

HOUSE FINANCE COMMITTEE
March 31, 2023
1:34 p.m.

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CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Julie Coulombe
Representative Mike Cronk
Representative Sara Hannan
Representative Andy Josephson
Representative Dan Ortiz
Representative Will Stapp
Representative Frank Tomaszewski

MEMBERS ABSENT

Representative Bryce Edgmon, Co-Chair
Representative DeLena Johnson, Co-Chair
Representative Alyse Galvin

ALSO PRESENT

Rena Miller, Special Assistant, Department of Natural Resources, Representative Jesse Sumner.

PRESENT VIA TELECONFERENCE

Jeanne Pigors, Natural Resource Manager, Division of Mining Land, and Water, Department of Natural Resources, Fairbanks; Shawn Olson, Procurement Specialist, Department of Natural Resources, Anchorage; Chris Orman, Attorney, Department of Law, Juneau; Helge Eng, Director and State Forester, Division of Forestry, Department of Natural Resources.

SUMMARY

HB 49 CARBON OFFSET PROGRAM ON STATE LAND

HB 49 was HEARD and HELD in committee for further consideration.

PRESENTATION: FOREST MANAGEMENT

Co-Chair Foster reviewed the agenda for the meeting.

#hb49

HOUSE BILL NO. 49

"An Act authorizing the Department of Natural Resources to lease land for carbon management purposes; establishing a carbon offset program for state land; authorizing the sale of carbon offset credits; and providing for an effective date."

^PRESENTATION: FOREST MANAGEMENT

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Rena Miller, Special Assistant, Department of Natural Resources, introduced herself.

Helge Eng, Director and State Forester, Division of Forestry, Department of Natural Resources, offered a PowerPoint presentation titled "Forest Management in Alaska," dated March 31, 2023 (copy on file). He relayed that half of the ownership of the forests in the state were considered private lands. Fighting fire was expensive, but forestry and fire protection were inextricably linked and the workers performed the same work on the same land.

Mr. Eng continued on slide 2 which depicted a pie chart detailing the breakdown of forest land in Alaska by ownership. He reiterated that federal land made up about half of the pie chart and the other half of the chart was split between private corporate land, borough and municipal land, and private non-corporate land. He highlighted that the largest national forest was the Tongass National Forest at about 18 million acres.

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Mr. Eng continued on slide 3. He explained that the Division of Forestry and Fire Protection (DFFP) managed state forests. In addition to state forests, forested state

lands required management as well. The forests were classified as general use forestry. The largest state forest was the Tanana Valley State Forest at 1.81 million acres, followed by the Haines State Forest at 286,000 acres, followed by the Southeast State Forest at 46,592 acres.

Co-Chair Foster noted Representative Jesse Sumner was in the audience.

Mr. Eng turned to slide 4, which was a map showing the location of state forests and forest-classified state land. There was a large portion of forests in the Fairbanks area. The Haines State Forest consisted of land surrounding the Haines area. The Southeast State Forest was a series of non-connected pieces of land around Ketchikan and neighboring areas.

Mr. Eng continued on slide 5. State forests were generally more evenly managed and less event-driven than private lands or other state lands. He emphasized that there was no value judgement implied, but that it was a simple statement. He read the objectives of state forest management from the slide as follows:

- Multiple use mandates, including recreation
- Sustained yield mandate
- Provide the timber industry with a perpetual, stable, non-declining supply of raw material year after year
- Consider and incorporate public input

Mr. Eng noted that it was important to be aware that in order to provide stability to the timber industry, the division had to occasionally forgo some riskier opportunities.

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Representative Hannan asked for more information on the mandate to provide the timber industry with a perpetual, stable, and non-declining material. She thought it sounded aspirational because she was not certain if the mandate had ever been met. She asked if there was perhaps a period of time during which the state had met the mandate. She had heard continually that the state did not have annual and stable access to forests. She asked whether it was

aspiration or if Mr. Eng believed the state was meeting the mandate.

Mr. Eng responded that he believed that the state provided a consistent and healthy supply of raw material to the timber industry. He thought determining how much material should be provided to the timber industry was a healthy discussion. He emphasized that the division worked in partnership with the timber industry and welcomed the support and contribution from the legislature and the governor in helping define the appropriate harvest level. One of Alaska's challenges was access due to the lack of roads in many areas of the state. He relayed that there was a regular supply of material to the timber industry and that it was a provable fact.

Representative Hannan noted that HB 49, which was the legislation on the current day's agenda, involved using carbon offset and securing timber. She asked if the mandate to supply materials to the timber industry would change under HB 49 if it were incorporated. She thought keeping the trees for carbon offset seemed to be in conflict with the mandate to provide materials.

Mr. Eng responded that he would be addressing the issue on an upcoming slide. He understood that HB 49 was intended to supplement timber harvesting. If forest management had nothing to harvest, there would be no Carbon Offset Program. He thought it remained to be seen whether carbon offsets would be in conflict with timber mandates. The two were not in conflict in his experience. His read of HB 49 was that market supply and demand and interest would dictate forest management.

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Mr. Eng continued on slide 5. He noted that state forests harvested less than the sustained yield in most years. The forests might be sought after for forest carbon offset projects.

Mr. Eng moved to slide 6, which offered some statutory information that governed the management of state forests. He explained that AS 41.17.200 described the primary purpose in the establishment of State Forests, which was timber management that provided for the production, utilization, and replenishment of timber resources while

allowing other beneficial uses of public land and resources. He continued that AS 41.17.230 expanded upon the subject. Forest management plans compatible with the primary purpose of State Forests under AS 41.17.200 were required to consider and permit uses of forest land for nontimber purposes. The uses included recreation, tourism, mining, mineral exploration, mineral leasing, material extraction, consumptive and non-consumptive uses of wildlife and fish, grazing and other agricultural activities, and other traditional uses which legislated state forests. He relayed that there were many uses in addition to timber production despite timber being the primary mandated land use.

Mr. Eng advanced to slide 7. He explained that the Alaska Constitution, Article VIII, sections 1 and 4 required that timber resources were to be made available for maximum use consistent with the public interest and to be utilized, developed, and maintained on the sustained yield principle. He thought the constitution was clear in that timber resources were to be utilized sustainably for maximum use.

Mr. Eng continued to slide 8. He explained that sustained yield was defined as harvesting the amount of timber growth at most that accumulated in any given year. The growth of an individual tree may not seem significant, but the growth of all trees in an acre would quickly become significant. Annual timber harvesting could be easily sustained if the amount of timber harvested each year was less than the amount of new growth. The strategy would ensure that the resource would not be depleted and the trees would not be killed. The concept was often referred to as the annual allowable cut (AAC). He referred to AS 41.17.950(26) which indicated that sustained yield was the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of forest land and water without significant impairment of the productivity of the land and water. It would not require that timber be harvested in a non-declining yield basis over a rotation period. He added that AS 41.17.950(26) defined sustained yield as the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the state land consistent with multiple use.

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Mr. Eng moved to slide 9 and explained multiple use as defined under AS 38.04.910(5). The management of state land and its various resource values would be used in the combination that would best meet the present and future needs of the people of Alaska. Lands used for multiple use purposes meant that some of the land could be used for less than all of the resources and multiple use goals did not have to be met equally on every acre. Additionally, multiple use included a combination of balanced and diverse resource uses that took into account the short-term and long-term needs of present and future generations for various renewable and nonrenewable resources. He highlighted the importance of roads to forests to increase access to forests.

Mr. Eng advanced to slide 10. He explained that another important element was the Alaska Forest Resources and Practices Act (FRPA) [found in AS 41.17] which governed timber harvesting, reforestation and access on state, private, and municipal land. He relayed that FRPA protected fish habitat and water quality and ensured prompt reforestation while providing for a healthy timber industry.

Mr. Eng continued on slide 11 and detailed the steps involved in timber sales. The steps were as follows:

1. Regional Planning: Area Plans & State Forest Plans
2. Five-Year Schedule of Timber Sales
3. Best Interest Finding
Timber may be sold after BIF adopted
4. Forest Land Use Plans
Not all FLUPs must be issued before timber is offered for sale
For large sales, prepare FLUPs in phases, as access is developed

Mr. Eng explained that the five-year schedule actually refreshed every two years and the division thought that the system worked well to encourage public collaboration and head-off potential problems. In step three of the process, the commissioner would make the decision that it was in the best interest of the state to go forward with timber sales. The timber could only be sold after the best interest finding process. The final step was the development of the more specific Forest Land Use Plan (FLUP). He explained that not all FLUPs must be issued before timber was offered

for sale. The plans involved more specific elements such as where roads would be placed, potential impacts on wildlife habitats, and water quality in the area. He explained that FLUPs and the best interest findings were both subject to appeal and both include a 30-day public comment period. Once the division had addressed the comments and published a final FLUP, there was an opportunity for appeal for another ten days.

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Mr. Eng moved to slide 12 and posed the question of whether forest management would change under HB 49. He indicated that he did not know the answer to the question. The division had a couple of comments regarding the language of the bill, which were as follows:

- The state forest management plans would have to be updated to incorporate forest carbon offset projects.
- State Forests remain actively managed working forests where timber harvesting is a regular occurrence

Mr. Eng moved to slide 13 and concluded his presentation.

Co-Chair Foster thanked Mr. Eng for his presentation.

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AT-EASE

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RECONVENED

Co-Chair Foster noted that the sectional analysis of the bill would be presented next by Ms. Miller.

Ms. Miller offered a PowerPoint presentation titled "HB 49 Sectional Review" dated March 31, 2023 (copy on file). She noted that there were other testifiers online that would provide additional information and comparisons after her presentation. She began on slide 2 and explained that there were two pathways to a carbon offset project under HB 49. The first pathway was for the state to lease land to a third party for a carbon purpose. The third party would be considered the project proponent and would receive credits or revenue. The state would receive compensation under the lease terms which could include annual rent, a portion of receipts, or other elements. The bill would not authorize

leases of state lands on state forests to third parties with the exception of the Haines State Forest resource management area, which already allowed leases to third parties in statute. The intended use of the first pathway was general carbon management purposes.

Ms. Miller explained that the second pathway was if the state were to undertake a carbon offset project on state land. The state would be considered the project proponent and receive the credits generated by the project. The pathway would propose that the Carbon Offset Program (COP) be housed under the existing Office of Project Management and Permitting (OPMP) within the Department of Natural Resources (DNR). The projects could be on state land and could also be in state forests. There would be no third-party leases required under the second pathway. The state projects would be for land-based or resource-based carbon offset projects.

Ms. Miller continued on slide 3 and offered the sectional analysis for HB 49. The slide broke down the entire bill for the purpose of easy reference. She explained that Section 1 was an exemption from the procurement code for COP contracts for state projects. She explained that the procurement code was useful in providing competition that could result in lower prices for goods and services; however it would not lend itself well to the framework of the carbon program. The state would partner with a project developer on a broad framework but DNR did not yet have the required amount of detail that would allow the department to put forward a workable scope.

Ms. Miller elaborated that the department would be asking for contribution from individuals engaged in relevant fields to determine the best strategies for carbon offset projects on state lands. She emphasized that the department wanted to field ideas within the framework of the bill. The carbon program contracts were an instance in which a competitive process was not necessary. Project development companies and other contractors had wildly varying structures. Some were "turn-key" operators and would front the state or the landowner the cost of developing a project upfront and would be repaid in the credits generated from the project; others worked on an hourly basis; others offered an "à la carte" contracting option in which case a landowner might take on more or less of a role in the process.

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Ms. Miller continued on slide 3. In addition to exemptions for project developers, the department foresaw contracts with a registry under the COP. The registry would have a terms of use agreement in addition to a contract once the budget had been finalized. The project would have already been designed for a particular protocol at a particular registry and to offer the contract through a competitive bid process would not make sense. A protocol would stand on its own and would have one or two registries that would offer the protocol. The other instance where contracts would be anticipated was related to expertise that the department might need in order to design the program, the program framework, the regulations, and teach the department how to evaluate the proposals from developers that were expected to be incoming. The department might also need contractual expertise for legal and commercial review of the contracts.

Co-Chair Foster asked Ms. Miller whether there was still a competitive process within the procurement code. He thought that the procurement code was well-defined. He wondered if there would be more finalized definitions prior to the competitive bid process.

Ms. Miller responded that there was nothing in the bill that specified what the process would look like without using the procurement code; however, DNR and other departments within the state had existing exemptions and, in her experience, the departments try to follow a set process as much as possible. She relayed that DNR agreed that there should be competition and would like to hear a variety of ideas from a variety of developers. She emphasized that the ideas would be proprietary when brought to the department. The department could take an idea from one developer and ask other developers to offer the department the best rate or the best terms for implementing the idea, which could potentially reduce the responsiveness of the developer of the original idea.

Co-Chair Foster asked who would be acting as the procurement officer responsible for accepting the contracts.

Ms. Miller responded that under Section 6, there was a basic outline on the need for the establishment of a new framework to evaluate proposed projects and concepts for COP. She reiterated that COP would be housed under OPMP, which had experience in a wide range of similar activities.

Co-Chair Foster noted that he wanted to ensure that there was a process put into writing. He thought it was important for transparent ground rules to be available.

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Representative Stapp asked about page 4, line 7, subsection (h) of the bill and read from it as follows:

(h) Before entering into a lease of land under this section, the director must find under AS 38.05.035(e) that leasing the land for the proposed carbon management purpose is in the best interests of the state.

Representative Stapp added that the bill listed the best interests of the state in the context of the bill, but he thought that the definition was vague. He thought that it would be in the best interest of the state to develop high-value resource land, but he thought that others would disagree. He asked how one would deal with varying opinions of what would be in the best interests of the state.

Ms. Miller responded that the section of the bill to which Representative Stapp was referring was related to state land leasing and the procurement code exemption would only be for state program contracts. She understood that there were a variety of opinions on how to use land and resources in the state; however, DNR had a constitutional and statutory responsibility to maximize the use of the resources for Alaskans. The department was required by HB 49 to consider the reasonably foreseeable effects of the project on the state or local economy. She was not certain whether the requirement was in the best interest findings language in statute, but it was particular to the legislation to guide the department in its assessment of the opportunities and economic impacts that a carbon project would have in comparison to other potential projects.

Representative Stapp responded that it was an arbitrary evaluation and a value judgement. He thought a 50-year gold deposit was important, but if there was permafrost on the land, another individual might argue that it would be in the best interest of the state to sell the land as an offset and not mine the area. He asked how the hypothetical situation would be navigated.

Ms. Miller responded that a portion of the best interest finding process was highly public. She explained that public feedback on proposed projects would help identify where overlaps and issue might occur. She added that the mineral estate was dominant in Alaska in the context of a large mining project. A state land lease would not be closing land for a COP for mineral entry.

Co-Chair Foster commented that Ms. Miller had testified on difficult oil and gas issues and she had seen some tough questions over the years. He noted that there were other testifiers online that could contribute to the conversation.

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Ms. Miller continued on slide 3. She shared that Section 2 of the bill related to non-general fund program receipts and conformed to Section 6. She explained that Section 6 involved establishing a new fund outside of the general fund to receive revenue from credit sales. Therefore, Section 2 allowed for the revenue from the sales to be treated as designated program receipts and deposited into the fund.

Ms. Miller added that Section 3 through Section 5 related to state land leases to third parties for carbon purposes for third-party projects. She deferred to Ms. Jeanne Pigors to elaborate on the section.

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JEANNE PIGORS, NATURAL RESOURCE MANAGER, DIVISION OF MINING LAND, AND WATER, DEPARTMENT OF NATURAL RESOURCES, FAIRBANKS (via teleconference), continued the presentation on slide 5 to offer a brief overview of current leasing administration in the state, provide some examples on the way in which the process currently operated, and how carbon leases compared to the current structure. She explained that leasing was

fundamental to the business of the Division of Mining, Land and Water (DMLW). Lease programs supported a wide variety of commercial industry, public and charitable, and private sector needs and covered many types of land uses such as aquatic farm sites, power generation, and telecommunication areas. All of the programs provided different needs and uses for state lands through DMLW and the requirements varied greatly. All programs were held and administered under the Alaska Land Act [AS 38.05], which set out provisions including: best interest findings and public notice; application, award, lease conditions, and compensation; and term length and preference rights eligibility. The provisions and projects might vary depending on the lease type but there were also many shared similarities. Best interest findings were required for all provisions and projects and the findings process was robust. She elaborated that one of the elements involved in best interest findings was agency motives, which entailed reaching out to agencies to acquire any information of which the department should be aware before moving forward with a lease. She clarified that the process was typical for all leasing projects.

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Ms. Pigors continued on slide 6, which compared the program to existing commercial leases. Although COP was new, it would be housed under Title 38 along with the other leases. In many ways, proposed carbon purpose leases were similar to standard commercial leases and would make the same considerations and follow the same structure. Considerations would be put into place for carbon purpose leases prior to being issued, which was the standard procedure for existing leases. Similarly, the term lengths under the current leasing program included a 55-year maximum lease term with renewable potential. Carbon purposes leases would have the same maximum lease term. A significant difference was that commercial leases required that there be competitive interest or an auction prior to awarding leases for a term longer than ten years, while proposed carbon purposes leases were exempt from competitive bidding and the lease would be awarded to the most qualified applicant. Leases would still be evaluation before being awarded, but the evaluation process would not be required to consider a competitive option or interest. She continued that compensation for both lease types would be the same. Compensation would be designed to maximize the

return to the state in a form provided for under AS 38.05.073(m). The statute provided six different methods through which compensation could be brought back to the state.

Co-Chair Foster directed attention to the bolded words on the slide "exempt from competitive bidding" and noted that he would need more information on the details of the exemption.

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Representative Ortiz referred to the 55-year maximum lease term. He understood that the maximum was in state law and that 55 years was the maximum for any lease in the state. He asked if his understanding was correct.

Ms. Pigors responded that 55 years was the maximum initial lease term for any lease issued by the state.

Representative Ortiz understood that the standard carbon lease and most profitable carbon lease was in the area of a 99-year lease. He asked if the state was not achieving the maximum potential return if the maximum remained 55 years. He wondered if changing the law for the purposes of carbon leasing would be prudent. He thought that there would be a significant sacrifice in profit for the state if the current maximum was maintained.

Ms. Pigors clarified that although the initial lease term was 55 years, there was potential for a longer term overall. She confirmed that the lease renewal option was already in statute.

Representative Ortiz relayed that the information provided by Ms. Pigors was made clear to him in a prior hearing. He thought that a project could be negatively impacted if it were to compete with other programs that had an initial lease term of 99 years. There would be a higher financial return to those who were offering longer lease terms and it seemed to be more attractive to investors. Although the maximum term could be extended, it could appear as merely a possibility while an upfront 99-year term could be seen as more of a safe bet.

Ms. Miller responded that the topic had come up in a previous hearing and she had followed up with Anew

Consulting for more information. She added that she believed the committee would be hearing from Anew in the near future. She relayed that Anew understood that for North American forestry projects, a longer lease term would not necessarily generate a higher credit value. She would follow up with Anew and ask for more detailed information on the topic. She suggested to Representative Ortiz that they should connect outside of the meeting to discuss the longer-term, higher-value leases he had come across. The department's understanding was that the lease terms were up to the protocol that mandated the requirement of time on a project. Some protocols were 40 years, such as the Improved Forest Management Protocol (IFMP) at the American Carbon Registry (ACR), and others could be 99 years. Part of the process was finding the right protocol that suited the needs and priorities of a project.

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Representative Josephson asked Ms. Miller to explain ACR.

Ms. Miller responded that Anew put together a report (copy on file) that took an initial assessment of whether there was carbon potential on state lands in Alaska. She relayed that Anew reviewed a number of protocols put together by registries and the question was whether there were projects that were compatible with Alaska and could be put up quickly. The IFMP was identified by Anew as a protocol used widely in North America, used in Alaska for projects generating credits, and compatible with the other requirements under statute. The primary use of a forest was also kept in mind and harvest could continue even with a COP on the land. She explained that ACR referred to the American Carbon Registry, which was the registry that hosted IFMP. There were many other protocols in existence and there were four major registries in the North American region.

Representative Josephson recalled that Ms. Pigors had noted in the presentation that a lease would be awarded to the most qualified applicant. He thought the idea of a most qualified applicant sounded good but he wondered how a most qualified applicant was determined and how the selection process was reviewable by the public.

Ms. Pigors responded that due to the uncertainty about the types of projects that would be proposed to the state, the

specifics were not yet determined. She could share that the most qualified applicant was typically the applicant that demonstrated the most knowledge on carbon management experience. Additionally, one applicant might have a more appropriate term-length than another, which would contribute to the applicant's qualifications. The leases would be subject to best interest findings which would be subject to public notice. She emphasized that public notice would be provided prior to the issuance of any lease and would describe the details of the lease and the applicants being considered.

Ms. Miller added that page 3 of HB 49 articulated the specific elements the department would consider if there were multiple applicants. She ensured that any additional requirements would be established in additional regulations which would clearly identify the ways in which the potential competing applications would be evaluated.

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Representative Josephson noted that slide 6 of the pre-statement mentioned leases would have compensation designed to maximize return to the state. He understood that there would be an auction involved, and shared that when he attended an auction, he could be sure that the highest bid that was made was selected. He asked Ms. Pigors how he could be certain that the bidding process for leases was competitive if there was an exemption from competitive bidding. He wondered how he could be assured that the process was in compliance with AS 38.05.073(m).

Ms. Pigors responded that when the best interest finding was written, the particular style of compensation method that was chosen for carbon leases would be described and proposed and put out for public notice during the best interests finding process. The process often involved a preliminary decision, which was released to the public, followed by a final finding. Any comments or questions about the nature of the choice of method or any other aspects of the proposed action were available to the public. The public would see an explanation of the compensation chosen and the reasoning as to why it would lead to returned revenue to the state. The final findings were required to respond to public comment prior to the findings being finalized.

Representative Stapp commented that it was difficult for him to understand why the process would be exempted from competitive bid. He could not understand the choice to forgo a competitive bid process unless the intention was to award contracts outside of a bid process.

Ms. Miller responded that the wording on slide 6 might have been misleading. The part that the process would be exempt from would be the requirement to award the lease in a public auction to the highest qualified bidder. There may be other values at play in evaluating the best applicant other than the highest bid. The department thought that a more reasoned approach would be to examine the leases and determine how the leases would work with resource development and all other land interests and evaluate competing applications through multiple lenses.

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Representative Hannan relayed that she had tallied up the totals of the fiscal notes (copies on file) and reported that it would cost around \$1.5 million in FY 24 to operate the program. She referred to the carbon volume and revenue report by Anew (copy on file) which included a chart that showed the Haines and Southeast forests and the amount of expected revenue on an annual basis. In the first year, the expected revenue was \$1.48 million. She understood that the revenue represented the maximum amount of credits as possible. She wondered whether the costs to run the program would vary depending on the load of carbon assets being sold. She did not think it seemed like a large amount of compensation for the amount of effort and work. She understood that it would be profitable if it went according to plan and if every carbon offset in the forest was purchased.

Ms. Miller responded there were two pathways to projects, the first of which being the issuance of land leases to third parties. She explained that the fiscal note offered by DNR and allocated to DMLW [control code BJvUV] (copy on file) related almost entirely to the first pathway and the addition of new staff to administer and process new leases. The hope was that the compensation for the land leases over time would supplant the general fund for the positions. It was unclear when or how much that would be which was why the fiscal note showed general funds. Some of the funds

that were proposed to be allocated to DMLW would be for an as-needed support to the state undertaken project area.

Ms. Miller continued that the fiscal note offered by DNR with funds allocated to OPMP [control code mhzEs] (copy on file) included the addition of one employee to manage the second pathway to projects, which would be the state projects. The state projects were the kind of projects included in Anew's report of anticipated revenue. The expectation was that there would be multiple projects happening concurrently in the state that would feed revenue into the fund and account for the costs of running the projects. She understood that 18 to 24 months of development time would be necessary before credits could be issued.

Representative Hannan wanted clarification on the Anew report. She read that Anew had assessed the total value of the Haines forest, but Ms. Miller had mentioned the potential of multiple projects. She asked if the same credit could be purchased by different entities. She wondered what the effects would be if only half of a forest was involved in carbon offset projects. She asked if Anew was only referencing a single project in the summary chart.

Ms. Miller responded that the department thought there could be multiples happening at once in the Haines forest, the Southeast forest, and others throughout the state. All of the projects would contribute to funding the administrative costs required to keep the program running.

Co-Chair Foster asked Ms. Miller if there was a provision in the procurement code for best value as opposed to best price. He wondered why a best value process could not be used if it was already in place.

Ms. Miller deferred the question.

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SHAWN OLSON, PROCUREMENT SPECIALIST, DEPARTMENT OF NATURAL RESOURCES, ANCHORAGE (via teleconference), responded that there were typically processes in place. There were a couple of different solicitation processes: bid-based and proposal-based. The proposal-based process involved the evaluation of cost and technical response.

Co-Chair Foster asked if there was another process.

Mr. Olsen responded that the aforementioned two were the main processes used in collaboration with DNR. There was another method that not that focused more on what was put in the technical response box on a proposal form; however, the format was not used by DNR.

Co-Chair Foster asked if Mr. Olson could provide a chart that showed the different options. He asked if there was a best value process as opposed to best price.

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Representative Josephson relayed that Michigan had an offset program for its forest. He explained that Michigan utilized a model where a fiscal note was not carried but that the costs were covered in some way. He asked Ms. Miller if his understanding was accurate. He was also told that the Michigan law did not generate much revenue for the state treasury and was curious if it was true.

Ms. Miller responded that the question would be better suited for Anew when it came before the committee. She shared that Anew partnered with Michigan on the project to which Representative Josephson was referring and would continue partnering with the state on future projects. She understood that Michigan chose the turn-key option with the project developer to avoid upfront project costs and would compensate the developer for the costs as credits were generated. Regarding his second question on the amount of revenue that Michigan was generating, she shared that she did not have the dollar amount but would follow up. She was certain that the project was generating credits.

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Representative Coulombe asked for an explanation of where the generated revenue would go. She understood that a carbon offset fund would be created and wondered if it would be a restricted fund.

Ms. Miller responded that there were two paths to projects and the money in each path was treated differently under the bill. The revenue program receipts for third-party projects would eventually supplant general fund dollars and would fund the DMLW positions required to run the leasing

program. In terms of the COP that would be established under DNR for state proponent projects, the revenue from the sales would go to the new carbon offset revenue fund. The bill was written in a way to ensure there was an appropriation out of the fund in order to ensure that the legislature had a link to the fund in order to exercise its responsibilities. The commissioner would then be able to utilize the monies appropriated out of the fund to cover the costs of running the program. She reiterated that once the projects were generating revenue, the hope was to supplant general fund dollars that were currently requested in the fiscal notes. The House Resources Committee (HRC) added a lapse provision in the bill to ensure that the unobligated balance of the fund in excess of \$10 million would lapse annually to the general fund. She clarified that HRC selected the lapse method in order to direct the generated revenue. It was important to DNR that there was adequate money in the fund on an ongoing basis in order to meet the needs of administering the projects. There would be ongoing monitoring, reporting, and validation of the Co2 storage benefit. There would be a field exercise involving a third party verifying the results and would require additional funds, and the department wanted to ensure that adequate funds were in place to pay for such obligations.

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Representative Coulombe was concerned that the fund would be created with much work and effort but would only pay for the program. She asked Ms. Miller why HRC chose the \$10 million figure.

Ms. Miller responded that committee determined that the figure would feel sufficient for the department to have the necessary funds to carry out the commitments related to maintaining the programs. There could be multiple carbon offset programs running concurrently without knowing when the costs would need to be obligated. It was also suggested that the state might want to use some of the generated revenue to pursue additional projects.

Co-Chair Foster asked Ms. Miller if other states that also participated in similar carbon programs had also asked for an exemption from the competitive bidding process. If other states had not sought out an exemption, he wondered what process would be utilized instead. He asked whether the states fell into a procurement process or something else.

He understood that the question would likely require research and suggested that Ms. Miller follow up in a future hearing.

Ms. Miller would follow up.

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Representative Hannan commented that Alaska had neighbors that were already embarking upon carbon offset opportunities. She asked if the state had consulted with other entities already participating in projects and asked how the projects were performing.

Ms. Miller responded that at various stages, individuals with DNR had spoken with members from Native corporations and village corporations that had undertaken similar projects. Some of the corporations that had taken on projects did so under the compliance market, which generated offsets that were then available to buyers under California's Cap-and-Trade Program. The protocols that met the California standards were sometimes different than the standards the department might consider. An important takeaway was that the projects were being done in Alaska and were generating revenue.

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Ms. Pigors continued on slide 7 and offered a few more examples that showed the differences and similarities between standard commercial leases and proposed carbon purpose leases. The first example relayed that for standard commercial leases, existing public access and potential third-party uses of lease site were closely evaluated and appropriate public access areas were reserved. It was a requirement to commercial leases to examine the maximum use of state land and maximize multiple uses when possible. Under the current leasing rules, there was a robust process and considerations given to third-party uses and potential access given to the public or access given to an area that might be going through the best interest findings process. The department routinely looked for whether potential public access routes needed to be reserved, what the third-party uses might be, which routes needed to be reserved within a lease site, and so forth. The specifics varied significantly depending on the particular project and area needs.

Ms. Pigors explained that proposed carbon purpose leases would also be subject to a robust review with the added fact that under the proposed carbon lease statute, there would be an even more explicit emphasis on ensuring that carbon purpose leases were open and available to the public for general public use reservations such as hunting, fishing, and other generally allowed uses. Proposed carbon purposes leases specifically emphasize retaining openness for generally allowed uses. For standard commercial leases, there was always the possibility for a significant amount of site control; however, many of the leases were already open to the public and people were already permitted to come and go throughout the lease area. There were other leases that required a significant amount of site control, for example, power generation sub-stations needed to be closely monitored and kept safe and secure. It was possible that carbon purpose leases would be on high-traffic land and the areas would need to remain available and open to the public.

Ms. Pigors continued under current statute for standard commercial leases, long-term leaseholders in good standing were eligible to apply for preference right sale at the end of a lease term. The sale would allow the leaseholder to convert the lease to actual ownership of land without competition under AS 38.05.102. Commercial leases often involved a long term investment in the land with facilities or infrastructure that had been in place for oftentimes 30 years or more. Conversely, proposed carbon purpose leases would not include preference right sale eligibility. The leases required public access to land and could therefore not be owned by an individual leaseholder. Coupled with the fact that the lands were large and did not necessarily have facilities, it did not make as much sense to allow for preference right sales.

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Ms. Miller continued on slide 8. She recalled that the second pathway to a project was that the state would undertake a project on state land. The COP would be established under DNR and the commissioner would be permitted to enter into contracts with third parties to carry out the projects. There was a disclaimer at the top of page 5 of the bill that emphasized that the rules and terms for the COP would not apply to any private land owner

and what the land owner may choose to do on their private property. The evaluation criteria for COPs were found on page 5 of the bill, such as potential impacts on the state and local economies. The bill also made available state land for COPs. She added that legislatively withdrawn land was not eligible for a COP unless the specific authority and management for the land accommodates a project. The state could only go ahead with a project if there was a best interest finding that the project would serve the best interest of the state. The project term for state projects would be capped at 55 years.

Ms. Miller continued that page 5 and 6 of the bill authorized the department to enter into agreements with registries so that the COP could generate credits. The department would be required to keep records related to the process, particularly records related to the potential return to the state. The carbon offset revenue fund was established on page 6 of the bill and put in place 16 different terms related to COPs and defined the terms.

Ms. Miller returned to slide 3 and explained that Section 7 through Section 9 of the bill would enable state projects on Haines state Forest Resource Management Area and Section 10 through 13 enabled the projects on general state forests.

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Representative Coulombe asked Ms. Miller for more information about the commissioner and director related to the program. She wondered who was in charge of the carbon fund.

Ms. Miller responded that the broad authority would go to the commissioner of DNR and other responsibilities could be delegated down throughout the department with the commissioner's continued oversight.

Representative Coulombe asked if the commissioner was managing the fund and whether the commissioner was ultimately the individual who would be entering into the contract with the carbon credit.

Ms. Miller responded that the state would manage the fund on a technical level outside of DNR. The bill did not specify that the commissioner would be the individual

responsible for managing the way in which DNR would spend the fund that had been appropriated to it for purposes of the program by the legislature. Although it was not specified by the bill, the commissioner would ultimately be responsible for management within the department. The new employee hired within OPMP would be responsible for day-to-day tasks in managing the spending of the fund. She clarified that the state would be entering into the contractual arrangement under the authority granted to the commissioner by the bill.

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Representative Tomaszewski asked Ms. Miller who was the current director of DMLW.

Ms. Miller responded that the director was Deputy Commissioner Brent Goodrum.

Representative Tomaszewski asked how long he had been in the position.

Ms. Miller responded that she did not have the information but would follow up.

Representative Tomaszewski referred to Section 4 on page 3 of the bill. which stated that the director would award the lease to the most qualified applicant and evaluate each applicant's proposal. He understood that the director would make the final determination. He asked if that seemed like a significant amount of power for one individual to have.

Ms. Miller responded that the process was no different than what was currently in place. The leasing section fell under the Alaska Land Act. She asked Mr. Chris Orman to clarify the information.

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CHRIS ORMAN, ATTORNEY, DEPARTMENT OF LAW, JUNEAU (via teleconference), responded that the language that made reference to a director in the bill was consistent with the language in the other leasing provisions within the Alaska Land Act that made reference to a director. He clarified that the language was used throughout the act. The definition of director was found in AS 38.05.965 as, "the director of the division of lands of the Department of

Natural Resources". His understanding was that the Division of Lands had been reconstituted within DNR to what was now referred to as DMLW. He confirmed that Brent Goodrum was the current director.

Representative Tomaszewski asked Ms. Miller if there would be any restrictions on elected officials being able to participate in programs.

Ms. Miller responded that nothing in the bill addressed such restrictions. She added that she would conduct some research as to what other rules and laws might influence the ability of elected officials to participate.

[3:21:39 PM](#)

Co-Chair Foster reviewed the agenda for the following meeting.

HB 49 was HEARD and HELD in committee for further consideration.

ADJOURNMENT

[3:22:17 PM](#)

The meeting was adjourned at 3:22 p.m.