

HOUSE FINANCE COMMITTEE
March 12, 2014
9:07 a.m.

9:07:00 AM

CALL TO ORDER

Co-Chair Austerman called the House Finance Committee meeting to order at 9:07 a.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Mark Neuman, Vice-Chair
Representative Mia Costello
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Lindsey Holmes
Representative Cathy Munoz
Representative Steve Thompson
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Daniel George, Staff, Representative Bill Stoltze; Brodie Anderson, Staff, Representative Steve Thompson.

SUMMARY

HB 266 APPROP: OPERATING BUDGET/LOANS/FUNDS

CSHB 266(FIN) was REPORTED out of committee with a "do pass" recommendation.

HB 267 APPROP: MENTAL HEALTH BUDGET

CSHB 267(FIN) was REPORTED out of committee with a "do pass" recommendation.

HB 306 EVAL. INDIRECT EXPENDITURES; TAX CREDITS

HB 306 was HEARD and HELD in committee for further consideration.

#hb266

#hb267

HOUSE BILL NO. 266

"An Act making appropriations for the operating and loan program expenses of state government and for certain programs, capitalizing funds, and making reappropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund."

HOUSE BILL NO. 267

"An Act making appropriations for the operating and capital expenses of the state's integrated comprehensive mental health program."

[9:07:13 AM](#)

Co-Chair Stoltze MOVED to REPORT CSHB 266(FIN), 28-GH2671\Y out of committee with individual recommendations.

Co-Chair Austerman OBJECTED for discussion.

Representative Gara discussed an amendment he had submitted the prior day that had failed. The amendment related to cuts to substance abuse treatment. He pointed to high drug addiction rates in Alaska. He relayed that the state had a massive shortage of residential treatment options for heroin addiction treatment in the state. He elaborated that people with major drug addictions were only willing to seek treatment for a short period of time and that treatment should be available when the addict was ready. He stated that heroin users committed felonies. He shared that not a single male had been treated in the Anchorage methadone clinic in the past year. The cuts would cause increased agony, child abuse, prosecutor costs, jail costs, domestic violence, court costs, and other problems. Waiting lists in the treatment centers had already been lengthy; the cuts would increase the wait.

Representative Gara stressed that \$1 million should not be taken from residential treatment and put in outpatient

treatment. Those needing residential treatment had severe addictions; outpatient treatment would not be successful for the individuals. He understood the pressure on the Department of Health and Social Services (DHSS) subcommittee chair to make cuts with the least damage possible, but he could not support the cuts. He believed the past three years of cuts should be reversed.

Representative Guttenberg discussed that he and his colleague had offered multiple amendments the prior day that had failed. He relayed that the state needed to invest in its children who would become the future of the state. He stated that Alaska continued to be a rich state with resources in oil, gas, mining, timber, and fisheries. He stressed that the committee had a big responsibility and needed to take its job seriously. He thought that the committee should examine the repercussions of budget cuts to services such as drug treatment centers to determine whether it impacted the Department of Corrections budget. He believed the legislature needed to address problems holistically. He spoke about the success of the therapeutic court programs. Society set the agenda and the legislators had to address the issues. He acknowledged the difficulty of the issues and believed that the dialogue needed to continue.

[9:20:14 AM](#)

Representative Costello thanked the committee for its hard work on the budget. She voiced that by the time current kindergarteners were in high school most of the state's savings will have been spent on Medicaid and education spending.

Co-Chair Stoltze followed on Representative Costello's comments. He stated that the budget reality was sobering. He detailed that, if the budget was all consumed by Medicaid and education expenditures there would be no other budget options. He discussed efforts to curtail budget growth. The process had been painful and the state was looking at unsustainable budgets for the future. Reducing the budget below the governor's level had been a source of angst for the committee.

Co-Chair Austerman thanked committee members for their work on the budget. He understood how difficult it had been to make budget cut recommendations. Given the current

financial situation the decisions were pertinent to future goals. He thanked the departments for their work. He expected the budget decisions to get harder in the future.

Co-Chair Austerman WITHDREW his OBJECTION.

There being NO further OBJECTION CSHB 266(FIN) was REPORTED out of committee with a "do pass" recommendation.

Co-Chair Stoltze MOVED to REPORT CSHB 267(FIN), 28-GH2673\O out of committee with individual recommendations.

There being NO OBJECTION CSHB 267(FIN) was REPORTED out of committee with a "do pass" recommendation.

[9:27:21 AM](#)

AT EASE

[9:29:42 AM](#)

RECONVENED

#hb306

HOUSE BILL NO. 306

"An Act relating to tax credits and administration of tax credit programs; requiring the Department of Revenue to report indirect expenditures; relating to the duties of state agencies; requiring the legislative finance division to analyze certain indirect expenditures; relating to lapse dates for appropriations for capital projects; repealing certain statutes authorizing indirect expenditures; and providing for an effective date."

[9:29:48 AM](#)

Vice-Chair Neuman MOVED to ADOPT the proposed committee substitute for HB 306, Work Draft 28-LS1396\R (Nauman, 3/11/14).

Co-Chair Stoltze OBJECTED for discussion.

DANIEL GEORGE, STAFF, REPRESENTATIVE BILL STOLTZE, briefly discussed the changes in the committee substitute (CS). He stated that on the first line of the title the words, "tax credits" were removed and changed to "the review." He turned to page 1, line 5 through page 2, line 1, each of

the tax credits were delineated instead of stating specific statutes that authorized direct expenditures. He reported that Section 1 was a new section that contained conforming language pertaining to the repealing the insurance tax education credit.

Co-Chair Stoltze clarified that "repealing" was referring to a sunset process, which was repealed and then removed.

Mr. George noted that Section 2 and the following sections were renumbered. He pointed to Section 4, page 3, and reported that the indirect expenditure report had been changed from every year to every two years. Former Sections 7 and 8 had been removed and were related to minerals exploration tax credits and conforming language. He referenced the new Section 8, page 5, line 14 and read:

Sec.43.05.095.Indirect expenditure report. (a)The commissioner shall not later than July 1 before the first regular session of each legislature..

Mr. George stated that "July 1" previously read, "November 1." He read Section 8, item (7):

(7) the estimated annual effect on revenue of the indirect expenditure for the previous five fiscal years, excluding the fiscal year immediately preceding the date the report is due;

Mr. George noted that the later part of the provision beginning with the word, "excluding" was added. Subsection (b) under Section 8, item 9 was added and read:

(b)For purposes of (a) of this section, federal tax credits adopted under AS43.20.021 shall be reported in the aggregate.

Mr. George continued that under Section 8, item (d) the following language was removed, "In this section, indirect expenditure" means a credit, exemption, deduction, deferral, discount, exclusion, or other differential allowance designed to encourage an activity or benefit the public or a taxpayer and..." and changed to:

(d) "In this section, indirect expenditure" means an express provision of state law that results in foregone revenue for the state by providing..

Mr. George indicated that the previous Section 10 was removed from the bill. The language conformed to the minerals exploration tax credit. The section was replaced with the new Section 8, subsection (d) items 1 through 5.

REPRESENTATIVE STEVE THOMPSON, SPONSOR, believed that the bill was misunderstood. The bill allowed the legislature to review indirect expenditures created by tax credits. A report would be submitted to the legislature in order to determine whether the tax credits were in compliance with legislative intent, and would examine the costs and benefits to the state, job creation, and the effects on industry. He thought that it was the responsibility of the legislature to evaluate tax credits. The bill provided the legislature a two year review period. During that time various tax credits could be renewed for six more years until another review cycle would begin. The tax credits would not be automatically eliminated in 2015. A review process will begin over the following two years and suitable tax credits will be renewed. He pointed out that a business evaluated its expenditures to determine their merit and so must the state. He felt that the legislative review of the tax credits was fiscally responsible.

Co-Chair Stoltze interjected that anyone benefitting from tax credits would naturally have concerns over HB 306 but he felt that the legislature had a "duty" to review all expenditures. He hoped that the University of Alaska (UA) would have taken a "more constructive role" by engaging in a dialog with legislators over its concerns with HB 306 instead of campaigning to "kill the bill." He indicated that tax credits were a "diversion of general funds." He appreciated the sponsor's time invested in the bill. He thought that two years offered ample time for evaluation of sunset extensions.

Co-Chair Austerman asked for a couple of clarifications. He did not understand the removal of the mineral tax credit.

Representative Thompson clarified that the tax credit was not a mineral tax credit but was an exploration tax credit. He felt that exploration had the potential to produce revenue and jobs for the state. He deferred to staff for further detail.

BRODIE ANDERSON, STAFF, REPRESENTATIVE STEVE THOMPSON, shared that discussions about the mineral exploration tax credits contained in Title 38, were centered on the fact that oil and gas or mining corporations made exploration and long-term investment decisions seven to ten years in advance, and based those decisions on the availability exploration credits. The consensus was that expiring oil and gas or mineral exploration credits could stifle exploration incentives and fail to attract new exploration to the state. He felt that it was important to exclude both oil and gas and mineral exploration credits.

Co-Chair Austerman understood the intention and contended that other exclusions could be made for other resources as well. He thought that other renewable resource industries, such as fishing made long-term investment decisions but were not excluded. He argued that the renewable and nonrenewable resource industries were comparable but that only the nonrenewable industry was excluded. He pointed to the fiscal notes for the bill which totaled \$20 million in tax credits for renewable industry as opposed to \$300 million to \$500 million in tax credits for nonrenewable extraction that were exempted. He wondered why one industry was treated differently than another.

Co-Chair Austerman questioned whether expiring all of the tax credits identified in the bill at the same time compounded the workload.

[9:42:11 AM](#)

Representative Thompson answered that extensive discussions took place with the Department of Revenue (DOR) regarding the amount of work required to generate the tax credit reports. He related that some of the sunset dates had been changed to accommodate the department's other workloads throughout the year. The date changes facilitated the department's use of existing staff to generate the reports.

Mr. Anderson stated that widespread discussions were undertaken with the department and the Legislative Finance Division (LFD) about the time commitment needed to compile the reports and turn the information over to the legislature. The sponsor had worked to find a balance between DOR and LFD's workloads and other deadlines. He elaborated that the sponsor extended the date the first report was due from November 1 to July 1. The November date

coincided with year-end report deadlines for DOR and budget duties for LFD. The legislative report deadline was moved to July 1 for DOR, which granted LFD time during a slower work period to review the reports for the legislature.

Co-Chair Austerman asked whether the reporting to the legislature was through DOR or LFD.

Representative Thompson responded that DOR would compile the reports and send them to LFD who would review the information and report to the legislature.

Mr. Anderson added that LFD would receive the report from DOR on July 1 and would present its report to legislative leadership and the legislature on the first day of session.

Representative Holmes was concerned by the Section 10 sunset provisions that only applied to certain subsets of tax credits. Future reports were required every two years but were not attached to sunset provisions. She felt that the tax credits were treated differently depending on which year they were audited. She felt that all tax credits needed to be treated equally; either they should all sunset or just be subject to analysis and a report.

Mr. Anderson responded that the difficulty with drafting the bill was that it was not possible to "tie the hands" of future legislatures. He communicated that the only mechanism to prompt future legislatures to act was the inclusion of sunsets. The sponsor determined that it was not possible to mandate future audits without having additional information about the tax credits. Sufficient information was tracked by DOR about the credits slated for sunset and review listed in the bill. Insufficient information was available about other tax credits based in other departments to require that the legislature sunset and review them by a certain date. Future legislatures could repeal and review and have the option to extend other tax credits. The sponsor was not "comfortable" identifying additional tax credits and including them in the legislation this year.

Representative Holmes needed more time to consider the issue. She felt that the sunset dates empowered the concept of the bill and not requiring sunset dates for all tax credits was inconsistent. She was "struggling with the concept."

Representative Munoz shared similar concerns. She noted that the education tax credit had a sunset date of 2021 but was scheduled for an earlier repeal given the timeframe of the legislation. She asked for an explanation of the removal of Section 12 from the CS.

Mr. Anderson replied that the previous Section 12 became the new Section 10. The tax credits that were eliminated from Section 12 pertained to the mineral exploration credits contained in the following statutes: AS 27.30.010 through AS 27.30.099 and AS 43.20.44

Co-Chair Stoltze asked for an explanation of the 6-year review cycle.

Mr. Anderson answered that every two years DOR would produce a report for all departments, which would go to LFD; LFD would then do its own review. LFD would only be responsible to review the departments included in the current cycle. He explained that after a department's initial review subsequent reviews were set up on a six-year cycle. The six year cycle of review was based on the fact that fiscal notes were based on a five year cycle of appropriation projections. He added that the sunset date in Section 10 of the CS pertained to the specific credits listed. He reiterated that the legislation could not mandate future sunset dates beyond 2016. Future legislatures could choose to extend sunset dates in the legislation.

[9:54:25 AM](#)

Representative Holmes expressed confusion about the concept of binding future legislatures. She deduced that future sunset dates could not be designated in the legislation. The first cycle of sunsets and reviews need to be completed.

Mr. Anderson answered in the affirmative. He indicated that after 2016 a future legislature would need to extend the sunsets and review cycle for another six years.

Representative Holmes surmised that all tax credits could be set to sunset in 2016 under the legislation as a compromise position to her issue with the bill that not all tax credits were being treated equally.

Vice-Chair Neuman pointed to Sections 4 and 5 on page 4 of the CS. The legislation required that the reviewer include an explanation of the methodology and assumptions used in preparing the report to the legislature. He wondered why the legislature was not creating the assumptions and methodology it wanted LFD to use.

Representative Thompson pointed to Section 8 and believed the legislation identified exactly what information the legislature wanted. Section 8 addressed the information required in the indirect expenditure report. He read the following:

- (1) the name of the indirect expenditure;
- (2) a brief description of the indirect expenditure;
- (3) the statutory authority for the indirect expenditure;
- (4) the date the statute authorizing the indirect expenditure is to be repealed, if applicable;
- (5) the intent of the legislature in enacting the statute authorizing the indirect expenditure;
- (6) the public purpose served by the indirect expenditure;
- (7) the estimated annual effect on revenue of the indirect expenditure for the previous five fiscal years, excluding the fiscal year immediately preceding the date the report is due;
- (8) the estimated cost to administer the indirect expenditure, if applicable;
- (9) the number of beneficiaries of the indirect expenditure.

Vice-Chair Neuman restated that the bill asked for the assumptions and methodologies used to generate the report. He preferred to see a methodology defined in the legislation. He felt that the methodology used to review the tax credits was related to legislative intent. He wondered whether the tax credits would be repealed before the legislature could complete an adequate review.

Representative Thompson replied that the bill provided for a two year review period before the tax credits would be repealed. The legislation required the legislature to examine the report before the tax credit expired to ensure that a tax credit was deemed "worthy" to continue.

Mr. Anderson referred to a prior conversation he had with David Teal, Director of the Legislative Finance Division, about the methodology and assumptions that would be employed. He planned to include an explanation of the mechanisms at the end of the report.

Co-Chair Stoltze relayed that the reason for today's meeting was to determine the committee's issues with the bill.

Vice-Chair Neuman reiterated his concerns. He wanted a clearly defined methodology included in the bill. He wished to know how legislative intent would be reviewed.

Representative Thompson believed LFD would need to work with the legislators to develop an accurate methodology based on the required information listed in the legislation but he felt that the analysts were the experts on developing methodology based on the information required.

Co-Chair Stoltze believed that the committee could potentially work out a more clarified method.

[10:02:58 AM](#)

Representative Gara was concerned about the 32 statutes that would be repealed. He agreed with the part of the legislation that required examination of the tax credits to determine their merit. He cited Section 10 and deduced that the CS repealed 32 separate tax credits. He noted that the list included an insurance tax, various fisheries tax credits, municipal grants, and the film tax credit. The credits would be repealed in 2016.

Representative Gara spoke to the two-year sunset review timeline that he did not believe would work. He believed that too many "road blocks" existed in the legislative process where the tax credit extensions would get stalled. He believed that the legislation was getting rid of the credits prior to an analysis being done. He thought that some of the credits "should disappear", but an analysis of the 32 tax credits listed was not performed. He stated that substantial tax credits and municipal rebates were not easy sunset dates to extend through the legislative process. He deemed that, if 20 tax credits were determined to have merit they would not get passed in one legislative session. He supported requiring a report or an analysis on each of

the credits that would be repealed. He did not support the provisions of Sections 10 or 11 that repealed the tax credits. He was supportive of an examination of the tax credits to determine if the tax credits were costing the state too much money and were worth the expenditure. He found a "wholesale vote" on repealing 32 statutes that were not discussed troublesome.

Representative Thompson replied that the purpose of the in-depth analysis was to determine the merit of the tax credit. He emphasized that the two-year sunset would ensure that the legislature would "do its job" and review the tax credit analysis. He stressed that without the inclusion of the sunset dates the analysis would be "just another report" that was sidelined.

Co-Chair Stoltze emphasized that tax credits were diverted from general fund revenues.

Representative Gara commented that testimony should be heard from interested parties related to each of the tax credits included in the CS to determine whether they should be included in the sunset provision. He remained doubtful that the tax credits could be re-enacted in a two year period of time.

Mr. Anderson answered that there were only seven tax credits contained in Section 10 of the bill that were sun setting. He revealed that one tax credit reached into multiple tax components.

Representative Edgmon appreciated the underlying intent of the bill but realized the potential "sweeping impacts" if the legislation was adopted. He asked about unincorporated communities and lapsing grants under Section 6. He outlined his understanding of the issue. He noted that the communities were notified by the Department of Commerce, Community and Economic Development (DCCED) seven months before the grants lapsed and core requirements needed to be verified before an extension was granted. He wondered whether there was a specific reason for including Section 6 in the bill since a process was established. He asked whether adoption of Section 6 would require establishment of new procedures and regulations related to grants for unincorporated communities.

Representative Thompson replied that currently grants to incorporated communities were sunset in five years. Unincorporated communities did not have sunset dates set in statute. The department was treating unincorporated communities' grants the same as incorporated communities' grants.

Mr. Anderson expounded that he had spoken with Mr. Scott Ruby, Director, Division of Community and Regional Affairs. He relayed that AS 37.05.318 prohibited DCCED from enacting regulations regarding the administration of unincorporated community grants and named recipients appropriated under AS 37.05.315 through AS 37.05.317. Regulation changes by DCCED were prohibited unless under statutory authorization. He restated that the department dealt with the unincorporated community grants and unnamed recipients the same as for municipalities in order to establish the best practices for management of public funds. The legislation actually granted the department the statutory authority to manage the unincorporated communities' and unnamed recipient grants in the same manner as they currently were.

Representative Edgmon wanted to ensure that in order to standardize the grant process the smaller communities were not disenfranchised along the way.

Representative Costello wondered how many other states had similar programs for reviewing indirect expenditures.

Mr. Anderson did not have the details but could provide it. He offered that he worked with the National Conference of State Legislatures (NCSL) and the Pew Research Center with crafting the bill and knew of twelve other states that were working on the same issue.

[10:15:48 AM](#)

Representative Costello appreciated the transparency established in the legislation. She wondered what values were weighed in the decision related to including sunset provisions in the bill.

Mr. Anderson believed that the primary factor that drove the decision was the amount of lost revenue over a five year period with the tax credits examined in the legislative research report [Indirect Expenditures Provisions in Alaska Law (copy on file)]. Approximately

\$120 million over a five-year time period was lost revenue. Factors such as, sunset dates that "extended far beyond the amount of money available" or the scope of a tax credit that reached into eight major tax components without knowing the benefits to the state contributed to the decision to put a sunset mechanism as an incentive to review the tax credits.

Representative Costello informed the committee that she did not have a problem with the transparency section. She asked whether the impacts of impending sunset dates were examined.

Mr. Anderson replied that the sunsets were not examined beyond testimony or lobbying efforts speaking to the impact.

Representative Costello asked whether the inclusion of some tax credits sun setting and excluding others was in recognition of the impact the sunset date could have on a tax credit.

Representative Thompson stated that the impacts were not taken into consideration. He deduced that if the legislature gets to work in 2015 many of the fears of the impacts could be allayed because the report would be done and the legislature could begin renewing the sunsets.

Co-Chair Stoltze referred to an NCSL fiscal conference he had attended in the past. He recalled a discussion with various government officials about not treating tax credits as "real money" and which had a "big impression" on him.

Co-Chair Austerman expressed concerns with the bill related to treating tax credits inequitably. He recalled Mr. Anderson's earlier discussion concerning up to \$120 million in lost revenue to the state in tax credits. He pointed to the recent \$2 billion tax credit in the nonrenewable resource extraction industry in Alaska. If all industries were not treated equitably he would have a problem supporting the bill. He was in total agreement with the concept of the legislation. He stressed that the discussion should be relevant to what is being lost with all tax credits. He noted that some of the tax credits targeted in HB 306 currently had sunset dates. He wondered why the legislation did not mandate review when the existing sunset dates came up. He supported "tightening up" the review

process, but wondered why the credits with sunset dates had been lumped in with credits without sunset dates.

10:23:21 AM

Co-Chair Austerman commented on the zero tax rates on Cook Inlet gas and oil when tax credits were factored in, which fueled his concern over equity issues between renewable and nonrenewable industry tax credits.

Representative Thompson replied that he did not want to delve into oil and gas credits that were "thoroughly vetted" over the last several years and would hinder passage of the legislation. He felt that it was a subject for future legislatures to address. The tax credits in the bill were included because he felt the process could be completed by the twenty-ninth legislature.

Co-Chair Austerman questioned how the "cost benefit structure" of each of the credits would be determined. He felt the structure was not defined in the bill. He wondered what criteria DOR and LFD would use.

Representative Thompson replied that the criteria had been set in the legislation.

Co-Chair Stoltze remarked that Vice-Chair Neuman expressed the same concerns and would be addressed in a future draft of the bill.

Co-Chair Austerman requested that LFD be present at the subsequent bill hearing.

Representative Wilson concurred with Co-Chair Austerman. She believed that when tax credits were removed from the bill it was much more difficult to justify the remaining credits left in. She viewed the bill in two parts; tax credits with sunset dates and those without sunset dates. She stated that credits without sunset dates were not reviewed and that credits with sunset dates should be reviewed fairly. She agreed that tax credits represented lost revenue and should be examined.

Representative Guttenberg pointed to Sections 5 and 6 on pages 4 and 5 related to grants to named recipients and unincorporated municipalities. He discerned that the unincorporated municipalities were not granted an

opportunity to apply for a reappropriation or an extension. He asked for clarification.

Representative Thompson replied that they would be treated the same as a municipality or borough. He explained that the purpose of the section was to ensure that named recipients and unincorporated municipalities had a process for extension. The reappropriation process would be the same as the process for a municipality.

Representative Guttenberg understood but did not see provision in the bill. He requested the statute.

Mr. Anderson informed the committee that the provision was controlled at the regulation level versus the statutory level.

Co-Chair Stoltze WITHDREW his OBJECTION to the adoption of the CS. There being NO further OBJECTION, it was so ordered.

HB 306 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

[10:31:46 AM](#)

The meeting was adjourned at 10:31 a.m.