

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 28, 2011
1:16 p.m.

MEMBERS PRESENT

Representative Eric Feige, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Peggy Wilson, Vice Chair
Representative Alan Dick
Representative Neal Foster
Representative Bob Herron
Representative Cathy Engstrom Munoz
Representative Berta Gardner
Representative Scott Kawasaki

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Alan Austerman
Representative Mike Hawker
Representative Mark Neuman

COMMITTEE CALENDAR

HOUSE BILL NO. 110

"An Act relating to the interest rate applicable to certain amounts due for fees, taxes, and payments made and property delivered to the Department of Revenue; relating to the oil and gas production tax rate; relating to monthly installment payments of estimated oil and gas production tax; relating to oil and gas production tax credits for certain expenditures, including qualified capital credits for exploration, development, and production; relating to the limitation on assessment of oil and gas production taxes; relating to the determination of oil and gas production tax values; making conforming amendments; and providing for an effective date."

- MOVED CSHB 110(RES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 110

SHORT TITLE: PRODUCTION TAX ON OIL AND GAS
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/18/11	(H)	READ THE FIRST TIME - REFERRALS
01/18/11	(H)	RES, FIN
02/07/11	(H)	RES AT 1:00 PM BARNES 124
02/07/11	(H)	Heard & Held
02/07/11	(H)	MINUTE(RES)
02/21/11	(H)	RES AT 1:00 PM BARNES 124
02/21/11	(H)	Heard & Held
02/21/11	(H)	MINUTE(RES)
02/21/11	(H)	RES AT 5:15 PM BARNES 124
02/21/11	(H)	Heard & Held
02/21/11	(H)	MINUTE(RES)
02/23/11	(H)	RES AT 1:00 PM BARNES 124
02/23/11	(H)	Heard & Held
02/23/11	(H)	MINUTE(RES)
02/25/11	(H)	RES AT 1:00 PM BARNES 124
02/25/11	(H)	Heard & Held
02/25/11	(H)	MINUTE(RES)
02/28/11	(H)	RES AT 1:00 PM HOUSE FINANCE 519

WITNESS REGISTER

BRYAN BUTCHER, Acting Commissioner
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: During the hearing on HB 110, answered questions.

BRUCE TANGEMAN, Deputy Commissioner
Office of the Commissioner
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: During the hearing on HB 110, answered questions.

DONALD BULLOCK JR., Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: During the hearing on HB 110, answered questions.

SUSAN POLLARD, Assistant Attorney General
Oil, Gas & Mining Section

Civil Division (Juneau)
Department of Law
Juneau, Alaska

POSITION STATEMENT: During the hearing on HB 110, answered questions.

JOE BALASH, Deputy Commissioner
Office of the Commissioner
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: During the hearing on HB 110, answered questions.

ACTION NARRATIVE

[1:16:58 PM](#)

CO-CHAIR PAUL SEATON called the House Resources Standing Committee meeting to order at 1:16 p.m. Representatives P. Wilson, Herron, Foster, Dick, Gardner, Kawasaki, Feige, and Seaton were present at the call to order. Representative Munoz arrived as the meeting was in progress. Also in attendance were Representatives Austerman, Hawker, and Neuman.

HB 110-PRODUCTION TAX ON OIL AND GAS

[1:17:18 PM](#)

CO-CHAIR SEATON announced that the only order of business is HOUSE BILL NO. 110, "An Act relating to the interest rate applicable to certain amounts due for fees, taxes, and payments made and property delivered to the Department of Revenue; relating to the oil and gas production tax rate; relating to monthly installment payments of estimated oil and gas production tax; relating to oil and gas production tax credits for certain expenditures, including qualified capital credits for exploration, development, and production; relating to the limitation on assessment of oil and gas production taxes; relating to the determination of oil and gas production tax values; making conforming amendments; and providing for an effective date."

CO-CHAIR SEATON announced his intention to get through the amendments to HB 110 and then have a vote on the bill.

[1:18:02 PM](#)

CO-CHAIR SEATON moved that the committee adopt Amendment 8, labeled 27-GH1007\A.17, Mischel/Bullock, 2/23/11, which read:

Page 10, line 31, through page 11, line 21:

Delete all material and insert:

"* **Sec. 15.** AS 43.55.023(1) is amended to read:

(1) A producer or explorer may apply for a tax credit for a well lease expenditure incurred in the state [SOUTH OF 68 DEGREES NORTH LATITUDE] after December 31, 2011, and before January 1, 2021 [JUNE 30, 2010], as follows:

(1) notwithstanding that a well lease expenditure incurred in the state [SOUTH OF 68 DEGREES NORTH LATITUDE] may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under (a) of this section, AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well lease expenditure in the state [SOUTH OF 68 DEGREES NORTH LATITUDE] may elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of

(A) 40 percent of the expenditures incurred in the state south of 68 degrees North latitude; and

(B) 30 percent of the expenditures incurred in the state north of 68 degrees North latitude that exceed the average annual well lease expenditures for the second and third calendar years preceding the year for which the credit is being determined [40 PERCENT OF THAT EXPENDITURE; A TAX CREDIT UNDER THIS PARAGRAPH MAY BE APPLIED FOR A SINGLE CALENDAR YEAR];

(2) a producer or explorer may take a credit for a well lease expenditure incurred in the state [SOUTH OF 68 DEGREES NORTH LATITUDE] in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer

(A) agrees, in writing, to the applicable provisions of AS 43.55.025(f)(2); and

(B) submits to the Department of Natural Resources all data that would be required to be submitted under AS 43.55.025

REPRESENTATIVE P. WILSON objected for discussion purposes.

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CO-CHAIR SEATON explained that Amendment 8 is essentially [House Bill 337] that the House Resources Standing Committee reported out of committee last year, which was the change to the producer/explorer tax on the North Slope. Amendment 8 would change the capital credit for infield well work from 20 percent to 30 percent, a 50 percent increase. Amendment 8 further specifies that the aforementioned will be allowed for additional work as well. He pointed out that one of the keystones for many people has been to ensure that increased work is targeted, not just paying more or giving credits for the same amount of work. The language on page 1, line 18, of Amendment 8, provides the aforementioned credit for the second and third calendar years preceding the year for which the credit is determined. He reminded members that last year it was determined that the data of the previous year isn't appropriate enough to analyze, and therefore the data of the previous year is skipped and the average of the two years prior is utilized. Amendment 8 calls for the aforementioned to be performed on a continuous basis, which means that the third year prior and the second year prior will be averaged and anything above that will receive a 30 percent tax credit rather than a 20 percent tax credit for the infield well work. The fiscal note on this language last year was an estimated \$150 million. However, it's dependent upon the amount of work that's performed.

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REPRESENTATIVE HERRON inquired as to whether there was objection to Amendments 1-7 at the prior hearing.

CO-CHAIR SEATON answered that Amendments 1-7 passed unanimously.

REPRESENTATIVE HERRON inquired as to what Amendment 8 adds to the other seven amendments or is it a totally different subject.

CO-CHAIR SEATON explained that Friday's amendments were related to [AS 43.55.024], the small producer tax credit that goes to explorers, and [AS 43.55.025], the exploration tax credits that go to explorers. Amendment 8 refers to [AS 43.55.023], the credit for well work from producing fields, such as Kuparuk, Alpine, Prudhoe Bay. Friday amendments were pluses for explorers and new field production, whereas Amendment 8 provides more credit for well work at existing fields if it's done above the level of the previous years.

REPRESENTATIVE HERRON surmised these are legacy incentives.

CO-CHAIR SEATON replied yes, but emphasized that it targets additional work performed above the current level of work [in an existing field]. Therefore, it's an incentive to do more work than previously done in order to obtain higher credits for the additional work.

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REPRESENTATIVE MUNOZ asked whether the Department of Revenue (DOR) supports Amendment 8. She also asked for the department's fiscal analysis of the impact of Amendment 8.

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BRYAN BUTCHER, Acting Commissioner, Department of Revenue, related that DOR does not support Amendment 8. The department believes that the current legislation improves the investment climate much more than Amendment 8 would. By requiring expenditures to exceed the average lease expenditures of the previous two years, perpetual growth would be required for a company to receive credits in the future, and the department believes this is unrealistic. Furthermore, since companies wouldn't know whether they would qualify for the credits until after they spent the money, it would create difficulty for companies to plan their budgets. Amendment 8 would, he opined, also increase the possibility of companies working the system such that they minimize their spending in the first two years in order to lower the threshold qualifications for drilling in the third year. The companies could continue the aforementioned to qualify for increased credits, which would potentially be at the expenditure of maintenance. With regard to the fiscal impact of Amendment 8, he said that DOR doesn't have a specific estimate as to what the amendment would do.

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CO-CHAIR SEATON surmised that DOR doesn't disagree with the fiscal note it drafted for this provision in House Bill 337 in the Twenty-Sixth Alaska State Legislature.

ACTING COMMISSIONER BUTCHER clarified that he wasn't involved in the preparation of that fiscal note and didn't know how the department testified on that a year ago. Moreover, Amendment 8 is different in that it deletes language and then adds language to the legislation.

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REPRESENTATIVE P. WILSON commented that not doing maintenance could have devastating effects.

ACTING COMMISSIONER BUTCHER agreed. He said he understands the intent of Amendment 8, but that a lot of potentially dangerous issues could arise as a result of it.

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CO-CHAIR FEIGE observed that the provisions of Amendment 8 would be limited to the next 10 years. He inquired as to how this would impact the willingness of producers and explorers to invest in Alaska.

ACTING COMMISSIONER BUTCHER, recalling testimony and discussions with various companies, said that anything that has an effect in the future on their fiscals will be either a positive or negative. Although he deferred to the industry for comment, he said he believes the limiting provision would be viewed as a negative and would be surprised if the industry supported Amendment 8.

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REPRESENTATIVE GARDNER surmised that many Alaskans would object to giving large credits for maintenance work that is expected to be performed on legacy fields. Therefore, maybe that is where the objection to Amendment 8 should focus.

ACTING COMMISSIONER BUTCHER clarified that he isn't making an assumption the aforementioned would happen as one would expect companies operating in the state would operate at the highest level. He further clarified that he is pointing out the potential as it could be a net benefit to the companies.

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CO-CHAIR SEATON pointed out that on [2/25/11] the date for the other two credits was extended from 2016 to January 1, 2021, as requested by industry. Those were for exploration credits which require a higher level of forward planning and a longer development time versus the infield drilling that Amendment 8 addresses, which doesn't require as much lead time. Therefore, the extension deadline being coincident with exploration tax

incentives and the small producers' tax incentives makes sense. The result is that everything comes before the legislature at the same time. "On that point, I just would like to say that that doesn't ring true to me," he commented.

CO-CHAIR SEATON reminded members that last year there was a provision to offer a 30 percent tax credit, at a cost of \$350 million a year, to all fields for all work, most of which the companies would've been doing anyway. The purpose of Amendment 8 is to incentivize additional work, not just reducing revenues for work that is currently being done.

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CO-CHAIR FEIGE pointed out that currently HB 110 leaves the tax credit expenditure open-ended, and therefore any truncation would be more of a disincentive compared to the original legislation. He explained that the language on page 1, lines 15-16, of Amendment 8 is essentially existing statute and is essentially for Cook Inlet. The aforementioned incentive has been one that many companies have used and it has increased exploration in Cook Inlet. The effect of Amendment 8 would be to deny the 40 percent tax credit and reduce it to 30 percent. Furthermore, by tying it to the previous years' credits, companies are forced to expend ever more increasing rather than a steady amount of exploration every year. He pointed out that a company can only do so much exploration on the North Slope with environmental laws remaining the same and the three- to four-month window. This particular part of Amendment 8 tries to incentivize production and get more oil in the pipeline, which requires spending money. By including the provision that ties it to the previous years, it won't be productive for companies to put a lot of money at the outset. The companies will have to [expend] a little each year. Although the aforementioned may lead to more production over a long period of time, the production is needed in 5-7 years not 15 years. He opined that the aforementioned provision within Amendment 8 does not encourage [production in the shorter timeframe]. As written, HB 110 applies the 40 percent tax credit expenditure immediately and allows the company to right it off in one year. Co-Chair Feige characterized that as a great financial benefit and incentive for companies that will potentially put more oil in the pipeline.

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REPRESENTATIVE HERRON inquired as to the result if Amendment 8 was bifurcated.

CO-CHAIR SEATON confirmed that the question could be divided such that one part would be on page 1, lines 1-6, of Amendment 8 and the other part would be on page 1, line 7 through page 2, line 6, of Amendment 8.

REPRESENTATIVE HERRON asked if there would be a benefit to bifurcating Amendment 8.

CO-CHAIR SEATON acknowledged that the two parts of Amendment 8 are somewhat different. The latter part of Amendment 8 addresses a new credit for infield drilling at 30 percent, which is an increase from the existing 20 percent credit for infield drilling. He related his personal opinion that it's appropriate to sunset things on similar dates, and this credit would sunset on the same date as the exploration tax credit and the small producers tax credit. Co-Chair Seaton announced that he would entertain bifurcating Amendment 8 if Representative Herron wished.

REPRESENTATIVE HERRON clarified that he isn't making such a request.

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REPRESENTATIVE DICK related his understanding that passage of Amendment 8 would incentivize a minimal increase of production each year for fear of spoiling the average of the past. For example, a company would receive credit when it performs a great deal of production in one year, but it would be difficult to follow that in the next year.

ACTING COMMISSIONER BUTCHER noted his agreement, adding that the existing language in HB 110 specifies a 40 percent tax credit that would be replaced by the language in Amendment 8 that specifies a 30 percent credit. Therefore, [Amendment 8] doesn't improve the investment climate, it makes it less attractive.

[1:41:24 PM](#)

CO-CHAIR SEATON clarified that [Amendment 8] refers to infield drilling and producing units, not exploration. Current law provides a 20 percent tax credit for [infield drilling and producing units]. Amendment 8 would increase that credit to 30 percent if additional work is performed. He questioned why one

wouldn't want the work to escalate rather than stay at a steady average. According to producers, infield work is from where the additional volume will come. Without running a large cost of 40 percent tax credit on all current work, Amendment 8 would increase the tax credit from 20 percent to 30 percent on any additional work, and it is additional work that the state wants to incentivize.

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CO-CHAIR FEIGE opined that the problem with Co-Chair Seaton's explanation is in regard to subparagraph (B) of Amendment 8, which would gut the 40 percent tax credit in the governor's legislation. He posed a situation in which a company does a large amount of work in the first year the credit is offered; so much work is done that the company doesn't need to do as much in subsequent years. Because the company didn't exceed the average annual well lease expenditures for the previous years, the company wouldn't be able to write off any of its expenditures. Therefore, Amendment 8 really only allows the companies to do a large amount of work every four years, a boom and bust cycle, instead of a steady utilization of men and equipment.

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CO-CHAIR SEATON explained that under existing statute a company would receive a 20 percent tax credit for capital expenditures (capex) and [with the passage of Amendment 8] a company that exceeds the average amount of work it has been doing would receive an additional 10 percent tax credit [on that additional work]. This change is to encourage companies to do more, to incentivize more development and future work. He further explained that a company that performs less than its average work [of the prior year] would continue to receive the 20 percent capex. He opined that the goal is to incentivize additional work, and thus the [proposed] credits [in Amendment 8] are applied to the additional work. The aforementioned was why [a similar] measure was passed by the House Resources Standing Committee last year. He further opined that there would be no reason to delay any maintenance work and take a huge financial risk by not taking the 20 percent. Co-Chair Seaton stated that before the committee is a choice as to whether to incentivize more work than the companies are currently doing or paying the companies more for the work they're doing by increasing the capital credits across the broad spectrum.

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REPRESENTATIVE DICK surmised that committee members all have the intention of trying to incentivize production, but he questioned the intended and the unintended consequences. He then requested more discussion before voting.

CO-CHAIR SEATON explained that HB 110 says that a company doing "X" amount of work these years receives a 20 percent credit. For work done beyond the "X" work, "Y" work, the company would receive an extra 30 percent credit for the "Y" work. He clarified that the 20 percent credit would remain and has been adequate to stimulate the work. Co-Chair Seaton opined that if the desire is to have more infield drilling, then the state should incentivize drilling above the level at which the companies are currently producing. He further opined that maintaining the existing level of credits for the current level of work will not stimulate production. Stimulating additional work with extra tax credits makes the state's funds targeted and "go further as well."

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CO-CHAIR FEIGE, following Co-Chair Seaton's logic, pointed out that HB 110 provides a 40 percent tax credit expenditure for the North Slope. Amendment 8 would reduce that tax credit to 30 percent. The governor's bill also allows that tax credit to be taken in one year, which business owners would appreciate. However, Amendment 8 would eliminate the allowance to apply that tax credit in a single calendar year.

CO-CHAIR SEATON interjected that the producers write off the tax credits in the month in which the expenditures are made. Therefore, he said he is unsure why the governor included that provision given the aforementioned.

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REPRESENTATIVE GARDNER recalled hearing explorers say that Alaska has the best incentive program in the world. Furthermore, there has been no testimony that more incentives are needed to encourage infield drilling. Tax credits, tax incentives, and tax rates are only part of the many factors that go into decisions to invest. She opined that the big incentive is the price of oil. She announced that she is supporting Amendment 8, although she isn't sure it's needed.

[1:52:27 PM](#)

CO-CHAIR SEATON, in wrap up, reminded members that Amendment 8 targets the credits at additional work. If no additional work is done, it doesn't cost the state anything or increase existing credits. Increasing the credits for [non-additional] work would cost the state and wouldn't ensure that any higher production would take place.

REPRESENTATIVE P. WILSON maintained her objection.

[1:53:15 PM](#)

A roll call vote was taken. Representatives Kawasaki, Herron, Gardner, and Seaton voted in favor of adopting Amendment 8. Representatives P. Wilson, Munoz, Foster, Dick, and Feige voted against it. Therefore, Amendment 8 failed to be adopted by a vote of 4-5.

[1:54:07 PM](#)

CO-CHAIR SEATON then directed attention to the memorandum from Legislative Legal Services with the subject "Amendments to HB 110 (Work Order Nos. 27-GH1007\A.39-A.42)." From that memorandum he paraphrased from the following:

Amendment 27-GH1007\A.39

This amendment removes the sections of the bill that change the tax rates, installment payments, and determination of the production tax value of the oil and gas. The effect of this amendment is to have the current tax rates, installment payments, and determination of production tax value continue.

CO-CHAIR SEATON moved that the committee adopt Amendment 9, labeled 27-GH1007\A.39, Bullock, 2/26/11, which read:

Page 1, lines 2 - 3:

Delete "**relating to the oil and gas production tax rate; relating to monthly installment payments of estimated oil and gas production tax;**"

Page 1, line 7:

Delete "**relating to the determination of oil and gas production tax values;**"

Page 3, line 3, through page 8, line 8:

Delete all material.

Renumber the following bill sections accordingly.

Page 13, line 8, through page 15, line 15:

Delete all material.

Renumber the following bill sections accordingly.

Page 16, line 8:

Delete "Sections 11, 12, 15, and 16"

Insert "Sections 7, 8, 11, and 12"

Page 16, lines 10 - 11:

Delete all material.

Reletter the following subsection accordingly.

Page 16, line 12:

Delete "Section 19"

Insert "Section 15"

Page 16, line 20:

Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"

Insert "Sections 7, 8, 10 - 14, 19, and 20(a)"

Page 16, line 21:

Delete all material.

Renumber the following bill sections accordingly.

Page 16, line 22:

Delete "Sections 19 and 25(c)"

Insert "Sections 15 and 20(b)"

Page 16, line 23:

Delete "secs. 27 - 29"

Insert "secs. 22 and 23"

REPRESENTATIVE P. WILSON objected for discussion purposes.

[1:55:24 PM](#)

CO-CHAIR SEATON, referring to a PowerPoint handout in the committee packet, informed the committee that the tax provisions in HB 110 would cause a \$1.7 to \$2.2 billion annual reduction in revenue to Alaska once the legislation is fully implemented.

The basic assumption behind this reduction in revenue is that it will lead to increased drilling activity to get more oil into the Trans-Alaska Pipeline System (TAPS). However, much of the information the committee has received doesn't support that assumption. Representatives from several companies have said they must compete in the boardroom. He then directed the committee's attention to the slide entitled "ConocoPhillips 2011 Corporate Profit Distribution Decision Flow Chart (from News Reports)." The flow chart illustrates an approximately 50:50 breakdown between shareholder return and exploration and production. ConocoPhillips, he related, has announced that approximately 50 percent [of its 2010 profits], \$6 billion, will go toward international while \$6 billion will go to North America of which \$3.3 billion will go to the U.S. Of that \$3.3 billion going to the U.S., about \$900 million will go to Alaska. Although the \$900 million sounds like a lot, it's only a slight increase from last year's \$858 million.

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CO-CHAIR FEIGE recalled reading news reports that part of that \$900 million is conditional with regard to what the legislature does.

CO-CHAIR SEATON acknowledged that may be the case, and clarified that the \$900 million was the best case scenario. Last year, ConocoPhillips spent almost \$858 million in Alaska, but not quite because \$120 million less was actually spent due to projects that didn't come to fruition. He suggested that normally, if the projection is for \$850 million and there was a glitch that held back \$120 million, that \$120 million would roll forward and thus there would be about \$970 million in expenses. However, ConocoPhillips has announced only \$900 million in expenses.

CO-CHAIR FEIGE interjected that Co-Chair Seaton's scenario seems like a lot of speculation. Therefore, he expressed interest in having someone from ConocoPhillips to explain its numbers.

CO-CHAIR SEATON pointed out that the committee packet includes a news story in which ConocoPhillips projects it will spend \$900 million in Alaska and \$4.4 billion in the U.S.

[2:00:10 PM](#)

CO-CHAIR SEATON, referring to the slide entitled "\$1B Decrease in Alaska's oil tax Where will it go?," said:

Now what we're going to do is look at when our people from ConocoPhillips Alaska go back to the board room and have to negotiate for projects; what are we looking at? If we decrease by a billion dollars what would go into the corporate board room as a decision. The question is would it be a billion dollars in one year? Not quite. If it was a billion-and-a-half each year over a two-year period, that's \$3 billion and we say each one of those companies represents about a third that would mean \$1 billion could be spread over two years. But what happens to that \$1 billion of our taxes money that we say we're going to give tax relief under the provisions of House Bill 110. Thirty-five percent of it goes directly to the federal government, IRS tax rate: \$350 million goes there. That leaves Conoco with \$650 million. Their boardroom has already decided about 50 percent goes to stockholder shares, buy backs, and increased dividends; the other 50 percent exploration, half of that going to international, half of it going to North America. If we look at the 15 percent of North America, the \$900 million, and relate to the \$165 million, that means there's only \$25 million. So for a reduction in taxes of \$1 billion, it comes back to Alaska as \$25 million if the proportions of everything stay the same. Remember, they've testified repeatedly that they're having to go to the boardroom and negotiate these projects; it's not money from Alaska stays in Alaska, even though we've attempted to do that.

[2:02:22 PM](#)

CO-CHAIR SEATON then turned to the desire to stimulate exploration, which leads to reviewing what corporate decisions are being made by the producers. He reminded the committee that well over 90 percent of all of the taxes will be returned to the [top] three producers. He related that approximately 2 million of the 5 million acres released on the North Slope since 2007 was released by ConocoPhillips. Therefore, the discussion is about the producers not the explorers. He noted that Alaska has been compared most directly to North Dakota, which results in the question of where a company would place its assets. However, neither BP nor ConocoPhillips is investing in North Dakota and thus the comparison isn't applicable if the companies aren't investing there.

CO-CHAIR SEATON noted that [the state] has been told that Canada has a tax system with particular fields. However, when reviewing the applicable part in the Canadian Arctic, it's apparent that the Canadian Arctic has suffered much more than Alaska. Therefore, tax rate between Alaska and Canada doesn't seem to be the driver of the downward exploration in both Alaska and Arctic Canada.

[2:05:28 PM](#)

CO-CHAIR SEATON acknowledged that there has been argument that the upside projections are causing companies not to invest in Alaska. The slide entitled "Single well flow rate over time" relates Whiting Petroleum's, the fourth largest investor and producer in North Dakota's Bakken Formation, targeted price of oil when making its decisions. He recalled that when the legislature was addressing Alaska's Clear and Equitable Share (ACES), the state was looking at about \$42.50 [per barrel], which was rounded off to \$45 as the mid-point target. The information on the aforementioned slide illustrates that current petroleum companies are making their decisions on \$60, \$70, and \$80 per barrel, not the stress price.

[2:07:58 PM](#)

CO-CHAIR SEATON directed attention to the chart entitled "Exploration Well Permits (1996-2010)" on slide 8. He highlighted the permit designation for ConocoPhillips that illustrated the decrease in that company's activity. He said the chart illustrates that even before ACES the number of exploratory wells was decreasing as ConocoPhillips transitioned from the exploration business to the production business. He then pointed out the designation for BP which illustrated that BP had essentially stopped exploration after 2002. He said the discussion of exploration therefore doesn't include ConocoPhillips or BP and thus those companies had no relationship when ACES and the petroleum production profits tax (PPT) were enacted.

[2:09:17 PM](#)

CO-CHAIR SEATON, in response to Co-Chair Feige, confirmed that the aforementioned chart is from the Alaska Oil and Gas Conservation Commission (AOGCC), dated February 22, 2011.

CO-CHAIR FEIGE directed attention to the bar specifying the five companies with exploratory well permits in 2010, the top of

which is Cook Inlet Region, Incorporated (CIRI). He recalled that CIRI is drilling an underground coal gasification project in Cook Inlet, which has nothing to do with oil. The next company is ORMAT Nevada, which he recalled was core drilling for test holes on the side of Mt. Spur for a geothermal project. The next down from that is the City of Akutan, which was a geothermal project in the Aleutians. The next down is Linc Energy that drilled off one well off the Knik-Goose Bay Road in the Matanuska-Susitna Borough. The final well permit was from Armstrong. He pointed out that none of the exploratory well permits in 2010 resulted in wells on the North Slope.

CO-CHAIR SEATON clarified that is exactly what he was saying when he pointed out that ConocoPhillips and BP are producers, not explorers. He reminded members that ConocoPhillips released 2 million of the 5 million acres and BP stopped exploration in 2002.

[2:11:31 PM](#)

CO-CHAIR FEIGE recalled that in the 2003-2005 timeframe, BP had to take rigs off exploratory wells and deploy them to perform field maintenance. Therefore, it's somewhat misleading to say that BP stopped exploration.

CO-CHAIR SEATON reiterated that BP didn't apply for any exploration well permits in the 2003-2005 timeframe, which is well before PPT or ACES. With regard to whether that relates to tax, Co-Chair Seaton said it doesn't relate to tax or the price of oil.

[2:12:27 PM](#)

CO-CHAIR SEATON moved on to the chart entitled "Development and Service Wells/Laterals Completed (1996-2010)" on slide 10. Although the bar from ConocoPhillips illustrates that it is about at the highest level in 2010, the chart overall illustrates a steady state. Furthermore, the chart shows that the corporate decision isn't based on taxes as there weren't changes after PPT, ACES, or with aggregation. The chart illustrates that the producer has a constant field from which it moves forward. Therefore, if there is a change in taxes and a company is given \$1 billion, there shouldn't be any expectation of a change in their long-term strategy. He reiterated that the chart illustrates that the tax regime wasn't a consideration for ConocoPhillips. He noted that unlike most joint operating agreements, the joint operating agreement for the North Slope,

Prudhoe, and Kuparuk is that any one of the three can veto the project. Generally, if a partner does not wish to participate, it just loses a percentage of the extra that is produced. Therefore, the [actions of ConocoPhillips] could be the result of one of the other partners saying it won't invest and thus [exploration/development] stops.

2:15:20 PM

CO-CHAIR FEIGE opined that Co-Chair Seaton's arguments don't take into consideration that drill rigs are necessary to drill wells and that companies have limited equipment available to them on the North Slope. He further opined that there isn't a surplus of drill rigs. In fact, during "that time period" most of the drill rigs on the North Slope were contracted. Therefore, even if the companies wanted to drill more, unless drill rigs were imported at great expense from other locations in the Lower 48 there would not have been any to contract to drill more wells. With regard to the years in which BP didn't explore, Co-Chair Feige opined that BP's drill activity was constrained by the number of rigs that it had and these rigs had to be taken off of exploration and put into development and service wells to correct some down hole issues.

CO-CHAIR SEATON remarked that these are companies that can decide on their capital investment; however, these slides depict what the companies actually did. Furthermore, during the years 2003-2006 BP was on a general downward trend that has stabilized. The low amount of production/development wells for BP isn't related to the enactment of PPT or ACES because decisions were made before PPT or ACES were enacted.

2:17:59 PM

CO-CHAIR SEATON, referring to the slide entitled "State Of Alaska If We Have A Surplus What Do We Do With It?", pointed out that if the state has a surplus it places some funds in savings. The state uses funds for things such as revenue sharing, power cost equalization (PCE), and the capital budget. The capital budget from 2006-2010 averaged \$983 million in general funds (GF). That GF is used for things such as the renewable energy fund and transportation, safety, medical, and education infrastructure, all of which yield Alaska jobs. Referring to the slide "State Of Alaska If We Have a Deficit What Do We Do?", explained that when the state has a deficit, money is taken from the savings to run government. During the deficit years of 2001-2005, the capital budget was small at \$239 million in GF

and there was no renewable energy fund and there was less infrastructure and jobs. He pointed out that in those deficit years the capital budget averaged \$274 million less. That capital budget is spread across the state and funds various things in the different communities. He opined that the reason Alaska didn't have a construction job crash like the rest of the Lower 48 is because Alaska saved an average of \$744 million from the surplus in order to create jobs to keep the state going. With regard to the difference between surplus and deficit, Co-Chair Seaton opined that enactment of HB 110 will place Alaska in deficit for years to come.

[2:20:28 PM](#)

CO-CHAIR SEATON turned to another aspect of the situation, the Public Employees Retirement System (PERS) and Teachers' Retirement System (TRS) liability as illustrated on the chart entitled "State Assistance to Retirement (\$ billions). Currently, the PERS and TRS liability amounts to \$350 million while in five years the liability will reach \$850 million per year. Four years later, the liability will rise to \$1 billion. That hit on the budget is not included in any of these figures. He reiterated that the state will be in deficit if these provisions of HB 110 are enacted. Amendment 9 says that there hasn't been any indication that more wells will be drilled or more production will occur if [HB 110 is passed].

[2:21:31 PM](#)

CO-CHAIR SEATON then directed attention to the Department of Revenue's revenue forecast, Figure 4-2, which relates that the 2010 production tax was 2.8 and is projected to be 2.6 in 2011 and 2.7 in 2012. When HB 110 is implemented the production tax would decrease by \$1.7 to \$2.2 billion. He opined that it's fairly obvious the situation in which that leaves the state. Co-Chair Seaton said he believes the committee is attempting to increase oil production in Alaska, but there has been no commitment that lowering progressivity or taxes will directly result in more oil in the pipe. However, it is known that the impact of the tax on progressivity will be an enormous reduction in the state's capital budget, revenue sharing, and savings. The resource consequences of not adopting Amendment 9 are significant because placing the state in a deficit by not adopting Amendment 9 will result in the state missing the resource implications, roads to resources, which is the top issue of the smaller explorers. If the state is in deficit, it will not be building those roads to the resources. Furthermore,

projects will only be done if the state has funds. Co-Chair Seaton reiterated that there have been no commitments for work nor more wells drilled when there was a lower tax rate. Therefore, Amendment 9 addresses [the aforementioned] concerns. If the producers want to come forward at subsequent hearings in other committees and offer work commitments, those committees can reinstitute provisions based on those. However, the industry has related that the \$1.7-\$2.2 billion in taxes would be a good start. Co-Chair Seaton pointed out that it's obvious when one reviews what the state did when it had a surplus versus a deficit that when there's a surplus the state funds its resource issues. There's no assurance that if these changes are made that Alaska will have any surpluses in the future based on the actual well data, the industry's responses, and the history of what the industry did under lower taxes. He reminded members that ACES was predicated on making more money and that Alaska needed to give people an incentive to leave their money in Alaska. Lowering the taxes makes it cheaper for industry to take their money from Alaska rather than investing in it.

[2:26:00 PM](#)

CO-CHAIR FEIGE referenced the slide entitled "Arctic Canada-exploration wells completed 2000 to 2010." He asked if the decrease in exploration wells shown in the slide has to do with the high tax rate that Alberta imposed in about 2006.

CO-CHAIR SEATON acknowledged that statements have been made that Canada is booming because of changes to their tax rates. However, the number of exploration wells decreased to zero by 2010. Therefore, it would seem that Canada experienced even more of a downturn than in Alaska.

CO-CHAIR FEIGE related his understanding that Alberta imposed its tax increase after Alaska did. He then inquired as to when Alberta repealed its tax increase.

REPRESENTATIVE P. WILSON recalled that within the next year or so after Alaska increased its tax rate, Canada increased its tax rate but then quickly changed it back.

CO-CHAIR SEATON added that the point of these slides is that comparing wells that are close to the Lower 48 is a different story than comparing to Arctic Canada. The pattern of exploration wells in Arctic Canada looks the same as in Alaska. The response, he opined, is to something other than tax rates.

[2:28:43 PM](#)

REPRESENTATIVE MUNOZ surmised that Amendment 9 preserves the 25 and 15 percent production tax rates by deleting the materials and retaining the progressivity focus of ACES.

CO-CHAIR SEATON explained that Amendment 9 leaves ACES predominantly intact. With regard to the 15 percent tax rate, none of the explorers approached him regarding the need to have half the tax rate of the producers. However, there was testimony from Brooks Range Petroleum that the progressivity, the tax rate, and another portion of the tax weren't needed. Brooks Range said that it needed the exploration tax credits to be issued in one year. Brooks Range also testified that it wanted an extension of the tax credits, which "we did" as well as increasing the small producer tax credits.

[2:30:04 PM](#)

REPRESENTATIVE MUNOZ surmised then that Amendment 9 deletes the bulk of HB 110 and retains the ACES structure.

CO-CHAIR SEATON responded yes, adding that Amendment 9 retains the ACES structure, the interest rate changes, and the exploration changes. However, Amendment 9 does not maintain the language that would give away all the money for the things for which no commitment from industry has been received. He clarified that Amendment 9 addresses the taxes that would all go to the producers. He then directed the committee's attention to slide 10 with the chart entitled "Development and Service Wells/Laterals," which he interpreted as illustrating that corporate decisions are long-term decisions that haven't been changed by tax rates and prices. Therefore, he questioned why one would expect a change in tax rates to make a change when it didn't do so in the past. Furthermore, the reduction BP experienced occurred prior to enactment of ACES, although after ACES was enacted BP experienced a rise [in development and service wells]. There have been no indication or work commitments from BP or from ConocoPhillips, the operators of the fields that reducing the state's surplus to a deficit will place more oil into the pipe.

[2:32:50 PM](#)

REPRESENTATIVE HERRON related his understanding from Co-Chair Seaton's explanation to Representative Munoz that Amendment 9

does one thing and that any debate on rates would be relevant to the following amendment.

CO-CHAIR SEATON replied no, and clarified that Amendment 9 takes into account all of the big ticket items for which the committee has received no information that it would increase production or drilling. Drawing attention to the chart he presented earlier, he said drilling is independent of the tax rate and of the price. He opined that these companies have a corporate model that they're following to develop these fields and it hasn't changed since ACES was enacted. He reiterated that there is no correlation that can be shown between the tax rate or price and the development of these fields. He explained that he's using ConocoPhillips as an example because it's required to file with the Securities Exchange Commission (SEC) and thus more is known about ConocoPhillips from those filings as well as publications in various distributions regarding their decisions related to distribution of their income. ConocoPhillips' corporate decisions of how their income is distributed were then applied to a situation in which Alaska gives them \$1 billion over two years. On the other hand, BP is selling assets worldwide to accumulate about \$40 billion for the liability in the Gulf of Mexico. Therefore, it seems that one could assume that BP's corporate board has decided where its assets will go for some time to come because BP has only raised a little over half of the amount it wants to raise.

[2:36:12 PM](#)

REPRESENTATIVE HERRON related his understanding then that members are allowed to introduce amendments that change the rate.

CO-CHAIR SEATON responded yes, adding that amendments to amendments will be allowed. However, he maintained that at this point in the discussion the committee won't receive any work commitments from the industry. As the legislation proceeds to other committees, Co-Chair Seaton expressed the hope that the industry would offer work commitments in order to have the tax concessions included in the legislation. At this point, the committee has been unable to leverage any work commitments, which are made all the time when a company leases acreage, makes a plan of development, or when companies unitize. There just hasn't been an incentive for work commitments to be made in Alaska because the legislation already includes language providing free money.

[2:37:44 PM](#)

CO-CHAIR FEIGE, referring to Co-Chair Seaton's chart, pointed out that in 2002 the price of oil dipped below \$20 per barrel. He submitted that perhaps that had more to do with the deficit Governor Murkowski faced in the first two years of his term. He then asked if Whiting Petroleum has any leases in Alaska.

CO-CHAIR SEATON informed the committee that Whiting Petroleum is the fourth largest investor in the Bakken Play, which has been said to be Alaska's "big competition." He further informed the committee that BP and ConocoPhillips aren't even listed in the top 10 companies in the Bakken. Therefore, he suggested that [BP and ConocoPhillips] aren't putting their money [in places such as the Bakken] rather than Alaska, but 50 percent of their funds are going overseas. The testimony of Great Bear Petroleum, the Department of Natural Resources (DNR), and the U.S. Geologic Services has said that Alaska has a great resource coming on line, maybe 200 wells per year starting in 2010. Under ACES there has been no indication that the aforementioned resource can't go forward. The biggest concern of those who want to drill wells is that the state does roads to resources such that [these companies] can develop. However, if Alaska runs itself into a deficit, it will be very difficult to invest into roads to resources or transportation funds. He said the aforementioned is why he discussed the surplus and deficit situations of the state. That information, he opined, illustrates that it didn't matter whether the deficit was from \$20 oil, it was what Alaska did when it was in a deficit situation. When the state was in a deficit it didn't spend much capital funds, which impacts the economy and the resource plays in which the state can participate.

CO-CHAIR FEIGE submitted that Whiting Petroleum, if it has money to invest, could invest in Alaska if the tax regime were better. He suggested that perhaps DOR should comment on Amendment 9.

[2:41:40 PM](#)

REPRESENTATIVE GARDNER related her belief that the slide with the chart entitled "Development and Service Wells/Laterals" is the single most important visual the committee has been given since the start of this discussion. She surmised that the chart illustrates that regardless of taxes or the price of oil, there are clearly other factors that are the large determinants in investment decisions.

CO-CHAIR SEATON interjected that the slide Representative Gardner referenced is a slide from AOGCC that relates the number of actual wells completed from 1996-2010. He offered that the slide illustrates that corporations have their own timetables, developmental schedules, and corporate mix that are not based on the relationship with Alaska's taxes. "Everything we see is that the production is not related to our tax system," he emphasized. He clarified, however, that he wasn't saying that 2010 is responsible because of ACES, but rather that the companies have a separate corporate strategy and a development plan for the fields on the North Slope and that hasn't been influenced when Alaska had zero production tax. The aforementioned is why the tax was changed to a percent of profits; the companies were investing in foreign lands since there was no difference in the price of investing in Alaska. Whether the larger [development] by ConocoPhillips in 2010 is in relation to [the change in tax in Alaska], Co-Chair Seaton opined that it's a development strategy that Alaska isn't going to influence. Those who can be influenced, he further opined, are the explorers, which were addressed with the amendments the committee dealt with last Friday.

[2:44:25 PM](#)

REPRESENTATIVE DICK requested comments from DOR regarding slides 2 and 3.

ACTING COMMISSIONER BUTCHER first directed attention to the [analysis] that accompanies DOR's fiscal note, which projects a total revenue impact from HB 110 of \$1.6-\$1.8 billion in 2017. He pointed out that it's only half of the equation because the other half of the equation is possible production that hasn't been forecast coming on line. The expectation is for the [total revenue impact] to be smaller.

[2:45:31 PM](#)

ACTING COMMISSIONER BUTCHER, regarding slides 2 and 3, began by relating that ConocoPhillips or another company could speak to those slides in more detail than he could. However, he related his understanding from the conversations he has had with industry that companies don't make their investment decisions based on percentages, rather they make those decisions based on where the companies see the opportunity at a particular point in time. The aforementioned is the point of HB 110: to create a better investment climate in Alaska so that the companies do decide to make a large investment in the state. With regard to

the slide that addresses the acreage in North Dakota, he reminded the committee that when DOR spoke to HB 110 it said Alaska competes nationally as well as globally. Certainly, that's the case with the multinational companies. Many of the companies that have been in or are in Alaska are listed on the slide. In fact, some of the smaller producers consider [opportunities] on a more national basis. "So, we compete with those companies, but we also compete on a more global scale with the multinationals," he said. Acting Commissioner Butcher said that from the comparison with North Dakota he derived that North Dakota is looking at a few years of out-producing Alaska. Therefore, North Dakota would be producing more oil on a daily basis than the State of Alaska, which would've been unheard of five years ago.

[2:47:53 PM](#)

ACTING COMMISSIONER BUTCHER, referring to slide 6 which compares Arctic Canada with Alaska, said the point of Alberta's increased royalty percentages to government plays a role. Another important role is that many of these are gas wells and exploration will drop in the years that the price of natural gas drops. Furthermore, many of these gas wells are stranded gas wells, which resulted in an increase in the pull back in terms of the number of exploration wells drilled in the McKenzie Delta. It appears that the jam in the regulations for wells has been broken, and thus he expects an increase in those numbers in 2011 and 2012. He acknowledged that there are a lot of reasons that play into the aforementioned, including the low price of gas and that the wells were stranded.

[2:48:55 PM](#)

ACTING COMMISSIONER BUTCHER, returning to the comparison of a North Dakota well and an Alaska well, pointed out that the cost of doing business in Alaska is extremely high. Alaska is competing for business with other companies, but it's not an even playing field as prospects in Texas and North Dakota are often located on flat areas and on private land with plenty of available manpower versus the geography of Alaska with its state and federal land ownership and limited manpower. Therefore, Alaska has to do more than North Dakota or Texas and as a result the amount of money that needs to be made is more because of the increased cost of business in Alaska. The cost of business in Alaska will only increase as infrastructure will be an issue because the [development] is further away from TAPS.

2:49:56 PM

CO-CHAIR SEATON asked if North Dakota gives a tax credit similar to what Alaska gives.

ACTING COMMISSIONER BUTCHER answered that he isn't aware that North Dakota offers such.

CO-CHAIR SEATON surmised then that Alaska's tax credit significantly reduces the capital costs of the industry. Furthermore, the industry has to depreciate its expenses over time and hold them on the books. He asked if Alaska depreciates the industry's expenses over time.

ACTING COMMISSIONER BUTCHER, in further response to Co-Chair Seaton, explained that Alaska depreciates the industry's expenses immediately, but not over a long number of years as do many other states.

CO-CHAIR SEATON clarified that Alaska gives an immediate write off as well as a capital credit back.

2:51:05 PM

ACTING COMMISSIONER BUTCHER highlighted that when one reviews where companies put their money, the two biggest ticket items are the price of oil and the tax they must pay. He further highlighted that during the years of the economic limit factor (ELF) industry experienced low taxes and an extremely low price of oil, while the passage of PPT and ACES has corresponded with extremely high oil prices. In other states, high oil prices corresponded with a tremendous increase in exploration and ultimately an increase in the amount of production as well. However, that is not happening in Alaska. The aforementioned arrives at the discussion of the capital budget and where the money is going. He opined that no one in the capitol building understands what it's like to fund a state budget with the extremely limited number of funds the state had when Governor Parnell was the co-chair of the Finance Committee when the price of oil was \$9 per barrel. The aforementioned is why HB 110 is the governor's priority. "He sees the dollar amounts that we've been spending and the dollar amounts that are of benefit to this state to ... grow the private sector economy and he can see out not that many years and see the amount of oil going down the pipeline is going to be diminishing," he opined. Therefore, Governor Parnell would say these slides are the reasons why he is bringing HB 110 forward.

2:53:17 PM

REPRESENTATIVE DICK observed that according to slide 3 if Alaska gives up \$1 billion, it receives \$25 million in terms of development. "Something has to be wrong here," he remarked.

ACTING COMMISSIONER BUTCHER explained that the flow chart on slide 3 is trying to isolate what potential amount of money, based on a reduction in oil taxes, would go to ConocoPhillips. He noted that there is much more that plays into that amount, including the price of oil, the amount of money ConocoPhillips makes in that particular year, and each year is different in and of itself based on the environment, and the percentage of funds that should go into exploration and production or be returned to the shareholders. When [ConocoPhillips] determines the amount of exploration production dollars, it reviews the situation at a global scale. In conversations with the department, industry has said that HB 110 makes a material change in how the boardrooms would view Alaska in terms of development and exploration funds. He acknowledged that the industry hasn't related a quid pro quo scenario, but that never was expected. Great Bear and Armstrong have given specific testimony about where they think it would go if HB 110 passes, while the bigger industry guys have said they believe HB 110 is a material change that will make a difference. He allowed that such testimony isn't a promise of a specific amount of dollars, but they are saying there will be an effect from HB 110. Acting Commissioner Butcher stressed that Governor Parnell wouldn't introduce legislation that he would expect to cost the state billions. Governor Parnell views HB 110 as a short-term investment for long-term gain for the state.

2:57:06 PM

REPRESENTATIVE GARDNER recalled that Acting Commissioner Butcher said that the two critical factors in investment decisions for the industry are the price of oil and the amount of taxes. However, she said that in the six years she's been following this issue, she's never heard anyone else cite the amount of taxes as a critical factor. Therefore, she questioned where the data is regarding the impacts of the tax rate.

ACTING COMMISSIONER BUTCHER pointed out that he isn't speaking as an employee of an oil company, something that he has never been, but rather as a [state employee] who reviews where the largest chunks of money are going. The largest chunks of money come in

based on the price of oil and the biggest chunk going out is production tax, which is more than credits, more than property tax, more than anything.

REPRESENTATIVE GARDNER agreed that's the case for the state perspective, but these are mostly multinational companies with larger volumes than the State of Alaska. She said that she hasn't seen the data [to support Acting Commissioner Butcher's statements]. However, she said she has seen data that under ELF when there was virtually zero severance tax, there was no investment. Therefore, she questioned drawing the conclusion that an increase in severance tax has caused the slowing of investment.

ACTING COMMISSIONER BUTCHER noted that the point at which the state's taxes increased is the point at which oil prices increased. Of course, one won't know what the state would look like had that not occurred. He said [the administration] doesn't view HB 110 as completely changing ACES but rather making changes to ACES that are in the best long-term interest of the state.

[2:59:47 PM](#)

REPRESENTATIVE P. WILSON observed that the summary of Amendment 9 from Legislative Legal and Research Services mentions revenue sharing, an issue that hasn't been mentioned during previous deliberations of HB 110. She requested clarification on the [impact] to revenue sharing under HB 110 versus Amendment 9.

ACTING COMMISSIONER BUTCHER estimated that an oil price of \$59 or more per barrel would be necessary to maintain the revenue sharing fund at full level. The DOR's long-term forecast for oil price is far in excess of \$59 per barrel; thus, DOR doesn't expect it to be an issue. In further response to Representative P. Wilson, he clarified that the price of oil would need to be \$59 per barrel to fully fund the revenue sharing fund. He further clarified that the revenue sharing fund isn't a dedicated fund but rather a designated fund from which the legislature appropriates funds. Therefore, if the price of oil dropped to \$20 per barrel, the fund's balance would decrease. Still the legislature could appropriate money from the GF.

REPRESENTATIVE P. WILSON then inquired as to how Amendment 9 would affect the revenue sharing fund.

ACTING COMMISSIONER BUTCHER answered that in real terms Amendment 9 wouldn't affect the revenue sharing fund at all. Although Amendment 9 would eliminate the 15 percent interest rate for outside exploration, the brackets, and the cap, it wouldn't impact revenue sharing.

[3:02:24 PM](#)

CO-CHAIR SEATON interjected that HB 110 dedicates all the tax, the base and the progressivity, to community revenue sharing. Therefore, under HB 110 the price per barrel of oil has to be \$59 and 20 percent of the entire amount of the base tax and progressivity has to be taken just to fund revenue sharing. However, ACES funds revenue sharing with progressivity only. He maintained that there is quite a difference between [Amendment 9] and HB 110.

ACTING COMMISSIONER BUTCHER stated that HB 110 includes a cap of \$60 million for the revenue sharing fund. Therefore, once the revenue sharing fund reaches \$60 million that's all the funds that are placed in the fund.

CO-CHAIR SEATON disagreed, adding that the structure of HB 110 requires that 20 percent of all oil taxes, whether base or progressivity, be placed into the revenue sharing fund. However, ACES is structured such that 20 percent of the progressivity, and none of the base, is used to fund revenue sharing.

[3:04:18 PM](#)

CO-CHAIR SEATON [recessed] the meeting until 3:30 p.m.

[3:51:40 PM](#)

CO-CHAIR SEATON called the House Resources Standing Committee meeting back to order. Representatives Seaton, Feige, Herron, P. Wilson, Dick, Kawasaki, Gardner, Foster, and Munoz were present at the call back to order.

[3:51:59 PM](#)

CO-CHAIR SEATON continued with addressing Amendment 9. He drew attention to the Department of Revenue's 2/28/11 response to the committee's question on the oil price that would be needed to generate \$60 million for community revenue sharing under HB 110. He read the last two paragraphs of page 1 which state:

Under current law, AS 43.55.011(g) contains the progressivity surcharge for the production tax, so a progressivity surcharge of at least \$300,000,000 after application of credits would be required to fully fund community revenue sharing with the maximum of \$60 million ($\$300,000,000 \times 20\% = \$60,000,000$).

Under HB 110, the "base tax" and "progressivity surcharge" are replaced with a series of bracket which are all contained in AS 43.55.011(g). Since all tax revenue under HB 110 is included in .011(g), a total tax liability of at least \$300,000,000 after application of credits would be required to fully fund community revenue sharing with the maximum of \$60 million.

CO-CHAIR SEATON said the aforementioned means it would take \$300 million of all of the state's taxes to generate this \$60 million under HB 110. However, the information he has indicates that under HB 110 an oil price of \$89 a barrel would be required to generate the \$60 million from only the progressivity.

[3:54:11 PM](#)

CO-CHAIR SEATON directed attention to page 1 of an article in Petroleum News provided by Representative Hawker [week of 2/27/11, Vol. 16, No. 9] which reports that ConocoPhillips is proposing to increase its capital budget to \$900 million for Alaska this year, up from the \$854 million that it budgeted for 2010. He further noted that page 2 of the article states that ConocoPhillips is increasing its spending for the Lower 48 from \$1.8 billion spent in 2010 to a budget of \$3.3 billion. For overseas exploration and projects, ConocoPhillips is budgeting \$7.1 billion, up from \$5.9 billion spent in 2010.

[3:55:39 PM](#)

REPRESENTATIVE P. WILSON requested the Department of Revenue to explain the three bulleted items on page 2 of the department's aforementioned 2/28/11 response.

ACTING COMMISSIONER BUTCHER explained that these items are the assumptions the department made to answer the committee's revenue sharing question. One assumption was a total cost of \$30 per barrel for transportation, operating, and capital costs, which is the cost that it has been for the last year or so. A

second assumption was that 100 percent of the capital [expenditures] are eligible for the 20 percent capital credit. A third assumption was that 50 percent of the [total] capital expenditures are eligible for an additional 20 percent well credit. When looking at these assumptions based on today, about \$57 per barrel would be needed to fill the fund to a maximum of \$60 million. Anything above \$60 million would not go into the fund because it is capped at \$60 million.

[3:57:27 PM](#)

REPRESENTATIVE P. WILSON asked how that compares to what it takes right now.

ACTING COMMISSIONER BUTCHER replied that the aforementioned assumptions were provided by the chairmen. Under current law, the funding comes only from the progressivity piece of the tax as opposed to the entire tax, but it is capped at \$60 million. Whether under HB 110 or current law, the revenue has been far in excess of the money needed to fill the fund to its maximum.

[3:58:15 PM](#)

REPRESENTATIVE P. WILSON surmised it is Acting Commissioner Butcher's opinion that HB 110 would not affect community revenue sharing.

ACTING COMMISSIONER BUTCHER responded that, based upon its future forecasts, the department foresees no effect.

CO-CHAIR FEIGE said it is apparent to him that there would be \$60 million in revenue sharing either way.

ACTING COMMISSIONER BUTCHER concurred.

CO-CHAIR SEATON agreed that is correct, but pointed out that when the revenue sharing formula was established the legislature specified that it be from progressivity, not all of the oil tax, and if the progressivity did not fill up the fund then it would need to come as an allocation from the general fund. Under HB 110 the progressivity and the base oil tax would be put together to fund the revenue sharing.

[3:59:55 PM](#)

CO-CHAIR FEIGE drew attention to the bottom of page 2 and top of page 3 of the aforementioned Petroleum News article in which

ConocoPhillips spokeswoman Natalie Lowman stated that her company's actual 2010 spending was the lowest since 2007. He read a further statement by Ms. Lowman: "The 2011 capital budget includes contingency funding if we are successful in getting improvements in State fiscal terms, and resolving permitting issues with Alpine satellites." He interpreted this to mean that if ConocoPhillips gets better fiscal terms it will spend all of that \$900 million, but if it does not then it will be more like last year's number of \$730 million.

CO-CHAIR SEATON agreed that Co-Chair Feige is correct, and that the budgeted amount of \$854 million was probably not spent last year because of permitting issues with the Alpine satellites.

CO-CHAIR FEIGE noted that ConocoPhillips also said state fiscal terms.

[4:01:38 PM](#)

REPRESENTATIVE KAWASAKI remarked that Ms. Lowman's statement sounds more like extortion to him. He related that according to the Fraser [Institute's "Global Petroleum Survey 2010"] the jurisdiction of Libya has corruption, hostile environment, very high taxation, employment laws, unfavorable profit sharing agreement terms and conditions, no stability, and much political interference. The survey puts Libya in the 4th quintile, which is worse than Alaska, yet between 2008 and 2010 BP spent a billion dollars in Libya; additionally, ConocoPhillips also has significant investment in that area. He therefore requested that the acting commissioner explain what he meant when he stated that the price of oil and taxes are the primary things that a company looks at when investing in a jurisdiction.

ACTING COMMISSIONER BUTCHER reiterated that he has never worked for an oil company and said his statement was his opinion based on his view from a State of Alaska perspective. He agreed there are numerous things that are major factors at play. However, he was making the point that in his opinion the two biggest pieces are the cost of oil and the cost of production tax in the state of Alaska, which is a cost far higher than any of the other taxes that are levied on the industry.

[4:04:24 PM](#)

REPRESENTATIVE KAWASAKI said he would like to have more than a personal opinion, given that the state would be taking a \$2 [billion] hit. He further related that according to the Fraser

survey, Alaska's quality of infrastructure is better than that of Libya and only nominally less than Egypt's infrastructure.

ACTING COMMISSIONER BUTCHER allowed that Alaska is in a good position in terms of infrastructure. However, he pointed out that much of the oil yet to be discovered and developed is farther and farther away from infrastructure, so Alaska is becoming more challenged in its infrastructure as time goes along. He deferred to industry to answer this question from a global perspective.

REPRESENTATIVE KAWASAKI contended that using the \$2 billion to instead build roads across the NPR-A and ports in northern and southwest Alaska would be a more sound investment and make the state more competitive with the rest of the world.

ACTING COMMISSIONER BUTCHER agreed those would be wise investments and said that is the main reason the governor is pursuing this legislation. It is unknown what specific amount of oil will shut down the Trans-Alaska Pipeline System (TAPS) and when that will be, but the entire focus of HB 110 is to increase investment, increase production, and get to a point in the long term where everything discussed can be funded. He said the fear is that the state may not have the funds to take care of these needs in 10-15 years.

[4:07:01 PM](#)

CO-CHAIR FEIGE related that he was told the state would lose a little over \$600 million the first year because the proposed tax change would go into effect halfway through a fiscal year and in the second year it would be a little over \$1 billion. He asked for an explanation of the figure of \$1.7-\$2.2 billion in loss and why it is different than what was presented in the original briefing.

ACTING COMMISSIONER BUTCHER answered that the figures are in the department's fiscal note, but they are not added together as a total in the fiscal note. However, the committee was provided with a spreadsheet last week that does add them together. He said the department estimates [a loss of] \$100-\$200 million in FY 2012, which would be from shifting the credits from two years to one year, and while this would be a hit in FY 2013 it would be that much less of a hit in FY 2013. The reductions seen by the department are: \$500-\$782 million in FY 2013, \$1.16-\$1.36 billion in FY 2014, \$1.32-\$1.52 billion in FY 2015, \$1.54-\$1.74 billion in FY 2016, and \$1.62-\$1.8 billion in 2017. He said

this is half of the equation because it does not factor in the amount of new production that the department believes would be coming on in the latter half of those fiscal years as a result of increased investment and increased production.

CO-CHAIR FEIGE inquired whether those numbers are high.

ACTING COMMISSIONER BUTCHER said those are numbers higher than the Department of Revenue computed for its fiscal note.

[4:09:48 PM](#)

CO-CHAIR SEATON asked whether the fiscal note includes the difference that would be seen in the windfall profit volatility given that HB 110 would be annual and current law under ACES is monthly.

BRUCE TANGEMAN, Deputy Commissioner, Office of the Commissioner, Department of Revenue, responded that the department uses an annual oil price projection in its Revenue Sources Book, rather than taking into account a month-to-month volatility in oil price. In 2008, oil prices varied from high to low in price, but that volatility was not there in 2009 and 2010. He allowed the co-chair is correct that there can be huge swings in a year, but said the department does not forecast or project that.

CO-CHAIR SEATON inquired whether the acting commissioner's statement was accurate that the monthly calculation of windfall profits under ACES ranged from \$100-\$400 million.

MR. TANGEMAN answered he thinks that was a snapshot and could be a possibility, just like those swings would not be seen in 2009 and 2010 because the price of oil was steady from month to month throughout the year.

[4:12:32 PM](#)

CO-CHAIR SEATON said that if the \$100 million is added to the \$1.6 billion and the \$400 million is added to the \$1.8 billion, the range would be \$1.7-\$2.2 billion, which encompasses the range being talked about when comparing the proposed annual calculation of progressivity under HB 110 to the current monthly calculation of progressivity under ACES which captures windfall profits.

MR. TANGEMAN replied the co-chair is correct. He said he believes that the year for which the \$400 million was calculated

had a price per barrel of \$140 at the high end and a price of \$40 at the low end five months later.

CO-CHAIR SEATON added that he does not think anyone can speculate whether the price of oil is going to surge to \$200 a barrel or dive to \$70; therefore, a range must be looked at and this is where the aforementioned numbers come from.

CO-CHAIR FEIGE said he thinks it unusual to use the year that had probably the greatest fluctuation of oil price in history as a basis for adding to what the Department of Revenue has already considered to be a much lower reduction in revenue to the state.

CO-CHAIR SEATON related that the Department of Revenue said it was going to leave the volatility of oil out of the calculation. However, price volatility is what is seen in the state's history and is why calculation of windfall profit over the range of volatility should be included. The aforementioned numbers are based on the ranges from past history.

[4:15:47 PM](#)

CO-CHAIR SEATON, wrapping up the discussion on Amendment 9, submitted that the reality of past history is the most important thing to look at. In the past the companies have never taken the expected responses to oil price or to the three different tax regimes, so it cannot be expected that they would have a different response to HB 110. He said it appears to him that there was a corporate model for development of these fields and the data [on AOGCC slide 10] show that this corporate model was being followed regardless of price or tax. The resource risk must be looked at. The resource issues that will be addressed if the state has surpluses are roads to resources, bullet lines, community revenue sharing, and the transportation fund. Past history shows that these things will not be done if there is no surplus and that is where the state will be if HB 110 is enacted.

[4:18:15 PM](#)

A roll call vote was taken. Representatives Gardner, Kawasaki, and Seaton voted in favor of Amendment 9. Representatives Herron, Munoz, Foster, Wilson, Dick, and Feige voted against it. Therefore, Amendment 9 failed by a vote of 3-6.

[4:19:19 PM](#)

REPRESENTATIVE HERRON noted that he likes the idea of putting incentives into the portion of the bill related to small exploration companies. Of course, he allowed, the production side of the bill is where the debate is. He said his concerns with HB 110 are that the [15 percent tax rate] is too low to give his constituents a fair share of the income and the 25 percent tax rate is too high to encourage production. He urged that at some point the committee instead consider a base tax rate of 20 percent.

[4:20:58 PM](#)

The committee took an at-ease from 4:20 p.m. to 4:25 p.m.

[4:25:45 PM](#)

CO-CHAIR SEATON moved that the committee adopt Amendment 10, labeled 27-GH1007\A.45, Bullock, 2/28/11, which read:

Page 1, lines 3 - 4:

Delete "**relating to monthly installment payments of estimated oil and gas production tax;**"

Page 1, line 7:

Delete "**relating to the determination of oil and gas production tax values;**"

Page 3, lines 3 - 19:

Delete all material and insert:

"* **Sec. 6.** AS 43.55.011(e) is amended to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (f), (j), (k), and (o) of this section, the tax is equal to the sum of

[(1)] the annual production tax value of the taxable oil and gas produced from

(1) a lease or property containing land that, as of December 31, 2010, was or had previously been within a unit or in commercial production as calculated under AS 43.55.160(a)(1) multiplied by 25 percent, and the sum, over all months of the calendar year, of the tax amounts determined under (g) of this section; and

(2) a lease or property not described in
(1) of this subsection, as calculated under
AS 43.55.160(a)(1) multiplied by 15 percent, and the
sum, over all months of the calendar year, of the tax
amounts determined under (g) of this section."

Page 4, line 11, through page 8, line 8:
Delete all material.

Renumber the following bill sections accordingly.

Page 13, line 8, through page 15, line 15:
Delete all material.

Renumber the following bill sections accordingly.

Page 16, line 8:
Delete "Sections 11, 12, 15, and 16"
Insert "Sections 9, 10, 13, and 14"

Page 16, line 10:
Delete "Sections 6 - 9 and 20"
Insert "Sections 6 and 7"

Page 16, line 12:
Delete "Section 19"
Insert "Section 17"

Page 16, line 20:
Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"
Insert "Sections 9, 10, 12 - 16, 21, and 22(a)"

Page 16, line 21:
Delete "Sections 6 - 9, 20, and 25(b)"
Insert "Sections 6, 7, and 22(b)"

Page 16, line 22:
Delete "Sections 19 and 25(c)"
Insert "Sections 17 and 22(c)"

Page 16, line 23:
Delete "secs. 27 - 29"
Insert "secs. 24 - 26"

REPRESENTATIVE P. WILSON objected for discussion purposes.

[4:25:59 PM](#)

CO-CHAIR SEATON stated that the conceptual amendment for Amendment 10 in the committee packet is replaced by this formal amendment from Legislative Legal and Research Services. He explained that Amendment 10 would leave the base rates of 25 percent for old oil and 15 percent for new oil, but would delete the bracketed progressivity so that it remains as in current statute. Amendment 10 would also delete the annual payment of progressivity so that it remains as in current statute, which is a monthly calculation. The purpose of keeping the monthly calculation is to capture windfall profits. A few years ago the state captured a lot of windfall profits when the price of oil went to \$144 a barrel, but Alaska's economy was severely affected by the huge escalation in fuel prices. If oil prices peak again, Alaska's economy will be affected again, too. The windfall profit tax would cushion the Alaska economy and preclude the state from having to dip into its savings to address rural and urban problems arising from that price spike.

[4:28:20 PM](#)

REPRESENTATIVE P. WILSON requested that Amendment 10 be divided so that the provision for deleting the annual average payment of progressivity could be a separate question.

CO-CHAIR SEATON agreed this could be done but said it may not be beneficial because if the committee were to leave the bracketed progressivity there would be very little difference between a monthly and annual calculation of the progressivity. This is because bracketed progressivity would generate much less money than does the [current] method of calculation which is based on the entire price of a barrel of oil.

REPRESENTATIVE P. WILSON withdrew her request and inquired whether the co-chair is saying that the tax would be the same all the way along rather than bracketed.

CO-CHAIR SEATON responded that it is not all the way along. It is not like income tax where there are different rates, it is a sales tax based on the price of a barrel of oil. So, if the price per barrel is \$60, one rate is paid, if the barrel is \$90, another rate is paid; thus it is a single rate throughout the barrel. Amendment 10 would keep the current progressivity system so that it would not be changed to the proposed bracketed system.

REPRESENTATIVE P. WILSON concluded that the answer to her question was yes.

CO-CHAIR SEATON agreed.

[4:32:01 PM](#)

REPRESENTATIVE KAWASAKI, in regard to the debate on annual versus monthly calculation, asked how other taxing regimes and countries capture windfall profits.

ACTING COMMISSIONER BUTCHER answered that he is not aware of any countries and states that have anything that approximates Alaska's progressivity windfall tax. Many have a gross tax; for example, North Dakota has a 10 percent gross tax, which factors lower in effective tax.

REPRESENTATIVE KAWASAKI inquired which countries use a month-to-month payment versus an annualized payment.

ACTING COMMISSIONER BUTCHER replied that Alaska is the only one he knows of.

CO-CHAIR SEATON interjected that many of the other jurisdictions have a profit sharing type of arrangement. For example, Indonesia receives 85 percent of each barrel of oil, Libya receives 88 percent from Petro-Canada, and Norway receives 78 percent regardless of the price per barrel. So, in those cases it is a gross tax rather than a tax on the profit. All of these tax regimes have very different structures, so it is extremely difficult to compare just one item between them. He presumed that all of the countries with profit sharing do not wait until the end of the year to receive the taxes and that they are probably paid on a daily basis since a share of the oil stays with the company and a share with the country.

[4:35:12 PM](#)

REPRESENTATIVE KAWASAKI said he wants more information to know why a change in Alaska's current law is necessary and what the comparisons are to other countries. He inquired why the change is being proposed if there is uncertainty about what other countries do.

ACTING COMMISSIONER BUTCHER responded that in discussions with the larger producers in Alaska as well as the companies that were once in Alaska, essentially every one complained about the

high marginal tax rate - the high progressivity rate - that exists in Alaska. Those discussions indicated no other jurisdictions, but since he does not know if that is really the case he will not say it. There is a tremendous cost in the number of dry wells. For example, Shell is approaching \$4 billion of investment into the outer continental shelf (OCS), which it hopes will become something. Industry looks at the high end as an opportunity to recoup some of what is lost in a very speculative business and that is one of the main pieces industry points to when saying that it is difficult to get partners and exploration dollars for Alaska.

[4:36:39 PM](#)

REPRESENTATIVE KAWASAKI proffered then that the source for making this significant change to Alaska's tax code is that the industry has said so.

ACTING COMMISSIONER BUTCHER said that is not true. [The department] has looked across many jurisdictions and each one is different and everything involved must be weighed. For example, Alberta has only a royalty and no production tax, and has been going through something similar to Alaska. It becomes a recurring theme when more than just one company is letting its leases go. With these high oil prices, look at what is going on with exploration almost everywhere but in Alaska.

REPRESENTATIVE KAWASAKI understood that it is unknown whether any other jurisdiction has monthly payment that would capture windfall profit.

ACTING COMMISSIONER BUTCHER answered correct.

[4:37:54 PM](#)

REPRESENTATIVE HERRON asked whether 20 percent would work on [page 1] line 20, of Amendment 10. In response to Co-Chair Seaton, he confirmed that this suggestion would lower the base tax rate from 25 percent to 20 percent.

ACTING COMMISSIONER BUTCHER responded that the administration likes this particular aspect of the bill as currently written.

[4:38:59 PM](#)

CO-CHAIR FEIGE understood that Amendment 10 would remove the proposed bracketed progressive tax so that the tax would be the base rate plus progressivity in a straight line.

CO-CHAIR SEATON replied that the progressivity would be exactly as it is currently calculated, except there would be a new base rate of 15 percent for new oil. In further response, he confirmed that the progressivity under Amendment 10 would be a smooth line instead of a bracketed amount.

CO-CHAIR FEIGE asked whether the proposed cap on progressivity would remain under Amendment 10. He reminded members that several companies and the Department of Revenue testified that the current increase in progressivity as the price of oil goes higher severely limits Alaska's competitiveness because it makes for no profit at higher oil prices.

CO-CHAIR SEATON answered he does not think anyone has testified that there is no profit in it, but rather that there is less profit than can be made in certain other jurisdictions. He said there may be a declining profit margin, but that there is increasing amount of profit throughout the entire range, as he understands it.

[4:40:20 PM](#)

CO-CHAIR FEIGE maintained that the current smooth progressivity curve has essentially no cap on it, so at higher oil prices there is far less profit to be made in Alaska than in other places. The proposed cap under the governor's bill would provide more profit at higher oil prices, which would make Alaska more competitive.

CO-CHAIR SEATON responded that there is a cap at 75 percent.

ACTING COMMISSIONER BUTCHER explained that the 75 percent cap kicks in at \$342. He said he believes that Amendment 10 would keep progressivity exactly as it exists under current law, but the 15 percent [tax rate for new oil] would remain in the bill. The administration opposes Amendment 10 because it would remove the bracketing, which is a central piece of HB 110.

[4:41:49 PM](#)

CO-CHAIR FEIGE noted that Amendment 1, passed by the committee on 2/25/11, amended the date and changed some of the language in the current version of the bill. He offered his belief that

Amendment 10 would remove those changes as well, thus taking away some of the exploration incentives for lands that were unitized on 12/31/08 but did not have any production.

CO-CHAIR SEATON said that was not what was directed of Legislative Legal and Research Services.

CO-CHAIR FEIGE observed that [line 8 of Amendment 10] directs that all material on page 3, lines 3-19, of the bill be deleted and that the section [beginning on line 10 of Amendment 10] be inserted. Thus, he believes it would delete an amendment that the committee has already put in.

CO-CHAIR SEATON replied that Amendment 10 would delete a section in the original version of the bill, not the original bill as amended.

CO-CHAIR SEATON, concluding the discussion on Amendment 10, reiterated that the effect of Amendment 10 would be to leave progressivity as it is under the current law of Alaska's Clear and Equitable Share (ACES), and the base rates would remain at 25 percent and 15 percent.

[4:43:52 PM](#)

A roll call vote was taken. Representatives Gardner, Kawasaki, and Seaton voted in favor of Amendment 10. Representatives Foster, Dick, P. Wilson, Herron, Munoz, and Feige voted against it. Therefore, Amendment 10 failed by a vote of 3-6.

[4:44:36 PM](#)

CO-CHAIR SEATON withdrew Amendment 11.

CO-CHAIR SEATON moved that the committee adopt Amendment 12, labeled 27-GH1007\A.40, Bullock, 2/26/11, which read:

Page 3, lines 3 - 19:

Delete all material and insert:

*** Sec. 6.** AS 43.55.011(e) is amended to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under

(f), (j), (k), and (o) of this section, the tax is equal to the sum of

(1) the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1) multiplied by 25 percent; and

(2) the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1) multiplied by the tax rate calculated [THE SUM, OVER ALL MONTHS OF THE CALENDAR YEAR, OF THE TAX AMOUNTS DETERMINED] under (g) of this section."

Page 4, line 13:

Delete "(1) purposes of (e)(1)"
Insert "purposes of (e)(2)"

Page 4, line 15:

Delete "(A)"
Insert "(1)"

Page 4, line 17:

Delete "subject to (e)(1) of this section"

Page 4, line 18:

Delete "(B)"
Insert "(2)"

Page 4, line 21:

Delete "(D) of this paragraph"
Insert "(4) of this subsection"

Page 4, line 22:

Delete "(C)"
Insert "(3)"

Page 4, line 23:

Delete "(D) of this paragraph"
Insert "(4) of this subsection"

Page 4, line 24:

Delete "(D)"
Insert "(4)"
Delete "(C) of this paragraph"
Insert "(3) of this subsection"

Page 4, line 28:

Delete all material.

Page 5, lines 4 - 25:
Delete all material.

Page 6, line 2:
Delete "(A) - (D)"
Insert "(A) - (C)"

Page 6, line 6:
Delete "sum"
Insert "total"

Page 6, line 8, following "by":
Insert "the sum of 25 percent and"

Page 6, line 9:
Delete "AS 43.55.011(g)(1)"
Insert "AS 43.55.011(g)"

Page 6, line 13, following "by":
Insert "the sum of 25 percent and"

Page 6, lines 15 - 19:
Delete all material.
Insert "AS 43.55.011(g); or"

Page 6, line 28, following "due";":
Insert "and"

Page 7, lines 5 - 14:
Delete all material.
Insert "the sum of 25 percent and the tax rate
calculated for the calendar year of production under
AS 43.55.011(g);"

Page 13, lines 21 - 22:
Delete "and are subject to AS 43.55.011(e)(1)"

Page 13, line 25:
Delete "subject to AS 43.55.011(e)(1) and are"

Page 14, line 5:
Delete "and are subject to AS 43.55.011(e)(1)"

Page 14, line 15, through page 15, line 5:
Delete all material.

REPRESENTATIVE P. WILSON objected for discussion purposes.

[4:45:22 PM](#)

CO-CHAIR SEATON explained that Amendment 12 would remove the 15 percent base tax rate for new oil, but would leave the 25 percent rate and the bracketed progressivity as proposed in HB 110. He said the reason for Amendment 12 is that over time the state's production tax would decrease very significantly because HB 110 has no sunset for the 15 percent provision. For example, Great Bear Petroleum is projecting that it will be producing 300,000 barrels, over half of the state's oil, by 2017. He said the committee has not heard testimony from new explorers that the 15 percent provision is essential.

REPRESENTATIVE HERRON asked what Amendment 12 would do to the Department of Revenue's fiscal note.

CO-CHAIR SEATON answered that he believes it would have very little impact on the fiscal note because the department did not analyze much new oil coming on by 2017.

ACTING COMMISSIONER BUTCHER said Co-Chair Seaton is correct; the department's fiscal note looks only at revenue reduction in the short term, not further out. However, the department is unsure whether Amendment 12, as worded, would do as intended. He deferred to the Department of Law for further comment.

[4:49:06 PM](#)

The committee took an at-ease from 4:49 p.m. to 4:59 p.m.

[4:59:04 PM](#)

ACTING COMMISSIONER BUTCHER, in response to Co-Chair Seaton, related that the Department of Law is suggesting the committee hear from the drafter of the amendment to determine where the disagreement may be.

[4:59:59 PM](#)

The committee took an at-ease from 4:59 p.m. to 5:02 p.m.

[5:02:03 PM](#)

CO-CHAIR SEATON put Amendment 12 aside until the drafter of the amendment could be present to answer questions.

REPRESENTATIVE KAWASAKI moved that the committee adopt Amendment 13, labeled 27-GH1007\A.30, Mischel/Bullock, 2/24/11, which read:

Page 1, lines 3 - 4:

Delete "**relating to monthly installment payments of estimated oil and gas production tax;**"

Page 5, line 26, through page 8, line 8:

Delete all material.

Renumber the following bill sections accordingly.

Page 15, line 10:

Delete "1/12 of"

Page 15, line 11:

Delete "year"

Insert "month"

Page 15, line 13:

Delete "year"

Insert "month"

Page 16, line 8:

Delete "Sections 11, 12, 15, and 16"

Insert "Sections 10, 11, 14, and 15"

Page 16, line 10:

Delete "Sections 6 - 9 and 20"

Insert "Sections 6 - 8 and 19"

Page 16, line 12:

Delete "Section 19"

Insert "Section 18"

Page 16, line 20:

Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"

Insert "Sections 10, 11, 13 - 17, 23, and 24(a)"

Page 16, line 21:

Delete "Sections 6 - 9, 20, and 25(b)"

Insert "Sections 6 - 8, 19, and 24(b)"

Page 16, line 22:

Delete "Sections 19 and 25(c)"

Insert "Sections 18 and 24(c)"

Page 16, line 23:

Delete "secs. 27 - 29"

Insert "secs. 26 - 28"

REPRESENTATIVE P. WILSON objected for discussion purposes.

[5:02:27 PM](#)

REPRESENTATIVE KAWASAKI explained that Amendment 13 would delete the language in HB 110 dealing with annualized payment of progressivity, thus keeping the current monthly payment of progressivity. Given the uncertainty about whether other jurisdictions use [annualized or monthly payment], he said he is unsure why this particular provision of the bill is so important. Additionally, the annualized provision could cost the state between \$150 million and \$450 million based on the 2009 returns of ACES. That is too much volatility, and the half billion dollars under windfall profits could better be used within the state.

REPRESENTATIVE HERRON inquired whether this could be done any other way besides monthly or yearly.

REPRESENTATIVE KAWASAKI motioned that he did not know.

ACTING COMMISSIONER BUTCHER suggested that it could be done quarterly, but related that the department's auditors do not see where there would be a direct benefit to this because it is trued up at the end of the year and the auditors think that ultimately it would be the same number. He further related that the auditors said it would be much more difficult for them to administer and it could potentially start statute of limitation clocks every month as opposed to every year.

[5:04:34 PM](#)

ACTING COMMISSIONER BUTCHER, in response to Co-Chair Seaton, confirmed that the companies are required to pay monthly. He further confirmed that the companies make the calculations of their oil taxes on a monthly basis.

CO-CHAIR SEATON maintained that if the companies pay the progressivity on the month they know what it is because they made the calculations. He asked how paying the known amount is

more complicated than estimating the volatility twelve months ahead of time.

ACTING COMMISSIONER BUTCHER replied he believes it is difficult to estimate what actual lease expenditures will be when determining on a month-to-month basis.

CO-CHAIR SEATON said he thinks it is payments of progressivity that are being talked about, not lease expenditures.

ACTING COMMISSIONER BUTCHER responded that the Department of Revenue reads Amendment 13 as requiring monthly deduction of expenses to actuals. In further response to Co-Chair Seaton, he concurred that Amendment 13 is expenses to actuals, not progressivity.

[5:06:41 PM](#)

ACTING COMMISSIONER BUTCHER, in response to Representative P. Wilson, agreed that Amendment 13 does not have anything to do with the windfall profits. That is why the department's auditors do not see how there would be any difference other than the negative of administering it and the difficulty of starting multiple statutes of limitations.

REPRESENTATIVE GARDNER contended that Amendment 13 deals only with the monthly fluctuations, not with the cost of lease expenditures, and that it does address the windfall profits.

[5:08:35 PM](#)

CO-CHAIR SEATON requested the drafter of the amendment to clarify what it does.

DONALD BULLOCK JR., Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, noted that line 10 of Amendment 13 would amend page 15, line 10, of HB 110, which is a section in the bill that describes how the production tax value is determined for each of the months that installment payment is due. The effect of the amendment is to compartmentalize the lease expenditures for the month, month by month, rather than saying one-twelfth of the producer's lease expenditures over the year.

[5:10:36 PM](#)

REPRESENTATIVE GARDNER inquired whether it has the effect of retaining the windfall profits, which allow the state to receive benefit participation in severe price spikes and profits that are the result of things happening around the world rather than of effort and investment.

MR. BULLOCK read from page 15, lines 6-10, of HB 110, which state: "... the monthly production tax value of taxable oil, gas, or oil and gas produced by a producer during a month ... is equal to the gross value at the point of production of that oil, gas, or oil and gas, respectively..." He explained that that would be the gross value starting out for that month. So, if prices are high during that month that gross value is going to be high; if production is high during that month at a lower price, there may still be a higher gross value at the point of production. Once the gross value at the point of production is determined for that month, Amendment 13 would - instead of using one-twelfth of the lease expenditures for the year - allow a deduction for the lease expenditures for that month. The production tax value is the gross value minus authorized lease expenditures, and that is the value that the tax rate is applied to, both on the progressive rate and the base rate.

[5:12:34 PM](#)

REPRESENTATIVE GARDNER asked whether implementation of Amendment 13 would start the clock on a statute of limitations on a monthly basis.

MR. BULLOCK replied he does not believe that it would make it any more the start of the statute of limitations than any installment payment because there is still the true-up that is required the year following the calendar year in which these installment payments are made. One of the purposes of going to the system in ACES was to make a final report for the year that included all the expenditures and all the gross values. He said he has always looked at that as having a single point for starting the statute of limitations for making the assessments, rather than twelve monthly returns like the state had under the Economic Limit Factor (ELF) law. These are installment payments, not a monthly return.

[5:13:47 PM](#)

REPRESENTATIVE P. WILSON surmised that Amendment 13 would remove Section 9 of HB 110.

MR. BULLOCK responded that the effect of Amendment 13 is "to continue to do the installment payments as they are determined now, with the addition that the lease expenditures will be determined on a monthly basis rather than one-twelfth of the annual lease expenditures."

[5:14:32 PM](#)

REPRESENTATIVE P. WILSON surmised that Amendment 13 would, in essence, allow the state to pick up the windfall profits.

MR. BULLOCK answered he does not know because he has not run the numbers. At the end, the following year, everything is trued up, so ultimately what is looked at is the gross value at the point of production for the year minus the lease expenditures for the year. He deferred to the Department of Revenue to discuss the actual effect of the month-to-month calculation.

REPRESENTATIVE P. WILSON asked which part of HB 110 would get rid of the state being able to pick up windfall profits.

MR. BULLOCK replied that under current law the levy of the 25 percent tax and the progressive rate on a monthly basis are located in [AS 43.55.011](e). The governor's bill would move all of the rates into [AS 43.55.011](g) and (e) would only say that for one set of fields it is (g)(1) and for the other set it is (g)(2). He deferred to the acting commissioner for further explanation.

ACTING COMMISSIONER BUTCHER said Mr. Bullock explained it well. The moving of progressivity to brackets under HB 110 narrows to a very small number any sort of windfall that would occur between a high month and a low month over the course of an annual calculation. This provision would enable industry to recoup a lot of its expenses on the high end as opposed to the state taking a majority of the funds like it does now, which would make the state more attractive investment-wise. The department's reading of Amendment 13 is that the actual deduction of expenses would be taken monthly. The department believes that over the course of a year there would be a negligible difference in tax between the two, so Amendment 13 would be particularly burdensome to both industry and the state given the state would really not get anything out of it.

REPRESENTATIVE P. WILSON surmised the brackets in ACES are what give [the state] the windfall profits.

ACTING COMISSIONER BUTCHER nodded yes.

5:17:44 PM

REPRESENTATIVE HERRON inquired whether the governor and the producers prefer to sweep the money monthly. He understood the acting commissioner to be saying that in the end it will all wash out.

ACTING COMISSIONER BUTCHER responded that he does not think a lot is accomplished by Amendment 13 and it would create a lot of additional work that does not ultimately benefit the state or industry.

REPRESENTATIVE HERRON said he thinks removing it does get rid of a lot of work.

5:19:14 PM

REPRESENTATIVE GARDNER asked how often the leaseholders true up with each other and how often do they do their reports and their payments when they are partners in a lease.

ACTING COMISSIONER BUTCHER answered that it is done at the end of March for the state. He deferred to Mr. Dees for addressing the question about partners inside a lease.

REPRESENTATIVE GARDNER, in response to Co-Chair Seaton, said her question is applicable to Amendment 13 because testimony has said it would be a lot of work. She presumed that like most business owners, the industry keeps meticulous records and knows exactly where it is at any given time; thus, the data is there and it is just a matter of running the reports.

REPRESENTATIVE KAWASAKI withdrew Amendment 13.

5:20:51 PM

CO-CHAIR SEATON returned to Amendment 12 and asked Mr. Bullock to review what the amendment would do. He understood that the amendment would remove the 15 percent base rate, leaving the 25 percent base rate and leaving the bracketed progressivity.

MR. BULLOCK said he believes Amendment 12 would bring HB 110 closer to current law, which is the 25 percent tax rate in [AS 43.55.011](e) plus the progressive rate that is determined monthly under [AS 43.55.011](g). The effect is that it would

not duplicate the tax. The initial 25 percent would be pulled out where the changes have been made in the brackets, so the effect would be that the remaining part of [AS 43.55.011](g) is the new progressive rate that would replace the current progressivity rate. Thus, the 25 percent would remain the same, but there would be a new table to determine the monthly tax.

[5:23:12 PM](#)

CO-CHAIR SEATON inquired whether the bracketed rate would be the same as calculated when they were both together.

MR. BULLOCK replied that the 25 percent base rate would be brought back into [AS 43.55.011](e) just like it is in current law, and [AS 43.55.011](e) is reworded similarly to the current law to say that the additional tax is determined under [AS 43.55.011](g). On page 8 of the bill, starting on line 28, the 25 percent would be deleted by Amendment 12, so what would be left is the amount above \$30 to which these different rates are applied under the table. Instead of the ranges under current law, which are \$30-\$92.50 and \$92.50 and above, there would be these stair-stepped rates. The next part of Amendment 12 would delete lines 4-25 on page 5 of the bill since the amendment would go back to only a 25 percent rate and the 15 percent rate would not continue. Thus, [AS 43.55.011](e)(1) would be the 25 percent plus the stair-step rates on page 4 that are determined on a monthly basis; the stair-steps would start with what is on line 29 because line 28 would be deleted.

[5:25:35 PM](#)

CO-CHAIR SEATON requested the Department of Law to address the issue.

SUSAN POLLARD, Assistant Attorney General, Oil, Gas & Mining Section, Civil Division (Juneau), Department of Law, stated that the Department of Law had had some question about how Amendment 12 would work to assure that the 25 percent rate was separate and the bracketed incremental progressivity was kept for that part of the annual production tax value that did not get taxed under the 25 percent rate. She said the technical issue that she was concerned about was the doubling up of the 25 percent rate. However, this concern was addressed when Mr. Bullock explained that line 28 on page 4 of the bill would be deleted.

[5:27:02 PM](#)

CO-CHAIR SEATON reiterated that the purpose of Amendment 12 is removal of the 15 percent base rate, leaving the 25 percent base rate and the bracketed progressivity proposed by the governor.

REPRESENTATIVE MUNOZ understood the change proposed by Amendment 12 would apply to new fields, which in the governor's bill would be taxed at 15 percent plus the bracketed progressivity; under Amendment 12 new fields would have the same 25 percent rate as existing fields.

CO-CHAIR SEATON responded correct, all fields would have a 25 percent base tax rate and would have the same bracketed progressivity as proposed by HB 110.

MR. BULLOCK interjected that Amendment 12 basically removes the distinction between fields.

ACTING COMMISSIONER BUTCHER said Amendment 12 would take out the 15 percent tax rate for fields that are outside and currently not being explored, which is a key provision of HB 110. The administration feels this provision is important to motivate the small explorers to explore and develop areas of the state that are not currently being developed, and therefore the administration opposes Amendment 12.

[5:28:46 PM](#)

REPRESENTATIVE HERRON suggested that the 25 percent be changed to 20 percent, knowing that adjustments would also be made to the brackets. He asked whether 20 percent would work in Amendment 12.

CO-CHAIR SEATON answered that Amendment 12 is offered to remove the new fields. He said he is unsure whether changing the tax rate from 25 percent to 20 percent would accomplish what Representative Herron is proposing or whether it would take a different amendment. He requested Mr. Bullock to address this.

MR. BULLOCK said there are several places throughout AS 43.55 where this base rate is located; for example, the rate for loss carry forward provisions in AS 43.55.023(b) has always paralleled this rate. An amendment could be offered to replace the 25 percent with 20 percent on page 1, line 10, of Amendment 12, but there would be other sections of law where that 25 percent would need to be changed to 20 percent, so conforming amendments would also be needed.

REPRESENTATIVE HERRON said he understands but will keep pitching 20 percent.

[5:30:47 PM](#)

CO-CHAIR FEIGE recalled that during previous hearings on HB 110, the committee heard from several explorers. For example, page 6 of Great Bear Petroleum's [2/13/11] presentation states, "Reduction of production tax burden improves our commercial model reducing the risk to critically needed capital investment for full development." He reminded members that Great Bear Petroleum's leases are essentially south of currently existing units and represent a region of great potential for a shale oil play. He related that Great Bear is optimistic about its ability to develop that location and if the 15 percent base rate is eliminated on those places outside of unitized areas, it would remove what he considers a critical incentive to get new explorers out in the field to put more oil in the pipeline.

[5:32:10 PM](#)

CO-CHAIR SEATON, wrapping up the discussion on Amendment 12, again reiterated that the purpose of Amendment 12 is to remove the 15 percent base rate, leaving the 25 percent base rate applying across all oil fields and leaving the governor's bracketed progressivity.

CO-CHAIR FEIGE objected to Amendment 12.

[5:32:37 PM](#)

A roll call vote was taken. Representatives Gardner, Kawasaki, and Seaton voted in favor of Amendment 12. Representatives Herron, Munoz, Foster, Dick, Wilson, and Feige voted against it. Therefore, Amendment 12 failed by a vote of 3-6.

[5:33:27 PM](#)

REPRESENTATIVE GARDNER withdrew Amendment 14.

REPRESENTATIVE GARDNER moved that the committee adopt Amendment 15, labeled 27-GH1007\A.14, Bullock, 2/23/11, which read:

Page 1, line 6:

Delete "**relating to the limitation on assessment of oil and gas production taxes;**"

Page 13, lines 5 - 7:
Delete all material.

Renumber the following bill sections accordingly.

Page 16, line 10:
Delete "Sections 6 - 9 and 20"
Insert "Sections 6 - 9 and 19"

Page 16, lines 12 - 13:
Delete all material.

Page 16, line 20:
Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"
Insert "Sections 11, 12, 14 - 18, 23, and 24(a)"

Page 16, line 21:
Delete "Sections 6 - 9, 20, and 25(b)"
Insert "Sections 6 - 9, 19, and 24(b)"

Page 16, line 22:
Delete all material.

Renumber the following bill section accordingly.

Page 16, line 23:
Delete "secs. 27 - 29"
Insert "secs. 26 and 27"

CO-CHAIR FEIGE objected.

[5:33:59 PM](#)

REPRESENTATIVE GARDNER said Amendment 15 relates to an element of HB 110 that she does not disagree with, which is having a more reasonable timeline than six years. However, moving the timeline to four years is premature because the regulations have yet to be completed, let alone a single audit of a full year of ACES taxes. This should be looked at in a year or two, but it is premature because right now the potential impact on the state is unknown.

REPRESENTATIVE P. WILSON observed that Amendment 15 would delete and insert several sections and requested further explanation.

REPRESENTATIVE GARDNER said the intent of Amendment 15 is to keep the tax look-back period at six years rather than changing

it to four years as proposed by HB 110. She said her understanding is that if the state does not complete the audit within four years and the audit finds that the state is owed more money, the state would lose that money. Thus, she wants to ensure that the state does not lose anything it is due.

MR. BULLOCK addressed Representative P. Wilson's question by drawing attention to page 16, line 8, of HB 110 where reference begins to a number of sections, those sections being about applicability and different effective dates. By deleting a section of the bill, and in other amendments adding sections, these section numbers at the end of the bill need to be changed to conform to the new numbering in the bill.

[5:36:05 PM](#)

MR. BULLOCK, in response to more questions from Representative P. Wilson, explained that HB 110 proposes to shorten the period for auditing the production tax returns from six years to four years. Amendment 15 would leave in place the current six year period.

ACTING COMMISSIONER BUTCHER added that the Department of Revenue used to have three years to audit production taxes. Passage of ACES extended this time period to six years to give the department the time to deal with going from a gross tax to a net tax and to deal with the two different changes in law [ACES and PPT] that occurred within a very short time period. The department is now at about three years and improving and therefore feels comfortable with moving from six years to four years. However, to be on the safe side, the effective date proposed in HB 110 for this provision is not until 2014, which would give the department another three years to make sure a four year time period will work. The department would not have proposed four years if it did not think it could be done.

[5:37:29 PM](#)

REPRESENTATIVE KAWASAKI read from item six [of the executive summary] in the Department of Revenue's 1/18/11 Oil and Gas Production Tax Status Report to the Legislature which states:

Tax Administration and Compliance - The department continues to write regulations for the new tax system, and the first audits under the net profits tax have been completed. The department has, however, been hampered in its tax reporting and compliance efforts

by the lack of a centralized database to house and manage the large volumes of oil and gas data it receives.

REPRESENTATIVE KAWASAKI interpreted the aforementioned to mean that the Department of Revenue is having difficulty as things stand now. He recollected that under the Economic Limit Factor (ELF) the state had a much simpler standard deduction system, yet the department was unable to meet the three year timeline. He asked why the department thinks this can be done now.

ACTING COMMISSIONER BUTCHER allowed the department clearly still has challenges and is playing catch-up; however, a couple of master auditors have been hired since that time. The department's auditors believe that the most difficult audit year was 2006 when the state moved from gross to net. It is believed that with each increasing year it will get simpler and simpler, and that is where the comfort with four years, not three years, comes in.

REPRESENTATIVE KAWASAKI noted that the look-back period for most businesses is six years and asked why the oil industry should be treated differently.

ACTING COMMISSIONER BUTCHER replied that the department works on the information as it comes in and the audit is for putting the final numbers to rest. He said the department believes that four years is reasonable, given that it is 33 percent more time than what was in place prior to five years ago.

[5:39:52 PM](#)

REPRESENTATIVE GARDNER said it can be agreed that the department is four years behind on the audits right now, and she therefore thinks it prudent for the legislature to wait until one full year is completed before changing the look-back period.

REPRESENTATIVE HERRON inquired about putting a sunset on the four years such that it would go back to six years if in a couple of years it is found that four years is not a long enough time period.

ACTING COMMISSIONER BUTCHER responded that the proposed effective date of three years from now provides the department with enough time to determine whether this length of time is adequate and, if it is not, the department would have enough time to bring it back to the legislature.

REPRESENTATIVE GARDNER agreed that an effective date of three years out would provide the department the time to come back to the legislature. By the same token, however, she argued that the effective date of three years out allows the legislature to wait until at least one is done and see how close it is at true up, at which point a decision can be made on whether a change to existing statute is needed.

CO-CHAIR FEIGE maintained his objection to Amendment 15.

[5:41:29 PM](#)

A roll call vote was taken. Representatives Herron, Munoz, Foster, Dick, Gardner, Kawasaki, and Seaton voted in favor of Amendment 15. Representatives P. Wilson and Feige voted against it. Therefore, Amendment 15 passed by a vote of 7-2.

[5:42:21 PM](#)

REPRESENTATIVE GARDNER withdrew Amendments 16 and 17.

REPRESENTATIVE GARDNER moved that the committee adopt Amendment 18, labeled 27-GH1007\A.35, Kirsch/Bullock, 2/24/11, which read:

Page 1, line 7, following "**values**;"

Insert "**relating to oil and gas or gas only leasing and the shared use of a production facility**;"

Page 2, following line 5:

Insert a new bill section to read:

"* **Sec. 3.** AS 38.05.180 is amended by adding a new subsection to read:

(hh) The commissioner shall include a provision in a lease or the renewal of a lease under this section to require the shared use of a production facility owned or operated by the lessee by a producer of oil or gas from land outside of the lease or outside of a unit that includes the lease. The lease must describe the circumstances under which the production facility shall be shared and the means for determining the extent of the shared use, the reasonable compensation to be paid to the lessee, and other terms and conditions the commissioner finds are in the best interests of the state. In this subsection, "production facility" means a flow station, a gathering center, a pump station, a storage

tank, and related appurtenances, and other facilities that gather, clean, dehydrate, condition, or store crude oil, natural gas, or associated hydrocarbons and are located on a lease or property leased from the state."

Renumber the following bill sections accordingly.

Page 16, line 8, following "APPLICABILITY.":

Insert "(a) AS 38.05.180(hh), enacted by sec. 3 of this Act, applies to a lease or the renewal of a lease entered into on or after the effective date of sec. 3 of this Act."

Reletter the following subsections accordingly.

Page 16, line 8:

Delete "Sections 11, 12, 15, and 16"
Insert "Sections 12, 13, 16, and 17"

Page 16, line 10:

Delete "Sections 6 - 9 and 20"
Insert "Sections 7 - 10 and 21"

Page 16, line 12:

Delete "Section 19"
Insert "Section 20"

Page 16, line 20:

Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"
Insert "Sections 12, 13, 15 - 19, 25, and 26(b)"

Page 16, line 21:

Delete "Sections 6 - 9, 20, and 25(b)"
Insert "Sections 7 - 10, 21, and 26(c)"

Page 16, line 22:

Delete "Sections 19 and 25(c)"
Insert "Sections 20 and 26(d)"

Page 16, line 23:

Delete "secs. 27 - 29"
Insert "secs. 28 - 30"

REPRESENTATIVE P. WILSON objected for discussion purposes.

[5:43:12 PM](#)

REPRESENTATIVE GARDNER related that a concern heard over the years from new explorers is that they have trouble getting into the facilities. She noted that this is a controversial issue so people are reluctant to speak on the record when they are also in the midst of negotiating. While that bottleneck may now be shifting a bit, Amendment 18 would provide ways to have shared facilities. She noted that Mr. Ken Alper is available for questions.

ACTING COMMISSIONER BUTCHER, in response to Co-Chair Seaton, deferred comment on Amendment 18 to Mr. Joe Balash given that it relates to Department of Natural Resources statutes.

[5:45:21 PM](#)

JOE BALASH, Deputy Commissioner, Office of the Commissioner, Department of Natural Resources, cautioned that "the issues surrounding facilities access, facility sharing, are complicated and very important to the state's future, and require a great deal of thought and precision in language if [the state is] going to venture down the road of using the force of law to tip the scales in the balance of one party or another when it comes to these commercial transactions." He said the Department of Natural Resources is concerned that Amendment 18 could broaden the subject of HB 110, which is currently oil and gas taxes, and potentially violate the single subject rule. The amendment purports to amend AS 38.05.180, which is the section of statute that deals with oil and gas leases and has to do with the management and rights for a party to the subsurface of the state's mineral wealth.

[5:47:04 PM](#)

The committee took an at-ease from 5:47 p.m. to 5:49 p.m.

[5:49:25 PM](#)

REPRESENTATIVE GARDNER specified that Amendment 18 is not part of another bill that has been introduced. She said she is a co-sponsor of a bill that deals with facilities sharing, but that bill is completely different.

MR. BALASH said other concerns that the Department of Natural Resources has with Amendment 18 relate to the roles and responsibilities of the three parties in question: the original lessee, the new lessee seeking to gain capacity, and the

commissioner. The amendment does not answer who carries what burden in this set of circumstances. The one area that does appear to be clear and sets at least one standard is that reasonable compensation shall be paid to the lessee. However, there are certain questions surrounding whether or not there is a burden on the new entrant to identify how much capacity it is seeking, whether or not the incumbent has to meet that demand or whether [the incumbent] can only make available what is available within the facility. Another question is whether the list here is of "related facilities, other facilities," and whether this list is inclusive, illustrative, or exhaustive.

[5:51:22 PM](#)

REPRESENTATIVE GARDNER stated that this critically important issue has never really been addressed by the legislature and looms in the future if the state does not get a handle on what needs to be done to ensure that new explorers are not disadvantaged by the bigger companies that own the facilities. She offered her appreciation of Mr. Balash's comments and said they illustrate how important this issue is and how complex it is. She withdrew Amendment 18 and urged members to keep the issue in mind.

[5:52:16 PM](#)

REPRESENTATIVE GARDNER moved that the committee adopt Amendment 19, labeled 27-GH1007\A.37, Bullock, 2/25/11, which read:

Page 13, following line 4:

Insert new bill sections to read:

*** Sec. 19.** AS 43.55.030(a) is amended to read:

(a) A producer that produces oil or gas from a lease or property in the state during a calendar year, whether or not any tax payment is due under AS 43.55.020(a) for that oil or gas, shall file with the department on March 31 of the following year a statement, under oath, in a form prescribed by the department, giving, with other information required by the department under a regulation adopted by the department, the following:

(1) a description of each lease or property from which oil or gas was produced, by name, legal description, lease number, or accounting codes assigned by the department;

(2) the names of the producer and, if different, the person paying the tax, if any;

(3) the gross amount of oil and the gross amount of gas produced from each lease or property, and the percentage of the gross amount of oil and gas owned by the producer;

(4) the gross value at the point of production of the oil and of the gas produced from each lease or property owned by the producer and the costs of transportation of the oil and gas;

(5) the name of the first purchaser and the price received for the oil and for the gas, unless relieved from this requirement in whole or in part by the department;

(6) the producer's qualified capital expenditures, as defined in AS 43.55.023, other lease expenditures under AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170;

(7) the production tax values of the oil and gas under AS 43.55.160;

(8) any claims for tax credits to be applied; [AND]

(9) calculations showing the amounts, if any, that were or are due under AS 43.55.020(a) and interest on any underpayment or overpayment; and

(10) for each expenditure that is the basis for a credit claimed under AS 43.55.023 or 43.55.025, a description of the expenditure, a detailed description of the purpose of the expenditure, and a description of the lease or property for which the expenditure was incurred; notwithstanding AS 43.05.230(a), information submitted under this paragraph may be disclosed to the public and shall be disclosed to the legislature in a report submitted within 10 days after the convening of the next regular legislative session following the date a statement is filed under this section.

* Sec. 20. AS 43.55.030(e) is amended to read:

(e) An explorer or producer that incurs a lease expenditure under AS 43.55.165 or receives a payment or credit under AS 43.55.170 during a calendar year but does not produce oil or gas from a lease or property in the state during the calendar year shall file with the department on March 31 of the following year a statement, under oath, in a form prescribed by the department, giving, with other information required by the department under a regulation adopted by the department, the following:

(1) the producer's qualified capital expenditures, as defined in AS 43.55.023, other lease expenditures under AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170; [AND]

(2) if the explorer or producer receives a payment or credit under AS 43.55.170, calculations showing whether the explorer or producer is liable for a tax under AS 43.55.160(d) or 43.55.170(b) and, if so, the amount; and

(3) for each expenditure that is the basis for a credit claimed under this chapter, a description of the expenditure, a detailed description of the purpose of the expenditure, and a description of the lease or property for which the expenditure was incurred; notwithstanding AS 43.05.230(a), information submitted under this paragraph may be disclosed to the public and shall be disclosed to the legislature in a report submitted within 10 days after the convening of the next regular legislative session following the date a statement is filed under this section."

Renumber the following bill sections accordingly.

Page 16, line 10:

Delete "Sections 6 - 9 and 20"

Insert "Sections 6 - 9 and 22"

Page 16, line 12:

Delete "Section 19"

Insert "Section 21"

Page 16, line 20:

Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"

Insert "Sections 11, 12, 14 - 20, 26, and 27(a)"

Page 16, line 21:

Delete "Sections 6 - 9, 20, and 25(b)"

Insert "Sections 6 - 9, 22, and 27(b)"

Page 16, line 22:

Delete "Sections 19 and 25(c)"

Insert "Sections 21 and 27(c)"

Page 16, line 23:

Delete "secs. 27 - 29"

Insert "secs. 29 - 31"

CO-CHAIR FEIGE objected for discussion purposes.

[5:52:36 PM](#)

REPRESENTATIVE GARDNER noted that testimony from the Department of Revenue indicates that it does not always have a good handle on what the state's generous credits and incentives are used for and what the companies did to receive them. Amendment 19 would attempt to let Alaskans know who is getting the credits, how much, and why. Data submitted with a request for capital credits would be collected and a report would be provided to the legislature, but the data would not include test results. She reminded members that the committee had previously debated whether collecting this information would require a statutory or regulatory change.

[5:53:57 PM](#)

The committee took an at-ease from 5:53 p.m. to 5.55 p.m.

[5:55:38 PM](#)

CO-CHAIR SEATON asked how Amendment 19 and Representative P. Wilson's amendment [Amendment 7, labeled 27-GH1007\A.38, Bullock, 2/25/11, adopted as amended on 2/25/11] would relate to each other.

ACTING COMMISSIONER BUTCHER replied that [Amendment 7], along with what can be done by regulation, provide the department with all of the tools necessary to collect the information it needs as well as the information requested by the legislature. Over the past five years the department has developed its regulations by holding workshops that include industry and the public. The department would enjoy the participation of legislators or legislative staff at the workshops that will be held for development of the regulation on this particular issue. He offered to keep members updated on when those will occur.

[5:56:34 PM](#)

CO-CHAIR SEATON offered his belief that Amendment 19 has a lot of overlap with [Amendment 7]; however, Amendment 19 would require an annual report to the legislature.

REPRESENTATIVE GARDNER said it would be good enough if Acting Commissioner Butcher could confirm that the Department of Revenue intends to collect and release the name of the taxpayer,

a description of what the taxpayer did to get the credit, and how much credit so that the public and the legislature can easily access that information.

ACTING COMMISSIONER BUTCHER responded that the department absolutely wants to include all of the information possible that it collects. However, that information would have to be aggregated because it would be confidential to "isolated by taxpayer."

REPRESENTATIVE GARDNER said this is exactly her point. She maintained that while a taxpayer's taxes are confidential, the State of Alaska's contribution in the form of credits is not confidential. She said she wants Alaskans to know which taxpayers by name have how much credit and what it is for, which is the intent of Amendment 19.

[5:58:10 PM](#)

ACTING COMMISSIONER BUTCHER offered his belief that legally the Department of Revenue is not allowed to do that. However, he said he believes the department could provide a good aggregated view of whether the credits are doing what was intended without isolating specific companies.

REPRESENTATIVE GARDNER argued that there can be regulations that the taxpayers waive their right for confidentiality in return for receiving these very significant tax credits from the State of Alaska. The only thing that would be disclosed is the credits being claimed and received, not the taxes.

[5:59:50 PM](#)

REPRESENTATIVE P. WILSON inquired whether the State of Alaska can legally give out the information that would be required under Amendment 19.

MS. POLLARD answered that Amendment 19 would make a change to AS 43.05.230. This cannot be done because disclosure of what is considered taxpayer information, which would include something that would be on a return or a report, such as tax credit, is not currently allowed under Alaska law. Willful disclosure of taxpayer information can be punished by a fine of not more than \$5,000 and imprisonment of not more than two years.

[6:01:06 PM](#)

REPRESENTATIVE GARDNER asked whether it is possible to have statute that requires regulations be drafted in which the taxpayer applying for a credit agrees to release of the information about the application, the amount, the reason, and the taxpayer's name.

MS. POLLARD replied, "No, not without amendments to the statutes."

REPRESENTATIVE GARDNER said Amendment 19 is an effort to amend the statute, but perhaps the right statute to amend is not before the committee. However, the request for drafting this amendment was to get the statutory change needed for making this information available to legislators and the public, given it is the state's money that is being applied for. She reiterated that in exchange for this money the taxpayer would agree to release of its name and the information about its application.

[6:02:10 PM](#)

CO-CHAIR SEATON requested that Amendment 19 be withdrawn given the complications and its overlap with [Amendment 7]. He suggested it be redrafted and offered through the House Finance Committee or on the House floor.

REPRESENTATIVE GARDNER stated that Amendment 19 is the single most important amendment she wants to see passed, aside from some of the amendments offered by Co-Chair Seaton. She agreed to withdraw the amendment as a courtesy to the co-chair, but said that when the amendment is offered on the House floor she does not want to hear that it should have been offered in the House Resources Standing Committee.

[6:04:01 PM](#)

REPRESENTATIVE MUNOZ recollected that the purpose of Amendment 7 was to allow the Department of Revenue to aggregate the information of the three top taxpayers so the legislature would have that information in one form, but it would not be designated by company.

CO-CHAIR SEATON replied correct.

REPRESENTATIVE GARDNER, in response to Co-Chair Seaton, confirmed that she had withdrawn Amendment 19.

REPRESENTATIVE GARDNER withdrew Amendment 20.

REPRESENTATIVE KAWASAKI elected not to offer Amendments 21, 22, 23, and 24.

[6:05:48 PM](#)

REPRESENTATIVE KAWASAKI moved that the committee adopt Amendment 25, labeled 27-GH1007\A.25, Bullock, 2/24/11, which read:

Page 12, following line 5:

Insert a new bill section to read:

"* **Sec. 17.** AS 43.55.023 is amended by adding a new subsection to read:

(p) A producer that incurs more than 80 percent of its wage and compensation expenditures for wages and compensation paid to Alaska residents may take a tax credit against the tax levied under AS 43.55.011(e) equal to the percentage by which the wages and compensation paid to Alaska residents exceeds 80 percent of all wages and compensation paid by the producer in the state. The department, in consultation with the Department of Labor and Workforce Development, shall adopt regulations necessary to administer the credit authorized by this subsection. Notwithstanding (c) of this section, the unused amount of credit under this subsection may not be carried forward for more than two years, and, notwithstanding (d), (e), and (g) of this section, a producer may not transfer a tax credit or obtain a transferable tax credit certificate for a credit authorized under this subsection. In this subsection, "Alaska resident" has the meaning given in AS 43.82.230."

Renumber the following bill sections accordingly.

Page 16, line 8:

Delete "Sections 11, 12, 15, and 16"

Insert "Sections 11, 12, and 15 - 17"

Page 16, line 10:

Delete "Sections 6 - 9 and 20"

Insert "Sections 6 - 9 and 21"

Page 16, line 12:

Delete "Section 19"

Insert "Section 20"

Page 16, line 20:

Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"

Insert "Sections 11, 12, 14 - 19, 25, and 26(a)"

Page 16, line 21:

Delete "Sections 6 - 9, 20, and 25(b)"

Insert "Sections 6 - 9, 21, and 26(b)"

Page 16, line 22:

Delete "Sections 19 and 25(c)"

Insert "Sections 20 and 26(c)"

Page 16, line 23:

Delete "secs. 27 - 29"

Insert "secs. 28 - 30"

CO-CHAIR FEIGE objected for discussion purposes.

[6:06:03 PM](#)

REPRESENTATIVE KAWASAKI explained that Amendment 25 would offer a tax credit for local hire and was similar to provisions included in a portion of [House Bill 308] that was heard last year by the House Resources Standing Committee. Amendment 25 would guarantee jobs for Alaskans through a "carrot approach" to investing in Alaska. Without Amendment 25 companies will continue to hire non-resident workers. At a level of 80 percent [Alaska resident hire] a company would be rewarded with a tax credit. He allowed that regulations would need to be drafted to implement the provisions.

[6:07:35 PM](#)

CO-CHAIR FEIGE requested the Department of Law to address whether the provision in Amendment 25 is constitutional.

MS. POLLARD responded that there are definitely issues when trying to incentivize one thing that is potentially disincentivizing to something else. There have been successful cases under the "privileges and immunities clause" where somebody claims that a credit designed to increase local hire disincentivizes the ability to cross state lines. For example, Alaska had the 1978 Hicklin v. Orbeck case [437 U.S. 518, United States Supreme Court]. There can be some benefit to local residents, such as tuition for local residents, if a certain

kind of problem is perceived and some incentive is very carefully drafted.

[6:09:05 PM](#)

CO-CHAIR FEIGE inquired whether the adoption of Amendment 25 could potentially be used by other industries to require more Alaska hire in those other industries, such as fishing.

MS. POLLARD asked whether the co-chair is meaning that other industries would want a credit similar to this or that other industries would be concerned about it.

CO-CHAIR FEIGE said it seems that this proposed provision would be difficult to enforce and to define. He asked whether it would force people who are currently nonresidents to become residents.

MS. POLLARD concurred that quite a few details would have to be worked out. She said she thinks of the 80 percent in terms of lease expenditures because that is where most deductible wages are taken; however, she presumed that Amendment 25 would actually be a broader determination of wages and compensation, such as office workers.

[6:11:10 PM](#)

CO-CHAIR SEATON understood that the statute cited on line 15 of Amendment 25, AS 43.82.230, defines a resident as someone who either qualifies for the permanent fund dividend (PFD) or has lived in the state continuously for an entire year. He inquired whether this definition would be problematic for use in job status.

MS. POLLARD replied that she is unsure.

CO-CHAIR SEATON understood that the statute cited on line 6 of Amendment 25, AS 43.55.011(e), relates to lease expenditures.

MS. POLLARD clarified that AS 43.55.011(e) is where the tax is levied; lease expenditures is in AS 43.55.165.

CO-CHAIR SEATON noted that when the committee considered this provision previously [in House Bill 308] there was the problem of deciding who determined whether a company had to declare an employee as a lease expense. He asked whether Amendment 25 includes a requirement that every employee must be declared as a

lease expense or is this tied to lease expenses. For example, during consideration [of House Bill 308] it was pointed out that a company could simply not declare its nonresident employees as a lease expense as a means to qualify.

MS. POLLARD replied she thinks it is more the latter because Amendment 25 just looks at 80 percent of wages and compensation.

CO-CHAIR SEATON understood that Amendment 25 is not tied to lease expenditures.

MS. POLLARD answered, "No; wages and compensation to Alaska residents."

[6:14:31 PM](#)

REPRESENTATIVE P. WILSON inquired whether the Department of Law would be able to write regulations that would prevent a lawsuit if Amendment 25 was passed.

MS. POLLARD responded she cannot answer one way or another because the potential issue is constitutional and the regulation process cannot fix constitutional concerns.

REPRESENTATIVE DICK commented that if the committee was going to error, it could error on the side of bringing the proposed provision into the bill because it could be cut out later if necessary.

CO-CHAIR SEATON said people can vote however they want for whatever reasons.

REPRESENTATIVE HERRON surmised that if Amendment 25 became law and a problem was found, this part of the law could be struck and the rest of the legislation would be fine.

MS. POLLARD replied correct, there is generally a severability in statute.

[6:16:58 PM](#)

CO-CHAIR SEATON asked whether the administration has a position on Amendment 25.

ACTING COMMISSIONER BUTCHER said the concerns mentioned by Ms. Pollard make the administration uncomfortable with the language from a constitutional standpoint.

CO-CHAIR FEIGE recalled that years ago BP had an Alaska hire requirement, but he believes it was overturned in a court case on the basis that the requirement for Alaska hire was unconstitutional. He suggested that the case law in this regard be investigated.

ACTING COMMISSIONER BUTCHER allowed that a higher percentage of Alaskans being hired in all areas of the state's economy would be appreciated, but the issue is how to do so in a way that is constitutional.

[6:18:48 PM](#)

CO-CHAIR FEIGE inquired whether adopting Amendment 25 would result in a fiscal issue.

ACTING COMMISSIONER BUTCHER responded there may be some difficulties in verifying credit and companies. It is hard to say what the Department of Revenue and the Department of Labor & Workforce Development would have to do to police these credits.

CO-CHAIR FEIGE surmised that the acting commissioner believes this type of rule would be problematic to enforce.

ACTING COMMISSIONER BUTCHER answered that it would require some additional work but he cannot say how much.

[6:19:40 PM](#)

REPRESENTATIVE MUNOZ understood the credit would apply to the percent of the company's workforce that is over 80 percent; for example, a workforce of 90 percent residents would receive a 10 percent credit.

MR. BULLOCK agreed the intent of Amendment 25 is to do as stated by Representative Munoz. The credit would be anywhere from no credit to up to a maximum of 20 percent. The 80 percent establishes a threshold for triggering the eligibility, then once eligible it would be 1 percent credit for each percent above 80.

MR. BULLOCK, in response to Co-Chair Seaton, explained that the credit would be a percentage of the tax because the statute referred to in Amendment 25 is AS 43.55.011(e), which is the statute that levies the production tax.

[6:21:21 PM](#)

REPRESENTATIVE MUNOZ asked whether Amendment 25 would result in a double deduction since employee expenses can already be deducted from state and federal taxes.

MR. BULLOCK replied that, as an example, there are capital lease expenditures under AS 43.55.023 that would already be eligible for a credit. This would be similar in that the employee compensation may be a lease expenditure that is a deduction to determine the production tax value, which is the number that the tax is based on, and then this is a credit in addition for those same wages, provided the threshold is met.

CO-CHAIR SEATON presumed Amendment 25 would be a good incentive because a company could reduce its tax from 25 percent to 5 percent.

MR. BULLOCK allowed it has the potential to reduce the tax significantly, but clarified that it would be 20 percent of the tax due that is reduced, not the tax rate that is reduced.

[6:22:49 PM](#)

CO-CHAIR FEIGE related that a recent document by the Department of Labor & Workforce Development reports that 26 percent of the people currently employed in the oil and gas industry are nonresidents, but of the new hires into that industry only 11 percent [are nonresident]. He used his experience on the North Slope to surmise what happens with the other 15 percent: the work schedule of two weeks on and two weeks off, along with the excellent salary, allows slope workers and their families to live in the Lower 48 where it is warmer, cheaper, and closer to other family members. Thus, an Alaska resident working on the slope can become a nonresident while still keeping the same job. He said he therefore sees Amendment 25 as a problem.

[6:25:30 PM](#)

REPRESENTATIVE KAWASAKI, concluding the discussion on Amendment 25, opined that the amendment would provide a credit to companies that hire Alaskans and would therefore be a carrot approach, not a punitive approach. Regulations would be promulgated and, if found unconstitutional, the severability clause would disconnect the provision from the rest of HB 110.

A roll call vote was taken. Representatives Kawasaki, Herron, Foster, Dick, and Gardner voted in favor of Amendment 25. Representatives Wilson, Munoz, Feige, and Seaton voted against it. Therefore, Amendment 25 was adopted by a vote of 5-4.

[6:27:19 PM](#)

CO-CHAIR SEATON stated that Amendment 26 would not be offered.

CO-CHAIR SEATON explained that Amendment 27 relates to the 40 percent tax credit. It would roll in the second and third year prior year average and if that value is exceeded the company would receive the 40 percent enhanced credit on the enhanced work, rather than basing the 40 percent tax credit on the average amount of infield drilling that the company did over the past several years. He said Amendment 27 would incentivize new and higher amounts of expenditures instead of just doubling the tax credit for the current amount of infield drilling.

CO-CHAIR SEATON moved that the committee adopt Amendment 27, labeled 27-GH1007\A.44, Bullock, 2/24/11, which read:

Page 11, line 11:

Delete "that expenditure; [A"

Insert "a well lease expenditure incurred in the state north of 68 degrees North latitude that exceeds the average annual well lease expenditures for the second and third calendar years preceding the year for which the credit is being determined and 40 percent of a well lease expenditure incurred in the state south of 68 degrees North latitude [THAT EXPENDITURE; A"

Page 11, line 13:

Delete ";]"

Insert "];"

[6:30:08 PM](#)

REPRESENTATIVE P. WILSON objected for discussion purposes and requested the Department of Revenue to address the Amendment 27.

ACTING COMMISSIONER BUTCHER responded that the Department of Revenue has the same concerns with Amendment 27 as it did with Amendment 8, which is that it could result in a company spending less over a couple-of-year period to qualify in that preceding year for the 40 percent and potentially be detrimental to maintenance. Additionally, Amendment 27 would require perpetual

growth that might not be sustainable when a company is looking long term at qualifying for the credit. The department believes that the amendment would make Alaska's investment climate less attractive rather than more attractive. In further response, he elaborated that if the expenditures have to exceed those of the preceding years, then every year the expenditures would have to be more than the previous year to qualify for the credit. Thus, over the long term a company would be required to spend more and more money on a year-by-year basis to qualify for the credit.

CO-CHAIR SEATON pointed out that this would not detract from a company receiving the 20 percent capital credits that it gets currently.

ACTING COMMISSIONER BUTCHER answered correct.

[6:32:23 PM](#)

A roll call vote was taken. Representatives Gardner, Kawasaki, and Seaton voted in favor of Amendment 27. Representatives Wilson, Herron, Munoz, Foster, Dick, and Feige voted against it. Therefore, Amendment 27 failed by a vote of 3-6.

[6:33:16 PM](#)

REPRESENTATIVE HERRON reiterated his earlier testimony that the 25 percent provision in HB 110 is too high. He suggested that the next committee consider a change to 20 percent as well as a change to the progressive brackets. However, he stated that he won't offer an amendment to change the provision and will support moving HB 110 from the House Resources Standing Committee.

[6:34:07 PM](#)

REPRESENTATIVE KAWASAKI related that he spent four years studying this bill, but charged that the committee has not done its due diligence on HB 110. He characterized HB 110 as a \$2 billion gamble, a leap of faith that doesn't necessarily get the state what it wants. Furthermore, HB 110 places the state in fiscal risk in the future. With regard to his earlier statement that he doesn't trust Exxon Mobil, he clarified that he means he doesn't trust it to do what is good for the state. However, he expected the legislature to do what is good for the state and to have the state's fiscal house in order. This legislation gives away \$2 billion on the offset and only opinion, anecdotal evidence, and industry testimony has been heard. Although he

said he had full faith in the Department of Law and [DOR] staff, he opined that they are outnumbered and outgunned. Moreover, there have been many questions that have not been answered. In conclusion, Representative Kawasaki opined that moving HB 110 is premature and until the answers are received he said he will oppose HB 110.

[6:36:53 PM](#)

REPRESENTATIVE GARDNER agreed with Representative Kawasaki that the committee hasn't seen data to support the premise that the tax deductions and credits of up to \$2 billion a year will result in a change in the investment decisions of the majors who stand to benefit by 90 percent or more of these funds. She said that to the extent HB 110 encourages small companies it is good, but that is only a small portion. She questioned what would happen if one year's fiscal impact from HB 110 was offered to whoever was able to get new wells on line the fastest or used those funds to build roads to wells or prospects. Representative Gardner opined that HB 110 isn't a good or well constructed gamble with Alaska's future. She related she'll be voting against HB 110.

[6:38:18 PM](#)

CO-CHAIR SEATON opined that the adopted amendments for the explorers, producers, and increasing the exploration tax credits will be valuable because they are targeted. Unfortunately, the majority of the [tax credit funds] will detract from the state's budget and prevent development of the state's resources because there are other schedules at work that are not related to Alaska's tax scheme. Therefore, the wrong lever is being pulled and it will be very costly for the state and the development of the state's resources.

[6:39:30 PM](#)

REPRESENTATIVE DICK remarked that if he thought HB 110 was leaving the House Resources Standing Committee and going to reality, he wouldn't move to forward it from committee. However, he said that since he has confidence that the legislation will be worked on in the next committee of referral, and in the Senate, and possibly in the interim, he will vote to forward it from committee today.

[6:40:04 PM](#)

CO-CHAIR FEIGE told the committee that when he ran for this position, the top priority he had was the reform of ACES. The work on HB 110 will go far to put more oil in the pipeline. He characterized the legislation as a good start, particularly with the amendments that will add incentives to the original legislation. He opined that the House Resources Standing Committee has done its job. Co-Chair Feige then reminded the committee of the testimony it heard regarding that if nothing was done the flow of oil in TAPS would stop, which has to be balanced with the hit on the revenue side. This process of determining what to cut, he said, is all part of being fiscally responsible.

[6:41:51 PM](#)

CO-CHAIR FEIGE moved to report HB 110, as amended, out of committee with individual recommendations and the forthcoming fiscal notes.

REPRESENTATIVE KAWASAKI objected.

[6:42:23 PM](#)

A roll call vote was taken. Representatives Dick, P. Wilson, Herron, Munoz, Foster, Feige, and Seaton voted in favor of reporting HB 110, as amended, from committee. Representatives Gardner and Kawasaki voted against it. Therefore, CSHB 110(RES) was reported out of the House Resources Standing Committee by a vote of 7-2.

[6:43:10 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 6:43 p.m.