

HOUSE FINANCE COMMITTEE  
February 13, 2012  
2:11 p.m.

[2:11:05 PM](#)

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 2:11 p.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair  
Representative Bill Thomas Jr., Co-Chair  
Representative Mia Costello  
Representative Mike Doogan  
Representative Bryce Edgmon  
Representative Les Gara  
Representative David Guttenberg  
Representative Mark Neuman  
Representative Tammie Wilson

MEMBERS ABSENT

Representative Anna Fairclough, Vice-Chair  
Representative Reggie Joule

ALSO PRESENT

Kaci Schroeder-Hotch, Staff, Representative Bill Thomas; Cynthia Erickson, Staff, Representative Alan Dick; Annette Kreitzer, Staff, Representative Alan Dick; Curtis Thayer, Deputy Commissioner, Department of Commerce, Community and Economic Development; Bruce Tangeman, Deputy Commissioner, Tax Division, Department of Revenue.

SUMMARY

HB 246 NAMING CERTAIN BRIDGES

CSHB 246(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note from the Department of Transportation and Public Facilities.

HB 248 AL WRIGHT AIRPORT AT MINTO

HB 248 was HEARD and HELD in Committee.

HB 249 KOYUKUK STATION VETERANS' AIRPORT

HB 248 was HEARD and HELD in Committee.

HB 118 RESEARCH AND DEVELOPMENT TAX CREDIT

CSHB 118(L&C) was REPORTED out of committee with "no recommendation" and with accompanying new indeterminate fiscal note from the Department of Revenue and new zero fiscal note from the Department of Labor and Workforce Development. [Note: The committee rescinded its action to report out CSHB 118(L&C) on 2/15/12 and took corrective action to report out CSHB 118(FIN).]

#hb246

#hb248

#hb249

HOUSE BILL NO. 246

"An Act naming certain bridges."

HOUSE BILL NO. 248

"An Act naming the Al Wright Airport at Minto."

HOUSE BILL NO. 249

"An Act naming the Koyukuk Station Veterans' Airport at Koyukuk."

[2:12:25 PM](#)

Co-Chair Stoltze explained that HB 248 and HB 249 would be merged into HB 246.

Co-Chair Thomas MOVED to ADOPT the proposed committee substitute for HB 246, Work Draft 27-LS0921\B (Wayne, 2/10/12). There being NO OBJECTION it was so ordered.

KACI SCHROEDER-HOTCH, STAFF, REPRESENTATIVE BILL THOMAS, explained that HB 246 named 15 bridges and 2 airports in the city of Cordova. The city had requested that 15 of its

bridges be named after some of its "finest" residents. First, the city requested that the bridge over the Eyak River be named after Marie Smith Jones; she had been a community elder who worked to preserve the Eyak language and had left one of the most comprehensive records of any aboriginal language upon her death. Second, fourteen of the city's bridges would be named after each of the young men that had been lost in World War I, World War II, and Vietnam. The names were as follows:

World War I: James Bennet, William M. Jones, Steve Green, Lucian Platt, Matthew Anderson, W.H. Mumby, and John W. Jones

World War II: Patrick B. Burchett, Norman D. Osbourne, and Leonard F. Olson

Vietnam: David Henry Elisovsky, David Allen Lape, Warren Allen Paulsen, and Michael Dean Banta

Ms. Schroeder-Hotch elaborated that naming the bridges after the residents was the least the city could do to thank them for their service and sacrifice.

CYNTHIA ERICKSON, STAFF, REPRESENTATIVE ALAN DICK, read from the HB 248 Sponsor Statement (copy on file):

Al Wright was born at Tanana Crossing on April 26, 1925 to Arthur and Myrtle Wright, missionaries in the Minto Flats area. Arthur Wright was Athabascan Indian and Myrtle was white. Mrs. Wright was one of the first nurses in the villages. In 1930 the family moved to Minto.

The Wright family lived a subsistence lifestyle. In Minto his dad tried to start a school. He had a hard time because the kids had to go back to seasonal subsistence camps. Each child would bring a stick of wood as tuition. When the wood ran out that ended the school day.

When Al was nine, they moved to Nenana where his father started work in the shipyard. His family also cut and sold wood for \$8.00 a cord with a Sears&Roebuck wood saw. They dragged the wood with a model-T vehicle back to the village to sell.

Al was 15 when he started in construction on defense projects all over Interior Alaska. He had no formal training and learned as he went along. His skills were in high demand on the defense projects; however he wanted to join the Army. The only way he could leave his job was to quit the construction work and get drafted. When he got out of the Army, he found out he could get his pilot's license with the G.I. bill. He originally started for fun, but never got away from flying.

His first plane was a 65 Taylorcraft. One day a man asked to charter him to pick up furs. He said, "boy, this is the way to make money." From then on he started hauling trappers and developing a business. His first charter was \$20.00 an hour with fuel, plane and pilot. He taught himself to fly with floats. With no formal training, his first flight was to pick up a dying man in a Minto fish camp. He flew about 200 hours before he was forced to get an official float rating. He had trouble getting ratings and licenses, because he had little education. He struggled his whole life because he never learned how to read well, write or spell. He quit school after the sixth grade as he took on more seasonal work with the family.

Al started Wright's Air Service in 1950 which continued to grow in Interior Alaska. His focus was on maintaining high standards with maintenance and with his employees. He was the critical link for scheduled mail and charter flights to about 20 villages. Wright's Air today is a well-known charter operation in the Interior, supporting government surveys, seasonal camps, firefighting, land surveying and hunting expeditions. In 1983 Al sold his airline to long-time friend and pilot, Bob Burcell. Bob continues to run the airline with the same old time values, kindness and respect Al had for his people and villages.

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Co-Chair Stoltze appreciated having information about the individuals on the record. He noted that the bridges were all currently either unnamed or had generic designations.

Co-Chair Thomas agreed.

Representative Gara wondered whether the names moved with a bridge when it was moved as a result of a washout.

Co-Chair Thomas replied often times bridges were rebuilt and not moved. He added that Cordova was currently in the middle of a disaster conference; therefore it was unable to call in to testify.

Co-Chair Stoltze had been moved by the participation of Cordova residents in 2006 when the Vietnam Veterans Moving Wall had come to town. He believed that Cordova was one of the communities that had paid the highest price in its contribution to war.

Ms. Erickson read from the HB 249 Sponsor Statement (copy on file):

The original village of Koyukuk, primarily all Koyukon Athabascan Indians, was established around 1867. It used to be called Koyukuk Station, because a military telegraph line was constructed along the North side of the Yukon, and Koyukuk became the site of the telegraph station. In naming the airport, the residents also wish to honor the many Native military veterans who have served their country.

Koyukuk is located on the Yukon River, 30 miles west of Galena and 290 air miles from Fairbanks. It is adjacent to the Koyukuk and Innoko River Refuges.

The Russian traders were a big influence in this area, opening a trading post around 1880. Roman Catholic Missionaries also had a major impact on the Athabascans. The first school was constructed in 1939, this resulted in the Koyukon people living in the village year around.

Up until then, the Koyukon Athabascans lived a subsistence lifestyle, moving among seasonal fish and game camps. They moved as the wild game migrated. Most of the people who settled here were from up the Koyukuk River, as far as the Dolbi River, which is close to Huslia. Even when people settled in Koyukuk they continued to travel up the Koyukuk to winter trapping camps and returned in the spring.

The Native name for Koyukuk is, Meneelghaadze T'oh. Meneelghaadze is the name of the mountain at Koyukuk. Madeline Solomon, now deceased Elder from Koyukuk, had said the mountain was named Meneelghaadze, because long ago, the Koyukon people used to go get clay at the mountain and mix with bird feathers to make clay pots. Eliza Jones an Elder from Koyukuk said that in Athabascan, "T'oh" would be added on, meaning at the base of the mountain. Meneelghaadze T'oh means, "at the base of the Koyukuk Mountain."

Today Koyukuk people are still living a subsistence lifestyle. The main employment is the local government, clinic, school, store and any firefighting and construction seasonal jobs.

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Representative Guttenberg remembered Al Wright and told a story related to the individual.

Co-Chair Stoltze referred to a proclamation from Cordova that supported the bill (copy on file). He asked whether there was support from other communities. Ms. Erickson replied in the affirmative. Minto and Koyukuk had both vocalized support for the legislation.

Co-Chair Stoltze requested that the communities' support be officially added to the record. Ms. Erickson noted that Minto had already created a sign with the new name.

ANNETTE KREITZER, STAFF, REPRESENTATIVE ALAN DICK, noted that Al Wright was not the Wright brother who had run for office.

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Co-Chair Stoltze understood how important it was for a community to publicly appreciate a member who had made a significant contribution. He referred to street names that had been named for members of his family.

Co-Chair Thomas MOVED to ADOPT Amendment 1:

Page 2, Line 23

Before Al Wright

Insert Minto -

Co-Chair Stoltze OBJECTED for discussion.

Co-Chair Thomas explained that the amendment inserted the word "Minto" before "Al Wright" on page 2, line 23. There being NO further OBJECTION, Amendment 1 was ADOPTED.

Co-Chair Thomas spoke to the names included under the legislation. He explained that Marie Smith Jones had been the last fluent Eyak speaker and deserved the tribute. David Henry Elisovsky, David Allen Lape, Warren Allen Paulsen, and Michael Dean Banta had all been killed in Vietnam; Cordova had experienced the highest per-capita loss in the state. He discussed the soldiers' families and told a story about the involvement of other soldiers in the Vietnam War.

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Co-Chair Thomas MOVED to report CSHB 246(FIN) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

Co-Chair Stoltze referred the fiscal impact note.

CSHB 246(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note from the Department of Transportation and Public Facilities.

HB 248 was HEARD and HELD in Committee.

HB 249 was HEARD and HELD in Committee.

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AT EASE

[2:35:58 PM](#)

RECONVENED

#hb118

HOUSE BILL NO. 118

"An Act relating to a tax credit for corporate income taxes paid for qualified research and development expenditures; and providing for an effective date."

2:36:09 PM

Co-Chair Stoltze referred to the previously adopted proposed committee substitute for HB 118.

CURTIS THAYER, DEPUTY COMMISSIONER, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, was available for questions.

Representative Gara asked for confirmation that the state resource and development (R&D) tax credit would be on top of the federal tax credit and a person's ability to receive a the federal credit would not be prejudiced by the state's adoption of a state R&D credit.

BRUCE TANGEMAN, DEPUTY COMMISSIONER, TAX DIVISION, DEPARTMENT OF REVENUE (DOR), responded in the affirmative.

Representative Gara referred to a recent letter from Mr. Tangeman clarifying that the R&D tax credit could not be stacked on top of any other Alaska's Clear and Equitable Share (ACES) deductions or credits. The letter specified that R&D was excluded by a regulation under ACES. He was concerned that the regulation could be changed at some point by the department; he wondered whether the department had an objection to putting the exclusion language in statute.

Mr. Tangeman replied that AS 43.55.165 addressed that exploration, development, or the production of oil was allowable under the oil and gas production tax. Regulation 55.250 was addressed under the statute and explicitly stated that R&D was not applicable; therefore, the department believed the exclusion was clearly included under current statute.

Representative Gara was in agreement with DOR that the credits should not be stackable. He was troubled that the DOR regulation could change in the future and could result in the ability to receive R&D credits on top of ACES credits. Without the regulation he thought a person could argue that money put into R&D for exploring, developing, and producing should be covered.

Mr. Tangeman replied that he did not read the statute in the same way. He noted that the regulation was there to clarify the statute; it was clear what was and was not allowed. He thought that any additions to statute would be superfluous.

Representative Gara was uncomfortable that the exclusion only existed in regulation. He wondered whether information indicating who received the tax credits would be public.

Mr. Tangeman responded that the R&D credits would fall under the same confidentiality statutes that other tax payers did. The department would be able to aggregate and provide information for up to three or more taxpayers.

Co-Chair Stoltze asked whether the statute was the same as the one that applied to film credits. Mr. Tangeman replied in the affirmative.

Representative Gara asked whether the way the money was spent would be made public. Mr. Tangeman responded in the affirmative; DOR was currently working on a report related to oil and gas tax credits. The department could provide the types of expenses that the credits were used on.

Representative Gara understood that the state was comfortable giving out \$30 million or \$40 million in R&D tax credits; however, he wondered whether the state would be able to afford to give out hundreds of millions of dollars if the demand was there. He asked whether the department had a problem putting a cap on the amount of money the state would spend or putting a sunset provision on the legislation to determine how well the program was working.

Mr. Tangeman answered that the department did not know how long it would take for a company to begin work, realize the credit, and realize the tax that would allow it to take the tax credit again in the future. He believed that setting a sunset date may discourage a company that could potentially need a longer period to realize the credit. The bill currently allowed a company to carry forward an expense from year to year.

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Representative Doogan believed that the bill implemented an unlimited number of cost and credits without a good definition of what the credits were and what they could be used for. He wondered whether the effect of the legislation would create a situation in which an unknown number of applicants were eligible for an unknown amount of money.

Mr. Tangeman responded that the purpose was to increase expenditures in the state. The goal was for Alaska to receive a larger portion of the R&D that was occurring throughout the U.S.; there would need to be companies and plants driving the state's economy in order to realize an expenditure and tax credit. He hoped the credits were a tremendous success because it would mean that a significant amount of money was spent on R&D in the state. He added that the R&D could be used later for a project exclusively in Alaska or for a location outside of the state, but the point was to encourage upfront expenditures to take place in the state.

Representative Doogan surmised that the legislation would open a window into the current tax structure that would decrease the amount of money available for the state to designate to programs. Based on DOR testimony, he believed there was no way to examine the impact or to determine the potential expense to the state. As he understood it, the bill represented a blank check for anything called R&D in the state.

Mr. Tangeman noted that under the legislation, the tax credit was taken against the tax liability for new R&D only. He hoped the incentive would encourage a significant amount of R&D and an abundance of new tax payers in the state. The carry forward had been included because it allowed companies that may not have a tax liability in the first couple of years to carry expenditures forward. Once the companies began realizing a tax liability they would realize the credits and subsequently there would be new money for the state.

Representative Doogan recounted that the credits were not saleable or transferable, they were strictly for R&D conducted in Alaska, and they were limited by tax payer or tax project; however, the actual financial liability was currently unknown. Mr. Tangeman replied in the affirmative.

Representative Costello asked for an explanation of the indeterminate fiscal note from DOR. Mr. Tangeman replied that the fiscal note was indeterminate because the credit was for new R&D that had not taken place. The goal was to drive new activity, but the new R&D could be conducted by current taxpayers.

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Representative Costello asked for verification that DOR was not currently collecting information from companies that had a corporate tax liability and the kinds of activities they were conducting; therefore, the current level of R&D occurring in the state was not known.

Mr. Tangeman answered that DOR was collecting the specific type of information.

Representative Costello surmised that currently there was not any R&D occurring and that the legislation was intended to attract the activity. Mr. Tangeman replied that R&D was currently underway, but not at the desired level.

Representative Neuman gathered that "new" R&D referred to new innovative development technology (e.g. new ways to produce oil or smelt minerals) and did not just mean new to the state. Mr. Tangeman replied in the affirmative.

Representative Gara thought new ways to produce oil were excluded from the legislation. Mr. Tangeman replied that R&D on oil production that had not taken place was available to be taken against a company's corporate income tax, but not production tax. He expounded that R&D was not an acceptable qualified capital expenditure against a lease expenditure under the production tax.

Representative Gara opined that some companies that were currently using the 20 percent federal tax credit would be given an additional 20 percent tax credit for R&D they would have done anyway.

Mr. Tangeman responded that companies currently taking advantage of the R&D would only receive credit on the amount above their last three-year average. For example, if a company spent \$1 million annually for three years and then spent \$2 million, the additional \$1 million would be eligible for the credit.

Representative Gara did not feel that the current information made public related to ACES and film credits was substantial; it was hard to evaluate whether money was being spent well because the way it was spent was not divulged. He wondered whether the R&D tax credit would fall into the same category.

Mr. Tangeman responded that DOR was currently presenting a five-year look-back to another House committee; the look-back shed light on the type of expenditures that had taken place. He explained that taxpayer information was held confidential; current statute specified that a DOR employee could be fined \$5000 and could receive a two-year jail sentence for releasing inappropriate information. He felt that it was his responsibility to err on the side of over protection of confidential information; tax payers had a right to keep their information confidential. There were statutes that allowed the department to aggregate and make information public. The Revenue Source Book included the DOR annual report and contained the information. He continued that the department was available to answer questions related to the issue, but followed statute very strictly.

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Representative Guttenberg had never felt that there had been enough of an understanding of what the taxes, deductions, and credits actually were. He pointed to Mr. Tangeman's explanation of how strongly he felt about protecting taxpayer's confidentiality. He stressed that he felt even stronger that he needed all of the information he could get in order to make decisions; he pointed to Alaska State Review Board criticism of the department for keeping public items confidential. He had heard the "McDonald's" analogy that if a tax payer stamped something confidential that DOR was not able to release it. He wondered how much the department could release that would help legislators to understand what was in some of the reports. He asked how far the department needed to go related to confidentiality.

Mr. Tangeman believed the reference was related to a legislative hearing that had taken place in the Senate. He did not feel that it was appropriate for the state to comment on an ongoing case; additionally, the information was only related to one side of the litigation. He believed

the McDonald's analogy was ridiculous. He explained that if someone provided the department with a piece of confidential information on a taxpayer and then released it in a public forum, DOR would still not have the right to release the information. He reiterated that DOR was very careful about the information that it was provided.

Representative Guttenberg had been referring to documents in a court case. He noted that after the Alaska Supreme Court ruled on the case it was possible that the legislature would gain a better understanding of documents that it should have been granted access to. He had been very concerned about taxpayers' ability to confuse the issue.

Representative Neuman communicated that developing and applying for patents qualified under the confidentiality clause. He asked for verification that the release of information related to applications for patents would be illegal in a variety of ways. Mr. Tangeman replied in the affirmative.

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Representative Doogan asked for a description of the evaluation process involved in awarding the tax credits. Mr. Tangeman replied that it was not an evaluation process. Eligibility was determined through an audit of a tax return in which a company claimed a R&D expense; there were statutes in both state and federal law that explained what qualified as R&D.

Representative Doogan asked whether the state would have to battle with the federal government on the meaning of R&D when the credits were applied for in the state. He wondered whether the state and federal processes would be separate. Mr. Tangeman replied that the legislation piggy-backed on federal statute.

Co-Chair Stoltze asked members to provide amendments in advance. He asked whether Amendments 1 and 4 from Representative Gara were identical. He suggested keeping Amendment 1 and getting rid of Amendment 4 for clarification purposes.

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Co-Chair Stoltze clarified that Amendments 1 through 3 were in member's packets and would potentially be offered.

Representative Gara MOVED to ADOPT Amendment 1 27-GH1951\B.4 (Bullock, 2/9/12):

Page 1, line 9:

Delete "the taxable year"

Insert "a taxable year ending before January 1, 2017,"

Page 2, line 13, following "report":

Insert "to the legislature"

Page 2, line 16, following "year,":

Insert "a description of the research and development projects for which the credit was granted,"

Page 2, following line 24:

Insert a new bill section to read:

"\*Sec. 2. AS 43.20.047 is repealed January 1, 2017."

Renumber the following bill section accordingly.

Co-Chair Stoltze OBJECTED.

Representative Gara discussed that the bill included a new tax credit system; the state did not know how much it would cost and the R&D was different than what was occurring under the federal tax credit. He opined that it was possible the state would receive what it was currently getting under the federal tax credit; on the other extreme it may cost the state so much money that at a certain level it would need to reduce the percentage. He explained that Amendment 1 specified that the credit would be revisited in 2017.

Co-Chair Stoltze asked whether the amendment provided a sunset.

Representative Gara replied in the affirmative. He communicated that the amendment would allow companies to

use the credit through January 1, 2017 and required companies to provide a description of R&D projects using the credit. He noted that the law would not supersede federal patent laws related to confidentiality. He opined that the legislature should have a better understanding on how the state's money was spent in comparison to other tax credits currently offered.

Representative Neuman did not support the amendment. He referenced the proposed sunset provision and noted that the bill allowed companies to take credits for up to seven years. He thought there was a compatibility issue between the two items. He cited page 2, lines 4 through 7 "the expenditure is incurred, the excess of the tax credit over the liability may be carried forward for up to seven years." He thought the length of time was appropriate, given the goal of increased development; the time allowed a company to carry-forward credits until it began production. Additionally, it would be difficult for new companies working to develop new industry and new oil to operate under the sunset timeline. He added that he did not have a problem with the segment of the amendment that dealt with reporting information to the legislature.

Co-Chair Stoltze thought the amendment was divisible, given that the policy debate was on the sunset language. He asked Representative Gara whether he would object to a division of the amendment.

Representative Gara was not opposed to a division of the amendment.

Co-Chair Stoltze clarified that Amendment 1 27-GH1951\B.4 would be divided into 1a and 1b as follows and would be renumbered accordingly:

Amendment 1a (lines 5 through 11)

Page 2, line 13, following "report":

Insert "to the legislature"

Page 2, line 16, following "year,":

Insert "a description of the research and development projects for which the credit was granted,"

Amendment 1b (lines 1 through 4 and 12 through 16)

Page 1, line 9:

Delete "the taxable year"

Insert "a taxable year ending before January 1, 2017,"

Page 2, following line 24:

Insert a new bill section to read:

"\*Sec. 2. AS 43.20.047 is repealed January 1, 2017."

Renumber the following bill section accordingly.

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Representative Neuman pointed to the language "a description of the research and development projects for which the credit was granted" and noted that developing and applying for patents qualified. He thought the state could run into problems when looking for a description of work conducted if patents were involved.

Mr. Tangeman agreed that there could be a potential issue when patents were involved; a description of the type of work would shed light on the type of business and expenses the company was attempting to incur.

Representative Neuman was not comfortable with Amendment 1a. He explained that developing prototypes, models, and potentially software technology qualified. He believed the information could be highly confidential. He opined that the word "report" in Amendment 1a was too open-ended.

Mr. Tangeman answered that the purpose of R&D was to look for new ways to improve. He agreed that it was important to be careful with information that was divulged publicly, given that it might discourage a company from conducting its research in Alaska.

Representative Neuman noted that DOR currently provided reports to the legislature that indicated how much money would be spent on similar items such as film credits. He did not believe the legislation included any different report requirements that were beyond standard reporting.

Mr. Tangeman replied that Amendment 1a would add another level of reporting that went above and beyond requirements for similar tax credits.

Representative Edgmon supported Amendment 1a. He explained that it was possible to provide a description that did not contain specific detail. He opined that the amendment was general enough that it would be possible to provide categories of information that did not compromise a company's proprietary material. He clarified that he did not support Amendment 1b.

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Mr. Thayer pointed to a document that had been provided to the committee on February 8, 2012. He relayed that the federal government had a 2008 list of corporations that paid R&D tax credits; it included broad categories such as, manufacturing information, professional scientific, mining, transportation warehousing, real estate, agriculture, forestry, and seafood. He furthered that the categories may have been broad enough for the state's purposes.

Representative Gara was not concerned about patent information, given that it was already confidential under federal law. Mr. Tangeman did not have a comment related to the legal issue.

Representative Costello MOVED to AMEND Amendment 1a to insert "type of" before "research" on line 9. The intent was that the R&D category could be reported similar to the way categories were reported by the federal government.

Representative Gara thought that the amendment to Amendment 1a was too general. He was happy to exclude patents from the reporting requirement. He noted his objection to the amendment to Amendment 1a.

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

IN FAVOR: Wilson, Costello, Thomas, Stolze  
OPPOSED: Doogan, Edgmon, Gara, Guttenberg, Neuman

The MOTION FAILED (5-4).

Representatives Fairclough and Joule were absent from the vote.

A roll call vote was taken on Amendment 1a.

IN FAVOR: Doogan, Edgmon, Gara, Guttenberg, Stolze  
OPPOSED: Costello, Wilson, Neuman, Thomas

The MOTION PASSED (5-4).

Representatives Fairclough and Joule were absent from the vote.

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Representative Gara MOVED to ADOPT Amendment 1b.

Representative Guttenberg noted his potential conflict of interest on the research credits, given his ownership of a cut flower business. He explained that he could potentially benefit from the credit if he turned his business into an experimental farm.

Representative Costello did not support Amendment 1b. She thought the amendment would add to the existing complexity of the Alaska tax system. She explained that the sunset provision would take place prior to the end of the seven-year carry-forward that was included in the legislation. She believed the amendment would essentially gut the bill, but she understood that the intent was to review the impact of the legislation. She opined that the intent was achieved in the bill under the provision that would require DOR to report on credit activity.

Representative Gara understood the concern related to the carry-forward provision. He spoke on a conceptual amendment that would allow the carry-forward portion to continue through 2024.

Co-Chair Stoltze would not accept a conceptual amendment.

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Representative Gara WITHDREW Amendment 1b with the intent to incorporate input from members into an amendment on the House floor.

Representative Gara MOVED to ADOPT Amendment 2 27-GH1951\B.1 (Bullock, 2/6/12):

Page 2, line 10, following "AS 43.20.011(e)":

Insert "or AS 43.55,"

Co-Chair Stoltze OBJECTED.

Representative Gara referred to a letter he had received from Mr. Tangeman. He noted that DOR staff had testified that under ACES the department had a regulation specifying that R&D expenditures could not be deducted or credited. He stressed that the regulation could be changed and surmised that DOR must have thought its implementation was necessary to clarify existing statute. Amendment 2 inserted language into the legislation that would prohibit the use of a R&D credit on top of a credit or deduction allowed under ACES.

Mr. Tangeman explained that there were three statutory tests that applied under AS 43.55.165(a), subsection (B):

(i) the costs must be incurred upstream of the point of production of oil and gas

(ii) the costs must be ordinary and necessary costs of exploring for, developing, or producing, as applicable, oil or gas deposits

(iii) the costs must be direct costs of exploring for, developing, or producing, as applicable, oil or gas deposits

Mr. Tangeman believed that the R&D costs failed all three of the tests and that the regulation was very explicit in backing up the statute. He opined that the inability to stack credits was thoroughly covered.

Co-Chair Stoltze asked whether Mr. Tangeman had a value judgment recommendation on Amendment 2. Mr. Tangeman did not believe Amendment 2 was required.

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Representative Neuman did not support the amendment. He provided an example of a new mining company conducting R&D that did not yet pay production tax. He noted that owners

may decide to sell the company or its patents and may never pay the production tax. He pointed to many new companies coming to the state in search of new oil and gas with new innovative techniques and noted some companies may not make it seven years.

Representative Costello voiced opposition to the amendment. She thought the statute was clear and that adding another statute to the bill would potentially clutter the law. She thought the statute clearly dealt with corporate income tax; there were no R&D projects that were attributed to the state's production tax. She believed a history of clarity had been established on the issue. She pointed to frequent discussions on ACES and opined that it was sometimes forgotten that many companies paid corporate income taxes.

A roll call vote was taken on Amendment 2.

IN FAVOR: Gara, Guttenberg

OPPOSED: Neuman, Wilson, Costello, Doogan, Edgmon, Thomas, Stoltze

The MOTION FAILED (7-2).

Representatives Fairclough and Joule were absent from the vote.

[3:31:25 PM](#)

Representative Gara MOVED to ADOPT Amendment 3 27-GH1951\B.2 (Bullock, 2/6/12):

Page 2, following line 17:

Insert a new subsection to read:

"(f) The total amount of the credit authorized under this section for all taxpayers may not exceed \$50,000,000 in a calendar year. The department may adopt regulations that provide the standards and procedures to allocate the amount of credit available to each taxpayer when the total amount of tax credits claimed by all taxpayers under this section for a calendar year exceeds \$50,000,000."

Reletter the following subsection accordingly.

Co-Chair Stoltze OBJECTED.

Representative Gara cited his preference for a sunset provision, but in its absence he pointed to a need for fiscal responsibility and to see how the credits were used. Amendment 3 would impose an annual \$50 million cap on the expenditure of state funds; credits would be prorated if more than \$50 million were applied for. He discussed the likelihood of dwindling state revenues in the future and stressed that spending state money to fund millions of dollars of tax credits would put a large strain on the state's ability to operate.

Co-Chair Stoltze commented that DOR could cut off the list at \$50 million and could chose to prorate credits. He clarified that the department had not weighed in on the issue of prorating.

Mr. Tangeman replied that DOR was opposed to the amendment and a cap. He explained that the tax credit would be taken against new money brought into the state; therefore, if the \$50 million level was reached the state would be generating revenues well beyond the number.

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Representative Neuman vocalized opposition to Amendment 3. He pointed to page 1, line 7 of the legislation and surmised that individual tax payers were limited to a \$10 million tax liability, which was prorated per company. He did not know why the state would put a limit on its goal to incentivize investment from new companies.

Representative Costello was not in favor of Amendment 3. She was concerned that the amendment would create two groups of people; once the \$50 million cap was reached the department would need to craft new regulation to deal with additional companies interested in the credit. She believed it was a bad precedent to change the rules of the game after a certain cost was reached. She understood the rationale and believed it was addressed in the reporting requirement that would allow the legislature to determine whether it wanted to continue with the program.

Representative Doogan was supportive of Amendment 3. He relayed that the legislature had handed out "tax credits like they were lollypops" during his time in office. The

R&D tax credit was unlimited and was potentially very expensive for the state. He did not believe that what companies would be required to pay the state if they received the credit was definitive.

Representative Guttenberg asked whether an expenditure of \$50 million would be 20 percent of what taxpayers would pay. Mr. Tangeman replied that the amount would be against a taxpayer's tax liability.

Representative Guttenberg thought the \$50 million cap was appropriate. He was very supportive of research, but would be suspicious of a program that would allow a company to spend such a high amount in one year. He believed the state should spend a couple of years watching the tax credit use prior to spending over \$50 million. He understood that research up north could be extensive, but having a better understanding of "what we're doing at the end of the day" was also very important.

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Co-Chair Stoltze echoed prior concerns about not including a cap on tax credits. He believed the legislature could reexamine the credits several years later if they were successful.

Representative Gara MOVED to AMEND Amendment 3, line 5 to replace the word "allocate" with "prorate." There being NO OBJECTION, it was so ordered.

Representative Wilson opposed the amendment. She believed the goal of the legislation was to bring the "best and brightest" to the state to conduct R&D. The companies would need to hire employees to undergo the research and only if they were successful and had a tax liability would they be eligible to receive the credit. She hoped the credit was very successful.

A roll call vote was taken on Amendment 3.

IN FAVOR: Guttenberg, Doogan, Gara, Stoltze  
OPPOSED: Neuman, Wilson, Costello, Edgmon, Thomas

The MOTION FAILED (5-4).

Representatives Fairclough and Joule were absent from the vote.

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Co-Chair Stoltze referenced the indeterminate fiscal note from DOR.

Co-Chair Thomas MOVED to report CSHB 118(L&C) out of committee with individual recommendations and the accompanying fiscal notes.

CSHB 118(L&C) was REPORTED out of committee with "no recommendation" and with accompanying new indeterminate fiscal note from the Department of Revenue and new zero fiscal note from the Department of Labor and Workforce Development. [Note: The committee rescinded its action to report out CSHB 118(L&C) on 2/15/12 and took corrective action to report out CSHB 118(FIN).]

Co-Chair Stoltze discussed the schedule for the following day.

#  
ADJOURNMENT

[3:44:34 PM](#)

The meeting was adjourned at 3:44 PM.