

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

January 26, 2012

8:03 a.m.

MEMBERS PRESENT

Representative Cathy Engstrom Munoz, Chair
Representative Neal Foster, Vice Chair
Representative Alan Austerman
Representative Alan Dick
Representative Dan Saddler
Representative Sharon Cissna
Representative Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 290

"An Act creating the endow Alaska grant program in the Department of Commerce, Community, and Economic Development to encourage community development."

- HEARD & HELD

HOUSE BILL NO. 184

"An Act relating to the sharing of tax revenue from the fisheries business tax and fishery resource landing tax with municipalities; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 290

SHORT TITLE: ESTABLISH ENDOW ALASKA GRANT PROGRAM

SPONSOR(S): REPRESENTATIVE(S) AUSTERMAN

01/18/12	(H)	READ THE FIRST TIME - REFERRALS
01/18/12	(H)	CRA, FIN
01/26/12	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 184

SHORT TITLE: REFUND OF FISH BUSINESS TAX TO MUNIS

SPONSOR(s): REPRESENTATIVE(s) P.WILSON

03/09/11 (H) READ THE FIRST TIME - REFERRALS
03/09/11 (H) CRA, FIN
01/26/12 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

ERIN HARRINGTON, Staff
Representative Alan Austerman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 290 on behalf of the sponsor, Representative Austerman.

KEN CASTNER, Member
Board of Trustees
Homer Foundation
Homer, Alaska

POSITION STATEMENT: During hearing of HB 290, answered questions and offered to help craft HB 290 for Alaska.

CANDACE WINKLER, President/CEO
Alaska Community Foundation (ACF)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 290.

REPRESENTATIVE P. WILSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 184.

REBECCA ROONEY, Staff
Representative P. Wilson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 184, answered questions.

CARL UCHYTIL, Vice President
Alaska Association of Harbormasters and Port Administrators (AAHPA);
Port Director, Docks and Harbors Department, City & Borough of Juneau
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 184.

JOHN SWEENEY, Finance Director
City & Borough of Sitka
Sitka, Alaska

POSITION STATEMENT: Testified in support of HB 184.

STEVE CORPORON, President
Alaska Association of Harbormasters and Port Administrators;
Director, Ports and Harbors Department, City of Ketchikan
Ketchikan, Alaska

POSITION STATEMENT: Testified that HB 184 will make a difference.

TIM COTTONGIM, Fish Group Manager
Juneau Office
Tax Division
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 184, answered questions.

KATIE KOESTER, Community & Economic Development Coordinator
City of Homer
Homer, Alaska

POSITION STATEMENT: Testified in support of HB 184.

CHRIS HLADICK, City Manager
City of Unalaska
Unalaska, Alaska

POSITION STATEMENT: During hearing of HB 184, expressed concerns and related support for legislation that only increases the revenue split with the state.

TIM ROONEY, Borough Manager
City and Borough of Wrangell
Wrangell, Alaska

POSITION STATEMENT: Testified in support of HB 184.

ACTION NARRATIVE

[8:03:40 AM](#)

CHAIR CATHY ENGSTROM MUNOZ called the House Community and Regional Affairs Standing Committee meeting to order at 8:03 a.m. Representatives Foster, Austerman, Dick, Saddler, Gardner, and Munoz were present at the call to order. Representative Cissna arrived as the meeting was in progress.

HB 290-ESTABLISH ENDOW ALASKA GRANT PROGRAM

[8:03:57 AM](#)

CHAIR MUNOZ announced that the first order of business would be HOUSE BILL NO. 290, "An Act creating the endow Alaska grant program in the Department of Commerce, Community, and Economic Development to encourage community development."

[8:04:23 AM](#)

ERIN HARRINGTON, Staff, Representative Alan Austerman, Alaska State Legislature, presented HB 290 on behalf of the sponsor, Representative Austerman, by paraphrasing the following written remarks [original punctuation provided]:

Endow Alaska sets up a challenge grant or matching fund mechanism that allows local community foundations throughout Alaska to leverage private donations from within their communities by matching donors' contributions dollar-for-dollar with state funds.

By providing a powerful tool to help grow the endowed assets of community foundations, the Endow Alaska program addresses several objectives:

- It supports community self-sufficiency
- It recognizes the ability of community members to identify and respond to local needs
- It creates additional catalyst for community conversations about philanthropy and the power of Alaskans to invest in meaningful local projects and visions
- It creates an opportunity to take today's state dollars--which result from the development of a finite, non-renewable resource--and turn them into a financial tool that can yield perpetual returns, potentially supporting local projects and investments for centuries to come.

Endow Alaska is inspired by a program that was originally put in place in Iowa--Endow Iowa--and which has since been established in Kentucky, as well. The

legislation envisions a relationship between the state and a "lead philanthropic entity"--a statewide organization that receives an annual lump-sum grant, and then turns around and provides numerous "challenge grants" to local community foundations or community affiliate funds.

- Presently in Alaska, the organization most likely to qualify as the "lead philanthropic entity" would be the Alaska Community Foundation--a statewide community foundation with more than 250 funds in management, and assets of more than \$47 million.
- A nonprofit public charity promoting personal philanthropy and providing financial management, strategic development and donor-development services to communities, organizations and donors across Alaska.

MS. HARRINGTON then posed a hypothetical example in which Kodiak has a community foundation. The State of Alaska would make an annual lump sum grant to perhaps the Alaska Community Foundation (ACF), which would be able to provide a challenge grant to the Kodiak Community Foundation. The Kodiak Community Foundation would apply to lead a local campaign and have its fundraising matched. If the Kodiak Community Foundation was able to raise \$10,000 in its first year, it might be able to obtain a state match via ACF. She then continued to paraphrase from her written remarks [original punctuation provided]:

The program is quite simple, but the impacts are potentially profound.

The bill does not currently recommend a funding level, though it does provide some funding limitations to ensure that community investments are made in diverse regions of the state.

- However, because this is a matching or challenge grant program, the scope of the fund is necessarily limited by the capacity of donors in Alaska's communities.

[8:08:58 AM](#)

MS. HARRINGTON then reviewed the legislation, which is only one section. The language on page 1, lines 6-12, establishes the Endow Alaska program in the Department of Commerce, Community & Economic Development (DCCED). The program is being placed in DCCED due to the department's experience with administering grant funds through the Division of Community & Regional Affairs (DCRA). Page 1, line 13, through page 2, line 9, outlines the requirements of a community foundation for the purposes of this program as well as what would be considered a lead philanthropic entity. The language references the Internal Revenue System (IRS) code because some of these organizations are explicitly defined in the IRS code and have to meet certain tests. The language started on page 2, line 10, through page 3, line 5, describes some of the factors the lead philanthropic entity should consider when choosing to offer a community a challenge grant. She characterized this portion of the legislation as the policy portion in which the legislature describes what it wants to achieve. The language on page 3, line 6, sets forth the limits such that the grants cannot exceed \$25,000 for a community foundation unless it benefits multiple boroughs or a large region. Furthermore, a single borough can't receive more than five Endow Alaska grants per year. She did note that work needs to be done in the aforementioned provision since some areas in the state aren't an organized borough. The last limitation stipulates that only 5 percent of the grant funds received by the lead philanthropic entity can be used for administrative purposes. Currently, ACF administers about [280] affiliate funds and about \$47 million in holding. She related her understanding that ACF's administrative fees are much lower than 5 percent of the grant funds received. The final portion of the legislation consists of definitions. Ms. Harrington then paraphrased from the following written remarks [original punctuation provided]:

Our office has been work-grouping this bill with individuals from around the state who are involved in community foundations and their work. Through this process, we have identified several aspects of the bill that can be improved to:

- Ensure the legislation recognizes the unique characteristics and opportunities of Alaska
- Enable communities with limited financial resources to avail themselves of the opportunities presented by Endow Alaska.
- Clarify that the program is intended to grow endowed funds
- Underscore the importance of local donors and

local control of funds.

After your committee hears public testimony today, we'd like to return at a future meeting with proposed revisions to HB 290 that helps achieve the goals I've just outlined.

[8:14:40 AM](#)

REPRESENTATIVE GARDNER inquired as to the policy if more than one philanthropic entity existed in a community or if there came to be more than one philanthropic entity in the future.

MS. HARRINGTON said that currently she wasn't aware of communities that have more than one community foundation. However, she deferred to those in the community foundation realm. She related her understanding that typically there is only one community foundation in communities with such an organization.

REPRESENTATIVE GARDNER acknowledged that may be the case now, but suggested that once state money is available more such organizations may be created. For instance, if an existing community foundation doesn't support a particular issue, she could envision another organization being created. Therefore, there should be a manner in which to select which community foundation [to fund] unless the intention is to fund multiple community foundations.

[8:16:01 AM](#)

REPRESENTATIVE GARDNER then directed attention to page 2, lines 5-6, of HB 290 and inquired as to whether the intention is to support only community organizations or also corporate and private organizations.

MS. HARRINGTON acknowledged that the aforementioned portion of the legislation is one in which the sponsor would want to amend in order to provide clarity regarding [the member organization being the Alaska Community Foundation].

[8:17:01 AM](#)

REPRESENTATIVE CISSNA inquired as to how the work of the Rasmuson Foundation would compare with what HB 290 proposes.

MS. HARRINGTON recommended that the committee invite the Rasmuson Foundation to speak regarding its work and view on the proposal in HB 290. She did note, however, that she believes the Rasmuson Foundation would need a formal invitation to testify due to the nature of the organization. To the question, Ms. Harrington specified that the Rasmuson Foundation has been investing in community foundations through challenge grants as well as through the community foundation mechanism, albeit with a different focus. The focus of the Rasmuson Foundation with the community foundation mechanism has been to provide funds and assist communities that don't have community foundations to create one and thus involves more technical assistance. Ms. Harrington emphasized that HB 290 doesn't compete with the work of the Rasmuson Foundation, rather it enhances it.

[8:19:04 AM](#)

CHAIR MUNOZ announced that the committee certainly can invite the Rasmuson Foundation to speak at the next hearing of HB 290.

[8:19:09 AM](#)

REPRESENTATIVE DICK inquired as to the inception of this idea.

MS. HARRINGTON explained that staff in Representative Austerman's office subscribe to various newsletters and follow some nonprofits. Originally, staff became aware of the Endow Iowa program and some of its benefits, particularly in the rural communities of Iowa. She opined that the Endow Iowa program has experienced an astonishing level of success, success in ways that she suggested would be analogous in Alaska. The Endow Iowa program was inspiring and resulted in discussions of how it would work in Alaska.

[8:20:51 AM](#)

REPRESENTATIVE SADDLER asked if the \$25,000 limit [specified on page 3, lines 8-9] is per year.

MS. HARRINGTON answered that the \$25,000 limit is intended to be per year, although she acknowledged that it's not clear in the legislation. In further response to Representative Saddler, Ms. Harrington confirmed that the \$25,000 limit is for each sub unit not the lead organization and the borough is not intended to be the recipient of the funds. This language could be clarified, she acknowledged.

REPRESENTATIVE SADDLER opined that with a 1:1 match, much philanthropy would flow to this proposed fund and perhaps starve other philanthropic organizations. He inquired as to the experience in Iowa.

MS. HARRINGTON related that in conversations with nonprofits she found that annual campaigns are fairly different than endowments. In fact, the Chilkat Valley Community Foundation related that they were explicit with nonprofits that they didn't intend to perform annual fundraising or compete with nonprofits to provide ongoing annual services. Rather, they are dealing with bequests and planned giving and other ways in which funds can flow into the fund during major life transitions. The aforementioned resulted in some of the nonprofits being the original investors in the community fund.

REPRESENTATIVE SADDLER surmised then that the goal of HB 290 is to create an endowment from which the proceeds go toward direct grants to the community foundations.

MS. HARRINGTON replied yes.

REPRESENTATIVE SADDLER asked whether this would be a one-time appropriation to the lead philanthropic organization or would it take a couple of years.

MS HARRINGTON deferred to the sponsor.

[8:24:20 AM](#)

REPRESENTATIVE AUSTERMAN related that he has reviewed it both as an annual appropriation or a larger sum to create its own endowment from which the interest earnings are spent. He expected the discussion of the aforementioned to occur in the Finance committees.

[8:25:01 AM](#)

REPRESENTATIVE SADDLER asked if the Alaska Community Foundation is the lead philanthropic organization.

REPRESENTATIVE AUSTERMAN replied that currently ACF is the organization which he knows has a track record and the capability to do this, although there may be other organizations that will come forward.

[8:25:30 AM](#)

REPRESENTATIVE CISSNA asked if the sponsor has had any discussions with the Kenai and Soldotna [foundations].

MS. HARRINGTON confirmed that there is a Kenai Peninsula Foundation. The sponsor statement in the committee packet includes a list of community foundations that already exist. She noted that there are also community funds that have been established with the assistance of Arctic Slope Regional Corporation (ASRC) in order to benefit all of the North Slope communities. Furthermore, there are communities throughout the state that are actively exploring the establishment of local community foundations.

[8:27:08 AM](#)

REPRESENTATIVE AUSTERMAN, returning to Representative Gardner's earlier question, clarified that the legislation doesn't specify there is only one community foundation or affiliate, and therefore there is the potential for more than one as reflected in the language on page 1, line 11. He then suggested that the benefit of having more than one foundation could result in a better organization or philanthropic community due to the competition.

[8:28:18 AM](#)

REPRESENTATIVE GARDNER pointed out that under the language capping the grant amount on page 3, lines 8-9, communities with multiple organizations would receive a greater benefit because each organization would receive \$25,000. Therefore, she questioned whether the limit would be one per organization or per community, in which case knowing the selection criteria would be necessary.

REPRESENTATIVE AUSTERMAN responded that he was not sure.

[8:29:04 AM](#)

REPRESENTATIVE FOSTER inquired as to the feedback regarding the 5 percent administrative cap, particularly from those smaller communities that don't have the administrative economies of scale.

MS. HARRINGTON said that she hasn't received any feedback on that matter. However, she clarified that the 5 percent limitation is for administrative purposes within the lead

philanthropic entity. When the dollars go to the local community foundation, they are intended to flow into the endowed fund to build it. Therefore, there would be no administrative fees at the local level, which is based on the assumption that these foundations are already functioning or will be shortly and the purpose is to build endowments with existing resources running the administrative functions.

[8:30:39 AM](#)

REPRESENTATIVE SADDLER asked if there is any standard for management of the lead philanthropic organization.

MS. HARRINGTON said that she is learning about the IRS restrictions that provide high levels of assurance that these organizations are operating in a manner consistent with the public good. Additionally, Uniform Prudent Management of Institutional Funds Act (UPMIFA) ensures that donors have the ability to be ensured that organizations holding endowed funds on their behalf are doing so in a fiscally prudent manner. Essentially, when there is a fund with many donors, [the donors] can become the safeguard in that the donors have the ability to be sure the foundation is being managed prudently.

[8:32:47 AM](#)

REPRESENTATIVE GARDNER recalled the legislation's goal of leveraging donations. Referring to the language on page 2, lines 16-17 and 29-30, she asked if the community foundations and community affiliate organizations are required to match dollar-to-dollar or can they do more.

MS. HARRINGTON confirmed that the language allows for community foundations to [provide a match that exceeds dollar-for-dollar]. However, she wasn't sure that is useful and characterized it as a policy call.

[8:34:23 AM](#)

REPRESENTATIVE GARDNER related her understanding that this is a matching grant fund and thus the community foundation has to raise whatever amount the state is asked to provide.

REPRESENTATIVE AUSTERMAN replied yes.

[8:34:39 AM](#)

REPRESENTATIVE MUNOZ inquired as to the details of the Endow Iowa and Kentucky programs.

MS. HARRINGTON said she would have to research the type of philanthropy those two programs have generated. Since the Kentucky program was enacted relatively recent, it's likely just beginning to have impacts. However, in Iowa the dollar-for-dollar match component has been in existence for six to seven years during which donors could receive a tax write-off. The Iowa program was so successful that it had to do away with the dollar-for-dollar match and only have the tax write-off for donations.

[8:36:35 AM](#)

REPRESENTATIVE SADDLER surmised that in terms of money flow, the state would appropriate a certain amount of money to the lead philanthropic organization that would take applications for grants. Local community foundations would apply for grants, the applications would be scored, and a matching amount of funds would be provided. He then asked whether there is another effort to obtain matching state funds or do the state matching funds come through the lead philanthropic organization.

MS. HARRINGTON clarified that it's intended to refer to the funds that are received through the lead philanthropic organization.

[8:38:04 AM](#)

KEN CASTNER, Member, Board of Trustees, Homer Foundation, informed the committee that the Homer Foundation has been in existence for over 20 years. He noted that he submitted written testimony to the sponsor and thus he would like to provide answers to some of the questions posed today. He informed the committee that UPMIFA, AS 13.70.020, is state law that addresses the concerns expressed by Representative Saddler regarding the prudent management rule. With regard to Representative Gardner's concern over the possibility of rapid growth of new community foundations, he reminded the committee that community foundations don't fund projects. Therefore, there is no competition. [Community foundations] fund other 501(c)(3)s and other general charitable organizations and publish annual reports. He characterized community foundations as apex boards that are difficult to populate. Most of the work for community foundations is in regard to the management and administration of the funds as well as reporting; the distribution of grant funds

isn't the largest portion of what a community foundation does. Although he said he wouldn't expect a rapid growth of community foundations, he would expect ACF would grow more affiliates. He said he would also expect the smaller communities to create simple funds, which he referred to as community endowments. Because of the nature of the various sizes of communities in Alaska, he expressed hope that the community funds would qualify for matching grants for their endowments. Mr. Castner opined that as a public charity, [community foundations] have to annually meet a public support test such that one-third of the community foundation's income has to come from public sources. Although the support from individuals is capped, it's not from governmental sources. Therefore, any funds from governmental sources are very helpful in meeting the aforementioned public support test. In closing, Mr. Castner offered to help craft this legislation for Alaska.

8:42:01 AM

CANDACE WINKLER, President/CEO, Alaska Community Foundation (ACF), provided the following testimony:

[The Alaska Community Foundation is] a statewide community foundation that works to increase philanthropy and build community throughout the state. I am testifying in support of HB 290, which I think is a pragmatic way to incentivize and grow individual philanthropy and to invest in Alaska's future. I think Alaskans understand the value of endowments; ... we all live with the Permanent Fund as a part of our life and I also think Alaskans recognize the importance of local control and guidance and I think that this bill enables that to happen. Many of us in the nonprofit and development world know that Alaska has low levels of individual giving and I think the concepts behind this bill utilize state resources to maximize and grow private dollars that will not only help build these permanent endowments but will also help build a culture of philanthropy. And I think that ... is how a program like this can help all of the nonprofits in the State of Alaska that are doing such great work.

To give a bit of context to the bill and to the work of community foundations, I want to tell you a little bit about the Alaska Community Foundation We have been around for 16 years. During that time we have granted out more than \$30 million around the

State of Alaska. We currently hold about \$55 million in assets for the benefit of Alaskans. From that we grant out somewhere in the neighborhood of around \$5 million last year and I think that's what we're anticipating this year.

We have 280 different funds ... included in that is the Alaska Children's Trust (ACT), which just recently those funds moved over from the State of Alaska. With regard to affiliates, we actually have five affiliates that are locally ... managed and they set goals at a local level, do local fundraising, make granting decisions, but do fall under the governance structure of the Alaska Community Foundation, and that's the Seward Community Foundation, Petersburg Community Foundation, Kenai Peninsula Foundation, Jessica Stevens Community Foundation, and Chilkat Valley. In addition, we have three partner community foundations that are their own stand-alone nonprofits: the Homer Foundation, Juneau Community Foundation, and the Arctic Slope Community Foundation (ASCF). Those stand-alone entities do hold permanent endowments with the Alaska Community Foundation in addition to endowed funds they held locally. And then we have a more loosely structured partnership with the many other community foundations: Chugiak Eagle River, Bethel Community Services Foundation, and Northstar Community Foundation.

We do have experience in managing these matching programs. In partnership with the Rasmuson Foundation we have given away more than \$1 million in matching funds to ... our two partners and the five affiliates as they have raised dollars. These have proven to be a really effective method to build community endowments. In a four-year period the Seward Community Foundation, an affiliate of ACF, received three bequests; one of them was a \$1.9 million gift when a long-time Sewardite passed away. So, it's not only an effective way to raise dollars today, but there's the potential as activity and the work is happening in local communities to plant seeds and receive some of those resources when Alaskans pass away. So, that's really powerful. The program has been called the Community Asset Building Initiative (CABI) and from a generous grant with the Rasmuson Foundation, we will be expanding to three or four new

communities as early as this fall. We are currently working on meeting with different communities and determining their interest level.

[8:46:33 AM](#)

MS. WINKLER continued:

Specific comments on the bill, as Erin stated, ACF is not a membership organization. The only membership organizations that really work with foundations are Philanthropy Northwest, which is our regional association in Alaska. It's one of the five Northwestern states, and then there also is the National Council on Foundation that's a membership organization; they are the entity that oversees the community foundations' best practice standard that is referenced in the bill.

If I were to make comments specific to the bill, there is on page 2, line 27, a reference to those best practice standards. And I do think that this is a policy area for you all to think about. The terminology says "substantially complied" with these best practice standards for organizations who might be applying to the lead organization to participate in the matching funds. From my perspective, trying to administer language around "substantially complied" is complex; it entails defining what that means. And so from my perspective it would be much easier to have language that says you either meet these best practice standards or you don't. I think then that review process happens at a national level and I think some of the questions regarding ... if you have two community foundations or ... are unsure about how funds are invested or managed, ... that national best practice standard reviews those policies and practices. And I think it provides the highest level of protection for the state dollars and also the individual donor dollars that are coming in. That's the standard that Iowa is using. There also is currently draft language at a federal level to use USDA funds to do a very similar project to incentivize rural communities to build endowments and it also uses the best practice standards as sort of the marker of how you participate in that program. So, ... I do think that the policy decision around that is that we

do have some community foundations, that at this time in the State of Alaska meet those standards [and] we do have some that don't. And I think that there will be a cost associated for some of those that don't to actually get that best practice standard. And so, that is certainly a consideration.

Ken talked a little bit about some of the strategies to try to address the needs of communities that don't currently have a community foundation. And I think some of his suggestions were good ideas. Currently the Alaska Community Foundation does have what we call an Alaska Fund and out of that fund any community is eligible to apply. We could look at setting up some sort of fund that matching funds went to and then state funds ... corresponded and could be open only for those communities that did not have a specific local community foundation in the region. It would be one way to kind of aggregate that activity but provide still some benefit to communities that maybe are quite small or don't have the current capacity.

8:50:05 AM

REPRESENTATIVE GARDNER inquired as to the criteria used to evaluate applications from communities without an existing fund that apply to ACF. She also inquired as to examples of things commonly funded by community philanthropic endowment funds.

MS. WINKLER stated that such organizations, ACF, mostly fund nonprofit organizations via the grant program. However, there may be a few cases in which ACF may become involved with expenditure responsibility when there is a need in a community. She explained that when communities without a nonprofit apply, ACF performs basic due diligence to ensure the nonprofit is in good standing with the IRS. If it's a competitive project, the proposal would be evaluated on the criteria that have been set. Other funds are established in such a way that they may be funding a specific organization by design, which means that there is a basic review to ensure the organization is still in compliance and operating effectively. The process for determining an affiliate community foundation is complex and very different than applying for funding for a grant. Ms. Winkler then related that ACF funds a wide variety of issues based on the goal/mandate to improve the quality of life in communities throughout Alaska. Therefore, ACF may fund refrigeration systems, food banks, a smolt study, revitalization

of the Gwich'in language, trails, parks, and basic health and human service needs. Much of what ACF funds is dictated by the 280 different funds, she stated.

8:53:25 AM

REPRESENTATIVE DICK, referring to the language "substantial compliance with the national standards" on page 2, line 27, asked if Ms. Winkler would foresee any problem with "national standards" working in small communities in Alaska.

MS. WINKLER answered that the downside of national standards is that it takes time and effort to document the practices, which can be costly. There are some community foundations in the state that do great work, but don't meet those criteria. There are also community foundations in Alaska that do meet the national standards, such as ACF and the Homer Community Foundation. In fact, ACF is currently in the process of re-certification, which occurs every five years. Ms. Winkler opined that the criteria are doable and provide protection by demonstrating that the organization has an investment strategy and policy, a distribution policy, a grant policy, and a fund acceptance policy. An external body reviews whether the community foundation has the policies and practices in place to manage the complexities of a community foundation.

8:55:24 AM

REPRESENTATIVE SADDLER requested that Ms. Winkler work with the [sponsor] to develop a flow chart of the various organizations and how the money could flow through them.

MS. WINKLER agreed to do so. She then explained that the affiliate organizations work in their community to be the face, set agenda, raise funds, and make grant recommendations. However, legally affiliate organizations are part of ACF and governed by its bylaws, policies, and investment strategies. The aforementioned situation provides local flavor and autonomy without redundant infrastructure. Because the program is substantially supported with a partnership with the Rasmuson Foundation, 99.5 percent of the dollars raised in affiliate foundations stay in those endowments because they don't have significant operational costs as those are handled by ACF. She did note that the Iowa model and pending federal legislation recognizes those affiliates as eligible and able to apply for matching funds. However, because there are specific endowed funds that ACF holds only for the benefit of Seward and Moose

Pass, those grants can't be spent on grants or projects in any other part of the state.

[8:58:50 AM](#)

CHAIR MUNOZ announced that HB 290 would be held over.

HB 184-REFUND OF FISH BUSINESS TAX TO MUNIS

[8:59:18 AM](#)

CHAIR MUNOZ announced that the final order of business would be HOUSE BILL NO. 184, "An Act relating to the sharing of tax revenue from the fisheries business tax and fishery resource landing tax with municipalities; and providing for an effective date."

[8:59:36 AM](#)

REPRESENTATIVE P. WILSON , Alaska State Legislature, speaking as the sponsor of HB 184, paraphrased from the following written testimony [original punctuation provided]:

HB 184, Refund of Fish Business Tax to Munis, will increase the municipalities' share of the Fisheries Business Tax and the Fisheries Landing tax from 50% to 75%. It is the intent that these funds will be used for port and harbor infrastructure maintenance. This bill will NOT change the taxes levies. It just deals with the distribution.

In 1986 the state started to divest itself of ports and harbors to reduce operating and capital costs. At that time the state owned 99 of the 125 harbors. Over the following 25 years the state has turned over 74 of its harbors to municipalities and boroughs. It is now up to the boroughs and cities to maintain their own infrastructure. Many of the ports and harbors that support the infrastructure for our commercial fisheries, are rundown and in need of major maintenance or complete rebuilds. Well maintained port and harbor facilities are critical to the economic health of our coastal communities. Currently we have the Municipal Harbor Grant fund that helps with this maintenance. You have in your packet a graph of the way this fund has been appropriated in the 5 years since it was created. It is sporadic and makes it

difficult for a municipality to implement a Harbor plan if the funding is always uncertain. This increase in the Fisheries Business tax will allow munis to take advantage of a sound strategic plan for the development and maintenance of their port infrastructures.

Under the current system funds generated by the Fisheries Business Tax from processors are distributed 4 different ways:

Fish processed inside a municipality are divided equally between the state and the municipality.

If the processing occurred within an incorporated city inside a borough, the 50% is divided equally between the two entities, city and borough.

If the processing occurred outside of an incorporated city the 50% goes entirely to the borough.

On fish that are processed or landed outside of any municipal or borough boundaries half of the tax revenue goes to the general fund (state) and the other half goes to the Department of Commerce, Community and Economic Development (DCCED). The department distributes its share among fishing communities in Alaska according to a formula that proportionally allocates the tax based on the pounds of fish processed in 14 different Fisheries Management Areas. (you should have a map of these areas in your packets) The percent that goes to each fisheries management area is then split between the communities by a locally determined formula apportioning equal community shares and per capita shares. This formula will not change with HB 184.

In addition to the fisheries business tax HB 184 will also increase the municipalities' share of the Fisheries Resource Landing tax a subset of the Fisheries Business Tax. This tax is on fresh fish that is not "processed in state". This fish can be troll dressed salmon, gutted and gilled Halibut, live crab, and geoducks. This is the high value fresh fish that is exported live and that is highly desirable. Our tax distribution system is clearly diverting from one of the fastest growing parts of the market. In some cases the ports where the product is landed does not even qualify to receive a portion of the redistribution under the current formula.

HB 184 would, in addition to changing the split between the state and the municipalities, direct the Fisheries Resource Landing Tax revenue on these "unprocessed" fisheries resources back to the incorporated port of landing and or the borough where they were landed. This will help more accurately and fairly cover the cost of building and maintaining the infrastructure utilized in generating the tax. By tying Fisheries Landing Tax revenue return directly to the municipality where the landing occurred, HB 184 ensures that ports are compensated fairly for their efforts and the revenues they generate.

I'm sure each of you are wondering how this will impact the areas you represent. You have in your packets a table that reflects the changes that cities and boroughs can expect.

HB 184 will increase the fish tax share with boroughs cities and communities to help with port and harbor maintenance and improvements. It will also share exported unprocessed fish tax with the area where the fish was landed. I urge you to move this bill from committee.

[9:05:23 AM](#)

REPRESENTATIVE SADDLER moved to adopt CSHB 184, Version 27-LS0576\R, Bullard, 1/25/12, as the working document. There being no objection, Version R was before the committee.

[9:05:44 AM](#)

REPRESENTATIVE P. WILSON explained that Version R includes intent language relating that the additional funds will be used for marine infrastructure, improvements, and maintenance. Version R also includes a new subsection to have the boroughs and municipalities submit a report specifying how the funds received were used. The reports will be required for both the revenues from the fisheries business tax and the fisheries resource landing tax; the information can be compiled into a single report. Version R also modifies the existing language for the (indisc.) fish and is required when a new borough is formed.

[9:07:07 AM](#)

REPRESENTATIVE GARDNER inquired as to why legislative intent is being used for this proposed change rather than making it a requirement. She then asked if historically the 50 percent has been used for docks and harbors or has it been used for other things. She further asked how the funding for various communities would look if Version R passed; that is would the needs of the docks and harbors be met or would it be some years before it's met, she asked.

REPRESENTATIVE P. WILSON, speaking to why legislative intent was used, related that some communities are wealthier than others and thus may be able to maintain their harbors better than others. The legislation addresses maintenance and repair. Furthermore, communities receive the tax revenues now, but without any parameters regarding where the community has to spend it.

[9:09:15 AM](#)

REBECCA ROONEY, Staff, Representative P. Wilson, Alaska State Legislature, pointed out that restricting the use of the tax to only marine facilities and harbors and maintenance might make it difficult to use the tax revenues for repairs to roads used to haul fish to market.

[9:09:56 AM](#)

REPRESENTATIVE GARDNER asked if leaving the intent language would mean that there is a prohibition against [using fish tax revenues] to build a playground in a park. She then related her understanding [from gestures from the sponsor] that the [fish tax revenues] could be used to build a playground in a park.

[9:10:17 AM](#)

REPRESENTATIVE P. WILSON, in response to Representative Gardner's earlier question, said the tax revenues could be used for other things.

[9:10:31 AM](#)

CHAIR MUNOZ interjected that the need for harbor repair and replacement is much greater than the increased amount of funding.

MS. ROONEY related that there are witnesses on line who may be able to speak to the overall need.

9:11:16 AM

REPRESENTATIVE GARDNER clarified that she understands the need and that her question is regarding whether communities can [use the fish taxes for things other than those related to maintaining and improving harbor facilities]. If so, the ensuing question then is why would the aforementioned be desirable. She then reiterated that she is interested in whether historically the 50 percent has been dedicated to the infrastructure of the fisheries.

REPRESENTATIVE P. WILSON confirmed that the current language of the legislation could result in municipalities using the funds for something besides the infrastructure of fisheries, which is why the intent language in Version R is important.

9:12:09 AM

REPRESENTATIVE SADDLER asked if since the state began transferring the responsibility for ports and harbors to local communities there has been any structure for the local communities to pay for their ports. He further asked if there is any requirement that local communities provide funding for maintaining them and have they being doing so by using their portion of the fish tax and other revenues.

REPRESENTATIVE P. WILSON replied yes and no. Due to sporadic funding to the communities, it has been difficult and many harbors are in awful shape, she said. She then highlighted that the report is required so that [the legislature] knows where the fish tax funds are being spent.

9:13:55 AM

REPRESENTATIVE SADDLER asked if the state, by transferring ownership of the ports and harbors to local communities, did a disserve to local communities that don't have the funds to maintain their ports and harbors. He then questioned why the increase in percentage of taxes going to the communities isn't increased to 100 percent.

MS. ROONEY explained that 100 percent of the tax isn't going to the communities because there are some uses for the 50 percent that goes to the state, such as the salmon credits that the state receives. As it is now, she said she wasn't sure whether the 25 percent provides enough funds within the state to cover

that. Therefore, [the sponsor] is working with the Department of Revenue (DOR) on that issue.

9:15:25 AM

REPRESENTATIVE DICK inquired as to how Delta Junction would be impacted.

MS. ROONEY explained that DCCED uses a formula that spreads the tax across places that have processors. Since some processing is done in Delta Junction, it receives part of that tax. If there is an increase, it's likely because of the 75:25 split.

REPRESENTATIVE DICK pointed out that there is a decrease in Holy Cross, Shagaluk, and Russian Mission.

MS. ROONEY suggested that the decrease is likely because the allocated formula-based tax is being given to the communities where the fish is landed rather than using a formula in terms of where it was processed.

REPRESENTATIVE P. WILSON clarified that the chart entitled "Fisheries Tax Revenue Share Analysis and Community Revenue Sharing" shows the amount in dollars not millions of dollars.

9:18:43 AM

CARL UCHYTIL, Vice President, Alaska Association of Harbormasters and Port Administrators (AAHPA); Port Director, Docks and Harbors Department, City & Borough of Juneau, related that AAHPA is a strong supporter of HB 184, which he urged the committee to move forward. He then addressed why it's so important to receive additional funds for harbor maintenance. As was mentioned the state used to own all harbors in the state that were built in the 1950s-1970s. Over the last 10 years, many of the state harbors have been transferred to municipalities. Mr. Uchytel emphasized that harbors and other marine facilities aren't money-making enterprises. In Juneau, the docks and harbors don't receive property tax or sales tax support for maintenance. Therefore, Juneau has to rely on federal grants and state-harbor matching grants to recapitalize the harbors. This legislation would provide more maintenance funds to the harbors in order to allow municipalities to better maintain and recapitalize the harbor facilities. Mr. Uchytel related his understanding that when the state owned the harbors, the moorage was pennies on the dollar. When the ownership of the harbors were transferred to the municipalities, it was

impossible to increase the moorage rates to the level necessary to generate the funds required to maintain the harbors. He noted that the [Juneau Harbors Board] is not in favor of increasing moorage rates. In discussions with a local Juneau fisherman, the local fisherman claimed that his moorage rate in Juneau has tripled over the last five years. In conclusion, Mr. Uchyttil said that HB 184 would be a huge benefit to those who manage and maintain the harbors in the state.

[9:22:15 AM](#)

REPRESENTATIVE GARDNER commented that she has heard a good case for the need of more funding to address harbor maintenance and related infrastructure. She then asked whether HB 184 will make much of a dent in the need.

MR. UCHYTIL informed the committee that Juneau receives about \$300,000 of the fish tax and it is provided directly to the Juneau Docks and Harbors Department. The new percentages proposed in HB 184 would provide Juneau an additional \$200,000, which would allow for more maintenance in the Juneau harbors. He characterized the additional funds as a "huge windfall" for the City & Borough of Juneau.

[9:23:06 AM](#)

REPRESENTATIVE SADDLER asked whether these extra funds would be enough.

MR. UCHYTIL replied no, it would never be enough. He offered to provide members a tour of the Juneau docks and harbors. He explained that within the City & Borough of Juneau Docks and Harbors Department, half of the costs are for staff and the other half is for utilities. There are never enough funds available to set some aside for recapitalization of projects, rather they have to rely on the state or the federal government for large recapitalization projects. Having additional funds to utilize for targeted maintenance would be beneficial, he opined.

[9:24:23 AM](#)

REPRESENTATIVE SADDLER asked if transferring the ownership of docks and harbors from the state to municipalities was a successful effort.

MR. UCHYTIL disclosed that he has only been the vice president of the City & Borough of Juneau's Docks and Harbors Department

since August. He informed the committee that the City & Borough of Juneau purchased DeHart's, a private dock in very poor condition, and has secured funding to recapitalize that dock in the coming year.

[9:25:33 AM](#)

REPRESENTATIVE GARDNER surmised then that the roughly \$300,000 Juneau receives from the fish taxes has been used for operating costs not for rebuilding harbors or infrastructure.

MR. UCHYTIL answered that would be correct for Juneau. He explained that the fish taxes are comingled with other fees and aren't segregated.

[9:26:57 AM](#)

JOHN SWEENEY, Finance Director, City & Borough of Sitka, began informing the committee that the City & Borough of Sitka has passed a resolution in support of HB 184. The City & Borough of Sitka, he related, believes HB 184 is critically important and strongly advocates for its passage. Within Sitka, there is an estimated amount of scheduled repairs and maintenance that spans the next 20 years and would cost in excess of \$110 million. Furthermore, three of Sitka's five major harbors are in need of a substantial rebuild or overhaul within the next five to eight years. He opined that Sitka has been lucky to have a matching grant included in the governor's capital budget for a partial rebuild of the Alaska Native Brotherhood Harbor. The amount of reserve working capital in Sitka's harbor fund would be completely exhausted if used to meet one of the three harbor rebuilds needed in the next five to eight years. He mentioned that Sitka had internal discussions regarding increasing moorage rates. However, there is an upper limit on the amount of moorage increases that can be passed on before it drives marginal commercial fishermen out of business or causes them to relocate to a different municipality. In either case, it would be difficult and devastating for Sitka, particularly since Sitka's other major industry of tourism has continued to decline in the last several years. Mr. Sweeney emphasized that the need is great and the municipality is committed to doing what it can with the raw fish taxes it receives in order to help fund the maintenance. However, the need is so great that it's impossible to achieve with the moorage mechanism that currently exists.

[9:30:20 AM](#)

STEVE CORPORON, President, Alaska Association of Harbormasters and Port Administrators (AAHPA); Director, Ports and Harbors Department, City of Ketchikan, related if one were to talk to the fishermen who pay the fish taxes, one would find that back when the state owned the harbors they didn't mind paying it because the funds came back as some of the maintenance. The fishermen who pay the fish taxes want those funds to go back into harbors. Although the state did a good job building the harbors and docks, it didn't put much into them after that. As the harbors and docks reached their service life, it was more cost effective to transfer them to the municipalities. Over the last seven or eight years, all of the harbors in Ketchikan have been transferred from the state to the municipality and most of those harbors need to either be substantially replaced or rebuilt. In order to "sweeten the deal" when the harbors were turned over to the municipalities, the state provided some deferred maintenance funds. Ketchikan received \$3.9 million for its six harbors. However, about \$17 million worth of work was necessary to bring them up to par. Ketchikan, he stated, has done a good job parlaying the \$3.9 million with other grants and local funding to accomplish \$7 million worth of work, which leaves about \$10 million worth of work yet to do for just the harbors transferred from the state. Beyond the harbors, the fishermen in Ketchikan want a drive down ramp constructed, which would be about a \$5 million project. The rate structure in place for decades allowed Ketchikan to operate its harbors without performing any major maintenance. Mr. Corporon related that when he took his position as the director of Ketchikan's ports and harbors five years ago, he met with Ketchikan's finance director. In order to have savings to bond for \$10-\$15 million worth of work not including the drive down ramp, a 75 percent rate increase was necessary. The aforementioned would equate to a 15 percent increase over the next five years, which the customer base can't handle. Mr. Corporon mentioned that he was able to convince the Ketchikan City Council that the fish tax funds needed to go to the harbors, and thus that's been occurring for the last several years. He pointed out that since Ketchikan is a city and borough, half of the 50 percent goes to the borough and the other half goes to the city. The borough has no harbor infrastructure, and thus has been using those fish tax funds for things other than docks and harbors. This legislation has caught the attention of the borough, which has come to the table with the city and is working on a memorandum of understanding such that even the borough's fish tax should go to harbor infrastructure. However, such is not the case in all municipalities as was evidenced at a recent harbormasters conference where a show of hands revealed that the fish tax

funds of about half of the communities attending went to the harbors; 25 percent of the communities attending receive part of the fish tax; and the remaining 25 percent of the communities attending didn't receive any of the fish tax. Mr. Corporon opined that one of the key elements of HB 184 is the attempt to steer the funds to the harbor infrastructure. Polling the members of AAHPA revealed that there are about \$90 million worth of projects, which he surmised was a backlog of projects when the transfer of the harbors from the state to municipalities occurred. In conclusion, Mr. Corporon opined that HB 184 will make a difference.

9:36:05 AM

REPRESENTATIVE SADDLER asked whether it was an option or a mandate from the state for municipalities to take over ownership of the harbor and dock facilities.

MR. CORPORON related his understanding that if the communities didn't want the docks and harbors, then the state threatened to sell them; that is auction off the floats. Therefore, the communities not taking ownership wasn't a realistic option. In further response, Mr. Corporon clarified that his understanding was that the infrastructure would be sold/auctioned because it couldn't remain on state land and thus the harbor would go away.

9:37:50 AM

REPRESENTATIVE SADDLER said that although he understands that the potential increase in funding offered by HB 184 would help, he questioned what would happen in five years.

MR. CORPORON answered that the legislation would make a large difference in Ketchikan, particularly since Ketchikan has been dedicating its fish tax to its harbors. If the borough provides its portion as well, Ketchikan can bond the \$5 million for a drive down ramp. The desire would be for more so that Ketchikan could address the \$10 million in backlogged maintenance from the transfer. He mentioned that in Ketchikan about \$80,000 in additional revenue is necessary for every \$1 million desired to be bonded, which amounts to about a 70 percent rate increase.

9:39:04 AM

REPRESENTATIVE SADDLER inquired as to why 100 percent of the entire fish taxes shouldn't go toward ports and communities.

MR. CORPORON acknowledged that the fishermen use more than just harbors. However, he reiterated that if harbor infrastructure falls into disrepair, fishermen will go elsewhere.

[9:40:15 AM](#)

TIM COTTONGIM, Fish Group Manager, Juneau Office, Tax Division, Department of Revenue, in response to Representative Saddler, explained that 50 percent of the gross tax reported on the [fisheries business tax and the fishery resource landing tax] returns is guaranteed to be shared with the impacted communities. To the extent the activity occurs outside of an organized city and borough that share goes to DCCED to be allocated. The state's share is subject to credits and thus claims for the salmon credit, the education credit, or the Winn Brindle tax credit are removed from the state's share. Technically, as long as there are credits claimed, the state never receives 50 percent of that tax rather it receives less. The salmon credit currently has a provision limiting it to 50 percent of the tax on salmon. Therefore, the maximum credit a processor that processes strictly salmon can claim for this particular program is limited to 50 percent, which fully protects the state's share. There are no such limitations with the education credit, except that it can't exceed the total tax. Again, any time anyone claims combined credits that exceed 50 percent, it comes from the state's share and thus doesn't come from the community's share. When the share is increased to 75 percent, there is a risk of there being more taxpayers in more communities not being able to cover this share back to the community with their taxes alone. For example, if a processor owed the state \$100 in gross tax and wanted to claim credits amounting to \$50, the state would receive \$50 in cash and the community would be guaranteed \$50. An increase in the share to 75 percent would result in the state being \$25 in the hole and would have to draw those funds from elsewhere.

[9:43:27 AM](#)

CHAIR MUNOZ asked if this proposed change would cover the potential cost to the state.

MR. COTTINGIM answered that there are still sufficient general funds available to cover the implementation of HB 184 and thus pay for the credits the state loses.

[9:43:56 AM](#)

REPRESENTATIVE AUSTERMAN inquired how large of a dollar value is associated to DOR in terms of the fisheries tax.

MR. COTTINGIM replied that DOR still expects to receive sufficient funds from the two programs, even after credits. However, this is assuming the behavior remains the same. If the maximum education credit is increased to \$5 million and more processors using more, there is the potential to erode what goes to the state.

[9:45:45 AM](#)

KATIE KOESTER, Community & Economic Development Coordinator, City of Homer, related support for HB 184. This legislation, she opined, addresses a fairness issue in terms of sharing the funds collected. She echoed earlier testimony regarding that there is a lot of infrastructure involved in supporting the commercial fishing industry. Since Homer facilitates a lot of fresh product being trucked out, Homer doesn't get a lot of the fisheries business tax back because the product doesn't meet the definition of processed. This legislation would change that and would specify that funds from the fisheries business and landing taxes would be spent on harbor maintenance. Returning the funds back to the communities where they are collected will help with the deferred maintenance communities have faced since the transfer in ownership, she opined. This legislation, she emphasized, will help support the fisheries economic engine for Homer and the state. She guaranteed the committee that Homer would be happy to return the funds to its port and harbors.

[9:49:16 AM](#)

REPRESENTATIVE SADDLER asked how much of the fish taxes go to Homer ports and harbors.

MS. KOESTER related her belief that all [the fish tax] funding goes to the enterprise fund, but she expressed the need to check with the Homer harbormaster.

[9:49:59 AM](#)

CHRIS HLADICK, City Manager, City of Unalaska, began by stating that he appreciates what the state does to support commercial fishing in the state. He then pointed out that the Alaska Municipal League (AML) resolution included in the committee packet relates support for an increase of more than 50:50 in the split of revenues, not support for HB 184 or expanding the

program to include the unprocessed fish definition in HB 184. The aforementioned wasn't discussed when that resolution was passed. Mr. Hladick further clarified that the tax is not generated in the community where the fish is landed rather the tax is generated in the community where the fish is processed. He commented that it would be interesting to know the negative economic impacts to the communities wanting to be involved with this program. The change in the definition of processing does change the result in the formula as it redistributes the revenue. Mr. Hladick then related his understanding that the intent of the shared fisheries business tax was to share tax revenue with communities that have onshore processing in order to help mitigate the impacts of that activity on the community. However, allowing the proposed change to include unprocessed fish in the program would defeat the original intent of the program. Mr. Hladick stated that he is in support of legislation that only increases the revenue split with the state. He also related support for finding a way to increase funding for ports and harbors. In conclusion, he expressed concern with legislation that changes a long-standing tax share program and thus he suggested that perhaps there needs to be a tax program to address unprocessed fish.

[9:52:34 AM](#)

TIM ROONEY, Borough Manager, City and Borough of Wrangell, related support for HB 184 and noted that the City and Borough Assembly has passed a resolution in support of HB 184. Historically, Wrangell has been successful in obtaining funding for harbor rebuilds, although not so successful in funds to maintain its harbors. He noted that Wrangell is committed to dedicate any funds it receives to its harbors. Currently, 75 percent of the funds received go to Wrangell's harbors, with 25 percent going to the general fund. Last year, however, Wrangell decreased the amount going to the general fund and increased the amount going to the harbors by 5 percent each. The goal is to eventually have 100 percent [of the fish taxes] going to the harbors.

[9:53:57 AM](#)

CHAIR MUNOZ announced that HB 184, Version R, would be held over.

[9:54:24 AM](#)

REPRESENTATIVE GARDNER requested Mr. Hladick's testimony in writing.

[9:54:49 AM](#)

REPRESENTATIVE AUSTERMAN related his understanding that the list entitled "Fisheries Tax Revenue Share Analysis and Community Revenue Sharing" relates the winners and the losers based upon the proposed percentage change. He expressed interest in the list based upon the proposed distribution change in the legislation but without the change from 50 percent to 75 percent.

REPRESENTATIVE P. WILSON answered that she didn't think it would look very good, which is why she wanted both in order to minimize the losers. She informed the committee she has committed to withdraw the legislation if both changes are not kept.

[9:56:44 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:57 a.m.