

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 12, 2009

8:02 a.m.

MEMBERS PRESENT

Representative Bob Herron, Co-Chair
Representative Cathy Engstrom Munoz, Co-Chair
Representative John Harris
Representative Wes Keller
Representative Charisse Millett
Representative Sharon Cissna
Representative Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 19

"An Act exempting the state and its political subdivisions from daylight saving time."

-MOVED OUT OF COMMITTEE

HOUSE BILL NO. 161

"An Act relating to the Alaska Mental Health Trust Authority Support Office Building; authorizing the issuance of certificates of participation for construction of the building and authorizing the use of up to \$25,000,000 from the mental health trust fund for construction of the building; approving leases of all or part of the building by the Department of Administration; and providing for an effective date."

-HEARD & HELD

HOUSE BILL NO. 153

"An Act exempting municipal boards, committees, commissions, or other similar bodies from the requirements of conducting meetings open to the public when a meeting is administrative or managerial in nature; and amending the definition of 'meeting' as it relates to public governmental meetings."

-MOVED CSHB 153(CRA) OUT OF COMMITTEE

HOUSE BILL NO. 150

"An Act repealing certain provisions relating to modifying the factors that apply to calculate the amount of power cost equalization; providing for an effective date by repealing the effective date of sec. 3, ch. 2, 4SSLA 2008; and providing for an effective date."

-HEARD & HELD

HOUSE BILL NO. 156

"An Act relating to municipal fees charged for disposal of waste material from the substantial rehabilitation, renovation, demolition, removal, or replacement of a structure on deteriorated property."

-SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 19

SHORT TITLE: ELIMINATE DAYLIGHT SAVING TIME

SPONSOR(S): REPRESENTATIVE(S) FAIRCLOUGH

01/20/09	(H)	PREFILE RELEASED 1/9/09
01/20/09	(H)	READ THE FIRST TIME - REFERRALS
01/20/09	(H)	CRA, L&C
03/03/09	(H)	CRA AT 8:00 AM BARNES 124
03/03/09	(H)	Heard & Held
03/03/09	(H)	MINUTE(CRA)
03/12/09	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 161

SHORT TITLE: CERTIFICATES OF PARTICIPATION FOR SUBPORT

SPONSOR(S): REPRESENTATIVE(S) MUNOZ

02/27/09	(H)	READ THE FIRST TIME - REFERRALS
02/27/09	(H)	CRA, FIN
03/12/09	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 153

SHORT TITLE: OPEN MEETINGS: EXCEPTION AND DEFINITION

SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS BY REQUEST

02/25/09	(H)	READ THE FIRST TIME - REFERRALS
02/25/09	(H)	CRA, JUD
03/03/09	(H)	CRA AT 8:00 AM BARNES 124
03/03/09	(H)	Heard & Held

03/03/09 (H) MINUTE(CRA)
03/12/09 (H) CRA AT 8:00 AM BARNES 124

BILL: HB 150
SHORT TITLE: POWER COST EQUALIZATION
SPONSOR(s): AUSTERMAN

02/25/09 (H) READ THE FIRST TIME - REFERRALS
02/25/09 (H) CRA, FIN
03/12/09 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

REPRESENTATIVE ANNA FAIRCLOUGH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 19.

WAYNE JENSEN, Architect
Jensen, Yorba, Lott Inc.
Juneau, Alaska

POSITION STATEMENT: Reviewed the preliminary planning concepts of proposed building.

BRUCE BOTELHO, Mayor
City & Borough of Juneau
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 161, Version T.

JEFF JESSEE, Chief Executive Office
Alaska Mental Health Trust Authority
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 161, answered questions.

TIM SPERNAK, Senior Resource Manager, Alaska Mental Health Trust Authority
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: During hearing of SB 161, answered questions.

HARRY NOAH, Executive Director
Alaska Mental Health Trust Authority Land Office
Office of the Commissioner
Department of Natural Resources

Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 161, answered questions.

KEVIN BROOKS, Deputy Commissioner

Department of Administration

Juneau, Alaska

POSITION STATEMENT: Testified on HB 161.

DEVEN MITCHELL, Debt Manager

Treasury Division

Department of Revenue

Juneau, Alaska

POSITION STATEMENT: During hearing of HB 161, provided clarifying information.

CHARLES COLLINS, President

Juneau Chamber of Commerce

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 161.

ERIN HARRINGTON, Staff

Representative Alan Austerman

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 150 on behalf of the sponsor, Representative Austerman.

ROBERT NICK, Chairman

ABC Housing Association

Nunapitchuk, Alaska

POSITION STATEMENT: During hearing of HB 150, requested continued funding of PCE at the cost ceiling of \$1.00 per kWh and to do so in a permanent fashion.

RICHARD JUNG

Napakiak, Alaska

POSITION STATEMENT: During hearing of HB 150, requested that businesses be included in the PCE program.

MEERA KOHLER, President/CEO

Alaska Village Electric Cooperative (AVEC)

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 150.

PATRICK SAMPSON, Low Income Home Energy Assistance Director

Association of Village Council Presidents (ACVP)

Bethel, Alaska

POSITION STATEMENT: During hearing of HB 150, requested continuation of the PCE program and the current \$1.00 ceiling.

MICHELLE NICKLES

AVCT Energy Assistance Program

Bethel, Alaska

POSITION STATEMENT: During hearing of HB 150, related the struggle to pay utility bills.

STEVEN MAXIE, JR.

Napaskiak, Alaska

POSITION STATEMENT: During hearing of HB 150, testified that business should be eligible for PCE.

ACTION NARRATIVE

[8:02:24 AM](#)

CO-CHAIR BOB HERRON called the House Community and Regional Affairs Standing Committee meeting to order at 8:02 a.m. Representatives Herron, Munoz, Keller, and Gardner were present at the call to order. Representatives Millet, Harris, and Cissna arrived as the meeting was in progress.

HB 19-ELIMINATE DAYLIGHT SAVING TIME

[8:03:02 AM](#)

CO-CHAIR HERRON announced that the first order of business would be HOUSE BILL NO. 19, "An Act exempting the state and its political subdivisions from daylight saving time."

[8:03:39 AM](#)

REPRESENTATIVE ANNA FAIRCLOUGH, Alaska State Legislature, speaking as the sponsor of HB 19, informed the committee that due to questions at the prior hearing she requested extra energy data from Nome, Anchorage, and multiple other utilities. Chugach Electric provided some energy information, although anecdotal, that the weekend after implementation of daylight savings time (DST) there is a decrease in electrical usage whereas there's an increase in electrical usage after implementation of DST. However, Chugach Electric noted that the largest factor related to electrical usage is the temperature. She then related that Channel 2 performed a survey that reported

that 75 percent of those responding supported repealing DST. The sponsor's own survey has an increased number of respondents as has those in support of repealing DST. With regard to the questions about fuel usage on the North Slope, Representative Fairclough explained that the fuel is purchased in bulk and thus DST doesn't impact the cost, although it may impact the consumption.

[8:06:27 AM](#)

CO-CHAIR HERRON related that he has only received support for a change from the current system and has received no opposition to HB 19 from his district.

[8:06:57 AM](#)

CO-CHAIR MUNOZ moved to report HB 19 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

[8:07:31 AM](#)

The committee took an at-ease from 8:07 a.m. to 8:09 a.m.

HB 161-CERTIFICATES OF PARTICIPATION FOR SUBPORT

[8:09:13 AM](#)

CO-CHAIR HERRON announced that the next order of business would be HOUSE BILL NO. 161, "An Act relating to the Alaska Mental Health Trust Authority Subport Office Building; authorizing the issuance of certificates of participation for construction of the building and authorizing the use of up to \$25,000,000 from the mental health trust fund for construction of the building; approving leases of all or part of the building by the Department of Administration; and providing for an effective date."

[8:09:30 AM](#)

CO-CHAIR MUNOZ, speaking as the sponsor of HB 161, explained that HB 161 will allow the Alaska Mental Health Trust ("The Trust") to construct a new office facility in Juneau, on land holdings The Trust owns in downtown Juneau. She noted that this particular piece of land is a top priority for The Trust to develop. Co-Chair Munoz then reviewed the history of The Trust. Prior to statehood individuals experiencing mental illness were

often taken against their will and placed in institutions outside of Alaska in Portland, Oregon. Many of these individuals spent the remainder of their lives in institutions. As Alaska transitioned to statehood, Congress passed the Alaska Mental Health Enabling Act of 1956. The aforementioned allowed the state to receive title to one million acres of land, which was conveyed to The Trust, to help generate income to pay for the services to care for the mentally ill through the Comprehensive Integrated Mental Health Program for Alaska. The Trust's cash assets are managed under contract by the permanent fund. She explained that a portion of the construction funds that will be enabled through this legislation are Trust funds that are held in the permanent fund and invested on behalf of The Trust by the permanent fund. The noncash assets of The Trust are managed by The Trust land office, within the Department of Natural Resources (DNR).

CO-CHAIR MUNOZ highlighted that the core mission of The Trust is to develop and manage The Trust's assets for the maximum benefit of beneficiaries in the areas of health, safety, quality of life, and economic security. The Trust's beneficiaries live across Alaska and are individuals who face mental illness, developmental disability, chronic alcoholism, Alzheimer's disease, and dementia. Co-Chair Munoz explained that in order for the development of this property in downtown Juneau, the legislature must pass legislation that enables The Trust to access trust funds currently held in the permanent fund and enter into an agreement to bond for approximately \$22.7 million. The bond will be repaid through lease payments from four departments of state government, including the Department of Corrections, Alaska Department of Fish & Game, Department of Public Safety, and Department of Labor & Workforce Development. Currently, the aforementioned agencies are located in aging facilities throughout Juneau and Douglas. She opined that it's important for the state to quickly take advantage of this opportunity because existing buildings are in drastic need of improvement and substantial investment would be required to allow future use. She then highlighted HR 6, which the House unanimously passed on February 25, 2009, that urges The Trust to develop its assets to the maximum benefit of its beneficiaries.

[8:14:56 AM](#)

WAYNE JENSEN, Architect, Jensen, Yorba, Lott Inc., presented a slide presentation entitled "The Trust Land Office Juneau Support Development". The first slide is an aerial photo of downtown Juneau, which includes an outlined area of the land The

Trust owns. The area designated as 1 is the area where the office building would be constructed. Item 2 is the location of the old subport building site, which would initially be the parking lot for the new building. However, that land is very valuable and would eventually be developed for something more appropriate. Item 3 is the site of the existing Department of Public Safety (DPS) building and the plan is to eventually develop that as a parking garage for sites 1 and 2. He then presented a slide illustrating the proposed location of the building and parking. The building will be set back a bit from Egan Drive but close to the US Coast Guard building. Mr. Jensen informed the committee that the firm has been working with the city in recognition of the importance of this site to connect with pedestrian activity and access. The next few slides illustrate the floor plans for the four-story office building. He pointed out that 90-95 percent of the building is anticipated to be occupied by four state agencies with some portion of the lower floor open to commercial retail development. The next couple of slides provide some conceptual renderings of the façade of the building, which he opined would enhance the appearance of the building. There has been discussion of a covered canopy along Egan Drive, which will make pedestrian access more convenient. He then turned attention to the last slide that's a photograph looking toward downtown with the building imposed in it. He noted that it's to be a four-story building.

[8:21:40 AM](#)

REPRESENTATIVE HARRIS opined that the largest issue in Juneau is parking. Therefore, he asked if there is adequate parking for this proposed building or will there have to be parking in area 3.

MR. JENSEN opined that the parking needs can be satisfied. In fact, some parking under the second floor of the building has been included. Across the street [from the new office building] there would be a 300-car parking area, which satisfies the state's parking requirements. Furthermore, the proposed building would be located only a block from the city's new transit center, which will also have parking.

[8:23:10 AM](#)

REPRESENTATIVE GARDNER inquired as to the timeframe of converting area 3 into a parking garage. She then recalled

legislation to encourage construction of more energy efficient buildings.

MR. JENSEN answered that the timeframe for development of phase 3 is dependent upon when The Trust sees an opportunity to develop lot 2. He noted that the Department of Transportation & Public Facilities is already under contract to place a signal at Whittier and Egan to ease pedestrian and vehicular traffic.

[8:24:51 AM](#)

REPRESENTATIVE GARDNER surmised then that it could be years and years before that opportunity arises. Therefore, she questioned whether the parking for area 2 is adequate for the building.

MR. JENSEN answered that he believes it is. He added that The Trust is in the process of acquiring area 3 as part of the replacement lands trust, and thus would have control of the lot such that there would be the opportunity to develop the parking lot in the future without any restrictions.

[8:25:46 AM](#)

MR. JENSEN, regarding energy efficiency, said that this would be a new building and offer the opportunity to incorporate newer technologies of energy conservation. He informed the committee that they are reviewing the geothermal process and talking with the U.S. Coast Guard regarding a potential biomass project. He noted that there are three other projects in Juneau that are in the process of using a geothermal ground source heat system. He indicated that anything that can be done to lower operating costs is a high priority of The Trust.

[8:26:57 AM](#)

REPRESENTATIVE MILLETT asked if the 300 parking spots on The Trust land would be available for the life of lease.

MR. JENSEN explained that the requirement regarding the number of parking spots will be part of the allowable use permit from the city. If the parking lot were developed as a building later on, there would still be the obligation to provide the same number of parking spots to serve the [support building]. The Trust has to provide parking, as part of the lease with the Department of Administration (DOA) and in order to meet the allowable use permit from the city.

[8:28:14 AM](#)

CO-CHAIR HERRON inquired as to whether the Zach Gordon building would be part of this project.

MR. JENSEN responded that it wouldn't be impacted at this time.

[8:28:53 AM](#)

REPRESENTATIVE GARDNER highlighted the movement to make public buildings meet new standards.

MR. JENSEN suggested that Representative Gardner is referring to the Leadership in Energy and Environmental Design (LEED) standard, which will be reviewed. He explained that the LEED standard is a process through which buildings can go through in order to achieve certification at certain levels. Regardless of whether they participate in the certification or not, the criteria will be used in the design of the building. The criteria include energy [efficiency] and sustainable materials.

[8:30:51 AM](#)

REPRESENTATIVE HARRIS moved to adopt CSHB 161, Version 26-LS0605\T, Cook, 3/11/09, as the working document. There being no objection, Version T was before the committee.

[8:31:24 AM](#)

BRUCE BOTELHO, Mayor, City & Borough of Juneau, related support for HB 161, Version T. Mayor Botelho then commended The Trust on its efforts to construct a building of high quality, durability, energy efficiency, and sustainability. There have been some questions, in terms of the city's role. For instance, there is a requirement for a zoning change that will likely receive a favorable vote on Monday. Although there are many benefits to the city, he highlighted the following few. This is an area that has needed redevelopment for many decades, and thus is a fulfillment of aspects of the downtown waterfront development plan. Furthermore, the project will generate construction-related economic activity and will generate revenues for The Trust. From a statewide perspective, the proposed office building will establish a new standard for excellence in public construction in Alaska.

[8:34:06 AM](#)

REPRESENTATIVE HARRIS asked if the proposed office building will pay taxes to the city.

MAYOR BOTELHO replied no. In further response to Representative Harris, Mayor Botelho confirmed that other buildings, the Department of Labor & Workforce Development (DLWD) building, being vacated under this plan are currently paying taxes to the city.

REPRESENTATIVE HARRIS related his understanding that the proposed office building will include retail space. Therefore, he surmised that a government entity will possibly be contracting out for competitive service to the private sector.

MAYOR BOTELHO related his agreement. In terms of leasing to private entities, that may well be a taxable economic activity. Activity generated by the businesses occupying the retail space will be subject to taxes.

REPRESENTATIVE HARRIS stressed that any government entity competing with the private sector with government buildings should pay taxes because the aforementioned is direct competition with the private sector. Representative Harris further stressed that he supports The Trust, but doesn't want The Trust competing with those who pay taxes to the city. In this process, there will be a vacant private sector building that will continue to pay taxes that the city continues to charge.

MAYOR BOTELHO acknowledged that economic balancing will need to take place. He then opined that the benefits of this proposed office building to the state and Juneau far outweigh some economic dislocation, which he charged would take place regardless due to the nature of the existing DLWD building.

[8:36:44 AM](#)

CO-CHAIR MUNOZ informed the committee that the state will have to go through a Request for Proposals (RFP) process to replace DLWD's space in the event that the proposed office building isn't constructed.

REPRESENTATIVE HARRIS clarified that his point is that the state isn't renewing an existing lease and the owner of the building, an existing taxpayer, has no recourse. The owner of that building will have to continue to pay taxes even once the building is vacant. Furthermore, there is the fact that there

will be vacant buildings in Juneau where the state employee pool isn't growing.

MAYOR BOTHELO noted his agreement.

8:40:28 AM

JEFF JESSEE, Chief Executive Office, Alaska Mental Health Trust Authority, Department of Revenue, related that it's been over 50 years since The Trust was created. In 1956, as the Mental Health Enabling Act was nearing enactment, it came under significant attack. The attack came most noticeably from a group that later became known as the Scientologists. The federal government attempted to send dissidents to Alaska. The U.S. Senators Goldwater and Bartlett fought the aforementioned and clarified that a land trust was being created to support Alaska developing something better for those needing mental therapy.

8:42:40 AM

CO-CHAIR HERRON highlighted how remarkable the national outcry against the Mental Health Enabling Act was and how many people thought Alaska should take care of itself.

8:43:26 AM

MR. JESSEE related his surprise when the Palin Administration approached The Trust regarding development of the subport building property. The Trust had, for some time, been in discussions with Juneau regarding how that waterfront property would be developed, as it's very valuable land. Of course, The Trust wanted to be sure that the land was developed in a manner that's consistent with Juneau's vision. Once The Trust was assured that, in fact, this [proposed office building] was consistent with Juneau's desire to see development occur on this property, The Trust has worked diligently with DOA to put together this proposal. Mr. Jesse related that he is pleased with how this proposal is coming together as it provides advantages for all parties. For the state, this project would provide much needed office space in a centrally located place. Mr. Jesse explained that The Trust is around to stay and will eventually own this building, which is one of the reasons it wants the building to last as long as it can while being as inexpensive to operate as possible. The aforementioned maximizes the long-term return on the building as well as The Trust's revenue. Mr. Jesse related the desire to maximize the

return on the investment into this building in 50 years, and therefore the intent is to construct a quality building as energy efficient as technology allows. At some point development of the subport in conjunction with the development of other waterfront development will likely generate significant revenue to The Trust. At that time, it will financially be worth it to The Trust to build the parking garage in order to move the parking from the subport to the parking garage. The Trust has the ongoing obligation to provide parking, and therefore it's not an option to use the subport property for something else and not replace it with similar parking facilities somewhere in the area. With regard to the tax issue, Mr. Jessee said he understood Representative Harris' concern. He then related his understanding that The Trust will pay taxes on the commercial space. He then related that an advantage to working with The Trust is that the lease rates will be less because The Trust's expenses will be less. Another advantage of this project is that ultimately all lease payments end up in the private sector through either the developer or the rent lease payments will recycle through The Trust and ultimately end up in the hands of the nonprofit providers who provide services to the beneficiaries. Mr. Jessee opined that from the state's perspective, this is a good deal.

[8:48:26 AM](#)

REPRESENTATIVE HARRIS inquired as to the definition of a certificate of participation.

MR. JESSEE opined that DOA would be the best to answer. However, he related his understanding that it's basically a bond, loan that's sold on the market. Part of the lease payments are used to payoff the bonds over 20 years.

REPRESENTATIVE HARRIS then inquired as to the expected rate of return for this building.

MR. JESSEE deferred to Tim Spernak.

REPRESENTATIVE HARRIS inquired as to when The Trust would own the building.

MR. JESSEE answered that The Trust would own the building in 20 years, when the certificates of participation are paid off. He highlighted that The Trust is actually putting up half of the capital for the building.

[8:50:43 AM](#)

TIM SPERNAK, Senior Resource Manager, Alaska Mental Health Trust Authority, Department of Revenue, explained that there are two financing mechanisms to construct the building. One is the certificates of participation that carry a bond rate of 5.5 percent, which is backed by the full faith and credit of the state. The bond market and the purchasers of those certificates feel comfortable that they have assurance of being paid and the interest rate is being calculated on that. The other half of the funds to construct the building comes from The Trust, out of the permanent fund, and it carries an interest rate of 7.5 percent. The latter is being amortized over 30 years whereas the bonds are being amortized over 20 years. The purpose of the 30-year amortization for The Trust funds is that it lowers the monthly payment. All of the aforementioned brings down the rate and makes [the lease] more affordable to the state tenants. The operating expenses component is almost a direct pass through to DOA. He then noted that the ground underneath the office building is being leased separately from the ground underneath the parking area in order not to encumber the parking area land with the certificates of participation.

[8:53:10 AM](#)

REPRESENTATIVE HARRIS asked if the lease includes an escape clause for the state.

MR. SPERNAK replied yes, and added that if The Trust doesn't operate the building in accordance with the lease, the state has the opportunity to cancel the lease.

REPRESENTATIVE HARRIS asked if the demand for those offices will remain even if the trend of the state reducing personnel in Juneau continues.

MR. SPERNAK said he can't predict that.

[8:54:55 AM](#)

REPRESENTATIVE MILLETT recalled that the Juneau Empire quoted Mr. Noah as saying that adding the parking garage would make the lease cost prohibitive. She then asked whether the cost of the parking garage will be incorporated into the lease cost to the state.

HARRY NOAH, Executive Director, Alaska Mental Health Trust Authority Land Office, Office of the Commissioner, Department of Natural Resources, responded that the cost of parking is a requirement of leasing the building to the state, and therefore the cost will be borne by The Trust. The cost of developing a new parking garage was about \$20 million in addition to the cost of the building, which made the cost per foot unreasonably high. Although The Trust, he related, was fairly reluctant to use the old subport for parking due to the fact that it's valuable property, it was the only reasonable way to proceed at this point. If and when The Trust decides to utilize the old subport building area for other development, The Trust will have to develop other parking which would be at the location of the existing DPS building. When The Trust develops that parking garage, there won't be an increase in the lease cost or additional impact to the state. In further response, Mr. Noah confirmed that The Trust will bear the cost of the parking garage and there will be no increase to any of the leases held by the state.

[8:57:13 AM](#)

REPRESENTATIVE HARRIS asked if the cars currently parking along the street will be made to park in the parking garage being built on the corner of Main Street and Egan.

MAYOR BOTELHO said that the city isn't looking at car free zones, at this point. In further response to Representative Harris, Mayor Botelho specified that the parking garage will have in excess of 200 parking spots with the ability to expand. He then related that the Juneau Assembly Finance Committee took action on the expansion of express bus service, which is another manner in which the city hopes to alleviate parking congestion and have a bearing on the service of the proposed office building.

REPRESENTATIVE HARRIS expressed the desire to have the street in front of the capitol building closed to vehicles.

[9:00:29 AM](#)

KEVIN BROOKS, Deputy Commissioner, Department of Administration, began by noting that this process started about a year ago for DOA as it decided the DLWD building is space that should be replaced. The lease for the DLWD building expires June 30, 2012. In recent years the building's problems have manifested themselves in a number of ways. For instance, the DLWD building

has had water intrusions and mold problems. The problems have resulted in union issues, grievances, and moving staff out of the building. Therefore, a year or so ago DOA reached the conclusion that it wouldn't renew the lease at the next extension. However, there's not much [office space] available. The DOA approached The Trust, with whom it already has a relationship.

MR. BROOKS informed the committee that the existing DLWD building is about 68,000 square feet and houses 300 people. The Douglas Island building, which was constructed in 1961, is nearly 32,000 square feet and houses nearly 200 people. The Department of Public Safety building, which was constructed in 1970 as a temporary facility, is about 16,000 square feet and houses 34 people. The Douglas Island building and the DPS building will require much investment to allow them to be tenantable. The maintenance required for the Douglas Island building would be replacement of the entire envelope of the building, the roof, and the windows. He recalled that there are no plans to move other state employees in the aforementioned buildings. There could be an alternate use for the Douglas Island building. There would be significant maintenance required for the DPS building as well. If this project doesn't move forward, then an RFP for the DLWD building would be put out and the other buildings would continue to be used. The building being proposed is about 120,000 square feet and works for the investment being discussed by The Trust. With regard to parking, all of the leases include a formula that specifies a certain number of parking spaces. The location of the parking garage makes no difference to the state, as a tenant, so long as the parking lot has enough spaces for the people working in the building. Recalling earlier discussion about the long-term [state employee] position loss, Mr. Brooks informed the committee that currently there are over 3,300 employees in Juneau. He further informed the committee that Juneau has experienced about a 100 position net loss, which is significant. Still, the office space will be needed for the long-term. Mr. Brooks clarified that the term of the lease for the proposed office building is 20 years with two 10-year renewals. Once a space is filled, it's significant to undertake a lease and thus the hope would be that the state would be a long-term tenant. In the end, the deal has to pencil out for the state as well as The Trust, to which The Trust has been very responsive.

[9:10:20 AM](#)

REPRESENTATIVE HARRIS surmised that the state hasn't given any thought as to what to do with the buildings being vacated.

MR. BROOKS reiterated that the DPS building could be used for future parking, but it's hard to specify when that would occur. The department is trying to balance spending to keep the buildings tenantable without spending additional deferred maintenance money foolishly. The possibilities for the buildings being vacated range from demolishing them to perhaps cold storage for the Douglas Island building. In response to Representative Harris, Mr. Brooks confirmed that the buildings could be sold to the private sector. The main priority is to find a replacement location for DLWD. However, if the proposal embodied in HB 161 moves forward, options for the state's vacated buildings would have to be reviewed.

MR. BROOKS, in further response to Representative Harris, explained that parcel 3 belongs to the state, not The Trust. Therefore, he wasn't clear how the title transfer would occur between the state and The Trust. "But it's not part of any deal we're working on with this building and this lease," he clarified. He further clarified that parcel 3 is part of the deal to the extent it's viewed as a potential future site for a parking garage; but it's not part of the legal deal.

[9:13:06 AM](#)

REPRESENTATIVE HARRIS surmised that if The Trust builds on the subport area, there's no guarantee that area 3 would be made available for parking.

MR. BROOKS answered that the state isn't in opposition to such, but a deal and arrangement with The Trust would be required. He noted that DNR holds title to all land, and therefore there's a process that has to be followed. He further noted that the process isn't one that DOA would direct.

[9:14:26 AM](#)

REPRESENTATIVE KELLER inquired as to what the state is paying The Trust for the parking [at the subport].

MR. BROOKS responded that it's a nominal amount. He informed the committee that [parking at the subport] was utilized as a temporary measure due to all the other projects occurring. Work is being done in the State Office Building parking garage that necessitates the closure of two levels. Therefore, [the subport

parking] was secured as a temporary measure to move parking while some of the state's own construction projects were being performed.

REPRESENTATIVE KELLER inquired as to the amount of the ground lease for the proposed parking in the subport area.

MR. BROOKS said that there wouldn't be a separate lease on the surface parking. If that was the case, the cost per space would likely be astronomical. If the deal moves forward, DOA would lease a building with a certain number of square feet that has to have a certain amount of parking spots within a certain proximity to the building.

[9:16:26 AM](#)

REPRESENTATIVE MILLETT inquired as to where the displaced State Office Building parking that's currently using the subport parking lot will be diverted.

MR. BROOKS reminded members that the subport parking is being used temporarily for displaced parking due to renovations at the State Office Building parking garage. That renovation should be completed in the next several months, and therefore DOA wouldn't be in an ongoing relationship with The Trust for that particular parcel.

REPRESENTATIVE MILLETT inquired as to the current lease rates per square foot for each of the buildings the state agencies to be moved are located. She further inquired as to how that compares with what will be paid in the new building.

MR. BROOKS said that he could provide that information. He related that the department anticipates that the existing lease space for DLWD is at a lower cost than it will be for the new building. However, he attributed part of that to the condition of the existing building versus that of a new building. Mr. Brooks said that DOA anticipates an increase in lease costs no matter if the scenario is one in which there's an RFP or this legislation. With regard to the state-owned buildings, he related that it's a very nominal amount that the state charges itself to direct money back into the public building fund to do deferred maintenance and pay for operating costs. Again, the costs of the Douglas Island building and the DPS building are lower [than what's anticipated with the proposed new building], which he attributed to the age, quality, and condition of the buildings.

9:18:37 AM

REPRESENTATIVE MILLETT surmised then that those agencies will face an increase in lease costs for that space.

MR. BROOKS stated that the costs wouldn't be passed on to agencies. He informed the committee that DOA has a leasing budget of over \$40 million for the entire portfolio of leases. The department would factor in the inclusion of the new lease that would begin in 2012, which would be included in fiscal year (FY) 2013. Therefore, DOA's FY 13 budget would reflect the anticipated lease costs.

REPRESENTATIVE MILLETT expressed interest in seeing a lease market analysis of what's available in Juneau versus this proposed project. She then related that she is going to have difficulty explaining to her constituents the need for a newer waterfront building at a higher lease cost than what the market is bearing in Juneau. She noted that she recently went through a similar situation with Block 39 in Anchorage.

MR. BROOKS offered to provide the cost comparison analysis to the committee.

9:21:42 AM

DEVEN MITCHELL, Debt Manager, Treasury Division, Department of Revenue, clarified that a certificate of participation is when title interest is provided to a trustee with whom one enters into a lease, which is fractionalized and sold to investors. A certificate of participation, which is very similar to a bond, is a subject to appropriation commitment of the state. Other projects funded with similar commitments are the Atwood parking garage and building in Anchorage, the Goose Creek Correctional Facility, and the virology laboratory in Fairbanks. He explained that there are two separate leases such that there is a lease for the operating cost of the facility as well as the investment The Trust makes in the facility and the other lease is for purposes of securing the certificates. He opined that the two are very different, in as much as the commitment that is going to be made with the certificates of participation would be made to the market. While the commitment to pay is subject to appropriations and there is discretion on the legislature's part, a failure would negatively impact the state's continued access to capitol markets.

[9:24:16 AM](#)

REPRESENTATIVE CISSNA related her observation that most of the locations mentioned [with similar commitments] weren't Juneau. Juneau has its own economy and situation. She opined that there is risk. She then inquired as to Mr. Mitchell's analysis of the risk.

MR. MITCHELL opined that HB 161 is an interesting proposal in as much as it's the state and The Trust partnering. He recalled his involvement with the new Alaska Psychiatric Institute (API), which he said was a similar project as it was a blend of forces.

[9:26:11 AM](#)

REPRESENTATIVE HARRIS highlighted that one major difference between this proposal and the API facility is that the functions of the API facility were largely involved with The Trust and mental health providers. The facility proposed by HB 161 has no connection with mental health providers.

[9:26:49 AM](#)

REPRESENTATIVE MILLETT asked whether [the state] has used participation bonds for financing of lease space like this.

MR. MITCHELL replied yes, adding that the state uses its subject to appropriation credit to acquire things or build projects. He then pointed out the Mat-Su example was a lease revenue bond of the Matanuska-Susitna Borough. However, the borough doesn't pledge any borough assets. The documentation merely says that the lease that was entered into by the state is hereby pledged. The last certificate of participation from DOA was issued for the Fairbanks virology laboratory.

[9:28:24 AM](#)

CHARLES COLLINS, President, Juneau Chamber of Commerce, testified in support of HB 161. He emphasized that the project proposed in HB 161 is important to Juneau, particularly to the businesses of Juneau. This proposed project would anchor some of the departments in Juneau and upgrades the facilities that customers use. Furthermore, the proposal is a long-term solution and provides a long-term source of funds for The Trust. More importantly to Juneau and its business, the project would provide consistency to what business owners can plan for in the future. Consistency is important as it helps businesses

forecast their future. This project provides an opportunity for businesses in Juneau because any construction project creates jobs and the need to [furnish and maintain] the building. For many businesses in Juneau, the number one customer is the State of Alaska, which is why Mr. Collins said he opposed losing state jobs in Juneau. He then pointed out that this proposed building will bring diversity to downtown Juneau. Although some would suggest that a new hotel would be a better project on the location, The Trust is looking for a long-term return. State government business, as the main economic engine in Juneau, is very important because services available in Juneau wouldn't be present without it. State government business allows Juneau, a relatively small town, the ability to offer services that might not otherwise be available and increases the quality of life in Juneau. Mr. Collins related that the Juneau Chamber of Commerce and the business community of Juneau are very happy to have state jobs and the legislature here in Juneau. This building will allow better department interaction and a sharing of resources at a central location.

[9:33:34 AM](#)

CO-CHAIR HERRON, upon determining no one else wished to testify, closed public testimony.

[9:33:40 AM](#)

CO-CHAIR MUNOZ related her belief that HB 161 proposes a great project that would serve The Trust and its beneficiaries well while bringing much needed office space to the community. She indicated her agreement with Mr. Collins comments regarding the stability the building would bring to the community. She characterized the legislation as a great opportunity for all and expressed her hope that there would be action on the legislation today.

[9:34:27 AM](#)

REPRESENTATIVE MILLETT said that she would like to see the lease information prior to moving the legislation. With regard to the participation bonds, Representative Millet highlighted that all of the other projects/buildings discussed were state-owned facilities. However, the facility proposed in HB 161 won't be owned by the state.

[9:35:07 AM](#)

CO-CHAIR HERRON relayed that he has asked the sponsor to work with members prior to moving the legislation on March 17th. Therefore, HB 161 was held over.

[9:36:25 AM](#)

The committee took an at-ease from 9:36 a.m. to 9:39 a.m.

HB 153-OPEN MEETINGS: EXCEPTION AND DEFINITION

[9:39:48 AM](#)

CO-CHAIR HERRON announced that the next order of business would be HOUSE BILL NO. 153, "An Act exempting municipal boards, committees, commissions, or other similar bodies from the requirements of conducting meetings open to the public when a meeting is administrative or managerial in nature; and amending the definition of 'meeting' as it relates to public governmental meetings."

[9:39:54 AM](#)

REPRESENTATIVE HARRIS moved to adopt CSHB 153, Version 26-LS0653\E, Kane, 3/5/09, as the working document. There being no objection, Version E was before the committee.

[9:40:20 AM](#)

CO-CHAIR HERRON explained that Version E tightens the concerns about service area boards. He then related that any discussions regarding improvements to the Open Meetings Act should be addressed in the House Judiciary Standing Committee, the chair of which has agreed to address. He further related his wish to move HB 153 on to the next committee of referral.

[9:41:04 AM](#)

REPRESENTATIVE HARRIS highlighted that one of the difficulties with issues pertaining to the Open Meetings Act is that it deals with public trust and the public wants to know what's happening. He announced that he supports this legislation, but opined that it's important not to gloss over this topic as insignificant.

[9:42:12 AM](#)

REPRESENTATIVE HARRIS moved to report CSHB 153, Version 26-LS0653\E, Kane, 3/5/09, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GARDNER objected for discussion purposes. She then requested an explanation as to why it's problematic to have an open meeting on matters that are administrative or managerial in nature.

[9:42:38 AM](#)

CO-CHAIR HERRON expressed his concern that the intent of the borough is to have legislation that addresses service area boards without a lot of other collateral implications. He related that this committee recognizes that service area board members should be able to meet on the street to address, say a clogged culvert, without posting the meeting and waiting the specified time period before making a decision. Version E allows the aforementioned to happen. However, the proposed legislation tried to carve out requirements for councils, administrative bodies, and assembly bodies. The debate on the aforementioned needs to be addressed in the House Judiciary Standing Committee because of the subtle impacts it may have to the Open Meetings Act.

[9:45:30 AM](#)

REPRESENTATIVE GARDNER inquired as to why that debate should only occur in the House Judiciary Standing Committee and not in this committee.

CO-CHAIR HERRON opined that the Fairbanks North Star Borough is using an abundance of caution in order to avoid challenges in the future. He expressed his desire to move HB 153 to the House Judiciary Standing Committee, which is chaired by a Fairbanks resident.

[9:46:31 AM](#)

REPRESENTATIVE GARDNER, speaking as a member of this committee, expressed her reluctance to support moving HB 153 when she doesn't understand the ins and outs of the issue. Therefore, she said she maintained her objection.

CO-CHAIR HERRON explained that he would like to delete the portion of HB 153 that pertains to the Open Meetings Act and move the portion related to municipal service area boards when

they meet solely on administrative and managerial matters. He further explained that he tightened [paragraph] 8 because he was concerned that there would be a degradation of meetings without public notice. He then opined that there's no need to change the Open Meetings Act for organizations, save service areas. The service areas face decisions related to immediate needs for which there would be severe consequences. Therefore, Co-Chair Herron said that he feels comfortable reporting Version E from committee because it addresses the service area boards without changing the Open Meetings Act whereas the previous version of HB 161 addressed service area boards as well as the less important committees in municipalities.

[9:49:57 AM](#)

REPRESENTATIVE HARRIS called for the question.

REPRESENTATIVE GARDNER surmised then that Version E is a narrower focus than the original legislation.

CO-CHAIR HERRON replied yes, Version E is narrowed to focus on the service area boards.

REPRESENTATIVE GARDNER withdrew her objection.

[9:51:18 AM](#)

CO-CHAIR HERRON then stated that he has no problem holding HB 153 for further explanation. However, he emphasized that changes to the Open Meetings Act are very serious. He said he didn't want to lessen the importance of a local parks and recreation meeting or a public works meeting, which he indicated would loosen the importance of the Open Meetings Act.

[9:52:17 AM](#)

CO-CHAIR MUNOZ pointed out that the change in language to paragraph (8) is specific to boards such as road service area boards and fire service area boards, which may have an immediate need to act [prior to being able to meet public notice and hearing requirements].

CO-CHAIR HERRON said that he wanted to take care of the aforementioned boards without other types of boards, such as parks and recreation boards, making decisions without following the Open Meetings Act.

[9:53:52 AM](#)

There being no further objection, CSHB 153(CRA) was reported from the House Community and Regional Affairs Standing Committee.

HB 150-POWER COST EQUALIZATION

[9:54:10 AM](#)

CO-CHAIR HERRON announced that the final order of business would be HOUSE BILL NO. 150, "An Act repealing certain provisions relating to modifying the factors that apply to calculate the amount of power cost equalization; providing for an effective date by repealing the effective date of sec. 3, ch. 2, 4SSLA 2008; and providing for an effective date."

[9:54:22 AM](#)

ERIN HARRINGTON, Staff, Representative Alan Austerman, Alaska State Legislature, speaking on behalf of the sponsor, explained that HB 150 removes the sunset of an increased ceiling on the power cost equalization (PCE) program that the legislature put in place last summer. She informed the committee that PCE was established in 1984, when the state was making significant investments in power projects that would cause a significant decrease in the cost of power generation in certain areas of the state. This relates to what was eventually known as the Four Dam Pool Dams. At the time PCE was established to equalize power costs across the state in recognition that the state's investment in power in certain areas couldn't necessarily be replicated across the entire state. The program included all of the communities in the state that generated 75 percent or more of their power using diesel fuel, which is expensive. The current program covers 135 communities that are served by 85 utilities, which include a number of cooperatives and single community utilities. The largest of the cooperatives is the Alaska Village Electric Cooperative (AVEC), which has 53 communities within its utility. The PCE program has an endowment that has been funded over the years from various sources. Ms. Harrington explained that when the PCE program was implemented there was a floor, which was the weighted average for the cost of power in Juneau, Anchorage, and Fairbanks and a ceiling of 52.5 cents. Therefore, any power generation above the floor and beneath the ceiling was offset by the PCE program. In 1984, the ceiling of 52.5 cents was high and there was no concern that power generation would cost more than that.

However, since that time there have been significant increases in oil prices that reached their peak last year, which is when the legislature recognized the need to implement a new ceiling and did so in the amount of \$1.00. Although fuel costs have somewhat decreased since that time, communities, particularly those in the north, only receive fuel deliveries when the season allows it. Therefore, those northern communities received fuel deliveries in the summer and last summer was about the peak of fuel generation costs and thus rural communities are still generating power from diesel purchased last summer and paying as much as \$7 per gallon for fuel. Ms. Harrington emphasized that essentially HB 150 removes the sunset of June 30, 2009, placed on the \$1 ceiling.

[10:00:48 AM](#)

CO-CHAIR HERRON announced his intent to listen to all the testimony today.

[10:02:25 AM](#)

ROBERT NICK, Chairman, ABC Housing Association, informed the committee that gas prices in Bush Alaska are \$7-\$8 per gallon and heating oil is just above that. In Anchorage the average electric bill is about \$80-\$100, which is \$.07-\$.08 per kilowatt hour (kWh) for a 2,000 square foot home in the winter using around 1,000 kWh. In Bethel the same square foot home pays \$150-\$200 for about 600 kWh of electricity with the PCE program. However, without the help of the PCE program the costs would be \$300-\$400. This winter has been one of the coldest, and in fact some in Bush Alaska used electric appliances to heat which correlates to the rise in the use of electricity. Moreover, cold temperatures have increased heating fuel use, especially in poorly built homes. Mr. Nick pointed out that almost all families use fuel burning systems that also require electricity to run. He related that in the lower Yukon some families paid about \$1,000 a month for electricity. He highlighted that Bush Alaska residents are now choosing fuel over food and instructing their children to eat breakfast and lunch at school. Many homes have empty cupboards and refrigerators and are getting by on purely subsistence food. As for jobs, they are lacking in rural areas, he related. On top of all that, grocery and store items are very expensive due to high freight and operating costs. The high cost of consumables, he opined, will be further increased due to the proposed 30-40 percent increase in bypass mail costs in two months. Many village residents have limited income. In fact, the Bethel census unemployment rate is 16.6 percent while

the Wade-Hampton unemployment rate is 22.8 percent. The Bethel census poverty rate is 20.7 percent while the Wade-Hampton poverty rate is 26 percent. Mr. Nick related his thankfulness for last year's increase in the ceiling of the PCE program, which was very helpful to the rural communities. In conclusion, Mr. Nick requested continued funding of PCE at the cost ceiling of \$1.00 per kWh and to do so in a permanent fashion. He also requested the legislature consider the household limit from 500 kW per month to the national average of 750 kW per month. The regional economy is fragile and vulnerable and needs further consideration in the PCE program, he said. He then requested the restoration of PCE eligibility to businesses, clinics, and other public facilities that were originally included in the program. Without PCE, schools are struggling with very high energy and electrical costs, maintaining utilities, and taking away from teachers and classroom budgets, and therefore compromising the quality of education in those schools. Mr. Nick noted that he will provide emails from tribes in the villages and he encouraged the members to read them.

[10:11:59 AM](#)

RICHARD JUNG, speaking as a business owner, opined that this winter has been the worst with the high cost of fuel and groceries. He noted that he sells the groceries and is in shock as to what they cost. He related his desire for businesses to be able to get a break with the PCE. Although the higher ceiling this winter was helpful for homeowners, he said he struggled to keep his electric usage to less than 550 kW per month. He related that he tried an electric heater for one month and the cost was \$350; without the electric heater his bill was only \$57. As a business owner he has been able to cut \$400-\$500 in electric costs per month at his business, but is unable to reduce it further and thus has to pass on those costs to customers.

[10:14:45 AM](#)

MEERA KOHLER, President/CEO, Alaska Village Electric Cooperative (AVEC), related her support of HB 150. She reminded the committee that last year the Alaska Village Electric Cooperative (AVEC) was in favor of enacting a higher ceiling to the PCE eligible cost. Unfortunately, the ceiling was done with a sunset date of this year. She said that she could offer fairly graphic testimony as to the impact there will be if the ceiling reverts back to 52.5 cents. Ms. Kohler informed the committee that AVEC serves 53 villages, which represents a population of

22,000. When last year's fuel costs heat the village communities, the average cost of fuel was \$4.73 a gallon. Therefore, the fuel only component of the electric costs averages over \$.37 kWh and the non-fuel costs increases the total to \$.62. Therefore, if the PCE ceiling returned to 52.5 cents, there would be an average increase of \$.10 kWh to residential users. In some communities, such as those in western Alaska, that increase will be as high as \$.25 kWh. The higher cost will continue through October 2009. "It is silly for the cost cap to keep fluctuating back and forth between a \$1.00 a kilowatt hour and 52.5 cents a kilowatt hour because anybody that believes that the cost of fuel is going to stay where it is today obviously has not paid close attention to what's happening in the entire world," Ms. Kohler opined. The world's supply of oil is diminishing and she predicted that once the economy recovers there will be extremely high fuel costs for which the \$1.00 ceiling will likely not be sufficient. In conclusion, Ms. Kohler strongly urged the extension of the PCE cost ceiling to \$1.00 per kWh.

[10:18:04 AM](#)

PATRICK SAMPSON, Low Income Home Energy Assistance Director, Association of Village Council Presidents (ACVP), informed the committee that AVCP is a private nonprofit tribal human services organization that serves the 56 tribal villages of the Yukon-Kuskokwim Delta region. In recent years, electric and fuel costs have taken almost all of the disposable income of village residents. As has been reported in the news media, many families have had to choose between food and the cost of energy. The PCE program is a priority for the region, and therefore he requested continuation of it and the current ceiling of \$1.00 per kWh. He informed the committee that residents in the region are already paying upwards of 70 percent of their available disposable income on energy costs. If the PCE rate decreases, the villagers' costs will increase immediately and local utilities will have to collect those fuel costs in order to recover the 2008 outlay. The cost, he relayed, is transferred to the families in the villages. Increased funding to PCE is part of the solution as it helps to equalize energy costs between rural and urban areas on the first 500 kW used. He then informed the committee that only 29 percent of electricity sold by PCE utilities is eligible for PCE while the other 71 percent is paid for by homeowners and businesses at rates almost five times those in urban Alaska. Additionally, Mr. Sampson requested an increase in the household limit to the national average of 750 kW per month. After last year's fuel prices,

virtually all of the PCE communities are over the 52.5 cents ceiling. Mr. Sampson also requested that PCE eligibility be restored to clinics, businesses, and other facilities that were included in the original program. The aforementioned, he said, is critical to keeping down inflation and increasing the viability of local economies in rural Alaska. Mr. Sampson then related that yesterday his office called 14 communities in the area and discovered that the average cost of electricity is \$.71 kWh, with the highest being at \$.81 kWh in the Village of Newtok.

[10:23:15 AM](#)

MICHELLE NICKLES, AVCT Energy Assistance Program, related that she is struggling to pay utilities as they are \$400-\$500 per month.

[10:24:23 AM](#)

STEVEN MAXIE, JR., testified that businesses should be eligible for PCE at either a lower rate or the same rate as that for residential customers otherwise the high food costs will continue.

[10:25:35 AM](#)

CO-CHAIR HERRON announced that HB 150 would be held over until Tuesday, March 17th.

[10:25:59 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 10:26 a.m.