

ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE

March 28, 2003

1:05 p.m.

MEMBERS PRESENT

Representative Hugh Fate, Chair
Representative Beverly Masek, Vice Chair
Representative Carl Gatto
Representative Cheryll Heinze
Representative Bob Lynn
Representative Carl Morgan
Representative Kelly Wolf
Representative David Guttenberg
Representative Beth Kerttula

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 187

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

- MOVED HB 187 OUT OF COMMITTEE

HOUSE BILL NO. 61

"An Act establishing an exploration and development incentive tax credit for persons engaged in the exploration for and development of less than 150 barrels of oil or of gas for sale and delivery without reference to volume from a lease or property in the state; and providing for an effective date."

- MOVED CSHB 61(RES) OUT OF COMMITTEE

HOUSE BILL NO. 97

"An Act authorizing a long-term lease of certain Alaska Railroad Corporation land at Anchorage; and providing for an effective date."

- MOVED HB 97 OUT OF COMMITTEE

SENATE BILL NO. 79

"An Act extending the termination date of the Alaska Minerals Commission."

- MOVED SB 79 OUT OF COMMITTEE

HOUSE BILL NO. 208

"An Act relating to hunting on the same day airborne; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 191

"An Act relating to the Alaska coastal management program and to policies and procedures for consistency reviews and the rendering of consistency determinations under that program; relating to the functions of coastal resource service areas; creating an Alaska Coastal Program Evaluation Council; eliminating the Alaska Coastal Policy Council; annulling certain regulations relating to the Alaska coastal management program; relating to actions based on private nuisance; relating to zoning within a third class borough covered by the Alaska coastal management program; and providing for effective dates."

- BILL HEARING POSTPONED

PREVIOUS ACTION

BILL: HB 187

SHORT TITLE: EXTEND BOARD OF STORAGE TANK ASSISTANCE

SPONSOR(S): RLS BY REQUEST OF LEG BUDGET & AUDIT

Jrn-Date	Jrn-Page		Action
03/12/03	0511	(H)	READ THE FIRST TIME - REFERRALS
03/12/03	0511	(H)	RES, FIN
03/26/03		(H)	RES AT 1:00 PM CAPITOL 124
03/26/03		(H)	-- Meeting Canceled --
03/28/03		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 61

SHORT TITLE: OIL & GAS TAX CREDIT FOR EXPLORATION/DEV

SPONSOR(S): REPRESENTATIVE(S) CHENAULT

Jrn-Date	Jrn-Page		Action
01/24/03	0060	(H)	READ THE FIRST TIME - REFERRALS
01/24/03	0060	(H)	O&G, RES, FIN

02/04/03		(H)	O&G AT 3:15 PM CAPITOL 124
02/04/03		(H)	<Bill Hearing Canceled>
02/27/03		(H)	O&G AT 3:15 PM CAPITOL 124
02/27/03		(H)	Heard & Held
02/27/03		(H)	MINUTE(O&G)
03/06/03		(H)	O&G AT 3:15 PM CAPITOL 124
03/06/03		(H)	Moved CSHB 61(O&G) Out of Committee
03/06/03		(H)	MINUTE(O&G)
03/14/03	0537	(H)	O&G RPT CS(O&G) NT 5DP 1AM
03/14/03	0537	(H)	DP: FATE, ROKEBERG, MCGUIRE, CHENAULT,
03/14/03	0537	(H)	KOHRING; AM: KERTTULA
03/14/03	0538	(H)	FN1: ZERO(DNR)
03/14/03	0538	(H)	FN2: ZERO(REV)
03/26/03		(H)	RES AT 1:00 PM CAPITOL 124
03/26/03		(H)	-- Meeting Canceled --
03/28/03		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 97

SHORT TITLE:LONG-TERM LEASES OF ALASKA RR LAND

SPONSOR(S): REPRESENTATIVE(S) KOHRING

Jrn-Date	Jrn-Page		Action
02/14/03	0214	(H)	READ THE FIRST TIME - REFERRALS
02/14/03	0214	(H)	TRA, RES, FIN
03/06/03		(H)	TRA AT 1:30 PM CAPITOL 17
03/06/03		(H)	Moved Out of Committee
03/07/03	0462	(H)	TRA RPT 5DP
03/07/03	0462	(H)	DP: HEINZE, KOHRING, FATE, HOLM, MASEK
03/07/03	0463	(H)	FN1: ZERO(CED)
03/28/03		(H)	RES AT 1:00 PM CAPITOL 124

BILL: SB 79

SHORT TITLE:EXTEND ALASKA MINERALS COMMISSION

SPONSOR(S): SENATOR(S) STEVENS B

Jrn-Date	Jrn-Page		Action
02/21/03	0242	(S)	READ THE FIRST TIME - REFERRALS
02/21/03	0242	(S)	RES, FIN
02/26/03	0276	(S)	COSPONSOR(S): FRENCH
03/03/03		(S)	RES AT 3:30 PM BUTROVICH 205
03/03/03		(S)	-- Meeting Postponed --
03/05/03		(S)	RES AT 3:30 PM BUTROVICH 205

03/05/03		(S)	Moved Out of Committee
03/05/03		(S)	MINUTE(RES)
03/06/03	0382	(S)	RES RPT 7DP
03/06/03	0382	(S)	DP: OGAN, STEVENS B, SEEKINS, WAGONER,
03/06/03	0382	(S)	DYSON, LINCOLN, ELTON
03/06/03	0382	(S)	FN1: (CED)
03/13/03	0490	(S)	FIN RPT 7DP
03/13/03	0490	(S)	DP: GREEN, WILKEN, TAYLOR, HOFFMAN,
03/13/03	0490	(S)	BUNDE, STEVENS B, OLSON
03/13/03	0490	(S)	FN1: (CED)
03/13/03		(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/13/03		(S)	Moved Out of Committee
03/13/03		(S)	MINUTE(FIN)
03/17/03	0518	(S)	RULES TO CALENDAR 3/17/2003
03/17/03	0518	(S)	READ THE SECOND TIME
03/17/03	0518	(S)	ADVANCED TO THIRD READING UNAN CONSENT
03/17/03	0518	(S)	READ THE THIRD TIME SB 79
03/17/03	0518	(S)	PASSED Y17 N- E2 A1
03/17/03	0523	(S)	TRANSMITTED TO (H)
03/17/03	0523	(S)	VERSION: SB 79
03/19/03	0576	(H)	READ THE FIRST TIME - REFERRALS
03/19/03	0576	(H)	RES, FIN
03/19/03	0597	(H)	CROSS SPONSOR(S): KERTTULA, LYNN
03/28/03		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 208

SHORT TITLE:HUNTING SAME DAY AIRBORNE
SPONSOR(S): REPRESENTATIVE(S)FATE

Jrn-Date	Jrn-Page		Action
03/24/03	0617	(H)	READ THE FIRST TIME - REFERRALS
03/24/03	0617	(H)	CRA, RES
03/24/03	0622	(H)	REFERRALS REVERSED
03/24/03	0622	(H)	RES, CRA
03/24/03	0622	(H)	REFERRED TO RESOURCES
03/28/03		(H)	RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

LAURA ACHEE, Staff

to Representative Ralph Samuels
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 187 on behalf of the House Rules Standing Committee, sponsor of the bill by request of the Joint Committee on Legislative Budget and Audit, which is chaired by Representative Samuels.

JOHN BARNETT, Executive Director
Board of Storage Tank Assistance (BSTA)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 178; discussed the importance of BSTA as a mediator between the Department of Environmental Conservation (DEC) and contaminated underground storage tank site operators; addressed BSTA's role in ensuring the ongoing and future cleanup of these sites.

GARY WEBER, President
Alaska Underground Tank Owners and Operators
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 187; suggested the tank program will continue as long as the Environmental Protection Agency (EPA) and DEC regulations exist, because an oversight requirement is needed to protect both parties.

PAT DAVIDSON, Legislative Auditor
Division of Legislative Audit
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on HB 187; explained that a four-year extension was recommended based on the role that BSTA plays in the transition from a grant program to a loan program.

REPRESENTATIVE MIKE CHENAULT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as sponsor of HB 61.

CHUCK LOGSDON, Chief Petroleum Economist
Tax Division
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Answered questions relating to HB 61.

JOHN A. BARNES, P.E., Alaska Business Unit Manager
Marathon Oil Company
Anchorage, Alaska

POSITION STATEMENT: Offered presentation on the reasons HB 61 is needed; answered questions.

REPRESENTATIVE VIC KOHRING
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 97.

WENDY LINDSKOOG, Director
External Affairs
Alaska Railroad Corporation
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 97, answered questions.

MARK MARLOW
Alaska Enfranchise Facilities, Inc. (AEF)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 97.

THOMAS PEASE
Government Hill Community Council
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 97, which he characterized as special-interest legislation.

JIM POUND, Staff
to Representative Hugh Fate
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 208 on behalf of Representative Fate, sponsor.

BLAINE HOLLIS, Assistant Attorney General
Natural Resources Section
Civil Division (Juneau)
Department of Law
Juneau, Alaska

POSITION STATEMENT: During hearing on HB 208, provided legal information and answered questions.

DOROTHY KEELER
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 208; suggested that if enacted, the bill will launch a tourism boycott that will make the one in 1993 tame by comparison, crippling the state's fragile economy; suggested predator

control may work for the short term, but the long-term consequences, both planned and unexpected, will not be worth the cost.

ROD ARNO

Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 208; suggested the bill would provide the Board of Game with the tools needed to effectively control predation.

ROBERT FITHIAN, Executive Director
Alaska Professional Hunter Association

Tonsina, Alaska

POSITION STATEMENT: Testified in support of HB 208; suggested that the bill provides sustainability to Alaska's residents and the people who depend on wildlife resources as a way of life.

ACTION NARRATIVE

TAPE 03-19, SIDE A

Number 0001

CHAIR HUGH FATE called the House Resources Standing Committee meeting to order at 1:05 p.m. Representatives Fate, Masek, Gatto, Heinze, Wolf, and Guttenberg were present at the call to order. Representatives Lynn, Morgan, and Kerttula arrived as the meeting was in progress.

HB 187-EXTEND BOARD OF STORAGE TANK ASSISTANCE

CHAIR FATE announced that the first order of business would be HOUSE BILL NO. 187, "An Act extending the termination date of the Board of Storage Tank Assistance; and providing for an effective date."

Number 0201

LAURA ACHEE, Staff to Representative Ralph Samuels, Alaska State Legislature, presented HB 187 on behalf of the House Rules Standing Committee, sponsor by request of the Joint Committee on Legislative Budget and Audit, which is chaired by Representative Samuels. She said it is a very simple bill that extends the [Board of Storage Tank Assistance (BSTA)].

Number 0284

JOHN BARNETT, Executive Director, Board of Storage Tank Assistance, testified that he is a contracted employee from the private sector and has been fulfilling the role of executive director since the program's inception in 1990. He explained that [BSTA] is a volunteer board that serves at the pleasure of the governor for the benefit of the industry. The industry [consists of] Alaska underground tank owners and operators of service stations, small "mom and pop" [operations], grocery stores, lodges, small aircraft, and so forth, as well as contractors and various people who have small underground storage tanks.

MR. BARNETT explained that the board has a number of roles, one of which is to mediate disputes between underground tank owners and operators and the Department of Environmental Conservation (DEC). He said BSTA has certain authorities over DEC to enable it to resolve those disputes expeditiously. For over a decade, he said, BSTA has resolved quite a few disputes. An appeals board, BSTA acts as an oversight committee on any regulations proposed by DEC to ensure that they are not an excessive financial burden to the industry and yet still protect the public health and the environment.

Number 0430

MR. BARNETT said BSTA also ensures that those regulations proposed by DEC are not more stringent than federal law. When loans and grants are processed by DEC through the financial assistance program, he explained, another of BSTA's roles is to ensure that eligible costs are allowed and to basically mediate disputes when a cost is denied by the department. He said BSTA sets limits of loans and grants each year based on appropriations from the legislature. The board's strongest role and relationship is to mediate disputes with cleanup plans and with regulations and to [provide] a secondary role in resolving disputes related to actual financial assistance grants and loans, he explained. For example, there have been several regulations that were proposed that were determined to be a financial burden to the industry and would have put several [storage tank owners] out of business; the properties would have been taken over by the state. However, BSTA intervened and sought some middle ground on the regulation, he said.

Number 0546

MR. BARNETT talked about regulations proposed before BSTA was in place that were onerous to the industry and [that resulted in] a

number of stations closing. He said in Anchorage there were piles of dirt all over the city, and in Fairbanks, according to the headlines of the [newspaper], a lot of issues weren't resolved before it went to the legal level - the Department of Law. Mr. Barnett said the Department of Law [exhausted] most of the funds and the "money didn't go into the ground."

CHAIR FATE thanked Representative Carl Morgan, a new member, for joining the committee.

Number 0682

REPRESENTATIVE GATTO speculated that many people have probably purchased 500-gallon storage tanks for gasoline and buried them in their yards. He asked whether those people and the storage tank locations could be identified; he noted his belief that there hadn't been a requirement in place to report [identifying] information.

MR. BARNETT responded that there was a fairly expensive public-information campaign in 1990-1991 directing people with gasoline tanks to register those tanks; this was done by both DEC and EPA [Environmental Protection Agency]. There were some fairly stiff penalties for failure to comply, he said, and [BSTA] feels that most of those tanks have been identified and "closed out." The cost is currently quite prohibitive to keep a tank in operation up to current EPA and state standards, he suggested. The state program was put into place shortly after the federal program and also with the assistance program to ensure that these people could stay in business and still absorb some of the costs related to those upgrades, he explained. Mr. Barnett said he thought that most [underground storage tank (UST) locations] are known. This program does not cover heating oil tanks or home heating oil tanks; it primarily covers gasoline tanks.

Number 0783

REPRESENTATIVE MASEK noted that she had previously asked Commissioner Ernesta Ballard of DEC for information relating to [the cleanup and maintenance] of storage tanks. She indicated Commissioner Ballard said [BSTA] was "pretty much on target" with getting most its work done in relation to [UST cleanup and maintenance]. She asked Mr. Barnett about the progress of the program.

Number 0823

MR. BARNETT said compliance with EPA standards is probably better than 60 percent statewide - perhaps 60-65 percent as far as the total number of tanks, which doesn't take into consideration some of the worst-case scenarios. Mr. Barnett said there are sites that have been undertaking ongoing cleanups for over a decade that are [extremely] contaminated. For example, he listed University Car Care in Fairbanks, Cook's Tesoro in Sterling, a number of [sites] on the Kenai Peninsula, and several "here" that have been operating for five, six, and seven years. These are the sites that BSTA is concerned with.

MR. BARNETT affirmed that the grant program terminates next year; it has about 14 months left to go. However, a loan program is currently in place and will be available after [the grant program expires], and it does not have a sunset or termination date. He said facilities such as Gold Hill in Fairbanks, Lucky Sourdough, Moose Creek General Store, and [A.M. Samuels] will continue to participate in the program through the loan process, as long as it takes to get the sites cleaned up. He said until they get no further action letters from the department, it is felt that [those sites] will continue to need BSTA to mediate any possible disputes.

Number 0947

REPRESENTATIVE MASEK noted that the targeted [sites] are statewide; she mentioned that there are a couple of areas being worked on in the Matanuska-Susitna area. She offered her belief that Trapper Creek and Wasilla were both [targeted cleanup sites]; she said she thought the program has been really instrumental in getting the job done. She said it's important to extend [BSTA's termination date] to ensure that ongoing cases will be worked on. Representative Masek noted that this [issue] was not new to her, and said she was really happy to see that [BSTA] is surging ahead and is able to get the job done.

Number 1049

GARY WEBER, President, Alaska Underground Tank Owners and Operators, said it seems [this issue has been brought forward] every year for the last five years, and that the [Alaska Underground Tank Owners and Operators] has to defend the existence of the board, which the tank owners want very much. He offered his belief that the current consensus and [DEC's] view of the board is that the tank program is coming to an end. However, Mr. Weber said only the grant program is coming to an end; the tank program will continue as long EPA and DEC have

regulations, and an oversight requirement is needed to protect both parties. He talked about the other consensus that cutting the board would be cost saving. Mr. Weber said when the board was started, tank owners volunteered to pay \$1,000 per year for their USTs as a registration fee. After the USTs were upgraded, an ongoing \$50 annual registration fee would be required. He indicated Mr. Barnett would be the appropriate person to ask about the number of USTs in the state.

Number 1138

MR. WEBER said the registration fee is supposed to totally fund the board, and he suggested that the consensus is that the department is capable of dealing with the tank owners without the board. He said he appreciated [DEC's] feeling that it can do that, and that as hard as [the issue] has been for the last 13 years, the relationship with [DEC] has been delightful. "I can tell you that prior to 1970, it was pure hell working with them, and there isn't one of us tank owners that want to return to the pre-1990 era," he remarked. Mr. Weber suggested that when regulations are written that "get into people's pocketbooks and put them out of business," there are going to be a lot of hard feelings, headline news stories, and total destruction of what the last 13 years has built for [UST owners]. He suggested that [Alaska] has one of the best programs in the nation.

MR. WEBER concluded by saying that as long as there are tank owners, tanks, and EPA regulations, and as long as DEC is writing new regulations, the board is needed to oversee those regulations. Noting that the board consists of seven members, he remarked, "As good as the people are at DEC, they've missed things; they've passed things up." He said the seven experts that review [information] can help DEC or the tank owner, and can help both [sides] to come up with good regulations that can be followed. Mr. Weber stated that the [Alaska Underground Tank Owners and Operators] voted for keeping [BSTA] around as long as [UST owners and operators] exist. He urged members to move HB 187 from committee.

Number 1272

REPRESENTATIVE MASEK noted that USTs are for commercial-use purposes such as gas stations. She asked Mr. Barnett to inform the committee of the target [of BSTA].

MR. BARNETT said in the "universe of tanks," which is regulated by this program, about 40 percent are probably service and

retail stations. The balance of [UST owners and operators] are a mixture of everything from rental car companies to construction contractors, as well as a number of small grocery [stores] and other small businesses such as filling stations and roadhouses. "It's actually only about 30 or 40 percent," he remarked. He said airports and aircraft-related tanks are associated with this program as well; quite a few different types of tanks are involved, but they are primarily gasoline tanks.

Number 1360

REPRESENTATIVE GUTTENBERG noted that usually when a board is "sunsetting," a legislative audit [is conducted]. He asked for comments or criticisms on the audit report; he noted that he had not seen it.

MR. BARNETT, in response, said the audit was as thorough as usual, and he noted that he done four [audits to date]. He said [the audit] usually takes a considerable amount of time, and he told the committee that he felt [the auditors] took an equal amount of time with the department and the industry before a consensus [was reached]. He indicated the audit was satisfactory.

REPRESENTATIVE GUTTENBERG asked whether any improvements could be made.

MR. BARNETT said no.

Number 1435

REPRESENTATIVE GATTO asked if [BSTA] had any jurisdiction over aboveground storage tanks.

MR. BARNETT, in response, said [BSTA] does not have any jurisdiction related to aboveground tanks, but had assisted, in the past, when asked; had assisted in putting on workshops; and had helped to put together documents over the past decade to assist. He noted BSTA had also lent its expertise at times, but had no authority related to that.

CHAIR FATE, upon determining that no one else wished to testify, closed public testimony.

REPRESENTATIVE GUTTENBERG commented that he was in support of [HB 187]; he noted he would have liked the committee to have had a copy of the audit for review.

CHAIR FATE said it's always useful if there's a problem with extending the authority [of a board] or if that authority is extended, whether or not there are certain improvements that have to improved within that authority as outlined. He noted that he had not read the audit, but he indicated he could attest to how that mechanism works because of his prior experience on the Joint Committee on Legislative Budget and Audit. Chair Fate said [HB 187] is a very simple piece of legislation and that the board has been very useful, as testimony had indicated. He suggested if improvements to the board were needed, they probably would be pretty minor.

Number 1559

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, informed the committee that no findings or recommendations [were made] during the course of the audit relating to making any improvements to the board's operations. A four-year extension was recommended and was based on the role that the board plays in the transition from a grant program into a loan program. Mentioning development of regulations, she said that while there has been a decreasing amount of activity for the board, this major shift in the financing of cleanup activities will result in new questions. The board has quite extensive institutional knowledge about the program, she said, and it was found that it is very helpful. Therefore, based on those factors, a four-year extension is recommended.

Number 1629

REPRESENTATIVE MASEK moved to report HB 187 out of committee with individual recommendations and the accompanying fiscal notes; she asked for unanimous consent. There being no objection, HB 187 was reported from the House Resources Standing Committee.

HB 61-OIL & GAS TAX CREDIT FOR EXPLORATION/DEV

CHAIR FATE announced that the next order of business would be HOUSE BILL NO. 61, "An Act establishing an exploration and development incentive tax credit for persons engaged in the exploration for and development of less than 150 barrels of oil

or of gas for sale and delivery without reference to volume from a lease or property in the state; and providing for an effective date."

Number 1687

REPRESENTATIVE MASEK moved to adopt CSHB 61(O&G). There being no objection, it was so ordered.

Number 1720

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, sponsor, characterized HB 61 as a bill that would create a new income tax credit to encourage increased exploration and development of natural gas resources in areas south of the Brooks Range. To qualify for the [income tax credit] under HB 61, he explained, operators must successfully drill and develop reserves that produce natural gas for sale and delivery. One modification made in the House Special Committee on Oil and Gas, included in CSHB 61(O&G), was the deletion of any reference to oil. This [bill] is strictly dealing with gas issues. Saying "new gas" was [better defined], he paraphrased from page 3, lines 22-26, which read in part:

(1) "qualified capital investment" means a cash expenditure or binding payment agreement, as described in (b)(1) of this section, for real property or tangible personal property used in this state in the exploration and development of gas reserves in a gas reservoir for which there has not been commercial production if the reserves produce gas for sale and delivery

Number 1781

REPRESENTATIVE CHENAULT said [this legislation] is a "successful efforts bill," which means no credits will be given for dry holes. He suggested that the Cook Inlet area continues to have great potential for additional natural gas development, and that other Alaska basins outside the North Slope have a similar potential. However, he said, a combination of exploration risks, high development costs, and historically low natural-gas prices have created a disincentive to drill for new reservoirs as compared with other areas of the world.

REPRESENTATIVE CHENAULT told members that if credit is provided for successful efforts, more exploration will occur in southern

Alaska, leading to much-needed new natural gas reserves. This will be a benefit to all residents and businesses at no direct cost to the state, he suggested. In addition to the benefit of developing new gas reserves, increased drilling in Cook Inlet also will aid the general economic status of the Kenai Peninsula, Anchorage, and other areas of the state. Moreover, increased tax revenue from additional gas production will more than offset any fiscal impact from the proposed credit, he said.

Number 1885

REPRESENTATIVE MASEK turned attention to the fiscal note provided by the Department of Revenue (DOR). She cited a section of the analysis that read, "Corporations could use their tax credits under this legislation to reduce taxes paid to the state for North Slope production or production from elsewhere in the state." She asked about the impact on current North Slope producers.

REPRESENTATIVE CHENAULT, in response, suggested the question could be better answered by someone with DOR. He said, to his knowledge, that certain corporations now work on the North Slope but don't really have any holdings south of the Brooks Range that they're currently drilling. He suggested DOR could better [determine] whether that would have an effect. Representative Chenault also suggested that all corporations probably have leases in Cook Inlet and other areas of the state and the North Slope. He indicated the possibility that the bill could [impact current North Slope producers]. However, he clarified that this tax [credit] is not [intended] for gas reserves on the North Slope; rather, it's for reserves developed south of the Brooks Range.

REPRESENTATIVE MASEK asked for clarification from DOR.

Number 2034

CHUCK LOGSDON, Chief Petroleum Economist, Tax Division, Department of Revenue, responded:

Yes, ... in fact, it's the activity that generates the credit, and if a corporation did have production on the North Slope or was engaged in activities that generated income tax on the North Slope, and they also began to explore and develop in the Cook Inlet, to the ... extent that they produced and sold natural gas, to the extent if they spent enough money in the inlet,

such that their only limit would be their total income in Alaska ... or 50 percent of their total corporate liability in Alaska, which would, of course, include income tax liability from North Slope operations. So, ... we're not saying that necessarily would happen, but that it could happen.

REPRESENTATIVE MASEK turned attention to another section of DOR's fiscal note, which read, "Oil and gas corporate income tax collections in FY 2003 and FY 2004 are currently projected at \$160 million and \$200 million per year, respectively."

Number 2156

JOHN A. BARNES, P.E., Alaska Business Unit Manager, Marathon Oil Company ("Marathon"), came forward to provide a presentation on why Marathon believes the bill is needed. Referring to a handout in packets, he noted that [page 2 of the handout] talks about what does. He told members:

As was mentioned, it creates an income tax credit for exploration development of gas reserves south of the Brooks Range. I'd just like to stress that even though the focus is on the Cook Inlet, there are other basins in Alaska that may have gas potential. And this incentive would also apply to exploration efforts in those areas. Again, the focus is on natural gas.

A key point ... is that these are the types of efforts that level the playing field in drawing capital into the state of Alaska from other opportunities that companies may have around the world. ... That is the goal, to draw more capital to the Cook Inlet, ... in context to the other comment about other basins, to draw potentially more capital to the state of Alaska.

The next slide [page 3 of the handout], talking a little bit more detail about how the bill works: it would apply to 10 percent of qualified capital investment. It would apply to 10 percent of the qualified expenses that were associated with putting that capital investment to work. It would offset no more than 50 percent of corporate income tax in any one year, but it could be carried over for five additional years. It only applies to successful efforts, as was stated; it would not apply to dry holes or other work.

Number 2274

MR. BARNES referred to [page 4 of the handout] and continued:

And finally - this is important from the industry side - it could be factored into project economics when you understand weighing investment opportunities in the state of Alaska versus other opportunities. This is a robust, easily identified factor that could be measured.

Why is it needed? First, natural gas reserves have been and are continuing to decline in the Cook Inlet. The current Cook Inlet proven reserve base is about 2 ... tcf [trillion cubic feet] ... on mixed units; 2 tcf is about 2000 bcf [billion cubic feet]. Those of you that talk about North Slope gas, it's smaller than that; I wish it was that big. These numbers are based on the DNR [Department of Natural Resources], [Division] of Oil and Gas, 2002 report.

Finally, ... despite recent increases in Cook Inlet activity, the reserves are not being replaced on an annual basis. ... If you don't replace reserves annually, your reserve base will go down.

Number 2317

On the next slide [page 5 of the handout], I'll talk a little bit about the impact of not replacing reserves. This slide shows the Cook Inlet proven reserves; that's gas that you know is in place through production and other geologic testing. In 1990, there was about three and a half tcf of gas, and in '95, '96, to '97 there were recalculations done. This is not the result of new work; it's just new estimates of the reserves increased ... to a higher level in '97; then they've continued to decline until 2002, in which I reported they were about two tcf or the 2000 bcf.

Next slide [page 6 of the handout], ... why is House Bill 61 needed? Cook Inlet deliverability has declined over the last several years. Deliverability is the ability to pull gas out of the ground. It's the rate at which you can produce gas.

Number 2363

MR. BARNES continued:

Next slide [page 7 of the handout] talks about Cook Inlet peak supply-and-demand requirements. The Cook Inlet is blessed for a lot of reasons. One is it gets very cold in the winter, and because of that you use a lot of gas to heat your homes and provide light. Seasonally, that swing can be about a factor of 3 to 1 between summer heating needs and winter needs.

In 1997, the Cook Inlet deliverability, the production capacity, which is shown in red on this exhibit, was about 900 million cubic feet a day, and the total requirements [were] somewhat less than that. During the interim, since that time in 2003, Marathon estimates Cook Inlet deliverability of production capacity at about 667 million cubic feet a day, and that falls below the total requirements that the inlet sees.

Number 2407

Next slide [page 8 of the handout], further as to why is it needed, what are the consequences of these points I've tried to make, supply and demand rationalization is occurring: there's not enough gas to feed the low price consumer. That's represented by that deficit between requirements and deliverability, and the gas price is increasing. That's, again, supply and demand.

At the current time, ENSTAR's weighted average cost of gas - or WACOG, which is the price that they purchase the gas for, not what they sell it to the consumer - is about 255 per million cubic feet. More recent ENSTAR contracts have been signed at prices that range from \$2.75 per mcf [thousand cubic feet] up to Henry Hub.

And many of you have seen different reports of Henry Hub gas prices, they go up and down a lot, but recently they've been over \$9 an mcf, [and for a] few moments, even higher than that.

Number 2457

MR. BARNES continued:

Looking ahead on the next slide [page 9 of handout], the Cook Inlet reserves and resources: as I've said, reserves represent gas that you know you have in the ground; resources are gas volumes that you believe are there but have not yet been proven up through the drill bit. The current proven reserve base - as I've said, 2,000 bcf - represents about 10 years of production if you assume that you have no decline in the rates, that you can get it out of the ground, which is not actually a valid assumption.

The potential gas committee, which represents various professionals, have estimated Cook Inlet resources - again, those are the reserves that have not yet been discovered - at about 1,050 bcf; that's probable reserves. And then, even riskier, these are reserves that have probably less than [a] 20 or 25 percent chance of being there at about 2,100 bcf. The point of that is that there is potential in the Cook Inlet and there is a reason to continue to explore in the inlet and probably in other basins around the state.

Number 2518

What are the impacts to the State of Alaska [page 10 of handout]? First, we believe that it will stimulate activities in the Cook Inlet, and we would hope that it would stimulate activities in other basins as well. We believe it would aid in maintaining the Cook Inlet's current 200-plus-bcf-per-year production. That's what's required to service all needs in the Cook Inlet.

Just to the point of reference, that 200 bcf in a year: if you convert that on an energy basis to an oil basis, that represents about 33 million barrels of oil, which is about a thirteenth month of production off the North Slope. So, in world standards, it's a pretty good volume of energy that's being produced. What does it do? It provides gas for the Cook Inlet utilities, the "industrials" that are present, jobs, royalties, and taxes.

Number 2557

MR. BARNES continued:

Next slide [page 11 of handout]: I'd like to talk a little bit about potential fiscal impacts to the State of Alaska. And I think as it's been stated, ... it may be hard to measure, but we believe that they would be clearly positive to the State of Alaska. ...

The things you need to look for when you try to understand what is the fiscal impact and measure it, you have to ask yourself how many developments will be incentivized that might not have happened otherwise: how much gas will ultimately be discovered, what's that volume that you've found, what will that gas sales price be. And the effect of that is what the state sees on royalties and severance tax, obviously. How much will be spent for exploration and development: that's not only, obviously, the measure of the incentive, but it also represents [money spent] in jobs in ... Alaska. To begin, it's successful-efforts-driven: unless gas is found and developed and produced, no incentive will be applied.

Number 2610

MR. BARNES continued:

Next slide [page 12 of handout]: I've tried to put together a conceptual estimate of the impact. ... I've [listed] ... six assumptions, and they're open for discussion if other professionals or economists would like to look at it, but I varied the field size from 0 to 500 bcf. I looked at a development cost of about 50 cents per mcf, which is a good cost - we're not always that effective - royalty, [12.5] percent; severance tax, [7.5 percent]; ad valorem taxes, just based on sort of an average 2.7 percent. Then I used a \$2.50 gas sales price, which is at or near that weighted average cost of gas.

Number 2642

The next slide's columns of numbers [page 13 of handout]: I'll just go ahead and briefly go across, and then graphically it's shown on an additional exhibit. If you were to talk about a 50-bcf

discovery, the second row in the table, the producing company would probably spend \$25 million to develop it; the tax cut would be about [\$2.5] million. The total revenue that would be generated at that \$2.50 sales price would be \$125 million. Royalties that the state would receive if the state had the entire leasehold would be \$15.6 million; it would receive about \$9 million in severance tax ad valorem, which goes not only to the state but to the local borough - about \$1 million.

So, the total tax take under this set of assumptions would be about \$26 million, which is about the same as the investment cost that was spent to develop it. The other thing to note, though, is that it's about 10 times the tax credit. So, it looks like, under this set of assumptions, there's about a 10-to-1 return to the state, ultimately, if the efforts are successful.

Number 2705

MR. BARNES continued:

The next slide [page 14 of handout] just graphically shows the same data. I've increased field size on the bottom from 0 to 500 bcf, and you can see the top two cost curves, the development costs, the little reddish squares, then the total tax take, which is just above that, the blue line, and then below that are the different components, and you can see ... near the bottom of the yellow line, [it] represents the tax credit.

... Based on this conceptual model subject to discussion or other assumptions, obviously, the total tax take from one field, which was incentivized, there's a couple ways to look at it; one proposition would be that it pays for the credit for 10 other fields or that the state receives 10 times that revenue. So, I really don't know how you'd want to measure that. ...

We believe the credit's needed now; there's not enough exploration currently in the Cook Inlet to meet the demands that are there. Just as a point of fact, if you do have a new discovery, it will probably take a minimum of three years to get first gas production on.

Number 2768

MR. BARNES continued:

Last slide [page 16 of handout]: what are the success measures, what I think we ought to look for to determine if this credit was successful. I would want to believe that you'd see increased lease activity. The State of Alaska's done a very good job on their areawide lease program, but maybe we'd see ... additional leasing. I would hope to see additional drilling rig activity, ... the activity that counts the most.

Subsequent to discovery is construction activity and, ultimately, increased production and deliverability. And, finally, the credit's applied to the income tax. And for every dollar of credit, approximately 10 dollars were spent developing new reserves, and I think that's a good measure. There's been discussions and questions in other meetings about impact on the ... income tax that oil and gas currently contributes to the state.

One way to look at it would be, if you had a \$10-million credit applied, that the state saw a \$10-million reduction. The other thing would be to recognize that 10 times that amount - \$100 million - had been spent successfully developing new oil and gas reserves, and Marathon's suggestion would be that that's probably a pretty fair way to look at it. Thank you for your time. I'm available for questions or as required.

Number 2831

CHAIR FATE, upon determining that no one else wished to testify, closed public testimony.

CHAIR FATE turned attention to some proposed amendments that would be offered. [Typed on one page, the amendments used brackets to delete language and underlining to add language.] He said one has to do with the retroactivity: there was a retroactive date that which would allow this type of credit to start or to have started; with concurrence of the industry, that date was moved ahead, so this credit won't begin to take place

for a couple of months, to preclude any question of "double dipping." Chair Fate characterized the remainder of the [proposed amendments] as corrections and cleanup language.

Number 2900

REPRESENTATIVE MASEK moved to adopt Amendment 1, which read [original punctuation provided]:

Page 2, Line 6
Delete "December 31, 2002"
[December 31, 2002] June 30, 2003

There being no objection, it was so ordered.

Number 2927

REPRESENTATIVE MASEK moved to adopt Amendment 2, which read [original punctuation provided]:

Page 3, Line 11
exploration and development of **[oil or]** gas

There being no objection, it was so ordered.

REPRESENTATIVE MASEK addressed Amendment 3, which read [original punctuation provided]:

Page 3, Line 19
The expenditures **[that support claims for investment tax credits]** authorized under....

REPRESENTATIVE KERTTULA asked for clarification.

CHAIR FATE indicated the purpose is to tighten the language up.

Number 2973

REPRESENTATIVE MASEK turned attention to page 3 of the bill, lines 17-20, subsection (h), which read:

For purposes of determining allowable credits under this section, the department shall allow only expenditures and payments that are not inconsistent with the expenditures that support claims for investment tax credits authorized under 26 U.S.C.

(Internal Revenue Code) for exploration and development of natural resources.

TAPE 03-19, SIDE B

Number 2982

REPRESENTATIVE MASEK pointed out that Amendment 3 deletes from it the following: "that support claims for investment tax credits".

Number 2976

REPRESENTATIVE KERTTULA expressed concern that those may be two different things: expenditures that support claims for investment tax credits are expenditures brought forward to support those claims, whereas expenditures for exploration and development of natural resources seem to be quite a bit broader.

MR. BARNES explained that under the U.S. tax code there currently aren't investment tax credits; thus Representative Kerttula was identifying something that no longer existed.

Number 2934

REPRESENTATIVE MASEK moved to adopt Amendment 3 [text provided previously]. There being no objection, it was so ordered.

Number 2923

REPRESENTATIVE MASEK moved to adopt Amendment 4, which read [original punctuation provided]:

Page 4, Line 31 and Page 5, Line 1
Eliminate the entire Retroactivity clause

There being no objection, it was so ordered.

Number 2904

REPRESENTATIVE MASEK moved to report CSHB 61(O&G), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 61(RES) was reported from the House Resources Standing Committee.

HB 97-LONG-TERM LEASES OF ALASKA RR LAND

Number 2839

CHAIR FATE announced that the next order of business would be HOUSE BILL NO. 97, "An Act authorizing a long-term lease of certain Alaska Railroad Corporation land at Anchorage; and providing for an effective date."

The committee took a brief at-ease at 1:57 p.m.

Number 2804

REPRESENTATIVE VIC KOHRING, Alaska State Legislature, sponsor, explained that HB 97 would extend the lease option available on some property at Government Hill in Anchorage from 55 to 75 years. Thus a developer wishing to build senior housing on the property would be able to qualify for a U.S. Department of Housing and Urban Development (HUD) 202 grant. Representative Kohring noted that just last year the legislature passed legislation that extended the lease on lands owned by the Alaska Railroad Corporation (ARRC) to 55 years so that developers could have a longer period of time and qualify for financing. Shortly thereafter, HUD specified that for the HUD 202 grant, a 75-year lease is required rather than a 55-year lease.

REPRESENTATIVE KOHRING informed the committee that Alaska Enfranchise Facilities, Inc., wishes to build [a senior] facility funded through the HUD 202 grant. However, the developer needs a 75-year lease to build. Therefore, HB 97 provides an extension on that particular piece of property on Government Hill.

Number 2735

REPRESENTATIVE MASEK posed a situation in which there is development in the future and this project is in the way. In such a situation, would the state or the railroad have to buy out those who are building on the site? She inquired as to the impact this proposed project could have on long-term port expansion plans for Anchorage.

REPRESENTATIVE KOHRING responded that although he couldn't predict the direction of the port expansion, he didn't expect the port to expand in the direction of Government Hill. With regard to Representative Masek's concern with the Knik Arm crossing, he said the location of that crossing hadn't been determined and thus he didn't believe it would be prudent to hold up the construction of this project, since there was no

knowledge of when or if the crossing would be built. He said he has seen some of the proposed routes; the one receiving the most focus is to the west of Government Hill, far from the proposed building site. He added that the location of the proposed senior housing is in a highly developed area.

REPRESENTATIVE MASEK asked where the state would fall if HB 97 was passed and later this project was in the way [of the construction of the Knik Arm crossing].

REPRESENTATIVE KOHRING answered that he didn't know who would ultimately be responsible. However, he guessed that the federal government would ultimately be responsible because it would likely fund the project. He offered to research the issue.

Number 2576

REPRESENTATIVE KERTTULA asked why this isn't a general grant of leasing authority to the railroad, rather than a special grant. "Why don't we just take a look at the policies of the railroad and make it general?" she asked.

REPRESENTATIVE KOHRING agreed that the legislature could make a blanket extension from 55 years to 75 years. He deferred to the ARRC representative.

REPRESENTATIVE KERTTULA explained her concern that if a law of general applicability can be passed [it would be better because] there may be constitutional problems with regard to special legislation.

Number 2515

WENDY LINDSKOOG, Director, External Affairs, Alaska Railroad Corporation, acknowledged that this question has been coming up throughout the hearing process. She explained that ARRC's statutes specify that it has the broad authority to lease land for up to 55 years. However, the law is written such that ARRC has to obtain specific legislative approval to lease land for over 55 years unless ARRC reserves the right to terminate the lease. Therefore, the law requires that the railroad be specific with regard to the exemptions ARRC seeks. Ms. Lindskoog related her belief that Legislative Legal and Research Services found that [interpretation] to be consistent.

REPRESENTATIVE KERTTULA said ARRC's enabling statute could be changed to make [the railroad's lease option] longer if the

legislature so desires. She asked if the aforementioned is a good idea.

MS. LINDSKOOG informed the committee that last year there was legislation that obtained authorization for the railroad to increase its lease from 35 years to 55 years, with which ARRC is comfortable. At that time, HUD requirements were for 40 years. However, the rules for HUD changed to 75 years.

Number 2394

CHAIR FATE asked if ARRC has any other requests for extension of lease terms.

MS. LINDSKOOG answered that the 55 years brings ARRC in line with what other state agencies, such as the University of Alaska, have. She reiterated ARRC's comfort with the 55 years. At this point, there are no other requests for leasing land for more than [55 years]. In further response to Chair Fate, Ms. Lindskoog said she didn't anticipate any other [lease requests beyond the 55 years] unless another HUD financing proposal surfaces. She said it's hard to guess.

REPRESENTATIVE KOHRING suggested that there was somewhat of a precedent for lease extension when there was the change from 45 to 55 years for the Healy housing project in 2000.

REPRESENTATIVE KERTTULA asked what this lease is for and whether there are any specific requirements for the lease itself.

Number 2295

MARK MARLOW, Alaska Enfranchise Facilities, Inc. (AEF), confirmed that the lease is just for the land.

REPRESENTATIVE KERTTULA pointed out that the claim has been that [HB 97] is necessary because of HUD financing for senior housing. She asked what guarantee the state has that the land will be used for [senior housing] if the lease is only for the land.

MR. MARLOW answered that if HB 97 passes, this lease isn't automatically extended. This legislation merely gives ARRC's board of directors the authority to extend the lease if they wish to do so. He pointed out that ARRC's board of directors can make any extension contingent on the land's being utilized for this HUD 202 grant.

REPRESENTATIVE KERTTULA asked what Mr. Marlow intends to do with the land if the extension is granted or if it isn't.

MR. MARLOW replied that, in any event, there will be a multifamily housing project built on the land. However, he said his desire is to position the property to be eligible for a HUD 202 grant through AEF. The applications are due at the end of May. He agreed with Representative Kerttula that the aforementioned is the reason for the 75 years.

Number 2207

REPRESENTATIVE KERTTULA asked if there is any binding agreement that Mr. Marlow could enter into now in order to assure [the legislature] that the land will be used for senior housing.

MR. MARLOW related his understanding that such an agreement would be appropriate to enter into with ARRC's board of directors.

REPRESENTATIVE KERTTULA surmised, "So that before they extend your lease you've entered into something that's binding."

MR. MARLOW replied, "That's correct." In further response, he said he'd applied to lease the land through ARRC's leasing policy guidelines. He related his understanding that there was another interested party, although it didn't pursue its application.

REPRESENTATIVE KERTTULA asked, "Would that change if the other party were similarly able to get a 75-year lease?"

MR. MARLOW said that he didn't have any way of answering that. He noted that 55 years would outlast any mortgage and thus the difference in the value of the property, whether it had a leasehold for 55 years or 75 years is probably negligible.

Number 2130

REPRESENTATIVE GATTO asked if the lease would allow Mr. Marlow to build the proper unit under the conditions of the lease and use another part of the land as a parking lot or racetrack or something different.

MR. MARLOW answered that the zoning of the property is controlled by the Municipality of Anchorage. The zoning of the

property is R-4, which means multifamily residential [housing]. Mr. Marlow clarified that he is representing AEF, a 501(c)(3) nonprofit [corporation]. He explained that HUD 202 grant program is an outright grant that's funneled through 501(c)(3) nonprofits to a community. The nonprofits sign a contract with HUD to use the buildings built with the funds for low-income housing for people 62 years of age and older.

Number 2022

THOMAS PEASE, Government Hill Community Council, noted that he is a resident of Government Hill. He informed the committee that Government Hill Community Council unanimously opposed HB 97 at its last meeting because it's special-interest legislation. Mr. Pease said that it's interesting to note that none of the legislators representing Government Hill have signed on [as cosponsors] of this legislation. Furthermore, ARRC, which owns the land, is neutral on the issue. Mr. Pease explained that the council opposes HB 97 because ARRC's leasing practices are outdated and ARRC applies the same criteria for remote parcels as it does for parcels in the heart of an urban area. He also expressed concerns with regard to density in the Government Hill area. Directly across from this parcel of land are the highest-density multifamily housing complexes in the state.

MR. PEASE turned to Representative Kohring's earlier statement that the developer is stuck because of the HUD change in its minimum lease requirement. He informed the committee that last year at this time there were two applicants interested in leasing the property. Before any lease was signed on this property, HUD announced that it was changing its minimum leasing requirements. In fact, one of the two applicants withdrew its application because of the changes. The current leaseholder knew before signing the lease that he wouldn't qualify for HUD 202 grant money under the 55-year lease term. Thus Mr. Pease said he considered HB 97 to be special-interest legislation.

Number 1814

REPRESENTATIVE GATTO said he has some notes referring to some railroad disputes over easement lands in Nenana. He asked if Representative Kohring knows any history [about that].

REPRESENTATIVE KOHRING answered that he wasn't aware of any. In response to Representative Lynn, Representative Kohring confirmed that Mr. Marlow is the same gentleman who owns the McKay building.

Number 1755

REPRESENTATIVE GUTTENBERG directed attention to page 1, line 13, and the language reading "without reserving the right to terminate the lease if the land is needed for railroad purposes". He asked if that is standard language.

MS. LINDSKOOG answered that it's standard language. She explained that legislative approval is required to lease land in excess of 55 years unless the railroad had the right to terminate. Therefore, the legislation allows the railroad to issue a longer-term lease without the right to terminate. The right to terminate is something that financiers don't view as stable when issuing long-term projects. In further response to Representative Guttenberg, Ms. Lindskoog said that she didn't believe that ARRC has leased anything for longer than 55 years, but would have to check to be sure.

Number 1659

CHAIR FATE requested that Ms. Lindskoog enlighten the committee with regard to the applicant who withdrew due to the HUD 202 grant requirements.

MS. LINDSKOOG identified Anchorage Neighborhood Housing as that applicant. Anchorage Neighborhood Housing withdrew its application because of HUD's 75-year lease requirement. Furthermore, she recalled that there were some other environmental issues involved in that it was going to take Anchorage Neighborhood Housing longer to perform due diligence and be able to make lease payments on the land. However, Mr. Marlow said that he could make lease payments on the land at the time and he maintained his application. Therefore, ARRC's board was left with one application to review for this lease. She acknowledged that there were concerns from the neighborhood.

CHAIR FATE asked if there has been any examination with regard to the impact such a project would have on a high-density area such as Government Hill.

MS. LINDSKOOG replied no, although ARRC's board directive was to review ARRC's lease policy and see if it should be updated to allow for consideration when the area is dense. Now that there is a full board, the aforementioned is being reviewed and an updating of ARRC's policy should occur.

Number 1496

REPRESENTATIVE GATTO related his assumption that the lease would include a default clause such that the land would be returned if the developer didn't perform.

[Ms. Lindskoog nodded yes.]

CHAIR FATE noted that the next committee of referral for HB 97 is the House Finance Committee. Chair Fate said that although he has some reservations, he would like to see the legislation move from committee. He inquired as to the wishes of the committee.

Number 1323

REPRESENTATIVE GATTO moved to report HB 97 out of committee with individual recommendations and the accompanying fiscal notes.

Number 1314

REPRESENTATIVE KERTTULA objected. She said she didn't believe HB 97 meets the standard of not being special legislation. "I think it's a second bite of the apple, and I don't like the testimony I've heard today," she added.

A roll call vote was taken. Representatives Gatto, Heinze, Lynn, Morgan, Wolf, Masek, and Fate voted in favor of reporting HB 97 from committee. Representatives Guttenberg and Kerttula voted against it. Therefore, HB 97 was reported out of the House Resources Standing Committee by a vote of 7-2.

CHAIR FATE noted his agreement with some of those in opposition to HB 97 because the legislation does [seem to be special-legislation], although he didn't want to stand in the way of good economic development. He related his belief that the next committee of referral would address that. [HB 97 was reported from committee.]

SB 79-EXTEND ALASKA MINERALS COMMISSION

CHAIR FATE announced that the next order of business would be SENATE BILL NO. 79, "An Act extending the termination date of the Alaska Minerals Commission."

Number 1120

REPRESENTATIVE KERTTULA moved to report SB 79 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 79 was reported from the House Resources Standing Committee.

HB 208-HUNTING SAME DAY AIRBORNE

CHAIR FATE announced that the final order of business would be HOUSE BILL NO. 208, "An Act relating to hunting on the same day airborne; and providing for an effective date."

Number 1016

JIM POUND, Staff to Representative Hugh Fate, Alaska State Legislature, testified that HB 208 would make some changes to existing statute in that it gives additional authority to the Board of Game to evaluate the management of the resource for sustained yield, rather than [managing] on just a prey population basis. He explained that current statute only allows for this very limited means for making a determination, even though many other factors actually play into a total evaluation of prey situations.

MR. POUND said the bill also adds language to allow the commissioner of [the Alaska Department of Fish and Game (ADF&G)] to permit airborne or same-day-airborne shooting for predator control if it is determined by the Board of Game that predation is a key to the problem. Currently, this form of management may only be done from an in-flight, moving aircraft. Mr. Pound said these changes give the appointed experts on the Board of Game and the commissioner [of ADF&G] valuable, effective tools in an effort to manage game for sustained yield. He urged the committee to support HB 208.

Number 0866

REPRESENTATIVE HEINZE asked if an agent of ADF&G would be doing the shooting and how the agent would be defined and chosen.

MR. POUND offered his understanding that it could either be an agent of ADF&G or an individual who is permitted by the commissioner; it would be a special permit.

REPRESENTATIVE HEINZE asked for clarification regarding those responsible for doing the shooting. She said this really concerned her.

Number 0761

BLAINE HOLLIS, Assistant Attorney General, Natural Resources Section, Civil Division (Juneau), Department of Law (DOL), testified that with regard to the agency issue, [DOL's] view is that it really doesn't change the status quo on that. He said with regard to the two changes to the bill, one would clarify whether both land-and-shoot and airborne shooting are allowed, whereas currently there is some question about whether land-and-shoot would be allowed. He said DOL's view is that probably the best reading of the current statute is that both are allowed currently, but the bill would clarify that and remove a potential ambiguity from the statute, clarifying that both types of predator control, land-and-shoot and aerial, are available to the department pursuant to subsection (a).

MR. HOLLIS said the second change that the bill would make is to clarify that in addition to just considering prey population objectives, the board and the department could also look at harvest objectives and the other objectives that are specified in AS 16.05.255(g), whereas currently there is some ambiguity about whether they are just limited to looking at prey populations or whether they may also consider harvest objectives. The bill would make those two clarifications, but it doesn't really go to the question - assuming that a predator control program is implemented under subsection (a) - of who could engage in it.

MR. HOLLIS said the language in the statute currently provides that a person may. It is [DOL's] reading of the statute, in its current form, that it is not limited just to department employees, and that if a program were instituted pursuant to [subsection] (a), the department could authorize agents or other persons to participate in such a program.

CHAIR FATE, sponsor of HB 208, offered his understanding that [persons participating in the program] would be agents of the department.

MR. HOLLIS, in response, said that's if it's how the department structures it.

Number 0592

REPRESENTATIVE HEINZE said this is a very big thing to her. She asked who those persons [participating in the program] would be, how many there would be, and how often they could participate.

MR. HOLLIS, in response, said the reality is that the statute, in its current form, doesn't really limit that, and [DOL's] view is to largely leave that to the department to determine and fashion an appropriate predator-control program to address the needs. There is a limitation in the second section of the statute, to just department employees, but that's for a different type of program; that's a separate type of game management program. The type of program contemplated under subsection (a) is really two different ways of dealing with predator control. Under current law, only departmental employees are allowed to engage in management programs that involve aerial shooting without going through all kinds of steps that are outlined in [subsection] (a), but [subsection] (a) contains no limitation on who may participate. He said in DOL's view, it essentially leaves it to the department and the board to structure a program to meet the appropriate needs on the ground at the time.

Number 0478

REPRESENTATIVE WOLF offered his understanding that one of the former governors of Alaska used to be an agent in predator control for aerial wolf hunting. He said it was set up at that time to be done through an agent that worked within the department. Representative Wolf related his understanding that the department, commissioner, and Board of Game would have the ability to structure it as an agent for the department who would be authorized to engage in predator control through this bill.

MR. HOLLIS suggested that the statute in its current form does that; he said he doesn't think the bill changes that. The two things that the bill seeks to change don't really go to the question of whether an agent may participate in the program. The two changes in the bill go to the following: one, whether the shooting can be both land-and-shoot and aerial or just one of them; and, two, the type of population objectives that the board and the department can look at in deciding whether to implement [such a program]. Neither of those changes really addresses who may participate in the program. Mr. Hollis offered his view that current law would be unchanged by this bill with regard to that issue.

Number 0316

REPRESENTATIVE LYNN asked if there is a provision in the bill regarding the harvesting of pelts from animals shot through this

program, and if so, who would own those pelts. He indicated his concern is that the pelts are not wasted.

MR. HOLLIS said he didn't think those issues were addressed either in the bill or in current statute.

CHAIR FATE said it isn't addressed in this bill or meant to be. He said he suspected it would probably be dealt with another by another section of the statute.

REPRESENTATIVE LYNN asked if this subject was covered in another area.

CHAIR FATE answered that it will be covered because there are other statutes that cover the treatment of hides and the trapping and sealing of those hides, but they are not in this particular section.

Number 0180

REPRESENTATIVE GATTO turned attention to page 2, sub-subparagraphs (i) and (ii). He asked if there are diseases that can spread from predators to prey or if that would be unusual.

MR. HOLLIS deferred the question to ADF&G.

REPRESENTATIVE GATTO remarked, "If the answer was yes, then would it be a situation where we would want to eliminate predator and prey to eliminate the disease"

MR. HOLLIS said he really didn't know the answer to that, but it's not an issue that is affected by this bill. He said that is a reflection of current law and it wouldn't be changed.

Number 0093

REPRESENTATIVE GATTO said another way to control predators is with [Compound] 1080, a poison used in bait. He asked if that was still in use, prohibited, or no longer available.

MR. HOLLIS said he didn't know.

REPRESENTATIVE GATTO said it was pretty effective but also pretty devastating in that predators would lose their hair, walk in circles, whine and yell, and then die a miserable death.

Number 0004

REPRESENTATIVE GUTTENBERG asked if the bill allows the public [to participate] in same-day-airborne shooting.

TAPE 03-20, SIDE A

Number 0001

MR. HOLLIS, in response, said his view is that the law already allows that. This bill would clarify that a person authorized pursuant to an appropriate program could either engage in shooting from the air or could engage in land-and-shoot, if that were deemed necessary and appropriate. He said the bill clarifies that both options are available for a predator-control program.

REPRESENTATIVE GUTTENBERG asked if Ballot Measure 6, voted on in [2000], would be contradicted or overturned by this bill.

Number 0109

MR. HOLLIS said he thought people who may testify later would say so, but that is not [DOL's] view. He said his understanding is that the 2000 referendum did not affect subsection (a); it affected only subsection (b), a different approach that would authorize departmental employees to engage in airborne predator control without having to go through all of the steps specified in subsection (a). The 2002 referendum removed the word "agent" from that section, he said; although prior to the 2000 referendum, subsection (b) authorized not only department employees but also agents of the department to engage in that type of activity under subsection (b), and it removes that. Mr. Hollis said DOL's view is that removing that essentially created the situation whereby only departmental employees can operate under subsection (b), but it didn't impose any limitation on who a person is under subsection (a).

Number 0217

REPRESENTATIVE KERTTULA asked how [ADF&G] has used subsection (a) historically.

MR. HOLLIS deferred the question to [ADF&G].

REPRESENTATIVE KERTTULA asked if the historic use of that section would play any part in the determination of whether this bill might run up against the initiative [as a matter of law].

MR. HOLLIS remarked, "No; ... more than two years has passed. ... There's a couple of ways of looking at it. You could say it's only an amendment or even if it were somehow viewed as a referral, it's been more than two years."

Number 0274

REPRESENTATIVE KERTTULA asked, if it were inside the two-year period, whether the courts would look at the historic facts of how the department had used [subsection] (a) to make that determination.

MR. HOLLIS, in response, said the court would look at factors like how the department had implemented the section in perhaps discerning the intent of the statute. He said he was unsure of whether [the court] would look at that in terms of deciding whether the constitutional limitation on amending or repealing a referendum is implicated.

CHAIR FATE said because of time constraints, public testimony would not be closed during this meeting and would be continued during the next hearing on the bill.

Number 0476

DOROTHY KEELER testified in opposition to HB 208. She provided the following testimony:

It's hard to believe that this hearing is not taking place in the 1800s, when the only good wolf was a dead wolf. Fortunately, the world population has become better educated since then and we are counting on their revulsion of what this bill allows to end aerial predator control with a tourism boycott, just like it did in 1993.

My husband, Leo, was on the McGrath Adaptive Management Team, and has all the studies [ADF&G] paid for that did not support predator control. We both felt it odd that none of those studies were posted on the ADF&G web site. Rest assured, however: the media can find them posted on ours.

John Blackstone from CBS News, "Eye on America," covered our work to protect the McNeil River bears twice in 1995. He covered our work to protect the Toklat wolves in 1999, and stories of that effort are

still posted on the CBS News web site. He stands ready to help us spread the word on this.

I am currently freelancing for CBS News. That's why I have filmed, on TV-quality broadcast video, every Board of Game meeting and testimony concerning that issue. That is why I am filming this hearing as we speak. That is why we created a web site devoted to this issue and have showcased it on four of our other web sites, two of which currently rival the daily traffic of KTUU, Channel 2, web site.

Number 0641

Since reason and logic have apparently been abandoned, we are fighting this with the only weapon left to us - world opinion. Are you really prepared for the tourism boycott that your actions are leading to? This bill, if enacted, will launch a tourism boycott that will make the one in 1993 tame by comparison, crippling our fragile economy.

Actually, due to the speed and reach of the Internet, and the studies by ADF&G that prove that overhunting is the cause of the decline - and just look at the bull-cow ratio in McGrath to verify that - I feel the outcome will be swifter and far more damaging.

Choosing to start predator control to increase moose numbers is like using DDT to increase crop yield. Both are guaranteed to work for the short term, but the long-term consequences, both planned and unexpected, will not be worth the cost. The worldwide traveling public will see to that. However, it's not too late to void this fiasco. I urge you to vote accordingly.

MS. KEELER, in response to a question from Chair Fate, said she and her husband are wildlife photographers who have specialized in filming the Toklat wolves, the McNeil River bears, [other] bears, eagles, and wolves throughout Alaska. Ms. Keeler clarified that she was referring to her and her husband's photographic work.

Number 0798

ROD ARNO testified. Mr. Arno noted that he has been attending the Board of Game [meetings] for the last 10 years representing the Alaska Outdoor Council, and has been a professional hunter for the last 30 years. Expressing support for HB 208, he suggested the bill will help the state achieve economic stability through resource development while increasing the opportunity for 29,000 Alaskan hunters to provide moose for their families to eat.

MR. ARNO said the change from prey population's being the "trigger" to harvest objectives - as well as those prey population objectives - is important for the Board of Game. For example, 10 years ago, GMU [Game Management Unit] 13 had a population of approximately 23,000 moose; after 10 years of no predator control that population has fallen below 10,000. Furthermore, he said under AS 16.05.255(g) the population objective is set between 20,000 and 25,000 moose for that area.

MR. ARNO said the problem of just going by population objectives is the difficulty in counting each moose. He suggested that this bill would make it much easier to record the reported harvest. He said the reported harvest objective for GMU 13 is from 1,200 to 2,000 moose, whereas the average 10 years ago for GMU 13 was 921 moose. Today, he said, that's fallen down to 430 [moose], which is below the level that the board determined necessary of 600 [moose] for subsistence use. Furthermore, the board estimates 3,000 subsistence moose hunters in GMU 13 [will be competing for] 150 subsistence permits. He suggested that the bill will provide a better record for the Board of Game to recognize that those harvest objectives are not being met.

Number 1005

MR. ARNO said since the Knowles Administration stopped all predator control, 56 percent of moose populations identified for intensive management by the board are declining. He suggested it was important for the legislature and for Alaskan voters to keep in mind the fact that airborne wolf hunting and land-and-shoot wolf-hunting tools are banned in 60 percent of the state because of federal laws; he said there's another 20 percent of the state where predator control, due to habitat limitations, urban centers, and economic infeasibility, "says we won't do it." Mr. Arno indicated that this bill would provide the Board of Game with the tools to do predator-prey management in 15 percent of the state, at the most. He suggested airborne wolf control and land-and-shoot wolf hunting are defensible tools for

predator-prey management. He again urged the passage of HB 208 from committee.

Number 1082

REPRESENTATIVE MASEK asked Mr. Arno if any consideration had been given to hunting wolves for bounties.

MR. ARNO said yes; in fact, legislation had been introduced to do just that. He noted that bounty hunting existed prior to statehood, and that he had been hunting since 1966. Mr. Arno said prior to the board's ban on land-and-shoot [hunting] in 1991, what worked adequately was having trapper's licenses, liberal bag limits, and seasons in place to allow persons to go out in their own aircraft and do land-and-shoot hunting. Mr. Arno said those hides were sold for up to \$400 each, which adequately paid for those few people who were proficient at land-and-shoot wolf hunting. Until the land-and-shoot ban in 1991, he said that method alone, without the bounties, was enough to keep wolf predation down.

Number 1225

ROBERT FITHIAN, Executive Director, Alaska Professional Hunter Association, testified that the [hunting] industry annually contributes well over \$100 million to Alaska. He said Article I, Section 1, of the state constitution defines the inherent rights of the state's citizens, including the right to life, liberty, happiness, and the rewards of their own industry; it also states that all persons are equal and entitled to equal rights. Furthermore, it closes with a statement that all persons have corresponding obligations to the people of the state. He remarked, "It's very unique to see that the first section of our constitution lays out our rights but then closes with a stewardship requirement for us."

MR. FITHIAN read Article VIII, Sections 3 and 4, to the committee. He remarked, "It's sad to sit and look back on Alaska and see where the tides of special interests advocating for environmentalism by regulatory strangulation and natural science have taken us to." He suggested this has contributed much to the lack of natural resource economy, to pitting user groups against each other, and to the decay of the way of life of the people that depend on the state's wilderness and wildlife resources to sustain themselves.

MR. FITHIAN said these tides have also left a high mark for nonprudent stewardship of the state's resources. He suggested that it is important [for user groups] to turn together and work to help cement policies for governing the industry based on common use, proven science, and constitutional mandates. He suggested that it is important to note that in any geographical areas of the state where the survival rate of moose, caribou, or Dall sheep born annually falls below 10 percent, there's a minimal chance at recoupment of these species.

MR. FITHIAN told members that the end result of this situation is that status quo management policies will continue to pit user groups against each other, and people dependent on wildlife will be the losers. He said HB 208 is a start in the right direction to relieve this situation and is not just a bill that adversely affects the wolves of Alaska. The population of wolves in Alaska has never been threatened or endangered, he suggested. Urging the committee to support and pass the bill, he said HB 208 provides sustainability to Alaska's residents and the people who depend on wildlife resources as a way of life.

Number 1425

CHAIR FATE announced that HB 208 would be held over and that public testimony would resume on [4/2/03].

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:02 p.m.