

HOUSE FINANCE COMMITTEE
March 1, 2011
9:02 a.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:02 a.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Co-Chair
Representative Anna Fairclough, Vice-Chair
Representative Mia Costello
Representative Mike Doogan
Representative Les Gara
Representative David Guttenberg
Representative Reggie Joule
Representative Mark Neuman
Representative Tammie Wilson

MEMBERS ABSENT

Representative Bryce Edgmon

ALSO PRESENT

Representative Alan Austerman; Representative Mike Chenault, Sponsor; Sharon Kelly, Staff, Representative Mike Chenault; Representative Mike Hawker, Chair, Legislative Budget and Audit Committee; Pat Davidson, Legislative Auditor, Division of Legislative Audit; Karen Rehfeld, Director, Office of Management and Budget, Office of the Governor.

SUMMARY

HB 166 STATE AGENCY PERFORMANCE AUDITS

HB 166 was HEARD and HELD in committee for further consideration.

#hb166

HOUSE BILL NO. 166

"An Act relating to performance reviews and audits of executive branch agencies, the University of Alaska, and the Alaska Court System; and providing for an effective date."

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REPRESENTATIVE MIKE CHENAULT, SPONSOR, explained the legislation as relating to agency performance reviews. He provided history. As co-chair of the House Finance Committee, he and others had asked how the state could assure that it was in the best position possible as oil revenues declined. House Bill 166 was a response to that and also to House majority guiding principles related to fiscal responsibility. He thought the bill included a number of the criteria the majority was considering, including transparency and accountability. The bill would identify fiscal properties based on the current legislation, would control budget growth by looking into the base instead of the annual increments, and would provide a plan for the state living within its fiscal means if outflow surpassed income.

Representative Chenault informed the committee that from the early 1980s to roughly 2004, budget growth was controlled only by lack of money. The price of oil had required the state to draw down the savings account and the Constitutional Budget Reserve (CBR) to provide necessary infrastructure and programs that Alaskans thought were needed. The price of oil went to \$35 per barrel in 2005 and some people felt like there was a lot of money. As the price grew to \$80 per barrel and beyond, the general fund spending doubled from about \$2.5 billion to \$5.5 billion. Most people understood that the level of spending could not be sustained, and that there was a need to consider the efficiencies and effectiveness of current programs. He noted that Alaska was in better shape than most other states in the country; there were enough revenues to fund current operations. However, there was a systemic problem with declining revenues; the state's revenues would decline as the throughput through the Trans Alaska Pipeline System (TAPS) continued to decline. He believed the only thing that had masked the problem had been the high price of oil, which had just closed at \$109 per barrel for Alaska North Slope (ANS) crude oil.

Representative Chenault believed HB 166 could provide an opportunity to consider the infrastructure, reduce costs, and help identify and sunset programs that were not necessary. He thought the bill would provide an encompassing mechanism that would pull together and utilize the good resources currently available in the state, analyze agencies, and make appropriate recommendations to the Finance Committees to guide their budget work. He felt it was currently very difficult to responsibly review the \$5.5 billion budget in the roughly 45 days allowed, and to do the job as the public would like it done. He pointed out that the learning curve could be steep for new members on the Finance Committees.

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Representative Chenault continued that the goal of the legislation was to centralize state services and produce a report that could identify and prioritize areas that could be reduced if future cuts were needed. He also felt the executive branch should buy into the independent objective and unbiased review of the departments to assist the legislature in making sure it does what Alaskans want.

SHARON KELLY, STAFF, REPRESENTATIVE MIKE CHENAULT, directed attention to documentation regarding the bill. She reported that she had studied the Texas Sunset Commission and referred to the handout "Texas Sunset Frequently Asked Questions Sheet" (2/3/2011, copy on file). She detailed that Texas had been using the process for about 20 years. The Texas Sunset Advisory Commission had a staff of 32, including 8 senior analysts and 17 regular analysts. The commission's budget was a little over \$2 million per year, plus reappropriations. The commission had eliminated 58 agencies and consolidated 12 others. The recommendations from the commission had saved the state of Texas \$783.7 million since it came into existence.

Ms. Kelly continued that Texas was currently looking at a budget of \$187 billion, and the budget review board was recommending a 15 percent cut down to \$158.7 billion, reflecting an existing reality in the Lower 48. She pointed out that a 15 percent cut in Alaska's budget would amount to \$75 million.

Ms. Kelly noted that according to the Legislative Audit Division, the authority for sunset audits already existed under AS 44.66, the area of statute that also includes the authority for sunsets for boards and commissions. She continued that unfortunately, the audits relating to the agencies of the state included dates; the last date listed was 1983. Since then, no termination audit had been conducted, because there was no cycle date continuing the process. Discussions about what might work for the state of Alaska had resulted in the idea of a review team working under the Legislative Budget and Audit Committee (BUD). The team could use all existing information that was currently being prepared to inform a performance review that would be contracted out. She referred to University of Alaska President Patrick Gamble's presentation of the Fisher Report, which the sponsors thought was the kind of report the legislature was interested in: an independent, outside, unbiased contract review performed by an entity with expertise in the area being reviewed.

Ms. Kelly stressed that HB 166 would not sunset or audit a department; it would set up a process to conduct a performance review. She noted that as the bill was put together, Legislative Legal Services had to make amendments to conform to what was already in state statute.

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Ms. Kelly provided a sectional analysis of the bill, noting that Sections 2 and 3 were the heart of the bill.

- Section 1. Repeals references to agency programs in existing law that give the legislative audit division authority to audit and terminate agency programs. Legislative audit division authority to audit and terminate boards and commissions remains intact.

Ms. Kelly detailed that Section 1 was a conforming amendment that addressed AS 24 (related to the duties of the legislative audit division).

- Section 2. Adds a new section that requires the Legislative Budget and Audit Committee to ensure that every year a review team conducts an audit of the agency program or programs listed; grants the committee authority to contract with review team members if it receives an appropriation; and sets a

schedule for agencies to provide specific information to the review team.

Ms. Kelly detailed that the review team would consist of two professionals and one assistant. Section 2 would set up the time frames. The section listed each department and outlined a ten-year cycle that would be repeated at the end of the cycle. She noted that the list did not include the legislature or the governor's office, but the committee could decide to include them.

Representative Neuman read from page 3, line 31 to page 4, line 6 of the bill:

(2) before April 1, provide to the review team a list of programs or elements of programs, comprising at least 10 percent of the general funds in the agency's budget appropriated from the general fund that

(A) do not serve the current need;

(B) are not authorized by the Constitution of the State of Alaska or the Alaska Statutes; or

(C) are not essential;

Representative Neuman asked whether the language was an attempt to reduce the agency budgets by at least 10 percent. Ms. Kelly acknowledged that the section might need to be tightened. The sponsor was looking for each agency to come forward and make recommendations about what could be cut if the legislature asked for a 10 percent cut. She thought there could be a need to identify and prioritize essential and non-essential state services. She noted that further down in the bill, the Finance Committees did not have to approve the proposed reductions, but could consider them and determine whether there was a need to provide a service when there were the funds to do so. The idea was to build resources in case there was a need to make cuts.

Representative Neuman queried the reference to "agency" and assumed she meant that an outside agency would look at the 10 percent reduction and not the agencies within departments. He thought it was good to have outside perspective. He thought it could be difficult for departments to scrutinize themselves. Ms. Kelly responded that the bill was structured so that the review committee could hire a performance audit team and that team would conduct the performance review on the departments.

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Representative Costello questioned the performance standards that would be used for the review process. She wondered whether missions and measures would be used. Ms. Kelly replied that Section 3 defined what would be reviewed during the process. She explained that the team would look at the good tools already available, such as the missions and measures, the recommendations of the subcommittees, and single audits done by the legislative auditor. The information would be pulled together, along with best practices available nationwide.

Representative Costello asked whether the missions and measures of the departments would be changed after the described process to better reflect what would be measured. Ms. Kelly believed that during the course of the audit, the review team might recommend that the missions and measures be reconsidered.

Representative Costello asked whether the new process would replace the subcommittee process or work in concert with it. She queried the timing of the process. Ms. Kelly responded that the review team would provide their report in December through BUD; in January the report would be provided to the Finance subcommittees. She believed the team would work in concert with the committee to give them valuable information to look at the budget effectively.

Co-Chair Stoltze asked whether she meant BUD or the standing Finance Committee. Ms. Kelly explained that the review team would bring the report to BUD in a confidential manner in December, and the same information would be provided to the Finance subcommittees in January.

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Representative Guttenberg asked whether the report given to the subcommittees would be the same as the confidential one presented to BUD or whether it would be edited. He queried the intent. Ms. Kelly responded that the bill allowed for the same courtesy that BUD currently got: a confidential report; she did not believe the report would be changed in any way when it was presented to the Finance Committees.

Representative Guttenberg understood that the legislature and the governor were left out of the agency list, but he wondered about the third branch, the court system. He questioned whether there were things in the court system budget that were up for program review, and whether the courts should be included as well. Ms. Kelly responded that the court system was included in the bill.

Representative Guttenberg understood, and wanted to find out if there were things that could be micromanaged out of the court system. He thought most things the courts did were in other departments, and that the court was more than the judges or clerks. He questioned the appropriateness of having the court system as part of the bill. Ms. Kelly answered that any element of state government could be viewed through a new lens to see if anything could be changed. The bill looked to statutory authority, which the court system had to follow like any other an agency. She added that it was possible to find that the courts were underfunded; for example, a report might reveal that an investment in new technology would provide savings later on.

Co-Chair Stoltze reassured everyone that the legislative branch still had the power to make appropriations.

Representative Doogan opined that the legislature seemed to increase the budget when the state had money and decrease the budget when it did not, and he thought the reviews were a good idea. He referred to the list of departments that would be audited, and asked whether every agency would be covered once every ten years. Ms. Kelly replied in the affirmative.

Representative Doogan wondered whether reviews should be conducted more frequently. He questioned whether the timeline was sufficient, as two or three governors could cycle through in the time between an agency's ten-year reviews.

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Representative Chenault replied that the legislature would be free to determine the timeline; it might want to decide whether ten years was often enough for the review. He believed the audits would be in-depth and there may not have to be any particular changes in any one particular

year. The legislature could set out the recommendations to cover a period of time. He thought the proposed ten-year timeline was a good place to start. The Finance Committee could review departments each year; some could require no changes and others could require major changes.

Representative Doogan asked how the review team would be selected. He also wondered whether the same team would move from agency to agency, or whether a new three-member team would be assembled for each agency when its time in the cycle came up. Ms. Kelly replied that the three people would be hired by BUD and would be responsible to contract for the services of the performance reviews. She assumed BUD would look for well-qualified management professionals to coordinate the audits and help accumulate the information from tools already available.

Representative Doogan clarified that three people would be hired specifically to oversee the contracts; they would hire additional outside expertise depending on what was needed for a particular agency. Ms. Kelly replied in the affirmative.

Co-Chair Thomas surmised that BUD (through the contractors) would conduct its overview of the department that was up in the cycle and the Finance Committee would do the oversight in the other nine years of the cycle. Ms. Kelly responded yes; when the contractors' report was done, it would be presented to BUD, and it would be done every ten years for any given department.

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Representative Gara stated that he supported the bill and had wanted to put together a similar bill earlier in the session with Representative Doogan. He thought there was a provision missing in the bill that may be implied but perhaps should be stated directly in a committee substitute. He wanted the auditors to identify efficiencies recommended. Ms. Kelly replied that the bill stated that the report would identify efficiencies.

Representative Gara pointed to page 6, Sections 14 and 15; the bill would want the work done within the agencies and then identify reductions and efficiencies consistent with the principles of the bill, such as eliminating duplications. He agreed with identifying the efficiencies.

However, he noted that on page 4, line 1, there was a reference to a recommendation for a 10-percent reduction in general funds. He questioned whether 10 percent was the appropriate number in all cases and for all departments; some cuts could slow down essential services such as permitting or education. He thought the language on line 6 could offer protection (related to identifying all the reductions possible that were consistent with the report). He wondered whether the 10-percent reduction for each agency was negotiable.

Co-Chair Stoltze suggested one option could be deeper vertical cuts.

Ms. Kelly responded that the agencies would be asked to come forward with proposals for 10-percent cuts, but the review team could recommend larger cuts in their report.

Representative Gara asked what would happen if a 10-percent reduction was not achievable. Ms. Kelly replied that the Finance Committees were not mandated to take any of the recommendations. The review could show that a department needed more money and the legislature as the appropriating body could decide to allocate more resources. She thought the legislature was protected.

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Representative Gara suggested that page 6 [lines 12 to 15], (requesting the review team to recommend reductions for the agency) could provide the needed flexibility. He questioned whether it was necessary to specify the number 10 percent on page 4. Ms. Kelly replied that an agency might not think they should make cuts. The request was intended to get an agency to think about what it really needed. An agency might say it could not get to a 10-percent cut without eliminating something essential to the state. She maintained that the goal was to get an agency involved in the process.

Representative Gara thought the legislature and the governor's office should be added to the list and should not be exempted.

Co-Chair Stoltze stated that he had frequently voted against legislative council budget items. He agreed that the legislature should not be exempt.

Vice-chair Fairclough queried the logic behind the order chosen for the list of agencies in the ten-year review cycle. Ms. Kelly responded that they had tried to look at the departments and begin with those with significant upcoming expenses; they chose the Department of Corrections (DOC) first. The second year would cover three departments. They felt that during the first year, the team would be developing matrices and putting the process in place. She thought the departments in which savings could be achieved were the Departments of Health and Social Services and Education and Early Development, so the first couple years were selected with smaller agencies to make sure that the process was working before moving on to the larger departments.

Vice-chair Fairclough was concerned about the agencies that were most expensive for state, including early education at \$1 billion, Health and Human Services at \$1 billion, and the University of Alaska at over \$750 million. She suggested grouping similar agencies together. She was concerned about hiring contractors with expertise in certain areas; she opined that the same contractor could be kept for multiple years, and departments could be grouped so that contractor expertise in a particular area could be used for more than one year. She supported having the university and K-12 reviewed during the same year, but she supported grouping departments such as DOC with the Department of Public Safety (DPS), the Department of Law (DOL), and the Court System, as the departments impacted each other.

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Co-Chair Stoltze noted that there were routine audits in eight-year cycles, and some audits were every two years. He asked whether audits would happen more often for agencies with problems. Representative Chenault hoped that the suggestions of the review team would be implemented at the earliest convenience.

Vice-chair Fairclough questioned what the sponsor would say to those who viewed HB 166 as a duplication of services that were already in place. She thought the administration was already supposed to conduct the reviews every year. Ms. Kelly acknowledged that there were duplications in

services, but the sponsor wanted the executive branch to engage in the process.

Representative Wilson reported that she read the 10-percent stipulation as asking an agency to prioritize its projects. She thought the exercise could prepare an agency to cut in case there was a significant decline in revenue. Ms. Kelly agreed; the provision would ask the head of an agency to determine where cuts could be made that would least impact Alaskans.

Representative Wilson referred to difficulties experienced in the subcommittee process and asked whether there was a mechanism in the bill that would allow auditors to check the books of an agency or whether the process would be completely dependent upon information given voluntarily by the agencies. Ms. Kelly responded that the review team should have the authority to go in and look at what they wanted to see. She noted that some departments were forthcoming with information for subcommittees, and others were not. She referred to a section in the bill stipulating that the review team could recommend a consequence for non-participation by an agency, such as a reduction in the budget to the commissioner's office.

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Representative Doogan queried whether the bill could prevent an agency from mounting the "Washington Monument defense" (i.e., putting items with the most public support up for the 10 percent reduction). Ms. Kelly replied that there was not a provision in the bill to tell an agency to go back and look for a different 10 percent if the first proposal was used as a tactic. She acknowledged the described syndrome, which she called the "Motherhood and Apple Pie Effect," where an agency put forward programs to cut that would cause public outcry. She believed the review team would be able to make recommendations to the finance committee (such as a specific reduction) if the department did not "play fair" and engage in the process.

Co-Chair Stoltze did not know how to make a statutory requirement for leadership by the executive and legislative branches.

Representative Doogan agreed, but did not think a system should be set up that could be manipulated. He expected

that some commissioners would be tempted to "game" the system in order to save their budgets.

Vice-chair Fairclough suggested that a Finance subcommittee chair or member with knowledge of a department could serve on the review team of the department so the system could not be manipulated.

Representative Costello directed attention to page 2, item 6, related to the review team having access to all confidential records. She referred to the example of a royalty review, in which some of the information given was confidential. She asked whether the review team would have access to such information. Ms. Kelly thought the question was a good one. She pointed out that the section referred to had to do with the authority of the Legislative Audit Division, which had the ability to look at confidential information. Pat Davidson (legislative auditor) had asked the sponsor whether they wanted the review team looking at confidential information and going through the reporting. She referred to page 5 [lines 5 to 7]: "(7) analysis and summary of confidential information that the review team may request, through the Legislative Budget and Audit Committee, from the legislative audit division." She explained that legislative audit had the system in place to look at confidential information and could provide summary reports for the review team.

Representative Costello asked whether the confidentiality issues would preclude a Finance subcommittee member or someone from legislative finance from being part of the review team. She believed it would be beneficial for people with budget experience to be involved in the review process.

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Co-Chair Stoltze wondered whether the process could work if the described members were not involved.

Ms. Kelly anticipated that the review team would look at all available resources, including missions and measures, audit findings, subcommittee recommendations, the ten-year plan, the fiscal policy group work, University of Alaska Institution of Social and Economic Research (ISER) reports, studies funded by the departments, or any other tool that the state had already paid for.

Representative Costello referenced the proposed 10-percent reduction in the provision. She asked whether there would be recognition of programs that generated more money in the economy, such as the Department of Natural Resources (DNR) processing permits and tourism marketing, which would create additional income to the state. She thought programs that created jobs should be furthered. Ms. Kelly replied that there would be benefits to the state from activities such as permitting. She believed the review team would take a "common-sense approach" and that the legislature would make good decisions.

Representative Costello noticed that the Department of Administration (DOA) was in the middle of the 10-year cycle. She thought DOA oversaw programs connected with many other departments and that there could be benefit to reviewing it earlier. Ms. Kelly responded that the departments were put in order based on getting the process in place, but thought there could be flexibility.

Co-Chair Stoltze noted that the Finance Committee was the first committee of referral for HB 166 and would work closely with sponsors on the process.

Representative Neuman noted a chart showing unrestricted general funds from 1980 to 2005, which had stayed level, while the size of government had doubled. He reported that he had recommended that agencies consider advisory committees, such as those the legislature used when passing legislation costing a lot of money. He thought legislators should examine what they do in state government. He pointed to hard questions, such as agencies started through ballot initiatives. He thought Alaska Natural Gas Development Authority (ANGDA) was a good group that did good work, but pointed out that there were already other groups considering similar issues. He questioned whether services were being duplicated. He queried a possible mechanism to review costs.

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Representative Chenault agreed that there were large programs that the legislature continued to fund without evaluating the need for them. He stated that the proposal in HB 166 would help the legislature examine which direction the state should take. He agreed that the

pipeline issue was costing the state hundreds of millions of dollars on at least two or three different options; he believed the state needed to decide whether the money was being spent wisely. He also believed a lot had been done for education since 2004. He did not see any department returning money because a program was not working. Nor had he seen any department returning the money it had claimed would be saved if certain programs were funded. He claimed the money kept getting used for year-to-year increases in agency costs. He did not fault the departments; he blamed "governmental creep" that he felt had to be curbed. He argued that the state would be in trouble and have to spend savings if the price of oil dropped to \$50 per barrel.

Representative Chenault recommended being truthful about the situation and coming up with a plan. He maintained that if a plan was not in place, Alaska could end up being in the position of other states that had to make huge cuts in their budgets. At that point, there would not be the option to take a little off here and there. He did not think the agencies would be hurt by reconsidering their budgets.

Representative Neuman opined that the legislature had to take a look at itself as well. He referred to advisory committees that were hired instead of making the tough decisions. Representative Chenault felt he had been charged with representing his district on all issues, especially on the day-to-day running of the government.

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Co-Chair Stoltze thought the discussion of the bill would be extensive and important.

Ms. Kelly continued with the sectional analysis of HB 166:

- Section 3. Adds a new section that sets out the duties of the review team including scheduling hearings, collaborating with other agencies, consulting other states and organizations, analyzing material relevant to the performance review of the agency, and providing preliminary and final reports to legislative committees by specific dates. Tasks the Legislative Budget and Audit Committee with tracking and publishing actual reductions in state expenditures as a result of the review team's audit. Allows the house

and senate finance committees to incorporate the recommendations of the review team into the budget.

Ms. Kelly detailed that Section 3 outlined the duties of the review team and stipulated that the confidential report would be presented to BUD on December 16. She noted that Section 3(d) listed the 18 elements of the final report and Section 3(e) would track the cost savings to the state because of the performance reviews. Section 3(f) would allow the House and Senate Finance Committees to incorporate the recommendations into the budget process as they saw fit.

- Section 4. Repeals reference to agency programs in existing law that set out the procedures for audit and termination of agency programs. The procedure for audit and termination of boards and commissions remains the same.
- Section 5. Repeals references to agency programs to conform with the changes in Section 1 and Section 5.
- Section 6. Amends definitions to include "agency" and "review team" in AS 44.66.
- Section 7. Repeals AS 44.66.030 which currently sets the procedures for designating programs subject to review and termination. It is replaced by the new section created in Section 2.
- Section 8. Provides for an effective date of July 1, 2011.

Ms. Kelly emphasized that the bill would authorize a performance review, not an audit.

Co-Chair Stoltze surmised that the legislature would start at zero and build the budget from the ground up through a justification process of performance and measures instead of going through an initial process where it considered a proposed budget with increments and increase. Ms. Kelly responded that the proposal did not represent a zero-based budget; the only state agency operating in that manner was the mental health trust. She thought the size of the state's budget would make it too difficult to operate from a zero base. The bill would provide for an independent

party providing feedback about what was working and what was not working. She believed there would be good information that would assist in the process of evaluating the "abyss of the base" that never seemed to be addressed in budget discussions.

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Vice-chair Fairclough queried whether BUD was ready to put the review team together right away. Ms. Kelly provided a synopsis of the proposed timeline. The review team could be hired in the months after the effective date (July 1, 2011) and could put together the process in the next six months, including working with the National Conference of State Legislators (NCSL) and performance contractors in other states. The first department reviewed would be DOC in 2012; the review team would be provided authority in January 2012 and the 10-percent cut lists from the agency would be due in March 2012. The team would then have from April to November 2012 to put the report together. The legislature would see the results from the provision for the first time in January 2013.

Vice-chair Fairclough wondered whether regulations would be needed.

Representative Doogan asked whether there had been consideration of having the Finance Committee conduct the budget review during the interim. Representative Chenault responded that they had considered that, but realized that committee members would have difficulty because of their own employment situations outside of the legislature. In addition, the fact that the members could change every election would mean that each new group would have to be trained. He thought having a review team would be efficient, consistent, and long-term.

Representative Doogan had researched the composition of the legislature ten years earlier to get an idea of member continuity. He described the composition of the legislature at the time: only five current members of the House of Representatives were in the House ten years ago; five current members of the House were in the Senate ten years ago; and four members of the Senate were still there.

Co-Chair Thomas asked whether the BUD chair would be required to have Finance Committee experience.

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Representative Chenault responded that once the program was in place, there would be a pool to pull from. Normally, the BUD position was someone who had been in the legislature, although not necessarily on the Finance Committee. He pointed out that the two co-chairs of the Finance committee sat on BUD.

Co-Chair Thomas commented that the membership could change.

REPRESENTATIVE MIKE HAWKER, CHAIR, LEGISLATIVE BUDGET AND AUDIT COMMITTEE, noted his experience and familiarity with the state's operating budget process. He believed the committees and legislative audit could do anything that they set their minds to and were committed to and passionate about accomplishing. He was troubled that HB 166 even had to be brought before the legislature. He believed the Finance Committee, as elected representatives of the public, was charged with bringing forward the state's annual appropriations, with making tough decisions, and with the review of the various agencies. He acknowledged the difficulty of the decisions that had to be made. He expressed grave concerns about passing off the responsibility of managing the state appropriation process to outside consultants, even if the team was under the direction of BUD.

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Representative Hawker thought HB 166 was well crafted, if the legislature chose to take the approach. He questioned how the review process would be set up, who would be reported to, who the team would be directly accountable to, and how it would be accountable to the legislature and ultimately to the people of Alaska. He thought the answer to the questions was critically important.

Representative Hawker stressed that BUD was a statutory committee; every two years the chair vacillated between the House and the Senate. He believed continuity of management would be ultimately critical to execute the proposed legislation, which was why the legislature had established the Legislative Audit Division and vested it with vast, tremendous powers. He argued that continuity rested in the division, which was a professional agency with the skill

set to manage the activity and the continuity of on-going management.

Representative Hawker felt the process outlined in HB 166 should be the job of legislative audit. The Legislative Budget and Audit Committee in turn had to approve all contracts that the Legislative Audit Division entered into. He noted that there was a currently an extensive amount of subcontract auditing for the various agencies. He wanted it to be very clear that, in his opinion, the process would be done through the professional offices of the Legislative Audit Division, as opposed to being a more political activity (reporting to an elected official). He believed the legislature needed to carefully consider where the bill vested power.

Co-Chair Stoltze commented that he shared Representative Hawker's position and pointed out that the project would be discussed over time. He welcomed Representative Hawker's input. He was glad the discussion was being taken up by House members and committees. He referred to controversy related to the Senate's involvement in the issue.

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Representative Doogan appreciated the opportunity to have a philosophical discussion about the issue. He opined that there was only one option available beyond the system described in HB 166: The minority and majority could become united on the issue, which was not typically the way the House of Representatives functioned. However, the system would require every majority member to create two brand-new budgets each year, raising the problem caused by members cycling through the legislature. New members have to start from scratch on the budgets. He stressed that the political system in place militated against the system being workable. On the other hand, he was not convinced that the system outlined in HB 166 was the best approach either. He could imagine supporting a system in which the majority party would divide the numbers up, but the majority changes, and there were sometimes more and sometimes less members to carry the load.

Co-Chair Stoltze pointed to the bi-partisan nature of some majorities.

Representative Doogan did not believe a new system for working on the budget could be embarked upon without acknowledging the facts of the existing political system.

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Representative Hawker referred to a premise that there were two budget processes that would be occurring simultaneously. He did not think the characterization was appropriate as he read it. He stated that there would be one budget; HB 166 would add a significant tool and extend the budget process beyond the short time allowed in session. He pointed out that the House had 45 days to review and pass a \$9 billion budget. The process proposed in HB 166 would provide additional resources to expand in a cyclic nature over the course of an entire year and delve more deeply and efficiently into various government operations. He questioned whether contracting out the responsibility was the best means.

Representative Doogan clarified that he did not mean to say there were two separate budgets. He meant that each member would get two agencies if there were eight members and sixteen agencies.

PAT DAVIDSON, LEGISLATIVE AUDITOR, DIVISION OF LEGISLATIVE AUDIT, explained that in HB 166, legislative audit would only play a role when work was delegated to the division through BUD. In the current version, the division would play a limited role.

Ms. Davidson pointed out that the sponsors were clear in drafting the legislation that they wanted to describe the review team's activity as performance reviews and not as audits. She detailed that audits get wrapped up in professional requirements, which add to the expense.

Co-Chair Stoltze asked whether legislative audit had been consulted by the agency that developed the fiscal note. Ms. Davidson reported that the Legislative Affairs Agency had been asked to prepare the fiscal note; she had recommended not using the language "audit" or "auditors," and to instead put in "review" and "review team." She added that she had not been consulted about the costs.

Co-Chair Stoltze stated that she was invited and expected to provide information about costs.

Ms. Davidson opined that the fiscal note would depend on the committee's expectation of the level of assurance. She stressed that audits provided high levels of assurance that what the audit contained was true, supported, and well-documented. The state would get a lower level of detail in terms of review and support from hired consultants than from an audit. The review could still have great value, but the level of assurance would impact the cost.

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Co-Chair Stoltze thought the committee would prepare its own fiscal note with help from legislative audit.

Representative Hawker referred the committee to the disclosure analysis attached to the current fiscal note, which stated that "House leadership has determined that these audits will have the following fiscal impact to the state of Alaska." He read the language as meaning that House leadership had met to prepare the fiscal note.

Co-Chair Stoltze replied that some things said were more fiction than non-fiction.

Representative Hawker thought a thorough review of the fiscal note was needed.

KAREN REHFELD, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, believed the purpose of HB 166 would be to authorize agency performance reviews to provide a greater level of scrutiny of statutes, regulations, accountability, effectiveness, and efficiency of state programs and services, and to recommend changes to improve or eliminate programs or functions. She agreed that the general concept of the bill was good; an unbiased assessment and fresh review would be of value.

Ms. Rehfeld reviewed questions that she and her staff had. Specifically, she had questions about the composition of the review team and its responsibilities. She thought the objectives and expression of the 10-percent reduction in agencies needed to be discussed and strengthened. She thought how the review work plan would be accomplished would dictate what would happen during the time frame. She felt the calendar year process envisioned in the

legislation relied heavily on a great deal of information that was already available.

Ms. Rehfeld informed the committee that the Office of Management and Budget (OMB) had prepared a zero fiscal note based on some initial assumptions that the additional resources that would be required for the review teams would come from outside the executive branch. She had also assumed that state agencies would not be charged a fee to pay for the cost of their reviews, and that the state would be relying on its current level of resources, systems, and information to support the review team.

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Ms. Rehfeld pointed to items that were specifically required from OMB for the review team: the 10-year growth and projections of agencies by funding sources and some personnel information (including organizational charts and personal services transfers). She had assumed that OMB would be able to provide the review team with the requested information through the current detail provided to the legislature.

Ms. Rehfeld assumed that some level of effort would be required on the part of OMB staff and agency staff to help with the review team process, although she had not assumed increased costs for additional staffing to support the effort. She acknowledged that changes to the fiscal note might be needed as discussions progressed. She thought the details of the review work plans would be important for OMB to be able to predict the fiscal impact.

Co-Chair Stoltze referred to the process of determining costs. He believed there would be continuing discussion and that all staff would work on the process. He encouraged open discussion.

Representative Wilson spoke in support of the legislation. She did not think the current way of approaching the budget was working. She thought getting information from agencies was difficult and tedious. She felt the issues needed to be considered during the interim. Coming into the legislature and the budget process as a new person had been difficult and she thought a third party would provide resource. She did not see the review team as a duplication of services. She queried OMB's view of the current budget process. Ms.

Rehfeld acknowledged that any process could be improved; agencies should be able to articulate to a budget subcommittee what their constitutional, statutory, and regulatory responsibilities were, what their core services were, and how well they were performing. She thought the proposal could have value to the extent that the agencies had not been able to communicate effectively or to the extent that an external process could help the legislature on the annual budget process.

Representative Wilson echoed Representative Hawker's question about whether the legislature was giving up a task that was supposed to be theirs. She opined that the legislature was doing a disservice to the public because of the inability to get into the agencies as far as their books and details about how programs were working. She did not think there was enough time to do what was needed, and that trained consultants would be able to get the information more efficiently and with less political maneuvering.

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Co-Chair Stoltze appreciated Ms. Rehfeld's reference to looking at statutes and regulations, as the excuse used for so much of the state's spending was the need to implement regulations and statutes.

Vice-chair Fairclough referred to statements about the cost associated with levels of assurance. She maintained that her experience had shown that audits were informative, but the assurances could be used as disclaimers; audits could offer assurance about numbers but not take responsibility for numbers that did not work. She wanted the language of "review team" and was not opposed to support from the Legislative Audit Division. She thought essential, statutorily required services were good. She recommended separating federal mandates. She felt that review teams should consist of people with expertise and could be sought more globally. The teams should also look nationally and internationally to review how other agencies were dealing with similar challenges.

HB 166 was HEARD and HELD in committee for further consideration.

Co-Chair Thomas notified the committee of the schedule for public testimony for the operating budget.

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ADJOURNMENT

The meeting was adjourned at 10:37 AM.