

ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE

March 12, 2012

1:04 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Peggy Wilson, Vice Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 325

"An Act establishing an Alaska coastal management program."

- HEARD & HELD

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: HB 325

SHORT TITLE: COASTAL MANAGEMENT PROGRAM

SPONSOR(S): REPRESENTATIVE(S) AUSTERMAN

| | | |
|----------|-----|---------------------------------|
| 02/17/12 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/17/12 | (H) | RES, FIN |
| 03/12/12 | (H) | RES AT 1:00 PM BARNES 124 |

BILL: HB 276

SHORT TITLE: OIL/GAS PROD. TAX CREDITS/RATES/VALUE

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

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| 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 |
| 02/17/12 | (H) | Heard & Held |
| 02/17/12 | (H) | MINUTE(RES) |
| 03/12/12 | (H) | RES AT 1:00 PM BARNES 124 |

WITNESS REGISTER

REPRESENTATIVE ALAN AUSTERMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the sponsor, introduced HB 325.

ERIN HARRINGTON, Staff
Representative Alan Austerman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed the provisions of HB 325 on behalf of the sponsor, Representative Austerman.

ALPHEUS BULLARD, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a review of his 2/23/12 memorandum regarding HB 325.

BRUCE BOTELHO, Chair
Alaska Sea Party
Juneau, Alaska

POSITION STATEMENT: As chair of the organization that sponsored the Alaska Coastal Zone Management Program citizens' initiative, answered questions regarding HB 325 and the initiative on which the bill is based.

REPRESENTATIVE STEVE THOMPSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 276.

JANE PIERSON, Staff
Representative Steve Thompson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of HB 276, Version D, on behalf of Representative Thompson, joint prime sponsor.

ACTION NARRATIVE

[1:04:15 PM](#)

CO-CHAIR PAUL SEATON called the House Resources Standing Committee meeting to order at 1:04 p.m. Representatives Dick, Kawasaki, Gardner, Foster, Munoz, Feige, and Seaton were present at the call to order. Representative Herron arrived as the meeting was in progress.

HB 325-COASTAL MANAGEMENT PROGRAM

[1:04:47 PM](#)

CO-CHAIR SEATON announced that the first order of business would be HOUSE BILL NO. 325, "An Act establishing an Alaska coastal management program."

[1:06:38 PM](#)

REPRESENTATIVE ALAN AUSTERMAN, Alaska State Legislature, introduced HB 325 as the sponsor, saying that the recent Alaska Coastal Zone Management Program citizens' initiative signed by about 30,000 voters indicated to him that the legislature should have a conversation about what that meant. Noting there were language problems in the initiative itself in terms of how Alaska's statutes are done, he said he had the bill drafted to comply with the state's statutes. While HB 325 does not look

like the initiative and some of it does not talk like the initiative, he said it really is the initiative in complying with the way statutes are written. His goal is to have a conversation on the bill and that today his intent is to present the bill and the initiative so there is an understanding of what they are. He said he hopes to have conversations at some point in time as to whether the legislature can draft a bill that is acceptable to everyone and that is substantially the same.

[1:09:32 PM](#)

ERIN HARRINGTON, Staff, Representative Alan Austerman, Alaska State Legislature, reviewed the provisions of HB 325 on behalf of the sponsor, Representative Austerman. She explained that the act would establish the Alaska Coastal Management Program (ACMP), a program that was previously in place for approximately four decades. The program was eliminated in 2011 through a delayed repealer when legislation necessary to continue the program failed to pass both bodies of the legislature during regular session as well as two subsequent special sessions. A citizens' ballot initiative process was kicked off in October 2011 and the initiative was certified [on 3/9/12] by Lieutenant Governor Mead Treadwell. With 29,991 valid signatures and in accordance with the Constitution of the State of Alaska, the initiative will appear on the August 2012 primary ballot. Representative Austerman introduced HB 325 on 2/17/12.

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MS. HARRINGTON noted that HB 325 is essentially the initiative that has been substantially re-shaped to adhere to the legislature's own drafting conventions. However, there are a handful of tweaks from the initiative, three of which stick out. The first is that the city of Dillingham has been added to the list of geographic areas included in the first portion of the bill; it was determined that this city was overlooked in the initial drafting. The second is a clarification of the role and appointment process for the public alternates and the third was a change to the number of affirmative votes required for an action by the Coastal Policy Board.

MS. HARRINGTON said there are a couple of additional areas where the drafter has highlighted differences that may be more subtle and difficult for the reader to pick out. The bill was drafted by Mr. Alpheus Bullard who has prepared a memorandum outlining the process he went through in changing the initiative language to being the language in HB 325. Mr. Bullard also highlighted

areas where it might be confusing to the reader when looking at the initiative and the bill side-by-side, and he further highlighted areas to which he wanted to draw the legislature's attention.

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MS. HARRINGTON outlined the three possible paths forward from this point in regard to HB 325 and the initiative. She said the first path could be the passing of legislation that the legislature intends to be substantially similar to the citizens' initiative. Determination of substantial similarity would rest with the lieutenant governor, although that decision could be litigated. If the legislature passed legislation that it intended to be considered substantially similar, the governor could veto that legislation, in which case the initiative would appear on the [2012] August primary ballot. If the governor signed the legislation and the lieutenant governor determined it to be substantially similar, per Article XI, Section 4, of the state constitution, the initiative would be removed from the ballot and there would be no public vote on it.

MS. HARRINGTON said the second path could be the passing of legislation that the legislature does not intend to be substantially similar to the citizens' initiative. Assuming such legislation was not vetoed by the governor, the lieutenant governor would still place the initiative on the ballot of the [2012] August primary. Once on the ballot, the initiative could either fail or pass. An unknown is whether the initiative sponsors would actively campaign to see that initiative passed despite the legislature passing a version of an ACMP program. She deferred to Mr. Bullard to address the resulting gray area for how to reconcile differences between the enacted legislation and the initiative passed by a vote of the people.

MS. HARRINGTON said the third path could be that the legislature declines to or fails to pass legislation substantially similar or otherwise, in which case the citizens' initiative would go before the public on the August [2012] primary ballot. Were the initiative to pass, the legislature would have the ability to amend that new law in a future legislative session.

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CO-CHAIR SEATON requested Mr. Bullard to review the differences between HB 325 and the citizens' initiative as outlined in Mr. Bullard's 2/23/12 memorandum to Representative Austerman.

ALPHEUS BULLARD, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, Alaska State Legislature, reiterated Representative Austerman's statement that HB 325 really is the initiative. He noted that under the substantially similar test there is a good deal of latitude to craft legislation that is different, but HB 325 really is the initiative. Things have been reorganized, clarified, and the state's [statute] language used. Some substantive changes were made, the first of which is discussed on page 2 of his 2/23/12 memorandum about how to deal with alternate members on the Alaska Coastal Policy Board and how the board can take action. The more significant of these two changes is the bill's additional provision that this Alaska Coastal Policy Board cannot take action without the affirmative votes of at least six members. This was not specified in the initiative which provided that a quorum would be five public members and two designated members and which would mean that only four would be needed for a majority. This really changes the workings of the Alaska Coastal Policy Board and somewhat the direction, neither positive nor negative, but is different. Regarding alternates for the members of the board, he said he did not know how essential these are, but the initiative was silent to how the alternate process would work. He said he filled in those details that he thought would be the way that the bill would have been interpreted to have worked to avoid questions for when an alternative might fill for a member of the board. Those two changes are noted in terms of the composition and the workings of the board scrolling forward through this memorandum.

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CO-CHAIR SEATON noted that the aforementioned are included in Section 46.40.310. He asked what the designation is for the number 46.41.010 which appears in parentheses on the third line of page 2 of the memorandum.

MR. BULLARD explained that the numbers in parentheses are where those sections are located in the text of the initiative. The first numbers that are not in parentheses are the numbers he used [in the bill]. Real estate inside the state's statutes is precious, so in drafting the bill he kept it within the same chapter, 46.40, to conserve room in the statutes for future legislative efforts. The different numerical designation is a matter of housekeeping and has no real legal substantive effect.

MR. BULLARD continued his review of the memorandum, moving to the change regarding Section 46.40.360 [page 3]. He said he removed a fairly significant portion of the initiative text that provided when an enforceable policy of an Alaska coastal district or coastal resource area would be preempted; that section of the initiative stated the legal doctrine of preemption. However, whether this was stated in the initiative or not, the doctrine would still exist and therefore that language had no real substantive effect. Thus, that section of the initiative, 46.41.060, is removed from the text of the bill.

[1:22:34 PM](#)

REPRESENTATIVE FOSTER observed that [page 2, paragraph 5, of the memorandum] states 6 [affirmative] votes are needed to take action. He understood the [Alaska Coastal Policy Board] would be comprised of nine members.

MR. BULLARD confirmed the aforementioned is correct.

REPRESENTATIVE FOSTER asked why six votes would be required since a majority would be five.

MR. BULLARD responded that different boards are differently organized and a quorum may not necessarily be the same number of votes that is required for affirmative action in different situations. For different policy reasons, policymakers find one preferable to another and in this case it would take that much more.

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CO-CHAIR SEATON presumed this to mean that the five public members would be unable to pass something without at least one vote from one of the appointed members from a state agency.

MR. BULLARD replied it is a thirteen-member board: nine public members and four [designated members] from the Department of Environmental Conservation, Alaska Department of Fish & Game, Department of Natural Resources, and Department of Commerce, Community and Economic Development. If a quorum is five public members and two designated members, the board could meet when it has seven members present. It would still take six and for action to have occurred there would have had to be at least two designated members present. So, it would be possible that at a meeting with six public members and two designated members, six

public members could make an affirmative choice without any of the designated members voting in favor.

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REPRESENTATIVE KAWASAKI, regarding Section 46.40.310 dealing with composition of the board, understood that the initiative was silent on the role of alternate members and therefore Mr. Bullard put in his own language. He inquired whether the affirmative vote of six members would be considered substantially different by the attorney general.

MR. BULLARD answered that this discrepancy would not be the sort of discrepancy that would lead anyone to believe this is something other than substantially the same. When that analysis occurs, the lieutenant governor, or the courts if the lieutenant governor's determination is challenged, will look at the scope and subject matter of the initiative, the purpose of the initiative, and the means used in the legislative bill and the initiative to see if the means to effectuate that purpose is substantially the same. This program is a combined regime of federal, state, and local permitting that deals with Alaska's coastal area and resource development. Inside a program of this magnitude, this detail about the number of board members would be nothing that would lead anyone to quibble about substantially the same.

MR. BULLARD concluded his review by stating that the six affirmative votes and the alternates [for the Alaska Coastal Policy Board] are the only substantive changes that he made to the initiative. He said he is happy to answer questions about language, grammar, or why things were moved to a different place, but he would like to leave the committee with the thought that HB 325 is the initiative in bill form.

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REPRESENTATIVE MUNOZ recalled that one of the main concerns heard during previous work on this issue was the Department of Environmental Conservation (DEC) "carve-out". Given that the initiative did not incorporate the DEC carve-out, she asked how incorporating the carve-out into the bill would affect the substantially similar test.

MR. BULLARD responded that this question of substantially the same has only been taken up twice by the state's courts - Warren v. Boucher and State v. Trust the People - and neither of those

instances is readily analogous to the current situation of a legislative bill and an initiative that would enact a massive program. Because of the size and scope of the program, there is significant latitude for the legislature to deviate from the initiative's exact terms. He said that while he could not say with certainty how the lieutenant governor or a court might decide, the initiative contains a number of guidelines in terms of what a coastal district or coastal resource area can include in its enforceable policies under a plan. A DEC carve-out would impose more conditions on what could be included in a coastal district plan and he is unsure whether those added changes would rise to the level of this being substantially different or substantially not the same. He said his legal opinion is that in the scope of a program of this size, if that were the only change it would still be a program establishing a coastal management program for the state that involves local residents and the departments of the state, and that would likely be ruled as substantially the same.

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REPRESENTATIVE MUNOZ noted that those are permitting issues for water and air that DEC handles normally. She understood that not incorporating the DEC carve-out would enable the board to address policies that are under the purview of the DEC permitting function.

MR. BULLARD replied there is one important caveat. The statutes providing the previous DEC carve-out specified that various chapters - DEC and so forth - were the sole source of permitting authority having to do with those. But there was also the way that that carve-out was interpreted and enforced by the Department of Natural Resources under the prior program. He therefore did not know whether including that statutory carve-out in this same program beneath an Alaska Coastal Policy Board would be exactly the same DEC carve-out that existed in practice under the prior program. If the statutory provisions of the historical DEC carve-out were included it might not be a change; however, that might not be the same DEC carve-out in practice underneath an Alaska Coastal Policy Board.

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CO-CHAIR SEATON pointed out that earlier references to the substantially similar analysis were in regard to Mr. Doug Gardner's March 5, 2012, memorandum [to Representative

Austerman]. He requested Ms. Harrington to provide a sectional analysis of HB 325.

MS. HARRINGTON explained that the bill is structured on the initiative; however, the initiative is all one large section which makes it difficult to reference where the bill sections are within the initiative. She said [Article 1 of] Section 1 of the bill provides for development of the Alaska Coastal Management Program. It would establish the Alaska Coastal Policy Board, its responsibilities, and the method by which board members would be appointed. The program would be established within the Department of Commerce, Community and Economic Development (DCCED), unlike the previous program which was located within the Department of Natural Resources and previous to that it was located within the Office of the Governor. [Under Section 46.40.310], the board would have nine public members, nine alternate public members, and four [designated members] who would be the commissioners of the Department of Environmental Conservation (DEC), Alaska Department of Fish & Game (ADF&G), Department of Natural Resources (DNR), and DCCED. The public nominees would be submitted by the coastal districts of each region and they would be appointed based on geographic diversity in the state.

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MS. HARRINGTON specified that Section 46.40.320 deals with the powers and duties of the board. It would provide that the board approve regulations to implement the Alaska Coastal Management Program (ACMP) in conformity with the federal Coastal Zone Management Act of 1972. The board would also initiate planning work, approve coastal district management plans, establish coordination among state agencies in the development and implementation of the ACMP, evaluate the effectiveness of district coastal management plans, and direct DCCED to apply for grants and other funding that become available for coastal planning and management. Thus, as envisioned in the initiative, this board would have broad powers.

MS. HARRINGTON stated that Section 46.40.330 would establish the Division of Ocean and Coastal Management within the Department of Commerce, Community & Economic Development (DCCED). Division responsibilities would include rendering federal consistency determinations and state consistency determinations; developing and adopting regulations that have been approved by the board; ensuring that coastal districts have the data necessary for executing their responsibilities; and developing and maintaining

a financial assistance program to assist the coastal districts in their work.

MS. HARRINGTON related that Section 46.40.340 would direct DCCED to develop regulations for the Alaska Coastal Management Program. The regulations would include statewide standards for the ACMP and district plans, as well as consistency review procedures, including circumstances under which projects would be excluded from the requirement of a consistency review.

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MS. HARRINGTON said Section 46.40.350 would establish the objectives with which the ACMP must be consistent. Drawing attention to page 5 of the bill, beginning on line 24, she said a number of the listed objectives are from the previous program along with some additional objectives. She understood that in drafting the bill the Division of Legal and Research Services, in places where the initiative closely resembled statute that had been in place under the previous program or previous iterations of the program, tried to use that language as close as possible for consistency with what was previously approved by the legislature.

MS. HARRINGTON explained that Section 46.40.370 describes the process for implementation of the district coastal management plans. Either the state or municipalities would implement the plans depending on whether the municipalities have zoning authority.

MS. HARRINGTON noted that Section 46.40.380 deals with compliance and enforcement and would establish requirements that the municipalities and state [agencies] administer regulations and control in conformity of district coastal management plans. It would also provide that the superior courts of the state have jurisdiction to enforce lawful orders of the board and department under this chapter, which is another carryover from the previous body of statute.

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MS. HARRINGTON specified that Article 2 of Section 1 outlines the procedure that allows areas of the coastal regions of the state to organize into Coastal Resource Service Areas [for the purposes of developing and implementing Coastal Management Plans]. She offered her belief that the intention of the initiative sponsors was to create a mechanism in law through

which the coastal districts that previously existed could be reconstituted, but deferred to the initiative sponsor to answer any questions about that intention.

MS. HARRINGTON said Article 3 of Section 1 is general provisions and definitions, and includes the many small provisions that were further forward in the initiative. She explained that this was done to conform to drafting standards.

MS. HARRINGTON drew attention to the transition language in Section 2, page 17, starting on line 8. She pointed out that because this transition section is new to the legislation, there may be some question as to whether the part of the bill dealing with reconstituting the coastal districts the state previously had [Article 2] is necessary should this transition language, or a version of it, be passed. She deferred any questions in this regard to Mr. Bullard.

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CO-CHAIR SEATON put forth several questions for answers by the appropriate person. He requested an explanation for why the program was put under the Department of Commerce, Community & Economic Development rather than the Department of Natural Resources or the Office of the Governor. Regarding the part of Section 46.40.320 that would give the board the power to approve regulations, he recalled that in a similar situation related to fish groups in the state this type of power was determined to be non-legal because it passed an authority for regulations to a separate body. He requested that someone address this issue. Regarding Section 46.40.370 and municipalities having zoning or other controls, he requested an explanation of those municipalities that have these Title 29 powers and whether this would change their current authorities under that title, as well as how it would affect those that have not selected those powers. He further asked that someone address the question about what would be needed if the transition language were incorporated into the bill.

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REPRESENTATIVE MUNOZ added another question to those on the table, asking how many enforceable policies there were prior to the DEC carve-out. She further asked whether the number of enforceable policies was affected when the DEC carve-out came into play.

CO-CHAIR SEATON inquired whether Representative Munoz is asking about the enforceable policies prior to [the changes made by Governor Frank Murkowski] that changed a lot more than just the DEC carve-out.

REPRESENTATIVE MUNOZ replied that she would like to know the approximate impact to the number of enforceable policies after the DEC carve-out came into play.

CO-CHAIR SEATON pointed out that two questions are being asked by Representative Munoz: the approximate number of enforceable policies pre- and post-change by the Murkowski Administration; and the difference in numbers identified to the DEC carve-out.

REPRESENTATIVE MUNOZ concurred.

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REPRESENTATIVE HERRON said he would like to talk with the bill drafter about how the DEC carve-out "morphed" over the last several years. He then asked whether HB 325 would allow coastal districts to veto projects, and whether HB 325 would allow coastal districts to establish enforceable policies that conflict with state and federal law.

CO-CHAIR SEATON noted that a difference between pre- and post-Murkowski Administration changes was third-party lawsuits. One of the changes was disallowing nonparticipants from appealing or filing lawsuits on stipulations or conditions required under the consistency review. Offering his belief that the bill is silent in this regard, he asked how this would be handled under HB 325 and whether that silence is intentional.

REPRESENTATIVE GARDNER understood that HB 325 would disallow citizen petitions or appeals. She asked whether there is any data on how the existence of a coastal zone plan reduces lawsuits and delays due to appeals and lawsuits.

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MS. HARRINGTON deferred answers to the aforementioned questions to either the bill drafter or the initiative sponsor. For any questions not answered, she said she would bring back the answers at a future hearing.

CO-CHAIR SEATON agreed to that approach, saying the committee was just getting the issues on the table.

MR. BULLARD deferred to the initiative sponsor to answer the question about why the program is proposed for placement under the Department of Commerce, Community & Economic Development.

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MR. BULLARD, regarding the proposed grant of decision-making power to the Alaska Coastal Policy Board and whether this would be too great a grant of legislative authority, said he does not see that the bill, or the initiative on which the bill is based, would provide too much authority to the board. The board's authority is prescribed in terms of what it is limited to and what regulations and coastal management plans it can approve. Everything has to do only with the projects in the coastal zone. This is also an area where the rest of state law, as well as federal law, have not disappeared. Since the board could approve district management plans and procedures, he said he does not think it too great a grant of legislative discretion.

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MR. BULLARD noted that the zoning provision under AS 46.40.370 existed under the prior coastal zone management program. Given there is a synthesis of federal, state, and local permitting under the Alaska Coastal Management Program, it would just provide that those municipalities that exercise zoning authority will include the provisions of the plan in their zoning regulations. For those districts or Coastal Resource Service Areas having plans but not exercising zoning control, the state agencies would be responsible for implementing the provisions.

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MR. BULLARD, regarding whether enforceable policies could interfere with state or federal law, explained that Section 46.40.360(b) of the bill provides what a district coastal management plan must include or must not include whether it is to be approved. Referencing Section 46.40.360(b) of the bill [page 7], he said the enforceable policies of the plan: are not allowed to duplicate, restate, or incorporate by reference state or federal statutes or regulations; they cannot be preempted by federal or state law; they cannot arbitrarily or unreasonably restrict a use of state concern; they must be clear and concise as to the activities and persons affected by the policies and requirements of the policies; they must use prescriptive or performance-based standards that are written in precise and

enforceable language; and they must address a coastal use or resource of concern to the residents of the coastal district as demonstrated by local knowledge or supported by scientific evidence." Thus, there are already sideboards on what these plans can or cannot include.

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MR. BULLARD, in regard to whether the Alaska Coastal Policy Board or the local districts could effectively veto a project, explained that a district plan could involve requirements that would have to be approved by the coastal policy board. He said he does not know if that would ever amount to a veto of a project, it would depend on the project and the permitting requirements that were included.

MR. BULLARD, regarding lawsuits and standings, offered his belief that the bill and the initiative are silent on who can bring suit to enforce provisions of the district coastal management policy or plan.

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REPRESENTATIVE HERRON inquired whether HB 325 would specifically supersede other authorities of state agencies.

MR. BULLARD answered no. If current law provides another state agency or department some sort of authority, a district plan that was adopted could not be adopted if it interfered with that agency's authority under those restrictions of 46.40.360(b).

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BRUCE BOTELHO, Chair, Alaska Sea Party, noted he is mayor of the City and Borough of Juneau, but is before the committee today in his capacity as chair of the Alaska Sea Party, sponsor of the Alaska Coastal Zone Management Program citizens' initiative. He said that in the absence of action by the Alaska State Legislature, the Alaska Sea Party will champion the initiative on the ballot later this year.

MR. BOTELHO commended Ms. Harrington and Mr. Bullard for their presentations, saying that Ms. Harrington correctly outlined the three paths that the legislature has before it and that she provided an accurate summation of HB 325 and its tracking of the initiative. He said Mr. Bullard's representation that HB 325 is, in essence, the initiative is absolutely correct, even

though they are organized differently. The change put in by Mr. Bullard for the minimum number of members needed to vote in the affirmative to take action by the Alaska Coastal Policy Board is a new feature, he continued, but one that makes eminent sense. In regard to Mr. Bullard's removal of what constitutes preemption, he said Mr. Bullard is correct that the provision in the initiative [46.41.060(c)] is a restatement of the law with regard to what constitutes preemption. The Alaska Sea Party included it in the initiative because it has been a very important issue of contention historically and the party wanted to make explicit that coastal policies may not in any way preempt federal or state law. However, its elimination does not in any way change the substantial similarity requirement were HB 325 to move forward.

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MR. BOTELHO, addressing why the initiative sponsor placed the program under the Department of Commerce, Community & Economic Development (DCCED), pointed out that the grant administration for coastal districts has resided in the DCCED. In a more general sense it is the DCCED that has had long standing ties and responsibilities for state/local government relations, so that was the preeminent reason for the initiative placing the program in DCCED. A secondary concern for some was that the Department of Natural Resources really performed two functions when all the responsibilities for coastal management were consolidated in that department: one as a permitting agency and the other as the administrating agency for coastal management. Coastal management itself is not a permitting function, it is a coordinating function. The agencies that have historically had permitting responsibilities - DNR, ADF&G, and DEC - will continue to do the job they have always done in terms of issuing permits. The function of the program in broad strokes is to call for coordination of those permitting processes that the agencies are working on together and working with project developers.

MR. BOTELHO, regarding Representative Munoz's question about the DEC carve-out and what the initiative sponsors were hoping to achieve, said the idea was that all agencies that are issuers of permits in the coastal zone work together in coordinating their processes and working with project developers under one umbrella. That includes state agencies, but once the program is reestablished it is hoped that there will be the right to review federal projects and thus there would also be federal agency participation in this process.

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CO-CHAIR SEATON recalled that under the immediately previous program the only people who could appeal were participants - the coastal districts, agencies, or project sponsor. He asked what is envisioned by the Alaska Sea Party since the initiative seems to be silent in this regard.

MR. BOTELHO concurred the initiative is silent on this issue. He explained that because the Alaska Sea Party was aware of concerns about the earliest program that allowed virtually unlimited ability for individuals to appeal actions of coastal policy districts, language was not incorporated into the initiative to authorize that. At the same time, the initiative expressly grants what would likely be the case in any event, which is the power of the superior court to take action interpreting this act. In that respect, it probably would not differ from the practices over the last decade.

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REPRESENTATIVE HERRON noted that the initiative sponsors could have chosen any time in the timeline of the previous program for use as a program structure. He asked why the Alaska Sea Party chose a "pre-Murkowski" structure.

MR. BOTELHO allowed it is probably fair to view the program as having a "pre-Murkowski" structure, though the Alaska Sea Party was not consciously emulating it except to the extent of the organization's concern about meaningful participation of local communities in the development of statewide policies that were to be applicable in the coastal zone. In the Alaska Sea Party's view, the most effective way was some variant on what had been the Alaska Coastal Policy Council, a structure which calls for representatives coming from coastal regions. However, as in previous iterations, the ultimate appointing authority remains the governor, both for the commissioners and the actual board members who are appointed by the governor from nominations made from coastal policy districts. The Alaska Sea Party saw that as an important feature of providing for local input and local participation. Aside from coastal districts themselves, it is the Alaska Sea Party's view that this is probably the most important distinguishing element about the initiative in comparison to those pieces of legislation considered by the legislature last year in regular and special session.

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REPRESENTATIVE MUNOZ asked how many enforceable policies the Juneau district plan had prior to and after the changes put out by the Murkowski Administration.

MR. BOTELHO recollected that at one point there might have been as many 51, most of which were struck. The Juneau district appealed and ultimately at least 13 of them were reapproved by the administration. In further response, he reiterated that this is his recollection and his numbers may be a little off, but he thought almost all of the Juneau district's enforceable policies were disallowed. There was a process for appealing, and his recollection is that, of those, 13 were reinstated.

[2:08:16 PM](#)

REPRESENTATIVE MUNOZ, regarding Mr. Botelho's earlier statement that the ACMP process was a coordinating process, posited that those enforceable policies are necessary for a project to move forward, so in a sense it becomes part of the permitting process. She inquired whether Mr. Botelho agrees with that.

MR. BOTELHO responded that to the extent there are approved coastal district plans, developments that take place in those districts must conform to those plans; it is a species of land use planning. So, the answer is yes; there must be conformity to the plans.

REPRESENTATIVE MUNOZ postulated that it is therefore more than coordination; it is actually part of the permitting process. A project must go through the ACMP process and comply with all of the enforceable policies before it moves forward.

MR. BOTELHO replied correct.

[2:09:32 PM](#)

CO-CHAIR SEATON asked whether Juneau adopted those into its local codes so that currently those enforceable policies must have a separate permit under the municipality to go forward.

MR. BOTELHO confirmed that Juneau's coastal management plan is part of its comprehensive plan.

[2:09:54 PM](#)

REPRESENTATIVE HERRON recalled that last year the conference committee substitute for HB 106 failed the House [in the first special session] and a House substitute for SB 46 failed in the second special session. Surmising that Mr. Botelho's answer would be different than Mr. Bullard's, he inquired whether those bills could be considered substantially the same as the ballot initiative.

MR. BOTELHO noted he is a lawyer, so his answer will likely be similar to Mr. Bullard's. He said that Warren v. Boucher, the seminal case for Alaska, basically makes clear that as long as the subject matter is largely the same the manner of effectuating it can differ in small respects and the court even has language that says may differ in a major respect. As indicated by Mr. Bullard, the second case, State v. Trust the People, expanded on this slightly, but made clear that the larger the scope of the legislation being considered, and in this case it is a fairly complex statutory scheme, the greater the latitude the legislature has to deviate from the initiative language itself. The second test is the degree of which they attempt to meet the same purpose. To the extent that reestablishing a coastal zone management program is being looked at, there is some degree of latitude about how a court, and initially the lieutenant governor, might look at past legislation quite apart from this piece of legislation. The third [test] is looking at whether they are structurally similar, and on this point those measures offered in the special sessions will have a high barrier to overcome, probably more in terms of the coastal policy board structure than perhaps the issue of the DEC carve-out.

CO-CHAIR SEATON informed members that the committee packet includes a full memorandum from Mr. Bullard regarding the aforementioned.

[2:13:44 PM](#)

REPRESENTATIVE HERRON asked whether the Alaska Sea Party would still pursue an active campaign on the ballot initiative if the legislature were to pass a bill that overcomes all the high barriers and is supported by the people who backed the initiative.

MR. BOTELHO replied he is quite confident that the Alaska Sea Party would not actively pursue the initiative if a good piece of legislation moved forward that is not identical to the initiative. The organization's goal is to see a good program

and the initiative is the organization's best effort to put together what it thought would be a good program. He said he thinks the challenge to the legislature is less to spend a lot of time worrying about whether a proposed bill is substantially the same and a lot more about what makes for a good coastal management program.

[2:15:13 PM](#)

CO-CHAIR SEATON, regarding the transition in Article 2 of the bill and the transition language in [Section 2] that reestablishes the previous coastal districts, inquired whether reestablishment of the previous coastal districts would satisfy the coastal district concerns of the initiative sponsor.

MR. BOTELHO answered yes, provided his understanding of the question is correct.

[2:15:54 PM](#)

CO-CHAIR SEATON said the previous coastal districts were adequate, so if that transition language did reestablish those districts then the rest of that large amount of paperwork in the bill could go away.

MR. BOTELHO responded there is a reason for including this language. It would create the opportunity for one or more of the existing Coastal Resource Service Areas to break into multiple districts, and that is the primary import of much of the language which is there. So, it is anticipating a development that, while not anticipated any time soon, would provide flexibility for future generations.

[2:17:03 PM](#)

REPRESENTATIVE MUNOZ inquired whether the remaining 13 enforceable policies from the previous program have been adopted into Juneau's planning and zoning code, and if not, whether there the intent is to do so.

MR. BOTELHO answered that Juneau's [coastal management] plan is incorporated into its comprehensive plan, so it is part of Juneau's overall approach. A question he cannot answer now, but will follow up on, is how Juneau has been making use of that in light of the July 2011 demise of the statewide program.

[2:18:06 PM](#)

CO-CHAIR FEIGE surmised from Mr. Botelho's earlier statements that the Alaska Sea Party would not have had a significant objection to HB 106, as passed out of the House last year, because it would have reestablished the Alaska Coastal Zone Management Program.

MR. BOTELHO replied he wants to make clear that he is not endorsing any bill that moved last year, but indicating that if a good bill passed, the reference point being the Alaska Sea Party's initiative. He said he is not suggesting that the bill must be identical to HB 325 or the initiative. If it is a good bill and incorporates among other elements the local voice that he has referred to, his guess is that the Alaska Sea Party would not actively campaign for the initiative. He added that the primary point in his comments was to say that he thinks the focus of the legislature should be on passing the best bill it can and to not be driven primarily by substantial similarity. Good legislation should stand on its own.

[2:19:40 PM](#)

CO-CHAIR FEIGE stated that House members thought HB 106 was pretty good, given it passed the House by a vote of 40-0. He asked why the Alaska Sea Party did not take that bill as the boiler plate for the initiative, but instead rolled the calendar back 10 years or so.

MR. BOTELHO responded that in the Alaska Sea Party's view it was rolling it forward in terms of looking at the source of this initiative - largely local government, participants who wanted to make sure that there was a viable role for local participation in shaping statewide policies.

[2:21:13 PM](#)

REPRESENTATIVE HERRON reiterated his earlier question about the two pieces of legislation, one in the first special session and one in the second special session.

MR. BULLARD answered there are two cases interpreting the substantially the same standard and neither of those two dealt with a program as comprehensive and large as this one. Warren v. Boucher dealt with some campaign finance regulations and State v. Trust the People was a very simple and narrow matter of how a U.S. senator would be either voted in, or briefly appointed, or not appointed at all. Regarding the House and

Senate vehicles considered during the first half of this legislature for renewing the Alaska Coastal Management Program, it is entirely possible that both of them would be found or either of them would be found to be substantially the same. That said, there is an element in the initiative that deals with the Alaska Coastal Policy Board, the removal of the DEC carve-out, and various other places found in the added objectives of the program that have to do with local participation and control that are absent from those bills. He said he does not know how significant a court would find those elements and whether they are central. The Alaska Coastal Management Program does a lot - it coordinates state/federal permitting and brings federal money to the state for grants for these things. How important that element of local control is to the larger program he is unsure how a court would find. He offered his suspicion that had the legislature passed a bill that did not have quite the same extent of local participation and control as countenanced in the initiative, it would be found the same. However, he added, it is impossible to answer the question with any certainty.

CO-CHAIR SEATON held over HB 325.

HB 276-OIL/GAS PROD. TAX CREDITS/RATES/VALUE

[2:23:38 PM](#)

CO-CHAIR SEATON announced that the next 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 Version M, the proposed committee substitute labeled 27-LS1193\M, Bullock, 1/18/12, adopted as the working document on 1/30/12.]

The committee took an at-ease from 2:23 p.m. to 2:28 p.m.

[2:28:33 PM](#)

CO-CHAIR FEIGE moved to adopt the proposed committee substitute, version 27-LS1193\D, Nauman/Bullock, 3/2/12, as the working document. There being no objection, Version D was before the committee.

[2:29:07 PM](#)

REPRESENTATIVE STEVE THOMPSON, Alaska State Legislature, said he is before the committee to present Version D of HB 276 and that

the bill is a policy call for the legislature. He said the bill would provide incentives that will hopefully spur investments leading to seismic and drilling exploration in unexplored frontier basins located in close proximity to communities in need of a local energy source. He noted that his staff has worked closely with the Department of Natural Resources (DNR) to identify six areas within the state that represent unexplored basins located in close proximity to energy challenged communities. The bill would incentivize exploration by offering four tax credits for seismic exploration within the [six] different basins. Explorers seeking the credit would agree to the data becoming public within two years of receiving the credit. The seismic credit would be 75 percent of the seismic exploration cost or \$7.5 million, whichever is less. The bill would also provide a drilling credit for the first four exploration wells drilled within the identified areas with no more than two wells in any single area. The drilling credit would be 80 percent of actual drilling cost or \$22.5 million, whichever is less. Both credits under the bill would be for work performed between June 1, 2012, and July 1, 2016.

REPRESENTATIVE THOMPSON pointed out that economic growth and development in Interior Alaska is crippled by high energy prices and the lack of renewable energy supplies, and said HB 276 would strongly encourage companies to invest in potential frontier basins. During the committee's discussion of the bill it became evident there were more communities across Alaska that were experiencing similar energy challenges and were looking for possible solutions in their own backyard. The bill originally dealt with drilling incentives in the Nenana Basin only. The Nenana Basin is located 50 miles from Fairbanks and has road, rail, and power access nearby. As drafted, HB 276 has the potential to benefit not only the Interior but all Alaskans on the Railbelt and beyond.

[2:31:45 PM](#)

JANE PIERSON, Staff, Representative Steve Thompson, Alaska State Legislature, provided a sectional analysis of Version D of the bill on behalf of joint prime sponsor, Representative Thompson. She explained that Section 1 would [amend AS 43.55.025(a) to]: make a conforming amendment to new section (q); provide a new frontier basin drilling credit at the lesser of 80 percent of the total drilling expenditures or \$22.5 million described in (n) of this section and that qualify under (b), (c), and (p) of this section; and provide a new frontier basin seismic credit at the lesser of 75 percent of the total seismic exploration

expenditures described in (o) of this section and that qualify under (b), (c), and (p) of this section. She offered her belief that a friendly amendment will be forthcoming to remove (c) from the qualifications for seismic credits because (c) deals exclusively with drilling credits. Addressing Section 2, she said it would make a conforming amendment to include new subsections created in AS 43.55.025(a).

[2:32:56 PM](#)

MS. PIERSON outlined Section 3, which proposes to add four new subsections - (n), (o), (p), and (q) - to AS 43.55.025. Subsection (n) describes the new frontier basin exploration drilling credits. A person drilling the first four exploration wells in an area described in subsection (p) of the bill on state or private lands would be eligible for credits described in subsection (a)(6) of the bill. The proposed credit could not be taken for more than two exploration wells in any single area described in subsection (p) of the bill. Subsection (n) would further require that written consent be obtained from the owner of oil and gas interests on private land for full public release of all well data within two years after receiving a credit. Data submission requirements would need to be in compliance with the requirements in (f)(2) of this statute. A person planning to drill an exploration well would be required to get approval from the Department of Natural Resources (DNR) commissioner prior to spudding the well. The DNR commissioner would have to make an affirmative finding that the exploration well is in the best interest of the state based on the well location, the proximity to a community in need of a local energy source, the proximity to existing infrastructure, the experience and safety record of the explorer in conducting operations in remote or roadless areas, the projected cost schedule, whether seismic data sufficiently identifies a particular tract for exploration, whether targeted depth and range are designed to penetrate and fully evaluate the hydrocarbon potential below which hydrocarbon reservoirs are likely to be found, and whether the exploration plan provides for full evaluation of the well. Credits under this subsection would be for work performed after June 1, 2012. The drilling and exploration would need to be in an area with a basin described under (p) of this section. If this credit is claimed, no other credits could be claimed under this section or AS 43.55.023 for the same expenditures.

[2:35:16 PM](#)

MS. PIERSON said proposed new subsection (o) describes the new frontier basin seismic credit. It would provide that a person conducting the first four seismic exploration projects in the areas described in proposed new subsection (p) for the purposes of discovering oil or gas in a basin is eligible for the credit. A credit could not be taken for more than one seismic exploration project in an area described in subsection (p). Exploration credits would be available for work performed after June 1, 2012. The person conducting seismic exploration on private land would have to obtain written consent from the owner of the oil or gas interest for full release of geophysical data in compliance with the submission requirements of (f)(2). The commissioner of DNR would have to give approval before the commencement of seismic exploration activities and would have to make an affirmative finding that the seismic project is in the best interest of the state based on location, project cost, schedule, data acquisition and data processing plan, the reason for choosing the area for exploration, and the experience and safety record of the person doing the exploration in a remote or roadless area. A taxpayer obtaining a credit under this subsection could not claim a tax credit under AS 43.55.023 or another provision of this section for the same exploration expenditure. She added that these credits would go to the person doing the drilling, not the individuals holding an interest within a multiple party, so a partner still could get the credit.

[2:37:09 PM](#)

MS. PIERSON said proposed new subsection (p) states that credits under (a)(6), (n), (a)(7), and (o) must be for exploration of a basin within the following areas whose criteria points are determined by using the World Geographic System of 1984 datum. These six locations - Fairbanks, Kotzebue, Emmonak, Glennallen, Egegik, and Port Moller - were identified by DNR as potential frontier basins and they were further defined by proximity to communities that are suffering from high energy cost and supply issues.

MS. PIERSON explained that subsection (q) was added to HB 276 in response to a problem identified by [oil and gas consultant] Pedro van Meurs, which was that if a current producer with a tax liability at high prices would offset the full marginal rate, plus the expanded exploration tax credit, the state could end up paying more than the 65 percent that is intended for exploratory work. This can be seen as an inequity in the design of the current tax credit wording. The intent is to set the amount for

exploration credits at 65 percent and not dependent on particular companies or other operators. The limitations are not applied to the Cook Inlet or frontier basin credits since they are credits geared for creating a stampede of exploration in certain areas of the state that will produce benefits for the state and its residents.

[2:38:39 PM](#)

CO-CHAIR SEATON understood that this, unlike the Cook Inlet credit, was not for a single entity drilling three wells. This is multiple persons could either do the multiple seismics, or multiple persons, meaning multiple companies, could qualify for the tax credit by drilling in one basin and someone else in another basin. It is not restricted to the same person, it is persons.

MS. PIERSON confirmed this understanding to be correct and apologized for misspeaking earlier.

[2:39:24 PM](#)

REPRESENTATIVE KAWASAKI understood that Section 3 identifies the way in which an explorer can apply for drilling credits. Regarding the best interest finding on page 4, line 15, he presumed that the DNR commissioner would have to have submitted a best interest finding and agreed that the [exploration well] was qualified for the credit prior to the drilling actually being done.

MS. PIERSON confirmed this understanding to be correct.

REPRESENTATIVE KAWASAKI inquired whether a best interest finding is something that can readily be done and asked how much time it would take. He understood that a lot would go into a best interest finding before a credit could be applied for.

MS. PIERSON offered her belief that (f)(2) of the statute, which the committee does not have before it, provides 30 days after the date of request, unless a longer period is provided.

REPRESENTATIVE KAWASAKI, regarding the condition under the best interest finding about the explorer's experience and safety record, inquired whether that record is for Alaska or other states, or would be up to the commissioner to decide.

MS. PIERSON offered her belief that it would be left for the commissioner to decide, but added that she believed it would also be whether the explorer's agents who are actually conducting the drilling or seismic have had some experience in remote and roadless areas.

[2:41:43 PM](#)

REPRESENTATIVE HERRON offered his appreciation for how the bill has changed and where the proposed committee substitute (CS) is going. Noting the map shows six basins, he asked about the criteria used [for their selection] such that there are not seven or eight basins.

MS. PIERSON replied that DNR provided the initial basins and the sponsor looked at them in regards to being close to communities that could actually use the resources and that had a need for the resources, which is how these six areas were chosen. The other three areas provided by DNR were either not in close proximity to a community that would need them or were in such close proximity to the Cook Inlet that they were already being taken care of.

REPRESENTATIVE HERRON surmised, then, that there is no need to have a trigger built into the statutes to open up another basin without going back to the legislature.

MS. PIERSON responded that extending this credit until 2022 was talked about at one time, along with adding some other things discussed in this committee. However, due to the lateness of the session, she said she created what she hopes is a good framework and offered her belief that if this works it will be looked at again before 2016.

[2:43:39 PM](#)

REPRESENTATIVE GARDNER related she has an ongoing theme of letting Alaskans and legislators know what the state is buying and spending and who is getting and claiming credits. She asked which elements of HB 276 are completely available to the public and which are not. For example, if the commissioner made a best interest finding, she presumed the public could read that and be able to estimate what the credit would be. She said she would like to see, in principle, that whenever a tax credit is given to someone the information is available to all Alaskans so they know who the beneficiaries are, along with the amount.

MS. PIERSON answered that the sponsor tried to do this by requiring the data discovered be made public within two years. Whether the explorer actually has a lease or has an exploration area, it is almost like advertising. If there is something good going on the explorer is protected by its exploration area or its lease. If something is found it may bring investors into these areas, something that has been problematic. Therefore, in making any data discovered for this credit public and available, the sponsor is trying to give the state more knowledge and something it can sink its teeth into.

REPRESENTATIVE GARDNER offered her appreciation for the aforementioned.

[2:45:45 PM](#)

CO-CHAIR SEATON pointed out that under existing programs any explorer can qualify for the 65 percent credit without sharing data. He therefore understood that someone wishing to take the enhanced credits for exploration in the proposed areas under HB 276 would have to go through the best interest finding and would have to agree to release the data.

MS. PIERSON confirmed that this is correct.

[2:46:26 PM](#)

CO-CHAIR FEIGE understood the DNR commissioner and his staff would approve where the seismic projects or the exploratory drilling occurs. He asked whether there is a time constraint from when the credit is approved and when the work must start.

MS. PIERSON replied that to qualify for the [proposed] credit an exploration expenditure would have to incurred for work performed after [June 1, 2012] and before July 1, 2016.

[2:47:20 PM](#)

CO-CHAIR SEATON understood that under the bill's provisions the person qualifying for and receiving the credit would be the one actually turning the drill bit first.

MS. PIERSON responded "that is true and that is really belt and suspenders," but as was seen with Cook Inlet that became very important.

[2:47:52 PM](#)

REPRESENTATIVE FOSTER noted that the second paragraph of the sponsor statement states that the drilling credit would be for the "first four exploration wells in an area described in the bill with no more than two wells in any single area." He inquired whether that means a total of four wells or means six areas times no more than two wells in each area, which would be twelve.

MS. PIERSON, noting that this has been a hard one to nail down in legal writing, said it would be four total.

[2:48:31 PM](#)

CO-CHAIR SEATON opened public testimony on HB 276. After ascertaining that no one wished to testify, but that the Resource Development Council had submitted written testimony in favor of the bill, he announced that HB 276 would be held over for public testimony on 3/14/12 and that people could submit written testimony as well.

[2:49:29 PM](#)

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

Page 2, Line 14: Delete (c)

CO-CHAIR SEATON pointed out that this is the amendment talked about by the sponsor that would delete the reference to (c).

CO-CHAIR FEIGE objected for discussion purposes.

CO-CHAIR SEATON explained that lines 12-14 on page 2 talk about seismic exploration activities. However, (c) specifically references only exploration wells, so reference to (c) is probably inappropriate.

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

[2:51:10 PM](#)

REPRESENTATIVE KAWASAKI recalled Ms. Pierson's statement that the proposed tax credits would not be stackable. He noted that the research and development tax credit is not in Title 43, but

under a different title. He requested clarification on which credits are stackable and which are not stackable.

MS. PIERSON said she will have to get back to the committee with an answer.

CO-CHAIR SEATON pointed out that the two fiscal notes are for the original bill and said new fiscal notes are anticipated for Version D.

2:53:04 PM

REPRESENTATIVE KAWASAKI said he will submit written questions through the co-chair about the dynamics of the best interest findings, the proximity to a community in need, the definition of proximity to existing infrastructure, and how those would be objectively looked at by the commissioner in a best interest finding.

CO-CHAIR SEATON offered his belief that the bill actually lays out mileage around the points.

MS. PIERSON said this can be found in subsection (p) on page 6, beginning on line 2.

CO-CHAIR SEATON added that the aforementioned language describes the areas the basins would have to be in. He recalled that DNR had previously said a best interest finding would be based on the prospectivity because the state did not want to spend a lot of money if there was not much prospectivity. He asked whether this language is adequate for Representative Kawasaki.

2:55:47 PM

REPRESENTATIVE KAWASAKI commented that this was originally a Nenana Basin bill and now a number of different communities have been added. He recollected a discussion led by Co-Chair Feige in which there was talk about whether a community would be able to take advantage of a potential find. For example, Fairbanks is close to the road system and has a need, but in rural areas with a need it might not be cost effective to pay for the credits; therefore, it is a policy call that must be made.

MS. PIERSON offered her belief that that is the reason for the best interest finding. She said a problem of these being frontier basins is that they have never been actually solidified in their definitions, which is the reason for the circles [on

the map depicting the six areas]. She imagined that if somebody wanted to drill in an area within the circle but not in the basin, there would be a problem with that, and that is the best interest finding. The Department of Natural Resources was concerned that there be a development plan.

CO-CHAIR SEATON offered his appreciation for the colored map depicting the proposed areas that are defined in the bill by latitude and longitude.

[2:57:45 PM](#)

CO-CHAIR SEATON understood that the bill does not include outer continental shelf (OCS) or federal land; thus the credits would be available for either state or private land.

MS. PIERSON confirmed that this is correct.

CO-CHAIR SEATON said his previous statement was to clarify that the state credit would not apply to any work occurring off the Aleutian Islands in the OCS.

[HB 276 was held over.]

[2:58:37 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:58 p.m.