

HOUSE FINANCE COMMITTEE
April 9, 2018
9:07 a.m.

9:07:08 AM

CALL TO ORDER

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

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Senator Click Bishop, Sponsor; Pete Fellman, Staff, Senator Click Bishop; Representative Chuck Kopp, Sponsor; Eric Cordero-Giorgana, Staff, Representative Chuck Kopp; Kate Hudson, Executive Director, Violent Crimes Compensation Board, Department of Administration; David Teal, Director, Legislative Finance Division.

PRESENT VIA TELECONFERENCE

Bruce Dale, Director, Division of Wildlife Conservation, Department of Fish and Game; Steve Hall, Director, Alaska Wildlife Troopers, Department of Public Safety; Aaron Peterson, Attorney IV, Criminal Division, Office of Special Prosecution, Department of Law.

SUMMARY

HB 129 FISH & GAME: OFFENSES;LICENSES;PENALTIES

HB 129 was HEARD and HELD in committee for further consideration.

HB 216 TRANSFERS FROM DIVIDEND FUND; CRIMES

CSHB 216(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from the Department of Law; one new fiscal impact note from the Department of Administration; one new fiscal impact note from the Department of Administration for Fund Capitalization; one new fiscal impact note from the Department of Corrections; one new indeterminate note from the Alaska Judicial System; two previously published zero fiscal notes from the Department of Health and Social Services: FN2 (DHS) and FN3 (DHS); and one previously published fiscal impact note from the Department of Revenue: FN7 (REV).

SB 78 PERM FUND DIVIDEND CONTRIBUTIONS/LOTTERY

SB 78 was HEARD and HELD in committee for further consideration.

Co-Chair Foster discussed housekeeping.

#sb78

CS FOR SENATE BILL NO. 78(FIN)

"An Act creating the education endowment fund and the dividend raffle fund; authorizing donations from the permanent fund dividend for educational purposes and to enter the permanent fund dividend raffle; relating to transfers from the dividend raffle fund and the education endowment fund; relating to the duties of the Department of Revenue; relating to the definition of 'gambling'; and providing for an effective date."

[9:08:16 AM](#)

SENATOR CLICK BISHOP, SPONSOR, thanked the committee for hearing the bill. He shared that his heart and soul were in

education and workforce development. He relayed that 120 testifiers had stressed that need for education funding and the lack of the raise in the average daily memberships (ADM). He hoped one day the bill would be fully funded and would be injecting new money into education; supporting Pre-K, workforce development, STEM programs, and others. He believed that the bill was a vehicle that used the power of earnings as a renewable resource to help fund education in the state.

Representative Grenn asked about the number of participants and the average donation. He referenced a sheet titled "Random Sample at 50,000 Participants giving \$200 each" (copy on file). He wondered what data the expectation of participation was based on.

PETE FELLMAN, STAFF, SENATOR CLICK BISHOP, he replied that the Legislative Finance Division had created the models for the legislation. He said that another model used 10,000 participants. There was no way to know the number of people would choose to participate in the raffle. He stated that roughly 400,000 adults received permanent fund dividends but that it was unknown how many people would choose to donate to education.

Representative Grenn wondered about a marketing number or promotions amount to generate interest in the lottery.

Mr. Fellman pointed to administration cost on the spreadsheet, which were solely from the lottery portion of the donations; the program was self-funded. He said there would be minimal start up costs. He stressed that the program would be self-sustaining after the first year.

[9:14:12 AM](#)

Representative Grenn was looking for a promotion cost. He noted that the Department of Revenue fiscal note reflected a cost of \$10,000 for FY 19, under "services." He reiterated his desire to understand the costs associated with promotions and advertising.

Mr. Fellman answered there would be a cost to put the raffle on the webpage, but the cost was not expected to be significant.

[9:15:33 AM](#)

AT EASE

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RECONVENED

Mr. Fellman would follow up with the startup advertising cost. He noted there had been a fiscal note from the previous year that had been updated.

Representative Guttenberg understood that the raffle would be created under the assumption that the payouts would be don automatically. He asked what part of the raffle money was subject to legislative appropriation.

Mr. Fellman replied that a legal opinion had been drafted that addressed the issue of appropriation. The opinion said that because they were private donations donated for a private purpose, a court could say that the donations had to be used for the purpose donated - education and a raffle. According to a March 31, 2017 legal opinion from Legislative legal Services (copy on file) donations made for a specific purpose had to be used for the purpose for which they were donated. He said that this did not mean that the legislature could not attempt to appropriate the funds, but that doing so would be a bold step that could be challenged in court.

[9:20:26 AM](#)

Representative Guttenberg maintained discomfort with the issue.

Co-Chair Foster asked Mr. Fellman to review the changes in the CS.

Mr. Fellman complied. The first change reduced the cap on the lottery in order for money to be more quickly put into education. The changes were on Page 5 and deleted \$500 million and inserted \$300 million. The Education Endowment Fund at \$300 million in order for the fund to grow at a quicker rate. The second change, on Page 6, reduced the payout percentage for prizes to allow more money to be put forward for education. The change on Line 5 of the page deleted 10 percent and inserted 8 percent; on line 7, deleted 5 percent and inserted 4 percent; on Line 9, deleted 3 percent and inserted 2 percent; on Line 11 deleted 2 percent and inserted 1 percent. He stressed that

the bill was an effort to set up a system for extra education funding. The effective date had been changed on page 6, line 14.

[9:23:43 AM](#)

Representative Guttenberg queried the assumptions that showed how long it would take for the fund to reach \$300 million.

Mr. Fellman replied there was no way to know how much money would move until it hit the cap and they did not know how long it would take to hit the cap. When the \$300 million was hit, everything above that amount in the raffle balance would flow into the education endowment fund.

Representative Ortiz asked whether the changes in the reduction of the percentage of payouts they were based on an intuition that they could reduce the incentive to participate. He asked if the sponsor assumed that participants would be people who really wanted to donate to education or people who were attracted to participating in a game of chance.

Mr. Fellman responded that in modeling the program over a ten-year timespan, there came a point once the cap was hit of the possibility that more money could be paid out than was being put in or that little would remain in the endowment. He said that the reduction would leave more money in the raffle fund. He thought that the motivation for playing the raffle was a moot point since the money ultimately went to fund education. He reiterated that as the program matured, money would be put into education every year and a small percentage of the raffle fund would be used to pay out prizes. He elaborated on the powerful way that the multiplication of earnings on the endowment would benefit education funding in the state.

[9:28:34 AM](#)

Representative Ortiz supported the bill. He thought that the level of participation based on the reduced pay-out should be considered.

Representative Wilson understood that participation in the raffle was limited to the once a year dividend application.

Mr. Fellman answered in the affirmative. A participant had to be 18 years of age and they could not use their children's money to donate to the raffle. He added that playing could only be done with PFD money and a person had to be a resident. They could participate in \$100 increments. Every \$100 got a person one raffle ticket in the bucket. They could use their entire PFD in \$100 increments.

Representative Wilson recalled that the University of Alaska had a raffle program.

Mr. Fellman answered that with the college fund a person could donate and get a scholarship; another program put their name in a raffle for a chance to double their dividend. He agreed that there were similar programs working in the state.

[9:31:22 AM](#)

Representative Wilson asked for examples in other locations where lotteries had positively impacted education.

Mr. Fellman answered that many states were using lottery money to help fund education. He said that the success rate varied for different programs in different states. He stated that some states used 70 percent of lottery money for education funding, while other states supplemented education funding with lottery monies. He said that it was not a guarantee that the lottery money would not supplant other general fund money, but some states had been able to reduce the amount of state money that was put into education because of lottery funding.

Co-Chair Seaton MOVED to ADOPT the proposed committee substitute for SB 78, Work Draft 30-LS0534\Y (Martin, 3/14/18). There being NO OBJECTION, it was so ordered.

[9:33:34 AM](#)

Vice-Chair Gara believed Senator Bishop wanted more money for education and job training. He had two concerns that he believed could be addressed. If they wanted the money to supplement education funding he thought it needed to be addressed in the bill. He worried that the fund would supplement general funds dollars, rather than increasing education funding. He stressed the importance that donors

receive assurances that the money they donate will go to increase education spending. He understood that no money would go into education until the endowment reached \$300 million.

[9:35:52 AM](#)

Mr. Fellman replied in the negative. He explained that every year 50 percent of the raffle funds would go directly to education; 25 percent of all donations would go into the endowment fund and 25 percent would go into the raffle fund. Everything above the \$300 million cap would go directly to the endowment.

Vice-Chair Gara reiterated his desire that language be written into the bill that defined whether the fund would be used as additional funding or supplemental funding.

Mr. Fellman answered that the money would go to education. He said that he had no control over how the legislature would appropriate to education in future operating budgets. He said that the level of funding for education in the future would be established by formulas in statute and the choices made by the legislature. He stressed that the money would help the state. He was not sure how guarantees could be written into the language that funding for education would increase as a result of the legislation.

Vice-Chair Gara agreed that it was not possible to bind future legislatures. He thought that the legislature used "may spend" language often and that a provision could be written into the bill that distributed the raffle funds through the foundation formula. A future legislature could decide to honor or not honor the decision. He wanted to let people know that their money may only be going to supplant other funding to education.

Mr. Fellman thought that the issue garnered further discussion and believed that language could be crafted that addressed the concern.

[9:39:57 AM](#)

Co-Chair Foster asked Mr. Fellman to review the sectional analysis.

Mr. Fellman complied, stating that Section 1 amended gambling laws. Section 2 gave priority over donations - if people were donating to other things the raffle was at the bottom of the priority list. Section 3 created the endowment fund and the dividend raffle fund. The effective date was January 1, 2019.

SB 78 was HEARD and HELD in committee for further consideration.

#hb216

HOUSE BILL NO. 216

"An Act relating to transfers from the dividend fund; creating the restorative justice account; relating to appropriations from the restorative justice account for payments for and services to crime victims, operating costs of the Violent Crimes Compensation Board, operation of domestic violence and sexual assault programs, mental health services and substance abuse treatment for offenders, and incarceration costs; and providing for an effective date."

[9:42:47 AM](#)

REPRESENTATIVE CHUCK KOPP, SPONSOR, thanked the committee and introduced himself.

ERIC CORDERO-GIORGANA, STAFF, REPRESENTATIVE CHUCK KOPP, introduced himself.

Representative Kopp stated that the bill would reset in law the legislative purpose for making certain persons ineligible to receive a dividend; those who have been incarcerated on a felony during their qualifying year, those that have been convicted of a felony during their qualifying year, or those that have been convicted of a misdemeanor but have a prior felony or two prior misdemeanors. He said that the dividends that would otherwise be paid to those Alaskans would provide funds for services and payments to crime victims and operating costs through he Violent Crimes Compensation Board. Secondly, the funds would be used to pay restitution owed to crime victims. Thirdly, the fund would provide for grants to non-profits for crime victims, for mental health services and substance abuse treatment for offenders, to provide funds to the Office of Victims Rights (OVR) to help people get

restitution payments, and to provide fund to the Council on Domestic Violence and Sexual Assault (CDVSA) for grants to victims. He added that the bill included obtaining reimbursement for some costs to the Department of Corrections related to probation and incarceration. He said that the bill would establish the Restorative Justice Account as a separate account within the dividend fund and allowed the commissioner to make a transfer each year from the dividend fund to the Restorative Justice Fund in an amount equal to the amount that would have been paid during the previous fiscal year to individuals who were ineligible for dividends. The bill established a priority order and percentages of payment. He believed that the bill brought back the original purpose of the fund. He said that the fund was not considered dedicated and that the legislature could still make appropriations at they deemed fit.

[9:47:20 AM](#)

Co-Chair Foster listed individuals available for questions.

Representative Kawasaki noted that a previous version of the bill looked at priority order of payment and the current bill looked at percentages of payment. He thought that the dedicated fund issue had become murky and quoted the legal opinion from the legislative Division of Legal and Research Services from April 7, 2018:

However, you should be aware that creating a requirement that a certain percentage go towards a specific purpose can make the fund look more like a dedicated fund, carrying a greater risk that a court could find the appropriation is not intended to be discretionary.

Representative Kawasaki asked Representative Kopp to address the point raised in the memo.

Representative Kopp thought that there was a long history of similar practice through the state's technical and vocational programs; percentages were set in statute for varying technical programs in the state. He said that it had never been challenged.

[9:49:55 AM](#)

Co-Chair Foster OPENED and CLOSED public testimony.

Representative Grenn MOVED to ADOPT Amendment 1, 30-LS0572\L.1 (Martin, 3/28/18) (copy on file):

Page 1, lines 6 - 7:

Delete **'relating to contributions from dividends;'**

Page 8, line 7, through page 9, line 20:

Delete all material.

Renumber the following bill sections accordingly.

Representative Wilson OBJECTED for discussion.

Representative Grenn explained that he supported the original intent of the bill. He shared that the original intent of the Pick.Click.Give program was to focus on 501(c)(3) nonprofits that were the safety net for many Alaskans. He worried that adding programs like the on under the bill could divert support from those nonprofit, non-government organizations. He expressed concern that the program did not have an audit provision. He thought that the words Pick.Click.Give should be removed from the legislation.

[9:52:40 AM](#)

Representative Kopp shared that the amendment did not hinder the bill. He was neutral on the amendment and believed it stayed consistent with the legislation's intent.

Representative Wilson OBJECTED to the amendment. She explained her reasoning.

Representative Grenn replied there were over 600 statewide nonprofits that Alaskans could donate to in order to help victims of violent crimes. He listed other nonprofits focused on helping victims.

Representative Wilson said her understanding was that the organizations did not help the individual who had been victimized. She did not believe that Pick.Click.Give would be affected by the legislation as written.

[9:56:27 AM](#)

Representative Kawasaki wondered whether there were auditing requirements for the compensation fund similar to the ones required of Pick.Click.Give organizations.

Representative Grenn could not speak to the administrative process of the account. He did not believe that the fund worked within the parameters of the nonprofits under the Pick.Click.Give umbrella. He thought that sticking with the original intent of the Pick.Click.Give program would be the best practice for the state.

Representative Wilson hoped to clarify the conversation about how the compensation funds were being spent and to quell assumptions that no one was being held accountable to how the funds were being spent.

KATE HUDSON, EXECUTIVE DIRECTOR, VIOLENT CRIMES COMPENSATION BOARD, DEPARTMENT OF ADMINISTRATION, answered that a performance report was completed and submitted to the federal government every quarter, in addition to an annual performance report. She said that there was no requirement to perform a state audit on a regular basis, but that one had been performed roughly 12 years ago. She said that the records could be easily audited should that be requested. She stated that several agencies were covered by the legislation, which presented the question of how they were presented on the Pick.Click.Give page.

[10:00:08 AM](#)

Representative Wilson asked whether the needs for violent crime compensation were currently being met with funding.

Ms. Hudson answered that it varied from year to year. She said that some years all the money was spent and bled into the next fiscal year, and some years not all the money was spent. She said that the issue was that the board was very small, and that funding had remained flat for many years; the board knew for a fact that they were not meeting the needs of all the crime victims in the state and wondered whether victims were even aware of the fund. She said that homicides that involved dependent children required a lot of funds. She said that there were eligibility restrictions of the fund which were offset by other programs like domestic violence shelters and rape crisis centers that to meet some of the needs that the compensation board could not.

Representative Kawasaki wondered how the compensation board would advertise itself under Pick.Click.Give.

Ms. Hudson stated that she was not entirely sure. She assumed that advertising would be done on the Pick.Clik.Give website and possible public service announcements would be done.

Representative Grenn answered that one of the requirements for the application for Pick.Click.Give was a 990. He asked Ms. Hudson whether her organization used that particular tax form.

Ms. Hudson replied in the negative.

Representative Wilson MAINTAINED her OBJECTION.

A roll call vote was taken on the motion to adopt Amendment 1.

IN FAVOR: Kawasaki, Ortiz, Pruitt, Gara, Grenn, Guttenberg, Seaton, Foster

OPPOSED: Thompson, Tilton, Wilson

The MOTION PASSED (8/3). There being NO further OBJECTION, Amendment 1 was ADOPTED.

Vice-Chair Gara was generally supportive of the bill but had questions. He asked about the backfill amount for the various programs that would no longer be receiving as much money from the funds. He agreed they wanted to move money to the items specified in the bill, but he was concerned about items that would receive less funding.

Representative Kopp replied that the bill would establish a priority order and not a dollar amount. He said that the percentages were a valuable approach because it would allow DOC to receive their maximum percentage. He said that OVR would be allowed to facilitate restitution orders, which was the greatest need in helping victims get back on their feet. He stated that the minimal increase would streamline the restitution process.

[10:07:16 AM](#)

DAVID TEAL, DIRECTOR, LEGISLATIVE FINANCE DIVISION, suggested placing the fiscal notes in order beginning with

the Department of Law note (LAW), OMB component 2717. He directed committee attention to Page 2:

The Department of Law used to collect restitution for victims. This program was defunded in 2017. The court system now collects restitution for victims. Because the Department of Law no longer collects restitution, the department anticipates no fiscal impact if the bill becomes law.

He noted that Page 2 of the bill stated that LAW would still be involved in the collection of funds, which made him question the fiscal note. He thought that there could be fiscal impact in the future.

10:10:10 AM

Representative Kopp relayed that LAW had in the past a Victims' Restitution Unit, which was removed in 2017. He said that with that removal the department was still giving notice to victims about eligibility to receive assistance from the state but that the court had step in to assist with receiving payments and helping to facilitate those payments. He stressed that under the bill, OVR would step up to facilitate those payments.

10:11:09 AM

Mr. Teal agreed with the sponsor. He stated that there could be some confusion because LAW could step in if the victim chose to get help from the department. He thought that the issue could be addressed in the future. The second fiscal note was from the Alaska Court System, OMB component 769. He explained that the addition of OVR to the equation would require coordination, which would have fiscal impact if the office paid restitution. He pointed to the money for a data entry person, but no money for the payment of restitution.

Representative Kopp interjected that the money for restitution was subject to legislative appropriation. He said that the most common restitution figure was \$1000; the restitution order had not traditionally been a part of the OVR budget, so an appropriation to help pay restitution orders would be needed. He did not believe that huge amounts of money would need to be appropriated.

10:13:50 AM

Co-Chair Foster listed additional invited individuals available to testify.

Representative Wilson asked how long the position would be needed.

Mr. Teal answered that the appropriation for the position did not have to be used for the position but could be used for operating costs, including the payment of restitution. He said that the position was intended to set up the coordination between the court and OVR to be sure that their databases aligned. He stated that once the coordination occurred, the position may no longer be required. Whether the money was taken away or used for restitution in the future was up to the legislature.

Representative Wilson thought that it was unusual that the duration of the position was ambiguous.

10:16:17 AM

Mr. Teal reviewed the Department of Revenue fiscal note, OMB Component 981. he relayed that the department was requesting \$20 thousand in FY19, and \$15 thousand each year after for management fees associated with the new sub-account of the dividend fund. He felt that there was little need to pay for the fees with general funds, he thought that the new fund could be charged for the management fees. The bill did not currently stipulate that one of the purposes of the fund was to allow for the payment of managing fees. He said that the general fund was appropriate, given the way the bill was drafted, but that could be amended.

Representative Wilson asked if the fiscal note pertained to Amendment 1.

Mr. Teal answered in the negative. He said that when a fund of any kind was established, the department needed to track the funds. He said that money would be flowing in and out of the fund continually, which the department needed to track.

Mr. Teal reviewed the Department of Health and Social Services fiscal note, OMB Component Number 2134, with zero impact.

[10:18:38 AM](#)

Mr. Teal addressed the Department of Health and Social Services fiscal note, OMB Component Number 3099, with zero impact. Fiscal note 6 was for the Violent Crimes Compensation Board, OMB Component 2694. The note requested \$178.7 thousand to pay the restitution for victims of crime. He said that the number was in the range of allowable percentages. He continued to the Fund Capitalization note, OMB component 2936, which matched the previous note. He said the fund would first be capitalized and then the money went from the Crime Victim Compensation fund, to the board, which in turn made payments from the fund.

[10:20:46 AM](#)

Mr. Teal reviewed the fiscal note for the Court System, OMB Component Number 769, which showed a fund source change with one position added. He said that the change would take away \$167.6 in general funds and replaced it with money from the Restorative Justice Fund of \$251 thousand; the change resulted in a net gain of \$83.8 and would pay for the 1-year position. He said that if more money became available, DOC would get less fund and would need offsetting general fund dollars. The last fiscal note was for the Department of Corrections, OMB Component Number 2952. He stated that if more of the fixed amount of money was used for purposes other than behavioral or physical health within the department, DOC would need money to offset the fund taken from them and used for other purposes. In FY19, the fiscal noted were lower than what was called for in the legislation, which could change in the future. He related that for 2019, the net cost would be \$262 thousand, primarily in the Crime Victim Compensation Fund and then the fund source change in OVR. He concluded that \$282 was the net general fund spend associated with the bill.

[10:23:41 AM](#)

Vice-Chair Gara requested further clarification on the fiscal notes.

Mr. Teal explained that more money would be spent for victim compensation, which would result in less of the restorative justice funds available to DOC. The DOC funds would need to be replaced at the cost of \$262 thousand in general funds, plus \$20 thousand in administrative fees, totaling \$282 thousand.

Vice-Chair Gara asked which fiscal note was under discussion.

Mr. Teal clarified he was speaking about all the fiscal notes combined.

Vice-Chair Gara spoke to the fiscal note for DOC, OMB 2952. He understood that \$430 thousand was being added for DOC.

Mr. Teal replied in the affirmative. He explained that DOC had \$11,493.4 in restorative funds in their budget for physical healthcare costs. He said that because those restorative funds would be used for other purposes, the department would receive \$11,063 from that fund source. They will need \$430 thousand undesignated general funds to replace the money being used elsewhere. He furthered that the \$282 thousand versus \$430 thousand was because of the negatives in OVR where general funds were being taken away from the agency; the net of what was being taken from the agency and replaced with restorative funds was \$83.8 and added up to \$282 thousand.

[10:27:30 AM](#)

Vice-Chair Gara asked about an additional \$11 million being put in during conference committee.

Mr. Teal hoped that would not be the case.

Representative Wilson asked for verification that if nothing changed the following year there would still be a gain of \$282 thousand required.

Mr. Teal answered it was not a single fiscal note totaling \$282, rather the sum of all notes. He said that in the next year the legislature may decide to fund some of the things that were currently a zero fiscal impact at present. There were grants through the Department of Health and Social Services (DHSS) that were a zero in FY19. He relayed that CDVSA had not prepared a note because they were expecting

money anyway. He stated that there were some grants through DHSS that were zero in FY19, and according to the bill, the minimum percentages for those purposes was 1 or 2 percent. He said that as those things were funded in the future it would take money form DOC, which would mean that the UGF in DOC would need to be increased to make up for the loss.

Representative Wilson asked about a scenario where nothing changed, and everything continued to be funded under the status quo. Aside from the \$20,000 for administrative purposes - how would the fiscal impact increase.

[10:30:29 AM](#)

Mr. Teal replied that the \$282 thousand was the FY19 cost. He said that if nothing changed from the distribution in FY19 then there would be no change. He related that the money that was lost by departments to fund the payments would need to be replaced. He concluded that the future cost of the legislation may be just the \$179 thousand, plus the \$20 thousand in administrative cost.

Co-Chair Foster believed there would be forthcoming note from Judiciary.

Mr. Teal replied that the note misstated the fund name and would be corrected.

Co-Chair Seaton MOVED to REPORT CSHB 216(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 216(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from the Department of Law; one new fiscal impact note from the Department of Administration; one new fiscal impact note from the Department of Administration for Fund Capitalization; one new fiscal impact note from the Department of Corrections; one new indeterminate note from the Alaska Judicial System; two previously published zero fiscal notes from the Department of Health and Social Services: FN2 (DHS) and FN3 (DHS); and one previously published fiscal impact note from the Department of Revenue: FN7 (REV).

[10:32:59 AM](#)

AT EASE

[10:34:11 AM](#)

RECONVENED

#hb129

HOUSE BILL NO. 129

"An Act relating to sport fishing, hunting, or trapping licenses, tags, or permits; relating to penalties for certain sport fishing, hunting, and trapping license violations; relating to restrictions on the issuance of sport fishing, hunting, and trapping licenses; creating violations and amending fines and restitution for certain fish and game offenses; creating an exemption from payment of restitution for certain unlawful takings of big game animals; relating to commercial fishing violations; allowing lost federal matching funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs to be included in an order of restitution; adding a definition of 'electronic form'; and providing for an effective date."

[10:34:19 AM](#)

Co-Chair Foster relayed that the bill had been heard before in committee and public testimony was CLOSED.

[10:35:01 AM](#)

AT EASE

[10:35:33 AM](#)

RECONVENED

BRUCE DALE, DIRECTOR, DIVISION OF WILDLIFE CONSERVATION, DEPARTMENT OF FISH AND GAME (via teleconference), deferred questions to the Department of Public Safety.

STEVE HALL, DIRECTOR, ALASKA WILDLIFE TROOPERS, DEPARTMENT OF PUBLIC SAFETY (via teleconference), did not have additional comments.

Co-Chair Foster listed additional individuals available for questions.

[10:37:07 AM](#)

Representative Kawasaki noted that several sections of the bill changed the consequence for violations from a misdemeanor, upon conviction punishable by a fine, to a Class A misdemeanor and punishable by a fine. He wondered about the impact of the change in language.

AARON PETERSON, ATTORNEY IV, CRIMINAL DIVISION, OFFICE OF SPECIAL PROSECUTION, DEPARTMENT OF LAW (via teleconference), responded that the original language in the bill would have changed all the non-classified misdemeanors in Title 16 to Class A misdemeanors with standard Class A misdemeanor penalties laid out in AS 12.55. He said that the amended version made them Class A misdemeanors with maximum fine amounts.

Representative Kawasaki understood that under the current bill a charge for violation could be appealed in court.

Mr. Peterson answered in the affirmative.

[10:39:43 AM](#)

Representative Pruitt referenced Page 2, section 3:

(h) A peace officer presented with an electronic device under (g) of this section is immune from any liability resulting from damage to the device.

Representative Pruitt asked what would happen if the electronic device was damaged in the presentation of said device to a peace officer. He thought that utilizing the electronic device was a good idea but expressed concern about the meaning of "liability" in the subsection.

Mr. Hall answered that the provision was intended to protect the department from liability. If a person chose to store their fishing license on their phone, rather than have a paper copy the department would not be held liable for any damage to the phone or other device.

Representative Pruitt offered an anecdote where a person was asked to show their license even though they had not committed a violation. He worried that the public would have no recourse if they were asked to present their license and then something happened to their device. He thought that the department should claim some liability for

damage. He threatened to offer a conceptual amendment to have the language removed.

[10:44:28 AM](#)

Representative Guttenberg asked whether there was precedent for Representative Pruitt's concern.

Mr. Peterson replied that the reason that the section was in the bill was based on situations in other states. He offered an example of a person fishing in the rain using their phone to show their license to an officer. He said that if the device got wet and was damaged while the trooper was performing their duties, the state would not be liable for damages to the device. He said that if the officer was grossly negligent it could be an issue for the civil division of law.

[10:47:07 AM](#)

Representative Guttenberg understood it was a civil law issue.

Mr. Peterson explained that there was a duty of care that law enforcement was required to exhibit when taking possession of belongings, an impounded vehicle, for example. He said that "due care" would be used by law enforcement and the liability would depend on the facts of the interaction.

[10:48:39 AM](#)

Representative Ortiz understood the concern; however, there was a certain amount of acceptance of the risk of having the only copy of the licenses in an electronic format. He thought an individual had to calculate that risk when deciding whether to carry a paper or electronic license. He would oppose the conceptual amendment if offered.

Representative Wilson asked to hear from someone from the Civil Division of the Department of Law. The language stated, "immune from any damage to a device." She did not think proper care had anything to do with it. She did not think anyone should be completely immune to possible damage of property.

Co-Chair Foster held the bill until the afternoon meeting.

Representative Wilson requested more information on the issue. She thought the bill could be written in a better way.

HB 129 was HEARD and HELD in committee for further consideration.

Co-Chair Foster discussed housekeeping.

ADJOURNMENT

10:52:56 AM

The meeting was adjourned at 10:52 a.m.