

HOUSE FINANCE COMMITTEE

April 7, 2015

1:33 p.m.

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CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 1:33 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 David Guttenberg  
Representative Scott Kawasaki  
Representative Cathy Munoz  
Representative Lance Pruitt  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Representative Dave Talerico, Sponsor; Joshua Banks, Staff,  
Representative Dave Talerico; Ben Mulligan, Special  
Assistant, Department of Fish and Game; Kevin Brooks,  
Deputy Commissioner, Department of Fish and Game; Gene  
Therriault, Deputy Director, Statewide Energy Policy  
Development, Alaska Energy Authority, Department of  
Commerce, Community and Economic Development; Emily Ford,  
Policy and Outreach Manager, Alaska Energy Authority;

PRESENT VIA TELECONFERENCE

SUMMARY

HB 118 MUNI ENERGY IMPROVEMNT ASSESSMNTS/BONDS

HB 118 was HEARD and HELD in committee for further consideration.

HB 137 HUNTING, SPORT FISH, TRAPPING FEES

HB 137 was HEARD and HELD in committee for further consideration.

Co-Chair Thompson reviewed the agenda for the meeting. He indicated that he would not be moving either of the scheduled bills.

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#hb137

HOUSE BILL NO. 137

"An Act raising certain fees related to sport fishing, hunting, and trapping; raising the age of eligibility for a sport fishing, hunting, or trapping license exemption for state residents to 65 years of age; requiring state residents to purchase big game tags to take certain species; and providing for an effective date."

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REPRESENTATIVE DAVE TALERICO, SPONSOR, read from the sponsor statement:

House Bill 137 is a response to calls from individual hunters, fishers, outdoorsman groups, and the Department of Fish and Game (DFG) to raise license and tag fees for DFG.

There is currently a deficiency between the costs associated with management and research needs and the revenue brought in by license and tag fees. The primary change that HB 137 makes is raising resident, nonresident, and military hunting, fishing, trapping, and combination licenses to help deal with this deficiency. However, the most significant change in fees occurs to nonresident big game tag fees.

HB 137 also limits eligibility for a low-income license only to Alaskans that have an annual income less than the limit in statute. The annual family gross income limit to be eligible for this license is being raised from \$8,200 to \$29,820 to match the current poverty level for a family of four in Alaska. The bill also creates a voluntary fish and game conservation decal that a person who does not hunt or fish can purchase in order to contribute to the conservation efforts in Alaska.

The final change to this bill is to raise the age of eligibility for the hunting, fishing, and trapping license exemption from 60 years to 62 years. Also, residents under the age of 18 are exempt from having sport fishing, hunting, and trapping licenses, and nonresidents under the age of 16 are exempt from having a sport fishing license.

It has been over 17 years since many nonresident fees have been raised and over 24 years since most resident fish and game fees have been raised. Though the fee increases in HB 137 will not match the increase in costs associated with fish and game management, this bill helps ensure that Alaskans can continue to enjoy use of Alaska's abundant fish and game resources.

Vice-Chair Saddler wondered if the bill left the free hunting and fishing licenses intact for members of the National Guard, Territorial Guard, and for disabled veterans. Representative Talerico responded yes.

Representative Wilson asked Representative Talarico to define low income as it related to hunting and fishing licenses. Representative Talerico relayed that the poverty income level of a family of four was set at or below \$29,820. He expounded that the resident fees had increased \$5 for a fishing license and \$5 for a hunting license. He indicated that the trapping license had increased but the combination license provided a price break. He used the combination license he carried in his wallet as an example. If the bill passed the same license would cost an additional \$6.

Representative Wilson felt commented that \$29 thousand annual income was not very low depending on where a person lived. She asked if that was the current number in statute.

Representative Talerico responded that currently \$8,200 was the low annual income level.

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Representative Wilson wondered why the huge increase. Representative Talerico replied that he thought the \$8,200 number had been established several years previously. He had information from the federal government as to the current level of poverty. He reiterated that the poverty level income for a family of four was \$29,820. He suggested that the number could be changed easily.

Representative Wilson asked about documentation showing how many people took advantage of the discount at the previous low income level. She also wondered how many additional people would take advantage of discounts for other programs with the new number. Representative Talerico thought some of the numbers were available and he would provide them. He suggested Mr. Mulligan from Department of Fish and Game or Mr. Banks from his office provide the information.

JOSHUA BANKS, STAFF, REPRESENTATIVE DAVE TALERICO, referred to page 2 in tab 7 of the tabbed binders provided to the committee. Fishing license fees and projected revenue reflected the increases in HB 137. He reported that in the second column the resident low income hunting, trapping, and sport fishing combination license had a five-year average revenue stream of just over \$20 thousand.

Co-Chair Thompson acknowledged Representative Munoz at the table.

Representative Wilson asked about the \$20 thousand licensing associated with the low-income level of approximately \$8 thousand. She wanted projections based on the new numbers.

BEN MULLIGAN, SPECIAL ASSISTANT, DEPARTMENT OF FISH AND GAME, referred to the House Resources' fiscal note on page 2. He relayed that DNR looked at the number of households in Alaska which fell under the \$29,820 income level, using demographic information from Department of Labor and Workforce Development (DOL). The department took the average number of Alaskans per household, 2.92, extrapolated out to 137,240 individuals, and determined how many Alaskans purchased a sport fishing license; 24

percent. The number of new people that would potentially purchase a low income sport fishing license totaled 12,748 (32,938 minus the preexisting number purchased).

Representative Wilson asked Mr. Mulligan to repeat the 12 thousand number. Mr. Mulligan responded 12,748.

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Co-Chair Thompson asked if the current version "P" generated enough revenue to support the department's operating cost in sport fisheries and wildlife conservation that would replace current unrestricted general fund (UGF) appropriations. Mr. Mulligan referred again to the fiscal note. He stated that the license increase would bring in a combined \$6.49 million. At present the general funds (GF) in each of the Sport Fish Division and the Wildlife Conservation Division sat a little bit above \$6 million respectively. It would not completely replace the money if all GF were lost.

Vice-Chair Saddler asked about the extra money generated by the increased fees. He wanted to know how it affected the joint state and federal funding of wildlife conservation efforts. Mr. Mulligan wondered whether Representative Saddler was asking about how the extra funds would be spent on wildlife conservation or both wildlife conservation and sport fishing.

Vice-Chair Saddler responded, "Both."

Mr. Mulligan first addressed wildlife conservation. He stated that intensive management activities would require DFG funding. He mentioned the Alaska National Interest Lands Conservation Act (ANILCA) Access Defense Program. He also reported having Pittman-Robertson federal aid money to match other funding. Federal funding was increasing at a dramatic rate based on ammunition and gun sales. These monies would also be used to the fullest extent possible to match the funds.

Vice-Chair Saddler asked about the state receiving federal money as a result of the Pittman-Robertson matching formula. Mr. Mulligan responded that he could not provide an exact number. He explained that certain programs had to be paid directly from DFG. He elaborated that when it came to certain intensive management activities it was not

advisable to use federal funds and some aspects did not qualify for federal aid funding. It would be difficult to provide an exact leverage amount resulting from the increase. He would return with additional information.

Co-Chair Thompson asked whether the state was in jeopardy of losing its federal funding if it did not raise its fees. Mr. Mulligan responded that if the state did not provide matching funds by September of 2016, some of the federal funds would likely have to be returned.

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Co-Chair Thompson asked for an amount. Mr. Mulligan did not have a figure. He redirected his questions to Mr. Brooks.

KEVIN BROOKS, DEPUTY COMMISSIONER, DEPARTMENT OF FISH AND GAME, responded that in reference to the federal funds it was three federal dollars for one state dollar. In rough terms the current version of the bill would generate \$2.2 million on the hunting side. It had the potential to match \$6.6 million of federal aid. The department had seen an increase of approximately \$10 million in the federal aid funding from the FY 15 to FY 16 apportionment which was the reason for placing a very large capital project of \$11 million in the department's capital request. The department hoped to capture some of the federal aid dollars. However, he stated it was under-matched. Certainly the revenue in the bill would help with the matching dollars. He also reported that the state had two years to obligate. Obligation for the federal government was not an order of goods but an approved project. He continued to explain that once the state had an approved project with identified match funding it could obligate on the federal side. The danger the state faced was being hit with another large increase between FY 16 to FY 17, which he anticipated. It would compound the state's ability to provide matching funds. He relayed the state was stretched in providing matching funds because it had more federal dollars through the door than it could match.

Representative Gattis asked about the residents' feedback concerning raising fees. She understood that the fees had not been raised for about 17 years. She wanted to better understand whether the state was maximizing its matching funds by increasing the charges.

Mr. Brooks responded that the focus of the intensive matching programs were geared towards providing opportunity for hunters and fishers, but more specifically for hunters. The opportunities included lengthening seasons allowing people to hunt and fill their freezers. The department wanted to continue its efforts but needed the approval of the Board of Game. The department realized that the \$6 million of GF currently appropriated for the sport fishing and the wildlife budgets were vulnerable for the ensuing years. The increase in fees would backfill some of the GF cuts and would assist the state in continuing some of the important and intensive management programs that provided opportunity.

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Representative Gattis was unclear whether there were enough monies or if the state needed more funds. She wondered if the state could have raised its fees and done a better job of maximizing its match or if the state was maximizing its match with the fee schedule in HB 137. Mr. Brooks responded that the current version of the bill would not match all of the federal funds that were available to the state.

Representative Gattis asked how much more the state needed to maximize its match. She commented that there was clearly a "sweet spot" to maximize returns when legislators were aware that the state's GF might need backfilling from another source. She wondered if the state could raise its fees in such a way that would better maximize the state's returns.

Mr. Brooks reported that the department supported the bill and considered it important. He also felt the legislature and the sportsman groups came to a level of increase acceptable to them. He suggested the sponsor of the bill would certainly have a strong opinion about a number. He felt that it was not up to the department, nor did he have a specific recommendation the certain dollar levels.

Representative Gattis stated that what she was hearing Mr. Brooks say was that the state could further maximize its match. Representative Talerico stated that the intent of the bill was not to recover all of the GF money but to ensure the ability to fund the opportunity for all of the hunters and sportsmen. His understanding was that if the state did not have the ability to collect data or do

particular surveys needed, whether intense management or any specific area, the state would be forced to error on the side of caution. The state could be forced into imposing shorter seasons or quotas. Currently, the state enjoyed reasonable seasons with opportunities for people to get out more than 10 days or more than one weekend. He was inspired to get the state to a level where it could continue to have what it currently enjoyed with the defined seasons. He relayed that in the area where he lived there was a 25-day moose season. If the state did not manage hunting properly then it would have to move to a conservative method which would likely lead to lost opportunities for everyone. He was eager to hold on to the opportunities for people who really wanted to be out in the field.

Co-Chair Thompson relayed the names of the available testifiers if there were questions from members.

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Representative Gara wondered why it was important to raise the discount age for a king salmon stamp from age 60 to age 62. Representative Talerico could not imagine getting a free license that he would qualify for in the following year. He felt awkward bringing a bill forward that would qualify him to receive a free license. He planned on purchasing a license as long as he was available to get out into the field. He was not married to the provision and was happy to change it.

Representative Gara understood the sponsor's reasoning. However, he thought the provision might not be favorable. He referred to page 6, line 6 and line 8. He explained that a non-resident could either purchase a small game hunting license or an alien hunting license which was much more expensive.

Co-Chair Neuman asked Representative Talerico to point to where the topic of intensive management fees was referenced in the bill. Representative Talerico indicated that intensive management fees were not part of the bill.

Co-Chair Neuman asked Mr. Brooks to define intensive management for game. Mr. Brooks replied that intensive management was a method of wildlife management approved by the Board of Game that designated species for additional

survey work, habitat manipulations, and lethal removal of predators if required. There was a broad list of activities that were included under an intensive management program.

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Co-Chair Neuman asked if the legislature would have any say how the intensive management funds were spent. Mr. Brooks responded affirmatively.

Co-Chair Neuman clarified, "Even though they are designated funds?" Mr. Brooks replied that all of the funds would go into the Fish and Game fund which comes from license revenue and federal aid dollars.

Co-Chair Neuman wanted clarification. He continued that in conversations with the Director Swanton of the Division of Sport Fisheries current fishing license fees were \$15 with a \$9 surcharge designated for repaying the bonds for two new fish hatcheries; a sport fish hatchery and a salmon hatchery. He anticipated the bonds being paid off by about 2020. He asked Mr. Brooks if he was accurate.

Mr. Brooks relayed that the total bonds currently had a deadline of 2026. However, he reported that the state was doing early redemptions in which the state paid its older obligations. He relayed that although 2021 was slightly ambitious it was not far from the mark.

Co-Chair Neuman reported that he oversaw the Department of Fish and Game's budget. He explained that the \$9 surcharge for the two hatcheries were approved several years ago to build the hatcheries. The department was able to take \$500 thousand out of the \$9 fees collected for the Division of Sport Fisheries. The extra money was used to pay down the bonds more quickly. He expressed wanting to take the \$9 that people were used to paying and fold the money back into the department instead of increasing the fishing license fee. The department would receive the \$9. He wanted to know the current cost of the bonds.

Mr. Brooks responded that the surcharge generated approximately \$6.5 million to \$7 million per year. There was a sequence established in the appropriation bill that paid the \$500 thousand debt in the sport fishing division first. Additional funds were used to pay down early

redemptions. The department paid down \$850 thousand in early redemptions in the last payment that was made.

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Co-Chair Neuman asked, if the state lapsed the \$9 surcharge, whether the department would receive an additional \$67 million as long as the number of people purchasing fishing licenses remained the same. Mr. Brooks responded affirmatively.

Co-Chair Neuman spoke of another piece of legislation in play that dealt with the Commercial Fisheries Entry Commission (CFEC). He explained that in the budget that was being crafted instead of CFEC having a separate appropriation, the funding was moved to the department. He specified the reason for doing so was for additional management. He reported an excess of about \$3.5 million in permit fees collected by CFEC typically used for enhancing research programs. In the current year the department would have access to these funds for the first time could be used for other research programs. He wanted to confirm his accuracy. Mr. Brooks responded that it was a new funding source, not additional money. It offset GF cuts.

Co-Chair Neuman suggested that they were other designated general funds (DGF) that the department would have access to in order to target fisheries management programs overseen by the department. Mr. Brooks confirmed that he was correct.

Co-Chair Neuman pointed out that there was approximately \$3.5 million and \$7 million of extra sport fishing dollars. He took issue with increasing licensing fees. He wanted the committee to be aware of the department's flow of funding sources. He told of being an avid outdoorsman who had traveled with biologists on salmon surveys and moose surveys. In talking with the biologists he believed they needed funds but suggested conducting further investigation.

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Co-Chair Thompson referred to the current year's indirect expenditure report and how it specifically related to money foregone by the state for free resident senior licenses. The department estimated that the state had foregone about

\$6 million in revenue under current law. He remarked that the figure was inaccurate because it assumed that all 77,866 qualifying seniors purchased a license in 2013. He stated that the money foregone under the law enacted in 1981 was significant. He recalled the department's estimation of a \$77 savings to seniors through the time period. He concluded it was important to continue looking at the information based on the reasons he provided.

Representative Kawasaki pointed to the Comparison of Fish and Game Fee Increase Proposals sheet comparing the current statute, HB 137 version H, and HB 137 version P. He wanted to know about the group appearing in the fourth column, "Outdoor Caucus."

Mr. Banks responded that the numbers in the column labeled "Outdoor Caucus" were provided by a coalition of sportsman groups including members such as the Alaska Outdoor Council, also part of the Legislative Outdoor Heritage Caucus.

Representative Kawasaki noted the small increase to resident hunting, fishing, and trapping licensing fees but also pointed to the larger increase in fees for non-residents. He brought up information in a legislative legal memo that talked about the differential between resident and non-resident and that a state could not have a differential for a non-resident because it dealt with game. The memo also mentioned that there was one case upheld in Montana where the differential between the non-resident and resident fee was 25 times larger. He wanted to hear comments from Mr. Banks.

Mr. Banks recalled that Representative Talerico's office requested a copy of the legal opinion regarding any required thresholds. It turned out that the Carlson case in Montana did not apply to HB 137. The Legislative Legal department provided additional information which confirmed that the proposed increases were not as high as those in Montana.

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Representative Kawasaki asked if the resident and non-resident licensing fees and the differential between the two generally conformed to those in other states.

Representative Talerico mentioned the old saying, "We do not really care how they do it outside." He shared that his opportunity to take a game animal in the state of Wyoming would be the same as what Alaska would charge for a new mouse tag. It varied in the Lower 48 states claiming that license and tag fees varied substantially. He added that in some states the tag fees varied based on regions.

Representative Kawasaki stated he preferred residents paid less than non-residents to the extent possible. He also asked if any studies had been done to understand the potential negative impacts from high increases to non-residential tags. For instance, he wondered if the high cost of a tag would detour people from visiting Alaska.

Mr. Brooks stated that DFG had information comparing the cost to hunt and fish in Alaska with the western states. It was not uncommon for states to charge a premium for non-residents. He relayed one example heard in a previous committee that to hunt a mule deer or an elk in Oregon was about \$2 thousand for a non-resident. He advised that Thor Stacey could provide extensive information about a fee threshold for non-residents. The folks coming from out of state to hunt in Alaska were paying a significant amount for travel and guide services. Previous studies were done to determine what kind of increase the public could tolerate.

Representative Kawasaki asked about the DFG conservation decal listed in Section 19 and about new language having to do with the \$20 voluntary fee. He wondered if the fee would be deposited into the state GF and how the department would use the funds.

Mr. Brooks informed the committee that in the current version of the bill the revenue would return to the GF. It was an official wildlife conservation stamp. He explained that one of Representative Seaton's constituents suggested that there were folks that were likely willing to contribute financially to the management of resources but generally did not do any harvesting. He relayed that the DFG fund was dedicated for hunting and fishing license revenue as a federal government requirement established at the time of statehood. He did not believe the decal revenue would qualify for the dedication. There were probably ways that it could be deposited into the Fish and Game fund such as a statutory designated program receipt. There were other

ways it could be identified for other types of conservation functions within the department.

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Co-Chair Thompson was very much in support of the \$20 decal. He felt that at his age he should be responsible for paying something.

Vice-Chair Saddler thanked the sponsor and the department for working with the outdoors organizations to introduce the bill. He felt that it was coming together with a willingness to pay more for conservation of some of the finest traditions of outdoorsmen. He commended all for coming to a great compromise. He also acknowledged that the fees could have been higher if they were based strictly on an inflation adjusted basis. He thanked the sponsor.

Representative Gara asked about the change in age from 60 to 62 prior to a discount on the various licenses and tags. He wanted to know if the change could be phased in with licenses in 2017.

Representative Talerico did not have a problem with Representative Gara's suggestion. He appreciated the committee process and his question.

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Representative Gattis suggested there had been many folks that were willing to pay for their licenses whether at age 60, 62, or 65. Folks were willing to pay for the honor of being able to hunt. She wanted to have the conversation about raising the age to 65 rather than 62. She did not feel it would be as a much of a challenge as some people believe. She also suggested the possibility of tying the benefit to receiving the Permanent Fund Dividend (PFD). She wondered about determining residency for a person that received a license that was good forever. She wondered about residency verification. She had a few questions.

Mr. Brooks explained that currently once senior identification cards (PID), were issued the department did not verify residency. The PID was a lifetime benefit. He added that residency was verified by being checked against the PFD data base at the time of issuance. If someone did not receive a PFD a letter would be sent asking for other

verification of residency such as a utility bill showing a presence in the state.

Representative Wilson referred to the low income category of making at or below \$29 thousand per year. She wanted to verify that the \$5 fee covered licensing for hunting fishing, and trapping. Individuals that fell outside of the low income level would pay \$60 for the same type of license. She wanted to know if she was correct. Representative Talerico responded affirmatively.

She thought the state should evaluate the numbers further and suggested splitting the number in half. She opined that the difference in revenue would be about \$382,440 versus \$63,740 at \$5. She based her numbers off of the old fiscal note. She reemphasized having a discussion on dropping to a \$5 low income licensing fee adding that the drop was too low in her opinion. She mentioned that she was referring to an old version where it was talking about the Board of Game making regulation to reduce or eliminate the resident tag and fee for muskox for all or a portion of a game management unit. She wanted to know if the provision was in the current version of the bill, as she could not find it.

Mr. Banks clarified that the provision was in the original bill in version H. He relayed that the sponsor originally proposed creating resident big game tags but, the provision was removed in the resources committee substitute. Members could find the provision on page 3 of version H.

Representative Wilson re-asked if the provision was in the new version of the bill.

Co-Chair Thompson clarified that version P was the newest edition of the bill.

Mr. Banks responded in the negative.

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Representative Guttenberg asked about a way in which to track big game tags for individuals eligible for the \$5 license. He wanted to know if low income individuals were participating in big game hunting. Mr. Brooks explained that there were very few resident big game tags. He elaborated that the state had a brown and grizzly bear tag.

He would look into the matter. Most of the big game tags applied to non-residents.

Representative Edgmon commended that he was still learning the details of the bill but wanted to commend the sponsor for the work done in balancing interests. He thought a significant amount of behind-the-scenes work was done to bring the numbers together. He indicated he was going to keep an open mind about suggested fee changes. He believed that most of the increases were commensurate with inflation of 17 or 24 years. He spoke of the health of elders in his community. He offered that he was interested in taking a closer look at increasing the qualifying age from 60 years to 65 years of age.

Co-Chair Thompson asked for final remarks from the bill sponsor.

Representative Talerico thanked the committee for hearing the bill. He stated that he would provide the committee with his recommended amendments. He was clear that the bill brought its own controversy. He wanted to make sure it was vetted by many. He also reiterated that it was not put forth to replace GF the state was losing, but the inspiration behind the bill was to make sure that Alaskan outdoorsmen did not lose their opportunity currently provided by the state. The one change he was really married to was in Section 20 of the bill which affected particularly low income families. Rather than having to purchase a resident license persons ages 16 and up that were still in high school would be able to enjoy the outdoors without having to purchase a license. He had received feedback that the change would be important for a family of 4 with a 17 year old at home.

HB 137 was HEARD and HELD in committee for further consideration.

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#hb118

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."

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GENE THERRIAULT, DEPUTY DIRECTOR, STATEWIDE ENERGY POLICY DEVELOPMENT, ALASKA ENERGY AUTHORITY, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, introduced the PowerPoint presentation: HB 118 Property Assessed Clean Energy (PACE). He stated that the PowerPoint was a visual way of going through a sectional analysis. He reported that in 2010 the Alaska Legislature established a number of energy goals for the state including an increase in energy efficiency of 15 percent across the state by 2020. He relayed that there were a number of energy programs in operation. He elaborated that Alaska Energy Authority (AEA) operated in conjunction with Alaska Housing Finance Corporation (AHFC) on weatherization, energy efficiency rebates, energy efficiency means to assist with public buildings and municipal buildings. One of the areas the state was lacking in was programs that assisted private businesses in achieving energy efficiencies. Alaska Housing Finance Corporation conducted a statewide survey that showed that private businesses owned a tremendous amount of square footage in Alaska and represented a huge portion of yearly energy consumption. He relayed that the Alaska Energy Authority operated a commercial energy audit program through which AEA assisted businesses with the expense of undertaking an assessment. An assessment provided suggestions on how a business could improve the energy efficiency of its operation. Alaska Energy Authority has assisted approximately 170 businesses in Alaska with their assessments. Businesses that followed through with and implement recommendations were generally able to achieve a 30 percent reduction in yearly energy expenses. There were tremendous savings resulting from the program. However, he indicated that many of the businesses were not following through with making the suggested improvements. He relayed that AEA had conducted a survey of businesses that had gone through an energy audit to find out why improvements had not been made. The most significant hurdle for businesses was finding financing for making improvements.

Mr. Therriault continued that through his membership with the National Association of State Energy Officials, which he was elected to the board, he engaged with individuals from across the nation involved in doing innovative things

at the state level to help with energy costs. He became aware of a growing number of states that were using PACE financing; financing used to help businesses clear the hurdle in making the investment in energy improvements. The legislation before the committee was patterned after a rewrite of the Texas PACE statute that was passed in the previous year. He figured it was wise to follow a state like Texas, a very pro-business state, in using the financing as a tool to allow local governments, local businesses, and local lenders to potentially take advantage of and help encourage energy efficiency at the local level.

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Mr. Therriault understood that Senator Egan explored the PACE mechanism several years prior. He also believed Representative Edgmon and his staff had looked at the mechanism when he was very involved with the energy policy in Alaska. He relayed that AEA had not pushed forward with the option. Currently, with the tightening of state dollars, AEA wanted to look at mechanisms at the local level that could be put into place to help achieve suggested savings. As Ms. Ford went through the sectional analysis he would highlight a number of protections placed in the bill. He clarified that businesses could not be coerced into using the tool. He furthered that any existing bank that held a mortgage on a facility had to provide permission prior to implementing the PACE financing. A bank's mortgage would be bumped to a second tier lien with the PACE financing becoming a superior lien. The legislation before the committee contained a protection for local lenders with current mortgages. They had to agree that it was a smart thing to initiate PACE financing for a property that collateralized its loan. He repeated that AEA patterned Alaska's suggested legislation to that of Texas in order to capture all of the protections. He would be highlighting the protections as the presentation moved along.

Representative Gara suggested using the acronym lower energy savings (LES) rather than PACE.

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EMILY FORD, POLICY AND OUTREACH MANAGER, ALASKA ENERGY AUTHORITY, turned to slide 2: "What is Commercial PACE?" She read directly from the slide:

PACE was named one of the top 20 "world-changing ideas by Scientific American magazine."

Commercial Property Assessed Clean Energy programs (PACE) allows commercial property owners to finance qualifying energy efficiency improvements over time through a voluntary assessment on the property tax bill.

Voluntary participation by municipalities AND commercial property owners

Mortgage holder consent is required before applications are approved and assessments are placed

Improvements 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 property

Ms. Ford advanced to slide 3: "Benefits":

Energy efficiency upgrades are financed with capital secured by a primary lien on the property, lower-interest capital and favorable repayment terms can be raised from the private sector

Allows for longer repayment periods allowing the building owner to recognize immediate operating savings while repaying the debt

Can use traditional lending sources

In Alaska, provides consistency with state energy policy, energy efficiency and renewable energy goals

Ms. Ford moved to slide 4: "Creating a PACE Program":

31 states have authorized PACE programs

State legislatures must provide authority for local governments to establish and operate commercial PACE programs

Municipalities to create the program and select financing models

Resources: U.S. Department of Energy, PaceNow.org, C-Pace.com

Ms. Ford continued to slide 5: "Potential PACE Models":

Local-government driven

Either property assessment office or a PACE office used as interface with commercial property owners and potential lenders

Bond financing

Private-sector driven

Third-party administrator under contract with local government

Private financing

Hybrid model

Smaller local governments can contract with other communities or regional organizations to administer the program

Identify all potential funding sources (bonds, revolving loan funds, private capital)

Ms. Ford referred to the private-sector PACE models as "main street models." She said these models were developed such that the local assessor's office absorbed the additional workload and left it to the local lenders and the commercial sector to market the program.

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Ms. Ford continued with slide 6: "House Bill 118":

HB 118: Muni Energy Improvement Assessments/Bonds

Authorizing legislation for local governments who collect property taxes to choose to create a PACE program and allow commercial property owners to opt-in

24 eligible local governments with a total population of 639,314

Ms. Ford advanced to slide 7: "House Bill 118." She stated that she would begin a brief sectional analysis of the bill.

Section 1: Amends existing AS 29.10.200 to add PACE financing to the list of items that Home Rule Municipalities are allowed to engage in

Section 2: Amends AS 29.35.200 (b) to add PACE financing to the list of items that first class boroughs are allowed to engage in, on an area-wide basis.

Section 3: Amends AS 29.35.210 (b) to add PACE financing to the list of items that second class boroughs are allowed to engage in, on an area-wide basis.

Section 4 amends AS 29 by adding a new chapter: AS 29.49: Municipal Property Assessed Clean Energy Act

Ms. Ford summarized that Sections 1, 2, and 3 amended existing statute to allow home rule municipalities, first class boroughs, and second class boroughs to opt in or engage in an area-wide PACE program.

Mr. Therriault stated that because the PACE repayment was an additional voluntary assessment that went on the property tax payment, although it was a state-wide statute, it was really only available to those municipalities that actually issued property tax. If there was an area or municipality that did not currently issue a property tax, that moved towards issuing a property tax they would become eligible to utilize the PACE mechanism.

Ms. Ford presented slide 8: "House Bill 118":

AS 29.49.010 Exercise of Powers allows municipalities to exercise powers under AS 29.40.060 (Judicial Review)

AS 29.49.020 Authorized Assessments would allow for a property tax assessment to be added for financing of qualified projects on real property.

Improvements may not be made to vacant lots or property undergoing development at the time of assessment

Not to finance purchase of temporary products or anything not permanently fixed to real property

AS 29.49.030 Written Contract for Assessment Required would require a written contract between the local government and record owner of the real property

Mr. Therriault added that AS 29.49.030 was one of the protections. It was a voluntary contract that the property owner entered into with the local government to place the assessment on their tax bill. Later there was a provision that prevented local government from doing anything to coerce an owner into entering a contract. A government could not withhold any license or permit.

Vice-Chair Saddler commented that certainly no one wanted a municipality to hold someone hostage. He wondered if anything was in place to avoid such a circumstance. Mr. Therriault replied that the language stated that permits could not be withheld. If the property owner could make the case that he was being singled out somehow he could take a complaint to the local assembly. The state did not have a sanction built in currently. However, there was clear language that stated to the local communities that they could not withhold permits.

[2:38:04 PM](#)

Ms. Ford referred to page 10, line 10 of the bill which discussed coercion and prohibited acts. It also addressed written approval and contracts from the building owner, the mortgage holder, the local government, and the finance source. She emphasized that it was a very public process for all three parties in order to implement the program.

Ms. Ford turned to slide 9: "House Bill 118":

AS 29.49.040 Establishes the program

Authorizes local government to choose to establish a commercial PACE program and enter into a contract with a property owner to impose an assessment. Financing can be provided by the municipality or a third-party.

If third-party financing is used, the municipality, third-party financier and real property owner must all enter into a contract

The assessment imposed may cover some costs for the commercial property owner, including permit and lenders fees, administration, and project development and engineering costs

#### AS 29.49.050 Applicability of Program

If they choose to participate in the program, municipalities are required to implement PACE on an area wide basis

Cities within a borough are allowed to opt out of a borough program through passage of an ordinance. If previously opted-out, they can opt in at a later date through another ordinance.

A borough succeeds to all rights and obligations of the city program.

Mr. Therriault commented that the "opt-in" provision was a change made by the Community and Regional Affairs Committee. The first change was that if the program was going to be used, it would be used area-wide. There was some concern that the local assembly would designate a particular area of their jurisdiction that would receive the benefit at the expense of another. He did not think that would be how the local government would work. However, it was more comfortable to define it such that if they wanted to use the program it needed to be available to all. However, using the example of the Fairbanks-North Star Borough, if the borough decided it wanted to offer PACE but the City of North Pole did not feel like it fit the program it could opt-out. It would mean the PACE financing would not be available within the city, but the option was available preserving the power of local government. He continued that if the City chose to opt-out presently but

wanted to opt-in years later there was a provision to do so in the future.

Representative Guttenberg asked about preventing a business owner from getting an energy audit and going to a bank with estimated cost savings and applying for an improvement loan. He wondered, under the circumstances, whether the bill would be required. He asked if the language was needed.

Mr. Therriault responded that once an energy audit was done and the building owner believed they could get financing directly from the bank, they could choose to do so. However, if they wanted to follow through with PACE there was a requirement that the audit be done, that a calculation on the expected savings be done to show that if the loan was secured through PACE that it could be repaid, and that there was still a savings for the business. By going through the appropriate steps a person lowered their risk of any defaults. There was the collection power of the property tax and the assessment could not be discharged by the property going through bankruptcy. He suggested that if a mortgage was stretched from 15 years to 30 years the yearly cost would be much lower. Alaska Energy authority really wanted to set up a mechanism for private businesses to be able to make improvements and immediately see the positive cash flow. The same provisions might not be available by going directly to the bank.

Vice-Chair Saddler asked if there was any situation where a municipality did not have the authority to impose property taxes that would likely want to collect the assessments. Mr. Therriault believed that the statutes would have to be amended to actually give them the power to actually place the assessments. Mr. Therriault believed the state law had to be amended to actually give them the power to place the assessment on the bill.

[2:43:04 PM](#)

Representative Kawasaki asked if the bill was limited to commercial property. Mr. Therriault confirmed that it was limited to commercial property. He explained that across the nation when PACE was first started it was a blend of commercial and residential property. Fanny May and Freddie Mac sued a number of jurisdictions to stop the residential portion due to the fact that they were a major buyer of

residential mortgages across the nation in the secondary lending market. They were not interested in being placed in a secondary position. Jurisdictions had stopped their residential PACE programs for the most part across the nation and focused on businesses. There were a couple of jurisdictions that were trying to figure out a way to continue with residential PACE financing. Many areas have had to strip the residential PACE financing from having the senior lien. They had to require that the PACE financing be paid off at the time of a sale of a residence. The ability to stretch out financing over a longer period of time was a benefit that was removed. Alaska Energy Authority chose to restrict PACE financing to businesses.

Representative Gara outlined some of the energy efficiency programs for low income housing, for housing, for public housing units, but there was nothing available for private businesses. He wanted to know if the private business gap was what was being filled. Mr. Therriault responded affirmatively.

Representative Wilson asked why the state would want to compete with the banks. Mr. Therriault surmised that the surety of repayment, a very low default rate due to the collection mechanism, and the ability to stretch the payments out beyond what a commercial loan would allow made it more attractive. The allowance for local government to either, through revenue bonding, collect a pool of money that could be lent they could partner with local lenders to service the loans, or the local government could partner with local lenders to provide the capital to be loaned out. A local government did not have to come up with the money. They were simply providing the mechanism for collection. He pointed out that the banks were a part of the process. He explained that if a bank currently had a mortgage on a business it had to give permission to become a lesser lien holder. Most banks and the Alaska Banking Associations felt comfortable and have indicated they did not oppose the legislation as long as the protection mechanism remained in the bill.

[2:47:09 PM](#)

Representative Wilson understood that the Department of Commerce, Community and Economic Development (DCCED) also had some type of loan available for private businesses. Mr. Therriault responded that DCCED had a loan program. Since

the program was established the hurdles for accessing the loans were such that there has not been any uptake of the program. He added that with state dollars being tight he was not sure if DCCED's program would continue. The current mechanism being proposed in the legislation was controlled by local governments. It was the mechanism itself that really provided the benefit.

Representative Wilson wanted to prove she was right about another option being available.

Representative Munoz wanted to better understand whether the local government made, covered, or guaranteed the tax assessment. She wanted to better understand the benefits of the tax assessment and if it would help the development of a property.

Mr. Therriault responded that it was an extra assessment put on the tax bill which would provide collection ability. It did not become part of the property tax. It was an additional line added of a volunteer assessment that the property owner had agreed to have done and placed on their yearly tax bill. The local government then collected the money and used it to pay back the money to a bond or to the local lender who provided the money (whoever funded the original loan).

Representative Munoz asked if it was the municipality that dealt with the lender rather than the property owner. Mr. Therriault responded that the municipality, under a contractual arrangement, had an obligation to collect the monies and hand it back to the lender.

Vice-Chair Saddler asked about what would happen if the property owner defaulted on his payments for his PACE improvements. Mr. Therriault replied that if the property owner defaulted on paying the tax bill at all there was the whole collection [Mr. Therriault was interrupted by Representative Saddler].

Vice-Chair Saddler clarified that he was not asking about the tax bill. He wanted to know what would happen if the owner did not pay off his PACE assessment. Mr. Therriault replied that the local government had the same collection power to collect the assessment as they did the local property tax. He stressed that the defaults were very low

and the bank was assured repayment, whether the bank or the local government provided the payout funds.

Vice-Chair Saddler remarked that he had never not paid his property taxes so he did not know what power local government had to enforce the collection.

2:50:30 PM

Vice-Chair Saddler asked if the financing came primarily through private lenders or through the issuance of municipal bonds. He wanted to know the source of PACE funding in Alaska.

Ms. Ford responded that it depended on the type of value system that the state had already created. There were many states on the East coast including Vermont and Connecticut that had established very aggressive energy efficiency programs. Those programs had set it as part of their state energy policy. They had very low application fees and they used green or bond banks to finance the program. There were many states, such as Minnesota, that had taken the "main street" model, a very private sector driven model. They had absorbed the additional workload through their existing assessor staff and were relying on the private sector to market the program. She furthered that the most popular approach was the hybrid approach of both. She anticipated a hybrid approach becoming available in Alaska. If a municipality chose to bond the ability was there and could be used as the payment mechanism for many potential funding sources.

Vice-Chair Saddler asked that if municipalities decided to go to bonding would they be appealing to the bond bank authority and in essence relying on the state's positive credit rating to keep low-interest bonds. Mr. Therriault answered that municipalities could use revenue bonds rather than general obligation bonds which were specifically prohibited in the legislation. Accompanying an issuance of revenue bonds was a municipal pledge to pay back the bonds upon loan repayment along with interest. The legislation also stipulated that municipalities could assess an application fee and increase the interest rate slightly to cover administrative costs.

Vice-Chair Saddler asked if backing for the bonds would be revenue rather than general obligations bonds. Mr.

Therriault restated that the issuance of general obligation bonds were specifically prohibited by the bank.

Ms. Ford advanced to slide 10: "House Bill 118":

AS 29.49.060 Defines the Procedure to Create the Program

If the municipality chooses to create a PACE program the governing body of a municipality must (in order):

1) Adopt a resolution of intent that

shows that providing the PACE program serves a valid public purpose

includes a statement the municipality intends to make PACE available to property owners

includes a description of qualified projects

describes the boundaries of the region

describes the available financing for qualified projects (i.e. bonds, local lenders, etc.)

describes the municipal debt servicing procedures if third-party financing is used

describes how the public can access the program report required by AS 29.49.070

Identifying the time and place for a public hearing

identifies public contacts regarding the collection of the proposed contractual assessments

[2:55:10 PM](#)

Mr. Therriault commented that regarding AS 29.49.060 there was a requirement that a municipality file a resolution notifying the public that they intended to implement PACE

and explain the PACE program prior to introducing an ordinance. There was a requirement for a substantial public discussion before moving forward with a mechanism.

Ms. Ford turned to slide 11: "House Bill 118":

AS 29.49.060 Defines the Procedure to Create the Program

The governing body of a municipality must:

- 1) hold a public hearing with opportunity for public comment
- 2) adopt an ordinance establishing the terms of the program, including each item included in the publicly-available program report required by AS 29.49.070

Each aspect of the program can only be amended after another public hearing

A municipality may hire and set compensation for a program administrator, staff or contract for professional services

A municipality may impose fees to offset the costs of administering the program, to include an application fee and/or a component of the interest rate

Ms. Ford advanced to slide 12: "House Bill":

AS 29.49.070 Requires a Publicly-Available Program Report (as required by AS 29.49.060)

The report must include:

a map of the program region boundaries

a form contract between the municipality and the property owner that specifies the terms of the assessment and any financing, including third-party and municipal

if appropriate a form contract between the municipalities and the third-party financier

regarding the servicing of the debt through assessments

a description of qualified projects

a plan for ensuring sufficient capital

if bonds are used the report must include:

a maximum aggregate annual dollar amount for financing

a method for ranking requests from property owners

a method for determining the interest rate and maximum amount of an assessment

a method for ensuring the repayment period does not exceed the useful life of the qualified project

Ms. Ford discussed slide 13: "House Bill 118":

AS 29.49.070 Requires a Publicly-Available Program Report (continued)

The report must include:

a description of the application process and eligibility requirements

a method for ensuring qualified applicants can demonstrate financial ability to fulfill financial obligations and verify the applicant is the legal owner of the property, is current on mortgage and property taxes and is not insolvent or in bankruptcy

an explanation of the assessment and collection process

an explanation of the lender notice requirement provided by AS 29.40.080

an explanation of the review requirement provided by AS 29.49.090

a description of the marketing and education services to be provided

a description of quality assurance and antifraud measures

collection procedures

a requirement for an appropriate ratio between the assessment and property value

The report must be available online and at the municipal offices

Ms. Ford continued to slide 14: "House Bill 118":

AS 29.49.080 Notice to Mortgage Holder Required

The holder of any mortgage lien on the property must be given written notice within 30 days before the contract is executed

Written consent from the mortgage lien holder must be obtained

AS 29.49.090 Review Required

A third-party baseline energy audit and projected energy savings are required

Once a qualified project is complete, the municipality shall obtain third-party verification that the project was properly completed and operating as intended

AS 29.49.100 Direct Acquisition by Owner

The property owner may be authorized to purchase directly the related equipment and materials or contract directly, including through lease, power purchase agreement or other service contract for the installation or modification of a qualified improvement

Ms. Ford reviewed slide 15: "House Bill 118":

AS 29.49.110 Contractual Assessment must be Noticed

Written notice of each contractual assessment shall be filed by the municipality in the real property records, including the assessment amount, legal description of the property, name of each property owner and the reference to the statutory assessment lien provided under this chapter

AS 29.49.120 Contractual Assessments and any Interest or Penalties are Primary Liens on the Property

exceptions are municipal tax liens and special assessments

enforcement provided in AS 29.45.320-470

contractual assessment liens stay with the land and not eliminated by foreclosure

penalties and interest may be added to delinquent installments, as provided in AS. 29.45.250

municipalities may recover cost and expenses, including attorney fees to collect a delinquent installment

AS 29.49.130 Collection of Assessments

The governing body of a municipality may contract with the governing body of another taxing unit to collect assessments as outlined under this chapter

Ms. Ford explained with the example of Fairbanks that the City of North Pole and the City of Fairbanks could contract together or with the borough in order to collect and disperse the assessments.

Ms. Ford relayed slide 16: "House Bill 118":

AS 29.49.140 Municipalities may Issue Bonds or Notes to Finance Qualified Projects

These may not be general obligations bonds and must be secured by one or more of the following:

payments of the contractual assessments

municipal reserves from grants, bonds, or net proceeds and other lawfully available funds

municipal bond insurance, lines of credit, public or private guarantees, standby bond purchase agreements, collateral assignments, mortgages, or available means of providing credit support or liquidity

any other funds lawfully available for purposes consistent with this chapter

A municipal pledge of assessments, funds, or contractual rights in connection with the issuance of bonds is a first lien valid and binding against any other person, with or without notice

Bonds or notes issued must further an essential public and governmental purpose, including reducing energy costs, improving electrical reliability, reduction of energy demand on utilities, economic development, employment and enhancement of property values

Ms. Ford advanced to slide 17: "House Bill 118":

#### AS 29.49.150 Joint Implementation

Any combination of municipalities may agree to jointly implement or administer a program or contract with a third party. A public hearing as outlined in AS 29.49.060 is required.

AS 29.49.160 Prohibited Acts states that the program must be voluntary

A municipality that establishes a PACE region may not compel a property owner to use PACE or, make any permit, license, or authorization contingent on a property owner using PACE.

AS 29.49.890 Allows the proposed PACE provisions to be available to Home Rule and General Law Municipalities

AS 29.49.900 Adds Definitions of Program, Qualified Improvement, Qualified Project, Real Property and Region.

AS 29.49.995 Adds the Short Title "Municipal Property Assessed Clean Energy Act."

Section 5 Establishes an Immediate Effective Date

3:00:31 PM

Mr. Therriault concluded the presentation. He appreciated the committee wanting to give the bill some thought. He reiterated the importance of utilizing the lessons other states learned. He highlighted the necessity of having some level of uniformity across the state for local lenders. Texas had advised him that when the terms varied from county-to-county the local banks chose not to engage. Uniformity helped banks to bring their in-house expertise to engage with local governments. The PACE program was a mechanism that could be put to good use to bridge the gap for businesses to move forward with energy efficiency improvements. He explained that AEA audits or audits AEA had helped to fund indicated that there were potentially substantial savings in efficiency improvements. He opined that through the mechanism individual businesses could see that even in taking on the debt and an obligation to repay they would likely be cash positive on a yearly basis because of energy savings.

Co-Chair Thompson reviewed the list of testifiers available online.

Representative Guttenberg asked about the definition of real property which in the bill included privately owned commercial or industrial real property. He wondered if that included a non-profit business, a charter school, a church, or Alyeska Pipeline trying to redo pump 6. He wanted to better understand the parameters of the bill. He wanted to know about sideboards.

Mr. Therriault answered that it would likely depend on how individual properties were assessed at the local level. As

the bill was written it would be available for any businesses deemed to be commercial. In terms of residential properties, an apartment complex that had four or more units would likely be deemed a commercial property.

Co-Chair Thompson commented that it came back to a commercial property and also a public facility. He wondered if a private school would be considered a public facility. He relayed that the state had an Alaska Housing Finance Corporation (AHFC) program that provided low-interest loans paid back by savings resulting from the loan.

[3:04:37 PM](#)

Representative Wilson asked about the consequences of a commercial property owner that was bonded not being able to make payment. Mr. Therriault answered that the property could go into foreclosure to guarantee payment. It had all the power of the repayment of a property tax.

Representative Wilson presented the hypothetical scenario of a property being foreclosed upon yet the sale of the property did not cover the cost of the loan. She wondered who would be responsible for the balance. Mr. Therriault responded that the loan obligation would stay with the property. He elaborated that whomever eventually purchased the property out of foreclosure would take on the obligation.

Representative Wilson asked about a situation in which nobody was willing take on the obligation. She wondered if the burden would fall to the tax payer. Mr. Therriault suggested that the financial burden would not fall on the tax payer. If the financing was done through bonds, the municipality would likely have insurance on the bonds. He also mentioned a default pool generated by collecting a slight fee captured on all loans to guarantee any defaults made. The benefit of doing audits to ensure positive cash flow lowered the chance of a default.

Representative Wilson wanted to verify that there was no chance that the financial burden would fall on the tax payer or the state if a business defaulted on its bond payment. Mr. Therriault did not believe so. It was specifically not a general obligation to the tax payers. Revenue bonds were priced taking into consideration the

risk of non-payment. The default rate was low and was taken into consideration at the time a bond was sold.

Representative Wilson clarified that if she purchased revenue bonds she would know the risks of not getting money back with a payment default. Mr. Therriault responded in the affirmative. He added that prior to entering an agreement a fee requirement could be charged to set up a pool of funds to guarantee repayment or something else in place that backstops any potential default.

Representative Wilson just wanted to ensure that property owners would not be responsible.

[3:08:24 PM](#)

Representative Kawasaki asked about commercial and industrial property. He pointed out a light commercial property zoned in his neighborhood that housed a taxidermy shop. He wondered if that specific business would qualify. Mr. Therriault commented that it would require looking at the specific property to see how the particular assessor in the municipality evaluated it.

Representative Kawasaki asked why the bill as not as broad as possible. He believed that if it was a benefit to one property owner it would probably be a benefit to the property owner next door. The state had current legislation on local improvement districts for the downtown corridor. The concept was that if all of the property owners within a square agreed, then the city would invest money to improve the downtown corridor. Representative Kawasaki reported that the legislation never went anywhere. He restated his question about making HB 118 as broad as possible.

Mr. Therriault believed the bill was as broad as possible especially with the changes made in the House Community and Regional Affairs Committee. It was available to all businesses within a municipality's jurisdiction. However, it was not mandatory. It was voluntary for the government to make it available and voluntary for the individual businesses to take advantage of it.

Representative Kawasaki wondered why AEA would not create a local improvement district specifically for the purposes of energy improvements to decrease energy consumption demand. Mr. Therriault stated that the mechanism Representative

Kawasaki suggested was already on the books. It was available for the local improvements districts (LID) program. He furthered that there could be a blend of PACE and LID programs in the Fairbanks North Star Borough.

Representative Munoz commented that LID's were for public improvements to a local area. The bill was addressing private improvements made to private businesses. She did not believe the LID process could be used to make a private improvement. Therriault agreed. Typically examples of LID projects were street lights, sidewalks, and water and sewer projects versus improvements made to someone's private property.

[3:12:19 PM](#)

HB 118 was HEARD and HELD in committee for further consideration.

Co-Chair Thompson reviewed the schedule for the following day.

#

ADJOURNMENT

[3:13:01 PM](#)

The meeting was adjourned at 3:12 p.m.