

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

February 12, 2008

1:39 p.m.

**MEMBERS PRESENT**

Senator Johnny Ellis, Chair  
Senator Gary Stevens, Vice Chair  
Senator Bettye Davis  
Senator Con Bunde  
Senator Lyman Hoffman

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 226(FIN)

"An Act extending the termination of the state training and employment program; requiring a review of the program; and providing for an effective date."

MOVED SCS CSHB 226(L&C) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 230

"An Act establishing the film office in the Department of Commerce, Community, and Economic Development; and creating a transferable tax credit applicable to certain film production expenditures incurred in the state."

HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 25

Urging the United States Congress to support the freedom to choose unions.

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 187

"An Act increasing the minimum wage; creating an annual adjustment to the minimum wage based on the rate of inflation; and providing for an effective date."

SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 226

SHORT TITLE: REPEAL TERMINATION OF STEP PROGRAM

SPONSOR(s): REPRESENTATIVE(s) COGHILL

03/27/07 (H) READ THE FIRST TIME - REFERRALS  
03/27/07 (H) L&C, FIN  
04/18/07 (H) L&C AT 3:00 PM CAPITOL 17  
04/18/07 (H) Moved CSHB 226(L&C) Out of Committee  
04/18/07 (H) MINUTE(L&C)  
04/20/07 (H) L&C RPT CS(L&C) NT 3DP 3NR  
04/20/07 (H) DP: GARDNER, LEDOUX, BUCH  
04/20/07 (H) NR: NEUMAN, RAMRAS, OLSON  
05/03/07 (H) FIN AT 9:00 AM HOUSE FINANCE 519  
05/03/07 (H) Heard & Held  
05/03/07 (H) MINUTE(FIN)  
05/04/07 (H) FIN AT 8:30 AM HOUSE FINANCE 519  
05/04/07 (H) Moved CSHB 226(FIN) Out of Committee  
05/04/07 (H) MINUTE(FIN)  
05/05/07 (H) FIN RPT CS(FIN) NT 8DP 2NR 1AM  
05/05/07 (H) DP: GARA, NELSON, FOSTER, STOLTZE,  
JOULE, HAWKER, MEYER, CHENAULT  
05/05/07 (H) NR: THOMAS, KELLY  
05/05/07 (H) AM: CRAWFORD  
05/08/07 (H) TRANSMITTED TO (S)  
05/08/07 (H) VERSION: CSHB 226(FIN)  
05/09/07 (S) READ THE FIRST TIME - REFERRALS  
05/09/07 (S) L&C, FIN  
01/31/08 (S) L&C AT 2:00 PM BELTZ 211  
01/31/08 (S) Heard & Held  
01/31/08 (S) MINUTE(L&C)  
02/12/08 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 230

SHORT TITLE: FILM OFFICE/ FILM PRODUCTION TAX CREDIT

SPONSOR(s): SENATOR(s) ELLIS

01/16/08 (S) READ THE FIRST TIME - REFERRALS  
01/16/08 (S) L&C, FIN  
01/25/08 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS  
01/25/08 (S) L&C, FIN  
02/05/08 (S) L&C AT 1:30 PM BELTZ 211  
02/05/08 (S) Heard & Held  
02/05/08 (S) MINUTE(L&C)  
02/12/08 (S) L&C AT 1:30 PM BELTZ 211

**WITNESS REGISTER**

RYNNIEVA MOSS

Staff to Representative Coghill

Alaska State Capitol  
Juneau, AK

**POSITION STATEMENT:** Sponsor of HB 226.

GUY BELL, Assistant Commissioner  
Department of Labor and Workforce Development (DOLWD)  
Juneau, AK

**POSITION STATEMENT:** Supported HB 226.

KATE TESAR  
Alaska Film Group  
Juneau, AK

**POSITION STATEMENT:** Supported SB 230.

CARYL MCCONKIE, Manager  
Tourism and Film Development  
Department of Commerce, Community & Economic Development  
Anchorage, AK

**POSITION STATEMENT:** Supported SB 230.

DAMA CHASLE, Production Executive  
The Incentives Office  
Los Angeles, CA

**POSITION STATEMENT:** Answered questions about issues in SB 230.

ANGELA MIELE  
Motion Picture Association of America (MPAA)  
No address provided

**POSITION STATEMENT:** Commented on issues in SB 230.

#### **ACTION NARRATIVE**

**CHAIR JOHNNY ELLIS** called the Senate Labor and Commerce Standing Committee meeting to order at [1:39:43 PM](#). Present at the call to order were Senators Davis, Bunde and Ellis.

#### **CSHB 226(FIN)-REPEAL TERMINATION OF STEP PROGRAM**

[1:40:05 PM](#)

CHAIR ELLIS announced CSHB 226(FIN) to be up for consideration. He said that the Palin administration intended to make the STEP program a permanent part of state statute. The CS in their packets extends it to 2018.

[1:41:48 PM](#)

RYNNIEVA MOSS, staff to Representative Coghill, sponsor of HB 226, agreed the original intent was to make STEP permanent, but

the current bill gives it a 10-year extension (it is repealed June 30, 2009), which the sponsor supports. He also supports leaving language in that says the commissioner of the Department of Labor and Workforce Development (DOLWD), Click Bishop, will work with all the stakeholders to review the program to look for more improvements. Since Commissioner Bishop took over the Department of Labor he had been reviewing the program, making revisions and making it more accessible to the public.

CHAIR ELLIS said the department needed to address the integrity of the program and the commissioner assured the committee that those reviews were being made. He asked her to apprise them of what is actually happening. Some folks suggested moving the program out of the DOLWD, but he couldn't think of another place that would make more sense.

MS. MOSS responded that she hadn't heard that suggestion. The sponsor thinks the DOLWD is where the program should be because it is about training labor.

[1:46:30 PM](#)

GUY BELL, Assistant Commissioner, Department of Labor and Workforce Development (DOLWD), supported Ms. Moss's comments and the 2018 extension that should carry through the new gas line construction.

He said Commissioner Bishop had appointed David Stone, the new deputy commissioner, to lead a task force to review the STEP program for potential improvements. That process has already begun.

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SENATOR STEVENS and SENATOR HOFFMAN joined the committee.

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SENATOR BUNDE said he shared the sponsor's confidence in Commissioner Bishop and that he would keep his word on investigating this issue. He thought 2018 was a good compromise.

[1:49:43 PM](#)

SENATOR BUNDE moved to adopt SCS CSHB 226(L&C). There were no objections and it was adopted.

[1:50:29 PM](#)

SENATOR STEVENS moved to pass SCS CSHB 226(L&C) from committee with individual recommendations and attached fiscal notes. There were no objections and it was so ordered.

**SSSB 230-FILM OFFICE/ FILM PRODUCTION TAX CREDIT**

1:52:19 PM

CHAIR ELLIS announced SSSB 230 to be up for consideration and that the committee had CS SSSB 230(L&C) 25-LS1275\L before it.

MAX HENSLEY, staff to Senator Ellis, sponsor of SB 230, walked through the proposed CS. Starting on page 2, lines 12-14 redefined the duties under duties of the film office to avoid encroaching on what private industry in Alaska is already doing. The new version simply links the outside producers with Alaska businesses.

The next section on eligibility on page 2, line 30, inserts a clause that only requires the producers to employ university interns when they are actually available and clarifies the definition of "obscenity" on page 3, lines 16-17, to reference U.S. Code.

1:53:44 PM

CHAIR ELLIS said Senator Bunde had brought up the issue of obscenity and asked him to expound on the update.

MR. HENSLEY said this definition is in Title 18 of the U.S. Code that differentiates and regulates the commercial motion picture industry and the pornographic industry. This is the standard definition other states use for legitimate films.

SENATOR BUNDE said the reason he was concerned is that obscenity is a grey area and sexually explicit conduct could get a watered down definition. He appreciated the clarification.

SENATOR STEVENS went to page 3, line 3, and asked if the internship training program has changed.

MR. HENSLEY answered no.

SENATOR STEVENS asked if this state film organization would do more than just contact the university or school and ask for interns.

MR. HENSLEY replied yes; the University will establish the internship program and the film office will simply say one of the requirements for receiving this potential tax credit would be to employ students who are enrolled in that program.

SENATOR STEVENS asked what it means to be certified.

MR. HENSLEY replied he would look at that.

CHAIR ELLIS said they are not directing the University to do anything; it already plans to establish this program.

SENATOR STEVENS pointed out that the language in SB 230 says the program is being certified by the film office and asked if that is their intention.

CHAIR ELLIS said he wanted to leave that as an open question. The language sounds as if those things were happening.

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MR. HENSLEY in response went to page 6 where it says "The film office may establish an Alaska film production internship program on a cooperative basis with the University of Alaska."

CHAIR ELLIS said that the question still remains of whether subsection (2) is properly drafted and what the definition of "certified by the film office" means.

SENATOR STEVENS said he liked the wording "cooperative basis" on page 6.

SENATOR BUNDE looked at it differently. He wanted the internship program certified by some Alaskan entity, not the film industry.

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KATE TESAR, lobbyist, Alaska Film Group, explained if this curriculum is developed at the University, the classes will be accredited. The bill might need tie-in language saying that these students are taking this training for credit, however. They want to make sure since these programs are only in the development stage, they don't want that to be a detriment to people who may be coming to produce films in Alaska in the near future. "We definitely want to advance the creation of jobs for students in-state, but we don't want that to be holding back the initial people that get involved in productions in Alaska."

[2:01:12 PM](#)

SENATOR STEVENS said he thought that was going in the correct direction.

SENATOR BUNDE asked why they would limit it to public institutions, because a private school could put a program together as well. The board could certify them.

MS. TESAR replied that they would have no problem with changing the definition to include private classes.

CHAIR ELLIS noted that language needed to be crafted a little more carefully.

SENATOR BUNDE asked what if an individual wanted to be certified.

MS. TESAR said she hadn't considered that and added at this point they are using other states' language.

[2:03:29 PM](#)

SENATOR BUNDE said he had seen some amateur film productions where the people are really self-taught and looking for a chance to break in and this might be an opportunity for them.

CHAIR ELLIS asked them to give more thought to certifying individuals and said the language definitely needs to include both public and private training programs to qualify for the incentive.

SENATOR STEVENS commented that government already has some intern programs and he assumed some people already had some classes. So, they are not talking about just anyone who has taken a class in film production; they are talking about someone who is part of a university or college and is part of a program and someone else who has decided that person has qualified to become an intern. "So, it's a little more than just open-ended walk in the door and we'll consider your application, isn't it?"

MS. TESAR replied that they asked the Department of Labor to get involved in this program last year during their workshop. She foresaw expanding this to AVTEC and other similar programs. She agreed that language needed to be expanded.

CHAIR ELLIS commented that he had no idea when he introduced this bill what the potential was or what was going on out there. Very few Alaskans are employed on these films, because the state doesn't have the trained people; Alaska doesn't have a program and it doesn't have an incentive. He stated:

If we can just replace half of the outside workers the film production crews must import to have the trained work force, we will have had a significant, not just a blip in economy, but there is significant money to be made right here. So I get more and more enthusiastic as more people get in touch with us.

2:06:31 PM

CARYL MCCONKIE, Manager, Tourism and Film Development, Department of Commerce, Community & Economic Development, said she has worked with the Alaska Film Group, various film industry professionals throughout the state and with communities that think there is a great opportunity to bring more productions to the state. She stated a quarter of her time is spent answering business questions and doing a limited amount of response; she sends those requests direction out to the industry. She doesn't want to do what private industry could do better. She agreed that the state is now missing opportunities and that "We're the conduit between the demand and the supply and we want to put out people to work - is our primary interest."

She said as part of her responsibilities she has spent a lot of time researching the industry and talking to other film offices and professionals throughout the U.S., Canada and actually throughout the world that meet regularly for education and trade show opportunities. There is a lot of information-sharing and professional support even though they are all competitors.

MS. MCCONKIE said you can measure the success of these programs by looking at states like Louisiana and New Mexico where the film industry didn't exist until their film incentive programs were put into place. She wanted to include film in the net return in her report because there is some real opportunity here to grow an industry that is quite small at this point. For her division the measurement mechanism that is built into this program is very appealing.

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She has always tried to bring interns into state offices to work in fisheries, mining and tourism and she stated, "We acknowledge that there is a great role for government to work more closely with the private sector in this business in this industry."

She had put together a draft business plan that addresses everything the bill asks for including measurement mechanisms and she stated the division is well prepared to move forward

with the private sector to see what exciting things they could bring to the state.

CHAIR ELLIS said he was encouraged by her positive attitude.

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SENATOR BUNDE declared a remote potential conflict and stated his son is a concert producer and promoter and could by some remote possibility benefit from this legislation. He asked Ms. McConkie if her interns have to come from a university or some certified program or could someone with practical experience and interest show up with a sufficient resume and intern.

MS. MCCONKIE replied traditionally interns have come through the school systems, high schools and universities. She couldn't answer if that is an absolute requirement.

CHAIR ELLIS asked her to work on that issue saying a self-taught person should be able to apply.

SENATOR STEVENS encouraged her to find out if the state would have a responsibility to young folks in any way in terms of being sued if certain responsibilities aren't carried out.

MS. HENSLEY agreed and said the current intern program already has certain requirements; child labor laws come in to play, for instance.

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CHAIR ELLIS said they could do a conceptual amendment and send the bill on.

SENATOR BUNDE said he was comfortable with that.

[2:17:27 PM](#)

SENATOR BUNDE moved to adopt conceptual Amendment 1 and to define "intern" as a participant in a public or a private program or an individually designed program.

SENATOR DAVIS said she was concerned that the conceptual amendment didn't clearly state the film office would create the certification standards, not the University.

SENATOR BUNDE added he meant the film production internship training program certified by the film office; nothing would say it had to be an individual, private or university program.

SENATOR DAVIS agreed.

SENATOR BUNDE said then perhaps "intern" could be defined as someone who is adequately prepared to benefit from this experience.

MS. MCCONKIE responded what immediately comes to mind is her website where film industry professionals list their contact information and their areas of interest. She doesn't certify that each one has gone to college or film making school or has credentials, but they are allowed to list resumes and their websites - information that allows the state's film makers to contact them. She envisioned writing regulations about how criteria would be set up. It could be set up so that individual film makers demonstrating an interest could register and be certified as being interested, but wouldn't necessarily have to be part of a formal program.

CHAIR ELLIS said this section is connected to the incentive; so that expands the kind of internship person that can trigger the incentive for the producer beyond what was in the original bill.

SENATOR BUNDE pointed out it says "when interns are available." So this actually makes it more likely that someone could take advantage of the incentive program. He suspected the practical reality is that most interns will come through some university program.

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SENATOR STEVENS said he assumed they are talking about mostly young people.

CHAIR ELLIS said he hoped to move this bill along, but there are sufficient language issues to work on it some more.

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SENATOR BUNDE asked if potential applicants for tax credits might be corporations that are liable for Alaska corporate income tax.

MS. TESAR answered that typically a film company sets up a limited liability corporation (LLC) and would not be paying corporate taxes in Alaska. That is why they decided to have transferable tax credits so that Alaskan corporations with tax liability could get the tax benefit. Benefits to the state would be through the taxes that are paid locally through the small businesses, construction, catering et cetera.

SENATOR BUNDE said his problem is they are giving a tax break to entities that don't pay taxes in the first place and they don't know if the state will get its money back.

MS. TESAR answered considering the huge amounts of money coming into other states through similar incentive programs, the real benefits are to the community and locals that are participating. It depends on how you feel about the trickle down theory.

CHAIR ELLIS said we choose to do it.

SENATOR BUNDE said he thought not taxing LLCs was a huge loophole in Alaska's tax system. He asked if ESPN documented the Iditarod could it be covered under this program.

MS. TESAR responded this has to do more with if someone is doing a documentary on the Iditarod, it's a documentary, not a sporting event.

CHAIR ELLIS added that they are differentiating between documentaries, feature productions and broadcasts of sporting events.

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MR. HENSLEY said that is exactly correct. He explained that this language is used in almost every state that has this program; it refers to live broadcasts of things like "The Shootout."

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SENATOR BUNDE went to page 4, line 20, subsection (f) where it says the film office may not seek recourse against the producer or taxpayer who has acquired a tax credit if it is subsequently disqualified even if it's a fraudulent application. He said that language seemed pretty broad.

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DAMA CHASLE, Production Executive, commented that typically other states that use transferable tax credit language say "absent producer fraud there will be no recourse between the transferor, which would be the production LLC, and the transferee, which would be the recipient tax paying corporation." She said that's the spirit behind this language.

SENATOR BUNDE said "absent fraud" should cover it.

CHAIR ELLIS asked Mr. Hensley to add that to his list of things to check into further.

MR. HENSLEY added that prior to awarding of any credit the cost and spending reports are required to have been verified by an independent CPA.

CHAIR ELLIS asked Ms. Miele if she liked their choice for an obscenity standard.

[2:31:32 PM](#)

ANGELA MIELE, Motion Picture Association of America (MPAA), said she liked the obscenity clause, but she thought the reference needed to be to Title 22.57, not Title 22.56.

MR. HENSLEY responded that Title 22.57 refers to record keeping for films that do come into contact with Section 22.56, which has the specific definition.

MS. MIELE said she wanted to make them aware that AS 18.22.57 is what all of the other state statutes reference.

CHAIR ELLIS thanked her for her comments. He asked if any other issues needed to be highlighted by the Labor and Commerce Committee. He said they would have a new CS prepared for the next meeting.

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MR. HENSLEY continued going through the changes in this CS. On page 3, line 18, under "qualification for the film production tax credit" the requirement for a production to have a preexisting distribution plan was removed. He explained that a number of smaller independent productions do not have them until the completion of the production and they didn't want those to be disqualified from participating.

CHAIR ELLIS said they are looking out for the little guy and the little gal.

MR. HENSLEY added that those little guys and little gals in the motion picture industry aren't necessary little; they still contribute significantly to the industry.

He went on to the award of the film production tax credit that started on page 3, line 30, that was increased from 25 to 30 percent and the bonus rate for rural and winter spending from 1 percent to 2 percent. Their production consultants and other

production companies said that Alaska still had enough difficulties that 25 percent wouldn't be enough to drag them up here.

CHAIR ELLIS added that they basically said "If you're going to do this, you might as well make it worth peoples while or you won't get the impact that you're looking for." He said going much further would be difficult for him personally.

MR. HENSLEY said on page 4, lines 14-16, the production cost report was previously audited and now it must simply be verified by a certified public accountant. This will allow independent and smaller producers to bear that cost yet still certify their spending in the state. On page 4, he said, lines 7-9 clarify the definition of "payroll". Lines 17-20 added the construction of film and television production infrastructure to the list of qualified expenditures.

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SENATOR BUNDE went to page 4, line 23, on the determination of qualified expenditures and asked if any thought was given to limiting that to approved Alaska vendors. He could see someone buying everything in California and bringing it up and not making a lot of local purchases.

MR. HENSLEY explained that this language says "expenditures directly incurred in this state". The goal is only to reward spending in the state.

SENATOR BUNDE further clarified, "When you say incurred in the state, that doesn't mean they placed the order while they were within the state. This is expenditures that occurred within the state with state businesses."

CHAIR ELLIS agreed, but said they would double check that language.

MR. HENSLEY went to page 5, line 23, on what production costs may be considered as qualified expenditures. The wording was changed to "the cost of report or examination" from "the cost of an audit" because of the previous change about requiring an audit. Lines 28-29 clarify that amounts that are reimbursed later resulting in a reduction of production costs can not be considered.

Finally, he said, two changes within the definition section which starts on page 6, lines 8, added "the production of a

television pilot" to expand that from a series that has already been picked up to prospective series, which can be major business. Also, on lines 11-13, the definition of "producer" previously only applied to film, video, commercial or television and this adds television pilots. Also, the final three lines aligns the definition of "rural area" from a community of 5500 people or less not connected by road or rail to Anchorage or Fairbanks to other statutory definitions for other programs that include small communities on the road system.

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CHAIR ELLIS thanked everyone and recapped the concerns for a new CS. There being no further business to come before the committee, he adjourned the meeting at [2:41:09 PM](#).