

HOUSE FINANCE COMMITTEE
February 22, 2023
1:49 p.m.

[1:49:15 PM](#)

CALL TO ORDER

Co-Chair Johnson called the House Finance Committee meeting to order at 1:49 p.m.

MEMBERS PRESENT

Representative Bryce Edgmon, Co-Chair
Representative DeLena Johnson, Co-Chair
Representative Julie Coulombe
Representative Mike Cronk
Representative Alyse Galvin
Representative Sara Hannan
Representative Andy Josephson
Representative Dan Ortiz
Representative Will Stapp
Representative Frank Tomaszewski

MEMBERS ABSENT

Representative Neal Foster, Co-Chair

ALSO PRESENT

Jason Brune, Commissioner, Department of Environmental Conservation; Megan Kohler, Acting Administrative Services Director, Department of Environmental Conservation.

SUMMARY

HB 39 APPROP: OPERATING BUDGET/LOANS/FUND; SUPP

HB 39 was HEARD and HELD in committee for further consideration.

HB 41 APPROP: MENTAL HEALTH BUDGET

HB 41 was HEARD and HELD in committee for further consideration.

FY 2024 BUDGET OVERVIEW: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Co-Chair Johnson reviewed the meeting agenda.

#hb39

#hb41

HOUSE BILL NO. 39

"An Act making appropriations for the operating and loan program expenses of state government and for certain programs; capitalizing funds; amending appropriations; making reappropriations; making supplemental appropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date."

HOUSE BILL NO. 41

"An Act making appropriations for the operating and capital expenses of the state's integrated comprehensive mental health program; and providing for an effective date."

[1:49:57 PM](#)

^FY 2024 BUDGET OVERVIEW: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

[1:49:57 PM](#)

JASON BRUNE, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, introduced himself. He provided a PowerPoint presentation titled "Department of Environmental Conservation: House Finance Committee," dated February 22, 2023 (copy on file) beginning with the Department of Environmental Conservation's (DEC) mission to protect human health and the environment and to look after the economic and social well-being of Alaskans (slide 2). The department strove to partner with the regulated community to ensure development (i.e., fishing, mining, tourism, cruise ships) was done with an emphasis on protecting human health and the environment.

Commissioner Brune briefly discussed the department's values on slide 3. He noted that customer service was of

utmost importance to the department. He highlighted values including collaboration, integrity, and objectivity. He turned to slide 4 and highlighted work done by the department in four of its five divisions. He noted that a colleague would discuss the Administrative Services Division later in the presentation. The department oversaw programs put in place by Congress through the Clean Air Act, Clean Water Act, and Safe Drinking Water Act. The state had primacy over the aforementioned programs. He elaborated that under a federalist system, states had the opportunity to take over the programs. The department was formed 51 years ago just after the formation of the Environmental Protection Agency (EPA). The department's divisions were similar to the programs passed by Congress including water quality and the NPDES [National Pollutant Discharge Elimination System]; environmental health including the state veterinarian and the state drinking water program; and the Division of Spill Prevention and Response (SPAR).

Commissioner Brune shared that he had worked on clean up after the Exxon Valdez oil spill and it was an accident the state wanted to ensure was never repeated. He stated it was imperative for the department to work with the oil industry and communities to guarantee there was a focus on prevention. He recognized there were times when spills occurred that required clean up, but the department's focus was on prevention.

[1:53:10 PM](#)

Commissioner Brune turned to slide 5 titled "Working Hard for Alaskans: Measures of Regular Duties Jan. 1 - Dec. 31." He relayed that DEC had authorized over 10,000 items through permits, approvals, certifications, and plan reviews for the regulated community in Alaska. He recognized that the number was down from 2021, but some of the permits were renewed every other year. He relayed DEC conducted inspections to ensure permit holders followed the stipulations and requirements. There had been approximately 50 percent more inspections and site visits in 2022, which was directly related to COVID-19. The department had focused on trying to conduct virtual inspections during the COVID-19 pandemic, which DEC was trying to incorporate more into its daily routine in order to save travel costs and have a better relationship with the regulated community to help them better protect human health and the environment.

Commissioner Brune continued to review slide 5. He highlighted that during the pandemic, approximately 85 to 90 percent of DEC's staff were teleworking. He believed there was a substantial opportunity to evaluate employees based on the work they were supposed to be doing and not on the time they were in their seat. He elaborated that the department was evaluating employees on the number of widgets they needed to create, the number of permits they needed to authorize, and how many inspections they needed to do. He estimated that about 75 percent of DEC employees continued to telework at least two days a week. He underscored it would help save the department money and would help with retention in the long term. He explained that working from home meant it was necessary to scan the department's 51 years of material to ensure it was available to employees electronically. He shared that over 500 file cabinets worth of material had been eliminated over the past two years.

Commissioner Brune discussed retention on slide 5. He relayed that when he started as commissioner, DEC had been losing between 25 to 30 out of 100 employees per year. He stressed it was untenable to lose three out of 10 employees on an annual basis when the department was trying to do timely, science-based, legally defensible permits for the regulated community. He stressed it was necessary to put things into place to improve the situation. He relayed that teleworking had helped in addition to showing employees there were career opportunities to matriculate up at DEC. The department was working to learn about employees' goals and what it could do to encourage staff to remain with the department. The department put an emphasis on training, and over 40 hours of training per employee occurred during the past year. He underscored that the turnover rate had fallen from 30 percent to 14 percent. He clarified he was not excited about a 14 percent turnover rate; however, in the year of the "great resignation" he was proud of only losing 14 percent of the department's employees. He stressed that training was a huge component.

[1:57:05 PM](#)

Commissioner Brune reviewed an organizational chart on slide 6. He stated the leadership team had over 100 years of combined experience working for the state. He

highlighted various staff, their experience, and roles within the department.

Commissioner Brune moved to slide 7 and discussed DEC vacancy rates. He relayed that DEC put a keen emphasis on retention and had created a leadership academy that met regularly to talk about projects that could be taken on to improve DEC. The slide showed a budgeted FY 22 vacancy rate of 5.24 percent and an actual 6.37 percent vacancy rate.

2:00:29 PM

Representative Galvin thought it looked like a [positive] record setting vacancy rate compared to other areas in the state. She asked for the number of vacant positions.

Commissioner Brune answered there were 516 positions in the department. He explained that it was considered a zero percent vacancy rate if an employee left a position that cost \$100,000 and it was filled the next day. He elaborated that if the position was vacant for a couple of months a percentage of the salary was factored into the budgeted vacancy rate.

Representative Galvin asked for the current number of vacant positions.

Commissioner Brune believed there were currently 15 vacant positions. He advocated for either filling positions or getting rid of them. He elaborated there had been some positions vacant for one to two years and he had emphasized the positions either needed to be filled or eliminated. The department tried to emphasize promotion to higher level positions. The current number of vacant positions was between 10 and 15.

Representative Josephson thought it sounded like the employment situation was vastly improved. He asked about the removal of positions. He asked if it indicated the department was not going to do work associated with positions that it eliminated. He asked if it was a concern. He relayed that he had passion for the SPAR Division, which was a historically overworked agency. He asked how the conundrum was resolved.

Commissioner Brune replied that he also had an affinity for SPAR. He stated that what he had to do in his first two

years [in the position] was not something he had been comfortable with. He elaborated that the department had eliminated 14 positions because the funding sustainability for the division was not there. He had been told when he started that it would be necessary to eliminate 30 positions in four years. He explained that SPAR was funded with \$0.04 per barrel [of oil] for the prevention account and \$0.01 per barrel for the response account. Additionally, the division received .0095 cents per gallon of the refined fuel surcharge [implemented in 2015]. He expounded that when the 14 positions had been eliminated - there had been around 30 vacant positions at the time - he had communicated to the SPAR director to come back and advocate for the positions if they were needed in the future. He highlighted that the training hours at SPAR were around 100 hours per employee, which was nearly double the DEC average. He underscored that the division's retention rate was the best in the department. He expressed excitement that the department had turned SPAR around. He indicated his support for an increase to 1.5 cents in the refined fuel surcharge to bring sustainability to the division. He stressed that sustainability of SPAR was imperative.

[2:05:44 PM](#)

MEGAN KOHLER, ACTING ADMINISTRATIVE SERVICES DIRECTOR, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, introduced an overview of the operating budget beginning on slide 8.

Co-Chair Johnson stated that the committee had received the official vacancy rates, which had been significantly higher [than the rates provided during the presentation]. She reviewed vacancy rates the committee had previously received including admin 15.9 percent, air quality at 13.1 percent, SPAR at 9.3 percent, and water at 7.4 percent. She asked how the department had calculated the vacancy rate [previously spoken to by Commissioner Brune].

Commissioner Brune deferred to his staff.

Ms. Kohler replied that the department was running at a 10 to 15 percent vacancy rate. The vacancy rate was a monetary value planned for by the department as people moved through the system and left state service. The department's actual monetary vacancy rate for FY 22 in personal services was

6.37 percent. She noted the percentage did not reflect actual positions.

[2:08:09 PM](#)

Co-Chair Johnson requested follow up with a reconciliation showing the current vacancy rate.

Commissioner Brune replied in the affirmative. He referenced positions approved by the legislature the previous year associated with the [federal] Infrastructure Investment and Jobs Act (IIJA). He relayed that some of the positions had not yet been created by the Office of Management and Budget (OMB), which may account for some of the discrepancies. He agreed to follow up with the information.

Co-Chair Johnson noted that the slide specified FY 22. She stated the rate received from OMB was significantly different. She asked the department to follow up.

Commissioner Brune agreed to follow up.

Representative Stapp stated his understanding of the numbers. He surmised the department took the vacancy factor out of the equation and showed the percentage of vacant positions above the actual budgeted rate.

Commissioner Brune believed the statement was accurate. He added that the numbers given to the committee by OMB were at a given point in time and did not reflect an average over the course of the year. He believed the information in the presentation may reflect the final fiscal year figure. He would follow up with specifics.

[2:10:11 PM](#)

Ms. Kohler discussed slide 8 showing FY 22 actuals, the FY 23 management plan, and the FY 24 governor amend. She highlighted an influx of IIJA funding beginning in FY 23. She addressed the budget for the Division of Administration on slide 9. She highlighted a one-time funding request for office furniture replacement. She detailed that DEC offices had not been updated since the early 1990s in Anchorage and other locations. She explained that the [2018] earthquake had caused substantial damage and the department was looking to rectify the issues from a safety standpoint. She

noted the funding was federal. The other item shown on the slide was a fund source change to better utilize federal funding.

Co-Chair Johnson asked if the state had insurance for damaged office furniture.

Ms. Kohler answered DEC had used insurance to fix large scale damage. She detailed the roof had come off of the building and resulted in water damage. She explained that the scale of the problem had progressed as time had gone by.

Representative Hannan asked if the \$2.5 million was for the Division or Administration or the entire department.

Ms. Kohler answered that the funding was for the entire department.

Ms. Kohler briefly discussed the buildings, maintenance, and operations budget on slide 10. The department owned one building housing the environmental health lab, which was funded primarily with undesignated general funds (UGF) and a small amount of indirect federal funding. The specific budget contained no significant changes.

[2:13:41 PM](#)

Ms. Kohler moved to slide 11 and discussed the budget for the Division of Environmental Health. She noted the division included the environmental health lab, but the building, maintenance, and operations were billed separately. She highlighted a large influx of IIJA funding for permitting and testing programs. The budget included an increment to enable the department to accept the associated fees commensurate with the FY 23 supplemental. She explained the division was consistently seeing unbudgeted reimbursable services agreements (RSA); therefore, the budget included a technical adjustment in order to eliminate paperwork.

Representative Galvin asked what the "other" funds represented in the graph on slide 11.

Ms. Kohler replied that the segment reflected interagency receipts for DEC's ability to accept funds.

2:15:34 PM

Ms. Kohler discussed the operating budget for the Division of Air Quality on slide 12. She highlighted an increment for three state implementation plans (SIPs) through 2026. She detailed the processes were multiyear/multidecade with thousands of pages of reporting, requirements, and planning. The second increment on the slide was for the Rural Community Monitoring Network responsible for monitoring wildland smoke across the state.

Ms. Kohler moved to the SPAR budget on slide 13. The department had would receive \$7 million in federal funding over five years for assessment and verification of Alaska Native Claims Settlement Act (ANCSA) contaminated lands.

Representative Coulombe asked about air quality on slide 12. She noted the request for two additional positions for air quality monitoring. She looked at an explanation specifying the change would require less staff time. She asked for the reason for the positions.

Ms. Kohler replied that additional monitors were going out, which had been obtained through federal funding. She explained that many communities were investing in the low cost sensors. She detailed that the positions would help maintain the year-round operation.

Representative Coulombe asked if the monitoring network used new technology.

Commissioner Brune replied it was new technology. He elaborated that many people were buying their own "purple air" monitors. The department needed to ensure it had the experts that were talking about where to position the monitors. He stated it was great to have citizen scientists, but they could often have their own agendas. The department needed to make certain it was working with the individuals. He detailed that DEC had received substantial IIJA funding to purchase the systems around the state. The department needed to make sure the monitors were installed in the correct locations and that data from the monitors was properly interpreted. The network was used to understand where air quality issues were coming from such as fires in Russia, coal burning in China, or issues in Alaska.

2:19:26 PM

Representative Josephson asked where the department stood on the regulation of effluent discharge and air quality monitoring for the cruise industry.

Commissioner Brune replied that every cruise ship entering the state was inspected within the first few weeks of coming to port. He explained that inspections had not previously been done on small ships; at the time, only large ships had ocean rangers onboard. He explained there were not ocean rangers on every ship, but the department was using the funding to inspect ships with DEC staff. The department also conducted unannounced inspections on a regular basis. The department was monitoring the water quality in common corridors and ports used by ships and fishing boats. He noted that immediately prior to the pandemic, there had been good progress on legislation to redo the ocean ranger program. The work had stalled due to the pandemic and the idea had not been reintroduced. The department hoped to use the money collected for the ocean ranger fee to upgrade the shoreside wastewater treatment facilities and electrify docks, which would have incredible improvement on the environment resulting in fewer emissions.

Commissioner Brune explained that many of the communities visited by cruise ships were called 301(h) waiver communities exempted from the Alaska Pollution Discharge Elimination System requirements. For example, Ketchikan was allowed to discharge 1.5 million fecal coliform units per 100 milliliters of water from its wastewater treatment plant. He stressed that the maximum for the cruise industry was 40 fecal coliform units per 100 milliliters of water. He highlighted that the state held its communities to a different standard (than the cruise industry) because of the Environmental Protection Agency (EPA) 301(h) waiver. He explained that if legislation was introduced, DEC would try to upgrade those communities.

Commissioner Brune relayed that DEC was inspecting all cruise ships and making it a point to communicate its findings, especially to smaller ships. He stated that "Nat Geos" were discharging 2 to 3 million fecal coliform units per 100 milliliters of water. He did not find them to be good actors. He reiterated his earlier statement that

smaller ships had not previously been inspected. The state was finally holding them accountable.

[2:23:00 PM](#)

Representative Josephson asked for an explanation of the term "Nat Geos."

Commissioner Brune replied the term stood for National Geographic. He stated that the company that published photos of Alaska and worked to "lock up" Alaska was in the state's waters discharging higher levels of fecal coliform than many of Alaska's communities. He stated the boats were not being good actors.

Representative Josephson asked if the 301(h) waiver was for local municipalities.

Commissioner Brune answered that the 301(h) waiver allowed seven to nine of Alaska's communities to remain under the oversight of the EPA rather than the state of Alaska. He elaborated that Alaska gained primacy of the NPDES program over a period of time from 2008 to 2012. The permits were usually renewed every five years and had gradually come under state oversight; however, communities with the 301(h) waivers wanted to remain under the waiver program because it had lower requirements (they did not have to put in secondary or tertiary discharges). He highlighted that Anchorage was the largest community still on the waiver and the cost to upgrade the system would be between \$1.5 billion and \$2 billion in addition to operational expenses on an annual basis. He explained that the costs would be put on ratepayers. The same was true if there were upgrades to Ketchikan. The communities on the waiver were happy to remain under the waiver because it kept their costs down. However, there was an environmental impact in some cases, especially for subsistence harvesters in some of the Southeast communities.

[2:24:59 PM](#)

Representative Josephson remarked that he received correspondence about Anchorage's lack of secondary and tertiary backup and he had known about the issue for over 20 years. He stated that the issue struck him as an externality that needed to be addressed in the budgets rather than continuing to operate at "this baseline." He

thought it was an example of underfunding something that would be good for Alaska.

Commissioner Brune completely agreed. He highlighted there were billions of dollars of IIJA funding available to help the communities upgrade. He relayed that the ongoing operating expenses would still be put on the ratepayers. He relayed that the Village Safe Water Program and State Revolving Loan Fund Program had been funded significantly to help the communities get off of the 301(h) waiver and upgrade the quality of their wastewater discharges. He believed it was incredibly important.

Representative Galvin stated her understanding that federal funding may provide an opportunity for the state, especially given that Anchorage was the largest 301(h) community, and the waiver was essentially allowing the city to pollute the water. She understood it would be an additional cost to citizens, but there would be an opportunity to make the change in the near term.

Commissioner Brune answered it was absolutely true for the smaller 301(h) waiver communities in Southeast. He stated that DEC used science as the foundation of its decision making and the science for the AWWU [Anchorage Water and Wastewater Utility] Asplund facility had shown there were not fecal impacts to Cook Inlet due to the daily flow in and out of the inlet. He had seen that secondary and tertiary treatment were not necessary in Anchorage. He stated it did not mean the changeover should not be done. He highlighted there were several billion dollars for the communities, yet the work in Anchorage would cost that amount. He believed a funding request for Anchorage would be a separate issue.

[2:28:31 PM](#)

Representative Galvin surmised that perhaps Anchorage would not be as important considering the science and impact. She stated her understanding that Ketchikan and other Southeast communities with the 301(h) waiver were impacted based on the science the department had. She understood there was opportunity, but there would be costs in addition to the federal dollars.

Commissioner Brune confirmed there was funding available for communities like Ketchikan. He explained that the

systems needed to be upgraded with UV treatment, chlorination, or something similar because there were impaired water bodies around Ketchikan due to high fecal levels. He stressed that that the issue had to be addressed scientifically and from a management perspective, otherwise, DEC could not get a 401 certification of the permit (an extension of the waiver). He stated that DEC had to ensure water quality standards were maintained and it could not do so without some kind of upgrade. He confirmed IIJA money was available to upgrade the systems. There would be additional cost, but the funds were a great opportunity.

Representative Galvin asked for detail about the 401 permit.

Commissioner Brune answered the Division of Water gave 401 certifications of water quality standards for 301(h) waiver permits or Section 404 permits. He remarked that the state was interested in assuming the 404 dredge and fill program. He explained that the 401 certification was DEC's way to ensure an authorized federal permit would be maintained to meet water quality standards.

Co-Chair Johnson reminded committee members the present meeting was to discuss the budget.

Representative Stapp remarked on Commissioner Brune's statement that part of the funding would be paid by local utility ratepayers. He asked for verification that in order to access the federal funds, public utilities would be leveraging those funds without the legislature's involvement.

Commissioner Brune answered that DEC had a loan program that allowed the communities to borrow money through the State Revolving Loan Fund at low interest rates of 1.5 to 2 percent. He explained that 49 percent of the borrowed funding was forgivable. He clarified that the action did come through the legislature from the EPA and out to communities through the State Revolving Loan Fund.

[2:32:10 PM](#)

Representative Stapp asked if the loan funding was forgivable for the Municipality of Anchorage as well.

Commissioner Brune replied that there were forgivable programs through the State Revolving Loan Fund that he believed the Municipality of Anchorage was able to utilize. He noted that typically there had to be an income issue. He would follow up.

Ms. Kohler discussed the Division of Water on slide 14. The first was a one-time reversal of \$1 million associated with a 404 feasibility study. She explained that the funding had been appropriated by the legislature in FY 23 and the increment had been inadvertently included in the FY 24 budget. The second increment highlighted on the slide was money awarded to BLM through the Gravel to Gravel Keystone Initiative. The department was excited to expand its partnership with BLM to increase assessments of baseline conditions of surface waters over a larger area in the Arctic-Yukon-Kuskokwim region.

Ms. Kohler continued to review Division of Water budget highlights on slide 14. She addressed budget items for the Sewer Overflow and Stormwater Reuse Municipal Grants program. She explained that the funding source should be corrected from UGF to general fund match for federal dollars. The program was intended to address sanitary sewer overflows and storm water management.

Co-Chair Johnson referenced the increments funded with IIJA money on slide 14. She asked if the items would have to be funded with general funding the following year.

Ms. Kohler answered that the federal BLM funding ran through 2028 and the department did not anticipate requesting general funds in the future. The cost moving forward associated with the Sewer Overflow and Stormwater Municipal Grant Program was \$42,600 in general funds.

Representative Josephson asked what Gravel to Gravel Keystone Initiative was.

Ms. Kohler responded that she would follow up with the information. She remarked that BLM had received the funding to pursue the program.

[2:36:09 PM](#)

Commissioner Brune looked at slide 15 titled "DEC FY2024 Operating Budget: Assumption of CWA 404 Program." He stated

that the increment had been introduced in the governor's amended budget the previous week. The federal government passed laws including the Clean Air Act and Clean Water Act and under a federalist system, states had the opportunity to assume primacy over the programs. The state had primacy over the Clean Air Act and NPDES for over 51 years and for 15 years respectively. He elaborated that the previous year, the legislature approved Alaska as the 49th state to apply for primacy for the Resource Conservation and Recovery Act (RCRA) program. The department would submit its application and would hopefully get approval from the EPA in July of 2024.

Commissioner Brune highlighted that the legislature had appropriated \$1 million to DEC for a feasibility study of a 404 program. He relayed that SB 27 had passed the legislature in 2013, instructing DEC to pursue primacy of the 404 dredge and fill program. He elaborated that oil prices had crashed soon thereafter. He detailed that the program had not yet been fully assumed by the state and due to reduced oil prices, DEC's efforts to pursue the program had been cut. He shared that in 2018 the governor had asked about the one thing Commissioner Brune could do to improve the investment climate in Alaska as well as the environment. His answer had been to do what the legislature instructed, which was to assume the 404 program. In 2022, the numbers had been included in the budget. He expounded that DEC hired the firm Jade North to do an independent study and the recommendation was for the state to move forward on assuming the program. He explained that three states had primacy over the 404 program including New Jersey, Michigan, and most recently Florida. There were a number of other states pursuing primacy.

Commissioner Brune highlighted the ~\$5 million UGF increment and 28 positions related to state assumption of the 404 program for FY 24 on slide 15. The next year the number of positions would increase to 32 positions and the UGF increment would reduce to \$4.7 million. He explained that the application process had to be UGF funded, but like the NPDES, RCRA, and Air Quality programs, primacy programs were typically funded through a combination of federal and state dollars and fees charged to the regulated community. The department had made a commitment on the record that it would be looking at a fee program to help diversify the funding sources for the program going forward. He relayed that \$4.7 million would be the annual cost of administering

the program. There was not currently federal funding for assumption of the program but the state was pursuing the concept with its federal delegation and the Environmental Council of States (DEC colleagues nationwide). He anticipated that the cost of the program would be diversified within a couple of years.

[2:41:01 PM](#)

Representative Josephson stated his understanding that Michigan was interested in returning the program to the federal government. He wondered if Commissioner Brune knew if it was true.

Commissioner Brune answered that one of his close colleagues on the Environmental Council of States was the commissioner for Michigan's version of DEC and she had never vocalized anything of the sort. He stated that his colleague had communicated the program was going well and Michigan liked having the local oversight and knowledge that helped the state permit projects and protect the environment, while responsibly developing its wetlands.

Representative Josephson pointed out that Florida had to request funding for an additional 17 positions [associated with 404 primacy]. He had concerns about growing government in the program given that the Army Corps of Engineers had about 50 staff and an [annual] cost of approximately \$8 million to monitor the program. He asked why it would be possible for Alaska to do the work with 32 staff and less than \$5 million.

Commissioner Brune replied that Florida had a great problem that "we all want to have." He elaborated that Florida had so much development going on because people were wanting to telework and build their homes that 404 permits were going through the roof. He relayed that Alaska had more wetlands than the Lower 48 combined. He elaborated that Alaska had 175 million acres of wetlands and had only developed 0.1 percent, whereas the Lower 48 had developed over half of its 200 million acres of wetlands. He stated the issue was about the amount of development occurring and not about how many wetlands a state had. He emphasized that Florida had many more projects occurring and needed additional staff.

Commissioner Brune spoke to Representative Josephson's question about the state's suggestion that it could operate

the program with 32 staff versus the Army Corps of Engineers' 48 staff. He explained that the corps would continue to maintain around 25 percent of the permitting authority even if the state assumed authority over the 404 program. He referenced the Rivers and Harbors Act and relayed that Congress did not allow the corps to delegate its authority. The department believed it would have the ability to do 18 actions [per employee] per year versus the corps' 16 actions per employee per year.

Representative Josephson was interested to know whether stakeholders would welcome the fees Commissioner Brune had mentioned. He looked forward to seeing the correspondence.

Commissioner Brune answered he had conversations with placer miners, homebuilders, and individuals with the Associated General Contractors (AGC) who were willing to pay for the increased customer service, accountability, and Alaska expertise overseeing the programs. He stated that a number of organizations had endorsed the idea including RDC [Resource Development Council], AGC, the Alaska Support Industry Alliance, the state chamber, and others. He reported he had been transparent about the department's commitment to talking about fees during the process. He shared that he had been involved in helping pass an agency fees bill in 2000 or 2001, which allowed the department to pass the cost of permitting onto the regulated community. The same had been done for the NPDES program.

[2:45:45 PM](#)

Representative Galvin asked for verification that the goal was to get more control over the permitting to make it more efficient for stakeholders.

Commissioner Brune answered it was a goal. He discussed the goal of a more efficient process and dealing with only one entity. He referenced the 401 certifications he had mentioned earlier and explained that when the Army Corps of Engineers did its 404 permit it had to go to DEC to do a 401 certification. He explained that the 401 certification would no longer be necessary [if the state assumed primacy of the program]. Additionally, the state had the opportunity to improve the environment with the program. He stressed that the compensatory mitigation program and flexibility the state would have over the program would have huge environmental benefits. For example, the Lower 48

had developed over half its wetlands. He highlighted the need for wetlands due to the ecological benefits they provided. He stated that destroying them was not always a good thing. He used the term compensatory mitigation (no net loss) and explained the idea that if one acre of wetlands were developed that between one and 15 acres of new wetlands should be created. He stated that Alaska had so many wetlands that it was not necessarily the best alternative. Another option provided by the corps was putting lands in perpetual conservation easements. He remarked that there were 150 million acres of lands in the state in perpetual conservation easements. He stated that was not needed either. He suggested that development projects (e.g., roads, fish processing plants, oil facilities, mines) clean up a contaminated site, put in new fish passages, or eliminate honey buckets in a community. He stated they were environmental benefits the state would recognize instead of money being thrown into a mitigation bank where its benefits were unknown. He concluded there were many opportunities from a permitting and streamlining perspective, but also from an environmental perspective.

Representative Galvin noted that DEC was eventually looking at federal, state, and fees to pay for the assumption of primacy. She observed the department was initially requesting 28 positions, which would increase to around 40. She stated the Army Corps of Engineers currently had 48 staff overseeing the program. She did not want to have lawsuits down the road claiming the state was not providing enough coverage. She asked if DEC believed the 40 positions would be sufficient to get the work done.

Commissioner Brune stated that the corps currently had 48 positions, but some of the positions would be eliminated and he did not know how many the federal government would keep. Through the feasibility study, DEC looked at length into the number of activities done on an annual basis. He reported that the Jade North study had specified that 32 positions would be sufficient to maintain the program at the current level of economic activity. He stated if there was a boom with new mines, fish processing plants, and housing developments, it would be a great problem to have because additional economic activity would lead to more royalties and taxes to the state. He saw it as a win-win.

[2:50:25 PM](#)

Representative Josephson considered the commissioner's suggested change of remedies from no net loss to cleaning up something instead. He wondered if the Clean Water Act would let the state change mitigation remedies if it assumed 404 primacy.

Commissioner Brune answered that he wondered the same thing. He stated that the Army Corps of Engineers currently had the flexibility through a 2018 memo, but it was rarely implemented. He highlighted the CD5 oil development as an example and detailed that ConocoPhillips had written a check for \$7 million into a mitigation bank and no one had any idea where the money went and whether it helped anything in Alaska. He cited the Donlin [gold] project that wanted to clean up the historic Red Devil Mine, but the company had not been allowed to do so. He had worked at CIRI at the time and had negotiated a deal for a conservation easement on land that was never going to be developed. He stated there was no added environmental benefit. He reported that the flexibility existed for the corps, but it did not implement it. He underscored that if the state had primacy, it would be a priority to clean up contaminated sites on ANCSA land, eliminate honey buckets, install new fish passages, and things that positively benefited the watersheds where activity was occurring. He stated it would be an improvement for the areas.

Co-Chair Johnson thanked the department for the presentation.

[2:52:57 PM](#)

Representative Cronk looked at slide 8 showing the department's overall budget. He asked for the difference between "IIJA other" and "IIJA fed" fund sources.

Ms. Kohler answered that IIJA other included capital improvement projects receipts and clean and drinking water admin funding. She explained that IIJA fed was the department's ability to accept federal dollars.

Representative Cronk asked if the state would be on the hook for covering items in the future once federal IIJA funds ended. He wondered if the budget would return to a normal level once the IIJA funding had been used.

Commissioner Brune answered that he insisted on having IIJA funding separated on the budget graph. He did not want to see growth of government for DEC going forward. He relayed that Governor Dunleavy had advised the commissioner to always be careful about the allure of free money because there would always be ongoing operating expenses once the free money stopped. He agreed, but a lot of the funding would go towards replacing honey buckets and bringing clean water to 32 communities without safe drinking water during a pandemic. He reiterated he had insisted breaking out the IIJA funds in the department's budget in order to avoid the continued growth of DEC staff after the federal funds had been used.

HB 39 was HEARD and HELD in committee for further consideration.

HB 41 was HEARD and HELD in committee for further consideration.

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

#

ADJOURNMENT

[2:56:00 PM](#)

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