

HOUSE FINANCE COMMITTEE
March 17, 2015
1:32 p.m.

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CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 1:32 p.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair
Representative Steve Thompson, Co-Chair
Representative Dan Saddler, Vice-Chair
Representative Bryce Edgmon
Representative Les Gara
Representative Lynn Gattis
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Lance Pruitt
Representative Tammie Wilson

MEMBERS ABSENT

Representative David Guttenberg

ALSO PRESENT

Jane Pierson, Chief of Staff, Representative Steve Thompson; William G. O'Leary, President and CEO, Alaska Railroad Corporation; Linda Leary, Board Chair, Board of Directors, Alaska Railroad Corporation; Representative Wes Keller, Sponsor; Commissioner Michael Hanley, Commissioner, Department of Education and Early Development;

SUMMARY

HB 30 CONSTITUTIONAL HISTORY CURRICULUM

HB 30 was HEARD and HELD in committee for further consideration.

HB 140 LEG. APPROVAL: AK RAILROAD REVENUE BONDS

HB 140 was HEARD and HELD in committee for further consideration.

#hb140

HOUSE BILL NO. 140

"An Act authorizing the Alaska Railroad Corporation to issue revenue bonds to finance a positive train control rail transportation safety project that qualifies for federal financial participation; and providing for an effective date."

Co-Chair Thompson reviewed the meeting agenda and indicated he would not be moving either of the scheduled bills out of committee.

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JANE PIERSON, CHIEF OF STAFF, REPRESENTATIVE STEVE THOMPSON, introduced herself and told a personal story about riding on the Alaska railroad from Seward to Anchorage. She read the sponsor statement:

HB 140 will authorize the Alaska Railroad Corporation (ARRC) to issue up to \$37 million in tax-exempt bonds backed by Federal Transit Administration (FTA) formula funds received annually by ARRC. Bond proceeds will be used to finance Positive Train Control (PTC): a safety program mandated by the federal government without any correlating funding, which is estimated to cost ARRC approximately \$158 million.

ARRC proposes to refinance \$66 million in existing bonds and extend the repayment date in order to issue an additional \$37 million in bonds to pay for a major portion of the remaining \$55 million in PTC costs.

Under AS.42.40.285 ARRC is required to receive legislative approval to issue bonds. In no event will the general credit of the State of Alaska or ARRC be pledged for the repayment of these bonds. AS.42.40.500 requires that all liabilities incurred by ARRC shall be satisfied "exclusively" from the assets or revenue of ARRC and not the State.

Debt payment for the bonds will come from a portion of Federal Transit Administration (FTA) formula funds

which are statutorily mandated by Federal law and received annually by ARRC. Issuing debt backed by FTA formula funds is authorized through FTA regulation and has already been used by ARRC to issue bonds.

PTC is technology designed to stop or slow a train before human-error causes an accident to occur. In 2008, the federal Rail Safety Improvement Act required certain railroads to install a fully functional PTC system by the end of 2015; by virtue of its passenger service, ARRC is subject to this requirement. A failure to implement PTC will force ARRC to severely curtail or eliminate passenger service and/or face severe fines for non-compliance.

Estimates for this large research and development project indicate that it will cost approximately \$158 million to implement. Since 1997, ARRC has invested \$68.9 million to develop a PTC system. In 2013 and 2014, ARRC received an additional \$19.1 million and \$15 million respectively from the State of Alaska to continue work on PTC. Between 2016 and 2018, an additional \$55 million will be required for ARRC to complete the development and installation of PTC by 2018. This figure does not include the estimated \$5 million to \$7 million per year of operating and capital maintenance costs related to the system that ARRC will fund after PTC is installed.

She added that the bond issuance would leave the additional \$18 million to complete the project for the funding package. She noted that if ARRC did not show that it was making a good-faith effort to implement PTC, the Federal Railroad Administration could implement fines up to \$100 thousand per day. She concluded her introduction of the bill and mentioned that Bill O'Leary, ARRC's President and Chief Executive Officer, and Linda Leary, ARRC's Board Chair were in the audience available for questions. She also indicated Barbara Amy, ARRC's Chief Financial Officer, was online and available for questions.

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Co-Chair Thompson relayed that Co-Chair Neuman and Representative Gattis had joined the meeting and asked if any committee members had questions.

Vice-Chair Saddler wondered if anyone had any ideas on how to increase revenue to pay for the additional \$5 million to \$7 million per year for the operational expense of the PTC system.

WILLIAM G. O'LEARY, PRESIDENT AND CEO, ALASKA RAILROAD CORPORATION, responded that the \$5 million to \$7 million would be the ongoing costs to maintain the system once installed. He anticipated taking the maintenance funding from the railroad's operating and capital budgets. The railroad had been in a series of flux with the drops in key revenue streams including federal monies. He thought that funding would be a challenge starting in 2019.

Co-Chair Thompson asked about how much gross revenue the state received from passenger service.

Mr. O'Leary estimated that the annual gross revenue for passenger services was between \$26 million to \$27 million. He reported that passenger activity had grown over recent years.

Vice-Chair Saddler asked Mr. O'Leary if the cost of the PTC was paid for through passenger fees. Mr. O'Leary responded in the negative. He signified that ARRC would be exploring different revenue options. He opined that the railroad was operating in a competitive market place and raising fees could lead to more competition. He assured the committee that ARRC would be reevaluating its entire fee structure.

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Representative Gara commented that over the years the railroad had not made a consistent net revenue. He wondered about the railroad's net revenue in real estate operations, for example, over the previous five years. Mr. O'Leary responded that the revenue bonds would not be a credit for ARRC. He continued that the only supporting revenue stream for the bonds would be the Federal Transit Administration (FTA) formula monies, federal monies the railroad received annually. He relayed that over the previous ten years ARRC had received between \$29 million to \$36 million per year in FTA funds. The funds came as a result of ARRC offering year-round scheduled passenger service. The corporation itself had a net income of \$11 million to \$14 million over the previous five years.

Representative Gara asked if Mr. O'Leary had full confidence that the railroad would be able to repay the revenue bonds.

Mr. O'Leary responded that since the credit of the railroad would not be supporting the bonds, the only revenue that would be applied were FTA monies. He furthered that FTA funds were up for reauthorization in congress as part of the national transportation reauthorization. He explained that the funding that ARRC received was part of formula monies that supported many other passenger train lines all over the country. He expressed his confidence in the funds continuing into the future. Otherwise, he surmised there would be too great an impact on the populous of the states.

Representative Gara commented that the bill seemed fine. He expressed concern that the railroad would come back to the state for funds to pay for the bonds in the future. For example, if ARRC received \$30 million in federal funds but began to lose more than that as a railroad operation, he wondered if ARRC would come to the state for additional funds. He wanted to know whether Mr. O'Leary was confident that ARRC had enough internal revenue to avoid coming to the state for help with the bond repayment.

Mr. O'Leary responded, "Yes." He explained that the bond indenture was written such that the bond holders' debt service payments were made before the federal revenue could be used for any other purpose.

Representative Gara suggested that ARRC had been making approximately \$11 million to \$14 million in net revenue. He wondered if it included the \$29 million to \$36 million from the federal government. Otherwise, he surmised ARRC was losing money.

Mr. O'Leary responded positively that the net revenue included the federal funds. However, the monies that came in did not flow into net income. The funds were used for capital activities. He continued that the FTA funds were used for debt service first and then for capital activities.

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Representative Gara wanted to confirm that ARRC would be revenue positive even without FTA funding. He asked that if

ARRC was using the FTA money for capital expenses and the funds were now pledged to pay for the revenue bond, was there any foreseeable circumstance in which ARRC would have to come to the state for additional money. He wondered if ARRC would always have a positive net revenue.

Mr. O'Leary stated that in his view there would be sufficient revenue and that ARRC would not be coming to the state for any kind of operating subsidy.

Representative Wilson asked about funding for the previous two years.

Mr. O'Leary responded that in the past two years ARRC had received state general fund (GF) monies totaling \$34 million. Prior to that, since 1997, AARC used federal monies including ear marks and formula funds, and revenue generated from internal railroad operations.

Representative Wilson asked why ARRC was not asking for GF monies.

Mr. O'Leary replied that ARRC started out looking for GF monies, but was quickly disabused of the notion. Alaska Railroad Corporation (ARRC) was challenged by members of the [Finance] committee to think creatively about how to move the project forward without \$55 million in GF funding.

Representative Wilson thanked Mr. O'Leary for his efforts.

Vice-Chair Saddler asked if other states had used their FTA revenue stream to pay for PTC. He wondered if Alaska's approach had been used previously.

Mr. O'Leary confirmed that the approach had been used in other states. He furthered that ARRC had used the approach in 2006 when the railroad issued its first bonds.

Vice-Chair Saddler asked how it had worked for the state in the past and for other railroads.

Mr. O'Leary believed that it had worked well for ARRC and for other railroads to leverage FTA funds. The funds were consistent, coming from FTA, and provided the opportunity to finish projects that would have otherwise taken much longer to complete.

Vice-Chair Saddler asked about the federal funding stream. He wondered if it stemmed from a freight surcharge or if it was a full faith in credit with the federal government. Mr. O'Leary relayed that the monies came from the mass transit account in the highway trust fund.

Vice-Chair Saddler asked how the highway trust fund was fueled. Mr. O'Leary responded that the fund was augmented by a federal gas tax.

Representative Kawasaki suggested that in previous committee meetings with Department of Transportation and Public Facilities it was reported that the federal highway trust fund was shrinking. He wondered how ARRC would be affected.

Mr. O'Leary indicated that there was risk in the federal reauthorization concerning how the highway trust fund would be funded and at what levels. However, congress was investigating different approaches alternate to a flat gas tax. He noted the possibility of a mileage-based approach. Alaska Railroad Corporation believed the outflows from the federal government would continue in a similar form.

Co-Chair Thompson signified that his understanding was that the bond holders were aware of the risk of FTA dollars going away.

Mr. O'Leary responded affirmatively. He reported that there were very explicit disclosures on all of the bond-offering documents that showed there was no pledge of full faith in credit of the state, nor of ARRC, but rather the only security for the bonds was the formula money that ARRC received from FTA.

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Co-Chair Thompson asked if the timing was critical for ARRC to secure the bonds in the current year.

Mr. O'Leary responded that the timing was extremely critical. The railroad was not quite living hand-to-mouth on the project but explained that ARRC would need to have an infusion of cash by June 2015 or July 2015.

Vice-Chair Saddler wonder about the interest rate associated with the bonds. Mr. O'Leary reported that the

modeling ARRC was doing with a financial advisor was based on an interest rate below 2.5 percent.

Co-Chair Thompson commented that if the state waited a year the interest rate could jump to 5 percent or 7 percent. He added that an interest rate of 2.5 percent was a good rate.

Vice-Chair Saddler asked about what would happen if ARRC did not receive authority from the legislature in the current year.

Mr. O'Leary stated that ARRC would have a significant problem. He elaborated that the railroad would not be able to enter into any further contracts or spend additional funds which would result in the project coming to a complete halt. Alaska Railroad Corporation would not be acting in good faith in the eyes of the Federal Railroad Administration, the railroad regulator. The consequences of not implementing PTC within the designated timeline could lead to fines of up to \$100 thousand per day and eventually the inability to provide passenger service. He noted that not only would ARRC lose \$26 million to \$27 million in gross revenues for passenger service, ARRC would no longer be eligible to receive FTA funding. There would be a very different model for ARRC going forward. He referred to it as a, "death spiral."

Vice-Chair Saddler followed up by asking if it was possible that the Federal Railroad Administration would issue waivers for the PTC requirement.

Mr. O'Leary responded in the negative. He relayed that he had recently been in Washington D.C. the prior week to meet with Alaska's congressional delegation and with federal regulators. He cited that the consistent message from all parties was that there was no way for ARRC to get out of meeting the PTC requirement.

HB 140 was HEARD and HELD in committee for further consideration.

Co-Chair Thompson relayed a personal story about Mr. O'Leary's mom.

Representative Gara interjected that he knew that Linda Leary was a good fisherman.

LINDA LEARY, BOARD CHAIR, BOARD OF DIRECTORS, ALASKA RAILROAD CORPORATION, thanked the committee for hearing HB 140 and admitted to loving to fish.

Co-Chair Thompson acknowledged Sharon Kelly from the Speaker's office and wished her a happy birthday. He followed by bringing up the next agenda item, HB 30.

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#hb30

HOUSE BILL NO. 30

"An Act requiring school districts to develop and require completion of a history of American constitutionalism curriculum segment; and providing for an effective date."

REPRESENTATIVE WES KELLER, SPONSOR, began by reading from the sponsor statement:

CS for House Bill 30 will require the Alaska's Department of Education and/or organized school districts to implement curriculum segments within civic or history courses centering on 15 years of American History critical to the creation of our country. The program will concentrate on the documents that so many people have lived and died for over the past 239 years. Included in the course work will be an understanding of the Declaration of Independence, first state constitutions, Articles of Confederation, and the U.S. Constitution.

Representative Keller proposed that American constitutionalism was a beacon. He read from HB 30 beginning on page 1, line 14:

(2) American constitutionalism represents this country's greatest gift to human freedom; its ideals, ideas, and institutions have influenced different people in different lands at different times.

Representative Kelly suggested that it was best illustrated with a story. He relayed that approximately 90 to 100 years after the constitution was passed the French had warm feelings towards America. He opined that America would not be a nation without the French having helped with money and

troops. He continued to explain that the French American founders were dead after 90 years and most likely only their grandchildren were alive. He relayed that at the time France was under the monarchy of Napoleon III, who was known to be oppressive. The French came up with the idea of building Americans a statue, the Statue of Liberty. The official title of the Statue of Liberty was, "The Liberty and Lighting of the World." Some of the influential people in France wanted to install a marker to remind them of what was happening in the world. He conveyed that the French were impressed with what Americans took for granted; inalienable rights of human beings such as life, liberty, and the pursuit of happiness. The Statue of Liberty was given to the U.S. by the French as a reminder to the world about American freedoms. He remarked that there was an impressive amount of symbolism in the statue including the torch and the crown on the woman's head with seven points representing the seven continents and the seven seas. He reiterated that the statue was a beacon to mankind of what had been enshrined in the great country of America. He pointed out the tablet tucked under the woman's arm and explained that it was a symbol of the rule of law rather than of a monarch. He reiterated that Americans took some things for granted. There were broken chains at the feet of the Statue of Liberty representing the consequences of the values of the U.S. Constitution resulting in enslavement. He provided another interesting fact that July 4, 1776, the date of the Declaration of Independence, was listed on the tablet. He stressed the document's profoundness as it related to America's constitutionalism.

Representative Keller informed the committee that HB 30 was an unfunded mandate. In his estimation it was a soft mandate because high stakes were not involved.

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Representative Keller read from a letter of support from the Mat-Su School District to the committee:

The Mat-Su Borough School District would like to offer support for HB 30, Constitutional History. It embeds the teaching of the Constitution and the teaching of the original documents that helped our country and governing system in our required civics course. We concur with the importance of this.

Representative Keller reported that the school district also spoke against a mandated test which he confirmed was not part of the curriculum requirement in HB 30. He continued to explain that the bill was an unfunded mandate and suggested that many school districts were already teaching the curriculum. He voiced that all schools should be teaching American constitutionalism, as the curriculum covered fundamental issues to the U.S. He was concerned with people forgetting the country's history. He communicated that when he reread the history of the Statue of Liberty he realized how much he had taken for granted. He appreciated the reinforcement that came from reviewing the history. He indicated he was open to questions from the committee.

Co-Chair Thompson read from page 19 of the Alaska Standards: Content and Performance Standards for Alaska Students:

A student who meets the content standard should:

- 1) understand the ideals of this nation as expressed in the Declaration of Independence, the United States Constitution, and the Bill of Rights;
- 2) recognize American heritage and culture, including the republican form of government, capitalism, free enterprise system, patriotism, strong family units, and freedom of religion;
- 3) understand the United States Constitution, including separation of powers, the executive, legislative, and judicial branches of government, majority rule, and minority rights;
- 4) know how power is shared in the United States' constitutional government at the federal, state, and local levels;
- 5) understand the importance of individuals, public opinion, media, political parties, associations, and groups in forming and carrying out public policy;
- 6) recognize the significance of diversity in the American political system;

7) distinguish between constitution-based ideals and the reality of American political and social life;

8) understand the place of law in the American political system; and

9) recognize the role of dissent in the American political system.

Co-Chair Thompson asked if the bill was creating duplication or adding to the list of the already established standards.

Representative Keller responded that from his perspective he wanted an additional history requirement. He crafted the bill such that the curriculum was a segment that could be inserted where appropriate such as in a civics course. He claimed that his legislation added emphasis to the established standards. He was unclear about the details of how well the standards were fulfilled.

Co-Chair Thompson asked Commissioner Hanley if the bill was duplicative and whether schools were abiding by the current Alaska Content Standards.

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COMMISSIONER MICHAEL HANLEY, COMMISSIONER, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, confirmed that the standards in Representative Keller's bill were in the Alaska Content Standards. He commented that the bill clarified a couple of components that were implied in the standards but were pointedly emphasized in HB 30.

Co-Chair Thompson asked Commissioner Hanley if the bill would result in additional monies and costs to the school districts.

Commissioner Hanley pointed out that there was a responsibility to the state's school districts in that the chief administrator of each school would have to develop and submit a syllabus to the governing body. He explained that it was not a separate course, but a curriculum segment that would be incorporated into a course. He believed that many of the school districts were already teaching the segment content in their current curriculum. However, he

claimed there would be some schools that would need to make some additions and changes.

Vice-Chair Saddler asked if the commissioner felt that the Alaska Content Standards already covered the content.

Commissioner Hanley indicated that there could be duplicity. However, he noted that the foundational documents specified in the bill were not directly represented in the Alaska Content Standards. House Bill 30 would bring greater focus on particular components.

Vice-Chair Saddler asked if the commissioner saw the requirements of the bill as teaching the U.S Constitution or constitutionalism.

Commissioner Hanley wondered if Vice-Chair Saddler was asking for his interpretation of the sponsor's bill.

Vice-Chair Saddler responded affirmatively.

Representative Keller explained that the reason "ism" was included in the bill was because his intent was to incorporate the values around the U.S. Constitution. He was concerned with including the values that were in the minds and hearts of the American founders. He claimed that looking at the values was important and distinctive to HB 30.

Representative Keller wanted to make a clarification. He relayed that he had said previously that his school district supported the bill based on a letter of support from Mr. Gene Stone, Assistant Superintendent of Instruction for the Matanuska-Susitna Borough School District. However, Mr. Stone was not necessarily speaking on behalf of the school district. He wanted to stress the point of correction.

Representative Gara informed the committee that the Matanuska-Susitna Borough School District and the Anchorage School District taught U.S. History and included the U.S. Constitution, the Bill of Rights, and the Declaration of Independence as part of the course curriculum. He was unable to find any district in the state that did not include these items. He asked Commissioner Hanley if knew of any district that did not include them.

Representative Keller conveyed that he did not believe there was enough understanding of the historical issues brought forth in his bill. He admitted that his view was subjective based on his children's educational experience and his own.

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Representative Gara reiterated that Alaska's Content Standards already required the teaching of the U.S. Constitution, the Declaration of Independence, and the Bill of Rights. Commissioner Hanley had commented that there were different foundational documents specified in the bill on page 2, paragraph 4 [line 5-10]. He wanted to know if Commissioner Hanley was referring to the first 15 years-worth of documents.

Mr. Hanley responded affirmatively.

Representative Gara expressed some concern. Currently the state was required to teach the full U.S. Constitution, the Bill of Rights, and the Declaration of Independence. He cited that paragraph 4 on page 2 talked about the special importance of the first 15 years of documents. Events such as a woman's right to vote, the right to vote regardless of race, the abolishment of slavery, and the adoption of the equal protection clause all occurred following the first 15 years of U.S. history. He expressed concerned with the latter items were of less importance. He wanted clarification about the emphasis in HB 30 placed on the foundational documents versus the emphasis in the current standards.

Representative Keller responded that, in his view, many of the things that have gone right in the U.S. including the ending of slavery, the increase of women's rights, and the increase in human rights were products of the "ism" portion enshrined within the first 15-year period of U.S. history. He believed the history that Representative Gara mentioned was in large part based on the values evident in the early documents. He added that the list of the documents was not exclusive. He suggested that the bill emphasized the values of the time period which made America great. He opined that the documents were instrumental in changing and enhancing human rights. He suggested that a student who was trying to determine whether something was a violation of human rights

would be at an advantage knowing the basis of American values and their origins.

Representative Gara commented that the parts of the constitution that came after the first 15 years including the abolishment of slavery, a woman's right to vote, and the right for all races to vote, were equally important. He wondered if they would continue to be taught in the classroom. He asked Commissioner Mr. Hanley how the bill was different from the current mandated curriculum. He wanted clarification about the difference Commissioner Hanley had referred to earlier in the meeting.

Representative Keller clarified that the bill in no way restricted the history curriculum. He stressed that HB 30 was an emphasis bill on American constitutionalism.

Representative Gara wondered how the bill was different from the requirements outlined in the established standards.

Mr. Hanley stated that the bill was duplicative for some school districts. He relayed that some districts that were not specifically addressing documents such as the Federalist Papers might have to make some adjustments to their curriculum with the passing of HB 30.

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Representative Kawasaki asked if there were any districts not teaching the curriculum. He mentioned that he learned how a bill became a law in the second grade through a School House Rock video.

Mr. Hanley relayed that he was not aware of any school districts that were not already teaching Alaska's content standards.

Representative Kawasaki referred to Section 2 of the bill which required secondary schools to teach a defined curriculum. He then made reference to Section 3b which said that a district could not issue a diploma to a student that did not successfully complete the course. He provided a hypothetical scenario in which a student falls asleep during a government class. He wondered under such circumstances if the student would remain eligible to receive a diploma.

Representative Keller responded in the negative. He suggested that the bill required the administrator of schools to provide the course description in a syllabus. The idea was to ensure that the student knew the curriculum through testing. He returned to the question about the bill being duplicitous. He pointed out that the state standards were not state law. He wanted to place higher emphasis on the curriculum even if the bill was crafted to match the Alaska State Standards verbatim. He wanted the curriculum placed in statute.

Representative Kawasaki asked if there were any statutory requirements dictating students to take a certain number of math or English classes.

Mr. Hanley highlighted Alaska Studies as the only course requirement defined by either law or regulation.

Representative Kawasaki wondered if the rest of the courses were part of Alaska's regulations.

Mr. Hanley responded that the Alaska State Standards were adopted by reference into regulation.

Representative Kawasaki asked the bill sponsor about the first couple of legislative findings and the use of the word values. He asked if Representative Keller thought it was the responsibility of state schools to teach values.

Representative Keller responded affirmatively in regards to constitutionalism values. He suggested that the values were the foundation of the United States, the basis for the country's liberty, and the reason for so many people going to war to defend the country. He pointed out that the values he was referring to were not ones he was defining, but were ones captured in the word "ism" specifically related to the early state constitutions, the Declaration of Independence, the Articles of Confederation, the declaration articles, and the Bill of Rights. He believed the state was in danger of taking the information for granted.

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Co-Chair Thompson mentioned that there was a question about whether there were any school districts that did not teach

the U.S Constitution. He read from a letter from the Alaska Municipal League (AML):

While the concept of teaching our young people the basics of our U.S. Constitution is a laudatory goal, it seems that this is not the time to put one more unfunded mandate in front of all of Alaska's school districts. On introduction of the bill, you mentioned that most schools are already doing this, so you visualize very little cost involved. While Anchorage may be doing this, I am fairly certain that this is not necessarily being done in Craig, Dillingham, Galena, Hoonah, Hydaburg, Kake, King Cove, Klawock, Pelican, Saint Mary's, Seldovia, and Tanana (all First Class cities responsible for their own school district).

He conveyed that AML expressed concern and disfavor about instituting an unfunded mandate for new curriculum for the above listed schools.

Representative Wilson asked Commissioner Hanley if there would be a problem incorporating the proposed curriculum into the Alaska Content Standards.

Mr. Hanley offered that he could take the request to the state board for consideration. He outlined the process; the board reviewed the current state standards, evaluated how the additional curriculum would be folded into the standards, allowed for a period of public comment, and submitted a proposal for adoption. He mentioned the value of having changes placed into statute as well.

Representative Wilson was concerned that some schools in Alaska were not teaching the Alaska Content standards. She relayed that she had spoken previously to some of the schools in her district and did not find any that were not teaching the curriculum. She asked the bill sponsor, referring to page 2, about the language used, specifically the word ensure. She wondered how a school would ensure a student's understanding of American constitutionalism. She provided a personal illustration; she explained that in eighth grade a student had to know elements of the state's history. A student had to be able to identify the state comptroller and the governor. She relayed that in high school she had to know similar information proven in an exam. She wanted to know how to measure a student's

knowledge. She also pressed for the definition of "successful" in terms of a grade.

Representative Keller explained that the reference to ensuring a student's knowledge was meant to describe the syllabus. He furthered that a syllabus was a description of a course that defined content, hours, and perhaps a classroom discussion to measure success rather than a grade. He referred to page 2, line 26 that provided the standard; successfully completing the course. He stated that it was conceivable that the syllabus might not be based on testing but rather on attendance and class participation. He trusted the teachers to ensure that students learned the curriculum. He believed that there was a sincere effort by the teachers and the administrators within Alaska to provide students with the information. He added that there was no standard test to measure a student's knowledge of the curriculum. He elaborated that the syllabus defined what information the teachers needed to present to students. He added that it was part of the job of a teacher.

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Representative Wilson asked who determined the completion of a course. She asked if there would be an indicator on a transcript. She also wondered how and where a teacher would report that a student completed a course.

Representative Keller replied that the intent of the bill was not to micromanage. He furthered that successful completion would be when a child successfully completed the course in which the curriculum segment was embedded. He remarked that it was a simple mandate instructing a school district to get the job done.

Representative Wilson suggested that her point was that if a child were to change districts, one school board might have a different interpretation than another. She opined that the curriculum was not clearly defined. She did not want a student to have to retake a segment.

Representative Gattis thanked the sponsor for bringing the bill forward and instigating the conversation. She asked if there were any changes from the old and new standards in regards to the bill.

Mr. Hanley responded that the social studies standards remained unchanged. He reported that the English, Language Arts, and math standards had been altered. He mentioned that in Alaska's English and Language Arts section, previously referred to as reading and writing, specific documents were identified such as the preamble to the Declaration of Independence and other foundational documents.

Representative Gattis asked about how to determine if the standards were currently being taught statewide. She stated that a bill could be crafted to ensure that the standards were being taught. She noted that the bill sponsor mentioned trusting the teachers to do their job. She wondered how the Commissioner knew whether teachers were teaching the state's standards.

Mr. Hanley commented that the Department of Education and Early Development (DEED) did not micromanage teachers. He was disappointed and concerned to hear that districts had voluntarily said that they were not teaching Alaska Content Standards. He relayed that the department did not review each district's curriculum to see if they were teaching to the standards. Instead, reading, writing, and math were assessed. The state did not have a separate assessment for social studies, nor was he promoting one. The responsibility belonged to local school districts.

Representative Gattis commented, "There lies the bigger problem." She better understood the bill sponsor's concern. She relayed that she had been on the Mat-Su school board and had experience in dealing with civics classes. She noted that districts were able to choose what part of the standards to focus on. She opined that the state was not doing what it had done 30 to 40 years prior. She wanted to know who was responsible for ensuring that the schools were teaching what the state paid in significant funding to teach in Alaska's schools.

Mr. Hanley answered that the responsibility laid in the hands of the local school boards. He communicated that school boards adopted their district's school curriculum to be aligned with the state's standards. He shared that when the department found that districts were not in compliance or not following through with their responsibilities the department then followed through. He added that the

department did not have the staff to review each district's curriculum to ensure alignment.

Representative Gattis thanked Commissioner Hanley.

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Vice-Chair Saddler commented that he did not see any intent in the language of the bill or in the sponsor's words, referring to page 2, lines 5 through 10, that slighted the changes made over time to the U.S. Constitution. Nor did he note any desire to limit the scope of the curriculum segment to just the first 15 years of the U.S. Constitution. He relayed that it simply said that the U.S. Constitution was one of several foundational documents written over 15 years that should be the subject of consideration. He asked if the bill required each school district to develop its own curriculum segment, or if it was possible for school districts that currently offered appropriate segments to share them with other districts for adoption.

Representative Keller reassured the committee that it was not his intent for every school district to design a unique curriculum segment. He suggested that one of the advantages of the bill was that the smaller districts could borrow curriculum from other districts. He highlighted that in his district a class called in with enthusiasm regarding HB 30. The teacher of the class had already developed a curriculum segment. He knew the teacher personally and was certain the curriculum could be made available to any district upon request. He shared that he had written curriculum in the past and that it was a significant job. He surmised that with knowledge of the subject it might take a teacher a day or two to design the specific curriculum segment required in the bill.

Vice-Chair Saddler suggested that while the bill created an unfunded mandate it would not necessarily be an expensive mandate for many of the school districts in Alaska. There were districts that already had such curriculum segments in place. He thought it would be cost-effective for all districts in Alaska to adopt a curriculum currently being taught.

Representative Kawasaki asked if the sponsor's definition of the word constitutionalism was the meaning written by David Fellman.

Representative Keller replied that the content of the bill was the closest to the definition of constitutionalism. He referred to page 2, line 20 which read American Constitutionalism "as portrayed" in the documents listed. He explained the reason he used the term was because of an inspirational text book titled, "American Constitutionalism: A Shot Heard Around the World." The author called attention to nations around the Atlantic rim being impacted by observing what happened in America, trying to duplicate it in their own country, and experiencing varying levels of success. The author traced America's history. The sponsor confirmed that he was intrigued with the book and felt the term was easy to understand.

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Representative Kawasaki did not feel that the term, constitutionalism, was easy for him to understand. He suggested that Representative Keller had just used the word itself to define constitutionalism. He speculated that if the sponsor was using the definition by David Fellman it would be easier to understand.

Representative Keller asked about the document Representative Kawasaki referenced.

Representative Kawasaki responded that it was a document that was submitted by the bill sponsor. He indicated that the document titled "Constitutionalism" quoted David Fellman, a constitutional scholar. The document was part of the bill packet.

Representative Keller stated that it was included in order to provide context and an additional reference.

Representative Kawasaki read from David Fellman's definition of constitutionalism:

"Whatever particular form of government a constitution delineates, however, it serves as the keystone of the arch of constitutionalism, except in those countries whose written constitutions are mere sham."

Representative Kawasaki continued reading:

"This is by no means a modern idea, for the concept of a higher law which spells out the basic norms of a political society is as old as Western civilization."

Representative Kawasaki wondered if the state was only teaching constitutionalism under Western civilization.

Representative Keller responded affirmatively. He added that the point was that American constitutionalism had a huge impact on the world. He emphasized that children went to war to defend the U.S. Constitution. He observed that there was nothing in the bill that said the teacher or the school district should brainwash their children to think just like Western America. He believed that a student had the right to have a better understanding of the country's history and the principles that were in place when the U.S. Constitution was written. He felt that it was a weak argument to suggest that kids should not know their history. He relayed that it was Western in the sense that America was Western.

Representative Kawasaki elaborated that the author went on to say that it was the concept of a limited government. He proposed that the line of thinking was the opposite of current thought. He highlighted the irony of hearing and almost passing a bill on the previous day that he thought was entirely unconstitutional.

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Co-Chair Neuman asked Mr. Hanley if DEED would have to hire additional positions to enforce the curriculum. Mr. Hanley clarified the difference between standards and curriculum. He voiced that standards were simply expectations such as reading, writing, math, and content standards for social studies that had not been updated recently. He believed that the requirement fit well into the state's current content standards which did not need updating. Districts would continue to be responsible for determining how to meet the standards with their own curriculum choices.

Co-Chair Neuman referred to page 2, Section 3b, lines 25-27. He read the portion of the bill:

A district may not issue a secondary school diploma to a student who does not successfully complete the course in which the curriculum segment described in (a) of this section is contained.

He spoke about legislation from the previous year that allowed DEED to retroactively issue diplomas to students that had not passed the high school graduation qualifying exam (HSQED). He asked how students would receive their diploma. He was unclear.

Mr. Hanley explained that in the previous year legislation removed the HSQED, a barrier assessment. He noted that if students had met all other criteria including their curricular course requirements to graduate and the HSQED was the only thing stopping them they could request to receive their diploma. They were required to meet all other course requirements. It did not allow school districts to remove courses, it only allowed them to use the assessment as the barrier to a student's diploma. He anticipated that if the bill passed it would be a required social studies course for graduation. Regulations would likely be added to clarify that the components proposed in the bill would need to be included into another social studies course required for graduation.

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Co-Chair Neuman discussed being a home school dad. He reported being a part of the Galena Home School Program, the largest school in the state with over 3800 students enrolled. He added that he thought there were more than 10 thousand home school kids in the state. He described his feeling standing next to the Lincoln Memorial in Washington D.C. as energizing. He was able to choose the best curriculum for his children as a home school parent. The Ideal program required parents to make a selection. He was not sure he could have taught his children the curriculum that was required in the bill. He asked how a parent would be expected to handle a similar situation.

Mr. Hanley replied that the responsibility would likely fall on the commissioner. It would become one of the required curriculum segments listed in the bill. He furthered that no matter what curriculum a parent chose as a parent. Upon the passage of the bill certain components would be required as part of a course. A parent would have

to confirm the completion of the segment in order for their children to receive their diplomas.

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Co-Chair Neuman asked if there were any other required curriculums in math, English, reading and writing that were required for homeschool parents.

Mr. Hanley responded that the only course that he had referenced earlier was the Alaska Studies Course which was required as one of the social studies credits.

Co-Chair Neuman asked if there were any required curriculums for math or English. Commissioner Hanley responded in the negative.

Co-Chair Neuman conveyed that he had fought hard to make sure that there were home school opportunities. He was aware that the sponsor of the bill supported the home school model. He wondered how the requirement outlined in the bill would affect home school programs. He expressed his concern in mandating parents to teach a certain curriculum. He relayed his own experience in which he was able to choose his own curriculum for his children.

Representative Keller responded that the mandate of the bill would apply to the home school student receiving state funds. He opined that it was a soft mandate that deserved to be placed at a significant level of importance, at least in regards to Alaskan history. He was certain Representative Neuman had taught his children the values that would be included in the proposed mandate. If a parent refused to teach the proposed curriculum while taking state funds, certain repercussions would have to be determined. He relayed that his grandchildren participated in a home school program and confirmed that there were requirements that were imposed when taking state funds. The mandate of the bill would be one of the requirements.

Vice-Chair Saddler read the definition of constitutionalism from Webster's New World Dictionary, Second College Edition:

Constitutionalism is government according to a constitution or adherence to constitutional principles or government.

Vice-Chair Saddler asked Representative Keller if he agreed that it was a fair definition of constitutionalism.

Representative Keller responded, "Far be it from me, Representative Saddler, through the chair, to argue with Webster."

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Representative Gara wondered about the meaning of the term constitutionalism. He agreed with Representative Saddler that a definition referenced in the bill would be helpful. He suggested that in looking at the literature there were radically left-wing versions and profoundly right-wing versions of the meaning of constitutionalism. He referenced a law review article from the University of Louisville that presented a very narrow version of the meaning of constitutionalism and cited the case, Brown vs. Board of Education. The case had to do with whether there could be white-only schools. He wanted to make sure that children would have the right to have a free debate about the meaning of the terms of the constitution. In other words, he did not want any particular philosophy imposed on children when interpreting the word constitutionalism.

Representative Keller referred to HB 30, page 2, line 20. He pointed to the words "as portrayed." He suggested that it would be unlikely to misinterpret the meaning of constitutionalism in studying the documents listed in the bill. He added that indisputable values would be found in studying things like inalienable rights or the balance of powers necessary to make a republic work. He argued that the curriculum was not exclusive and felt that every student should know it. He elaborated that he felt that as long as constitutionalism was portrayed in the same light as the documents in the legislation it was fair game for the requirements of the bill.

Representative Gara asked if Representative Keller was okay with including a definition of constitutionalism similar to that found in Webster's Dictionary.

Representative Keller was amenable. He indicated the definition found in Webster's Dictionary was consistent with his intent in the bill and thought it was good to have on record.

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Co-Chair Thompson thanked the testifiers for their time.

Representative Keller thanked the committee and urged the passing of HB 30. He thought that the bill imposed a worthwhile mandate. He voiced that the issue was very important and was the reason he brought it before the committee in the form of legislation.

Co-Chair Thompson relayed that there had been many questions about the bill and that he would hold the bill in committee for additional hearings.

HB 30 was HEARD and HELD in committee for further consideration.

He discussed the following day's agenda.

#

ADJOURNMENT

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The meeting was adjourned at 2:55 p.m.