

MINUTES
SENATE FINANCE COMMITTEE
February 1, 2006
9:03 a.m.

CALL TO ORDER

Co-Chair Green convened the meeting at approximately 9:03 a.m.

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: REPRESENTATIVE JOHN HARRIS; SUSAN BURKE, Attorney representing the North Slope Borough

Attending via Teleconference: From an offnet location: STEVE VAN SANT, State Assessor, Division of Community Advocacy, Department of Commerce, Community and Economic Development; MIKE BLACK, Director, Division of Community Advocacy, Department of Commerce, Community and Economic Development

SUMMARY INFORMATION

HB 217-FULL & TRUE VALUE OF TAXABLE MUNI PROP.

The Committee heard from the bill sponsor and the Department of Commerce, Community and Economic Development. A committee substitute was adopted and the bill was held in Committee.

SB 171-NPR-A COMMUNITY GRANT PROGRAM

The Committee heard from the sponsor, the Department of Commerce, Community and Economic Development, and the North Slope Borough. A committee substitute was adopted and amended. The bill was reported from Committee.

#HB217
[9:09:07 AM](#)

HOUSE BILL NO. 217(title am)

"An Act relating to the determination of full and true value of taxable municipal property for purposes of providing planning assistance to the Department of Education and Early Development and the legislature, calculating funding for education, calculating school district participating shares for school construction grants, and calculating tax resource equalization payments and excluding from that determination the value of property in certain areas detached from a municipality and the value of certain property involved with oil and gas that is not taxed by a municipality."

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

Co-Chair Wilken moved to adopt CS HB 217, 24-LS0427\G, as a working document.

Co-Chair Green objected for an explanation.

Co-Chair Wilken noted the insertion of language on page 2, lines 7 through 10 to provide for the ability for the State assessor to make a determination of full and true value of property in organized areas that do not impose property taxes.

[9:09:46 AM](#)

Co-Chair Wilken stated that, as with current practice, every two years the State assessor would do a modeling of the value to determine the four-mil requirement. Every four years, the assessor would undertake a thorough assessment similar to the assessments done the previous year for the Delta region and currently underway for the Lake and Peninsula Borough.

[9:10:04 AM](#)

Co-Chair Wilken remarked that this would assure that an analysis would be done every four years for "the four boroughs and nine first class cities that do not have a mechanism in which to establish and validate property values" in the same manner done in the rest of the state by "willing buyers and sellers in the free market - that's how we establish our property values in the rest of the boroughs."

[9:10:40 AM](#)

Co-Chair Wilken directed attention to a new fiscal note of \$98,000

to assist the State assessor in those efforts.

[9:10:53 AM](#)

Senator Hoffman understood Co-Chair Wilken's intention to "level the playing field between those school districts that tax on a property tax base and those do otherwise, such as payment in lieu of taxes." He gave the Northwest Arctic Borough as an example. He also understood that these governments would be required to contribute an amount equal to 50 percent of the annual increase in property values, with the State providing the remaining 50 percent.

[9:11:33 AM](#)

Co-Chair Wilken affirmed that as provided in existing statute, as the assessed value increases, the burden is shared by the State and the local school assessed community.

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Senator Hoffman characterized this as "the next step" to the process established by legislation passed in 2001 in distributing the property value increases between the State and local governments. This committee substitute would expand the distribution to those school districts that receive local funding through payment in lieu of taxes. He therefore asked if the intent would be to further extend this practice to the payment in lieu of taxes received by the State for federal lands.

[9:13:12 AM](#)

Co-Chair Wilken responded that this legislation does not "contemplate anything having to do with federal land." The impact funds received by the federal government are distributed across the state. Some consider these funds as the local contribution for unorganized areas of the state. This perception is untrue, although the discussion is irrelevant to the legislation before the Committee.

[9:13:58 AM](#)

Senator Hoffman argued that the federal funding is a payment in lieu of taxes, similar to agreement between the Northwest Arctic Borough and the Red Dog Mine in which the company provides funding in lieu of taxes to be used for education. He did not recognize a difference between privately owned property and federally owned property in this context.

[9:15:15 AM](#)

Co-Chair Wilken reiterated that federal lands is not part of this bill

[9:15:24 AM](#)

Senator Hoffman agreed but asked if the intention is to address this in the future with separate legislation to ensure that all areas of the state are treated equally.

[9:15:36 AM](#)

Co-Chair Wilken was not interested in dealing with federal lands.

[9:15:39 AM](#)

STEVE VAN SANT, State Assessor, Division of Community Advocacy, Department of Commerce, Community and Economic Development, testified via teleconference from an offnet location that federally owned lands are not included in the formula used to determine fair value.

Mr. Van Sant informed that existing statute requires the Division to visit each school district annually and make fair value determinations. However, funding provided for this function has not been sufficient to allow this to occur. This committee substitute would establish a "cycle" in which to undertake these efforts, while only requiring an on-site visit once every four years, and would provide funding assistance to make this possible.

[9:16:47 AM](#)

Senator Hoffman asked if the intention of the co-chair was to report this bill from Committee at this hearing.

[9:16:54 AM](#)

Co-Chair Green announced the bill would be held in the Committee for one day.

[9:16:59 AM](#)

Co-Chair Wilken explained that Senator Olson had approached him prior to this meeting and requested an opportunity to review the committee substitute, as an area of the state could be unintentionally affected.

[9:17:18 AM](#)

Senator Olson furthered that the inserted language could possibly adversely impact the payment in lieu of taxes agreement between the Northwest Arctic Borough and Cominco, regarding the Red Dog Mine. He intended to secure advice from Cominco officials.

[9:18:05 AM](#)

Co-Chair Green withdrew her objection to the adoption of the committee substitute and CS HB 217, 24-LS0427\G was ADOPTED as a working document.

Co-Chair Green ordered the bill HELD in Committee. She then invited the bill sponsor to speak.

[9:18:26 AM](#)

REPRESENTATIVE JOHN HARRIS, sponsor of the bill supported the committee substitute and Co-Chair Wilken's attempt to enforce current law. True value of property should be maintained and adjusted on an annual basis.

#SB171

[9:19:58 AM](#)

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 third hearing for this bill in the Senate Finance Committee.

[9:20:07 AM](#)

Co-Chair Wilken moved for adoption of CS SB 171, 24-LS0785/N, as a working document.

Co-Chair Green objected for an explanation.

[9:20:26 AM](#)

Co-Chair Wilken indicated he would first outline deleted provisions.

[9:20:46 AM](#)

Co-Chair Wilken recalled the discussion the previous hearing about the use of "appropriation" versus "grant" in the language of the bill. The Division of Legal and Research Services had advised him that the verbiage is "transparent" in either form. However, "appropriation" has been replaced with "grant" with regard to expenditure of revenues received from the National Petroleum Reserve-Alaska (NPR-A) wherever it appears in the committee substitute.

[9:21:14 AM](#)

Co-Chair Wilken next relayed concerns expressed by the Department of Commerce, Community and Economic Development that the proposed legislative committee would duplicate the Department's efforts in reviewing and making recommendations on NPR-A impact grant applications. The director of the Division of Community Advocacy had suggested transferring the burden of analysis to the committee, since its members would have recently visited the affected communities. The Department would simply ensure proper receipt of the applications. This suggestion has been incorporated into the committee substitute.

[9:22:45 AM](#)

Senator Bunde asked the extent of the evaluation the Department would be expected to provide; whether each application would be directly forwarded to the committee, or if they would be first reviewed to ensure they meet basic qualifications.

[9:23:21 AM](#)

Co-Chair Wilken replied that the Division would conduct an initial review. The Department currently has a process in which staff visits the affected communities and discusses the proper application process with applicants.

[9:23:53 AM](#)

Senator Bunde clarified that the Division would provide some analysis, but would not rank the proposed projects.

[9:24:05 AM](#)

Co-Chair Wilken affirmed.

Co-Chair Wilken then addressed a concern raised by the North Slope Borough that the language of the bill would provide that applications could not be accepted unless all "paperwork was in order". Co-Chair Wilken acknowledged this issue and the committee substitute would instead provide that the applications could be accepted, although grant funds could be withheld until the details of the application were in order.

[9:24:40 AM](#)

Co-Chair Wilken stated that the committee substitute would remove all reference to a one-year lapse date of grant funding since each appropriation would have a specified lapse date.

[9:24:59 AM](#)

Co-Chair Wilken spoke to Senator Olson's argument that the Committee should include at least one member with "roots" in the affected area. Co-Chair Wilken struggled with this and agreed to the benefits of such representation on the committee. The committee substitute stipulates a legislator representing the affected election district would hold one seat on the committee. He detailed the assignment of this seat. First priority would be given to the legislator from the area who is also a member of either the Senate or House finance committee. If both committees include a member from the area, a decision would be made to select one. If neither finance committee included a member from the region, the leadership of both bodies would select a qualifying member of the legislature.

[9:27:04 AM](#)

Senator Olson expressed that both the Senator and the Representative elected from the affected district should hold seats on the proposed committee because the decisions of the committee would impact the region they represent.

Co-Chair Green remarked upon the compromise made to designate one seat whereas none had been designated originally.

[9:28:37 AM](#)

Senator Olson countered that two seats on the six-member committee would not constitute an overwhelming majority.

[9:28:51 AM](#)

Senator Bunde opined that the proposed committee should consist of "outsiders" to provide objectivity.

[9:29:05 AM](#)

Co-Chair Wilken continued explaining the committee substitute.

[9:29:16 AM](#)

Co-Chair Wilken referenced Senator Stedman's suggestion to carry forward any shortfalls in the Alaska Permanent Fund. He reminded that the impact grants receive first priority of the revenues the State receives from NPR-A oil development activities. The amount to be deposited to the Permanent Fund is then calculated from the gross revenue amount. Senator Stedman had recommended that in the event that a full 25 percent of gross revenues is not remaining after payment of the grants, the shortfall should be included in the calculations for future years until the amount has been paid.

Co-Chair Wilken noted that this provision inserted to the committee substitute would be effective on the effective date of this legislation. The shortfalls of previous years, including 2004, would not be included.

[9:30:45 AM](#)

Senator Hoffman commented this practice would be similar to the accounting of funds withdrawn from the Constitutional Budget Reserve (CBR) Fund.

[9:31:02 AM](#)

Co-Chair Wilken relayed the North Slope Borough had questioned the listing of the grant recipients and individual projects in the annual capital appropriation legislation, as occurred in the FY 06 capital budget legislation. The committee substitute would establish that this continue to occur.

[9:31:38 AM](#)

Co-Chair Wilken stated the committee substitute would provide that future grants could be withheld if the recipient failed to meet the requirements of accountability for previous grants.

[9:32:07 AM](#)

Co-Chair Green listed Mike Black, Director, Joan Grove, Grants Manager, and Melanie Green, Grants Supervisor, of the Division of Community Advocacy, Department of Commerce, Community and Economic Development, were available to respond to questions.

Senator Olson asked the Department's input on the proposal to remove its powers to administer the application process of the NPR-A impact grant program, while it retains this ability for other grant programs. He asked why the Administration is so agreeable to allowing politicians to undertake these duties when staff is available and dedicated to these functions.

[9:33:27 AM](#)

MIKE BLACK, Director, Division of Community Advocacy, Department of Commerce, Community and Economic Development, testified via teleconference from an offnet location that the NPR-A impact grant program is unique to the other grant programs the Department oversees. Current statute requires the Department to analyze and make determinations on impact in addition to the qualifications of the grant. Grant programs are normally "clear cut" in stipulating applicable projects and guidelines to be followed, unlike this program.

[9:34:51 AM](#)

Senator Olson questioned why the Department, as an administrator, would be willing to transfer those duties to a committee of part-time legislators with other legislation and matters that must be addressed and who could be unable to devote as much time and effort as Department staff could devote.

[9:35:31 AM](#)

Mr. Black understood the concern of the legislature regarding how the grant applications have been evaluated. The Department has determined it preferable for the legislature to express its intent, rather than the current review committee and the Department attempting to justify its analysis.

[9:36:55 AM](#)

Senator Dyson reiterated his question posed at the previous hearing on this bill regarding the appropriateness or legality of NPR-A revenues appropriated to address impacts from Prudhoe Bay development activities.

[9:37:23 AM](#)

Mr. Black responded that, as expressed by Susan Burke, the legality is not necessarily an issue. However, the program was established with the intent that the NPR-A funds would be utilized to address

impacts caused by NPR-A activities.

Mr. Black qualified that separating the impacts caused from Prudhoe Bay from those caused by NPR-A can be difficult. The proposed legislative committee would need to make this determination.

[9:39:01 AM](#)

Senator Dyson asked whether the earnings brought to a community within the NPR-A by residents employed at Prudhoe Bay would be construed as NPR-A impacts.

[9:39:28 AM](#)

Mr. Black responded that employment outside the NPR-A has impacted the economies of communities located within the NPR-A. He had no knowledge of an application citing this as a major impact. An argument has been expressed that population and environmental changes resulting from oil and gas development are impacts. Distinction between population changes and environmental impacts is often difficult to determine.

[9:40:59 AM](#)

Senator Dyson asked if impacts from a contractor based in an NPR-A community that performs work at Prudhoe Bay would qualify as an impact to NPR-A.

[9:42:05 AM](#)

Mr. Black, upon clarifying the scenario did not recall such an argument ever being presented. Arguments have been made in relation to impacts on the economy, but not necessarily as to whether the income is generated from sources other than the NPR-A.

[9:43:13 AM](#)

Senator Bunde asked if a resident employed outside the NPR-A who expends earnings within NPR-A would raise the standard of living of the community and subsequently the community would qualify for a grant on the basis that the cost of living increased.

[9:44:09 AM](#)

Mr. Black knew of no application that specified positive and negative impacts. Only the presence of an impact has been expressed. No attempt has been made to mitigate positive impacts to a community receiving additional income from employment of its

residents. The increased costs of certain goods and services as a result of higher paying oil and gas development related jobs have been discussed. The impacts most commonly cited are social and environmental.

[9:45:42 AM](#)

Senator Bunde remarked that the stipulation should be made to provide that only negative impacts from NPR-A development could be considered. He opposed grant qualification based on impacts to a community because its residents have higher incomes. It would be counterintuitive.

[9:46:22 AM](#)

Co-Chair Wilken asked if the North Slope Borough was permitted to include 1,000 or 2,000 oil and gas development employees in the population calculations to determine funding for revenue sharing and other distribution programs.

[9:47:11 AM](#)

Mr. Black was unsure how populations were calculated for the North Slope Borough and requested time to research the matter.

[9:47:36 AM](#)

Co-Chair Wilken indicated he would investigate the issue as well.

[9:47:48 AM](#)

Co-Chair Wilken then pointed out that this is the first year in which the grant awards were not announced by the time legislative budget considerations were underway. He understood that approximately \$5.5 million in NPR-A revenues is available and asked the schedule for announcing the amount that would remain after the grants were awarded.

[9:48:19 AM](#)

Mr. Black responded that the awards had been determined and the applicants were in the process of being notified. The awards would be announced to the Committee after the applicants were informed. He expected this would occur by 5:00 p.m. the following day.

[9:49:51 AM](#)

SUSAN BURKE, Attorney representing the North Slope Borough,

testified that the Borough's position remains that this legislation is unnecessary.

[9:50:56 AM](#)

Ms. Burke commented to the announcement that the Department would be willing to relinquish its ability to submit recommendations to the legislature on the grant applications. She stressed that although the Murkowski Administration has indicated willingness, other gubernatorial administrations could decide otherwise. The Alaska Constitution stipulates that the governor has the authority to give any recommendations to the legislature he or she chooses.

[9:52:23 AM](#)

Ms. Burke next pointed to a language discrepancy between references to applications allowed for "an activity or service" on page 4, line 15 and "facility or services" on line 20. She recommended identical verbiage in both locations. The court, in interpreting statute, assumes that the legislature intends two different things in such instances. She suggested "activity, facility or service" replace the language in both subparagraphs.

[9:54:09 AM](#)

Senator Hoffman asked the procedure in the event a community decided to not pursue a grant that was withheld because of technicalities.

[9:55:04 AM](#)

Ms. Burke hoped this would not occur, she doubted that a municipality would decide to not continue with the grant process, once the application were awarded unless it was determined that the impact to be addressed in the proposed project no longer existed. In this event, she expected that the State would not insist that the grant funds be expended. A grant award could be closed out upon completion of a project if all the funds were not required and no penalty should be levied.

[9:56:20 AM](#)

Senator Hoffman asked if Ms. Burke had concern that chances for denial of grant applications could increase if the proposed committee determined that the State required funding for a specific purpose, such as the Permanent Fund.

[9:56:52 AM](#)

Ms. Burke responded this is a "huge concern". The existing situation is difficult. The U.S. Congress has stipulated mandatory conditions for acceptance of a share of NPR-A revenues. However, the NPR-A is not a state resource, but rather a federal resource and the federal government has agreed to share the revenues on the condition that the State expend a portion of those revenues on affected areas. Other needs exist in the state, although the requirement to give priority to the local municipalities is serious.

Ms. Burke acknowledged that since the lawsuit was decided and subsequently the grant program was established, the State has fulfilled its obligations satisfactorily. This would be more difficult for a legislative committee to accomplish because the members are elected to represent different areas of the state. Ultimately, the decisions would be made in court.

Ms. Burke pointed out however, that the legislator's obligation is as "sacred" as the Department's. When sworn into office, legislators took an oath to not only uphold the Alaska Constitution, but the U.S. Constitution as well.

[9:59:57 AM](#)

Senator Hoffman next referenced language on page 3, line 14 of the committee substitute, which was also included in the previous version of the bill providing that "a member" of the proposed committee would be required to visit the affected communities. During the previous hearing, Senator Bunde had questioned whether this should read "each member".

[10:01:14 AM](#)

Senator Olson remarked upon the drastic change of how millions of dollars would be allocated if this legislation were enacted. He asked if Ms. Burke anticipated problems would arise with decisions made by elected officials with "different agendas" rather than State employees.

[10:01:55 AM](#)

Ms. Burke reiterated her response to Senator Hoffman's similar question. State employees do not represent specific constituencies. Legislators could attempt to retain funding to expend in their election districts.

[10:02:38 AM](#)

Ms. Burke added that the current system in which the Department makes initial determinations could ameliorate the tension regarding this program because a third party, the Department, could be blamed.

[10:02:59 AM](#)

Senator Olson contended that NPR-A development would impact the communities and asked if the situation could be made worse if the legislature was in charge of "doling out the money".

[10:03:27 AM](#)

Ms. Burke could not predict the outcome, although the "danger" exists that real impacts would be overlooked. The legislature would have difficulty fulfilling the duties imposed by the federal government.

[10:04:15 AM](#)

Without objection, CS SB 171, 24-LS0785/N, was ADOPTED as a working document.

Amendment #1: This amendment deletes "A" and inserts "Each" in subparagraph (f) of Article 4A. Special Legislative Oil and Gas NPR-A Development Impact Review Committee, of AS 24.20.580. Special Legislative Oil and Gas NPR-A Development Impact Review Committee., added to AS 24.20 by Section 2 on page 3, line 14 of the committee substitute. The amended language reads as follows.

(f) Each member of the committee shall visit each community within the National Petroleum Reserve - Alaska ..."

Senator Hoffman moved for adoption.

The amendment was ADOPTED without objection.

[10:04:49 AM](#)

Amendment #2: This amendment inserts "facilities", following "activity" in subparagraph (2) of AS 37.05.530(c) repealed and reenacted by Section 4 on page 4, line 15. The amended language reads as follows.

(2) shall conduct a preliminary evaluation of each application; in conducting the preliminary evaluation, the department shall determine if the application is for an

activity, facilities or service that involves planning; construction, maintenance, and operation of essential public facilities by the municipality; and necessary public services provided by the municipality;

This amendment also inserts "activities" following "qualifying" in subparagraph (3)(A) of AS 37.05.530(c) repealed and reenacted by Section 4 on page 4, line 20. The amended language reads as follows.

(A) all qualifying activities, facilities or services based on the department's preliminary evaluation made under (2) of this subsection;..."

Co-Chair Wilken moved for adoption.

The amendment was ADOPTED without objection.

[10:05:40 AM](#)

Co-Chair Wilken offered a motion to report CS SB 171, 24-LS0785\N, as amended from Committee with individual recommendations and new fiscal notes.

[10:05:56 AM](#)

Senator Olson objected and commented that the proposed process changes would divert attention from the impacts for which these grants were intended.

Senator Olson stressed that although he represents these communities and is likely the best equipped sitting legislator to travel to these communities, he has been unable to visit each area. In addition the audit would cause a burden.

[10:07:14 AM](#)

Co-Chair Wilken responded as follows.

I wouldn't want anybody to miss how important this legislation is. This is the only place we can find in our whole State government that anything jumps in front of the deposit to the Permanent Fund.

So to suggest that just the Department or we're going to set up some rules that the Department will follow to evaluate something called "impact", which to date has not been able to have been defined, misses the point that each of these six

people on this Committee are going to be asked sometime in a campaign or sometime in a meeting or sometime "How does one place in our state, get in front of our Constitution?" We'll answer that by talking about the federal law that was handed to us in 1980, and how we take great time and effort with a special committee to evaluate something called impact.

Now some seem to think that the pressures of the budget or time of day or the weather of the day would determine whether a grant is appropriate or not. In the presentation there's three laws that we have to follow. The committee will have to follow the federal law, the Alaska State law and the Alaska regulations. That's shown on slide 25 of our presentation. That's what we've sworn to do and that's what we will do.

Will there be shades of grey? Absolutely, there'll be shades of grey. And the cut will be "Are we doing what was told the people of Alaska to do?" That is: accept that before you get money in your Permanent Fund you have to allocate monies to a certain part of the State for something called "impacts reasonably attributable to oil and gas development in NPR-A." That's what this committee will do and it will do it time after time after time. It'll do it for 40 years. And it will do it because [of] how important this is.

The difficulty here, [what] we're struggling with and the reason this legislation has to be put in place today, is because we have allowed over the last 20 years, through no fault on anybody, a system that has been porous as best. The money will now flow from NPR-A and we need as a legislature to set the path for the next generation on how we're going to one, align ourselves with our constitution and the federal law, and tell the people who put us here why we let one part of the state jump in front our Permanent Fund.

That's the reason for this legislation and the difficulties we face today aren't what we're trying to do, it's trying to reconcile ourselves with what's been done in the past. Better to swallow this medicine today than set the course for the future and continue to let a system that's surely broken, as any objective person would look at the past record, would have to agree it's broken.

With that Madam Chair, I have great confidence in these six people. It won't be an easy committee, but it's probably one of the most important committees we'll have in our legislature.

[10:11:26 AM](#)

Co-Chair Green thanked Co-Chair Wilken for work done on this. She sympathized with anyone charged with justifying the existing system given its shortcomings.

[10:11:48 AM](#)

A roll call was taken on the motion to report the bill from Committee.

IN FAVOR: Senator Dyson, Senator Bunde, Co-Chair Wilken and Co-Chair Green

OPPOSED: Senator Hoffman and Senator Olson

ABSENT: Senator Stedman

The motion PASSED (4-2-1)

CS SB 171 (FIN) was MOVED from Committee with a zero fiscal note dated 1/25/06 from the Department of Commerce, Community and Economic Development, and a fiscal note dated 1/25/06 for \$20,000 from the Legislative Affairs Agency.

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[10:12:33 AM](#)

Senator Dyson spoke in response to the "consternation" expressed during the Committee meeting on SB 232, FY 06 Fast Track Supplemental Appropriation for Energy-related expenses, regarding the extent of the situation and the "clumsy" efforts to "bail folks out of difficult situations". As a result, he has been considering intent or qualifying language to define a mission for one State agency to integrate all affected programs and to rationalize them. He offered to provide this to be introduced by himself as personal legislation, or introduced as legislation sponsored by the Senate Finance Committee. He requested input from members on this effort.

[10:13:57 AM](#)

Senator Bunde noted receipt of information on the per capita distribution of funding to municipalities for energy assistance expenses that he had requested at the previous meeting.

ADJOURNMENT

Co-Chair Green adjourned the meeting at [10:14:40 AM](#)