

MINUTES
SENATE FINANCE COMMITTEE
April 26, 2005
9:05 a.m.

CALL TO ORDER

Co-Chair Wilken convened the meeting at approximately [9:05:07 AM](#).

PRESENT

Senator Gary Wilken, Co-Chair
Senator Lyda Green, Co-Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Donny Olson
Senator Lyman Hoffman

Also Attending: SENATOR CHARLIE HUGGINS; DEBORAH GRUNDMANN, Staff to Senator Huggins; JOHN NORRIS, President, U-Haul Company of Alaska; JAMES ARMSTRONG, Staff to Co-Chair Wilken; ERIC SWANSON, Director, Division of Administrative Services, Department of Administration; BRAD THOMPSON, Director, Division of Risk Management, Department of Administration; JOELLEN HANRAHAN, Director, Division of Administrative Services, Department of Community and Economic Development; JANET CLARKE, Assistant Commissioner, Division of Finance and Management Services, Department of Health and Social Services; STEVE ASHMAN, Director, Division of Senior and Disabilities Services, Department of Health and Social Services; NANCY SLAGLE, Director, Division of Administrative Services, Department of Transportation and Public Facilities; LINDA PEREZ, Administrative Director, Division of Administrative Services, Office of the Governor; MIKE BLACK, Director, Division of Community Advocacy, Department of Commerce, Community and Economic Development;

Attending via Teleconference: From an offnet location: SYDNEY SWENSON, MJ Rentals

SUMMARY INFORMATION

SB 174-EXEMPT UHAULS FROM VEHICLE RENTAL TAX

The Committee heard from the sponsor and industry representatives. The bill was reported from Committee.

SB 97-SUPPLEMENTAL APPROPRIATIONS/CBR

The Committee heard from each department with amended supplemental budget requests. The bill was held in Committee.

SB 171-NPR-A COMMUNITY GRANT PROGRAM

The Committee heard from the sponsor and the bill was held in Committee.

#SB174

[9:06:17 AM](#)

SENATE BILL NO. 174

"An Act excluding certain trucks from the definition of 'passenger vehicle' for purposes of the passenger vehicle rental tax; and providing for an effective date."

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

SENATOR CHARLIE HUGGINS, Sponsor of the bill, testified that in 2003, a consequence of the rental vehicle passenger tax legislation imposed the tax to rental vehicles used to move personal property. He was told this was not the intent of the bill and concluded it reasonable that U-Haul type vehicles are not in the same category as rental cars. He detailed the types of vehicles used for hauling. This legislation would repeal the tax for moving vehicles and would have a fiscal impact of approximately \$275,000.

[9:08:26 AM](#)

Senator Dyson served in the legislature when the original tax legislation was considered. He agreed with the sponsor of this bill's characterization that the intent was that the rental tax would apply to visitors and would not penalize Alaska residents.

[9:08:55 AM](#)

DEBORAH GRUNDMANN, Staff to Senator Huggins was available for questions.

[9:09:02 AM](#)

SYDNEY SWENSON, MJ Rentals, testified via teleconference from an offnet location, as a dealer of U Haul vehicles, in support of this

bill. Most customers of her business are military families. This tax has caused a hardship for dealers because members of the military determine that the rental costs are too high and opt to have their belongings moved by the military.

[9:10:14 AM](#)

Senator Huggins added that statistically the rental truck industry has experienced a reduction in business as a result of this tax.

[9:10:50 AM](#)

JOHN NORRIS, President, U-Haul Company of Alaska testified that the intent of the tax was to only apply to visitors and rental cars. Passage of HB 271 had unintended consequences of taxing Alaska businesses and citizens using trucks for transporting personal property. Year to date, 17 percent fewer customers are using the company's services, and the company has experienced a 29 percent reduction in March 2005. Over one half of the customers are Alaskan residents. Moving is a stressful time and additional tax adds to that stress. Municipal taxes and other charges significantly increase the rental costs. This bill would provide the same "relief" granted to taxi cabs in previously adopted legislation. Consumer has other options. Industry associations support this legislation and no associations oppose this legislation. This is the first year his company has experienced decreased sales and he surmised that the additional burden of this tax is a factor.

[9:14:58 AM](#)

Senator Olson asked the number of U Haul operators in Alaska.

[9:15:05 AM](#)

Mr. Norris replied that the company has 49 locations in the State.

[9:15:10 AM](#)

Senator Olson asked if the same decline has been experienced in all locations.

[9:15:15 AM](#)

Mr. Norris responded that the severity of the decline varies by region: a higher decline has occurred in Sitka, and Anchorage and Fairbanks dealers have had the most significant decline. He noted that the company also has services in the Yukon Territory and that no declines have occurred in the Canadian location.

[9:15:48 AM](#)

Senator Olson commented that this tax has had an impact.

[9:16:04 AM](#)

Senator Dyson offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

There was no objection and SB 174 MOVED from Committee with a zero fiscal note #1 from the Department of Revenue indicating a negative \$275,000 change in revenues.

#SB97

[9:16:40 AM](#)

SENATE BILL NO. 97

"An Act making supplemental, capital, and other appropriations, and reappropriations; amending appropriations; making appropriations to capitalize funds; making an appropriation under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date."

This bill had been previously heard in the Senate Finance Committee.

Co-Chair Wilken noted suggested amendments to the FY 06 proposed supplemental appropriations budget had been received from Governor Murkowski. Co-Chair Wilken determined that departmental representatives should speak to the changes. The Committee reviewed a spreadsheet titled "FY2005 Supplementals" updated April 22, 2005 [copy on file.]

[9:18:14 AM](#)

Co-Chair Wilken commented that statute requires that the gubernatorial administration submit all amendments to the governor's supplemental appropriations budget request by the 60th day of each session. Accommodating these amendments that were submitted as late as the prior day has caused a hardship. He informed that he would work with the Murkowski Administration to ensure the deadline is adhered to in the future.

[9:19:28 AM](#)

JAMES ARMSTRONG, Staff to Co-Chair Wilken, pointed out that proposed amendments submitted prior to February 28 have been addressed in previous hearings. Proposed amendments received after that date would be discussed at this hearing.

[9:19:50 AM](#)

Department of Administration

Item: 6

Section (in SB 97): 1(d)

Results Delivery Unit (RDU): Public Defender Agency

Supplemental Need: Projected annual caseload increase - PD was reappointed to several hundred old cases associated with the Blakely decision which rendered some aspects of the State of Alaska's sentencing framework unconstitutional. Also, increases in travel to remote courts, expert witness, discovery and file storage costs. Funding of \$24,900 in General Fund/Program Receipts is from the Department of Law from collections under Criminal Rule 39 and Appellate Rule 209. Also includes therapeutic court funding coming from federal funds received by the National Council on Alcohol and Drug Dependency and allocated to State agencies.

April 22: Updated projection reduces the amount of general funds needed by \$87,200.

\$800,000 general funds

\$20,000 Statutory Designated Program Receipts

\$820,000 Total Funds

ERIC SWANSON, Director, Division of Administrative Services, Department of Administration, testified that the Department is continuing to determine the exact amount necessary and this amendment represents the most current estimate.

[9:20:34 AM](#)

Item: 7

Section: 1(e)

RDU: Risk Management

Supplemental Need: Two major claims against the State's self-insurance deductible (\$1 million per loss) for catastrophic losses have been incurred: Fairbanks Correctional Center \$1,000,000 (total cost is just over \$1 million) and Fairweather hull damage \$350,000.

March 9: Cost estimate for the Fairbanks Correctional Center is reduced by \$150,000 to \$850,000.

April 5: Two more claims have occurred: damage to P/V

Enforcer \$225,000 and Dillingham DOT equipment storage building fire on Feb 12 \$670,000.
\$2,095,000 general funds

Mr. Swanson noted the two incidences that occurred after the initial supplemental budget request was submitted.

[9:21:16 AM](#)

Senator Dyson asked if this supplemental request includes funding required as the result of the State losing a wrongful discharge lawsuit.

[9:21:29 AM](#)

Mr. Swanson replied that funding is not included in this request.

[9:21:39 AM](#)

Co-Chair Wilken asked if the State would be reimbursed the \$225,000 necessary to repair the P/V Enforcer.

[9:21:50 AM](#)

Mr. Swanson responded that the Division of Risk Management is pursuing recovery of this expense. He was unsure whether the State would receive any reimbursement.

[9:22:05 AM](#)

Co-Chair Wilken suggested it would be appropriate to withhold funding for this item in the current fiscal year. If recovery is not received, the legislature could allocate funds as a FY 06 supplemental appropriation. He understood that straps holding the vessel at the shipyard broke and that this occurred before the State took possession of the new vessel. He intended to convey that the State did not intend to pay the resulting repair costs.

[9:22:32 AM](#)

Mr. Swanson noted the expectation that the State would receive partial reimbursement. The matter would continue to be addressed.

[9:22:56 AM](#)

Item: 9
Section: None
RDU: Personnel

Supplemental Need: April 5: Costs related to investigation of alleged violation of Ethics Act \$40,000.

April 22: Cost increase of \$20,000 to a new total of \$60,000.

\$60,000 general funds

Mr. Swanson outlined this request.

[9:23:29 AM](#)

Senator Dyson requested a representative from the Division of Risk Management address the matter of the aforementioned wrongful termination lawsuit.

[9:24:19 AM](#)

BRAD THOMPSON, Director, Division of Risk Management, Department of Administration, testified that the wrongful termination lawsuit is not included in this funding request and that any judgment would not be paid from this insurance fund.

[9:24:40 AM](#)

Senator Dyson asked if the department would pay the judgment costs.

[9:24:45 AM](#)

Mr. Thompson explained that the Tort Section does not defend in these types of litigation. He was unsure if the ruling would be appealed.

Mr. Thompson then addressed the matter of damage to the P/V Enforcer, informing that if the support straps did break, the Division would aggressively pursue every effort to recover the repair expenses from the manufacturer. However, he noted contractual limitations within the manufacturing agreement could limit options available for recovery.

[9:25:46 AM](#)

Co-Chair Wilken requested this information in written format.

Department of Community and Economic Development

[9:26:09 AM](#)

Item: 12

Section: None

RDU: Alaska Seafood Marketing Institute
Supplemental Need: April 5: Additional federal funds awarded
1/11/05 for the export market access program, which must
be spent in FY 05.
April 22: Increase by \$20,000 RSS for match.
\$1,500,000 federal funds
\$20,000 Receipt Supported Services funds
\$1,520,000 Total Funds

JOELLEN HANRAHAN, Director, Division of Administrative Services,
Department of Community and Economic Development outlined this
request.

[9:27:03 AM](#)

Item: 13
Section: None
RDU: Alaska Seafood Marketing Institute
Supplemental Need: April 15: \$750,000 of SDPR for herring
promotion in the overseas market. Funding coming from the
Alaska Fisheries Marketing Board.
\$750,000 Statutory Designated Program Receipts

Ms. Hanrahan noted this funding was awarded during the April Board
meeting.

[9:27:37 AM](#)

Item: 11
Section: None
RDU: Capital
Supplemental Need: Feb. 28: Manufacturing Extension Program
capital project is moved from the FY 06 capital budget to
the FY 05 supplemental in order to begin the project
earlier.
\$800,000 federal funds
\$800,000 BLIC & Corp Receipts
\$1,600,000 Total Funds

Mr. Armstrong noted this item was overviewed at a previous hearing.

Department of Corrections

[9:28:09 AM](#)

Item: 16
Section: None
RDU: Inmate Health Care

Supplemental Need: April 22- Costs of unanticipated
catastrophic medical cases
\$490,000 general funds

MARK ANTRIM, Commissioner, Department of Corrections, testified to the difficulty of the Department to control catastrophic health care issues. To date, the Department has "absorbed the expense of five or six of these instances including treatment of a gunshot wound, hip surgery, heart bypass surgery and a patient requiring Medivac from Nome. Three new cases requiring kidney dialysis would cost approximately \$90,000 and hospitalization expenses must be paid for treatment of an inmate with liver disease who has since died. One prisoner is under review for release on medical parole, which should reduce expenses to the State.

[9:30:11 AM](#)

Co-Chair Wilken asked these expenses would be paid from the general fund and that no other funding source is anticipated.

[9:30:22 AM](#)

Mr. Antrim affirmed and informed the inmates in these cases do not have other insurance coverage. He noted that payment of medical expenses is secured from insurance companies in instances in which an inmate has such coverage.

[9:30:41 AM](#)

Department of Education and Early Development

Item: 18

Section: 4(b)

RDU: Foundation Program

Supplemental Need: Reduce the FY 05 entitlement for public school funding by \$14,145,500 due to a decrease in projected enrollment; an increase in the amount of federal impact aid that reduces the amount of state aid; and the actual cost of the supplemental funding floor.

March 9: An additional decrease of \$47,000

-\$14,192,500 general funds

Co-Chair Wilken commented that because this item represents a funding reduction, no explanation is necessary at this time.

[9:30:50 AM](#)

Item: 22

Section: 7(a)

RDU: Debt Retirement Fund

Supplemental Need: Increased capitalization of the Debt Retirement Fund to supplant a shortfall in cigarette tax revenue into the School Fund - the estimate for cigarette tax revenue is reduced by \$800,000 from \$30.2 million to \$29.4 million. This fully funds the School Construction Debt Reimbursement program in FY 05. (Original request consisted of \$551,100 general funds, \$3,500 federal UR Rcpts, and \$254,400 DEED CIP Equity Account.)

\$0 DEED CIP Equity funds

Co-Chair Wilken noted this section of the bill would be deleted.

[9:30:58 AM](#)

Department of Health and Social Services

Item: 29

Section: 8(e)

RDU: Public Assistance: Adult Public Assistance

Supplemental Need: Savings due to caseload reduction and programmatic changes, particularly last year's changes to interim assistance.

April 22: Additional savings of \$500,000 to be used to fund the breast and cervical cancer screening supplemental request of \$500,000.

-\$2,538,800 general funds

JANET CLARKE, Assistant Commissioner, Division of Finance and Management Services, Department of Health and Social Services, explained the suggestion of utilizing the additional \$500,000 savings to fund the breast and cervical cancer program; funding that was originally requested in the FY 05 Fast Track supplemental proposal.

[9:31:48 AM](#)

Co-Chair Wilken clarified that the need for funding the Adult Public Assistance program has decreased and the Department is requesting the funds be transferred to the breast and cervical cancer-screening program.

Ms. Clarke affirmed.

[9:32:05 AM](#)

Senator Dyson again asked about the lawsuit claiming wrongful

discharge of an employee. He asked Ms. Clarke if the State is appealing the court decision.

Ms. Clarke did not know.

[9:32:26 AM](#)

Senator Dyson asked if the ruling were not overturned, whether the judgment would be paid from the Department of Health and Social Services budget.

[9:32:35 AM](#)

Ms. Clarke surmised that a funding request would be made to the legislature by the Department of Law as a judgment and claims item.

[9:32:58 AM](#)

Item: 34

Section: None

RDU: Behavioral Health: Behavioral Health Medicaid Svc

Supplemental Need: Medicaid caseload growth above FY 05 budget projections. At current expenditure rate, the existing appropriation will be gone in April or May. (Originally requested as part of the Fast Track supplemental, but was not included in the final version because funds were not yet needed.)

\$2,653,700 general funds

\$3,517,700 federal funds

\$6,171,400 Total Funds

Mr. Armstrong explained the determination that this item could be funded in this bill rather than the fast track supplemental appropriation.

Co-Chair Wilken assumed that the funds would be required.

Ms. Clarke affirmed.

[9:33:41 AM](#)

Item: 35

Section: None

RDU: Health Care Services: Women's and Adolescents Services

Supplemental Need: Feds reduced FFY 05 funding in the Breast and Cervical Cancer screening program. The \$500,000 general funds will continue services to 1,600 enrolled women that otherwise would not be served. (Originally requested in the

Fast Track supplemental bill, but not funded.)
\$500,000 general funds

Co-Chair Wilken noted this item relates to the aforementioned Item #29.

[9:33:47 AM](#)

Item: 36
Section: None
RDU: Behavioral Health: Srvcs to Chronically Mentally Ill
Supplemental Need: April 15: Reappropriation of expected FY 05 lapse of MHTAAR funds to complete the Community Planning and the Independent Case Management projects in FY 06, in the amounts of \$110,000 and \$89,200, respectively.
\$0

Ms. Clarke explained this request would extend the lapse date of Mental Health Trust Authority authorized receipt funds previously appropriated for these projects. The Mental Health Trust Authority approved this action.

[9:34:17 AM](#)

Item: 37
Section: None
RDU: Pioneers Homes
Supplemental Need: April 22- Appropriate excess receipts for the purchase of needed equipment for the Pioneer Homes
\$450,000 Receipt Supported Services funds

Ms. Clarke stated these receipts were collected in FY 04 and FY 05 and discovered in a March 2005 budget review to have not been appropriated. Some dispute exists in the amount of receipt supported services funds that should be included in the operating budget. The Department is therefore suggesting appropriation of these funds as a one time capital appropriation for the purchase of equipment. She noted the extensive list of equipment needs.

[9:35:36 AM](#)

Item: 38
Section: None
RDU: Sr. Dis. Srvcs: Sr Res Srvcs
Supplemental Need: April 22: Additional funding for the Kotzebue Senior Citizens Center residential care grant.
\$200,000 general funds

Ms. Clarke informed that the Department became aware of a reduction in FY 05 for the residential senior services program at this senior center. It was anticipated that this shortfall would be replaced with Medicaid funding. However it has been difficult to get those residents eligible for Medicaid coverage. This request is to utilize general funds

[9:36:23 AM](#)

Co-Chair Wilken asked if the expectation was that federal funding would be received but those funds were not appropriated.

Ms. Clarke affirmed.

[9:36:30 AM](#)

Co-Chair Green asked if the situation would be rectified for FY 06.

Ms. Clarke assured the Department and the Kotzebue center would diligently pursue reinstatement of the funding. General funds would therefore not be requested for this purpose for FY 06.

[9:36:45 AM](#)

Co-Chair Green asked if legislative intent language on this matter would be "rigorously enforced statewide."

Ms. Clarke answered it would.

[9:36:58 AM](#)

Item: 39
Section: None
RDU: Senior and Disabilities Medicaid Services
Supplemental Need: April 22: Additional funding needed
\$7,621,400 general funds
\$10,345,300 federal funds
\$17,966,700 Total Funds

Ms. Clarke pointed out this is the largest funding request and commented it is her least favorite program that includes the personal care attendant program that funds the waiver and nursing home services. She reminded that the original request in the Fast Track supplemental was for \$53 million, and that the legislature already has appropriated that amount. Projections at that time estimated expenditures at approximately \$20 million per month; however, the actual cost has been higher for each month since December 2004. Therefore, the Department had no option but to

request additional funding.

Ms. Clarke stressed this program requires regulation changes to reduce eligibility access. She told of an audit report on the program that she would share with the legislators. The report determined that the entire program requires reform, including significant management controls. The program has expanded at a rate faster than current regulations have the ability to control. Legislative intent language proposed for the FY 06 operating budget directing the Department to adopt regulations to close loopholes has the support of the Department. These efforts must be monitored.

Ms. Clarke warned that legislators would likely hear from constituents as these regulations and management controls are implemented. The Department is committed to making necessary changes to ensure the same appropriation requests are not submitted for FY 07.

Ms. Clarke qualified that a portion of the increased expenses, relating to nursing home costs, was unanticipated. The Department is reviewing the matter to determine if this is the result of new "beds" being made available. Some cost increase was expected, but the actual increase is ten percent, which is higher than the predicted amount.

[9:41:16 AM](#)

Co-Chair Wilken informed that intent language included in the FY 06 operating budget appropriation would hopefully assist in containing this expense.

[9:41:25 AM](#)

Senator Dyson commented that this program represents an instance in which the good intentions of empowering families to care for their senior members has instead enabled people to take advantage of the program. He expressed willingness to assist in correcting this.

[9:42:15 AM](#)

Co-Chair Green asked the consequences if this request were not funded.

[9:42:24 AM](#)

Ms. Clarke replied that if the \$18 million requested in this legislation were not appropriated, the funding for this program would be exhausted as of June 2005 and the Department would be

unable to pay the assisted living facilities, nursing homes and other service providers.

[9:42:52 AM](#)]

Co-Chair Green asked if the expenditures could be prorated for this program.

Ms. Clarke answered that this was not an option.

Co-Chair Green suggested this could be considered for future years to avoid similar appropriation requests.

[9:43:18 AM](#)

Ms. Clarke spoke of questions to the legality of prorating Medicaid services. When such options have been considered in the past, the Department has been advised of the "difficulty" in prorating Medicaid payments.

[9:43:48 AM](#)

Co-Chair Green clarified the State has no ability to adjust rates in the event of this situation.

[9:44:00 AM](#)

Ms. Clarke affirmed that the Department of Law has advised that emergency regulations could not be adopted to prorate payments as the result of a budget crisis.

[9:44:21 AM](#)

Senator Hoffman noted the anticipated public "backlash" that would result from the upcoming regulation changes to the program. He asked how those changes would affect the program and the amount of costs savings projected for FY 07.

[9:44:57 AM](#)

Ms. Clarke told of 14 intent language items discussed by the Department of Health and Social Services budget subcommittee that basically relate to reducing and controlling eligibility and access to the program.

[9:45:30 AM](#)

STEVE ASHMAN, Director, Division of Senior and Disabilities

Services, Department of Health and Social Services, testified that the Division is in the process of drafting regulations to implement the 14 intent language items. The most significant change would clearly define eligibility for this program. This would involve determining whether the personal care attendant would serve as a substitute for the patient entering a nursing home or respite care facility, in that the patient would otherwise require such care. The Division is also reviewing the definitions of qualifying disabilities.

[9:46:34 AM](#)

Senator Hoffman asked the percentage of the current \$240 million cost of this program would be reduced as a result of these changes.

[9:46:50 AM](#)

Mr. Ashman replied that the cost analysis has yet to be completed.

[9:47:04 AM](#)

Senator Hoffman asked if the estimate was two percent, five percent, or other general amount.

[9:47:09 AM](#)

Mr. Ashman estimated that a minimum savings of ten percent is expected and that the intent is that the amount would be higher.

[9:47:23 AM](#)

Senator Hoffman calculated a ten-percent reduction to the program at \$24 million.

[9:47:28 AM](#)

Ms. Clarke clarified that the cost of the personal care attendant portion of the program is approximately \$80 million.

[9:47:50 AM](#)

Department of Law

Item: 40

Section: 9

RDU: Civil Division, Deputy Attorney General's Office

Supplemental Need: Judgments and claims as of 2/7/05 are \$1,108,900

March 9: adds \$209,700 for a new total of \$1,318,600
April 15: adds \$621,400 for a new total of \$1,940,000
April 22: adds \$51,900 (\$2,700 general funds and \$49,200
PSTF) for a new total of \$1,991,900
\$1,942,700 general funds
\$49,200 Public School Trust Fund
\$1,991,900 Total Funds

Senator Dyson asked if the aforementioned wrongful discharge lawsuit is reflected in this item.

[9:48:27 AM](#)

KATHRYN DAUGHHETEE, Director, Administrative Services Division, Department of Law, asked if Senator Dyson was referencing the case resulting from the dismissal of an employee from the position of Long Term Care Ombudsman.

Senator Dyson corrected the lawsuit he spoke to involved a former human resources employee of Department of Health and Social Services

Ms. Daughhettee replied that this item includes payment for one employment related litigation, which is different from the case Senator Dyson referenced. She noted that funding for a judgment or claim is not requested until a case is resolved; if that case were appealed, it would not be included in this supplemental appropriation request.

[9:49:11 AM](#)

Senator Dyson clarified this.

[9:49:31 AM](#)

Item: 47
Section: None
RDU: Environmental Law
Supplemental Need: April 15: Analysis of continuing injury from the Exxon Valdez Oil Spill and development of restoration options; FY 06 lapse date.
\$75,000 Exxon Valdez Oil Spill Rest.

Co-Chair Wilken outlined this item and it was established there was no interest in discussion at this time.

[9:49:45 AM](#)

Department of Natural Resources

Item: 58

Section: None

RDU: Agricultural Dev

Supplemental Need: April 15: Scope change to sec. 24(n), ch. 159, SLA 2004, for the Alaska dairy industry and the statewide economic disaster related to the border closure against ruminants.

\$0

Co-Chair Wilken defined "ruminants" are "cud chewing animals."

[9:50:11 AM](#)

Department of Revenue

Item: 64

Section: None

RDU: Child Support Services Division

Supplemental Need: Feb 28: Replacement funds for FFY 02 incentives that were wrongfully withheld due to a delay on the part of the federal government. Original request of \$602,000 federal funds.

March 11: Delete request

\$0

Co-Chair Wilken stated that because this item is deleted, discussion was not warranted at this time.

[9:50:15 AM](#)

Item: 66

Section: 16(a)

RDU: School Debt Reimbursement

Supplemental Need: Fund source change due to a shortfall in cigarette tax revenue deposits into the School Fund. The School Fund is reduced from \$30.2 million to \$29.4 million and the Debt Retirement Fund is increased from \$51,670,084 to \$52,470,084.

March 9: Amendment due to final reconciliation of FY 05 school debt reimbursement needs: overall the amount is reduced \$8,838,900 to \$73,031,200; Debt Retirement Fund is reduced by \$11,620,684 from \$51,670,084 to \$40,049,400; and School Fund is increased by \$2,781,800 from \$30,200,000 to \$32,981,800

April 5- School Fund revenue is expected to be \$400,000 less than originally anticipated, which requires a fund

source switch between the School Fund and the Debt Retirement Fund in the same amount.
-\$8,838,900 Debt Ret Fund and School Fund

Co-Chair Wilken remarked that discussion on this item is not necessary at this hearing.

[9:50:23 AM](#)

Department of Transportation and Public Facilities

Item: 70
Section: 17(c)
RDU: Capital
Supplemental Need: Emergency and Non-routine Maintenance:
Failed railroad crossings, \$305,000
Winter ice storm and avalanche damage, \$50,000
Johnson River bridge damage, \$218,400
April 15: Wolverine Road on Lazy Mountain, \$170,000
\$743,400 general funds

NANCY SLAGLE, Director, Division of Administrative Services, Department of Transportation and Public Facilities, testified that a portion of the roadway of Wolverine Road near Palmer, slid downhill as a result of the spring thaw. This portion of the request is to undertake emergency repairs until permanent repairs could be made in a future project.

[9:51:30 AM](#)

Item: 85
Section: None
RDU: Fairbanks Airport Operations
Supplemental Need: March 11: Utility cost and consumption increases.
\$127,700 International Airports Revenue Fund

Ms. Slagle noted this is similar to other supplemental appropriation requests for funding to address increased costs of electricity and natural gas. The airport staff has been attempting to absorb these increases in its regular budget with savings from position vacancies, etc., but determined this would not be possible.

Item: 76
Section: 17(i)
RDU: Central Region Highways and Aviation
Supplemental Need: Anchorage snowhaul and equipment fuel.

Utilities, sand and steel cost increases.
\$1,374,400 general funds

Ms. Slagle understood the concerns about proposed amendments to the supplemental appropriation request submitted after the deadline. She announced that the final expenses for this item have been determined and therefore the originally requested amount would be reduced by \$100,000 to reflect actual usage. The amended amount, not shown on the spreadsheet would be \$1,274,400.

[9:53:13 AM](#)

Office of the Governor

Item: 102
Section: None
RDU: Contingency Fund
Supplemental Need: March 11: Reimbursement of funds provided
To the Department of Commerce, Community and Economic
Development for emergency bulk fuel loans made to small
communities, \$319,500.
April 22: Increased costs of \$65,700 for two additional
small community loans brings the total to \$358,200.
\$385,200 general funds

LINDA PEREZ, Administrative Director, Division of Administrative Services, Office of the Governor, noted the members had a list of the communities and loan amounts [copy not provided.]

Co-Chair Wilken asked if these loans were made through the Denali Commission program, or a different program.

Ms. Perez deferred to the Department of Community and Economic Development.

[9:54:08 AM](#)

Co-Chair Wilken asked if this request is in addition to the \$65,700 appropriated in the fast track supplemental legislation.

[9:54:19 AM](#)

MIKE BLACK, Director, Division of Community Advocacy, Department of Commerce, Community and Economic Development, testified that these loans were made through the Department's bridge loan program. The funds requested in this legislation are separate from the earlier fast track supplemental appropriation. The bridge loan program was developed the previous year to address high fuel costs.

[9:55:25 AM](#)

Co-Chair Wilken asked what agency receives the loan repayments.

[9:55:30 AM](#)

Mr. Black explained the revolving loan program that is repaid over three years. Communities borrow from their account held within this program and could borrow again once the outstanding balances are repaid.

[9:55:52 AM](#)

Senator Hoffman asked if the Office of the Governor ascertained that a commitment was received from the legislature and therefore allocated these contingency funds based on the expectation that the program would be funded.

Mr. Black affirmed.

[9:56:28 AM](#)

Item: 103
Section: None
RDU: Executive Office
Supplemental Need: April 5: Additional funding for the
Northern Forum.
\$100,000 general funds

Co-Chair Wilken noted this appropriation is necessary to comply with a commitment made by the legislature.

[9:56:40 AM](#)

Item: 104
Section: None
RDU: Executive Office
Supplemental Need: April 13: Work related to the state gas
pipeline and to bringing North Slope natural gas to market
for FY 05 and FY 06.
\$500,000 general funds

Ms. Perez told of the accelerated focus on securing a contract for a natural gas pipeline and the need for additional funding for extra travel expenses and other costs.

[9:57:03 AM](#)

Item: 105
Section: None
RDU: Multiple
Supplemental Need: April 22: Reappropriation of any FY 05
general fund balances within the Office of the Governor
for FY 06 operating costs.
\$0

Co-Chair Wilken asked if this provision is standard language included in all supplemental appropriation legislation.

Mr. Armstrong affirmed.

Ms. Perez also affirmed.

The bill was HELD in Committee.

#SB171
AT EASE [9:57:47 AM](#) / [10:01:02 AM](#)

Co-Chair Green chaired the remainder of the meeting.

SENATE BILL NO. 171
"An Act amending the National Petroleum Reserve - Alaska special revenue fund; and establishing the Special Legislative Oil and Gas NPR-A Development Impact Review Committee and defining its powers and duties."

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

Co-Chair Wilken, sponsor of the bill, overviewed the documents contained in the bill packets provided to members [copies on file].

[10:02:11 AM](#)

Co-Chair Wilken read the sponsor statement into the record as follows.

Senate Bill 171 examines the National Petroleum Reserve - Alaska (NPR-A) Mitigation Grant Program administered by the Department of Commerce, Community, and Economic Development (DCCED) and modifies the selection process to provide for active oversight by the legislature.

The bounty of NPR-A is thought by many to match or exceed the oil and gas deposits found at Prudhoe Bay or Kuparuk. As was mentioned in the Anchorage Daily News, February 15, 2005, "(The) Bureau of Land Management estimates NPR-A northeast corner could hold more than 2 billion barrels of crude oil and 3.5 trillion cubic feet of natural gas." All Alaskans look forward to the time when they can enjoy the benefits of reasonable and responsible development of these natural resources.

When members of the United State Congress authorized competitive leases in NPR-A in 1980, they recognized that development in the petroleum reserve might severely impact communities in or near the area. The federal legislation directed that the revenue generated through NPR-A development be used first to mitigate direct impacts, if any, to municipalities, and then by the rest of the State of Alaska. This federal directive in 1980 created two troubling issues that today pose significant problems.

First, the federal legislation is in direct conflict with the Alaska State Constitution. The State of Alaska receives from the federal government 50 percent of royalties and lease payments from the oil and gas development in NPR-A. As required by federal law, these funds are available, before consideration of any other public purpose, to communities that demonstrate impact from resource development in NPR-A. This directive is at odds with Article IX, Section 15 of our constitution.

"At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund."

Senate Bill 171 recognizes this unsettling conflict, but does not overtly address or remedy the conflict between our State Constitution and federal law. This issue, while bothersome, is set aside for another day. Instead, this legislation speaks to the second troublesome issue of how the federal NPR-A payments are distributed to Alaska communities that may be severely impacted by oil and gas development within the National Petroleum Reserve. With the sizeable increase in NPR-A lease payments since 2000 and with the clear expectation of future and profitable growth, now is the time to revisit how the NPR-A payments are distributed and why. It is the charge of the legislature to devise a method to fairly allocate the financial benefits of NPR-A to all citizens of

Alaska while, at the same time, recognize and mitigate the direct impact of development on certain communities as required by federal law.

In response to a 1986 Alaska Superior Court decision, Senate Bill 171 sets in place a system to grant impact assistance to municipalities most directly or severely impacted by oil and gas activity within the National Petroleum Reserve - Alaska. First, the Department of Commerce, Community, and Economic Development shall review and conduct a preliminary evaluation of each grant application to determine whether the community can demonstrate "extraordinary municipal and educational operating expenditures attributable to oil and gas development in NPR-A that are beyond the municipality's reasonable capability to meet." (See SB 171, page 3, lines 3-6) The department will submit a list of all qualifying projects to the legislature.

Second, the Special Legislative Oil and Gas NPR-A Development Impact Review Committee, composed of three Senate finance members and three House of Representative finance members, will review the submitted applications and within 45 days forward the committee's recommendation to the respective finance committees for possible funding.

Third, twenty-five percent of the NPR-A payments will be deposited to the principal of the Alaska Permanent Fund and .5 percent to the Public School Trust Fund, as required in AS 37.14.110. If the amounts awarded to qualified municipalities as grants exceed the available money, each deposit in the previously mentioned funds and each grant will be reduce proportionately.

And last, a successful grantee shall submit to the Department of Commerce, Community, and Economic Development a financial report and a copy of an independent audit or review covering any previous grants before any subsequent grants are awarded.

I would appreciate your support for Senate Bill 171.

[10:07:13 AM](#)

Co-Chair Wilken gave a presentation titled, "NPR-A Impact Mitigation Program" [copy on file] as follows.

Page 1

"The duty imposed by the federal government ultimately falls

upon the Alaska Legislature..."
Barrow vs. State
Judge Walter Carpeneti, March 18, 1986

[10:07:31 AM](#)

Page 2

Alaska Constitution vs. Alaska Statute

- Current Impact Mitigation Program
- Importance of "Impact"
- Senate Bill 171

Co-Chair Wilken outlined the topics that would be addressed in the presentation.

[10:07:40 AM](#)

Page 3

National Petroleum Reserve - AK

[Map of northern Alaska showing NPRA, the Alaska National Wildlife Refuge, the Trans-Alaska Pipeline, Native owned lands, certain oil fields and other points of reference]

- 23.5 million-acre petroleum reserve (~ Indiana)
- NW third of Alaska's arctic between the Brooks Range and the Arctic Ocean

Co-Chair Wilken identified this area of conflict is approximately the size of the state of Indiana.

[10:08:16 AM](#)

Page 4

The history of NPR-A

1923	President Warren Harding established the Navel Petroleum Reserve
1976	Dept. of Interior assumed jurisdiction and changed the name
1980	Congress addressed changes to National Petroleum Reserve - AK

[10:08:36 AM](#)

Page 5

Changes in 1980

- Congress authorized competitive leases in NPR-A (42 U.S.C. Sec. 6508)
- Federal law cleared the way for the private development of NPR-A resources
- State of Alaska to receive 50% of the total revenue from NPR-A leases

[10:08:54 AM](#)

Page 6

The legislature responded

To the new federal law: "The State is required to give priority to communities 'most directly or severely impacted' by development."

- Established an NPR-A Special Revenue Fund within the Department of Revenue (CS SB 835 am H, 1982)
 - Half of NPR-A receipts appropriated to communities affected by leasing
 - Other half available for state appropriation

[10:09:19 AM](#)

Page 7

But Governor Hammond Vetoed

"The dedication of such federal monies appears to be ... inconsistent with the dedication of revenue to the Alaska Permanent Fund." Governor Hammond, Veto Message, June 24, 1982

Alaska State Constitution
Article IX Section 15
Alaska Permanent Fund

"At least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund." (Adopted in 1976)

Co-Chair Wilken submitted that few Alaskans are aware that four communities and one borough have "jumped ahead" of deposits into the Alaska Permanent Fund in receiving appropriations. Most Alaskans assume the royalties are shared equally.

[10:10:08 AM](#)

Co-Chair Wilken noted that some would argue that the royalties are "received" after the four communities are allotted a portion. He contended that the funds should be considered "received" once the federal government appropriates them.

[10:10:31 AM](#)

Page 8

And so the legislature...

Without a specific state law on the books...

- Received \$48.6M during the early 1980s
- Deposited half of the State's share into the Permanent Fund and .5% to the Public School Fund
- Deposited the remainder of the funds in the General Fund

[10:10:52 AM](#)

Page 9

Calculation by Alaska Constitution

In 1982, the Legislature appropriated the NPR-A receipts according to the Alaska State Constitution

NPR-A Receipts	\$48,600,000
50% of gross receipts to Perm Fund	(24,300,000)
.5 of gross receipts to Public School Trust	(243,000)
Available to General Fund for Impacted Communities	24,057,000

[10:11:05 AM](#)

Page 10

But what about the federal law?

- In 1985, the North Slope Borough and NPR-A communities sued the state
- The plaintiffs wanted:
 1. A "rational process" for communities to apply for the grants
 2. Declaration that all NPR-A funds be automatically deposited into the special revenue fund and available for grants
 3. A system to separately account the receipt of NPR-A

funds and to reconstitute the special revenue fund

Co-Chair Wilken emphasized the reference to a revenue fund as opposed to the Alaska Permanent Fund. The special revenue fund is not unlike the Alaska Mental Health Trust fund.

[10:11:39 AM](#)

Page 11

The Superior Court said...

Barrow v. State, Alaska Superior Court, Judge Walter Carpeneti, March 18, 1986

1. The State is required to establish a system to grant impact assistance to subdivisions most directly or severely impacted by NPR-A activity.
2. Automatic deposits into the Permanent Fund and General Fund violates the federal law.
3. Under the supremacy clause of the federal constitution, federal law controls.

Co-Chair Wilken identified this as "tension" between the Alaska State Constitution and federal law.

[10:12:14 AM](#)

Page 12

The legislature listened

- Adopted legislation to implement the court findings (CS HB 491(FIN), 1986)
 - Established the Impact Mitigation Program
 - Authorized DCCED to adopt regulations setting eligibility criteria for NPR-A grants
- Appropriated \$24.5 million to the NPR-A special revenue fund

Judge Carpeneti ruled that the NPR-A special revenue fund be reconstituted. The \$24.5 million payment was in response to this ruling.

[10:12:38 AM](#)

Page 13

Where did the money go?

First and foremost, grants to four impacted communities

After that...

1. 50 percent to the principal of the Perm Fund
2. .5 percent to the Public School Trust Fund
3. Remaining amounts to the General Fund

Note: In 1999, HCS CS SB 157 (FIN) am H (1999) passed the legislature and requires a 25% deposit to the Permanent Fund and allows a deposit to the Power Cost Equalization fund before the General Fund.

[10:12:57 AM](#)

Page 14

Calculation by Alaska Statute
(AS 37.05.530(g))

Conforms with 1980 federal law which conflicts with our Alaska Constitution

NPR-A Federal Receipts	\$31,623,800
Grants to NPR-A Communities (DCCED Rec)	(24,706,500)
Net NPR-A Receipts	6,917,300
25% of Net Receipts to Permanent Fund	(1,729,300)
.5% of Net Receipts to Public School Trust	(34,600)
Available Receipts for PCE (May be approp.)	5,153,400
Available for General Fund	Remainder if any

(Example uses requested FY 06 numbers)

Co-Chair Wilken revealed that the premise that NPR-A receipts are "sacred to the Permanent Fund" is untrue.

[10:14:00 AM](#)

Page 15

Comparison of Two Methods

AK Constitution vs. AK Statutes

	AK Constitution Art. IX, Sec. 15	AK Statutes (per fed law)
NPR-A Federal Receipts	\$31,623,800	\$31,623,800
25% of Gross Rcpts to Perm Fund	(7,906,000)	
.5% of Gross Rcpts to School Fund	(158,100)	
Grants to Communities (DCCED Rec)	(23,559,700)	(24,706,500)
25% of Net Receipts to Perm Fund		(1,729,300)
.5% of Net Receipts to School Fund		(34,600)
Available Rcpts for PCE (May Approp)	0.0	5,153,400

Available Receipts for GENERAL FUND 0.0 Remainder if any

Example uses requested FY 06 amount.

Co-Chair Wilken remarked this demonstrates the conflict between the Constitution and statute. The affect is "shorting my grandkids by 80 percent" of the amount stipulated by the Constitution. "The future is being shorted by this federal law" that provides the Permanent Fund could receive NPR-A receipts only after the requests of four communities and one borough government are provided. He noted this issue is not addressed in this bill and is a matter for future consideration.

[10:15:30 AM](#)

Page 16

NPR-A
Impact Mitigation Program

Alaska Constitution vs. Alaska Statute
Current Impact Mitigation Program
Importance of "Impact"
Senate Bill 171

[10:15:36 AM](#)

Page 17

The Current Mitigation Program
Committee Substitute for House Bill 491 (FIN), 1986

U.S. Dept of Interior notifies Dept. of Commerce, Community and Economic Development regarding possible NPR-A Federal Receipts

[Flow Chart demonstrating subsequent process as follows:

- NPR-A Communities
- 1. Public Notice & Request for Applications
DCCED
- 2. Requests
Review Committee
- 3. Evaluate & Recommend Proposals
Legislature
- 4. Commissioner Requests Funding
DCCED
- 5. OK Funding?]

[10:16:12 AM](#)

Page 18

Where are the Communities?

[Map of NPRA and surrounding area with four communities identified as follows:

City of Barrow

Population - 4,351

Median Household Income - \$67,097

City Responsibilities - Bingo, Community Center, Roller and Ice Rink, Teen and Recreation Center, Housing, City Hall, Little Dribblers, Taxis, Summer Youth Employment, Gravel Sales

City of Wainwright

Population - 531

Median Household Income - \$54,722

City Responsibilities - None listed

City of Nuiqsut

Population - 430

Median Household Income - \$48,036

City Responsibilities - Community Hall, Dock, Cable TV

City of Atkasuk

Population - 218

Median Household Income - \$66,607

City Responsibilities - Bingo, Room Rentals, Community Center, Recreation, Cable TV

Source: DCCED and Alaska Municipal League - Alaska Municipal Officials Directory]

[10:17:01 AM](#)

Page 19

Total Distribution to Date
...and FY 07 projections

[Bar graph showing Amount of the Grant Awards in amounts between \$0 and \$50,000 for the years 1980 through 1986 and FY 87 through FY 08. A notation states: FY 06 is the requested amount. FY 07 is the projected amount from the proposed NPR-A summer lease sales.]

Since 1980, a total of \$117,249,388 has been awarded to 4 communities.

(Total includes the FY 06 requested amount of \$24,706,500)
(FY 87 and FY 91 include 5 communities)

Co-Chair Wilken noted the years with significantly higher distributions. The amount for FY 05 is expected to be almost \$50 million and future distributions would increase further.

[10:18:15 AM](#)

Page 20

A Perspective in Statewide Terms

What if ... the FY 06 requested grant amount was computed on a per person basis, what would that mean for other AK communities on 7/1/05?

Anchorage

Population - 277,498
\$1.2 billion

Fairbanks

Population - 84,979
\$379.7 million

NW Arctic Borough

Population - 7,306
\$32.6 million

Bethel

Population - 5,888
\$26.3 million

Sitka

Population - 8,805
\$39.4 million

The FY 06 requested amount, \$24,706,539, is divided by the total population of NPR-A grant recipients, 5,530, for a per person amount, \$4,468.

Co-Chair Wilken commented that this demonstrates the imbalance. A large area of the State with a small population has "jumped in front of the Permanent Fund" and has benefited from a system that "is far above the spirit of the law." Although following the "letter of the law", the current practice does not reflect "the spirit of the law." This is big money.

[10:19:55 AM](#)

Page 21

NPR-A
Impact Mitigation Program

Alaska Constitution vs. Alaska Statute
Current Impact Mitigation Program
Importance of "Impact"
Senate Bill 171

[10:20:02 AM](#)

Page 22

Where is NPR-A O&G Activity?

[Map of northern Alaska showing NPRA, the Alaska National Wildlife Refuge, the Trans-Alaska Pipeline, Native owned lands, certain oil fields and other points of reference]

Proximity to Current NPR-A Oil and Gas Activity
Wainwright - 220 miles
Barrow - 160 miles
Nuiqsut - 6 miles
Atqasuk - 160 miles

Co-Chair Wilken noted on map.

[10:20:39 AM](#)

Page 23

And the main O&G Activity?

[Map showing area of North Slope Oil and Gas Activity between the eastern boundary of the National Petroleum Reserve - Alaska and the western boundary of the 1002 Area of ANWAR. Highlighted are: Units, Drill Pad, Town Location, Dalton Highway, Trans-Alaska Pipeline, Oil Accumulations, and Gas Accumulations.]

[10:21:28 AM](#)

Page 24

Today "IMPACT" is rated as a minimum consideration

FY 01 NPR-A
Impact Mitigation Program

Basis for Recommendation
Description - 15 points
Impact - 50 points
Budget - 15 points
Readiness - 15 points
Capability - 5 points

FY 03 NPR-A
Impact Mitigation Program

Basis for Recommendation
Description - 30 points
Impact - 30 points
Budget - 20 points
Sustain - 15 points
Capability - 5 points

FY 05 NPR-A
Impact Mitigation Program

Basis for Recommendation
Description - 25 points
Impact - 25 points
Budget - 20 points
Sustain - 20 points
Capability - 10 points

As administered by the Department of Commerce, Community and Economic Development

Co-Chair Wilken stated that the federal government requires that a community must be impacted to receive these grants. This slide demonstrates the point system applied for grant applications. He noted that in FY 01, one-half of the criteria was based on impact compared to current standards, in which impact accounts for only 25 percent. In 1980, the federal government established that impact is the "bar that must be passed". This legislation addresses how to define and determine impact.

[10:22:40 AM](#)

Page 25

What does the law say?

- Federal Law - 42 U.S.C. 6508
 - In allocation of the NPR-A funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by the development of oil and gas leased in NPR-A.
- Alaska State Law - AS 37.05.530
 - A municipality may use the NPR-A funds only for services to alleviate the impact of oil and gas development within NPR-A.
- Alaska Regulations - 3 AAC 150.050
 - Impact means an effect reasonably attributable to NPR-A oil and gas activities under 42 U.S.C. 6508.

Co-Chair Wilken pointed out the language provides that the impact must result from oil and gas activities in NPR-A and not activities on the North Slope or Prudhoe Bay.

[10:23:22 AM](#)

Page 26

Rags Define Impact to Mean

Reasonably attributable to NPR-A oil and gas activities on the following (3 AAC 150.050):

- Population
- Employment
- Finances
- Social/Cultural Values
- Air & Water Quality
- Fish & Wildlife Habitat
- Ability to Provide Services
- Other Demonstrable Important Things

Co-Chair Wilken commented to the broadness of these criteria, remarking that there is not any activity that could not be attributed to a category in some manner.

[10:23:46 AM](#)

Page 27

Impact is the First Criteria

[Flow chart following a project request as follows.

Impacted??:
Municipality?
Directly or severely impacted?
Reasonably attributable to...?
No - Application Rejected
Yes - Scored
Description
Budget
Sustainability
Capability
No - Request not Funded
Yes - Funded
Appropriation by the Legislature]

The State shall give priority to subdivisions of the State most directly or severely impacted (42 U.S.C. 6508)

Co-Chair Wilken explained that SB 171 proposes to rearrange how project requests are considered.

[10:24:47 AM](#)

Page 28

An example for review

Wainwright Lagoon Boat Launce - \$525,000 - To replace or renovate the Wainwright Lagoon Boat Ramp

"Impact" on Population

Applicant

"Construction of the oil production infrastructure and pipeline has driven up the growth of population."

But...

The population of Wainwright has increased from 492 to 546 in 1990 - 2000.

"Impact" on Employment and Finances

Applicant

"Due to decline in property tax revenues from aging oil and gas infrastructure, the Borough cannot financially help the community."

But...

The reduction in revenue is not due to NPR-A development. In fact, NPR-A development will increase the borough revenues.

Co-Chair Wilken clarified the "but" represents his interpretation.

The population increase of Wainwright is negligible.

[10:25:57 AM](#)

Page 29

...and to continue

Wainwright Lagoon Boat Launch - \$525,000

"Impact" on Social and Cultural Values
Applicant

"The social disruption prompted by oil and gas development affects many traditional activities."

But...

Wainwright is 220 miles from NPR-A development.

"Impact" on Fish and Wildlife Habitat
Applicant

"Access to hunting areas would change in oil development reduces the availability of subsistence resources."

But...

Past experience at Prudhoe Bay has shown that O&G activities and wildlife can co-exist.

Question: Were the listed impacts reasonably attributable to oil and gas development within NPR-A?

A review committee of three rated "Impact" only 20 points out of 100, the project was recommended.

Co-Chair Wilken concluded that the impact of NPR-A was not significant to warrant this project.

[10:26:34 AM](#)

Page 30

And another example...

City of Barrow Impound and Disposal Site Project - \$174,389

"Impact" on Visual Resources
Applicant

"Many of the abandoned vehicles that the City of Barrow has allowed people to dump on city land were brought to Barrow during the oil boom in the last quarter of the 20th century."

But...

The "oil boom" discussed was outside NPR-A. The impact must be "reasonably attributable" to oil and gas development within NPR-A.

No other impact was stated by the applicant

Question: Was the listed impact reasonably attributable to oil and gas development within NPR-A?

The review committee rated "Impact" between 20 - 24 points out of 100; the project was recommended.

[10:27:00 AM](#)

Page 31

And another one...

Roller Rink Renovation Feasibility Study - \$63,556 - to identify the costs to renovate the Barrow Roller Rink

"Impact" on Employment

Applicant

"Although an estimated 4.000 jobs exist on the N. Slope in the O&G industry only a fraction are held by Inupiat."

But...

The vast majority of the jobs in the O&G industry are not reasonably attributable to NPR-A development.

"Impact" on Unemployment

Applicant

"As the economic benefits of O&G development begin to decline, it leaves members less able to survive..."

But...

The decline in O&G development is not in NPR-A; this petroleum reserve is just beginning to be explored.

[10:27:37 AM](#)

Page 32

...and to continue

City of Barrow Roller Rink Renovation Feasibility Study - \$63,556

"Impact" on Social and Cultural Values

Applicant

"The decline in subsistence resources due to NPR-A O&G development negatively impacts the Inupiat culture."

But...

Studies are currently undertaken to determine the impact to wildlife, if any, to Barrow residents 160 miles from Alpine.

"Impact" on Public Services

Applicant

Although the population has had a small, net loss in the previous five years, the burden on the City of Barrow has not been reduced.

But...

Most of the workers connected with NPR-A development reside on the oil company's production sites and not in local towns.

Question: Were the listed impacts reasonably attributable to oil and gas development within NPR-A?

A review committee of three rated "Impact" between 15 - 25 points out of 100; the project was recommended.

Co-Chair Wilken suggested that the roller rink project was not qualified to receive NPR-A funds.

[10:28:23 AM](#)

Co-Chair Green asked if the project is to renovate the roller rink for a different function that would either provide increased employment or address cultural impact, etc.

[10:28:48 AM](#)

Co-Chair Wilken replied that this project is intended to study the feasibility of renovating a roller rink.

[10:29:00 AM](#)

Page 33

Additional Concerns

- Grants are all funded as capital projects and the dollars do not lapse (AS 37.25.020)
 - But less than 40% of the grants are for capital projects (the majority of grants are for operating

expenses)

- Funds are approved before old grants for the same purpose are expended...
 - As an example of many grants, only 15% of an FY 04 group operating grant of \$1,759,484 to survey wildlife is disbursed, but an FY 06 grant for \$2,461,368 is recommended for the same purpose

[10:29:45 AM](#)

Co-Chair Green asked if the two grants are intended to study wildlife in different areas.

[10:29:50 AM](#)

Co-Chair Wilken responded that the description for the FY 06 grant is identical to that of the earlier request and that he could therefore not determine whether the surveys are intended for different geographical areas.

[10:29:59 AM](#)

Page 34

To continue

- Few grants follow timelines
 - Only 40% of grant funds scheduled for completion on 6/30/05 has been spent
- Awards are not based on successful completion of previous grants
 - FY 00 - Nuiqsut Cultural Center Construction
 - \$939,800 - Not Started as of 4/26/05
 - But
 - FY 02 - Nuiqsut Cultural Center Operating \$288,000

These grants funds will be used for new projects without notice to or approval from the legislature.

Co-Chair Wilken remarked that this "speaks to" the requirement for oversight of the grant program.

Page 35

NPR-A
Impact Mitigation Program

Alaska Constitution vs. Alaska Statute

Current Impact Mitigation Program
Importance of "Impact"
Senate Bill 171

[10:30:45 AM](#)

Page 36

Now is the time

To listen to the Alaska Superior Court (Barrow v. State, March 18, 1986):

"The duty imposed by the federal government ultimately falls upon the Alaska Legislature and it includes the duties to examine the claimed needs of the subdivisions arising from oil and gas development impacts, to evaluate them and, if the claimed needs are found to exist, to rate them in order of priority, and to meet them out of NPR-A revenues."

Co-Chair Wilken stated that this legislation is based on this court opinion.

[10:31:20 AM](#)

Page 37

Legislature has authority...

1. To examine the claims for financial assistance
2. To evaluate and rank the grant requests
3. To determine the appropriate amount of NPR-A revenue for use by impacted municipalities
4. To determine the specific projects that are funded

Legal Services memorandum, March 18, 2005

[10:31:38 AM](#)

Page 38

Senate Bill 171

"It is the intent of the legislature to provide temporary emergency financial assistance to municipalities for the purpose of meeting certain extraordinary operating and capital improvement expenditures necessitated by NPR-A oil and gas development." (Section 1. LEGISLATIVE INTENT in the proposed legislation.

- Establishes a Legislative Impact Review Committee (composed of 3 finance members of each body)
 - Consults with DCCED and then approves and forwards grant recommendations to respective finance committees.

Co-Chair Wilken explained the proposed review committee is modeled after the legislative conference committee process. Two members of the majority and one member of the minority party from each body would serve and two affirmative votes from each body would be required to fund an award. This standing committee would review all requests and submit recommendations to the full finance committees for inclusion in the annual capital appropriation.

[10:32:15 AM](#)

Page 39

And to continue

- Deposits to unique funds are based on the total federal NPR-A receipts
 - Perm Fund and Public School Trust
- Grants are awarded for one year, unless otherwise noted
- Lapse money is appropriated to the Permanent Fund, School Trust, or General Fund

[10:32:44 AM](#)

Page 40

Now is the time...
To consider SB 171

...and establish a method to fairly allocate the financial benefits of NPR-A to all Alaskans while, at the same time, mitigate the direct impact of development on certain communities as required by federal law.

[10:33:11 AM](#)

Co-Chair Green asked if any language in this bill would amend current statute.

[10:33:36 AM](#)

Co-Chair Wilken replied that as a result of a hearing on this bill by the Senate Community and Regional Affairs Committee, it was

determined that a committee substitute would be necessary to provide "clean up". No subsequent changes are required.

Co-Chair Wilken informed that some interested parties were unable to attend this meeting and desire to provide testimony to the Senate Finance Committee. Upon hearing these comments a new committee substitute could be drafted to incorporate suggestions. Valid suggestions were offered to the Senate Community and Regional Affairs Committee.

[10:34:51 AM](#)

Senator Hoffman referenced page 20 of the presentation and commented that it represents the "wishful thinking" if all communities in the State were included in the NPR-A grant program.

Co-Chair Wilken affirmed.

[10:35:18 AM](#)

Co-Chair Green asked the communities located within a 220-mile circumference of the Alpine development.

[10:35:48 AM](#)

Co-Chair Wilken offered to prepare such a map, referencing the map on page 22.

[10:36:13 AM](#)

Co-Chair Green asked which additional communities would be included in such a radius.

[10:36:27 AM](#)

Senator Olson responded that the area would be limited to the North Slope. He pointed out that the Brooks Range is not shown on the aforementioned map, which includes an area approximately 150-miles south of the Alpine development.

Co-Chair Wilken demonstrated on the map the approximate 220-mile radius from the Alpine development.

[10:37:29 AM](#)

Senator Stedman asked the intended timeframe for this legislation as it brings up concerns of local residents. He wanted to know if the bill would be reviewed over the legislative interim with

recommendations implemented and passage expected in January or February 2006.

[10:38:02 AM](#)

Co-Chair Wilken suggested that a subcommittee could be established comprised of Senator Stedman, Senator Dyson, Senator Olson and himself. It would be beneficial to have the Department overview the 24 grants awarded and the "thought process" as to how it was determined that the communities were impacted by NPR-A development. Whether changes are made to the allocation of the current \$24.6 million is a discussion for the full Committee, after it understands the projects involved.

Co-Chair Wilken characterized this legislation as a "marathon" rather than a "sprint" and that NPR-A receipts would provide a long-term funding source for the State. He wanted to ensure that all residents of Alaska benefit, not just a few. He did not expect this legislation would pass during the current year, but was confident it would pass during the second session of the Twenty-fourth Legislature.

[10:39:20 AM](#)

Senator Olson remarked that the sponsor made a "compelling" presentation; however, he surmised, "there's more to the story". He noted the map on page 22 and argued that a community located 220-miles from a full production oil site is likely not significantly impacted.

[10:40:13 AM](#)

Co-Chair Wilken relayed that oil and gas development activities are "reaching out" approximately 30 west of the current site of the Alpine development. Exploration is going no further because, if discoveries are made there is no infrastructure for developments. He indicated other areas within the NPR-A that have been surveyed, although the oil companies have not reported on any findings. Resources are expected to be present as far north as the City of Barrow.

Co-Chair Wilken detailed the three-dimensional seismic survey process in which no explosives are used. A probe is set up during winter months and a "thumper" is used during summer months. This process has no impact on terrain. Caribou populations are reportedly growing exponentially since the 1970s. Oil and gas activities are assisting the caribou population. The survey activities are occurring in a small portion of the area depicted on

the map.

[10:42:55 AM](#)

Senator Olson disagreed with Co-Chair Wilken's assertion that the communities are not significantly impacted because of their distance from oil development. Senator Olson indicated a map [copy not provided] showing areas of seismic activities throughout the NPR-A area. He agreed that older technology was more harmful; however, the newer method involving thumping has an impact on land animals and a yet unmeasured impact on marine mammals and whales. Before a company spends millions of dollars on oil leases, it would intend to gather additional data and conduct more seismic testing.

Senator Olson shared that he has flown over the affected areas and told of the "cat trains" and impact on vegetation throughout the entire NPR-A. He had no misconception that this would affect the residents of Wainwright.

[10:45:32 AM](#)

Co-Chair Wilken responded that the map Senator Olson referenced shows seismic testing done during the 1970s and 1980s. No further activities have occurred since.

[10:45:53 AM](#)

Senator Olson noted the reference to the amount of money appropriated to the communities since the 1980s. He asked if all the funds had been expended or if any had lapsed and were returned to the State.

[10:46:23 AM](#)

Co-Chair Wilken replied that data indicates \$18.7 million has reverted to the State general fund over the life of the program. He qualified that the accounting of the funds allocated in the early 1980s is difficult to ascertain because funds were transferred between the North Slope Borough and the communities.

[10:46:54 AM](#)

Senator Dyson remarked that the potential impact to marine mammals is a valid issue. He understood that all seismic activities occur during winter months and would therefore only impact those mammals present in the region at that time. Therefore, the whale population would not be impacted.

Senator Dyson relayed the rhetoric that Alaska's wealth is mostly located in rural Alaska that that benefits should therefore be allocated only to rural communities. However, the State constitution stipulates that the resources are held in trust for all citizens, which results in some constraints. He commented to the premise that two sides exist to every story. He anticipated testimony from the Department of Commerce, Community and Economic Development and other parities.

[10:49:08 AM](#)

Senator Stedman admitted to his limited experience with the oil industry. In the region of State he represents, noises created by jets and gunshots do not result in significant change in animal behavior. He qualified that the animals in Northern Alaska could react differently.

[10:50:12 AM](#)

Senator Olson agreed that the resources must be held for the benefit of all Alaskans, but contended that the responsibilities must also be considered. For example, some villages have no water and sewer services.

Senator Olson pointed out an acoustical difference in the impact of sound traveling through air compared to a different medium such as the ground or water. This could cause a greater impact.

[10:51:11 AM](#)

Senator Stedman anticipated receiving information on the impact of oil development directly from the affected communities and the reasoning for the proposed projects. It is clear that the State must assist in mitigating the impacts to local residents. He surmised this legislation did not intent to ignore this obligation, rather to review the details of the grant program.

[10:51:47 AM](#)

Co-Chair Wilken referenced the fiscal note of \$20,000. The intent is that the proposed committee would travel to the four communities to experience the impact directly. No one should serve on that committee without having visited the areas.

[10:52:19 AM](#)

Co-Chair Green noted the application process that declares the impact and the named project. She asked if the proposed project is

required to have a relationship to the impact, or whether the funding source could be utilized for any purpose.

[10:53:05 AM](#)

Co-Chair Wilken noted the NPR-A Grant Status Report as of 13/31/04 and stated the Members could review that grant applications and make their own conclusions as to the relationship of the projects to the impact from oil and gas development. He suggested that some have no relationship.

Co-Chair Green intended that projects demonstrating a legitimate cause and affect from oil and gas activities should be granted. However, some of the projects "don't lend a great deal of confidence of what's been done in the past; therefore we have to worry about what's going to be done in the future."

[10:54:04 AM](#)

Co-Chair Wilken agreed.

Co-Chair Wilken then informed that to conduct seismic testing, a permit must be obtained from the North Slope Borough. He cited one such permit #LMR05142, and read the "seismic stipulations", which stipulate that operations must not interfere with subsistence activities and that fuel must be provided to hunters and trappers in the event they must travel to alternate hunting and trapping sites. The seismic activities are limited in the impact it could have on the tundra, must not interfere with polar bear or grizzly bear denning, and an observer must be present during testing. These stipulations ensure that seismic activities do not impact the resources of the area.

Co-Chair Green asked if a fee is imposed for the permits.

Co-Chair Wilken did not know.

[10:55:56 AM](#)

Senator Olson requested the Department of Commerce, Community and Economic Development answer questions relating to this bill.

[10:56:08 AM](#)

Co-Chair Green noted this hearing is the first segment of the process in considering this legislation.

The bill was HELD in Committee.

#

ADJOURNMENT

Co-Chair Green adjourned the meeting at 10:57 AM