

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 26, 2015

8:01 a.m.

MEMBERS PRESENT

Representative Cathy Tilton, Chair
Representative Paul Seaton, Vice Chair
Representative Shelley Hughes
Representative Benjamin Nageak
Representative Lora Reinbold
Representative Harriet Drummond

MEMBERS ABSENT

Representative Dan Ortiz

COMMITTEE CALENDAR

HOUSE BILL NO. 118

"An Act adopting the Municipal Property Assessed Clean Energy Act; authorizing municipalities to establish programs to impose assessments for energy improvements in regions designated by municipalities; imposing fees; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 149

"An Act relating to an amendment of the articles of incorporation of certain Native corporations to establish a lower quorum requirement for shareholder meetings."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 118

SHORT TITLE: MUNI ENERGY IMPROVEMNT ASSESSMNTS/BONDS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

| | | |
|----------|-----|---------------------------------|
| 02/18/15 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/18/15 | (H) | ENE, CRA, FIN |
| 03/05/15 | (H) | ENE AT 10:15 AM CAPITOL 106 |
| 03/05/15 | (H) | Heard & Held |
| 03/05/15 | (H) | MINUTE(ENE) |

03/17/15 (H) ENE AT 10:15 AM CAPITOL 17
03/17/15 (H) Heard & Held
03/17/15 (H) MINUTE(ENE)
03/24/15 (H) CRA AT 8:00 AM BARNES 124
03/24/15 (H) <Pending Referral>
03/24/15 (H) ENE AT 10:15 AM CAPITOL 17
03/24/15 (H) Moved CSHB 118(ENE) Out of Committee
03/24/15 (H) MINUTE(ENE)
03/25/15 (H) ENE RPT CS(ENE) 7DP
03/25/15 (H) DP: CLAMAN, TALERICO, TILTON, NAGEAK,
WOOL, VAZQUEZ, COLVER
03/26/15 (H) CRA AT 8:00 AM BARNES 124

BILL: HB 149

SHORT TITLE: NATIVE CORP. ART. AMENDMENTS

SPONSOR(S): PRUITT

03/18/15 (H) READ THE FIRST TIME - REFERRALS
03/18/15 (H) CRA
03/26/15 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

GENE THERRIAULT, Deputy Director
Energy Policy
Alaska Energy Authority (AEA)
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Presented HB 118, sponsor by the House Rules Standing Committee by request of the governor.

EMILY FORD, Public Outreach Liaison
Alaska Energy Authority
Department of Commerce, Community & Economic Development
Anchorage, Alaska

POSITION STATEMENT: Reviewed a slide presentation entitled "HB 118 Property Assessed Clean Energy (PACE)."

CHRIS ROSE, Executive Director
Renewable Energy Alaska Project (REAP)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 118.

REPRESENTATIVE LANCE PRUITT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 149.

NICHOLA RUEDY, Director
Alaska Native Village Corporation Association (ANVCA)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 149.

KIM REITMEIER, President
ANCSA Regional Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 149.

AARON SCHUTT
Doyon, Limited
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 149, answered questions.

ACTION NARRATIVE

[8:01:58 AM](#)

CHAIR CATHY TILTON called the House Community and Regional Affairs Standing Committee meeting to order at 8:01 a.m. Representatives Nageak, Hughes, Seaton, Drummond, and Tilton were present at the call to order. Representative Reinbold arrived as the meeting was in progress.

HB 118-MUNI ENERGY IMPROVEMNT ASSESSMNTS/BONDS

[8:02:35 AM](#)

CHAIR TILTON announced that the first order of business would be HOUSE BILL NO. 118, "An Act adopting the Municipal Property Assessed Clean Energy Act; authorizing municipalities to establish programs to impose assessments for energy improvements in regions designated by municipalities; imposing fees; and providing for an effective date."

[Before the committee is CSHB 118(ENE).]

[8:03:07 AM](#)

GENE THERRIAULT, Deputy Director, Energy Policy, Alaska Energy Authority (AEA), Department of Commerce, Community & Economic Development (DCCED), explained that this legislation proposes an entirely new section to allow municipalities with property tax authority to implement a Property Assessed Clean Energy (PACE)

financing mechanism. This mechanism would help commercial properties make energy improvements to their properties in order to lower their overall energy costs. In 2010, the Alaska State Legislature established a goal for the state to improve overall energy efficiency by 15 percent by the year 2020. Although [the state] is aggressively moving forward to achieve that goal, not a lot of traction has been achieved in assisting/encouraging commercial properties to make energy improvements. There are a number of programs that do assist with energy efficiency improvements for residential properties, state-owned buildings, municipally-owned buildings, and nonprofits. He related that about the only program for commercial properties is the commercial facility energy audit program, which encourages owners of commercial buildings to have energy audits on their properties. Although about 150 properties throughout the state have availed themselves of these energy audits, there has been [little] follow through or action on those recommendations. Therefore, there was review in terms of what can be done to assist property owners to follow through [with the energy audit recommendations]. For those commercial properties that have had the energy audit and made the recommended changes to their buildings generally achieve a 30 percent reduction in their overall energy costs annually. The aforementioned, he opined, means there is a lot of value to capture. Upon reviewing what other states have done in this area, AEA has identified PACE financing as a means to help commercial properties move forward to achieve energy efficiency. Mr. Therriault explained that PACE allows local governments and lenders to make loans to commercial properties the repayment of which is collected through a mechanism in which a voluntary assessment is added to the annual property tax of the commercial property. Collecting the loan payment with the property tax provides the full collection powers of the property tax, and thus there is a low default rate and low risk level. Mr. Therriault opined that low risk loans one would expect low risk capital, which means a lower interest rate. Another benefit of the use of the property tax as a mechanism to collect the PACE loan is the ability to stretch out the repayment period. With PACE, the repayment period is generally 10-20 years. Mr. Therriault explained that the goal is to incentivize commercial properties to make improvements and experience immediate positive cash flow such that the savings in energy is more than the cost of the loan repayment.

[8:09:00 AM](#)

EMILY FORD, Public Outreach Liaison, Alaska Energy Authority, Department of Commerce, Community & Economic Development, referring to the slide presentation entitled "HB 118 Property Assessed Clean Energy (PACE)," directed attention to slide 2 entitled "What is Commercial PACE?" and highlighted that PACE is a voluntary program for municipalities, commercial property owners, and lenders. She also highlighted that mortgage holder consent is required prior to applications being approved and assessments placed. The improvements, she noted, can include lighting upgrades, renewable energy, conversion to natural gas, high-efficiency boilers, and additional energy efficiency improvements. The repayment obligation transfers with the sale of the property, she related. Ms. Ford then moved on to slide 3 entitled "Benefits" and opined that the real benefit to PACE is that the longer repayment period allows the building owner to recognize immediate operating savings while repaying the debt. She pointed out that under PACE traditional lending sources can be used and in Alaska, PACE provides consistency with state energy policy, energy efficiency, and renewable energy goals. As noted on slide 4, 31 states have authorized PACE programs. She pointed out that the PACE program proposed in HB 118 applies to commercial properties and state legislatures must provide authority for local governments to establish and operate commercial PACE programs. Municipalities, however, have the flexibility to create the program and select financing models. As more states look to PACE financing mechanisms as a way to incent energy efficiency, there's a wealth of information online including sites such as PaceNow.org and C-Pace.com. Furthermore, the U.S. Department of Energy has a packet of information that includes sample contracts, potential marketing materials, and a how-to manual for lenders, commercial building owners, and local governments. Slide 5 provides examples of the different types of PACE financing models, such as a local government-driven model in which the program is run through a government office, PACE office, or the property assessment office. In the aforementioned model, the municipality would interface with the commercial property owners and potential lenders and bond financing could be used for the efficiency projects. There is also the possibility of a private-sector driven model in which a third party administrator is under contract with the local government to administer the program. Under this model, the PACE program would exclusively use private financing and local lenders. However, the traditional PACE model is a hybrid model in which all potential funding sources are identified including bonds, revolving loan funds, or private capital. Referring to slide 6, Ms. Ford echoed earlier testimony that HB 118 authorizes local governments who collect

property taxes to choose to create a PACE program and allow commercial property owners to opt-in.

8:12:29 AM

MS. FORD pointed out that the sectional analysis of HB 118 can be found on slides 7-16, which she then proceeded to review. The sectional analysis is included in the committee's packet.

8:21:34 AM

MR. THERRIAULT summarized that basically HB 118 allows local governments with property tax powers the option to initiate a PACE program if they so choose. The legislation simply provides a tool for local governments to use to achieve lower energy costs. The language includes a number of protections. For instance, an owner of a commercial property with an existing mortgage to Wells Fargo would have to ask Wells Fargo for permission to initiate PACE financing. The aforementioned is required because the PACE loan would become the superior lien on the property while the Wells Fargo loan would become the secondary lien. Across the nation, most often the property is used as the collateral for the loan while the PACE financing improves the efficiency and competitiveness of the commercial property. Therefore, by and large many lenders are providing that permission. Mr. Therriault related that because there was concern there would be opposition from the lenders in the state, he started a conversation with the Alaska Banking Association early on in the process. The committee packet includes a letter from the Alaska Banking Association that says it doesn't oppose the legislation so long as it maintains the provision requiring approval from the bank when there is an existing mortgage. He then pointed out that a number of states learned that initiating PACE without a certain number of requirements to provide consistency across the state resulted in lenders being unable to determine how PACE worked within the state, and thus lenders weren't forthcoming with the loans. The aforementioned caused Texas to modify its PACE program to achieve consistency across the state. He noted that HB 118 is patterned after the Texas statute.

8:25:09 AM

REPRESENTATIVE HUGHES related her understanding that state funding pays for the energy audits of commercial buildings. She then inquired as to how long the 150 audits of commercial buildings that have already been done are valid and how much

such an audit costs. She further inquired as to how much funding is available for the audit program now. She also asked whether the state will be able to continue to offer the [energy audit program].

MR. THERRIAULT said that he doesn't have that information and deferred to Ms. Ford.

MS. FORD answered that through AEA's Energy Efficiency Program there are funds available and another round of solicitation for the commercial building energy audit is occurring. The funding does come from AEA's Energy Efficiency Department. Ms. Ford explained that the audits identify measures that would improve the efficiency of the building. If no changes have been made to the building since the audit, then the identified measures would remain valid. Therefore, in such a situation Ms. Ford didn't believe there would be an expiration date to the identified list of projects that would improve the efficiency of the building. She offered to provide the cost of the individual audits at a later time.

REPRESENTATIVE HUGHES then requested the total amount in the [Energy Efficiency Program] fund and the amount available.

[8:28:53 AM](#)

REPRESENTATIVE HUGHES directed attention to the language on page 3, line 7, of HB 118, which allows municipalities to designate the boundaries of an area. The aforementioned ability could result in municipalities providing an advantage to one portion of the municipality over another. She inquired as to whether there are any protections against the aforementioned and why the aforementioned is even being allowed.

MR. THERRIAULT explained that a local governing body that proposes PACE must first put forth a resolution regarding what is being considered. An ordinance process with public notification and input is then the next step prior to moving forward with the program and identification of the region. He reminded the committee that PACE is just for commercial properties and thus the local governing body may want to restrict the program to the portion of the region that contains the commercial properties. Furthermore, there could be a situation within the Fairbanks North Star Borough in which the City of North Pole wants to move forward with the PACE program while the City of Fairbanks does not. In the aforementioned situation, the borough could work with the City of North Pole as

a designated area to allow PACE in that region while honoring the decision of the City of Fairbanks to not offer the PACE program. He reminded the committee that the debate would have to take place at the local level, the assembly level, in terms of why a particular designation is made.

[8:31:28 AM](#)

REPRESENTATIVE HUGHES inquired as to whether it would be possible for a borough to decide that the entire borough would be a PACE region, although a city within that borough chooses not to participate.

MR. THERRIAULT confirmed that could be possible.

REPRESENTATIVE HUGHES maintained that she still doesn't see the protection as the governing body could still choose to designate one business district over another. She opined that it doesn't seem problematic for an entire municipality to be the designated region, particularly since it's an optional program.

MR. THERRIAULT remarked that he didn't know why a municipality would want to favor one area over another as the program is a mechanism to help all businesses. He related that the models he has reviewed across the nation have left the [designation of the region] to the local elected officials. However, he offered to check with the national programs regarding whether the tendency is the selection of one area or areawide.

[8:33:54 AM](#)

REPRESENTATIVE SEATON pointed out that [AS 29.10.200 is amended to add PACE financing to the list of items in which] home rule municipalities are allowed to engage. However, [AS 29.49.890] of the legislation specifies that [the proposed PACE provisions] apply to home rule or general law municipalities. He then inquired as to why the first provision only applies to home rule [municipalities].

MR. THERRIAULT clarified that the [proposed PACE program] is to be available to any municipality that has any property powers. He then noted that a Legislative Legal Services memorandum addressing CSHB 118(ENE) indicates there might need to be changes to the language to provide clarity in this matter. He suggested that the committee is likely going to receive a proposed committee substitute addressing the aforementioned.

8:35:15 AM

REPRESENTATIVE SEATON asked if the proposed PACE financing could be used by only commercial properties to finance a distribution system, while residences wouldn't have this mechanism available to them. He then pointed out that the language refers to the "useful life," which for a pipeline might be 30 years. Therefore, a commercial building could have a much longer timeframe.

MR. THERRIault stated that this mechanism wouldn't lend itself to the financing of the actual distribution system, rather it's only for loans to improve the property. [The improvements] have to be fixed fixtures to the building, the envelope of the building. Therefore, the PACE financing wouldn't lend itself to the financing of an assessment by a local government on distribution pipes going down the street. As Ms. Ford explained, although PACE becomes a superior lien, the property taxes and assessments placed on the properties by the local government are ahead of the PACE financing. However, a local improvement district in which all of the properties are being assessed for the build-out of a distribution system would actually be ahead of the special assessment for PACE in terms of collection.

REPRESENTATIVE SEATON requested that the language be made clearer as the language doesn't specify the improvements be on the building envelope. He expressed the need to ensure that the [PACE mechanism] is only used for what it is designed.

MR. THERRIault noted that the allowance of fees is to help the property owner cover any expense they might have to put into the energy audit engineering to do the improvements. Basically, that expense is allowed to be capitalized as part of the financing. He then directed attention to the definition on page 10, lines 8-11, which says:

"qualified improvement" means a permanent improvement fixed to real property and intended to decrease energy consumption or demand, including a product, device, or interacting group of products or devices that uses energy technology to generate electricity, provide thermal energy, or regulate temperature;

MR. THERRIault stated that the aforementioned definition wouldn't include the distribution system coming down the street.

[8:39:47 AM](#)

REPRESENTATIVE REINBOLD surmised that since there is no fiscal note for HB 118, there will be no cost to the state at all. She noted the lack of letters of support for HB 118. However, she questioned who will pay for [the audits and financing]. She then expressed concern with the use of the terms "impose" and "imposing" in the title of the legislation and wanted assurance that this isn't a situation in which big government is creating more big government. She then inquired as to AEA's role in this [program].

MR. THERRIault explained that AEA's role is to find mechanisms to incent businesses to do the energy improvements in order to achieve the 2010 energy efficiency goal. The term "impose" in the title is used because the property owner, through a contractual agreement with the local government, is agreeing to have an assessment placed on their property tax bill. The program, he reminded the committee, is completely voluntary for the local government and local business. Furthermore, the banks aren't required to provide the financing, rather the [program] provides this optional tool. With regard to the fiscal note, the local government has options [as to how to structure such a program]. The legislation seeks to create a certain level of uniformity to increase comfort of lenders with a statewide program.

MS. FORD informed the committee that discussion with two other states regarding the impacts on municipalities found that it depends on the type of model the municipality choses to impose. Minnesota chose to assess .5 percent interest on the financing mechanism in order to cover the cost of the program. Minnesota has been able to absorb the additional work through existing staff. Minnesota has implemented the "Main Street Model," which is designed very lean and has been very successful. On the other side of the spectrum, Vermont has a statewide efficiency utility. Therefore, a separate PACE staff and office were established. As mentioned earlier, this is a voluntary structure. She noted that application fees were purposefully kept low while trying to pay for the cost of the program through the application fees.

[8:44:59 AM](#)

REPRESENTATIVE REINBOLD restated her question regarding who will pay for this, adding that she wants to be sure that isn't an Environmental Protection Agency (EPA) at the local level.

Representative Reinbold stressed that the program doesn't sound voluntary as it uses terms such as "impose." She also restated the need to be sure the proposal in HB 118 isn't a growth in government, particularly since there is a need to attract businesses to the state.

MR. THERRIAULT responded that each local government will determine whether it has funds for the program or whether the program would be established as self-funding. As Ms. Ford related, the language of HB 118 allows that when loans are made, a percentage can be added to the interest of the loan to cover the cost of the program. Therefore, the cost can be borne by those who choose to apply for the loan to make the improvements. In a situation in which there are no applications, there is no income and no expense. The legislation, he reiterated, has been structured to provide flexibility at the local government level. The zero fiscal note reflects the intent that the state won't contribute any funds to the operation of the local programs. The legislation merely creates the mechanism by which the local governments can decide how to cover the expense of the program.

[8:47:53 AM](#)

REPRESENTATIVE DRUMMOND related her appreciation with regard to how the PACE program and financing works, particularly with the use of the property tax mechanism that's already in place. She related her understanding that HB 118 intends to encourage commercial properties to participate in the energy efficiency program. She then expressed concern with mixed-use properties that have offices and private residences. For example, in her neighborhood there is a 30-year old building that has several stories of offices; office condominiums on the ground floor and the second and third floors while the upper floors are individually owned condominiums. She questioned whether the PACE program has the flexibility to be adaptive to a joint energy efficiency project such as the aforementioned building.

MR. THERRIAULT opined yes, and pointed out that the legislation includes a language specifying that a multi-family dwelling with four or more [units] does qualify as a commercial property and for PACE financing. For instance, a building with mixed light industrial or retail on the ground floor and more than four residential units in the upper floors would qualify.

REPRESENTATIVE DRUMMOND surmised that the homeowners' association would have to agree to the group financing additions.

MR. THERRIAULT said he hadn't thought of the condominium example, and thus he offered to obtain information on such a situation from the national resources.

[8:50:38 AM](#)

REPRESENTATIVE NAGEAK remarked that fees are ubiquitous in an individual's everyday life, and they are passed on from businesses to customers.

MR. THERRIAULT explained that the fee language in HB 118 is present to clarify that the local government has the option to cover the cost of operating the program by charging fees. Local governments that utilize the PACE mechanism will do so because they want to help local businesses make energy efficiency improvements. If fees are high and the PACE program is used as a profit center, the expense to the businesses will be increased to the point that they won't take out the loans. Since no business can be forced to take out the loans, the aforementioned would be self-defeating, he opined. Mr. Therriault related his belief that the fees wouldn't get out of hand.

[8:52:18 AM](#)

REPRESENTATIVE SEATON directed attention the language "including through lease" on page 7, line 23. He then asked how there could be long-term financing for something acquired through a lease.

MR. THERRIAULT related his understanding that the language allows for improvements that can utilize equipment that is leased. For instance, solar panels could be leased from a provider that performs the maintenance on the panels while the energy is provided to the building. He opined that the language to which Representative Seaton's referring is to allow the expense of adding such equipment to a commercial property in the financing.

[8:53:50 AM](#)

REPRESENTATIVE SEATON inquired as to how that lease would relate to PACE financing with regard to the potential indeterminate term on the lease. He requested information regarding how a lease would interact with PACE financing.

MR. THERRIAULT agreed to provide some specific examples illustrating why the language was included in the legislation.

[8:54:34 AM](#)

REPRESENTATIVE HUGHES related her understanding that the legislation doesn't require any state or local dollars and allows private lenders and businesses to be in agreement. She asked whether this program is viewed as an incentive and business friendly. She then asked whether businesses have specifically requested this program or shown interest in it.

MR. THERRIAULT confirmed that the legislation is trying to create an incentive and be business friendly. He informed the committee that he recommended the legislation be modeled after the Texas program as many of the sensitives and pro-business attitude in Texas are similar to those in Alaska. Furthermore, through his participation as a board member of a national organization of energy officials, he interacted with the representative from Texas and determined that the Texas program would be a good fit for Alaska and would be viewed as business friendly. He noted that although he hasn't yet promoted this to businesses, the head of the Alaska Municipal League (AML) has previously related supported for this. He then noted that he was sensitive to local lenders, and thus he worked with the banking industry early on and received the letter of non-objection so long as the protection provision is included. Mr. Therriault directed attention to the language on page 9, line 28, that prohibits making "the issuance of a permit" contingent on a business using PACE financing. The local government is specifically not allowed to coerce businesses or lenders into participating in the PACE financing. Again, the program proposed in HB 118 is voluntary for local governments, businesses, and lenders.

REPRESENTATIVE HUGHES requested information regarding what businesses are thinking about HB 118.

[8:58:42 AM](#)

REPRESENTATIVE HUGHES emphasized that the state funding being used for the audits may dry up. If the state funding is eliminated, she asked whether PACE would allow the initial audits to be covered through this program.

MR. THERRIAULT replied yes, and explained that the audits required by the program can be rolled into the financing.

Therefore, the cost of the audit can be spread over a number of years. The goal, he said, is to assure the annual energy savings are larger than the costs to improve the building such that the business sees immediate positive cash flow.

[9:00:06 AM](#)

REPRESENTATIVE DRUMMOND directed attention to the definition of "real property" on page 10, lines 14-15, which says it "means privately owned commercial or industrial real property". She then pointed out that real property applies to residential property as well. Therefore, the "real property" definition would have to be expanded in order for the PACE program to apply to the mixed use building example she referenced earlier. Although multi-unit apartment buildings that are owned by a single entity would qualify as commercial property, the definition of "real property" would have to be expanded in order for a group of individually owned condominiums that are located in a building that has commercial property to qualify for the PACE program.

[9:01:33 AM](#)

REPRESENTATIVE HUGHES recalled that mortgage lenders' have to consent to the PACE financing since it would become the primary lien. Therefore, she inquired as to whether lenders have not given consent in other states.

MR. THERRIAULT acknowledged that lenders not giving consent to PACE financing is a possibility. However, the experience nationwide is that as the private lending institutions become more comfortable with PACE financing, more approval is occurring. Most often the property itself is the collateral for the commercial loan on the business and through the PACE financing that collateral is being improved. He opined that the lenders understand that both the physical asset and financial viability of the business using that asset is being improved. The aforementioned, he opined, is why PACE is gaining traction across the nation. Still, there are no guarantees that individual banks will approve this financing mechanism.

[9:03:14 AM](#)

REPRESENTATIVE SEATON questioned whether designating an entire municipality [as eligible for PACE financing] would expand the necessary funds such that the municipality's reserves might not be sufficient to provide financing. He agreed with

Representative Hughes that the picking of winners and losers shouldn't occur, but requested analysis regarding whether the financing would be limited [by designating an entire municipality as eligible for PACE financing].

[9:04:33 AM](#)

CHAIR TILTON announced that she was passing the gavel to Representative Seaton and intended to hold HB 118.

[9:05:00 AM](#)

VICE CHAIR SEATON opened public testimony.

[9:05:18 AM](#)

CHRIS ROSE, Executive Director, Renewable Energy Alaska Project (REAP), began by informing the committee that REAP is a nonprofit coalition of over 80 organizations around the state that all support renewable energy and energy efficiency. Mr. Rose said REAP has been promoting the idea [embodied in HB 118] for several years and is in full support of HB 118. He stressed that the state is in a fiscal crisis and a lot of money is needlessly being wasted on energy costs. Collectively, those in the state are spending \$5-6 billion on energy, including transportation, heat, and electricity. The State of Alaska's utility bill is about one-tenth of the collective costs, an estimated \$642 million for heat and electricity. From the existing [energy efficiency] programs, such as the residential weatherization program that has saved over 30 percent in energy costs, a conservative estimate for saving energy for buildings is 20 percent. A savings of 20 percent of \$5-6 billion per year on energy efficiency keeps \$1 billion a year circulating in the state. Commercial buildings are a big portion [of energy costs in the state]. The commercial sector has been left out of energy efficiency programs, which is why this makes sense, he said. With the banks' involvement, the financing is almost unlimited and the goal is for the [commercial buildings that avail themselves of the PACE financing] to obtain positive cash flow from the beginning. He noted that over 30 states [offer PACE financing]. In fact, the idea of property assessed clean energy was originally conceived for residential consumers. However, the Federal National Mortgage Association (FNMA) known as Fannie Mae and the Federal Home Loan Mortgage Corporation (FHLMC) known as Freddie Mac didn't like that the local property tax assessment district has the superior lien because they buy most of the mortgages in the country. The aforementioned is why

the program isn't designed for residences. Still, the [PACE program] makes a lot of sense, he opined, particularly in terms of the jobs that would be created through the retrofits of these [commercial] buildings. He informed the committee that 4,000 jobs have been created through the residential weatherization, but now those folks are concerned with the declining funding for the residential program. This legislation would be one way in which those folks could keep their jobs because the same skills they are using in the residential sector can be used in the commercial sector. Mr. Rose then highlighted that under this proposed financing the loan goes with the building, and thus one doesn't have to worry whether the return on investment occurs during ownership because the next owner of the building will see a building that is more attractive since it's worth more and more energy efficient. In conclusion, Mr. Rose encouraged the committee's support for HB 118.

[9:09:44 AM](#)

REPRESENTATIVE DRUMMOND inquired as to how this legislation could benefit mixed use properties.

MR. ROSE said he couldn't speak to whether Fannie Mae or Freddie Mac have any involvement in mixed use loans, but he didn't believe they do. He opined that a mixed use building likely has a commercial loan and wouldn't be involved with Fannie Mae or Freddie Mac, and thus this financing would be available.

REPRESENTATIVE DRUMMOND asked if that would be the case even with a collection of separate owners. For example, a building in her district has 16 residential condominiums and 4-5 office condominiums all of which are owned by different entities and are financed separately.

MR. ROSE opined that a lot of the physical plan of the building is operated by one entity. The building likely has one large heating and cooling system and whoever owns and pays for that would take the PACE loan. He related his assumption that the energy costs are passed on to those in the building, but said he would have to see how the building is set up to answer.

REPRESENTATIVE DRUMMOND related her understanding from the online property tax assessments that this building is all electric, and therefore it's ripe for this kind of improvement. Still, Representative Drummond said she didn't see how the program proposed in HB 118 would cover this building unless the

definitions in the legislation are changed to include multi-owner and multi-use facilities.

MR. ROSE stated his agreement that it's important to expand the definition because the only limitation on using the PACE financing in residential areas has been at the federal level with Fannie Mae and Freddie Mac.

[9:13:04 AM](#)

VICE CHAIR SEATON questioned why one would assume that all Alaskans that could benefit from the PACE program are financing through Fannie Mae or Freddie Mac. He further questioned why a definition would be used that precludes all residential properties as if all of them were financed through Fannie Mae and Freddie Mac because there could be situations in which people have paid off their loans or utilize different financing. Therefore, Representative Seaton requested that Mr. Rose and the group that's working on this consider the aforementioned and whether the definition is constructed for reasons other than the program.

MR. ROSE related his belief that has been considered because even if one doesn't initially finance through Fannie Mae and Freddie Mac, most residential mortgages are ultimately held by Fannie Mae and Freddie Mac. He opined that the desire is to support a discreet program now and hopefully work with Congress and the president to tell Fannie Mae and Freddie Mac to allow this as it improves the collateral, whether it's a commercial or residential property.

VICE CHAIR SEATON reminded the committee that one of the reasons Alaska wasn't so caught up in the sub-prime mortgage crisis was because the Alaska Housing Finance Corporation (AHFC) holds the paper in the state rather than being sold to others. Therefore, he requested the aforementioned be considered in order to ensure Alaskans aren't being denied a possibility with AHFC.

[9:16:02 AM](#)

VICE CHAIR SEATON, upon determining no one else wished to testify, closed public testimony and announced that HB 118 would be held over.

HB 149-NATIVE CORP. ART. AMENDMENTS

[9:16:32 AM](#)

VICE CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 149, "An Act relating to an amendment of the articles of incorporation of certain Native corporations to establish a lower quorum requirement for shareholder meetings."

[9:16:48 AM](#)

REPRESENTATIVE LANCE PRUITT, Alaska State Legislature, speaking as the sponsor of HB 149, informed the committee that HB 149 was introduced at the request of the Native corporations in Alaska. He explained that a two-thirds vote of the corporation members in the affirmative is required to change the articles of incorporation for corporations formed prior to 1989, which is the case for most of the Alaska Native corporations. However, a vote of 50 percent in the affirmative is required to change the articles of incorporation for those corporations formed after 1989. Further, current statute includes a provision that allows a quorum requirement to be as low as one-third. Over the course of the last 40 years, Alaska Native corporations have experienced an increase in the number shareholders as newer and younger shareholders have joined while at the same time there has been a demographic shift of individuals leaving the villages and even Alaska such that they aren't able to attend annual corporation meetings. Therefore, there has been a decrease in the numbers of a quorum. He clarified that currently the Alaska Native corporations are meeting quorum requirements, but they recognize the aforementioned trends and want to address it before it becomes a problem. However, the Alaska Native corporations feel that there's virtually no way they can meet the two-thirds requirement to amend the articles of incorporation. The aforementioned is why the Alaska Native corporations have requested changing the articles of incorporation vote requirement to 50 percent so that they can reduce the quorum requirement for a meeting to one-third [of the shareholders entitled to vote at a meeting].

[9:20:35 AM](#)

REPRESENTATIVE NAGEAK, speaking as a shareholder of an Alaska Native corporation, related that he has observed the difficulties of obtaining a quorum first hand. Therefore, he viewed HB 149 as an opportunity to adjust the quorum requirements.

[9:21:29 AM](#)

VICE CHAIR SEATON opened public testimony.

[9:21:56 AM](#)

NICHOLA RUEDY, Director, Alaska Native Village Corporation Association (ANVCA), began by informing the committee that ANVCA is a nonprofit organization with a mission to provide services that will improve the efficiency, profitability, and stability of its member village corporations to provide a network of support and technical assistance. Currently, 60 village corporations belong to ANVCA. The ANVCA membership is comprised of representatives from the village corporations, which work collaboratively on issues they have in common to contribute to the future health of these groups by sharing knowledge and resources. Ms. Ruedy then related support for HB 149 as it could be used as a tool to change the quorum requirements for village corporations, which also face similar challenges as regional corporations in terms of voter turnout. In response to Vice Chair Seaton, Ms. Ruedy explained that the village CEOs didn't pass a resolution on this matter, but the board voted to support this issue. The board, which is comprised of nine board members all of which are CEOs of village corporations, voted unanimously to support HB 149.

[9:23:53 AM](#)

VICE CHAIR SEATON mentioned that it would be helpful to have a written statement from ANVCA to include in the bill packet.

[9:24:27 AM](#)

KIM REITMEIER, President, ANCSA Regional Association, informed the committee that the mission of the ANCSA Regional Association is to promote and foster the continued growth and economic strength of the Alaska Native Regional Corporations on behalf of the shareholders. She explained that the ANCSA Regional Association represents the chief executive officer of the 12 land-based regional Alaska Native corporations as well as the president of the Alaska Federation of Natives (AFN). Alaska Native corporations are owned by 116,000 Alaska Native people and when measured against the top 49 Alaska-owned companies, they account for 73 percent of the revenue earned, 66 percent of Alaskan jobs, 84 percent of the worldwide employment, and make up 22 of the top 49 Alaskan-owned companies. The ANCSA Regional Corporations have grown into an economic engine of Alaska. Ms. Reitmeier then related support for HB 149. As mentioned earlier, there has been a marked trend amongst shareholders in

which there has been a decline in voter turnout. She noted that while shares in Alaska Native corporations are limited in nature, the shareholder base of these corporations are growing through inheritance of shares and broadening eligibility requirements. Trend analysis relate that respected elders are always willing to turn out and vote, particularly those living within the region. However, younger shareholders and those living outside the state, the demographics for which are growing, are less likely to turnout to vote. In response to the aforementioned, Alaska Native Regional Corporations have initiated voter turnout initiatives including shareholder surveys and implemented incentives for voting. However, increases in prizes have only resulted in incremental improvements in voter turnout. This legislation provides the opportunity to address what could become a problem before it arises. The State of Alaska Corporation Code Section 10.06.415 sets the quorum requirements to hold an annual meeting for Alaska Native corporations at 50 percent plus one of shares eligible to vote. If an Alaska Native corporation fails to meet the aforementioned quorum, business at an annual meeting can't be conducted and directors can't be elected. Therefore, the current directors would remain in place until an election can be held. Under current law, a corporation's articles of incorporation can be amended to lower quorum requirements. However, current statute for corporations created prior to 1989, which includes nearly all Alaska Native corporations, requires a two-thirds vote of eligible shares in favor of the change. The legislation, HB 149, before the committee amends the statute to reduce the percentage of votes required to amend the articles of incorporation of corporations established prior to 1989 to change the quorum requirement. The articles of incorporation change would be limited to a change in the quorum requirements and no other change would be allowed under this statute change. Ms. Reitmeier explained that HB 149 would allow a change in a corporation's articles of incorporation, for those corporations established prior to 1989, such that a majority of the quorum is at least 50 percent plus one of the shares eligible to vote. In closing, Ms. Reitmeier summarized that HB 149 changes the standard for the number of votes required to consider changes to a corporation's articles of incorporation, which would allow for changes in quorum requirements. If the proposed HB 149 passes, shareholders must still vote to amend the articles of incorporation and shareholders must still vote to change the quorum requirements. The ANCSA Regional Association membership has reviewed the proposed change embodied in HB 149 and all 12 regional CEOs unanimously support HB 149 and letters in support of HB 149 have been submitted to the sponsor.

[9:29:43 AM](#)

REPRESENTATIVE REINBOLD emphasized the importance of getting younger people involved, but opined that she wasn't sure lowering the quorum requirement is the answer. Representative Reinbold clarified that she wouldn't oppose HB 149, but maintained concern with the direction of HB 149 and reiterated the need to involve young people. She then inquired as to whether all other options, such as voting by proxy, have been exhausted in an attempt to attract younger voters.

MS. REITMEIER assured Representative Reinbold that there have been discussions regarding strategies of voter engagement at various levels. In fact, the [ANCSA Regional Association] runs the Get Out the Native Vote campaign. The proposal in HB 149 is merely one avenue to address the issue.

[9:31:17 AM](#)

REPRESENTATIVE REINBOLD indicated the possibility of tying corporate dividends to voting in order to increase youth involvement.

REPRESENTATIVE PRUITT noted that he has examples of how Doyon, Limited, has specifically tried to address the issue.

REPRESENTATIVE REINBOLD said she has that information and opined that what Doyon, Limited, is doing isn't working.

[9:32:38 AM](#)

REPRESENTATIVE NAGEAK emphasized the need to understand the population dynamics of rural Alaska villages and cities where the population is very young. In fact, in some rural Alaska villages and cities over 60 percent of the population is "young" in comparison to his generation. Furthermore, the original shareholders are dying off and their shares are being passed on to others.

[9:34:25 AM](#)

VICE CHAIR SEATON referred to flow charts in the committee packet. The flow chart for quorum requirements says that under HB 149 the vote to change the quorum requirements for ANCSA corporations would change from the existing majority of eligible shareholders in person or by proxy to one-third of eligible

shareholders in person or by proxy. The flow chart for amending articles of corporation, on the other hand, shows that under HB 149 ANCSA corporations would move from the existing requirement of two-thirds of eligible shareholders in person or by proxy to the majority of eligible shareholders present.

MS. REITMEIER deferred to Mr. Schutt.

[9:35:27 AM](#)

AARON SCHUTT, Doyon, Limited, noting that he doesn't have the flow charts, related that the intent [with HB 149] is to change to a vote requirement of 50 percent plus one [of eligible shareholders] in person or by proxy. He related that for the last 20 years Doyon, Limited, has regularly experienced well over 90 percent of the votes cast in corporate elections being cast by proxy.

[9:35:57 AM](#)

VICE CHAIR SEATON requested that prior to the next meeting on HB 149, the sponsor work out the differences between the flow charts for the default provisions for quorum requirements versus for the default provisions for amending the articles of corporation.

[9:36:40 AM](#)

REPRESENTATIVE HUGHES questioned whether the flow chart entitled "Default Provisions for Amending Articles of Corporation" would be better if it reflected that the legislation is specifically for amending the quorum of the articles of corporation. She related her understanding that the legislation refers to the majority of eligible shareholders present is only for making the one change, [the quorum change].

REPRESENTATIVE PRUITT replied yes, and clarified that HB 149 specifically relates to changing the quorum requirements not other aspects of the articles of corporation [for ANCSA corporations]. An affirmative two-thirds vote would still be required to change other pieces of the articles of corporation.

[9:38:35 AM](#)

REPRESENTATIVE HUGHES, referring to the flow chart entitled "Default Provisions for Quorum Requirements," related her understanding that HB 149 merely makes ANCSA corporations have

the same quorum requirements as other corporations, including non-Native corporations, formed after 1989.

REPRESENTATIVE PRUITT answered yes.

[9:39:19 AM](#)

REPRESENTATIVE HUGHES surmised that there will continue to be challenges going forward as the younger generation becomes more mobile, regardless of whether he/she is from a village or an urban area. Therefore, she opined that the [changing demographics] may apply outside of Alaska Native corporations as well.

REPRESENTATIVE PRUITT noted his agreement, pointing out that voting trends illustrate the lack of engagement by youth or the utilization of other means to vote. He highlighted that Alaska Native youth have a unique opportunity/responsibility to be a part of a corporation, which is an extra burden that most youth don't have. Therefore, one can understand why a corporation isn't the first thing on the mind of an Alaska Native youth. However, as [the shareholders] age, they are likely to become more engaged.

[9:41:34 AM](#)

REPRESENTATIVE HUGHES characterized the movement and travel of her own children since high school as incredible compared to herself.

[9:41:59 AM](#)

REPRESENTATIVE DRUMMOND inquired as to whether HB 149 applies only to the Alaska Native Regional corporations or does it also apply to the Alaska Native Village corporations as well.

REPRESENTATIVE PRUITT clarified that AS 10.06.960 specifically relates to Alaska Native corporations, which includes both the regional and village corporations.

[9:43:23 AM](#)

REPRESENTATIVE DRUMMOND related her understanding that Alaska Native Village corporations are much smaller in terms of the numbers of shareholders.

REPRESENTATIVE PRUITT responded yes, adding that some of the smaller village corporations wouldn't be able to perform marketing campaigns, such as that by Doyon, Limited, to encourage attendance and participation.

[9:44:12 AM](#)

REPRESENTATIVE DRUMMOND asked if all 12 corporations of the ANCSA Regional Association and AFN agree with the need for the proposed change in the quorum requirements.

MS. REITMEIER replied yes, reiterating that the vote was unanimously in support.

[9:44:47 AM](#)

REPRESENTATIVE HUGHES, referring to the flow chart entitled "Default Provision for Quorum Requirements," asked whether any non-Native corporations formed prior to 1989 would benefit from this proposed quorum change in HB 149. If so, she asked whether the proposed quorum change in HB 149 should be allowed for all corporations formed prior to 1989.

REPRESENTATIVE PRUITT characterized extending the change embodied in HB 149 to non-Native corporations as a policy question. He noted that although he hasn't heard from such corporations, he hasn't sought responses from non-Native corporations formed prior to 1989. Therefore, he said he couldn't speak to the ramifications of extending this to all corporations formed prior to 1989 since he didn't know if they face the same challenges as Alaska Native corporations formed prior to 1989.

[9:47:20 AM](#)

REPRESENTATIVE HUGHES offered that she would be open to expanding the legislation to non-Native corporations formed prior to 1989, if they were interested in the option. She inquired as to whether the sponsor would consider the aforementioned.

REPRESENTATIVE PRUITT answered that he doesn't have an issue with offering the same for non-Native corporations formed prior to 1989. However, the legislation would need to be changed as currently it amends statute that specifically relates to Alaska Native corporations. Although Representative Pruitt felt it would be acceptable to apply the proposed change to non-Native

corporations formed prior to 1989, he emphasized that Alaska Native corporations have a unique challenge in which youth automatically become shareholders, which is unlikely to be the case in non-Native corporations formed prior to 1989.

[9:49:08 AM](#)

REPRESENTATIVE NAGEAK pointed out that there is a difference between publicly owned corporations and regional corporations. For instance, shares of publicly traded corporations are different in that they are purchased rather than transferred as is the case in regional Native corporations. He informed the committee that in regional corporations those born after 1974 have 100 shares, but the original shareholders can transfer their shares to others.

[9:50:45 AM](#)

REPRESENTATIVE HUGHES commented that she is of the mindset that if the quorum requirements for non-Native corporations isn't problematic, then it's not necessary to address it. She also said she understood the unique situation of Alaska Native corporations.

[9:51:22 AM](#)

VICE CHAIR SEATON remarked that expanding the proposal in HB 149 to corporations beyond Alaska Native corporations without input would be difficult. Furthermore, including non-Native corporations in HB 149 would require more time in terms of obtaining agreement from all corporations throughout Alaska whereas all Alaska Native corporation heads have unanimously supported HB 149.

[9:52:44 AM](#)

REPRESENTATIVE DRUMMOND related her personal experience as the president of a board of a homeowners' association that runs the water delivery system in her neighborhood. That association has the ability to change its own bylaws and articles of corporation, as she was sure most corporations in Alaska have. In fact, the association had to change its quorum requirements last year because it was unable to obtain enough homeowners to conduct business. Representative Drummond said she was fairly confident that most non-Native corporations have the ability to alter their own articles of incorporation and bylaws. Therefore, she noted her agreement with Vice Chair Seaton that

the committee should just address HB 149 as it relates to Alaska Native corporations.

[9:54:14 AM](#)

REPRESENTATIVE PRUITT offered to perform due diligence in terms of reaching out to non-Native corporations established prior to 1989, although he surmised that they are totally different.

[9:54:53 AM](#)

VICE CHAIR SEATON reiterated his request for revised flow charts for the next meeting on HB 149.

[9:55:21 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:55 a.m.