design and construction of roads is more comprehensive and would cover trails, gutters, drainage, and bike paths,

[1:25:18 PM](#)

SEAN LYNCH, Assistant Attorney General, Civil Division, Transportation Section, Department of Law (DOL), stated that he is assigned to the transportation section. He answered, with respect to Representative Johnson's question, that the federal standard or the MUTCD is a "floor" and the DOT&PF is adopting the federal standard. He explained that with the Alaska supplement the DOT&PF can be more protective than the federal standard. He further explained that the state classification of roads determines which standard applies to state roads. This

bill will not change the structure of the road classification but would repeal section AS 19.10.040, and merge it into AS 19.10.020, which is the requirement by DOT&PF to designate roads in the highway system.

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MR. LYNCH, in response to Chair Wilson, answered that the bill does not change the classification system that the state currently uses.

[1:28:06 PM](#)

MR. LYNCH, in response to Representative Johnson, agreed that the standard applies to public roads. He offered that municipalities have some municipality-owned roads. He related that the federal standard is a minimum or "floor" standard nationwide. He stated that the signage for roads in municipalities and villages is designed to the minimum federal standard.

[1:28:55 PM](#)

REPRESENTATIVE JOHNSON inquired as to whether signage requirements would change when a state road traverses through a municipality.

MR. LYNCH explained that this bill does not add any additional burden or modify the relationship between the state and municipal roads. He detailed that when a road segment, depending on ownership and traffic count could be classified differently and could have different standards.

JEFF OTTESEN, Director, Division of Program Development, Department of Transportation & Public Facilities (DOT&PF), answered that the key words are "functional classification". He explained that the DOT&PF, under federal law, performs the functional classification of all public highways of the state, regardless of ownership. He offered that periodically the process is updated since traffic volumes change and the purpose of the road changes. He related that at the highest level, such as the Parks Highway or Glenn Highway in Anchorage is to carry traffic from place to place and the roads do not have driveways or sidewalks except in controlled fashions at interchanges. While, at the other spectrum are local roads that consist of low speeds and light traffic volumes. However, in between the two extremes are minor and major collectors, and minor and major

arterials and interstate or interstate-like roads. The DOT&PF, through a public process, identifies roads. He opined that most communities clamor to have their roads elevated to a higher classification even if signage requirements change since eligibility for federal funding is generally more available. He related that higher roads tend to score better in the funding system. Thus, while a burden may exist, communities generally push for the higher road classification. He related that process is currently underway to reclassify Alaska's roads and is a revolving process that has happened since statehood.

[1:33:26 PM](#)

MR. OTTESEN, in response to Representative Johnson, opined that he did not think there is anything in the bill to worry about, that the classification of roads is ongoing and the DOT&PF is asked to elevate road classifications for communities and not lower them.

[1:35:45 PM](#)

MR. NEIDHOLD, in response to Representative Gruenberg, stated that the intent of the bill is traffic control devices, specifically signals, markings, and signs, but is not intended to apply to traffic calming items such as islands, curb and gutters, or green strips.

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REPRESENTATIVE GRUENBERG inquired as to whether the definitions should include those items, and if not, he suggested adding an amendment to the definition of "traffic control devices" to state "or other similar devices" since he said he thought the language was slightly confusing.

[1:37:13 PM](#)

MR. LYNCH asked to address the question. He stated that the intent is to adopt the MUTCD and the Alaska supplement as the state standard. He related his understanding that the MUTCD only addresses signs, signals and markings as defined in the federal manual, but does not cover islands or greenways. Thus, this bill is limited to adopting the national standard.

[1:38:15 PM](#)

REPRESENTATIVE GRUENBERG suggested reviewing the language so that is really clear to the lay person. He said that he does not have a problem. However, he suggested that perhaps a reference to the manual would make the definition clear to the public.

[1:38:43 PM](#)

REPRESENTATIVE DOOGAN referred to page 2, to paragraph 4, of HB 133 and asked for a brief explanation of overruling the *Guerrero v. Alaska Housing Finance Corp.*, P.3d 966 (Alaska 2005).

MR. LYNCH explained that the case, which involved a child who was hit while on a street, which subsequently resulted in charges against the DOT&PF for negligent design. He stated that the court found that the design engineer exercised his/her discretion, and the DOT&PF could not be held liable except for the issue of signage. He stated that the MUTCD used the term "should" and the court inquired as to why the DOT&PF did not include a sign. He related that this provision attempts to make the distinction between the "shalls" in the MUTCD, which are required, and the "shoulds", which are discretionary decisions.

REPRESENTATIVE GRUENBERG asked to put on the record his gratitude for the cooperative process that Chair Olson and the DOT&PF are using with HB 133.

[HB 133 was held over.]

Federal Stimulus Package Update by the Department of Transportation & Public Facilities (DOT&PF)

[1:42:23 PM](#)

CHAIR WILSON announced that the final order of business would be have an update on the Federal Stimulus Package by the Department of Transportation & Public Facilities (DOT&PF)

[1:43:23 PM](#)

FRANK RICHARDS, Deputy Commissioner, Office of the Commissioner, Department of Transportation & Public Facilities (DOT/PF), stated that the DOT&PF is still digesting the differences between the two versions, the bill that passed the House of Representatives, and the final bill - the American Recovery & Reinvestment Act (ARRA) that passed the Congress. He offered to

provide an update on the stimulus package funding for Alaska that will highlight the differences.

[1:44:33 PM](#)

MR. RICHARDS explained that 112 days is the first target date for the DOT&PF to obligate 50 percent of the stimulus package funding. He offered that 7 days have lapsed and the Congress agreed on 120 days. He reminded committee members that the Congress stressed that the bill stressed that projects should be done in economical distressed areas, which he said are areas in the country that are 1 percent higher than the national average. This pertains to all areas in Alaska except the North Slope, Anchorage, Fairbanks, Ketchikan, Juneau, and Sitka. The Congress intended the funding to provide good jobs in those areas.

[1:46:02 PM](#)

MR. RICHARDS related that the states must use the funds quickly or they will lose them under the "Use It or Lose It" provisions of the bill. He noted that the Anchorage Metropolitan Area Transportation Solutions (AMATS) and Fairbanks Metropolitan Area Transportation System (FMATS) have a different timeline. If states are not able to use the funds unable to use them, the federal funding will be redistributed, he stated. He explained that the DOT&PF has identified projects in excess of the funding to be certain that enough projects can move forward.

MR. RICHARDS related that the governor or legislature must certify that the state will maintain its planned transportation funding, which essentially means that the stimulus funds will not supplant state funds. He offered that the certification must extend through September 2010.

[1:48:12 PM](#)

MR. RICHARDS, in response to Representative Doogan, explained that "planned" would refer to appropriated projects or those projects that were provided for in its capital budget.

MR. RICHARDS referred to a slide titled "Surface Transportation-Funding" which he said contained a table of final funding figures.

MR. RICHARDS then referred to a February 20, 2009 letter that the DOT&PF sent to Chair Wilson that identifies funding levels and provides a spreadsheet.

[1:50:33 PM](#)

The committee took an at-ease from 1:50 p.m. to 1:51 p.m.

[1:52:01 PM](#)

MR. RICHARDS explained that the amount of stimulus package funding in the American Recovery & Reinvestment Act (ARRA) is funding for Alaska that is designated for highways and bridges. The amount the state is to receive is set at \$175.5 million, with an allocation for AMATS of \$19 million, local roads in communities whose population is less than 5,000 will receive \$33.7 million, funding for enhancements is set at \$5.3 million, and other state and local roads' share is set at \$117.6 million.

MR. RICHARDS, in response to Chair Wilson, explained that CMAQ refers to congestion, mitigation, and air quality. He recalled discussing previously that funding was not designated for CMAQ.

[1:53:03 PM](#)

MR. RICHARDS, in response to Representative Munoz, explained that the Alaska Marine Highway System (AMHS) was previously eligible for funding in transit funds. However, in the final bill that passed the Congress, the vast majority of the funding went to the municipal planning organizations (MPOs) in Anchorage and Fairbanks and the AMHS is not eligible for funding. He pointed out that a provision within ARRA that will allow for allow projects to be nominated for eligibility. Thus, the Port of Anchorage will be able to request projects for consideration that are not in the current funding.

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REPRESENTATIVE JOHANSEN inquired as to whether AMHS projects would be eligible under the National Highway System category.

MR. OTTESEN explained that the state and local share of funding is a broad category that could be used for AMHS or ports. He stated that within the regular STIP program, the NHF and the Surface Transportation Program (STP) are both AMHS eligible.

[1:56:21 PM](#)

MR. RICHARDS continued. He reiterated that the "Use or Lose Rule" requires that states obligate 50 percent of the funding within 120 days and must obligate all of the funds within 12 months.

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MR. RICHARDS referred to a slide titled "Aviation Funding" and stated that Alaska's share was significantly diminished to \$82 million. Funding will flow directly to the Federal Aviation Administration (FAA), who will determine which projects are funded using FAA criteria. He related that in Alaska, that airports are either state owned and locally owned. He offered that the bulk of the funds will be allocated to state-owned airports, but some will go to locally owned airports such as Juneau International Airport. He related that the Rural Aviation Program will receive \$71 million and \$3 million will be allocated to the International Airport System at Anchorage or Fairbanks. Additionally, \$7.5 million will be allocated to municipal airports. Further, the "Use It or Lose It Rule" will apply and the DOT&PF will be ready to capture any additional funds that other states cannot use.

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MR. RICHARDS, in response to Representative Munoz explained that the map titled "Alaska Aviation Projects AIP & Stimulus 2009", and the categories listed as "Stimulus Program - Expected Projects", "Stimulus Program - Contingency Projects", and "Stimulus Program - Municipal Airport Projects" are the universal projects that will be available for FAA selection.

REPRESENTATIVE MUNOZ recalled that Juneau would be eligible for funds not on the list.

MR. RICHARDS answered that Juneau would be eligible but that the FAA is making the decision based on its scoring criteria. He reiterated that Juneau projects are not on the list.

[1:59:45 PM](#)

MR. RICHARDS, in response to Representative Gruenberg, explained that ARRA stands for American Recovery and Reinvestment Act of 2009, which refers to the stimulus funding package.

REPRESENTATIVE GRUENBERG inquired as to whether the state has in the process and whether it would be helpful for the legislature to pass a resolution to request priorities.

MR. RICHARDS answered that the input the DOT&PF has had so far is to identify the projects that would be eligible in terms of timeliness. The FAA then used its internal ranking system. He opined that if the legislature is so determined to provide a recommendation, that suggestion could be accomplished by sending a letter to the FAA.

[2:01:27 PM](#)

MR. RICHARDS, in further response to Representative Gruenberg, stated that the FAA projects ranked are the ones shown on the map that scored high and are the ones identified as likely to be funded. He stated that the department did not provide a priority order. The FAA has closely worked with the DOT&PF to determine and narrow down projects.

MR. RICHARDS recalled a recent trip to Washington DC and that the focus is to use money to get people to work. He stated that the DOT&PF has a very good relationship with the FAA.

[2:03:34 PM](#)

REPRESENTATIVE JOHANSEN recalled his prior request for a list of aviation projects submitted to the FAA.

MR. RICHARDS stated that he would provide a list to Chair Wilson.

REPRESENTATIVE MUNOZ inquired as to whether the municipal airports are eligible for \$7.5 and also eligible for the larger pot of \$81.8 million.

MR. RICHARDS answered that the allocation to Alaska is \$82 million. He opined that it will be up to the FAA to determine what will go to the 256 state-owned airports as opposed to the 10 or 12 local airports.

MR. RICHARDS, in further response to Representative Munoz, answered that he was not sure if Juneau submitted its runway safety project for consideration. He offered his belief that the project was previously funded in the Airport Improvement Program (AIP) and is ready to move forward.

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MR. RICHARDS, in response to Chair Wilson, agreed that the "Use It or Lose It Rule" will apply to all transportation funding projects.

MR. RICHARDS referred to a slide titled "Criteria to Prioritize". He related that the DOT&PF used the following criteria to prioritize projects: the Governor's gasoline readiness announced projects, the economic distress preference, the ability to leverage other dollars, the number of jobs created in the 2009 season, and mandatory set-asides, such as transportation enhancement and MPOs.

[2:08:07 PM](#)

MR. RICHARDS referred to a slide titled "Fairbanks and Anchorage". He stated that AMATS and FMATS were treated very differently by the ARRA formula. He stated that \$50.8 million was sub-allocated to AMATS by law, and \$.76 million was sub-allocated to FMAT by law, with the same general rules to apply.

MR. RICHARDS referred to a slide titled "30% Local Funds". He related that the ARRA calls for use of the 1991 formula in 23 USC. He explained that Alaska has been exemption the past 18 years. The ARRA overrides the exemption and funds will flow to communities whose population is over 200,000 and under 5,000. Those communities in between will benefit, he stated.

[2:11:19 PM](#)

REPRESENTATIVE GRUENBERG related his understanding that in the past Alaska has had an exemption that allowed it greater latitude to use funds but that the ARRA does not allow an exemption.

MR. RICHARDS agreed, adding that the provision applies only to funding in the ARRA.

MR. RICHARDS, in response to Representative Gruenberg, answered that the challenge Alaska faces is the ARRA requires 30 percent of the funding must be used for local funds. Thus, the ARRA has narrowed the scope of the projects that DOT&PF can fund using 30 percent of the funds. He offered that the DOT&PF considered attempting to correct this but those types of bills work slowly through the Congress so it is unlikely the matter can be remedied given the timeframe to obligate the ARRA funds. In

further response to Representative Gruenberg, Mr. Richards informed members that the DOT&PF has presented the issue to the Alaska Congressional delegation. He said he was not certain of the outcome.

[2:13:17 PM](#)

REPRESENTATIVE DOOGAN related his understanding that approximately \$117.5 million in funding can be spent on any projects and that 30 percent of the ARRA total funds in Alaska must be spent on local roads. He surmised that some area-wide funding could be used to fund projects in population areas in the state ranging from 5,000 to 200,000.

MR. RICHARDS agreed.

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MR. OTTESEN also agreed with Representative Doogan's analysis. He explained that the amount of eligible projects that could be used for the \$117 million has increased. He highlighted that 50 percent must be used by June 15, 2009. He opined that a significant number of projects identified for the \$117 million are the exact projects that are queued up and ready to use to satisfy the 50 percent rule. He further opined that if projects are switched out too dramatically, that the DOT&PF may lose the ability to meet the 50 percent rule.

REPRESENTATIVE DOOGAN related his understanding that DOT&PF had already identified its projects for the \$117.5 million. He referred to the slide "30% Local Funds" and asked whether DOT&PF anticipated that funding would be allocated for projects in population areas listed on the slide as "Between 5K - 200K: balance = 0".

MR. OTTESEN said, "We had a list of projects on last Thursday of last week, as of Friday we had a different list of projects when we got this news." He referred to the map titled "Alaska Highway & Transit Projects Stimulus & STIP 2009". He explained that some projects moved to the list titled "Stimulus Contingent" and other projects in the local class moved up to take advantage of the 30 percent local funding requirement. He said:

The point I'd like to raise is view this not as a stimulus list and everything off the stimulus list just never gets funded. It's almost certain projects

not in the stimulus list will go on the 2010 STIP. So there isn't really going to be any difference in delivery. They'll be using a different class of money but the projects down on the "green list" will end up being built next year with 2010 funding. That's just a simple fact of we're emptying the shelf of bid-ready projects with stimulus so we're going to have to look to the contingent list to use "Use It Or Lose It" rules apply to the regular federal aid as well. There will be no way to not move those projects into the 2010 STIP.

[2:16:27 PM](#)

MR. OTTESEN, in response to Representative Doogan, explained how the formula is applied. First, the 30 percent funding rule is applied and a formula based on population is applied to identify funding for the MPOs above 200,000. Next, to identify funding for communities whose population is under 5,000, the \$33.7 million allocated in the ARRA is compared to the 1991 federal allocation. If the \$33.7 million is not greater than 110 percent of the 1991 value, then funding does not exist for the mid-tier communities. He highlighted that Alaska received slightly over \$32 million in 1991 so the \$33.7 million allocated in the ARRA does not exceed 110 percent. Therefore, zero funding was allocated for the mid-level communities in Alaska. He maintained that is how the formula works. He opined that the Congress did not fully understand the implications of the formula, partly since specific language is not in the stimulus bill. Instead, a reference is made to 23 USC in a few sections of the bill that are long and difficult to interpret. Thus, he surmised that unless a person had access to the 1991 budget for his/her state, understood the math, and performed the necessary calculations in the "frenzied few days" during the deliberations of the bill, he/she would not realize the overall implications.

REPRESENTATIVE DOOGAN offered that he is not attempting to place blame, but rather wants to understand the implications. He indicated that he thought he understood. He said, "That since I'm from Anchorage, what's mine is mine, but since Representative Johansen is from Ketchikan, what's his is negotiable, I believe is what's happened here. Am I correct in...?"

MR. OTTESEN agreed. He related that the DOT&PF inquired as to whether the state has any flexibility in applying this formula

and the response was that the federal provision does not allow for any flexibility in applying the formula.

2:19:20 PM

MR. OTTESEN, in response to Representative Johansen, explained that the formulas being discussed are the way each state divides its funding between the MPOs, local governments, and the DOT&PF. He related that the formulas were crafted in 1991 in Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). That same year, the formulas were made exempt for two states, Hawaii and Alaska. He surmised that instead of offering an alternate formula, the ISTEA left it up to the state. He opined that the state formula has been used for over 18 years and benefits the MPOs. He said, "I don't know why they chose to cancel this exemption, basically override the exemption, but the language in the stimulus bill clearly does that."

2:20:57 PM

MR. OTTESEN, in response to Representative Gruenberg, answered that historically Alaska has garnered 1.2 percent of the total federal aid. However, under the ARRA, Alaska is eligible for approximately .6, or roughly half of the typical federal highway funding. He mentioned that if the ARRA formula had been typical, that "there would have been a lot of money for the mid-tier communities." He highlighted that Alaska is beginning to see changes in how the Congress will allocate funding. He opined that the ARRA is more favorable to big population states and transit. In further response to Representative Gruenberg, Mr. Ottesen advised that reauthorization has many potential pitfalls for the state. He mentioned that the governor's Washington D.C. staff, John Katz, has asked the DOT&PF to develop a "white paper".

REPRESENTATIVE GRUENBERG offered that sometimes a resolution can urge that an injustice not continue, based on factual arguments.

MR. OTTESEN opined that he thought a resolution might help.

2:23:34 PM

MR. RICHARDS, in response to Representative Johansen, related that the M/V Bob Ellis Airport Ferry, which is listed on the Stimulus Contingent list, the need for a second ferry for the Ketchikan airport. He related his understanding that the U.S. Coast Guard could decertify the ferry. He related that the

project was originally slated as a general fund project. Additionally, the bids that came in for that project are in excess of the amount of funding that was appropriated to the project. Thus, there is not any ability to fund the project unless supplemental general fund dollars are appropriated. Mr. Richards stated that the DOT&PF wanted to identify the necessity to replace the M/V Bob Ellis. Thus, the replacement ferry is listed on the stimulus contingent list and also identifies that federal dollars could be used. However, the existing bid for the ferry replacement was based on GF dollars and the DOT&PF did not follow the federal process, which meant that the original bid had an Alaska bidder's preference. He mentioned that unless additional general fund dollars are appropriated, the DOT&PF would need to rebid the project which would likely extend the timeline beyond the 120-day constraint in the stimulus package.

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MR. RICHARDS acknowledged the importance of the project. He expressed a willingness to work with the legislature to achieve the project. He referred to a document titled "Alaska Transit, Highway and Bridge Stimulus List (Based on ARRA 2009), and more specifically to the headings on the spreadsheet titled "3 % TE Funds" relating transportation enhancements, "30 % Local Funds" which relating to the use of the 1991 formula in 23 USC, and "67 % State Funds". He stated that Yakutat Area Paving falls under the local project, and Ketchikan, based on its population size is not eligible for local funding, but shifts to the state funding category or the 67 percent funding that is available to the state. He recapped that the DOT&PF prioritized using criteria and ranking the DOT&PF developed to recommend projects that could meet the goals of the administration.

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REPRESENTATIVE JOHANSEN inquired as to whether the replacement ferry for Ketchikan was submitted in the governor's capital budget or in the amended budget bill.

MR. RICHARDS offered his belief that the M/V Bob Ellis Airport Ferry was not listed in either bill. He explained that the appropriations bill for the stimulus package will be out shortly and he said he thought the funding for the ferry would be included in that bill.

REPRESENTATIVE JOHANSEN expressed concern that the stimulus funding would be used to fund the ferry due to the additional

constraints in using the federal funding. He said he was surprised that the DOT&PF did not include the project in the capital budget for funding by the general fund. He stated the U.S. Coast Guard requirement that the community is required to have two vessels in case of an emergency. He offered that he did not expect an answer, but maintained his concern.

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REPRESENTATIVE MUNOZ inquired as to the timing difference for the projects listed in the stimulus contingent versus the stimulus recommended projects.

MR. RICHARDS explained that the projects titled "stimulus recommended" list total \$175.5 million in anticipated federal ARRA funding. He referred to the spreadsheet with a prioritization factors that reads "turns dirt in 2009" and said if the box is identified as gray the project should be under construction within 2009. He explained that the list of projects titled "stimulus contingent" are projects that have met the federal guidelines, have followed federal processes for environmental, right-of-way and design standards, and combined with the "stimulus recommended" list are the projects that the DOT&PF has available and ready to use the ARRA stimulus funds. He reiterated that if extra funds come to the state due to the inability of another state to use funding, the "stimulus contingent" list is important such that the DOT&PF will need prior legislative authority for those projects. He mentioned that some of the timelines for the "stimulus contingent" projects list construction in 2009.

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REPRESENTATIVE MUNOZ related her understanding that funds are not available for the projects listed in the "Stimulus Contingent" list. She inquired as to whether the projects will be part of a future package for the next round, be included in the STIP, or are on the contingent list in case any additional funds are received.

MR. OTTESEN answered that in May or June 2009, the federal highways administration (FHWA) will poll states to determine if it can meet the 50 percent requirement, and if so, if other projects are ready. He related that the state must be ready to move forward with additional projects from the federal redistribution. He mentioned that Alaska has always been a net winner since it is ready.

MR. OTTESEN, in response to Representative Munoz, explained that if the projects are not funded by June 2009, will be first in line for the 2010 STIP. He said he could not specifically identify which projects would be funded in the 2010 STIP, since it depends on a number of factors. However, he mentioned that it is likely that the projects on the "Stimulus Contingent" list will be the projects under consideration.

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REPRESENTATIVE JOHANSEN recalled that Anchorage Metropolitan Area Transportation Solutions (AMATS) has a 12-month timeline. He inquired how the DOT&PF is tracking the two timelines internally.

MR. RICHARDS stated that the DOT&PF works cooperatively with the Municipality of Anchorage on project development.

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CHAIR WILSON offered her appreciation for the work that DOT&PF is accomplishing.

MR. RICHARDS characterized the DOT&PF staff as "hard charging" to meet this mission.

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CHAIR WILSON inquired as to whether the committee could review the 2009 projects.

MR. RICHARDS referred to the map titled "Alaska Highway & Transit projects Stimulus & STIP 2009". He stated that projects listed on "STIP 2009 Advertised" are those projects identified for funding in the STIP. He reiterated that projects under the "Stimulus Recommended" and "Stimulus Contingent" and "Stimulus Transit" are projects that were updated and represent the final ARRA funding.

MR. RICHARDS referred to the spreadsheet previously mentioned, and explained that the projects under the heading "State 67%" are for state assets but can be used for local needs as well. He reiterated that the projects that are ready will be using ARRA funding, existing STIP and future STIP funds.

[2:41:05 PM](#)

CHAIR WILSON, inquired as to how often the DOT&PF uses private contractors.

MR. RICHARDS answered that the DOT&PF uses consultants as partners in project delivery over 50 percent of the time. He offered his belief that over 65 percent of the projects in Anchorage are delivered by consultants.

MR. RICHARDS, in response Chair Wilson, agreed that most of the consultants are Alaskan firms. However, some national firms will pull expertise to the state and when work in Alaska is slow; the same firms will use Alaskans for some Lower-48 projects.

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MR. RICHARDS, in response to Representative Johansen, stated that he was not certain how many specific contracts and consultants have been working to help DOT&PF achieve through the delivery phase. He also acknowledged that the DOT&PF has sought some waivers to hire people specifically needed to fill key positions.

REPRESENTATIVE JOHANSEN asked whether the DOT&PF has specifically contracted out because the department was "hamstrung by the hiring freeze".

MR. RICHARDS said he did not have that specific information.

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MR. RICHARDS referred to a slide titled "Highway \$: Our 3 Lists" which he said are the recommended projects, contingent projects and those projects considered, but are not currently eligible.

[2:45:17 PM](#)

CHAIR WILSON noted that the aviation projects listed seem to be spread across the state.

MR. OTTESEN said, "It's a pretty exciting time. We're moving fast. If people aren't comfortable moving fast, maybe they are uncomfortable. But, I think for the great majority of our staff, this is kind of...as good as it gets in professional work at DOT&PF."

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ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:46 p.m.