

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS
STANDING COMMITTEE

April 23, 2002

8:06 a.m.

MEMBERS PRESENT

Representative Kevin Meyer, Co-Chair
Representative Carl Morgan, Co-Chair
Representative Andrew Halcro
Representative Drew Scalzi
Representative Lisa Murkowski
Representative Beth Kerttula

MEMBERS ABSENT

Representative Gretchen Guess

COMMITTEE CALENDAR

HOUSE BILL NO. 500

"An Act relating to the advance acquisition of real property for public purposes."

- MOVED CSHB 500(CRA) OUT OF COMMITTEE

HOUSE BILL NO. 518

"An Act relating to organization grants for mergers, consolidations, or unifications involving third class boroughs."

- MOVED HB 518 OUT OF COMMITTEE

HOUSE BILL NO. 521

"An Act relating to municipal improvement areas."

- MOVED CSHB 521(CRA) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 500

SHORT TITLE: ADVANCE ACQUISITION OF REAL PROPERTY

SPONSOR(S): TRANSPORTATION

Jrn-Date	Jrn-Page		Action
02/27/02	2407	(H)	READ THE FIRST TIME - REFERRALS

02/27/02	2407	(H)	CRA, TRA
04/04/02		(H)	CRA AT 8:00 AM CAPITOL 124
04/04/02		(H)	-- Meeting Canceled --
04/11/02		(H)	CRA AT 8:00 AM CAPITOL 124
04/11/02		(H)	Heard & Held
04/11/02		(H)	MINUTE(CRA)
04/16/02		(H)	CRA AT 8:00 AM CAPITOL 124
04/16/02		(H)	<Bill Postponed to 4/23/02>
04/16/02		(H)	TRA AT 1:00 PM CAPITOL 17
04/16/02		(H)	<Bill Canceled>
04/23/02		(H)	CRA AT 8:00 AM CAPITOL 124

BILL: HB 518

SHORT TITLE:MUNICIPAL ORGANIZATION GRANTS

SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

Jrn-Date	Jrn-Page		Action
04/12/02	2907	(H)	READ THE FIRST TIME - REFERRALS
04/12/02	2907	(H)	CRA, FIN
04/23/02		(H)	CRA AT 8:00 AM CAPITOL 124

BILL: HB 521

SHORT TITLE:MUNICIPAL IMPROVEMENT AREAS

SPONSOR(S): LABOR & COMMERCE

Jrn-Date	Jrn-Page		Action
04/17/02	2973	(H)	READ THE FIRST TIME - REFERRALS
04/17/02	2973	(H)	CRA
04/23/02		(H)	CRA AT 8:00 AM CAPITOL 124

WITNESS REGISTER

DANA OLSON

HC 30 Box 5438

Wasilla, Alaska 99654

POSITION STATEMENT: Expressed concerns with HB 500.

BILL LAWRENCE, Staff

to Representative Morgan

House Community and Regional Affairs Standing Committee

Alaska State Legislature

Capitol Building, Room 434

Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of HB 518, the House Community and Regional Affairs Standing Committee.

BERT VENABLES
City of Haines
PO Box 1049
Haines, Alaska 99827

POSITION STATEMENT: Testified on HB 518.

STEVE VAN SANT, State Assessor
Division of Community and Business Development
Department of Community & Economic Development
550 W 7th Avenue, Suite 1770
Anchorage, Alaska 99501-3510

POSITION STATEMENT: Answered questions related to HB 521.

GEORGE CANELAS, Director
Real Estate Services
Heritage Land Bank
Municipality of Anchorage
PO Box 196680
Anchorage, Alaska 99519

POSITION STATEMENT: Characterized HB 521 as good legislation.

MARK PFEFFER
Koonce, Pfeiffer, Bettis Architects;
Venture Development Group
425 G Street Number 800
Anchorage, Alaska 99501

POSITION STATEMENT: Testified in support of HB 521.

TIM ROGERS, Legislative Program Coordinator
Municipality of Anchorage
PO Box 196680
Anchorage, Alaska 99519

POSITION STATEMENT: Answered questions related to HB 521.

DEVEN MITCHELL, Debt Manager
Treasury Division
Department of Revenue
PO Box 110405
Juneau, Alaska 99811-0405

POSITION STATEMENT: Testified on HB 521.

ACTION NARRATIVE

TAPE 02-24, SIDE A
Number 0001

CO-CHAIR KEVIN MEYER called the House Community and Regional Affairs Standing Committee meeting to order at 8:06 a.m. Representatives Morgan, Meyer, Scalzi, and Kerttula were present at the call to order. Representatives Halcro and Murkowski arrived as the meeting was in progress.

HB 500-ADVANCE ACQUISITION OF REAL PROPERTY

CO-CHAIR MEYER announced that the first order of business would be HOUSE BILL NO. 500, "An Act relating to the advance acquisition of real property for public purposes."

Number 0097

MIKE KRIEBER, Staff to Representative Vic Kohring, House Transportation Standing Committee, Alaska State Legislature, noted that he met with Representative Kerttula and discussed the issues brought up at the last House Community and Regional Affairs Standing Committee hearing. Ultimately, Version F was developed. The committee packet should include a summary of the changes incorporated in Version F. Although there are many new sections in Version F, many of them are redundant.

MR. KRIEBER pointed out that Section 2 had referred to a time period not greater than five years for advanced acquisition. That was changed in Version F to refer to advanced acquisition "that will occur in the future." Version F added Sections 5, 7, 9, 11, and 13, which are essentially identical. These new sections address the fairness issue. In other words, if a public entity that acquired a property through eminent domain doesn't use the property for the stated purpose within 20 years, the property owner from which the state acquired the property would have the first right to purchase the property for the same price it was acquired through eminent domain. Therefore, it prevents public sector speculation.

Number 0390

CO-CHAIR MEYER posed a situation in which the state, through eminent domain, pays \$500 per acre for land. However, 20 years from the acquisition the state realizes it doesn't need the land. Co-Chair Meyer understood that then the land would be returned to the owner for the same price at which it was acquired. Therefore, he questioned whether returning that land

back at the price of acquisition would be fair to the state or public entity.

MR. KRIEBER explained that if the land [was] acquired through eminent domain, then the property owner would still have interest in the property through the following years. Therefore, the property owner would have the value of the property later and thus the benefit of the [possible increase] in the price of the land should accrue to the property owner rather than the state. However, allowing the state the ability to purchase land and sell it later seems in opposition to the "Fairness Doctrine."

CO-CHAIR MEYER remarked that it is probably a good method of acquiring land, especially in order to avoid speculation purchases.

Number 0568

REPRESENTATIVE MURKOWSKI pointed out that Sections 3 and 4 refer to "reasonably foreseeable future use", but that language isn't maintained in Sections 6, 8, and 12. She inquired as to why the language in Sections 6, 8, and 12 don't conform to Sections 3 and 4.

MR. KRIEBER said that was an oversight and thus announced that he would be amenable to changing the language [to be consistent].

Number 0726

REPRESENTATIVE MURKOWSKI moved that the committee adopt CSHB 500, Version 22-LS0610\F, Utermohle, 4/22/02, as the working document. There being no objection, Version F was before the committee.

REPRESENTATIVE MURKOWSKI moved that the committee adopt the following conceptual Amendment 1:

Page 4, line 24;

Page 5, line 19;

Page 6, line 12;

Page 6, line 31;

Before "future",

Insert "reasonably foreseeable"

There being no objection, Amendment 1 was adopted.

Number 0891

CO-CHAIR MORGAN referred to page 4, line 10, which specifies "The corporation shall offer the land to the person, or the person's successor in interest, from whom the land was acquired at the same price that the corporation paid the person when the land was acquired." Therefore, could the siblings of an owner who had died purchase the acquired land for the same price as it was sold.

MR. KRIEBER replied yes. In further response to Co-Chair Morgan, Mr. Kriebler clarified that the provision provides a one-time opportunity when the [state] decides to sell it back to the person who owns the property or who would have owned the property once the owner is deceased. He further clarified that the property would be [sold to the owner or the owner's heirs] at the original value.

REPRESENTATIVE KERTTULA remarked that Mr. Kriebler has went far in attempting to make this section of HB 500 fair. She pointed out that the right to hold property and property rights are really fundamental constitutional rights. She expressed her desire not to allow any corporation to land speculate, in particular against the individual property holder. She emphasized that the 20-year limit is a long time during which people will have died, and therefore the first right of refusal to the individual [is important].

Number 1132

REPRESENTATIVE SCALZI commented that in a situation in which an individual had the first right of refusal after 20 years, the speculator would remain in a good position because the speculator would purchase the land at the price for which he sold it for 20 years prior.

REPRESENTATIVE KERTTULA highlighted that this [provision] would only be used in cases of eminent domain when the government takes the land. Although the land may have been owned by a land speculator, it was still their land. She suggested that this will impact those with rights-of-way and such. In further response to Representative Scalzi, Representative Kerttula acknowledged that a speculator could purchase land subject to eminent domain, which can happen now. Once someone owns the land, that individual has property rights. This provision of selling the land back to the owner only comes into effect if the

state doesn't use the land after 20 years. She reminded the committee that this is all in reference to advanced acquisition. Representative Kerttula echoed earlier testimony that only those with the original interest in the land are protected. She related her belief that it would probably be unlikely that someone would save their money to purchase the land back from the state.

Number 1351

DANA OLSON testified via teleconference. Ms. Olson expressed concern with public utilities and corporations having the right to eminent domain. She didn't believe [public utilities and corporations] have a legal authority [to utilize eminent domain]. With regard to the 20-year limitation and the "foreseeable future" language, Ms. Olson characterized it as too broad. She pointed out that under the "Federal Aid Highway Act" [the state] can't take more property than is necessary, which means that [the state] would have to demonstrate that the property wasn't taken unnecessarily. Since many of the state's projects are federally funded, Ms. Olson didn't believe this bill would work with the federal provision. Furthermore, this bill fails to consider mineral entry; that is mineral entries could be acquired for public purposes. She pointed out that the 14th Amendment of the U.S. Constitution prohibits the government from rationalizing what property is, which is what this bill seems to be doing.

MR. OLSON returned to the "foreseeable future" language that she believes is too broad. She suggested that a regional transportation plan must be in place before any acquisition occurs. She clarified that the burden to show a compelling need to condemn or acquire property falls on the government. She didn't believe the burden [would be met] under the "foreseeable future" language.

Number 1619

MR. KRIEBER pointed out that currently no entities have the authority for advanced acquisition of right-of-way. Property can be acquired through a federal funding process. He emphasized that public utilities and corporations already have state authority for eminent domain. This bill merely addresses advanced acquisition. In regard the charge of the "foreseeable future" language being too broad, Mr. Kriebler pointed out that Section 3 specifies the prerequisites for taking property. The new prerequisite, paragraph (4), specifies that the reasonably

foreseeable use be identified in a development plan. A judge would make the decision as to whether the regional transportation plan met the criteria.

Number 1774

REPRESENTATIVE SCALZI moved to report CSHB 500, Version 22-LS0610\F, Utermohle, 4/22/02, as amended out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 500(CRA) was reported from the House Community and Regional Affairs Standing Committee.

HB 518-MUNICIPAL ORGANIZATION GRANTS

CO-CHAIR MEYER announced that the next order of business would be HOUSE BILL NO. 518, "An Act relating to organization grants for mergers, consolidations, or unifications involving third class boroughs."

CO-CHAIR MEYER turned the gavel over to Co-Chair Morgan.

Number 1843

BILL LAWRENCE, Staff to Representative Morgan, House Community and Regional Affairs Standing Committee, Alaska State Legislature, explained that HB 518 amends AS 29.05.190 which currently prohibits an organizational grant being given to a borough incorporated by consolidation or a unified municipality that occupies the area formerly occupied by a borough. This bill provides for a \$200,000 organizational grant for a merger or consolidation.

REPRESENTATIVE SCALZI inquired as to the impetus for HB 518.

Number 1937

ROBERT VENABLES, City of Haines, explained that HB 518 intends to assist with organizational grants from third class boroughs, which were originally prohibited [from obtaining these grants]. That was viewed as an oversight. This legislation attempts to remedy that oversight at a reduced level. Therefore, HB 518 allows organizational grants of \$200,000 [to third class boroughs] rather than the \$600,000 grants that are currently allowed for boroughs that qualify.

REPRESENTATIVE SCALZI related his understanding that currently the statute provides grants for all other classes [of boroughs]

that merge or move from second class to first class except for third class boroughs.

MR. VENABLES replied, "Not necessarily." He explained his understanding that the more sophisticated boroughs have already evolved the systems of government such that this level of state assistance isn't necessary. Certain criteria must be met in order to receive organizational grants, which are intended to create sound local governmental units. He specified that the unorganized areas and third class boroughs are those that [don't have sound local governmental units]. In further response to Representative Scalzi, Mr. Venables pointed out that Haines is the only third class borough in existence.

Number 2049

REPRESENTATIVE MURKOWSKI asked if organizational grants are already available at some level and HB 518 is merely expanding this to third class boroughs. Or, would third class boroughs, specifically Haines, be the only borough that could avail itself of these organizational grants.

MR. VENABLES clarified that the grants available in AS 29.05.190 allow for three years of assistance, totaling \$600,000, to new boroughs. House Bill 518 is currently aimed at third class boroughs and has a reduced level of assistance because third class boroughs do have some level of functionality. Mr. Venables said, "There is a level of assistance that we'd like to work out in order to allow governmental units to go to a home rule government from a third class borough."

REPRESENTATIVE MURKOWSKI surmised then that [HB 518] provides for a \$400,000 grant rather than a \$200,000 grant.

MR. VENABLES replied yes.

REPRESENTATIVE KERTTULA asked if the reason [Haines, a third class borough] wasn't able to get the \$600,000 when it became a borough was because it wasn't the type of borough that could utilize the grant.

MR. VENABLES explained that third class boroughs were established as a compromise in order to [address] school funding. He informed the committee that the Haines community is looking to consolidate and obtain assistance in allowing that consolidation. In further response to Representative Kerttula, Mr. Venables reiterated that the \$600,000 is available to new

boroughs that have unified under certain criteria. [The \$600,000 grant] wouldn't apply to consolidated boroughs, which, per statute, refers to first or second class boroughs. Third class boroughs are abolished. Therefore, the desire is to find a place in statute for third class boroughs to be consolidated with a level of assistance that allows it to properly function.

REPRESENTATIVE KERTTULA directed attention to Section 2 of HB 518, which refers to a third class borough. She asked if the third class borough was previously in existence and thus doesn't really exist now.

MR. VENABLES reiterated that there is only one third class borough, Haines, in existence now. However, there is pending legislation that may enable third class boroughs to form.

Number 2269

REPRESENTATIVE SCALZI noted his belief that it's in the best interest of the state to have incentives for boroughs to form and consolidate. However, he inquired as to how the \$200,000 a year was determined.

MR. VENABLES informed the committee of the situation in Haines. Haines, a small community with a population of 2,400, has two legislative bodies, two mayors, two planning commissions, separate comprehensive [health] plans, two legal systems, two financial systems, two personnel systems, and two very different computer systems. Therefore, the intent is to bring in expertise to merge these two different [governments] while [both are] functioning. Marco Pignalberi, City Manager of Haines, recommended that \$200,000 would be necessary to merge the two systems.

REPRESENTATIVE SCALZI expressed the need to justify the \$200,000.

Number 2356

REPRESENTATIVE MURKOWSKI posed a situation in which a [third class borough] would obtain \$200,000 in December and then in the following month, January, could obtain another \$200,000. She said that \$400,000 would seem to be a large, perhaps unjustifiable, incentive. Although she agreed with the notion of encouraging consolidation and unification, \$400,000 seems like a large incentive in the current fiscal climate.

MR. VENABLES said that he would be happy to supply information regarding how the \$200,000 figure was chosen. In regard to the timing of receiving the grant, Mr. Venables informed the committee that the vote for consolidation won't occur until June 25th and will be certified after the new fiscal year. Therefore, Representative Murkowski's concern wouldn't be realized in this case.

Number 2467

REPRESENTATIVE KERTTULA inquired as to how much Homer had to spend on its recent [annexation].

REPRESENTATIVE SCALZI said he didn't know, although he estimated that it cost about \$150,000 for the preliminary portion [of the annexation]. He projected that the transition period will be quite a bit more. Comparing Haines to Homer is like comparing apples and oranges, he said.

REPRESENTATIVE SCALZI reiterated his support of consolidations. Representative Scalzi said that he didn't mind moving HB 518 out of committee, but he recommended that the justification for the \$200,000 be forward to the House Finance Committee.

Number 2547

REPRESENTATIVE MURKOWSKI moved to report HB 518 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 518 was reported from the House Community and Regional Affairs Standing Committee.

The committee took an at-ease from 8:45 a.m. to 8:49 a.m.

HB 521-MUNICIPAL IMPROVEMENT AREAS

CO-CHAIR MEYER announced that the next order of business would be HOUSE BILL NO. 521, "An Act relating to municipal improvement areas."

Number 2592

REPRESENTATIVE MURKOWSKI, Alaska State Legislature, testified as chair of the House Labor and Commerce Standing Committee, the sponsor of HB 521. She stated that HB 521 is essentially a follow up of legislation from last year dealing with the use of tax increment financing. Essentially, HB 521 clarifies that tax increment financing (TIF) can be used with either general

obligation (GO) bonds or revenue bonds, or a combination of both. Currently, the statute is silent in regard to what can be used for TIF. This legislation also allows TIF to be used for private and public projects in order to provide greater flexibility to the municipalities that want to utilize these improvement areas. Furthermore, the definition of improvement area has been broadened to go just beyond the definition of blighted area. For example, Anchorage is discussing the development of town centers throughout the community. The current definition of improvement area would pose some restrictions. Representative Murkowski concluded by saying that HB 521 uses TIF in order to enhance urban renewal and encourage property improvement.

REPRESENTATIVE SCALZI inquired as to the difference between this and the current structure for local improvement districts (LID).

Number 2792

STEVE VAN SANT, State Assessor, Division of Community and Business Development, Department of Community & Economic Development, explained that LIDs are under special assessments in the statutes. That is, LIDs are improvements to private property that is paid for by the local municipality and subsequently rolled into the tax bill of each individual, and therefore those are paid back. However, the TIF is entirely different in that it's of a public nature. He informed the committee that Anchorage has had a TIF, the Fifth Avenue parking garage.

REPRESENTATIVE SCALZI related his understanding that LIDs are capable of enhancing roads and public rights-of-way. He remarked that [the TIF] seems to meet the same criteria.

MR. VAN SANT agreed with Representative Scalzi in that these are improvements that are made in the municipality. The statutes recognize special assessments, which are improvements made to private property and paid for with private funds. However, [the TIF] refers to the difference between the old tax base and the new tax base after the project begins. That difference is pledged to pay for improvements that benefit the public at large.

REPRESENTATIVE SCALZI asked if a city-owned road and right-of-way would be a public utility. Thus if an LID fit the criteria, would the revenue from the property owners adjacent to that road

be incorporated, he asked. Still, the road is a city road that everyone uses.

MR. VAN SANT explained that currently LIDs are typically liens against certain properties, while [TIF] projects would pledge the entire faith and credit of the municipality for a project rather than a specific area.

Number 2957

REPRESENTATIVE HALCRO surmised then that the revenue stream to pay for the bonds comes from the increase in the property tax assessment that's accomplished by the improvements.

MR. VAN SANT pointed out that there are two different methodologies with HB 521. One methodology is a GO bond that pledges the faith and credit of all the property in the jurisdiction. However, the TIF takes the difference in the tax that ...

TAPE 02-24, SIDE B

MR. VAN SANT turned to the construction of the Fifth Avenue parking garage in Anchorage. He estimated that the property value in the area was worth \$5 million before the construction of the parking garage. After the garage's construction, the value of the [property] increased to say \$7 million. The taxes on the difference in value, \$2 million, was pledged to pay for the financing on the garage.

Number 2948

REPRESENTATIVE HALCRO remarked that it seems fairly speculative. He questioned what would happen if property values decrease and the revenue stream to pay off the indebtedness doesn't come to fruition.

MR. VAN SANT pointed out that such was the case in Anchorage during the recession in the late 1980s when [property] values dropped approximately 50 percent. During such a time, the minimum [payment] has to be made. Again, the full faith and credit of the municipality has been pledged and thus the municipality has to make the payment. The difference is that the [payment] would come out of the general fund rather than the TIF.

REPRESENTATIVE HALCRO surmised then that the community could be put at a substantial risk, depending upon the size of the project.

MR. VAN SANT highlighted that HB 521 includes the following two different methodologies: revenue bonds and GO bonds. The choice is up to the municipality. Revenue bonds refer to the revenue generated by the project, which is pledged. The GO bonds actually pledge the full faith and credit of the municipality. He explained that the TIF specifies that those taxes above and beyond what was there prior to development will be pledged to pay [for the bond]. In the case of decreasing values, the municipality would be left to take it out of the GF.

REPRESENTATIVE HALCRO reiterated that such could expose a community to a tax risk.

CO-CHAIR MEYER pointed out that this is a local option and thus the mayor and the local assembly would have to approve such by ordinance. He recalled [Anchorage] taking a similar risk when it purchased a one-third share of the Beluga gas field, which was done through a revenue bond.

Number 2832

GEORGE CANELAS, Director, Real Estate Services, Heritage Land Bank, Municipality of Anchorage, testified via teleconference. Mr. Canelas announced that [the municipality] is thinking of using the TIF process to promote economic development in selected areas of town. As mentioned earlier, it is a strategy in [the Municipality of Anchorage's] 2020 Comprehensive Plan. The first area of focus is the proposed Muldoon Town Center, which would seem to be an excellent test case because it has a private sector sponsor who has site control over most of the proposed area. [The municipality] is seeking the most appropriate methods for the municipality to respond to this private sector initiative. [The municipality] believes that overall HB 521 is an excellent step to provide the broad flexibility necessary to find the best model.

MR. CANELAS informed the committee that the municipality doesn't anticipate needing TIF proceeds to finance or loan funds to private development of improvement districts as provided on page 1, line 6. Overall, the municipality doesn't believe that it's good public policy to use local property tax proceeds to pay for private development. Although some communities do this through enabling statutes, [the Municipality of Anchorage] intends to

focus the TIF efforts on funding public sector improvements such as infrastructure, which would compliment private sector initiatives. Therefore, [the municipality] would prefer that the language "or private" on page 1, line 6, be deleted. Mr. Canelas informed the committee of the municipality's support of the expanded definition of improvement areas, which goes beyond the traditional notion of using TIFs for blighted areas. This expanded definition of improvement areas follows the pattern around the country. In conclusion, Mr. Canelas characterized HB 521 as good legislation.

Number 2728

MARK PFEFFER, Koonce, Pfeffer, Bettis Architects; Venture Development Group, testified via teleconference. Mr. Pfeffer informed the committee that "we" are involved with redevelopment efforts for the Muldoon Town Center area. "We are in support of HB 521," he stated. He noted the belief that HB 521 would enhance the existing laws for redevelopment of blighted areas. From Mr. Pfeffer's personal and private sector experience, he said that redevelopment of blight[ed areas] is problematic in numerous ways in relation to planning, social, and financial issues. Anchorage has dealt with the planning issues through the adoption of the Anchorage 2020 plan. In the Muldoon area, Mr. Pfeffer pointed out that his firm has worked cooperatively with the municipality and social service providers in order to work through the social issues involved with redevelopment of the blighted areas. In regard to financial issues, substantial challenges remain. He related the belief that redevelopment in the [Muldoon] area will generally involve a balance between private and public investment. The existing TIF recognizes this; however, the current law contains ambiguities that would be clarified by the proposed new language of HB 521. As mentioned earlier, HB 521 clarifies that both GO and revenue bonds are appropriate bonding methods for the TIF. Furthermore, HB 521 redefines "blight." Mr. Pfeffer concluded by reiterating support for HB 521.

REPRESENTATIVE MURKOWSKI recalled Mr. Canela's suggestion to delete the reference to private improvements because the municipality doesn't anticipate using any funds for private development. She requested that Mr. Pfeffer comment.

MR. PFEFFER related the belief that there are instances where it would be appropriate for private development. However, he acknowledged that this would be treading on new ground. Therefore, until there is a specific use, Mr. Pfeffer said he

would be amenable to the proposed deletion because most of the application will be for public infrastructure. If a situation arises in which it would be appropriate to use for [private development], it would be coordinated with local government and return to the legislature for clarification [in statute].

REPRESENTATIVE MURKOWSKI surmised then that Mr. Pfeffer would be able to move forward with the Muldoon Town Center without having a provision in HB 521 that would allow for the funds to go to the private development.

MR. PFEFFER replied yes.

Number 2498

REPRESENTATIVE SCALZI referred to page 2, lines 5-7, and related his understanding that there would be no level of support from the individuals in the area. The municipality will make the distinction and pledge these bonds on behalf of the residents, and the residents will pay through a property tax assessment. He asked if that was correct.

MR. PFEFFER pointed out that Representative Scalzi's understanding assumes that there would be an assessment in the area for the improvements. However, the mill rate applied against the assessed value in the area stays the same in that area as throughout the rest of the municipality. The only thing generating the additional tax revenue is increased value because of private sector development. Mr. Pfeffer clarified that Representative Scalzi was correct in regard to the properties in the area paying for the improvement. However, those properties aren't assessed an additional tax. "It's the increase in value that occurs because of the new improvements added to the area, because public infrastructure has been added," he explained.

Number 2381

REPRESENTATIVE HALCRO recalled testimony that one of the reasons the Muldoon project is such a good project is because much of the area is controlled by private hands. Representative Halcro asked if Mr. Pfeffer's suggestion is to leave in private because that seems appropriate if the Muldoon project is to move forward. Otherwise, Representative Halcro surmised that the money couldn't be spent on the property.

MR. PFEFFER related his understanding that the city doesn't want to see the proceeds used to help pay for private commercial

development. These proceeds could be used to pay for public improvements such as sewer, water, trails, or even to acquire property for public use. The private sector wants to see a commitment from the local government in order make public improvements in the area. Because [the private entity] knows those public improvements are going to occur, the [private entity] is willing to make private investments on private property. Mr. Pfeffer said that there may be some instances in which it would be appropriate for the TIF to be used for private improvements. However, those [instances] haven't been distinguished yet and thus we're willing to [go along] with the suggested deletion for now.

Number 2226

REPRESENTATIVE SCALZI referred to page 2, lines 8-12, which he read to say that the municipality isn't obligated to make payments to those bonds issued for a special assessment, while there is no prohibition against the municipality collecting a different tax rate for that particular area. Therefore, he asked if, under current statute, [the private entity] has the ability to have differential tax mill rates within a jurisdiction.

MR. VAN SANT replied yes.

REPRESENTATIVE SCALZI inquired as to why that section is included. He reiterated his earlier question as to why this legislation is even necessary.

MR. VAN SANT answered that he didn't know why [the section] was included.

REPRESENTATIVE SCALZI related his impression that this ability is already available [under current statutes].

Number 2057

TIM ROGERS, Legislative Program Coordinator, Municipality of Anchorage, testified via teleconference. Mr. Rogers explained that under the TIF the mill rate isn't being increased but rather the proceeds of the increased assessed valuation is being pledged in order to pay for the improvements. Although this may be a fine differentiation, it is a significant one in regard to the purposes of redevelopment of blighted areas.

REPRESENTATIVE MURKOWSKI, in regard to why HB 521 is necessary, explained that HB 521 was advanced in order to expand the definition of improvement area so that the undeveloped area around the blighted area could be incorporated in the definition. Furthermore, the legislation clarifies that there is an option to choose between revenue bonds, GO bonds, or a combination of the two.

REPRESENTATIVE HALCRO related his belief that the difference [between current statute and HB 521] would be in the repayment mechanism. Currently, the system operates under the notion that the mill rate will stay the same. However, the development through the bond process will result in an increase in property tax values, which will be pledged to repay the debt service. On the other hand, with special improvement districts a tax credit is given for a couple of years and then it has to be repaid. Again, if the property values decrease, Representative Halcro questioned from where the revenue would come to pay the debt service.

REPRESENTATIVE SCALZI asked if more money is being budgeted for Board of Equalization hearings.

MR. ROGERS replied no. Mr. Rogers turned to revenue bonds and clarified that the bond holders, not the city, would be taking the risk in regard to whether the property values rise or fall. For example, in a situation in which the property values decreased and there were no incremental taxes to fund the debt repayment, the bond holders would face the risk. The taxpayers wouldn't be sought to [pay] the difference.

Number 1751

DEVEN MITCHELL, Debt Manager, Treasury Division, Department of Revenue, provided the following clarifications. In regard to the ramifications for a community utilizing a GO bond, Mr. Mitchell pointed out that a community must vote to pass the GO bond. Therefore, the input in regard to the willingness to take the risk that the TIF would be insufficient would be done upfront. In regard to the comment that an investor would take all the risk when using a revenue bond, Mr. Mitchell disagreed. He pointed out that assemblies and city councils will have flexibility when structuring revenue bonds. In order to [obtain] investment grade revenue bonds, probably more than a tax increment as security to bond holders will be required because otherwise it would become speculative and require more

paid in interest. Again, that would be a decision made at the local level.

MR. MITCHELL turned to the difference between an LID and a TIF. He identified a potential difference with an LID as the increment on the taxes. Furthermore, the taxes increase because of the improvements. Therefore, one would be taxed at the increased rate on the increased value. However, with the [TIF] there is no increased rate but rather the difference in what would otherwise would be paid.

MR. MITCHELL pointed out that the private improvements included in HB 521 allows the use of tax exempt financing within a municipality for essentially private projects. He characterized this as perhaps an unintended consequence. He explained that under the tax code revisions of 1986 each state is allowed a private activity cap allocation, which is currently \$225 million for Alaska. This money is available for certain mortgage loan programs, student loan programs, redevelopment projects, and industrial development projects. With the current language [in HB 521] if a developer convinced a municipality to ask for a private activity cap, then part of the \$225 million tax exempt financing would be used to fund the private project.

CO-CHAIR MEYER inquired as to whether [the department] is supportive of the bill.

MR. MITCHELL answered that [the department] is indifferent. He commented that HB 521 allows development in areas where it is probably needed. How [the legislature] wants to use the state's limited ability to finance things on a tax exempt basis is a state decision.

REPRESENTATIVE KERTTULA related her understanding that the federal law allows the state the ability to grant up to \$225 million. She surmised that there isn't a fund somewhere.

MR. MITCHELL further explained that since the federal government took away the ability to finance things on a tax exempt basis, the federal government provided the aforementioned annual cap. Therefore, each state has to decide how to use this. Alaska primarily uses this cap for the Alaska Housing Finance Corporation's (AHFC) First-Time Homebuyer's program and the student loan program. He noted that it has been used for power projects that the Alaska Industrial Development and Export Authority (AIDEA) has developed. Alaska has the minimum cap and [has about the same number of requests as the cap can fill].

Number 1425

REPRESENTATIVE KERTTULA inquired as to how much of the cap is utilized for student loans and First-Time Homebuyer's program. She asked if the cap is currently being met.

MR. MITCHELL replied yes, the cap is fully utilized. The cap was increased in 2001 and 2002 to its current \$225 million. However, the First-Time Homebuyer's program has been very successful and takes whatever it can from the cap.

REPRESENTATIVE KERTTULA surmised then that [passage of HB 521] would place more pressure on the private activity cap because more applicants will want to use that [financing].

MR. MITCHELL answered that such would be a potential if the private improvement [language is left in HB 521]. If the bill merely refers to public improvements, then the pressure wouldn't be there because it would be limited to what could otherwise be financed with tax exempt financing.

CO-CHAIR MORGAN asked if any other organizations use this cap.

MR. MITCHELL specified that AIDEA does utilize the cap. However, AIDEA is project driven and thus hasn't made a request for some time. He noted that last year, the North Slope Borough made a request for a clean water project at a BP facility. Over the last couple of years, the primary users of the cap have been AHFC and the student loan program. The student loan program uses about \$30 million a year.

Number 1288

REPRESENTATIVE MURKOWSKI moved that the committee adopt Amendment 1:

Page 1, line 6,
Delete "or private"

There being no objection, Amendment 1 was adopted.

Number 1195

REPRESENTATIVE HALCRO moved to report HB 521 as amended out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 521(CRA) was

reported from the House Community and Regional Affairs Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:31 a.m.