

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

February 17, 2012

1:05 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

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 29

Urging the United States Department of the Interior, Bureau of Land Management, to plug legacy wells properly and to reclaim the legacy well sites as soon as possible in order to protect the environment in the Arctic region.

- MOVED HJR 29 OUT OF COMMITTEE

HOUSE BILL NO. 229

"An Act relating to activities, including violations and penalties, under the supervision of the Big Game Commercial Services Board."

- MOVED CSHB 229(RES) OUT OF COMMITTEE

HOUSE BILL NO. 276

"An Act providing for a credit against the oil and gas production tax for costs incurred in drilling certain oil or natural gas exploration wells in the Nenana Basin."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HJR 29

SHORT TITLE: BLM LEGACY OIL WELL CLEAN UP

SPONSOR(S): REPRESENTATIVE(S) MILLETT

01/17/12 (H) READ THE FIRST TIME - REFERRALS  
01/17/12 (H) RES  
02/08/12 (H) RES AT 1:00 PM BARNES 124  
02/08/12 (H) Heard & Held  
02/08/12 (H) MINUTE(RES)  
02/17/12 (H) RES AT 1:00 PM BARNES 124

BILL: HB 229

SHORT TITLE: BIG GAME COMMERCIAL SERVICES BOARD

SPONSOR(S): REPRESENTATIVE(S) FEIGE

04/06/11 (H) READ THE FIRST TIME - REFERRALS  
04/06/11 (H) RES, JUD  
04/08/11 (H) RES AT 1:00 PM BARNES 124  
04/08/11 (H) Heard & Held  
04/08/11 (H) MINUTE(RES)  
02/15/12 (H) RES AT 1:00 PM BARNES 124  
02/15/12 (H) Heard & Held  
02/15/12 (H) MINUTE(RES)  
02/17/12 (H) RES AT 1:00 PM BARNES 124

BILL: HB 276

SHORT TITLE: OIL/GAS PRODUCTION TAX CREDITS: NENANA

SPONSOR(S): REPRESENTATIVE(S) THOMPSON, DICK, MILLETT, TUCK,  
MILLER

01/17/12 (H) PREFILE RELEASED 1/13/12  
01/17/12 (H) READ THE FIRST TIME - REFERRALS  
01/17/12 (H) RES, FIN  
01/30/12 (H) RES AT 1:00 PM BARNES 124  
01/30/12 (H) Heard & Held  
01/30/12 (H) MINUTE(RES)  
02/01/12 (H) RES AT 1:00 PM BARNES 124  
02/01/12 (H) Heard & Held  
02/01/12 (H) MINUTE(RES)  
02/03/12 (H) RES AT 1:00 PM BARNES 124  
02/03/12 (H) Heard & Held  
02/03/12 (H) MINUTE(RES)  
02/17/12 (H) RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

JEFF TURNER, Staff

Representative Charisse Millett  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on HJR 29 on behalf of the prime sponsor, Representative Millett.

ESTHER HUGO, Mayor  
Anaktuvuk Pass  
Anaktuvuk Pass, Alaska

**POSITION STATEMENT:** Testified in support of HJR 29.

GEORGE EDWARDSON, President  
Inupiat Community of the Arctic Slope  
Barrow, Alaska

**POSITION STATEMENT:** Testified in support of HJR 29.

DAVE THERIAULT, Legislative and Outreach Director  
Alaska Conservation Alliance  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HJR 29.

CATHERINE FOERSTER, Engineering Commissioner  
Alaska Oil and Gas Conservation Commission (AOGCC)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HJR 29.

MICHAEL PASCHALL, Staff  
Representative Eric Feige  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Offered to answer questions on HB 229 on behalf of the prime sponsor, Representative Feige.

THOR STACEY  
Alaska Professional Hunters Association (APHA)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to HB 229.

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

**POSITION STATEMENT:** During the hearing on HB 276, reviewed a discussion document prepared by his department.

LENNIE DEES, Audit Master

Production Audit Group  
Tax Division  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions related to HB 276.

JAMES MERY, Senior Vice President  
Lands and Natural Resources  
Doyon, Limited  
Fairbanks, Alaska

**POSITION STATEMENT:** Answered questions related to HB 276.

LISA HERBERT, Executive Director  
Greater Fairbanks Chamber of Commerce  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 276.

JERRY MCCUTCHEON  
Anchorage, Alaska

**POSITION STATEMENT:** Testified regarding HB 276.

REPRESENTATIVE STEVE THOMPSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as joint prime sponsor of HB 276.

#### **ACTION NARRATIVE**

[1:05:57 PM](#)

**CO-CHAIR ERIC FEIGE** called the House Resources Standing Committee meeting to order at 1:05 p.m. Representatives Herron, Gardner, Munoz, P. Wilson, Seaton, and Feige were present at the call to order. Representatives Kawasaki, Foster, and Dick arrived as the meeting was in progress.

#### **HJR 29-BLM LEGACY OIL WELL CLEAN UP**

[1:06:18 PM](#)

**CO-CHAIR FEIGE** announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 29, Urging the United States Department of the Interior, Bureau of Land Management, to plug legacy wells properly and to reclaim the legacy well sites as soon as possible in order to protect the environment in the Arctic region.

1:07:08 PM

JEFF TURNER, Staff, Representative Charisse Millett, Alaska State Legislature, on behalf of Representative Millett, prime sponsor, thanked the committee for taking up HJR 29 once again. He said the resolution urges the U.S. Bureau of Land Management (BLM) to create a long-term plan to properly plug and clean up the legacy well sites in northern Alaska. The drilling stopped three decades ago and only a few wells have been plugged according to Alaska Oil and Gas Conservation Commission (AOGCC) standards. Dozens are still out of compliance and at least three can no longer be found. Now is the time for the legislature to make its voice heard in Washington, DC, and to get these wells cleaned up before any more contamination can take place. He said word about the resolution has gotten out and the sponsor has now heard from some environmental organizations and Native communities about the issue. The Alaska Conservation Alliance board of directors has issued a letter of support for HJR 29 and several Native communities are in favor of the resolution. In a sense, the resolution speaks for the legislature as well as for Alaskans across the board.

REPRESENTATIVE HERRON asked whether the federal government has acknowledged that this is its fault and is sorry it happened.

MR. TURNER replied that Representative Millett has not received any comment from the federal government in response to Representative Herron's request.

1:10:20 PM

ESTHER HUGO, Mayor, Anaktuvuk Pass, testified that the area in which she lives has six or seven of the contaminated well sites, including Umiat. A road is not needed to clean up the sites, she said. The community has forbidden its children from swimming in Eleanor Lake near the village, which is contaminated according to a 2009 letter from the U.S. Department of Defense. However, when it is hot in the summer the children cannot be stopped from swimming in the lake. The resolution is a good start, she said, because the federal and state governments and the corporations should be held responsible for cleaning up. She reported that there are dozens of similar well sites on state land in the North Slope. She further noted that she was first told about this problem by her grandparents.

MAYOR HUGO, in response to Co-Chair Seaton, agreed to provide a copy of the letter from the U.S. Department of Defense for the committee record.

CO-CHAIR FEIGE requested that any allegations of wells on state land needing cleanup be forwarded in writing to the committee.

MAYOR HUGO agreed to do so.

[1:13:21 PM](#)

GEORGE EDWARDSON, President, Inupiat Community of the Arctic Slope, noted that he is speaking for the tribes of the eight North Slope Communities of Kaktovik, Nuiqsut, Anaktuvuk Pass, Atqasuk, Barrow, Wainwright, Point Lay, and Point Hope. He said he is in his twenty-third year as president of the regional tribal government. Regarding the legacy wells, he said he was with the [Barrow] Restoration Advisory Board (RAB) which included the U.S. Air Force and Navy, U.S. Army Corps of Engineers, BLM, and State of Alaska. He related that of all the wells referred to by Mayor Hugo, 41 have collapsed and none of the sites have been cleaned. The wells were drilled, then the rig was taken to another location, and the contaminants were left; all the mud pits are still there as mud pits.

[1:15:00 PM](#)

MR. EDWARDSON reported that 19 Distant Early Warning (DEW) Line sites were contaminated. So far 11 of them have been cleaned right down to the chemicals in the sand. The contaminated soil was put into containers for removal at a later date with the understanding that removal of those barrels was the responsibility of the United States. All of this contamination and damage was done before statehood, so the state had no hand in making this mess. He said he concentrated on cleaning the wells that were about to go into the ocean as a result of the shoreline receding from global warming; for example, the beach adjacent to Barrow has moved back one mile over the past 50 years. Nothing was done with the casing on the wells and no packing was put in and even if rubber packing had been installed it would now be over 70 years old, totally obsolete, and in need of being taken care of. The mud pits are still there and animals fall in and still die from the toxins in the soil.

[1:17:21 PM](#)

MR. EDWARDSON noted that of the wells cleaned up, approximately six were about to fall into the ocean. The well mentioned [in the 2/8/12 hearing] that cost over \$16 million [to plug and abandon] was less than 50 feet from the ocean and crude oil was bubbling out of the ground. The high cost was because a rig had to be brought in and the well cemented shut. The other wells have not been cleaned. He said Umiat was the last place he tried to clean up while on the RAB. The Umiat dump was being exposed and it contained polychlorinated biphenyls (PCBs) from the time when it was legal to dump PCBs. He found 368 transformers in the Umiat dump, but only 8 of them were brought out during the cleanup. Now the dump is in the Coleville River. He reported that burbot in the Coleville River, a fish that does not move and stays in place to eat, are so contaminated that the people have been told not to eat more than three a year. Over three years before the dump went into the river, he and others in the RAB tried to get it cleaned up, but the excuse from the federal government was that there was no funding. Now that the dump is in the Colville River it is scattered from Umiat all the way down the river and when the people of Nuiqsut eat fish they are eating PCB, thanks to the federal government.

[1:19:55 PM](#)

MR. EDWARDSON said that every documenting paper for what he has mentioned is in the RAB files. He said he bullied the federal government to clean up the wells because he has to live with it, as do his children and grandchildren. His grandchildren do not know where it is unsafe to play. If the federal government is trying to let the state clean up the wells, then the tribe will stand beside the state to ensure that this is done because it has to be done. This is his home that has been contaminated and he is glad to see the committee attempting to clean it; he urged that the job be done.

MR. EDWARDSON, in response to Representative P. Wilson, agreed to provide the committee with a copy of the letter telling people not to eat more than three fish a year. He said he would get the letter from the [North Slope Borough Department of Wildlife Management] because they are the ones that tested the fish. He said that cleaning up the dump would have stopped the river from being contaminated and he is not accepting the federal government's excuse.

[1:21:44 PM](#)

REPRESENTATIVE GARDNER remarked that Mr. Edwardson's outrage is contagious. She asked whether the containers with contaminated soil from the cleaned well sites on the DEW Line are still there.

MR. EDWARDSON replied that some of the containers are still there. He said the containers are plastic lined so the rain and snow cannot get in and are stored in a place where they are ready for shipment. Now, however, a permit cannot be gotten for hauling out that contaminated soil. The previous containers went to a naval site near Seattle. As mentioned by Mayor Hugo, contamination has been done by both the state and the federal government. The utilidor in Barrow is laced with 10.5 million board feet of pentachlorobiphenyl-treated wood, and the contaminant is now throughout the town. The U.S. Army Corps of Engineers built the utilidor and the borough was the contractor. During construction of the utilidor, half a dozen women lost their babies from broken umbilical cords, a habit of this particular contaminant. These people were painting and cutting the wood without proper protection. Regarding the DEW Lines, he said that through the tribal government he had the federal government admitting it was their mess.

[1:24:17 PM](#)

DAVE THERIAULT, Legislative and Outreach Director, Alaska Conservation Alliance, offered his organization's support for HJR 29 and thanked the sponsor for bringing the resolution forward.

[1:24:57 PM](#)

REPRESENTATIVE GARDNER commented there is no reason to expect that this resolution will bring results from the federal government. It is an expression of the legislature's outrage that the state's lands are contaminated and that this has been known for a long time with little done to remedy it. She asked whether anything else might be done to make this problem broadly known and encourage some sort of resolution.

CATHERINE FOERSTER, Engineering Commissioner, Alaska Oil and Gas Conservation Commission (AOGCC), replied that she has been worrying this problem since she arrived at AOGCC in 2005 and she has finally decided that the only thing that can be done is to embarrass the federal government in the court of public opinion. The local BLM folks are Alaskans too, she said, and would like to see it cleaned up, but their budget is only \$1 million

annually and that is hardly enough to pay for the Alaska BLM's staff and share of the building and the paperwork to keep up with the status of these wells. The Alaska BLM certainly does not get enough money to plug the wells. She said this needs to be discussed with Alaska's Congressional Delegation, environmental groups, and others and noise must be made to make this a priority that the federal government allocates budget to. Ms. Foerster added that the local BLM folks have this issue as a high priority with no money. Mr. [Ted] Murphy of the Alaska BLM has committed to collaborate with AOGCC and she is meeting with him next week to share data to ensure that everyone has the same data and same understanding of the status of all 136 wells. There will likely also be an agreement for a way forward about what to do next. She said she will keep the committee informed as to what is done; however, the bottom line is that until there is a budget for the Alaska BLM, the meetings will just be a dusting off of furniture.

[1:27:52 PM](#)

REPRESENTATIVE P. WILSON inquired whether this situation would get taken care of if it were in the Lower 48.

MS. FOERSTER responded that if this were in an area that had a larger and more vocal population with easier access for people to see, it would be gone. Alaska's situation is out of sight, out of mind except for the few people who live out there. She offered her appreciation for the committee's championing of this effort.

REPRESENTATIVE P. WILSON offered her belief that if more of the organizations concerned about contamination were to jump on the bandwagon there would be more results.

MS. FOERSTER agreed and said that if Greenpeace, the Sierra Club, and other bigger organizations with lobbying emphasis in Washington, DC, were to put their horsepower behind this the issue would be taken care of.

[1:29:30 PM](#)

REPRESENTATIVE FOSTER surmised that if there are a lot of wells in the Lower 48 that need plugging, Alaska will be at the end of a very long line. However, he continued surmising, if there are only a few such wells perhaps Alaska would be next in line if there was some movement. He asked which scenario is the case.

MS. FOERSTER replied she does not think there are many wells managed by the federal government in the Lower 48. However, there may be some in Montana and Wyoming and they probably have some of the same issues as Alaska as far as out of sight, out of mind and a small population that is not influential.

REPRESENTATIVE DICK quipped that the federal government is too busy setting up sting operations for Amish farmers bringing unpasteurized milk across the Pennsylvania border and therefore does not have the funds for something as "insignificant" as this.

[1:31:00 PM](#)

CO-CHAIR FEIGE closed public testimony on HJR 29.

CO-CHAIR SEATON moved to report HJR 29 out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, HJR 29 was reported from the House Resources Standing Committee.

#### **HB 229-BIG GAME COMMERCIAL SERVICES BOARD**

[1:31:27 PM](#)

CO-CHAIR FEIGE announced that the next order of business would be HOUSE BILL NO. 229, "An Act relating to activities, including violations and penalties, under the supervision of the Big Game Commercial Services Board." [Before the committee was the proposed committee substitute (CS), Version I, labeled 27-LS0764\I, Bullard, 2/13/12, adopted on 2/16/12 as the working document.]

MICHAEL PASCHALL, Staff, Representative Eric Feige, Alaska State Legislature, on behalf of Representative Feige, prime sponsor, stated that he did not need to add anything more about the bill unless there were questions. He offered his belief that a committee member would be proposing an amendment.

CO-CHAIR FEIGE closed public testimony after ascertaining that no one wished to testify.

[1:33:08 PM](#)

CO-CHAIR SEATON moved to adopt Amendment 1, labeled 27-SL0764\I.1, Bullard, 2/16/12, which read [original punctuation provided]:

Page 2, lines 25 - 27:

Delete "hunt is being conducted by a class-A assistant guide or a registered guide-outfitter employed by the contracting registered guide-outfitter"

Insert "**board adopts regulations permitting** [HUNT IS BEING CONDUCTED BY] a class-A assistant guide or a registered guide-outfitter employed by **a** [THE] contracting registered guide-outfitter **to conduct a hunt for a contracting registered guide-outfitter**"

CO-CHAIR FEIGE objected for purposes of discussion.

[1:33:26 PM](#)

CO-CHAIR SEATON explained that in public testimony [on 2/15/12] a big game services guide and a guiding organization wanted to ensure that supervision and participation were not weakened, but that conducting a hunt could be allowed. Amendment 1 would allow the Big Game Commercial Services Board to pass regulations to allow a class-A assistant guide or a registered guide-outfitter employed by the contracting guide to conduct a hunt. The difference between conducting a hunt was supervising a camp, so it would not take the place of in-the-field supervision and participating in the contracted hunt. It was requested that the Big Game Commercial Services Board be able to pass regulations to allow that, but not specify in statute in taking away the authority of the board to pass those.

[1:35:03 PM](#)

CO-CHAIR SEATON stated that subsection (e) on page 2, lines 21-27, would read as follows under the proposed amendment:

A registered guide-outfitter who contracts for a guided hunt shall be in the field supervising and participating in the contracted hunt and conducting the hunt, unless the board adopts regulations permitting a class-A assistant guide or registered guide-outfitter employed by [a] contracting registered guide-outfitter to conduct a hunt for a contracting registered guide-outfitter.

CO-CHAIR SEATON reiterated that the purpose of Amendment 1 and the legislative intent is to allow the board to pass regulations on conducting a hunt in the field, but not exclude supervision

and participation by the registered guide-outfitter, which was something that everyone wanted to make sure was retained to preclude someone from being able to supervise a hunt from out of state and not participating in the field.

1:37:04 PM

CO-CHAIR FEIGE inquired whether Amendment 1 would allow for assistant guides to be the guide for an individual hunter. He surmised the assistant guide had to be class-A.

CO-CHAIR SEATON confirmed that the assistant guide would have to be a class-A assistant guide. He offered his understanding that a fairly low qualification is required for an assistant guide. He said the original bill specified that a class-A assistant guide or registered guide-outfitter could be employed to conduct the hunt. Conducting the hunt entails supervising a camp, being the person in charge, being at least 21 years old, and having some experience; whereas an assistant guide can be as young as 18 and have very little experience. Under the regulations, an assistant guide must be 18 years or older and have legally hunted for two years in the state, but specifically may not take charge of a camp or provide guide services unless contracting with a registered guide.

1:39:37 PM

CO-CHAIR FEIGE said he does not want to unnecessarily put anyone out of work. He asked whether an assistant guide is what is commonly referred to as a packer.

THOR STACEY, Alaska Professional Hunters Association (APHA), replied that the assistant guide can accompany a hunter in the field, but cannot conduct or supervise a camp. He offered his understanding that it is not the intent of Amendment 1 to infringe or restrict the abilities of an assistant guide or do away with that license. Amendment 1 would give the Big Game Commercial Services Board the ability to adopt meaningful regulations on the supervision or of conducting a hunt by a registered guide or the contracting guide. It would give the ability to approach that relationship in regulation that the only licenses that can supervise a camp would be a registered guide or a class-A assistant guide employed by a registered guide. He further understood that an assistant guide could accompany a hunter in the field legally for paid service in the employment of a registered guide, but could not supervise a camp or conduct the hunt. He added that there are definitions for

supervise and conduct. He said APHA would support Amendment 1 as put forward and would especially support the language that gives the board specific statutory power to approach supervision in the field.

[1:41:49 PM](#)

CO-CHAIR FEIGE removed his objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

REPRESENTATIVE KAWASAKI noted that he does not have much problem with the bill and its language, but asked why the bill came before this committee rather than the House Labor and Commerce Standing Committee since it deals with occupational licensing.

CO-CHAIR FEIGE replied that the Speaker of the House assigns where the bills go.

CO-CHAIR SEATON moved to report the proposed committee (CS) for HB 229, version 27-LS0764\I, Bullard, 2/13/12, as amended, out of committee with individual recommendations and the accompanying [zero] fiscal notes. There being no objection, CSHB 229(RES) was reported from the House Resources Standing Committee.

The committee took an at-ease from 1:43 p.m. to 1:46 p.m.

**HB 276-OIL/GAS PRODUCTION TAX CREDITS: NENANA**

[1:46:45 PM](#)

CO-CHAIR FEIGE announced that the final order of business would be HOUSE BILL NO. 276, "An Act providing for a credit against the oil and gas production tax for costs incurred in drilling certain oil or natural gas exploration wells in the Nenana Basin." [Before the committee was the proposed committee substitute (CS), Version M, labeled 27-LS1193\M, Bullock, 1/18/12, adopted on 1/30/12 as the working document.]

CO-CHAIR FEIGE noted that HB 276 has generated much discussion between the committee, the sponsor, and the Department of Natural Resources (DNR) as to the best overall way to proceed. He drew attention to the [2/16/12] discussion document prepared by DNR included in the committee packet, and pointed out that the document does not constitute an endorsement of the legislation by DNR. He added that before any amendments are brought up, he would like to have a fair amount of discussion on

the general concept and determining the best ways to proceed if this is to be applied to more areas of the state than just the Nenana Basin.

REPRESENTATIVE P. WILSON offered her appreciation to DNR for providing the discussion document, saying it is much better to prevent any unintended consequences than to have to deal with them later.

[1:49:09 PM](#)

JOE BALASH, Deputy Commissioner, Office of the Commissioner, Department of Natural Resources (DNR), noted that the discussion document and associated map have been provided to the committee, the bill sponsors, and others in an effort to help policy makers make informed choices about the consequences of the particular policy calls the committee is being presented with. He said the department is not endorsing legislation of one sort or another since that is a policy call by the governor's office. However, because some of the dollars being considered could be quite large, DNR thought it important to lay out as much as possible in the discussion document. The document includes suggestions on things to consider for defining the scope of the incentive and, in particular, the kinds of things that the state should expect to get for making such a large investment in something that is, by definition, not otherwise able to attract private prudent investors. The department believes certain pre-qualification steps would be helpful to ensure that the exploration programs in question make sense and are designed to recover information that would be of value not just to the individual investors or companies, but also to the state and the public.

[1:51:14 PM](#)

MR. BALASH, in regard to drilling the wells and the type of information being gathered, said it needs to be ensured that there is a full suite of data collection, that this is performed by the driller, and that it be turned over to the state for full public release before the credit is earned. He pointed out that this is different from some of the other exploration incentive credits the state has had before in that those required the data to be held confidential for a fairly long period of time. However, those were for smaller credits not nearly as valuable as the ones presently being contemplated.

[1:52:20 PM](#)

MR. BALASH addressed the map accompanying the document entitled "Regions for Potential Frontier Basin Oil and Gas Exploration." He said the map represents a high level screening of basins in the state that are within some reasonable proximity to either existing infrastructure or populations. The map identifies oil and gas, population centers, and the amount of energy used in each community; proximity to mineralized zones was not included to avoid the map becoming too busy. He added that the document captures some of the things spoken to by Mr. Swenson and Mr. Barron, and that Mr. Paul Decker, Resource Evaluation, Division of Oil & Gas, assisted with the document. He noted that all three gentlemen have spent considerable time in the private sector working for exploration companies and that they helped think through the things that would be of value to the state if these types of programs are put into place.

[1:54:39 PM](#)

REPRESENTATIVE FOSTER surmised that the waters south of Nome in Norton Sound are not included on page [2] in the list of eligible areas for geophysical and/or drilling credits because they would be federal waters. Observing symbols on the map, he asked why the Nome area was not considered eligible for geophysical or drilling credits.

MR. BALASH explained that the symbol next to Nome represents the amount of heating oil and diesel consumed by the community, not the area's oil and gas potential. He agreed that in particular there is potential for gas offshore south of Nome, but said that at this point in time the federal government has not seen fit to share those particular revenues with the state. He added that he thinks it would be difficult to get permits anyway.

[1:56:38 PM](#)

REPRESENTATIVE FOSTER understood that the [potential] onshore sources of gas [near Nome] are in very thin layers and therefore production from such a source would be unlikely. He asked whether those areas could nevertheless be included for credits because something new might be found down the road.

MR. BALASH responded that the document attempts to stratify the basins identified in terms of those that would warrant a seismic exploration program versus a drilling program. He said the smaller or thinner the accumulations the less helpful seismic

is, but that he will talk to his staff about the relative merits of authorizing a seismic program in that area.

1:58:09 PM

MR. BALASH returned to his review of the discussion document and stated that it might be constructive to talk about possible mechanisms for constraining the program in a fashion that makes sense. While DNR's pre-screening effort has identified particular basins, a three-well program like that authorized for Cook Inlet, which is \$65-\$67.5 million, would be a big number when multiplied by nine basins, and the heavier a bill gets the harder it is to move. An approach to this particular problem might be to authorize a certain number of wells within these frontier basins statewide on a first-come, first-served basis. So long as there is a reasonable limit on the credit amount itself, the private sector "skin in the game" will help limit, naturally, the number of wells that will be drilled under the program. The legislature could further set out how many wells per year or how many wells per basin, and in that fashion keep the legislature fully in charge of how many of these wells might get drilled that are expected to have a very low probability of success in reaching a technical resource, let alone an economic one.

2:00:12 PM

CO-CHAIR FEIGE commented that from the standpoint of data collection a lot would be learned about the relatively unexplored areas of the state if everyone showed up at once to take advantage of the credits; however, that could also cause the state to run out of money. He asked whether Mr. Balash has a suggestion for a way to entice people to sign up for the program realizing that the state might not have enough money to deliver on the credits right away.

MR. BALASH replied that one way might be to have a separate credit refund bucket. Currently, credits under the production tax can be realized by the taxpayer when there is production or when there is no production tax liability the taxpayer can go to the Department of Revenue for a refund, in essence. Right now, the legislature funds that refund fund annually with an estimate provided by the Department of Revenue. If the legislature wanted to have a separate bucket within that fund for these types of credits then the legislature would be able to keep a handle on how much money would be available, and that could limit the number of efforts that are undertaken, in a manner of

speaking. However, if it is broadly authorized under the production tax code and subject to realization or refund as something just on the books, then there may be a number of underemployed consultants and geologists, he quipped, who could justify a given program for the free money.

[2:03:41 PM](#)

CO-CHAIR FEIGE reiterated this same question for the Department of Revenue regarding a mechanism that could or should be considered to pay for a future exploration program.

LENNIE DEES, Audit Master, Production Audit Group, Tax Division, Department of Revenue (DOR), answered that the mechanism to do that would be to ensure that anybody going for the credit has a duty to perform certain actions, such as the information sharing and ensuring that feasible targets are being sought, not uneconomic exploration plays. Putting those requirements into the program would tend to limit people from doing something that they otherwise would not do if they had to spend their own money.

[2:06:23 PM](#)

CO-CHAIR FEIGE asked whether 75 percent is a reasonable amount of subsidy, which is a 10 percent increase over what the state currently has in place.

MR. DEES responded that he thinks what is in place now is reasonable, which is that companies can get up to 65 percent through combination of the credits and the carry forward loss credit. He said 75 percent adds a little bit more pain to the state from a cash flow standpoint, and he thinks that that would be the limit.

[2:07:23 PM](#)

REPRESENTATIVE P. WILSON understood the recommendation being suggested is to set limits on the number of projects and wells allowed in each area. She recalled that for Cook Inlet the legislature limited it to the first person to get jack-up rigs into the inlet and asked whether this is what is being suggested.

MR. BALASH replied that the jack-up rig credit was designed to attract a specific piece of infrastructure and equipment that was creating an obstacle to further exploration in Cook Inlet

waters. He noted that those waters are largely state leases that will pay a royalty to the state, and the credit amounts and percentages are incredibly high. However, the efforts that would be undertaken [through HB 276] would be entirely onshore with equipment that is already in the state and that could probably be used at times of the year when rigs cannot be employed on the North Slope, which is currently winter-only exploration. Therefore, it is a different set of considerations between Cook Inlet and here. Because most of the areas here are remote and it will be very difficult to move equipment in and out of them, DNR has tried to balance the required depth for drilling and the information that is required to be collected.

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MR. BALASH, continuing his answer, said it is a tricky balance in regard to the overall percentage because in some areas of the state there are companies that do not pay federal corporate income tax. When dealing with a federal taxpayer that enjoys a 65 or 75 percent credit from the state plus the benefit of the federal right-off and right-down, there is a loss of that skin necessary for people to make what is hoped to be sound decisions. For this program to be of benefit to the public, the result needs to be information that is valuable to the state or a resource that can, at a minimum, be used locally. Thus, some semblance of a profit motive, so to speak, needs to be retained. That difference between the suggested 75 percent rate for coverage here versus the 180 [percent] with Cook Inlet is because this is a little bit different animal.

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CO-CHAIR FEIGE inquired when, under the current system of incentives under AS 43.55.025, the required geophysical data is made public.

MR. BALASH offered his belief that it is a 10-year term from the time that data is acquired to when it is made public.

CO-CHAIR FEIGE said that that is a significant delay even though it was subsidized by the state, but for an extra subsidy in this case that data could be made public sooner.

MR. BALASH answered correct; the Division of Oil & Gas has a collection of geologic and subsurface information that is sitting on the shelf waiting for the clock to turn.

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CO-CHAIR SEATON observed that in the committee's consideration of HB 276, the direction of the bill has been changed from a single basin to a basin-opening concept. He noted that the state currently has a 65 percent credit through the 40 percent exploratory tax credits under AS 43.55.025 and the 25 percent in loss carry forward conversion. Given that 75 percent is being considered for the bill, he surmised that it might be cleaner to write it as a 10 percent basin-opening credit on top of what people can already do. It is risk capital because these are risky things and the state would be getting the information, but the 10 percent basin-opening credit would be limited to so many wells in each basin with prior DNR consultation. He asked whether such a system would provide enough control over this program.

MR. BALASH replied he is not trying to dodge the question, but that it should be addressed by the Department of Revenue in terms of administration and whether it would be another layer of complexity that is hard to explain or whether it would be better to have something that stands alone to which regulations can be applied separately. He further suggested that the question be asked of the landowners and operators who have appeared before the committee. He understood that the players in question have run into difficulty attracting capital and if it is presented in one way or another it might help or hinder them.

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CO-CHAIR SEATON noted that there is differentiation between the amounts of credit under AS 43.55.025. The problem is that an existing producer with a high tax rate liability could get the 40 percent tax credit and if that producer's tax rate is 40 percent the producer could take that as a deduction from the expenditure plus the other on top of it, which would lose the concept of skin in the game. He said it would seem logical to say that when taking an exploration tax credit under AS 43.55.025 and the deductibility or conversion of expenses to loss carry forward, that that amount cannot exceed 65 percent. That would limit the state's liability to 65 percent on any of these basins and then the 10 percent on top as a basin-opening portion. He said he wanted to clarify this because he heard the worry of Mr. Dees about stacking credits too high and not controlling them, although 65 percent is not necessarily the rate because it depends on whether it is a producer or an

explorer. He asked whether Mr. Balash agrees that this approach should be investigated.

MR. BALASH qualified that his familiarity with the production tax program is from his time in the capitol building, not his time as an administrator at DNR. He said one way to achieve the control being described would be to disallow these qualified lease expenditures from being used as a deduction or a credit for anything else under AS 43.55; then a specific number could be designated that is intended for this program to cover. He suggested that Mr. Dees speak to the question.

CO-CHAIR SEATON added that this needs to be explored so it is known what the state liability will be.

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CO-CHAIR FEIGE said one of the committee's questions is the difference in return. Part of what Mr. Balash is suggesting is that the state receives a return for its subsidy and one return under HB 276 would be the geophysical data and a much earlier release of that data. He asked what the different returns to the state would be on any projects that go into production, given that three categories of lands may potentially be opened for exploration - federal, Native corporation, and state.

MR. DEES responded that in addition to the information the state would receive from these activities, the state's revenue would increase from the collection of production taxes on a producing activity. Regarding federal lands, he said he is unsure what the arrangements are for sharing royalties with the federal government, but that the state would benefit from the throughput in the Trans-Alaska Pipeline System because it would lower the tariff that everyone pays. In regard to Native lands, the state would benefit from the production taxes. In further response to Co-Chair Feige, Mr. Dees said the state would not collect production tax from the federal lands, but the production would flow through TAPS which might lower the tariffs on state royalty barrels as well as the tariffs on the other production in the state. He said he is unsure about royalty sharing [from federal lands].

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CO-CHAIR FEIGE clarified that he is talking about onshore federal lands, not offshore.

MR. DEES answered that in that case he believes onshore federal lands are part of the tax base. In further response to the co-chair, he confirmed that the state would receive production tax from Native corporation lands but no royalty, and said he is unfamiliar with Section 7(i) monies related to Native lands.

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CO-CHAIR FEIGE, in regard to Mr. Balash's suggestion to speak to folks with an investment stake in this, asked how the aforementioned suggestion would be perceived by investors and the Alaska business community that is seeking investors.

JAMES MERY, Senior Vice President, Lands and Natural Resources, Doyon, Limited, pointed out that this is the state's money and said groups like his are very appreciative of the relatively generous exploration credits currently in place. The initial notion in HB 276 was focused on state lands in the Nenana Basin and to get a lot done very quickly. The higher rate appealed to Doyon because it presented an opportunity to drill two to three wells in a row rather than having to wait two, three, or four years to get those wells drilled. It was a unique opportunity at that point in time and was, in effect, like the Cook Inlet jack-up rig situation because it was a unique circumstance that Senator Wagner and Representative Thompson wanted to address. However, with the discussion now broadened, he said he did not think the ability to drill three wells in a row at 65-75 percent would happen. While he did not want to diminish these wonderful credits, he said it was the special nature of finding out something about a basin that is very close to infrastructure and that could happen relatively quickly as compared to some of the other basins that are now being discussed. Doyon is happy with the 65 percent, he continued, but if the committee saw fit to move it to 75 percent because of the extra risk associated with most, if not all, of these basins, Doyon would just have to see how it works in the marketplace.

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CO-CHAIR SEATON understood Mr. Mery to be saying that if it were like Cook Inlet with 100 percent state money on the first well, 90 percent on the second, and 80 percent on the third it would stimulate Doyon's wells to happen, but 75 percent paid by state money would not be significant enough for rapid development in Nenana Basin.

MR. MERY said he is saying he is not sure.

[2:28:32 PM](#)

CO-CHAIR SEATON asked whether a basin-opening credit of an additional percentage above the 65 percent would still stimulate folks to share the geological data with the state on a relatively short turn around for public access.

MR. MERY qualified that he is speaking for Doyon only and said the quicker release is no trouble for Doyon because it has already shared a lot of data in the Nenana Basin way ahead of time with both the state and the public in an effort to get more investment and more aggressive investment. Regarding Doyon's Native lands in the Yukon Flats, he said the notion of sharing the data and making it public is an easy decision because that land is surrounded by federal lands that will never be opened to exploration; therefore, no competitive advantage would be lost by pushing data into the public sector sooner rather than later.

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CO-CHAIR SEATON inquired whether Doyon finds it acceptable to be required to receive DNR's pre-approval to qualify for receiving the additional amount of credit.

MR. MERY, again qualifying that he is speaking for Doyon only, stated that Doyon has a very good relationship with both the Division of Oil & Gas (DOG) and the Division of Geological & Geophysical Surveys (DGGS) and talks to them on a regular basis about its projects, so that is something that would not trouble Doyon at all.

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CO-CHAIR SEATON observed that the DNR discussion document recommends a 50 percent payback provision for the additional basin-opening credit. He said he was not inclined to include such a provision because he thinks the amount of information and cooperation with the state would be well worth the additional 10 percent. He presumed that Doyon would not want to have the payback if it found something and asked whether Doyon believes it is more stimulating for getting investors if there is not a payback provision of the credit.

MR. MERY replied, "Of course, yes."

CO-CHAIR SEATON explained he wants to make sure that when this is approached at a future time it can be said it was discussed with the industry and the industry agreed that a payback provision on the 75 percent limit would be counter to the state's purpose of stimulating investors and drilling. He added that he thinks the committee is only talking about a limited number of wells per basin.

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MR. BALASH, in response to Co-Chair Feige, pointed out that it would be the Department of Revenue administering this proposed program.

REPRESENTATIVE HERRON asked whether the discussion document recommendations are set in stone.

MR. BALASH answered that DNR was trying to capture the balance, relatively speaking, of something that might be available on a general basis. The legislature could limit the number of wells and go with a higher percentage, which is a policy call for the committee to make. However, he cautioned, under a more general law that opens multiple basins at a time, the higher the credit rate, the less of a natural selection there will be. There are parts of the state where it has been seen that free money engendered unrealistic hopes and expectations to go after things that are not there.

REPRESENTATIVE HERRON said the discussion has evolved to whether the state should have a template and he does not believe the committee is interested in a template that says it is wide open and that would create a Wild West rush. The template is so that every single basin does not have to go through a meticulous legislative process, although there might be safeguards in the template that require DNR to come back for permission from the policy makers.

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CO-CHAIR SEATON observed that some of the basins identified on the map may have development restrictions, such as Bristol Bay and the Aleutian Islands. He said he wants to ensure that there is nothing in the contemplation and offering of the credits in HB 276 that would override any places where leasing or exploration are off limits under current law.

MR. BALASH quipped that if this could be done by offering a credit then perhaps the map could be moved a little farther north and east.

CO-CHAIR SEATON understood Mr. Balash to be saying that having the credits in HB 276 would not change any lease restrictions that are currently in place

MR. BALASH replied correct. He pointed out that even when state land is leased it does not entitle the lessee to explore however or where ever it wants. The lessee must still comply with all state requirements and permitting restrictions. Regarding the Aleutian Island basin identified on the map, he said that the area is largely representative of the Alaska Peninsula area-wide lease sale area where DNR has conducted an annual sale for the last 10 years and at one time had bidders and lessees. He said he thinks DNR might have one left there and that DNR still sees high potential in the region and continues to hold those lease sales. If a credit like this were available it might generate some additional interest that has not shown up at the last couple of sales.

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CO-CHAIR FEIGE opened public testimony.

LISA HERBERT, Executive Director, Greater Fairbanks Chamber of Commerce, stated that the chamber represents collectively 700 businesses in Interior Alaska. She offered the chamber's support for HB 276, speaking as follows:

The Fairbanks Chamber has adopted a handful of key priorities this year that will ensure a healthy economic environment for both the business and residential communities of the Interior. Two of those priorities are to support initiatives that will reduce the high cost of energy and to also support projects and initiatives that will encourage new oil and gas development. We believe HB 276 is a step in the right direction in achieving both of these priorities for the Interior. As you know, we currently do not have access to affordable energy at this time. The small number of individuals and businesses who use natural gas for heat are paying three times as much as citizens in Southcentral Alaska. The cost of space heating and production of electricity is negatively impacting our economy's ability to grow. And many of

our Interior families and businesses are struggling just to make due. This bill not only promotes exploration in the Interior, but it allows similar incentives to those offered in other regions of the state.... In addition, the seismic and technical data that will be collected in exploration is of benefit to the State of Alaska. We would like to commend Doyon, Limited, a large Interior corporation and Fairbanks Chamber member and other investors for their years of commitment to this particular region. Doyon and their partner investors have had a great success for showing potential in the Nenana Basin and surrounding areas and, as such, will offer the ability for oil and gas for local or regional use is extremely high. Additionally, the Fairbanks Chamber supports HB 276 because it supports short- to mid-term growth for Interior business communities. With the Nenana Basin's close proximity to Fairbanks, just 50 miles away, this legislation will help local businesses by affording them the opportunity to offer their products and services for the projects we hope will occur. These projects will also likely put Alaskan residents to work with new high paying and highly skilled jobs.

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JERRY MCCUTCHEON stated that the original HB 276 was a good idea, but it has now been turned into garbage. He said Kotzebue should be addressed by itself because the solution for Kotzebue is probably different than for Nenana Basin. Nenana Basin deserves a clean bill that should have been passed half a dozen years ago. Kotzebue should receive grants or an appropriation to the Department of Natural Resources (DNR) to run the available two dimensional seismic through two dimensional enhanced seismic in time for the next session of the legislature. Regarding the Nenana Basin, he suggested that the operator be able to get back some share or multiple of investment early on and then, once the company gets its investment back, the state could "sock it to 'em". Mr. McCutcheon said that what he would like to see different is that the companies must first pay all their taxes due and then get their credits after justifying them. The state is doing it the wrong way by letting the companies determine what they want to take off and then the state playing a guessing game of what it is all about. He offered his hope that a bill for the Nenana Basin gets through the legislature this session.

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REPRESENTATIVE STEVE THOMPSON, Alaska State Legislature, joint prime sponsor, said HB 276 was introduced in an effort to bring energy and home heating relief to Alaska's second largest community, which is only 50 miles from the Nenana Basin. The intent was to encourage investment and, hopefully, production of natural gas from that basin. The bill has grown quite a bit and he can understand the interest in wanting to help with additional frontier basins that are close to other regional areas in need of energy relief. He thanked the Department of Natural Resources, his staff, and the staff of other legislators who all put in an incredible amount of work researching how this might be accomplished.

REPRESENTATIVE THOMPSON expressed his fear, however, that the weight of a growing fiscal note with more and more additions would sink the bill. He cautioned about taking existing credits of 65 percent and just adding 10 percent because 40 percent of the accumulated tax credits, which are in AS 43.55.025(b), sunset as of July 1, 2016, and the work would therefore have to be completed by that date. While he understood the need for energy in smaller areas other than the Fairbanks region, he said the intent was to keep it simple and get things accomplished.

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CO-CHAIR SEATON appreciated Representative Thompson's concern and advised that the committee has amended a previous bill to extend those tax credits another 10 years, although that bill has not passed. He asked whether the sponsor would like to see the credits in AS 43.55.025(b) extended another 10 years if [Version M] goes forward.

REPRESENTATIVE THOMPSON responded that that would definitely make it more acceptable and possibly more workable because if the bill's provisions did extend into other regions it would likely be past 2016 before anything could even start.

CO-CHAIR FEIGE left public testimony open and held over HB 276.

2:48:46 PM

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:49 p.m.