

HOUSE FINANCE COMMITTEE

April 11, 2013

9:45 a.m.

9:45:13 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:45 a.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Mark Neuman, Vice-Chair
Representative Mia Costello
Representative Bryce Edgmon
Representative Les Gara
Representative Lindsey Holmes
Representative Scott Kawasaki, Alternate
Representative Cathy Munoz
Representative Steve Thompson
Representative Tammie Wilson

MEMBERS ABSENT

Representative David Guttenberg

ALSO PRESENT

Michael Pawlowski, Advisor, Petroleum Fiscal Systems, Department of Revenue; Joe Balash, Deputy Commissioner, Department of Natural Resources; Brittany Hutchison, Staff, Senator Click Bishop; Senator Peter Micciche, Sponsor; John MacKinnon, Executive Director, Associated General Contractors of Alaska; Daniel George, Staff, Representative Bill Stoltze; Leslie Houston, Deputy Commissioner, Department of Corrections; Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; Naomi Harris, Community Relations Manager, Office of Children's Services, Department of Health and Social Services; Joseph Masters, Commissioner, Department of Public Safety; Senator John Coghill; Rynniva Moss, Staff, Senator John Coghill; Les Morse, Deputy Director, Department of Education and Early

Development; Barry Pulliam, Managing Director, Econ One Research, Inc.; Bruce Tangeman, Deputy Commissioner, Tax Division, Department of Revenue; Representative Peggy Wilson; Representative Beth Kerttula; Representative Mike Chennault, Representative Lance Pruitt.

PRESENT VIA TELECONFERENCE

Allison Airhart, Attorney, Volkswagen Group of America, Virginia; Julie Emslie, Fairbanks Economic Development Corporation, Fairbanks; Idonna Piper Nelson, Partner, Davis Constructors and Engineers, Anchorage; Lisa Rieger, Cook Inlet Tribal Council; Jerry Covey, Education Consultant, Citizens for the Educational Advancement of Alaskan's Children and Cook Inlet Tribal Council; Matt Fonder, Director, Tax Division, Department of Revenue.

SUMMARY

SB 7 am CORPORATE INCOME TAX

SB 7 am was SCHEDULED but not HEARD.

CSSB 18(FIN) am
BUDGET: CAPITAL

CSSB 18(FIN) am was SCHEDULED but not HEARD.

CSSB 21(FIN) am (efd fld)
OIL AND GAS PRODUCTION TAX

HCS CSSB 21(FIN) was REPORTED out of committee with no recommendation and with one new indeterminate fiscal note from the Department of Natural Resources; two new fiscal impact notes from the Department of Revenue; and one previously published zero fiscal note: FN11 (CED).

CSSB 22(FIN)
CRIMES; VICTIMS; CHILD ABUSE AND NEGLECT

HCS CSSB 22(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new indeterminate fiscal note from the Court System; four previously published indeterminate fiscal notes: FN5 (ADM), FN8 (ADM), FN10 (COR), FN12

(CRT); and four previously published zero fiscal notes: FN2 (DPS), FN7 (DHS), FN9 (LAW), and FN11 (DPS).

CSSSSB 47(FIN)

DISTRICT OPERATED BOARDING SCHOOLS

CSSSSB 47(FIN) was HEARD and HELD in committee for further consideration.

SB 62

SCHOOL CONST. GRANTS/SMALL MUNICIPALITIES

SB 62 was SCHEDULED but not HEARD.

CSSB 83(FIN)

INTEREST ON CORPORATION INCOME TAX

HCS CSSB 83(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published indeterminate fiscal note: FN1(REV).

[Note: The meeting was recessed until 1:12 a.m. on April 12, 2013 and CSSB 83(FIN) was reported from committee at that time. See April 12, 2013, 1:12 a.m. minutes for detail.]

CSSB 85(TRA)

EXPERIMENTAL VEHICLE PLATES

CSSB 85(TRA) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (DOT).

SB 88

ALASKA NATIVE MEDICAL CENTER HOUSING

SB 88 was REPORTED out of committee with a "do pass" recommendation and with three previously published fiscal impact notes: FN1 (ADM), FN2 (DHS), FN3 (REV).

[9:45:41 AM](#)

#sb21

CS FOR SENATE BILL NO. 21(FIN) am(efd fld)

"An Act relating to the interest rate applicable to certain amounts due for fees, taxes, and payments made and property delivered to the Department of Revenue; providing a tax credit against the corporation income tax for qualified oil and gas service industry expenditures; relating to the oil and gas production tax rate; relating to gas used in the state; relating to monthly installment payments of the oil and gas production tax; relating to oil and gas production tax credits for certain losses and expenditures; relating to oil and gas production tax credit certificates; relating to nontransferable tax credits based on production; relating to the oil and gas tax credit fund; relating to annual statements by producers and explorers; establishing the Oil and Gas Competitiveness Review Board; and making conforming amendments."

[9:46:08 AM](#)

AT EASE

[9:47:25 AM](#)

RECONVENED

Co-Chair Stoltze discussed the intent of the committee.

MICHAEL PAWLOWSKI, ADVISOR, PETROLEUM FISCAL SYSTEMS, DEPARTMENT OF REVENUE, spoke to the bill.

Representative Costello MOVED to ADOPT the proposed committee substitute for CSSB 21(FIN) am(efd fld), Work Draft 28-GS1647\L (Nauman/Bullock, 4/10/13).

There being NO OBJECTION, Work Draft 28-GS1647\L was ADOPTED.

Mr. Pawlowski supported that the CS maintained the administration's intention for revenues from the corporate income tax to be directed to the community revenue sharing fund (Section 1, page 2). The administration appreciated the bill's retention of the qualified oil and gas service to industry expenditure credit in Section 3, page 3. He directed attention to a tax rate increase from 33 percent in the House Resources Committee version to 35 percent (page 4, Section 4, line 20); related conforming changes had been made throughout the bill. He moved to page 9 (Section 8), which included the mechanism for installment

payments. He noted that conforming amendments had been made on page 9, lines 15 and 30; and page 10, lines 12 and 21.

9:51:56 AM

Mr. Pawlowski referred to a capital expenditure credit repeal included in the prior bill version and how it would impact smaller oil companies that had plans of development under the current system. He pointed to Section 14, page 14, which allowed the tax credit for the carry-forward loss; the credit only applied to companies when spending exceeded the tax liability. He observed that the carry-forward credit had been increased to 45 percent (page 14, line 26) between January 1, 2014 and January 1, 2016 and decreased to 35 percent following the latter date. Under the current system the companies received a 25 percent loss credit and a 20 percent capital credit; under the House Resources Committee proposal the total credit would have dropped to 35 percent. He complimented the committee on its solution, which he believed addressed public comment.

Representative Gara asked about the carry forward credit that went from 45 percent through January 2016 to 35 percent (page 14) and down to 25 percent (page 15).

Mr. Pawlowski responded that the 25 percent was modified by page 14, line 31 for expenditures south of the North Slope. The provision preserved the current system in Cook Inlet and Middle Earth related to the credits.

Mr. Pawlowski addressed conforming amendments in Section 20, page 17. The CS increased the gross revenue exclusion (GRE) for certain new units. He discussed the bill's clear direction to the department recognizing which per barrel credits would apply (page 17, lines 14 and 21). The department appreciated the way the language had been structured.

Representative Gara asked for more detail on the issue. Mr. Pawlowski pointed to Section 27, page 24. He explained that subsection (f), lines 10 through 27 retained the prior bill version's GRE. Additionally, subsection (g) had been added, which linked to units developed after January 1, 2003; language on page 25 required that units had to be made up solely of leases with a royalty share of more than 12.5 percent in amount or value of the production removed or sold from lease. The bill added a 10 percent GRE on top of

the 20 percent offered at the base level. He communicated that language in Section 20 conformed to ensure that legacy production received a sliding scale because it did not qualify for the GRE.

[9:57:31 AM](#)

Mr. Pawlowski continued to discuss changes in the CS. He pointed to pages 25 through 28, which included the reintroduction of the Oil and Gas Competitiveness Review Board (the language had been in prior versions of the bill).

Co-Chair Stoltze noted that the provision may be further modified.

Mr. Pawlowski believed the administration saw the Oil and Gas Competitiveness Review Board as an opportunity to continue the dialogue on "what was hopefully a relatively less political perspective" related to the state's long-term competitiveness regarding the tax system and an alternative means to improve Alaska's position. He pointed to a reference to workforce development, infrastructure investment, and the permitting and regulatory environment on page 27. He shared that in previous bill versions the Department of Revenue (DOR) had committed to supporting the effort with existing staffing levels and had not introduced a new position to support the board's work. He believed the department would maintain a similar position if the language was retained in the CS.

[10:00:02 AM](#)

JOE BALASH, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, communicated that the Department of Natural Resources (DNR) was available to all members and would continue to review the CS.

Representative Gara wondered whether the tax rate would always be 35 percent or if 35 percent was the cap. Mr. Pawlowski responded that the statutory tax rate was 35 percent, but the effective tax rate would be lower; it would cap out for the legacy production, which had a sliding scale credit. The rate would not reach the 35 percent for new production and areas with higher royalties due to the GRE.

Representative Gara asked if the sliding scale was \$0.00 to \$8.00 and applied only to legacy fields. Mr. Pawlowski answered in the affirmative. He pointed to page 17, lines 14 and 21 related to the criteria under subsections (f) or (g) [AS 43.55.160] that linked to GRE eligibility.

Representative Gara queried if the CS maintained language that the 35 percent tax rate would be reached at \$150 per barrel. Mr. Pawlowski responded in the affirmative.

Representative Gara asked what the tax rate would be at the lowest end of the sliding scale. Mr. Pawlowski replied that related to legacy production the CS maintained the prohibition that the sliding scale per barrel credit could not be used to offset the 4 percent gross minimum tax (page 17, line 24). He detailed that on legacy production, barring other outside credits that could be applied the 4 percent gross minimum would be a real floor. He was uncertain about the amount on a net rate.

Co-Chair Stoltze relayed that the department would have an opportunity to clarify and expand on answers at a later time.

[10:03:39 AM](#)

Representative Gara asked what the effective tax rate would be at the bottom of the sliding scale without consideration of the gross floor. Mr. Pawlowski would follow up on the question.

Representative Gara asked about non-legacy fields. He referred to the GRE and asked what the effective tax rate would be on \$110 per barrel oil. He surmised that the rate would be less than 35 percent.

Co-Chair Stoltze asked Mr. Pawlowski to come back with a comprehensive analysis. Mr. Pawlowski would follow up on the question.

Mr. Balash remarked that overall the total government take would be approximately 60 percent to 61 percent.

Co-Chair Stoltze asked for verification that the administration was preparing various scenarios. Mr. Pawlowski agreed.

Co-Chair Stoltze believed the administration had prepared an analysis on a multitude of rate scenarios.

Representative Gara requested effective tax rates for all provisions of the bill. He referred to testimony on a prior bill version that a 20 percent GRE on new oil equated to an effective tax rate of 17 percent at \$110 per barrel. He wondered which fields the 30 percent GRE would apply to. Mr. Pawlowski replied that the 30 percent GRE only applied to a unit made up of leases with a royalty share of more than 12.5 percent (page 25).

10:06:49 AM

Representative Gara referred to higher royalty fields and asked if the 30 percent GRE applied to legacy and new oil fields. Mr. Balash was not aware of any currently producing units that would start off qualifying for the 30 percent GRE. He explained that Prudhoe Bay and Kuparuk had one-eighth [12.5 percent] leases and would not qualify. The two currently producing units intended to qualify were Nikaitchuq and Oooguruk. He detailed that Oooguruk would remain at the 20 percent because it had a royalty modification currently in effect; once payout on the NPSLs [net profit share leases] was reached and royalty rates increased, the field would qualify for the 30 percent GRE the following calendar year.

Representative Gara asked for verification that the Oooguruk royalty rate reduction had been based on the economics under the current Alaska's Clear and Equitable Share (ACES) tax system. He surmised that royalty relief for Oooguruk had been granted in order to make the field economic. Mr. Balash replied that royalty modification for Oooguruk had been granted in 2006 prior to the implementation of ACES.

Representative Gara asked whether Oooguruk was the only existing field that would qualify for the 30 percent GRE. Mr. Balash replied that he would need to check to determine whether the Nikaitchuq field would qualify for the 30 percent GRE; it would definitely qualify for the 20 percent GRE. He relayed that there was a lease in the field's unit that had been segregated because it had originally been in one of the legacy units; the unit received a new lease number after January 1, 2003; therefore the lease would not

disqualify the Oooguruk unit for the 20 percent GRE in AS 43.55.160(f)(1).

10:09:49 AM

Mr. Pawlowski pointed to a presentation by Pioneer and added that the additional development in the Oooguruk unit was occurring where new pockets of oil were being developed. The provisions would apply to the additional development within the unit such as the Torok participating area when the unit was above the one-eighth [12.5 percent] lease.

Co-Chair Stoltze asked members to provide additional questions to his office for distribution to the departments.

Representative Gara stated that originally the governor had defined new oil inside a legacy field. Additionally, the governor had included a new lower tax rate with the GRE inside legacy fields for new oil. He pointed to the governor's definition for new separate geological units, which had been changed in the bill. He wondered whether the administration preferred the original definition.

Mr. Balash replied that the House Resources Committee language accomplished what the administration needed, which was to highlight what would qualify going forward. He communicated that the only part of the existing and currently producing participating areas (PA) that would qualify were any additions made in the future; he relayed that if something was not currently in the PA, it was not thought to be contributing. He discussed additional work that would be necessary in order to bring the additional area into production. The change in the legislation still satisfied the fundamental goal of rewarding new production.

Representative Gara asked what the term "new area" within a legacy field meant. He did not want an additional tax break to go to new oil that was in the same pool in a legacy field that a company would produce at a later time.

Mr. Balash answered that the units were managed through the PA process. He explained that when companies found oil or gas they had the resource put into a unit to cover all of the leases the oil and gas underlies, which was the basis for managing and governing activity and production on the

unit. Additionally, areas to be drilled and produced were identified through the development plan; the expectation of which part of the unit would be contributing to production was the portion included in the PA. The determination was based on expectations of lessees, various working interest owners in the unit, the state, and the Division of Oil and Gas. He elaborated that PAs were formed when production began and over the course of time if production performed differently than expected the PAs may be contracted or expanded. He relayed that if an addition was made to an existing PA it may qualify for the GRE, but only if the producer could satisfy DOR with regard to how it would allocate or account for the production and to keep it separate from existing production.

[10:15:09 AM](#)

Co-Chair Stoltze commended Representatives Eric Feige and Dan Saddler on their work in the House Resources Committee.

CSSB 21(FIN) am(efd fld) was HEARD and HELD in committee for further consideration.

[Note: CSSB 21(FIN) am(efd fld) was heard later in the same meeting beginning at 3:58 p.m.]

#sb85

CS FOR SENATE BILL NO. 85(TRA)

"An Act relating to experimental vehicles."

[10:16:10 AM](#)

BRITTANY HUTCHISON, STAFF, SENATOR CLICK BISHOP, spoke to the bill. She explained that the CS had removed the wording "cold weather" on page 1, lines 6, 7, and 11 in order for the state to welcome all types of vehicle testing. She stated that for many years Alaska had been marketed as the most accessible, affordable, and reliable place to conduct cold weather testing. She noted that the state was also known as a prime location. Currently there were no statutes regulating the registration of experimental vehicles, which made it difficult for automotive companies to continue conducting business in Alaska. She communicated that recently the Volkswagen Group of America had to bring experimental vehicles back after an initial testing session due to stricter emission regulations (the company had

conducted its vehicle testing in the state since 2000); however, the company had been told that it would need to register and title all of the vehicles, which was neither desirable or possible in Alaska.

Ms. Hutchinson relayed that the sponsor's office had spoken with the Division of Motor Vehicles (DMV) and had been told that the DMV lacked statutory authority to provide registration for experimental vehicles. She detailed that the sponsor had worked with DMV and Volkswagen Group of America's corporate council Allison Airhart to draft the legislation. The bill would allow the DMV to issue experimental vehicle plates to vehicle distributors and manufacturers. The plates would be valid for a 12-month period and could be renewed up to two times for a total period of 36 months. She communicated that vehicles would be required to be either destroyed or taken out of state following the 36-month period.

Representative Costello moved the bill before the committee.

[10:18:44 AM](#)

Representative Thompson believed the bill was important. He wondered how much the license plates would cost per year. Ms. Hutchison replied that the charge would be \$90 per year.

Representative Thompson asked whether manufacturers had any problem with the charge. Ms. Hutchison replied in the negative.

ALLISON AIRHART, ATTORNEY, VOLKSWAGEN GROUP OF AMERICA, VIRGINIA (via teleconference), spoke in support of the bill. She communicated that the legislation would allow the company to continue to perform its cold weather testing in Alaska. She believed the bill was ideal and that it served the interests of the company, the Alaska DMV, and the Fairbanks area. She explained that Alaska's current statutes inhibited the company from testing in the state to the extent that it did not allow for multi-year vehicle registrations. She elaborated that testing over several seasons was necessitated by recent Environmental Protection Agency guidelines. She shared that sustained low temperatures in Alaska were ideal for vehicle testing. Other benefits included a large availability of seasonal

workers, a system of roadways with a variety of terrain, affordable lodging, and an airport.

10:21:33 AM

JULIE EMSLIE, FAIRBANKS ECONOMIC DEVELOPMENT CORPORATION, FAIRBANKS (via teleconference), testified in support of the bill. She stated that the consistent cold weather conditions in Alaska were difficult to find elsewhere. She expounded that the temperature combined with excellent facilities in the state's service industry had made the state a prime location for companies to cold weather test their products. She shared that the testing brought positive impacts to the Fairbanks community and the Alaskan economy. She pointed to an estimate that the testing brought in \$500 million annually in Fairbanks. She stated that the automotive industry in particular heavily utilized Alaska's Interior for cold weather testing. The corporation had discovered that some local automotive testing companies were running into problems with Alaska's current vehicle titling and registration regulations, largely due to changing federal emission regulations. She concluded that the bill offered a solution to the problem, removed a barrier to the automotive cold weather testing industry, and did not infringe on the DMV's ability to carry out its mission.

Co-Chair Stoltze CLOSED public testimony.

Representative Costello discussed the one zero impact fiscal note from Department of Transportation and Public Facilities.

Representative Thompson MOVED to REPORT CSSB 85(TRA) out of committee with individual recommendations and the accompanying fiscal note.

CSSB 85(TRA) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (DOT).

10:24:24 AM

AT EASE

10:27:05 AM

RECONVENED

#sb83

CS FOR SENATE BILL NO. 83(FIN)

"An Act relating to the corporation income tax; relating to the computation of interest under the look-back method applicable to long-term contracts in the Internal Revenue Code; and providing for an effective date."

Representative Costello moved the bill before the committee.

10:27:28 AM

SENATOR PETER MICCICHE, SPONSOR, communicated that in addition to its focus on corporate income tax, the bill was about fairness and simplicity. He detailed that currently for state and federal corporate income tax purposes contractors undertaking large multi-year projects such as highways, schools, and university buildings were required to estimate their total profit on a project and to pay income tax on the portion of the project completed in a given tax year. He stated that it was impossible to predict in the first year of the project what the actual cost or profit would be. He furthered that upon completion of the project and once the profit amount had been determined, the contractor filed look-back taxes (an amended return). He expounded that a contractor either owed additional taxes or received a refund based on whether the profit had been over or under estimated; interest was owed on the additional taxes due or the refund to be paid.

Senator Micciche relayed that although the Internal Revenue Service (IRS) code had a specific provision for over and under payments of estimated taxes for the multi-year projects, existing state laws considered the payments to be delinquent and applied an 11 percent interest rate. The state made no distinction between its system of estimating taxes based on a contractor's best knowledge and a tax payer who did not make a timely filing. He believed there should be a distinction. He stated that the bill would tie the interest rate to a recognized index as opposed to the 11 percent interest currently paid by the state and contractors. He noted that the current interest rates charged by the state were outdated.

Senator Micciche expounded that the bill would correct the interest issue, simplify the process for contractors, and adopt the IRS bulletin rates for look-back taxes on long-term projects allowing contractors and the state to use the same interest pay schedules for state taxes as the federal system. Currently the interest rate was 2 percent for under payments when the profit had been underestimated and over payments when the state owed money in the amount of \$10,000 or less; interest was currently levied at 0.5 percent on amounts greater than \$10,000. He relayed that the rate fluctuated and was published quarterly. The CS specified the tax policy would be in effect for the entire 2013 calendar tax year.

10:30:10 AM

Co-Chair Stoltze stated that there were two potential amendments. He expressed desire for a more thorough discussion on the legislation and how the amendments would impact it. He thought the second amendment related to helping commercial seiners in Southeast.

Senator Micciche noted that the second potential amendment related to hatcheries. He reiterated the bill focused on a fairness issue. He pointed to multiple letters of support from general contractors, the Association of General Contractors, bankers, public accountants, surety and bonding brokers, and others. He emphasized the bill would be good for the state. He relayed that he would review the amendments. He stated that he had worked on the bill all session and would prefer to not include items that may prevent the bill from moving forward in the current year.

Co-Chair Stoltze communicated his desire for a deliberative discussion.

JOHN MACKINNON, EXECUTIVE DIRECTOR, ASSOCIATED GENERAL CONTRACTORS OF ALASKA, was available for questions.

Representative Costello asked for Mr. Mackinnon to comment on the bill.

Mr. Mackinnon testified in support of the bill. He stated that an 11 percent interest rate had been in place since the early 1980s. He remarked that his first home loan had been over 10 percent in 1981. The bill brought the rate in line with the current federal rate and made a clear

distinction that the returns were amended. He opined that referring to an amended return as a delinquent tax unfairly characterized contractors' and C corporations' efforts to be honest. He furthered that the current system unfairly penalized C corporations, given that they were the only businesses paying taxes to the state. He explained that most contractors were limited partnerships, sole proprietorships or S corporations that paid no taxes.

Co-Chair Stoltze recalled that the state had opposed the imposition of the interest rate when it had been litigated against by out-of-state commercial fishermen in the Carlson case. He communicated that the state had gone to the supreme court on the unfairness of the rates. He believed the state was on the record related to its position on the interest rates.

[10:35:45 AM](#)

IDONNA PIPER NELSON, PARTNER, DAVIS CONSTRUCTORS AND ENGINEERS, ANCHORAGE (via teleconference), spoke in favor of the bill. She relayed that the company had chosen to be a C corporation; it was not objecting to paying the look-back taxes, but wanted to be treated the same way by the state as it was by the federal government. She had begun work on the issue with legislators during the past several years. She thanked the committee and urged the passage of the legislation.

Co-Chair Stoltze CLOSED public testimony.

Co-Chair Stoltze discussed the amendments and asked sponsors to provide them to his office.

SB 83 was HEARD and HELD in committee for further consideration.

[Note: The meeting was recessed at 10:41 p.m. until 1:12 a.m. on April 12, 2013 and CSSB 83(FIN) was reported from committee at that time. See April 12, 2013, 1:12 a.m. minutes for detail.]

[10:38:28 AM](#)

RECESSED

[1:53:19 PM](#)

RECONVENED

#sb22

CS FOR SENATE BILL NO. 22(FIN)

"An Act relating to the commencement of actions for felony sex trafficking and felony human trafficking; relating to the crime of sexual assault; relating to the crime of unlawful contact; relating to forfeiture for certain crimes involving prostitution; relating to the time in which to commence certain prosecutions; relating to release in a prosecution for stalking or a crime involving domestic violence or for violation of a condition of release in connection with a crime involving domestic violence; relating to interception of private communications for certain sex trafficking or human trafficking offenses; relating to use of evidence of sexual conduct concerning victims of certain crimes; relating to consideration at sentencing of the effect of a crime on the victim; relating to the time to make an application for credit for time served in a treatment program or while in other custody; relating to suspending imposition of sentence for sex trafficking; relating to consecutive sentences for convictions of certain crimes involving child pornography or indecent materials to minors; relating to the referral of sexual felonies to a three-judge panel; relating to the definition of 'sexual felony' for sentencing and probation for conviction of certain crimes; relating to the definition of 'sex offense' regarding sex offender registration; relating to the definition of 'victim counseling centers' for disclosure of certain communications concerning sexual assault or domestic violence; relating to violent crimes compensation; relating to certain information in retention election of judges concerning sentencing of persons convicted of felonies; relating to remission of sentences for certain sexual felony offenders; relating to forms for sexual assault, stalking, and domestic violence protective orders; relating to the subpoena power of the attorney general in cases involving the use of an Internet service account; relating to reasonable efforts in child-in-need-of-aid cases involving sexual abuse or sex offender registration; relating to mandatory reporting by athletic coaches of child abuse or neglect; making conforming amendments; amending Rules 16, 32.1(b)(1), and 32.2(a), Alaska Rules of

Criminal Procedure, and Rules 404(a) and (b), Alaska Rules of Evidence; and providing for an effective date."

[1:54:59 PM](#)

Representative Costello MOVED to ADOPT the proposed committee substitute for CSSB 22(FIN), Work Draft 28-GS1587\R (Strasbaugh, 4/10/13). Co-Chair Stoltze OBJECTED for discussion.

DANIEL GEORGE, STAFF, REPRESENTATIVE BILL STOLTZE, discussed the changes in the CS. He relayed that the first change had been made to the bill title on page 2, lines 8 through 11:

...the rights of certain victims of sexual assault to obtain legal and equitable remedies from injuries arising from the conduct of a perpetrator; relating to the definition of 'sexual assault' for the purpose of adoption and the termination of parental rights in certain proceedings; relating to...

Co-Chair Stoltze noted that some of the changes were not products of the House Finance Committee and included the adoption of work done by the House Judiciary Committee.

Mr. George relayed that the next change clarified which offences were eligible for the forfeiture of property (page 7).

[1:57:17 PM](#)

Mr. George pointed to the addition of a fifth item (Section 17, subsection (a), page 10) to the list of items a victim may request from the court prior to a presentencing report: "letters of support submitted to the court for consideration."

Co-Chair Stoltze relayed that the change resulted from outreach to the Office of Victims' Rights.

Mr. George noted that Sections 31 and 32 had been added to the bill (page 16) in the House Judiciary Committee. The additions related to a savings clause that would allow a victim of sexual assault to terminate parental rights and pursue civil damages. The meaning of sexual assault was

further defined in Section 32. He continued on page 20 and relayed that the word "and" had been inserted on line 30; additionally, language had been deleted from line 31 that read "any individual the defendant may seek to qualify to furnish expert testimony at trial."

Representative Holmes asked for the page number.

Mr. George reiterated the information about page 20, lines 30 and 31. He read the full sentence beginning on line 27:

The material shall be considered to be made reasonably available to the defendant or defense counsel if the prosecuting attorney provides, at a law enforcement or prosecution facility, ample opportunity for inspection, viewing, and examination of the material by the defendant and the defendant's attorney.

Mr. George elaborated that the sentence had gone on to read (but had been deleted): "any individual the defendant may seek to qualify to furnish expert testimony at trial."

[2:00:37 PM](#)

AT EASE

[2:01:37 PM](#)

RECONVENED

Mr. George continued on page 21. Lines 2 through 5 had been edited to read "If the defendant or the defendant's attorney identifies an expert who must view the material, the court shall make arrangements for the court or the law enforcement agency that possesses it to send the material directly to the expert"; the words "outside the state" had been removed from the sentence.

[2:02:49 PM](#)

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Work Draft 28-GS1587\R was ADOPTED.

Representative Wilson asked whether the use of a global positioning device was available throughout the state or in urban areas only.

LESLIE HOUSTON, DEPUTY COMMISSIONER, DEPARTMENT OF CORRECTIONS, asked Representative Wilson to repeat the question.

Representative Wilson stated that she was uncomfortable with the concept of using a global positioning device. She wondered whether the devices would be used in all Alaskan communities if Department of Corrections decided to use them. Ms. Houston replied that the technology did exist for use throughout Alaska.

Representative Wilson asked for verification that court ordered treatment outside a treatment center did not count as jail time unless a person was escorted.

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW (DOL), agreed. She detailed that in order for a person to get credit for treatment they needed to go to a treatment center and to be escorted by the center to any other treatment location. She noted that some exceptions existed such as meetings with counsel, going to court, and other.

Representative Wilson planned to research the issue over the interim. She was concerned about smaller treatment facilities that could not provide all services and about the additional cost that may occur as a result of the chaperone requirement. She wanted to avoid people choosing to sit in jail instead of leaving for treatment. She reiterated her plan to look into the issue further.

Ms. Carpeneti replied that DOL would be happy to work with Representative Wilson on the issue.

Representative Gara referred to a sexual abuse case at Penn State [Jerry Sandusky case]. He asked for verification that if a college coach or personnel learned about sexual abuse occurring they were legally required to report it in Alaska.

Ms. Carpeneti answered that a person connected with a school, a part of a school administration, or teaching staff was legally required to report the abuse.

Representative Gara stated asked for verification that the law included universities. Ms. Carpeneti believed so.

Representative Gara asked for confirmation that existing Alaska law covered a Jerry Sandusky situation, assuming all people charged were guilty. Ms. Carpeneti was not certain that all individuals who knew about the Sandusky abuse were paid staff of the university.

Representative Gara asked if paid university staff would be subject to prosecution under Alaska law. Ms. Carpeneti replied that the individuals would be mandatory reporters under Alaska law.

Representative Gara asked for verification that it was a crime for a mandatory reporter to not report abuse. Ms. Carpeneti replied that it could be a crime if a person knew about the abuse and did not report it. She added that the state had never prosecuted a similar case. Representative Gara asked whether the situation was covered by the law. Ms. Carpeneti replied in the affirmative.

Representative Gara MOVED Amendment 1 (28-GS1587\Y.4, Gardner/Strasbaugh, 4/4/13)(copy on file):

Page 19, line 8, following "members":
Insert ", including athletic coaches,"

Page 19, lines 19-20:
Delete";
(9) athletic coaches"

Page 19, line 22, following "team":
Insert "."

Page 19, lines 23-25
Delete all material.

Co-Chair Stoltze OBJECTED for discussion.

Representative Gara noted that the amendment was conceptual as it had been written to the prior bill version. The bill related to pages 19 and 20 of the legislation. Currently the bill stipulated that paid coaches were liable as mandatory reporters of child abuse or neglect that they knew about. He provided a scenario of a person being asked to coach their child's soccer team the night before school started for a token amount of pay. He did not want to make the individual under the scenario liable. Existing law made school teachers, school administrative staff, members of

public and private schools liable. He explained that the amendment would insert the words "including athletic coaches" to the list on page 19, line 31. The amendment would delete subsection (9) reading "athletic coaches" and Section 40 that defined an athletic coach as a person who may get a token amount of pay (e.g. \$10 or \$25). The amendment contained conforming language as well.

Representative Gara explained that the intention of the amendment was to distinguish between a school athletic coach who ostensibly received some kind of training in mandatory reporting and a parent who had no training. He stated that a parent who volunteered to coach a team should not be held to the same requirement.

[2:11:03 PM](#)

Representative Wilson asked for the definition of a school administrative staff member.

NAOMI HARRIS, COMMUNITY RELATIONS MANAGER, OFFICE OF CHILDREN'S SERVICES (OCS), DEPARTMENT OF HEALTH AND SOCIAL SERVICES, did not have the definition of a school administrative staff member available. She was available to speak to mandatory reporting requirements and available training.

Representative Gara asked for verification that currently all mandatory reporters were in professional positions. Ms. Harris responded in the affirmative.

Co-Chair Stoltze wondered who would potentially be subject to a felony charge under the legislation. Ms. Carpeneti replied that teachers fell under the description of a professional person. She elaborated that in the absence of a definition for "administrator," the dictionary definition could be used. She cited the definition as someone on the staff who is paid in a school (e.g. school counselors or other paid employees). She relayed that the mandatory reporting requirements applied to childcare workers as well. She noted that childcare workers did not get paid a substantial amount of money, but they were required to report if they suspected child abuse and neglect.

Co-Chair Stoltze interjected that the assertion was not about making a substantial amount of money. He noted that the individuals [the amendment aimed to exclude] were often

uncompensated; they may receive inexpensive items such as a ticket to a school event or lunch money.

Ms. Harris added that there was a training video available on the OCS website that could be sent in the mail as well through the Children's Justice Task Force.

Co-Chair Stoltze was concerned about the possibility that the bill was overreaching in the area related to who would be considered a mandatory reporter. He did not want to felonize a person who did not have training and who may not be present very willingly [as a volunteer coach or other]. He agreed with Representative Gara on the issue about the seriousness of creating a felony possibility for a person who was essentially a volunteer.

[2:17:13 PM](#)

Representative Wilson surmised that the term "school administrative staff" had been included in the bill for a reason. She was not a fan of the legislation and believed it was overreaching. She wanted statistics showing who the bill aimed to catch. She stated that athletic coaches fit under the term school administrative staff. She referred to workers who received a stipend to care for students after school on school grounds. She wondered if the after school workers would be subject to the mandatory reporting requirement if the bill language was changed to "school staff." She did not know what "school administrative staff member" meant and was concerned about the issue.

Co-Chair Stoltze redirected the conversation towards Amendment 1.

Representative Wilson wondered why the term "athletic coach" was needed in the legislation; she wondered who the [mandatory reporting] provision applied to.

Ms. Harris clarified that mandatory reporters were not expected to be experts in child abuse. She detailed that coaches, school staff, and after school staff had unique and close relationships with the children. She elaborated that the staff often noticed things or children disclosed information to them. The requirement was that if the staff became aware of incidents of child abuse or neglect that they were to alert OCS.

Co-Chair Stoltze asked what would happen if the individual did not alert OCS. Ms. Harris replied that a person would not be charged with a misdemeanor if it came to light that they had been aware of abuse and had failed to report it. She added that an incident had only been reported once in the past.

Ms. Carpeneti believed the amendment would most likely make the section in the bill unnecessary; people connected with a school were already mandatory reporters. She referred to a letter from Gary Matthews [executive director, Alaska School Activities Association, Inc.], which mentioned that hundreds of athletic coaches were not connected with schools (copy on file); the bill would require the coaches to be mandatory reporters. She relayed that the group of coaches were treated differently at different schools. There were a number of schools in Anchorage that contracted their coaching to individuals; some schools required the coaches to be mandatory reporters and others did not. The association [Alaska School Activities Association, Inc.] required people with direct supervisory authority over children to receive training. She relayed that the training was not onerous; it took approximately 30 minutes to watch the training on the OCS website. A person was able to report suspected abuse anonymously; OCS used standards to determine whether an investigation should occur following a report. She stated that adding paid athletic coaches was not an onerous addition to the existing law.

Co-Chair Stoltze remarked that a bill on the issue ought to easily stand alone.

[2:21:47 PM](#)

Representative Thompson spoke in support of Amendment 1. He discussed his involvement with the youth soccer and hockey associations in Fairbanks; every year the associations were short on coaches and the groups had to beg parents to coach teams. He believed the provision in the legislation would make some coaches hesitant to get involved. He opined that the language in the bill was overreaching.

Representative Munoz supported the amendment. She believed the bill language was too broad with its inclusion of any sporting programs that received municipal funding. She stated that in Juneau the provision could include almost all of the youth sporting programs where most coaches were

volunteers who were paid a small stipend. She worried that as written, the provision would be a deterrent to participation. She had heard from parents who were concerned with the provision. She believed it was important to include coaches associated with public or private school programs in the school employee section, but she did not want unintended consequences impacting participation in all local programs.

Co-Chair Stoltze corrected his earlier statement that the crime would be a felony. The offence was a misdemeanor with maximum incarceration of up to one year.

Ms. Carpeneti communicated that the provision did not apply to volunteer coaches.

Co-Chair Stoltze noted "we don't know the interpretation." He believed in the fundamentals of choosing respect and having responsibilities to prevent bad things from happening. He stated that it was not possible to formulate everything on moral behavior into a law. He stated that there were delineations for the providers that people have training.

[2:25:00 PM](#)

Representative Gara stated that the Jerry Sandusky situation was currently covered by Alaska law. He wanted to ensure that school coaches were subject to the same rule. Currently the only people covered in schools were teachers and school administrative staff. The amendment would ensure that school athletic coaches were included as mandatory reporters. He explained that the amendment would remove subsection (9) and the definition of athletic coach was to exclude individuals who were paid a small stipend to coach. He stressed that if the individuals were included the bill may as well include all people in Alaska. He expressed discomfort at making a person who was paid \$25 a mandatory reporter. He communicated that the amendment tried to adhere to the intent of the bill; athletic coaches in schools would be subject to the law.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO OBJECTION, Amendment 1 (28-GS1587\Y.4, Gardner/Strasbaugh, 4/4/13) was ADOPTED.

[2:28:00 PM](#)

Representative Costello communicated that the bill had eight indeterminate and zero fiscal notes.

Representative Holmes expressed discomfort at DOL's zero note that did not include an explanation on the zero impact. She felt the same way about the indeterminate notes. She stated that crime bills invariably cost the state a significant amount of money.

Co-Chair Stoltze discussed a past crime bill package that had many fiscal notes attached from a broad range of departments. He discussed that the cost had been substantial and had been included in the fiscal notes.

Ms. Carpeneti offered to respond to DOL's fiscal note. She relayed that the fiscal note was zero because the bill only added one new crime that prohibited a probation or parole officer from engaging in sexual contact with a person on probation or parole. The bill's other provisions dealt with improving the efficiency of the administration of justice. She believed the fiscal note was legitimately zero. She stated that only one probation/parole officer situation had been brought to the state's attention since 1978.

Co-Chair Stoltze noted that the information would have been helpful to have in the department's written fiscal note analysis.

Representative Holmes remarked that two of the indeterminate notes were from a department she would work on the following year.

[2:33:18 PM](#)

Vice-Chair Neuman wondered about costs to victims. He stated that sex offenders had an average of 110 victims and 318 offenses prior to being caught. He furthered that the offenders went undetected for an average of 16 years, which explained why there were so many victims of each offender. He shared that the National Institute of Justice estimated that the average cost of caring for the victims was \$86,500. He stated that only 16 percent of the crimes were reported. He relayed that Alaska spent approximately \$45 million on sexual assault victim treatment.

Representative Holmes clarified she was not opposed to the legislation, but that she would prefer to see numbers included in the fiscal notes.

Representative Wilson surmised that because the bill was about efficiencies she believed savings should occur. She requested comment on the issue. Ms. Carpeneti replied that her testimony related to increasing efficiencies was only related to DOL.

[2:35:46 PM](#)

Representative Wilson wondered what problem the bill was aimed at solving.

JOSEPH MASTERS, COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY (DPS), viewed the fiscal impact as zero because it did not see additional expenses to the department. He communicated that it was difficult for DPS to calculate potential savings. He stated that one section dealt with adding a second representative of the attorney general that could assist DPS with administrative subpoenas; the absence of a second person during critical times would cause DPS extra work. Calculating the extra work was not difficult; however, counting the number of times it may occur was challenging.

Representative Wilson wondered about the possibility of zeroing out all of the fiscal notes. She remarked that it did not sound like any additional offenders would be caught or incarcerated under the legislation.

Co-Chair Stoltze noted that members had communicated their concerns about the fiscal notes. He believed some of the concerns had been answered adequately.

Representative Wilson hoped that information on an existing problem and solution would be provided in future bill presentations.

Co-Chair Stoltze added that it would be helpful for departments to include an explanation on zero or indeterminate notes in the analysis section.

Representative Costello MOVED to REPORT CSSB 22(FIN) as amended out of committee with individual recommendations and the accompanying fiscal notes.

Co-Chair Stoltze OBJECTED for discussion.

Vice-Chair Neuman referred to earlier testimony on the need to correct issues related to a three-judge panel and wondered what the bill would change. He recalled discussion on a prior bill regarding the complexity of the issue including false accusations. He stated that individuals were placed in jail for significant periods of time due to mandatory requirements.

Ms. Carpeneti replied that hopefully nothing would be changed with the three-judge panel. One of the bill's goals was to correct a mistaken interpretation of the intent of a bill passed in 2006. She spoke to the intent of the prior legislation related to the increased sentencing ranges, which was due to harm done by people committing sex felonies. She relayed that the past October when the court of appeals had decided Collins v. State it had adopted a different interpretation. The department had not found any legislative history of intent to change standards for referral of the cases to a three-judge panel.

Vice-Chair Neuman read from a subsection [Section 23, subsection (f), page 12]:

...manifest injustice would result from imposition of a sentence within the presumptive range based solely on the claim that the defendant, either singly or in combination, has (1) prospects for rehabilitation that are less than extraordinary; or (2) a history free of unprosecuted, undocumented, or undetected sexual offences.

Vice-Chair Neuman surmised that unless the three-judge panel believed an offender could be rehabilitated, the offender could apply for a three-judge panel. Ms. Carpeneti replied in the affirmative. She detailed that the department's concern was related to the Collins v. State decision, which addressed the law for the transfer of a case to a three-judge panel for sentencing after conviction based on standards that were different from other cases. Currently a sentencing court had to find that a person had prospects for rehabilitation that were extraordinary in order for referral to a three-judge panel for sentencing. The court decision had allowed the transfer of a case for

sex felons to a three-judge panel under ordinary rehabilitation prospects, which the bill aimed to correct.

[2:42:57 PM](#)

Representative Edgmon thanked first lady Sandy Parnell for championing the issue. He spoke in strong support of the legislation. He remarked that many of the victims were young Native women from rural Alaska. He referred to a sexual trafficking committee report from the past fall and relayed that many signs pointed towards child abuse and childhood trauma. He encouraged legislators to not lose sight of the importance of preventing victims from becoming engaged in horrific situations with "Johns" [sex traffickers or other] who were among the more despicable members of society.

[2:44:40 PM](#)

Representative Wilson felt that the committee was being pushed to pass the legislation. She did not want to see any more victims, but she did not want innocent people to be punished for being in the wrong place at the wrong time. She was uncomfortable about the legislation and did not know who the bill aimed to catch and what it would do. She stated that it was not possible to make laws to catch every bad person. She felt that provisions in the bill were too far reaching at an unknown cost to the state. She did not believe the committee had been given sufficient time to examine the bill. She stressed that she did not want to see unintended consequences result from the legislation.

Representative Gara supported preventing domestic violence and sexual abuse, but he did not believe a new bill was needed annually to convey that the state apposed sexual abuse. He discussed that legislation on the topic arose every year and required slight adjustments to statute. He stated that sex and human trafficking were already illegal. He felt the bill was more positive than negative, but he surmised that solutions to the issue were largely budgetary. He noted that he did not object to the bill.

Co-Chair Stoltze spoke in strong agreement of other portions of the bill. He believed there was one provision that was not as thought out, but that it was well intentioned. He stated that the committee had a vast concurrence on the majority of the legislation including

initiatives on sex trafficking and other. He remarked that it was not possible to make malignant behavior illegal; a statutory connection was required. He applauded the administration for its efforts and first lady Sandy Parnell's attention to the issue. He communicated that there were positive feelings about the direction of the bill.

[2:50:07 PM](#)

Co-Chair Stoltze commended the bill on its valuable components.

Vice-Chair Neuman MOVED to REPORT HCS CSSB 22(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCS CSSB 22(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new indeterminate fiscal note from the Court System; four previously published indeterminate fiscal notes: FN5 (ADM), FN8 (ADM), FN10 (COR), FN12 (CRT); and four previously published zero fiscal notes: FN2 (DPS), FN7 (DHS), FN9 (LAW), and FN11 (DPS).

[2:51:19 PM](#)

AT EASE

[3:03:18 PM](#)

RECONVENED

#sb88

SENATE BILL NO. 88

"An Act authorizing the state bond committee to issue certificates of participation to finance the construction and equipping of residential housing to serve the Anchorage campus of the Alaska Native Medical Center; and authorizing the Department of Administration to enter into a lease-purchase agreement for the benefit of the Alaska Native Tribal Health Consortium."

[3:03:45 PM](#)

Co-Chair Stoltze explained that the bill related to a certificate of participation, which was a bond that did not require voter approval. He detailed that the bill would finance a residential facility on the Alaska Native Medical Center campus in Anchorage. The significant expenditure would be funded on an annual basis through the operating budget. He noted that Medicaid savings resulting from the facility offset the costs to the state.

Representative Holmes discussed that the Department of Revenue (DOR) and the sponsor's office had been incredibly responsive to her questions from the previous day. She discussed that five floors of the building would be paid for by the certificate of participation and one floor would be paid for by the Alaska Native Tribal Health Consortium (ANTHC). She was satisfied with the bill's language because the project described in Section 2 referred to a residential housing facility and related pedestrian bridge; the residential portion would be funded by the certificates of participation. She continued that ANTHC would pay for the classroom treatment section. Page 2, lines 10 through 12 referenced a memorandum of agreement to be entered into by ANTHC and the state; the memorandum would flush out any details including ANTHC's monetary contribution to the project. Additionally, she clarified that DOR would have the ability to use any bond premiums generated by the certificates of participation for the cost of construction.

[3:07:22 PM](#)

Representative Costello discussed the three fiscal notes: one zero note from the Department of Administration; one fiscal impact note from the Department of Health and Social Services including \$3,849,800 in incoming federal receipts in FY 15 through FY 19 and a reduction out of the general fund in the same amount; and one fiscal impact note from the Department of Revenue including \$765,000 in FY 14, \$2,791,600 in FY 15, \$2,792,500 in FY 16, \$2,793,700 in FY 17, \$2,795,700 in FY 18, and \$2,793,900 in FY 19.

Representative Costello MOVED to REPORT SB 88 out of committee with individual recommendations and the accompanying fiscal notes.

Co-Chair Stoltze OBJECTED for discussion.

Co-Chair Austerman spoke to the fiscal notes and the cost over time. He appreciated the direction of the bill and the need for the project; however, he cautioned about the fiscal obligation and the uncertainty of federal government financing.

Co-Chair Stoltze echoed Co-Chair Austerman's comments. He commented on his preference for bonds versus certificates of participation given the additional checks and voter approval requirement. He remarked that the project had tangible benefits.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO OBJECTION, it was so ordered.

SB 88 was REPORTED out of committee with a "do pass" recommendation and with three previously published fiscal impact notes: FN1 (ADM), FN2 (DHS), FN3 (REV).

[3:12:32 PM](#)

AT EASE

[3:14:43 PM](#)

RECONVENED

#sb47

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 47(FIN)

"An Act relating to boarding schools operated by school districts; and providing for an effective date."

[3:14:56 PM](#)

RYNNIEVA MOSS, STAFF, SENATOR JOHN COGHILL, explained that the bill expanded on a concept included in past legislation introduced by the sponsor (HB 16 in 2005); prior to the bill's passage, students had been paid a stipend to attend a school in another area when a village school was closed. The capability had been expanded to allow students in grades 9 through 12 to receive a stipend while attending boarding school facilities. The current legislation eliminated a restriction limiting eligibility only to schools that had been in operation prior to January 2005 (Section 1). The bill would expand to include magnet schools, which would enable them to qualify for stipends. Section 2 increased the stipend paid to the schools.

Section 3 provided a provision to allow school districts to contract for room and board services. Section 4 would repeal a provision that would limit the Department of Education and Early Development (DEED) to approving only three additional schools. Additionally, the bill would repeal the definition of district operated statewide residential education programs (the definition had been moved to Section 1 of the bill).

Ms. Moss communicated that the bill expanded the opportunity to magnet schools and allowed for DEED to add additional boarding schools. She stated that the bill would allow for magnet schools with variable terms to accommodate some exciting things underway in rural Alaska including schools in Kotzebue to train high school students for jobs at Red Dog Mine; and Bethel had a program that it wanted to expand into to airline freight industry, which would provide an opportunity to many rural students. She commented on the challenge facing children in rural Alaska who wanted to go to college, but did not have the adequate education resources to get into college. She likened the situation to a quote by Vance Law "when you're in a slump it's almost as if you look at a field and it's one big glove." The goal was to "close the glove" and provide the children with an opportunity.

[3:18:00 PM](#)

Co-Chair Stoltze recognized Senator John Coghill in the audience.

LISA RIEGER, COOK INLET TRIBAL COUNCIL (via teleconference), spoke in support of the legislation. She noted that support existed statewide.

[3:19:46 PM](#)

JERRY COVEY, EDUCATION CONSULTANT, CITIZENS FOR THE EDUCATIONAL ADVANCEMENT OF ALASKAN'S CHILDREN AND COOK INLET TRIBAL COUNCIL (via teleconference), spoke in support of the legislation. He believed the increased stipend was justified based on the delivery cost of education. He stated that the district variable length programs were favorable and would improve the quality of rural education. He believed that the partnership between school districts, non-profits, and Native organizations in relation to residential services for students was also positive.

Co-Chair Stoltze asked whether the bill provided support for children in public K-12 education. Mr. Covey replied that the bill would provide residential stipend funding for students in grades 9 through 12.

Co-Chair Stoltze asked whether the bill would provide additional support within the public education system. Mr. Covey replied in the affirmative.

Ms. Moss clarified that the bill covered grades 9 through 12. Co-Chair Stoltze understood that the bill related to a subset within the grades K-12.

[3:22:57 PM](#)

Representative Wilson asked whether there was concern about students left behind when others were taken out of public schools and put in boarding schools. Mr. Covey replied that when students were taken out of school districts to attend statewide residential schools the funding traveled with them. Under the variable length programs the students stayed within their school districts; therefore, the district did not lose funding.

Co-Chair Stoltze noted that the department could speak to the question as well.

Representative Wilson was concerned that removing students from smaller districts put the districts at risk.

Co-Chair Stoltze commented on the potential of being put in a position to make a value judgment on whether a student should be held back from higher or different aspirations.

[3:24:59 PM](#)

Co-Chair Stoltze asked DEED to comment on Representative Wilson's question.

Representative Wilson noted that the bill applied to grades 9 through 12 and that no program existed for K-8 if school districts closed. She wondered whether the department had looked at how taking numerous students from a district impacted the district.

LES MORSE, DEPUTY DIRECTOR, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, replied that the issue had occurred with Mt. Edgecumbe for years and had occurred since 2005 with the additional boarding schools. He stressed that the administration strongly supported families and children having the choices and options. He stated that there was definitely an impact on school districts; however, he did not believe the impact overrode the opportunity to choose a boarding school route.

Co-Chair Stoltze asked for clarification on the funding trail. Mr. Morse replied that for the legislation's variable length programs the Base Student Allocation (BSA) would remain in the school district. He communicated that the only [funding] item the bill addressed was a stipend. However, when students attended boarding schools for a full school year the BSA and stipend went to that school.

Representative Wilson asked for verification that Mr. Morse believed that a family's ability to choose where a child went to school was positive. Mr. Morse replied that the choice provided by the bill was a good thing.

Representative Wilson remarked that choice was good.

Representative Holmes wondered if the variable length programs would be greater or less than nine months and whether the stipend would be paid for the same number of months. She noted that the bill referred to the payment of a stipend for nine months and included variable length and 180-day school terms.

Mr. Morse answered that the intent was for the variable length programs to be offered within the full nine-month scope. He used the example of multiple six-week terms and stated that even though there would be several students experiencing the terms they would receive one full-year stipend. For example, it would come out to look like there were 30 students experiencing the program in terms of the amount of money dedicated; but, in reality it would be many more students because there would be 30 students per variable length term.

[3:29:22 PM](#)

Representative Kawasaki asked whether the cities where the three boarding schools were located (Nenana, Galena, and

[Bethel]) had property taxes or another local tax base that helped pay for the schools. Ms. Moss was not certain, but believed that Galena had a tax.

Mr. Morse stated that the Lower Kuskokwim Learning Academy in Bethel was in the midst of a Regional Educational Attendance Area (REAA) and would not have a tax base.

Co-Chair Stoltze replied that the City of Galena had a total of 487 residents with a 3 percent sales tax; he surmised the city could not be supporting a school system on a 3 percent sales tax and no other taxes.

Ms. Moss believed Nenana also believed that Nenana had a tax.

Co-Chair Stoltze relayed that the City of Nenana had a 12 mil property tax.

Representative Munoz asked whether the bill applied to Mt. Edgecumbe. Ms. Moss replied in the negative. She stated that Mt. Edgecumbe was a state operated school that was fully funded through the legislature by appropriation. She noted that the cost per student of a boarding school education was approximately half of the Mt. Edgecumbe cost.

[3:32:54 PM](#)

Vice-Chair Neuman shared that he had spent time in Galena and had stayed at the school with the students. He recalled that the students voiced that they were at the school because they wanted to improve their lives. He referred to the cost of education and stated that 80 percent to 90 percent of the students were at risk for drug or alcohol abuse. The schools provided students with an education to help improve students' lives. He realized the cost of the schools, but stressed the importance of turning lives around. He spoke to students' energy to learn different trades. He noted that the regional learning centers each offered different programs in order to increase options for students. He spoke in strong support for the program. He added that it would have a positive impact on the cost of education in the end.

SB 47 was HEARD and HELD in committee for further consideration.

[3:35:18 PM](#)

RECESSED

[3:58:25 PM](#)

RECONVENED

#sb21

CS FOR SENATE BILL NO. 21(FIN) am(efd fld)

"An Act relating to the interest rate applicable to certain amounts due for fees, taxes, and payments made and property delivered to the Department of Revenue; providing a tax credit against the corporation income tax for qualified oil and gas service industry expenditures; relating to the oil and gas production tax rate; relating to gas used in the state; relating to monthly installment payments of the oil and gas production tax; relating to oil and gas production tax credits for certain losses and expenditures; relating to oil and gas production tax credit certificates; relating to nontransferable tax credits based on production; relating to the oil and gas tax credit fund; relating to annual statements by producers and explorers; establishing the Oil and Gas Competitiveness Review Board; and making conforming amendments."

[3:58:36 PM](#)

Vice-Chair Neuman called the meeting back to order. He relayed that the administration would provide further analysis on the bill. He asked if the presenters would present two presentations.

MICHAEL PAWLOWSKI, ADVISOR, PETROLEUM FISCAL SYSTEMS, DEPARTMENT OF REVENUE, responded in the affirmative.

Vice-Chair Neuman noted that members had copies of the presentations. He asked members to hold questions until the presentations were finished.

BARRY PULLIAM, MANAGING DIRECTOR, ECON ONE RESEARCH, INC., relayed that he had updated his previous analysis to focus on changes included in the CS. He provided a PowerPoint presentation titled "Analysis of HCS CS SB21 (FIN) for House Finance Committee" dated April 11, 2013 (copy on file). He pointed to slide 2.

Representative Gara noted that he had to leave for conference committee [on the operating budget].

Mr. Pulliam began on slide 2: "Key Features, of ACES, SB 21/HB 72, HCS CSSB 21(RES) and HCS CS SB21 (FIN)." He relayed that the slide added the House Finance Committee CS to the comparison and showed the terms that were different. He stated that under the CS the base rate had increased from 33 percent to 35 percent. The Gross Revenue Exclusion (GRE) had been split into two sections: 20 percent GRE remained for 12.5 percent royalty and 30 percent GRE if the royalty was greater than 12.5 percent. The net operating losses (NOLs) had been increased to 45 percent through 2015 and 35 percent thereafter, which was equal to the tax rate. The current small producer credit would remain and would phase out in 2016.

[4:02:10 PM](#)

Mr. Pulliam turned to slide 3 titled "Effective Net Tax Rates under HCS CSSB 21 (FIN)." The chart showed legacy production, 12.5 percent royalty/20 percent GRE production, and 16.67 percent royalty/30 percent GRE production over a price range of \$50 a wellhead to \$200 a wellhead. He noted that the effective tax rate for the legacy fields would dip slightly below 10 percent before it caught the gross minimum floor, which would increase as the wellhead price increased and would top out at 35 percent at \$150 wellhead.

Representative Gara requested to ask some questions prior to leaving for conference committee. Vice-Chair Neuman asked him to write the questions down.

Mr. Pulliam moved to slide 4 titled "Effective Gross Tax Rates under HCS CS SB21 (FIN)." The chart showed legacy production, 12.5 percent royalty/20 percent GRE production, and 16.67 percent royalty/30 percent GRE production over a price range of \$50 a wellhead to \$200 a wellhead. He highlighted the 4 percent gross floor [at \$50 per barrel] for the legacy production, which increased to 30 percent at a wellhead price of \$200. The 12.5 percent/20 percent GRE topped out at approximately 20 percent [at a wellhead price of \$200] and the 16.67 percent royalty/30 percent GRE topped out at approximately 17 percent [at a wellhead price of \$200]. The calculations for the slides were contained in the appendix.

4:04:42 PM

Mr. Pulliam directed attention to slide 5: "Effective Tax Rates on Gross Value for Legacy Production ACES vs. SB21/HB72, HCS CS SB21 (RES), HCS CS SB21 (FIN) and Other Large Oil-Producing States with Production Taxes at \$100 Wellhead Value," which was based on cost information for FY 2012. The base rate change from 33 percent to 35 percent would move the effective gross rate up slightly between the House Resources Committee CS and the House Finance Committee CS. He looked at slide 6, which showed the average government take for all existing producers (FY 15-FY 19) for all versions of the bill. The slide included HCS CSSB 21(FIN) in column 5 and showed that the tax increase from 33 percent to 35 percent would increase the government take by approximately 1 percent. Under the House Finance Committee CS the government take would run from a low of 60 percent to 61 percent up to a high of 67 percent at a price of \$150.

4:06:20 PM

Mr. Pulliam pointed to slide 7 titled "State, Federal and Producer Take at Various \$2012 WC ANS Prices for All Producers (FY 2015-FY 2019) ACES and HCS CS SB21 (FIN)." The percent of total take for ACES was shown on the top half of the slide and the same information was provided for the CS on the bottom portion of the slide. The CS increased the state take over the price range, which was consistent with government takes seen previously; the state take was approximately 40 percent on the low end and slightly under 50 percent at the \$140 price range as a result of the progressive nature of the severance tax.

Mr. Pulliam addressed slide 8 titled "Summary of Investment Measures for New Participant 50 MMBO Alaska Oil Development ACES and HCS CS SB21 (FIN) v. Benchmark Areas." The slide highlighted updated economics for a new participant. Columns (2) and (3) included the economics used in the GRE; column (2) showed a 12.5 percent royalty with a 20 percent GRE and column (3) showed a 16.67 percent royalty with a 30 percent GRE. He detailed that the metrics in the two columns were aligned and were attractive relative to other areas.

Vice-Chair Neuman asked for verification that the Department of Revenue would be available to answer any questions.

BRUCE TANGEMAN, DEPUTY COMMISSIONER, TAX DIVISION, DEPARTMENT OF REVENUE, replied that multiple staff members were available in person and via teleconference to answer any questions.

Vice-Chair Neuman wanted to ensure that members had the opportunity to confer with the administration.

[4:09:27 PM](#)

Mr. Pulliam continued to discuss slide 8. He noted that the net present value (NPV) on new investment increased from \$4.17 under ACES (column (1)) to \$6.75 under column (2) and \$6.54 under column (3). The cash margins moved up and the government take for the GRE barrels would be at approximately 60 percent, which would put takes in Alaska at a favorable and competitive position.

Mr. Pulliam moved to slide 10: "Tax Calculation Using Stepped Scale Production Credit (Volumes Not Subject to Gross Revenue Exclusion)." The slide included calculations underlying the effective tax rate charts [slides 3 through 5] and applied to legacy production. Slide 11 titled "Tax Calculation Using Fixed \$5 Production Credit (Volumes Subject to Gross Revenue Exclusion, 12.5% Royalty)" showed the calculation for 12.5 percent royalty barrels; the 20 percent GRE would apply. Slide 12 titled "Tax Calculation Using Fixed \$5 Production Credit (Volumes Subject to Gross Revenue Exclusion, >12.5% Royalty)" related to volumes greater than 12.5 percent royalty, which would qualify for the 30 percent GRE.

[4:11:44 PM](#)

Representative Costello pointed to slide 2 and asked if the House Finance Committee CS was represented in the slide title. Mr. Pawlowski stated yes.

Representative Costello pointed to the slide and believed that the CS would remove the small producer credit and add the 30 percent GRE to fields with greater than 12.5 percent royalty. She believed the column representing the CS should be corrected related to the small producer credit.

Mr. Pawlowski apologized for not addressing what was not included in the CS in his discussion of the bill earlier in the day. He relayed that the small producer credit in the House Resources Committee CS had been extended to 2022; the removal of the language left the small credit in place for qualifying companies. The credit was scheduled to expire in 2016; therefore, companies would be required to have production prior to that time in order to qualify. He explained that if the credit was repealed it would be taken away from companies receiving the credit currently. He also noted that provisions related to the Alaska Industrial Development and Export Authority (AIDEA) financing of infrastructure and the joint interest billings (language adjusting how DOR conducted audits) had been removed from the CS.

Representative Costello thanked Mr. Pawlowski for the clarification.

Representative Gara asked about slide 6 that included government take for existing oil. He wondered whether there was a chart that reflected the lower government take for new oil. Mr. Pulliam replied that the chart showed the average government take for the time period covered by the fiscal note for all existing production (production occurring at present and production forecast to come on prior to 2019).

Vice-Chair Neuman noted that any questions should pertain to a correction to the presentation information.

Representative Gara pointed to slide 8 and noted that a comparison of the profitability of ACES was only made for the few fields with a 16 percent royalty. He wondered whether the presentation showed a comparison for ACES with the 12.5 percent royalty.

[4:15:33 PM](#)

Mr. Pulliam answered that the information was not included in the presentation.

Mr. Pawlowski added that slide 8 showed the economics for a new participant as a standalone investment for new development, which was different than the government take on existing production shown on slide 6.

Mr. Pulliam agreed and noted that the new standalone investment by a new participant would typically carry a 16.67 percent royalty.

[4:16:39 PM](#)

Mr. Pulliam turned to slide 13 titled "Estimated Average 2013 - 2042 State Oil Revenues (\$2012 Billion Dollars) Under Potential Production and Tax Scenarios ACES v. HCS CS SB21 (FIN) (35% Base Rate, 30% GRE) \$120 West Coast ANS (\$2012)." He relayed that the set of slides contained information requested by Representative Gara and were a derivative of an analysis he had presented to the committee earlier.

Representative Wilson asked the presenters to reference page numbers throughout the presentation. Mr. Pawlowski pointed to slide 13.

Mr. Pulliam relayed that slide 13 provided an update of an earlier analysis that showed the additional oil revenue that would be collected by the state assuming different decline rates under different tax systems. Previously the information had been presented on two slides showing a 6 percent decline and a 3 percent decline; the information was now included on one slide. The top section began with a 6 percent decline (at the \$90 level). With a 6 percent decline under ACES the average annual state revenue would be approximately \$2.6 billion over a 30-year period (shown in real 2012 terms). Under the House Finance Committee CS a 6 percent decline would mean a revenue drop of approximately \$200 million per year; if the decline rate was slowed to 3 percent the state revenue would increase to \$3.1 billion. He explained that the blue bars represented incremental volumes over the base decline all with a 30 percent GRE. The upper right portion of the chart factored in half of the new volume coming on from legacy fields (the other half represented new oil that would qualify for the GRE); he believed the scenario was more realistic. He pointed out that the revenue increase would be slightly higher under the scenario that included legacy oil.

[4:20:11 PM](#)

Mr. Pulliam noted that slides were included for every \$10 price increase. Slide 14 titled "Estimated Average 2013 -

2042 State Oil Revenues (\$2012 Billion Dollars) Under Potential Production and Tax Scenarios ACES v. HCS CS SB21 (FIN) (35% Base Rate, 30% GRE)\$100 West Coast ANS (\$2012)" showed what would happen at \$100 West Coast ANS. Under the scenario revenue was enhanced as long as the decline was stemmed. Slide 15 showed the scenario at \$110 West Coast ANS and reflected a revenue enhancement if decline was stemmed. Slide 16 provided the data at \$120 West Coast ANS, which showed that any decline under 6 percent would result in a revenue enhancement. The bottom section showed a revenue enhancement or a breakeven at the zero to 1 percent level.

Mr. Pawlowski pointed to slide 16 and noted that half of the revenue represented in the green bars on the right came from legacy fields (where the majority of new oil was potentially found). The data showed the impact of the progressive system on the legacy fields; the CS would mean 60 percent to 67 percent government take, which improved revenue as prices increased.

Mr. Pulliam moved to slide 17 titled "Estimated Average 2013 - 2042 State Oil Revenues (\$2012 Billion Dollars) Under Potential Production and Tax Scenarios ACES v. HCS CS SB21 (FIN) (35% Base Rate, 30% GRE) \$130 West Coast ANS (\$2012)." Slide 17 provided the data at \$130 per barrel West Coast ANS. Slide 18 showed the data at \$140 per barrel West Coast ANS.

Mr. Pulliam turned to slide 19 titled "Estimated Additional Annual Volumes Needed (2013 - 2042) Under HCS CS SB21 (FIN) (35% Base Rate, 30% GRE) to Match State Oil Revenues (\$2012 Billion Dollars) Under ACES at 6% and 3% Decline Rates." The slide showed annual volumes per year that would be needed to come online over and above a base decline rate to make up for revenues that would be lost in the transition from one tax system to another. The top panel assumed a 6 percent base decline rate. The blue bars represented the volume needed (at different price levels) to breakeven on the revenue loss related to new oil (30 percent GRE barrels). The green bars showed the volume needed related to 50 percent new oil/50 percent legacy oil.

[4:23:43 PM](#)

Mr. Pawlowski provided a PowerPoint Presentation titled "Fiscal Impact Draft HFIN CSSB21: House Finance Committee

Version 28-GS1647\L." The presentation was aimed at highlighting some of the elements that would be seen in a fiscal note. He communicated that DOR reserved the right to continue working through the numbers with any changes that may occur to the bill. He addressed slide 2: "Provisions in draft HCS CSSB21(FIN) and their Estimated Fiscal Impact as Compared to Spring 2013 Forecast (\$millions)." The slide showed revenue losses, revenue gains, and the total fiscal impact of the CS. He remarked that the data had been updated to reflect the DOR Spring 2013 Revenue Forecast. He noted that the legislation would be effective on January 1, 2014; therefore, he would speak to FY 15. Line 1 showed the elimination of the progressive portion of the tax, which would mean a reduction of approximately \$1.4 billion. The increase of the base tax rate (line 2) from 25 percent up to 35 percent would add approximately \$1,050 billion. Line 3 showed that the limitation of credits for qualified capital expenditures (the 20 percent credits that would be eliminated in 2014) would increase state revenue by \$675 million.

Mr. Pawlowski moved to line 5 on slide 2 that showed a slightly wider GRE over time from between \$0.00 and \$25 million in FY 15 rising to between \$50 million and \$75 million in FY 19. The line reflected potential impacts of the change in GRE to 30 percent and that potential scenarios existed in which some of the production in the forecast may carry it.

[4:27:36 PM](#)

Mr. Pawlowski continued on slide 2, line 8, which showed the sliding scale per barrel credit and the \$5.00 per barrel for GRE eligible oil. The provision would lead to a reduction in state revenue in FY 15 of approximately \$825 million. The CS made no adjustments to the oil and gas service industry expenditure credit or to the interest rates or removal of the three-mile requirement for the Frontier Basin credit; neither item had a fiscal impact. Additionally, there was no fiscal impact from the establishment of the competitiveness review board. He noted that the impact on the operating budget of the qualified capital expenditure credits issued to non-current taxpayers and redeemed through the oil and gas credit fund was an increase in state revenue (through a reduction in the needed appropriation) of \$150 million. A reduction of \$80 million for the net operating loss credits to 45 percent

from 35 percent was shown for FY 15. The total revenue impact was potentially (assuming no incremental production between \$500 million and \$575 million) a loss of \$430 million to \$505 million in FY 15, which would increase in FY 19 to between \$765 million and \$840 million. He relayed that the projection was problematic because it did not include potential changes in production, which was the underlying intent of the legislation.

Representative Edgmon relayed Co-Chair Austerman's request to have the information in line 8 split into two line items (credit of \$5.00 per taxable barrel and the sliding scale \$0.00 to \$8.00 credit per taxable barrel based on oil price). Mr. Pawlowski agreed to update the table.

[4:30:32 PM](#)

Mr. Pawlowski addressed slide 3 titled "Production Scenarios":

Scenario A:

- New 50 Million barrel field developed by small producer without tax liability
- Peak production = 10,000 bbls/day
- Development costs = \$500,000,000
- Qualifies for GRE and NOL

Mr. Pawlowski pointed to slide 4 titled "Production Scenarios":

Scenario B:

- Operators of existing units add 4 drill rigs to current plans
- Each rig adds 4,000 bbls/day in new production each year
- Which each then decline at 15% per year
- Does not qualify for GRE

Mr. Pawlowski expounded that Scenario B assumed an initial low production of 1,000 barrels per day with a steady 15 percent decline per year. Scenario C was outlined on slide 5:

Scenario C:

- Operator of existing legacy unit builds new drill pad
- Development cost = \$5 billion
- Adds 15,000 bbls/day in 2014 increasing to peak rate of 90,000 bbls/day in 2018
- Does not qualify for GRE
- Scenario C also includes items in A and B.

Mr. Pawlowski elaborated that Scenario C factored in the addition of large investments within legacy fields. He relayed that the scenarios were for illustrative purposes only.

[4:32:40 PM](#)

Mr. Pawlowski turned to a bar chart on slide 6 titled "Projected revenues under production scenarios - at \$90/barrel ANS." The chart illustrated the effect of the legislation with incremental production across the range of the fiscal note; the bars represented the Spring 2013 Revenue Forecast (blue), Scenario A (red), Scenario B (green), Scenario C (purple), and ACES (black). Slide 7 illustrated the effect of the legislation on projected revenues under the three production scenarios at \$100 per barrel ANS. He noted that the numbers had been rounded to the nearest hundred million dollars. Slide 8 showed the impact at \$120 per barrel ANS. He pointed out that production under Scenarios B and C surpassed ACES in the out-years shown on the slide. Slide 9 presented the impact at the forecast ANS price.

Mr. Pawlowski addressed slide 10 titled "Production Profiles of Production Scenarios" showed production volumes underlying the scenarios.

[4:35:00 PM](#)

Mr. Pawlowski referred to a letter that had been issued to the committee from DOR in response to members' questions [dated April 10, from Deputy Commissioner Bruce Tangeman] (copy on file). The letter addressed a request from Representative Gara to assume a decline rate that was different than the spring forecast going forward from FY 16. The table provided the comparable forecast that showed the different decline rate in outer years.

Mr. Tangeman clarified that the information was included in a DOR response [to members' questions that arose in a House Finance Committee meeting on April 9, 2013] from the prior day.

Vice-Chair Neuman asked for verification that the packet included answers to questions asked by members. Mr. Tangeman replied in the affirmative.

Representative Gara asked for verification that the revenue projection scenarios used DOR's forecast of a 6 percent to 7 percent decline rate beginning in 2017. Mr. Tangeman answered in the affirmative.

Representative Gara referred to a ConocoPhillips assessment that assumed a 3 percent revenue decline by 2017 on the Alpine field and legacy fields that it shared with Exxon and BP. He asked for verification that the alternative projections had been done at his request based on the 3 percent decline.

Mr. Tangeman disagreed. He stated that the information DOR had from all producers on the North Slope was included in the department's forecast projections. He clarified that the 3 percent was already included in the department's production forecast.

Representative Gara referred to an article he had provided to DOR in which Conoco predicted a 3 percent decline by 2017 for legacy fields (Kuparuk, Prudhoe Bay, and Alpine) based on investment it had committed to; if new fields were added in they predicted a 2 percent decline. He stated that other oil on the North Slope was not really declining at a major rate. He wondered where DOR's projected steeper decline rate had come from.

[4:37:44 PM](#)

Mr. Tangeman discussed the department's production forecast methodology. He detailed that the state had consistently put out an overly optimistic production forecast for the past 10 to 20 years. The department's goal had been to provide the governor, the administration, and the legislature a more realistic and reliable projection in order to help with short-term budget and long-term planning decisions. He expounded that forecasts had historically

been 60 percent or higher beginning 5 or 6 years out. He explained that the error rate would have been cut in half if DOR's newly implemented process that risked new oil in the future had been in place 10 years earlier. He stated that it was not prudent or responsible to assume that everything that was hoped for would happen when expected. He provided the Liberty oil field as an example: the field had continually been included in forecasts for years because of production delays. He acknowledged that the potential of a 2 percent or 3 percent decline existed, but the administration was working the bill to make the number positive. He added that the department was not in a position to select winners and losers, but based on history it was known that some things would not come online as planned at predicted production levels.

[4:39:49 PM](#)

Representative Gara asked whether the department agreed that projected revenue went down under ACES as the assumed decline rate grew.

Mr. Pawlowski asked Representative Gara to repeat the question.

Representative Gara restated his question. He surmised that the less revenue projected by ACES meant the closer the numbers were between ACES and the various versions of SB 21 if a larger decline rate was assumed. Mr. Pawlowski replied in the affirmative. He noted the information was shown in the analysis provided by the department.

Representative Gara referred to information provided to the committee by DOR on April 10, 2013 (copy on file). He pointed to a chart on page 3.

Vice-Chair Neuman remarked that it was difficult to follow along because other committee members did not have the charts.

Representative Gara responded that DOR had provided the information to all committee members. He thought the information would be in the PowerPoint presentation.

Vice-Chair Neuman noted that only questions related to the PowerPoint would be heard.

Representative Wilson referred to slides 3 through 5 of the DOR presentation related to Scenarios A, B, and C. She wondered why the scenarios had been selected and if they were realistic.

Mr. Pawlowski replied that the scenarios had been developed by the department to model sensitivities to initial production; therefore, in order to remain consistent and accessible, the scenarios had been used throughout the process. He communicated that the scenarios had been built based off of data the department used to model out various types of development that could bring production on in a fairly realistic way.

Representative Wilson wondered if the data could be compared to what North Dakota and Texas had seen under their tax structures.

Mr. Pawlowski replied in the negative. The department's goal was to base the scenarios on the types of development that occurred in Alaska, which were typically more expensive, had longer lead times, and were not necessarily as productive. For example, the types of wells modeled in Scenario B had a very long decline at 15 percent; whereas, the type of wells seen in North Dakota had very high initial production with a much steeper decline. He compared the development occurring in different locations to apples and oranges. He encouraged members to look at an Econ One chart for a comparison that showed benchmarks against other regions (e.g. Norway, North Dakota, and other).

Representative Wilson asked how much the developments would cost under each scenario. Mr. Pawlowski replied that Scenario A (50 million barrel field) was modeled at \$500 million (listed on slide 3).

Vice-Chair Neuman RECESSED the meeting.

4:44:55 PM
RECESSED

7:28:20 PM
RECONVENED

Co-Chair Stoltze RECONVENED the meeting with all members present.

Mr. Pawlowski pointed to a presentation titled "Select Slides from DOR Responses: House Finance Committee Supplemental Slides as Requested by Representative Gara" dated April 11, 2013 (copy on file). Slide 2 showed the potential fiscal impact of the House Finance Committee CS for CSSB 21(FIN) without potential changes in production. He relayed that the administration had walked through a similar table earlier in the meeting; the slide was provided as a reference. He directed attention to slide 3 that showed the fiscal impact of varying the per barrel credit between \$1.00 and \$10.00 across fiscal years; the slide showed the fiscal impact of moving the dollar per barrel at the forecast level.

Mr. Pawlowski turned to slide 4 that showed a fiscal table based on the prior bill version (HCS CSSB 21(RES)); the table was included as a reference. Slide 5 was in response to a request to break out the impact of the per barrel credit into two separate lines. Line 8a showed the per barrel for GRE-eligible production (\$5 million in FY 14, \$10 million in FY 15, and \$25 million per year in FY 16 through FY 19). Line 8b showed the impact of the legacy barrels (non-GRE eligible).

[7:32:11 PM](#)

Mr. Pawlowski pointed to slide 6 that showed the fiscal impact on a per barrel range from \$80 to \$160 based on the spring 2013 forecast. Slides 7 and 8 showed revenue sensitivity for FY 16 and FY 17. Slides 8 through 10 showed adjusted decline rates used in the spring forecast for FY 17 through FY 19 (the [3 percent] decline rate had been used as requested by Representative Gara).

Co-Chair Stoltze clarified asked if the slides included the House Finance Committee CS in the comparison (slides 7 through 10). Mr. Pawlowski replied that the slide did not include the [base tax rate] change to 35 percent, which had been made in the House Finance Committee CS.

Co-Chair Stoltze noted that the slides included the Senate version of the bill [and others], but not the House Finance Committee CS.

Mr. Pawlowski relayed that the purple bar in the charts (slides 6 through 10) was based on the House Resources Committee CS. He noted that the House Finance Committee CS

contained a 35 percent base tax rate and therefore had higher revenues over the spectrum of time compared to the slides, which showed the 33 percent base rate. Slides 9 and 10 related to FY 18 and FY 19 respectively. Slide 11 showed an update to the spring 2013 forecast per the committee's request. The slide also included the 3 percent decline assumption beginning in FY 17 per request. Slide 12 showed the same analysis, but used a 35 percent tax rate. He relayed that slide 12 was a closer representation of the CS before the committee.

[7:35:34 PM](#)

Representative Gara did not believe there was much analysis with the current version of the bill. He pointed to slide 8, which showed DOR's rate of decline through FY 17 and a 3 percent rate of decline from that point on. He opined that based on a ConocoPhillips article the 3 percent decline was more accurate. He asked what the current CS would look like under the scenario on slide 8 at \$120 per barrel.

Mr. Pawlowski replied that a 1 percent change in the base tax rate was equal to approximately \$100 million; therefore, under the current CS there would be an increase of approximately \$200 million across the price spectrum represented on slide 8.

Representative Gara asked for verification that on slide 8 at \$120 per barrel ACES (blue bar) was approximately \$7.7 billion and the House Resources Committee CS was approximately \$6.2 billion (which would become approximately \$6.4 billion under the current CS). Mr. Pawlowski agreed that the numbers would fall within that range.

Representative Gara asked if the difference would be approximately \$1.4 billion (under his requested 3 percent decline scenario). Mr. Pawlowski replied that the assumption was that there was no production increase under the legislation by FY 17; assuming a 3 percent decline, the administration had shown revenue sensitivities if the legislation went to a 1 percent or zero percent decline. The administration had avoided projecting its hopes for stemming the decline (ConocoPhillips had noted that there were opportunities to reverse the decline in its analyst report). The hope was for increasing production instead of continual decline.

Representative Gara remarked that he would also like to see increased production. He asked whether the administration had spoken with oil companies about specific projects that would decrease the decline to between zero and 3 percent (projected decline used by the administration under the legislation).

Mr. Pawlowski answered that the administration had not put specific projects on the table; it had listened to company testimony and had read analyst reports about the opportunity to reverse decline. The administration had attempted to provide various assumptions in order to illustrate sensitivities to new production that would be created under the legislation.

Representative Gara asked for verification that the administration had no guarantee of any projects that would occur based on the passage of the legislation. He asked for confirmation that the decline rates used related to the legislation were hypothetical. Mr. Pawlowski replied that the sensitivity analyses were hypothetical in order to show the potential response to the bill. He believed the companies' testimony to the various committees stood on its own.

Representative Gara recalled the testimony.

[7:40:33 PM](#)

Co-Chair Stoltze pointed to the amendments.

[7:41:01 PM](#)

AT EASE

[7:47:36 PM](#)

RECONVENED

Co-Chair Stoltze initiated the amendment process. He relayed that various staff from the administration were available in person and via teleconference to answer questions.

Representative Thompson MOVED to ADOPT Amendment 1, 28-GS1647\L.3, Nauman/Bullock, 4/11/13 (copy on file):

Page 5, following line 30:

Insert a new bill section to read:

"* Sec~ 8. AS 43.55.011(p) is amended to read:

(P) For the seven years immediately following the commencement of commercial production of oil or gas produced from leases or properties in the state that are outside the Cook Inlet sedimentary basin and that do not include land located north of 68 degrees North latitude, where that commercial production began after December 31, 2012, and before January 1, 2027 [2022], the levy of tax under (e) of this section for oil and gas may not exceed four percent of the gross value at the point of production."

Renumber the following bill sections accordingly.

Page 28, line 26:

Delete "sec. 2611

Insert "sec. 27"

Page 28, line 27:

Delete "sec. 13"

Insert "sec. 14"

Delete "secs. 15 -18"

Insert "secs. 16 -19"

Delete "Sec. 30"

Insert "Sec. 31"

Page 29, line 19:

Delete "15 -18, 23, and 31"

Insert "16 -19, 24, and 32"

Page 32, line 20:

Delete "sec. 13"

Insert "sec. 14"

Delete "see. 26"

Insert "sec. 27"

Extends the sunset on 4% production tax cap for first 7 years of production for new fields in Middle Earth from 2022 to 2027.

Amendment 28-GS1647\L.3

When SB 23 passed there was a 2022 sunset on this provision. This 2022 date is convenient because a number of Cook Inlet tax treatments sunset then. However, a sunset in 2022 works at cross purposes with the objective of Middle Earth production and the hoped for attractiveness may now be illusory. Whether considering Yukon Flats, parts of Nenana, or the Kotzebue area basins, none of those and similar areas have much of a chance at getting into production before 2022, even with aggressive exploration, success and no setbacks. They are just too remote and expensive. A simple, flat rate tax cap as a measure was chosen to help attract new investment into these high cost and geologically risky areas which have no oil and gas infrastructure and no discoveries. A 5-year extension to 2027 will go a long way toward making this provision work as intended.

Co-Chair Stoltze OBJECTED.

Representative Thompson explained that the amendment would insert a new bill section (Section 8) on page 5, following line 30. He read a portion of the proposed section, which would amend AS 43.55.01(p):

For the seven years immediately following the commencement of commercial production of oil or gas produced from leases or properties in the state that are outside the Cook Inlet sedimentary basin and that do not include land located north of 68 degrees North...

Representative Thompson elaborated that the amendment would extend the date from 2022 to 2027. He read from the amendment explanation (also included above):

...However, a sunset in 2022 works at cross purposes with the objective of Middle Earth production and the hoped for attractiveness may now be illusory. Whether considering Yukon Flats, parts of Nenana, or the Kotzebue area basins, none of those and similar areas have much of a chance at getting into production before 2022, even with aggressive exploration, success and no setbacks. They are just too remote and expensive. A simple, flat rate tax cap as a measure was chosen to help attract new investment into these high cost and geologically risky areas which have no

oil and gas infrastructure and no discoveries. A 5-year extension to 2027 will go a long way toward making this provision work as intended.

Co-Chair Stoltze asked the administration to respond.

7:51:01 PM

Mr. Pawlowski spoke to the impact of the provision. Currently DOR did not forecast any production from Middle Earth (the area between the North Slope outside the Cook Inlet sedimentary basin). He relayed that the state and legislature had worked to open the basin in order to deliver new production in new areas. The amendment would extend the qualification period to enter into production and to utilize benefits included in legislation passed the prior year; many provisions within the House Finance Committee CS supplemented, corrected, and revised pieces of the legislation from the past year (AS 43.55.011 in particular). He stated that the amendment subject was germane to the CS.

JOE BALASH, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, spoke about the policy side of Amendment 1. He shared that Department of Natural Resources (DNR) had supported the sponsors' efforts of the legislation the prior year that had put the particular piece into place. The department believed the time extension was reasonable, given that the areas (frontier basins) did not currently have infrastructure. He relayed that the state owned the mineral rights for much of the land in the basins and had a long-term interest in seeing the areas explored and developed.

7:53:30 PM

Representative Kawasaki recalled that he had not liked the bill that had passed the prior year. He appreciated Amendment 1. He wondered when drilling was anticipated to begin. He asked whether stretching the credit out farther would impact future liabilities to the state.

Mr. Pawlowski replied that the provision in AS 43.55.011(p) was a tax ceiling and not a credit. The ceiling was an alternative to the tax rate, which set a flat 4 percent gross tax rate on production from the relevant areas.

Representative Kawasaki wondered whether the ceiling could potentially be viewed by DOR as a liability in future revenue forecasting. Mr. Pawlowski replied that the department currently forecast a liability in its revenue forecast for the credits to undertake the exploration; therefore, the liability had already been accepted. The amendment related to the tax in the event that exploration was successful and resulted in production.

Representative Kawasaki wondered if DOR factored into its forecasting the possibility of the state earning lower than expected revenues. Mr. Pawlowski answered that DOR received development and exploration forecasts from companies. The department did not forecast what the state may have earned on something that did not go forward.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 1 was ADOPTED.

[7:56:43 PM](#)

Representative Edgmon MOVED to ADOPT Amendment 2, 28-GS1647\L.1, Nauman/Bullock, 4/11/13 (copy on file).

Page 17, line 18, through page 18. line 20:

Delete all material and insert:

"(j) For each month of the calendar year for which a producer's average monthly gross value at the point of production of a barrel of taxable oil and gas is less than \$150, a producer may apply against the producer's tax liability for the calendar year under AS 43.55.011 (e) a tax credit in the amount specified in this subsection for each barrel of taxable oil under AS 43.55.011(e) that does not meet any of the criteria in AS 43.55.160(f) and that is produced during a calendar year after December 31, 2013, from leases or properties north of 68 degrees North latitude. A tax credit under this section may not reduce a producer's tax liability for a calendar year under AS 43.55.011(e) below zero. The amount of the tax credit for a barrel of taxable oil subject to this subsection is

(1) if the producer's average monthly gross value at the point of production of a barrel of taxable oil

and gas is less than or equal to \$100, \$5 for each barrel of taxable oil; or

(2) if the producer's average monthly gross value at the point of production of a barrel of taxable oil and gas is more than \$100 and less than \$150, \$5 for each barrel of taxable oil, reduced by one tenth of the difference between that average monthly gross value at the point of production of a barrel of oil and \$100."

Co-Chair Stoltze OBJECTED.

Representative Edgmon explained that Amendment 2 attempted to give the state more of the share when the price of oil reached \$100 per barrel or less. Under the amendment the sliding curve for the legacy fields (non-GRE) would go from \$5.00 per barrel to \$100 per barrel; above \$100 per barrel the curve would slope downwards as it would have originally under the legislation. He detailed that the idea was to share more proportionately on the downside when oil was \$100 per barrel or less and to ensure that the state was protected.

Mr. Pawlowski spoke against the amendment. He believed everyone shared the concern about how low oil prices, particularly at very low production rates, would impact the state. He opined that the amendment's approach was very fair. However, the administration believed the amendment would upset the balance of the sliding scale. He discussed offering better economics at lower prices and the impact it had on the planning cycles of projects, which allowed the state to take more as the price of oil rose. He communicated that the administration was comfortable with the 4 percent gross floor, which could be used under the CS; the administration saw the floor as an appropriate place to set downside protection, particularly when the removal of the qualified capital expenditure credit also provided protection for the state. He summarized that removing the encouragement to economics on the downside would necessitate the removal of the upside as well; it would take a relatively progressive system and move it back towards progressive, but without the appropriate economics incentive.

Representative Gara responded to Mr. Pawlowski's comment on progressivity in the CS. He stated that the progressivity

in the CS capped out at 35 percent regardless of the cost per barrel; progressivity was lower than 35 percent below \$150 per barrel. He did not see the system as progressive. He wondered what the amendment would do to taxes at higher prices.

Representative Edgmon replied that at \$100 per barrel the amendment would resume the slope of the curve in the sliding scale under the CS. He detailed that the sliding scale would be \$4.00 at \$110 per barrel, \$3.00 at \$120, \$2.00 at \$130, \$1.00 at \$140, and zero at \$150.

Representative Gara asked how the tax under the amendment would be different at \$150 per barrel in comparison to the CS. Representative Edgmon answered that the tax [at \$150 per barrel] would be identical. The trajectory of the downward slope from \$100 to \$150 per barrel would be the same as in the CS.

Representative Gara surmised that the tax would cap at 35 percent. He asked for verification that the amendment would lower taxes at lower prices, but did nothing at higher prices. Representative Edgmon replied in the affirmative.

[8:02:03 PM](#)

Mr. Pawlowski remarked that each committee that had heard the bill had made policy calls related to the competitiveness of the tax regime they wished to create. He stated that technically the amendment would do what the sponsor had testified it would. He reiterated his earlier statement that the administration believed the amendment would upset the balance struck in the relatively progressive nature of the system in the CS.

Representative Edgmon agreed that the issue was a policy call for the committee and legislature to make. He had not been convinced throughout testimony on the bill that moving the per barrel credit from \$8.00 down to \$5.00 would not be an inducement to increase activity. The credit related to legacy oil (the committee had been told by DOR that there were approximately 3 billion barrels of recoverable legacy oil). He contended that even \$5 per barrel could be too much. He detailed that by lowering the credit to \$5 per barrel there was still an opportunity to give explorers and producers a credit, while softening the impact to the state at the bottom line going forward. He added that if the

price of oil dipped down the state would be protected given the lower per barrel credit on legacy fields up to \$100.

8:04:54 PM

A roll call vote was taken on the motion to adopt Amendment 2.

IN FAVOR: Edgmon, Gara, Kawasaki, Munoz

OPPOSED: Neuman, Thompson, Wilson, Costello, Holmes, Austerman, Stoltze

The MOTION to Adopt Amendment 2 FAILED (4/7).

Representative Thompson MOVED to ADOPT Amendment 3, 28-GS1647\L.2, Nauman/Bullock, 4/11/13 (copy on file):

Page 19, following line 11:

Insert a new bill section to read:

** Sec. 22. AS 43.S5.02S(b) is amended to read:

(b) To qualify for the production tax credit under (a) (5), (6), or (7) [(a)] of this section, an exploration expenditure must be incurred for work performed after June 30, 2008, and before July 1, 2016, or, for work qualifying under (a)(1), (2), (3), or (4) of this section, for work performed in an area outside of the Cook Inlet sedimentary basin and south of 68 degrees North latitude, after June 30, 2008, and before January 1, 2022, and

(1) may be for seismic or other geophysical exploration costs not connected with a specific well;

(2) if for an exploration well,

(A) must be incurred by an explorer that holds an interest in the exploration well for which the production tax credit is claimed;

(B) may be for either a well that encounters an oil or gas deposit or a dry hole;

(C) must be for a well that has been completed, suspended, or abandoned at the time the

explorer claims the tax credit under (f) of this section; and

(D) must be for goods, services, or rentals of personal property reasonably required for the surface preparation, drilling, casing, cementing, and logging of an exploration well, and, in the case of a dry hole, for the expenses required for abandonment if the well is abandoned within 18 months

Co-Chair Stoltze OBJECTED.

Representative Thompson explained that Amendment 3 would insert a new bill section (Section 22) on page 19, following line 11, which would amend AS 43.55.025(b). Currently the production tax credit had a sunset date of July 1, 2016. The new section would extend the date to January 1, 2022 for work outside of Cook Inlet and south of 68 degrees North latitude. The amendment would extend the 30 percent and 40 percent credits under AS 43.55.025(a)(1), (2), (3), or (4) to 2022 for Middle Earth. The 2016 sunset would be left in place for the 75 percent and 80 percent credits applicable only to Middle Earth.

Mr. Balash responded that the administration was comforted that the specific credits had a two-step process: (1) a company was required to obtain prequalification from the Division of Oil and Gas, which entailed demonstrating that a geologic target would be pursued through the exploration effort; and (2) companies were required to report their results to the Resource Evaluation Division following exploration activity. After approval, the company could go to DOR to qualify and receive the credit certificates. He stated that the administration felt that the process provided a reasonable check on the particular credit and any exposure it may mean for the state. He referenced his earlier comments related to the Frontier Basins and the opportunity presented the state and overall economy.

Representative Costello asked whether the information collected by the companies became the state's property. Mr. Balash replied in the affirmative. He detailed that the state was required to maintain confidential treatment of the information for a period of time; the time period was shorter if the information pertained to public land.

Representative Kawasaki wondered whether the FY 09 through present Middle Earth credits had been audited. Mr. Pawlowski deferred the question to the DOR Tax Division. He asked the division whether the credits for the specified time period had been used at present.

MATT FONDER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE (via teleconference), replied that the tax credits had been adopted in the prior legislative session and the division had not yet received an application.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 3 was ADOPTED.

8:11:06 PM

Representative Wilson MOVED to ADOPT Amendment 4, 28-GS1647\L.6, Nauman/Bullock, 4/11/13 (copy on file):

Page 25, lines 27 -29:

Delete "nominated by the two leading nonprofit trade associations representing the oil and gas industry in the state and appointed by the governor, with one member nominated by each association"

Insert "of the public appointed by the governor who do not represent the oil and gas industry."

Page 26, line 22:

Delete "may not meet more than"

Insert "shall meet at least"

Co-Chair Stoltze OBJECTED.

8:11:44 PM

Representative Wilson explained that Amendment 4 pertained to the Oil and Gas Competitiveness Review Board structure. She pointed to page 25, lines 27 through 29 of the bill where the amendment would delete "nominated by the two leading nonprofit trade associations representing the oil and gas industry in the state..." The amendment would insert language to read: "of the public appointed by the governor who do not represent the oil and gas industry." The amendment would delete language on page 26, line 22 that read "may not meet more than" and would replace it with "shall meet at least." The purpose was to ensure that the review board would meet at least once per calendar

year. She relayed that the board would help the state gain a broader understanding related to its competitive position. The amendment recognized that markets and technology changed over time. Additionally, the goal was to decrease the political nature of the board structure.

Representative Holmes voiced support for the amendment. She was in favor of reinstating the review board, but believed the language in the CS was industry heavy. She relayed that the three public members in the past review board had all been petroleum engineers, geologists, financial analysts, members of the Alaska Oil and Gas Association, commissioners, and other. The goal was to include public members who were not affiliated with the industry. The amendment would also ensure that the board would meet at least once per year.

There being NO further OBJECTION, Amendment 4 was ADOPTED. [Note: The action to adopt Amendment 4 was rescinded later in the meeting. A modified version of the amendment (Amendment 16) was adopted. See 9:53:20 p.m. through 9:58 p.m.]

[8:14:02 PM](#)

Representative Gara MOVED to ADOPT Amendment 5, 28-GS1647\L.9, Nauman/Bullock, 4/11/13 (copy on file):

Page 24, line 11, following "section,":

Insert "for the first seven years immediately following production subject to tax under AS 43.55.011 (e),"

Page 24, line 30, following "section,":

Insert "for the first seven years immediately following the commencement of production subject to tax under AS 43.55.011 (e),"

Co-Chair Stoltze OBJECTED.

Representative Gara hoped the compromise offered in several of his amendments would gain a consensus from members. He asked the department to pull up slide 3 from an Econ One presentation dated 4/11/13 ["Analysis of HCS CS SB21 (FIN) for House Finance Committee"] (copy on file). He discussed the state's current fairly robust tax rate and the argument by some that the rate was too high at high oil prices. He

opined that without some amendments the current bill went too far in the other direction. He addressed the area of new oil under the legislation where the tax rate at current prices was around 17 percent or 18 percent. He stressed that the state could not build an economy on an 18 percent tax rate. He elaborated that as an increasing amount of oil became new oil the next generation of Alaskans would be left with a tax rate of 18 percent. He stated that the CS contained a new tax rate of approximately 14 percent at current prices. He did not believe any company needed a tax rate that low or that an economy could be built on the low rate. He equated the low rates to tax rates in countries that had minimal oil (e.g. Peru).

Representative Gara relayed that the amendment would help encourage production at the lower tax rate for seven years. A company would recoup much of its costs and make additional profits. He pointed out that the bill would adopt a much lower tax rate than under current law. Under the amendment, after the seven-year period, the tax rate would revert to what the administration's consultants called a competitive rate. He was accepting of a low rate for the first seven years, but could not support a perpetual 14 percent or 18 percent rate going forward. He emphasized that the rate would not provide the state with adequate funding for schools, the capital budget, or savings.

[8:18:20 PM](#)

Mr. Balash spoke in opposition to Amendment 5. He stated that the amendment lacked clarity on what would qualify under the temporary seven-year period (i.e. the unit, lease, and/or PA). The administration believed that in addition to taxes it was necessary to factor in total government take. He stressed that royalties mattered. He pointed to a slide presented earlier in the evening and stated that while the tax rate for the 16 and two-thirds leases would be lower, the royalties were higher, which had an offsetting effect. The administration believed the policy was to ensure that the one-sixth [16.67 percent] leases had the same attractiveness as the one-eighth [12.5 percent] leases. He was interested in seeing the 16 and two-thirds leases explored, developed, and brought into production. Additionally, he pointed to the impact a time limit had on economic behavior. The administration believed the time limit would have a distortion on investment

behavior if a company utilized the tax relief for the first seven years of production and then experienced tax and unit cost increases as production declined. The administration had concern that under the amendment ultimately development could proceed in a way that did not achieve the maximum resource recovery in the long-term.

[8:21:16 PM](#)

Mr. Pawlowski pointed to slide 8 of the [Econ One, 4/11/13] presentation, which showed comparable economics for various regions. He detailed that the slide showed models that assumed specific development and production happened at certain times. He furthered that operating in Alaska often did not work out as hoped; a permitting delay changed the economics of a field. He noted that there were many challenges to overcome. The administration saw the total overall economics to the project including the government take as critical to moving new development forward. He pointed to the NPVs for the State of Alaska at the bottom of the slide. The administration believed that the "life-cycle" government take that opened up new areas at high royalty rates with a reasonable tax rate would yield dividends to the state. He highlighted that the models showed the state as consistently ahead of the companies on a NPV basis; the state took a larger share of the total than the industry.

Representative Munoz spoke in support of Amendment 5. She stated that the changes in the bill would increase Alaska's competitiveness compared to other areas in the U.S. She spoke to provisions allowed through the GRE for new fields and her concern that a lower rate would be locked in indefinitely for any new major discoveries. She believed a time limit would protect the state's revenues in the long-term.

Co-Chair Austerman asked whether increasing the amendment's proposed timeline from 7 up to 10 years would make the administration more comfortable. Mr. Balash replied that change would not alter the administration's concern that increasing taxes later in the life of a well or PA could shut it in for economic purposes.

[8:24:40 PM](#)

Representative Kawasaki spoke in support of Amendment 5. He referred to a comment by the administration on what was considered new oil and old oil, which he believed related to the GRE portion of the bill. He supported that the amendment would help clarify what new oil meant and whether it was being produced (either under a 7 or 10-year look-forward). He believed that it was fair to say that the meaning of new oil may be unclear, but a 7-year limit would provide the opportunity to look at the issue.

Representative Costello voiced opposition to Amendment 5. She referred to companies' comments that taxes had changed up to four times during the length of one lease; companies had expressed their hope that the instability would be changed. She did not believe inserting a tax change in the legislation would be beneficial to the state.

Representative Edgmon spoke in favor of the amendment. He believed the debate underscored the difficulty of the issue. He contended that the amendment would act as a safeguard to protect the state's interests. He pointed to the possibility that the price of oil could go up to \$150 and remain high; he wondered what the state would do then. He observed that there was more than one way to look at the issue.

Vice-Chair Neuman asked how Amendment 5 would affect fields within and the expansion of PAs. Mr. Pawlowski believed the amendment applied to the broader GRE for new areas and large capital investments the development of undeveloped pools of viscous oil within legacy fields that were more challenging and costly. He relayed that the amendment applied to the suite of the oil that part of the legislation aimed to target; to lay a foundation and grow production throughout the future.

[8:28:23 PM](#)

Co-Chair Stoltze spoke in opposition to the amendment. He noted that the amendment pertained to non-producing oil and one of the bill's goals was to provide incentive to increase new production. He discussed reward for investors taking risk on fields that had higher costs and were less proven. He supported increasing revenue from oil that was not currently in production.

Representative Gara provided closing remarks on Amendment 5. He did not believe it would ever be possible to increase the revenue brought in with 14 percent to 18 percent tax rates. He stressed that the rates were among the lowest in the world. He was disappointed that the administration did not provide a chart showing how Alaska would look compared to the rest of the world using the 14 percent or 18 percent tax rate. He reminded the administration that it called the 35 percent tax rate very competitive; after 7 years the tax rate would increase to the new competitive tax rate. He stressed that there would be no punishment under the scenario and that companies would be able to recoup their costs. He continued that after 7 years at one of the lowest tax rates in the world a company would then be subject to a tax rate that the administration called very competitive. He believed a 7-year cap on the 14 percent or 17 percent tax rate made sense. He relayed that making taxes too high or too low could make a tax system unstable given potential pressure to make a change to the tax structure. He noted that he was open to changing the 7-year period to a 10-year period if an amendment to the amendment was offered. He did not believe the administration acknowledged the way the state significantly benefited new oil; the state helped pay for new oil by paying for exploration credits and other. He believed that in the end the tax rate was still low. Without the amendment he did not know how the state would be able to afford school construction, hire new teachers, or fund the state.

[8:32:39 PM](#)

A roll call vote was taken on the motion to adopt Amendment 5.

IN FAVOR: Munoz, Edgmon, Gara, Kawasaki, Austerman
OPPOSED: Holmes, Neuman, Thompson, Wilson, Costello, Stoltze

The MOTION to adopt Amendment 5 FAILED (5/6).

Representative Gara MOVED to ADOPT Amendment 6, 28-GS1647\L.29, Nauman/Bullock, 4/11/13 (copy on file):

Page 4, line 18, following "to":
Insert "the sum of (A)"

Page 4, line 20, following "percent";

Insert H; and (B) the sum, over all months of the calendar year, of the tax amounts determined under (g) of this section"

Page 4, line 21, through page 5, line 7:

Delete all material and insert: "* Sec. 5. AS 43.55.011(g) is amended to read:

(g) For purposes of (e) of this section, the tax amount is determined as follows:

(1) before January 1, 2014, for [FOR] each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) of a [PER] BTU equivalent barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(1)(B) and (e)(2)(B) [(e)(2)] of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month by the tax rate calculated as follows:

(A) [(1)] if the producer's average monthly production tax value of a [PER] BTU equivalent barrel of the taxable oil and gas for the month is not more than \$92.50, the tax rate is 0.4 percent multiplied by the number that represents the difference between that average monthly production tax value of a [PER] BTU equivalent barrel and \$30; or

(B) [(2)] if the producer's average monthly production tax value of a [PER] BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the average monthly production tax value of a [PER] BTU equivalent barrel and \$92.50, except that the sum determined under this paragraph may not exceed 50 percent:

(2) on or after January 1, 2014, for each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a){2} of a BTU equivalent barrel of the taxable oil and gas is more than \$60, the difference between the monthly production tax value of a BTU equivalent barrel and \$60 multiplied by the volume of oil and gas produced by the producer for the month multiplied by 10 percent."

Renumber the following bill sections accordingly.

Page 9, line 15, following "ii":

Insert "the sum of the amount calculated for the month under AS 43.55.011(g) and"

Page 9, line 30, following "(iii)":

Insert "the sum of the amount calculated for the month under AS 43.55.011(g) and"

Page 10, line 12, following "!ii":

Insert "the sum of the amount calculated for the month under AS 43.55.011(g) and"

Page 10, line 21, following "i"

Insert "the sum of the amount calculated for the month under AS 43.55.011(2) and"

Page 11, lines 10 -28:

Delete all material.

Renumber the following bill sections accordingly.

Page 13, lines 11 -29:

Delete all material.

Renumber the following bill sections accordingly.

Page 28, line 20:

Delete "AS 43.55.020(d), 43.55.023(i), and 43.55.023(p)"

Insert "AS 43.55.023(i) and 43.55.023(p)"

Page 28, line 26:

Delete "sec. 26"

Insert "sec. 24"

Page 28, line 27:

Delete "sec. 13"

Insert "sec. 11"

Delete "secs. 15 -18"

Insert "secs. 13 -16"

Page 29, line 7:

Delete "sec. 30"

Page 29, line 11:

Delete "15 -18, 23, and 31"

Insert "13 -16, 21, and 29"

Page 29, line 12:

Delete "sec. 13"

Insert "sec. 11"

Delete "sec. 26"

Insert "sec. 24"

Co-Chair Stoltze OBJECTED.

Representative Gara hoped Amendment 6 would gain bipartisan support from the committee. He explained that the amendment would maintain the tax rate from approximately 27 percent to 35 percent at \$150 per barrel that was included in the CS. Company profits above \$60 per barrel (what the governor had referred to as "bracketing" the prior year) would be taxed at 45 percent. He expounded that when companies were making record or near-record profits above \$60 per barrel the state's share would increase to a slightly higher rate. He believed the amendment would mitigate revenue loss to the state. Additionally, the amendment would not deter new investment because the rate would not take effect until companies had made substantial profits. He opined that the concept should be attractive to the oil industry.

[8:36:09 PM](#)

Mr. Pawlowski spoke against Amendment 6. He believed the amendment was a fundamental departure from the structure the administration aimed to build. He noted that progressiveness of a system was in the eye of the beholder. The administration believed that the concept created distortions in the system. He pointed to page 2, line 13 of the legislation and stated that linking a variation in the monthly tax rate to the net value per barrel introduced the incentive for companies to make decisions that would impact the margin; if a value increase triggered an additional 10 percent tax it would drive a company to do something that was relatively inefficient. The administration believed the issue was important for the state because it had a profits-based tax; increased efficiency in the oil sector meant increased benefit for the state from the more profitable barrels produced. He stressed that the CS maintained one of the administration's central tenets that a flat, predictable tax rate allowed investors to make long-term planning decisions.

Mr. Pawlowski communicated that the progressive aspect of the legislation came from the per barrel credit and not from the change in the tax rate, which made the flat tax system progressive. He stated that Amendment 6 reintroduced a modified form of progressivity that would lead to the same challenges the administration had been working on from the beginning.

Representative Costello voiced opposition to Amendment 6. She believed it was not well known that approximately \$849 million of the state's share under the ACES progressivity feature was lost due to the qualifying capital expenditures; the bill would remove the feature. She had heard that under the ACES structure companies were buying down their tax rates; she observed that the state was not benefitting from the situation because additional oil was not being produced. She believed the instability of basing tax on price was not viable for businesses' long-term planning. She communicated that she cared about future generations and remarked on the importance of weighing gains and losses when making changes to the tax structure.

Representative Wilson asked what substantial profit meant under the amendment. She asked if the term pertained to each field, new fields, legacy fields or other. She believed the amendment would be an accounting nightmare.

Representative Kawasaki replied that the amendment would apply to producers and their average monthly production tax. He explained that when a producer (there were 19 total in Alaska) began making \$60 of profit per barrel under the amendment they would go to a bracketed tax rate that was higher than the rates in the CS. He referred to testimony on protecting the state at the low end and ensuring that Alaska received its fair share under windfalls. He stressed that the state ought to benefit from the extreme price variations. He remarked that the state may not have anticipated oil in the \$90s or \$100s, but there were diagrams that showed prices as low as \$10 and as high as \$200 per barrel. He stated that he had seen oil as high as \$140 and that it was currently slightly under \$110. He believed the amendment protected the value of Alaska's oil and gave the state a fair share when companies were making a considerable amount (\$60 per barrel profit). He stated that the number could be tweaked to one that members were more comfortable with. He emphasized that when companies

were making a large profit that the state and future generations should benefit as well.

8:43:05 PM

Representative Gara provided closing remarks on Amendment 6. In response to comments that the amendment was complex he countered that the amendment was less complex than the governor's bill from the prior year; the proposal the prior year contained three or four brackets instead of one. He disputed the claim that the administration would be unable to administer the provision. He stressed that the provision would be four times as easy to administer as the tax bill proposed the prior year. He stated that the amendment would benefit the state and was tepid for producers; a producer would need to make \$60 per barrel profit prior to the tax increase. He stressed that the profit was high; it would reach \$6 million for 100,000 barrels. He emphasized that the companies would continue to make a profit under the tax increase. He disagreed with the administration's comment that the amendment would be a disincentive to production. He underscored that the tax increase was slight and would allow the state to share more fairly at higher prices. He believed the public would be happy with the provision. He reminded the committee that a company would not pay anything if they were not making profits.

A roll call vote was taken on the motion to adopt Amendment 6.

IN FAVOR: Gara, Kawasaki

OPPOSED: Munoz, Neuman, Thompson, Wilson, Costello, Edgmon, Holmes, Stoltze, Austerman

The MOTION to adopt Amendment 6 FAILED (2/9).

Representative Gara MOVED to ADOPT Amendment 7, 28-GS1647\L.10, Nauman/Bullock, 4/11/13 (copy on file):

Page 24, line 13:

Delete "20"

Insert "15"

Co-Chair Stoltze OBJECTED

Representative Gara asked Mr. Pawlowski to turn to slide 3 on the Econ One presentation ["Analysis of HCS CS SB21 (FIN) for House Finance Committee"] (copy on file).

Representative Gara relayed that the amendment had been written to the prior bill version He asked to make an amendment to Amendment 7. He proposed the deletion of language on page 24, line 28.

Co-Chair Stoltze interjected that his preference would be to have the amendment written out. Representative Gara agreed.

Co-Chair Stoltze relayed his intent to postpone the consideration of Amendment 7 until later in the meeting.

8:47:41 PM

AT EASE

8:54:41 PM

RECONVENED

Co-Chair Stoltze asked Representative Gara if he wished to defer the consideration of Amendment 8. Representative Gara replied in the affirmative.

Representative Gara MOVED to ADOPT Amendment 9, 28-GS1647\L.11, Nauman/Bullock, 4/11/13 (copy on file):

Page 24, line 12, following "gas":

Insert "produced from an area, unit, or expanded area that did not have production before July 1, 2013, and"

Page 24, line 30, following "gas":

Insert "produced from an area, unit, or expanded area that did not have production before July 1, 2013, and"

Co-Chair Stoltze OBJECTED.

8:55:50 PM

AT EASE

8:56:17 PM

RECONVENED

Representative Gara explained Amendment 9. He referred to the bill's permanent low tax rate for new oil of 14 percent to 18 percent. He addressed the administration's aim to incentivize new oil and stated that it was not possible to incentivize something that had already been done. He detailed that under the CS the low tax applied to any oil produced after 2011; companies that were already producing would be treated as new oil producers and would receive a credit that was aimed to incentivize something that had already begun. The amendment specified that the new oil tax rate would apply to oil produced after July 1, 2013. He believed companies should be satisfied with the change. He opined that the money did not need to be given away.

Mr. Balash pointed to language that would be inserted by the amendment reading "produced from an area, unit, or expanded area that did not have production before July 1, 2013." He wondered whether a new PA in Prudhoe Bay would qualify or whether the intent was to ensure that new PAs in Prudhoe Bay would not qualify.

Representative Gara replied that the intent was to apply to every category that the bill considered to be new oil including new oil within an existing unit, outside of an existing unit, and all other categories where the lower new oil tax rate would apply. The amendment aimed to ensure that the lower tax rate would only apply to oil incentivized by the legislation.

Mr. Balash spoke in opposition to Amendment 9. The amendment would undo the administration's intent to include some of the newer units that were currently producing in new areas including the Ooguruk unit operated by Pioneer. He explained that the GRE would not apply to production in the areas, which went against the administration's objective. He believed the administration fundamentally disagreed with the characterization [of the bill] by the amendment's sponsor. He emphasized that the legislation was not giving away anything. He stated "we're taking less in order to get more."

Representative Kawasaki voiced support for Amendment 9. He spoke to the bill's goal to incentivize new oil production and the state's vast resources that the legislature had been told were under explored and under developed. The amendment communicated the desire to see new oil in the

pipeline (oil expanded into other areas across the North Slope), not oil that was currently being produced.

Representative Munoz asked for verification that the decision to move forward with development on the Oooguruk field had been made prior to the implementation of ACES. She surmised that the bill provided an opportunity to extend a more favorable tax system to the specific development.

Mr. Pawlowski replied in the affirmative. He detailed that Oooguruk had been sanctioned prior to ACES; its sister-field Nikaitchuq had been in development and nearing sanction at the time ACES had been developed. He spoke to new investment and stated that the administration was concerned that it was necessary to look back to January 1, 2003 to identify fields that 9 years later were barely in production. He stated that "we're talking about two fields in the last 7-8 years"; he noted that there were a few other fields in the works. He relayed that the administration's policy call was related to the companies' experiences through multiple tax changes.

[9:04:10 PM](#)

Representative Gara asked for verification that the Nikaitchuq and Oooguruk oil fields had been given royalty relief. He referenced statute that reduced royalty to make the development of a property economic if the tax was too high. Mr. Balash replied that both fields had received royalty modifications. However, the Nikaitchuq modification was a downside mechanism; at current prices Nikaitchuq paid full royalty.

Representative Gara believed the point was that both fields [Nikaitchuq and Oooguruk] had received royalty relief. He explained that at full prices a company was not required to pay the full royalty at certain prices; when fields became economic at high prices the royalty relief disappeared. He stated that the two fields currently had a tax system tailored to make them economic. He remarked that additionally the fields had the benefit of what the administration called a very competitive tax rate; under the amendment the fields would pay the tax rate used in the proposed legislation. He believed the fields should pay the regular base tax rate proposed in the CS as opposed to an 18 percent rate. He stressed that the 18 percent rate would

be one of the lowest rates in the world. He continued that the companies had moved forward with the fields despite ACES and had obtained royalty relief. He emphasized that it did not make sense to incentivize something that was done in the past; there was no reason to apply the 18 percent rate for the remaining life of a field that the company had decided was already economic. He concluded that the companies would already pay a competitive tax rate of approximately 30 percent at \$110 per barrel if the legislation became law.

Co-Chair Stoltze remarked that the current film tax credit applied to a multitude of groups that were already working in Alaska.

Representative Gara replied that a company that had done a film in Alaska prior to the credit program had not received the incentive.

A roll call vote was taken on the motion to adopt Amendment 9.

IN FAVOR: Gara, Kawasaki

OPPOSED: Neuman, Thompson, Wilson, Costello, Edgmon, Holmes, Munoz, Austerman, Stoltze

The MOTION to adopt Amendment 9 FAILED (2/9).

[9:08:43 PM](#)

AT EASE

[9:09:06 PM](#)

RECONVENED

Representative Gara WITHDREW Amendment 10, 28-GS1647\L.12, Nauman/Bullock, 4/11/13 (copy on file).

[9:10:41 PM](#)

Representative Gara MOVED to ADOPT Amendment 7 28-LS0021 (copy on file):

Page 24, line 13:

Delete "20" Insert "15"

Page 24, line 28 through Page 25, line 8

Delete all material

Co-Chair Stoltze OBJECTED.

Representative Gara asked Mr. Pawlowski to pull up a presentation slide [slide 3 of the Econ One presentation (copy on file)]. He believed Amendment 7 was modest and made a necessary fix to the legislation; it addressed the new oil tax rate. He stated that with a 20 percent [GRE] the new oil tax rate went down at \$110 per barrel to approximately 18 percent. He addressed that the CS added an additional new oil tax rate of approximately 14 percent for higher royalty fields. The amendment would use a 15 percent [GRE]. The change would reduce the tax rate in the CS by approximately 30 percent; a 30 percent tax rate would be decreased to 21 percent and 35 percent tax rate would be decreased to approximately 23 percent. He detailed that new oil would still be taxed at a permanent substantially lower rate than legacy oil; he did not believe the rate needed to be even lower. He stated that the 15 percent [GRE] was a 28 percent to 30 percent drop from the tax rate paid by other oil under the CS.

Representative Gara anticipated the administration would respond by saying that the 30 percent [GRE] was for fields that paid the 16.67 percent royalty. He stated that the higher royalty only applied in a negotiated deal between the state and the company bidding on the lease on the grounds that the lease was very promising. He emphasized that DNR was not arbitrarily imposing the higher royalty rate on worse prospects. He stated that the royalty was at a market rate and furthered that DNR designed the system so that companies that saw the fields as better prospects would agree to pay a higher royalty. He concluded that it made sense for the higher and lower royalty fields to pay the same rate.

[9:16:15 PM](#)

Mr. Pawlowski voiced opposition to Amendment 7. He addressed the subject of the agreement between companies to invest in Alaska in the lease sales. He pointed to the past several lease sales in the state that were in the tens of millions of dollars. He detailed that the lease sale to buy access for leases to look for gold off the coast of Nome raised approximately \$8 million to \$10 million. He stressed that people were not coming to buy the high value leases at rates Alaskans hoped for because the state's cash margins,

NPVs, internal rates of return (IRR), and government take were not as attractive as those offered in other locations (Econ One presentation, slide 8); this was reflected in the lease bonus bids received by DNR, which at \$20-plus per acre, were not comparable to those received in other locations. The administration hoped that a reduced long-term and stable tax rate would drive lease bonuses up and increase the state's competitiveness. He communicated that ultimately the NPV would increase to levels obtained by other locations listed on slide 8.

Representative Holmes spoke in opposition to the amendment. She was concerned about the second half of the amendment that would impact the 30 percent GRE. She believed the GRE had been raised to 30 percent in the CS to compensate for the elimination of the small producer credit; the amendment would reduce the GRE, but would not reinstate the small producer credit, which would be a significant change.

Representative Gara provided a wrap up on Amendment 7. He assumed DNR was making the decision to give the 12.5 percent royalty rates for fields that were deserving and the higher 16.67 rate for others. He the idea that DNR was a victim of itself for establishing a royalty rate that was too high while it simultaneously stated it was open for business was nonsensical. He did not believe that DNR was arbitrarily imposing the higher royalty rate on fields that it should not be. He opined that the amendment offered a handsome incentive for new oil and a lower rate than the one charged in the bill. He noted that at some point all oil produced in the state would be new; he did not believe an economy could be built on a 14 percent tax rate. He summarized that the amendment offered a compromise, worked consistently with the governor's bill, and provided a substantial tax reduction for new oil.

[9:20:41 PM](#)

A roll call vote was taken on the motion to adopt Amendment 7.

IN FAVOR: Gara, Kawasaki

OPPOSED: Wilson, Costello, Edgmon, Holmes, Munoz, Neuman, Thompson, Austerman, Stoltze.

The MOTION to adopt Amendment 7 FAILED (2/9).

9:21:29 PM

AT EASE

9:22:08 PM

RECONVENED

Representative Gara MOVED to ADOPT Amendment 11 28-GS1647\L.14, Nauman/Bullock, 4/11/13 (copy on file). [Note: Due to its length, the body of Amendment 11 was not included in the minutes.]

Co-Chair Stoltze OBJECTED.

Representative Gara explained that Amendment 11 would provide a more familiar way for the state to share in windfall profits at high oil prices. He communicated that it would be a progressivity rate that was lower than the one under the Petroleum Production Tax (PPT); the state would share in the increases in price of oil and oil company profits. He elaborated that at the point where companies made \$55 in profit they would continue to pay the tax rate included in the CS; above \$55 in profit a progressivity would be implemented to increase at 0.2 percent per every \$1 increase in oil. The rate would equal half of the progressivity under ACES and would be lower than the rate under PPT. He stressed that at some point when companies were making substantial profits, the state should share in the money as well. He elaborated that the amendment would help reduce shortfalls when the state entered into years with \$1 billion to \$2 billion deficits. He reiterated that oil companies would continue to make increased profits if the amendment took effect.

Mr. Pawlowski spoke against Amendment 11 for technical and philosophical reasons. He addressed the concept of hoping the state could share [in profits]. He detailed that the CS contained a profits-based tax with an effective progressive rate that started lower and increased; as prices rose, the state would take a growing share of the profit. He noted that the state took a share in the profit through a tax, royalty, corporate income, and property tax. He believed that fundamentally there was a difference in philosophy about the idea that at some point companies were profitable in Alaska and that the opportunities did not exist elsewhere. He elaborated that the impact of the price and profit increase on companies' decisions had fallen in the past 5 to 7 years due to the progressive tax rate; whereas,

the state's competitors had regressive tax rates (where companies became more profitable as prices rise). He stated that in 2011 and 2012 even California had been increasing oil production. He stressed that Alaska needed to reasonably compete in order to attract investment.

[9:27:02 PM](#)

Representative Kawasaki voiced support for Amendment 11. He pointed to continued testimony that much of the increased production in the Lower 48 was related to advancements in technology; he hoped the public and the administration were aware of this. He stated that taxes were only one part of the equation; he disagreed with the logic that changing one component would spur significant development. He disputed testimony that progressive systems were not utilized by other states or countries. He remarked that other locations had progressive severance systems that worked well. He stated that progressivity was understood by oil companies and the public understood. He had supported progressivity and had worked on its design in the past. He noted that Mr. Balash had worked on presenting progressivity when he had been a special assistant. He stated that the amendment would take effect when profits reached \$55; it had been set to take effect at \$55 because that was the point where ACES reached the 35 percent tax rate. He believed Alaskans should receive the benefit for a limited natural resource.

[9:29:37 PM](#)

Representative Gara provided closing remarks on Amendment 11. He stated that it was hard to hear from the administration that a very low windfall profit share would somehow deter investment. He recalled that three years earlier the governor had believed ACES was fine and that the only necessary change was to increase the infield tax credit for legacy fields from 20 percent to 30 percent in order to make the state very competitive. He continued that two years earlier the governor had believed ACES was fine, but that modifications were needed in order to make the state very competitive; the proposal had been to increase the infield tax credit from 20 percent to 30 percent and to have progressivity that tapered down at high prices. He addressed the administration's current standing that progressivity did not work. He agreed with the governor's statement in 2010 that the elimination of progressivity gave companies money that they could spend anywhere else in

the world. His fundamental problem with the bill was that it disagreed with the governor's 2010 comments on progressivity.

Representative Gara pointed to slide 8 ["Select Slides from DOR Responses" dated 4/11/13] that showed the 3 percent decline rate (following FY 17) that everyone wanted to reverse. He highlighted that at \$120 per barrel the bill would reduce taxes by approximately \$1.4 billion per year. He noted that as the governor had said, the money could be spent anywhere in the world. The amendment addressed that the state would like a small share of the high profit. He stated that under ACES ConocoPhillips had taken in \$2.3 billion in profits the prior year. He surmised that although Exxon would not divulge its profits, the company made profits similar to ConocoPhillips. He noted that BP's profits in Alaska were not known because their reports included other locations as well. He stressed that the companies were making approximately \$2 billion per year in profits under ACES, which had a much higher progressivity rate than the one included in the CS. He stated that ACES attached a windfall profits tax when companies made \$30 in profit or above. The amendment would not increase the tax until profits of \$55 per barrel were obtained. He reiterated that companies would pay 0.2 percent extra for each \$1 the price increased above the \$55 mark. He believed companies would be very happy with the scenario. He concluded that the amendment contained the lowest possible progressivity rate that would raise the share of money for Alaskans.

A roll call vote was taken on the motion to adopt Amendment 11.

IN FAVOR: Gara, Kawasaki

OPPOSED: Holmes, Munoz, Neuman, Thompson, Wilson, Costello, Edgmon, Austerman, Stoltze

The MOTION to adopt Amendment 11 FAILED (2/9).

Representative Gara WITHDREW Amendment 12, 28-GS1647\L.17, Nauman/Bullock, 4/11/13 (copy on file).

[9:35:30 PM](#)

AT EASE

[9:35:50 PM](#)

RECONVENED

Representative Kawasaki WITHDREW Amendment 13, 28-GS1647\L.18, Nauman/Bullock, 4/11/13 (copy on file).

Representative Gara MOVED to ADOPT Amendment 14, 28-GS1647\L.21, Nauman/Bullock, 4/11/13 (copy on file). [Note: Due to its length, the body of Amendment 14 was not included in the minutes.]

Co-Chair Stoltze OBJECTED.

Representative Gara believed Amendment 14 would move the state forward; under the amendment if a company produced new oil in Alaska, its tax rate would be reduced. A tax break would not be provided when no activity occurred or based on hypotheticals. He stated that the tax rate proposed by the administration was based on hypothetical activity. He was not satisfied with hypothetical production that could result in the loss of \$1.4 billion to \$1.5 billion to the state. He noted the state would already be facing deficit spending. The amendment had a number of new provisions that would encourage new investment, but acknowledged that just eliminating progressivity would allow companies to spend the money in other locations.

Representative Gara continued that the first provision in the amendment established a 10 percent GRE for new oil in legacy fields. He elaborated that the goal was to encourage new production in legacy fields; therefore, a new geological area inside an existing unit such as Prudhoe Bay or Kuparuk would give a company a 10 percent GRE reduction, which was roughly a 20 percent tax reduction for five years. The credit would allow companies to recoup their investment costs. The amendment would maintain the ACES exploration and development credits, which encouraged investment in Alaska; capital investment in the state had doubled since the implementation of ACES. He reiterated that the 10 percent GRE would benefit production inside legacy fields where companies such as BP, ConocoPhillips, and ExxonMobil already had a significant incentive to maximize the costs put into the fields. The amendment would provide a 20 percent GRE (close to a 40 percent tax break) for the development of new units for a period of seven years.

[9:40:32 PM](#)

Representative Gara communicated that Amendment 14 would grant a 20 percent GRE reduction for increased production in legacy fields; incremental oil above a company's 2012 production levels would receive the tax break. A 10 percent GRE reduction (a 20 percent tax break) would be provided for heavy oil. A research and development credit would also be provided for heavy oil to help companies develop technology needed to get more of the oil in the pipeline. Additionally, the amendment provided for AIDEA bonding assistance to help small producers build processing facilities (where the separation of the oil from the gas and water took place). He detailed that larger producers did not provide smaller producers access to their processing facilities. He stressed that everything in the amendment would award a producer for moving ahead with new oil in the state, but it would not break the bank. He noted that the ACES tax rate was too high at high prices; therefore, the amendment capped the rate at 55 percent (down from 75 percent). He was amenable to tampering back progressivity at higher prices if an amendment to Amendment 14 was offered.

Representative Gara emphasized that unlike the current CS that gave a 40 percent tax break for oil in production, none of the provisions in the amendment would give away state revenue to companies for doing nothing. He stated that the CS would eliminate the windfall profits share. He believed the companies would receive between \$1 billion to \$2 billion and would spend it in other locations throughout the world as a result. He recalled that companies had told him that they would look around the world to decide where to spend the money when he had asked whether they would spend it in Alaska if progressivity was eliminated. He stressed that only reducing taxes did not work; up to 2006 there had been a zero production tax on 15 of the 19 fields on the North Slope. He discussed various past oil prices and the decline of production between 2000 and 2007 at an annual rate of 5 percent to 8 percent; the same decline rate as at present.

Representative Gara summarized that he was supportive of rewarding companies for producing in Alaska, but was uncomfortable providing \$1 billion to \$1.5 billion per year without requiring any new production. He observed that companies had two ways to increase profits: (1) to do work or (2) to receive a tax break for no additional work. He

stated that the CS would give companies \$1.5 billion at \$120 per barrel prices, which was the easiest way for a company to make money. He strongly believed that Amendment 14 provided the right solution to oil tax reform.

[9:46:16 PM](#)

Representative Kawasaki addressed the goal of increasing oil in the pipeline. He discussed testimony from small producers who were not able to get their oil into the pipeline. He elaborated that many of the major producers had locked up major units and owned the entire infrastructure. In response Amendment 14 included a fund and money for heavy oil that was difficult to produce. He referred to testimony from companies and other that there needed to be a way to capitalize on research and development; therefore, credits had been included in the amendment. The intent was to incentivize companies for production. He did not believe the CS went in the same direction; therefore, he believed the amendment was necessary.

A roll call vote was taken on the motion to adopt Amendment 14.

IN FAVOR: Gara, Kawasaki

OPPOSED: Thompson, Wilson, Costello, Edgmon, Holmes, Munoz, Neuman, Stoltze, Austerman

The MOTION to adopt Amendment 14 FAILED (2/9).

[9:49:31 PM](#)

Co-Chair Austerman MOVED to ADOPT Amendment 15, 28-GS1647\L.30, Nauman/Bullock, 4/11/13 (copy on file):

Page 2, line 14:

Delete "when a tax levied in this title becomes delinquent"

Insert "a delinquent tax under this title,"

Page 2, line 15:

Delete "it"

Insert "[WHEN A TAX LEVIED IN THIS TITLE BECOMES DELINQUENT, IT]"

Delete "a"

Insert "each [A]"

Page 2, line 20:

Delete "it"
Delete "a"
Insert "each"

Page 2, lines 23 -25:

Delete ", or at the annual rate of 11 percent,
whichever is greater, compounded quarterly as of the
last day of that quarter"

Page 22, lines 5 -6:

Delete "attributable to that category and to that
[FOR THE CALENDAR YEAR APPLICABLE TO THE]"
Insert "for the calendar year applicable to the"

Page 22, line 7:

Following "gas":
Insert "in that category"
Delete "for"
Insert "during"

Page 25, lines 9 -14:

Delete all material.

Renumber the following bill sections accordingly.

Page 29, line 7:

Delete "sec. 30"
Insert "sec. 29"
Delete "November 1, 2014"
Insert "January 1, 2014"

Page 29, line 11:

Delete "31"
Insert "30"

Co-Chair Stoltze OBJECTED.

Co-Chair Austerman relayed that the amendment contained cleanup items identified by the administration.

Mr. Pawlowski communicated that Amendment 15 contained technical cleanups to reflect the legislation's intent. The first item corrected language on page 2, line 14, Section 2 related to an adjustment to interest rates included in the

legislation. He relayed that under current law the interest rate was a variation between a floating rate and an 11 percent rate, which had come under fire over time through the Carlson case and other. The amendment brought the section back to its original intent by recognizing that the statute should read "a delinquent tax under this title" in order for the language to apply more broadly. He noted that the following changes were conforming. Page 2, lines 23 through 25 removed the language "11 percent, whichever is greater, compounded quarterly as of the last day of the quarter." The change made the rate a true floating rate that reflected the market rate. The next change occurred on page 22, lines 5 through 6; the CS used the word "attributable"; whereas the department preferred the word "applicable," given that its regulations used the word applicable. The change would provide clarity to investors.

Mr. Pawlowski continued to discuss Amendment 15. He pointed to page 25, lines 9 through 14 that contained the requirement for the department to prepare a report. The language was deleted as it was superseded by the reinstatement of the Oil and Gas Competitiveness Review Board that would provide a more thorough and publicly involved process to consider the issues facing Alaska. Lastly, the amendment included corrections to the direction to the administration and governor to provide appointments to the review board (page 29, line 7). The date the governor was required to appoint members to the board was changed from November 1, 2014 to January 1, 2014; the change would provide members of the board time to be engaged in the process.

[9:53:20 PM](#)

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 15 was ADOPTED.

Representative Wilson asked the committee to RESCIND the adoption of Amendment 4, 28-GS1647\L.6. There being NO OBJECTION, it was so ordered.

[9:54:31 PM](#)

AT EASE

[9:55:08 PM](#)

RECONVENED

Representative Wilson MOVED to ADOPT Amendment 16 [a modified version of the previous Amendment 4]:

Page 25, line 29, following "association"

Insert "and two members of the public appointed by the governor who do not represent the oil and gas industry."

Page 26, line 22:

Delete "may not meet more than"

Insert "shall meet at least"

Co-Chair Stoltze OBJECTED.

Representative Wilson explained that her intent was to add two public members to the Oil and Gas Competitiveness Review Board and that Amendment 4 should not have removed two members of the oil and gas industry. She believed there were many individuals in the oil and gas service industry that could provide knowledge to the board. She opined that having two public members and two members of the industry made more sense. She asked for the committee's support.

Representative Gara felt that the expertise and contribution of the oil and gas industry was very welcome; however, he believed the industry would always vote in favor of lowering oil taxes. He did not believe the two members from the industry should have voting power on the board, but he thought their contribution as advisory members or consultants could be useful. He observed there would be a disagreement over which consultants to hire. He WITHDREW his OBJECTION.

There being NO further OBJECTION Amendment 16 was ADOPTED. [Note: A conforming amendment to Amendment 16 was adopted at approximately 10:08 p.m.]

[9:58:28 PM](#)

AT EASE

[10:00:05 PM](#)

RECONVENED

Representative Kawasaki MOVED to ADOPT Amendment 8, 28-GS1647\S.38, Nauman/Bullock, 4/11/13 (copy on file). [Note: Due to its length, the body of Amendment 8 was not included in the minutes.]

Co-Chair Stoltze OBJECTED.

Representative Kawasaki discussed that the state would lose money under the bill in the near-term and the hope that money would be gained in later years due to increased production. Amendment 8 would insert a sunset in 2019; it would provide several years to allow for production and for new fields to come online. He elaborated that the sunset would not occur if production levels were higher in 2018 than in 2013.

Mr. Balash spoke in opposition to the amendment. The administration believed a sunset mechanism that was dependent on the actions of others would have a chilling effect on incentivizing new investment and new production. He expounded that the intent to create new investment and production, particularly outside of the existing areas, would be harmed by the provision. He added that the conditional affect that relied on production from calendar year 2013 was an unknown. He communicated that the use of a calendar year that had been completed may be better.

Representative Gara believed that Mr. Balash's comments got to Representative Kawasaki's point. He believed the bill should be made subject to the conduct of others; companies should only receive the tax break if production occurred. He reflected on claims by the administration and consultants that production would increase within two or three years if the bill passed. He stated that the number provided previously had been five to seven years. He opined that the legislature needed to design a better bill if production was not going to increase while money was lost. He did not believe in claims that the bill or any other bill would fill the pipeline (with the exception of offshore oil that would not provide substantial tax revenue). He stressed that under the amendment the bill would not sunset if production increased [by 2019]. He did not support the concept of an ongoing system that was based on hypotheticals.

A roll call vote was taken on the motion to adopt Amendment 8.

IN FAVOR: Edgmon, Gara, Kawasaki

OPPOSED: Neuman, Thompson, Wilson, Costello, Holmes, Munoz, Austerman, Stoltze

The MOTION to adopt Amendment 8 FAILED (3/8).

10:05:58 PM

AT EASE

10:07:46 PM

RECONVENED

Representative Wilson offered a conforming amendment to Amendment 16; the Oil and Gas Competitiveness Review Board membership would total 11 members.

Representative Holmes asked for verification that the amendment would be made on page 25, line 26 of the CS. Representative Wilson replied in the affirmative. There being NO OBJECTION, Amendment 16 was amended [to increase the review board membership from 9 to 11].

Co-Chair Stoltze asked Mr. Pawlowski to discuss the fiscal impact of the bill.

Mr. Pawlowski referred to slide 2 of the presentation titled "Fiscal Impact Draft HFIN CSSB21: House Finance Committee Version 28-GS1647\L." He noted that any fiscal impact of the amendments to the CS was not factored into the presentation. He pointed to the Middle Earth exploration credit that had been added as an amendment; the change would move the fiscal impact slightly. The information on slide 2 provided a variation of the table showing the revenue impact and fiscal impact of the legislation at the DOR Spring 2013 Revenue Forecast. The slide did not include any potential changes in production. The slide showed an impact in FY 14 (only half of the calendar year) of between \$675 million and \$725 million. He pointed out that \$375 million of the amount was related to the closeout of the qualified capital expenditure credit. He directed attention to the FY 15 column for a true fiscal impact; he noted that some provisions increased revenue, while others reduced revenue. The FY 15 forecasted revenue impact was [a reduction] between \$430 million and \$505 million. He restated that the slide was a draft and was not reflective of amendments passed during the current meeting. Other sections in the presentation showed production scenarios to indicate how increased production could replace the lost revenues. He relayed that the fiscal note would reflect the type of analysis shown on slide 2; the

actual fiscal impact should be close to what was shown on the slide.

10:11:59 PM

Representative Edgmon expressed discomfort that that the Legislative Finance Division had not provided its own numbers on the bill's fiscal impact.

Representative Gara stated that the fiscal note was based on DOR's 2013 Spring Revenue Source Book. He communicated that DOR's forecasted production decline was higher than the decline rate published by ConocoPhillips, which increased the amount of revenue the state would lose compared to ACES. He believed the ConocoPhillips' numbers should be used instead of the DOR numbers. He referred to a chart from DOR showing that at \$120 per barrel by 2017 the fiscal difference was approximately \$1.4 billion per year when the ConocoPhillips numbers were used. He observed that numbers could be changed significantly with various decline curves and lower or higher prices; he did not believe the fiscal note provided by the administration was accurate. He stated that he did not have faith in the note without having an independent review of the administration's numbers by the Legislative Finance Division.

10:14:11 PM

Representative Costello MOVED to REPORT HCS CSSB 21(FIN) out of committee with individual recommendations and the accompanying fiscal notes.

Representative Kawasaki OBJECTED. He voiced opposition to the legislation. He discussed his past membership on the House Oil and Gas Committee where he had learned a significant amount about the issue and its complexity. He was uncomfortable moving the bill forward and believed there were too many unknowns. He believed it was irresponsible of the House Finance Committee to not hear from the Legislative Finance Division on the potential fiscal impacts prior to sending a bill to the House floor. He opined that the committee did not sufficiently understand the fiscal impact of the bill and that it was rushing into the significant changes. He did not support advancing the bill forward.

Representative Gara spoke against the bill. He stated that the bill used a rate that he believed would harm the state in the long-term; it was the highest rate of legislation that had gone through the legislature. He pointed to March 14, 2013 testimony from Scott Jeffson of ConocoPhillips when the bill had included a 33 percent tax; Mr. Jeffson had testified that the company was not able to specify what it would do differently if the legislation passed. He elaborated that Damian Bilbao [BP] had testified that a 33 percent rate did not go far enough to attract the type of meaningful investment that was required. He shared that Dan Seckers [ExxonMobil] had communicated that the base rate was too high at 33 percent and did not make Alaska attractive enough. He remarked that the companies' effort was to get the lowest possible tax rate and to ensure that a bill giving a tax break passed the legislature. He stressed that testimony had become more positive, but that the companies did not commit to any production, specific projects, spend, spend increase, or to ensure that the state would be repaid for the amount given.

Representative Gara discussed that the committee had heard many times from the administration about Alaska's lack in competitiveness. He did not believe the Econ One data proved the point (slide 8). The slide included a metric showing what ACES did to a company's IRR; at \$100 per barrel the state had a higher rate of return than most of the locations it was compared to. He noted that his amendment would have made the state more competitive. He observed that the administration had selected some of the lower taxing jurisdictions in the world for the comparison; they had not selected countries such as Libya, Bolivia, or Russia that had high tax rates. He observed that at \$100 per barrel under ACES the state's IRR was 23.3 percent, which was higher than the Lower 48 Bakken field and Norway, the same as offshore Gulf of Mexico and twice as high as the Canadian Oil Sands. He pointed out that Alaska's IRR beat out three of the seven locations at \$120 per barrel. He added that the state performed better than locations companies were investing in that were more dangerous. He suspected that Alaska performed even better and noted that the Econ One slide only showed how profitable ACES was on fields that paid the 16.67 percent royalty. He believed that the committee had received information from its consultants that seemed to only show the versions of facts that benefited the administration's case. He agreed with the fiscal note the administration had provided at his

request based on ConocoPhillips' testimony [using a 3 percent decline rate].

[10:22:13 PM](#)

Representative Gara did not believe the bill was a good way to lose \$1.4 billion per year. He communicated that he had written to the administration "a long time ago"; the administration had contracted a report from Gaffney Cline and Associates to assess the state's oil tax system and to provide recommendations for changes. He had written a letter requesting a copy of the report; however, he had not received it. He stated that when the administration had been asked to share its experts it had told the minority to hire its own; the minority did not have money to hire its own experts. He opined that it was possible to get an expert to say almost anything. He believed committee members should have heard from additional experts in order to make up their own minds. He did not believe withholding information served the public or the state and he was unhappy with the administration's decision to do so. He reiterated his opposition to the bill.

[10:25:31 PM](#)

Co-Chair Austerman relayed that he would vote to move the bill from committee, but it was not necessarily how he would vote on the House floor. He believed that spending the next six months on the legislation would not result in a major difference in the result. He saw no reason to keep the bill from the House floor where all members could participate in the conversation.

Representative Wilson knew that the barrels of oil were decreasing and that Fairbanks did not have the same number of jobs that it had when ACES had been implemented. She stressed that the lack of quality jobs was a primary reason for the community's energy problems. She detailed that when energy costs rose and there were less consumers the remaining customers experienced higher prices. She discussed credits provided to the industry for capital projects that would allow them maintain old facilities, which she believed had been the wrong approach. She discussed that under the legislation production was necessary in order to get the per barrel credit. She emphasized that the oil industry was a business and producers were supposed to make money. She disputed the

characterization that the state was giving companies money; the companies had made the money. She elaborated that the bill allowed companies to keep more of their own money. She stated that if people cared about kids and schools the state could not use "it" all up in the next four or five years; she wondered what would happen then and asked if the solution would be to tax everyone. She recognized that a change to the tax system was necessary and believed the bill was close. She thought it was time to move the bill from committee. She stressed that a major issue existed and that constituents were the ones paying for it.

10:28:11 PM

Vice-Chair Neuman relayed that he had been present for the four changes in tax policy over the past nine years. He pointed out that taxation "levers" continued to be turned on the petroleum industry and that production continued to decline. He stated that it was the producers' job to say taxes were too high. He noted that 90 percent of the state's revenue was based on oil production. He emphasized that the state was experiencing rate decline of 40,000 barrels per day. He relayed that production had begun to decline when ACES had been implemented. He discussed other state's production had been increasing during oil price increases. He stressed that the loss of 40,000 per day equated to a loss of \$1.5 billion per year. He opined that something needed to be done. He elaborated that he would make an adjustment if he had a business that was losing a significant amount of money. He supported the changes in the legislation. He added that the state's right to taxation would not be lost and changes could be made in the future if necessary.

10:31:22 PM

Representative Costello spoke to the heartfelt public testimony on the issue. She discussed time spent on charts and numbers and recognized that the market could not testify. She addressed the pursuit for the right base rate; she believed there was a range. She stressed that what mattered was the whole package included in the bill and not just one number. She stated that the current system was not working and that numbers were stark; 10 rigs in Alaska compared to over 800 in Texas; 500 exploratory wells in Alaska and 1000s in other areas. She believed it would be irresponsible for the legislature to ignore the "draconian"

statistics. She opined that it was important to address the issue at present. She touched on money coming in under ACES and communicated that she worried about the future of children in the state. She was concerned that the state's savings accounts would be depleted by the time the children were in high school. She believed that it was the responsibility of legislators to address the issue. She hoped that action was taken and that Alaska would be on equal footing with the rest of the world.

Representative Holmes shared that she had been present during the ACES implementation. She recalled her time observing past Oil and Gas Committee meetings. She observed that over the past several years there had been significant incoming revenue to the state along with declining production. She discussed the House Finance Committee's time spent on budgets and future projections for the state. She believed the future projections were scary. She addressed that the incentives built into ACES with the intent to spur production appeared to have created a complicated system that was hard to predict and model. She thanked the chairman and believed the process had been collaborative. She opined that the CS was no one's perfect bill. She believed members could find optimism in the bill; she stated that projections under the current structure were not optimistic. She pointed to current budget deficits and credited the legislature and governor for savings in the current session. She supported advancement of the bill.

[10:37:12 PM](#)

Representative Edgmon communicated that he would vote to move the bill forward for debate on the House floor. He spoke to his apprehension and observed that it was not possible to predict the future. He remarked that the state would be put in a position of risk if nothing were done; however, the search for a solution put the state in a position of risk as well, given that reward and risk went hand in hand. He believed all committee members had the best intentions for the state's good fortune. However, he communicated his nervousness that the bill could have been further vetted. He pointed to DOR projections and noted that they could be much smaller depending on production numbers. He did not believe an accurate projection was known about the potential generation of production. He was incredibly hopeful that the bill would work. He stated that the nervousness would carry with him until he saw that the

change had been successful. He would have liked to see some consultants with experience in the oil industry the various scenarios provided by the administration. He thanked the chairman for his work and expressed appreciation for the members' cooperation and collegiality.

10:40:14 PM

Co-Chair Stoltze thanked committee members for the process. He believed it was natural to have a level of humility and concern about whether such a large-scale decision was right. He had more hope for doing something rather than nothing.

Representative Gara and Representative Kawasaki WITHDREW their OBJECTIONS. There being NO further OBJECTION, it was so ordered.

HCS CSSB 21(FIN) was REPORTED out of committee with a "no recommendation" and with one new indeterminate fiscal note from the Department of Natural Resources; two new fiscal impact notes from the Department of Revenue; and one previously published zero fiscal note: FN11 (CED).

Co-Chair Stoltze discussed that the committee may reconvene following House floor session.

#sb7

SENATE BILL NO. 7 am

"An Act relating to the computation of the tax on the taxable income of a corporation derived from sources within the state."

SB 7 am was SCHEDULED but not HEARD.

#sb18

CS FOR SENATE BILL NO. 18(FIN) am

"An Act making, amending, and repealing appropriations, including capital appropriations, supplemental appropriations, reappropriations, and other appropriations; making appropriations to capitalize funds; and providing for an effective date."

CSSB 18(FIN) am was SCHEDULED but not HEARD.

#sb62

SENATE BILL NO. 62

"An Act relating to grants for school construction."

SB 62 was SCHEDULED but not HEARD.

10:41:55 PM

RECESSED

[Note: The meeting resumed at 1:12 a.m. on 4/12/13. See 4/12/13 1:12 a.m. minutes for detail.]