

ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE

March 10, 2014

1:05 p.m.

MEMBERS PRESENT

Representative Eric Feige, Co-Chair
Representative Dan Saddler, Co-Chair
Representative Peggy Wilson, Vice Chair
Representative Mike Hawker
Representative Craig Johnson
Representative Kurt Olson
Representative Paul Seaton
Representative Scott Kawasaki
Representative Geran Tarr

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 334

"An Act relating to the qualified oil and gas service industry expenditure credit; and relating to a credit against oil and gas exploration, production, and pipeline transportation property taxes."

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 30

Requesting that the federal government and the United States Secretary of the Interior reconsider the Izembek Land Exchange decision and approve the Izembek Land Exchange, allowing the residents of King Cove to have road access to the Cold Bay Airport for critical health and safety reasons and to improve the quality of their lives.

- MOVED HJR 30 OUT OF COMMITTEE

HOUSE BILL NO. 344

"An Act prohibiting the importation of, sale of, purchase of, or release into the water of the state of certain invasive aquatic plant species."

- BILL HEARING CANCELED

HOUSE BILL NO. 351

"An Act relating to uses that are not incompatible with the purposes of the Nancy Lake State Recreation Area."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 334

SHORT TITLE: OIL & GAS TRANSFERABLE TAX CREDIT CERT.

SPONSOR(S): REPRESENTATIVE(S) PRUITT

02/24/14	(H)	READ THE FIRST TIME - REFERRALS
02/24/14	(H)	RES, FIN
03/10/14	(H)	RES AT 1:00 PM BARNES 124

BILL: HJR 30

SHORT TITLE: IZEMBEK LAND EXCHANGE

SPONSOR(S): REPRESENTATIVE(S) HERRON

02/26/14	(H)	READ THE FIRST TIME - REFERRALS
02/26/14	(H)	RES
03/10/14	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE LANCE PRUITT

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As prime sponsor of HB 334, explained the changes in proposed committee substitute (CS) for HB 334, Version U.

EMILY NAUMAN, Attorney

Legislative Legal Counsel

Legislative Legal and Research Services

Legislative Affairs Agency

Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 334.

DIRK CRAFT, Staff

Representative Lance Pruitt

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor, Representative Lance Pruitt, during the discussion of HB 334.

MATT FONDER, Director
Tax Division
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 334.

FRED KIGA, Senior Vice President
Vigor Industrial, Inc. - Vigor Alaska
Ketchikan, Alaska

POSITION STATEMENT: Testified in support of HB 334.

DOUG WARD, Director
Shipyard Development
Vigor Industrial, Inc. - Vigor Alaska
Ketchikan, Alaska

POSITION STATEMENT: Testified during the discussion of HB 334.

MIKE PAWLOWSKI, Deputy Commissioner
Office of the Commissioner
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to HB 334.

REPRESENTATIVE BOB HERRON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as the prime sponsor of HJR 30.

SENATOR LISA MURKOWSKI, U.S. Senator
United States Senate
Washington, DC

POSITION STATEMENT: Testified in support of HJR 30.

HENRY MACK, Mayor
City of King Cove
King Cove, Alaska

POSITION STATEMENT: Testified in support of HJR 30.

MIKE COONS, Director
Citizen Initiatives, Alaska
Palmer, Alaska

POSITION STATEMENT: Testified in support of HJR 30.

STANLEY MACK, Mayor

Aleutians East Borough
Sand Point, Alaska

POSITION STATEMENT: Testified in support of HJR 30.

GARY HENNIGH, City Manager
King Cove, Alaska

POSITION STATEMENT: Briefly commented during the discussion of HJR 30.

ACTION NARRATIVE

[1:05:44 PM](#)

CO-CHAIR DAN SADDLER called the House Resources Standing Committee meeting to order at 1:05 p.m. Representatives Seaton, Johnson, Olson, P. Wilson, Tarr, Kawasaki, Hawker, Feige, and Saddler were present at the call to order.

[1:06:41 PM](#)

CO-CHAIR SADDLER began to discuss HB 334, and Co-Chair Feige first requested an explanation of the reason that HB 344 was pulled from the committee's agenda for today.

HB 344-INVASIVE AQUATIC PLANT SPECIES CONTROL

REPRESENTATIVE OLSON, sponsor of HB 344, explained that the Department of Natural Resources (DNR) issued a quarantine notice on the invasive aquatic plants, and Elodea [canadensis] could no longer be sold or distributed. The department moved forward so quickly with the quarantine that the bill to ban import of Elodea [canadensis] was no longer necessary.

REPRESENTATIVE JOHNSON spoke as follows:

I was kinda looking forward to hearing this because we've had some concern about float planes and when you say quarantine. I've spoken with the department and it is not their intention to keep float planes from flying in and out of lakes that may or not have this plant in there. So, I just want to be clear that for my office working on it, Campbell Lake is in my district, that when you say quarantine that doesn't mean that you won't - you'll still be able to land your airplane - as opposed to having someone import, sell, and otherwise. So I just want to be clear on

that. We're working with the department to clarify that quarantine doesn't mean quarantine.

CO-CHAIR SADDLER also expressed his interest in putting that statement on the record.

HB 334-OIL & GAS TRANSFERABLE TAX CREDIT CERT.

CO-CHAIR SADDLER announced that the first order of business would be HOUSE BILL NO. 334, "An Act relating to the qualified oil and gas service industry expenditure credit; and relating to a credit against oil and gas exploration, production, and pipeline transportation property taxes."

[1:08:39 PM](#)

REPRESENTATIVE LANCE PRUITT, Alaska State Legislature, stated that he will speak to the work draft for HB 334, Version U [labeled 28-LS1407\U, Nauman, 3/4/14 and not yet before the committee]. Relating the reason for his introducing HB 334, he said he visited the [Alaska Ship and Dry Dock, Inc. shipyard] in Ketchikan this past summer. During this visit he discovered the shipyard facility could not use a tax credit the legislature passed last year [to AS 43.20.049]. He explained that the tax credit requires the party must be a taxpayer to qualify, but a government entity, the Alaska Industrial Development and Export Authority (AIDEA) owns the actual yard. He discussed this with Mike Pawlowski, Department of Revenue (DOR), who suggested a possible remedy for an entity that is not a state taxpayer without providing a blanket exemption. After some discussion, he developed the work draft [Version U]. It would apply a credit to the state property tax on the asset by the owner. The owner could take a credit over five years, although the credit cannot reduce the tax to less than zero. It would also include an option for a municipality to use the credit. He described a scenario that illustrated how Seward's Ship Dry Dock [and Ship's Chandlery] might also be interested in the tax credit. He stated the goal of HB 334 is to ensure that as many Alaskans as possible have an opportunity to participate in what he viewed as the "renaissance" from SB 21 and bring manufacturing back home to Alaska.

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REPRESENTATIVE SEATON moved to adopt the proposed committee substitute (CS) for HB 334, Version U, labeled 28-LS1407\U,

Nauman, 3/4/14, as the working document. There being no objection, Version U was before the committee.

REPRESENTATIVE P. WILSON remarked that [SB 21] acknowledges that North Slope companies often order equipment to be built in the Lower 48 or another country. The goal of [SB 21] was to provide an incentive that would provide jobs for Alaskans and that if the product was produced in Alaska, the company could obtain a tax credit.

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REPRESENTATIVE HAWKER related his understanding that HB 334 would allow a transferable tax credit for improvements to the tangible personal property under AS 43.20.049 to be applied against taxes under AS 43.56. He asked the reason to allow the tax credit to property tax since the broader interpretation would allow the tax credit against corporate income tax, production tax, or property tax liabilities.

REPRESENTATIVE PRUITT deferred to the bill drafter.

EMILY NAUMAN, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, replied the question raised by Representative Hawker is completely a policy call.

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REPRESENTATIVE HAWKER, referring to the difference between the original version of the bill and Version U, said that the original version of HB 334 limited the tax credit to the initial purchaser of the tangible personal property. He offered his belief that Version U broadens this substantially by allowing the tax credit to be traded freely on the open market

DIRK CRAFT, Staff, Representative Lance Pruitt, Alaska State Legislature, stated that the initial language was more limiting. He explained that Version U was broadened to make it applicable to anyone associated with the property. He related his understanding that the tax credit is still limited to anyone associated with the property.

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REPRESENTATIVE HAWKER questioned whether that allowance is in the [bill]. He read from AS 43.20.052 (a), as follows:

A person that is entitled to take a credit under AS 43.20.049 that wishes to transfer the unused credit to another person may apply to the department for a transferable tax credit certificate.

REPRESENTATIVE HAWKER said that any restriction to "another person" would not exist.

MR. CRAFT replied correct.

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REPRESENTATIVE SEATON asked for further clarification on the reason to allow the credit to be applied to property tax liability instead of limiting the tax credit to corporate income tax liability. He didn't think the language in the bill would limit the tax credit to the construction.

REPRESENTATIVE PRUITT answered that the genesis for allowing tax credits against the property tax liability was to avoid creating a tax credit similar to the film tax credit that could be applied by someone without an existing tax liability. He related a scenario to illustrate how a company might build something yet not have a tax liability. This would allow not only the major investors but also the service industry to benefit. These parties may own the asset but not have a tax yet Version U would allow them to apply tax credits to their personal property tax liability.

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REPRESENTATIVE SEATON said it seems like the tax credit is so broadly applied that it doesn't limit the tax credit to the party who owns the asset. The tax credits could apply to someone who builds something but if the company doesn't have any corporate tax liability, the tax credit could be transferred to anyone who has a property tax liability. Further, it doesn't seem to be limited just to oil and gas properties. He asked if the tax credit will be limited to oil and gas properties or if it will include other properties as well.

REPRESENTATIVE PRUITT answered that the intent was to apply the tax credit to the oil and gas industry, although it is a policy call if the committee wants to go beyond the industry. The bill evolved due to recognition of some limitations to the tax credit. He hoped that companies in places like Southeast Alaska

and Seward could participate in the oil development that occurs in other parts of the state.

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REPRESENTATIVE HAWKER understood that, as written, Version U would allow the tax credit to be applied against taxes levied under AS 43.56. He said the title of the chapter is oil and gas exploration, production, and pipeline transportation property taxes, which provides a broad scope for the industry since it includes pipeline transportation.

REPRESENTATIVE PRUITT agreed.

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REPRESENTATIVE SEATON understood the tax credit could be used by someone building modules, but it will have to be transferred to the oil companies or to someone with pipeline taxes.

REPRESENTATIVE PRUITT replied yes. He explained that Vigor Industrial and Alaska Ship and Dry Dock, Inc. do not have any tax liability to the state. Thus, the bill would make the tax credits transferable to any company producing their products.

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REPRESENTATIVE KAWASAKI understood that an oil and gas corporation that is making money under AS 43.20 would have a transferable tax credit that could be purchased by a company in the same field to apply towards the company's property tax liability.

REPRESENTATIVE PRUITT believed it would be applicable.

REPRESENTATIVE KAWASAKI surmised that a North Slope oil and gas company could go to a Fairbanks or Anchorage company and use the tax credit to reduce property taxes for their related facilities.

REPRESENTATIVE PRUITT acknowledged that he raises a good point that a company in Fairbanks might be able to reduce its property tax liability.

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REPRESENTATIVE SEATON recalled that often small companies cannot use the tax credit, unless they are oil and gas companies, so the parties must transfer these credits. He wondered how this would stimulate in-state manufacturing if the parties must transfer their tax credits - probably at a discount - to gain any benefit.

REPRESENTATIVE PRUITT suggested Vigor Industrial, Inc. may be able to address the question.

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REPRESENTATIVE P. WILSON related her understanding that the company will obtain a discount by having the product made in Alaska, which could encourage manufacturing in Alaska. It will provide the indirect benefit by creating manufacturing jobs in Alaska even though it might not directly benefit the manufacturer.

REPRESENTATIVE TARR offered her understanding that the tax credit would only apply to oil and gas property taxes due to the state and not to municipal tax liabilities.

REPRESENTATIVE PRUITT said yes, but said the goal is to allow an option to use the tax credits for municipal property taxes.

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CO-CHAIR FEIGE related a scenario to illustrate the tax credit limitations for an oil and gas company when contracting with a manufacturer to produce something for a North Slope project. The oil and gas company would be limited to no more than \$10 million in tax credits in any year, although the company can hold the tax credits in up to five successive tax years. However, under Version U, the question is whether the tax credit is transferrable and if an oil and gas company can transfer tax credits in excess of \$10 million to another company to use.

[1:33:12 PM](#)

REPRESENTATIVE SEATON asked for clarification on the language in Version U that allows an option for taxpayers in other communities to use the tax credit.

MR. CRAFT replied that the option is under discussion but is not yet in the bill.

REPRESENTATIVE PRUITT agreed. He acknowledged that is the intent, but the bill is a work in progress.

[1:34:12 PM](#)

REPRESENTATIVE TARR referred to page 2 of the fiscal note that states the department cannot determine the amount of tax credits that may be claimed by taxpayers as the department currently has no information about the amount of this type of activity in the state. She wondered whether the department could provide a general idea of the impact since this could amount to millions of dollars in tax credits.

MATT FONDER, Director, Tax Division, Department of Revenue (DOR), responded that Representative Tarr's question is difficult to answer. He explained that the manufacturing credit under discussion was adopted under SB 21, which has not yet been in effect for a full year so the department doesn't have any solid information on the proposed tax credit.

REPRESENTATIVE PRUITT remarked that currently the state hasn't been looking in-state for manufacturing, especially in terms of maritime oil and gas development. He said if the state allows someone to manufacture offshore platforms or other equipment in the state, it could then potentially impact the state's revenues.

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REPRESENTATIVE HAWKER recalled prior discussions during the legislative process on SB 21, about who would be qualified to take the corporate income tax credit. It was envisioned the credit would seldom be used. He further recalled conversations about limiting the applicability of the front-loaded tax credits that had unbalanced the tax system. He wondered if this bill would change the intent of SB 21. He proffered that HB 334 would substantially increase applicability of this tax credit, but seems to go against the philosophy for development of SB 21.

REPRESENTATIVE PRUITT remarked that he didn't necessarily disagree. He introduced HB 334 since some areas of the state currently cannot participate in the development of the state's oil and gas resources. Certainly, it's important not to burden the state in the capacity the state had under Alaska's Clear and Equitable Share (ACES), but this seemed to create a way for people to potentially use this tax credit, even if it only allows a few people in Southeast Alaska to participate in oil

and gas development in Alaska. Additionally, it would allow the state to use the shipyard, one of its assets, on a larger scale.

REPRESENTATIVE HAWKER absolutely agreed. One reason he liked the original version of HB 334 is that he envisioned a participant in the North Slope might have a corporate income tax liability. However, taking the corporate income tax and making it transferable to property taxes also creates some complexities due to the interplay between state and local property taxes. He suggested that the sponsor may wish to ensure the bill targets the parties it intends to benefit in the most efficient way.

REPRESENTATIVE PRUITT answered "duly noted."

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REPRESENTATIVE KAWASAKI shared some of the concerns mentioned in terms of local taxation issues. He asked for further clarification on what constitutes a modification.

REPRESENTATIVE PRUITT deferred to the DOR.

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REPRESENTATIVE SEATON said his reading of this is that the oil service industry could build a pipeline from the west side of Cook Inlet to the Tesoro Refinery to use the tax credit. He asked for further clarification on whether this bill would mean 10 percent of the pipeline would be eligible.

REPRESENTATIVE PRUITT answered no; the intent is not any work that is done, but whether the asset is manufactured or modified at the facility in-state, pointing out a pipeline wouldn't be manufactured in-state.

REPRESENTATIVE SEATON said he will go back and review the constraints on SB 21 expenditure credits. He was unsure whether a service industry would qualify for tax credits if a gas treatment plant was built on the North Slope.

REPRESENTATIVE HAWKER clarified the credits relate only to tangible personal property.

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REPRESENTATIVE JOHNSON recalled the purpose of SB 21 was to apply against corporate income tax. He recalled the goal was to

encourage companies to become corporations, which could increase the tax rolls. However, he wondered if this would run afoul of the interstate commerce if the state offers a discount beyond a normal discount for in-state purchase.

REPRESENTATIVE P. WILSON suggested there could be optional language inserted to avoid problems with interstate commerce since she didn't currently see that language in the bill.

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REPRESENTATIVE JOHNSON, recalling the state couldn't go above a certain number for local hire, wondered whether the threshold was at 10 or 15 percent or 50 percent before the state would have issues with federal interstate commerce. He said he would be curious how that relates to projects.

REPRESENTATIVE PRUITT deferred to the legislative attorney. In terms of encouraging companies to become corporations and pay corporate income tax, he suggested the bill was another way to allow LLCs to benefit. He did not see a way for companies like Vigor Alaska to qualify for tax credits which is the reason he was looking towards using tax credits to offset personal property taxes.

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CO-CHAIR SADDLER opened public testimony on HB 334.

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FRED KIGA, Senior Vice President, Vigor Alaska, Vigor Industrial, Inc., testified in support of HB 334 and thanked members for considering the concept embodied in HB 334. He said that Vigor reviewed SB 21 last year in terms of ways to enhance tangible personal property for oil and gas development and production. Over a six-month period, Vigor held discussions with Mike Pawlowski of DOR to consider a variety of ways to frame tax credits designed to enhance employment for Alaskans and economic development in Alaska. Ultimately, using a property tax credit under AS 43.56 seemed to be the way to develop that concept. He acknowledged that "it's somewhat squishy" when considering the production income tax credit and whether companies have tax nexus for purposes of using it.

MR. KIGA said parties with tangible property are generally subject to the state property taxes. In terms of out-of-state

oil and gas companies, the provisions of AS 43.56 provide a credit against expenses going forward. From the 10,000 foot level, this concept could help oil and gas companies evaluate the economic cost of whether to invest or use an in-state manufacturer to create an asset. He stated this as the goal of HB 334 and the direction he hoped the legislature would take.

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DOUG WARD, Director, Shipyard Development, Vigor Alaska, Vigor Industrial, Inc. (Vigor), stated he has been associated with the Ketchikan Shipyard for over twenty years. He lauded the pride and joy that young workers have in building ships in Alaska. He highlighted some challenges his company faces as a shipbuilder in Alaska. He offered his belief that Alaska has one of the most modern shipbuilding factories in North America due to the partnership that exists between AIDEA, the community of Ketchikan, and industry. Certainly, that's true in Ketchikan, given the size of the Ketchikan shipyard. This facility not only focuses on the best practice for facility design and infrastructure, but also on the human workforce development plan. As of 2013, the company employs 161 productive workers, of which 13 percent are women. The shipyard project began as an economic development project through AIDEA. It initially was a DOT&PF maintenance facility, but ship building and repairs began once AIDEA took it over.

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MR. WARD advised that the shipbuilding component provides year-round stability for the workforce and a stable economic base for seasonal boat repairs. He detailed shipbuilding at the facilities, such that the shipyard built two airport ferries for the Ketchikan airport, a marine fueling station for the Olympics in Vancouver, the Susitna ferry, and an ice-strength twin-hull vessel destined for service in Cook Inlet, which may ultimately operate on the North Slope serving the oil and gas industry due to the ice-breaking capabilities. Additionally, the shipyard has completed building a longliner destined for the Bering Sea.

MR. WARD said as Vigor looks forward, HB 334 could accelerate the state's return on its investment in the shipyard. He stated that an influx of businesses are moving to Ketchikan, noting that two naval architecture firms recently opened offices in Ketchikan. Additionally, two international marine electronics firms are looking to open shops in Ketchikan. However, the vendor base is lacking in Alaska as compared to the Gulf of

Mexico or Puget Sound. He emphasized that Vigor believes HB 334 will help to move the company to participate in the oil and gas industry sooner and it will encourage additional customers to do business in Alaska, such as marine operators who buy ships and operate vessels. Further, HB 334 could be valuable to those types of customers, he said. Vigor has also been looking at the Seward shipyard since Cook Inlet has begun taking off.

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MR. WARD anticipated that HB 334 could help small liquefied natural gas (LNG) projects in the future. He clarified that it could potentially reduce costs by 20-30 percent in the distribution of the small LNG projects by using marine transport to move products throughout the state, which in turn could stimulate more manufacturing in Southeast Alaska. Since these assets are expensive and time-consuming to build, HB 334 could be a useful financing tool for shipbuilding in Alaska.

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REPRESENTATIVE TARR recapped that current projects wouldn't qualify but this bill might encourage more activity to occur.

MR. WARD answered absolutely. Currently the oil and gas industry defaults to the Gulf of Mexico, with nearly 60 years of oil and gas experience. He characterized the Gulf of Mexico area as a very mature industry with competitive shipyards. As the state works towards building industrial activity, it faces obstacles in Alaska, such as great distances between population bases, the lack of a vendor base, more onerous environmental regulations than in the Gulf of Mexico, and higher labor rates. He surmised that the workers are paid 40 percent more in Southeast Alaska than in the Gulf of Mexico region. Thus, these types of tax credits could help encourage people to use Alaska manufacturers in the future, noting, of course, that the activity would need to meet the definition of modification or manufacturing as defined by the DOR.

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REPRESENTATIVE TARR understood some physical limitations could exclude Alaska from being involved in some of the projects. She asked for further clarification on Alaska's shipyard size limitations.

MR. WARD responded that those with manufacturing capacity in the state need to be selective on projects as the industry moves into the oil and gas arena. For example, the Ketchikan shipyard is limited to building an optimal 250-foot vessel, although the shipyard could accommodate a 500-foot vessel. Considerations companies will make will be to assess services available in any community and what the facility is designed to build. He anticipated significant opportunities in shipbuilding in the next 10-20 years. Once Alaska reaches the vendor base and scale, the state could be looking at larger projects, he said.

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REPRESENTATIVE FEIGE inquired what types of projects does the shipyard envision manufacturing and how would these projects fit under the definition of qualified oil and gas service industry expenditures [under HB 334].

MR. WARD said representatives of ExxonMobil Corporation, Inc. will visit the shipyard in the near future to discuss projects for Point Thomson. One opportunity could be to manufacture 1,000 gallon double-walled storage tanks. Additionally, on the main transportation side, small LNG carriers - cryogenic ships - are being developed in Norway to distribute gas to small communities. He suggested a series of barges with cryogenic containers could be dropped off in coastal communities on a monthly basis. He anticipated that Vigor will also consider articulated tug and barge setups, potentially performing some work at liquefaction plants or re-liquefaction plants, as well as providing the marine transportation component of distributing gas in the state.

MR. KIGA added that as oil and gas exploration develops on the Chukchi and Beaufort Seas, the likelihood exists that some of the supply vessels that accompany the drill rigs could stop for service at Ketchikan or Seward shipyards. He acknowledged this assumes the activity will meet the definition of modifications or manufacturing under the existing statutes. If so, these activities could also qualify for the tax credits.

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CO-CHAIR SADDLER asked for the size of the small LNG carriers.

MR. WARD anticipated that the ship sizes range from 250 to 650 foot LNG carriers, although he was unsure of the exact capacity.

He characterized them as being relatively small LNG carriers and within his company's range to build in Ketchikan.

2:07:04 PM

REPRESENTATIVE HAWKER thanked the committee for furnishing a copy of AS 43.20.049. He said that this statute allows a taxpayer to apply a credit against the tax due under this chapter, which relates to corporation income tax, against a qualified oil and gas service industry expenditure incurred in the state. He said the definition of "qualified oil and gas service industry expenditure" means an expenditure directly attributable to an in-state manufacture or in-state modification of tangible personal property used in the exploration for, development of, or production of oil or gas deposits, but does not include components or equipment used for or in the process of that manufacturing or modification.

REPRESENTATIVE HAWKER questioned layering this tax credit. He related a scenario to illustrate the point that not only does an oil and gas operator incur expenditures with vendors, but those vendors are doing business with other vendors, who in turn are conducting business with yet other vendors. He wondered whether the language in SB 21 or HB 334 clearly states that the intent is to offer one tax credit against tangible personal property. Although this question might be considered rhetorical, he would like the record to be clear that HB 334 intends to offer one tax credit to a single tangible personal property. He suggested that the language in HB 334 might need to be clarified.

MIKE PAWLOWSKI, Deputy Commissioner, Office of the Commissioner, Department of Revenue (DOR), offered to discuss the underlying statute. First, the nexus to the definition of tangible personal property used in the exploration for, development of, or production of oil or gas was written specifically because it's a nexus to the property tax statute. He said that AS 43.56 levies oil and gas property taxes at a statewide level on tangible personal property used so it was the manufacture of something that was going to create a tax base in the state to begin with. Secondly, he referred to the language in AS 43.20.049(c), which prevents the expenditure from being used for a deduction against the tax levied under this chapter or a credit or deduction under another provision of this title. In Representative Hawker's example of an exploration company, with the "loss carry forward" which he reminded the committee retained in SB 21 for the benefit of new entrants, along with the exploration credits "on the books, at least in middle earth

for a little while," the use of that expenditure for a producer or explorer is more valuable as a deduction or qualifying expenditure for one of the other credits in this chapter. He summarized that this was the limiting utility in the way the underlying statute was drafted. This narrowly would apply to a group that really is a corporate income taxpayer who might be the service company working with the producer or explorer. He offered a willingness to continue to work with the committee to develop "sideboards" on the language. However, the limiting factor in the development of the credit was to recognize that the expenditures are more valuable in other places in statute, he said.

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REPRESENTATIVE HAWKER appreciated the relative value of an individual expenditure. He said that someone claiming the tax credit will be limited to a one-time credit; however, a person contracting with the company couldn't also claim the credit. He suggested that at some point it will be necessary to fine tune who actually is eligible for tax credit.

MR. PAWLOWSKI answered correct.

[2:13:18 PM](#)

REPRESENTATIVE HAWKER returned to [AS 43.20.049] (c), which read:

- An expenditure that is the basis of the credit under this section may not be the basis for
- (1) a deduction against the tax levied under this chapter;
 - (2) a credit or deduction under another provision of this title; or
 - (3) any federal credit claimed under this title.

REPRESENTATIVE HAWKER asked to parse through the language noting subsection (c) relates to the corporate income tax, but paragraph (1) clarifies that the taxpayer can't take a credit and deduction at the same time. However, paragraph (2) would preclude using the credit under AS 43.20.049 (c) as the basis for a credit or deduction under another provision of this title. He questioned whether a specific exemption is necessary in order to allow the expenditure to be applied to AS 43.56. He pointed out that the language in AS 43.20.049 (c) may have embedded a prohibition against what HB 334 is doing.

MR. PAWLOWSKI responded by acknowledging that SB 21 was narrowly crafted last year and the decision to broaden the capability is something the department must carefully think through.

REPRESENTATIVE HAWKER commented on how difficult it can be to interpret statutes over time.

[2:16:04 PM](#)

REPRESENTATIVE SEATON said if an oil company orders something built for them, but the ten percent tax credit can't be used as a deduction for anything else, it would have absolutely no relative value. He asked for an example of how the tax credit [under AS 43.20.049] could be applied. Certainly an oil company wouldn't give away a 25 percent tax credit to manufacture something for the field to subsequently receive a 10 percent tax credit.

REPRESENTATIVE TARR stated the as introduced included language that limited the transfer to the initial purchaser of the tangible personal property, but Version U doesn't contain that language. She asked whether the committee should consider including that provision.

[2:17:29 PM](#)

CO-CHAIR SADDLER held public testimony open on HB 334.

[HB 334 was held over].

HJR 30-IZEMBEK LAND EXCHANGE

[2:17:45 PM](#)

CO-CHAIR SADDLER announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 30, Requesting that the federal government and the United States Secretary of the Interior reconsider the Izembek Land Exchange decision and approve the Izembek Land Exchange, allowing the residents of King Cove to have road access to the Cold Bay Airport for critical health and safety reasons and to improve the quality of their lives.

[2:18:07 PM](#)

REPRESENTATIVE BOB HERRON, Alaska State Legislature, testifying as the prime sponsor, stated that HJR 30 dissects the "no

action" decision by now U.S. Secretary [of the Department of the Interior (DOI)] Sally Jewell. He asserted that the Environment Impact Statement (EIS) did not follow the law, and the resolution points that out and seeks to have the legislature endorse this resolution and send it to Washington, D.C. He explained that this refers to the Omnibus Public Land Management Act of 2009, endorsed unanimously by the legislature [in 2010 with passage of House Bill 210]. The federal act required an EIS, which was worked on for four years. As you know, he said, former U.S. Secretary [of DOI] Ken Salazar rejected the proposal, affirmed by Secretary Jewell, essentially blocking the land swap and the public safety corridor from King Cove to Cold Bay.

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REPRESENTATIVE HERRON explained that federal case law and Congressional actions have reinforced the principle that trust responsibilities to Alaska Natives applies to all federal officials, all federal decisions, and all federal activities. He offered his belief that USFWS conveniently decided it is exempt from this [Act], but of course they are not. He said that the DOI likes the situation, such that the Bureau of Indian Affairs had the trust responsibility for Alaska Natives, and by custom the Assistant Secretary of the Interior - Indian Affairs - has been an American Indian or an Alaska Native. However, the U.S. Office of Management & Budget (OMB) reduced their funding and the administration moved the office to the White House Domestic Policy Council. Now it is conveniently housed, in most part, by the Senate Committee on Indian Affairs. Thus, the role of trust responsibility has gotten farther and farther removed from the DOI.

REPRESENTATIVE HERRON indicated that the U.S. Courts have warned the federal officials they are bound by every moral and equitable consideration to discharge this trust responsibility in good faith and fairness. Although everyone can read the resolution, substantial background exists, in particular, that the U.S. Fish and Wildlife Service (USFWS) believes it is exempt and does not have a responsibility for public safety and people. Still, the Congress has explicitly associated trust responsibility with six federal departments - Education, Energy, Health and Social Services, Housing and Urban Development, Labor, and the DOI.

[2:21:46 PM](#)

REPRESENTATIVE HERRON related the background of this decision. He referred to page 2, line 4, that highlighted the legislature unanimously passed House Bill 210, approving the state's participation in the Omnibus Public Land Management Act of 2009. The state wants the land exchange, he said. He referred to page 2, lines 29-31, in which the USFWS publicly stated, "safety considerations are important, but they were not a factor in this decision-- at least not a factor we analyzed, since we only analyzed the environmental impacts, which is what we were called upon to do since we are not a public safety organization"," He reminded members everyone has seen USFWS employees "pack a weapon" and in fact, they take actions to protect public safety.

REPRESENTATIVE HERRON, fast forwarding to 2013, noted he was in King Cove when the Assistant Secretary of Indian Affairs, Kevin Washburn, visited the community. He said he was also present with U.S. Senator Lisa Murkowski when Secretary Jewell visited the community. He emphasized what the agencies have chosen to leave out is that the federal agencies have not produced a public interest finding that is required. He further said that the process requires the federal government to state why there isn't a need for medical evacuations of Alaska Natives and also to remove members of the community from a dangerous situation.

[2:24:17 PM](#)

REPRESENTATIVE HERRON, referring to language on page 4, lines 3-6, related that HJR 30 states the federal government and the Secretary of the Interior purposefully ignored biological and technical information concerning environmental justice and transportation considerations. He referred to page 4, line 15, and noted Secretary Jewell's decision did not provide the required reports. After listening to all of the K-12 students, Secretary Jewell said, "I've listened to your concerns, now I must listen to the animals." He reported that subsequently Secretary Jewell did essentially the same thing at the community meeting.

REPRESENTATIVE HERRON concluded that the USFWS thinks it is exempt from a trust responsibility to the Alaska Natives. This resolution addresses how the USFWS purposefully and willingly did not follow the Act or the Congressional Case Law.

REPRESENTATIVE HERRON related that when he was in Washington, D.C., last week, Senator Lisa Murkowski personally requested she be able to testify on HJR 30. He said this issue is important

to her because it is an example of how callous the DOI has become in its responsibilities to Alaska.

[2:26:16 PM](#)

REPRESENTATIVE HERRON pointed out members' packets contain a photograph entitled "U.S. Fish & Wildlife Service - Your Guide to Hunting on National Wildlife Refuges" that depicts three bird hunters. One reason given for the USFWS's "no action decision" was due to the impact on black brant and the eel grass. He read an excerpt from the guide, as follows, "... it appears hardy water fowlers can hunt in the eelgrass to pursue and achieve their daily bag limit of black brant, and then search for ptarmigan on the upland year-round."

REPRESENTATIVE HERRON said that the trust responsibility is not a limitation on Alaska Natives freedoms and rights; instead, it is a limit on the federal government over Alaska Natives and Alaskans, specifically the DOI's authority over Alaska. The most recent Izembek [National Wildlife Refuge] decision has utterly ignored the responsibilities that the federal government is required to maintain, he stated.

[2:27:36 PM](#)

REPRESENTATIVE HAWKER thanked the sponsor for bringing forward HJR 30. He said:

This whole issue has brought me personally as a state legislator to a slow burn. And I mean that burn has gone beyond smoking and, I mean, it's just, it ought to be a raging fire with every single person in the state legislature and every person in the State of Alaska. And this foolishness from the feds has got to end. It is completely and totally irresponsible for them to stand in the way of what truly is a public safety measure.

REPRESENTATIVE HAWKER said if he could he would personally take a bulldozer and start building the road and let [the federal government] stop the state. He offered his belief that it has reached that point in dealing with the "feds" on this issue. It's time to stop sending these strongly worded letters of support for something they are obviously not going to do. He suggested it may be time to take matters into "our own hands" and just do it. He said that he is happy to support HJR 30.

REPRESENTATIVE HERRON reported that all three members of the Alaska Congressional Delegation are fired up about this issue. He acknowledged that they are strident about the way Alaska has been treated. He hoped U.S. Senator Lisa Murkowski will be able to testify.

[2:29:25 PM](#)

REPRESENTATIVE KAWASAKI noted that proposed road projects have project alternatives. He asked what the next step is in a "no action alternative" from the state's perspective.

REPRESENTATIVE HERRON related that for four years the coordinating agencies determined that there was no other alternative but a road. However, the EIS ignored this determination even though the federal agency EIS document was complete. He offered his belief that this was a pre-engineered decision to say "no action," and he surmised it was a decision that was made above Secretary Jewell's "pay grade."

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REPRESENTATIVE JOHNSON remarked that he'd like to put on the record what Alaska is prepared to give up as a state. He asked for further clarification on the amount of acreage "swap" in the proposed Izembek Land Exchange.

REPRESENTATIVE HERRON explained the federal government would receive 60,000 acres and in return the state and local region would receive 206 acres.

REPRESENTATIVE JOHNSON answered that it speaks for itself.

REPRESENTATIVE SADDLER acknowledged it was a considerable ratio.

REPRESENTATIVE HERRON remarked what is incredible is that even though the DOI and USFWS are required to consider the human and public sector factors, those factors were irrelevant to them.

[2:32:01 PM](#)

CO-CHAIR SADDLER inquired whether other examples exist in which the federal government has agreed to be bound by the trust responsibility.

REPRESENTATIVE HERRON answered yes; case law throughout history exists in terms of the government's responsibility under

[Article] 16 of the Constitution. However, similar instances also happen, which he characterized as being an indifference that seems prevalent. He surmised that the federal government is geographically removed and feels that Congress has taken over the trust responsibilities of the Alaska Natives and American Indians, although that somehow doesn't occur. He suggested a broader fear of the eight-mile road representing the public-safety corridor exists such that the DOI is afraid that if it agrees to this it will set precedent for a public-safety corridor in every wilderness and every refuge.

[2:33:31 PM](#)

CO-CHAIR SADDLER said that the point is it means people can't be safe in refuges.

REPRESENTATIVE HAWKER suggested that the land Alaska would give in the Izembek Land Exchange is an amazing ratio, and if his math is correct it would consist of "34 to 10,000" in terms of the land the federal government would receive.

[2:33:59 PM](#)

REPRESENTATIVE TARR asked whether other public safety improvements have been considered that might address some of the health care needs.

REPRESENTATIVE HERRON responded that the environment is the limitation since the airport is designated "zero-zero" 100 days per year, noting that King Cove represents an important port for the fishing industry. Although King Cove has a safe harbor, once boats are out of the harbor the seas are rough. He emphasized that this issue really becomes an issue of safe medical evacuation. He pointed out that 18 people have died, including members of the U.S. Coast Guard. He referred to the press release in members' packets dated February 14, 2014, noting the difficulty of medavac evacuations, yet the community of approximately 1,000 people lives 25 miles away from one of the largest airport runways in Alaska. He emphasized the runway's size by mentioning that it was considered as a second alternative for space shuttle landings. He stressed that every alternative was considered and vetted by the coordinating agencies. One alternative was to use hovercraft, but it was deemed to be too expensive and not reliable due to the challenging weather conditions in the region.

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CO-CHAIR SADDLER opened public testimony on HJR 30.

[2:36:51 PM](#)

SENATOR LISA MURKOWSKI, U.S. Senator, United States Senate, said she appreciated the opportunity to support HJR 30. She has previously submitted written testimony; however, she asked to supplement her testimony. This resolution outlines the history and long fight that the 953 residents of King Cove have been engaged in over a decades in order to gain access to a safety corridor to allow access to the second-longest runway in Alaska for purposes of life-safety. She emphasized it is important to reinforce that Secretary [Jewell's] decision on December 23 to reject the road alternative also rejected the legislative act that reflected the work of all respective agencies since legislation passed through the U.S. Senate, was concurred in by the House of Representatives, and signed into law by the President of the United States. The one remaining thing was a best interest finding from the Secretary of the Interior. Her actions effectively ignored the will of the Congress to move forward with the land exchange and the safety corridor for the people of King Cove. She has shared the fact that this is a 300-to-1 land exchange in which the Alaska Natives in King Cove were willing to give up land they received as part of their Native land settlement. The state also had agreed that the exchange would allow for new wilderness areas in the state despite the typical resolve against adding new wilderness in Alaska. She said, "Still, this was not good enough for the Secretary of the Interior, a 300-to-1 exchange."

SENATOR MURKOWSKI remarked that the action defies logic. She characterized the land exchange rejection as "a stunning injustice" to the people of King Cove and beyond that an injustice to the people of Alaska.

[2:40:44 PM](#)

SENATOR MURKOWSKI related that Alaska hears far too often the frightening circumstances in which medical evacuation to Anchorage is necessary. She said the community faces dangerous life-threatening circumstance, one of which played out on February 14, 2014. If not for the heroics of the U.S. Coast Guard, who knows what might have happened to the woman facing the medical emergency. Besides the residents of King Cove not able to gain safety, it also places the men and women serving in the USCG in dangerous circumstances. The pilots and crews

willingly attempt rescues at considerable risk to themselves and at considerable financial cost to the taxpayers, she said. In this instance the dangers could all be avoided with a 10-mile, one-lane, non-commercial use road.

[2:42:14 PM](#)

SENATOR MURKOWSKI said at the time Secretary Jewell rejected the road, she indicated that she would work to help the people of King Cove, but no proposal has been forthcoming. In fact, she has not found one person at the DOI who has moved forward to improve the situation, and each day that passes the people of King Cove are placed at risk due to the decisions the federal government has made.

SENATOR MURKOWSKI appreciated that the committee has advanced a resolution which is strong, clear, and lays forth the facts and reasons why it is imperative all Alaskans work to address this wrong brought about by Secretary Jewell's decision. She offered her belief that this resolution will help affirm that Alaskans are united in opposition to the Secretary of the Department of the Interior's decision and are also united in desiring to protect the health and safety of those who live in King Cove.

CO-CHAIR SADDLER advised that her written comments will be distributed to members.

[2:44:37 PM](#)

REPRESENTATIVE KAWASAKI thanked Senator Murkowski for her efforts to help Alaska. He related that Secretary Jewell has made overtures to indicate she would like to speak to the Alaska Congressional Delegation on this matter. He pointed out the language in HJR 30 is somewhat inflammatory, more specifically, it states "heartless and cold decision" [page 4, line 13]. He wondered if this type of strongly-worded message is necessary and whether she stands by that language.

SENATOR MURKOWSKI responded she has used those exact terms, in fact, she has called Secretary Jewell's decision "heartless" because she believes the decision was without regard to Alaska's Native people in King Cove. She said this troubles her greatly, particularly since the Secretary of DOI has a trust responsibility to Alaska's Native people. She concurred the language in the resolution is direct and something Secretary Jewell will not like to receive, but the state must be very clear and state in no uncertain terms that Alaskans feel very

strongly this decision should not be allowed since it directly relates to the safety of the people who live in the region. She deferred to the committee to carefully and critically examine the language; however, she stands behind the words she has used. Ultimately, the legislature must be certain it can stand behind the words it uses, as well.

[2:47:06 PM](#)

SENATOR MURKOWSKI recalled addressing the legislature in February. She stressed that the King Cove road issue is not an issue where something else can be found to make it go away. She emphasized it isn't possible to trade the health and safety of human beings for another project. In fact, this is not a project, but is an issue that relates to people's lives in a remote part of the USA. The government has an obligation - where possible - to provide a level of safety and ways to improve the quality of people's lives. She said she has specifically informed Secretary Jewell that she does not intend to back down from this and concluded that Alaskans agree a road is the right decision. However, she acknowledged that the way Alaska states its case is important. She appreciated that as lawmakers the legislature is willing to advance a detailed and direct resolution.

[2:48:45 PM](#)

REPRESENTATIVE JOHNSON inquired whether the resolution is directed at the right person and if Secretary Jewell will be making the final decision since it didn't seem logical that one person could stand in the way.

SENATOR LISA MURKOWSKI answered there has been a request for reconsideration of Secretary Jewell's determination, which clearly rests with her. She reported that the 2009 legislation gave responsibility to the Secretary of Interior for making the best interest determination. She has used every tool available to ensure that the administration understands how this issue relates to Alaska. She related that she has had repeated conversations with Vice-President [Biden] to ensure that he was aware of Alaska's position. She believed that if Secretary Jewell decides to make the decision it will be done. However, she did not think it hurts to direct this resolution to both Secretary Jewell and the President; however, ultimately she believes the decision will be made by Secretary Jewell.

[2:51:09 PM](#)

CO-CHAIR SADDLER opened public testimony on HJR 30.

[2:51:45 PM](#)

HENRY MACK, Mayor, City of King Cove, explained he is a life-long resident of the City of King Cove. He thanked committee members and the legislature for the overwhelming support for the Izembek Land Exchange leading to the approval of the one-lane gravel road connecting King Cove to the Cold Bay airport. He recognized Representative Herron who authored HJR 30 and spent considerable time in King Cove the past few years becoming very familiar with the transportation access issues. This approval process has been a long time in the making. He related he served on the city council in 1976, when the City of King Cove adopted its first resolution identifying the need for this road to access the Cold Bay airport. Since that time 12 people have been killed flying in and out of King Cove and countless relatives and friends have been adversely impacted by the necessity for medevac evacuation from King Cove. He expressed astonishment that the community is still trying to address this basic quality of life issue for residents with the federal government. He emphasized the incredible offer to trade over 60,000 acres of state and King Cove Corporation land to the federal government for 206 acres of the Izembek land to allow nine miles of one-lane road access to the Cold Bay airport.

[2:53:30 PM](#)

MR. MACK noted that two days before Christmas, Secretary Jewell said no to the people of King Cove. He reported that the entire community is outraged, particularly since it implies that the lives of King Cove's residents are not very important to her or to the USFWS.

MR. MACK said the further insult to the Aleut people of King Cove was the very flawed and biased EIS, which the federal government has used to justify this unbelievable decision. Secretary Jewell has further insulted the community by saying the marine landing craft could work better than a road to transport the sick and injured residents of Cold Bay. This position shows a lack of federal government's awareness of the extreme weather and marine navigational issues at the Western end of the Alaska Peninsula. He pointed out this decision is one of the most recent and extreme examples of federal government overreach in Alaska. Finally, he stated that this decision represents a major cultural insult to the predominantly

Aleut residents of King Cove since it completely ignores the government's trust responsibility to fairly listen and include the resident's expectations and concerns when decisions are made that affect the lives of residents. Although the community has asked Secretary Jewell to reconsider, thus far she has not yet responded to the mid-January request. He has personally advised Secretary Jewell and her staff that the matter will not go away until the right decision is made. In closing, he respectfully asked members to approve HJR 30 that clearly expresses the community's needs, frustration, emotions, and expectations on this critical issue to residents of King Cove. He thanked the legislature and administration for standing strong and for their commitment to the community on this important Izembek issue.

[2:56:04 PM](#)

MIKE COONS, Director, Citizen Initiatives, Alaska, said he was testifying on behalf of himself and as the state director of Citizen Initiatives, a national organization. He has previously given a presentation on the Izembek land fiasco, which is also available on the website patriotsride.org. He said he has previously submitted written testimony to the committee, and he expressed outrage over Secretary Jewell's decisions and frustration with the federal government that is more concerned with politics and animals than Alaskans and Americans. He expressed further frustration that resolutions passed by the legislature are read by few and then forgotten. During the past two years he has yet to see a resolution have any impact on the Congress to the advantage of Alaska. He said that Citizen Initiatives has been working on a constitutional amendment called the countermand amendment to call for a convention of states under Article V of the U.S. Constitution; however, he has not been able to get his resolution introduced and passed. The countermand amendment would give 60 percent of the states the ability to countermand actions like [the decision] Secretary Jewell made, could put Alaska and the majority of freedom-loving states in the driver's seat, and would make these resolutions no longer needed. The countermand amendment would return to the states the sovereignty and power over that of an overreaching and blind federal government. He then offered support for HJR 30, stating it is all we have for now. He asked members to read the proposed countermand amendment and offered his willingness to discuss this and future Article V calls.

[2:58:54 PM](#)

STANLEY MACK, Mayor, Aleutians East Borough, stated that Mayor Henry Mack is his nephew. He was born in King Cove but now lives in Sand Point. He stated that he has been a fisherman for 60 years and thanked members for the opportunity to testify. He appreciated the strong and consistent support for the issue. He acknowledged Representative Herron's personal advocacy and understanding. He said the Izembek Land Exchange will allow a one-lane gravel road to be built so the 950 residents of King Cove can finally reach a safe and dependable access to the Cold Bay airport. As Mayor Henry Mack previously testified, he too, was appalled and angered by Secretary Jewell's decision two days before Christmas. He recognized that not all transportation challenges can be resolved, especially given the weather, topography, and funding issues throughout Alaska; however, the King Cove transportation access problem is different because it can be solved. In fact, it is one reason that the community has been persistent for so long. He reiterated the unprecedented land exchange that would have given 60,000 acres in exchange for 200 acres [to allow for road access]. He thanked the legislature and the governor for standing so strong and committed to the communities on this controversial issue.

[3:01:20 PM](#)

GARY HENNIGH, City Manager, said that both Mayor Henry Mack and Mayor Stanley Mack have nicely summarized the testimony. He explained he gave up his time to them, but thanked members for the opportunity to testify.

[3:01:36 PM](#)

CO-CHAIR SADDLER closed public testimony on HJR 30.

REPRESENTATIVE P. WILSON moved to report HJR 30 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HJR 30 was reported from the House Resources Standing Committee.

[3:02:10 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:02 p.m.