

HOUSE FINANCE COMMITTEE
May 15, 2023
3:52 p.m.

3:52:05 PM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 3:52 p.m.

MEMBERS PRESENT

Representative Bryce Edgmon, Co-Chair
Representative Neal Foster, 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

None

ALSO PRESENT

Tim Grussendorf, Staff, Senator Lyman Hoffman; Lisa Parady, Executive Director, Alaska Council of School Administrators; Lacey Sanders, Deputy Commissioner, Department of Education and Early Development; Matt Gruening, Staff, Representative DeLena Johnson; Alexei Painter, Director, Legislative Finance Division; Brodie Anderson, Staff, Representative Neal Foster; Rena Miller, Special Assistant, Department of Natural Resources; Neil Steininger, Director, Office of Management and Budget, Office of the Governor; John Boyle, Commissioner, Department of Natural Resources; Senator Forrest Dunbar, Sponsor; Representative Jesse Sumner; Representative Mike Prax.

PRESENT VIA TELECONFERENCE

Christine O'Connor, Executive Director, Alaska Telecom Association, Anchorage; Amy Phillips-Chan, Director, Division of Archives, Libraries and Museums; Heidi Teshner, Acting Commissioner, Department of Education and Early Development; Sandra Moller, Director, Division of Community and Regional Affairs, Department of Commerce, Community and Economic Development; Neil Steininger, Director, Office of Management and Budget, Office of the Governor.

SUMMARY

HB 178 VILLAGE SAFE WATER FACILITIES

HB 178 was SCHEDULED but not HEARD.

SB 48 CARBON OFFSET PROGRAM ON STATE LAND

SB 48 was HEARD and HELD in committee for further consideration.

SB 77 MUNI PROP TAX EXEMPTION/TAX BLIGHTED PROP

CSSB 77(FIN) was REPORTED out of committee with nine "do pass" recommendations and with one "no recommendation" recommendation.

SB 140 INTERNET FOR SCHOOLS

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

Co-Chair Foster reviewed the meeting agenda.

3:52:56 PM

AT EASE

3:56:17 PM

RECONVENED

Co-Chair Foster continued to review the meeting agenda.

#sb140

SENATE BILL NO. 140

"An Act relating to funding for Internet services for school districts; and providing for an effective date."

3:58:04 PM

TIM GRUSSENDORF, STAFF, SENATOR LYMAN HOFFMAN, briefly reviewed SB 140, which was the companion bill to HB 193. He explained that there were two differences between the two bills. Firstly, the effective date had moved from FY 24 to FY 25 and the Senate had attached a new fiscal note that had been zeroed out [control code EChxI, offered by the Department of Education and Early Development (DEED)] (copy on file). The Senate wanted to determine what the finances would be in FY 25 before committing additional funds to the bill. The Senate did not believe that many of the smaller communities in the state would be able to implement the necessary infrastructure to reach 100 megabytes per second (MBPS) download speed in the near future. The large fiscal note was likely unnecessary for the time being. The legislature could revisit the topic in the subsequent year and determine if more funds were needed.

Co-Chair Foster clarified that the fiscal note referenced by Mr. Grussendorf was OMB component 3004. He understood that the Senate zeroed out the fiscal note but saw that \$6,000 was requested for services. He asked Mr. Grussendorf to explain the request in more detail.

Mr. Grussendorf explained that the \$6,000 request was simply intended to keep the program running.

Co-Chair Edgmon commented that there were three categories of schools in Alaska: those with high internet, those on the E-rate program that would not participate in SB 140, and those that did not have money or the wherewithal to implement speeds beyond 20 MBPS. There were about 722 schools in the state with E-rate compensation. There were many variables that would have to line up in order to facilitate schools to participate in the broadband program. He predicted that in the future, virtually every school in the state would have access to high download speeds and upload speeds. Before the fiscal note was zeroed out, it reflected the cost that would have been required if every school in the state qualified for and participated in the broadband program at the maximum rate, which was unlikely. The E-rate number was also not attainable. He noted that

the legislature would have to return to the topic the following year and appropriate the money to allow for the schools to participate in the program. He thought the bill was important but thought the change to the fiscal note was "overblown." It was an issue of fairness to him, and he was concerned about the divide that seemed to exist surrounding the bill.

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

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Representative Galvin commented that she had been long concerned that rural Alaska would not have the opportunity to access the necessary online learning for the governor's performance scholarship. She thought it was unfair that communities did not have access to particular classes and subjects that were required for the scholarship because access to reliable internet was not guaranteed. She emphasized that everyone needed to have the same opportunities. She supported getting high-speed internet to all areas of the state.

Representative Ortiz commented that he was in support of expanding broadband throughout Alaska. He asked if there was a timeframe for qualification for the Infrastructure Investment and Jobs Act (IIJA) funds and whether there was a concern that some rural schools might not be able to implement the necessary infrastructure within the required timeframe.

Mr. Grussendorf responded that he did not know the answer, but DEED might have a comment. He wondered if Co-Chair Edgmon might be able to provide more information.

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Co-Chair Edgmon asked Representative Ortiz to repeat the question.

Representative Ortiz asked if there were required timeframes that might cause some schools to lose out on opportunities for federal funds for broadband.

Co-Chair Edgmon responded that the E-rate program had already been very successful in the state. He thought

around \$130 million was distributed amongst schools and libraries in the prior year. The state had been able to match the federal E-rate funds since the beginning of the program. In 2014, the Broadband Assistance Grant (BAG) was established to directly allow schools to participate in the program and receive 10 MBPS internet. He added that IJJA had raised the benchmark from 10 MBPS to 100 MBPS. Schools needed to have faster internet services and he thought schools might have to rely on satellite programs. He did not think the fiscal note was projecting into the future because there would be a reduced number of schools and services dependent upon an E-rate program. He noted that the cruise ships in Juneau impacted internet services and some communities experienced slow internet speeds year-round. He thought the demand was real and schools would be at a disadvantage without high-speed internet. There was no immediate plan because the timelines were different depending on the community. Fiber-optic cable projects were planned in various areas of the state, but the timelines were varied. The projects were in motion but there was nothing to be done in the meanwhile. He was frustrated that students were expected to perform at a certain level in standardized tests when all schools did not have the same resources.

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Representative Stapp commented that he had never seen a fiscal note change to reflect the preferences of the Senate Finance Committee. He asked if it was typical practice.

Mr. Grussendorf responded that it had happened before although it was not necessarily typical. There were times when a legislature received new information and might disagree with a department's fiscal note. He thought it seemed unlikely that every school district in the state would be able to take advantage of the program immediately. A similar situation had occurred in the past in which a fiscal note regarding Power Cost Equalization (PCE) assumed that every household in the state would increase its kilowatt level to the maximum, which was unrealistic.

Representative Stapp thought the reasoning was sound and agreed that it did not seem possible that all schools could take full advantage of the program within the next fiscal year. He noted that GCI had provided estimates (copy on file) of household internet usages, and he wondered why the

estimates could not be used in lieu of offering an indeterminate fiscal note.

Mr. Grussendorf responded that he thought there needed to be more work done. The Senate Finance Committee asked DEED to craft a more specific fiscal note but did not receive a response. He thought it should wait until the estimates were available.

Representative Stapp asked why the legislature should pass the bill now if there still needed to be more work done on the fiscal note, particularly considering that the increases would not go into effect until FY 25.

Mr. Grussendorf responded that he did not know the answer and it was a policy decision made by the Senate Finance Committee.

Representative Stapp asked if DEED had weighed in on the changes made to the fiscal note.

Mr. Grussendorf responded that he was not aware of a response by the department. He was not sure if the department would know how many schools would be able to participate in the initial program.

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Representative Hannan stated that she was in support of internet capabilities across the state, particularly in rural areas. Her concern was that the bill took effect in January of 2024. She wondered why the bill needed to be moved rapidly now considering the effects would not be immediate. She understood that the House and Senate versions of the bills had not been introduced until the first week of May and added that the first time she had heard about the bill was when GCI came to her directly and shared the company's support for the bill. She was more understanding about schools needing the benefits provided by the bill than about vendors' needs. She asked if an element of the bill would be lost if it did not pass in the current session.

Mr. Grussendorf responded that the delay in the effective date of the bill was because many of the schools were still in the midst of the time consuming grant writing process. By the time IIJA funds were available, the majority of the

bill would be in place and districts could start applying for the money.

Co-Chair Edgmon added that the competition for the federal E-rate program had increased tremendously. The state needed to be organized in order to receive money from the federal government due to IIJA money and a renewed emphasis on the E-rate program. Schools could be positioned to participate in the E-rate cycle that would take effect in 2024 if the bill were to pass in 2023. If the legislature waited to pass the bill until 2024, there would be an entire year of lost time. He was convinced that there would be a significant difference between passing the bill in 2023 and waiting until 2024.

Representative Ortiz understood that it was unlikely that a large number of school districts in the state would be applying for the broadband funds. He asked what would be different that would permit more districts to have access to broadband in the following year. He understood that there was a lack of infrastructure, but wondered what other changes would be enacted to encourage a wider availability of broadband. He was unsure what the timeframe and order of operations should be.

Co-Chair Foster suggested that Ms. Lisa Parady respond to the question.

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LISA PARADY, EXECUTIVE DIRECTOR, ALASKA COUNCIL OF SCHOOL ADMINISTRATORS, responded to Representative Ortiz's question. She noted that DEED Deputy Commissioner Lacy Sanders was also available for questions. School districts needed to apply for the BAG program by March of each year to qualify for service in the following year. She acknowledged that Co-Chair Edgmon was correct in that districts' ability to access the grant would be pushed to the following year if the bill was not passed in the current year. The state had missed the March deadline, but she hoped the passage of the bill would allow districts to apply by March of 2024 for service in 2025. She explained that the emphasis of IIJA was on the communities that did not have service and many of the schools to which Co-Chair Edgmon spoke were in unserved areas. She did not want to create a situation in which the unserved districts would be artificially capped at 25 MBPS. The E-rate was a formula

unique to each school district and largely tied to poverty. She agreed that the fiscal note would not accurately depict the uses because not all districts were ready to access the dollars. She thought the bill would provide equity to students in rural areas as the districts became more able to access the funds, which would look different for each district. There would also be price compression as more infrastructure was built; however, more providers would be able to offer services which would bring about competition and alleviate price compression. The department crafted a fiscal note on what it knew to date, but it was not able to determine which district would be able to build the necessary infrastructure in time.

Co-Chair Foster asked whether the deputy commissioner would like to respond to the question as well.

LACEY SANDERS, DEPUTY COMMISSIONER, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, clarified that the E-rate application period was open from January through March. After the application period was over, the department used the information to develop the broadband grants application. The application period had opened in April and districts were working on applications for FY 24. As currently written, the bill would apply to the 2025 application period.

Co-Chair Foster asked whether Ms. Christine O'Connor would like to respond to the question as well.

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CHRISTINE O'CONNOR, EXECUTIVE DIRECTOR, ALASKA TELECOM ASSOCIATION, ANCHORAGE (via teleconference), responded that if the legislature waited to pass the bill until the next session, it would push schools' eligibility for broadband speed increases back to July 1 of 2025. She added that the state already had over \$600 million in federal grant funding and over \$50 million in private capital to help the state fund projects. The funds had already been allocated to Alaska before IIJA funding and the state would see the impacts of IIJA funding on broadband over the course of the following year. As the infrastructure at the schools was upgraded, the schools would not be limited to 25 MBPS as long as the broadband grant program was in place because the schools would be able to access a fiber connection as soon as it was available. She noted that pricing for

broadband had been dropping dramatically in recent years and the drops were expected to continue. The cost of broadband on a fiber network would be different than what schools currently paid for satellite service. She concluded that broadband would become less and less expensive and there would be more competition. Every broadband provider in the state was building network or planning to build network which would also contribute to lowered rates.

Co-Chair Foster thought that the timing of the rollout of the program had been explained thoroughly. He noted that there were other individuals available for questions if needed.

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Representative Hannan understood the timing and the need to pass the bill in the current session. She asked why the bill was not introduced until May 1. She wondered if it was not known whether the state would have the capacity to reach 100 MBPS. She assumed that any school without the infrastructure to implement the program in January of 2023 would still not have the infrastructure in May of 2023. She asked what changed that offered assurance that the state could reach the 100 MBPS capacity.

Ms. Parady responded that the bill began with 10 MBPS in 2014. She lived on the North Slope at that time and had seen the impact on teachers and schools unable to work with the internet. She had worked with senators at the time to set the floor at 10 MBPS, which was monumental for remote and rural areas. About five years ago, she worked with Co-Chair Edgmon and others to lift the floor to 25 MBPS, which was still very slow. She explained that it was decided that it would make sense to again incrementally lift the floor to 100 MBPS given the emphasis on infrastructure due to IIJA and other similar programs. Increasing internet speeds in schools was a goal for the Alaska Council of School Administrators every year. When students were learning remotely due to COVID-19, students who did not have more than 25 MBPS internet speeds were doing paper and pencil packets for almost two years.

Representative Hannan supported the bill. She could not imagine that any district with lower internet speeds would not be "hounding" their legislators to introduce the bill by January 1. She was irritated that the bill was

introduced so late in the session and thought mistakes could be made if it were to be rushed. She was confused as to why the bill was not pre-filed.

Representative Cronk agreed with Co-Chair Edgmon that the bill was needed in rural districts. He had taught in very remote areas and it was difficult to navigate the internet capabilities. Higher speed internet was key to helping students learn.

Co-Chair Edgmon commented that the topic of increasing internet speeds in schools had always been "out there," but the emphasis for many schools was on an increased Base Student Allocation (BSA). There were many schools that felt that advocating for both a higher BSA and increased internet speeds would be unrealistic in the current political environment.

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Representative Galvin asked if schools were using a portion of classroom budgets to cover internet services or if it was an entirely separate budget item.

Ms. Parady deferred the question to Ms. Sanders. She did not think that classroom budgets were used for internet.

Ms. Sanders responded that she agreed with Ms. Parady. School districts received a grant for internet and individual classrooms were not paying for internet services.

Representative Galvin understood that if a district was short on the E-rate money, the monetary shortfall would be a completely separate issue from the need for BSA increases. She wanted to clarify that the two would be considered completely different needs.

Ms. Parady responded that the state provided broadband assistance grants, but the school districts could use other funding towards the negotiated contract districts had with their service provider.

Representative Galvin asked if all of the funding that would be allocated through SB 140 would be specific to internet services. She understood that the money would be returned to the state if all of the funds were not used.

Ms. Parady responded that the department would have a few options if it had an appropriation that was not sufficient to meet all of the applications received for broadband grants. One option would be to prorate the funding and a second option would be that the department could ask for a supplemental for the shortfall, which would mean that the department would need to make a request to the legislature. The school districts entered into a grant agreement with the department and the funding was only used for the broadband grants. If the school did not use the entirety of the funding, it would be returned to the department.

Representative Galvin asked if the minimum speed was changed from 25 MBPS to 100 MBPS but the state could not deliver the speed, would the state be set up for an "unfunded mandate."

Ms. Sanders responded that school districts signed the contracts with the service providers and if the broadband funding was not sufficient, the districts would have to determine how to pay for the remaining balance, whether that be through local contributions, funding from the BSA, or another funding source.

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Representative Stapp read AS 13.03.127(b):

If insufficient funding is appropriated to provide funding authorized under this section, the state share shall be distributed pro rata to eligible school districts.

Representative Stapp understood that the bill would amend the statute. He understood that under SB 140, the district would apply for a grant and the legislature would appropriate the funds. He did not think the legislature would be able to appropriate the necessary amount of funds to the program given the confusing situation regarding the fiscal note. He understood that the district would distribute the grants and then likely return to the legislature to request a supplemental if more funds were needed. He presumed that the cost in the fiscal note would not matter because there would likely be another cost in the supplemental budget. He asked if his understanding was correct.

Ms. Sanders responded that requesting a supplemental was a policy call; however, Representative Stapp was correct that the first step would be to determine whether proration was to occur and that an option would be to return to the legislature and identify the shortfall.

Representative Coulombe referred to a spreadsheet titled "Federal E-rate Program Report Summary" (copy on file) provided by DEED. She noted that on page 10, the Lower Kuskokwim School District (LKSD) was being charged \$28 million for internet. She asked if she was reading the spreadsheet correctly.

Ms. Sanders deferred the question.

[4:49:20 PM](#)

AMY PHILLIPS-CHAN, DIRECTOR, DIVISION OF ARCHIVES, LIBRARIES AND MUSEUMS (via teleconference), responded that the pre-E-rate cost for LKSD was about \$28 million. She noted that E-rates would pay between 20 percent and 90 percent of an eligible district's cost for internet services. In 2023, LKSD received just under \$2 million from the E-rate program.

Representative Coulombe asked if it was \$28 million per school in LKSD.

Ms. Phillips-Chan responded that she did not have the particular spreadsheet in front of her, but she understood that \$28 million was the total cost for the district.

Co-Chair Foster asked for clarification that he was looking at the correct spreadsheet.

Representative Coulombe noted that the spreadsheet was provided by DEED and had yellow shading. She supported better internet rates for schools and was intimately aware of the issue due to being on the DEED Finance Subcommittee. She asked where the accountability was for providers as far as the rates being charged. She asked whether there was a limit to the amount the federal government would pay. She thought it seemed like a significant amount of money.

Ms. Sanders deferred the question to Ms. Phillip-Chan as she did not know the limits.

Ms. Phillips-Chan responded that she had the conversation with the E-rates coordinator when the bill was first introduced. The question was posed if schools would be eligible for increased funding through the E-rate program. Through the conversation, it was agreed that the schools would be able to receive additional funding from the program if the internet speed increased to 100 MBPS. The total award amount for each school district was based on the poverty levels of students as measured by their free lunch or reduced lunch eligibility.

Ms. Parady elaborated that there had been leftover money in every year in which the 25 MBPS level was achieved. The department had not needed to come forward with an additional supplemental request.

[4:53:34 PM](#)

Co-Chair Foster announced that the committee would take an at ease that might be extended. He had just received word that there was a 5:00 p.m. meeting and the committee would reconvene after the meeting.

[4:54:16 PM](#)

RECESSED

[6:43:40 PM](#)

RECONVENED

Co-Chair Foster called the meeting back to order. He reminded the committee of items on the agenda.

[6:44:54 PM](#)

AT EASE

[6:46:02 PM](#)

RECONVENED

Co-Chair Foster asked if members had any more questions about SB 140.

Representative Galvin thought the costs associated with the bill could vary widely. She wondered if there was a way to ask for a specific type of process in coordination with the E-rate program.

Co-Chair Edgmon responded that the federal E-rate program and its process, the BAG program and its process, and the school districts' decisions covered Representative Galvin's question and any autonomy that could be outside of the three elements he listed.

Co-Chair Foster understood that the bill was time sensitive. He noted that there was one amendment but if other members wanted to craft more amendments, he could set an amendment deadline for the following day.

[6:49:11 PM](#)

AT EASE

[6:51:22 PM](#)

RECONVENED

Co-Chair Johnson MOVED to ADOPT Amendment 1, 33-LS0687\S.2 (Klein, 5/15/23) (copy on file):

Page 1, line 1, following "districts;":

Insert "relating to transportation of students;"

Page 1, line 10:

Delete all material and insert:

"* Sec. 2. AS 14.09.010(a) is repealed and reenacted to read:

(a) A school district that provides student transportation services for the transportation of students who reside a distance from established schools is eligible to receive funding for operating or subcontracting the operation of the transportation system for students to and from the schools within the student's transportation service area. Subject to appropriation, the amount of funding provided by the state for operating the student transportation system is the amount of a school district's ADM, less the ADM for the district's correspondence programs during the current fiscal year, multiplied by the per student amount for the school district as follows, for the school years beginning July 1, 2023:

DISTRICT	PER STUDENT AMOUNT
Alaska Gateway	\$2,536
Aleutians East	378
Anchorage	531
Annette Island	222
Bering Strait	60

Bristol Bay	3,257
Chatham	342
Copper River	1,934
Cordova	409
Craig	515
Delta/Greely	2,019
Denali	2,203
Dillingham	1,484
Fairbanks	995
Galena	310
Haines	763
Hoonah	364
Iditarod	258
Juneau	735
Kake	331
Kashunamiut	6
Kenai Peninsula	1,115
Ketchikan	886
Klawock	712
Kodiak Island	974
Kuspuk	797
Lake and Peninsula	468
Lower Kuskokwim	338
Lower Yukon	1
Matanuska-Susitna	1,109
Nenana	716
Nome	757
North Slope	1,365
Northwest Arctic	30
Pelican	88
Petersburg	457
Saint Mary's	235
Sitka	522
Skagway	44
Southeast Island	1,408
Southwest Region	728
Tanana	581
Unalaska	790
Valdez	897
Wrangell	854
Yakutat	907
Yukon Flats	322
Yukon/Koyukuk	365
Yupitit	2.
* Sec. 3. Section 1 of this Act takes effect January 1, 2024.	

* Sec. 4. Section 2 of this Act takes effect July 1, 2023."

Co-Chair Foster OBJECTED for discussion.

Co-Chair Johnson explained that the amendment would increase the districts' transportation per-student funding. Transportation funding generally came from the BSA. The amendment would alleviate some of the pressure some districts were feeling and ensure that students were able to get to school on time. The projected pupil transportation funding was estimated to be \$72,568,348 and the amendment increased funding to \$88,079,805. The funding would come from a general fund transfer to the education fund. She had ensured that the amendment was single-subject compliant with the underlying bill and asked for members' support.

Representative Ortiz referred to page 3 of the amendment. He asked which version of the bill would be changed by the amendment.

Co-Chair Johnson deferred the question to her staff.

[6:53:51 PM](#)

MATT GRUENING, STAFF, REPRESENTATIVE DELENA JOHNSON, explained that Amendment 1 was referring to Section 1 of the underlying bill (SB 140). The bill had a delayed effective date of January 1, 2024, and the amendment would change the effective date of the pupil transportation portion of the bill to July 1, 2023.

Representative Ortiz asked if the impact of the amendment would be one year or two years of transportation funding.

Mr. Gruening responded that he understood it to be one year of transportation funding but asked if an available testifier could confirm the information.

Co-Chair Foster asked Mr. Gruening if he wanted a response from Ms. Lacey Sanders. He was unsure if Ms. Sanders was still available.

Mr. Gruening responded in the affirmative. He added that the appropriation process would occur annually and the funding would need to be paid out year by year.

Representative Hannan understood that the Senate had included pupil transportation in its version of the operating budget. She asked if the dollar amounts in the amendment were identical to the numbers put forth by the Senate. She wondered if the funding would include every district that offered pupil transportation.

Co-Chair Johnson responded that the amendment would allow all districts to get transportation. She was unsure what figures the Senate had put forth in its version of the operating budget.

Mr. Gruening responded that the pupil transportation funding was paid out annually based on a statutory formula and the figures in the amendment were identical to those in the Senate's bill.

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Representative Galvin understood that the bill would cause a net positive extra expense to the current year's budget of over \$7 million. She noted that the disparity between the districts was quite large; for example, the Alaska Gateway was at \$2,536 while Bering Strait was \$60. She asked if the figures were proportionate based on number of students, number of miles, or another measurement.

Mr. Gruening responded that the figures in SB 52, which had been passed by the Senate, were used to derive the figures. He was not certain how the increases were decided upon but thought that DEED would have more information.

Representative Galvin relayed that she had heard from a superintendent that it might be based on half of the Consumer Price Index (CPI) and about 11 percent for every district. She asked if her understanding was correct.

Mr. Gruening asked if there was anyone from DEED available to answer the question.

Co-Chair Foster responded that he did not think anyone was available.

Co-Chair Johnson understood that the figures were based on the number of miles in the district. Some students in districts such as the Alaska Gateway lived further from the

schools than students in other districts. She thought that transportation needed to reflect the needs of each individual district.

Representative Stapp was confused by the amendment. He thought that the proposed increase for the Anchorage School District was not proportionate to the number of students in the district. He understood that the increase in the amendment would total \$7.5 million but the underlying bill had an indeterminate fiscal note. He did not understand how the \$7.5 million figure had been derived.

Mr. Gruening responded that the numbers came from Fiscal Note 7 from SB 52 [control code VbdAN by DEED] (copy on file), which was the fiscal note that increased pupil transportation funding.

Co-Chair Foster asked if the fiscal note represented the net change.

Mr. Gruening responded in the affirmative.

Representative Stapp understood that there would be a \$7.5 million indeterminate fiscal note if the amendment were to be adopted.

Mr. Gruening responded in the negative and explained that DEED had calculated the increase for each school district. He added that it was technically a zero fiscal note because the funding would come from the public education fund, but the increased cost was identified in the analysis and would total about \$7.5 million.

Co-Chair Foster suggested that Ms. Heidi Teshner respond to the question.

[7:02:52 PM](#)

HEIDI TESHNER, ACTING COMMISSIONER, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, (via teleconference), responded that the \$7.5 million figure was based on the 11 percent increase per student amount that was already set out in statute. The amounts were based on historical expenditures by district and varied across districts based upon the per student amounts.

Representative Stapp referred to lines 7 through 10 of the amendment. He asked what the amendment would accomplish and why \$7.5 million was needed. He did not understand how the figure was derived. He asked if transportation services were being increased by 11 percent.

Ms. Teshner responded that was her understanding and explained that SB 52 increased the current existing per student amounts that were set in statute. The amounts were then multiplied by the average daily membership (ADM) minus correspondence programs. She explained that was the process through which the \$7.5 million figure was derived.

Representative Stapp responded that the amendment did not indicate the information.

Co-Chair Foster reminded the committee that Mr. Alexei Painter was available for questions. He noted that Representative Mike Prax was in the audience.

Co-Chair Johnson asked Mr. Painter to respond to Representative Stapp's question.

ALEXEI PAINTER, DIRECTOR, LEGISLATIVE FINANCE DIVISION, explained that the fiscal note was included in the Senate's version of the operating budget and attached to SB 52. If it passed in SB 140 instead of SB 52, the transportation increases would still be funded through the public education fund and set in statute.

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Representative Coulombe understood that the public education fund had a strict formula that determined the amount that could be drawn from the fund. She thought it was based on a percent of market value (POMV) draw. She asked Mr. Painter if he could clarify the process.

Mr. Painter responded that he thought Representative Coulombe might be confusing it with the Public School Trust Fund. The public education fund was an amount based on an annual estimate of the expenditures for pupil transportation costs and the foundation program.

Representative Tomaszewski thought that it seemed like the amendment proposed a statute change. He understood that if

the statute were to be changed, the increase would occur annually.

Mr. Gruening responded that it was a change to statute and would be paid out every year but it would still be part of the annual appropriation process.

Representative Tomaszewski asked if there was a fiscal note associated with the change.

Mr. Gruening responded that the fiscal note would be updated after the bill moved from committee.

Co-Chair Foster clarified that the fiscal note would be identical to Fiscal Note 7 to SB 52. He suggested that committee staff copy the fiscal note and distribute the copies to committee members.

Representative Galvin asked for clarification that while it would be an increase of \$7.5 million, there had not been an increase since 2016. She asked if the amounts could decrease if there was a population decrease and there were fewer students in any given district.

Mr. Gruening responded that he understood that the numbers would adapt based on the formula. He asked DEED to confirm the information.

Ms. Teshner responded that it was based on the actual ADM. If the ADM was lower than the appropriation, the funding would lapse back to the public education fund.

[7:11:05 PM](#)

Representative Josephson noted that there were larger numbers for highway dependent communities. He asked why a district such as Kuspuk requested \$797 per student, but the Lower Yukon School District (LYSD) was \$1 per student.

Ms. Teshner responded that the per student amounts were originally based on historical data of what the actual transportation costs were in a given district. Some districts did not provide a pupil transportation program even though a dollar amount was designated in statute to fund the program. Districts informed the department every year whether or not they would be participating in the transportation program and the department would provide

grants accordingly. If a district did not provide a program in the time period during which the historical data was calculated, the current per student amounts would be low.

Representative Josephson assumed that schools in LYSD would play each other in sporting events and students would fly from town to town. He wondered if such travel would be considered pupil transportation.

Ms. Teshner responded in the negative and explained that pupil transportation strictly referred to transportation to and from school.

Representative Coulombe asked Mr. Painter how much money was currently in the public education fund.

Mr. Painter responded that it was projected to be zero at the end of the year. There was originally a forward funding appropriation, but based on oil prices the fund was projected to have a zero balance by the end of the year. The two appropriations to the fund were the amount necessary for the foundation program and the amount necessary for the pupil transportation program. After the two appropriations had been utilized, the balance would be zero.

Representative Coulombe understood there was currently a zero balance but money would come back in to pay for the two appropriations.

Mr. Painter responded that the two appropriations were transferred into the fund from the general fund. The fund would then be spent without further appropriation according to the formula. He clarified that the process was to appropriate the amount necessary from the general fund to the public education fund to cover the two appropriations, which would then be distributed to the districts accordingly.

[7:14:39 PM](#)

Representative Hannan asked about districts that had single digit dollar amount increases for transportation. She understood that the districts in question did not claim any student transportation funds and the number acted as a placeholder.

Ms. Teshner responded that Representative Hannan's understanding was correct.

Representative Hannan asked if the 11 percent increases were for districts that were actually offering pupil transportation and if the remainder of the increases were just placeholders.

Ms. Teshner responded in the affirmative.

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

[7:16:14 PM](#)

Co-Chair Edgmon understood that the committee was hearing a Senate bill [SB 140] that was amending another Senate bill [SB 52]. He wondered if the bill before the committee was necessary if the same information already existed in another bill. He supported the intent of the amendment but did not understand the purpose if it was already in another bill.

Co-Chair Johnson responded that her intent was not to impair either bill, but to make SB 140 more appealing and more applicable to all areas of the state. She thought the amendment would add dimension to the underlying bill and wanted to ensure that the pupil transportation increases would get funded regardless of the bill that passed. There had been a significant shortage of bus drivers and the drivers were going on strike in the Mat-Su Valley and there was a need for funding increases. She wanted to ensure that the transportation increases happened and the bus driver shortage and strike were addressed.

Co-Chair Edgmon commented that the Mat-Su Valley would receive a large sum if the BSA were to be increased and some of the money could be used for pupil transportation. He asked if SB 52 would insert the transportation increases into statute in the same manner as Amendment 1 to SB 140. He understood that the intent was to include the increases in SB 140 because SB 52 might not pass. He asked if his understanding was correct.

Co-Chair Johnson responded that her intent was to ensure that pupil transportation was addressed in the current year. She had not tracked the specifics of SB 52. She

thought that pupil transportation was separate from the BSA and it was important that both were addressed.

7:20:52 PM

AT EASE

7:30:18 PM

RECONVENED

Co-Chair Foster explained that he checked with Legislative Legal Services to ensure that it was legal to copy a section of one bill and insert it into another bill. He received confirmation that it was legal. He asked Ms. Teshner to speak to the fiscal note.

Ms. Teshner did not have the information in front of her.

Co-Chair Foster asked Representative Tomaszewski to repeat the question.

Representative Tomaszewski referred to Fiscal Note 5 to SB 52 [control code hGSaa by DEED] (copy on file) which showed an increase to the BSA. He relayed that he no longer had a question on the fiscal note.

Co-Chair Foster asked if Ms. Teshner had any comments. He asked staff to copy and distribute Fiscal Note 5 to the committee.

Ms. Teshner responded that there would be a zero fiscal note for SB 52 for the foundation program and a zero fiscal note for the pupil transportation program. The pupil transportation component was zero because the funding originated from the general fund and was transferred into the public education fund and not directly into the pupil transportation component. The amount was shown in the public education fund in Fiscal Note 5.

Co-Chair Foster asked if Fiscal Note 5 was no longer valid after the introduction of Fiscal Note 7.

Ms. Teshner responded in the negative and relayed that both were necessary. Both notes included the same analysis, but Fiscal Note 7 was a zero fiscal note because the funding was not directly appropriated into the formula and was instead a general fund transfer to the public education fund. The foundation program and pupil transportation

program were funded through a draw from the public education fund.

Representative Tomaszewski asked if the appropriations included any federal match funding.

Ms. Teshner responded that the pupil transportation program did not have any federal match, but the foundation funding had funding that could be considered a federal match. Alaska was an equalized state and had an equalized formula, which meant that federal impact aid funding was integral when considering the amount of state aid paid that would be paid out to districts. The funding could be considered a federal match because the state was allowed to use the funding to reduce the amount paid by the state.

Representative Tomaszewski asked if the match applied to pupil transportation.

Ms. Teshner responded in the affirmative.

[7:35:56 PM](#)

Representative Coulombe asked how the 11 percent increase was chosen.

Ms. Teshner responded that the Senate Finance Committee (SFC) proposed the 11 percent increase.

Representative Coulombe asked if the figure was based on a formula or something similar.

Ms. Teshner replied that she understood that it related to the CPI adjustment, but she was not certain of the exact formula.

Co-Chair Edgmon commented that he thought that 11 percent represented half of the CPI increase that was put into place by SFC. He did not know the reason why it was half of the CPI and not 75 percent or 100 percent.

Co-Chair Johnson noted that the pupil transportation program was usually the last component of education to be funded. Pupil transportation was usually the first area to suffer when there were financial shortfalls and she thought the amendment made sense.

Co-Chair Foster WITHDREW the OBJECTION.

Representative Coulombe OBJECTED.

[7:38:05 PM](#)

A roll call vote was taken on the motion.

IN FAVOR: Josephson, Ortiz, Cronk, Representative Stapp,
Galvin, Hannan, Edgmon, Foster, Johnson
OPPOSED: Coulombe, Tomaszewski

The MOTION PASSED (9/2). There being NO further OBJECTION,
Amendment 1 was ADOPTED.

[7:39:09 PM](#)

AT EASE

[7:45:21 PM](#)

RECONVENED

Representative Josephson relayed that he was interested in moving a conceptual amendment. The amendment would be relevant to AS 14.17.470 and the proposed increase to the BSA to \$6,640; however, due to the late introduction of the bill, he suggested adopting the remainder of SB 52 apart from the pupil transportation portion that had just been adopted by the committee. [Although not explicitly stated, Representative Josephson MOVED conceptual Amendment 1 to Amendment 1.]

Co-Chair Foster OBJECTED for discussion.

Representative Josephson confirmed that Conceptual Amendment 1 was to adopt Version D of SB 52.

Representative Stapp wanted to change the \$680 per student increase to \$1,300 per student. He MOVED conceptual Amendment 1 to conceptual Amendment 1 to Amendment 1.

Co-Chair Foster OBJECTED for discussion.

Co-Chair Edgmon called a point of order. He was not certain if it was permitted to move a conceptual amendment to a conceptual amendment.

[7:48:01 PM](#)

AT EASE

[7:48:28 PM](#)

RECONVENED

Co-Chair Foster relayed that it was not permitted to move a conceptual amendment to a conceptual amendment.

Representative Stapp WITHDREW conceptual Amendment 1 to conceptual Amendment 1 to Amendment 1.

Co-Chair Foster noted that conceptual Amendment 1 to Amendment 1 was before the committee.

Representative Cronk opposed the conceptual amendment. He understood the broadband funds would help rural Alaska and he did not think a significant BSA increase belonged in the bill.

Representative Tomaszewski commented that the committee had just determined whether it was permissible to incorporate the pupil transportation portion of SB 140 into SB 52. He asked if it was allowable to incorporate the entirety of a bill into another bill.

Co-Chair Foster reiterated that his staff spoke with Legislative Legal Services and was informed that it was legal to insert a portion of one bill into a separate bill. He suggested that his staff speak to the matter in more detail.

[7:51:23 PM](#)

BRODIE ANDERSON, STAFF, REPRESENTATIVE NEAL FOSTER, explained that committees were permitted to make a wide array of changes to bills. He acknowledged that if a bill was on the floor, a separate bill could not be pulled from another committee and brought to the floor in order to combine the bills together. He noted that SB 52 was in the possession of the House Finance Committee and therefore the committee could make any changes it wanted to SB 52 and SB 140.

Co-Chair Foster commented that there was an upcoming amendment by Representative Tomaszewski that would have impacted both bills, but the representative was told he should move the amendment on the floor rather than in

committee. He wondered if Representative Tomaszewski would have been permitted to move the amendment in committee.

Mr. Anderson responded that he would not be comfortable answering the question and suggested that a representative from legal services could better respond.

Co-Chair Edgmon commented that the process was getting complicated. He thought that the committee supported Amendment 1.

Co-Chair Foster stated that he was in support of SB 52 and supported conceptual Amendment 1.

[7:54:04 PM](#)

Representative Coulombe echoed Representative Cronk's comments. She thought the inclusion of conceptual Amendment 1 would threaten the intent of SB 140. She thought the bill should be straightforward which was the reason she gave for opposing Amendment 1 and including the pupil transportation program in the bill. She relayed that she was in opposition to the conceptual amendment.

Representative Cronk commented that the bill would not pass if the conceptual amendment was adopted. He was in support of increased broadband services.

Representative Galvin thought that the conceptual amendment was an odd way to accomplish the BSA increase but she supported it. The House had already passed the \$174 million increase to the BSA and sent a budget to the Senate that was not balanced. She thought it would help the education system to have predictable funding and that the increase seemed reasonable. She noted that the state needed better broadband services and she supported the intent of both bills as well as the conceptual amendment.

Co-Chair Foster understood that the questions of legality had been answered but noted that legislative legal was available for any further questions.

Representative Josephson clarified that SB 52 contained a BSA increase of \$680 and pupil transportation, an increase to residential schools and stipends, and some necessary cleanup to the Alaska Reads Act. He thought it was intended

to show the public that the money was well spent and that the positive results would be evident.

Co-Chair Foster WITHDREW the OBJECTION.

Representative Cronk OBJECTED.

[7:59:06 PM](#)

A roll call vote was taken on the motion.

IN FAVOR: Edgmon, Foster, Galvin, Representative Hannan, Josephson, Ortiz, Stapp, Tomaszewski
OPPOSED: Johnson, Coulombe, Cronk

The MOTION PASSED (8/3). There being NO further OBJECTION, conceptual Amendment 1 to Amendment 1 was ADOPTED.

[8:00:24 PM](#)

Representative Stapp MOVED conceptual Amendment 3. He suggested that the BSA increase change from \$680 to \$1,360.

Co-Chair Foster OBJECTED for discussion.

[8:01:23 PM](#)

AT EASE

[8:33:31 PM](#)

RECONVENED

Co-Chair Foster stated that he intended to set SB 140 aside.

Representative Ortiz asked if he could object to setting the bill aside.

Co-Chair Foster thought Representative Ortiz could object to the action. He suggested that the committee return to the bill the following day.

[8:34:44 PM](#)

AT EASE

[8:38:38 PM](#)

RECONVENED

Representative Hannan asked whether the conceptual amendment from Representative Stapp would still be before the committee if it revisited the bill the following day.

Co-Chair Foster responded in the affirmative. He confirmed that the BSA increase and the pupil transportation increase had already been adopted.

Co-Chair Foster stated that SB 140 would be set aside.

Representative Ortiz OBJECTED [to setting the bill aside].

Co-Chair Foster commented that the committee was entering new territory. He understood that if there were such an objection, the chair would make a decision. He relayed that the ruling of the chair was to set the bill aside but he would put the action up for a vote.

Representative Galvin asked what the implications would be to set the bill aside. She asked if the bill would have to be returned to the other body. She wondered if there was enough time to get the bill to the floor in order to vote on it before the end of session.

Co-Chair Foster understood that if the intent was to move the bill in the current year, it would need to pass out of the committee; however, as the bill was not pending referral, it would be pushed toward the end of the week. He thought it would be difficult to get the bill to the floor within the timeline of the current session.

Co-Chair Edgmon agreed with all of Co-Chair Foster's comments.

Co-Chair Foster relayed that the question was whether the ruling of the chair to set SB 140 aside would be sustained.

[8:42:39 PM](#)

A roll call vote was taken on the motion.

IN FAVOR: Coulombe, Cronk, Stapp, Tomaszewski,
Representative Galvin, Edgmon, Foster, Johnson
OPPOSED: Hannan, Ortiz, Josephson

The MOTION PASSED (8/3). There being NO further OBJECTION, the ruling of the chair was sustained.

Co-Chair Foster reminded the committee of the remainder of the agenda.

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

#sb48

SENATE BILL NO. 48

"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."

[8:44:38 PM](#)

RENA MILLER, SPECIAL ASSISTANT, DEPARTMENT OF NATURAL RESOURCES, introduced the PowerPoint presentation "Senate Bill 48: Summary of Changes/Sectional Analysis" dated May 15, 2023 (copy on file). She explained that she would detail the changes to the bill that were made in the Senate. She skipped to slide 3 and noted that the House Resource Committee had heard the companion bill HB 49 six times and amended it, the House Finance Committee heard the bill five times, the Senate Resources Committee heard SB 48 four times and amended it, and the Senate Finance Committee heard it five times and amended it. The bill passed the Senate earlier in the day and her presentation would be the first discussion of the bill as amended by the Senate.

Ms. Miller advanced to slide 4 and explained that she would compare SB 48 with HB 49 as amended. The first change was the title, which was revised to reflect amendments made in the Senate. The changes were as follows: added "relating to the powers and duties of the Alaska Oil and Gas Conservation Commission" [Section 1]; and "relating to oil and gas lease expenditures" [Section 16]. She noted that Section 1 was new to SB 48 and was the same as Section 3 of HB 50. It provided the Alaska Oil and Gas Conservation Commission (AOGCC) with the authority to acquire primary enforcement responsibility for Class VI wells from the Environmental Protection Agency (EPA). She explained that Class VI wells were used to inject carbon dioxide into deep rock formations.

Ms. Miller continued that Section 2 was formerly Section 1 of HB 49 and provided a full exemption from the state procurement code. It was amended to exempt only contracts with registries. There was no change to Section 3.

[8:48:04 PM](#)

Ms. Miller continued on page 5 of the presentation. She indicated that Section 4 was also unchanged from HB 49 and conformed to the new carbon management purpose lease program. She explained that Section 5 was formerly Section 4 and detailed the new carbon management program. The following was added to the section:

- DNR must solicit competitive interest on receiving an application
- DNR to weigh revenue to state in case of competing leases
- Leases must include performance benchmarks and will be terminated if failure to meet
- In Best Interest Finding, DNR must consider impacts on mining, timber and other resource development; the known mineral potential in the area; and value to the state
- State land will remain open to other resource development
- Annual report to Legislature

Ms. Miller stated that Section 6 of SB 48 was unchanged and was conforming to Section 5 of HB 49.

Ms. Miller advanced to slide 6. She relayed that Section 7 was new and was conforming to the requirement in Section 5 of HB 49 to solicit competitive interest. She noted that Section 8 was formerly Section 6 and established the Carbon Offset Program at the Department of Natural Resources (DNR). The following was added:

- Additional criteria to evaluate in a Best Interest Finding, including impacts to other resource development sectors; assessment of mineral potential in area; and potential revenue to the state
- State land to remain open to other resource development
- Removal of new fund; credit sale revenue will go to general fund

- Ability for DNR when considering contracts under the procurement code to evaluate revenue and value to the state
- Prohibition against contract commissions over 30%
- Annual report to the Legislature
- Revisions to definitions section to reflect the evolving nature of the carbon offsets industry and ensure statute durability

Ms. Miller advanced to slide 7. She relayed that Sections 9 through 11 of SB 48 were formerly Sections 7 through 9 of HB 49 and there were no changes. Additionally, Sections 12 through 15 were formerly Sections 10 through 13 and there were no changes. She shared that Section 16 was new and would disallow carbon lease or project costs as oil and gas lease expenditures. Finally, Section 17 was formerly Section 14 and was unchanged. She expressed that the department appreciated the Senate's changes to the bill and thought that it made many improvements to the legislation that addressed the concerns about the program. She believed that the programs would be successful if the department could be transparent with the legislature and with Alaskans. She concluded her presentation.

[8:54:58 PM](#)

Representative Galvin appreciated the information and the work the department had done. She noted that Ms. Miller had referenced prohibition against a contract commission of over 30 percent. She recalled that there were two various potential contractors who had mentioned a contract commission of 20 percent. She was curious about the discrepancy of the two figures.

Ms. Miller responded that the two hypothetical scenarios showed up in the department's crediting tables. In the scenarios, the 20 percent figure was applied because it was somewhat of a norm in the field, although it could vary depending on the particular project. Some of the smaller projects required a larger commission than some of the larger projects. The department felt that the 30 percent figure allowed for appropriate negotiating leeway that could potentially include other terms that were of value to the state. If a situation arose in which the 30 percent figure was prohibitive, the department would return to the legislature to discuss the issue.

Representative Galvin recalled that two different organizations had presented before the committee about the carbon program. She thought the organizations had told the committee that the contract commission percentage was somewhere between 18 and 20 percent. She asked Ms. Miller to provide some examples of the other terms that could be negotiated as a state. She understood that the norm was up to 20 percent.

Ms. Miller responded she thought that the American Carbon Registry (ACR) was one of the organizations that had presented to the committee and had likely echoed 20 percent as the norm. One of the negotiating terms that might increase the percentage was developer training for DNR staff in order to manage future projects in which the department was the sole developer.

Representative Galvin relayed that she had done some quick math for one of Ms. Miller's examples and the total was \$60 million for one contractor. She was concerned about the increased cost if the percentage was increased by 10 percent and thought it was a substantial sum to dedicate to training purposes. She supported the bill but wanted to ensure that the legislature was protecting Alaska's interests.

[9:00:07 PM](#)

Representative Josephson recalled that there was an earlier amendment sometime in the bill's hearing process that included language about a \$10 million spending cap, beyond which the legislature would need to provide additional oversight. He asked if his recollection was correct.

Ms. Miller responded that the Senate Resources Committee had maintained the full exception to the procurement code and had implemented an amendment that would require legislative approval for contracts exceeding \$10 million. Ultimately, the Senate Finance Committee sought to remove the requirement for legislative approval to foster a process that would provide transparency, competition, due process, and fairness.

Representative Josephson commented that he was aware that the bill had always had an allowance for other potential resource development. He asked how decisions would be made about leaving forests intact in situations in which forest

had to be removed, such as in the case of Fort Knox [gold mine].

Ms. Miller responded that the mineral estate was the dominant estate. The bill would not change the fact that an area could only be closed to minerals with the legislature's action. The first step would be for the department to assess the known mineral potential of an area. When a project was created, it was important to know where the high potential areas were and to project the way the area might look in the future. An option would be to exclude a forest from a project area in order to avoid having to account for carbon loss within a project that aimed to increase carbon stock increases. There were also opportunities within a project area to accommodate surface disturbance, including the potential for a subsurface mine, which would help determine how many credits a project would be able to generate.

Representative Hannan referred to Section 16 of the bill which included descriptions of oil and gas industry lease expenditure dialogue. She had a conversation with Ms. Miller and was assured that the bill would be unrelated to the sequestration apart from well primacy. She asked for more information on the choices behind the language of Section 16.

Ms. Miller responded that Section 16 amended AS 43.55.165(e) which was the current oil and gas tax credit statute and it articulated items that could not be claimed as lease expenditures. She clarified that the items all related to oil and gas activity. There was only one example in which costs were incurred as part of the capital expenditure for a carbon management purpose or a carbon offset project. The change was not related to potential lease expenditures on underground storage projects. She thought the issue would come before the legislature when developing the leasing and regulatory framework for underground carbon storage. There was concern in the Senate that there could be a carbon lease or project on the same surface area as an oil and gas development. If the situation occurred, the Senate wanted to ensure that capital expenditures for the carbon purpose were not to be deducted as lease expenditures from the oil and gas production tax.

Co-Chair Foster asked if there were additional questions.

Ms. Miller requested that Mr. Neil Steininger speak to the details of the way in which the projects would be funded.

[9:06:37 PM](#)

NEIL STEININGER, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, (via teleconference), expanded upon the question. There were some amendments made in the Senate related to the structure of the funding of the carbon offset program. The revenue collected under the program would be tracked as a separate fund code in the state budget for the expenditures. The funds would live within the general fund but would be accounted for separately. The amount of revenue collected would be transparent to the public and the legislature and would be published in the Department of Revenue Revenue Source Book released annually. It would be similar to the way in which Department of Motor Vehicles (DMV) receipts were reported upon and appropriated. Appropriations for the operating side of the carbon offset program would be included in the operating budget each year. As the revenues began to flow into the state, expenditures would be transitioned over to the direct expenditures of the new code that would be established by the Legislative Finance Division (LFD).

Mr. Steininger continued that appropriations related to the actual carbon offset project would be in the operating budget; however, costs associated with specific projects or credit projects would live within the capital budget which would allow the department to spread the costs over multiple years. There would be carry-forward language beginning in FY 25 in the operating budget which would allow the department to carry over more funds than the amount that was strictly necessary for a given fiscal year.

Co-Chair Foster indicated that there were five fiscal notes dated within the last week. He asked whether Ms. Miller would like to speak to the fiscal notes.

[9:09:45 PM](#)

Ms. Miller commented that the committee was already familiar with three of the fiscal notes dated within the last week. The main change was revising the narrative to reflect the elimination of the carbon offset fund. There were two fiscal notes the committee had not yet heard. The

first was related to OMB component by the Department of Commerce, Community and Economic Development (DCCED) with the control code azWox (copy on file). The fiscal note related to the addition of Section 1 of SB 48 which would grant AOGCC the authority to pursue primacy from the U.S. Environmental Protection Agency (EPA) over Class VI wells. There was \$908,000 in FY 24 and \$888,000 in FY 25. She noted that AOGCC had applied for grants from the EPA to help with the costs of the responsibility of enforcement, which would supplant the general fund.

Ms. Miller continued that the second new fiscal note was OMB component 2888 by DCCED with the control code qqAuO (copy on file). The fiscal note related to the Alaska Energy Authority (AEA). She forgot to mention earlier that the Senate had amended the bill so that 20 percent of the revenue generated from the carbon offset program would be deposited into the renewable energy grant fund [AS 42.45.045]. The change had generated the fiscal note, which was indeterminate.

Representative Josephson asked if the carry-forward dollars would be subject to the sweep.

Mr. Steininger responded that the monies would not be subject to the sweep.

Representative Josephson asked if the reasoning was because the legislature had fully appropriated the monies already.

Mr. Steininger responded in the affirmative.

Representative Stapp commented that his main concerns about the bill were related to the procurement process, the lack of oversight, and the competitive interest clauses. He did not want the bill to be used as a capital expenditure in order to sequester carbon and receive a state tax credit, which he thought would have happened if the amendments in the Senate were not passed. He asked if the committee was "missing anything." He wondered if all concerns had been addressed.

Ms. Miller responded that the department had heard similar concerns from legislators in both bodies. The department appreciated the Senate's collaboration in working towards resolutions and finding ways to provide transparency and responsiveness to the legislature and Alaskans.

[9:15:03 PM](#)

Representative Galvin drew attention to page 10, line 3 of SB 48. She understood that a typical contract commission agreement was 20 percent or less. She asked if the department would be severely impacted if the figure increased to 25 percent.

Ms. Miller responded that the department felt that 30 percent would offer flexibility and would avoid statutorily contracting negotiated terms while preventing a potential situation in which the prudence of entering into the contract would be questioned. She noted that the industry was rapidly evolving and she had heard that the allowance was following norms. Some projects involving smaller surface areas could generate more than 20 percent commissions and the department would like the opportunity to pursue such projects. Future projects could involve environments like tundra and the department did not want to limit itself.

JOHN BOYLE, COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, responded that the intent was to maximize the amount of revenue and value of the resources used in the projects. He recalled that one of the slides in the presentation showed the various types of carbon projects available. It could be true that some organizations saw a certain commission range, but if the state were to look to other types of carbon projects, the projects might not fall into the same parameters. The 30 percent figure seemed to be a good compromise and would allow for the desired flexibility. For example, kelp projects were nascent and accrediting bodies were still crafting the logistics of the projects. It was important to preserve the flexibility, but the Senate felt that it was also important to implement a percentage cap.

[9:19:24 PM](#)

Representative Galvin asked for some examples of projects that rose above 20 percent. She understood that the committee had been told that the general cap was 20 percent. She was hoping for reassurance that the extra 10 percent was necessary. She reiterated that she was supportive of the bill but wanted to ensure that the legislature had set the correct guidelines.

Ms. Miller replied that she did not have additional data because many of the project contracts were not available to the public. She relayed that the committee had heard from both ACR and the contractor Anew Climate, which both related to the improved forest category, that the 20 percent figure was the norm for current projects. She noted that the committee had also heard from potential developers that for smaller niche projects, commissions could go higher particularly because the project areas were smaller which was something of which "they" wanted the department to be aware.

Representative Galvin asked who "they" were. She understood that ACR was aware of projects that would surpass 20 percent but the projects were not yet common.

Ms. Miller responded there were no protocols available at a registry for a kelp project but developers and other registries were actively working on fine-tuning the science of how to verify the amount of carbon that kelp at the bottom of the ocean had sequestered. She added that ACR had shared that different projects could generate different types of commissions.

Representative Galvin understood that the ceiling of 30 percent was being requested because there could be smaller projects that could reach the figure and the department would be limited. She asked if her understanding was correct.

Ms. Miller responded in the affirmative and explained that it was one reason for the request. A cap of 30 percent would allow for some flexibility for the department to pursue other projects that would be in the state's best interest.

Co-Chair Foster set an amendment deadline for SB 48 for 11:30 a.m. on May 16, 2023.

SB 48 was HEARD and HELD in committee for further consideration.

#sb77

SENATE BILL NO. 77

"An Act relating to municipal property tax; and providing for an effective date."

9:26:12 PM

SENATOR FORREST DUNBAR, SPONSOR, gave a brief summary of the bill. He explained that SB 77 was brought forward to incentivize further economic development by providing local government with two additional and optional tools. Firstly, it would allow municipalities to fully exempt property taxes for economic development purposes and secondly, it would allow local governments to levy a "blight tax," which was a temporary increase in property taxes for heavily deteriorated properties that were negatively impacting the surrounding neighborhoods. The tax would be capped at 50 percent of a property's value and could not be applied to a primary residence. The blight tax would be removed once the property owner submitted a remediation plan, received approval from the local government, and began remediating the property. Additionally, there were standards that a property must meet in order to be designated as blighted. He reiterated that both tools were optional and local governments could decide whether it would like to utilize the tools.

Co-Chair Foster understood that one of the concerns about the blight tax was that it would apply to residential properties. He asked if the tax would only apply to commercial properties or if it would apply to residential properties as well.

Senator Dunbar responded that it could apply to residential properties. In Anchorage, it could apply to multi-family housing or rental properties, but it could not apply to a primary residence.

Representative Tomaszewski asked for clarity on whether the tax could be up to 50 percent of the property value.

Senator Dunbar responded that he meant the tax could be up to 50 percent of the existing tax paid by the property. In other states the figure could be two or three times higher, but he felt that a lower cap would be prudent for Alaska. It was not intended to be a revenue-generating device, but as an incentive for people to remediate their properties.

Representative Tomaszewski understood that if a property paid \$1,000 per year in property taxes, the blight tax could add up to \$500 per year.

Senator Dunbar responded in the affirmative.

Co-Chair Foster suggested that the committee hear the fiscal note.

SANDRA MOLLER, DIRECTOR, DIVISION OF COMMUNITY AND REGIONAL AFFAIRS, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, (via teleconference), referenced the fiscal note by Department of Commerce, Community and Economic Development with OMB component 2879 and the control code qeRGn (copy on file). She explained that it was a zero fiscal note.

Co-Chair Foster indicated that the committee would begin the amendment process.

[9:30:17 PM](#)

Representative Tomaszewski MOVED to ADOPT Amendment 1, 33-LS0416\U.4 (Dunmire, 5/12/23) (copy on file):

Page 1, following line 2:

Insert new bill sections to read:

"*Section 1. AS 29.45.030(c) is replaced and reenacted to read:

(c) Property described in (a)(3) or (4) of this section from which income is derived is exempt from general taxation only if the income is from

(1) use of the property by a nonprofit religious, charitable, or hospital group that is exempt from federal taxation under 26 U.S.C. 501(c);

(2) use of the property by a nonprofit educational group exclusively as classroom space;

(3) use of the property for fundraising for a nonprofit religious, charitable, hospital, or educational group; or

(4) the owner's leasing of the property to a nonprofit organization or an individual in pursuit of the property's exempt purpose and the leasing is incidental to and reasonably necessary for the accomplishment of the owner's exempt purpose; this paragraph does not apply to property owner by an educational group.

*Sec. 2. AS 29.45.030 is amended by adding a new subsection to read:

(o) Property described in (a)(3) of this section that is under construction or reconstruction and intended to be used exclusively for exempt purposes upon completion is exempt from general taxation if the construction or reconstruction is completed within two years after the date a building or zoning permit is issued for the property. In this subsection, construction or reconstruction is completed on the first day the property is occupied and used for the exempt purpose."

Page 1, line 3:

Delete "Section 1"

Insert "Sec.3"

Renumber the following bill sections accordingly.

Representative Josephson OBJECTED for discussion.

Representative Tomaszewski explained that the amendment would add language in regard to nonprofit organizations. It would clarify property taxation based on income by nonprofit properties that would fall under AS 29.45.030. The legislation was a result of conversation between stakeholders of the former HB 70 [withdrawn by the sponsor Representative Tomaszewski]. The intent was to reduce and prevent litigation between nonprofits and municipalities in the future. He directed attention to a document regarding tax code that he had distributed to committee members (copy on file). He indicated that AS 29.45.030(c)(1) was tied to federal tax code 26 U.S.C 501(c) exemption and if activities triggered federal taxes, the property would no longer be exempt from taxes. He relayed that (c)(2) allowed for exemption of general taxation for non-profit educational groups on income derived from classroom spaces. He continued that (c)(3) allowed for property exemption for fundraising for qualifying nonprofits. He explained that (c)(4) allowed for income derived from leasing to another nonprofit in order to generate income if the income generated also supported the mission of the organization. Finally, Section 2 would allow for a grace period of two years for construction or reconstruction of a nonprofit facility.

[9:32:52 PM](#)

Senator Dunbar noted that HB 70 was only heard twice in its first committee of referral. He noted that the House Finance Committee was the final committee of referral for SB 77 and the amendment would be a substantial policy change. He did not support the amendment and reiterated that the tools proposed by the bill were optional through the adoption of a local ordinance. The amendment would be automatically enacted upon passage and would impact the entire state. He did not think the amendment had been thoroughly vetted, unlike the underlying bill.

Co-Chair Edgmon shared that he had spoken with Representative Tomaszewski about the fact that SB 77 would be optional and a local government could determine whether it wanted to participate. He asked why the provision in the amendment needed to be put into law when the decision was up to the local municipality.

Representative Tomaszewski responded that the language expressed the intent to illuminate grey areas within the code itself. There was a case in Fairbanks that had been going on for the past five years in which an assessor thought that a property should be paying property taxes for various causes. The case had gone to the Superior Court which ruled in favor of the plaintiff and sent it back to the borough. The borough then appealed the case to the Alaska Supreme Court, which also ruled in favor of the plaintiff and sent the case back again to the borough. He relayed that the situation was just one example. The situation that was the catalyst for the amendment was the borough going after the local food bank and charging property taxes for certain situations that the food bank deemed to be unacceptable or exclusive. The next step for the food bank was also to appeal to the Superior Court. He clarified that his intent was to utilize the amendment process to address grey areas in which a municipality or nonprofit could work together to alleviate such differences without appealing to the courts.

[9:36:49 PM](#)

Co-Chair Edgmon understood that Amendment 1 included the content of the withdrawn HB 70.

Representative Tomaszewski responded that it was essentially a committee substitute from HB 70 and there was little left of the bill in the amendment.

Co-Chair Edgmon thought it should be a separate bill.

Representative Ortiz asked Representative Tomaszewski to summarize (c)(1) and (c)(2) of the amendment.

Representative Tomaszewski responded that (c)(1) tied to federal tax code. If activities triggered federal taxes, the exemption would no longer apply. He explained that (c)(2) was a property used by a nonprofit organization or group and intended exclusively for classroom space. He had heard from homeschools and charter schools that there would be a loophole in the legislation without the language.

Representative Ortiz asked Representative Tomaszewski to summarize (c)(3) and (c)(4).

Representative Tomaszewski replied that property exception under (c)(3) and (c)(4) was allowed to be used for fundraising for the used properties. He explained that the food bank held an annual fundraiser where local ceramic artists made bowls and donated the bowls to the food bank and the public had the opportunity to purchase the bowls. The entirety of the money from the sales was donated to the food bank. The bank used a part of a building for the event and a borough assessor determined that because a portion of a building was used, it was no longer exempt from property taxes. The food bank was taxed for the portion of the building. The exemption would ensure that similar fundraising would remain tax exempt.

Representative Ortiz asked for confirmation that it would be tax exempt.

Representative Tomaszewski clarified that the property taxes would be tax exempt. He was not speaking to income taxes.

[9:41:32 PM](#)

Representative Coulombe commented that the amendment was addressing a specific local issue. She thought it would be better addressed at the local level rather than at the state level. She would not be supporting the amendment.

Representative Tomaszewski responded that it was an issue in Fairbanks at the moment but the issue would not stay in

Fairbanks in perpetuity. He argued that it would become an issue in other areas of the state.

Representative Coulombe would like to see the municipalities deal with the issue as it arose.

Representative Josephson asked if Alaska Municipal League (AML) had offered its stance on the amendment.

Representative Tomaszewski responded that he collaborated with a representative for AML to amend the language.

Representative Josephson noted there was an allowance in a succeeding section of AS 29.45.050 that included opportunities for nonprofit organizations. He had been told that there were qualifying entities in Fairbanks. He asked whether the food bank had sought an exemption through AS 29.45.050.

Representative Tomaszewski responded that he did not know if the food bank had sought an exemption. He thought that if there was duplicative language that Legislative Legal Services would have caught it.

Representative Josephson commented that he was not certain that it was a question of duplication. He was concerned about the impacts on the large Providence Hospital campus in Anchorage and the fair-assessed tax receipts from the campus.

Representative Tomaszewski responded that he was not familiar with the details of the organization.

Representative Josephson commented there was a vast amount of caselaw on the question of exemptions and the amendment would not solve the problem. All of the case laws would be binding and would steer the parties to an answer and the laws therefore served a useful purpose. He was concerned that the exceptions might "swallow up" the rule.

[9:46:28 PM](#)

Representative Cronk commented that he was grateful to not live in organized area. He thought it was mind-boggling for there to be a tax on nonprofits. He noted that it was outside of his area of expertise but that he would support the amendment.

Representative Stapp shared that there was a saying in Fairbanks of "the interior likes to stick together" and he would vote for the amendment.

Representative Ortiz offered a hypothetical scenario in which there was a church in a community that had a property on which it paid taxes, but the church rented the property out for vehicle rental space. He asked if the church would be exempted from paying property tax if the amendment were to pass.

Representative Tomaszewski asked for clarification that Representative Ortiz was speaking about a parking lot owned by a church that charged individuals to park their vehicles in the lot.

Representative Ortiz responded in the affirmative and added that the church would pay property taxes under current law.

Representative Tomaszewski replied that he did not think the amendment would impact the situation. The scenario did not involve fundraising and he thought it would trigger federal tax code and the church would lose its tax exemption. He noted that it was not his area of expertise and he was not an attorney.

Senator Dunbar relayed that he respected the food bank in Fairbanks and thought it did great work; however, he was concerned about the impact of the amendment on other nonprofits. For example, in 2016 the Providence campus in Anchorage had about \$400 million of untaxed property and \$100 in property on which the hospital paid property tax. He was unsure how the amendment would impact the hospital and he was not in support of it.

Representative Tomaszewski reiterated that the amendment addressed a problem that been impacting Fairbanks for several years. The amendment had been reviewed by legislative legal and there were no identified legal problems. He did not want nonprofits like a food bank to go to court to defend itself when it was already a vulnerable organization. He thought that an assessor removing the food bank's tax exemption was uncalled for and there was presently no recourse for a nonprofit other than to go to court.

Representative Josephson MAINTAINED the OBJECTION.

[9:52:15 PM](#)

A roll call vote was taken on the motion.

IN FAVOR: Cronk, Stapp, Tomaszewski, Foster

OPPOSED: Galvin, Hannan, Josephson, Ortiz, Coulombe, Edgmon

Co-Chair Johnson was absent from the vote.

The MOTION to adopt Amendment 1 FAILED (4/6).

Representative Tomaszewski WITHDREW Amendment 2.

[9:53:38 PM](#)

Representative Coulombe MOVED to ADOPT Amendment 3, 33-LS0416\U.3 (Dunmire, 5/4/23) (copy on file):

Page 2, line 13:

Delete "include the following requirements"

Insert "specify that a property is blighted if at least one of the following applies"

Co-Chair Foster OBJECTED for discussion.

Representative Coulombe explained that she was moving the amendment on behalf of the sponsor and deferred to the sponsor for an explanation.

Senator Dunbar explained that Amendment 3 and the forthcoming Amendment 4 were cleanup amendments. He thought Representative Hannan had pointed out that there was a drafting error and the amendments would fix the issue. He asked that the committee adopt both amendments.

Co-Chair Foster WITHDREW the OBJECTION. There being NO further OBJECTION, Amendment 3 was ADOPTED.

[9:55:04 PM](#)

Representative Coulombe MOVED to ADOPT Amendment 4, 33-LS0416\U.2 (Dunmire, 5/2/23) (copy on file):

Page 2, line 18:

Delete all material.

Reletter the following subparagraphs accordingly.

Page 2, line 21, following "property":

Insert "has been vacant for not less than one year and"

Co-Chair Foster WITHDREW the OBJECTION. There being NO further OBJECTION, Amendment 4 was ADOPTED.

[9:55:50 PM](#)

AT EASE

[9:56:08 PM](#)

RECONVENED

[9:56:13 PM](#)

Co-Chair Edgmon MOVED to report CSHB 77 (FIN) out of Committee with individual recommendations.

CSSB 77(FIN) was REPORTED out of committee with nine "do pass" recommendations and with one "no recommendation" recommendation.

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

#

ADJOURNMENT

[9:57:36 PM](#)

The meeting was adjourned at 9:57 p.m.