HOUSE FINANCE COMMITTEE
February 27, 2012
1:32 p.m.

1:32:26 PM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:32 p.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Co-Chair
Representative Anna Fairclough, Vice-Chair
Representative Mia Costello
Representative Mike Doogan
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Reggie Joule
Representative Tammie Wilson

MEMBERS ABSENT

Representative Mark Neuman

ALSO PRESENT

Representative Wes Keller, Sponsor; Kaci Schroeder-Hotch, Staff, Representative Bill Thomas; Sarah Fisher-Goad, Executive Director, Alaska Energy Authority, Department of Commerce, Community and Economic Development; Peter Crimp, Deputy Director, Alternative Energy and Energy Efficiency, Department of Commerce, Community and Economic Development; Chuck Kopp, Chief of Staff, Senator Fred Dyson; Representative Paul Seaton, Sponsor; Joe Michel, Staff, Representative Bill Stoltze; Mary Jane Shows, Staff, Representative Paul Seaton, Sponsor; Representative Fred Dyson.

PRESENT VIA TELECONFERENCE

Richard Kromer, Senior Attorney, Institute for Justice, Arlington, Virginia; Andrew Walker, Owner, Computer

Renaissance, Soldotna; Victor Kester, Executive Director, Alaska Office of Victims' Rights, Legislative Branch; Andrew Harrington, Attorney, Commercial/Fair Business Section, Department of Law; Jordan Marshall, Special Projects Manager, Rasmuson Foundation, Anchorage; Mike Walsh, Vice President, Foraker Group, Fairbanks.

SUMMARY

HJR 16 CONST. AM: EDUCATION FUNDING

HJR 16 was HEARD and HELD in Committee for further consideration.

HB 224 SALES OF NICOTINE PRODUCTS TO MINOR

CSHB 224(FIN) was REPORTED out of committee with a "do pass" recommendation and with one zero fiscal note from the Department of Health and Social Services and one zero fiscal note from the Department of Law.

HB 250 EXTEND RENEWABLE ENERGY GRANT FUND

HB 250 was HEARD and HELD in committee for further consideration.

HB 302 REPEAL PICK-CLICK-GIVE AUDIT REQUIREMENT

CSHB 302(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from the Department of Revenue.

CSSB 30(2nd Jud)
RETURN OF SEIZED PROPERTY

CSSB 30(2nd Jud) was REPORTED out of committee with a "do pass" recommendation and with three previously published fiscal notes including, one indeterminate note: FN4 (LAW); and two zero notes: FN3 (DPS) and FN5 (LEG).

#hjr16
HOUSE JOINT RESOLUTION NO. 16

Proposing amendments to the Constitution of the State of Alaska relating to state aid for education.

1:34:01 PM

REPRESENTATIVE WES KELLER, SPONSOR, thanked the committee for hearing the legislation. He discussed that Richard Kromer with the Institute of Justice had been involved in various private education school scholarship cases. He opined that the bill represented a step forward in the education system. He explained that the purpose of the bill was to expand education choice options by allowing public money to follow children to private schools based on parental choice. The bill provided a legislative response to past Alaska Supreme Court decisions (Matthews v. Quinlan and Sheldon Jackson v. State of Alaska) that broadly interpreted the restriction of state funds paying for private education. He communicated that the Alaska Supreme Court had determined that the state constitution did not allow state money to pay for private religious schools.

Representative Keller believed that there were some exciting private sector options available such as ITunes U and Khan Academy. He relayed that the bill allowed the private sector to be more involved. He had introduced the bill because he believed that Alaskans solidly supported the idea; he had received a number of calls and encouragement on the issue. He explained that a "credible" survey had been done that showed "solid support" related to the Blaine Amendment. He relayed that the Alaska Federation of Natives (AFN) had passed a resolution in support of school choice. Tom Fink, former legislator and mayor of Anchorage had worked "tirelessly" on the issue and was available for questions. He observed that charter schools had waitlists and homeschools were not a viable option for many working parents. He stated that private schools cost less, but were prohibitive to many parents who could not afford to pay private school tuition on top of other expenses such as property tax. He relayed that 2.5 percent of Alaskan students were in private schools. He thought that private schools could be used to help the current situation.

1:38:23 PM

Representative Keller opined that the issue was large enough that the public should be able to make the decision. He stated that the constitutional amendment would be

"simple in size" to allow for school choice and money to follow students into private schools.

Co-Chair Stoltze discussed that the committee would hear the bill multiple times. He explained that the immediate fiscal impact would be the cost of printing an extra page in the ballot book; there were other potential financial implications that were currently not known.

Co-Chair Thomas pointed out that AFN had passed a resolution in support of the legislation (copy on file).

Representative Keller was excited about the opportunity the bill presented. He believed AFN and rural communities would come up with innovative options if given the ability to do so.

Co-Chair Stoltze relayed that public testimony would be held at a future meeting.

1:41:46 PM

Representative Keller discussed that Richard "Dick" [Kromer] was an attorney for the Institute of Justice who litigated school choice cases in federal and state courts. Several of his current cases involved the constitutionality of including religious schools among the private schools that could participate in school choice programs. He relayed that Mr. Kromer was a resident expert on Blaine Amendments. Mr. Kromer had worked as a federal civil rights attorney and had worked for the U.S. Departments of Education and Justice, and for the Equal Employment Opportunity Commission.

Representative Gara asked whether the sponsor had compiled transcripts from the Constitutional Convention that included the provision banning public funds for private schools.

Representative Keller replied that he had compiled the transcripts, but not in a way that was ready for distribution. He remarked that he found the history of the constitution process fascinating. He discussed that the Blaine Amendment had originally been an attempt to amend the U.S. Constitution by Congressman Blaine; the amendment had failed by one vote. He detailed that laws had been passed that required new states, which included all of the

western states and others, to have a Blaine Amendment. He furthered that several of the states had amendments specifying that no money should be directly or indirectly made available to private schools. He noted that the transcripts were in the context of the Blaine Amendment history.

Representative Doogan asked for a background on the Institute of Justice.

1:46:14 PM

RICHARD KROMER, SENIOR ATTORNEY, INSTITUTE FOR JUSTICE, ARLINGTON, VIRGINIA (via teleconference), described the organization as a public interest law firm located in Arlington, Virginia. The firm litigated in four different areas including school choice, private property practice (e.g. the Kelo imminent domain case), economic liberty in efforts to open up entry level occupations that were over-regulated by state agencies (e.g. African hair braiding and shoeshine provisions, licensure to sell caskets and other), and first amendment free speech issues (e.g. campaign finance reform). The firm had been involved in all school choice cases including the U.S. Supreme Court case Zelman v. Simmons-Harris, which upheld the Cleveland scholarship program against the challenge of a violation of the Ohio state constitution and the federal establishment clause. The prior year the firm had been involved in a case involving Arizona's tax credit for donations to private scholarship funds that provided scholarships to individuals planning to use private education. He relayed that both school choice cases had been victories for the firm, but it had lost several other cases.

Mr. Kromer relayed that the firm was approximately 20 years old; it advised people working on drafting school choice legislation and helped defend the legislation if it passed and was challenged. He relayed that most school choice programs were challenged by teachers' unions and allies, but the firm had been successful in defending most of the cases. He explained that in the firm's cases the state was the primary defendant and the firm represented parents who intervened in the litigation. The institute had been involved in the Milwaukee Program, which was the paradigm for the urban programs that existed in Milwaukee, Cleveland, Washington D.C., and New Orleans. Other types of school choice programs had been developed in the past 20

years; there were seven or eight that were specific to children with disabilities, which typically had not been challenged.

1:50:36 PM

Mr. Kromer communicated that the institute had typically encouraged states with "bad law" under the state Blaine Amendment to create school choice programs via private contributions that the states encouraged through tax credit legislation. There were over 20 different school choice programs that involved private schools, which had resulted in the firm gaining expertise in state Blaine Amendments because the opponents of school choice programs always preferred to strike a law down under the state constitution versus the U.S. Constitution. He furthered that opponents were afraid that the U.S. Supreme Court would determine that school choice programs did not violate the federal establishment clause as long as they were religiously neutral and did not encourage the use of religious schools over other schools.

Mr. Kromer discussed that Blaine Amendments were a "peculiar" development of the 1800s. Public schools had originally been conceived and designed to be generically Protestant schools, but not to reflect the ideology of a particular sect. He expounded that as an increased number of Catholics moved to the U.S. the Protestants saw the schools as a way to "wean" Catholics away from their faith. The Catholic Church resisted the efforts and the required reading of the Protestant bible in public school, the singing of Protestant hymns, and the use of Protestant oriented text books that "derogated" the Catholic faith. He explained that as a result Catholics requested an equal share of public education dollars directly for their parochial schools. The Catholics were met in the Know Nothing Movement in the 1850s, by the federal government and the Republican Party in particular, with a rejection of their demands. The result was that some state constitutions (including Alaska's) contained language specifying that no appropriation "shall be made" to any sectarian school, which had been code for Catholic. He expounded that five current U.S. Supreme Court judges had recognized in various cases that the federal Blaine Amendment was an anti-Catholic proposed enactment.

Mr. Kromer continued to provide a history of the Blaine Amendment. He delineated that in the 1870s there was a Republican effort to disenfranchise Democrats (who were typically Catholic). Republicans had proposed a federal constitutional amendment that would have required all states to abide by the language of state constitutions that specified there would be no appropriations for religious sectarian schools.

1:55:24 PM

Mr. Kromer detailed that the amendment had failed to get the two-thirds majority required by a narrow margin in the U.S. Senate, but it had passed "overwhelmingly" in the U.S. House, which meant that the backers had to vote to impose the law through enabling legislation on any new states; therefore, all new states after the 1876 Blaine Amendment failure had Blaine Amendments in their state constitutions. Alaska's constitution specified that no money shall be paid from public funds for the direct benefit of any religious or other private educational institution; the language was narrower than was typical and was intended to distinguish between direct aid to religious schools and indirect aid that benefitted private school students. He relayed that the exception had been accepted in the Zelman case in 2002. He viewed the legislation as an effort to bring the interpretation of Alaska's constitutional language in line with the interpretation of the federal religion clauses.

Mr. Kromer pointed out that Alaska's constitution had its own general religion clauses under Article 1, Section 4 titled: "Freedom of Religion." The language was essentially a verbatim copy of the federal religion clauses in the First Amendment that read "no law shall be made respecting establishment of religion or prohibiting the free exercise thereof." He interpreted that the language had been included as an effort to convey that Alaska would use a standard similar to the U.S. Constitution. He detailed that there was a three part test for an establishment clause violation under the First Amendment that required religious neutrality and no excessive entanglement of the state and religion (Lemon v. Kurtzman). He stated that language in Alaska's constitution implied that the state's supreme court should use a similar test when it addressed issues of a violation of establishment of religion principle.

1:59:04 PM

Mr. Kromer believed the impetus for the legislation was a result of bad decisions made by the state supreme court. He explained that the court had interpreted the language of the two provisions proposed for amendment very broadly and in a way that had been rejected at Alaska's 1955 and 1956 constitutional conventions; a movement had been made to expand the language to include direct and indirect benefit for any religious or private institution, but it had been rejected. In the Matthews v. Quinton and the Sheldon Jackson cases the Alaska Supreme Court had essentially included indirect in its interpretation and had stated that aid to students indirectly benefited colleges or elementary schools that were chosen. The court had decided that the state was aiding the private religious schools if aid was provided to students for transport to the schools. He opined that the aid was indirect. He relayed that the U.S. Supreme Court had determined that providing aid to students who chose a private religious school was not the same as providing a direct grant to the school (Zelman and other cases); the court recognized a difference between incidental and direct aid. He noted that under certain circumstances direct aid could run "afoul" of the establishment clause; however, indirect aid to students had been accepted for at least 10 years in the K-12 context and had never been challenged in the post-secondary context.

Mr. Kromer believed that the problem with supreme court decisions was that the courts had the final word unless overruled by the people or a subsequent decision made by the same court. The resolution proposed to amend the language of the particular provisions to change the outcome with respect to student assistance programs in order to bring state constitution in line with the principles of the federal religion clauses.

2:03:30 PM

Mr. Kromer explained that in 1968 the New York State Supreme Court had reversed an earlier decision because its state constitution included "direct" and "indirect" language; therefore it was determined that student assistance programs representing incidental aid were not in violation of the provision; any benefit to schools selected by students who received aid was incidental. He detailed that South Carolina previously had similar language to New York that prohibited appropriations that provided direct or

indirect benefits to private religious schools. The state had struck down a higher education student assistance program based on the indirect language; subsequently the legislature and the population had removed the indirect language and a new assistance program had been enacted. The New York and South Carolina cases were examples of states that had removed language prohibiting "beneficial" programs.

Co-Chair Stoltze remarked that the testifier would be invited to speak to the committee again during the wrap up portion of the bill at a later date. He asked Representative Keller to provide the committee with a copy of the state decisions discussed by Mr. Kromer.

Representative Keller opined that the Alaska Supreme Court had allowed Alaska's Blaine Amendment to tie the hands of the legislature in its ability to enact school choice reform initiatives. He cited the Sheldon Jackson case as an example; the legislature had tried to assist with tuition in the past. The passage of the bill would allow Alaskans to decide whether to free the legislature's hands to encourage school choice in the state.

Co-Chair Stoltze requested Representative Keller to be available for questions from legislators. Representative Keller agreed.

HJR 16 was HEARD and HELD in Committee for further consideration.

2:07:03 PM
AT EASE

2:08:33 PM
RECONVENED

#hb250
HOUSE BILL NO. 250

> "An Act relating to the renewable energy grant fund and recommendation program; and providing for an effective date."

2:08:46 PM

CO-CHAIR BILL THOMAS, SPONSOR introduced his staff who would discuss the bill.

KACI SCHROEDER-HOTCH, STAFF, REPRESENTATIVE BILL THOMAS, explained that the bill reauthorized the Renewable Energy Grant Fund for an additional five years. The fund was established in 2008 and had funded approximately 200 projects statewide; 21 projects had come on line in 2011 due to the fund. The bill included intent language that would fund the program at $50 million per year, which was a continuation of the intent language from the enacting legislation. She relayed that department staff were available to answer specific questions.

Co-Chair Thomas pointed out that the proposed legislation would bring in $100 million in federal matching funds. One community that had used the funds to retire debt had taken its cost from $0.80 down to $0.20 once its hydro facility had come on line. He noted that the displacement of diesel was huge and that an increasing amount would be displaced as renewable energy projects continued.

SARAH FISHER-GOAD, EXECUTIVE DIRECTOR, ALASKA ENERGY AUTHORITY (AEA), DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, was available for questions.

Representative Doogan wondered why the proposal was to authorize the program for $50 million when it had only used $25 million for all but its inception year. Ms. Schroeder-Hotch explained that the bill extended the existing law. She added that the bill included intent language that could be changed by the legislature.

Representative Doogan surmised that the bill did not make any changes to the current program. Ms. Schroeder-Hotch responded in the affirmative.

Co-Chair Thomas noted that the legislature had the power of appropriation.

2:12:55 PM

Representative Edgmon supported the legislation. He did not believe that the program should be considered the panacea for the energy situation in Alaska. He believed that while successful, the program was narrow in scope in terms of renewable energy project options. The program was helpful,

but there were numerous areas in the state that did not have renewable energy options available. He believed the program should be recognized for "what it is and what it isn't."

Co-Chair Thomas referenced that when he had first introduced the bill it had included nuclear energy, which had kept it from passing. He explained that at the time "renewable" had been a "hippie" word and that it had been a significant leap forward. He relayed that the Palin Administration pressed for the bill, which had been stuck in the Senate Finance Committee; as a result it had passed out of committee with an appropriation.

Representative Edgmon remembered that many people had equated renewable energy with cheaper energy; however, in some cases renewable energy was more expensive and was not affordable. He asked the department to discuss the issue.

Co-Chair Stoltze provided a hypothetical example of a wind project that may be successful in Kodiak, but could fail in Anchorage.

2:17:18 PM

Ms. Fisher-Goad explained that there had been an earlier request from the House Finance Committee for one year's worth of data related to the payback period for several of the projects. She noted that she would characterize Representative Edgmon's comments slightly differently, but it was important to recognize that there were fuel cost savings that in current dollars may not necessarily be comparable or cheaper; however, fuel costs were expected to rise significantly for the next 20 years. The expectation was that the imported fuel would be traded to communities in rural Alaska for projects that were using local resources for the generation, which would stabilize fuel costs. She agreed that not all communities had renewable resources available for development. She believed there were challenges as well as opportunities for the program. Through the rural energy planning process (including the railbelt plan and southeast integrated resource plan) there was a community and region-wide approach to plan for energy. It was necessary to begin with a good rural power system in order to successfully integrate wind into the smaller systems. She opined that there was value and benefit in the process, but that work remained to be done.

The agency was working to ensure that there was appropriate technical assistance for the projects to move forward. She relayed that a good diesel displacement metric had been shown related to the projects. There were currently 14 projects that had one full year of data. She expressed that her colleague would provide more detail on some of the projects that had not shown the payback in 2011 fuel costs, but had begun to show positive results.

Representative Edgmon discussed that a significant amount of renewable energy projects came forward that did not make the cut for various reasons including lack of affordability. He had not meant to insinuate that AEA approved renewable energy projects that were not beneficial to consumers.

Co-Chair Stoltze commented that the decisions were social as opposed to energy decisions.

2:21:26 PM

Vice-chair Fairclough asked about the geographic spread of the 14 projects and whether the kilowatts produced had met expectations.

PETER CRIMP, DEPUTY DIRECTOR, ALTERNATIVE ENERGY AND ENERGY EFFICIENCY, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, responded that the 14 projects were evenly spread throughout the state including hydro in Southeast, biomass in the Interior and Southcentral, and wind in the Southwest.

Vice-chair Fairclough asked whether the total kilowatts produced in the 14 projects had met expectations. Mr. Crimp explained that the assessed projects were at approximately 84 percent of their goal for 2011. He noted that the heat versus power projects had not been broken out by per kilowatt hour.

Vice-chair Fairclough asked whether the state was looking to partner with federal and/or private sector partners.

Ms. Fisher-Goad replied that AEA was always looking for federal partners that would provide matching funds. Additionally, the Denali Commission was currently very active with the programs. Independent power producers were also eligible program applicants; any additional private

sector investments in the program were welcome. There had been increasing discussion related to the development of a loan program; there was a power project loan program that allowed entities to borrow in order to help them gain increased matching funds.

Vice-chair Fairclough asked whether AEA was looking at power generation regionally to allow areas to develop plans and transmission proposals in order to provide sustainable and affordable energy into local communities. She wondered whether AEA was working to ensure that there were beneficiaries of the program award process throughout the state.

Ms. Fisher-Goad answered that the renewable energy fund program had helped to focus the issues and dovetailed nicely with the regional planning approach. The agency had been building on its pathway document that had been published the prior year and was moving towards regional planning; Sandra Moller, Deputy Director of Rural Energy was heading up the efforts. The entity had a contract with Nuvista Light and Power in the Calista region to spearhead the approach. The agency was looking for regional entities that could do most of the coordination; AEA would help fund the work and would provide technical resource and support for the regional development. She added that any type of transmission system and interconnection between communities should be coming together.

2:27:00 PM

Representative Guttenberg wondered whether there was a chart that showed the displacement of diesel by the alternative energy over time and expectations on how to continue the savings into the future. He discussed alternative ways for coming up with power in the past. At one time Representative Joule had illustrated that coal would be a reliable energy source for some rural areas. He referred to a letter from the Alaska Power Authority (copy on file) stating that fuel displacement was 3.4 million gallons in 2013 and that by the end of 2016 it would be 11.6 million. He noted that the data showed a tripling of the displacement savings and believed that the use of oil would be eliminated if savings continued to increase.

Mr. Crimp responded that AEA had provided legislators with a CD that included a program status report and a chart that showed fuel displacement based on rounds 1 through 4.

Representative Guttenberg wondered whether the disk included information on what it would take to increase the displacement going forward.

Mr. Crimp replied that AEA had projections based on projects that had been funded to date. He relayed the agency would add data to the projections for round 5 if funds were appropriated for the continuation of the program.

Representative Gara wondered whether the current renewable energy fund allowed the state to pay for transmission if it would result in a more efficient renewable energy project. He discussed the efficiency of large projects that could transmit energy to numerous villages.

2:30:44 PM

Ms. Fisher-Goad replied that a transmission line connecting to a renewable resource was an eligible project.

Representative Gara queried whether AEA had worked to maximize the state's ability to train people locally who could maintain the energy projects.

Ms. Fisher-Goad replied that AEA had a training program that included hydro training; it was currently expanding to include training on wind diesel systems. The agency also had technical assistance to work with local power house operators on the integration of the diesel systems.

Representative Gara asked about a wind power project in Anchorage. He believed the cost of the wind energy produced at Fire Island would have been lower if the city had participated. Mr. Crimp did not have enough information to answer the question.

Ms. Fisher-Goad added that AEA was working with Chugach Electric Association and the other railbelt utilities including Golden Valley Electric Association on a regulation wind study to help integrate the Eva Creek and Fire Island projects into the system. She detailed that some of the work would help any future wind development

projects in the railbelt system and potentially with the expansion of the Fire Island project.

Representative Gara advocated for any expansion of the Fire Island project.

Co-Chair Stoltze wanted to make sure consumers were not tagged with an expensive project.

2:33:31 PM

Ms. Fisher-Goad responded that the agency was participating in a regulation study in order to address the issues.

Representative Wilson asked why Delta had not been mentioned in the wind project study. Ms. Fisher-Goad responded that Delta project had been included, but was much smaller than the Eva Creek and Fire Island projects that were coming online.

Representative Wilson noted that the Delta project had the potential to be larger. She discussed studies that had been done and items that the company had learned that could be utilized. Ms. Fisher-Goad answered that the intent of the regulation study was to help put some guidance around how larger wind systems could be integrated into the railbelt system.

2:34:50 PM

Co-Chair Thomas pointed out that the hydro in Metlakatla was over 100-years-old. He stressed that the facilities did not wear out and would last for many years. He communicated that the bill provided a balance of funding for regions across the state. He remarked that regional capital budget funding requests could be entered into the Capital Project Submission Information System (CAPSIS). He discussed that some projects AEA mentioned were further along because an energy consultant/ardor had been put in Southeast Conference. He recommended that communities with ardors should make sure the ardor was capable to help obtain funding for projects.

HB 250 was HEARD and HELD in committee for further consideration.

2:38:28 PM

AT EASE

RECONVENED
2:39:00 PM

#sb30
CS FOR SENATE BILL NO. 30(2d JUD)

"An Act providing for the release of certain property in the custody of a law enforcement agency to a crime victim under certain conditions and relating to requests for that release by the office of victims' rights."

2:39:00 PM

REPRESENTATIVE TAMMIE WILSON, CO-SPONSOR, provided opening remarks on SB 30:

Senate Bill 30 is about restorative justice.

When a victim of a crime has their property held as evidence by law enforcement agencies, it could be months or even years before they are able to have their possessions returned.

By holding a victim's property as evidence for a prolonged period of time, extra burden is placed on the property owner to replace what has been taken as evidence. The consequences are even higher for small business owners who may face bankruptcy if their property loss is a crucial component of their daily operations.

SB 30 will introduce a process for victims of property crime to petition the court for relief in recovering property held as evidence.

Representative Wilson elaborated that the bill was about a process that would enable victims to receive their property more quickly.

CHUCK KOPP, CHIEF OF STAFF, SENATOR FRED DYSON, addressed the sectional analysis (copy on file). He explained that currently the return of property was discretionary at the advocate attorney level; the return of property could take quite a bit of time if the attorneys did not agree. Often

crime victims were businesses and were therefore unable to complete a sale or were underinsured on a property, which could be very problematic. He referred to letters of support in member's packets (copy on file). The bill allowed a neutral decision maker the opportunity to weigh in on the decision and provided the victims with direct access to courts in order to ask the judge to determine whether the interests of the victim outweighed those of the other party. He read Section 1 of the sectional analysis:

1. Provides that a crime victim who is the owner of property in the custody of a law enforcement agency may request the agency for the return of their property through the Office of Victims' Rights (OVR).

2. OVR will file the request with the agency after conducting an investigation into the request to make an initial determination if the crime victim is entitled to return of the property being claimed under the requirements of proposed 12.36.070(c): the crime victim provides satisfactory proof of ownership, and the party that objects to the return of the property fails to prove that the property must be retained by the agency for evidentiary purposes.

3. Once OVR makes such a determination, they will request on behalf of the crime victim that the agency return the property.

4. Within 10 days after receipt of request and following reasonable notice to prosecution, defense and other interested parties, the agency will request a hearing before the court to determine if the property shall be released to the crime victim.

5. The court of jurisdiction is identified in cases involving a pending criminal case and in situations where no criminal case is pending.

6. Establishes the burden of proof to be a preponderance of the evidence, for both the crime victim showing ownership and the objecting party proving the property must be retained by the agency.

2:43:21 PM

Mr. Kopp continued to read from Section 1 of the sectional analysis:

7. Establishes that if the court orders the return of the property to the crime victim, the court may impose reasonable conditions on the return to maintain the evidentiary integrity of the property.

8. Identifies the term crime victim as having the meaning given to victim in AS 12.55.185, the Code of Criminal Procedure.

Mr. Kopp concluded with Section 2 of the sectional analysis:

1. Establishes within Title 24, Chapter 65 Office of Victims' Rights the authority of OVR to request a law enforcement agency for return of property on behalf of a crime victim claiming property after conducting an investigation as proscribed in AS 12.36.070(c).

2. Provides that the victims' advocate may use any of the powers granted to the advocate under Title 24, Chapter 65.

Representative Guttenberg wondered about the preponderance of evidence in the situations presented in the bill. He discussed multiple agencies involved. He wondered what would happen if there was a lien or judgment on property that an individual was trying to get back.

Mr. Kopp replied that the language "may order the return" was included on line 7, page 2 of the bill, which allowed flexibility on contested claims that the court could rule on. The preponderance of evidence language had been recommended by the Department of Law; it was more probable that a party deserved to have their property returned despite claims to the contrary by other parties. He delineated that the court could make a determination based on the provision in the bill or any other law that dictated when property could be released. He pointed to language "if the court orders the return of the property, the court may impose reasonable conditions on the return" (lines 14 and 15, page 2); the specific language was for situations where a person needed the property back quickly, but conditions were applied. Conditions could include: a returned item could not be sold or the condition of the item needed to be

maintained. He used a heavy piece of equipment as an example of an item that could be photographed and documented and returned to a business owner to allow them to commence business activities, but the court may ask the owner not to sell the item until the case was closed. The sponsor felt that the language was permissive and broad enough to allow the court the discretionary authority it needed in the situations.

2:47:22 PM

Co-Chair Thomas referred to a letter in the packet from Hal Ingalls (copy on file) who had a vehicle and equipment confiscated. He discussed deterioration that could result from leaving a vehicle to sit for too long. He wondered whether the bill required the state to return property in the same condition.

Mr. Kopp replied that the bill did not guarantee the condition of returned property. He explained that the legislation provided crime victims with an avenue to directly appeal to the court in circumstances when they could not get a party to agree to release their property.

Co-Chair Thomas read from the sectional analysis: "establishes that if the court orders the return of the property to the crime victim, the court may impose reasonable conditions on the return to maintain the evidentiary integrity of the property" (Section 1, line 7). He thought the court should return the property in its original condition. He wondered what the point would be to return a vehicle in a deteriorated condition.

Co-Chair Stoltze understood that the bill addressed a small portion of the problems experienced by property victims. He believed the process to a solution was incremental and recognized the hard work of the sponsor. He pointed out that small business owners could not absorb a loss of their only working vehicle or set of tools. He had heard anecdotal remarks by trade union members who were forced to take a loss because it was too cumbersome to deal with the legal system.

Mr. Kopp appreciated the comments and noted that it had taken three years to develop the current bill.

Vice-chair Fairclough referred the committee to letters of support from the Alaska Homebuilder's Association and the National Federation of Independent Businesses; both letters cited battles between the government and smaller businesses. She read an excerpt from a letter from Hal Ingalls, CEO, Denali Drilling, Inc., Anchorage:

> It has been 13 months since that accident with no police report or indication that we will be able to get our equipment back any time soon, nor are we able to make a settlement with the insurance company. If we were a smaller business than we are, we would be out of business by not having access to our equipment to continue to operate. Renting equipment to replace what is in impound until the case is settled would be a financial burden we would have to incur until the troopers complete their paperwork.

Vice-chair Fairclough noted that at present it had been 14 months since the accident had taken place. She observed that it was difficult to fight the government and that the bill provided a process to help individuals acquire their property. She believed that the bill would help with recourse in the event that property was damaged while in the possession of the government.

2:52:41 PM

Representative Costello asked whether the legislation would help Mr. Ingalls and others currently in the same position. Mr. Kopp replied in the affirmative.

Representative Costello spoke in support of the legislation.

ANDREW WALKER, OWNER, COMPUTER RENAISSANCE, SOLDOTNA (via teleconference), explained that in 2010 the company had been defrauded of a laptop with a bad check. He relayed that the $1,100 laptop had been sitting in police custody since the fraud had occurred. He had received his laptop during the last week, but the item value was worth less than half of its original value and had been damaged cosmetically during that time. He had tried to convince the court to remove the hard drive and to return the laptop, but that had not occurred. He explained that he was out the money as a business owner because of the court system and the associated delays. He expressed that it would have been

very helpful to have had an avenue to appeal in order to get his money back.

Co-Chair Stoltze thanked Mr. Walker for his time. Mr. Walker replied that he was happy to be part of anything that would help victims of crime get their property back in an expedient manner.

2:56:55 PM

VICTOR KESTER, EXECUTIVE DIRECTOR, ALASKA OFFICE OF VICTIMS' RIGHTS, LEGISLATIVE BRANCH (via teleconference), spoke in "enthusiastic" support of the legislation. He believed the bill provided a valuable tool for crime victims to attain the return of their property held during the course of criminal prosecution. He highlighted positive aspects of the legislation. He opined that the bill provided a balanced means for crime victims to seek return of their property thereby mitigating the costs associated with the underlying criminal activity. The legislation would allow crime victims to seek the return of their property in a timely manner in accord with principle decision making through the operation of OVR, the judicial branch of government, and other criminal justice agencies. The bill aligned with Article 1, Section 24 of the Alaska Constitution mandating that crime victims be treated with dignity, respect, and fairness in a criminal prosecution. He stated that the bill was fair and established a legal framework that would consider the institutional perspectives of the Department of Law, law enforcement, the judiciary system, and OVR before property was returned to a crime victim.

Mr. Kester discussed that the bill promoted restorative justice by putting the victim in the position they had been in prior to the crime and allowing them to move forward in a positive and constructive manner. He communicated that the bill amplified the victim's voice regarding the request for the return of their property and added clarity and specificity to the victim's constitutional rights. The bill required decision makers in a criminal prosecution to hear and consider a victim's voice regarding the return of their property. He believed that the justice was improved when a crime victim's voice was heard and considered in the criminal justice process. The bill helped victims that may lack the ability to hire a private attorney or who was unfamiliar with the legal process. The bill allowed the

expertise of OVR to assist crime victims with attaining their property. The office was dedicated to helping crime victims and sought to collaborate and cooperate with others throughout the criminal justice system. He discussed that there was a zero impact fiscal note. He thanked the committee for the ability to testify on the legislation.

3:01:02 PM

Co-Chair Stoltze CLOSED public testimony. He referred to the indeterminate fiscal note from Department of Law and zero fiscal notes from Department of Public Safety and the Legislature.

Representative Costello MOVED to report CSSB 30(2nd Jud) out of committee with individual recommendations and the accompanying fiscal notes.

Co-Chair Stoltze OBJECTED for purpose of discussion.

Representative Doogan wondered whether the faster return of property would impact a victim's insurance claims or ability to make a civil suit.

Representative Wilson hoped that the quicker receipt of property would help victims to take care of the issues sooner. She believed the legislation would result in fewer court cases because victims would have direct access to the courts and would receive their property more quickly.

There being NO further OBJECTION, it was so ordered.

CSSB 30(2nd Jud) was REPORTED out of committee with a "do pass" recommendation and with three previously published fiscal notes including, one indeterminate note: FN4 (LAW); and two zero notes: FN3 (DPS) and FN5 (LEG).

3:04:30 PM
AT EASE

3:07:33 PM
RECONVENED

#hb224
HOUSE BILL NO. 224

"An Act relating to the prohibition of selling or giving tobacco or a product containing nicotine to a minor unless prescribed by a licensed physician."

3:07:42 PM

Co-Chair Thomas MOVED to ADOPT proposed committee substitute for HB 224, Work Draft 27-LS0466\X (Gardner, 2/23/12).

Co-Chair Stoltze OBJECTED for discussion.

JOE MICHEL, STAFF, REPRESENTATIVE BILL STOLTZE, explained the changes in the CS. Language on page 1, line 13 had been changed from "under 18 years-of-age" to "under 19 years-of-age."

Co-Chair Stoltze asked whether the change was consistent with current tobacco statutes.

Mr. Michel replied in the affirmative. He communicated that a list had been inserted on page 2, line 5 of the CS:

(A) prescribed by a health care professional;

(B) given to a person by the person's parent or legal guardian;

(C) provided by a state-approved tobacco cessation program administered by the Department of Health and Social Services; or

(D) provided by a pharmacist to a person 18 years of age or older without a prescription.

Co-Chair Stoltze asked whether an explanation would be provided regarding the disparate age parameters (18 years-of-age and 19 years-of-age) included in the legislation. He noted that the definition of the word "is" included on page 2, line 5 did not need to be explained.

MARY JANE SHOWS, STAFF, REPRESENTATIVE PAUL SEATON, discussed that it had come to the sponsor's attention that there were new products containing nicotine.

Co-Chair Stoltze asked Ms. Shows to address the changes in the CS.

Ms. Shows explained that the language had been changed to "under 19 years-of-age" (page 1, line 13) to allow tobacco cessation programs to be accessible to youths who were 18 years-of-age or older. Changes in the bill addressed the concern that tobacco cessation programs had not been included in the list of people who could provide products. Additionally, 18 year-olds would be able to go directly to a pharmacist for a nicotine patch in order to quit using tobacco.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Work Draft 27-LS0466\X was ADOPTED.

3:12:11 PM

Representative Gara asked whether products provided by a pharmacist to a person 18 years-of-age or older would only be used to help the individual quit smoking. Ms. Shows replied in the affirmative. She explained that items (1) and (2) in the bill referenced products that could be used under the program that were for cessation only.

Representative Gara wondered about the necessity of the 18 years-of-age or older provision. He referenced youths under the age of 18 that wanted to quit smoking.

Ms. Shows replied that Andrew Harrington with Department of Law had cited concern that the prior bill version would prohibit 18 year olds from receiving the cessation products from a pharmacy. The language had been changed to under 19-years-of-age to ensure that 18 year olds would have accessibility to the products; individuals under the age of 18 could receive the products from their parents.

Representative Gara wondered whether 17 year olds could get a pharmacist prescription to help them quit nicotine. Ms. Shows replied in the negative; cessation programs would only provide literature to youths under 18 years-of-age. She expounded that the youth's parents or a physician could access and provide the product to the youth.

3:15:47 PM

Vice-chair Fairclough wondered whether there were any other products containing nicotine that would not be regulated. She referenced caffeinated energy drinks. She wondered

whether research had been done on other products that may contain nicotine and on concentration levels.

Ms. Shows replied that the issue had been brought to the sponsor's attention because of new nicotine dissolvables that were not regulated by the Federal Drug Administration (FDA). The products were currently being test-marketed in four or five states and included nicotine hand wipes, lozenges, water, tooth picks, and orbs. The bill would prohibit minors from purchasing the new products coming to the market.

Vice-chair Fairclough wondered whether research had been done to determine if other products contained nicotine. Ms. Shows replied that she could conduct the research and follow up with the information. She detailed that the research had been limited to the products that would be marketed as "non-cessation."

Co-Chair Stoltze asked how the sponsor had obtained the list of products that Ms. Shows mentioned. Ms. Shows replied that a Virginia youth action group had compiled an informative packet that had included the products.

Co-Chair Stoltze wondered whether the products were currently available. Ms. Shows responded that the products were currently in the test marketing phase in Ohio, Oregon, Indiana, Colorado, and North Carolina.

Representative Costello asked about a $300 fine included in the bill and wondered whether there had been discussion around increasing the fine in order to act as a deterrent.

Ms. Shows answered that there had been discussion of having the fine mirror a fine related to the sale of tobacco products; however, it was determined that the specific fine would make it onerous for businesses selling cessation products and would create a statutory problem. To avoid the difficulty, the fine had been limited to $300.

3:19:55 PM

Representative Gara clarified that the language included in the bill stated that the fine was "not less than $300." Ms. Shows agreed.

Co-Chair Stoltze referred to the zero fiscal notes.

Representative Gara asked whether the sale or gifting of nicotine products to a minor was a misdemeanor or a felony.

ANDREW HARRINGTON, ATTORNEY, COMMERCIAL/FAIR BUSINESS SECTION, DEPARTMENT OF LAW, (via teleconference), replied that the offence was a violation and did not reach the misdemeanor level.

Representative Gara asked for verification that the store would be committing a violation and not a crime.

Mr. Harrington responded that the individual clerk or employee making the sale would be responsible for the violation if they acted negligently. He detailed that under the parallel tobacco sale statute (AS 11.76.100) there were sanctions that could be imposed on the store if there was a negligent sale of tobacco to a minor; there was no parallel provision for the sale of other nicotine products because there was no endorsement required on the business license.

Representative Gara pointed to the language related to a fine of not less than $300. He wondered whether there was a cap on the maximum fine. Mr. Harrington replied that the maximum fine was $500.

Representative Gara queried whether the legislature could increase the cap on the fine. Mr. Harrington answered that there was no requirement for a public defender, jury trial, or other procedure protections that would accompany a misdemeanor or felony. The dividing line for how high the fine might before the Alaska Supreme Court determined that criminal protections would apply was not defined. He furthered that it may be constitutionally permissible to increase the $500 maximum, but at some point the fine would hit the constitutional ceiling.

3:25:03 PM

Representative Doogan asked whether the determination that an offense was a minor violation was related to the amount of money that could be levied against it or whether it was a separate function that was not connected to the amount.

Mr. Harrington replied that both items played a part. He explained that criminal statutes classified offenses as felonies, misdemeanors, or minor offences. Minor offenses

included violations and the maximum fine was $500; there was no jail time available for a minor offense. The legislature could amend the statute to change the maximum fine, but at some point due process protections would kick in, which would change the prosecution procedures and the fiscal note.

Representative Doogan surmised that the crime would have to be reclassified if the fine was increased substantially above $500.

Mr. Harrington replied that when the amount got high enough the crime would have to be reclassified. He did not believe there would be any problem increasing the fine to $400 or $500, but a conforming amendment may be necessary if the amount was higher. He furthered that the crime may need to be increased to a misdemeanor in order for criminal due process protections to kick in if the fine was increased substantially (e.g. to $1000 or $2000).

Co-Chair Stoltze noted that under the scenario the fiscal notes would change substantially. He asked the sponsor about the decision to set the minimum fine at $300.

REPRESENTATIVE PAUL SEATON, SPONSOR, explained that currently it was not illegal to distribute nicotine to minors; therefore, stores were not required to keep the products behind the counter and were not prohibited from selling the products to youths. The bill would help ensure that stores would be responsible for controlling any nicotine products they sold. He relayed that the bill represented a preemptive move to prevent minors from becoming addicted to nicotine; the $300 minimum fine helped to act as a deterrent without getting into the due process issue.

3:29:48 PM

Representative Edgmon wondered whether the $300 fine would apply towards the individual and the business that committed the crime.

Representative Seaton replied that the fine would be charged to the individual who sold the product. The fine was not a business tax and was not attached to the business license to avoid challenges from occupational licensing and to business licenses. He felt that the bill represented a

clean and financially reasonable way for the state to accomplish its goals without trying to increase the offense to a misdemeanor or felony, which would result in due process arguments.

Representative Edgmon thought that the legal definition of the word "person" expanded beyond a single individual.

Mr. Harrington replied that the term "person" could encompass a business; however, there was a practical limitation, given that in circumstances in which a product was negligently sold it would be relatively easy to show that an individual had been negligent because they had failed to check an ID. He furthered that it may be difficult to show that a business was negligent if it had policies and procedures in place that required employees to check for ID. He agreed that in some circumstances a case could be made against a business if it had not implemented procedures specifying that the sale of nicotine to minors was illegal. He noted that the occurrence was unlikely.

Representative Gara stated that the bill provided no incentive for businesses to train their employees because the employee held all of the responsibility. He wondered how the sponsor would feel about adding language that would fine a business if they negligently allowed an employee to sell nicotine products to minors.

Representative Seaton answered that there had been significant concern that things became very difficult if a violation was attached to the business license. He believed that if businesses knew that the sale of nicotine to minors was illegal that they would have to take measures to prevent minors from having access to the products (e.g. placing products behind the counter). He opined that rather than trying to include everything, the goal could be met by making the sale of the products illegal.

Representative Gara understood and agreed with the concern; however, he was concerned that all of the liability rested on employees.

3:36:10 PM

Representative Seaton replied that the products were not being test-marketed in Alaska. He believed that marketers would have a difficult time getting businesses to sell the

products in the state if the distribution of the products to the target audience was illegal. He opined that the direction of the legislation was a matter of perspective. He had found that concern about attaching a fine to a business license was great enough that it would have been difficult to garner enough support for the bill. He believed it was better to have a bill in place that showed businesses that there would be a $300 fine to an employee that sold the products to minors. He hoped the products would never come to Alaska.

Co-Chair Stoltze did not want to make the bill more complicated. He discussed that the bill was preemptive in nature and was a simple approach towards eliminating products that hopefully never made it to Alaska.

Representative Doogan clarified that his questions related to the amount of the fine had been informational.

Co-Chair Stoltze was happy the questions had been asked given that the information was informative.

Co-Chair Stoltze CLOSED public testimony. He pointed to two zero fiscal notes from the Department of Law and the Department of Health and Social Services.

Representative Gara would follow up with the sponsor to discuss his concerns that there should be an incentive for businesses to provide training to employees.

Vice-chair Fairclough discussed that Anchorage currently provided compliance; businesses had been shut down based on the sale of cigarettes to minors. She believed that procedures were currently in place and the bill would dovetail on the training requirements that were included in current law. She opined that the bill was a good preventative strike and hoped that the products would not make it to Alaska for sale.

Co-Chair Stoltze shared that he was proud of a business in Chugiak (Alice Mae's) for electing to limit the sale of tobacco products to individuals over the age of 21.

Vice-chair Fairclough MOVED to report CSHB 224(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 224(FIN) was REPORTED out of committee with a "do pass" recommendation and with one zero fiscal note from the Department of Health and Social Services and one zero fiscal note from the Department of Law.

3:42:20 PM
AT EASE

3:43:25 PM
RECONVENED

#hb302
HOUSE BILL NO. 302

"An Act repealing certain audit requirements for entities receiving contributions from permanent fund dividends."

3:43:43 PM

Co-Chair Thomas MOVED to ADOPT proposed committee substitute for HB 302, Work Draft 27-LS1264\I (Kirsch, 2/23/12).

Co-Chair Stoltze OBJECTED for purpose of discussion.

KACI SCHROEDER-HOTCH, STAFF, REPRESENTATIVE BILL THOMAS, explained that the CS added new Sections 1 and 2. Section 1 clarified that the University of Alaska was required to pay a $250 application fee to the Pick, Click, Give program for every program or campus that was submitted. Section 2 outlined that the university should apply for the program in a manner described by the department.

Co-Chair Thomas noted that the university had found a way to not pay the application fee for the Pick, Click, Give program in the past. The bill worked to treat applicants equally and required all applicants to pay the $250 fee. He discussed that there was a cost associated with running the program.

Representative Doogan asked for more detail on the term "university program."

Co-Chair Thomas noted that there were different programs within the university system.

Co-Chair Stoltze suspected that there were elements of the university that had more fundraising success than individual campuses.

Representative Doogan wondered how much it would cost the university if the fee was applied program by program.

Co-Chair Thomas explained that non-profit organizations included in the program all paid the fee to the Department of Revenue (DOR) to be listed as a recipient. He reiterated that the goal was to treat all applicants equally.

Co-Chair Stoltze discussed the minimum barrier fee requirement that had been set at $250 to show that an entity was a serious fund-raiser. Ms. Schroeder-Hotch responded in the affirmative.

Vice-chair Fairclough noted her support for the legislation. She discussed that the university was included in the drop down list in multiple areas. She clarified that the university would be required to pay $250 to receive the benefit of each of its advertising opportunities. She had received multiple solicitations from the university in her legislative and private email inboxes; somehow it had figured out how to avoid paying the $250 fee that non-profits were required to pay to the program.

3:48:43 PM

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Work Draft 27-LS126\I was ADOPTED.

REPRESENTATIVE PAUL SEATON, SPONSOR, discussed that the bill had been introduced because he had heard from a number of small non-profits including the Seward Senior Center. The center had a $260,000 budget; it had been participating [in the Pick, Click, Give program], but audit costs were $15,000 and it had only received approximately $8,000 in contributions. The question that arose was whether the audit was necessary for individuals to donate to a charity that was required to be a 501(c)(3). The program required entities to maintain their 501(c)(3) status, which involved the completion of the lengthy Internal Revenue Service (IRS) 990 form. There was a federal audit requirement that kicked in if the entity received over $500,000 in federal funds to distribute. There were multiple non-profits

throughout the state (Juneau Arts and Humanities Council, Seward Senior Center, Ketchikan library, etc.) that had difficulty with the $15,000 audit requirement and people had challenges donating to the entities when they were not included as non-profits on the Pick, Click, Give program lists. There had been a common misperception that if an entity did not appear on the program list that it was no longer a non-profit organization.

Representative Seaton explained that the bill proposed to delete the audit requirement for entities with annual budgets above $250,000 in order to provide equity for entities included in the program and to avoid confusion about an organization's non-profit status. He opined that that the mandatory annual IRS 990 form sufficiently satisfied all the necessary requirements.

3:52:02 PM

JORDAN MARSHALL, SPECIAL PROJECTS MANAGER, RASMUSON FOUNDATION, ANCHORAGE (via teleconference), thanked the committee for its support of the Pick, Click, Give program. He reported that presently $1.59 million had been contributed to the program since January 1, 2012 by more than 17,000 Alaskans, which was higher than the prior year's total; the program was on track to reach $2 million in donations to the 400-plus organizations and university campuses.

Mr. Marshall highlighted detail related to the program filing fee requirement. Every organization that participated paid an annual filing fee, which covered the cost of basic administration of the program including vetting the eligibility of applications, sending out checks, managing the online donation form, and providing technical assistance for non-profits wishing to enroll. The campuses of the University of Alaska were the only organization entities not paying the fee. The CS clarified that all names on the program list for permanent fund dividend charitable contributions were required to pay the filing fee to help pay the costs associated with administering the program.

Mr. Marshall clarified that the CS would allow each individual campus program to elect to pay the filing fee to be listed separately as a potential beneficiary. He added that it would be a non-profit's prerogative to decide

whether to submit an application for inclusion in the program.

Vice-chair Fairclough thanked Mr. Marshall for his work on the program. She wondered why other non-profits might not follow the example of the university and submit programs in $250 increments in order to be listed more frequently on the program list.

Mr. Marshall replied that each organization was only entered into the database once, but they could appear in several different categories depending on the search that an individual conducted when making a donation. He expounded that every organization only had one record, but it could be found in numerous ways depending on which search characteristics were applied. For example, a person searching for organizations based in Fairbanks would find each of the University of Alaska Fairbanks campuses and rural campuses listed; the campuses would also appear if the search was related to educational organizations.

3:57:44 PM

Vice-chair Fairclough referred to the Forget Me Not children program that was housed within the Anchorage Hospice program. She believed she had seen the various campuses listed differently in the drop-down menu. She thought the university was represented in more than just one form. She wondered whether she needed to direct other non-profits to start entering specific programs to the list.

Mr. Marshall responded that each of the university campuses were listed separately. Currently none of the programs were listed in the Pick, Click, Give program. There were a number of non-profits that listed a particular program as their common name; each organization had an option to be listed as their official name or a common name (e.g. Anchor Arms conducted business as Safe Harbor Inn and was typically listed as Safe Harbor).

Vice-chair Fairclough had heard several years earlier that a $500 filing fee came closer to covering the program costs than the current $250 fee. She wondered whether a $500 fee would be more appropriate.

Mr. Marshall replied that when the filing fee had been reset there had been a couple of years of data available to establish the program's basic administration costs. The $250 fee was a very good guess so that each organization was making that much or more through the program while paying for program costs. He relayed that to the best of his knowledge $250 had been proved to be an excellent number to enable DOR to carry out its work.

4:02:16 PM

MIKE WALSH, VICE PRESIDENT, FORAKER GROUP, FAIRBANKS (via teleconference), thanked the committee for the opportunity to speak on the legislation. He felt it was important to discuss the purpose of the program audit requirement, but the group did not have a position on the amount or removal of the program audit requirement. He was very happy to hear the update on the progress of the program. The initial idea of the legislation was to help Alaskans decide where their charitable dollars should be best spent. Another critical piece of the bill was related to talking about the ability of a non-profit to meet the IRS requirements of mission, fiduciary responsibility, legal responsibility, etc.; however, there had been no way to add an extra layer of confidence for a donor. He furthered that the idea behind the audit requirement was that it was an added level of scrutiny, which allowed for an outside opinion on the finances and general management principles of a non-profit organization.

Dr. Walsh discussed that the reason for the audit requirement was because donors wanted to have confidence that an organization would spend their funds well (i.e. being good stewards of the dollars and spending them in a way that made the most of the money). He believed the audit was also a very valuable tool for organizations whether or not they took part in the Pick, Click, Give program; it was valuable internally to help organizations track their management and financial practices and to meet the needs of external funders who were interested in management practices.

4:07:31 PM

Co-Chair Stoltze CLOSED public testimony. He referenced the zero fiscal note.

Co-Chair Thomas MOVED to report CSHB 302(FIN) out of committee with individual recommendations and the accompanying fiscal note.

Co-Chair Stoltze OBJECTED for discussion. He asked whether there were any amendments.

Vice-chair Fairclough mentioned she would work with the sponsor to determine whether one program could have multiple donation streams. She understood that a donation to the university as a whole could be used throughout the university; however, a donation to a specific university program could only be used for the particular program. She believed other non-profits should be provided the same opportunity if the university was allowed to list multiple programs in the Pick, Click, Give list.

There being NO further OBJECTION, it was so ordered.

CSHB 302(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from the Department of Revenue.

Co-Chair Stoltze discussed the schedule for the following day.

#
ADJOURNMENT

4:11:40 PM

The meeting was adjourned at 4:11 PM.