

HOUSE FINANCE COMMITTEE

April 13, 2012

9:12 a.m.

9:12:14 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:12 a.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 Mark Neuman
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

James Armstrong, Staff, Representative Bill Stoltze; Tim Lamkin, Staff, Senator Gary Stevens; Shyan Ely, Intern, Senator Lesil McGuire; Ben Mulligan, Special Assistant, Department of Fish and Game; Joe Michel, Staff, Representative Bill Stoltze; Kristen Peterson, Staff, Senator Hollis French; Matt Moser, Staff, Senator Johnny Ellis; Senator Johnny Ellis, Sponsor; Dan Branch, Senior Assistant Attorney General, Commercial/Fair Business Section, Department of Law; Curtis Thayer, Deputy Commissioner, Department of Commerce, Community and Economic Development; Amy Saltzman, Staff, Senator Lesil McGuire; Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law

PRESENT VIA TELECONFERENCE

Stephen Haycox, Professor of History, University of Alaska Anchorage; Terrence Cole, Professor of History, University of Alaska Fairbanks; Rod Arno-Palmer, Executive Director, Alaska Outdoor Council; Johanna Bales, Deputy Director, Tax Division, Department of Revenue

SUMMARY

CSSB 19(FIN)

PASSENGER VEHICLE RENTAL TAX

HCS CSSB 19(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from Department of Administration and one new fiscal impact note by the House Finance Committee for the Department of Revenue.

CSSB 23(FIN)

FILM PRODUCTION TAX CREDIT/AUDITS

HCS CSSB 23(FIN) was REPORTED out of committee with a "do pass" recommendation and with two new fiscal impact notes from the Department of Revenue and the Department of Commerce, Community and Economic Development and one new zero note from the Legislature.

[Note: The committee rescinded its action to report out HCS CSSB 23(FIN) on 4/14/12 and took corrective action. See House Finance Committee minutes dated 4/14/12, 10:25 a.m.]

SCR 24

COMMISSION ON 100TH ANNIV. OF LEGISLATURE

SCR 24 was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal impact note: FN1 (LEG).

CSSSSB 25(FIN)

AIDEA: SUSTAINABLE ENERGY/ INTEREST RATE

CSSSSB 25(FIN) was SCHEDULED but not HEARD.

CSSB 83(EDC)

TEACHER BOARD CERTIFICATION INCENTIVES

CSSB 83(EDC) was SCHEDULED but not HEARD.

CSSB 91(FIN)

SPORT FISHING GUIDING SERVICES

HCS CSSB 91(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from the Department of Fish and Game.

CSSB 119(L&C)

ATHLETIC TRAINERS

CSSB 119(L&C) was SCHEDULED but not HEARD.

CSSB 160(FIN)

BUDGET: CAPITAL

CSSB 160(FIN) was HEARD and HELD in committee for further consideration.

CSSB 182(EDC)

PUPIL TRANSPORTATION FUNDING

CSSB 182 (EDC) was SCHEDULED but not HEARD.

CSSB 210(FIN)

CRIMES AGAINST CHILDREN/ SUPPORT/CINA

CSSB 210(JUD) was REPORTED out of committee with a "do pass" recommendation and with one new indeterminate fiscal note from Department of Corrections and four previously published indeterminate notes: FN1 (DOA), FN2 (DOL), FN4 (DOA), FN5 (CRT); and two previously published zero notes: FN3 (DPS), FN6 (DOA).

[9:12:20 AM](#)

#sb160

CS FOR SENATE BILL NO. 160(FIN)

"An Act making and amending appropriations, including capital appropriations, supplemental appropriations, and other appropriations; making appropriations to

capitalize funds; and providing for an effective date."

JAMES ARMSTRONG, STAFF, REPRESENTATIVE BILL STOLTZE, explained that he was currently working with Legislative Finance on drafting a committee substitute in the next couple of hours.

CSSB 160(FIN) was HEARD and HELD in committee for further consideration.

[9:15:07 AM](#)

#scr24

SENATE CONCURRENT RESOLUTION NO. 24

Establishing the Alaska Legislative Celebration Commission to organize events to commemorate the 100th anniversary of the first convening of the legislative branch of government in Alaska.

TIM LAMKIN, STAFF, SENATOR GARY STEVENS, presented a PowerPoint, "SCR 24: The 100-Year Commission Celebrating the Alaska Legislature" (copy on file). He stated that on March 3, 1913, the first convening of the first legislature of Alaska occurred.

Mr. Lamkin displayed slide 1. The photo was of downtown Juneau taken in 1905. He remarked that Juneau was densely crowded, with not much useable land. He stated that in 1911, the United States Congress authorized the funds to build a capitol building for use by the legislature. Because of World War I and land shortage, the construction of the Capitol was stalled for 16 years. For the first sixteen years, the legislature met in various halls in downtown Juneau.

Mr. Lamkin displayed slide 2, and explained that the photo was taken in September, 1929. The building in the photo was the former governor's office, and it was torn down to make room for the new Capitol.

Mr. Lamkin discussed slide 3. The photo was of the same site as the former governor's office, facing the Gastineau Channel. He pointed out the car on the right side of the photograph, and stated that this photo was from the beginning of the Capitol construction in 1929.

Mr. Lamkin displayed slide 4. He explained that approximately a year and a half after the Capitol construction began the building was dedicated as the "Territory and Federal Building."

Mr. Lamkin discussed slide 5, and stated that the photo was of the Alaska House of Representatives from 1913 in the Juneau Elks Hall. He remarked that the Elks Hall was originally three floors. It was his understanding that the Senate met on one floor, and the House of Representatives met on another floor.

Mr. Lamkin displayed slide 6, "First House of Representatives Committee Structure." There were originally 15 standing committees, with 16 members that sat on all of the committees:

1. Banks and Banking, Corporations (including Municipal)
2. Committee on Committees
3. Education, Public Health, Quarantine, and Morals
4. Elections, Election Laws, and Mileage
5. Engrossment and Enrollment
6. Fisheries, Fish, Game, and Agriculture
7. Judiciary and Federal Relations
8. Labor, Capital, and Immigration
9. Mining and Manufacturing
10. Printing
11. Roads and Highways
12. Rules
13. Territorial Institutions
14. Transportation, Commerce, and Navigation
15. Ways and Means and Contingent Expenses

Mr. Lamkin stated that he did not believe that there was a Revenue-type committee at that time, because the legislature had very limited powers. Every item that the legislature examined and determined needed to be approved by congress.

Mr. Lamkin discussed slide 7, "A Sampling of the Session Laws of 1913." He explained that the first legislature passed 84 bills and 111 resolutions in 60 days. He highlighted some of the laws. He remarked that the legislature passed a law allowing women the right to vote, several years before congress. He pointed out five more

notable laws that were passed in the first legislature of Alaska:

- "An Act to Prevent the Desecration of the Flag of U.S., and to Provide Punishment For Carrying Flags in Public Parades or Flying Them From Buildings Under Certain Conditions"
- "An Act to Require Hotels and Lodging Houses to be Provided With Fire Escapes, Ropes, and Other Appliances"
- "An Act to Prevent Employees from Being Oppressed by Reason of an Employer Compelling Them to Board at a Particular Boarding House, or to Purchase Goods or Supplies at a Particular Store."
- "An Act to Establish Juvenile Courts, to Provide For the Care of Dependent Children, and to Create Childrens' Guardians in Alaska..."
- "An Act to Prevent the Spread of Contagious Disease Among Livestock"

Mr. Lamkin discussed slide 8, "A Sampling of Session Laws of 1913." He discussed six more laws of note from the first legislature of Alaska:

- "An Act to Provide For the Registration of Persons Employed to Advocate or Oppose Legislative Measures, and to Regulate the Method of Such Advocacy or Opposition"
- "An Act to Provide For the Compulsory Education of the Children of Alaska..."
- "An Act to Fix the Liability of Employers For Personal Injuries Sustained by Their Employees"
- "An Act Prohibiting the Casting of Sawdust, Planer Shavings, and Other Lumber Waste Into the Waters of Alaska..."
- "An Act to Provide Punishment For Pimps or Macques"
- "An Act to Create a Board of Commissioners to Provide For a Home for Aged Prospectors in Interior Alaska"

Co-Chair Thomas wondered if the Flag Act had been repealed since the first Alaska legislature. He remarked that he had recently visited the Treadwell Ice Arena, and noticed that the U.S. flag was level with the Canadian flag. He made a complaint with an employee at the Ice Arena, and was told that they receive that complaint many times. He told the employee that veterans would be "very upset" to see the

U.S. flag flying equal to a foreign country's flag. Mr. Lamkin replied that he assumed that the flag act had been amended, but was not sure.

Mr. Lamkin looked at slide 9, which was a photo of the first territorial senate in 1913, in what he assumed was the second floor of the Elks Hall. Elwood Brunner, pictured in the front and left-hand side of the photo, was the first president pro-tem of the Alaska State Senate. He also served as the Rules Committee Chairman.

[9:23:14 AM](#)

Co-Chair Stoltze requested a description and intent of the fiscal note attached to the bill. Mr. Lamkin replied that the purpose of the fiscal note was to allow the legislature some flexibility in spending on the project. Other organizations were contacted to determine a reasonable figure, in order to shape the logistics of bringing legislators and state officials from around the state together for the celebration.

Co-Chair Stoltze surmised that the geographical references were intended for the purpose of estimated the fiscal note. Mr. Lamkin agreed.

Co-Chair Stoltze hoped to not spend the amount of money represented in the fiscal note. He thought it should be a community based celebration, like the statehood celebration. Mr. Lamkin agreed.

Representative Doogan felt the focus should really about the whole history of Alaska, and not just the legislature. He read part of the bills that passed during the first Alaska legislature, and related a personal story.

[9:29:41 AM](#)

STEPHEN HAYCOX, PROFESSOR OF HISTORY, UNIVERSITY OF ALASKA ANCHORAGE (via teleconference), testified in support of SCR 24. He felt that it was important for education in Alaska. Before the legislature was held in 1913, Alaska was effectively ruled by the "federal bureaucracy." James Wickersham, who supported the formation of a legislature, was very committed to the idea of "government by the consent of the governed." He remarked that the formation of

the first legislature was an important step towards Alaska statehood.

Representative Edgmon stated that Professor Haycox was his history teacher in 1984.

[9:33:35 AM](#)

TERRENCE COLE, PROFESSOR OF HISTORY, UNIVERSITY OF ALASKA FAIRBANKS (via teleconference), testified in support of SCR 24. He stated that James Wickersham stopped the territory from being ruled by Washington D.C. He remarked that this resolution was not party-based, but merely a narrow focus on a part of state history education. He felt it is important to remind Alaskans of this particular aspect of Alaska history.

Co-Chair Stoltze appreciated Terrence Cole's publications.

Representative Doogan related another personal story.

Co-Chair Stoltze closed the public testimony.

Representative Neuman recalled that there was \$25,000 left over from the Alaska Statehood Celebration. He thought that that money may have been placed in an endowment. He wondered if that money could be used toward SCR 24.

Representative Guttenberg hoped that the archives from the celebration of the 100th anniversary of the first legislature would be easily accessible for future generations.

[9:40:36 AM](#)

Co-Chair Thomas MOVED to report SCR 24 out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SCR 24 was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal impact note: FN1 (LEG).

[9:41:03 AM](#)

AT EASE

[9:45:16 AM](#)

RECONVENED

#sb91

CS FOR SENATE BILL NO. 91(FIN)

"An Act amending the termination date of the licensing of sport fishing operators and sport fishing guides; and providing for an effective date."

SHYAN ELY, INTERN, SENATOR LESIL MCGUIRE, explained that SB 91 extended the sunset date of the sport fish guide licensing and reporting program, and provided an effective date. Legislation for this program was first passed in 2004, and was proven beneficial to the sport fishing industry. It required licensing and regulation of sport fishing operators, guides, and vessels. The program has provided an average of 1,541 sport fishing business licenses, and 1,828 sport fishing guide licenses annually. She stated that 90 percent of licenses were Alaska residents. The sport fishing guide industry had taken more than 2.6 million clients fishing from 2005 to 2010 totaling more than 625,000 guided fishing trips in Alaska. Guided sport fishing had become an integral part of Alaska's tourism economy. In 2007, \$1.39 billion was spent on licenses and stamps; trip-related expenditures; fishing packages; equipment; and real estate used for fishing. This spending supported more than 15,879 jobs in Alaska, and provided \$545.3 million in income. She explained that SB 91 provided accurate counting for Alaska's harvested resources. Federal law for guided halibut sport fishing was tied to the Alaska Sport Fishing log books, and failure to keep the program in place would likely result in the development of a federal log book for halibut, therefore creating duplication of efforts at a later date. Alaska is exempt from participating in the National Oceanic and Atmospheric Administration (NOAA) Fisheries Saltwater Angler Registry Program, in part, as a result of the information collected through the sport fishing guide licenses and reporting program. She reiterated that SB 91 extended the sunset date of the program.

Co-Chair Thomas MOVED to ADOPT the proposed committee substitute for CS SB 91 (FIN), Work Draft 27-LS0550\M (Bullard, 3/16/12).

Co-Chair Stoltze OBJECTED for purpose of discussion.

Representative Neuman wondered if the guide log book calculations were up to date.

BEN MULLIGAN, SPECIAL ASSISTANT, DEPARTMENT OF FISH AND GAME, replied that the log books were up to date.

[9:50:09 AM](#)

ROD ARNO-PALMER, EXECUTIVE DIRECTOR, ALASKA OUTDOOR COUNCIL (via teleconference), testified in opposition to SB 91. He did not believe that the Department of Fish and Game (DFG) had administrated the program well. He stated that he was in support of the program, but could not support a four-year extension. He stressed that he was not supportive of the program taking money from guide-less fishermen.

Mr. Mulligan stated that DFG funds were used for the program, and the cost program administration was greater than the set fees. He stressed that a large percentage of sport fishermen use guides, and the log book data helps DFG harvest surplus, without being too conservative.

Co-Chair Thomas wondered if DFG had the ability to observe and record the activities of the average sport fisherman. Mr. Mulligan replied that DFG conducts creel surveys and an annual sport fish survey.

[9:54:25 AM](#)

Co-Chair Stoltze MOVED to ADOPT Amendment 1.

Amendment 1

On page 1 line 8

Delete "2017" Insert "2015"

Representative Doogan OBJECTED for purpose of discussion.

Co-Chair Stoltze explained that the amendment would extend the program for 2 years rather than 4 years. He remarked that he keeping the program extended for a shorter period of time would cause the legislature to continue to evaluate the effectiveness of the program.

Representative Doogan wondered if the amendment would cause a substantive change in the program. Mr. Mulligan replied that changing the extension from four years to two, would result in a more relevant evaluation.

Representative Doogan wondered, again, if the amendment would make a substantive change to the bill. Mr. Mulligan replied that the amendment would not make a substantive change to the bill.

Representative Doogan WITHDREW his objection. There being NO further OBJECTION Amendment 1 was adopted.

Mr. Mulligan spoke to the fiscal note attached to the bill. He said that the fiscal note reflected the original proposed extension to January 1, 2017. Now that the amendment was adopted, the fiscal note will change by removing FY 16 and FY 17.

[9:57:23 AM](#)

Representative Wilson how many people administer the program. Mr. Mulligan replied that he did not know the exact number of people who administer the program. The process is spread out among people who have multiple duties and responsibilities.

Co-Chair Thomas MOVED to report HCS CSSB 91(FIN) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HCS CSSB 91(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from the Department of Fish and Game.

[9:58:14 AM](#)

RECESSED

[4:37:01 PM](#)

RECONVENED

#sb19

CS FOR SENATE BILL NO. 19(FIN)

"An Act specifying the vehicle rental tax for motorcycles and motor-driven cycles; and providing for an effective date."

[4:37:37 PM](#)

Vice-chair Fairclough MOVED to ADOPT proposed committee substitute for CSSB 19(FIN), Work Draft 27-LS0157\I (Luckhaupt, 4/13/12).

Co-Chair Stoltze OBJECTED for purpose of discussion.

JOE MICHEL, STAFF, REPRESENTATIVE BILL STOLTZE, explained the changes in the work draft. The 3 percent tax for motorcycles was removed from the previous version of the bill. Page 3, line 11, Section H stated that "a motorcycle or motor-driven cycles as those terms are defined in AS 28.90.990."

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Work Draft 27-LS0157\I was adopted.

Co-Chair Stoltze wondered if the bill sponsor was pleased with the changes in the CS.

KRISTEN PETERSON, STAFF, SENATOR HOLLIS FRENCH, responded that the bill sponsor and Alaskan motorcyclists were pleased with the changes.

Vice-chair Fairclough wondered if the CS would cause any changes to the current fiscal notes. Ms. Peterson replied that there would be a \$3400 loss from the DOR fiscal note.

Vice-chair Fairclough pointed to the second page of the DOR fiscal note, "the state receives approximately \$12,000 each year in vehicle rental tax from the rental of motorcycles in the state of Alaska." She felt that the accurate reflection on the fiscal note would be a negative \$12,000 on FY 13 to FY 18.

Co-Chair Thomas MOVED to report HCS CSSB 19(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCS CSSB 19(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from Department of Administration and one new fiscal impact note by the House Finance Committee for the Department of Revenue.

4:41:51 PM
AT EASE

4:43:18 PM

RECONVENED

#sb23

CS FOR SENATE BILL NO. 23(FIN)

"An Act relating to transferable film production tax credits and film production tax credit certificates; requiring the legislative audit division to audit the Alaska film production incentive program; and providing for an effective date by amending the effective dates of secs. 3 and 4, ch. 63, SLA 2008."

4:43:28 PM

Vice-chair Fairclough MOVED to ADOPT proposed committee substitute for CSSB 19(FIN), Work Draft 27-LS0252\XX (Bullock, 4/13/12).

Co-Chair Stoltze OBJECTED for purpose of discussion.

Representative Costello highlighted the changes in the work draft. The work draft incentivizes the Alaska Hire program. The program was separated into two main sections. One section referred to those in the film industry who were considered "above the line", which include producers, directors, writers, and editors; and the other section referred to workers considered "below the line." The "below the line" workers referred to electricians, caterers, and much of the behind the scenes workers on film sets. She stated that the "below the line" section sustained the base tax rate at 30 percent overall, extended the program for ten years, and continued the funding at the current level at \$200 million. The Alaska Hire bonus was doubled from 10 percent to 20 percent. The House Labor and Commerce incentive for rural Alaskans would be set at 6 percent, which was higher than the current program. The 2 percent incentive remained the same for films that were produced in the off-season.

Co-Chair Thomas clarified that the 6 percent incentive was "additional" to the current incentive.

Representative Costello stated that the work draft removed the 44 percent cap on the credits. The first scripted television show to produce 16 episodes would be

incentivized, because episodic television brought more jobs over the long term. The "above the line" credit had been tied to Alaska Hire, and required spending on Alaska businesses. The base rate for the "above the line" credit was 5 percent, so companies could earn a higher credit by hiring Alaskans and patronizing Alaska businesses. Fifty percent of the amount that is spent on the wages and benefits to Alaskans and Alaska business, would be credited in the "above the line" section

[4:48:45 PM](#)

Representative Costello stressed that she wanted Alaskans involved in the film productions that were produced in the state. The bill aimed to increase the credibility of the review process by creating the Alaska Film Incentive Review Commission, housed in DOR. Four commissioners would sit on the commission, including the commissioners from DOR, DNR, DOL, and DCCED. A majority of the members of the commission must approve the script and summary of the pre-qualifying process.

Co-Chair Stoltze wondered if the commissioners from those departments were the actual commissioners, or designees. Representative Costello responded that the commissioners would be the actual commissioners from those departments.

Representative Costello stated that the administrative function of the program was put into DOR, because it is a tax program. The promotion portion of the program would be kept in DCCED, which is the department that was marketing Alaska's development. A 75 cents on-the-dollar buy-back option was included in the work draft to provide some certainty for some smaller productions that may not be able to find a corporate tax payer who could buy the credit. The credit was adjusted to remove competition with the private sector, but also provide some stability. In addition, people were no longer allowed to broker the credit. She looked at page 13, lines 9 through 11, "The commission may not approve an application for a film production that the commission finds is contrary to the natural resource development policy of the state."

[4:51:59 PM](#)

Representative Doogan asked for more information regarding page 13, lines 9 through 11. Representative Costello

explained that currently the program required a review of the script to ensure that there was nothing in conflict with Alaska's constitution. That portion of the program remained the same, but language was changed from "shall" to "will." By elevating the review board to the commissioner-level, it added some additional accountability in the review of the scripts.

Representative Doogan asked for an explanation about why the script could not be against the natural resource policy of the State. Representative Costello replied that an example would be that the film could not include an overview of fracking and its damage to the environment, when the state was possibly considering fracking technology in the state.

Co-Chair Stoltze furthered that it would be anything produced by Michael Moore.

Representative Doogan wondered if this would be considered censorship.

[4:55:15 PM](#)

Representative Costello replied that the only time that the issue of censorship was brought to the committee's attention, was in relation to people who testify in public hearings. She stated that there was nothing that could prevent freedom of speech. However, in terms of "censoring scripts", the State had an interest in reviewing the scripts for the credit. There were several items in the bill that the commission would be considering, and happened to include Alaska's natural resources. Ninety percent of Alaska's state government was funded from oil production. The State had an interest in protecting its ability to develop resources responsibly, without encouraging a public relations campaign that could be detrimental to that effort.

Representative Doogan wondered what would happen if a person provided a script to the commission, and the script was rejected because it did not "toe the party line", and therefore the film company sued the State. He wondered if this would be defensible in court. Representative Costello deferred to Co-Chair Stoltze.

Co-Chair Stoltze replied that he did not believe it was considered "free speech" if the State was paying for it.

Representative Doogan stressed that he was concerned whether or not this change was "protected legal ground." Co-Chair Stoltze replied that he only wanted to pass the bill if it was considered "protected legal ground."

Representative Gara believed the legislation was important, and shared the concerns of Representative Doogan. He referred to a movie entitled, "Salmonberries." Someone could have made the case that the movie made Kotzebue look bad, or someone could say that the movie "opened peoples' eyes" to a different part of the world. He was concerned about allowing a State bureaucrat to determine whether or not a movie was in the best interest of the state. He added that censorship was also an issue in this discussion, because he felt that the commission would be too partisan.

[4:59:13 PM](#)

AT EASE

[4:59:37 PM](#)

RECONVENED

Representative Doogan remarked that he did not want to have a political debate.

[4:59:52 PM](#)

AT EASE

[4:59:59 PM](#)

RECONVENED

MATT MOSER, STAFF, SENATOR JOHNNY ELLIS, stressed that the purpose of the bill was economic development. He remarked that there was a provision in the bill that did not allow pornography.

Co-Chair Stoltze remarked that Senator Ellis inserted the provision on pornography, and Senator Ellis did not believe that the provision on pornography was not considered "censorship." Mr. Moser agreed.

Representative Neuman looked at page 4; lines 16 through 19, regarding the total number of tax credits in aggregate may not exceed \$100 million for a qualified production. He

wondered if that was \$100 for only one production. Mr. Moser replied that the intention was that there were \$100 million in credits available for the first five years of the program, and \$200 million in credits in the second ten years of the program.

Representative Neuman wondered if the \$100 million was the total amount of credits the State would provide, or if it was for one individual production. Mr. Moser replied that he had not had a chance to look at the draft, but it should say \$200 million for "productions" qualified under AS 44.25.120.

Representative Neuman surmised that it was a cumulative number. Mr. Moser agreed.

Representative Gara understood that the side effect of the "best interest of the state" issue would be a side effect of attracting tourism in the state. Mr. Moser agreed.

Representative Gara commented that there did not have to be an agreement for every provision of the bill, and accepted Mr. Moser's response.

Co-Chair Stoltze would hold the bill to get an opinion from Department of Law on the censorship issue.

Co-Chair Stoltze CLOSED public testimony.

5:04:50 PM

RECESSED

6:45:14 PM

RECONVENED

SENATOR JOHNNY ELLIS, SPONSOR, addressed most recent concern with language in the bill. The committee substitute elevates the script review of television and film production scripts to the commissioner level, and he supported that change. He stressed that the Alaska Constitution requires the development of Alaska resources for the maximum benefit of the people. So, if there was ever a film or television project that was antithetical to the Alaska Constitution and its purpose, the project could be appropriately prohibited. The Parnell administration and Alaskans should turn down movies or documentaries that were not in the best interest of the people.

Co-Chair Stoltze thanked Senator Ellis.

Representative Neuman MOVED to ADOPT Amendment 1:

On page 4 line 16
Delete "a production"
Insert "productions"

On page 4 line 18
Delete "a production"
Insert "productions"

Representative Neuman explained that the amendment represented the money as a cumulative amount and not per production.

Senator Ellis approved the amendment.

[6:52:19 PM](#)

DAN BRANCH, SENIOR ASSISTANT ATTORNEY GENERAL, COMMERCIAL/FAIR BUSINESS SECTION, DEPARTMENT OF LAW, introduced himself.

Representative Doogan asked the way the bill is drafted in a way that certain people could make a decision not to fund a production and wanted to know whether that is legal. Mr. Branch replied that the language was legal. The reason is because the bill does not restrict speech but the way the state decides to spend its money.

Representative Neuman MOVED to ADOPT Amendment 1. There being NO OBJECTION it was so ordered.

[6:55:18 PM](#)

Vice-chair Fairclough asked for clarification pertaining to the fiscal notes attached to the bill. She pointed out that the fiscal notes reflected an addition of \$100 million; she understood that the intention was to add \$200 million.

Representative Costello replied that page 2 of the Department of Revenue fiscal note, under the section "revenues," declared that the bill would increase the total tax credit from \$100 million to \$200 million, and was not a correct reflection of the bill. She explained that the

legislation intended to increase the credit from \$100 million to \$300 million because of the addition of \$200 million over the next ten years. She concluded that the fiscal note would need to be changed to reflect the intended fiscal impact of the bill.

Vice-chair Fairclough interjected that the legislation would affect the DOR's taxation division. She spoke to fiscal note #3, dated 4/13/2012, 5:45p.m. She purported that the projected spending from FY14 to FY18 increased funding to support 4 positions: \$460,000 in FY14; \$448,400 in FY15 through FY18. She noted that the bill language referenced in the analysis should be changed to reflect a \$200 million tax credit between 2013 and 2023. Additionally, the total accumulation should be changed to \$300 million. She pointed out that the revenues section of the analysis should be changed to reflect increases in the total tax credits from \$100 million to \$300 million. She explained that it would allow for approximately \$20 million in tax credits, per year, over three separate 5 year periods. She relayed that under expenditures it should be noted that there were 2 positions that DOR was proposing to be transferred in, and 2 that were additions.

Vice-chair Fairclough discussed the NEW fiscal note, which affected the Department of Commerce, Community and Economic Development (DCCED). She shared that the department was proposed to spend between FY13 and FY 18; \$281.200, with 2 full-time positions.

Vice-chair Fairclough stated that the NEW fiscal note, which was allocated to the Legislative Audit Division, reflected zero fiscal impact.

Co-Chair Stoltze wondered if DOR had been assisting DCCED with tax auditing.

CURTIS THAYER, DEPUTY COMMISSIONER, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, replied that DOR was currently assisting with the tax certification portion of the program.

Vice-chair Fairclough requested further explanation of the two additional auditing positions discussed on the DOR fiscal note under expenditures.

Mr. Thayer responded that the department currently had two people helping to manage the program that the department wished to retain. The fiscal note proposed that the two positions remain within DCCED because the department was responsible for the promotion, follow-up, coordination, and the marketing of the film program.

Co-Chair Stoltze maintained confusion as to where the extra work was being generated that required the two additional positions.

Mr. Thayer deferred the question to DOR.

Co-Chair Stoltze asked if the new positions would have been necessary if the program were handled exclusively by DCCED.

Mr. Thayer responded that the auditing had been done by the business development specialist. He said that when the program was originally designed, DCCED handled the pre-qualifications, the auditing function of going through the applications, and the final application. He stated that DCCED had turned those responsibilities over to DOR. He furthered that DCCED had also been responsible for the marketing function and the coordination functions, which had been split up because it was believed that the same individual should be doing the auditing and handling the pre-qualifications at the same time.

[7:01:57 PM](#)

JOHANNA BALES, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE (via teleconference), understood that the bill created an executive director position to work with the newly created review commission. Additionally, the bill required an on-site liaison to consult producers on large productions, which had necessitated the creation of the second position.

Representative Costello commented that the intent was not to have a full-time liaison position.

Co-Chair Stoltze suggested that the fiscal note would need to be adjusted according to interpretation of the bill.

Representative Costello thought that it would be prudent to reduce the number of positions, and to keep in

communication with the department as staffing needs were brought to light.

[7:04:32 PM](#)

Vice-chair Fairclough directed attention to the fiscal note from DOR, which suggested the extraction of two employees from DCCED; however, the same two positions were also listed on the fiscal note for DCCED. She stated that from a legislative perspective, the additional two people had not been anticipated. She said that she understood why DOR would want one dedicated person, requested further explanation of the DCCED request for 2 additional positions.

Mr. Thayer replied that the purpose of the film production promotion program was to work with organizations in the private sector for expansion and development of the film production industry in the state; to promote Alaska as an appropriate location of a film production; to provide production assistance through connecting film directors, makers, and producers with Alaska location scouts and contractors, including contractors providing assistance with permit applications. He stated that those responsibilities were currently covered by DCCED in addition to the pre and post application. He understood that the fiscal note requested 2 positions but that the department often had 4 or 5 people splitting duties to handle all of the aforementioned activities. He testified that as deputy director he had dedicated, at one point, 20 percent of his working day to this program.

Representative Gara understood that the department currently had liaisons that promote Alaska. He wondered where the extra work for the department was going to come from. Mr. Thayer replied that the work would continue with the existing amount of employees.

Representative Gara thought that that the fiscal notes could be zeroed because most of positions were being transferred between agencies. Mr. Thayer reiterated that the program had the promotional component, the pre application component and the final application part of the program. He said that some of the workload was still being handled by, and would remain in the department by statute.

[7:07:52 PM](#)

Vice-chair Fairclough moved to amend the DOR fiscal note; FY14 through FY18, \$230.200 and 2 positions. She believed that the money would fund one Tax Auditor III (Range 20) and one Tax Technician ii (Range 12).

Ms. Bales asked about the provision in the bill that expects an executive director consult the newly formed commission and to oversee the staff of the Film Office.

Representative Costello interjected that there was currently an individual within DCCED that was serving in the position. She stressed that it had not been the intent of the subcommittee to hire a new executive director.

Co-Chair Stoltze asked if the handling of the position was to be left up to the department.

Representative Costello responded that the bill stated that the departments should work together to determine how the position was filled.

Representative Doogan understood that the fiscal notes could be improved by requesting two positions in DOR and two in DCCED. Vice-chair Fairclough replied that that was the intent of her motion.

[7:10:51 PM](#)

Representative Gara expressed confusion as to why DCCED needed the two new positions. He felt that DOR needed two new positions for taxes, and there was obvious coordination.

Vice-chair Fairclough explained that DOR had not been doing audits; Legislative Audit had been handling audits from the legislative side. The effort would now move to DOR; DCCED would continue to work with DOR, as well as continuing to promote and interface in a variety of ways to put the Film Office to work for the state of Alaska. She said that the request from DCCED had been that the committee would recognize that if the program was successful DOR would need to be involved. She added that the functionality could be revisited in 2013.

Vice-chair Fairclough asked if there was any reason why the executive director should not reside in the Film Office.

Mr. Bales stated that she saw no reason why the executive director could not reside in the Film Office. She felt that DOR would be content with two auditor positions to oversee the applications.

Vice-chair Fairclough stated that the subcommittee had been trying to establish a working arrangement that provided transparency for the film industry and for the credits being used.

Ms. Bales explained that there was a provision in the legislation that stated that the executive director must oversee the staff. She thought that there should be a separation of duties written into legislation.

[7:14:10 PM](#)

Representative Wilson thought that the fiscal note from DCCED would not add two more positions, but would maintain an already established full-time development specialist, and a full-time administrative assistant II; detailed half-time to the film promotion program. She queried what the other half-time duties would include. Mr. Thayer responded that the administrative assistant to the program would additionally serve as the administrative assistant for DCCED in Anchorage.

Representative Wilson understood that the two positions already existed and were not being created. Mr. Thayer replied that the department remain at the status quo.

[7:15:26 PM](#)

AT EASE

[7:18:03 PM](#)

RECONVENED

Representative Costello MOVED to report HCS CSSB 23(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered

HCS CSSB 23(FIN) was REPORTED out of committee with a "do pass" recommendation and with two new fiscal impact notes from the Department of Revenue and the Department of Commerce, Community and Economic Development and one new

zero note from the Legislature. [Note: The committee rescinded its action to report out HCS CSSB 23(FIN) on 4/14/12 and took corrective action. See House Finance Committee minutes dated 4/14/12, 10:25 a.m.]

[7:19:41 PM](#)

AT EASE

[7:23:37 PM](#)

RECONVENED

#sb210

CS FOR SENATE BILL NO. 210(FIN)

"An Act relating to crimes against children; and providing for an effective date."

AMY SALTZMAN, STAFF, SENATOR LESIL MCGUIRE, remarked on some changes that were made in the House Judiciary Committee. She highlighted Sections 1 through 4.

Section 1 amends the crime of Assault in the 3rd Degree under AS 11.41.220(a) (1) (C) and 11.41.220(a) (3) by changing the age of the victim from under 10 to under 12 years old. AS 11.41.220(a)(1)(C) currently prohibits a person (18 years or older) from recklessly causing physical injury to a child under 10 years of age that would cause a reasonable person to seek medical care, or causes physical injury on two or more occasions. The bill would change the victim's age to less than 12 years old.

Section 2 amends the definition of "serious physical injury" in for purposes of the law prohibiting assault in the 1st, 2nd, 3rd, and 4th degrees and for reckless endangerment. It does so by expanding the definition of serious physical injury as it applies to injury to victims under 12 years old. It adds the following: Physical injury to a person under 12 years of age that causes A) Serious disfigurement; B) Serious impairment of health, by extensive bruising or other injury that would cause a reasonable person to seek medical treatment from a health care professional in the form of diagnosis or treatment; or C) Serious impediment of blood circulation or breathing. This broadened definition will allow for increased criminal liability for crimes committed on children under the age of 12.

This change recognizes a child's faster ability to heal from serious injuries that may not be included in the current definition of serious physical injury.

Section 3 amends the crime of endangering the welfare of a child in the first degree by adding the prohibition of recklessly failing to provide adequate amounts of food or liquids to a child, causing protracted impairment to a child's health. This change will increase criminal liability for offenders that harm children by withholding food or liquids.

Section 4 would adopt a class C felony for the crime of endangering the welfare of a child in the first degree by recklessly withholding adequate amounts of food or liquids to a child.

[7:28:48 PM](#)

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW, looked at Sections 5 through 18.

Sections 5 - 7 amend the law (AS 12.47.040 and 12.47.060) addressing procedures for persons found to be guilty of a crime but mentally ill, by clarifying that the decision that the person is guilty but mentally ill must be made by the jury, by proof beyond a reasonable doubt, unless the defendant waives this requirement. Under AS 12.47.050(d), a person incarcerated and found guilty but mentally ill and still receiving treatment for a mental illness, is not eligible for parole release or furlough. For this reason, *Blakely v. Washington*, 542 U.S. 296 (2004) (*Blakely*) requires the decision relating to whether a person is guilty but mentally ill to be made by the jury by proof beyond a reasonable doubt.

Section 8 amends AS 12.55.025(i), addressing sentencing procedures, to clarify that while the burden of proof in sentencing proceedings is generally by a preponderance of evidence, under AS 12.55 there are numerous statutes that specify a different burden of proof.

Section 9 and 10 provides that when a defendant enters into a plea agreement that calls for a specific term

of probation or a specific term of suspended incarceration, the court, in a probation revocation proceeding, cannot unilaterally terminate or reduce those terms, except by the amount of incarceration time imposed for the offense that is the basis of the probation violation.

When a court imposes sentence for a probation violation in these cases, the court is not obligated to impose the full amount of remaining suspended time, but rather must consider the nature of the probation violation in light of applicable sentencing law and impose an appropriate sentence, subject to the caveat that its authority to impose an appropriate sentence does not include the authority to terminate or reduce the term of probation or the suspended term of imprisonment.

[7:33:42 PM](#)

Representative Neuman looked at page 4, lines 4 and 5. He relayed a story about children who were abused by their grandparents. The children chose to live in a van and in the yard outside of their house, because they were so afraid of their grandparents. He wondered if this bill would "cover" this kind of instance. Ms. Carpeneti replied that it would depend on the facts of the case. In order to prove a crime under SB 210, there would need to be proof that the grandparents consciously disregarded the children, and ignored the harm that their conduct had inflicted on the children. It would also depend on their culpable mental state.

Representative Neuman looked at Section 6, pertaining to insanity. He felt that people who allowed their grandchildren to sleep outside should be considered mentally ill.

[7:37:35 PM](#)

Ms. Carpeneti replied that this bill does not address the affirmative defense of insanity. She stressed that the facts needed to be evaluated for each individual case. She stated that many cases had been brought to her attention, and felt that many of the people involved in the case had shocking behavior, especially pertaining to children.

Representative Neuman referred to another bill that he was working on that addressed some of the same issues. He remarked that some people who abuse children "feel" their behavior is appropriate, so therefore should be considered "insane." He wondered how the court determined if someone was "insane."

Ms. Carpeneti reiterated that insanity was not addressed in the legislation, but offered to read the Alaska statute that addressed the insanity issue.

Co-Chair Thomas asked them to speak about the issue after the meeting. He stressed that the focus should be on the subjects in SB 210.

Representative Gara was comfortable with most of the bill, but asked about Section 10. He asked for verification that the provision only applied to plea agreements. Ms. Carpeneti responded in the affirmative.

Representative Gara surmised that the plea agreement was one-year time-served in jail and four years of probation. If the defendant commits a probation violation, the provision states that the probation period must remain the same as was agreed during the original plea agreement. The court could not intervene during the probation violation hearing to reduce the length of probation below what was agreed at the initial plea agreement. Ms. Carpeneti agreed.

Representative Gara concluded that the provision did not grant the court authority to add more probation or sentencing time, other than the jail time accrued for violating the probation. Ms. Carpeneti replied in the affirmative. She elaborated that the provision did not allow the court reduce the suspended time that was original agreed upon, except to the extent that the court may sentence as a result of the probation violation.

Representative Guttenberg wondered about the replacement of the words "jury" and "court" with the words "fact finder." He wondered if that change was substantive or technical. Ms. Carpeneti responded that the change was technical, because the law required that the jury find certain factual matters in sentencing. Often, a defendant will waive the jury determination of a particular fact.

Representative Doogan referred to lines 4 and 5 on page 4. He stated that there were several elements to the bill: the behavior must be reckless; and the restriction of food or liquids should be considered "adequate." He felt that the pay-off in the section was resulting in protracting impairment of the child's health; which implies that one could be reckless with a child and restrict nutrition, but if that behavior did not result in a protracted impairment of the child's health the caregiver could not be prosecuted. Ms. Carpeneti replied in the affirmative. She stated that there was another law that addressed "failure to provide support" that was more general. The purpose of raising the conduct to this level in the occasion where there was a result in harm to the child was to distinguish from the current law. There was also a concern regarding the possible issue of parents sending their children to bed without dinner, or similar circumstance. She stressed that it was a class C felony, and therefore "serious behavior."

[7:44:16 PM](#)

Representative Doogan asked how long the abuse had to occur to be considered "protracted impairment of the child's health." Ms. Carpeneti replied that word "protracted" was part of the definition of "serious physical injury." It was not a new term for criminal law, but agreed to provide further case law that may be instructive.

Representative Doogan assumed it would not be illegal for a caregiver to send a child to bed without dinner. Ms. Carpeneti agreed.

Representative Neuman asked whether there were ways to strengthen the legislation. Ms. Carpeneti replied that there were many discussions regarding the child protection provisions. She remarked that the terms "physical serious injury" and "serious physical injury" had been a part of Alaska state law since 1978. The Child Protection Task Force had recommended changes, those suggestions were carefully considered. There was an issue regarding how quickly children heal, so sometimes a very serious injury to a child may not be protracted. She pointed out that the Department of Law had worked with the bill sponsor and the House Judiciary Committee, examining the issue with the public defender and the American Civil Liberties Union. The vocabulary in the bill was a compromise.

[7:47:26 PM](#)

Representative Neuman felt that the issue should be reexamined in the future.

Co-Chair Thomas made a comparison between someone who is texting while driving, and the issues in SB 210. Ms. Carpeneti replied that SB 210 addressed assault issues.

Co-Chair Thomas thought maybe the texting penalties had been too light. Ms. Carpeneti responded that the texting law containing graduating penalties, so if someone is killed as a result of texting, that person is subject to prosecution for a class A felony.

Ms. Carpeneti discussed Sections 11 through 18.

Sections 11 and 12 amend AS 12.55.125 (sentences of imprisonment for felony convictions) to clarify that factual findings (1) that result in a mandatory term of imprisonment of 99 years for conviction of murder in the first degree; (2) result in a term that would preclude a defendant from being awarded good time under AS 33.20.010(a) - for example, a person sentenced under the "three strikes" law; or (3) would increase the presumptive sentencing range - for example, a person convicted of a class A felony who possessed a firearm - must be made by a jury by proof beyond a reasonable doubt, unless the defendant waives this requirement.

Section 13 provides that if one aggravating factor has been established, either by the court or the jury as required by law, additional aggravating factors may then be determined by the court by clear and convincing evidence rather than by the jury. The finding of one aggravating factor authorizes the court to sentence an individual up to the maximum term provided by law. An additional aggravating factor cannot increase the maximum term anymore; thus the Blakely decision does not require that additional factors to be decided by a jury by proof beyond a reasonable doubt.

Sections 14 and 15 make conforming amendments to the changes described in Sections 9 and 10.

Sections 16 and 17 describe the indirect court rule changes and the applicability provisions.

Section 18 would adopt a task force to study the crimes of human trafficking, promoting prostitution (sex trafficking). It would require that the task force prepare a report describing the number of these cases reported to law enforcement in the state since 2007, the number of cases prosecuted under Alaska law, the number of cases investigated by local and federal law enforcement agencies, and the services available to victims of human trafficking.

Ms. Saltzman explained that the task force would consist of representatives from the Department of Law, the Department of Public Safety, the Department of Health and Social Services, and two members appointed by the governor representing non-governmental health and social service agencies that provide services to victims of human trafficking. The task force would report to the legislature on January 15, 2013, and would provide the following information: the number of human trafficking cases reported to the state and local law enforcement agencies since 2007; the number of human trafficking cases prosecuted under Alaska state law; the number of human trafficking cases state and local law enforcement agencies have investigated in cooperation with the federal law enforcement agencies; and the services that are currently available in the state for victims of human trafficking, including services provided by state agencies, federal agencies, non-governmental agencies, and other assistance related to safe housing and legal services. She remarked that there was separate legislation on human trafficking, and noted that the addition of the task force in SB 210 was to greatly inform the legislature in order to help the victims.

Ms. Carpeneti furthered that the House Judiciary Committee had amended the task force provision to become a "fact finding" task force, for human trafficking and sex trafficking.

Vice-chair Fairclough hoped that the task force would work with the Immigration Project and other agencies to examine the human trafficking issues. She relayed a story about a man who had been convicted of sex trafficking.

[7:55:16 PM](#)

Co-Chair Thomas CLOSED public testimony.

Vice-chair Fairclough discussed the fiscal notes: Department of Corrections indeterminate, Department of Administration zero, Court System indeterminate, Department of Administration indeterminate; Department of Public Safety zero, Department of Law indeterminate, Department of Administration indeterminate. She discussed the possibility of zeroing out the fiscal notes.

Co-Chair Stoltze was content with the indeterminate fiscal note.

Representative Doogan wondered if there was financing for the task force. He did not see the cost anywhere in the fiscal notes.

Ms. Carpeneti replied that the duty was assigned to the Department of Law. She explained that the task force was intended for fact gathering. She remarked that a few thousand dollars were usually used for travel for the members of the task force.

Co-Chair Stoltze surmised that travel was probably included in the Department of Law's budget.

[7:59:57 PM](#)

Representative Neuman felt it was appropriate to zero out the fiscal notes, because the Department of Law should be creating task forces on their own. He called it "a part of (their) job."

Vice-chair Fairclough opposed the idea of zeroing out the fiscal note. She elaborated there were back-up documents to explain why the fiscal notes were indeterminate.

Representative Edgmon agreed with Vice-chair Fairclough.

Representative Doogan understood why the fiscal notes were indeterminate. The law was being changed in a way that should cost more money. He did not believe it was a "blank check", to continually request indeterminate notes. As long as the bill did what it was intended, he did not care about the cost.

Co-Chair Thomas had closed public testimony earlier.

8:05:29 PM

Representative Gara wondered if he could ask a question to the public defender. Co-Chair Thomas replied that the public defender was unavailable.

Vice-chair Fairclough MOVED to report CSSB 210(JUD) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered

CSSB 210(JUD) was REPORTED out of committee with a "do pass" recommendation and with one new indeterminate fiscal note from Department of Corrections and four previously published indeterminate notes: FN1 (DOA), FN2 (DOL), FN4 (DOA), FN5 (CRT); and two previously published zero notes: FN3 (DPS), FN6 (DOA).

#sb25

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 25(FIN)

"An Act establishing the sustainable energy transmission and supply development program in the Alaska Industrial Development and Export Authority; relating to the interest rates of the Alaska Industrial Development and Export Authority; and relating to taxes paid on interests in property owned by the Alaska Industrial Development and Export Authority and to the local contribution for public education funding related to that property."

CSSSB 25(FIN) was SCHEDULED but not HEARD.

#sb83

CS FOR SENATE BILL NO. 83(EDC)

"An Act providing for payment and loan incentives to public school teachers for national board certification."

CSSB 83(EDC) was SCHEDULED but not HEARD.

#sb119

CS FOR SENATE BILL NO. 119(L&C)

"An Act relating to athletic trainers."

CSSB 119(L&C) was SCHEDULED but not HEARD.

#sb182

CS FOR SENATE BILL NO. 182(EDC)

"An Act amending the amount of state funding provided to school districts for pupil transportation."

CSSB 182 (EDC) was SCHEDULED but not HEARD.

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ADJOURNMENT

8:06:44 PM

The meeting was adjourned at 8:06 PM.