

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS**

January 30, 2008

3:41 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Chair
Representative Anna Fairclough, Vice Chair
Representative Bob Roses
Representative Paul Seaton
Representative Peggy Wilson
Representative Sharon Cissna

MEMBERS ABSENT

Representative Max Gruenberg

COMMITTEE CALENDAR

HOUSE BILL NO. 156

"An Act relating to mining licenses, to the mining license tax, and to production royalties on minerals and rents for property involved in mining; and providing for an effective date."

- MOVED CSHB 156(W&M) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 156

SHORT TITLE: MINING PROD. & LICENSE TAXES/ROYALTIES

SPONSOR(S): REPRESENTATIVE(S) SEATON

| | | |
|----------|-----|----------------------------------|
| 02/26/07 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/26/07 | (H) | W&M, RES, FIN |
| 03/16/07 | (H) | W&M AT 8:30 AM HOUSE FINANCE 519 |
| 03/16/07 | (H) | Heard & Held |
| 03/16/07 | (H) | MINUTE(W&M) |
| 03/21/07 | (H) | W&M AT 7:30 AM HOUSE FINANCE 519 |
| 03/21/07 | (H) | Heard & Held |
| 03/21/07 | (H) | MINUTE(W&M) |
| 03/23/07 | (H) | W&M AT 7:30 AM HOUSE FINANCE 519 |
| 03/23/07 | (H) | Heard & Held |
| 03/23/07 | (H) | MINUTE(W&M) |
| 01/30/08 | (H) | W&M AT 3:30 PM HOUSE FINANCE 519 |

WITNESS REGISTER

JOHANNA BALES, Deputy Director
Anchorage Office
Tax Division
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Presented testimony on HB 156.

MARCIA DAVIS, Deputy Commissioner
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Presented testimony on HB 156.

ACTION NARRATIVE

CHAIR MIKE HAWKER called the House Special Committee on Ways and Means meeting to order at [3:41:06 PM](#). Representatives Hawker, Roses, Cissna, Seaton, Wilson, and Fairclough were present at the call to order.

HB 156-MINING PROD. & LICENSE TAXES/ROYALTIES

[3:41:39 PM](#)

CHAIR HAWKER announced that the first order of business would be HOUSE BILL NO. 156, "An Act relating to mining licenses, to the mining license tax, and to production royalties on minerals and rents for property involved in mining; and providing for an effective date."

REPRESENTATIVE FAIRCLOUGH moved to adopt Version 25-LS0548\M, Bullock, 3/23/07 as the working document.

There being no objection, Version M was before the committee.

CHAIR HAWKER mentioned that there is one amendment being brought before the committee that will roll all the effective dates in HB 156 forward by one year. He asked that Representative Seaton present the bill and the accompanying fiscal notes.

REPRESENTATIVE SEATON clarified that the proposed amendment would roll the effective date forward to January 2009, the start of the tax year. He said there is no intention to make HB 156 retroactive.

REPRESENTATIVE FAIRCLOUGH asked whether there is enough time for regulations to be written and public testimony to be taken prior

to the effective date of the bill, should HB 156 be passed during this legislative session.

[3:44:27 PM](#)

REPRESENTATIVE SEATON replied that the extent of the regulatory changes would be up to the Department of Revenue (DOR). He mentioned the bill will still need to go to the House Finance Committee, which will also address the effective date. He noted that his intention with the proposed amendment is to make certain there is not a retroactive effective date. He offered his belief that both DOR and the Department of Natural Resources (DNR) would also ensure there was not a retroactive effective date in the bill.

CHAIR HAWKER offered that the amendment was being monitored by both DOR and DNR.

REPRESENTATIVE FAIRCLOUGH said she would probably offer an amendment to allow for more time.

CHAIR HAWKER asked Representative Seaton to refresh the committee about HB 156.

REPRESENTATIVE SEATON confirmed that the updated fiscal note from DNR contained no changes, whereas the updated fiscal note from DOR did predict an increase for 2008 reflecting the increase in mineral prices. Reading from the fiscal note, he noted that in 2007 the mining industry saved in excess of \$20 million by using percent depletion. Referring to the sponsor statement update, he described changes to page 2, middle paragraph, which now reflect the tax revenue increase to 6 percent, due to the escalation in mineral prices. Representative Seaton turned the committee's attention to his Powerpoint presentation titled "HB 156 Mining Taxes review (v.M)". He highlighted that slide 2 references the Fraser Institute, an industry consortium that collects and publishes information from most of the active mining companies around the world. The Fraser Institute rates mining jurisdictions and has found that the industry considered Alaska to be the second most favorable taxation regime in the world, in both 2006 and 2007. The Fraser Institute has also found that Alaska has moved from the 7th to the 4th most favorable in composite policy and mineral potential from 2006 to 2007. He expressed the need for Alaska to address this perception, and questioned whether Alaska is leaving "too much money on the table." He recalled the ore

tax debate when the state tried to be in the middle of the taxing jurisdiction pack.

REPRESENTATIVE ROSES commented that the analogy to oil taxes being in the middle of the taxation pack did not bear up as Alaska was no longer in the middle.

CHAIR HAWKER clarified that Representative Seaton's statement was that the intent was for Alaska to be in the middle of the taxation pack.

REPRESENTATIVE SEATON, continuing with the slide presentation referred to slide 3 titled "Alaskans favor change..." a Hellenthal poll which relates that Alaskans believe the state should update its taxes since it has not been done since statehood. Referring to the chart titled "Non-Renewable Resource Tax Comparison Chart" included in the committee packets, he explained the chart compares current mining tax statutes, HB 156 and the proposed mining tax changes, and the current oil and gas taxes. He pointed out that the proposed mining license tax rates have changed in comparison to the current taxes. He noted that under the current mining tax rates, companies pay varying amounts on net income. The proposed tax changes in HB 156 would provide an exemption to companies with net incomes of \$100,000 or less. He continued to explain the taxes on each of the increased net income categories. He identified a definite shift with HB 156 to allow those lower producing mines to have a much lower tax burden. He then explained the tax comparison chart and the three and one-half year deferral proposal, referenced in Section 10 of HB 156. This new proposal is a deferral, not an exemption as exists under the current mining regulations. This deferral would allow profitable mines, if taxes were due, to pay the taxes back over a 10-year period, allowing the mining companies to recover their costs more quickly. The tax comparison chart refers to Section 14 of HB 156, which proposes to change the allowance of either percent depletion or cost depletion to only allowing cost depletion. He highlighted that the state income tax is no longer deductible under the proposed bill. He continued reviewing the tax comparison chart, discussing the proposed change in royalty payments, referenced in Section 1 and Section 2 for coal, and in Section 6 for metals. The proposed change allowing the state to accept coal royalty in-kind would aid the University of Alaska, Fairbanks, or any other state-owned coal facility, as the state could accept the royalty in coal as opposed to receiving a cash equivalent and subsequently purchasing coal. He next discussed the sliding scales of rents,

which are not changes, but are being placed in statute. The only change in rents would be to update the base year from 1989 to 2005 and add inflation.

[4:00:49 PM](#)

REPRESENTATIVE SEATON concluded his review of the basic tenets, and asked to make one more observation on coal bids. He explained that coal bids could include or not include a bid variable for the royalty. The proposed bill would still allow a bid variable for coal if the state wants to bid.

[4:02:01 PM](#)

REPRESENTATIVE ROSES related his understanding that HB 156 consists of the following proposals: change the tax rate, add a progressivity factor, and eliminate deductions for the 3.5 year exemption and state income tax. He asked if these were all the proposed changes.

REPRESENTATIVE SEATON clarified that this is not a standard deduction similar to the oil tax, as this bill allows full cost depletion. He explained all of the actual costs are depleted, and there is the three-and-one-half year deferral on taxes to allow a quicker recovery. He said the depletion can be taken over 10 years, or in the year that the cost is generated. The idea is to offer some incentive. He explained that this bill allows a full write-off of all costs in the year in which they occur, unlike the oil tax which is subject to limitations on what can be claimed. He pointed out there is no progressivity feature similar to the oil tax, where the percentage of the tax increases as the price of the commodity increases. However, he described this as a progressive tax structure, which is updated and gives higher exclusion on the lower end of net income and changes rates for inflation, recognizing the different mining types and values. He offered his belief that there is nothing similar in HB 156 to the price based progressive feature of the oil legislation.

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REPRESENTATIVE ROSES requested an explanation of the difference between 3 percent of net income as opposed to 3 percent of net smelter. He then inquired as to the impact that will have on the state revenue.

CHAIR HAWKER advised that later in the meeting he will ask DOR for that explanation with the fiscal notes.

REPRESENTATIVE SEATON provided that DOR has included three graphs showing the revenue impacts Representative Roses requested. He said he would skip the remainder of the slides, as they are just a sectional analysis of HB 156. He referred to the Department of Commerce, Community, & Economic Development (DCCED) memorandum, dated October 17, 2007, which contains an analysis of mining taxes. The memorandum was issued to the administration's working group, DOR, DNR, and DCCED to discuss Alaska mining taxes. He noted the memorandum introduction addressed the same three issues as HB 156. He read from the memorandum:

The most significant issue noted in the review is that unlike other states, the Alaskan tax structure is almost solely based upon the calculation of net income in its treatment of mines. Due to this dependence on net income the significance of this single calculation cannot be overstated. However, due to allowed deductions for Mineral Incentive Credits, other taxes, percentage based depletion allowances and other issues, the net income calculation may be a questionable measure.

CHAIR HAWKER asked if this was the entire premise of HB 156.

REPRESENTATIVE SEATON replied that it was, and said he was glad to hear this from a source other than himself.

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REPRESENTATIVE SEATON explained that the memorandum goes through each one of the taxes: property taxes and how they compare in each state; percent of depletion; royalties; and the mining license tax. He directed the committee to the heading "Minerals Exploration Incentive Credits" on page 5 of the memorandum, and cited the second paragraph, last sentence, which read [original punctuation provided]:

Since the maximum marginal tax rate for the corporate income tax is 9.4 percent, this could allow a tax free status for almost \$213 million dollars of net income and/or a reduction in royalties to the State of up to \$20 million dollars.

REPRESENTATIVE SEATON explained that since this incentive credit is unlike the oil incentive credit or almost any other incentive credit, this tax is currently able to be written-off against all taxes. Therefore, it allows \$213 million of mineral extraction without any tax coming to the state. He clarified this is tax due the state, but in some jurisdictions a local property tax may still be due.

CHAIR HAWKER reminded the committee this memorandum refers to the status quo. He thanked DCCED for an excellent memo, and asked how HB 156 would affect the status quo just described.

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REPRESENTATIVE SEATON replied he will address that momentarily. He referred to page 6 of the memorandum, under the heading "Treatment of Ore Value," which, in part, read:

... it is difficult to see where the actual value of the ore extracted is exposed to any substantial type of taxation by or payment made to the State.

REPRESENTATIVE SEATON explained that by treating ore value as net income and allowing deductions and depreciations against that under the current tax, the situation has arisen in which substantial amounts of ore are extracted without ever being exposed to any taxation. He read the following from page 6, paragraph 5 under "Treatment of Ore Value":

Indeed it would appear that using the current percentage depletion allowance, the cost of these resources is being expensed at far above the actual cost.

REPRESENTATIVE SEATON announced this was why HB 156 removed the "percentage depletion" allowance. He explained all of the capital that is invested in a mine is recovered not only as "cost depletion" but also as "percent depletion". He directed the committee to the last paragraph of page 7, which, in part, read:

While the bill does not address all of the issues presented in this report, it does address many of them.

REPRESENTATIVE SEATON clarified that HB 156 does not address all of the issues that the DCCED memorandum discussed as problematic

for the Alaska tax system. He offered his belief that HB 156 did identify the issues that are most appropriate to be changed, based on the legislative procedure and several years of review.

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REPRESENTATIVE SEATON said, in response to an earlier question with regard to writing-off the incentive credit, that this issue had not been specifically addressed except that the corporate income tax cannot be written-off against the mining tax. He referred the committee to the charts in the DCCED memorandum, which offer an analysis of the current situations and prices, state and municipal tax revenues, and how they are all increasing as the price of minerals increases. He reminded the committee there has been more activity in mining and the gross revenue has increased. He referred to the bar graph titled "Rents and Royalties as a Percent of Production Value 2005" which is on page 16 of the memorandum. He explained this was an independent analysis of the percentage of resource value that accrues to the state, based on the 2005 statutes.

REPRESENTATIVE ROSES asked if there is a graph comparing the difference in percentages to the proposed changes in HB 156.

REPRESENTATIVE SEATON responded this graph will be shown with the DOR report. He asked if there were any questions about the memorandum from DCCED.

[4:17:42 PM](#)

CHAIR HAWKER reiterated that DCCED did an excellent job.

REPRESENTATIVE SEATON reviewed the contents of the committee packet which should include the following: the Bristol Bay Native Association letter in support of HB 156 dated December 14, 2007; the Legislative Research Report dated December 21, 2007, which supports the sponsor statement; and three DOR graphs in pink and blue reflecting the current tax rates compared to different projected scenarios. He explained the graph titled "Mining License Tax Revenues-Total Effect of HB 156" details the current mining license tax revenues versus the projected tax revenues with HB 156. The second graph titled "Mining License Tax Revenues-Effect of Tax Rate Change, % Depletion Allowed" compares the same two revenues with percent depletion allowed. The third graph titled "Mining License Tax Revenues-Effect of % Depletion" compares mining license tax revenues under the current tax rates allowing and not allowing percent depletion.

4:20:24 PM

REPRESENTATIVE SEATON mentioned that percent depletion is inconsistent with any thought pattern Alaska has. He explained it is better for Alaska to allow a company full capital cost depletion, not paying taxes for the first three-and-one-half years and then paying those taxes over 10 years to recover their costs earlier, than to allow percent depletion, because the company "made money on it and it's no longer left in the ground for you to get in the future." He referred to percent depletion as "an idea whose time has gone."

REPRESENTATIVE ROSES asked if the resolution from Bristol Bay Native Association is from the same organization which testified against mining in this region during earlier House Special Committee on Fisheries and House Resources Standing Committee meetings.

REPRESENTATIVE SEATON responded that he did not remember if Bristol Bay Native Association or its CEO Ralph Andersen took a position on HB 134.

4:23:55 PM

JOHANNA BALES, Deputy Director, Anchorage Office, Tax Division, Department of Revenue (DOR), said the change to the existing tax rate structure shown in the fiscal note is based on HB 156, Version E, not the current working draft, Version M. However, she said she did not believe Version M changed the fiscal note.

REPRESENTATIVE SEATON offered his understanding the exemption amount was increased slightly from Version E to Version M. He recalled that the original bill did not have the \$100,000 exemption. He then offered, for clarification, that the new bill contains a marginal tax rate.

MS. BALES, in response to a question, noted her agreement that there would not be a material affect on the fiscal note. She explained that in conjunction with the fiscal note there are three graphs included in the members' packets that identify the different sections in the bill and the tax effect of those proposed changes. She referred to the graph on page 2, which only reflects the change to the existing tax rate. She projected the state would receive additional revenue of \$30-\$40 million each year.

CHAIR HAWKER commented that this number has substantially increased from estimates in prior years.

MS. BALES explained the estimated increase is due to an increase in mineral prices. She offered that this fiscal note is based on projections for mineral prices to remain at higher than historical prices.

CHAIR HAWKER asked if these are short range projections.

MS. BALES confirmed that these are short-range projections. She went on to explain that the second part of the changes to the mining license tax deals with repealing percentage depletion and allowing cost depletion only. She said the DOR calculation of increased revenue was \$3-20 million each year, explaining that the reason for the large differential is because percentage depletion is so favorable to companies that they don't provide any cost depletion information. Although there may have been cost depletion taken, DOR did not have the data to make an actual comparison, and thus estimated what they felt the increased revenues might be.

[4:29:25 PM](#)

CHAIR HAWKER opined that the wide range of revenue was due to lack of data.

MS. BALES discussed the section which repeals the three-and-one-half-year exemption, instead creating a deferral. She relayed that, based on previously filed tax returns, DOR had not seen any companies take advantage of the exemption. She attributed the aforementioned to low mineral prices because even though production had started, the companies showed very low net incomes. She said that DOR saw no effect on revenue with the change from an exemption to a deferral, based on historical tax returns.

REPRESENTATIVE WILSON asked if it would be easier for the mining companies to use whole year, instead of half year, increments for their tax preparations.

[4:30:54 PM](#)

MS. BALES replied that companies filing corporate tax returns are used to deferring tax advantages, and therefore this would not be a difficulty for either DOR or the industry.

CHAIR HAWKER added that the half year currently exists in statute.

MS. BALES offered a final analysis to bring these three significant changes together. She referred to the graph titled "Mining License Tax Revenues-Total Effect of HB 156" on page 1 included in members' packets which shows the effect of all the tax changes, a revenue increase of \$33-60 million each year based on new conservative prices.

CHAIR HAWKER asked if this fiscal note is based solely on mines currently in production.

MS. BALES responded that the revenue projection did not take into account any mines not currently permitted.

[4:33:03 PM](#)

CHAIR HAWKER asked the committee if there were any questions.

MARCIA DAVIS, Deputy Commissioner, Department of Revenue (DOR), asked to share a progress report. She reported that although the administration has had its hands full with oil and gas issues, they do recognize that mining is very important to the state. Therefore, the administration wanted to provide good economic analysis and data for the committee. She described that the administration has formed a talented economic analysis team from DOR, DNR, and DCCED as a tool for the committee. This team is creating a model to analyze four prototype mining projects, small to large, but with no reference to any existing mines, in order to preserve the confidentiality of any existing mines' data. She expressed hope that this model will enable immediate feedback of the economic impact of proposed change to tax levels, rental levels, lease levels, royalty levels, etc. She then expressed the need to ensure an independent view of the economics of mining in Alaska so the state is equipped to understand the data it has received from the industry and independent third party sources. Understanding the economic analysis is only one piece of the puzzle, and the team hopes to have the models completed in the next three weeks.

CHAIR HAWKER, acknowledging the DOR work is in progress, asked if Ms. Davis sees any information before the committee that the model might disprove.

MS. DAVIS responded that DOR is very comfortable with HB 156 moving on to another committee, and DOR saw no inappropriate economic analysis.

REPRESENTATIVE ROSES asked if the three-and-one-half year deferral rather than exemption has any impact on incentive credits.

MS. BALES replied there was no effect on the credit as this credit is a finite amount, \$20 million, and can be taken against royalties, corporate income tax, or the mining license tax. She relayed that in any given year, it can be taken against all three of the aforementioned, up to \$20 million. The deferral does not change the total credit.

REPRESENTATIVE ROSES clarified that this did not mean they have to recapture those credits.

REPRESENTATIVE FAIRCLOUGH asked if the administration is in support of additional taxation on the mining industry through HB 156.

MS. BALES responded the administration is waiting to finish its modeling before offering comments on which alternative it feels most appropriate.

CHAIR HAWKER asked if there were any concluding comments.

MS. BALES offered that the fiscal note is based on historical information of mines and operations. She expressed the hope that the modeling will allow review of current and future mines.

[4:40:01 PM](#)

REPRESENTATIVE FAIRCLOUGH asked if the administration is engaging in conversation with the mining industry to see if there are any effects or unintended consequences the committee has overlooked.

MS. DAVIS responded she is speaking with representatives from the producers to ensure they are informed how the administration is approaching this work. She said the team is clearly looking for insights, comments, and ideas to preserve the independent aspect of the analysis.

REPRESENTATIVE FAIRCLOUGH professed her concern that the credit system for the mining industry is outdated, as some incentive

factors were not being used, counter to what is being presented today. She asked that Alaska not just receive its highest and best value, but also encourage employment opportunities, and investments in the state for mining.

MS. DAVIS responded the work of assessing the fiscal impacts of modifying tax, royalty, and rental rates is only one piece of the model, and the other piece is assessing the enormous economic benefit which mining brings, including jobs and income, to parts of the state with no industry other than mining. She said the model is so important to the state because it would help to ensure that tax incentives, credits, and tax structures are designed to encourage and improve the competitive position of Alaska. She indicated that to ensure this happens DOR needs to have a dialogue with industry, look at how they are using these tools, and make sure the state system is modernized and updated to achieve the best value.

REPRESENTATIVE FAIRCLOUGH disclosed that she did take a trip to the Red Dog mine, and it was a unique experience to watch a large open pit mine in production. She said the mine was an economic engine for Northwest Arctic Native Association (NANA) that put individuals in depressed areas to work. She related her hope the administration would review the economic factors that residually affect property owners in other portions of the state with the royalties they receive, and the people they employ. She said there is a ripple effect throughout the economy when we change the taxation structure. She said she has told the industry it is time to review the current taxation, so she will vote to move this forward and out of committee. She expressed concern with the ripple effects of taxation changes.

[4:44:19 PM](#)

CHAIR HAWKER proffered his thanks to Ms. Bales and Ms. Davis.

[4:44:45 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 1, labeled 25-LS0548\M.1, Bullock, 1/24/08, which read:

Page 4, line 4:
Delete "2008"
Insert "2009"

Page 4, line 19:
Delete "2007"

Insert "2008"

Page 7, line 5:
Delete "2007"
Insert "2008"

Page 10, line 12:
Delete "2007"
Insert "2008"

Page 10, line 13:
Delete "2008"
Insert "2009"

REPRESENTATIVE FAIRCLOUGH objected.

REPRESENTATIVE SEATON explained that Amendment 1 changes the dates so no dates are retroactive in this bill, if the bill should pass this year. He emphasized that there is no desire to make a retroactive tax change with HB 156.

[4:46:08 PM](#)

REPRESENTATIVE FAIRCLOUGH offered an analogy to the implementation of the PPT [production profits tax], expressing her concern that more time will be necessary to re-write the many regulations for compliance that may not be specifically addressed with this revenue-specific bill. She then offered her belief that given the time necessary to wait for the economic model mentioned by Ms. Davis, move the bill out of House Finance Committee, and hear public testimony, it would be more appropriate and realistic to implement HB 156 in 2010. She noted her agreement with Representative Seaton that the bill should not be retroactive. She said that she would still support moving HB 156 out of committee whether or not the dates were changed.

[4:48:00 PM](#)

REPRESENTATIVE SEATON expressed concern with comparing HB 156 to the PPT, as HB 156 is changing tax rates, tax brackets, and exemption amounts, not creating an entirely new tax structure. He opined that there would not be any regulatory problem with implementation. He said he preferred not to put things off for two years, even for the consideration of bringing the mining industry into discussions. He reiterated his desire for the bill not to be retroactive and said he would prefer to move

forward with his amendment, even though things may be changed as the process evolves.

[4:49:43 PM](#)

REPRESENTATIVE FAIRCLOUGH declined to offer an amendment, but said she would prefer the committee consider a 2010 implementation of HB 156. She said if Amendment 1 failed, she would then offer an amendment with an implementation date of 2010. She pointed out she did not want to delay the passage of the bill, only to allow the administration time to prepare the regulations, and additional time for the department to talk with the industry. She explained the extra time she was requesting would allow both the administration and the industry to take stock of the bill and respond in their development and planning procedures.

CHAIR HAWKER asked if Representative Fairclough had a proposed amendment in writing, or would it be conceptual.

REPRESENTATIVE FAIRCLOUGH responded she would just amend existing Amendment 1, moving the dates a year to the future.

REPRESENTATIVE WILSON offered her belief that the mining industry should not be expected to make payments based on regulations that have not yet been written.

CHAIR HAWKER asked Representative Wilson to hold that for debate on the effective debate amendment. He offered that this is not as simple as changing one effective date on a bill that says effective on a certain date. He pointed out the numerous changes, a contract entered into by a certain date, some other actions, and in Section 18, on the last page, the act itself taking effect. He proposed that moving the effective date of the bill, without changing the dates to which transactions become effective means it is only necessary to change one date. However, he opined that moving the process forward one year would be accomplished by taking the "insert" dates from Amendment 1, and moving them forward one year. He summarized that would become a conceptual amendment to Amendment 1 and he would entertain this from Representative Fairclough.

REPRESENTATIVE FAIRCLOUGH moved to adopt Conceptual Amendment 1 to Amendment 1, as follows:

Page 4, line 4:
Delete "2008"

Insert "2010"

Page 4, line 19:
Delete "2007"
Insert "2009"

Page 7, line 5:
Delete "2007"
Insert "2009"

Page 10, line 12:
Delete "2007"
Insert "2009"

Page 10, line 13:
Delete "2008"
Insert "2010"

REPRESENTATIVE SEATON offered that the effect of Conceptual Amendment 1 to Amendment 1 would be to change the effective date of the entire bill until 2010. He asked if this was the maker's intent.

REPRESENTATIVE FAIRCLOUGH responded that the intent is to move all dates out one year, allow the industry time to prepare for the change, and allow the administration time to put all the regulations in place.

[4:55:32 PM](#)

REPRESENTATIVE SEATON objected to Conceptual Amendment 1 to Amendment 1 for the reasons he had stated previously. He assured the committee that the sponsors had tried for four years to get the industry to come talk, and this conceptual amendment was merely a good way to push back the effective date.

[4:57:29 PM](#)

REPRESENTATIVE FAIRCLOUGH expressed her disagreement, stating this was not a delay tactic, but a good business practice. She relayed that mine owners need to plan far in advance. To change a tax structure, with six months necessary for the administration to write new regulations so a company can appropriately understand those regulations, requires a year. As the legislature cannot provide a full year, given the scheduling, she said she is trying to be practical and fair to the industry. She offered an analogy to hotel rates and the

necessary lead time to print seasonal rack cards with rates. She reiterated her support to moving the bill out of committee, while disavowing any intent to allow the mining industry additional opportunity to lobby against the bill.

[4:59:15 PM](#)

REPRESENTATIVE CISSNA offered support of the sponsor's Amendment 1. She relayed for the last four to five years, she has been participating in responsible long-term revenue planning. She acknowledged that the resource industry has experienced a lot of change and upheaval, which the state had no way of predicting. She offered her belief that the resource industry is aware of proposed HB 156, and if the industry is concerned with these proposed changes, they should be here. She emphasized that it is the legislature's responsibility to review revenue production. She opined the mining industry has not been unduly taxed, and proposed HB 156 appears to be very reasonable, so she offered her support of Amendment 1.

[5:01:26 PM](#)

REPRESENTATIVE ROSES recalled the mining industry did weigh in on proposed HB 156 with testimony during the 2007 session. He offered that mining representatives had visited his office during the last week, and the conversations were similar to those expressed by Representative Fairclough. He reported the mining industry has been engaged in discussions, does anticipate change, and will still have opportunity to offer testimony as proposed HB 156 moves forward.

[5:03:08 PM](#)

A roll call vote was taken. Representatives Wilson, Fairclough, and Roses voted in favor of Conceptual Amendment 1 to Amendment 1. Representatives Cissna, Seaton, and Hawker voted against it. Therefore, Conceptual Amendment 1 to Amendment 1 failed by a vote of 3-3.

REPRESENTATIVE FAIRCLOUGH withdrew her objection to Amendment 1.

There being no further objection, Amendment 1 was adopted.

[5:04:43 PM](#)

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

Page 10, line 12:

Delete the "." after the date "2008"

Insert ",subject to completion of regulations."

5:05:45 PM

The committee took an at ease from 5:05 p.m. to 5:08 p.m.

5:08:28 PM

REPRESENTATIVE SEATON objected to Amendment 2.

REPRESENTATIVE WILSON explained that her intent with Amendment 2 is to hold the effective date subject to the completion of the regulations.

CHAIR HAWKER clarified this would be creating a conditional effective date within the bill such that the bill does not take effect until the regulations to implement the bill have been completed.

REPRESENTATIVE ROSES surmised if proposed HB 156 is passed with Amendment 2 and proceeds to the governor, should the governor not like the bill, she could allow the bill to die without a veto by ordering the regulations not be written.

REPRESENTATIVE WILSON confirmed this was probably correct.

REPRESENTATIVE SEATON observed that Amendment 2 should be amended on line 13, as the amendment's current language only deals with the leases entered into or re-negotiated after the date specified.

5:10:44 PM

CHAIR HAWKER noted that Representative Wilson agreed with the change to line 13 instead of line 12 and he accepted the change as a friendly amendment. [The committee treated the suggested change as adopted and therefore Amendment 2 would now read as follows]:

Page 10, line 13:

Delete the "." after the date "2008"

Insert ", subject to completion of regulations"

REPRESENTATIVE SEATON offered that regulations are not usually cited in statutes, rather regulations should flow from statutes.

He related his understanding that the idea of Amendment 2 is to speed the regulations, but he maintained his objection to Amendment 2.

[5:12:05 PM](#)

A roll call vote was taken. Representatives Wilson, Fairclough, and Hawker voted in favor of Amendment 2. Representatives Seaton, Roses, and Cissna voted against it. Therefore, Amendment 2 failed by a vote of 3-3.

[5:13:20 PM](#)

REPRESENTATIVE SEATON moved to report HB 156, Version 25-LS0548\M, Bullock, 3/23/07, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 156(W&M) was reported from the House Special Committee on Ways and Means.

[5:13:57 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at 5:13 p.m.