

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

March 18, 2014

1:10 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Doug Isaacson, Vice Chair
Representative Eric Feige
Representative Lynn Gattis
Representative Craig Johnson
Representative Bob Lynn
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 343

"An Act relating to the construction, major rehabilitation, and deferred maintenance of state agency public buildings based on standardized designs; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 371

"An Act providing for the Department of Transportation and Public Facilities to hold the surface estate of certain state land; relating to the transfer of certain state land and materials from the Department of Natural Resources to the Department of Transportation and Public Facilities for the construction or maintenance of the state highway system, state airports, and state public buildings and facilities; relating to the lease or sale of certain marine or harbor facilities; relating to the lease or disposal by the Department of Transportation and Public Facilities of rights-of-way, property interests, or improvements that are no longer required; relating to the grant of certain easements over submerged state land to the federal government; relating to the transfer of certain maintenance stations on the James Dalton Highway to the Department of Transportation and Public Facilities; relating to the conveyance of land for right-of-way purposes from the Alaska Railroad Corporation to the Department of Transportation and Public Facilities; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 343

SHORT TITLE: STATE BUILDINGS: CONSTRUCTION & MAINT.

SPONSOR(S): REPRESENTATIVE(S) MILLETT

02/26/14	(H)	READ THE FIRST TIME - REFERRALS
02/26/14	(H)	TRA, STA
03/13/14	(H)	TRA AT 1:00 PM BARNES 124
03/13/14	(H)	-- MEETING CANCELED --
03/18/14	(H)	TRA AT 1:00 PM BARNES 124

BILL: HB 371

SHORT TITLE: STATE LAND AND MATERIALS

SPONSOR(S): TRANSPORTATION BY REQUEST

03/10/14	(H)	READ THE FIRST TIME - REFERRALS
03/10/14	(H)	TRA, RES
03/11/14	(H)	TRA AT 1:00 PM BARNES 124
03/11/14	(H)	Heard & Held
03/11/14	(H)	MINUTE(TRA)
03/18/14	(H)	TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

VASILIOS GIALOPSOS, Staff
Representative Charisse Millett
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of Representative Charisse Millett, prime sponsor of HB 243.

KIM RICE, Deputy Commissioner
Department of Transportation & Public Facilities (DOT&PF)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 343.

CHRISTOPHER HODGIN, P.E.
Program Manager; Energy Office
Department of Transportation & Public Facilities (DOT&PF)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 343.

DAVE KEMP, P.E.

Engineer, Statewide Facilities
Department of Transportation & Public Facilities (DOT&PF)
Anchorage, Alaska
POSITION STATEMENT: Testified during the discussion of HB 343.

TOM MAYER, Division Director
Division of General Services
Central Office
Department of Administration (DOA)
Juneau, Alaska
POSITION STATEMENT: Testified during the discussion of HB 343.

STACY SHUBERT, Director
Governmental Affairs
Alaska Housing Finance Corporation (AHFC)
Anchorage, Alaska
POSITION STATEMENT: Presented a PowerPoint presentation on AHFC & Public Facilities Energy Use during the discussion of HB 343.

RYAN COLGAN, Chief Programs Officer
Cold Climate Housing Research Center
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of cold climate.

DUSTIN MADDEN, Policy Researcher
Cold Climate Housing Research Center (CCHRC)
Fairbanks, Alaska
POSITION STATEMENT: Presented a PowerPoint during the discussion of HB 343.

BRYAN BUTCHER, Executive Director/Chief Executive Officer
Alaska Housing Finance Corporation (AHFC)
Anchorage, Alaska
POSITION STATEMENT: Testified during the discussion of HB 343.

JOHN BENNETT, Right-of-way Chief
Northern Region
Department of Transportation & Public Facilities (DOT&PF)
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of HB 371.

SEAN LYNCH, Assistant Attorney General
Transportation Section
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 371.

DICK MYLIUS
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 371.

JOHN ANDERSON, Operations Officer
Alaska Housing Finance Corporation (AHFC)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 343.

ACTION NARRATIVE

[1:10:06 PM](#)

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 1:10 p.m. Representatives Gattis, Isaacson, Feige, Lynn, and P. Wilson were present at the call to order. Representatives Johnson and Kreiss-Tomkins arrived as the meeting was in progress.

CHAIR P. WILSON congratulated the Department of Transportation & Public Facilities since Anchorage was just named the best cargo airport in North America.

The committee took a brief at-ease.

HB 343-STATE BUILDINGS: CONSTRUCTION & MAINT.

[1:12:19 PM](#)

CHAIR P. WILSON announced that the first order of business would be HOUSE BILL NO. 343, "An Act relating to the construction, major rehabilitation, and deferred maintenance of state agency public buildings based on standardized designs; and providing for an effective date."

[1:12:45 PM](#)

VASILIOS GIALOPSOS, Staff, Representative Charisse Millett, Alaska State Legislature, stated that HB 343 represents the collaboration between the Alaska Housing Finance Corporation (AHFC) and other stakeholder groups. The bill also builds upon

the legislature's success in crafting a state energy policy. He explained that in lean economic times tradeoffs are made between programs that affect Alaskans or infrastructure. The sponsor hopes HB 343 will foster dialogue on funding for deferred maintenance during major construction and major rehabilitation of state-owned buildings and the overall effect of deferred maintenance costs on all state programs. The sponsor anticipates significant changes to the bill but hopes the committee will listen to the expertise; in particular, by the Department of Transportation & Public Facilities, the Cold Climate Housing Research Center, and the AHFC. He related the sponsor believes a shift in the state's focus from inputs to outcomes means being able to use cost-effective technology available today. This means the state shouldn't have to come back in five years to fix mistakes made during building construction.

[1:17:06 PM](#)

DAVE KEMP, P.E.; Engineer, Statewide Facilities, Department of Transportation & Public Facilities (DOT&PF), began his presentation. He stated that the Statewide Public Facilities (SWPF) provides project management services for the planning, design, and construction for new and renovated vertical buildings. He pointed out a photograph of the Department of Labor & Workforce Development - AVTEC - Alaska's Institute of Technology Dormitory in Seward [slide 2].

[1:17:43 PM](#)

MR. KEMP described the statewide public facilities' functions [slide 3]. He read AS 35.10.190(a): The department shall coordinate the procurement of physical facilities for the state to insure the greatest cost savings of planning, design, and contractual techniques. He stated that this shop has 11 professional engineers, three licensed architects, two project manager professionals, and four engineers-in-training (EITs).

CHRISTOPHER HODGIN, P.E. Program Manager, Energy Office, Department of Transportation & Public Facilities (DOT&PF), outlined the energy savings performance contracting program

[slide 4]. He said he works with state agencies in an effort to make state facilities more energy efficient. He described the bill as a method for accomplishing energy improvement projects that are funded by the energy savings from the projects. Since 2011, the state has achieved combined energy cost savings greater than \$2.1 million per year on projects in over 40 facilities statewide. He stated that the program is ongoing with several projects in development, implementation, and construction phases at any given time. The energy savings office has worked with the Department of Corrections, the Department of Transportation & Public Facilities - Northern Region, and Mount Edgecombe High School in Sitka through the Department of Education and Early Development.

[1:19:29 PM](#)

REPRESENTATIVE GATTIS suggested that the state owns far more than 40 buildings. She expressed an interest in schools and asked whether the DOT&PF participates in new schools. Although this program began in 2011, she wondered if the energy office has been using cost savings during the design, planning, and contractual techniques when constructing new schools in in the Matanuska-Susitna valley.

MR. KEMP answered that the DOT&PF does not have any authority over public school buildings. In further response to a question, Mr. Kemp answered that the local school boards and communities have the authority and purview over school buildings.

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CHAIR P. WILSON understood schools were a local issue. She wondered a legislative change would be necessary to change this.

MR. KEMP understood a similar bill has been introduced that would accomplish this [HB 341].

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CHAIR P. WILSON said she was familiar with the weatherization programs and asked whether this process is similar to that program.

MR. HODGIN answered yes. He explained that when the DOT&PF uses its energy performance contracting program, an investment grade energy audit is performed to conduct an in-depth review of the facility to assess the heating, mechanical, electrical, windows, walls, and building envelope system. The department receives the results with the best cost savings measures from the analysis. In response to a question, Mr. Hodgin indicated the energy auditors are private companies. He related that the department has a term contract with Cue Energy Services Ltd.

[1:24:25 PM](#)

REPRESENTATIVE GATTIS expressed concern about the "wants and needs" in her district. She said that some people think architects are the benefactors of the larger buildings. She suggested the end result is that the legislature and the district want quality buildings designed for the specific area and region of the state. She acknowledged that the state pays energy and deferred maintenance and should do a better job.

CHAIR P. WILSON solicited input from testifiers on suggested statute changes since the goal is to achieve efficiency and energy savings.

MR. KEMP highlighted the energy savings performance contracting that the legislature required the department to undergo as being one "shining star". The department has been reviewing older buildings that were built 30-40 years ago since the technology has changed significantly since then. He said this program has been saving the state over \$2 million per year.

[1:27:28 PM](#)

REPRESENTATIVE ISAACSON asked how many of the 40 public buildings still need improvements. He further asked whether these improvements are a result of the Alaska Sustainable Energy

Act. Finally, he asked whether the department has been doing this in conjunction with AHFC or any other department.

[1:28:27 PM](#)

CHAIR P. WILSON also asked how many public facilities the state has in total.

Mr. HODGIN was unsure of the exact number of public facilities. He referred to the 2011 master building inventory list and indicated approximately 167 state facilities were over 10,000 square feet. He acknowledged many more facilities are owned by agencies that are less than 10,000 square feet.

MR. KEMP said it would also depend on the definition of public facilities since municipalities and school districts have facilities. Further, DOT&PF doesn't manage, design, or track all facilities. He offered to provide the figures to the committee ranging from a small utility building to an 80,000 square-foot office building.

CHAIR P. WILSON offered to distribute the information.

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REPRESENTATIVE ISAACSON said he appreciated the clarification. He suggested it would also be helpful to know the number of buildings the department has been involved in that relate to municipalities.

[1:31:48 PM](#)

MR. HODGINS, in response to Representative Isaacson's earlier question on the role the Alaska Sustainability Act (ASA) has played, responded that it absolutely did. In 2010, the ASA was enrolled and since then his office has been working closely with the agencies and the AHFC, in particular, on investment grade energy audits so the AHFC can help fund the projects.

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REPRESENTATIVE GATTIS referred to 40 statewide public facilities for which the department has obtained energy savings. She asked for further clarification on the figure.

MR. HODGINS answered that the aforementioned 40 public facilities represent the public facilities that the department has accomplished through the energy savings program. The projects include ones in the DOT&PF, the DEED, and the Department of Corrections. Of course, the DOT&PF's facilities include many more than the 40 buildings the program has assisted since it operates maintenance shops and storage buildings, too.

REPRESENTATIVE GATTIS recapped that the department has 40 facilities that garnered \$2.1 million in savings [per year], but acknowledged the department has many more buildings.

MR. KEMP clarified that the energy savings performance contracting has been focused on all buildings not just DOT&PF's buildings. He said that the DOT&PF moves forward with any state agency who would like to have the audits done and participate in the program with AHFC.

[1:35:20 PM](#)

CHAIR P. WILSON asked whether the Department of Administration (DOA) selects the projects or if the DOT&PF makes the selection.

MR. HODGINS answered that it is a combination of methods. The DOA identifies which facilities use more energy and the DOT&PF works with the DOA to determine whether the project would be a good candidate for the energy savings performance project. In other instances, the department uses a state database to identify some energy use and prioritizes accordingly.

[1:36:53 PM](#)

CHAIR P. WILSON asked for the average cost of the audit.

MR. HODGIN answered that the energy audit cost ranges from 25 to 35 cents per square foot. He agreed the state pays for the

energy audit through departmental funds or by using the AHFC's loan program.

[1:37:46 PM](#)

REPRESENTATIVE GATTIS asked whether the DOT&PF does energy audits prior to construction in order to build more energy efficient buildings.

MR. KEMP answered that he will cover this a bit during the presentation. However, Senate Bill 220, which passed the legislature in 2010 [26th Legislature] requires the department to follow national standards for energy efficiency. The department must consider all types of energy efficiency, energy savings, options, as well as ways to weatherize. He confirmed that the DOT&PF currently follows the national standards for energy efficiency. Mr. Hodgin's program has been in charge of making energy efficiency improvements in older buildings, he said.

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MR. HODGIN reported that the cost of audit is repaid through energy cost savings [slide 5]. He explained that under AS 44.42.067 (b-c), as part of the Alaska Sustainability Act, requires retrofitting and new construction to meet the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) 90.1, Energy Standards for Buildings. This standard has been adopted by most states, including Alaska, and it provides energy efficiency requirements for the design and construction of buildings. The nature of this standard is that it includes both prescriptive and performance-based requirements allowing flexibility in design approaches. Additionally, it provides energy efficiency performance requirements for building envelope and walls, heating and ventilation systems, interior and exterior lighting, power systems, and more. He described this as a continuously evolving standard with over 100 professionals working to update the standard every few years.

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MR. KEMP emphasized the importance of having a prescriptive and performance based standard, especially in Alaska since the DOT&PF plans, designs, and constructs projects from Ketchikan to Nome. The state has a wide range of climate conditions so the department's standards must be flexible enough for DOT&PF to use the best technology for each specific location in Alaska. He concluded that this is what ASHRAE 90.1, does.

MR. KEMP said the next slide entitled "Capital Improvement Projects in Alaska" clarifies who has responsibility in Alaska. The large circle represents the entire state, including school districts and schools that fall within and outside the circle representing the State of Alaska, the AHFC, the Alaska Court System, and the University of Alaska. Another circle depicts the statewide public facilities and various state agencies. His agency is in charge of the construction, planning, design and construction of facilities for agencies within this inner circle.

[1:42:54 PM](#)

REPRESENTATIVE ISAACSON asked for clarification on where the DOA falls in terms of the circle.

MR. KEMP said the DOT&PF gives the DOA authorization to perform projects on an authority basis.

[1:43:36 PM](#)

KIM RICE, Deputy Commissioner, Department of Transportation & Public Facilities (DOT&PF), pointed out that this slide [slide 6] refers to capital projects, but not to maintenance costs. She acknowledged that the department should also create a slide for maintenance costs, but maintenance is managed by individual departments. She emphasized that the DOA's primary function is space, space standards, and allocation among the departments. Most of the work on capital projects for contracting is done by a delegation from the DOT&PF. The DOT&PF performs the standards for contracting. She estimated that the DOT&PF has approximately 750 buildings if every shed and maintenance facility were counted. She surmised that thousands of public

buildings exist in the state, but the statewide public facilities group handles capital programs for design and construction of facilities. She characterized it as being the consultant agency that helps other agencies through the process, including fish hatcheries and sand storage buildings.

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MR. KEMP explained that the information on the next slide, entitled "Public Buildings in Alaska" has already been discussed in terms of the wide variety of facilities in Alaska [slide 7]. For example, LED lights are very appropriate for communities with high fuel costs since the cost of LED lighting is high, but in other locations that sustain lower fuel costs, it may not make sense. This illustrates the type of flexibility that the department needs to "fit" the technology to the location within the state.

[1:46:11 PM](#)

CHAIR P. WILSON reiterated that the department needs flexibility.

MR. KEMP answered that the statutes accomplish the AHFC's white paper and House Bill [343] will direct the department. The problem has been the terminology since it could take a huge effort to develop a standard design that will work from Ketchikan to Nome or for a crime lab or a State Library Archive and Museum (SLAM) project.

[1:47:21 PM](#)

CHAIR P. WILSON referred to the Alaska Sustainable Energy Act Annual Report in members' packets. She asked if Mr. Kemp helped prepare the report.

MR. KEMP answered yes; that the aforementioned report is prepared by the Statewide Public Facilities office. In further response to a question, he agreed it contains information on progress made, which will be updated annually.

1:48:10 PM

TOM MAYER, Division Director, Division of General Services, Central Office, Department of Administration (DOA), said the department has reviewed the bill and would like to outline some of the challenges this bill presents for the division. The division manages multiple state-owned buildings; however, as written, this bill will affect buildings operated by multiple agencies from airports to health centers, fish hatcheries to pioneer homes. Each building in the state's portfolio has a specific purpose, which varies greatly in terms of age, condition and systems, including electrical and plumbing. Due to varying needs across the state and the varying roles the buildings play for state agencies, the public, and their communities, what is best for one region may not be recommended for another community due to climatic conditions.

MR. MAYER said it would be very challenging to establishment detailed specifications that would apply to all regions across the state. In practical terms, standardization could result in DOT&PF needing developing hundreds of detailed specifications for building systems with DOA and other agencies attempting to balance the tension between applying a set standard for a deferred maintenance project on existing structures while finding the best dollar approach to replacing outdated systems. As technology and building techniques change, specifications need continual evaluation and updates. This type of standard based evaluation represents a cost to the state for any agency that needs space. He estimated costs for the Division of General Services is \$614,000 annually. The unknown cost that can't be estimated at this time is the cost of a building component based on an unknown design that has not yet been created by DOT&PF.

MR. MAYER stated that the intent of this bill is commendable but the solution is already in place. He explained that the goal for procurement and construction is to be as efficient as possible with state funds. For example, the original estimate for a new DNR Geological Materials Center building was \$45 million, but with careful analysis the DOA reached agreement with the purchase of the old Sam's Club building on Penland

Parkway in Anchorage for \$16 million, with Wal-Mart paying \$2.5 million of the costs. Including the current remodel costs, the overall total cost will be \$24 million or a cost savings of over \$20 million. Additionally, the DNR will be able to take occupancy this fall many years ahead of schedule. The department strives for an efficient well-designed building for a specific site and region as the best overall cost Regardless of the project. He reported that best practices are already in use with in-house design experts and design consultants to ensure new construction and renovation projects meet ASHRAE 90.1. The guidelines set minimums for energy requirement designs, he said.

[1:52:07 PM](#)

CHAIR P. WILSON asked for the length of time this process has been in use.

MR. MAYER answered that the Public Building Fund (PBF) has been in place since 2003. The department manages 20 buildings, of which 14 are in the PBF, and the remaining 5 are in the Non-Public Building fund (NPBF). Those buildings include warehouse types of facilities, which are not traditional office buildings.

MR. MAYER, in response to a question, answered that approximately 30 people are involved in this process statewide, including for maintenance, management, and to perform solicitations for the design.

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STACY SHUBERT, Director, Governmental Affairs, Alaska Housing Finance Corporation (AHFC) noted that in 2008 the legislature funded AHFC's weatherization and home energy rebate programs. She related that to a lesser extent AHFC is also known for its work with public facilities and energy use. She indicated her presentation will include references to the case study of AHFC's headquarters building.

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JOHN ANDERSON, Operations Officer, Alaska Housing Finance Corporation (AHFC), began his presentation. He noted that AHFC was selected as a consultant. In 2010, with passage of Senate Bill 220 the Revolving Loan Fund was created with a \$250 million appropriation. At the same time, AHFC was working with the DOT&PF and the Alaska Energy Authority (AEA) to develop plans to use the American Recovery and Reinvestment Act of 2009 (ARRA) funds [slide 2]. The AHFC developed a process and created a team to begin implement the program. The goal was to assess the public facility energy use.

MR. ANDERSON added that the AHFC also created the Alaska Retrofit Information System (ARIS) that also ties into its weatherization and rebate program [slide 3]. This has now become the clearinghouse or depository for all the data. The DOT&PF uses it and anyone can request to use it, he said.

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MR. ANDERSON said other reasons the AHFC is currently involved in public buildings include the Home Energy Rating System (HERS) and Building Energy Efficiency Standard (BEES) [slide 4]. He related that the AHFC is statutorily required to maintain energy codes and building codes within AHFC when its funds are being used. The AHFC uses AkWarm software for this process. In fact, most of the audits contain AkWarm files and are all listed in the AHFC's retrofit information system. He reported that the database contains over 75,000 unique records.

MR. ANDERSON related that the technical service provider is comprised of 40-50 professionals, including certified energy auditors [slide 5]. The team benchmarked as many facilities as possible, totaling 1,200 facilities statewide. He described benchmarking as compiling basic building information, including attempting to collect two years of energy data. The team selected the highest energy users based on the data. Subsequently, AHFC conducted 327 ASHRAE investment grade audits. In response to a question, Mr. Anderson defined investment grade audits as audits that provide a detailed look at the facility, representing a national standard that AHFC adopted from ASHRAE. He explained that this audit "dives in" and examines all aspects

of the building, including examining controls and all components and makes recommendations for the best energy improvements.

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MR. ANDERSON related each of the 327 audits consist of approximately 50-70 pages and cost a total of \$7.2 million. Additionally, the AHFC provided another \$1 million to the university system to conduct audits. At the same time, the DOT&PF had \$10 million in ARRA funds for audits.

MS. SCHUBERT reported that all of the AHFC's audits are posted on the agency's website so members can access the data.

MR. ANDERSON related that the 327 buildings also resulted in approximately \$14.7 million in energy savings. He estimated over 5,000 statewide public facilities exist, including state, schools, cities, and boroughs. He estimated approximately 184 of the 479 schools statewide were audited [slide 6].

[2:00:49 PM](#)

MR. ANDERSON said the AHFC took advantage of a great opportunity to make improvements to its own building [slide 7]. In 2011, the AHFC purchased its headquarters following a 14-year lease. The agency immediately began implementing efficiency measures including lighting and heating, as well as completing a major roof repair. Additionally, the AHFC has begun to replace exterior lighting and some of its outdated control systems. He estimated that based on improvements, AHFC has reduced gas use by 40 percent and electric by 30 percent. He said that through the audit process, benchmarking, collaboration, and "white paper" the agency asked entities to make recommendations to move forward. He has reviewed these recommendations, which included suggestions for appropriately-size new buildings, to establish a level of accountability, to meter and track energy use data, and to consolidate facility use where possible [slide 8]. He said AHFC believes, in particular, in the smaller communities that consolidation makes more sense such as housing a post office and school in one building.

[2:02:31 PM](#)

MR. ANDERSON discussed recommendations for the building design process [slide 10]. He understood this could be construed as controversial, but the "white paper" showed the need to consider life-cycle costing. This process determines whether to install better pumps that can last longer than 30 years and whether the cost to benefit ratio make sense. Especially in rural Alaska, with its high energy costs, designers should consider building use, system sizes, controlled ventilation, and lighting to maximize efficiency. Further, designers should reduce excessive glass and maximize daylight with the orientation of the school or other building. Additionally, the commissioning aspect includes commissioning, retro-commissioning and ongoing commissioning. In response to a question, Mr. Anderson defined commissioning as essentially consisting of an audit of the constructed facility. For example, commissioning would consider whether the building was operating properly and if things installed correctly. The audit process highlighted that commissioning was often not done so systems were not balanced properly. Retro-commissioning occurs later and would review plans and drawings to determine if the building was designed properly. If not, rebalancing and other improvements have been found to reap benefits. Interestingly, the AHFC discovered that there wasn't any correlation between the age of a building and energy use. For example, two similar schools were built in adjacent communities but one facility used five times the energy. The AHFC audited some buildings that were at least 30 years old.

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CHAIR P. WILSON asked whether the audits are only performed on existing buildings.

MR. ANDERSON answered yes.

[2:05:49 PM](#)

CHAIR P. WILSON asked whether the AHFC discusses these issues when new buildings are being built.

MR. ANDERSON answered that AHFC believes it brings a unique perspective and as consultants are willing to be part of the conversation.

[2:06:05 PM](#)

REPRESENTATIVE GATTIS asked if anyone asking for assistance.

MR. ANDERSON answered yes; the Department of Transportation & Public Facilities, the Alaska Vocational Technical Center (AVTEC), and several of the schools have requested AHFC's assistance. He explained that the AHFC works closely with the DOT&PF. Based on the AHFC's audit process some energy efficiency projects have been completed with other funding. The organization either found in-house funds, bonding, or arranged for other financing, he said.

[2:07:04 PM](#)

REPRESENTATIVE GATTIS noted challenges, such that she has observed some people open windows in cold climates. She also pointed out that highly technical equipment has sometimes been installed but people often don't know how to operate or fix it. For example, she has seen people "rip out" some equipment and put in a simple value. Additionally, she noticed some smoke alarms were not working in some buildings. She recalled the DEED has used less insulation in order to enhance the interior size of their buildings. She hoped that improvements in energy efficiency will happen.

MS. SHUBERT responded that one of AHFC's recommendations in its "white paper" is to property train maintenance staff. These buildings require proactive management and maintenance to ensure equipment is being appropriately controlled. One of the things AHFC does in its own building is to meter the building. For example, employees actively monitor whether the lights come on at 2 a.m.

[2:10:25 PM](#)

RYAN COLGAN, Chief Programs Officer, Cold Climate Housing Research Center, explained the Cold Climate Housing Research Center (CCHRC) is a 501 (c)(3) non-profit organization formed by the Alaska State Homebuilding Association (ASHBA) to address the challenges of building in Alaska's extreme environment through applied research, policy research, design consulting and other means [[slide 1]].

MR. COLGAN referred to a familiar image of a map of Alaska superimposed on the Lower 48. This image illustrates how remote and diverse the communities of Alaska, which is important in terms of standards. He characterized the necessary approach as being not focused on the "cookie cutter" but on the cookie recipe. Another factor to consider in Alaska is the logistics since it is difficult to get to construction sites in many places [slide 3]. In addition, work itself can be difficult due to the environment [slide 4].

MR. COLGAN said one of Alaska's assets is that the state consists of problem solvers, which is inherent in its people. In fact, it is necessary to problem solve in order to survive in parts of Alaska [slides 5-6].

[2:13:37 PM](#)

MR. COLGAN turned to slide 7, entitled "How does CCHRC Solve Problems?" The CCHRC first works to understand the problem, gathers information, and identifies solutions. He showed some slides that illustrate the types of problems encountered [slides 7-9].

MR. COLGAN said that CCHRC gathers information through peers, those who have researched and found solutions, and through advanced modeling [as shown on the top of slide 11]. This slide shows the mobile test lab and the research testing facility [slide 11].

MR. COLGAN explained that CCHRC has identified several unique wall solutions to meet and exceed building standards and address unique challenges that stem from Alaska's extreme climate [slide 12].

[2:15:10 PM](#)

MR. COLGAN turned to the next slide, which illustrates how CCHRC incorporates solutions into designs [slides 13-14]. For example, this shows the sustainable village at UAF, and prototypes at Quinhagak and Anaktuvuk Pass. The CCHRC helps find solutions for heating, ventilation, water, and wastewater.

MR. COLGAN reported that CCHRC communicates with end users and has about 50,000 hits per year on its website, 20,000 hits per year on its blog for homeowners, and 200,000 views on the website podcasts. The CCHRC works with Alaskans and either deliver or work with partners to provide over 50 classes per year [slides 16-17].

MR. COLGAN turned to demonstration projects that show what can be accomplished [slide 18-19]. He then returned to the question of how CCHRC solves problems [slide 20]. He related that to understand the problem, CCHRC recognizes that high energy costs exist in some public facilities and with budget deficit can create long-term burdens for the state. The agencies have reported today that a significant amount of information has been gathered through benchmark, investment grade audits and by consulting with numerous experts to produce the "white paper" on public facilities. The state has also been working to identify solutions using the revolving loan program, holding conversations about standards, and recognizing that it is hard to implement the standard without involving multiple-stakeholders.

DUSTIN MADDEN, Policy Researcher, Cold Climate Housing Research Center (CCHRC), offered a presentation that covers some history about energy in Alaska. In the 1970s natural gas use lessened, primarily due to energy codes that required "2x6" wall construction and energy heel trusses [slide 21]. In the early 1990s usage reached a plateau until the AHFC instituted a building energy efficiency standard, which like ASHRAE 90.1 has a prescriptive performance. The graph illustrates that energy use in Alaska has continued to decrease as the building efficiency standard has become more widespread and reflects the

current technology of the industry [slide 21]. He observed that energy standards over time have proven effective.

[2:20:50 PM](#)

MR. MADDEN highlighted the pie chart that shows the energy use for public schools in Alaska with about 75 percent of energy use due to space heating. He reported that many schools have received energy audits or have been benchmarked. Over half of the 75 percent of energy use for space heating is lost through ventilation and air leakage. He reported that heating outside air at minus 20 degree air to 70 degrees for indoor comfort uses considerable energy. It's important that energy efficiency is well managed [slide 23].

MR. MADDEN explained the graph with energy efficiency depicted on the "y" axis and the total annual ventilation is shown on "x" axis [slide 24]. He acknowledged that some older buildings often performed better than newer buildings; however, the CCHRC did find that one driver of space heating energy efficiency was the ventilation rate. He identified the ventilation rate as one ingredient of the "cookie" recipe that can be standardized to increase efficiency. Many systems are quite complex for controlling ventilation, such as direct digital control systems so having a more standard set of these systems will increase the effectiveness of the systems used and operated throughout Alaska. Factors such as standardization of ventilation, depending on the design depending on the number of zones and the equipment used, have the potential to save energy and reduce operating costs. In response to a question, Mr. Madden explained that the "DHW" on slide 22 refers to "domestic hot water."

[2:24:15 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to the graph [on slide 24] and asked what outlier was close to 40 billion cubic feet of air.

MR. MADDEN was unsure. He offered to look it up and provide it to the committee. In further response to a question, he answered that "HDD" stands for "heating degree days."

[2:25:40 PM](#)

BRYAN BUTCHER, Executive Director/Chief Executive Officer, Alaska Housing Finance Corporation (AHFC), added that energy efficiency is what AHFC does.

CHAIR P. WILSON said this presentation has helped the committee get a handle on the energy efficiency issues. She suggested it might be necessary to get rid of the silos and work more cooperatively to address these issues.

[HB 343 was held over.]

[2:27:08 PM](#)

HB 371-STATE LAND AND MATERIALS

CHAIR P. WILSON announced that the final order of business would be HOUSE BILL NO. 371, "An Act providing for the Department of Transportation and Public Facilities to hold the surface estate of certain state land; relating to the transfer of certain state land and materials from the Department of Natural Resources to the Department of Transportation and Public Facilities for the construction or maintenance of the state highway system, state airports, and state public buildings and facilities; relating to the lease or sale of certain marine or harbor facilities; relating to the lease or disposal by the Department of Transportation and Public Facilities of rights-of-way, property interests, or improvements that are no longer required; relating to the grant of certain easements over submerged state land to the federal government; relating to the transfer of certain maintenance stations on the James Dalton Highway to the Department of Transportation and Public Facilities; relating to the conveyance of land for right-of-way purposes from the Alaska Railroad Corporation to the Department of Transportation and Public Facilities; and providing for an effective date."

[2:27:42 PM](#)

REPRESENTATIVE ISAACSON moved to adopt the proposed committee substitute (CS) for HB 371, labeled 28-LS1545\C, Bullock, 3/17/14 as the working document.

There being no objection, Version C was adopted as the working document.

[2:28:08 PM](#)

JOHN BENNETT, Right-of-way Chief, Northern Region, Department of Transportation & Public Facilities (DOT&PF), referred to a letter of March 13, 2014 in response to questions posed by the committee on March 11, 2014. He stated the proposed committee substitute (CS) for HB 371, Version C, will help clarify language in Section 16 regarding reciprocal easements. He also understood questions arose on whether this bill would eliminate or reduce public involvement or public notice so the department generated a chart to show all the points of involvement and notice [entitled "Typical DOT&PF Project Development Process"].

MR. BENNETT also understood Representative Johnson has been considering a proposed amendment.

REPRESENTATIVE KREISS-TOMKINS asked to discuss some questions raised.

CHAIR P. WILSON referred to the aforementioned response letter from the DOT&PF that answers a number of the questions raised at the March 11, 2014 hearing.

[2:31:15 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to the private sector would interface with the bill. The [March 18, 2014] letter from DOT&PF poses questions on how SB 211 or HB 371 impact funding for DNR and DOT&PF. He read [from a letter by a DNR person not identified], as follows:

Would DOT lose funding from the lost material sale revenue as a result of this bill? Would DOT gain a new funding source from selling material from the material sites? Section 13 of the bill states DNR would no longer charge DOT for material. Does "DOT" include DOT contractors? Would DOT start charging their contractors or others for material from state material sites? If so, where would those funds go?

REPRESENTATIVE KREISS-TOMKINS acknowledged the large number of questions.

MR. BENNETT responded he is correct, with respect to the issues of payment for materials, since DOT&PF would no longer be charged so DNR would no longer have that revenue stream. He related his understanding that the bulk of the revenue for the sales of material goes into the state's general fund. To the extent that some of it might be used in management or processing of material sales contracts, he pointed out that the DNR would not have the burden of applying for or processing material sales contracts so the lost revenue wouldn't be quite as big of a problem [since neither department would have to administratively manage these contracts]. With respect to DOT&PF generating revenue by sale of materials, he responded that this bill does not provide authority nor has the department had authority to sell materials to third parties. Thus, there wouldn't be any revenue stream coming in to DOT&PF by virtue of this bill. Further, the DOT&PF wouldn't charge contractors for materials because the department is expecting the bidding process to result in better prices since the department will use state-owned materials and not need to procure them.

[2:33:51 PM](#)

REPRESENTATIVE KREISS-TOMKINS acknowledged he has had a vague impression that private businesses sell materials. For example, in Sitka there are private quarries that sell gravel. He expressed concern that the state would be competing with the private sector if the state provides the material for free but a private quarry in the same proximity sells the same materials.

MR. BENNETT acknowledged the concern. Even though the department has hundreds of BLM and DNR sites available, the department likes to consider its contracts as advertised, and contain contract-furnished materials. For example, the department might make a material site available - a BLM or DNR site - but the contractor is not obligated to use them. The contractor may decide to purchase materials elsewhere or develop a material site. It all depends on the market forces as to what is best for the contractor to reduce his/her overall costs. Clearly a lot of commercial material sites and competition exist in the urban and suburban areas so the market forces will work very well for the state. In rural areas it is more difficult since not many property owners have materials to sell. Additionally, the department must perform geotechnical investigations to determine whether the material meets its specifications and sufficient quantities exist. He acknowledged there might be a private property owner who is aware of available gravel, but that gravel may not be suitable for the project. Further, there isn't any assurance that the private property owner will offer the same conditions, terms, or prices to all the contractors. It could skew the project significantly in the instance that only one commercial provider exists. He summarized that the department recognizes commercial providers exist but the market will determine whether those will be used by the contractor.

[2:37:00 PM](#)

REPRESENTATIVE JOHNSON related a scenario in which DOT&PF has a material site for a project. Since the materials are free to the department, the DOT&PF can underbid or complete the project for less by hiring state employees. He would like to ensure that the state does not perform projects that have previously been done by the private sector under a competitive process for the materials.

MR. BENNETT deferred to the deputy commissioner to answer; however, he offered his belief that prior to taking on a project that would have gone out to bid, the department would need to do a best interests findings to determine it was in the state's best interest that the maintenance forces did not pay for

materials or even larger maintenance work that could constitute a project. In the same sense contractors aren't going to be charged either since the materials are state-owned and are designated for state projects. Thus, the department doesn't envision any issue will arise.

[2:38:34 PM](#)

REPRESENTATIVE JOHNSON asked whether it is constitutional to give away the state's resources.

MR. BENNETT answered that the state would not be giving away its resources since the materials would be used for public projects. Further, DOT&PF represents the public in this instance.

[2:39:03 PM](#)

CHAIR P. WILSON related her understanding that everyone is on the same "playing field" since the DOT&PF doesn't charge the contractors either.

MR. BENNETT agreed.

REPRESENTATIVE JOHNSON maintained the state would be giving away resources to a private contractor even though it is for the public good.

MS. RICE explained that the department does not intend to change contracting procedures. Under the bill, the proposed change would merely reduce paperwork between DNR and DOT&PF. First, the DOT&PF physically manages most of these pits. Currently, the DOT&PF contacts DNR, creates a materials sales contract at \$.50 per yard - the standard price - and makes the contract available in specifications to contractors. All contractors can use this source for materials; however, the contracting specifications also allow the contractor to go to any supply. In fact, contractors will sometimes make their own pits. Any materials that come from the state's pit will end up being embankment so essentially the DOT&PF is moving from one resource to another. The public will always continue to use it. The \$.50 per yard not being paid is pretty inconsequential compared

to the \$2-4 per yard that the department would pay. Further, most of that money is haul and placement. The DOT&PF needs certain quality materials, makes them available, but most of the time the materials are not used.

[2:41:05 PM](#)

CHAIR P. WILSON surmised most of those are not in urban areas.

MS. RICE said that most of the material used by the Municipality of Anchorage (MOA) is hauled from the Matanuska-Susitna valley by train since she did not believe DOT&PF has a pit in the area.

[2:41:38 PM](#)

REPRESENTATIVE JOHNSON maintained that the state would be giving away state assets since they would not be charging the contractor. He related his understanding the department would waive the \$.50 per yard fee and asked whether this is constitutional.

MR. BENNETT answered that the DOT&PF has purchased land for its project. The state requests that the contractor use the state-owned material on the state's project.

REPRESENTATIVE JOHNSON envisioned a paving project in which private contractor can bid on it \$.50 per yard, but under the new scenario the fees are waived.

[2:43:16 PM](#)

REPRESENTATIVE ISAACSON understood that since DNR was involved and the DOT&PF has paid DNR for materials, which he equated as an administrative fee. He further understood that under the bill, since DNR is no longer the owner, the DOT&PF is moving material from one state site to a road bed. The state doesn't provide a public benefit by paying DNR an administrative fee. This bill attempts to consolidate the process by limiting the management the project and materials for the project to one department [the DOT&PF].

[2:44:49 PM](#)

SEAN LYNCH, Assistant Attorney General, Transportation Section, Department of Law (DOL), responded that Representative Isaacson's characterization is fully accurate. When the state furnishes culverts, materials, or anything else for a project, all bidders accommodate for this in their bid, which results in reduced project costs and general fund savings. In instances in which contractors have to purchase materials from the state, the state would also pay additional administrative costs for the two agencies [DNR & DOT&PF]. He clarified that the contractors are not taking materials for their own personal use for third party uses, but are moving state materials from one place to the state's project site.

CHAIR P. WILSON characterized this as "getting rid of the middle guy" since it will be cheaper.

MR. BENNETT agreed. He described the current process as moving money from DOT&PF to DNR and the contractor does not benefit in any way.

REPRESENTATIVE JOHNSON thought it might be circular logic.

[2:47:01 PM](#)

REPRESENTATIVE FEIGE acknowledged it was shifting money from one pocket to the other. He asked how this is applied in federally-funded projects.

MR. BENNETT answered that most of DOT&PF's projects are federally-funded projects. In those instances, the department uses federal dollars to pay the \$.50 fee per cubic yard fee to DNR. He suggested that for the most part the funds end up in the general fund.

REPRESENTATIVE FEIGE said the process would allow the DOT&PF to obtain more from the federal funding for any given project.

MR. BENNETT answered that is correct.

[2:47:47 PM](#)

REPRESENTATIVE GATTIS related a scenario in a contractor invests in a pit that provides the materials used on jobs; however, the state is giving the contractor's competitors free gravel which gives them an advantage.

CHAIR P. WILSON using that scenario, suggested that if the contractor could get it for free that the competitors may also wish to use the free material.

REPRESENTATIVE GATTIS agreed but pointed out that the contractor would still be paying for the pit.

CHAIR P. WILSON suggested the contractor could save his/her own pit gravel for another purpose.

[2:49:43 PM](#)

REPRESENTATIVE FEIGE said the competitiveness of the private gravel pit owner is somewhat reduced by eliminating the cost of the gravel. He suggested that the cost of the gravel is primarily the transportation cost to deliver the material.

MR. BENNETT agreed that is a relevant point. One contractor may bid and plan to use the state's existing material site. The successful bidder may have purchased a site to develop since it could result in a 20-mile less haul distance. He maintained the developed site could be more competitive and it will still "shake out" in the market.

[2:51:12 PM](#)

REPRESENTATIVE KREISS-TOMKINS understood the discussion. However, he suggested that this bill changes the market to a certain extent. While transportation and haul costs will still determine whose gravel pit is most competitive in a project, the current market forces are changed under the bill. He was interested in hearing from the private sector in the rural and non-rural areas with respect to the bill. He offered his belief

that it merits further investigation as to the specifics of how this will affect contractors.

CHAIR P. WILSON suggested that contractors would be complaining if the bill [created disadvantages for them].

[2:52:31 PM](#)

REPRESENTATIVE ISAACSON referred to the DOT&PF's response to the committee [dated March 13, 2014]. He referred to page 2, which read:

Could DOT&PF lease land from the Alaska Railroad Corporation (ARRC), rather than the ARRC selling land to DOT&PF?

REPRESENTATIVE ISAACSON said the response was, in part, "The short answer is that while leasing land from ARRC may benefit the railroad's bottom line, it may not represent a good long range policy for the management, operation and funding of DOT&PF facilities."

REPRESENTATIVE ISAACSON offered that the letter gives two examples, first, in which the ARRC was compensated in the Illinois [Street project in Fairbanks]. In the second example, the Healy River airport, the ARRC doesn't want to continue to pay for a lease since it is a state benefit. He concluded that the ARRC suffers negligible operational impacts when a portion of ARRC's property is transferred as required for DOT&PF's projects,. He understood the ARRC's land similar to the Alaska Mental Health Trust Lands in that its purpose is to generate revenue. Thus, the more land that is taken away from the railroad the larger the impact it will have in terms of loss of rent and profit. Currently, the ARRC has been suffering because of fewer active leases and the ARRC has declining revenues due to declining production at refineries and coal mines. Therefore, any impact to the railroad can hurt, he said.

[2:54:41 PM](#)

REPRESENTATIVE ISAACSON wondered if there might be a different way to address this. He asked whether instead of taking land the DOT&PF could exchange state land to compensate the railroad.

MR. BENNETT answered that DOT&PF doesn't have a land base that it could trade since it is constrained by its obligations to the federal funding agencies, such as the Federal Highway Administration (FHWA). Further, the DOT&PF pays fair market value to the railroad for any land DOT&PF takes. The concept behind this just compensation is that the ARRC can take the proceeds and replace the right-of-way land taken from them. Therefore, it doesn't necessarily reduce the land base unless the railroad doesn't replace the lands acquired for the project. Additionally, a railroad is considered a utility so in terms of highway rights-of-way or airports, the ARRC can through a limited fee of a utility permit can gain access to them. He characterized this as being a very lopsided relationship. The DOT&PF pays full fair market value for any lands it needs to acquire from the ARRC, but the railroad can use DOT&PF's land for a very limited fee.

MR. BENNETT, in terms of the Illinois Street project, explained that the public used Illinois Street for 100 years and will likely use it for another hundred years. He anticipated that for a 50-year lease the DOT&PF would pay for the property "over and over again." More importantly, when the term comes due it will likely be out of synch with a DOT&PF project that would generate revenue to renew the lease. For example, it would be possible to pay for a lease from a Federal Aviation Administration (FAA) funded project if one was available. Even though the DOT&PF has been seeking one that without project funding the DOT&PF doesn't have anything available to renew the lease.

[2:57:18 PM](#)

CHAIR P. WILSON commented that the ARRC reviewed this bill and agreed with it.

REPRESENTATIVE ISAACSON answered that this doesn't mean it will necessarily be good for the railroad. He asked for further clarification on the Healy project.

MR. BENNETT answered that it is not a good public policy for a transportation department with long-term public needs to lease land with a recurring renewal fee.

CHAIR P. WILSON remarked that the ARRC's agreement should relieve members of these specific concerns.

REPRESENTATIVE ISAACSON responded that it doesn't. He asked whether the ARRC would receive any compensation for the \$320,000.

MR. BENNETT answered that this bill doesn't address leasing. It would only eliminate the step necessary to receive legislative approval for the ARRC to convey fee simple title. The department believes this will advance projects by one to two years. He maintained that this bill does not address leasing. It will not eliminate any lease revenues due to the railroad for the airport. The DOT&PF must secure these funds prior to the end of the lease in 2017 if the public intends to use the land.

CHAIR P. WILSON pointed out a letter of support from the Alaska General Contractors is in members' packets.

[3:00:30 PM](#)

REPRESENTATIVE JOHNSON, with respect to gravel, noted that DNR will make available gravel sales to private companies for private projects. He asked whether the ARRC will sell materials to a private project. He interjected by related a scenario in which the DOT&PF has materials and asked whether the department will make gravel available to the public or if it is it just for state use.

MR. BENNETT related his understanding the question is if DOT&PF has acquired land from the ARRC or DNR, whether the DOT&PF would sell gravel. To his knowledge, all the land acquired from the ARRC has been dedicated to the actual operational need of the

highway or the airport. The DOT&PF doesn't have authority to sell gravel, he said.

[3:02:17 PM](#)

REPRESENTATIVE JOHNSON pointed to non-railroad materials. He understood a provision exists for DOT&PF to take a gravel pit from DNR and use it for a state project. He asked whether DOT&PF would sell non-railroad gravel to a private company, which DNR can currently do.

MR. BENNETT answered yes.

[3:02:47 PM](#)

MR. LYNCH advised that the DOT&PF exemption in Section 13 of HB 371, relieves the DOT&PF from the material sales requirements. He read, "Notwithstanding the provisions in AS 38.05.560 - 38.05.565" This provision provides DNR authority to sell materials from state-owned material sites. This bill relieves the DOT&PF of the requirement from entering into a material sales contract, but DNR retains its authority under AS 38.05.550 - 38.05.565 to sell material from these sites to third parties. He reiterated that DOT&PF does not have any authority for third-party sales and doesn't take the physical site itself.

[3:04:05 PM](#)

REPRESENTATIVE JOHNSON recalled testimony that if the state were to provide a discount to a refiner on royalty oil, the state would need to provide the same discount to everyone.

MR. LYNCH said he can't speak to the comparison since he doesn't know the facts; however, this would allow for state-owned resources to be removed from a state pit and put into a state project. He concluded that the material is never disposed to a third party. All bidders would have equal assess asset to incorporate state owned material into the state project. It would be the same way as if DOT&PF had an overstock of culverts and lists it in the contract to be incorporated into the project.

REPRESENTATIVE JOHNSON maintained that in terms of oil, whether it was jet fuel for trains or something else that if the state offered a discount it must give the same discount to all parties.

[3:05:54 PM](#)

REPRESENTATIVE ISAACSON recalled the commissioner said "may" but not "must."

REPRESENTATIVE JOHNSON asked whether the state was subjected to the same "may" for gravel as it is for oil so would the state be putting itself in the position that it needed to give the material away.

MR. LYNCH explained that the bids incorporate the same common ground for "all bidders" so he did not envision this would set up a disparity.

[3:06:38 PM](#)

REPRESENTATIVE FEIGE thought that the analogy would be to take royalty oil and refine it into fuel used by state vehicles. Further, the state could probably justify a lower cost of the royalty oil if it resulted in a lower cost of fuel to the state just as DOT&PF provides an equal opportunity for gravel to be used on a state project. In the end, the result would be to reduce the cost of materials. In the case of oil it could reduce cost of fuel to the state and result in lower consumptive costs to the state and hence the public.

REPRESENTATIVE JOHNSON maintained that a discount to one means the state might need to give it to everyone.

REPRESENTATIVE FEIGE thought that rationale would only apply since the state can only consume so much fuel.

[3:07:57 PM](#)

REPRESENTATIVE JOHNSON referred to the language in Alaska's Constitution that indicates the state's resources are for the common good of all people.

REPRESENTATIVE ISAACSON agreed that Article VIII, Alaska's Constitution requires the maximum use and benefit to the people; however, it also sets up a "similarly situated" aspect. Thus the benefits would accrue to similarly situated circumstances first and then to the rest. He suggested several other issues could trigger a definitive answer.

REPRESENTATIVE JOHNSON remarked he still has questions.

[3:10:02 PM](#)

DICK MYLIUS said he is testifying as a private citizen although he previously worked with DNR for 29 years and dealt with many of these issues. He stated that his letter is in members' packets [dated March 12, 2014]. He offered to summarize his concerns that have not yet been addressed. His primary concern stems from language in the bill that essentially says if the DOT&PF asks DNR for a parcel of land, under proposed Sections 3, 5, 8, the state "shall" transfer these lands to airport, highways, and facilities, respectively. Thus, DNR cannot decline, condition the transfer, or protect existing or future rights. His biggest concern relates to material sites or gravel pits. Of his six general comments, the proposed CS, Version C addresses his concern with Section 16. He explained that proposed Section 13 would allow the DOT&PF to extract gravel from any existing pit on state land. The DOT&PF would not be allowed to establish any conditions on the gravel extraction. He suggested that this provision needs to be distinguished from the other provisions of the bill that allow DOT to receive title to the surface estate.

CHAIR P. WILSON asked for further clarification.

[3:12:14 PM](#)

MR. MYLIUS reiterated that Section 13 of HB 371 allows DOT&PF to extract gravel from any existing gravel pit on state land,

including gravel pits may have been developed by another party for a totally different purpose. For example, numerous gravel pits exist on the North Slope. These pits have been developed by the oil and gas industry or their contractors to specifically support North Slope development. Of course, any development on the North Slope would require gravel roads or pads although the DNR has issued numerous gravel sales contracts to parties. Under HB 371, DOT&PF could go take any amount of gravel from those pits without any consideration or restrictions imposed by DNR to protect those developing their own gravel pits. He reiterated that DOT&PF could remove gravel from these pits that essentially would make it impossible to fulfill contracts. The provision in Section 13 doesn't say anything about protecting valid existing rights although such protections are in other provisions of the bill applying to the transfers. Section 13 would apply to any existing pits on state land. He strongly recommended removing Section 13 from the bill.

[3:13:48 PM](#)

MR. MYLIUS said the bill still does not address the overriding or competing land claims. He referred to an earlier example of Happy Valley and Franklin Bluffs, in which the North Slope Borough has municipal entitlement selections. The DOT&PF responses indicate the state should keep those and the borough essentially loses out. The bill doesn't address that there still is a valid selection. If the intent of HB 371 is that those parcels should be transferred to DOT&PF then the bill should actually indicate that the NSB's selections should be rejected. Otherwise the DNR will need to reject the selections and likely need to litigate the matter. Additionally, if the DOT&PF doesn't need all the land the bill leaves it totally up to the DOT&PF to determine how much land and specifically which land it gets to keep. This would essentially mean that the NSB would be left with "the leftovers."

[3:14:52 PM](#)

MR. MYLIUS said the bill does not provide any method for public concerns with access or conflicts with existing landowners. The DOT&PF has indicated its existing process handles that process;

however, the DOT&PF's existing process pertains to highway projects in terms of road location, but does not often get into the specific location of gravel pits for state highway projects. Those decisions are typically subsequent decisions and the decisions about buffers and similar issues are made through DNR at the time it executes a gravel sale to DOT&PF. Therefore, there isn't any provision that allows for those types of issues to be dealt with, he said.

[3:15:31 PM](#)

CHAIR P. WILSON, asked him to put his concerns in writing.

CHAIR P. WILSON, after first determining no one else wished to testify, closed public testimony on HB 371.

[HB 371 was held over.]

[3:17:07 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 3:17 p.m.