

HOUSE FINANCE COMMITTEE

April 9, 2018

2:05 p.m.

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CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 2:05 p.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

Sylvan Robb, Deputy Commissioner, Department of Administration; Representative Chris Tuck, Sponsor; Brandon S. Spanos, Deputy Director, Tax Division, Department of Revenue; Brodie Anderson, Staff, Representative Neal Foster; Kara Moriarty, President, CEO, Alaska Oil and Gas Association (AOGA); Senator Anna McKinnon, Sponsor; Ms. Lori Wing-Heier, Director, Division of Insurance, Department of Commerce, Community and Economic Development; Kathy Ms. Lea, Chief Pension Officer, Division of Retirement and Benefits, Department of Administration.

PRESENT VIA TELECONFERENCE

Susan Cox, Workers' Compensation Attorney, Office of the Attorney General, Department of Law; Carol Petraborg,

Director, Administrative Services, Department of Fish and Game; Colonel Steve Hall, Wildlife Trooper, Department of Public Safety; Aaron Peterson, Attorney IV, Criminal Office of Special Prosecution, Department of Law.

SUMMARY

HB 129 FISH & GAME: OFFENSES;LICENSES;PENALTIES

CSHB 129 (FIN) was REPORTED out of committee with an "amend" recommendation and with one new zero fiscal note from the Department of Fish and Game; one new indeterminate fiscal note from the Department of Administration; and one previously published zero fiscal note: FN4 (DPS).

HB 233 EDUCATION TAX CREDITS; SUNSET; REPEALS

CSHB 233 (FIN) was REPORTED out of committee with four "do pass" recommendations, three "no recommendation" recommendations, and four "amend" recommendations, and with one previously published fiscal impact note: FN1 (REV).

HB 306 PERS/TERS DISTRIBUTIONS

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

HB 399 CORP. TAX: REMOVE EXEMPTIONS/CREDITS

HB 399 was HEARD and HELD in committee for further consideration.

SB 165 COMPREHENSIVE HEALTH INSURANCE FUND

SB 165 was REPORTED out of committee with a "do pass" recommendation and with two previously published fiscal notes, one zero fiscal note: FN1 (ADM); and one fiscal impact note: FN3 (CED).

Co-Chair Foster reviewed the agenda for the day. The committee would be hearing 5 bills. He indicated that there were so many bills on the docket it was possible that HB 306 would be rolled to the following meeting. He intended to move HB 129, HB 233, and SB 165 from committee.

It was also possible, if it was the will of the committee, to move HB 399, and HB 306.

#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."

[2:07:22 PM](#)

Co-Chair Foster relayed that the committee heard HB 129 earlier in the day. There had been a discussion on Section 3(h). The committee had worked with the Department of Law and Legislative Legal Services to have an amendment drafted.

Representative Wilson asked if someone from the Civil Division was online.

[2:08:17 PM](#)

SUSAN COX, WORKERS' COMPENSATION ATTORNEY, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LAW (via teleconference), introduced herself.

Representative Wilson had a question regarding a liability issue in HB 129. The example given in the earlier meeting was her being pulled over in her boat by a trooper, handing over her phone that contained her fishing license, and the trooper dropping the phone into the water. The bill indicated the trooper would have no liability for the phone. She asked if the committee was reading the section

correctly referring to the bill on page 2, line 25. She asked if the language provided immunity.

Ms. Cox responded that the language in the bill would provide immunity from any liability regarding damage to the device which would include dropping it in the water.

Representative Wilson thought there should be some responsibility on the part of the trooper. If someone had their fishing license and hadn't broken the law, she wondered if there was a way to take care of the issue.

Ms. Cox responded that the way the bill was written, it provided immunity precluding any lawsuit. The language could be changed to eliminate the immunity leaving a possibility open. She understood there was an amendment that had been drafted to prove an exception to the immunity for intentional misconduct on the part of a peace officer.

Representative Wilson would wait to further address the issue until the amendments were brought up.

Representative Grenn MOVED to ADOPT Amendment 1, 30-GH1687\J.1 (Bullard, 4/2/18) (copy on file):

Page 2, line 27, through page 3, line 5:  
Delete all material.

Renumber the following bill sections accordingly.

Representative Wilson OBJECTED for discussion.

Representative Grenn explained that the amendment deleted material that was added by the House Judiciary Committee regarding the verification of low income licensees - people who were looking to get the low-income price for their sport fishing license or hunting license. Initially, he thought the amendment was a good addition. However, in talking with the Department of Fish and Game (DFG), the department would need to hire short-term non-permanent staff to cover the peak season from June to September. Since the department had already purchased their paper license stock, they would have to buy and print new stock costing the state an additional \$31,000. Additionally, they would have to enhance their computer system in the amount of \$8,000. He referred to the fiscal note with component number 479. He thought Ms. Petraborg could provide

verification. Fraud had not been a problem in the past when using these types of licenses. In talking with the department, he reported they were not entirely sure that external vendors like Walmart or Sportsman's Warehouse would be able to sell low-income licenses due to their inability to verify income levels. He thought the addition in the House Judiciary Committee grew government too large and increased the fiscal note for the bill. He opined the state could do better without it.

Representative Kawasaki referred to page 2, line 27. He wondered about the deletion of material. He asked if the current costs for resident hunting, trapping, and sportfishing licenses were deleted. Representative Grenn responded that it ended on page 3, line 5.

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Representative Kawasaki relayed that starting on page 2, line 28 it showed the resident hunting, trapping, and fishing sport license fee at \$75. Following the fee, the bill talked about how a person could obtain a lower-income license on page 2, line 29. It also outlined that proof of eligibility was required. He suggested that by deleting the section, it would also delete residential hunting, trapping, and sport fishing licenses and the ability to have a lower-income fee.

Representative Pruitt commented that the language that was contained was already part of statute. He indicated that only the highlighted portions on page 2 reflected the changes made in the House Judiciary Committee. He suggested that by deleting it, the committee would be deleting those changes. The committee would not be deleting the statute that currently existed. He pointed to Section 4 where it stated that AS 16.05.034(a)(6) was amended to read. It meant that the current statute was "X" and it was being amended with the black line. Representative Grenn thought it reverted back to current statute.

Representative Wilson was unsure how to get a low-income license. She wondered if someone had to apply in person to DFG. Representative Grenn deferred to Ms. Petraborg.

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CAROL PETRABORG, DIRECTOR, ADMINISTRATIVE SERVICES, DEPARTMENT OF FISH AND GAME (via teleconference), responded that currently, the low-income licenses could be purchased at any DFG vendor. There was an affidavit on the back of the license where the licensee signed verifying that they met the low-income requirements. If the changes in the amendment were adopted, then the vendors would no longer be able to issue licenses. It would move all of the traffic to DFG where the department would have to verify the low-income limits just like the department did with the permanent identification cards. It could deter people from purchasing a license. It would certainly slow down the process, and there would be associated costs.

Representative Wilson asked about signing an affidavit. Ms. Petraborg responded that the department did not typically verify the information. However, they could be asked to present the documentation by a trooper in the field. Historically, the department had not seen gross negligence in the issuance of such licenses. There were approximately 18,000 licenses sold each year.

Representative Wilson asked if a person would have to carry proof of income with them while fishing. Ms. Petraborg replied that the troopers might ask such questions. She was unclear about a timeframe when the information would have to be presented. She did not believe the person would have to have low-income verification on their person.

Representative Wilson asked someone from DFG to review the process. She was fairly certain troopers would not be asking income questions in the field. She did not have to have an explanation in the current meeting.

Vice-Chair Gara wondered about the meaning of "Delete all material." He thought that all that would be deleted were the changes. He asked Representative Grenn to triple check the issue before the bill was heard on the floor.

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, Amendment 1 was ADOPTED.

Representative Gara MOVED to ADOPT Amendment 2, 30-GH1687\J.3 (Bullard, 4/4/18) (copy on file):

Page 2, line 21:

Delete "30"  
Insert "90"

Representative Wilson OBJECTED for discussion.

Vice-Chair Gara MOVED to AMEND Amendment 2.

Representative Wilson OBJECTED.

Vice-Chair Gara spoke to his amendment to Amendment 2.

Page 2, line 20:  
Delete "in"  
Insert "to"

[2:20:31 PM](#)

AT EASE

[2:20:48 PM](#)

RECONVENED

Vice-Chair Gara noticed when reviewing the bill, in order to not be convicted, a person would have to present proof in the office. A person might live in a community without an office. He was hoping the person could send the information to an office. The purpose of the amendment was to also be able to send the proof to an office rather than having to get on an airplane to travel to an office.

Representative Wilson asked if the committee could hear from the department.

Co-Chair Foster asked if Ms. Petraborg was available.

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COLONEL STEVE HALL, WILDLIFE TROOPER, DEPARTMENT OF PUBLIC SAFETY (via teleconference), reported that the change from "in" to "to" on line 20 would satisfy Vice-Chair Gara's intent. It was essentially what happened presently.

Representative Wilson asked if someone would be able to send the information to any office to show proof of a license on the date that they did not have their verification with them.

Colonel Hall responded that it would allow them to send the information to an office of the arresting agency such as an office of the Alaska Wildlife State Troopers.

Representative Wilson had hoped the answer would be, "yes." Colonel Hall responded that it was essentially a "yes" answer, however, the difference between the DFG and the Alaska Wildlife Troopers had to do with transfer of information. The transfer of information would have to go to an office of the arresting agency based on the rest of the sentence.

Representative Wilson WITHDREW her OBJECTION to Conceptual Amendment 1 to Amendment 2.

There being NO OBJECTION, it was so ordered. Conceptual Amendment 1 to Amendment 2 was ADOPTED.

Vice-Chair Gara presented closing comments for Amendment 2. He suggested that 90 days was a reasonable amount of time to present information.

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, Amendment 2 as amended was ADOPTED.

Representative Pruitt MOVED to ADOPT Amendment 3 (copy on file):

Page 2, line 26:

Delete "any"

Following "devise":

Insert, "except that a peace officer may be liable for civil damages that are the result of the peace officer's intentional misconduct"

Representative Kawasaki OBJECTED for discussion.

Representative Pruitt explained that the amendment would not provide complete and total immunity in a case where there was misconduct. He asked the colonel whether a peace officer would take physical hold of an electronic device displaying a person's license. He asked the colonel to distinguish between the point of viewing a license versus a point of search. He provided a hypothetical scenario.

Colonel Hall replied that a sequence of events could be that an individual holds up their device to show their license to a trooper keeping it in their hands. It might be that an individual handed the device to a trooper to view the screen. Depending on the size, the picture might have to be expanded. The circumstance could occur either way where it was in the trooper's hand or the owner's hand. He deferred to the Department of Law.

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AARON PETERSON, ATTORNEY IV, CRIMINAL OFFICE OF SPECIAL PROSECUTION, DEPARTMENT OF LAW (via teleconference), replied that in a scenario where a trooper was holding someone's device to view a license and a text came through saying that a person took way over limit and the trooper happened to know that person was down river, the trooper could use the text as information to initiate proceedings against the person that sent the text. It was akin to a plain view search. It would be different if a trooper were to go into the text messages without authorization. If someone was worried that their friends were going to start texting, they could put the phone in airplane mode or take whatever remedial measures that might be necessary.

Representative Pruitt asked whether it was typical practice for an office to take a device into their hands or to allow the owner to hold the device for them.

Mr. Peterson responded that it depended on how DFG developed the electronic license. Currently, there was no electronic license, therefore, there was nothing to give to a trooper. He could not speak from past experience what had happened. A picture of a license was not technically a legal license. He reported there had been several proposals talked about in the bill and in committee. One of the ideas was to have a QR code that popped on a person's phone that then the troopers or just a picture of a license. Everything in between the two ideas have been discussed. It would really depend on what was developed such as an application. He spoke about limited or no bandwidth being a challenge.

Representative Pruitt surmised that not enough was known yet. He thought the amendment did not do everything he needed but was better than what was currently in the bill. At least if there was some intentional misconduct, the

owner of the device would have some sort of recourse. He asked members to support his amendment.

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Representative Kawasaki WITHDREW his OBJECTION.

There being NO OBJECTION, it was so ordered. Amendment 3 was ADOPTED.

Vice-Chair Gara reviewed the fiscal notes for HB 129. He began with an indeterminate fiscal note, OMB Component 3134, from the Department of Administration (DOA). The appropriation was Shared Services of Alaska and the allocation was accounting. There was a slight change in fines and restitution. The Department of Administration had a roll in receiving the fines. The fiscal note was indeterminate because people had never really kept track of small amounts of money in the past.

Representative Wilson understood that no one kept track, but she relayed that the indeterminate portion was in the operating expenditure rather than the fund source. She did not believe the bill changed such that the department would be adding any positions or needing any extra money. She could understand if the indeterminate portion was part of revenue without any extra revenue.

Vice-Chair Gara responded that Representative Wilson was correct. The explanation had to do with a change in revenue. However, the fiscal note had to do with a change in costs. He agreed it was correct to ask why, because it was not explained in the fiscal note. He wanted to hear from DOA.

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SYLVAN ROBB, DEPUTY COMMISSIONER, DEPARTMENT OF ADMINISTRATION, explained that the fiscal note was indeterminate because the role that Shared Services played in the bill was that when fines and fees were assessed by the court and not collected, they were transferred to Shared Services of Alaska, which did debt collection for the State of Alaska. Currently, all of the fines and fees came over in the aggregate. The department did not track which ones came from DFG or other departments where people might accrue a debt to the State of Alaska. The department

had no way of knowing what percentage was from DFG, therefore, she did not know what the increase might be as the result of the bill.

Representative Wilson asked if it was possible DOA would have to hire additional positions in 2020. She wondered if the department saw any of the revenue. Ms. Robb responded that debt to the State of Alaska that was collected was returned to the general fund. The funds did not go to the division or to the department that was owed. In the case of the fiscal note, the fines and fees assessed by the court system did not go to DFG.

Representative Wilson wondered if DOA would have to make a budget request for additional people in the future. Ms. Robb responded that they currently used a vendor to collect debts. They operated on a fee basis. If they needed to hire additional positions to collect the additional debts, there would be no costs to the state. They took a portion of whatever debt was collected.

Representative Wilson suggested that if a vendor was being used, then the number would not be indeterminate. If the vendor was basing it on fees there would not be any cost to DOA. She thought that was what Ms. Robb had just stated. Ms. Robb replied that DOA did not know what the impact would be since she did not know the impact of the bill. Her understanding was that the idea behind the increase in fines was to deter people from breaking DFG's rules. There were several unknowns in terms of what the impact might be.

Representative Wilson wondered how a vendor would be impacted if the state was utilizing a vendor and the vendor was charging a fee. She would do more research.

Vice-Chair Gara indicated that if the bill passed, no money would be put into the budget, whether the fiscal note was indeterminate or zero. He thought the fiscal note was okay. It sounded like there would be no change in operating costs for DOA. However, there might be a change in the revenue received. He suggested Ms. Robb take a look at the fiscal note when the bill moved along. He thought the indeterminate portion needed to be in the revenue part rather than the operating part.

Ms. Robb replied that the department would be happy to reexamine the fiscal note.

Vice-Chair Gara moved to fiscal note, OMB Component 479, from DFG. The appropriation was for Statewide Support Services and the allocation was for administrative services. He thought the fiscal note might be amended based on the amendment from Representative Grenn. It had to do with the administration of the low-income license fees. He thought there might be a new fiscal note that followed the bill.

Vice-Chair Gara reviewed fiscal note 4, OMB Component 2746, a zero fiscal note from the Department of Public Safety (DPS). The appropriation was for the Alaska State Troopers and the allocation was for the Alaska Wildlife Troopers.

Vice-Chair Gara reviewed the last fiscal note, OMB component 2175, from DPS. The appropriation was for Statewide Support Services, and the allocation was for the Commissioner's Office. The note had a zero fiscal impact.

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Representative Tilton referred to page 6 of the bill which indicated an inflation proofing measure every 5 years. She did not see this noted in any of the fiscal notes. In a previous bill the finance committee heard there was a cost for inflation proofing in a fiscal note. She did not see a cost for inflation proofing in the current bill. She wondered if the cost was being absorbed.

Vice-Chair Gara asked if Ms. Petraborg could look into Representative Tilton's point of whether fines could be changed over time. He wondered whether there needed to be any statement in the DGF fiscal note about revenue in later years. Ms. Petraborg responded that they were all criminal in nature. Therefore, none of the funds would go to DFG. Rather, the funds would go into the general fund.

Vice-Chair Gara asked Representative Tilton to restate her question. Representative Tilton relayed that on page 6 of the bill it stated that beginning on July 2023 and every 5 years thereafter, the department recalculated and updated by regulation the restitution amounts provided. Inflation proofing occurred every 5 years. In a previous bill heard by the committee, there was a cost to inflation proofing. She wondered if such a cost would be shown on the fiscal notes.

Mr. Peterson responded that he did not have any information about the fiscal note or about what it would cost to adjust for inflation. It was his understanding that there was a method established in SB 91 [Legislation passed in 2016 - Short Title: OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS] for crimes that involved a financial threshold. He presumed the same sort of method would be utilized.

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AT EASE

[2:43:07 PM](#)

RECONVENED

Co-Chair Foster directed his staff to contact the creators of the fiscal notes to see if an adjustment could be made.

Representative Wilson did not want it added to the fiscal note. However, she suggested that his staff might want to talk to the Department of Labor and Workforce Development (DLWD). What she had seen in some of the fiscal notes was that the department had already had done some of the work regarding inflation. It was a mathematical computation and would not take extra money. She did not want to encourage another fiscal note.

Co-Chair Seaton MOVED to report CSHB 129 (FIN) out of Committee with individual recommendations and the accompanying fiscal notes.

There being NO OBJECTION, it was so ordered.

CSHB 129 (FIN) was REPORTED out of committee with an "amend" recommendation and with one new zero fiscal note from DFG; one new indeterminate fiscal note from the DOA; and one previously published zero fiscal note: FN4 (DPS).

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AT EASE

[2:45:26 PM](#)

RECONVENED

#hb233

HOUSE BILL NO. 233

"An Act relating to the insurance tax education credit, the income tax education credit, the oil or gas producer education credit, the property tax education credit, the mining business education credit, the fisheries business education credit, and the fisheries resource landing tax education credit; providing for an effective date by repealing the effective dates of secs. 3, 5, 7, 10, 14, 16, 18, 21, 23, 25, 28, 30, 32, 35, 37, 39, 42, 44, 46, 49, 51, 53, and 55, ch. 92, SLA 2010, sec. 14, ch. 7, FSSLA 2011, secs. 15, 17, 19, 21, 23, and 25, ch. 74, SLA 2012, sec. 49, ch. 14, SLA 2014, secs. 37, 40, 43, and 46, ch. 15, SLA 2014, and secs. 26 and 31, ch. 61, SLA 2014; providing for an effective date by amending the effective date of secs. 1, 2, and 21, ch. 61, SLA 2014; and providing for an effective date."

Co-Chair Foster relayed that the committee had last heard HB 233 on March 27, 2018. At the hearing the committee had an introduction of the bill and closed public testimony. The committee had 2 amendments for the bill. He called Representative Tuck and his aide, Kendra Kloster, to the table. He provided the opportunity for the bill sponsor to make comments.

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REPRESENTATIVE CHRIS TUCK, SPONSOR, introduced himself. He explained that originally, when he was looking at extending education tax credits, he was aware there were several statutes involved. He had thought about ways to make improvements and to make things cleaner when considering introducing the legislation. He continued that because of the time restrictions and the expiration date approaching, he decided to make it a clean bill only extending it. He might try to work on other items at a future date.

Co-Chair Seaton MOVED to ADOPT Amendment 1 30-LS0152\0.1 (Nauman, 3/28/18) (copy on file).

Representative Wilson OBJECTED for discussion.

Co-Chair Seaton thought the amendment brought up an issue that needed to be discussed in detail. There was a situation where after the first \$100,000 the state was giving a 100 percent tax credit for the following \$200,000. It was essentially allowing someone that wanted to donate

not to donate at all. It would direct the taxes they would pay to the state to one of the approved groups by doing it without any additional money coming from an organization or tax payer. The amendment was structured at the 50 percent tax credit and would stay the same across the entire \$5 million range. He was aware that a significant amount of discussion would be necessary. He thought the topic was very important, especially because of the state's current fiscal situation. He wanted to encourage contribution to educational institutions. The question was how much the state wanted to put into the tax payer's hands without any additional skin in the game. He thought the issue was definitely something to look at and discuss. He did not think it was currently the appropriate time. He thought the issue should be dealt with in a separate bill.

Co-Chair Seaton WITHDREW Amendment 1.

Co-Chair Seaton MOVED to ADOPT Amendment 2 30-LS0152\0.5 (Nauman, 3/29/18) (copy on file).

Representative Wilson OBJECTED for discussion.

Co-Chair Seaton moved Conceptual Amendment 1 to Amendment 2:

In line 2 of the amendment insert the words "as they" after "delete" and before "appear"

Representative Wilson OBJECTED for discussion.

Co-Chair Seaton explained that when Legislative Legal Services drafted the amendment, they did not take out all of the words that needed to be removed.

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, it was so ordered. Conceptual Amendment 1 to Amendment 2 was ADOPTED.

Co-Chair Seaton explained Amendment 2. The amendment was eliminating one of the criteria for a tax credit for cash contributions; an annual intercollegiate sports tournament. The item occurs in several places with several different taxes. The words being deleted would be "or an annual intercollegiate sports tournament."

Representative Kawasaki commented on the way the amendment read. He was wondering if the word "by" should be replaced with "of" [Line 19 of the amendment].

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AT EASE

2:53:25 PM

RECONVENED

Co-Chair Foster invited Mr. Spanos to comment.

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BRANDON S. SPANOS, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, responded that the "by" was referring back to subsection (a) where it read "for contributions accepted." It would be "by the non-profit, public or private, Alaska two-year or four-year college." It was not referring back to the facility, but the funds that were received by the organization.

Representative Grenn assumed that the item was in reference to the Great Alaska Shootout which no longer existed. He asked if there were other annual intercollegiate sports tournaments that had received funds through this particular tax credit. Mr. Spanos responded that he was not aware of any. Representative Grenn relayed that he was looking for any unintended consequences of the removal.

Representative Pruitt asked about other sports that might potentially put on a tournament. With adopting this amendment there would no longer be the ability for people to utilize the tax credit to support other potential tournaments. He noted a number of sports that might have a tournament in the future. Mr. Spanos indicated, based on the plain language, that was how he would interpret it.

Representative Pruitt suggested that if Alaska was to host a regional final, donors would not be able to utilize the education tax credit. Mr. Spanos replied that a corporation would no longer be able to receive a tax credit.

Representative Pruitt did not see harm in leaving the credit available. He did not believe getting rid of it was needed.

Co-Chair Seaton clarified that the tax credit was meant for an annual event rather than a onetime credit. He argued that the tax credit should be concentrated on pre-K, K-12, and University education. It was not a sports credit.

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Representative Pruitt MOVED Conceptual Amendment 2 to Amendment 2.

Delete only the word "annual"

Representative Kawasaki OBJECTED.

Representative Pruitt explained his amendment to the amendment. He believed that sports were a part of education. He suggested that the National Collegiate Athletic Association (NCAA) consistently promoted that their athletes did very well in school and moved on to become very successful. He spoke of Olympic athletes and the discipline they learned and applied in many areas of their lives. He felt that sports were important, and it would be an opportunity for people to support an event where they showcased student athletes.

Vice-Chair Gara spoke to his objection. He suggested that with this tax credit the legislature did not get to direct where the funds went. The state gave up \$6.8 million in revenue per year. He understood the benefits but did not believe they had been sorted out. For example, if a person donated to any collegiate sports event at the university, they could donate through the non-profit which was tax deductible at the federal level already. A person was likely receiving a 25 percent tax deduction, which was similar to a credit of their federal taxes. Certainly, the university could go to Exxon or GCI and request a donation. He was unsure if a state tax credit on top of a federal tax credit made much of a difference. He agreed with Co-Chair Seaton that the bill got amended when the state had a huge amount of money. Currently, the state had a deficit of roughly \$2.5 billion. He would rather rely on a federal tax bonus that a donor received by being able to deduct the costs from their federal taxes. He noted the importance of ranking things. He was not willing to forego state revenue.

Representative Guttenberg objected to the amendment. He thought there were many bragging rights that accompanied

sponsorship. Corporations and individuals participated for a variety of reasons. He thought the cream of having an additional tax deduction was beyond the pale.

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Representative Thompson asked for Representative Pruitt to repeat the conceptual amendment. Co-Chair Foster responded that the amendment to the amendment removed the annual part of the language.

Representative Pruitt explained that the conceptual amendment would leave the language "or an intercollegiate sports tournament" in the various places in the bill. The only portion being removed was the word, "annual." He thought the first two lines would have to be removed. It would allow for donations to a collegiate tournament like the Great Alaska Shootout.

Representative Thompson thought that even if the word "annual" was left in, the bill was still being altered, He spoke of several intercollegiate tournaments. He thought it would be beneficial to the state if there could be more intercollegiate tournaments and suggested the amendment might clarify things. Representative Pruitt's intent was that even something that was held annually but not in Alaska would be able to participate in the tax credit.

Co-Chair Seaton indicated that the amendment was broadening the tax deductions and making it so that more general fund revenue could be diverted from being received in the general fund. The donor could receive a 100 percent tax credit with donations between \$100,000 - \$300,000. It would be diverting money that otherwise would go into the general fund. He did not believe the state was in a fiscal situation to be broadening tax credits. He opposed the conceptual amendment. It not only gutted the restrictions but expanded where tax credits applied.

Representative Wilson suggested that by taking the word "annual" out, it would mean that the committee would be deleting "or an intercollegiate sports tournament". The word annual would be left in the bill. She did not believe that was the intent of the maker of the amendment.

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Representative Pruitt explained that in the conceptual amendment the brackets were placed around the word "annual", rather than where they were currently in the amendment. Representative Wilson commented that the amendment made more sense.

Representative Kawasaki cautioned that the conceptual amendment would broaden the tax credit. He was unaware of the fiscal impact but thought it could be high. He would be opposing it.

Representative Kawasaki MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Pruitt, Thompson, Tilton, Grenn

OPPOSED: Wilson, Gara, Guttenberg, Kawasaki, Ortiz, Foster, Seaton

The MOTION to adopt Conceptual Amendment 2 to Amendment 2 FAILED (4/7).

Representative Pruitt did not have a problem with an event such as the Great Alaska Shootout or the Top of the World Classic tournament returning. He did not see a problem with leaving the language in the bill. He thought it would be great to have the credit available. He continued to speak in favor of leaving the language in statute.

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Representative Thompson commented that the Great Alaska Shootout and the Top of the World Classic tournament had millions of dollars' worth of impact on communities. He thought the option should remain open for future utilization.

Vice-Chair Gara was a big supporter of the Great Alaska Shootout and the Top of the World Classic tournaments. Businesses could still be approached with the incentive of a 25 percent tax deduction off their federal corporate taxes if they contributed. He posed the questions whether the tax credit really did anything and whether the state could afford it. He wondered about where the issue fell on everyone's priority list. He did not believe it was a priority. He appreciated the efforts of the American

Legion. They had been working diligently to bring tournaments back.

Representative Wilson WITHDREW her OBJECTION.

Representative Pruitt OBJECTED.

Representative Pruitt reiterated that there was no harm in leaving the language in place. He thought it was a means of encouragement and celebration. He did not think the state was losing anything, as there were currently no tournaments.

A roll call vote was taken on the motion.

IN FAVOR: Wilson, Gara, Guttenberg, Kawasaki, Seaton, Foster

OPPOSED: Pruitt, Thompson, Tilton, Grenn, Ortiz

The MOTION to adopt Amendment 2 as amended PASSED (6/5).

Vice-Chair Gara reported that the fiscal note continued the estimated cost in lost revenue for the tax credits. He relayed that for half of FY 19, by continuing, lost revenue would be \$3.42 million. In the out years it was estimated to continue at its current level, \$6.84 million per year, of tax credits the state did not receive in revenue.

Co-Chair Foster asked if the bill sponsor had any closing comments. Representative Tuck remarked that there had been a good dialog and thanked the committee.

Co-Chair Seaton MOVED to report CSHB 233 (FIN) out of Committee with individual recommendations and the accompanying fiscal note.

Representative Wilson OBJECTED for discussion.

Representative Wilson asked whether there would be a forthcoming fiscal note or a previously published fiscal note. Co-Chair Seaton responded that it was a previously published fiscal note.

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, it was so ordered.

CSHB 233 (FIN) was REPORTED out of committee with four "do pass" recommendations, three "no recommendation" recommendations, and four "amend" recommendations, and with one previously published fiscal impact note: FN1 (REV).

[3:16:58 PM](#)

AT EASE

[3:18:24 PM](#)

RECONVENED

#hb399

HOUSE BILL NO. 399

"An Act disallowing a federal tax credit as a credit against the corporate net income tax; repealing a provision allowing the exclusion of certain royalties accrued or received from foreign corporations for purposes of the corporate net income tax; repealing the reduced rate for the alternative tax on capital gains for corporations; repealing an exemption from filing a return under the corporate net income tax for a corporation engaged in a contract under the Alaska Stranded Gas Development Act; and providing for an effective date."

[3:18:43 PM](#)

Co-Chair Foster invited his staff to the table to begin his presentation.

BRODIE ANDERSON, STAFF, REPRESENTATIVE NEAL FOSTER, explained that the opening remarks would be similar to a piece of legislation that was heard in House Finance in the previous week. Mr. Anderson read from a prepared statement:

HB 399 is a result of work done over the last few years with various legislators to address foregone revenue and to provide the state with the ability to potentially capture new revenue.

Starting in 2014, the legislation was passed that required both the Department of Revenue (DOR) and Legislative Finance to create a report on indirect expenditures in the amount of foregone revenue not captured by the state. The first indirect expenditure report was submitted in 2015. In that report, it

identified a list of indirect expenditures within DOR that should be terminated.

Last year during the FY 18 budget process, House Finance Subcommittee for the Department of Revenue reviewed those indirect expenditures and recommended the House Finance Committee offer legislation that eliminates these indirect expenditures.

HB 399 repeals certain credits and exemptions from the recommendations offered both in the indirect expenditure and the subcommittee. The indirect expenditures repealed in HB 399 were selected for the following reasons: The indirect expenditures did not meet legislative intent, had limited benefit or wasn't used, or the purpose of conformity has change since the credit, or exemptions were created.

House Finance Committee, House Bill 399 repeals the following indirect expenditures:

- Federal Tax Credits - Currently tax payers can claim 18 percent of all federal credits against their corporate income tax regardless of where the credits were earned. The Department of Revenue provided an example of a housing credit that would be eligible to be earned in New York to be claimed against Alaska's tax liability for that corporation here.
- Foreign Royalty Exclusions - Currently, tax payers can hold 80 percent of their foreign royalty payments against their corporate tax liability.
- Reduced Rate for Capital Gains - Under Alaska statutes, Alaska corporate tax payers have a reduced rate of 4.5 percent on their capital gains profits. With this repeal capital gains would be treated like all other profits. In 1986, the federal government removed their recognition of a reduced rate for capital gains and then more recently, through the Trump Administration tax reform, they went ahead and cleaned up the language repealing the complete capital gains section within the federal URC.
- Credit associated with the Stranded Gas Act - This credit was never utilized to encourage development under the Stranded Gas Act.

The combined total of potential new revenue is estimated to be \$6.9 million according to the fiscal note in front of the committee.

[3:23:43 PM](#)

Mr. Anderson read the sectional analysis:

Section 1

Statute: AS 43.20.021 (a)  
Change: Amends current section  
Purpose or Effect: Conforming language, removes the list of federal credits as eligible items against Alaska corporate income tax liability.  
Indirect Expenditure Item: Federal Credits

Section 2

Statute: AS 43.20.145 (c)  
Change: Amends current section  
Purpose or Effect: Conforming language for "Affiliated Groups", removing the reference to the subsection on foreign royalty payments as eligible Alaska corporate income tax liability.  
Indirect Expenditure Item: Foreign Royalty Exemption

Section 3

Statute: AS 43.20.145 (d)  
Change: Amends current section  
Purpose or Effect: Conforming language for "Affiliated Groups", removing the reference to subsection on foreign royalty payments as eligible Alaska corporate Income tax liability.  
Indirect Expenditure Item: Foreign Royalty Exemption

Section 4

Statute: Repealer Section  
Change: Repeals statutes  
Purpose or Effect:

AS 43.20.021 (c) -  
Repeals the reduced rate for capital gains income.  
Indirect Expenditure Item: Capital Gains

AS 43.20.21 (d) -  
Repeals the eligibility of federal credits for Alaska corporate income tax liability.  
Indirect Expenditure Item: Federal Credits

AS 43.20.036 (a) -  
Repeals the eligibility of federal foreign tax credit for Alaska corporate income tax liability.  
Indirect Expenditure Item: Federal Credits

AS. 43.20.036 (b) -  
Repeals the eligibility of federal investment credit for Alaska corporate income tax liability.  
Indirect Expenditure Item: Federal Credits

AS 43.20.042 -  
Repeals the eligibility of federal special industrial incentive investment credit for Alaska corporate income tax liability.  
Indirect Expenditure Item: Stranded Gas Act Exclusion

AS 43.20.144 (g) -  
Repeals the exemption for Alaska Corporate tax liability for entities participating in contracts related to the Stranded Gas Act.  
Indirect Expenditure Item: Foreign Royalty Exclusion

AS 43.20.145 (b) (3) -  
Repeals the foreign royalty exclusion.  
Indirect Expenditure Item: Stranded Gas Act Exclusion

AS 43.20.145 (g) -  
Repeals the Stranded Gas Act exclusion.  
Indirect Expenditure Item:

#### Section 5

Statute: Uncodified Law  
Purpose or Effect: Applicability Sections 1, 2, 3, and portions of Section 4 as stated are subject to the effective date.

#### Section 6

Statute: Uncodified Law

Change: Adds new section  
Purpose or Effect: Transition: Regulations  
Effective Date is January 1, 2019

Co-Chair Foster invited Mr. Spanos to the table for questions.

Representative Wilson asked if the Capital gains being discussed had to do with Alaskan projects.

BRANDON S. SPANOS, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, clarified that the capital gains rate would apply to any capital gain under the federal code. He added that when the language was originally drafted there was a capital gains rate in the federal code. The federal tax reform of 2017 removed it. It was the Department of Revenue's position was that the bill was a clean-up bill. Because the capital gains rate no longer existed at the federal level, it no longer existed at the state level. The state statute pointed to the statute that was now gone. It was for any long-term capital gain a corporation had.

Representative Kawasaki asked if it was possible to get an idea of how many tax payers there were in each of the different groups. He suspected the division would not be able to release names because of confidential tax payer information. Mr. Anderson responded in the affirmative. He referred the committee to a letter in the back up materials from the DOR. He relayed that for the reduced tax rate on capital gains in 2015, the state had 195 recipients equaling about \$3.3 million of impacted revenue. Representative Kawasaki found the handout with the information.

[3:27:14 PM](#)

Co-Chair Foster OPENED public testimony.

KARA MORIARTY, PRESIDENT, CEO, ALASKA OIL AND GAS ASSOCIATION (AOGA), read from a prepared statement:

Co-Chair Foster, Co-Chair Seaton, Members of the Committee:

For the record, my name is Kara Moriarty and I'm the President/CEO of the Alaska Oil and Gas Association,

commonly known as "AOGA." AOGA is a professional trade association for the oil and gas industry and I thank you for the opportunity to discuss the reasons of our opposition to House Bill 399. Although I am here on behalf of a diverse group of companies, my testimony today represents the thoughts and sentiments of each member, which was approved by unanimous consent.

As I mentioned, I did email the committee more detailed comments for the record, but in the interest of time I wanted to summarize our position and concerns with this bill.

This bill makes several changes to how tax payers compute Alaska corporate income tax. One of the major changes is in Section 1 which is categorically repealing a long list of federal tax credits to keep them from being used and determining Alaska tax. In the larger document I included the full list of these credits in the written testimony.

A number of these federal tax credits do seem unlikely ever to be used by a company doing business in Alaska. They could stop being adopted by reference for purpose of Alaska's income tax without impacting any tax payers. Yet, except for the historically based credits, like those for Hurricanes Katrina, Rita, and Wilma, which were very time specific because they all occurred in 2005, why should and why would Alaska preemptively disallow credits for activities simply because those activities don't occur here yet (almost similar to the conversation you were having on the previous bill about sporting tournaments). So why not leave the door open to credits for bringing new activities to Alaska. If there proves to be a problem with the federal credit for Alaskan purposes, then it could be dealt with at the specific time.

It seems far more appropriate and prudent to my members to consider the merits of these credits individually since a good number of them do seem to reflect sound tax policy for Alaska's purposes. A couple of examples: Why would you want to exclude the credit under Internal Revenue Code, Section 45(a), for employing Alaska Natives to be disallowed. We think it's good policy for the state to encourage the hiring of Alaska Natives? Similarly, why should the credit

under Internal Revenue Code, Section 45(p), be disallowed for Alaskan employers who make up the wage difference for employees on active duty in military service? Certainly, I used to be very involved with the employer support of the Guard and Reserve. We know we have a lot of people in Alaska who serve in the National Guard and similar services. Why should Alaskan small employers providing health insurance for their employees not get a tax credit for those costs under Internal Revenue Code, Section 45(r). Again, the majority of businesses in Alaska are small.

Coming to our own industry, why should the enhanced oil recovery, or the EOR credit under Internal Revenue Code, Section 43(a) be disallowed for our corporate income tax under Alaska Statute 43.20. Surely getting more oil out of Alaska's aging fields is a good thing. It's essential for our future, for the industry, and both for the state.

Specifically, on the EOR credit, it is different than most of the credits in our current tax system and it's different in two important ways. First, the credits that have been most talked about recently in Alaska's tax code were primarily credits against the production tax. While HB 399 deals generically with federal tax credits that Alaska adopted many years ago for the corporate income tax under AS 43.20.

[3:32:13 PM](#)

Ms. Moriarty continued reading from a statement:

Second, and more fundamentally, oil companies' taxable income is based on their worldwide net income and part of that net income is apportioned to the Alaskan part of the business on the basis of the percentages of their worldwide production, worldwide sales, and worldwide property at original cost that are in Alaska.

This means an oil company could actually be losing money in its Alaska business but still have sufficient profits elsewhere to have a positive net income overall of which a part would be apportioned to the Alaska business on the basis of these percentages and taxes.

All of this brings us to a second major point overall with this bill. Just last year HB 111 created the legislature's oil and gas fiscal system working group, a bicameral, bipartisan working group to analyze the state's oil and gas fiscal regime. The working group to-date, has only met twice since HB 111 was passed last session and both meetings were more organizational in nature and they have not yet considered major policy issues, much less ever discussed how to change the present fiscal regime. We would encourage you to think about putting this bill aside and allowing the legislative working group to do its work including considering changes to the corporate income tax.

On the remaining sections of the bill there is a serious constitutional issue with the language of Alaska Statute 43.20.145 that HB 399 does not yet address, which is the definition of "affiliated group." Again, the written testimony goes into much more detail on this point. But, if HB 399 is going to be amending this section of statute AS 43.20.145 we think that it should replace the obsolete text in that paragraph based on the 50 ownership or more which dates back to 1978 and replace it with the unitary business concept that the United States Supreme Court has extensively developed after Alaska adopted that 50 percent ownership percentage. We think if you are going to be making changes, it would be prudent to make a similar amendment to AS 43.20.144(h)(ii) for oil companies.

[3:34:50 PM](#)

Section 3 doesn't necessarily pertain to us but we just wanted to highlight that it would repeal the reference to royalties from the existing phrase of dividends and royalties taxable to a corporation. These royalties, again, are not royalties in the oil and gas sense that we're all very familiar with, but our royalties used for using intellectual property or something that has been invented and patented, which is very commonplace. Again, it did not have an impact to our members but just thought we would highlight it.

Section 4 repeals eight existing sections. The rest of the written comments goes into much detail.

I would just close, Mr. Chairman by saying we currently oppose the bill for those various reasons. It is more complex than it seems because it is repealing several sections of federal tax code or our ability to use credits from the federal tax code. We would just encourage to utilize the working group for that purpose.

Representative Kawasaki mentioned that in Ms. Moriarty's testimony she had mentioned the Internal Revenue Code (IRC) 45(a) for employing Alaska Natives and IRC 45(p) which talked about active duty military service and another regarding providing insurance. He asked if corporations did not currently take advantage of the specific credits she noted.

Ms. Moriarty answered that they believed corporations were taking advantage of the credits. Her understanding was that HB 399 would repeal the ability for corporations to do so. She reiterated that the legislature might want to take a pause to really evaluate the laundry list of tax credits that were under consideration to be repealed to make sure they were understanding the full impact.

Representative Kawasaki asked if there were companies that could voluntarily provide information to confirm that they took advantage of the IRC 459(a) for instance, or the IRC 45(p) for active duty military. Could a company voluntarily provide the information. He would like to hear from companies that took advantage of the credit.

Ms. Moriarty replied that if a company wanted to voluntarily disclose any portion of what they paid in federal or state taxes, they were entitled to do so. She could follow up with member organizations to find out if there was anyone wanting to provide specific examples. She also suggested reaching out to other Alaska Native corporations and their subsidiaries, the Alaska Chamber of Commerce, Resource Development Council, and other business organizations. She reemphasized that the tax committee was filled with brilliant minds who loved to get into the details. As they were getting into the details little red flags went off prompting the question about whether the sections should be repealed.

[3:38:25 PM](#)

Representative Wilson asked about the foreign royalty portion of the bill. She wondered about the impact to the oil industry. Ms. Moriarty deferred to DOR.

Co-Chair Seaton asked if she was saying that the statute was repealing the federal tax credit. Companies could still take advantage of those federal tax credits on their federal returns. They would just not be able to deduct them against their state corporate income tax. He wondered if he was correct.

Ms. Moriarty answered in the affirmative. The state legislature did not have the ability to repeal federal tax code. However, the legislature had the ability to disallow companies from using an apportionment against the Alaska Corporate income tax (companies could not take the full federal tax credit anyway). However, it was an example of an incentive the state could offer to make Alaska look more attractive than other states in the nation.

Co-Chair Foster CLOSED public testimony. He provided the committee email address for additional written testimony submissions.

Representative Wilson referred to the fiscal note, OMB 2476, by DOR on page 2. It showed the change in revenue and had it split out. She asked about the federal credits of \$1.8 million and the reduced rate on capital gains. She wondered if they were no longer available through the federal government.

Mr. Spanos responded that the changes on page 2 for federal credits of \$1.8 million and foreign royalties of \$1.7 million in revenue impact would only apply if the bill were to pass. The Department of Revenue had generated the fiscal note prior to discovering that the reduced rate for capital gains was affected by the federal tax reform. The Department of Law noted that the capital gains rate was eliminated in the federal code and no longer available to an Alaskan corporation. He confirmed that the \$3.4 million was gone, but the \$1.8 million and \$1.7 million would be revenue added to the general fund if the bill were to pass.

Representative Wilson asked for clarification regarding a foreign royalty.

Mr. Spanos replied that a foreign royalty was only available for a water's edge corporation, a non-oil and gas company. Oil and gas companies filed under the worldwide apportionment which included their income from everywhere. He had used an example in a previous hearing about total income being the pie. For oil and gas companies that pie was their worldwide income. Whereas, for all other non-oil and gas companies the pie was called "Water's edge" or "US" income.

[3:42:49 PM](#)

Representative Wilson asked if the federal credit applied to all industries. Mr. Spanos replied that the federal credit would apply to both oil and gas and non-oil and gas.

Mr. Anderson added that Alaska was currently the only state that copied all federal credits. He suggested that many states either piggy-backed on a federal tax credit or would have language stipulating that federal tax credits applied only to the expenses that occurred in the state. If a corporation used a federal tax credit in the state, they would potentially be eligible for the federal tax credit at 18 percent. He referred to IRC 45(a), the Indian Employment credit. Any multi-state corporation hiring federally recognized Indian employees would be able to hold 18 percent of that credit against their Alaska tax liability. Many states applied it to what was incurred in-state. He encouraged Mr. Spanos to expand on his comments.

Mr. Spanos noted that the federal credits included what was available on the federal tax return which was unusual in that most states would want to incentivize something in their own state. Alaska's statute would allow the credit for an expense anywhere. He thought it was important to note that if it was the intent of the legislature to allow a credit to incentivize something in Alaska, it would be an Alaska specific credit rather than a federal credit.

Representative Wilson asked if the bill would be removing all of it. However, it was possible to insert language that would tie a federal credit to Alaska. Mr. Anderson confirmed she was correct. It would be a policy decision by the legislature.

Representative Guttenberg asked Mr. Spanos to describe the foreign royalties credit being repealed. Mr. Spanos explained that what was being repealed was for a water's edge company (non-oil and gas company) to be allowed an 80 percent exclusion of foreign royalties. For example, if Company A held a patent and had a foreign affiliate Company B using the patent, Company B would pay Company A royalties for the use of that patent. Company A would be able to exclude 80 percent of those royalties.

[3:47:02 PM](#)

Mr. Anderson used Microsoft as an example regarding their cloud option. The company had been paying a royalty to Ireland to run the Cloud. If Microsoft had a corporate income tax in Alaska, they would be able to apply 80 percent of the royalty payment amount against Alaska's corporate tax liability.

Representative Pruitt suggested that the state might be putting itself at a disadvantage by repealing the credit. It might limit the appeal to a future large investor such as Microsoft or Google.

Mr. Spanos could not speak to any specific company or the representative's example. However, in general, if the intellectual property was foreign owned and an Alaskan business was receiving a royalty from that foreign business, it would be unusual for a state to allow an exemption of that income from a foreign payor.

Co-Chair Foster indicated that amendments were due by 5:00 P.M. on Wednesday, April 11, 2018.

HB 399 was HEARD and HELD in committee for further consideration.

Co-Chair Foster announced that the committee would be taking a 10-minute break until 4:00 P.M.

[3:50:16 PM](#)

AT EASE

[4:01:50 PM](#)

RECONVENED

#sb165

SENATE BILL NO. 165

"An Act relating to the Alaska comprehensive health insurance fund; and providing for an effective date."

4:02:03 PM

Co-Chair Foster invited Senator MacKinnon and her staff to the table.

SENATOR ANNA MCKINNON, SPONSOR, read the bill sponsor statement:

In 2015, the individual health care market in Alaska was in a precarious state. There were only two insurers with current enrollees in individual healthcare plans in Alaska, and each insurer was experiencing significant losses. Average premium rate increases in 2015 were 38.7 percent for one insurer and 39.9 percent for the other. In 2016, one of Alaska's only two remaining insurers gave notice that they would be withdrawing from the Alaska individual market effective January 2017.

Senator MacKinnon noted that at the time the state's insurance division came up with a suggestion - a way to address folks that were driving up the costs of the insurance market in Alaska. They were looking at those high utilizers and trying to do something different. She continued reading the sponsor statement:

The 29th Legislature passed HB 374 in 2016, which created the Alaska Reinsurance Program, and allowed the Division of Insurance to apply for a federal Section 1332 state innovation waiver under the Affordable Care Act (ACA). That legislation included a sunset date of June 30, 2018 to ensure that the diversion of insurance premium taxes from the general fund was not relied upon as a long-term funding mechanism. In July 2017, the waiver was approved by both the Department of Health and Social Services and the Department of Treasury based on the application submitted by the division, which requested pass-through funding for the Alaska Reinsurance Program.

The federal award for this waiver was approximately \$322 million over five years. The award is to be used, in conjunction with the Alaska Reinsurance Program, to continue to stabilize the individual healthcare market in Alaska.

This legislation extends the sunset provision on the Alaska comprehensive health insurance fund by six years, from June 30, 2018 to June 30, 2024 to allow for the continuation of the Alaska Reinsurance Program and receipt of the federal funding.

Senator MacKinnon reported that the federal money and the approval was contingent on the passage of SB 165. The federal funds were guaranteed for 5 years. However, the bill requested a 6-year extension. It would provide time for the state to true up all claims that might remain in the system should the state not have the 1332 waiver extended and because the center for Medicaid and Medicare Services had indicated that they might extend the 1332 waiver for another year. Other states were following Alaska's lead in providing cost savings to the federal government. The bill would reroute or take the diverted insurance premium taxes that were currently being deposited in the Alaska Comprehensive Health Insurance Fund and place them back where they were into the general fund. It would create \$63 million of general fund revenue in the current year. She reminded the body that the program had already brought to the state, through the supplemental process, a return of \$205 million from Premera Blue Cross - one of the insurers experiencing significant losses in the Alaska market.

The bill also removes the requirement that funds collected under AS 21.09.210 (tax on insurers), AS 21.33.055 (unauthorized insurance premium tax), AS 21.34.180 (surplus lines tax) and AS 21.66.110 (annual tax on title insurance premiums) are to be deposited into the Alaska comprehensive health insurance fund within the general fund.

Passage of HB374 by the 29th Legislature has resulted in stabilization of the individual insurance market. The Section 1332 state innovation waiver provides funding for the Alaska Reinsurance Program, through the Alaska comprehensive health insurance fund. Now this legislation is necessary to ensure the continued

effectiveness of the Alaska Reinsurance Program, meet the intent of the waiver, and receive the federal funding.

Co-Chair MacKinnon was open to questions.

Representative Guttenberg asked if the bill simply kept it extending with no other changes. Co-Chair MacKinnon responded that it also diverted the insurance premiums from the insurance fund to the general fund. Co-Chair Foster indicated that the director of the Division of insurance, Ms. Wing-Heier, was available for questions.

[4:07:14 PM](#)

Co-Chair Foster OPENED and CLOSED public testimony.

Representative Guttenberg had been at a legislative conference and had received positive feedback from legislators of other states about Alaska's program.

Co-Chair Foster asked Co-Chair Seaton to read the fiscal notes into the record.

Co-Chair Seaton reviewed the first fiscal note from DOA which had an appropriation of Centralized Administrative Services and an allocation of Finance. The OMB component number was 59. The second fiscal note was from the Department of Commerce, Community and Economic Development (DCCED). It had an appropriation and allocation of Insurance Operations. The component number was 354. The note reflected no expenditures and a change in other revenues of \$61.537 million in FY 19. Revenues were expected to increase to \$75.859 million in FY 22.

Representative Wilson asked if there was anything tied to the money that would be going into the general fund. She wondered if the money could be used in the budget as needed. Co-Chair MacKinnon replied that it went to the general fund and could be allocated at the will of the legislature.

MS. LORI WING-HEIER, DIRECTOR, DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, offered thanks for the waiver. There had been significant support of the bill from both bodies. There had been significant thought given to it because the state did not

want it to become a permanent reinsurance program unless the waiver could be obtained. She was happy the waiver went through and thought it was showing the benefits that had been discussed in 2016.

Co-Chair Seaton MOVED to report SB 165 out of Committee with individual recommendations and the accompanying fiscal notes.

There being NO OBJECTION, it was so ordered.

SB 165 was REPORTED out of committee with a "do pass" recommendation and with two previously published fiscal notes, one zero fiscal note: FN1 (ADM); and one fiscal impact note: FN3 (CED).

[4:11:00 PM](#)

AT EASE

[4:11:46 PM](#)

RECONVENED

Co-Chair Foster indicated the committee would be hearing HB 306. It was the committee's first hearing on the bill. He invited DOA's representatives to the table.

#hb306

HOUSE BILL NO. 306

"An Act relating to disbursement options under the Public Employees' Retirement System of Alaska and the Teachers' Retirement System of Alaska for participants in the defined contribution plan; and providing for an effective date."

[4:12:15 PM](#)

Representative Wilson asked if there was a legal opinion about why there was not an actuarial on the bill. She could not find one in the back-up documents.

SYLVAN ROBB, DEPUTY DIRECTOR, DEPARTMENT OF ADMINISTRATION, introduced herself. She indicated Commissioner Ridle was not available.

KATHY MS. LEA, CHIEF PENSION OFFICER, DIVISION OF RETIREMENT AND BENEFITS, DEPARTMENT OF ADMINISTRATION,

answered that there was only a requirement for an actuarial analysis if there was an impact to the funds. HB 306 had no financial impact to the funds.

Representative Wilson remarked that she did not understand the bill. Ms. Robb relayed that currently the disbursement options for PERS Tier IV and TRS Tier III were contained in statute. She reported that the bill moved the disbursement from statute to regulation. Currently, any changes the department would like to make in order to modernize the disbursement options or to meet new Internal Revenue Service (IRS) regulations required a statutory change. The bill would allow the division to be nimbler and to offer better services to state retirees. She added that there were vested employees in the two tiers that were impacted that were starting to retire. Moving the disbursement options from statute to regulation would offer the same flexibility the state currently had for the SBS and the deferred compensation plans. It still provided significant transparency for the public. The discussion of new disbursement options would be covered at ARM Board meetings that were done in a public forum and again once the recommendations were done by the ARM Board before going to regulation. There was a public comment period at regulation as well. The ARM Board had unanimous approval for the change proposed in the bill.

Co-Chair Seaton understood that under Tier III and Tier IV TRS they were separate accounts that were accounted for. The bill only had to do with the disbursement of an individual's money. It would not impact the fund because the money was held for particular individuals. He wondered if he was correct. Ms. Lea confirmed Co-Chair Seaton was correct. She elaborated that she was talking about the disbursement of an employee's contribution account comprised of their contributions, the employer's contributions made during employment, and any gains or losses on the fund.

[4:16:12 PM](#)

Representative Wilson was trying to figure out the problem with disbursement. Ms. Lea answered that currently the state offered a lump sum disbursement, a periodic payment of twice per year, and different annuity options (lifetime, joint survivor, and various period-certain annuities). The ARM Board was considering some newer products that were on

the market that mimicked a guaranteed income. One of them was called a qualified longevity annuity contract, which allowed an employee to postpone any disbursements from a portion of an employee's account until they reached 80 or 82 years of age. The option was designed to do two things: It removed that portion of an employee's account from the required minimum distribution that currently occurred when an employee reached 72 years of age. It also protected against longevity risk. If a person was running out of money, they would have a pot of money to draw on later.

Ms. Lea continued that another disbursement option, a guaranteed lifetime withdrawal, which provided an insurance wrapper around the amount in an employee's account. A person would typically enroll in the option anytime 10 years before retirement or up to retirement. They would not enroll before that time. During the time a person was enrolled in the program they would pay an insurance premium. The employee's monthly benefit would be based on whatever the highest balance was at the end of the term (when a person was past retirement and even when the state was paying out benefits). It protected the individual from the downside of investments but allowed them to have the upside.

Representative Guttenberg had been reading more about his investments. He suggested that there was a plethora of different payout options. He liked the idea of having additional options. He thought that having the options in statute made it difficult for the ARM Board to offer other options.

Representative Pruitt asked if there was not a risk to the state. He wondered if there were risks for the participants. He asked about the disbursement of funds if an employee died. He asked for clarification.

Ms. Lea responded that the change was simple. The division was not looking to change any of the options for disbursement currently available. The ARM Board was looking at adding options that would benefit participants. The state was required by the IRS to fully disclose all fees and conditions on any of the disbursement products. In terms of his question regarding survivors, the options under review were those that would provide full survivor benefits to participants should they die before they exhausted their funds.

[4:21:58 PM](#)

Co-Chair Foster OPENED and CLOSED public testimony for HB 306.

Co-Chair Foster asked to review the fiscal notes.

Representative Wilson wanted to wait until the following meeting before moving the bill, as she needed a better understanding of the bill.

Co-Chair Foster wanted to make sure members were comfortable with the bill.

Representative Guttenberg provided a hypothetical scenario. If his pension annuity paid out \$1000 per month until he was 92, but he lived to be 125, and he bought the lifetime guarantee which paid him \$750 per month, he wondered if the state would take the other \$250 to purchase insurance. In other words, he would be losing money by receiving less money per month, but in doing so the state was covering the liability.

Ms. Lea answered that she would hesitate to claim a specific number because different products had different ways of funding a benefit. The division had eight different products presented to them. The Treasury Division was also developing a few custom products. Usually, it was a combination of the insurance premium paid by the employee while employed that guaranteed the payment. Some companies would also have a reduction to the paid benefit. Much of it depended on how long an individual had been in the program.

Representative Guttenberg thought the payout money had to come from some place. He suggested it would come from the employee's benefit. He wondered if he was accurate. Ms. Lea responded that he was absolutely correct. She elaborated that the fees that were paid through the insurance premium or reductions taken from the benefit amount was particular to the participant. The participant sustained the cost and there was no cost to the plan.

[4:25:57 PM](#)

Representative Pruitt suggested that the deletions in the bill helped to simplify the products. He wondered why the

legislature chose to put specific products in statute rather than leaving it open.

Ms. Lea recalled that at the time there was no specific reason for certain products to be in statute. In drafting the bill, the bill sponsor used a combination of a bill structure that came from the National Council of Legislators and different provisions lifted from the state's supplemental annuity plan. The disbursement options that could currently be seen in the PERS and TRS distribution plan were the ones that were in the SBS plan at the time of the bill's passage. The difference was that the SBS structure was codified in statute. However, it was operated by a plan document. The division had an easier way to make changes for SBS or the Alaska Deferred Compensation plan. In order to add any new options or provisions to the plan they went through the ARM Board process and a regulation process. The legislature was notified every time regulations were promulgated. The public was invited and those groups that represented the public were invited to the ARM Board meetings. She emphasized that when the division made a change to SBS and deferred compensation the process was much faster. Unfortunately for the PERS and TRS DCR plans, the disbursement information was placed in statute requiring a bill to make changes. The division was not nimble.

[4:28:32 PM](#)

Co-Chair Seaton added that he had been involved in the process of changing from a defined benefit to a defined contribution system. There were several details everyone wanted to lock down. The newer products were not available at the time. The disbursement options were ones the state was already using and were incorporated in statute. Everyone knew there was a full plan and how it would be used. He favored making the plan work better for individuals.

Co-Chair Foster suggested that for those who wanted to offer amendments, they should submit them to his office by 5:00 PM on Wednesday, April 11, 2018. He would bring the bill up at the afternoon meeting on the following day.

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

Co-Chair Foster reviewed the agenda for the following day.

4:30:32 PM

AT EASE

4:31:23 PM

RECONVENED

Representative Wilson asked if there were documents available for tomorrow's meeting at 5:00 P.M. Co-Chair Foster responded in the affirmative.

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ADJOURNMENT

4:31:56 PM

The meeting was adjourned at 4:31 p.m.