

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 12, 2011

4:24 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Craig Johnson, Vice Chair
Representative Mike Chenault
Representative Dan Saddler
Representative Steve Thompson
Representative Lindsey Holmes
Representative Bob Miller

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Chris Tuck

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE 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."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 23

SHORT TITLE: FILM PRODUCTION TAX CREDIT/AUDITS

SPONSOR(S): SENATOR(S) ELLIS

01/19/11	(S)	PREFILE RELEASED 1/7/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	L&C, FIN
02/17/11	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/17/11	(S)	Heard & Held
02/17/11	(S)	MINUTE(L&C)

02/22/11 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 02/22/11 (S) Moved SB 23 Out of Committee
 02/22/11 (S) MINUTE(L&C)
 02/23/11 (S) L&C RPT 4DP 1NR
 02/23/11 (S) DP: EGAN, DAVIS, PASKVAN, MENARD
 02/23/11 (S) NR: GIESSEL
 03/21/11 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/21/11 (S) Heard & Held
 03/21/11 (S) MINUTE(FIN)
 04/04/11 (S) FIN RPT CS 7DP NEW TITLE
 04/04/11 (S) DP: HOFFMAN, STEDMAN, THOMAS, EGAN,
 MCGUIRE, OLSON, ELLIS
 04/04/11 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/04/11 (S) Moved CSSB 23(FIN) Out of Committee
 04/04/11 (S) MINUTE(FIN)
 04/06/11 (S) TRANSMITTED TO (H)
 04/06/11 (S) VERSION: CSSB 23(FIN)
 04/07/11 (H) READ THE FIRST TIME - REFERRALS
 04/07/11 (H) L&C, FIN
 04/08/11 (H) L&C AT 3:15 PM CAPITOL 106
 04/08/11 (H) Heard & Held
 04/08/11 (H) MINUTE(L&C)
 04/10/11 (H) L&C AT 3:15 PM BARNES 124
 04/10/11 (H) -- MEETING CANCELED --
 04/11/11 (H) L&C AT 3:15 PM BARNES 124
 04/11/11 (H) Heard & Held
 04/11/11 (H) MINUTE(L&C)
 04/12/11 (H) L&C AT 4:15 PM BARNES 124

WITNESS REGISTER

BARBARA HUFF TUCKNESS, Director
 Governmental and Legislative Affairs
 Teamsters Local 959
 Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 23.

WANETTA AYERS, Director
 Anchorage Office
 Economic Development Section
 Department of Commerce, Community & Economic Development (DCCED)
 Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of SB 23.

JOHANNA BALES, Acting Director
 Tax Division

Anchorage Office
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of SB 23.

KONRAD JACKSON, Staff
Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained potential amendments to SB 23.

KATE TESAR, Director of Business Development
Evergreen Films
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 23.

ACTION NARRATIVE

[4:24:10 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 4:24 p.m. Representatives Olson, Thompson, Holmes, Miller, Chenault, Johnson, and Saddler were present at the call to order.

SB 23-FILM PRODUCTION TAX CREDIT/AUDITS

[4:24:26 PM](#)

CHAIR OLSON announced that the only order of business would be SENATE BILL NO. 23, "An Act relating to transferable film production tax credits; and providing for an effective date by amending the effective dates of secs. 3 and 4, ch. 63, SLA 2008."

[4:24:59 PM](#)

BARBARA HUFF TUCKNESS, Director, Governmental and Legislative Affairs, Teamsters Local 959 (Teamsters) referred members to a letter of support that outlines the reasons for the Teamsters Local 959's support for SB 23. She stated that her organization has observed firsthand a significant increase in employment with the passage of the bill several years ago. She expressed excitement over the proposed extension of the film production tax credits. She said the Teamsters look forward to potential training, since a limited number of Alaskans have the skills needed. She commented that the Teamsters Local 959 is "behind"

anything with "wheels" pertaining to the film industry. She hoped the bill would pass out today.

[4:27:01 PM](#)

WANETTA AYERS, Director, Anchorage Office, Economic Development Section, Department of Commerce, Community & Economic Development (DCCED), stated the department has vetted some of the changes in the current committee substitute and has provided comments. She offered to answer questions.

[4:27:37 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 23.

CHAIR OLSON removed his objection. There being no further objection, Version G was before the committee.

The committee took an at-ease from 4:28 p.m. to 4:30 p.m.

[4:30:14 PM](#)

REPRESENTATIVE JOHNSON asked for clarification on the letter from the Department of Revenue (DOR) dated April 12, 2011.

JOHANNA BALES, Acting Director, Tax Division, Anchorage Office, Department of Revenue (DOR) expressed concern that the proposed committee substitute would allow the film credit to be applied to all the other tax types administered by the DOR. She brought up that the language in Version G may create some unintended consequences which could affect municipal revenue sharing, dedicated funds, and other programs. In some programs, such as the cigarette taxes, specific tax revenue has been identified to fund different activities within the state. She suggested that the committee may wish to consider that opening the bill up to other tax types may have some unintended consequences.

[4:31:54 PM](#)

REPRESENTATIVE JOHNSON asked whether taxpayers could buy the tax credits for cigarette taxes and not deposit money into the education fund as required under the tax laws.

MS. BALES related her understanding that taxpayers who owe cigarette taxes could purchase film tax credits and reduce their cigarette tax liability. A portion of the cigarette taxes are

designated to the school fund and the remaining is deposited in the state's general fund. She was unsure if any of the reduction as a result of the film credit would affect the amount of the school fund since the taxpayer could potentially reduce its entire liability for cigarette taxes. She suspected provisions in the bill would affect the school fund and probably the general fund, too. She pointed out that these are some of the DOR's questions with the bill. The cruise ship taxes present another example. Currently, the department participates in revenue sharing with the first seven ports of call, and the remaining amounts are designated to the Commercial Passenger Vessel Tax Account (CPVTA), which is required to be used for harbor improvements to facilitate cruise ship tourism. If taxpayers used the tax credits, the department could still revenue share since the taxes are based on \$5 per port of call. However, it is possible insufficient revenue would remain to deposit to the CPVTA. Thus, funds may not be available for harbor improvements.

[4:34:06 PM](#)

REPRESENTATIVE JOHNSON asked for a list of dedicated revenue accounts.

MS. BALES responded that taxpayers could purchase the film credits. In the event all of the taxpayers for gambling taxes opted for film credits, revenue would not be available to deposit into the specific account, she said. The department has specific programs that could be affected with respect to specific sub-accounts within the general fund. She indicated that 50 percent of the alcoholic beverage tax is designated to the Department of Health and Social Services to fund alcohol cessation programs. It is possible the program could receive less revenue unless a specific, additional appropriation was made. She remarked that the list of taxes is actually fairly long since rarely are 100 percent of the taxes collected deposited to the state's general fund.

[4:35:59 PM](#)

REPRESENTATIVE CHENAULT asked whether the film tax credit would also apply to motor fuel taxes collected in the state.

MS. BALES answered yes. All motor fuel taxes collected on behalf of the state are deposited into separate sub-accounts in the general fund. However, the aviation fuel tax collected is deposited to the Aviation Fuel Account, which is shared with

local municipalities that own the municipal airports. Additionally, the bill would apply to the highway fuel taxes, which are deposited to a special Highway Use Account, she said.

REPRESENTATIVE CHENAULT related his understanding that the department's concern is by establishing the film tax credit in Title 43 might short fund municipalities on airports and road projects based on fuel tax credits alone.

MS. BALES agreed. She suggested the committee review each of the tax types to ensure that the state provides the appropriate mechanism to ensure the historical level of funding for programs could be maintained.

REPRESENTATIVE CHENAULT pointed out that the legislature could always "backfill" the account with general fund provided excess general funds existed.

MS. BALES answered yes.

[4:39:27 PM](#)

The committee took an at-ease from 4:39 p.m. to 4:45 p.m.

[4:45:49 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, on behalf of the House Labor and Commerce Standing Committee chaired by Representative Olson, related that he planned to describe four potential amendments the committee could consider to address issues discovered after Version G was prepared. He referred to proposed Amendment 1, labeled 27-LS0252\G.1, Bullock, 4/12/11, which read:

Page 6, line 10, following "accountant":
Insert ", licensed in the state and"

Page 6, line 11, following "office":
Insert ",""

MR. JACKSON explained that the intent of proposed Amendment 1 is to ensure that the certified public accountants used to audit the film production tax credit program are licensed by the state to operate in Alaska.

[4:46:42 PM](#)

MR. JACKSON referred to Amendment 2, labeled 27-LS0252\G.2, Bullock, 4/12/11, which read:

Page 7, line 11, following "(10)":

Insert "subject to the limitation in (c) of this section,"

Page 7, following line 27:

Insert a new bill section to read:

"* **Sec. 19.** AS 44.33.236 is amended by adding new subsections to read:

(c) The qualified expenditures described in (a)(10) of this section may not exceed

(1) 15 percent of the total production budget after June 30, 2013, and before July 1, 2016;

(2) 12 percent of the total production budget after June 30, 2016, and before July 1, 2018; and

(3) 10 percent of the total production budget after June 30, 2018.

(d) For the purposes of (c) of this section, "total production budget" means the sum of the total qualified expenditures and the total expenditures that are not qualified expenditures that are incurred by the producer in connection with a film production approved by the film office."

Renumber the following bill sections accordingly.

MR. JACKSON explained that proposed Amendment 2 would be to limit some of the above the line expenses and expenditures. This process is a stepped process that would go into effect beginning in 2013, 2016, and 2018, he said.

[4:47:29 PM](#)

MR. JACKSON referred to proposed Amendment 3, labeled 27-LS0252\G.3, Bullock, 4/12/11, which read:

Page 8, line 30:

Delete "2024"

Insert "2029"

Page 8, line 31:

Delete "one year"

Insert "six years [ONE YEAR]"

MR. JACKSON referred to page 7, line 29-30 of Version G, which changes the dates of the "look back" period for legal proceedings from one year to six years for recovery of funds. Proposed Amendment 3 would change one of the dates from July 1, 2024 to July 1, 2029. The date was inadvertently missed in proposed Section 24 of Version G, he said.

[4:48:21 PM](#)

MR. JACKSON referred to proposed Amendment 4, labeled 27-LS0252\G.4, Bullock, 4/12/11, which read:

Page 3, line 9:

Delete "this title"

Insert "AS 21.09.210, AS 21.66.110, AS 43.20, AS 43.55, AS 43.56, AS 43.65, AS 43.75, and AS 43.77"

MR. JACKSON indicated that proposed Amendment 4 is specific to the Department of Revenue. This proposed amendment would scale back the potential credit or a portion of the credit to offset taxes imposed from all taxes to some specific taxes in Title 43, which is based on the current Alaska education tax program. The programs that would qualify would be Alaska Corporate Income Tax, the Fisheries Business Tax, the Fishery Resource Landing Tax, the Title Insurance Premium Tax, the Mining License Tax, Oil and Gas Production and Transportation Tax, and the Oil and Gas Property Tax. He reiterated that the intent of Amendment 4 would be to make the credits more salable and more valuable to enhance the film program.

[4:50:31 PM](#)

MS. BALES clarified she could not speak to insurance taxes. She related her understanding that the Alaska Corporate Income Tax, the Mining License Tax, and Oil and Gas Production are deposited to the state's general fund so they seem fine. However, the way the Fishery Resource Landing Taxes are shared, any tax credits would reduce revenue sharing to those municipalities. Currently, there are some other credits that can be taken against the Fisheries Business Tax and Fishery Resource Landing Tax but specific language exists that indicates revenue sharing happens before the credit are taken. She said that the committee would need similar language to ensure that revenue sharing to municipalities would not be affected.

CHAIR OLSON asked for written comments to hand out to the committee.

MS. BALES agreed to do so.

[4:52:08 PM](#)

REPRESENTATIVE JOHNSON asked for clarification on the percentage of the tax credit on the dollar. He asked whether the department has any ideas on the amount.

MS. BALES responded that the department is not privy to those types of transactions and are only asked to transfer the credit at its face value.

REPRESENTATIVE JOHNSON asked whether the tax credits could be purchased for ten cents on the dollar and could substantially reduce the taxes.

MS. BALES stated that while the taxpayer could buy the credit at ten cents on the dollar, it would not affect the face value of the credit and what can be applied against the tax liability. She related a scenario in which the DOR would issue a tax credit for \$1 million, and if the tax credits sold for \$100,000, the department would still apply \$1 million in tax credits.

[4:53:27 PM](#)

REPRESENTATIVE CHENAULT recalled prior legislation on tax credits. He decided he would research the legislation himself.

MS. AYERS stated that anecdotally the department has heard the tax credits market value ranges from 75 to 80 percent at the low end. She stated that someone holding the tax credit certificate has the incentive to try to sell the tax credit for the highest price possible. She offered her belief that parties would take into account the right amount of holding time. She reiterated that at this point the department has heard that 75 to 80 percent falls in the normal range. She commented that the department does not have a mechanism to track that at this time.

[4:55:12 PM](#)

MS. AYERS referred to proposed Amendment 2, and related the department would prefer time to digest the limitations to the qualified expenditures. She related her understanding of the committee's desire to address the limitation for "above the line

expenses" within film production and how the credit would apply. She expressed concern that going from 100 percent to 15 percent, that the possible impact it could have on productions currently queued up and for the future viability of the program. She questioned the impact the bill could have on the viability for Alaska script writers who may be compensated under these terms once the industry matures. These types of terms could be more likely to benefit a production without on-screen talent, such as those films that rely largely on scenic or digital production rather than the types of feature film productions that Alaska hopes to attract. The attraction of the feature films would be preferable due to the spin off ability for Alaska's businesses.

CHAIR OLSON suggested the department should provide its comments as soon as possible.

4:56:49 PM

KATE TESAR, Director of Business Development, Evergreen Films, stated that Evergreen Films is currently in negotiations with parties and has been considering credits at 85 to 90 cents on the dollar, which is closer to the range the tax credits have been selling. She noted that the production companies are not likely to give away the commodity. She clarified that the company definitely wants the highest rate possible. She predicted that as these tax credits become more available, the prices will rise. The whole point of the credit is to provide incentives to attract film productions to come to Alaska and make films.

CHAIR OLSON asked whether she thought the tax incentive credits were working.

MS. TESAR answered yes. She clarified that earlier discussions the committee discussed, quoting lower percentages is definitely not something that Evergreen Films would be interested in doing. Evergreen Films would not consider selling its credits at the rates mentioned. In fact, if the company did not get the rate it wanted from one buyer it would seek another buyer, she said.

CHAIR OLSON asked whether proposed Amendment 4 would assist film production companies.

MS. TESAR responded that Evergreen Films supports the language that mirrors the education tax credits. She shares the concerns that Ms. Bales expressed with respect to revenue sharing. She elaborated that some discussions are ensuing since it is not

Evergreen Film's intent to adversely affect any communities. She related her understanding that the education language has been in effect for 25 years and has not impacted communities thus far. The intention of the bill is to expand the tax credits for companies doing business in Alaska but not to adversely impact communities, she said.

[SB 23 was held over.]

[5:00:01 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:00 p.m.