

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 20, 2012

1:03 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 CONCURRENT RESOLUTION NO. 23

Establishing and relating to the Alaska Arctic Policy Commission.

- MOVED CSHCR 23(RES) OUT OF COMMITTEE

HOUSE BILL NO. 263

"An Act relating to information concerning oil and gas taxes, including information about expenditures that must be provided in order to claim an oil and gas production tax credit for those expenditures, and relating to the disclosure of that information; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HCR 23

SHORT TITLE: ALASKA ARCTIC POLICY COMMISSION

SPONSOR(S): FINANCE BY REQUEST OF AK NORTHERN WATERS TASK FORCE

02/03/12	(H)	READ THE FIRST TIME - REFERRALS
02/03/12	(H)	RES, FIN
02/07/12	(H)	FIN AT 1:30 PM HOUSE FINANCE 519

02/07/12 (H) <Pending Referral>
02/20/12 (H) RES AT 1:00 PM BARNES 124

BILL: HB 263

SHORT TITLE: PRODUCTION TAX CREDIT; DISCLOSURES

SPONSOR(s): GARDNER, GARA, TUCK, KAWASAKI

01/17/12 (H) PREFILE RELEASED 1/13/12
01/17/12 (H) READ THE FIRST TIME - REFERRALS
01/17/12 (H) RES
02/20/12 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE REGGIE JOULE

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Introduced HCR 23 on behalf of the House Finance Committee, sponsor by request of the Alaska Northern Waters Task Force.

CHRISTINE HESS, Staff

Representative Reggie Joule

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: During hearing of HCR 23, answered questions.

REPRESENTATIVE BRYCE EDGMON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified in support of HCR 23.

JOHN LARSEN, Audit Master

Tax-Production Audit Group

Department of Revenue

Anchorage, Alaska

POSITION STATEMENT: During the hearing on HB 263, answered questions.

LENNIE DEES, Audit Master

Tax-Production Audit Group

Department of Revenue

Anchorage, Alaska

POSITION STATEMENT: During the hearing on HB 263, answered questions.

DONNA KEPPERS, Audit Master
Tax-Production Audit Group
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: During the hearing on HB 263, answered questions.

ACTION NARRATIVE

[1:03:35 PM](#)

CO-CHAIR PAUL SEATON called the House Resources Standing Committee meeting to order at 1:03 p.m. Representatives Dick, Foster, Gardner, Kawasaki, Feige, and Seaton were present at the call to order. Representatives P. Wilson, Herron, and Munoz arrived as the meeting was in progress.

HCR 23-ALASKA ARCTIC POLICY COMMISSION

[1:04:23 PM](#)

CO-CHAIR SEATON announced that the first order of business would be HOUSE CONCURRENT RESOLUTION NO. 23, Establishing and relating to the Alaska Arctic Policy Commission.

[1:04:42 PM](#)

REPRESENTATIVE REGGIE JOULE, Alaska State Legislature, speaking on behalf of the House Finance Committee, sponsor by request of the Alaska Northern Waters Task Force, explained that HCR 23 proposes establishing an Alaska Arctic Policy Commission, which was one of the recommendations from the Alaska Northern Waters Task Force (ANWTF). The ANWTF was established in 2010 in response to the discussions being held in Washington, D.C., the Canadian North, and the Circumpolar North regarding the Arctic and Alaska's Arctic waters. One of the goals of ANWTF was to get the legislature engaged in these conversations as opposed to waiting for budgetary items to come forward. In the process of engaging the legislature, the task force would also engage the communities and seek areas of expertise to provide information. The task force held a series of meetings around the state. He characterized the process as a very interesting journey.

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REPRESENTATIVE JOULE directed the committee's attention to the information in the committee packet from the National Security Presidential Directive and Homeland Security Presidential Directive. These directives were created in January 2009 under the George W. Bush Administration. He told the committee that the committee packet should include information regarding Canada's strategy with the Arctic, but he would provide the committee with information regarding Denmark's strategy with the Arctic. The aforementioned illustrates that other countries have been developing policies related to the north. He then informed the committee that the Arctic Council is currently chaired by Sweden. In 2013 Canada will assume the chair of the Arctic Council for two years, which will be followed by the U.S. chairing the council, he highlighted. Therefore, for a four-year period the Arctic Council will be chaired by North America. By working with Canada and by chairing the council, there's the ability to have some impact on the policies and decisions of the Arctic Council. The aforementioned is, in part, why this resolution is before the committee. Collectively, the ANWTF believed that the next step should be taken because although there is a national policy regarding the Arctic, there is no strategy in terms of implementation of that policy. In conclusion, Representative Joule opined that establishing the Alaska Arctic Policy Commission would help Alaska stay engaged in the conversation regarding the Arctic.

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REPRESENTATIVE GARDNER recalled testimony from Canadian visitors who relayed that Canada already views itself as an Arctic nation. However, the U.S., save Alaska, is largely unaware of the Arctic issues. She, therefore, asked if the Canadian territories and provinces that border the Arctic have a separate policy or commission separate from the national policy or commission. She then questioned in what ways Alaska's Arctic policy would be different than that of the U.S. national policy.

REPRESENTATIVE JOULE confirmed that Canada does have an Arctic policy and three of Canada's Arctic provinces/territories have put forth their own Arctic visions. Therefore, he recommended that Alaska should do much the same.

[1:12:02 PM](#)

CHRISTINE HESS, Staff, Representative Reggie Joule, Alaska State Legislature, related that the Nunavut and Northwest Territories' Arctic policies are new and Canada's [national] policy was

established in 2009. Canada's Arctic policy is geared toward military and national sovereignty and resource development, whereas the Arctic policies of Nunavut, the Northwest Territories, the Yukon, and Greenland are more about regional cooperation and economically sustainable communities and resource development. Therefore, the policy of the territories and provinces are more regionally based.

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REPRESENTATIVE DICK expressed concern from his constituents that this proposal might result in the U.S. sacrificing a bit of its national sovereignty and joining a global [effort]. He requested assurance that is not the case.

REPRESENTATIVE JOULE remarked, "I guess one of the options is to do nothing; where would that take us?" Because of Alaska's location, the U.S. sits on the Arctic Council as one of the Arctic nations. With regard to whether it's appropriate to allow the federal government to make the decision and follow its lead, he opined that Alaska has a bit of independence and would like to be able to influence some of the decisions being made at the federal level as well as at the international level. He suggested, "If anything, it would be asserting our sovereignty."

[1:14:53 PM](#)

REPRESENTATIVE HERRON, referring to the membership of the Alaska Arctic Policy Commission, asked if the intent is for the members to be Alaska residents.

REPRESENTATIVE JOULE answered that for the most part the members of the commission should be Alaska residents.

[1:15:41 PM](#)

REPRESENTATIVE HERRON then inquired as to the reasoning behind requiring the final report one year after the preliminary report is due.

REPRESENTATIVE JOULE responded that the preliminary report provides an update to the legislature, basically a progress report.

[1:16:51 PM](#)

REPRESENTATIVE HERRON inquired as to what state should stand up for its interests in the Arctic.

REPRESENTATIVE JOULE answered Alaska.

REPRESENTATIVE HERRON then questioned who should respond when actions are taken by others that impact Alaska's national interest and undermine relationships the state has built or lack sensitivity to Alaska's interests and perspectives.

REPRESENTATIVE JOULE again answered Alaska.

[1:17:49 PM](#)

REPRESENTATIVE FOSTER commended Representative Joule for his work on this. He pointed out that the task force focused on ensuring that the benefits would be shared amongst those who are most effected. He then asked if the Inuit Circumpolar Council (ICC) would be an example of an international Arctic organization from which one of the members of the commission would represent.

REPRESENTATIVE JOULE replied yes.

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REPRESENTATIVE P. WILSON inquired as to whether these will be permanent positions since there is no mention of rotating the membership. She related her belief that it's advisable to have the rotation go through a governor's terms in order to provide some continuity between administrations.

REPRESENTATIVE JOULE clarified that once appointed the individuals would serve on the commission; there would be no rotation. The membership is a little larger than the membership of the ANWTF because it was realized that there were some individuals that would have been helpful to have involved with ANWTF. For instance, the oil and gas industry, the University of Alaska and its research capabilities, and tribal members weren't members of ANWTF. The membership of the proposed Alaska Arctic Policy Commission would bring more of the stakeholders together to shape this policy. He then emphasized that one of the important pieces of ANWTF was the dialogue with communities and continuing that effort is very important.

[1:22:00 PM](#)

CO-CHAIR SEATON recalled from Representative Joule's earlier remarks that the majority of the membership of the proposed Alaska Arctic Policy Commission should be Alaskans. Therefore, he surmised that there should be a qualification for the language on page 3, lines 8-17, to specify the members are to be Alaskans.

MS. HESS pointed out that the member representing an international Arctic organization may or may not be an Alaskan. Therefore, the Alaskan qualification would refer to the membership on page 3, lines 8-16.

REPRESENTATIVE JOULE interjected that he wanted to leave that option open, but added that ICC would likely be the international Arctic organization from which the membership would come.

[1:23:19 PM](#)

CO-CHAIR SEATON directed attention to the language on page 3, lines 26-29, as follows:

FURTHER RESOLVED that the public members and, if the member representing the federal government does not receive reimbursement for expenses from the federal government, the federal government member of the commission may receive per diem and travel expenses authorized for boards and commissions under AS 39.20.180;

CO-CHAIR SEATON questioned whether the intent is to cover the expenses of the individual or is the desire for [the member of the international Arctic organization] to be an Alaskan.

REPRESENTATIVE JOULE said that he would consider an amendment to require all the members of the commission be Alaskans as a friendly amendment.

MS. HESS, drawing from the experience with ANWTF, related that although ANWTF provided for international fees, about \$100,000 was left over because not everyone could attend every meeting. Therefore, that \$100,000 could be re-appropriated to help cover the expenses of this proposed Alaska Arctic Policy Commission. She suggested that if there was an international member on the proposed commission, the cost of that member could be absorbed into the budget.

1:25:10 PM

CO-CHAIR SEATON clarified that he is trying to understand how the sponsor would like to structure this.

REPRESENTATIVE JOULE stated that he would like for the membership of commission [specified on page 3, lines 8-17] to be composed of Alaska residents, particularly since it would be an Alaska strategy and policy.

CO-CHAIR SEATON commented that was his thinking that as well.

1:25:40 PM

CO-CHAIR SEATON recalled discussions of other legislation involving Norway and the Arctic Council that revealed they were about nation-to-nation interactions. This proposal would provide the state with a structure to influence and participate in the Arctic Council. He asked if that is part of the intention of this resolution.

REPRESENTATIVE JOULE acknowledged that the State of Alaska is already engaged in some of the discussions regarding the Arctic. The difference, in part, with this proposal is that this is an opportunity for the state, including the legislature, to remain active and engaged in discussions and the process of the Arctic vision. A result of the "Findings & Recommendations of the Alaska Northern Waters Task Force" report is that he and Commissioner Hartig will travel to Washington, D.C., to meet with the U.S. Arctic Council senior advisor. He noted that the Department of Interior and the U.S. Coast Guard are very interested [in ANWTF's findings and recommendations as well].

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REPRESENTATIVE P. WILSON agreed that this is an extremely important issue that should be moved forward. She questioned whether Arctic policy is an important enough issue that someone from the House Finance Committee should be on the proposed commission.

REPRESENTATIVE JOULE pointed out that the resolution specifies there are to be three representatives appointed by the Speaker of the House of Representatives and three senators appointed by the President of the Senate. The members who are appointed would be left to the discretion of the Speaker and the President. He then highlighted that both co-chairs of the

Senate Finance Committee and himself, a member of the House Finance Committee, were members of ANWTF as well as alternates Representative Edgmon, member of the House Finance Committee, and Senator Olson, member of the Senate Finance Committee.

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REPRESENTATIVE GARDNER said she was struck by the language used regarding the membership of the proposed commission, which include "appointed", "representing", and "from". She opined that the language is problematic. For example, it is difficult to represent the federal government unless he/she is an ambassador. Therefore, she questioned how an Alaskan employed by the federal government, perhaps through the Department of Interior or the Bureau of Land Management, would have the authority from their employer to represent the federal government. She suggested that the language needs to be wordsmithed a bit.

MS. HESS informed the committee that the language is the same as that used for the resolution [that created ANWTF], which didn't seem to cause any problem. She explained that [with ANWTF] the member representing the federal government became a liaison because the President of the U.S. would have to approve for the individual to actually represent the federal government. The ANWTF included two rear admirals as members and they were very active contributing members. In further response to Representative Gardner, she confirmed that the members representing the federal government on ANWTF were in effect delegated to represent the federal government.

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REPRESENTATIVE HERRON related his understanding that the U.S. Arctic policy essentially says that the U.S. is an Arctic nation and that it is the policy of the U.S. that it will involve Alaskan communities in the decisions impacting them. Therefore, he encouraged the sponsor to include a "Whereas" clause that speaks directly to the involvement of Alaskans. In response to Co-Chair Seaton, Representative Herron specified that the language he is referencing can be found in the National Security Presidential Directives (NPDS) - 66 on page 2 in the Background section where it says, in part, "The United States is an Arctic nation, ..." and on page 2 in the Policy section where it says, in part, "5. Involve the Arctic's indigenous communities in decisions that affect them;".

[1:34:22 PM](#)

CO-CHAIR SEATON invited public testimony.

[1:34:59 PM](#)

REPRESENTATIVE BRYCE EDGMON, Alaska State Legislature, informed the committee that he was an alternate member of the ANWTF and was able to participate in all the meetings. He then related his strong support for HCR 23 as there are a host of reasons to discuss the importance of Alaska being fully engaged in the opening of the Arctic. Moreover, he expressed the importance of Alaska being engaged with the U.S. in terms of Alaska being strategically aligned in the opening of the Arctic as a foreign policy matter for the U.S. He stated that there are many details from ANWTF that need to be shared. He then highlighted the importance of keeping the commission going in order to keep the awareness level current in Alaska.

[1:37:07 PM](#)

CO-CHAIR SEATON, after ascertaining no one else wished to testify, closed public testimony.

[1:37:16 PM](#)

CO-CHAIR SEATON moved to adopt Conceptual Amendment 1, as follows:

Page 3, line 6, following "follows";
Insert "of which (B) through (I) will be Alaska residents"

[1:37:43 PM](#)

REPRESENTATIVE P. WILSON objected for discussion purposes and questioned whether Conceptual Amendment 1 should include subparagraph (A) on page 3, line 7.

CO-CHAIR SEATON explained that subparagraph (A) refers to the federal government.

[1:38:25 PM](#)

CO-CHAIR FEIGE also questioned why not include subparagraph (A).

CO-CHAIR SEATON pointed out that there are a number of entities for which individuals may work and who may be in the appropriate status to represent the agency. He said he wasn't sure where it would structurally make sense for the federal agencies, and therefore he didn't include subparagraph (A).

[1:39:27 PM](#)

REPRESENTATIVE P. WILSON removed her objection to Conceptual Amendment 1. There being no further objection, Conceptual Amendment 1 was adopted.

[1:39:55 PM](#)

REPRESENTATIVE HERRON moved to adopt Conceptual Amendment 2, which would insert language in HCR 23 relating that "the United States calls itself an Arctic nation and it does have a policy that does involve the Arctic's indigenous communities and decisions that affect them." The aforementioned essentially says that Alaskans do as well.

CO-CHAIR SEATON surmised then that Conceptual Amendment 2 would say that "The policy of the United States for the Arctic region is that the United States will involve Arctic indigenous communities in decisions that affect them." He related his understanding that Conceptual Amendment 2 would essentially be an additional "**WHEREAS**" clause.

REPRESENTATIVE HERRON replied yes.

There being no objection, Conceptual Amendment 2 was adopted.

[1:41:43 PM](#)

CO-CHAIR FEIGE moved to report HCR 23, as amended, with individual recommendations and accompanying fiscal notes. There being no objection, CSHCR 23(RES) was reported from the House Resources Standing Committee.

HB 263-PRODUCTION TAX CREDIT; DISCLOSURES

[1:42:48 PM](#)

CO-CHAIR SEATON announced that the next order of business would be HOUSE BILL NO. 263, "An Act relating to information concerning oil and gas taxes, including information about expenditures that must be provided in order to claim an oil and

gas production tax credit for those expenditures, and relating to the disclosure of that information; and providing for an effective date."

1:43:18 PM

REPRESENTATIVE GARDNER moved to adopt CSHB 263, Version 27-LS1053\E, Bullock, 2/17/12, as the working document. There being no objection, Version E was before the committee.

1:43:50 PM

REPRESENTATIVE GARDNER, speaking as one of the joint prime sponsors of HB 263, informed the committee that [Version E] was offered as an amendment to HB 110 [in the House Resources Standing Committee] and on the House floor. Although she ultimately pulled the amendment to HB 110, she said she understood there was support for it from members of the committee. She then directed attention to a document in the committee packet entitled "Disclosure Requirements for Film Tax Credits". Those in the film industry who want to do business in Alaska and claim the film tax credits must disclose the following: name of the taxpayer, project title, amount of the Alaska expenditure, production schedule, production type, communities where expenditures occurred, wages paid to residents and nonresidents, costs in in-state Alaska shipping, shipping to Alaska, location fees, facility rentals, services, food, lodging, and amount of tax credit that is rewarded. All of the aforementioned is public record for the film tax credits. Over a two-and-a-half year period, the tax credits have totaled \$24,329,051.20, which isn't a huge amount. However, for the \$4 billion that the state has invested in the oil industry tax credit, there is relatively little known.

1:46:07 PM

REPRESENTATIVE GARDNER surmised that most [legislators] are supporters of various tax incentives and credits, and have goals in terms of those. However, very little is known about what has been purchased with those tax incentives and credits. She opined that it's the legislature's problem that it didn't establish [disclosure requirements for the oil and gas industry] in the beginning. There is no knowledge, with any specificity or detail, on what \$4 billion [in tax incentives and credits] has been spent. Therefore, the legislature can't pinpoint what's really working, that is where the incentives are working and where they are paying for work that would be performed

regardless of the incentives. She reminded the committee of testimony from various experts including Dr. Pedro van Meurs and Robin Brena, regarding how little the legislature knows about what is being spent on the North Slope in comparison to what Norway and other countries with much tighter control of their data know. Although she acknowledged that perhaps the Department of Revenue (DOR) may know the information, it doesn't help the legislature make decisions. Representative Gardner emphasized when the state spends \$4 billion, the legislature should know how effective [the tax incentives and credits] are in getting oil in the pipeline.

[1:48:16 PM](#)

REPRESENTATIVE GARDNER explained that HB 263 is an effort to get oil in the pipeline. The legislation specifies that notwithstanding the normal taxpayer confidentiality, a taxpayer that asks the state for money under the tax incentives and credit program needs to be prepared to release to the public the following: the taxpayer's name, a general description of the category of work being performed, and the location where the work is being performed. A lease that is being explored merely requires the name of the lease or a broad idea of a unit. She stressed that there is no desire to obtain trade secrets or proprietary information rather she seeks responsible accountability for what is being spent on the North Slope.

[1:50:45 PM](#)

REPRESENTATIVE P. WILSON said she didn't recall whether other legislation includes the requirement to publish the information on the Internet.

REPRESENTATIVE GARDNER explained that she discussed with DOR what would be the easiest and most cost effective way to provide the required information. She said she was merely trying to avoid any additional expense and was only seeking efficiency.

[1:51:37 PM](#)

CO-CHAIR SEATON referred to a memorandum from Legislative Legal Services dated February 16, 2012, regarding confidentiality and the belief that perhaps the legislation should include another section. He asked if that was accomplished with [the latest version] of HB 263.

REPRESENTATIVE GARDNER responded that was the intention and she believes it was accomplished with the language on page 3, beginning on line 15 of Version E.

[1:53:19 PM](#)

REPRESENTATIVE FEIGE asked if the language in HB 263, Version E, is the same language that applies to other tax credits. Or, if information is what is sought, then he questioned why it isn't required for all tax credits.

REPRESENTATIVE GARDNER answered that is something that might be considered, but in this case it's the volume of money [that raises the need for the information to be on the Internet]. For smaller credits, she wasn't sure that it was necessary to have regular reports and postings on the Internet, although as a matter of principle it's probably a good idea. She offered the public disclosures candidates for public office must file as an example. In this case, the state is spending \$4 billion and she opined that it's irresponsible of legislators not to know with certainty [whether tax incentives and credits are working]. She acknowledged that there is always a cost/benefit ratio, but as a matter of principle everyone should have the information.

[1:55:00 PM](#)

CO-CHAIR FEIGE expressed the need for the rules to apply to everyone fairly and evenly. Applying this to one single industry seems to be selective, even though he acknowledged that the [oil and gas industry] does provide a considerable amount of revenue to the state. Referring to the language in paragraph (10) [on page 2], Co-Chair Feige reminded the committee that there are existing laws that preclude the release of information that would give competitive advantage to other companies in the same industry. He recalled DOR's testimony from a previous hearing, in which the department reminded the committee that it can't make information public unless it's lumped together with information from at least three other companies. Therefore, one company can't determine what a particular company is spending in a particular area. He opined that the language in paragraph (10) "notwithstanding AS 40.25.100(a) and AS 43.05.230(a)" can't be ignored otherwise it would be taking away competitive advantages from these companies.

REPRESENTATIVE GARDNER said that as a matter of policy it is left to the legislature to determine if every single tax credit should be a matter of public record. Although she said she

wouldn't object to the aforementioned, that's not what she is trying to do with HB 263. She explained that she's not doing the aforementioned, in part, because of the economies of scale. Again, \$4 billion is a lot of money as is the \$24 million for the film tax credits. Where state money is being spent, there should be accountability in terms of the public knowing exactly what the money is being spent on and who is the beneficiary, she said. Representative Gardner opined that while she supports taxpayer confidentiality, she also supports fiscal responsibility on the legislature's part. She explained that with this legislation, she is suggesting that the taxpayer determines whether to participate in a state program and part of the price of participating in this generous state tax credit program is to release broad categories of information. She specified that she wants to be able to tell Alaskans whether the state is buying maintenance and what kinds of repairs or exploration are being purchased, in general terms. Furthermore, a taxpayer who wants to participate in the tax credit system should have his/her name attached to the funds the taxpayer receives.

[1:59:00 PM](#)

CO-CHAIR SEATON related his belief that legislators have been in the dark about heavy oil production and tests on the North Slope. He then expressed concern that if legislators don't understand whether tax credits are being effectively used to develop heavy oil, it doesn't seem that the state can target its tax credits and determine whether more or less tax credits are necessary. Is the purpose of HB 263 to obtain that sort of discrimination of information in order to determine whether the tax credits are going toward shale oil or heavy oil, he asked.

REPRESENTATIVE GARDNER agreed that is exactly what she wants to know. She clarified that she wants to have a better idea in terms of accountability, where the same money [tax credit] could be more effective, or where to invest more because of the ability to see that it actually stimulates the type of activity desired.

[2:00:40 PM](#)

CO-CHAIR FEIGE asked whether it would make more sense to tie a tax credit to actual performance.

REPRESENTATIVE GARDNER acknowledged that's another approach.

CO-CHAIR FEIGE pointed out that with such an approach, the state wouldn't have to deal with issues of giving away competitive edge.

REPRESENTATIVE GARDNER opined that there are complications, strengths, and weaknesses with any approach. Currently, there isn't enough information to know where the incentives and tax credits are being effective. Therefore, HB 263 is her proposal to address the issue.

[2:01:47 PM](#)

CO-CHAIR FEIGE pointed out that [on page 3, lines 13-14] the legislation provides a "detailed description of the purpose of the expenditure". He inquired as to what exactly "detailed" means and how much extra would it cost to implement. He further inquired as to what entity would establish the level of detail.

[2:02:39 PM](#)

JOHN LARSEN, Audit Master, Tax-Production Audit Group, Department of Revenue, responded that there may be a couple of different answers. Generally, when DOR obtains cost information from companies, it has attached the account code and the description of the account. Most often that description will relate what's necessary to know about the expense without having an additional language burden on the taxpayer.

[2:03:21 PM](#)

CO-CHAIR SEATON asked whether a modifier should be placed with the language "detailed description" so that it's by account code or something that reaches the level of description that the sponsor has discussed but wouldn't be of concern to the industry.

MR. LARSEN said a modifier doesn't immediately come to mind, but he offered to give it some thought.

[2:04:33 PM](#)

CO-CHAIR SEATON, referring to Version E, asked whether there would be confusion among DOR as to what "detailed description of the purpose of the expenditure" means and whether a modifier is necessary so that the industry would know exactly what is meant. He asked whether the language is confined/explanatory enough

that both DOR and the industry would understand the meaning of it or is a modifier necessary.

2:05:35 PM

CO-CHAIR SEATON, while waiting for Mr. Larsen to join the meeting, opened public testimony on HB 263. Upon ascertaining that no one wished to testify, he closed public testimony.

2:07:08 PM

MR. LARSEN said that he doesn't see the benefit of modifying the language in the legislation. He offered to inform the committee in regard to the information DOR is currently receiving.

CO-CHAIR SEATON clarified that he didn't want to insert language in statute if it's unclear. He opined that it's clear to him that the language "**detailed description of the purpose of the expenditure**" is a more general description, but he wanted to be sure DOR and industry understands the language. He requested that Mr. Larsen provide the answer to the committee in writing.

2:08:41 PM

REPRESENTATIVE P. WILSON inquired as to whether DOR would be able to obtain that [detailed description of the purpose of the expenditure] information without "stepping on toes" in terms of the proprietary information that has to be protected. In further clarification to Mr. Larsen, Representative P. Wilson specified that she is referring to the information being requested from the producers.

MR. LARSEN answered that DOR currently receives information very similar to what the legislation requests, if not the same information. He said he didn't believe that would violate any proprietary information because it's coming from a single source. When information is received from a company it's only coming from them about their operations and it's not being shared on an individual basis with anyone else.

REPRESENTATIVE P. WILSON pointed out that the legislation specifies that the information will be published on the Internet and in a report to the legislature. Therefore, can DOR do that without worrying about the proprietary information, she asked.

MR. LARSEN stated that personally he would want some advice from the Department of Law regarding the applications of HB 263 as it

applies to AS 40.25.100 and AS 43.05.230. Additionally, DOR can submit information under AS 43.55.890 and not be in conflict with confidentiality provisions.

[2:11:17 PM](#)

CO-CHAIR SEATON related his understanding that HB 263 would only be for information, generalized description of those expenditures, submitted by companies that wanted to obtain funds from the state; that information would be publicly available to the legislature. Basically, the state is buying information that would then be public, he surmised. In other words, this [information becoming public] refers only to expenditures that qualify for credit, such that if the company didn't apply for the credit the disclosure wouldn't occur.

[2:12:39 PM](#)

LENNIE DEES, Audit Master, Tax-Production Audit Group, Department of Revenue, stated his agreement with Co-Chair Seaton's understanding, and added that he understood that HB 263 would ask for information pertinent to expenditures for which a tax credit was claimed. In accordance with AS 43.55.890, DOR would be able to aggregate the information in order not to violate any of the confidentiality provisions.

CO-CHAIR SEATON surmised that Mr. Dees is referring to expenditures that are not the basis of a credit claim, for which HB 263 wouldn't apply.

MR. DEES agreed that the information for which a credit is not claimed wouldn't be part of this particular disclosure.

[2:14:24 PM](#)

CO-CHAIR FEIGE reminded the committee that these credit programs were placed in statute to encourage a particular kind of activity. Therefore, the committee must consider if requiring a detailed description causes companies not to make that expenditure, in which case the state isn't accomplishing anything with its credit program. He then requested that DOR provide a list of the types of expenditures and the level of detail that the department currently receives. He related his understanding that DOR receives a fair amount of information with regard to production and expenditures related to that production, much of which details down to the level of the individual wellhead. However, due to confidentiality laws that

data can't be released to the public, although the state knows that information.

MR. DEES confirmed that as part of DOR's data assessment, it has been determining the many different levels of data received from the various companies. The department would be able to provide the committee with a list in order that it can have a sense of the level of data the department currently receives.

[2:17:38 PM](#)

CO-CHAIR SEATON requested that the list also indicate what DOR would interpret to be a "**detailed description of the purpose of the expenditure**" for a group. He asked whether it would be enough for a detailed description of a company to say they would be building a pipeline or would it be necessary that there are 20 pre-welded elbows. He reiterated the need to know what DOR would interpret as a "**detailed description of the purpose of the expenditure**".

[2:18:33 PM](#)

CO-CHAIR FEIGE surmised that by requiring further levels of detailed expenditures and to expose what is currently confidential data, the language seems to imply that the data being provided to the state is either somehow incomplete or somehow erroneous or not representative of the purpose for which the tax credit is being granted. He asked whether DOR has ever had instances in which there were integrity issues with the data that was provided.

MR. DEES informed the committee that DOR performs due diligence and audits on those tax credits. Of course, there may be instances in which the department disagrees with some of the particulars of the expenditures, but that's at a very detailed invoice level. Over the last year, in cooperation with industry DOR has tried to develop some broader categories of expenditures. The department is trying to develop definitions of various categories of cost that would mean the same to each company from which the data is obtained. The aforementioned would provide an indication for what the money is being spent. The department is still in the process of developing that list, he said, particularly in terms of further refining the data to a lower level that is meaningful to DOR and the industry without getting into minutia.

[2:21:55 PM](#)

CO-CHAIR SEATON acknowledged that without some sort of detailed description requirement, some charge that most of the credits are being spent on maintenance rather than capital improvements. Furthermore, at this point there is no statutory requirement for DOR to provide the legislature with enough information to determine whether the [tax credits] were spent on maintenance or drilling a well.

[2:22:52 PM](#)

REPRESENTATIVE GARDNER clarified it is not her intention or belief that any of the tax filings are incomplete, erroneous, or not representative. She further clarified that she doesn't fault the oil industry for not having this information, but rather faults the legislature for not having the foresight to realize the information would be necessary when it embarked on the tax credit process. The information, she opined, is necessary to understand in order to know how effective [the tax credit process] is and to determine how it can be more effective. She then emphasized that her goal with HB 263 is to protect members of DOR and protect them from erroneously releasing information. From the Gleason decision she read the following:

The division broadly interprets what it considers taxpayer confidential information under applicable statutes and will not disclose such information to the municipalities specifically or to the public generally. The division considers all information that it receives from a taxpayer as taxpayer confidential, even if it doesn't contain the particularities of a taxpayer's business affairs and is obtainable from the public domain.

REPRESENTATIVE GARDNER noted that the Gleason case was about property taxes. She then explained that she wants to protect DOR from having to make a judgment decision. Therefore, she wants the taxpayer to specify who they are and what they are applying for in categories that make it adequate for the legislature to know what they are doing in broad terms.

[2:24:51 PM](#)

REPRESENTATIVE P. WILSON said she knows the oil industry tracks legislation being considered, and therefore she assumed it does

not object to HB 263 because no oil industry representative is present to object to it.

[2:25:36 PM](#)

CO-CHAIR SEATON announced that HB 263 would be held over for another hearing so anyone having concerns with HB 263 can come forward. If no one comes forward to testify he, too, would assume there is not a problem with the legislation. Co-Chair Seaton then asked whether there is any current information that the state is legally entitled to receive and that DOR has asked companies to report that companies have refused to report.

[2:27:03 PM](#)

DONNA KEPPERS, Audit Master, Tax-Production Audit Group, Department of Revenue, answered that all the information DOR has requested of the companies has been provided by the companies through a series of workshops that has taken place over the last year. The department has been able to provide all the information it can while maintaining the confidentiality provisions that are in place. She informed the committee that with the five-year look back DOR could not disclose some of the cost categories of some of the independents and majors because of the inability to meet the three producer/explorer aggregation rules of AS 43.55.890.

[2:28:09 PM](#)

CO-CHAIR SEATON related his understanding that there were some categories of information requested that the state had the legal right to obtain, but wasn't being provided to DOR. However, he understood Ms. Keppers' testimony to be that all information the state has a right to obtain and the state has requested has been provided by the producers.

MS. KEPPERS clarified that all the information that DOR has asked for from taxpayers for purposes of the five-year look back and the cost categories has been provided. She said she wasn't familiar with another type of information request for which the information wasn't provided.

MR. LARSEN prefaced his comments by saying he wasn't sure if this was to what Co-Chair Seaton was referring. He then related that in the process of developing the categories for the five-year look back DOR ran into difficulty because every company's accounting system is unique to that company. Therefore,

depending upon how a company aggregates data within its own organization, particularly in a look-back situation in which historical information is being requested, to a certain degree DOR had to settle on the "lowest common denominator" of categories of cost. When the workshop process began, DOR had a larger list than just the five categories of cost. In some instances, some companies could provide a greater level of detail on a particular cost category than others. Therefore, in order to maintain consistency in the data and reporting, DOR felt that it was important for every company to report on the same categories of cost for purposes of the look back. In the current workshops, DOR is trying to expand the categories of cost to obtain a greater level of detail. He related his belief that the aforementioned should be attainable in the future. In order to obtain the information DOR requests, the company must program its system such that how the company records its costs can be mapped into what DOR wants reported.

[2:32:15 PM](#)

CO-CHAIR SEATON said he was not referring to the look back or the categories for future accounting, but rather he was referring to any categories under Alaska's Clear and Equitable Share (ACES) that DOR wasn't receiving. He reiterated his understanding that DOR is being provided all the information it needs for auditing purposes.

MR. DEES replied that is correct; currently, in the area of cost data, there isn't any that DOR isn't being provided.

[2:33:05 PM](#)

CO-CHAIR FEIGE asked whether there will be fewer problems making the data public once the reporting and information categories are equalized between all the players throughout the state because DOR will be able to include more companies into its collective database, and thereby be able to exceed the three company minimum reporting requirement.

MR. DEES noted his agreement that an aggregate should be easier to disclose. The problems with AS 43.55.890, the aggregation of data, arise when DOR tries to perform analysis on the cost and consider independent companies versus major companies and producers versus explorers. In certain types of costs, there may only be one or two companies with an expenditure of a certain type. In terms of the state as a whole, there shouldn't be problems with aggregation.

[2:35:06 PM](#)

CO-CHAIR SEATON posed a situation in which the state has information on credits for Prudhoe Bay or Kuparuk, where ConocoPhillips Alaska, Inc., BP, ExxonMobil Corporation, and Chevron participate in the unit. Since there are at least four companies, he asked whether DOR wouldn't release that information because it's four companies in an aggregated operation or would that information be released under the current aggregation interpretation.

MR. LARSEN responded that he didn't believe DOR would have a problem reporting that information under the provisions of AS 43.55.890 because with four companies the requirement would be met. He offered to address any specific question related to a specific report.

[2:36:29 PM](#)

CO-CHAIR SEATON surmised then that when credits are being applied for on Prudhoe Bay then that would be released as credits applied for and paid on Prudhoe Bay. He asked if the individual credit and expenditure amounts can be obtained for each [unit] that has three or more participants in the unit. Co-Chair Seaton clarified that he is referring to DOR's interpretation of aggregate. Therefore, is the amount of credit that has been applied for by Kuparuk public information that's available to the legislature because there are three or more participants in the field, he asked.

MR. DEES replied no, he hasn't provided the credit information by unit rather he has strictly provided the information regarding whether the credits were earned via being deducted from production tax liability as opposed to those that were applied for in the form of transferrable tax credit certificates. In further response to Co-Chair Seaton, Mr. Dees confirmed that if the information is aggregated among three or more producers or explorers, the information can be disclosed on a unit basis per AS 43.55.890.

[2:39:33 PM](#)

CO-CHAIR SEATON, referring to language page 2, lines 21-22, that says "**detailed description of the purpose of the expenditure**", asked whether that language would describe the classes of expenditures that DOR is creating.

MR. LARSEN pointed out that the language in paragraph (10) on page 2 is the same as the language in paragraph (3) on page 3, and therefore DOR will obtain the same information under both paragraphs.

CO-CHAIR SEATON asked if a "detailed description of the purpose of the expenditure" is basically the description DOR would use and would encompass the categories that DOR would require going forward.

MR. LARSEN replied yes.

[2:41:09 PM](#)

CO-CHAIR SEATON surmised that the difference in the categories that DOR will require going forward is that it will be for DOR's information, but not for the legislature.

MR. LARSEN responded no, and related that the categories that DOR is working on for the future would be for aggregating the data and reporting to the legislature and the public.

CO-CHAIR SEATON surmised then that the data would be aggregated but wouldn't be available by companies based on the credits for which they are applying.

MR. LARSEN replied yes. In further response to Co-Chair Seaton, Mr. Larsen expressed concern that even if HB 263 passes, there is a conflict with AS 43.55.890 in terms of releasing the data by individual company. He reiterated the need to involve the Department of Law prior to releasing any data. In response to Co-Chair Seaton, Mr. Larsen agreed to contact the [department's] attorney general regarding clarification on this matter.

[2:43:55 PM](#)

CO-CHAIR FEIGE opined that under the new categories although DOR wouldn't be able to disclose the individual companies, the information could be [aggregated] with three or more companies that receive the credit to provide a fairly detailed explanation to the legislature regarding how a particular credit program is being spent.

MR. LARSEN answered that he believes that's correct.

CO-CHAIR FEIGE surmised then that the legislature would be able to evaluate what the state's credit program is generating in terms of expenditures.

MR. LARSEN, characterizing it as a matter of semantics, clarified that the credit programs don't generate expenditures, rather they reimburse expenditures that have been incurred for a particular category of costs.

CO-CHAIR FEIGE explained that the legislature would know where the state's expenditures, in the form of reimbursements, are being spent in terms of categories but not necessarily which company.

MR. LARSEN agreed that [DOR] would have a good accounting of the categories of cost on an aggregated level, but not by individual companies.

[2:45:45 PM](#)

REPRESENTATIVE P. WILSON recalled asking that question early on to which she was told it wouldn't be a problem. She then asked whether [DOR staff] is now saying it would be a problem.

MR. LARSEN replied no, and specified that disclosing the information at a company level is the problem for DOR not the disclosure of information. The lack of not having the information aggregated is cause for concern.

[2:46:23 PM](#)

CO-CHAIR SEATON related his understanding then that DOR would inform the legislature the amount of the credit by wells on the North Slope, but wouldn't inform the legislature as to which companies are actually drilling the wells because that would be company specific data.

MR. LARSEN answered that's correct. As Mr. Dees indicated earlier, the one way DOR has tried to break that down for people is based on whether a credit has been received for those who have a tax obligation. In other words, they deduct a credit directly from their tax payment compared to those who do not have a tax obligation, and therefore receive a transferrable tax credit certificate. He noted that the original holder of the transferrable tax credit certificate can redeem it for cash. Therefore, rather than detailing the information on an individual company basis, DOR has made an effort to provide

another level of detail on the gross cost reported themselves by detailing it into those two categories.

[2:47:53 PM](#)

CO-CHAIR SEATON related his appreciation for DOR trying to get around the restrictions that have been placed on the department regarding not disclosing information on a company-by-company basis. He surmised that DOR is trying to identify a grouping of companies in order to provide some understanding because statute requires a grouping of three or more companies in order to disclose the data.

MR. LARSEN agreed with Co-Chair Seaton's assessment, but clarified that DOR isn't trying to get around any statutory regulations, rather it's trying to operate within the confines of existing statute while providing the legislature and the public with as much information as possible.

[2:49:13 PM](#)

CO-CHAIR SEATON recalled that public testimony had been closed for HB 263, but announced that he will re-open it at the next hearing of the legislation.

[2:50:01 PM](#)

REPRESENTATIVE GARDNER stated that she [and the other joint prime sponsors] will work on the issue with AS 43.55.890 to make the legislation explicit. She also stated that she [and the other joint prime sponsors] will speak with DOR regarding its categories and how well they comport with what the legislation seeks in terms of understanding what is being done and paid for without revealing any competitive secrets.

[2:50:44 PM](#)

CO-CHAIR SEATON requested that [at the next hearing] DOR explain whether [all the companies] applied for credits on the expenditures and whether the credits are going to be in two different segments, that is will the AS 43.55.025 exploratory tax credits be in the same category as the AS 43.55.023 regular capital expenditure credits and did [all companies] apply in the fiscal year in which the expenditures or loss carry forward occurred that didn't get into credits. He requested that DOR inform the committee in regard to how the credits are going to definitely apply to the amount of expenditures. Many in the

legislature want to know by category what proportion of the total spent is being taken by the state.

[HB 263 was held over.]

[2:52:13 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:52 p.m.