

HOUSE FINANCE COMMITTEE
February 28, 2024
1:47 p.m.

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CALL TO ORDER

Co-Chair Johnson called the House Finance Committee meeting to order at 1:47 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

Ryan Anderson, Commissioner, Department of Transportation and Public Facilities; Dom Pannone, Administrative Services Director, Department of Transportation and Public Facilities; Sean Lynch, Chief Assistant Attorney General, Transportation Section, Department of Law.

SUMMARY

HB 268 APPROP: OPERATING BUDGET; CAP; SUPP; AM

HB 268 was HEARD and HELD in committee for further consideration.

HB 269 APPROP: CAP; REAPPROP

HB 269 was HEARD and HELD in committee for further consideration.

HB 270 APPROP: MENTAL HEALTH BUDGET

HB 270 was HEARD and HELD in committee for further consideration.

OVERVIEW: FY 25 BUDGET OVERVIEW DEPARTMENT OF
TRANSPORTATION AND PUBLIC FACILITIES AND STIP UPDATE

#hb268

#hb269

#hb270

HOUSE BILL NO. 268

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

HOUSE BILL NO. 269

"An Act making appropriations, including capital appropriations and other appropriations; making reappropriations; making appropriations to capitalize funds; and providing for an effective date."

HOUSE BILL NO. 270

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

Co-Chair Johnson reviewed the meeting agenda.

^OVERVIEW: FY 25 BUDGET OVERVIEW DEPARTMENT OF
TRANSPORTATION AND PUBLIC FACILITIES AND STIP UPDATE

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RYAN ANDERSON, COMMISSIONER, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, introduced a PowerPoint presentation titled "Alaska Department of Transportation and Public Facilities: DOT&PF Overview and STIP Update for House Finance," dated February 28, 2024 (copy on file). He relayed that when it came to the Statewide Transportation Improvement Program (STIP), the Department of Transportation and Public Facilities (DOT) recognized the seriousness of the situation. He relayed that staff had been working on the topic around the clock to ensure DOT was meeting the deadlines and was working with the Federal Highway Administration (FHWA) to make sure the department was on track to meet the deadline of the coming Friday. The presentation would begin with an overview of the budget.

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DOM PANNONE, ADMINISTRATIVE SERVICES DIRECTOR, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, began on slide 2 with a high level overview of funds available to DOT. The top portion of the slide showed all major program areas at a total of \$767 million. The bottom portion of the slide reflected unrestricted general funds (UGF) and designated general funds (DGF) showing the state's investment in operating the highways infrastructure. The primary difference was that the reduction of DOT's capital program was not reflected (it was not UGF) and the international airports were "other" funds. Slide 3 showed an FY 23 budget lookback depicting how DOT managed through budgetary and other challenges. The department used COVID-19 relief funds through the past four years to address additional needs including forward funding the Alaska Marine Highway System (AMHS). The department had been able to substitute UGF and leverage COVID funds for operational uses. Additionally, DOT was keeping equipment in the state equipment fleet longer, which reduced costs but increased the operational costs and repairs and potentially downtime for older equipment. The department had been utilizing emergency weather and catastrophic event appropriations from the capital budget; it had received \$13.2 million since FY 21 and continued to use the funds to help absorb spikes in the operational budget due to extreme weather events.

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Commissioner Anderson addressed the overall FY 25 budget amount on slide 4. The department managed its funds between

14 maintenance districts. There were 621 equipment operators (seasonal and permanent), 80 staffed maintenance camps, and 235 airports. He noted that 26 of the airports had Part 139 certification, meaning the airports were Alaska Airlines compliant. He addressed critical job class vacancies on the lower half of the slide. There was a 28.9 percent vacancy rate in equipment operators statewide. He highlighted a vacancy rate of 75 percent in Southfork, 26 percent in the Dalton district, and 60 percent in Northway. He relayed it was becoming increasingly difficult to find equipment operators in rural areas as well as others. The right portion of the slide showed annual supplemental reappropriations. The funds enabled the department to keep its baseline budget whole when events occurred that were above and beyond what the department was budgeted for.

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Mr. Pannone turned to slide 5 and provided a high level overview of UGF increments in the DOT base budget. The highways and rural aviation component included \$9.9 million in UGF increments for rural airport lighting, commodities increases, and changes in federal funding for the Anton Anderson Memorial Tunnel in Whittier. He noted that the commodities increases had already occurred and were not a result of projected inflation increases. The budget included a \$1.3 million increase for utility and energy costs at its facilities. He noted the department had seen a 15 percent increase in the past several years. The budget included a couple of fund swaps. He explained that DOT was swapping away from the final amount of federal COVID relief funds to \$9.8 million UGF in its rural airport system. Additionally, the Sitka airport was switching from international airport funds to UGF because it was no longer an emergency divert airport for the international system.

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Mr. Pannone addressed the Whittier Tunnel funding swap of \$2.875 million UGF on slide 6. The fund swap was the result of an audit from the FHWA office, which had evaluated all toll facilities to ensure they were not over-receiving federal funds. The audit presumed the Whittier Tunnel had over-received federal funds in the amount of \$15 million. The department had negotiated out of the \$15 million payback by making the case that the tunnel was an intermodal connector and a necessary road of the AMHS,

which entitled it to 100 percent federal funds. The department would be renegotiating the tunnel operations agreement and once the agreement was complete the funding would revert back from UGF to federal.

Commissioner Anderson reviewed slide 7 showing core changes in the operating budget. The slide included UGF receipts based on some of the challenges the department was experiencing, including rising commodities costs for maintenance and operations in the amount of \$4.5 million. The department was establishing a new component for snow removal to improve service to the public (contracting out snow removal when necessary due to large snow events). The department was looking at an agricultural roads maintenance program. He elaborated that under the food security priorities of the governor, the program would enable DOT to address some gravel roads serving agricultural areas that were in poor shape and had not seen work in a long time. The department was also experiencing a reduction in the federal funding share. Additionally, the department needed a funding increase to cover the transfer of responsibility agreements (TORA). He detailed that TORAs were agreements with municipalities for things like lighting and maintenance.

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Mr. Pannone addressed budget transactions relating to rural aviation on slide 8. The first item was a request to add rural airport leasing receipt authority for law enforcement support in Adak. Adak had a Part 139 airport and the emergency plan required law enforcement to be present for TSA [Transportation Security Administration] screening. The authority would enable DOT to collect money from the air carrier to pay for the law enforcement officer's time. The department had established an agreement with the Anchorage International Police Force to have an officer fly from Anchorage to Adak for the screenings. The second item was a request for Sitka airport operations. He detailed that the Sitka airport cost roughly \$1 million per year to operate. The airport had been receiving a subsidy from the International Airport Revenue Fund. The signatory airlines in the international airport system decided they did not want to pay for the Sitka airport as an emergency divert airport; therefore, the funding had been removed and was switching to UGF. The last item was airport lighting repairs. There were approximately 116 airports with lights,

75 percent of those systems were installed prior to 2012. The systems had a projected useful life of 20 years. He elaborated that there were many aging lights and inspection and repairs could cost \$25,000 per airport. The department was required to check every system once every three years at a minimum. The department was also hoping to purchase additional standby systems (shown in a picture at the bottom of slide 8).

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Commissioner Anderson discussed the budget for the state equipment fleet on slide 9. The fleet included 51 maintenance shops across Alaska and 156 permanent full-time positions. The fleet included heavy equipment and emergency and passenger vehicles. He noted that the fleet served all state agencies as well as outside organizations like the University of Alaska. The fleet was funded from operating rates paid into the Highway Equipment Working Capital Fund (HEWCF). The vacancy rate for mechanics was 22 percent statewide, 50 percent in Denali, Nome, and Ketchikan, 67 percent in Valdez and Bethel, and 100 percent in Tazlina. He added that mechanics were co-located in DOT maintenance camps with its highways and aviation officers.

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Mr. Pannone addressed the \$102 million FY 25 budget for the Division of Facilities Services (DFS) on slide 10. The division maintained over 820 facilities across five different departments with 144 employees and 150 capital projects for 10 agencies. Prior to 2018 there were regional facility components. Subsequent to that time, DOT established a centralized structure and used an enterprise model that billed other agencies and DOT for maintenance services. The department determined it could directly fund DFS by moving the real dollars to its budget, which would result in better decision making and increased efficiency instead of billing another part of DOT for utility bills or services. The department was transferring approximately \$20 million from the regional facilities components to DFS to cut down on the duplicate effort of billing internally.

Mr. Pannone turned to slide 11 outlining the increases for the Alaska International Airport System, which included the Anchorage and Fairbanks international airports. The system was fully funded by the International Airport Revenue Fund

and the signatory airlines DOT had an operating and lease agreement with had agreed to fund the entire system and enterprise. He listed International Airport System budget items beginning with an airport police and fire officer class study at a cost of \$2.1 million. Items 2 and 3 reflected an increase related to DOT's requirement to audit and report to the Department of Administration and the signatory airlines on an annual basis. The department had auditing services in the past, but there had not been increases in several years. The fourth item was a TSA required aviation workers screening program, which was a new unfunded requirement. Items 5 and 6 were increases in field training increases. He detailed that TSA and Part 139 required airport rescue and fire fighters to conduct annual live fire training with a fire pit and mockup airplane. Item 7 reflected increased parking for the Anchorage International Airport. The contract had seen increases due to increases in snow removal requirements as well as general increases; there had not been an increase since approximately 2014. Item 8 was an increase for operational support software responsible for running flight information screens and kiosks in terminals. The last item was an increase for public safety radio and dispatch systems to reflect an increase in repairs and maintenance requirements.

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Mr. Pannone turned to slide 12 and discussed AMHS budget. He noted that AMHS was on a calendar year budget and its 2025 budget request was \$158 million. The 2025 budget was largely a copy forward from the 2024 budget and relied on \$70 million in federal revenue. He pointed to a graph on the slide and noted that in calendar year 2023, \$130 million of the \$144 million budget was expended. He explained that AMHS was still growing into the budget level. The department was facing challenges with crew and some vessel availability and being able to expend the entirety of its budget. Hiring was trending in the right direction, but AMHS was still facing challenges with licensed positions. The graph showed that revenue was recovering; there was a slight decline in calendar year 2023 attributed primarily to the absence of a cross-gulf run, which was usually a high revenue route. He noted that instead, there had been an increase in Southeast routes.

Mr. Pannone addressed additional operating budget items on slide 13. There was a transfer of Office of Information Technology (OIT) staff to DOT at the direction of the legislature. The department was adding \$1 million back into its budget to collect from elsewhere in the department for the staff. The budget included an increase [of \$778,100] for marine highway vessel payroll. He elaborated that roughly five employees had been transferred from DOA and four from elsewhere in DOT to establish payroll for AMHS, which was charged to AMHS. He addressed capital program increases including \$6 million for the new Data Modernization and Innovation Office. The office would provide a new level of metrics and information to help support a number of efforts including the STIP. There was an increase of \$1.1 million for cross functional support to help address a number of issues statewide and bring consistency across the department in its interactions with the public. The request included some recruitment and outreach efforts.

Mr. Pannone addressed organizational efficiency budget components at the bottom of slide 13. The department was merging some areas where it was unnecessary to have two different budget components [design, engineering, and construction merged]. There was a facilities services transfer of \$19.6 million to directly fund DFS. He noted it constituted a movement of funds within DOT's budget.

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Co-Chair Johnson understood there were some federal funds that may or may not come through for AMHS. She asked when the state would know whether more federal funding would be coming for AMHS. She did not recall the amount.

Mr. Pannone responded that in the calendar year 2024 budget, DOT was short by roughly \$26 million. The department was mitigating the 2024 budget by using \$13 million in carryforward from 2023. The revenue gap in 2024 was about \$13 million. The department was not certain it would spend enough to reach the gap in revenue; it was still tens of millions more than AMHS spent the prior year. There was \$70 million in federal revenue in the 2025 budget. He relayed that the Federal Transit Administration (FTA) would be issuing a notice of funding opportunity within the next month and DOT would apply for the funds at that time.

Representative Stapp referenced the Whittier Tunnel fund source swap. He referred to the 80 percent toll participation rate where DOT had been able to return to 100 percent federal funding. He considered a scenario where the state spent the general fund dollars because of the maintenance contract. He asked if DOT would be able to supplant them with federal funds later on in the event the funds were received.

Mr. Pannone answered that the department's plan was to revise the operating agreement citing the federal law that enabled DOT to receive 100 percent federal revenue for operations of necessary roads for AMHS. The FHWA had given a cursory nod of approval. Once the operating agreement was revised, DOT hoped to negotiate the federal agreement for 100 percent of the operations for the tunnel and a commensurate swap of funds.

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Representative Stapp restated his question. He asked if the general fund money spent on the tunnel would be repaid with the potential federal funding. Alternatively, he wondered if the general fund money would not be repaid.

Mr. Pannone responded that at that point in time, the department would revert away from any unspent UGF funding.

Representative Galvin referenced \$422 million in COVID relief funds shown on slide 3. She asked if there were any of the funds remaining.

Mr. Pannone answered that the department did not project any [COVID relief] funds remaining beyond FY 24.

Representative Galvin observed that vacancies appeared very high in rural areas and 28.9 percent statewide [for equipment operators]. She referenced the department's discussion about working through the situation. She asked if there were specific programs, internships, or training available to alleviate the problem.

Commissioner Anderson answered there were various things done in different maintenance district camps. Some areas were okay, and some had increased vacancy rates at different time periods. One of the strategies was using

mission critical incentive pay where the department had done letters of agreement with the union and increased pay by 30 percent. The mission critical pay had been used at the Anchorage and Fairbanks International Airports the past year and in areas such as Nome, Kotzebue, St. Mary's, Unalakleet, Valdez, and Cordova. The department had submitted a current proposal to the union to use the pay in the Tok area in response to a large increase in vacancies in the area; the proposal had not yet been signed by the union. The department had also provided incentives with two weeks on, two weeks off schedules for employees. He relayed that the Local Trades and Crafts Union was in active contract negotiations for a renewed contract in the current year. He stated that DOT was hopeful that any issues that were contract related would be resolved in the renewed contract.

Representative Galvin stated her understanding there were enough skilled workers needed by DOT and the department was trying to incentivize them to work for the state through providing critical emergency pay.

Commissioner Anderson answered that he could not say there were enough skilled workers out there. The pay had helped to stabilize things, but the department was not attracting a lot of new employees.

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Representative Hannan referred to the AMHS budget and the lack of revenue due to the absence of a cross gulf ferry. She highlighted that the upcoming summer schedule did not include a cross gulf ferry. She believed there was a ferry run to Yakutat in March and she had not checked to see if it included a cross gulf route. She asked if the calculation of revenue was considered when putting together the summer schedule. She knew a lack of staffing was not allowing AMHS to run all of the vessels, but it had been nearly a year without a cross gulf ferry, which was a revenue generator.

Commissioner Anderson answered that the one cross gulf vessel was the Kennecott. He stated that the past year, DOT had to decide whether to run the Kennecott or the Columbia. He elaborated that the Columbia had two decks and the capacity to hold more vehicles and it had been fairly full doing the Bellingham [Washington] run, not going across the

gulf the past year. The department had been running the Kennecott some during the current winter when the Columbia had gone in for overhauls. The department was keeping all of the ships ready to go. He explained that DOT had the funding to run the Kennecott, but it was a staffing problem. The department had teams working on recruitment and the director of the program had initiatives going to get out to locations to attract employees. The focus was on how to attract employees to get the Kennecott running, which would open up the cross gulf route.

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Co-Chair Johnson noted that House floor session would resume at 3:15 p.m.

Representative Ortiz referenced earlier discussion about expected federal funds [for AMHS] of around \$26 million that may not come through. He believed Mr. Pannone stated that DOT had \$13 million in carryover funding to help make it up and there was an expectation AMHS would not spend up to \$26 million anyway. He asked how it was accomplished. He wondered if it meant not running boats, resulting in less service.

Mr. Pannone responded there was \$66 million in federal revenue in the [AMHS] FY 24 budget. There was a \$38 million grant and \$13 million in carryforward. He explained that the funds resulted in \$13 million more available than was spent the previous year. He explained that if AMHS was able to run an additional ship it could spend the money. He elaborated that if spending exceeded the \$13 million and reached the territory with the revenue shortfall, the department would look at other federal funds from FHWA or some other potential solution.

Representative Ortiz asked if the other ship was the mainliner that would likely not run due to a lack of crew.

Commissioner Anderson confirmed it was the Kennecott.

Representative Ortiz acknowledged that AMHS lacked the crew for the Kennecott. However, he surmised the department was saving money by providing less service to people relying on transportation.

Commissioner Anderson agreed that AMHS was not running a cross gulf route, which meant less service.

Co-Chair Johnson wanted to move forward with the Statewide Transportation Improvement Program (STIP) portion of the presentation.

Commissioner Anderson began the STIP portion of the presentation on slide 14. He explained that that STIP was a requirement for accepting federal funds. The STIP addressed surface highway transport, AMHS, and the FHWA and FTA funding. The STIP was a four-year planning document; the current plan was 2024 to 2027. He elaborated that the STIP was a fiscally constrained document that projected revenue and how the state would invest the revenue. The STIP decided federal funded projects and sometimes included other projects with regional and statewide significance. Sometimes the STIP included more than federally funded projects.

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Commissioner Anderson turned to slide 15 titled "How does the STIP Impact Projects on the Street?" He relayed that project delivery continued at present. He explained that DOT was granted an extension of the 2023 STIP, which ran out on March 31, 2024. Once the extension ended, DOT's authority to obligate projects and expend funds would conclude. Projects continued to be obligated under the extension and were currently close to \$200 million in the current year. There were carryover projects that had not been impacted. He detailed that about \$350 million in construction projects were bid and awarded the previous year that would continue in the current year. There was a little over \$100 million advertising for the coming summer construction season. He explained that every time DOT started a federally funded project or there was a different phase in the federal highway world to acquire land, for utility relocations, or construction, the phase had to be listed in the STIP and DOT had to obligate to that phase. As long as a phase was listed in the STIP and had associated funding, a project or construction could move forward. Without the STIP, DOT lacked the authority to move a project forward.

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Commissioner Anderson turned to a timeline of the department's work on the 2024 to 2027 STIP. The department's planning staff began work on the STIP in December 2021 with an electric platform product called e-STIP or STIP Manager. The platform was cloud based and open source, which the department believed would be a good step forward to modernize and ensure the STIP was available to the public and DOT staff. The e-STIP was a vendor-supplied product and in May of 2023, DOT determined that the product had faults. The department had gone through a series of certification reviews and had discovered that the numbers were not adding up. The department had been faced with deciding whether to continue on and fix the problem or pivot and get into something else.

Commissioner Anderson expounded that the new federal FY 24 would begin on October 1, 2023, and the STIP would need to be established and approved. At that point, DOT pivoted to a new platform called Airtable, which had increased capability and proven accuracy. He elaborated that between May 2023 and July 2023 the STIP had been converted from one platform to another. The conversion allowed the department to open the STIP for public comment on July 20, 2023, through September 3, 2023. The department had received a substantial number of comments from the public, local governments, and legislators. He relayed that the 2020 to 2023 STIP had less than 30 comments, while the 2024 to 2027 STIP received over 1,200 comments. Subsequently, DOT asked FHWA for a STIP extension to provide time to work through the comments. The department developed a draft revised STIP and began consultations with FHWA and submitted a first draft in November 2023. There had been additional FHWA consultations between November 2023 and January 2024. The department had done a formal submittal on January 19 with the idea that if anything came up before March, the department would have another shot to address it. The FHWA had provided a formal finding to DOT on February 12. The final submittal deadline was the coming Friday, which included all of the corrective actions [outlined by FHWA].

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Commissioner Anderson turned to slide 17 and discussed the e-STIP problem. He explained that past STIPs were a series of spreadsheets passed along from one group to another. The department wanted a system that documented and had much more functionality for searches. The slide showed the

overall work timeframe from December 2021 to May 2023. Another reason for the e-STIP was that it was a modern tool also used by the Metropolitan Planning Organization (MPO) that was also required to do its own transportation improvement plans (TIPs). In May 2023, the commissioner's office began having more involvement due to the need to add resources to the effort and to start pushing on the timelines. The department had looked at how it had done things over the past six months, and it had a 30-person multidisciplinary team that included expertise in technology and public and stakeholder engagement. There had been a program management and administration group on the fiscal side to ensure DOT was connecting the dots with legislative authority and other financial components. The project delivery component was critical and as the process moved forward, the department brought in directors from every region. He noted the importance of ensuring that the cost estimates and schedules were lined out accurately for project delivery. Additionally, the department worked to ensure it was on track with the planning piece. He relayed that the work on the STIP had been a big effort with substantial resources and time going toward the process.

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Commissioner Anderson moved to slide 19 and discussed the new open-source STIP platform the department was moving forward with. The platform was used for the public notice period and showed how to find information through tables and dashboards. The public could select projects based on region, investment area, legislative district, or type. The platform also included tools for DOT staff to link to project delivery, track cost increases, and legislative authority.

Commissioner Anderson turned to slide 20 and discussed the 45-day public notice. The department used publications in statewide newspapers and in a statewide STIP mailer. Additionally, DOT held public meetings, presentations to civic trade groups, direct emails to cities, boroughs, tribes, nongovernmental organizations, direct contact with underserved communities and municipal planning organizations, and provided a joint House and Senate Transportation Committee presentation.

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Commissioner Anderson advanced to slide 21 showing a summary of consultations after the public notice period (September 4 to January). The list included consultations with MPOs and the FHWA. Additionally, the list included the resolution of the 1,200 public comments.

Co-Chair Edgmon asked why the February correspondence was not included on the list on slide 21.

Commissioner Anderson agreed that the February correspondence should have been included on the list.

Co-Chair Edgmon was interested in a listing of the tier 1 projects that were rejected given the February 23 correspondence. He thought it may help get to the heart of the matter of the issue. He thought the commissioner had done a great job laying things out. He cited language from the U.S. Department of Transportation in its February 23 correspondence that it believed progress was being made based on engagement between federal agencies and DOT. He was trying to gain an understanding of why there was so much controversy around the issue.

Commissioner Anderson would answer the question as he worked through the next several slides. He moved to slide 22 titled "Resolution of Public Comments." The department received over 1,200 comments and the new platform enabled DOT to easily view and separate the comments out. He detailed that 36 percent of the comments were on the West Susitna access project, with the majority of the comments opposing the project. He noted there were also a fair number of comments in support of the project. He highlighted that all of the comments were available on DOT's website. He elaborated that 11 percent of the comments mentioned the Manh Cho mining operation and the Richardson Steese Highway projects, and 6 percent of the comments were on Sterling Highway/Anchor Point. Other comments of note were on the Mat-Su area roads, Anchorage area roads, Kenai area roads, Southeast area roads, AMHS projects, Cascade Point, Juneau North Douglas Crossing, Cooper Landing Bypass, and the Glenn Hwy Highland Interchange. Public comments were also broken out as follows:

- Public Comments:
- 909 Individual
 - 12 Legislative

- 59 Local Government/Tribes
- 67 Non-Governmental Organizations
- 86% Alaska based comments
- 14% Out of State comments

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Commissioner Anderson addressed fiscal constraint/project delivery corrections on slide 23. He began with existing challenges and explained that the old STIP was \$3 billion "over programmed," which was something that got carried into the new STIP that the department had to tackle. The FHWA indicated that fiscal constraint meant there was a revenue forecast that dictated the STIP funding. In the past, the state had been able to over-program by 30 percent. He explained that the change required the department to look at existing project schedules and how the costs had increased - many of the costs had increased over the past couple of years - and start making decisions on what made sense within the STIP time horizon.

Co-Chair Johnson asked for a definition of the term "over program."

Commissioner Anderson answered that under the National Highway Performance Program the state was apportioned between \$400 million and \$500 million per year for projects in the national highway system. In the past, the state had been able to have a program indicating it may receive \$600 million worth of projects, knowing there were problems that arose with projects annually such as right of way acquisition challenges. The state was now required to put in the actual number for the projects and was not allowed to over program any longer.

Commissioner Anderson continued to address slide 23. He referenced the challenge of inflation costs and explained that the state had a fair number of very large projects, particularly on the national highway system such as the Cooper Landing Bypass, which had experienced cost increases over the past couple of years. There had also been large projects on the Seward Highway with cost increases. He detailed that projects that had previously been in the \$50 million to \$75 million range had grown to \$100 million to \$150 million. The department wanted to care for the contracting communities throughout the state and to avoid starving out one area from another. The department was also

recognizing the needs of the individual districts and regions across the state. Additionally, DOT had to adhere to federal performance measures for pavement and bridge condition, which it did very well on.

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Co-Chair Johnson asked Commissioner Anderson to expand on the fiscal constraint over-programming.

Commissioner Anderson responded that there was \$3 billion more in projects over what could be included in the STIP. For example, if the overall STIP was worth \$4 billion, the state had \$7 billion in projects.

Co-Chair Edgmon returned to the February 23 correspondence that included a reference to tier 1 projects that appeared to have been rejected. He asked for additional details.

Commissioner Anderson turned to slide 24 to answer the question. There were three tiers of corrective actions. The first tier included corrective actions that were required to be completed before the STIP could be approved. The second tier items needed to be resolved within the first STIP amendment or within six months, whichever came first. The third tier included corrective actions that were primarily project-by-project, which would have to be resolved one at a time going forward working through the projects. Within each of the tiers there were individual actions required.

Commissioner Anderson began with the tier 1 findings located under tier 1 conditions for STIP approval in the findings letter. The first finding related to MPOs and other TIPS. The finding indicated that the way the state had been managing its projects, particularly the national highway system projects, within the boundaries of an MPO was not correct. The department had a series of discussions with the FHWA prior to its submittal in January and its understanding had been that if a project was not in an MPO TIP it had to be removed from the STIP; therefore, DOT had removed the projects. He stated that the corrective action finding took it a step further and specified that even if a project was in an MPO TIP, it should not be included in the STIP. The department had some internal discussions about the legality of the of that. He questioned if the state or MPO had the planning authority when there was a national

highway system route running through a metropolitan area. The department's stance was that it wanted consistency. For example, the department wanted consistency in the corridor running from Kenai to Dalton to Prudhoe Bay where there were three MPOs along the one route. He stated that the FHWA did not appear to agree with DOT on the matter. The state had agreed to disagree and would go forward to resolve what the federal agency was asking for within the next six months.

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Co-Chair Edgmon asked if it was possible the state may push back legally against the FHWA. He did not recall the STIP process going back at least four or five cycles to be controversial. He understood there was an amendment process in the four-year period where there were opportunities to resubmit. He thought the outright rejection and a pushback almost appeared confrontational. He heard Commissioner Anderson saying DOT was agreeing to disagree and that the local planning process in Fairbanks and elsewhere was not adhered to. He noted he was asking questions because he chaired the capital budget portion of the budget. He did not have a clear picture on why the situation was occurring and what specific projects were at stake. He looked at slide 22 and highlighted that nearly 50 percent of the 90 comments from individuals were on two resource development projects, which he could understand. He heard a presentation on the topic in the other body earlier in the day and had learned that many of the comments were from people located outside the Mat-Su borough and it could be the same for the Manh Cho project in Representative Cronk's district. He was not trying to say the comments were locally driven, but he did not understand yet "why we are where we are today."

Commissioner Anderson replied that the Department of Law was available to speak on the MPOs. He relayed that since the findings letter DOT had three or four good interactions with FHWA to get clarifications and DOT believed it understood what needed to happen to get the STIP approved. He explained that following approval, there would still be significant work to do in the next six months because there were numerous tier 2 findings to resolve.

Co-Chair Johnson would like to hear from the Department of Law.

2:45:20 PM

Co-Chair Edgmon stated that if it could potentially be a new budget item for the committee to consider, he thought it was only fair to get the details early on.

SEAN LYNCH, CHIEF ASSISTANT ATTORNEY GENERAL, TRANSPORTATION SECTION, DEPARTMENT OF LAW, referenced Co-Chair Edgmon's earlier comment that the STIP had not been confrontational in the past and whether there was a confrontational stance at present. He detailed that the STIP had been submitted and DOT had received the corrective action plan, which it had until Friday to resubmit. He was personally confident in the document's status for the resubmittal on Friday. He stated that tier 2 was not a point of confrontation. He explained that historically the STIP was prepared and submitted by DOT and comments had been returned. From DOT's perspective, the rules were different and unexpected this time around. He explained there was no meeting of the minds on the expectations and rules. The tier 2 portion was to create the policies and procedures for doing business going forward with the state, FTA, FHWA, and MPOs. He stated that related to the federal statutes and regulations, it was a matter of getting everyone on the same page.

2:48:24 PM

Co-Chair Edgmon stated his understanding of Mr. Lynch's statements that it was not the nature of the project being submitted by the state, but the rules and goal post had changed on the federal end, and it was normal to have the give and take process. He noted that Commissioner Anderson had talked about that [the state and federal agencies] may agree to disagree or there may be some additional steps taken down the road and perhaps a legal challenge. He did not hear any of that in the commentary by Mr. Lynch. He wondered what was next because it appeared there would be some disagreement at the end of the process.

Mr. Lynch replied that he understood Commissioner Anderson's statement "we agree to disagree" in response to projects that were in the wrong column in "table A." He viewed there to be form issues and substance issues in the process. He stated that the table A projects were a lack of form and they should have been in the TIP, but had been

placed in the STIP. He elaborated that DOT had been given 30 days and its resolution had been to remove them all so that no one could say they were in the wrong column. He explained there were six months for the first amendment. He expounded that all of the projects could go back in in the first amendment. He relayed that the process had been a resolution to get the document moving. He referenced the statement about agreeing to disagree and remarked that there was a combination of form and substance with the federal process and the weaving of the TIP and STIP documents. The resolution had been to pull the documents temporarily and deal with them later.

Co-Chair Edgmon thought it would be very purposeful to have the department back as it started delving into the capital budget.

Co-Chair Johnson agreed. She looked at slide 24 and asked about Mat-Su Valley planning. She asked about the impact and issue.

Commissioner Anderson answered that the Mat-Su planning was in a unique situation because it had just formed and did not have a planning document or TIP. The department's understanding was that the projects within the Mat-Su metropolitan planning area could remain in the STIP because they did not have a TIP or MTP [metropolitan transportation plan].

Co-Chair Johnson would follow up on the topic.

[2:52:26 PM](#)

Representative Ortiz asked why the process was where it was currently. It was his understanding that no other state had failed its STIP despite changes in federal requirements. He asked what was unique about Alaska that caused it to fail.

Commissioner Anderson answered that there was not one generic STIP and STIPs were all different between states. He believed there were some challenges for the state and MPOs with the required corrective actions that needed to be resolved. He stated that fiscal constraint was a new set of interpretations for the state and DOT was working through those. The STIP amendment and modifications/procedures was another item that arose. He elaborated that it included increased costs once a bid was awarded or a change

condition during a construction season. He explained that for projects exceeding \$10 million with a cost increase of over 20 percent, DOT was required to submit a STIP amendment, whereas in the past it had an exception to the requirement which enabled projects to continue. The exception had recognized Alaska's challenges with short construction seasons. He relayed that the fifth tier 1 finding was related to the Fairbanks MPO and new requirements due to the conformity freeze. He stated it was compounding factors on numerous fronts that led to the situation.

Co-Chair Johnson would give the department an opportunity to summarize the last portion of the presentation after the upcoming questions.

Representative Stapp referenced the department's explanation that the e-STIP vendor product had faults that prevented DOT from being able to proceed with the product. He asked if the faults were due to the vendor's product being inadequate. He asked about the liability of the vendor. Alternatively, he wondered if the responsibility resided with DOT because it had not figured out how to work the product.

Commissioner Anderson stated it was his understanding that DOT had to ask the vendor to come in to look at the system to help the department understand what was going on. He stated it had not been a data entry problem.

Representative Stapp asked if it was on the vendor, what kind of liability the state had for purchasing a product that did not work.

Commissioner Anderson answered DOT had not currently gone down that path.

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AT EASE

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RECONVENED

Representative Stapp saw very little road miles on the map of Alaska. He stressed that all of the transportation thoroughfares went through some municipality. He highlighted various highways. He stated his understanding

that the root of the argument was that an MPO could dictate to the state a project that it could or could not do through a transportation hub. He asked if it was the crux of the issue.

Mr. Lynch replied that MPOs were a creature of federal law and were required to have a minimum of 50,000 people. It currently included Anchorage, Fairbanks, and Mat-Su. He stated that Representative Stapp's question was one of the puzzles in the interaction on the STIP. He referenced regulation where he disagreed with the federal interpretation and believed that in some cases the state projects were the state's projects. He believed it was the crux of the substance and the state would work through it.

Representative Stapp believed that Mr. Lynch was saying that one person working for an MPO could dictate to the state what it could put on its capital project STIP. He emphasized it was a vital problem.

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Mr. Lynch responded that DOT viewed the national highway system as an asset it had to manage. The department had to manage all necessary flow of traffic and if there was a bottleneck it widened roads. The department worked with municipalities when there was an off ramp because when it hit a surface street, the ramp would create more use in the surface, which required cooperation and coordination by federal law. He stressed that it was DOT's position that the highway systems were the state's to manage and regulate control over.

Co-Chair Johnson asked for a five minute wrap up of the presentation.

Commissioner Anderson moved to slide 26 titled: Moving Forward: Tier 2&3. Currently, the department was focused on the TIP and STIP submittal through Friday. Once it was submitted, the department would begin focusing on the six month window that would include a look at tiers 2 and 3 items. The department already agreed with MPOs and FWHA that the DOT policy would address the DOT/MPO coordination. Additional action areas included consistency in TIP management and funding and working through performance targets together. The department recognized the STIP situation was not ideal and it would have a DOT-dedicated

team focused on the MPOs. The department would pull people from each individual MPO on the DOT side to tackle the problem holistically throughout the state. The department was tackling the State of Alaska/MPO Planning Authority conflict. Lastly, as a tier 2 finding, Anchorage Metropolitan Area Transportation Solutions (AMATS) had certification review with six findings that had not yet been addressed. The six findings showed up in DOT's findings to ensure the state cared for those as well.

[3:03:17 PM](#)

Co-Chair Johnson stated that the committee wanted to see a list of specific projects that may be jeopardized.

Commissioner Anderson agreed.

Commissioner Anderson concluded on slide 27 and communicated that DOT had been researching how other states did their STIPs. He contemplated that perhaps it had been a problem for other states in the past because many were now doing rolling STIPs. He explained it meant a state did not wait four years to do a new STIP. For example, Texas did a new STIP every two years and Washington did one every year. Under Alaska's STIP process the new STIP would run from 2024 to 2027 and the state would begin the process for the next STIP in 2026. At that time, the state would have two years remaining on the STIP and it would not get into STIP extension scenario. Once the new one was approved the state would do another STIP in 2028 so the current situation never occurred again.

Representative Josephson asked if there would be an opportunity to follow up.

Co-Chair Johnson answered that there would be a follow up when they got into the capital budget.

HB 268 was HEARD and HELD in committee for further consideration.

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Co-Chair Johnson thanked the presenters. She reviewed the schedule for the following day.

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ADJOURNMENT

3:05:28 PM

The meeting was adjourned at 3:05 p.m.