

HOUSE FINANCE COMMITTEE

March 24, 2016

9:33 a.m.

9:33:33 AM

CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 9:33 a.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair  
Representative Steve Thompson, Co-Chair  
Representative Dan Saddler, Vice-Chair  
Representative Bryce Edgmon  
Representative Les Gara  
Representative Lynn Gattis  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Cathy Munoz  
Representative Lance Pruitt  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Ester Mielke, Staff, Representative Bob Lynn; Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit; Julie Lucky, Staff, Representative Mike Hawker; Randall Hoffbeck, Commissioner, Department of Revenue; Ken Alper, Director, Tax Division, Department of Revenue; Jane Pierson, Staff, Representative Steve Thompson.

PRESENT VIA TELECONFERENCE

Megan Wallace, Attorney, Legislative Legal Services; Rick Webb, Wallbusters, Fairbanks; Juanita Webb, Wallbusters, Fairbanks; Chad Goeden, Alaska State Troopers, Sitka;

SUMMARY

HB 77           DISABILITY:ID/LICENSE AND TRAINING RQMTS.

CSHB 77 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note from the Department of Administration.

HB 222          INCREASE OF APPROPRIATION ITEM

CSHB 77 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note from the Alaska Legislature.

HB 231          EXTEND BOARD OF PAROLE

CSHB 231 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note by the Department of Corrections.

HB 247          TAX;CREDITS;INTEREST;REFUNDS;O & G

HB 247 was HEARD and HELD in committee for further consideration.

Co-Chair Thompson reviewed the agenda for the meeting. He planned to move HB 77, HB 222, and HB 231 from committee if it was the will of committee members.

[9:34:53 AM](#)

#hb231

HOUSE BILL NO. 231

"An Act extending the termination date of the Board of Parole; and providing for an effective date."

Vice-Chair Saddler MOVED to ADOPT the proposed committee substitute for HB 231 (FIN), Work Draft (29-LS1138\H). There being NO OBJECTION, it was so ordered.

JANE PIERSON, STAFF, REPRESENTATIVE STEVE THOMPSON, explained that the change in the bill shortened the extension date from 2022 to 2019 providing 3 years before the termination came before the legislature again. The parole was a board that might go through changes if the state changed its criminal statutes.

Representative Wilson asked if an audit would be required as a result of changing the date. Ms. Pierson responded affirmatively.

Representative Wilson asked about the cost of the current year's audit. Ms. Pierson deferred to Kris Curtis in the audience.

Representative Wilson requested getting the answer from whomever was appropriate.

Co-Chair Thompson noted that Representative Pruitt had joined the meeting.

ESTER MIELKE, STAFF, REPRESENTATIVE BOB LYNN, had no further comments.

[9:36:47 AM](#)

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, responded to Representative Wilson's question. She explained that the audit took approximately 700 hours and the cost per hour was about \$70 for FY 15. The total cost of the audit was approximately \$50 thousand.

Representative Wilson asked whether a change in dates would have made a difference to the audit. She thought that changes to the parole board could still be made and the sunset could be extended in the normal process for statute. Ms. Curtis concurred that changes could be made to the parole board outside of the sunset process. The office of Legislative Audit had no opinion concerning the sunset date. It would be up to the policy makers to decide whether it was worth the extra cost.

Representative Wilson wondered if the time between audits influenced their costs. She remarked that the last sunset was much longer than the current audit being discussed. She wondered if the cost would be \$50 thousand no matter the sunset.

Ms. Curtis responded that if the time between audits was a shorter period the cost would be less because it would be completed more quickly. However, due to the dramatic changes to the landscape it could be a longer audit. Several factors impacted the length of an audit. She

relayed that if everything stayed the same typically an audit took less time.

Co-Chair Thompson indicated Representative Gara had joined the committee.

9:39:12 AM

Representative Guttenberg mentioned that there were four recommendations from the audit but expressed concern regarding the report. The findings included: Parole board files did not consistently contain all required information, notifications to offenders and victims were not sufficiently documented, changes to regulations did not address statutory requirements, and the audit contained several deficiencies that could affect security and consistency of data. He asked about the severity of the findings in terms of the functioning of the parole board. He asked how far out of alignment these findings were from normal practices.

Ms. Curtis responded that none of the recommendations impacted the auditor's recommendation for extension. She furthered that the auditor would have recommended the full 8 years, the maximum allowed in statute, had there not been a concern for the need for oversight. The reason had to do with the change in the risk assessment tool towards the end of the audit. The auditors were not able to see and evaluate its impact. The auditors did not consider SB 91 in the audit recommended. The board was operating fairly well and professionally. She explained that whenever Legislative Audit conducts an audit it considered documentation and procedures.

9:41:28 AM

Representative Guttenberg asked if the office was lacking a filing clerk position which could be affecting the efficiency of operations.

Ms. Curtis answered that it was the interaction between the board and the department. Some of the documentation issues had to do with the interactions with institutional correctional officers and to what degree they documented. It also had to do with what degree they were effectively using the management system to document. It was not about

missing a staff person, but about the coordination between the board and the department.

Representative Guttenberg wondered if it was for training. Ms. Curtis replied that it was just being aware of where they were at and a willingness to improve.

Co-Chair Thompson OPENED public testimony.

Co-Chair Thompson CLOSED public testimony.

Representative Wilson was not going to stop the bill from moving forward. However, she was comfortable with the date currently on the bill. She did not see any red flags that would constitute a date change to 3 years. She understood there were several moving pieces but believed all could be completed and the checks and balances could be performed without adding more work for the auditors. She preferred not to change the date.

Co-Chair Thompson had taken pending legislation into consideration that could alter what the state would be doing in the future.

[9:44:03 AM](#)

Representative Gara agreed with Representative Wilson. He thought it took time and money to have the auditors come before the committee. He suggested a 5-year board extension.

Representative Gara MOVED to ADOPT a conceptual amendment: Extend the Board of Parole to 2021, a 5 year extension [as opposed to the committee substitute's proposal to 2019, a 3 year proposal] in Section 1, page 1 of the bill. There being NO OBJECTION, it was so ordered.

Vice-Chair Saddler relayed that HB 231 had a single fiscal note from the Department of Corrections. It called for \$1,017,500 from undesignated general funds and \$1,019,400 from interagency receipts. There was a total ongoing expense of \$1,019,400 which was a continuation of the existing funding.

Vice-Chair Saddler MOVED to report CSHB 231(FIN) as amended out of Committee with individual recommendations and the

accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 231 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note by the Department of Corrections.

[9:47:03 AM](#)

AT EASE

[9:48:57 AM](#)

RECONVENED

#hb222

HOUSE BILL NO. 222

"An Act relating to increases of appropriation items."

Vice-Chair Saddler MOVED to ADOPT the proposed committee substitute for HB 222, Work Draft (29-LS1045\H). There being NO OBJECTION, it was so ordered.

Ms. Pierson explained that the committee substitute (CS) before the committee changed the 45 day limit to 90 days thereby giving the legislature more time for evaluation. The legislature could always provide approval prior to 90 days. She indicated that Julie Lucky could supply the committee with additional detail.

[9:50:17 AM](#)

JULIE LUCKY, STAFF, REPRESENTATIVE MIKE HAWKER, explained that the bill codified a procedure for the legislature during the budgeting process to prohibit using the revised program legislative (RPL) process to increase an appropriation in the budget. The CS extended the waiting period to 90 days. Therefore, if the Legislative Budget and Audit Committee were to receive an RPL the executive branch would have to wait 90 days before expending the RPL unless the committee took action to hasten the timeline by approving the RPL.

Co-Chair Thompson OPENED public testimony.

Co-Chair Thompson CLOSED public testimony.

Vice-Chair Saddler explained that HB 222 had one zero fiscal note from the legislature.

[9:52:03 AM](#)

Vice-Chair Saddler MOVED to REPORT CSHB 222 (FIN) out of committee with individual recommendations and the accompanying zero fiscal note.

Representative Gara OBJECTED for discussion.

Representative Gara commented that no one would have thought of the current bill without the Medicaid expansion debate in the prior year. The current process allowed the state to accept grant funds that fit within the parameters agreed upon by the legislature to appropriate. The money came from the federal government or a private donor. He did not believe the legislature could anticipate what funding it could potentially lose out on. He thought the legislature would be overstepping itself by passing the bill. He presented a hypothetical situation where renewable energy money would be needed to complete a project that the state would not accept. If the bill had been in place the previous year and the state had not accepted Medicaid expansion money the state would have lost out on \$140 million of federal funding that was rippling throughout the economy. He suggested that much of the budget reductions had been possible because of the Medicaid expansion monies coming in. There were reductions in behavioral health of \$5.7 million because the money was being leveraged through the new federal law. In the future it would be difficult to determine what the legislation would prevent the state from accepting. The bill had to do with money coming in from another source for something approved by the legislature. He thought the passage of the legislation would result in unintended consequences. He believed that in 30 years into the future the legislature might realize a project had been blocked that could have been useful to the state. He did not support changing the current law and would be opposing the bill.

[9:54:57 AM](#)

Representative Wilson spoke about a significant amount of stimulus money coming to the state a few years prior. After the state accepted the money it ended up backfilling certain projects, although that had not been the intention

upon taking the funding. Her understanding of the legislation was that it did not disallow the acceptance of funding. It allowed the legislature to better understand what the money would be used for and to decide if a project should move forward. She thought the bill allowed the legislature to be more proactive. She did not feel the bill blocked funding but allowed for more due diligence. She indicated she was in favor of the bill.

[9:55:58 AM](#)

Vice-Chair Saddler suggested that the bill came up as a result of a dispute regarding Medicaid expansion. However, the current issue was not Medicaid expansion but clearly the legislature's appropriation authority and the proper balance between the executive and legislative branches. He opined that the legislation allowed the legislature the improved opportunity to consider the meaning of accepting more money through the RPL process. He thought the legislation was appropriate and would be supporting it.

Representative Guttenberg commented that in every department cuts were applied and the departments were directed to go out to find additional monies. He was concerned that the bill was a "pull back" from agencies being able to function with more efficiencies. The legislature had told the governor and agencies to find additional funding but the legislation did not allow for flexibility. He objected to the bill.

[9:58:18 AM](#)

Representative Pruitt reported that within state and federal government the legislative body had the power of the purse. Any money that went through the state was appropriated by the legislature. He thought that the current discussion was rethinking whether the legislature had given up the ability to maintain the power to appropriate. The reason the legislature had appropriation power was because legislators were closest to the people. Legislators had a more direct connection with constituents than the administration or the governor. The legislative body recognized that there was a situation where the legislature had seated its authority to another branch of government. He asserted that the bill was recognizing and correcting the scenario. The bill was placing the power of appropriations back into the hands of the people through

the legislature. He appreciated the legislation being brought forward.

Representative Kawasaki was glad there was an acknowledgement that the legislation came about because of Medicaid expansion and that the legislature had the power of the purse. Sometimes the legislature disagreed with the governor. He suggested that while the legislature might disagree with the governor on some issues it was a simple separation of powers. The governor had the ability to accept federal funds on behalf of the rest of the state. He feared a program such as early education (the federal government was looking at granting states certain Pre-K dollars) could come up in the middle of the summer. The state was now looking at a window of 90 days before it could accept funding. It was possible the state might need to receive the funds earlier. He suggested that a legislative chairman, only representing a portion of Alaskans, could decide they did not like Pre-K. The governor had the opportunity, representing the rest of Alaskans, to say it was something the state would like to see but would not have a means to accept the funding barring the legislator's responsiveness and willingness to bring it forward. He added that he thought there were certain circumstances in which the legislation could make things very difficult. He objected to the bill.

[10:02:40 AM](#)

Representative Munoz thought it was possible to overthink the change. It was a very simple change adding 45 days of review time to the Legislative Budget and Audit Committee when accepting new grant monies. She thought the change was appropriate and one that she supported.

Co-Chair Thompson asked for clarification.

Ms. Lucky stated that the policy discussion was exactly the result Representative Hawker was looking for by introducing the legislation. She suggested the discussion was about the separation of powers and the power of the purse versus the power to accept money (which the governor had). She pointed out that the power to accept additional federal funding was not a power granted to the governor by the constitution but granted via the legislature by statute (the current legislation proposed to amend the statute). It would be reconsidered every year in the full budget and was granted

each year. At any point the legislature could choose not to include Section 24 in the budget. She furthered that by a quick budget amendment the legislature could disallow the governor from accepting any federal funds during the interim. She reported that the State of Arizona had adopted such a policy. She furthered that Arizona had to call back into special session anytime additional federal funds came in. In many other states Legislative Budget and Audit had more power to accept or reject based on the difference in the constitutional balance of powers.

Ms. Lucky continued to explain that within Alaska's system the Legislative Budget and Audit Committee did not have the power to reject the acceptance of funds. She explained that the legislature had a two-step process of granting the power via the budget and then a process would be put into place. She highlighted that the power was not absolute, it was limited. In a previous meeting Mr. Teal had reported that it was allowed for general funds but the legislature had chosen to amend the budget not allowing general funds. The revised program legislative process was not currently available for those funds at present. It was not her job or duty to discuss the policy; that rested with the legislature. However, she was providing a few facts in front of legislators about how the process worked. The process envisioned by HB 222 would be a specific prohibition on a specific budget item rather than a blanket prohibition on many items. It was the intent of the bill sponsor that if the legislature, as the appropriating body, had considered a particular appropriation and determined not to move forward with it they would have the power to restrict it in the budget. It was not necessarily to prohibit the governor or the executive branch or the state from taking advantage of the funding but rather to have a process where the full legislature, as opposed to however many members sat on the committee could make any important policy decision that had already been considered but rejected by the entire legislature.

[10:06:45 AM](#)

Representative Guttenberg wondered about the first change in the bill on Page 1, Line 4 [Section 1(h)]. He provided a hypothetical scenario where the legislature adopted the previous year's budget outlining that there would be no Medicaid expansion while the courts ruled that the

expansion was mandatory. He wondered if there would have been a conflict.

Co-Chair Thompson did not want to get into a discussion about Medicaid expansion.

Representative Guttenberg explained that although Medicaid expansion was in the past he was using it as an example. He rephrased his question. He asked about if language was inserted into the budget that stated no money should be taken for a certain program and the federal government has defined the program as mandatory. He wondered how the conflict would be resolved.

Ms. Lucky was not a constitutional scholar. She deferred to Legislative Legal Services online.

Representative Pruitt thought that the first line related to the legislature being able to accept federal funds. He explained that unless the legislature excluded the language in the budget, there would have to be a process in place to resolve such a conflict. He thought there was a mix of issues at hand. He suggested it was a two-step process. First, the legislature would give authority for the acceptance of federal funds. A second step was being added. If the legislature did not ask for the authority then the step would not be needed. He presumed that the legislature had not indicated that there was not the authority in place for the administration to accept federal money. He thought that it was moving away from a court decision because the legislature would have to first elect not to accept any additional federal funding.

Representative Guttenberg wondered how to resolve a conflict in which the budget included language that specified that the state not accept certain federal funding, yet there was a federal mandate to accept the funds.

Ms. Lucky believed it would be resolved similar to the way in which the state resolved anything regarding the balance of powers. She suggested that the bill only stated that the RPL process could not be used to accept federal funding. She thought that if the legislature chose not to accept funds in the budget process or in any process and the federal government required the state to accept it, then the issue would likely have to be litigated. In the bill

being discussed, it stated that the RPL process would not be an appropriate avenue for a particular issue.

[10:10:36 AM](#)

Co-Chair Thompson indicated someone from legal was online.

MEGAN WALLACE, ATTORNEY, LEGISLATIVE LEGAL SERVICES (via teleconference), relayed that she was available.

Representative Guttenberg referred to Page 1, Line 4 of the committee substitute. He highlighted the portion that stated, "Unless expressly prohibited language of the appropriation." He wondered how the issue of passing a budget that identified funds the state was not allowed to accept from the federal government but mandated to do so.

Ms. Wallace responded that it would be a difficult question to answer in a hypothetical context. It would depend on the program and the Alaska statutes surrounding the program. Hypothetically, the language would prevent an increase to an existing appropriation. If there was a program funded in the budget and additional federal dollars for it came in but the legislature had chosen to insert language prohibiting the acceptance of additional funds, a person would likely have to turn to the statutes. There would be the question of whether the additional federal funding was needed to fully fund the program. If so, the question of what would happen if the program was not fully funded would need to be addressed.

Representative Gara MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Gattis, Munoz, Pruitt, Saddler, Wilson, Thompson  
OPPOSED: Gara, Guttenberg, Kawasaki

The MOTION PASSED (6/3).

Co-Chair Neuman and Representative Edgmon were absent from the vote.

CSHB 77 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note from the Alaska Legislature.

[10:13:45 AM](#)

AT EASE

[10:15:28 AM](#)

RECONVENED

#hb77

HOUSE BILL NO. 77

"An Act relating to training regarding disabilities for police officers, probation officers, parole officers, correctional officers, and village public safety officers; relating to guidelines for drivers when encountering or being stopped by a peace officer; relating to driver's license examinations; and relating to a voluntary disability designation on a state identification card and a driver's license."

Ms. Pierson read a portion of the Sponsor Statement:

The goal of HB77 is to improve communications between law enforcement and corrections professionals who interact with people who have non-apparent disabilities, whether these disabled individuals encounter the "systems" as victims, witnesses, or alleged perpetrators.

Ms. Pierson reported that the bill had three parts; a training component, a voluntary option to have an identifying mark on a driver's license denoting the driver had a disability, and an added section in the driver's manual in which questions could appear on the written driver's test.

Co-Chair Thompson OPENED public testimony

[10:17:13 AM](#)

RICK WEBB, WALLBUSTERS, FAIRBANKS (via teleconference), supported the bill. He believed education was very important. The bill would help to change preconceived ideas. He noted that the bill would not equate to a "Get-out-of-jail-free" card. He provided a personal story about his friend in a wheelchair who had been arrested for drunk driving. He emphasized that the legislation was about equal treatment not special treatment. He thanked the committee for its time.

10:20:05 AM

JUANITA WEBB, WALLBUSTERS, FAIRBANKS (via teleconference), supported the legislation and understood the importance of the bill. She opined that the bill was about educating people. She thanked the bill sponsor for bringing the legislation forward and urged committee members to pass the bill along.

Co-Chair Thompson CLOSED public testimony.

10:21:44 AM

Representative Wilson supported the bill. She expressed concerns about having identification without having any backup about the type of disability. She wondered if it would be an issue to only see that a disability existed rather than specifying the disability type.

Co-Chair Thompson commented that the intention of the bill was not to highlight a person's disabilities but to begin a conversation between an officer and the person who was stopped.

10:22:30 AM

CHAD GOEDEN, ALASKA STATE TROOPERS, SITKA (via teleconference), understood concerns around the balance of privacy and an officer having enough information to make the best decisions. Since it was a voluntary option he suggested the inclusion of a provision that enabled people to determine how much information they wanted to make available. Information could be added to the dispatch system rather than on a license so that the information could be provided to an officer upon calling into dispatch

Representative Wilson stated that it had been brought to her attention that even with a designation there had been issues with people getting nervous and having difficulty in providing information. She was wondering if the objective of the legislation could be accomplished through changing regulation since it was voluntary. She added that even with a simple designation more information could smooth over a situation.

Representative Gara thought it would be best to make it clear that the person had some sort of disability rather than specifically designating a disability. It was an alert to officers that there was an issue and to further investigate. He liked the way the bill was currently written and thought it struck a better balance.

10:25:39 AM

Vice-Chair Saddler was co-sponsoring the bill. He expressed concerns about placing too much responsibility on the police to have a positive outcome between the disabled person and law enforcement. He encouraged disabled people to help police knew of the person's situation. He thought meeting with police officers and school resource officers. He also suggested the use of identification bracelets. He recommended that parents review appropriate responses when interacting with police officers such as complying, being respectful, and answering questions. He opined that a person could not legislate common sense.

Vice-Chair Saddler continued that the responsibility for a positive outcome between anyone and police officers was a shared responsibility. He believed that the legislation offered police officers additional information and was a good step that he would support.

Representative Gattis asked Officer Goeden to walk her through what would be included in training if the bill were to pass. Office Goeden asked whether she meant what the troopers would do for training or what an officer would do if they came in contact with a person with the proposed mark on their license.

Representative Gattis supposed she meant both but most importantly wondered what a law enforcement officer would do when stopping someone with a disability. She thought that an officer would have to be trained. Officer Goeden suggested that when troopers made a traffic stop they positioned their car so that there was a safe lane of travel to get up to the vehicle. The law enforcement vehicle would have overhead flashing lights front and rear. Officers would try to be aware of several things simultaneously such as oncoming traffic, movements in the car, number of people in the car being pulled over, and what the passengers were doing. The troopers would identify themselves, ask the driver for identification and proof of

insurance, ask for any legal reason for why they were stopped, and give them a decision as to whether a citation would be issued.

[10:28:42 AM](#)

Representative Gattis asked what the officer would do differently than the standard protocol when stopping a person with a designation on their driver's license. Officer Goeden replied that it would depend on how much detail was provided with the designation. It would also depend on the driver's behavior. For instance, if a person was acting unusual or extremely nervous an officer might ask whether there was anything they should be aware of. It all hinged on getting to the point where the law officer was looking at a person's driver's license to see a special designation.

Representative Gattis relayed that Officer Goeden had answered her question.

[10:30:38 AM](#)

Representative Guttenberg liked the bill because he thought it addressed problems from both the side of the trained officer and the motorist. He was very concerned with public safety officers having an adequate level of training. He asked if there was specific training to handle stops made with vehicles having handicap license plates.

Officer Goeden responded that the academy's recruits went through an 8 hour crisis intervention training. The training covered hidden and visible disabilities including how to recognize them and how to deal with them. He had never specifically spoken with the instructor about an approach change if an officer saw a handicap license placard. He hoped that a visual indicator would provide a clue that the person might have a disability.

Co-Chair Thompson thanked Officer Goeden for being available for questions.

Vice-Chair Saddler reviewed the zero fiscal note from Department of Administration.

Vice-Chair Saddler MOVED to report CSHB 77 (FIN) out of Committee with individual recommendations and the

accompanying fiscal note(s). There being NO OBJECTION, it was so ordered.

CSHB 77 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note from the Department of Administration.

10:33:46 AM

AT EASE

10:35:54 AM

RECONVENED

10:35:54 AM

#hb247

HOUSE BILL NO. 247

"An Act relating to confidential information status and public record status of information in the possession of the Department of Revenue; relating to interest applicable to delinquent tax; relating to disclosure of oil and gas production tax credit information; relating to refunds for the gas storage facility tax credit, the liquefied natural gas storage facility tax credit, and the qualified in-state oil refinery infrastructure expenditures tax credit; relating to the minimum tax for certain oil and gas production; relating to the minimum tax calculation for monthly installment payments of estimated tax; relating to interest on monthly installment payments of estimated tax; relating to limitations for the application of tax credits; relating to oil and gas production tax credits for certain losses and expenditures; relating to limitations for nontransferable oil and gas production tax credits based on oil production and the alternative tax credit for oil and gas exploration; relating to purchase of tax credit certificates from the oil and gas tax credit fund; relating to a minimum for gross value at the point of production; relating to lease expenditures and tax credits for municipal entities; adding a definition for "qualified capital expenditure"; adding a definition for "outstanding liability to the state"; repealing oil and gas exploration incentive credits; repealing the limitation on the application of credits against tax

liability for lease expenditures incurred before January 1, 2011; repealing provisions related to the monthly installment payments for estimated tax for oil and gas produced before January 1, 2014; repealing the oil and gas production tax credit for qualified capital expenditures and certain well expenditures; repealing the calculation for certain lease expenditures applicable before January 1, 2011; making conforming amendments; and providing for an effective date."

Co-Chair Thompson indicated that Commissioner Hoffbeck and Mr. Alper would be providing a 30 thousand foot overview of oil and gas tax credits. The committee would not be hearing the bill sectional in the current meeting. There would be an overview of issues that generated the legislation. He offered that there would be several meetings on the bill at which time there would several opportunities to discuss the bill and to ask questions at future meetings.

10:36:38 AM

RANDALL HOFFBECK, COMMISSIONER, DEPARTMENT OF REVENUE, provided a PowerPoint presentation titled "Oil and Gas Tax Credit Reform: HB 247" dated March 24, 2016 (copy on file). He began by providing a couple of brief opening statements. He opined that HB 247 was a critical piece of the governor's overall fiscal plan for the current year and into the future. The administration saw a sustainable oil and gas tax credit program as vital for the State of Alaska. He pointed out that the key word was "sustainable." The plan would have to be sustainable going forward. He reported that when the bill was first introduced in House Resources Committee it was presented primarily as a budget issue. The House Resources Committee found the bill to be much more of an oil and gas tax policy issue.

Commissioner Hoffbeck reported that the hearing focused on both budget issues and oil and gas tax policy issues. The administration saw that both needed to be dealt with. The state could not offer any certainty to the industry on the tax credit program if the credits were paid at a level that the state could not sustain or afford. He thought there had to be a balance between the credits the industry desired or needed and what the state was capable of paying. He mentioned the overview of the preliminary spring revenue forecast presented earlier in the current week. He

highlighted that the department was looking at oil prices that were essentially range-bound somewhere between \$35 and \$60 per barrel. He remarked that if prices dropped below \$35 per barrel drilling would essentially cease. Oil would likely come off the market and oil prices would eventually rebound. If the price of oil were to reach much beyond \$60 per barrel a significant amount of oil would hit the market causing a brief spike. Eventually the supply would overwhelm demand causing the price to drop again. He suggested that it was pretty consistent with the thinking across the board as far as what people saw in the oil industry. In terms of talking about a rebound and hoping to get \$100 per barrel it did not appear to be in the future. He added that the state's credit program was being paid out at a level more consistent with \$100 per barrel to \$110 per barrel oil. The governor felt that it was a critical thing to deal with if the state were to have some kind of certainty within the oil and gas tax credit program. What he put forward in the bill was to reduce the state's annual outlay. He wanted to protect the net operating loss credit program within the bill which he added was the most critical piece of the credit program. It was a field leveler between the legacy producers and the newcomers. He furthered that the state needed to have a way to limit the amount of repurchases in any given year in order to control the state's outlay.

10:40:30 AM

Commissioner Hoffbeck explained that the state needed to strengthen the minimum tax because in the current price environment Alaska was essentially a 4 percent gross tax state. The price of oil needed to be above \$80 per barrel before that would change. The administration did not see the price increasing above \$80 per barrel any time in the future. The minimum tax really became "the" tax. He mentioned that the administration sought more transparency in the credit program to facilitate more dynamic discussions. The credits were a large outlay and he thought it was important for the people of Alaska to know where their money was being spent and what returns were being received. Lastly, due to the repercussions of the governor's veto from the previous year, the department thought it was very important the state had some kind of visible commitment to paying the existing credits. The state wanted to avoid any uncertainty in the financial markets that the credits that had been earned would be

paid. He concluded that he had highlighted the underlying components of the decision making process in crafting the legislation currently before the committee. The administration hoped the final version reflected these components once it went through the legislative process.

KEN ALPER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, introduced the PowerPoint presentation: "Oil and Gas Tax Credit Reform: CS HB247 (RES)." He indicated he would only be focusing on the highlights of the bill in the current meeting. He hoped there would be additional opportunities to delve into the deep details of the bill in another meeting.

[10:42:36 AM](#)

Mr. Apler advanced to slide 2: "History of Oil and Gas Production Tax Credits":

FY 2007 thru 2015, \$7.4 Billion in Credits

North Slope

- \$4.3 billion credits against tax liability
  - Major producers; mostly 20% capital credit in ACES and per-taxable-barrel credit in SB21
- \$2.1 billion refunded credits
  - New producers and explorers developing new fields

Non-North Slope (Cook Inlet & Middle Earth)

- \$100 million credits against tax liability
  - Another \$500 to \$800 million Cook Inlet tax reductions (through 2013) due to the tax cap still tied to ELF
- \$900 million refunded credits (most since 2013)

Mr. Alper explained that Alaska had been in the business of paying tax credits by statute since 2007. In the time period between FY 07 and the end of the previous fiscal year [2015] about \$7.4 billion worth of oil and gas tax credits had been paid or paid through reduced taxation by the State of Alaska. The largest share was from the North Slope where the bulk of the production and value was, with the majority used against tax liability, about \$4.3 billion. He explained that the major producers were able to subtract certain credits against their tax payments before writing any checks to the state. Previously under the era

of Alaska's Clear and Equitable Share (ACES) it was primarily the 20 percent capital expenditure credit. Since the transition to SB 21 [Short Title: OIL AND GAS PRODUCTION TAX - legislation passed in 2013] it had been the per taxable barrel credit, a sliding scale credit between zero and \$8 dollars.

Mr. Alper also pointed out a very large number on the North slope of \$2.1 billion that had been refunded (the state wrote checks and the legislature appropriated money every year to repurchase tax credits primarily going to new players in the field - the new producers and the explorers that were looking for and developing new oil).

Mr. Alper continued to the non-North Slope area which included Cook Inlet and Middle Earth (Interior Alaska). There was no current production in Interior Alaska but there was some exploration. However, the number of players and the numbers of credits were too small to be released without violating confidentiality law which accounted for lumping all of the non-North Slope together. He reported that only \$100 million had been used against tax liability because of less work and because there were statutory caps (maximum taxes in the Cook Inlet that were put into place in 2006 as part of the PPT bill). There was not a significant amount of tax liability in the first place, therefore there was not to offset. He furthered that about \$900 million through the previous year had been refunded - repurchased in tax credits in the previous several years.

[10:45:00 AM](#)

Mr. Alper pointed to the graph on slide 3: "History of Oil and Gas Production Tax Credits: Refunded Tax Credits by Region." He explained that the most obvious feature in the graph was the growing red wedge representing the Cook Inlet and other non-North Slope areas. It used to be relatively small but had started growing in 2012 or 2013. It was a response to the additional work that had been done since the passage of the Cook Inlet Recovery Act and related legislation in 2010. He reported a large ramping up of work some of which resulted in resolving some of the supply uncertainty that South central was experiencing at the time. It had grown to where, of the money the state spent in the previous year, over 60 percent was outside the North Slope in terms of refundable tax credits. The state was seeing similar numbers were seen for FY 16.

Mr. Alper turned to slide 4: "Forecast of O&G Revenue and Tax Credits." He explained that the first of the three bars was all unrestricted oil and gas revenue prior to any credits. The number was theoretical. The middle bar represented in dark green was the actual money received by the state, the difference between the two was the money taken as credits against tax liability. The red bar reflected the revenue after subtracting the repayment checks for tax credits. Suddenly in FY 15 the oil revenue, which had decreased from \$2.3 billion before credits against liability to \$1.7 billion, was only about \$1.0 billion. He was only talking about unrestricted oil and gas revenues which included royalties, corporate income tax, property tax, and the production tax. He thought the graph made it look like FY 15 was a good year and did not reflect back far enough. If a person were to look at FY 12 the state had about \$8 billion to \$9 billion worth of oil revenue. The reduction was a major shift of consciousness for the state forming a budget, while switching to a climate of structural deficits. Going down from FY 15 to the present things were getting even worse, likely tied to the further reduction in the price of oil and the growth in the tax credit program. The forecasted tax credit number for FY 17 was about \$825 million. He reported that for the first time the amount was a larger number than all of the state's unrestricted oil and gas tax revenues. The state would be functionally negative on oil and gas in FY 17 for the first time ever.

[10:48:10 AM](#)

Mr. Alper advanced to slide 5: "Work Done Since Last Session":

- Governor's line-item veto capped FY16 spending at \$500 million
  - Temporary liquidity crisis; many meetings with industry and others to help reassure lenders
- Multiple presentations with history, current practice, and possible changes
  - Joint Resources in Kenai, June 17
  - Three "regional" presentations to Senate Working Group September through November

- All presentations on BASIS; we're prepared to go through similar information for the committee
- Development of reform legislation including plan for transition from current system

Mr. Alper explained that the results of the governor's line item veto limiting spending to \$500 million helped to cover everything that was in the cue at the time. The governor's primary mission was to start a conversation. He was aware that it was a big issue that needed addressing. He did something dramatic in order to put a process in place that lead to legislation in the 2016 session. He relayed that the administration was taken by surprise by the degree the industry reacted, stopping lending because of a fear of even greater cutbacks and spending in future years. The commissioner of DOR and other senior members of the administration had met with industry assuring repayment of the state's obligations. He stated that there could possibly be slight delays during the transition period. However, the state was working towards a system that would keep everyone whole. Any changes to the statutes would be forward looking rather than retroactive. He mentioned the liquidity crisis being resolved. Loans were being made again and everyone was going about their business. Meanwhile, through the previous interim there were several meetings and presentations. The first one was a Joint Resources Meeting in Kenai in June where the Department of Revenue made a major presentation. Senator Giessel put together a working group of Senators and members of industry. The group had a series of hearings in the previous fall providing very detailed presentations on the credit structure on the North Slope, Cook Inlet, and in the middle earth area. Each of the presentations were on BASIS through the Senate tax credit working group. He encouraged members of the committee to review them. He relayed that they could be brought before the committee as well. They provided a significant amount of detail. He furthered that out of the hearings and discussions with the administration a reform package in the form of legislation that included the plan for transition from the current system to ensure enough money would be available to keep the system whole through that time. The legislation had been introduced at the beginning of session as HB 247 (Short Title: TAX; CREDITS; INTEREST; REFUNDS; O & G).

[10:50:37 AM](#)

Mr. Alper moved on to slide 6: "Major Bill Themes":

1. Reduce the state's annual cash outlay
2. Protect Net Operating Loss credits as a playing field leveler between legacy producers and newcomers
3. Limit repurchases
4. Strengthen the minimum tax
5. Be more open and transparent
6. Honor and pay credits earned to date and through any transition period

Mr. Alper indicated that the slide reflected the commissioner's introduction which outlined the themes the governor hoped to accomplish through a tax credit reform package. He read the list.

[10:51:06 AM](#)

Mr. Alper turned to slide 7: "Major Bill Concepts in Governor's Proposal":

1. Exploration Credits- sunset and transition
2. Cook Inlet Drilling Credits- phase out while retaining operating loss credits
3. Repurchase Limits- limit cash outlay
4. Remove Exceptions / Loopholes
5. Strengthen Minimum Tax- prevent certain credits from going below the floor, plus increase to 5%
6. Other Provisions- technical cleanup, transparency, interest rate reform

Mr. Alper explained that the slide went into greater detail of the concepts that were in HB 247. He would not drill down into the details in the current hearing. There would be time to discuss them in other hearings. He reviewed the list. He explained that many of the exploration credits were nearing sunset. The intent would be to allow them to sunset and transition away from direct support of exploration. The Cook Inlet drilling credits were very large and were created to resolve the Cook Inlet supply crisis. The proposal included phasing those out while retaining the operating loss credits. The proposal also included placing some sort of caps on the physical repurchases, specifically dollar values per company. He furthered that there were a number of exceptions and

loopholes in the statutes that became apparent in a low-price environment that needed to be cleaned up.

Mr. Alper continued that the proposal included strengthening the minimum tax. However, it was discovered that, although the 4 percent floor governed tax payments by the major producers, as the state got into a period of a sustained low prices there were other circumstances where tax payments could go below the 4 percent number. The most prominent one began in January 2016: If a major producer had an operating loss they could use their operating loss credits to reduce their payments below the floor all the way to zero. The legislation was looking to strengthen the minimum tax and to bump up the minimum tax rate from 4 percent to 5 percent. He relayed that there were a number of other provisions in the legislation including technical cleanup of existing law, the concept of transparency, and reform to the interest rate structure for delinquent taxes. He concluded that he had presented the guts of the bill.

Mr. Alper scrolled to slide 8: "Content of Future Presentations":

- We provided five different presentations to the prior committee; all are on BASIS
- History and development of our credit system
- History and application of the minimum tax
- Various credits and how they have been used, which ones haven't been, and what is sun setting
- Detailed forecasts and scenario analysis
- Details and modeling of specific provisions
- Explanation of changes made in prior committee
- Life cycle modeling of typical new projects, with impact of legislation

Mr. Alper mentioned that the House Resources Committee had met 24 times on the subject of HB 247 over a period of 6 to 7 weeks. The Department of Revenue provided the committee with five different presentations all of which were available on BASIS. He wanted to be working with legislators and staff to determine the appropriate information and the order in which it should be brought before the House Finance Committee. Some of the larger concepts in the previous presentations included the history and development of Alaska's credit system going back to the early 2000's, how the minimum tax evolved over the years

going back to the 1970's during the Economic Limit Factor (ELF) era, how the various credits worked, how the credits had been used, which credits were never used, and what credits would sunset. Additional content included looking at scenario analysis and what might happen if certain changes were made. He elaborated that DOR had done a significant amount of modeling of specific and more mathematically complicated provisions of the bill. He also informed committee members that he would be reviewing the changes made by the House Resource Committee which were reflected in the committee substitute and how the bill had evolved.

Mr. Alper reported that DOR had developed a new model called a "Life Cycle" model that looked at individual fields. He cited the example of a new player coming to town wanting to develop a 50 million barrel field with an assumption for capital spending, a certain timing, and a certain set of credits. He wondered if the state's cash flow could be determined. He was interested to know what the state's cash flow would look like and what the cash flow of the producers would look like. He also wanted to know how the changes in the current legislation affect the profitability and the state's cash flow. The department was capable of generating new scenarios at the request of the committee.

Mr. Alper concluded his presentation and made himself available for questions.

HB 247 was HEARD and HELD in committee for further consideration.

Co-Chair Thompson indicated the committee would have several additional meetings in order to dig into the details of the bill. He reviewed the agenda for the afternoon.

#  
ADJOURNMENT

10:56:08 AM

The meeting was adjourned at 10:56 a.m.