

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 15, 2010

3:21 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Mike Chenault
Representative Bob Lynn
Representative Tammie Wilson
Representative Robert L. "Bob" Buch
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 315

"An Act relating to public accounting; and providing for an effective date."

- MOVED HB 315 OUT OF COMMITTEE

HOUSE BILL NO. 280

"An Act relating to natural gas; relating to a gas storage facility; relating to the Regulatory Commission of Alaska; relating to the participation by the attorney general in a matter involving the approval of a rate or a gas supply contract; relating to an income tax credit for a gas storage facility; relating to oil and gas production tax credits; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to production tax credits for certain losses and expenditures, including exploration expenditures; relating to the powers and duties of the director of the division of lands and to lease fees for the storage of gas on state land; and providing for an effective date."

- MOVED CSHB 280(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 238

"An Act removing the number of persons under 18 years of age in the household as a reasonable ground for a landlord to reject a proposed sublease or assignment."

- MOVED OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 315

SHORT TITLE: PUBLIC ACCOUNTING

SPONSOR(s): LABOR & COMMERCE

01/27/10	(H)	READ THE FIRST TIME - REFERRALS
01/27/10	(H)	L&C, FIN
02/10/10	(H)	L&C AT 3:15 PM BARNES 124
02/10/10	(H)	-- MEETING CANCELED --
02/15/10	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 280

SHORT TITLE: NATURAL GAS

SPONSOR(s): HAWKER, CHENAULT

01/15/10	(H)	PREFILE RELEASED 1/15/10
01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	L&C, RES, FIN
02/08/10	(H)	L&C AT 3:15 PM BARNES 124
02/08/10	(H)	Heard & Held
02/08/10	(H)	MINUTE(L&C)
02/15/10	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 238

SHORT TITLE: LANDLORD REJECTION OF OCCUPANT/SUBLEASE

SPONSOR(s): MILLETT

04/17/09	(H)	READ THE FIRST TIME - REFERRALS
04/17/09	(H)	L&C, JUD
02/15/10	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

JENNIFER SENETTE, Staff

Representative Kurt Olson, Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the House Labor and
Commerce Committee, chaired by Representative Kurt Olson.

MAX MERTZ, Member

Alaska Board of Public Accountancy (BPA)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 315.

REPRESENTATIVE MIKE HAWKER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as a joint prime sponsor and answered questions during the discussion of HB 280.

LARRY PERSILY, Staff
Representative Mike Hawker
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions on behalf of a joint prime sponsor, Representative Mike Hawker, during the discussion of HB 280.

CATHY FOERSTER, Commissioner
Alaska Oil and Gas Conservation Commission (AOGCC)
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 280.

DAN SULLIVAN, Mayor
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 280.

KEVIN BANKS, Director
Division of Oil and Gas
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 280.

RICHARD GAZAWAY, Advisory Section Manager
Regulatory Commission of Alaska (RCA)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 280.

CHARISSE MILLET
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of HB 238.

BRYAN BUTCHER, Director

Governmental Affairs & Public Relations
Alaska Housing Finance Corporation (AFHC)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 238.

ACTION NARRATIVE

[3:21:31 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:21 p.m.

Representatives Buch, Chenault, Holmes, T. Wilson, and Olson were present at the call to order. Representatives Lynn and Neuman arrived as the meeting was in progress. Representative Ramras was also in attendance.

HB 315-PUBLIC ACCOUNTING

[3:22:03 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 315, "An Act relating to public accounting; and providing for an effective date."

[3:22:12 PM](#)

JENNIFER SENETTE, Staff, Representative Kurt Olson, Alaska State Legislature, stated that HB 315 bill relates to public accounting. This bill was drafted with the assistance of the state Board of Public Accountancy (BPA) and the Alaska Society of Certified Public Accountants (ASCPA) and is supported by the board and the society. This bill is widely supported and she was unaware of any opposition. She reported that 45 states have passed some version of this bill, which will bring Alaska up to date and keep Alaskan certified public accountants (CPAs) and Alaskan accounting firms competitive nationally.

MS. SENETTE explained that HB 315 does three things: First, it would provide CPAs mobility, which would allow a licensee to gain practice privilege outside their principal jurisdiction without additional licensing or fees. It would allow licensed CPAs and CPA firms in Alaska to practice across state jurisdictions with greater ease, which is the key to keeping CPAs and CPA firms nationally competitive. Secondly, the bill

alters the ownership requirements for accounting firms. The bill would provide for simple majority ownership. Under current law, an Alaskan accounting firm must be owned 100 percent by CPAs. The accounting profession has evolved, and many firms consist of more than just CPAs and many non-CPAs, such as attorneys and information technology professionals enhance the firm's ability to serve its clients. Under current law, non-CPA professionals are barred from ownership. This bill "dials down" these stringent requirements. Most states allow non-CPAs to have minority ownership in CPA firms. This provision is aimed to help CPA firms attract and retain talent. Finally, the bill would enhance the board's ability to protect the public. This provision would provide the board jurisdictional authority over any CPA practicing in the state. Basically, all CPAs providing public accountancy services in Alaska would fall under the jurisdiction of the Alaska Board of Public Accountancy to address any violations of the professional standards. She restated that 45 states have passed some version of this legislation, which provides for mobility, simple majority ownership of CPA firms, and enhanced CPA board authority over CPAs licensed in other jurisdictions practicing in Alaska to protect the public.

[3:26:29 PM](#)

MAX MERTZ, Member, Alaska Board of Public Accountancy (BPA), stated he has been a member of the Alaska BPA for six years, and the chair for four years ending in 2009. He related that the Alaska BPA worked on the issues addressed in the bill. The Alaska BPA takes its mission seriously, which is regulating the accounting profession in Alaska and protecting the public interest. One main challenge the BPA has faced is to effectively pursue out-of-state practitioners who do not properly serve their clients. In the electronic age, out-of-state practitioners have become commonplace since CPAs can serve clients without ever speaking to them on the phone. The mobility initiative commenced after a thorough study by the American Institute of CPAs and National Association of State Boards of Accountancy found that each state had its own rules for out-of-state licensees to provide services in other states. Additionally, each state had its own enforcement rules, which resulted in an inefficient system that is difficult to navigate. Further, compliance and enforcement has been nearly impossible due to the multiple cumbersome processes and disparity in requirements in various states.

MR. MERTZ stated that with mobility, the Alaska BPA will gain automatic jurisdiction over all CPAs practicing in the state. This will enable Alaska to discipline out-of-state licensees, whether they are registered and licensed in the state or not. The mobility bill can be likened to drivers' licensing laws, which will provide CPAs with mobility to practice in other states while strengthening our BPA's board to protect public interest. The effectiveness of mobility laws is contingent upon passage by all states. Currently, five states remain and three have pending legislation, including Alaska. The Alaska BPA unanimously passed a resolution in support of this bill. He said that he has presented to several society members and groups and is not aware of any opposition. He asked for the committee's support for HB 315.

[3:29:10 PM](#)

REPRESENTATIVE BUCH asked whether the main thrust of HB 315 is to authorize reciprocity. He also asked about the term, "practice privilege," and asked for clarification of the standard of practice.

MR. MERTZ explained that "practice privilege" is the ability for those CPAs who are licensed in another state to practice in Alaska with a permit. The permit applies primarily to firms but also for individuals, primarily for temporary purposes. Typically, it would be used by an out-of-state CPA who does not have an office in Alaska and is not primarily providing services in Alaska.

REPRESENTATIVE BUCH asked whether this practice is something that is standard adopted by other states and the industry for those CPAs in the process of obtaining certification.

MR. MERTZ answered yes. He related a scenario in which an out-of-state firm has a client who is doing business in Alaska, and the practice privilege allows the out-of-state accountant to perform the services. Under mobility, the out-of-state CPA can provide the services without going through the process of obtaining a practice permit. Thus, the out-of-state CPA would provide the services in Alaska and be subject to our laws and the jurisdiction of the BPA.

[3:32:03 PM](#)

REPRESENTATIVE BUCH related his understanding that the standards for CPAs are uniform standards and HB 315 would update Alaska with the national standards.

MR. MERTZ agreed.

[3:32:20 PM](#)

REPRESENTATIVE T. WILSON asked whether more people will practice in Alaska and create additional competition.

MR. MERTZ stated that the bill would bring Alaska's statute into the 21st century. The services are already being provided by Alaskan CPAs to out-of-state clients and vice versa. This bill will not necessarily change the groundwork or competitive environment, but it will change the licensing environment to "bring it up to speed" with current practice.

REPRESENTATIVE T. WILSON understood that basically CPAs are breaking the rules now and this will bring them into compliance.

MR. MERTZ agreed that to some degree her statement is accurate. The American Institute of Certified Public Accountants (AICPA) study found that of the 54 jurisdictions, 54 different laws applied. This was confusing and complicated for accountants. This law makes the requirements uniform.

[3:33:37 PM](#)

REPRESENTATIVE T. WILSON asked who would oversee any violations.

MR. MERTZ answered that the BPA oversees violations. In instances in which a licensee from another jurisdiction practices without a permit in Alaska and violates state law, the BPA's ability to prosecute the person is limited and cumbersome. This bill will make enforcement actions much easier.

[3:34:37 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 315.

[3:34:52 PM](#)

REPRESENTATIVE LYNN moved to report HB 315 out of committee with individual recommendations and the accompanying fiscal notes.

There being no objection, HB 315 was reported from the House Labor and Commerce Standing Committee.

[3:35:26 PM](#)

The committee took an at-ease from 3:35 p.m. to 3:39 p.m.

HB 280-NATURAL GAS

[3:39:35 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 280, "An Act relating to natural gas; relating to a gas storage facility; relating to the Regulatory Commission of Alaska; relating to the participation by the attorney general in a matter involving the approval of a rate or a gas supply contract; relating to an income tax credit for a gas storage facility; relating to oil and gas production tax credits; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to production tax credits for certain losses and expenditures, including exploration expenditures; relating to the powers and duties of the director of the division of lands and to lease fees for the storage of gas on state land; and providing for an effective date."

[3:40:01 PM](#)

REPRESENTATIVE MIKE HAWKER, Alaska State Legislature, explained that this is the second hearing in this committee. He related that HB 280 was introduced at the request of the RCA to provide clarity and determine whether the legislature intends the RCA to have regulatory authority over gas storage facilities. Some technical changes are necessary to "clean up" the bill, incorporated in an amendment labeled 26-LS1185\S.2, Bullock, 2/13/10.

[3:41:06 PM](#)

REPRESENTATIVE NEUMAN made a motion to adopt Amendment 1, labeled 26-LS1185\S.2, Bullock, 2/13/10, which read:

Page 2, line 10:
Delete "operations"
Insert "operation"

Page 2, line 13:
Delete "feet of gas each"

Insert "cubic feet of gas a"

Page 2, line 17:

Delete "operations"
Insert "operation"

Page 2, line 18:

Delete "operations"
Insert "operation"

Page 2, line 20:

Delete "operations ceased"
Insert "the gas storage facility ceases
commercial operation"

Page 2, line 25:

Delete "operations"
Insert "operation"

Page 2, line 26:

Delete "operations"
Insert "operation"

Page 2, line 30, through page 3, line 6:

Delete all material and insert:
"(4) "gas storage facility" means a tank,
depleted or nearly depleted reservoir or pool, or
other structure in the state that is available for the
storage of gas;"

Page 3, following line 10:

Insert a new paragraph to read:
"(7) "pool" has the meaning given in
AS 31.05.170;"

Renumber the following paragraph accordingly.

Page 6, line 6:

Delete "with certificates issued under
AS 31.05.032"
Insert "that qualifies for a tax credit under
AS 43.20.046"

Page 6, line 9:

Delete "operations"
Insert "operation"

Page 6, line 10:
Delete "operations"
Insert "operation"

Page 6, line 12:
Delete "operations"
Insert "operation"

Page 6, line 18:
Delete "AS 38.05"
Insert "this chapter"

Page 6, line 25:
Delete "operations"
Insert "operation"

Page 6, line 26:
Delete "operations"
Insert "operation"

Page 6, line 29, following "a":
Insert "rate or a"

Page 7, line 1:
Delete "from"
Insert "of"

Page 7, following line 19:
Insert a new bill section to read:

"* **Sec. 7.** AS 42.05.990(4) is amended to read:

(4) "public utility" or "utility" includes every corporation whether public, cooperative, or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls any plant, pipeline, or system for

(A) furnishing, by generation, transmission, or distribution, electrical service to the public for compensation;

(B) furnishing telecommunications service to the public for compensation;

(C) furnishing water, steam, or sewer service to the public for compensation;

(D) furnishing by transmission or distribution of natural or manufactured gas to the public for compensation;

(E) furnishing for distribution or by distribution petroleum or petroleum products to the public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an equal or lesser price;

(F) furnishing collection and disposal service of garbage, refuse, trash, or other waste material to the public for compensation;

(G) furnishing injection, storage, and withdrawal services for natural gas that is owned by a utility regulated under this chapter;"

Page 8, line 3:

Following "facility":

Insert "described in (b) of this section"

Delete "operations"

Insert "operation"

Page 8, lines 5 - 6:

Delete "beginning after the date the gas storage facility commences commercial operations"

Insert "in which the gas storage facility commences commercial operation or the tax year immediately following"

Page 8, following line 12:

Insert a new subsection to read:

"(b) A gas storage facility qualifying for the credit in this section must

(1) have a working gas storage capacity of more than 500,000,000 cubic feet of gas other than cushion gas;

(2) have a minimum withdrawal capability of 10,000,000 cubic feet a day as certified by the Alaska Oil and Gas Conservation Commission under AS 31.05.032;

(3) be available for the storage of gas that is owned by a utility regulated under AS 42.05; and

(4) if located on state land and leased or subject to a lease under AS 38.05.180, be in compliance with the terms of the lease."

Reletter the following subsections accordingly.

Page 8, line 16, following "capacity":

Insert "and withdrawal capability"

Page 8, line 17:
Delete "operations"
Insert "operation"

Page 8, line 19:
Delete "form"
Insert "application"

Page 8, line 21:
Delete "shall submit the form"
Insert "under (d) of this section shall submit
the application"

Page 8, line 23:
Delete "operations"
Insert "operation"

Page 9, line 12:
Delete "determined"
Insert "the capacity certified"

Page 9, line 18:
Delete "operations"
Insert "operation"

Page 9, line 22:
Delete "operations"
Insert "operation"

Page 9, line 23:
Delete "operations"
Insert "operation"

Page 10, line 5:
Delete "(g) and (h)"
Insert "(h) and (i)"

Page 10, line 13:
Delete "operations within 10 calendar years after
the"
Insert "operation within nine calendar years
immediately following the calendar"

Page 10, line 14:
Delete "operations"
Insert "operation"

Page 10, line 16:

Delete "operations"
Insert "operation"

Page 10, line 18:

Delete "operations"
Insert "operation"
Delete "April"
Insert "May"

Page 10, line 19:

Delete "operations"
Insert "operation. The notice required in this subsection is considered a return for purposes of AS 43.05.260"

Page 10, line 20:

Delete "operations,""
Insert "operation," "commences commercial operation,""

Page 10, line 26:

Delete "an expenditure or action taken"
Insert "a lease expenditure incurred"

Page 11, line 19:

Delete "AS 38.05.032"
Insert "AS 31.05.032"

Page 11, lines 29 - 30:

Delete "for activity"
Insert "incurred"

Page 12, line 1:

Delete "for activity"
Insert "incurred"

Page 13, line 18:

Delete "expenditure"
Insert "lease expenditure incurred after December 31, 2010"

Page 13, line 19, following "well":

Insert "lease"

Page 13, line 23, following "well":

Insert "lease"

Page 13, line 27, following "well":

Insert "lease"

Page 14, line 3:

Delete "an expenditure"

Insert "a lease expenditure incurred"

Page 14, line 5, following "well":

Insert "lease"

Page 14, line 15, following "of":

Delete "the"

Insert "a [THE]"

Page 14, line 16:

Delete "AS 43.20.046 or"

REPRESENTATIVE HOLMES objected for purpose of discussion.

[3:41:31 PM](#)

LARRY PERSILY, Staff, Representative Mike Hawker, Alaska State Legislature, referred to Amendment 2, which he characterized as an 8-page amendment that contains "clean up" language and one substantive issue. He referred to Section 7, to page 3, lines 23 - 31, and page 4, lines 1 - 12, of Amendment 1. In response to a request by the RCA, who could not determine whether gas regulation falls under its jurisdiction, this language would amend the definition of utilities that are subject to RCA regulation. Thus, if an entity is furnishing storage services for natural gas that is owned by a utility regulated by the RCA, the storage service would fall under RCA jurisdiction.

[3:42:48 PM](#)

REPRESENTATIVE NEUMAN asked for clarification of whether Amendment 1 would allow rates to utilities to fall under the RCA.

MR. PERSILY answered yes. He related that the RCA would treat the natural gas storage like any other utility. The storage operator would have to present the cost and information, and obtain approval for the cost of service from the RCA.

[3:43:15 PM](#)

REPRESENTATIVE BUCH asked for further clarification. He asked whether all gas coming into the gas storage facility would be from a utility. He asked whether the source of natural gas would be private sector gas and if the RCA would cover other gas.

MR. PERSILY answered that if the storage operator is providing storage service for gas owned by a utility, the storage operation would be regulated. The fact that the utility may also have other gas owned by someone else, such as a speculator, someone marketing gas, or a producer, will not matter. Any natural gas in a facility owned by a utility is subject to RCA jurisdiction. In further response to Representative Buch, Mr. Persily explained that the storage is subject to regulation by the RCA, not necessarily the natural gas. The RCA is not involved in setting the rates for natural gas, but would consider the natural gas being stored. The natural gas being stored could be owned by a utility or someone attempting to gain access to the gas marketing business.

[3:45:08 PM](#)

REPRESENTATIVE HOLMES related that Amendment 1 amends the definition section. She said basically any entity furnishing injection, storage, and withdrawal services for natural gas that is owned by a utility would be regulated under this chapter. She said it seems somewhat circular since it defines "utility" as anyone doing something owned by a utility.

MR. PERSILY answered that the natural gas is owned by a utility, but the utility would not own the storage operation. For example, some producers have their own storage but they do not make it available to third parties, but operate the storage for their own needs, which is not subject to regulation. The natural gas being placed into storage is not owned by a utility, although it may later be sold to a utility. This bill would apply to storage operations that provide services to regulated utilities.

REPRESENTATIVE HOLMES described a scenario in which a non-utility built a storage facility, whether it could store gas without being regulated so long as the natural gas is owned by them.

MR. PERSILY answered that she is correct. He stated that if a non-regulated producer builds a storage operation and stores its own natural gas, and does not store gas owned by a utility, that gas would not be considered as a regulated storage operation.

[3:47:03 PM](#)

REPRESENTATIVE HOLMES related a scenario in which gas is owned by producer, and then sells the gas to a utility, the gas in question being sold would not be covered by this definition.

MR. PERSILY agreed. The intent of Amendment 1 is to regulate storage services which are purchased by regulated utilities. Just as gas supply contracts are currently subject to the RCA, these gas supply contracts will eventually come before the RCA.

[3:47:45 PM](#)

REPRESENTATIVE NEUMAN understood at the point the non-native gas is removed from the storage facility for distribution the gas would fall under authority of the RCA. He further understood that the costs for storage would not be passed on as excessive costs to the customer as a regressive tax.

MR. PERSILY agreed.

[3:48:40 PM](#)

REPRESENTATIVE HOLMES asked whether the RCA has reviewed Amendment 1.

CHAIR OLSON answered that the RCA would be testifying.

REPRESENTATIVE HOLMES removed her objection.

There being no objection, Amendment 1 was adopted.

[3:49:30 PM](#)

REPRESENTATIVE NEUMAN made a motion to adopt the next amendment, which was referred to as Amendment 3, which read [original punctuation provided]:

Page 2, line 22:

Delete "operations"

Insert "operation"

REPRESENTATIVE HOLMES objected for the purpose of discussion.

MR. PERSILY explained that Amendment 3 is a technical amendment to fix one instance which was previously missed. Thus, "operations" is changed to "operation".

REPRESENTATIVE HOLMES removed her objection.

There being no objection, Amendment 3 was adopted.

[3:50:54 PM](#)

CHAIR OLSON asked whether the AOGCC will be able to comply with the provisions in HB 280.

CATHY FOERSTER, Commissioner, Alaska Oil and Gas Conservation Commission (AOGCC), Department of Administration, answered yes. She added that the AOGCC will not have a fiscal note associated with the bill.

CHAIR OLSON asked whether the process will work.

MS. FOERSTER responded that with respect to the AOGCC, the process will work and is consistent with the commission's work.

CHAIR OLSON asked whether she thought offshore reservoirs in Cook Inlet could be used for storage.

MS. FOERSTER suggested that if an operator follows the AOGCC's regulations for gas storage, it does not matter whether the facility is offshore or onshore. The AOGCC insures that when an operator operates a storage reservoir, it is accomplished to maintain and protect the integrity of the reservoir. This means the operator must ensure the mechanical integrity of every well that penetrates the reservoir. She related an incident that happened in Hutchison, Kansas, in which a storage reservoir at the Yaggy field, located approximately 5 miles outside of town caused problems in the town of about 50,000 people. The gas storage approval process did not take into account the complex geology of the reservoir until several buildings in the town exploded. Since then an operator must prove the gas reservoir has integrity and acts as a closed system, every well has mechanical integrity, and the gas will not seep into unexpected places. If an operator met the AOGCC's requirements for gas storage, the facility would be safe on shore or offshore. She

related that the cost or logistics of the reservoir falls outside of the AOGCC's jurisdiction.

[3:54:24 PM](#)

REPRESENTATIVE CHENAULT asked whether the AOGCC is the controller when gas is reinjected into a reservoir. He related a scenario in which a storage facility is located in an area in which a private party owns the mineral rights. He offered that the party may have an expectation for compensation on gas when it is injected and again when it is removed from the reservoir.

MS. FOERSTER explained that the AOGCC would play a role in protecting correlative rights. The operator would need to demonstrate ownership or approval of all owners in the acreage.

[3:55:44 PM](#)

REPRESENTATIVE NEUMAN remarked that the AOGCC would ensure the gas fields do not leak.

MS. FOERSTER agreed.

[3:56:56 PM](#)

REPRESENTATIVE HOLMES recalled prior testimony that AOGCC foresees no problems in complying with the terms of the bill. She asked whether the AOGCC is "already signing off."

MS. FOERSTER offered a scenario in which an operator indicates it wants to inject gas into a reservoir. The operator must inform the AOGCC of the anticipated maximum pressure it will subject the reservoir, provide geological information of the reservoir boundaries, and prove that every penetration of the reservoir has sufficient mechanical integrity to withstand the anticipated pressures. The AOGCC checks the data, and using the beginning and ending pressure, as well as a good production history or physical description of the reservoir, the AOGCC can obtain a good estimate of the amount of gas will be stored. She stated this is something the AOGCC already performs and their estimates are very close.

[3:59:07 PM](#)

REPRESENTATIVE HOLMES asked whether the requirements in HB 280 are acceptable.

MS. FOERSTER suggested that the AOGCC may need to tweak the regulations to require operators to provide more information, similar to the process the AOGCC uses as technology changes.

[3:59:51 PM](#)

REPRESENTATIVE HOLMES asked for the gas or reservoir capacity in the Cook Inlet that is in use, authorized, or pending.

MS. FOERSTER explained that the AOGCC has three physical areas of approval. She recalled that five or six storage injection orders have been approved, but these orders encompass three basic geographical areas. Additionally, two more applications for storage injections have been received. She detailed that two of the three areas with approved storage include the Kenai and Sterling, with 6 billion cubic feet (Bcf). However, given that the start and end pressure entails only 100 pounds increment, which is a tiny increment, the reservoir could store up to 25 Bcf of gas. Thus, every 100 pounds per square inch (psi) of pressure would yield approximately 25 more Bcf of gas. She related that at some point the wells would not have mechanical integrity and the AOGCC would not allow the producer to go above that amount, noting the AOGCC has not been asked to do so. The Kenai and Sterling Area comprise 25 Bcf of gas storage. The Pretty Creek gas storage facility has two intervals using that same method of determining volume have a storage capacity composite of 2.5 Bcf. Swanson River has three reservoirs intervals have a composite of 5.3 Bcf of storage capacity. The Department of Natural Resources (DNR) may show a lower capacity based on the operator's intent, but for authorized pressures the operator has more ability. She noted that Aurora Gas, LLC, has applied for storage injection order at Nicolai Creek for another 0.8 Bcf, and another operator has applied for 3 Bcf at Ivan River, for a total of 36 to 37 Bcf of gas storage capacity that is approved or in the approval process.

[4:02:48 PM](#)

REPRESENTATIVE HOLMES asked how much gas is being used for storage at the current time.

MS. FOERSTER related her understanding that a small volume is being stored, but not near the full capacity.

REPRESENTATIVE HOLMES expressed interest in the reason gas is not being stored if the producer has the capacity to do so.

MS. FOERSTER suggested this question is better answered by the operator.

[4:03:44 PM](#)

REPRESENTATIVE NEUMAN related his interest in knowing the mechanics of a scenario in which a development plan was proposed, but was disapproved by the department. He offered to pass on the question for now.

[4:04:15 PM](#)

REPRESENTATIVE BUCH understood an agent or producer has been storing and shipping Liquefied Natural Gas (LNG). He inquired as to whether this is under the AOGCC's purview.

MS. FOERSTER answered that the AOGCC's authority stops at the wellhead.

REPRESENTATIVE CHENAULT, in response to Representative Buch, clarified that 32 Bcf of gas per year is being shipped out of state until 2011.

[4:05:45 PM](#)

REPRESENTATIVE CHENAULT asked to put on the record that without having the ability to access the storage facility that recently, at times, not enough gas would have been available to run the consumer utilities. He related that the LNG facility has been an integral part to the overall gas storage and distribution system in the Cook Inlet. He suggested while some people may believe that if the LNG facility went out of business it would provide a solution to the Cook Inlet gas supply, their belief is not based on fact.

CHAIR OLSON pointed out that Representative Chenault is referring to a process called "peak shaving" when some of loads destined for Japan have been shorted several times in the past few years to provide additional gas to Southcentral during the cold winters.

REPRESENTATIVE CHENAULT, in response to Chair Olson, stated he did not recall the number of times that has occurred.

[4:06:53 PM](#)

REPRESENTATIVE BUCH clarified he wanted to place on the record that the state has a mechanism, integral to consumers in a utility, and gas storage is a component which should also be considered.

[4:07:36 PM](#)

DAN SULLIVAN, Mayor, Municipality of Anchorage, expressed condolences for the loss of Jim Bowles, President, Conoco Phillips, who was recently killed in a tragic accident. He emphasized that HB 280 is important to Anchorage and to Southcentral Alaska. He had the opportunity, as part of the Municipality of Anchorage's Energy Task Force, to meet with Representative Hawker on the bill. The three main areas this bill covers are essential to the long-term energy future of Cook Inlet gas, including the ability to create gas storage, provide incentives to maintain and increase gas production in Cook Inlet, and to clear any regulatory hurdles that may occur as these types of contracts are being considered. He stressed it is also important to keep the consumer in mind during this process. The Municipality of Anchorage is concerned about the declining production of natural gas, in particular, as it relates to pressure. He stated that pressure is the key to deliverability on cold winter days. He pointed out events in the last two or last three years that resulted in deliverability concerns. He characterized the Cook Inlet gas issue as not one of shortage, but of pressure in the fields. Gas storage facilities are important since they will help control pressure. The MOA has taken several steps, including instituting the Energy Watch Program, which requests consumers turn down their thermostats for heat and turn off lights to conserve energy. Initially, the results of this program have been outstanding, but the state cannot rely on energy conservation alone as a long-term solution.

[4:10:10 PM](#)

MAYOR SULLIVAN recalled during a discussion of the proposed gas line and bullet line that someone once remarked "the solution to Cook Inlet is Cook Inlet." He agreed. He surmised that Cook Inlet holds 10 to 15 years of the necessary natural gas supply, not counting any new discoveries. This bill, HB 280, does several things the MOA supports, including the strong requirement that any financial benefit from incentives in the bill would flow through to the utilities to the benefit of their consumers. He offered his belief that the 40 percent credit for exploration expenses against production taxes provides a great

incentive to garner increased production in Cook Inlet. Finally, directing the Department of Law to consider the impact on consumers is important in the event the RCA rejects a utility's gas supply contract. Thus, these three key elements in HB 280 are reasons the MOA supports the bill. He related that he would not go into the financial aspects of the bill.

[4:12:14 PM](#)

REPRESENTATIVE HOLMES asked how much of the gas storage capacity in Cook Inlet is actually being used and any reasons it is not being used.

KEVIN BANKS, Director, Division of Oil and Gas, Department of Natural Resources (DNR), offered his belief that Ms. Foerster's answer is correct, but to obtain a precise answer, it would be necessary to ask the operators. He suspected the increased capacity that results in gas storage costs money so an operator would consider whether to drill another well or add compression to the existing well. Gas storage may not be needed unless the operator has customers to purchase the gas. He surmised that if a producer has a market due to contract supply obligations, the producer would likely spend to increase the capacity. He suggested decisions for gas storage thus far may have been made because it was less expensive to construct gas storage than drill new wells since new wells might not be as productive as older wells used to be.

[4:14:27 PM](#)

REPRESENTATIVE HOLMES stated that she does not have any specific objections to the bill. She related that she was considering many aspects of natural gas in Cook Inlet, including that new wells are not being drilled, that the current Liquefied Natural Gas (LNG) facility will be closing, any supply contracts, and many other factors. She acknowledged the effort made in the bill and expressed her interest is to be certain that everything is considered in order to obtain sustainable gas in Cook Inlet.

CHAIR OLSON noted three people from the Department of Revenue are available to answer tax questions.

[4:15:19 PM](#)

REPRESENTATIVE HOLMES asked whether Amendment 1 addresses the concerns that the RCA had about jurisdiction.

RICHARD GAZAWAY, Advisory Section Manager, Regulatory Commission of Alaska (RCA), answered that the RCA did ask for guidance on jurisdiction over gas storage and the intent of the drafters is clear. He offered that the RCA did not participate in drafting so while the intent is clear, some improvements could be made in the drafting.

[4:16:35 PM](#)

MR. GAZAWAY, in response to Representative Holmes, suggested that the DOL could review the language. He referred to page 4, line 12 of Amendment 1, which read:

(G) furnishing injection, storage, and withdrawal services for natural gas that is owned by a utility regulated under this chapter;"

MR. GAZAWAY suggested that the latter clause could use clarification.

MR. GAZAWAY, in response to Representative Holmes, agreed to the specific cite in Amendment 1.

MR. GAZAWAY, in response to Chair Olson, agreed that the RCA could work to improve the specified language at next committee.

[4:18:00 PM](#)

REPRESENTATIVE NEUMAN asked whether this bill would complement an industrial user of gas who may need the flexibility to use different volumes of gas.

MR. BANKS related his understanding that the expectation is that storage would be similar to when an industrial user would shut down during peak demand and inject gas to the local market. He surmised that physically this would happen. Currently, industrial users such as the LNG facility also do not have storage relationships with the local consumers of gas. Thus, unlike the proposed gas storage destined for consumers, with presumably transparent pricing for the service, a similar transparent pricing does not exist for the LNG plant. Additionally, there is not necessarily a market for gas that is redirected by the producer from the LNG facility. It is part of their normal supply contract obligation. He restated that the LNG plant does not participate in the local market in the same way as the proposed storage facility would participate.

CHAIR OLSON characterized that the proposed storage facility as operating more like a bank, with the owner having the ability to pull out its gas when needed, but can also deposit any excess gas.

MR. BANKS answered that is correct. He said to the extent gas is owned by the utility, the state has some indication and regulation over the price of the storage. However, price indicators are not present in other situations, including the LNG and producer-owned storage facilities.

[4:21:32 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 280.

[4:21:50 PM](#)

REPRESENTATIVE NEUMAN related his understanding of the need to regulate gas facilities.

REPRESENTATIVE NEUMAN moved to report HB 280, Version 26-LS1185\S, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

There being no objection, CSHB 280 (L&C) was reported out of the House Labor and Commerce Standing Committee.

[4:24:10 PM](#)

HB 238-LANDLORD REJECTION OF OCCUPANT/SUBLEASE

CHAIR OLSON announced final order of business would be HOUSE BILL NO. 238, "An Act removing the number of persons under 18 years of age in the household as a reasonable ground for a landlord to reject a proposed sublease or assignment."

[4:24:19 PM](#)

CHARISSE MILLET, Alaska State Legislature, explained that HB 238 removes a potentially discriminatory clause from the Uniform Residential Landlord Tenant Act which refers to the "number of persons under 18 years of age in the household." She elaborated on the bill. Section 1, AS 34.03.060 (d) lists a number of reasons for which a landlord may refuse consent to a sublease or assignment of a lease. Included in the list of reasonable grounds for rejecting the sublease to the tenant is the "number

of persons under 18 years of age in the household." According to the Department of Housing and Urban Development's (HUD) Office of Fair Housing and Equal Opportunity this provision could be interpreted by the public to allow housing discrimination in violation of federal law. "Familial status" is a protected class under federal fair housing law. AS 34.03.060 (d)(3) could be interpreted to allow discrimination because it not only allows, but appears to propose that a landlord may refuse to sublease on the reasonable grounds of "the number of persons under 18 years of age in the household."

REPRESENTATIVE MILLETT explained that HB 238 is intended to bring Alaska's Landlord Tenant Act into line with the Federal Fair Housing Act. Not only will this proposed bill help insure that Alaska continues to receive federal housing program funding under the federal programs, including the Home Investment Partnership Act, the Community Development Block Grant, and the Emergency Shelter Grant Program, which averages \$6 million per year. Additionally, the bill helps insure that landlords treat potential tenants fairly regardless of their family situation.

[4:25:37 PM](#)

REPRESENTATIVE NEUMAN asked how the issue was brought to her attention.

REPRESENTATIVE MILLETT responded that the amount of money from federal programs would be affected. She also did not want to negate the matching funds.

[4:26:01 PM](#)

REPRESENTATIVE MILLETT, in response to Representative Neuman, explained that the current language in existing statutes includes a list of reasonable grounds for rejecting the sublease to the tenant, which includes the number of persons under 18 years of age in the household. She wanted to be certain that Alaska law does not discriminate against families.

[4:26:48 PM](#)

BRYAN BUTCHER, Director, Governmental Affairs & Public Relations, Alaska Housing Finance Corporation (AFHC), explained that the AHFC received a copy of a letter dated July 18, 2007 from the U.S. Department of Housing and Urban Development (HUD) which brought to the AHFC's attention an issue raised by the HUD's Office of Fair Housing and Equal Opportunity. The HUD

advised that the issue of potential discrimination could affect HUD's future acceptance of the State of Alaska's certifications to affirmatively further fair housing and compliance with anti-discrimination laws. The HUD's Office of Fair Housing and Equal Opportunity pointed out that the state law cannot allow landlords to discriminate against potential tenant's subleases based on the number of persons in the household under the age of 18. He explained that if the state does not change this provision in AS 34.03.060 (d)(3), which can be potentially interpreted to allow familial status discrimination, that the state could lose up to \$6 million for three programs previously mentioned by the sponsor. He advised that Mark Romick, Director, Planning & Program Development, AHFC is also available for questions.

[4:27:47 PM](#)

REPRESENTATIVE NEUMAN asked what programs would be affected if the \$6 million were redirected.

MR. BUTCHER responded that most of the funding is for a block grant to the Department of Commerce, Community, and Economic Development for the development of low income housing, the Community Development Block Grants (CDBG) primary objective is to develop viable communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low to moderate income. The Emergency Shelter Grant Program (ESGP) provides homeless persons with basic shelter and essential supportive services. The funds can assist with the operational costs of the shelter facility, and for the administration of the grant. This grant program also provides short-term homeless prevention assistance to persons at imminent risk of losing their own housing due to eviction, foreclosure, or utility shutoffs.

[4:29:17 PM](#)

REPRESENTATIVE T. WILSON posed a scenario in which a landlord has a 2-bedroom apartment for rent. If a prospective tenant has four children, but the apartment under consideration is too small for six people, whether the landlord would need another reason to decide not to rent to them.

MR. BUTCHER stated that too many occupants is an acceptable reason to decline, but if a landlord had a six-bedroom house, and decided it would be acceptable to rent to a family of six, the landlord could not base a decision not to rent to a family,

solely based on the fact that they had children under the ages of 18.

REPRESENTATIVE T. WILSON clarified that a landlord could decide the number of people, but could not base a decision not to rent to someone based on those under 18 years of age.

MR. BUTCHER answered yes. He stated that the state statutes refer to a list of items a landlord can ask prospective tenants in their rental agreement for sublease or assignment of lease. The state statute refers to reasonable grounds for rejecting a sublease and lists the "number of persons under 18 years of age in the household" as one of the items. The HUD found that asking prospective tenants the specific question may appear to propose that the landlord might refuse consent to a sublease based solely on the number of children in a household, which is in violation of federal law.

[4:31:14 PM](#)

REPRESENTATIVE LYNN related a scenario in which a landlord has an apartment to rent. He offered his understanding that the landlord could not limit the number of people who could rent the apartment, or the number of people who could sublease the apartment.

MR. BUTCHER answered that a landlord could still legitimately limit the number of people an apartment can hold for a lease or a sublease, so long as it is reasonable. In further response to Representative Lynn, he stated what is at issue is that a landlord cannot specifically discriminate in the sublease, against a prospective tenant based on some of the family members are children being under the age of 18.

REPRESENTATIVE LYNN understood that the landlord could still limit the number of persons who could occupy an apartment, in either the lease or the sublease.

MR. BUTCHER agreed.

[4:32:34 PM](#)

MR. BUTCHER, in response to Representative Neuman, answered that a landlord can make decisions on the number of people allowed in a unit, but cannot specifically discriminate against children. For example, if a landlord decides that it is reasonable for five people to rent a two-bedroom apartment, the landlord could

not decide to discriminate in a sublease by not allowing children. He emphasized that landlords can legitimately decide to set limits on the occupancy to five. The federal law is very detailed about what constitutes discrimination. He recalled reviewing the federal law, and the list of prohibitions was quite lengthy, so it did not surprise him that the federal agency found a discrepancy in the state's law.

[4:34:32 PM](#)

REPRESENTATIVE LYNN disclosed that one of his daughters, who resides in Indiana, has eight children, and rents.

[4:34:50 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 238.

[4:35:05 PM](#)

REPRESENTATIVE NEUMAN remarked that the bill makes sense and will clean up Alaska statutes. He thanked Representative Millett for her commitment to making Alaska the best place for children.

REPRESENTATIVE NEUMAN moved to report HB 238 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 238 was reported from the House Labor and Commerce Standing Committee.

[4:35:32 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:35 p.m.