

HOUSE FINANCE COMMITTEE
FOURTH SPECIAL SESSION
June 1, 2016
3:08 p.m.

[3:08:24 PM](#)

CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 3:08 p.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair
Representative Steve Thompson, Co-Chair
Representative Dan Saddler, Vice-Chair
Representative Bryce Edgmon
Representative Les Gara
Representative Lynn Gattis
Representative David Guttenberg
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Lance Pruitt
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Jerry Burnett, Deputy Commissioner, Treasury Division, Department of Revenue; Ken Alper, Director, Tax Division, Department of Revenue; Randall Hoffbeck, Commissioner, Department of Revenue; Benjamin Brown, Commissioner, Alaska Commercial Fisheries Entry Commission, Department of Fish and Game; Bruce Twomley, Chairman, Alaska Commercial Fisheries Entry Commission, Department of Fish and Game; Brandon S. Spanos, Deputy Director, Tax Division, Department of Revenue; Representative Louise Stutes; Representative Sam Kito III, Representative Liz Vasquez; Representative Andy Josephson; Representative Paul Seaton; Representative Gabriele LeDoux.

SUMMARY

HB 4003 MOTOR FUEL TAX

HB 4003 was HEARD and HELD in committee for further consideration.

HB 4005 MINING: LICENSE, TAX, FEES; EXPLOR. CREDIT

HB 4005 was HEARD and HELD in committee for further consideration.

HB 4006 FISHERIES: TAXES; PERMITS

HB 4006 was HEARD and HELD in committee for further consideration.

Co-Chair Thompson indicated that amendments would be taken up in the current meeting. If it was the will of the committee he intended to move the bills out. He stated//

[3:09:26 PM](#)

#hb4003

HOUSE BILL NO. 4003

"An Act relating to the motor fuel tax; and providing for an effective date."

Representative Wilson MOVED to ADOPT Amendment 1, 29-GH2458\A.1 (Shutts/Nauman, 5/28/16) (copy on file):

Page 1, lines 11 - 12:

Delete all material and insert:

"(3) the tax on all aviation fuel other than gasoline sold or otherwise transferred

(A) on the premises of an airport within the Alaska international airport system, as that term is defined in AS 44.42.290, is 3.2 cents a gallon;

(B) outside the premises of an airport within the Alaska international airport system, as that term is defined in AS 44.42.290, is 6.5 [IS THREE AND TWO-TENTHS] cents a gallon; and"

Co-Chair Thompson OBJECTED for discussion.

Representative Wilson explained the amendment would exempt international airports [from the motor fuel tax]. She detailed international airports were currently self-sustainable and actually gave more money than necessary. She furthered that with the 6.5 cent tax, there would be 31 states lower than Alaska when it came to jet fuel tax. She continued the airports paid leases and landing fees. She explained there had been other increases at the airports as well. She stressed the airports paid for more than just jet fuel. She noted the administration had not provided information on the impact of a 1 cent or 2 cent tax. She reasoned the state could continue to raise the tax all it wanted, but she wondered what would have been accomplished if companies and jobs left. The amendment would help smaller airports to be a bit more self-sustainable - she believed they would never be completely self-sustainable. She reminded committee members a meeting had been held the prior summer regarding landing fees for smaller airports where it was decided to increase taxes on fuel instead. Unfortunately, the method taxed larger airports, which were already paying much more. She expressed concern about the negative impacts the tax could have on international airports, which included Fairbanks and Anchorage (the Juneau airport was municipal and was therefore not included).

[3:11:18 PM](#)

Co-Chair Thompson relayed that Representative Gara had joined the meeting. He asked if the governor's original bill had proposed a 10 cent jet fuel tax.

Representative Wilson replied in the affirmative.

Co-Chair Thompson stated the current bill included a 6.5 cent tax. Representative Wilson affirmed.

Representative Gattis relayed she had not participated in the committee meeting when landing fees in smaller airports had been decided against. She recognized a fuel tax was probably more advantageous than trying to monitor runway landings. She believed it was not reasonable to hire a person to collect landing fees at every airport. She shared that she was a private pilot and was not certain how the fee was paid with the exception of a box used to monitor landings.

3:12:23 PM

Vice-Chair Saddler shared that he was a private pilot and nationally the decision had been made to pay for many of the services provided to the aviating public through fuel because all planes required fuel.

Representative Kawasaki shared that his mom drove from one side of town to the other to purchase gasoline that was 1 cent cheaper. He understood it did not logically make sense to drive that far. He reasoned it was sort of an international market and individuals gas up where they felt they could get the "best bang for their buck." He continued that sometimes planes had to gas up in Alaska before flying internationally. He wondered about gas prices compared to other nearby airport jurisdictions.

Co-Chair Thompson shared he had done a tour of the Anchorage International Airport with its airport manager. He relayed that no one knew how much each of the airlines paid for their fuel. He elaborated fuel arrived at the port and was delivered via pipe to large fuel tanks. The information was proprietary - each of the air carriers had made a deal with different companies to purchase fuel.

Co-Chair Neuman indicate he had also spoken with the airport manager. He detailed the airlines had an association where they bought their fuel. He furthered the C-plan [contingency plan] had to be redone for Cook Inlet a couple of years back when tanks had been expanded. He believed the governor had an equitably crafted plan. He had heard from industry on all three proposed taxes that it was necessary to tax all three industries instead of one or two. It was his understanding the governor had spoken with the airline industry and had addressed landing taxes. He shared that he had brought up landing tax as an issue when he chaired the House Transportation Committee due to the cost to airports. He mentioned people did not believe it was appropriate to have extra landing fees for bypass mail. He referred to the state-owned airport in Prudhoe Bay that had no landing fees and costs were completely covered by the state. He asked whether that was appropriate. He relayed that money collected by the Anchorage and Fairbanks International Airports stayed within their own units; however, the two airports still had some large expenses. He believed there were probably still state matches on federal funding received by the airports for improvements. He

believed the governor had tried his best to craft a plan on the taxes. He would not be supporting the amendment because he did not know how it would affect the whole budget proposal. He did have some issues with the motor fuel tax related to how it would impact drivers.

[3:17:04 PM](#)

Vice-Chair Saddler clarified that motor fuel referred to gasoline and diesel used on the road for cars and trucks. Alternatively, aviation gasoline was used in aviation aircrafts other than jets (i.e. 80 leaded or 100 low-lead). Aviation fuel other than gasoline was kerosene jet fuel (i.e. JP-6 and JP-4). He assumed motor fuel used in and on water crafts was gasoline and diesel.

Representative Gara remarked on the long distance between places like Alaska and New York, New York and California, and Hawaii and Florida. He did not believe the change in jet fuel taxes would have an effect on the industry - when the state had the lowest fuel taxes in the country. He continued that jets flew long distances to places with much higher fuel taxes. He commented on the state's \$4 billion budget deficit. He did not believe the tax would impact business and had not heard any evidence to the contrary. He remarked that no one liked taxes, but he challenged others to come up with an alternative plan to fill the budget deficit.

Representative Guttenberg understood that international flights did not pay taxes at airports.

Co-Chair Thompson replied in the affirmative.

Representative Guttenberg wondered if an analysis had been done breaking out the detail on cost burden to various types of aircrafts at different airports.

Co-Chair Thompson answered there had been discussions on the topic throughout the committee process.

Representative Guttenberg surmised the burden fell on aircrafts besides those on international flights in regards to how much fuel was used.

[3:19:56 PM](#)

Representative Pruitt spoke in favor of the amendment. He relayed he also had amendments in case the committee felt the tax was higher than it should be. He discussed that one-eighth of the Anchorage population was employed at its international airport. He referred to a recent report listing Providence Hospital as the state's largest employer, but it had been the airport the previous year. He disclosed he had previously worked for FedEx and was a shareholder. He received the company's reports and relayed it was buying 777 aircrafts, which would overfly Anchorage. He provided a scenario of a flight plan with a departure from Memphis where the air carrier paid the domestic tax. When the carrier filled up in Anchorage it did not pay a tax on its way to an international destination. Alternatively, when the carrier flew from an international location to Anchorage it would pay the tax on its way to another domestic city. He was concerned about the company buying 777 aircrafts intentionally to fly from a location like China directly to Memphis. He reasoned at that point it would impact jobs in Anchorage. He asked if the state was more concerned about making a bit more money in taxes over the potential job opportunities available in Anchorage. He was concerned about increasing taxes too much, too quickly. He continued Anchorage was constantly in competition with other airports such as Vancouver, Portland, and Seattle. He had spoken with the commissioner of the Department of Administration under a previous administration and they had agreed it was necessary to market the Anchorage airport appropriately to maintain the job opportunities. He believed it was important to be cautious about the effect the tax would have on jobs at one of the state's largest employers.

Vice-Chair Saddler commented that it would be helpful to have better analysis about the potential effects of the taxes. He stated the committee had only heard from the administration that there was a big deficit and the proposed taxes were the needed amount. He did not believe the information provided by the administration was compelling enough when considering the points made by Representative Pruitt. He stressed that taxes did influence corporations and business decisions. He could have considered the proposal more with additional information about the "sweet spot" that would not cause damage to the private sector.

[3:23:58 PM](#)

Co-Chair Thompson asked the Department of Revenue (DOR) to address the committee. He asked for clarification on Representative Pruitt's points. He wondered if air carriers were charged tax when coming from a foreign country on their way through Anchorage to another U.S. city.

[3:24:18 PM](#)

JERRY BURNETT, DEPUTY COMMISSIONER, TREASURY DIVISION, DEPARTMENT OF REVENUE (DOR), relayed intent to provide the statutory language.

KEN ALPER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, stated the topic was awkwardly within the definition of motor fuel as it was an older law. He read from statute:

Fuel sold in a jet propulsion aircraft, either A) two foreign countries or that continue from foreign countries.

Mr. Alper detailed if the same flight was traveling from China through Anchorage to Memphis it would not be taxable fuel. He expected for the most part the fuel would not be taxable in the scenario. He elaborated that roughly 80 percent of the jet fuel sold in Alaska was not taxable. He specified that roughly 400 million gallons per year of non-taxed jet fuel was sold in Alaska versus slightly over 100 million gallons of tax-on fuel.

[3:25:32 PM](#)

Vice-Chair Saddler asked if the same exemptions from foreign flights applied to federal fuel taxes.

Mr. Alper responded that he did not know the nature of the federal taxation. The state government had certain restrictions (federal constitutional issues) from taxing international trade. He did not know if the U.S. government had a similar restriction.

Vice-Chair Saddler added that the issue was moot at the current point.

[3:26:16 PM](#)

Representative Gattis shared that her husband was a retired FedEx captain. She remarked on knowing how much fuel a FedEx flight used on trips from Asia through Anchorage and other locations. She thought the issue may play into the reason FedEx had not been involved. She surmised that maybe the company knew it was not paying - she had not been able to get the company involved and had not received any response. She added that it was not the first time the conversation had occurred. She had not received contact from anyone with FedEx. She had been a proponent of the amendment, but thought it may be moot after learning more.

Representative Pruitt remarked that the committee had heard concerns from UPS. He surmised the bill would adversely impact the company in some capacity. He discussed in the past there had been a flight from Taiwan to Anchorage to New York. He detailed that when UPS and FedEx flights landed in Anchorage there was a complete turnover that occurred. He continued that UPS and FedEx were under totally separate rules in certain instances. He elaborated that UPS was under the Railroad Act, but it did not apply to FedEx, which was largely a union issue.

Co-Chair Thompson added that UPS flew partial plane loads from Seattle to Fairbanks to Seattle. He surmised the company would pay the tax under that situation because the flights were not international.

Representative Gattis suspected that FedEx and UPS had flights from Seattle to Anchorage and back. She thought it may be the 20 percent or smaller portion.

Representative Wilson stated the amendment related to that two airports [Fairbanks and Anchorage international airports] that already paid their way. She did not support doubling the fuel tax on the specific airports. She read from a prepared statement.

It is reported by several air carriers that jet fuel at Anchorage is already five to ten cents more expensive on average than our West Coast competitors. Other airports compete for Alaska's business but they have only been successful when offering strong incentive packages. These incentives have a limited duration and have had a relatively minor effect on drawing business away from Alaska.

Representative Wilson referred to a question about taxes in other locations. She shared that the tax in the State of Washington was 0.04 - the proposed tax would exceed the tax in Washington. She stressed they were not talking about California or New York and noted Washington was not far away. She referenced the state's deficit. She emphasized the two airports were paying their way. She did not support asking them for more money when the increase did not focus on looking at the fact that other airports were not paying their way. She was fine the airports were not paying landing fees and she thought it was great they wanted higher jet fuel. However, the bill would hit the state's international airports with an increase to 6.5 cents. She detailed to fill a 747 in Anchorage would cost \$1,584 [in taxes], which was twice the current amount. She stressed the bill would double the costs for airports that were paying their way. She remarked she may be off on her math and noted shaking heads in the room. She had verified that no state funding was provided to the international airports. She remarked on fees, leases, and taxes on airports. She did not support increasing costs for the two airports to pick up the slack for other airports.

Co-Chair Thompson recognized Representatives Liz Vazquez, Sam Kito, and Louise Stutes in the committee room.

Representative Wilson clarified the \$1,584 she had mentioned was how much the tax on fuel [for a 747] would be under the legislation.

Co-Chair Thompson MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Gattis, Munoz, Pruitt, Saddler, Wilson, Neuman
OPPOSED: Edgmon, Gara, Guttenberg, Kawasaki, Thompson

The MOTION to Adopt Amendment 1 PASSED (6/5). There being NO further OBJECTION, Amendment 1 was ADOPTED.

Representative Pruitt WITHDREW Amendments 2 and Amendment 3 (copy on file).

[3:34:23 PM](#)

AT EASE

[3:37:41 PM](#)

RECONVENED

Representative Guttenberg WITHDREW Amendment 4 (copy on file).

3:38:14 PM

Representative Gara MOVED to ADOPT Amendment 5 (copy on file). [Note: due to the length of the amendment it is not included in the minutes. See copy on file for detail.]

Co-Chair Thompson OBJECTED for discussion.

Representative Gara explained that the amendment was similar to amendments discussed in other committees. Under the amendment when the price of oil was low the price of fuel would be lower; when the price of oil was high the price of fuel would be higher. He elaborated that the fuel tax addition in the bill started to disappear when oil prices were high and the price of fuel was high for consumers and the state no longer needed the revenue as much. The fuel tax would remain the same up to \$100 per barrel (a price that high was not included in any near-term forecasts). He continued that when the state started receiving real oil revenue, but when consumers started paying very high prices at the pump, the fuel tax increase of 8 cents would be cut in half to 4 cents. When the price was above \$120 per barrel, the additional 8 cents would disappear. The amendment reflected what the state needed in revenue and what the costs of consumers would be at high prices.

Co-Chair Thompson asked DOR about how it would handle making adjustments whenever the oil price changed. He did not believe prices would be as high as those the amendment addressed for a long time. He remarked that the current legislators may not have to deal with the issue, but he surmised someone would have to deal with it in the future. He asked if the amendment would be workable for the state's IRIS [Integrated Resource Information System].

Representative Gara stated what he tried to make the issue workable. The amendment provided a two-month lag for the department to adjust the tax. For example, if the price of fuel hit \$121 in January the tax could not be changed because it had already happened; therefore, the fuel appropriate fuel tax would occur in March.

3:41:50 PM

RANDALL HOFFBECK, COMMISSIONER, DEPARTMENT OF REVENUE, agreed the amendment was doable, but it would not be easy. The practicality of having to do the programming necessary to coordinate two different taxes with a lag of about one month in which to flip the fuel price on or off when the

price points was possible, but it was outside the scope of the department's current work.

Co-Chair Thompson spoke to the practicality of the amendment.

Commissioner Hoffbeck remarked the changes under the amendment were not practical.

Mr. Alper elaborated that both taxes would have to be programmed into the system. The calculation would have to be done by a certain date. He stated that all the motor fuel tax payers would receive a month-to-month notice showing the rate; it would be a new system DOR would need to establish. He stated the work would not be impossible, but it added a complexity to the current system.

Commissioner Hoffbeck added the department would also have to notify entities collecting motor fuel tax to flip the rate back and forth.

Co-Chair Thompson asked if the gasoline stations would have to send several different returns to the department for different amounts.

Mr. Alper answered that the distributors filling tanks at gas stations were generally the taxpayers (not gas stations directly). When a load was delivered the tax was built in. Part of the problem was the tax was paid at the end of the following month after delivery of the gas; therefore, it may be hard for them to keep their information straight. For example, a distributor did not know what the price would be when they delivered a load at the beginning of March and the tax was paid at the end of April.

Co-Chair Thompson was worried about potential confusion.

[3:43:57 PM](#)

Representative Munoz asked if the tax would be remitted monthly. Mr. Alper replied in the affirmative. The tax was generally paid at the end of the month for the prior month's sales. He referred to his previous example.

Representative Gara stated the tax was paid at the end of the month and the amendment gave the department an extra 30 days to let taxpayers know what the tax would be. He provided a hypothetical scenario - if the average price of oil was determined in January, the department had until the end of February to let payers know what the tax would be. He wondered why it would be difficult.

Mr. Alper explained the department would have to determine the actual average price for the month of January and let taxpayers know by the end of February so that any deliveries on March 1 would be recalibrated for the higher or lower tax. Additionally, it would require time to communicate with the tax payers. With the new system, communications with the taxpayers were mostly electronic and could be instantaneous. He stated anything could be done, but anything that added wrinkles or complexity gave the department a bit of anxiety.

[3:45:35 PM](#)

Representative Gattis relayed that she had many commuters in her district. She believed the issue was important and she understood what Representative Gara was trying to do. She spoke to supporting making the price of fuel less expensive [for consumers]. She wondered how the department would suggest setting the structure up. She appreciated the amendment, but she wondered how the goal could be accomplished without adding complexity to the system. She asked if the department would look at the issue quarterly, every six months, or other. She asked for the department's recommendation.

Mr. Alper suggested that quarterly taxes would be more manageable. The department currently adjusted the interest rate on taxes every quarter and sent out notices. The department did not forget there was no legal requirement for the price of fuel to move up and down with the tax rate. He furthered just because someone may get 8 cents cut off the tax rate did not mean they would immediately pass it on to their consumers. He surmised the tendency may be to leave the rate higher, which would mean a windfall for the distributor in the months the rates went down. The customer would not know whether the tax went up or down and would therefore not be looking for the price of fuel to increase or decrease.

[3:47:23 PM](#)

Representative Gattis believed in the free market. She remarked some companies would not reduce the price of fuel; however, she recognized the ones that did reduce the prices would probably have more customers. She stated every penny added up after a while. She surmised making a change quarterly would be more workable than monthly.

Co-Chair Thompson noted Representatives Andy Josephson, Paul Seaton, and Gabriele LeDoux were in the audience.

Representative Gara disagreed that if the consumers did not know the price that it did not matter. He explained there would be competition between suppliers. He asked if a three-month lag would be better.

Mr. Alper stated that it was not the lag that was the issue. He explained the amendment could still mean the potential for 12 adjustments over the course of a year, which was where a significant portion of the workload would come from. He deferred the question to a colleague for further detail.

[3:49:23 PM](#)

BRANDON S. SPANOS, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, restated his understanding of the question. He stated that the first concern was about making changes to the form, system, and online system. He discussed changes that would be necessary to the form if there were two different rates. He explained the department would need to time to notify the public [Note: audio quality poor]. He stated that quarterly adjustments would be easier from an administrative standpoint; it would provide more time to notify the public. He commented on the ability for people to fill out the forms correctly.

Representative Gara would be happy to work with the administration to get the amendment language right.

Co-Chair Thompson asked if Representative Gara wanted to make a conceptual amendment.

Representative Gara was not sure how to make changes to the amendment to adjust taxes quarterly because it would mean bulking four months together. He did understand providing a longer lag-time.

Mr. Alper referred to page 4, lines 3 and 20 of Amendment 5. He suggested the changing the language "the second month following a month" to "following a quarter." He believed the change would be sufficient.

Co-Chair Thompson believed the change would apply on page 2, line 4 as well.

Representative Gara agreed.

Mr. Alper reiterated the change would need to be applied to page 2, lines 4 and 21; and page 4, lines 3 and 20.

Representative Gara MOVED to AMEND proposed Amendment 5. The conceptual amendment would change the language "the second month following a month" to "the second month following a quarter." The change would be applied to page 2, lines 4 and 21; and page 4, lines 3 and 20. The amendment to Amendment 5 would include any conforming language necessary.

Representative Wilson OBJECTED.

[3:53:36 PM](#)

AT EASE

[3:54:08 PM](#)

RECONVENED

Representative Wilson wanted to know how the amendment would affect the taxpayer. She relayed she had just filed her sales tax online for her small business. She noted she collected the tax all month; therefore, the calculations were not that difficult. She wondered how the change would work for a gas station with automated systems. She asked if the change would impact the quarter after it occurred. She remarked that some places had sophisticated systems and others did not.

Mr. Alper stated that the taxpayer was the distributor that brought gas to stations. He provided a scenario of how the system would work: for the first quarter the calculation would be done sometime during the month of April. The second month meant that on May 1 the gas station would receive a delivery at the new tax rate (the distributor was responsible for paying the tax). He furthered the new tax would be built into the price the gas station was paying. He understood the gas station business adjusted its rates whenever receiving a new delivery. The change in the market price and tax for the fuel would be baked into the delivery price.

Co-Chair Thompson asked for verification the gas station did not pay the tax to the state and that the distributor was responsible for paying the tax. Mr. Alper agreed.

Representative Wilson WITHREW her OBJECTION.

Vice-Chair Saddler OBJECTED for discussion. He referred to page 2, line 21. He wondered if the proposed amendment to Amendment 5 would properly indicate the tax would proceed indefinitely after the conditions were met or only for the one 30 or 31-day period after the quarter.

Mr. Alper stated that it was an awkwardness that would hopefully be resolved through conforming amendments. He detailed the intent that the tax rate would change quarterly and remain in effect until the next change was triggered, was on the record. The department would make adjustments in the regulatory process if the actual bill language did not properly clarify the issue.

[3:57:43 PM](#)

Vice-Chair Saddler added that the amendment sponsor had indicated any necessary conforming language could be made at a later time. He WITHDREW his OBJECTION.

There being NO OBJECTION, conceptual amendment to Amendment 5 was ADOPTED.

Co-Chair Neuman referred to lines 14 through 20 on page 2 of Amendment 5 related to alcohol and blended fuels. He asked if the language was included in the original bill.

Co-Chair Thompson believed it was page 3, line 4.

Representative Gara relayed he had asked Legislative Legal Services to change only the motor fuel tax and not the aviation, marine, or fuel blended with alcohol tax.

Co-Chair Neuman asked for verification that all the other taxes would remain the same.

Representative Gara answered the amendment did not intend to effect any of the other forms of fuel.

Co-Chair Thompson WITHDREW his OBJECTION to the amended Amendment 5. There being NO further OBJECTION, Amendment 5 as amended was ADOPTED.

Representative Gara remarked that the motor fuel tax issue had been addressed the last time a major fiscal crisis occurred (before he was in the legislature). He had conceived the idea for the amendment at that time. He appreciated members' support.

Co-Chair Thompson planned to bring the bills before the committee the following day to try to report them out of committee.

HB 4003 was HEARD and HELD in committee for further consideration.

#hb4005
HOUSE BILL NO. 4005

"An Act relating to the mining license tax; relating to the exploration incentive credit; relating to mining license application, renewal, and fees; and providing for an effective date."

4:00:27 PM

Co-Chair Thompson noted there had initially been an Amendment 1, but he had determined it to be out of order due to ongoing litigation.

Representative Wilson MOVED to ADOPT Amendment 2, 29-GH2457\A.5 (Glover/Nauman, 5/28/16) (copy on file):

Page 4, line 1:
Delete "2"
Insert "8"

Co-Chair Thompson OBJECTED for discussion.

4:01:16 PM

AT EASE

4:01:51 PM

RECONVENED

Representative Wilson explained Amendment 2. She discussed the committee had heard plenty of testimony from the mining community, which was willing to do its part, but felt a 29

percent increase in taxes was too high. The amendment would decrease the 9 percent back to the 8 percent multiple committees had discussed. She remarked the increase would still not be a good thing and its impact was unknown. She hoped reducing the number to 8 percent would have a reduced impact on the community. She believed everyone needed to take part in making sure they were paying for what was going forward.

Co-Chair Thompson remarked that "dueling amendments" had been submitted - one would increase the tax and the other would reduce it.

Vice-Chair Saddler relayed that he had previously chaired the House Resources Committee. He knew mining provided numerous benefits to rural Alaska including jobs, infrastructure, income, tax-base, a way to keep people anchored to their lands, and other. He was concerned he had not seen analysis of what the governor's proposed 9 percent tax would do to the benefits of mining in rural Alaska. In absence of the analysis he could not help but be cautious, which meant supporting the amendment.

Representative Gara spoke in opposition to the amendment. He stated that at some none of the bills under discussion would be worth passing. Currently there was a profits-based mining tax that had not been changed in approximately 60 years. Companies were given exploration credits to help develop a mine. Additionally, taxes only came in when profits were made. Lastly, the tax only applied to income levels above \$100,000 per year. He discussed that at profits above \$100,000 to roll back \$3.5 million in tax revenue that was needed in a state with a \$3.2 billion to \$3.7 billion deficit. He continued that every time someone said no to a tax on a profitable industry the money would have to come from somewhere else. He reasoned if it was in the budget the money had to come from somewhere - at times it had come from schools, the university, municipal revenue sharing, seniors, or other. He stated the money would have to come from somewhere if it they did not determine a way to raise it. Alternatively, there were other revenue raising options, which would need to be increased (e.g. a larger Permanent Fund Dividend cut or a larger income tax). At higher profits he believed it was fair to adjust the tax. He furthered that companies were coming to Alaska for its valuable ore. He reiterated the tax only applied if a business was making over \$100,000 in profits.

[4:06:45 PM](#)

Co-Chair Neuman did not believe the state paid mining companies. He detailed there was a "tax holiday" for the first two or three years on new mines.

Vice-Chair Saddler stated that in the mining industry he did not believe \$100,000 in profits was substantial relative to the investment. He referenced various types of capital investment mining companies made in order to operate. He referred to much discussion about the need to diversify the state's economy away from mining and gas. He reasoned mining was a way to increase diversification. He believed the state needed to do what it could to support the mining industry in Alaska and not use it as a "cash cow." He elaborated mining already provided benefits to the state well in excess of the amount the state spent to regulate it. He did not believe it was the proper place to try to get revenue.

[4:08:07 PM](#)

Representative Edgmon spoke against the amendment. He stated that if there was ad hoc feel to all of the taxes, all of the criticism the legislature directed at the administration for bringing them forward with not enough analysis, he could equally say there was an ad hoc feel to the amendments being offered. He discussed the net taxable income in 2014 for the six major mines paying 95 percent of the mining taxes was \$570 million in total. He reasoned the proposed 9 percent tax would be \$7 million - when divided amongst 6 major multi-national companies was not a significant amount of money. Additionally, the companies were able to deduct the state taxes from federal taxes; therefore, they were able to further reduce the \$7 million. He addressed the amendment which would reduce the tax from 9 percent to 8 percent, which left him questioning why the committee was "messing around with the tax in the first place." He stated if every tax the state levied was going to be counter to industry investing in Alaska, it should not be levying any increases on the resource-based companies. He reiterated many of the companies were very large. He furthered that as much as his enthusiasm for the previous version of taxes had been dampened (if it ever had been called enthusiasm), he was uncertain he could support the measures if the committee kept chipping away at all of the proposed taxes. He explained the impact of the proposed taxes would go from marginal to negligible. He wondered what the committee was doing messing around with the taxes for the amount of political dust the issues were kicking up. He referred to discussion about the cause and effect relationship between the original taxes the governor had proposed. When the committee decided whether it would report the bills out of committee he would have to look at the issue from an equity standpoint. He currently did not see it. He did not believe there was an analysis to support the amendment, which he believed undermined the whole intentions in the first place.

[4:11:20 PM](#)

Representative Munoz supported the amendment for a number of reasons. One of her concerns that during the administration's presentation on the bill comparisons had been made with other states, but the states did not have similar hard rock mining operations. She detailed Arizona, Nevada, and Alaska, had similar operations and Alaska was the highest taxing jurisdiction. She discussed that Juneau had two of Alaska's large mines - the Kensington Mine had taken over 20 years to begin operation. She continued that mining was a capital intensive industry and added hundreds of jobs to the state's economy. She believed additional analysis was necessary on what a tax increase from 7 percent to 9 percent would do.

[4:12:43 PM](#)

Representative Guttenberg spoke in opposition to the amendment. He reported that based on information in the committee packet, the tax had not changed since 1955. He stated it was possible to say it was a 25 percent increase, but it was also a 2 percent increase. In 2014 there were only 14 taxpayers in the bracket (5 of which were the very large mines and the remaining 9 were small and very profitable). He reasoned the tax was profit-based, which companies only paid when profitable. He furthered "mom and pop" companies would only pay an annual license fee if their company earned less than \$100,000. He thought increasing the tax by 1 percent after 55 years would do nothing at all. He reasoned that some of the mines were very profitable and he believed it was completely appropriate to implement a 2 percent increase.

Representative Wilson countered that it was not a 2 percent tax, but a 29 percent increase. She addressed the state cut. She had asked the Fort Knox mine (in her district) what it paid; the mine had paid \$7.6 million to the borough and over \$47 million in revenue over the past 10 years - it was the largest property tax payer in the borough. Additionally, the mine had paid \$17.1 million in taxes and fees to the state in 2014; \$7.3 million in mining license taxes (which accounted for 31 percent of the mining license tax revenue collected by the state); \$9.8 million in payments to Alaska Mental Health Trust Authority, the Department of Environmental Conservation, and others; and in 2016 it would pay \$8.4 million to the borough. She stressed the amounts were not even part of the discussion.

Co-Chair Thompson asked how much the increase would be if the bill was implemented.

Representative Wilson answered there would be a 29 percent increase in taxes if the tax was increased from 7 percent to 9 percent. She read from a prepared statement:

We've heard from the mining industry this increase would result in deterring new investment in Alaska and will shorten the lives of existing mines.

Representative Wilson continued that the 8 percent tax proposal had been vetted in another committee with all the mines participating. She discussed the legislation would impact the industry, but the impact was not known because the legislature had not received a complete analysis. She stressed that any tax increase would have a detrimental impact on the mining industry and would place future investment, jobs, and significant local economic impacts at risk. She emphasized the issue was about more than the state, it was about the state's communities. She was frustrated the committee had not received information about how much state resources were put in. She believed they were merely trying to fill the state's coffers with profits made by the various industries.

Co-Chair Thompson WITHDREW his OBJECTION.

Vice-Chair Saddler asked to be a cosponsor of Amendment 2 and Amendment 3.

[4:17:16 PM](#)
AT EASE

[4:17:38 PM](#)
RECONVENED

Representative Guttenberg OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Gattis, Munoz, Pruitt, Saddler, Wilson
OPPOSED: Gara, Guttenberg, Kawasaki, Edgmon, Thompson, Neuman

The MOTION to adopt Amendment 2 FAILED (5/6).

[4:18:30 PM](#)

Representative Wilson MOVED to ADOPT Amendment 3, 29-GH2457\A.6 (Glover/Nauman, 5/28/16) (copy on file):

Page 3, lines 19 - 23:
Delete all material.

Renumber the following bill sections accordingly.

Page 4, lines 13 - 14:
Delete all material.

Reletter the following subsection accordingly.

Page 4, line 15:
Delete "sec. 6"
Insert "sec. 5"

Page 4, line 17:
Delete "sec. 6"
Insert "sec. 5"

Page 4, line 30:
Delete "Section 10"
Insert "Section 9"

Page 4, line 31:
Delete "sec. 11"
Insert "sec. 10"

Co-Chair Thompson OBJECTED for discussion.

Representative Wilson addressed the amendment. She noted a significant amount had been heard related to the issue. She read from a prepared statement:

The exemption for new mines is critical as projects look to recoup their investments as quickly as possible and work towards positive cash flow. The more mines that we have open, the faster it will fill our deficit.

Representative Gara asked if the amendment gave companies a 3.5-year tax holiday as opposed to the 2-year tax holiday in the bill.

Co-Chair Thompson and Representative Wilson answered in the affirmative.

Representative Gara opposed the amendment. He stressed the mining tax only applied when profits were made. Additionally, the state offered tax credits to help companies pay for exploration and development (operating and capital costs). Companies received the benefit of state help during development. He added it was not one of the more outrageous tax credits the state had on its books.

Co-Chair Thompson asked Representative Gara to clarify what he meant by state help. He explained it had taken Kensington Mine 20 years [to begin operations]. He asked if the state had funded the mine during the entire 20-year period.

Representative Gara answered the state paid an exploration credit up to \$20 million companies could deduct after they became profitable. The credits could be deducted as long as it took to earn enough profits to the deductions (companies could deduct up to half their profits). After the mine began operations companies were allowed to deduct the costs.

[4:21:08 PM](#)

Co-Chair Neuman requested to hear from DOR.

Mr. Burnett deferred the question to Mr. Spanos.

Mr. Spanos asked Co-Chair Neuman to repeat his question.

Co-Chair Neuman asked Mr. Spanos to explain the mining tax credits. Mr. Spanos answered that mines were given exploration tax credits of up to \$20 million. He detailed that expenses incurred during exploration could be taken over a 15 year-period after a mine began production.

Co-Chair Neuman provided a hypothetical situation in which a mine took 10 years to become operational. He asked for verification the mine could deduct up to \$20 million over the first 15 years.

Mr. Spanos answered that no matter how long a company took to incur the costs (such as 20 years) it had 15 years after production began to take the credit.

Co-Chair Thompson asked how the 2-year or 3.5-year tax holiday fit into the 15-year credit deduction process.

Mr. Spanos explained that the 3.5-year exemption was currently in statute. He asked if the question pertained to how the tax holiday fit with the 15-year credit deduction period as well.

Co-Chair Thompson replied in the affirmative.

Mr. Spanos believed companies had 15 years of taxes due. He would have to follow up on the question.

Co-Chair Thompson surmised companies would receive a 3-year tax holiday followed by a 15-year period during which they could use their credit deductions. He asked for verification it was a total of 18 years.

Mr. Spanos replied that he believed it was how the system worked. He would have to double check, but he believed it included the first 3.5 years.

Representative Gara asked for verification that currently larger mines received a 3.5-year tax holiday even if they were making profits. The amendment would maintain the 3.5-year tax holiday, whereas the bill would decrease the tax holiday to a 2-year period. He observed it would not be possible for a company to deduct credits when it was not asked to pay a profits tax. He provided an example where a company started paying for profits in its fourth year of operation and made \$40 million. He asked for verification the company could take all \$20 million in credits in the first year.

Mr. Spanos replied that the credit was limited to one half of a company's net income. He referred to the gross profits tax [Note: audio quality poor].

[4:25:57 PM](#)

Representative Gara asked for verification that a company could use the entire \$20 million in deductions during its first taxable year if it made \$40 million in profits. Mr. Spanos answered in the affirmative.

Representative Gara spoke to his opposition to the amendment. He stressed that the tax was profits-based; companies that were not making profits were not taxed. Additionally, under the legislation the state gave companies a 2-year tax holiday even when profitable. He believed it made sense to not tax companies when they were not profitable. He did not support extending the tax holiday to 3.5 years, which he believed was excessive. He wished he received the tax holiday on his income taxes. He thought the 2-year period seemed fair to generous. He stated that the bill raised \$7 million and he did not support continuing to whittle away at the amount. He believed the public would have a hard time swallowing that individual Alaskans had to pay for the deficit, while companies received tax holidays.

Vice-Chair Saddler spoke in support of the amendment. He reasoned that in order to become profitable, it sometimes took a mineral development company 20 to 30 years. He stated the presumption a company could open up a mine and begin making profits within a year was false. He stated it took many years and significant expense for a company to reach profitability. He stressed that Alaska was built on mining and he believed the land underneath the building may be built on mine tailings [Bill Ray Center, Juneau, Alaska]. He underscored a mine could last for decades when properly built with infrastructure investment. He referred to mines that triggered infrastructure like airports, mills, and other facilities. He believed it was cost-effective to make the investment to find more ore (e.g. Red Dog Mine and others). He opined that shortening the tax holiday was

nonsensical. He furthered that shortening the tax holiday to a 2-year period would be like penalizing "a child for not being able to do the work of a grown man." He believed restoring the tax holiday to the 3.5-year period was appropriate.

[4:30:20 PM](#)

Representative Wilson provided closing remarks on Amendment 3. She read from a prepared statement:

The State of Alaska has very few incentives to track mining investment to the state and doing away with this one would tell the industry that we are not open for business. Investment capital is globally in short supply and retaining this exemption will help us remain competitive. If we kill our industry or we have investors go somewhere else, what truly have we gained?

Representative Wilson wondered what would happen with every investor who chose to invest in another location besides Alaska. She referred to questions about why the state did not lower some costs because investors were going other places. She stressed the state was rich in resources. She reasoned that it was necessary to ask why investors were not coming. She believed the state should be incentivizing investment. She underscored that the issue was about the state's long-term future. She believed the discussion should be about what the state would look like if industry decided to invest elsewhere. She concluded the state would still receive profits by maintaining the current 3.5-year tax holiday. She hoped the state would stay open for business and would not discourage industry from investing in Alaska.

Co-Chair Thompson MAINTAINED his OBJECTION.

A roll call vote was taken on the motion to adopt Amendment 3.

IN FAVOR: Munoz, Saddler, Wilson

OPPOSED: Gara, Guttenberg, Kawasaki, Edgmon, Thompson, Neuman, Pruitt

Representative Gattis was absent from the vote.

The MOTION to adopt Amendment 3 FAILED (3/7). [Note: The committee later rescinded action on Amendment 3 and re-voted; the amendment passed at that time. See approximately 5:14 p.m. for detail.]

[4:33:17 PM](#)

AT EASE

4:46:05 PM
RECONVENED

Representative Gara MOVED to ADOPT Amendment 4, 29-GH2457\A.1 (Martin/Nauman, 5/27/16) (copy on file):

Page 3, lines 21 - 23:

Delete "All new mining operations are exempt from the tax levied by this chapter for two [THREE AND ONE-HALF] years after production begins"

Insert "A new mining operation with a net income under (c) of this section of

(1) not more than \$100,000 is exempt from the tax levied by this chapter for two years after production begins;

(2) more than \$100,000 shall pay half of the license tax on mining provided in (c) of this section for two [ALL NEW MINING OPERATIONS ARE EXEMPT FROM THE TAX LEVIED BY THIS CHAPTER FOR THREE and ONE-HALF] years after production begins"

Co-Chair Thompson OBJECTED for discussion.

Representative Gara explained the amendment. He addressed that the mining tax was profits-based. He did not believe anyone wanted to increase taxes on small "mom and pop" mining operations. The amendment would maintain the 2-year tax holiday for businesses making less than \$100,000 in profits per year. While businesses making over \$100,000 would only pay half the tax rate during the first two years. He thought the state should receive some revenue when companies were profitable. He believed the proposed tax rate in the bill was around 9 percent; the amendment would reduce the tax to around 4.5 percent for profitable companies earning over \$100,000 per year.

4:49:02 PM

Co-Chair Thompson MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Guttenberg, Kawasaki, Gara

OPPOSED: Munoz, Pruitt, Saddler, Wilson, Edgmon, Gattis, Neuman, Thompson

The MOTION to adopt Amendment 4 FAILED (3/8).

[4:49:52 PM](#)

Representative Kawasaki MOVED to ADOPT Amendment 5, 29-GH2457\A.3 (Martin/Nauman, 5/27/16) (copy on file):

Page 3, line 24, through page 4, line 1:

Delete all material and insert:

"*Sec. 6. AS 43.65.010(c) is repealed and reenacted to read:

(c) The license tax on mining is imposed on the net income of the taxpayer from the property in the state, computed with allowable depletion, plus royalty received in connection with mining property in the state. The tax rates applicable to the amount of a taxpayer's net income are as follows:

- over \$100,000 and not over \$250,000: five percent
- over \$250,000 and not over \$500,000: \$7,500 plus seven percent of the excess over \$250,000
- over \$500,000 and not over \$1,000,000: \$25,000 plus nine percent of the excess over \$500,000
- over \$1,000,000: \$70,000 plus 11 percent of the excess over \$1,000,000."

Page 4, line 15:

Delete "amended"

Insert "repealed and reenacted"

Co-Chair Thompson OBJECTED for discussion.

Representative Kawasaki explained that the amendment sought to change the brackets [related to the tax rates applicable to the amount of a taxpayer's net income]. He detailed the brackets had been established during territorial days (prior to statehood) in 1955 as a way to fairly distribute the burden on mining operations within Alaska. He referenced Section 6, page 3 of the legislation, which showed the original brackets still in statute. He specified that mining companies earning less than \$40,000 in profits did not pay a license tax. Mines making between \$50,000 and \$100,000 paid an assessment of 5 percent and \$1,500. He noted the next bracket was for companies earning over \$100,000. He reiterated that the brackets had been in place for 60 years.

Representative Kawasaki furthered amendment was an attempt to make the brackets fair by adjusting for inflation. The amendment would exempt small mining companies earning below \$100,000. The first bracket would apply to companies earning between \$100,000 and \$250,000; the second bracket applied to companies earning over \$250,000 to \$500,000; the third bracket applied to companies earning over \$500,000 to \$1,000,000; and the fourth bracket applied to companies earning \$1,000,000 and above. There were roughly two or

three mines within each of the first three brackets (the exact number was unknown due to taxpayer confidentiality) and there were 5 mines making over \$1,000,000. He believed the amendment was very fair; it removed the unfair burden off small miners and addressed the issue of inflation.

[4:52:42 PM](#)

Co-Chair Thompson MAINTAINED his OBJECTION to Amendment 5.

A roll call vote was taken on the motion.

IN FAVOR: Gara, Guttenberg, Kawasaki

OPPOSED: Munoz, Pruitt, Saddler, Wilson, Edgmon, Gattis, Thompson, Neuman

The MOTION to adopt Amendment 5 FAILED (3/8).

Representative Gara MOVED to ADOPT Amendment 6, 29-GH2457\A.2 (Martin/Nauman, 5/27/16) (copy on file):

Page 3, line 31, following "\$100,000":
Insert "and not over \$250,000"

Page 4, line 1, following "\$100,000":
Insert new material to read:

- over \$250,000: \$6,000 plus 11 percent of the excess over \$250,000

Co-Chair Thompson OBJECTED for discussion.

Representative Gara explained the amendment that applied to companies earning over \$250,000 per year. He stated it was the kind of money most Alaskans would never see in any year of their lives. The amendment would increase the profits tax rate from 9 percent to 11 percent for companies earning over \$250,000. He detailed that the \$7 million in projected revenue in DOR's fiscal note primarily came from the large mines making above \$250,000 per year. The amendment was likely to raise around \$7 million. He noted his business tax for the restaurant he owned appeared in his income tax; he paid a 25 percent tax. He continued a company coming to Alaska to explore for minerals would do so with the exploration credit provided by the state. He did not believe increasing the number to 11 percent would change a company's decision to invest in Alaska if they were profitable. He reasoned the company would get to keep the remaining 89 to 91 percent of their profits. He understood the companies would pay other taxes. He believed the amendment was fair in the time of a fiscal crisis and also when companies paid taxes based on profits. He added he would not propose the

amendment on a mining tax if the tax was not profits-based and was imposed on companies losing money.

[4:56:42 PM](#)

Co-Chair Thompson had heard significant discussion during the current meeting that the mining tax was profits-based. He had heard statements that it was a gross tax and other statements that it was a net tax. He asked for clarification.

Mr. Burnett answered that the mining tax was a tax on the margin created by a mining operation, which contributed to the profits of a company. The companies may have other operations; therefore, the tax was not based on the net income of the company, but on the net margin remaining after deducting the costs of mining operation. The tax was based on the margin because it was not profit until other items such as corporate overhead were included.

Co-Chair Thompson expressed confusion about the issue. He elaborated that his business of 35 years paid tax on the net profit, which deducted his expenses.

Mr. Burnett clarified that the mining tax was based on profit from mining operations after deducting costs of the mining operation. He detailed it was different than the total business profit because a company may have other businesses; it was a subset of a company's business. He explained oil and gas taxes were based on cash flow (money going into and out of a company on an annual basis).

Co-Chair Thompson asked what the tax would be called if a company had only one mine. Mr. Burnett answered that it would be a net profits tax. He added the company would pay other local and corporate income taxes.

Mr. Alper elaborated that if the company that owned the mine was a corporate tax payer, the state's mining license tax was a deduction from the formula that went into the state corporate income tax. He specified the mining license tax was considered an expense.

[4:59:42 PM](#)

Representative Gara asked for clarification on the department's testimony. He asked for verification the profits were the profits of an operation, but if parts of the company related to other business aspects (e.g. a second mine in Utah) those pieces of the business were not included in the tax. He surmised the tax aimed to contain the profitability at the specific mine site in Alaska.

Mr. Burnett answered in the affirmative.

Vice-Chair Saddler asked if the amendment sponsor had any analysis showing the higher tax bracket would not harm the mines in that bracket.

Representative Gara replied that logic was the answer. The amendment only applied to companies making profits exceeding \$250,000 per year. He did not believe a company would leave Alaska when making over \$250,000 because of a 2 percent change in a profits tax. He believed a company would not go to the expense of investing in Alaska unless it found the ore valuable.

Vice-Chair Saddler wondered if there was an analysis on the percentage of the net proceeds would amount to. He asked if the logic was based on the idea that it was appropriate to begin taxing a company when it earned profits slightly over the breakeven point. He asked whether \$250,000 was a large or small profit for a mining company.

Representative Gara answered that he was trying to avoid impacting small mining operations on the margins that may go out of business if taxes were increased. He believed profits of \$250,000 or more represented a significant amount of money. He thought if a company was making over \$250,000 per year it had the means to contribute to the state's budget deficit with a slight increase in the tax. Otherwise, the revenue would have to come from people with less money, which he was not in favor of.

Vice-Chair Saddler remarked that the scale of costs and investments required for a large mine in Alaska was significantly larger than costs for a restaurant in Anchorage.

[5:04:03 PM](#)

AT EASE

[5:04:28 PM](#)

RECONVENED

Representative Gara countered that restaurants required a significant amount of money to run.

Co-Chair Thompson MAINTAINED his OBJECTION to Amendment 6.

A roll call vote was taken on the motion.

IN FAVOR: Kawasaki, Guttenberg, Gara

OPPOSED: Munoz, Pruitt, Saddler, Wilson, Edgmon, Gattis, Neuman, Thompson

The MOTION to adopt Amendment 6 FAILED (3/8).

5:05:25 PM

Co-Chair Thompson MOVED to ADOPT Amendment 7 29-GH2457\A.4 (Martin/Nauman, 5/28/16) (copy on file):

Page 1, line 1, following "credit":
Insert "and royalty payments"

Page 3, following line 18:

Insert a new bill section to read:

"*Sec. 5. AS 38.05.150(d) is amended to read:

(d) For the privilege of mining or extracting the coal in the land covered by the lease, the lessee

(1) shall pay to the state the royalties specified in the lease; the royalties shall be fixed before offering the lease, and shall be effective for a period of not more than 20 years; the royalties shall be not less than five cents a ton of 2,000 pounds; [THE ROYALTY PAYMENT IS SUBJECT TO THE EXPLORATION INCENTIVE CREDIT AUTHORIZED BY AS 27.30;]

(2) shall also pay an annual rental, payable at the date of the lease and annually thereafter, on the land or coal deposits covered by the lease, at a rate fixed by the commissioner before offering the lease; the annual rental shall be effective for a period of not more than 20 years; the annual rental shall be not less than 25 cents an acre for the first year of the lease, not less than 50 cents an acre for the second year, third year, fourth year and fifth year, and not less than \$1 an acre for each year thereafter during the continuance of the lease; the rental for each year shall be credited against the royalties as they accrue for that year; each lease shall provide that the annual rental payment is subject to adjustment at intervals of not [NO] more than 20 years and adjustments shall be based on the current rates for properties similarly situated."

Renumber the following bill sections accordingly.

Page 4, following line 5:

Insert a new bill section to read:

"*Sec. 9. AS 27.30.080 and AS 38.05.212(b)(2) are repealed."

Renumber the following bill sections accordingly.

Page 4, line 10:

Delete "and"

Page 4, line 11, following "Act,":
Insert "AS 38.05.150(d), as amended by sec. 5 of this Act, and the repeal of AS 27.30.080 and AS 28.05.212(b)(2) by sec. 9 of this Act,"

Page 4, line 13:
Delete "sec. 5"
Insert "sec. 6"

Page 4, line 14:
Delete "sec. 5"
Insert "sec. 6"

Page 4, line 15:
Delete "sec. 6"
Insert "sec. 7"

Page 4, line 17:
Delete "sec. 6"
Insert "sec. 7"

Page 4, line 30:
Delete "Section 10"
Insert "Section 12"

Page 4, line 31:
Delete "sec. 11"
Insert "sec. 13"

Representative Gara OBJECTED.

Co-Chair Thompson explained that the amendment included necessary conforming changes identified by the Department of Labor and Workforce Development. He detailed that AS 27.30.080 should have been repealed because the statute provided that the amount due to the Permanent Fund was to be calculated prior to the application of the credit. The changes in the committee substitute (CS) provided that the credit was no longer applicable against royalty payments. He continued the statute was now inapplicable that the credit could only be applied to tax since only royalty payments went to the Permanent Fund. He continued that the royalty payment subject to the exploration incentive credit authorized under AS 27.30 needed to be deleted from AS 38.05.150(d)(1). Lastly, AS 38.05.212(b)(2) needed to be repealed. He asked members if they wanted to hear from the administration.

Representative Gara requested to hear from the administration.

Mr. Alper affirmed that Co-Chair Thompson's explanation was accurate. He discussed that the exploration credits could be used to offset the tax, but under current law the credits could also be used to offset royalties. He specified most mines did not pay royalties to the state - mines only paid royalties to the state if they were operating on state land (just like with oil and gas). Under the specific circumstance a mine could use any of the exploration credits to offset their royalties as well. During the regular legislative session there had been an amendment in the House Resources Committee that made the change. He explained the change had been in a standalone bill - the idea the tax credit could no longer be used against royalties. He explained DOR's attorneys had realized there were a couple of loose ends, which were addressed in the amendment. The amendment cleaned up statutory references to the credits and how they interacted with royalties, which maintained the underlying idea that it should not be possible to use the credits against royalty.

Representative Wilson pointed to AS 27.30.080, which addressed that amounts due to the Permanent Fund under AS 37.13.010 were to be calculated before the application of a credit extended. She wondered what the amendment had to do with the Permanent Fund.

Mr. Alper answered that the Permanent Fund received 25 percent of the royalties for all minerals. He provided a scenario where the state received a royalty from a mine. He explained that if the mine used a credit it needed to be subtracted prior to the calculation of the share that would go to the Permanent Fund. He clarified the section was no longer necessary because the credit was being eliminated.

Representative Wilson asked how the amendment would impact the Permanent Fund.

Mr. Alper replied with an example. He hypothesized if the state was receiving \$1,000 in royalties from a small mine on state land, \$250 would go to the Permanent Fund. If the company used an exploration credit that was used to offset its taxes and half its royalty (bringing the royalty down to \$500), under current statute the company could pay one-

quarter of the \$500, which would mean only \$125 would go to the Permanent Fund [Note: Mr. Alper subsequently clarified his explanation was incorrect]. The amendment would mean a company would no longer have the ability to subtract a credit from the royalty and would therefore have to pay the percentage of the full \$1,000; therefore, the Permanent Fund would receive the full \$250. He added if anything, the change would slightly increase the money going into the Permanent Fund principal, but in many circumstances there would be no impact.

Co-Chair Neuman asked for verification the Permanent Fund would receive payments before credits were taken off of any taxes due.

Mr. Alper asked Representative Wilson to reread the statutory reference she had provided.

Representative Wilson read from statute:

AS 27.30.080. Relationship to Other Funds.

Amounts due the permanent fund under AS 37.13.010 shall be calculated before the application of a credit extended under this chapter.

Mr. Alper replied to the question by Co-Chair Neuman. He explained the Permanent Fund received its money first. He detailed that under current law, the Permanent Fund received the 25 percent of the total regardless. He noted his prior example was incorrect. The amendment made a conforming change because there was no longer a circumstance in which there would be a credit to subtract from the royalty.

[5:11:52 PM](#)

Co-Chair Neuman recapped that the Permanent Fund received its share of the royalty first under current statute. He asked for verification that any credits were applied after the Permanent Fund received its share.

Mr. Alper answered in the affirmative.

Representative Gara WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 7 was ADOPTED.

Representative Pruitt MOVED to RESCIND the committee's action on Amendment 3. He requested a revote. He relayed he had been absent for the discussion on the amendment and had been confused about which amendment the committee was addressing when he voted earlier.

Co-Chair Neuman asked members to be present during the meeting. He stated that if a person missed the vote they missed the vote.

Co-Chair Thompson addressed Amendment 3 that would remove the governor's proposal to reduce the existing 3.5-year tax holiday to 2 years.

A roll call vote was taken on the motion.

IN FAVOR: Munoz, Pruitt, Saddler, Wilson, Gattis, Thompson
OPPOSED: Edgmon, Gara, Guttenberg, Kawasaki, Neuman

The MOTION to adopt Amendment 3 PASSED (6/5). There being NO further OBJECTION, Amendment 3 was ADOPTED.

Representative Wilson understood that Amendment 1 had not been heard because it had been deemed out of place. She understood there was currently a lawsuit related to severance tax, but she hoped that the issue could be considered at another time. She believed it was a major issue that could impact mines throughout the state.

Co-Chair Thompson hoped the issue would be settled in the coming year so the committee could address it during the next session.

Representative Gara remarked that one committee member had been missing and upon his return the vote had changed by two votes. He was [somewhat facetiously] tempted to ask for a revote on his amendments.

HB 4005 was HEARD and HELD in committee for further consideration.

#hb4006

HOUSE BILL NO. 4006

"An Act relating to the fisheries business tax and fishery resource landing tax; removing the minimum and maximum restrictions on the annual base fee for the

reissuance or renewal of an entry permit or an interim-use permit; relating to refunds of the fisheries business tax and the fishery resource landing tax to local governments; and providing for an effective date."

[5:16:30 PM](#)

Representative Wilson MOVED to ADOPT Amendment 1, 29-GH2460\A.3 (Glover/Nauman, 5/28/16) (copy on file):

Page 1, lines 1 - 2:

Delete "removing the minimum and maximum restrictions on"

Insert "relating to the calculation of"

Page 1, line 7, through page 2, line 3:

Delete all material and insert:

"*Section 1. AS 16.43.160(c) is amended to read:

(c) The annual base fee for issuance or renewal of an entry permit or an interim-use permit shall be established under this subsection [MAY NOT BE LESS THAN \$30 OR MORE THAN \$3,000. THE ANNUAL BASE FEE MUST REASONABLY REFLECT THE DIFFERENT RATES OF ECONOMIC RETURN FOR DIFFERENT FISHERIES]. In addition to the annual base fee established by the commission under this subsection, a nonresident shall pay an annual nonresident surcharge for the issuance or renewal of one or more entry permits or interim-use permits. The commission shall annually determine the annual fee for the issuance or renewal of an entry permit or interim-use permit as follows:

(1) the annual base fee for the issuance or renewal of an entry permit or interim-use permit in a limited entry fishery is 0.4 percent of the estimated value of the entry permit, subject to adjustment under (3) of this subsection; if insufficient data is available to determine the estimated value of an entry permit or if no permit sale values have been recorded for the most recent three years, the calculation of an annual fee in a limited entry fishery may be calculated as if the limited entry fishery were an unlimited entry fishery under (2) of this subsection, subject to adjustments under (3) of this subsection;

(2) the annual base fee for the issuance or renewal of an interim-use permit in an unlimited entry fishery is 0.4 percent of the estimated average gross earnings for each permit in the most recent three years for which data are available;

(3) the commission may make an adjustment to an annual base fee if

(A) more than one permit type allows the directed harvest of the same species with the same gear in the same area or if one permit allows the directed harvest of the same species by a combination of gear in the same area; or

(B) the amounts determined under (1) and (2) of this subsection would result in an annual base fee that is not proportional to the rate of economic return for the fisheries covered by that permit [THE COMMISSION SHALL ESTABLISH THE ANNUAL NONRESIDENT SURCHARGE BY REGULATION AT AN AMOUNT THAT IS AS CLOSE AS IS PRACTICABLE TO THE MAXIMUM ALLOWED BYLAW]."

Co-Chair Thompson OBJECTED for discussion.

Representative Wilson read from a prepared statement:

The fisheries business tax is paid by Alaska's small boat fleet -those who work and live in Alaska communities. The fisheries landing tax is paid by the Seattle-based trawl fleet.

Representative Wilson believed she was referring to the incorrect talking points and requested an "at ease."

5:17:11 PM

AT EASE

5:17:29 PM

RECONVENED

Representative Wilson explained Amendment 1. She noted there had been a \$3,000 cap, which had been removed [in the CS]. However, there was an existing regulation that would maintain fairness. She asked to hear from the administration about the difference between the regulation and the cap. She believed the smaller boats were paying the full amount because they were underneath the \$3,000 cap

when the calculation was done. She furthered the larger boats were capped at \$3,000 and would be paying more. She remarked it meant the possibility of "millions of dollars currently not going." She wanted to ensure it was the right move to make versus an overhaul of the regulations and the particular section of the fishing tax.

Representative Edgmon asked if the department would address the committee.

BENJAMIN BROWN, COMMISSIONER, ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION (CFEC), DEPARTMENT OF FISH AND GAME, answered the item under discussion was not strictly speaking a tax; it was a permit renewal fee collected by CFEC. The fee amount was not set in statute. The statute required the fee to proportionately reflect the economic value of the fishery. A regulation adopted by CFEC set the formula at four-tenths of one percent of either the average value of a permit or in the case of all interim-use permits not in limited entry fisheries, four-tenths of one percent of the average gross earnings in the fishery for the three years before the fee category was set. The fee cap had been put into statute (with SB 93 sponsored by former legislator Senator Ben Stevens) in 2005 when the cap was raised from \$300. At the time, there had been testimony by Cheryl Sutton that the \$300 cap was artificial because the statute stated the base fee needed to reasonably reflect the different rates of economic return for different fisheries. He elaborated the cap resulted in fisheries with a very high economic return being charged fees that were disproportionately low. He believed it was fair to say the statement would apply to the current circumstance related to the \$3,000 cap. He explained it resulted in some fishermen not paying \$7,000 they would otherwise pay.

Mr. Brown elucidated the other side of the argument. He explained that merely looking at the gross earnings for three years before did not paint a full picture of how the fishermen were doing in whether or not they can easily absorb a \$7,000 increase in fees. The current bill dealt with a permit increase and two different kinds of taxes. The items were all pieces of a puzzle that inform whether or not removing the cap would be the fair and equitable thing to do. The commission would do whatever the wisdom of the legislature designated. He furthered if the \$3,000 cap was removed the CFEC would charge fishermen more in accordance with the four-tenths of one percent formula.

Alternatively, if the cap was not removed, CFEC could look at some of the more nuanced elements of whether or not the fees were fair and if there was a superior way to calculate them so it did not unfairly benefit or hinder one category of fishermen.

BRUCE TWOMLEY, CHAIRMAN, ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION, DEPARTMENT OF FISH AND GAME, added that there was a formula for interim-use permits (IUP) in fisheries not limited by the state. He elaborated they were the only permits that would be impacted by the removal of the cap. The function of Section 1 was to ensure all captains were subject to the same formula.

[5:22:16 PM](#)

Representative Gara deduced if four-tenths of one percent of the value of for a small fishing operation equaled \$3,000, the fisherman would be paying a higher percentage than someone with a large factory trawler, which also paid the \$3,000 fee. He asked for verification that the factory trawler would be paying a much smaller percentage of the value of its vessel than a smaller vessel paying \$2,800.

Mr. Twomley answered in the affirmative.

Representative Gara surmised in that instance a person with a small vessel paid a higher percentage of the value of their operation. Mr. Twomley replied in the affirmative.

Representative Gara asked for verification that the bill as written was trying to make the situation equitable so everyone paid the same percentage.

Mr. Twomley replied the bill would subject all captains in fisheries not limited by the state to the same formula.

Representative Munoz asked for verification that within a certain class of boat and fisheries (e.g. vessels between 60 and 90 feet), one vessel could catch significantly more than another vessel but pay the same fee.

Mr. Twomley answered that the formula was only reflective of average earnings by permit in the fishery; it did not attempt to measure capacity. Representative Munoz's scenario was a possibility, which would require an analysis. He detailed it was possible some vessels with

lighter capacity paid more in fees than some vessels with less capacity.

Representative Munoz provided an example of a 55-foot vessel with a greater capacity than a larger boat in the 60 to 90-foot category. She asked if the change would make it possible for the smaller boat to pay less than another boat with a smaller catch.

Mr. Twomley answered that it was possible or the fees may come out the same depending on the application of the formula.

Representative Munoz stated that the fee was associated with the captain. She reasoned some boats had more than one skipper. She wondered if the fee would be assessed multiple times for the same operation [if a boat had more than one captain].

Mr. Twomley answered that the fee applied to captains; therefore, each captain would pay for the needed IUP.

[5:26:16 PM](#)

Representative Edgmon was concerned that the proposed change would put into statute what CFEC did by regulation. He worried that it would hinder the commission's ability to make changes to the regulatory process in the future.

Mr. Twomley replied that it was a fair assessment.

Vice-Chair Saddler summarized his understanding of the amendment. He believed the amendment would eliminate the \$3,000 cap on the entry permit fee.

Representative Wilson interjected that the cap had already been removed. The concern was the regulation could be easily changed without going before the legislature because the cap had been removed. She agreed the amendment would tie the commission's hands, which was the purpose.

Co-Chair Thompson confirmed that the CS reflected the elimination of the \$3,000 cap. The amendment would put the formula in statute.

Representative Edgmon stated that it captured his concern. He believed the committee was doing things on an ad hoc

basis related to the bills. He had spoken with Mr. Twomley and he wanted to ensure the committee was taking action with the proper amount of analysis and foresight. He was uncertain he could "get there" on the amendment.

Vice-Chair Saddler believed the primary purpose of the amendment was to set the formula for the fee in statute. He pointed to page 2, line 6, paragraph 3, which gave CFEC the ability to adjust the fee under certain circumstances. He asked for an explanation of the conditions.

Mr. Twomley provided an example related to Southeast crab fisheries CFEC had limited (i.e. red king, brown king, and tanner), more often than not in the recent past, the red king crab fishery had not opened. Under the circumstances, when a fishery did not open, the permit holder was entitled to a refund if they had paid the fee. The authority provided under the aforementioned section would allow the commission to value the permit at zero during a year in which the fishery would not open. The ability would avoid the refund procedure and meant CFEC could yield a fairer evaluation of the value of a permit combining king and tanner crab fisheries.

Mr. Brown elaborated that in his 6 years of work with CFEC, the research staff annually prepared and provided the gross earnings and average permit values, provided commissioners with detail on the fee class would be according to the formula, and pointed out potential anomalies such as the Southeast king crab fishery. Almost all of the fees were decided according to the formula - CFEC only deviated from the formula when there was clear evidence it was necessary. Based on his experience, any deviation from the formula was always in the interest of ensuring fishermen were not unduly burdened by a fee they would not be able to pay.

Vice-Chair Saddler asked if the amendment would make it more difficult, impossible, or have little impact on the commission's ability to operate.

Mr. Twomley answered that the amendment accurately captured the formula portion of CFEC's regulations. As long as the remainder of the regulations remained in place CFEC could function.

Mr. Brown referred to consultation with Representative Wilson when she had prepared the amendment. He shared she

had been concerned about unduly tying the commission's hands. He explained the commission was already generating millions of dollars in excess of its operating costs. Additionally, CFEC had taken a "sizeable hit" in the current year and was also downsizing. He believed the concern would come into play if a commission were in a position to change a regulation and had an incentive to dramatically increase the revenues. He did not believe CFEC's structure gave incentive to do that, but he did not know what the future would hold.

[5:32:12 PM](#)

Co-Chair Neuman disputed a statement that regulations could be easily removed. He stated regulations were hard to change and required 30 days of public comment. He furthered that statutes were very difficult to change because it required going through the legislature. He surmised the legislature did not know how fees changed and did not know what was coming in the future. He opposed the amendment because of that issue. He reasoned every time something was put in statute it made it much more difficult to make adjustments. He referred to Mr. Brown's testimony that CFEC did not expect to have to change regulations for quite some time and the commission would try to ensure any change did not unduly burden anyone within the fishing industry. He asked what process the commission took to change regulations.

Mr. Twomley answered that CFEC went through a fairly rigorous process dictated by the Administrative Procedure Act. The process required notification, public hearings (some near the Board of Fish) and other. The commission took the public comment period very seriously and reviewed it prior to taking action.

Representative Gara thought the maker of the amendment was trying to reestablish the \$3,000 cap; however, he believed the amendment removed the cap.

Co-Chair Thompson clarified that the cap had been removed in the CS. The amendment addressed "how to do the brackets" in statute.

Representative Gara thought the amendment simply removed the cap, but it actually related to the brackets. He asked the commission how the amendment would change the bill.

Mr. Brown answered that in addition to removing the \$3,000 cap [the CS removed the cap], if the amendment were adopted it would put the four-tenths of one percent formula into statute (it was currently only in the department's regulations); therefore, it would require a future legislative action to change the formula. The formula could currently be changed by CFEC at its own discretion in compliance with the Administrative Procedures Act.

Representative Gara asked for verification the amendment in no way implemented the cap. He asked for confirmation the cap had been removed in the bill.

Mr. Brown answered in the affirmative.

Representative Gara asked for a recap of what the amendment would do.

Representative Wilson explained that when the cap had been removed there had been concern from fishermen who were fine with the formula. The commission currently had regulations in place. Although regulations were not easy to change, they were easier to change than statute. The fishermen she had heard from felt more comfortable uplifting the regulations in place of the cap so the small and large fishermen would be treated equitably because the formula would be equal. Currently with the cap removed, it would still be equal, but would take a different process to change the formula.

[5:37:05 PM](#)

Representative Gara asked if the amendment had any fiscal impact.

Mr. Brown answered in the negative. The commission would be able to implement its fee structure with no additional staff or fiscal impact.

Representative Gara wondered if the amendment would have any impact on revenue to the state.

Mr. Brown answered that the removal of the fee cap could yield approximately \$2.1 million. Putting the formula in statute would in theory mean revenue would remain the same going forward if average gross earnings and permit values

remained the same. If those items changed dramatically and it became necessary to change the four-tenths of one percent formula it would have to be done legislatively and not by regulation. The amendment would not have a big fiscal impact. The removal of the cap was the item that would result in a \$2.1 million positive fiscal impact.

Representative Gara understood that the formula was based on the average earnings of a vessel. He asked for detail. Mr. Twomley answered that it was the average earnings of the permit in the fishery, which was measured over the most recent 3-year period. The formula applied to IUPs in fisheries not limited by the state. The earnings were averaged, which provided a figure to plug into fee classes.

Representative Gattis asked if the fishermen Representative Wilson had heard from were from the Bristol Bay region. She asked if it was a region-specific fishery issue or encompassed all fisheries.

Representative Wilson replied the concern related to all fishermen. The amendment was in response to a concern that once the cap was removed, the amounts may be changed arbitrarily. She believed some of the fishermen she had spoken with probably did not know what it took to change a regulation.

Representative Munoz asked for clarification on fees associated with permit classes. She asked for verification that the fee pertained to an entire population of fisherman in a particular class. Alternatively, she wondered if the fee was directed to a specific boat operation.

Mr. Twomley answered that the fee was derived from all of the permits fishing in a given fishery. In some fisheries the IUPs were sold based on vessel length (there was a cutoff point). Fees could be different but it was still traceable in the average.

Representative Munoz stated that her concern about removing the cap was within the class of fishery a vessel was paying the same fee, but may have a different total catch, which varied a great deal in the fee class.

Mr. Twomley answered that the fee was traceable to the average of all participants.

Mr. Brown elaborated that the way to solve Representative Munoz's concern was to redefine the interim-use open access fisheries where some of the vessel length designations that were part of the gear definition may not reflect current practices in the fishery. He stated it was a separate issue from whether or not the fee cap should remain in place. He understood from the perspective of a fisherman who believed someone else's fee was going to increase but theirs would not or vice versa. He reasoned some fishermen would be happy while others would not be. He agreed the policy question was important, but it was separate from the fee cap.

5:42:00 PM

Representative Pruitt relayed he had spoken with several of his colleagues from coastal communities who had different thoughts about the issue. He was concerned the amendment would potentially limit the ability of young people to captain boats if every captain would have to pay the fee. He asked if the amendment would prevent CFEC from being able to address the concern if the bill removed the cap. He asked what the department had the ability to do under the current regulation that had not been done and potentially needed to be done and how the amendment could potentially CFEC's hands to be able to address the concerns.

Mr. Twomley pointed out that the vessels and IUPs impacted by removing the fee cap were among some of the largest and most productive vessels fishing in Alaska. He did not foresee the issue coming up in those fisheries. He detailed all of the other fisheries would remain in place as they currently existed. The amendment only impacted IUPs in place in fisheries within the \$3,000 fee cap (i.e. larger boats, high seas fisheries, factory trawlers, and etcetera).

Representative Pruitt shared that one of his colleagues from a coastal region had highlighted the potential for a ship under the 60-foot limit to have a larger catch than a larger vessel, but to not pay the same amount the larger vessel had to pay. Whether the cap was removed or not, he believed the issue needed to be addressed. He asked if the amendment would bind CFEC's hands from fixing something he believed needed to be addressed.

Mr. Twomley replied it had been said that fishermen were slow to change, but quick to adapt. He believed Representative Pruitt's example related to adaptations where fishermen increased their capacity. He detailed the phenomenon had existed in Bristol Bay for the life of the fishery where a 32-foot limit existed, but fishermen found ways to expand their capacity. It was an issue CFEC would be happy to look at in any given fishery and could make an effort to correct an inequity if there was a solution.

Representative Pruitt believed it addressed the concern his colleague had brought to him about whether or not the cap was removed or maintained. He addressed the amendment, which would place the current regulation in statute. He asked if the amendment limited the department's ability to address the various aspects of how CFEC assessed the fees. He wondered if the amendment would bind CFEC's hands to address the fee structure.

Mr. Twomley replied the fee structure was based on the average permit earnings in the fishery. Within particular fisheries sometimes there were divisions between the vessel lengths. Analyzing the problem presented by Representative Pruitt would require an analysis of the fishery, which was possible irrespective of the passage of the amendment.

[5:47:23 PM](#)

Representative Edgmon was opposed to the amendment. He believed the discussion underscored the complexity of the issue. He liked the direction the sponsor of the amendment was going, but believed there should be an analysis before making the change. He did not want to tie the commission's hands if circumstances changed down the road.

Mr. Brown noted that his term ran through 2019, Mr. Twomley's term ran through 2018, and the third commissioner position was currently vacant. He relayed Governor Bill Walker had recently solicited applications for the vacancy. He stated "in an uncertain world, that's as much certainty as we can tell you about what the commission might do if there's not a statute mandating that there be a four-tenths of one percent formula." He believed he and Mr. Twomley were of the mind to address the concerns raised about the potential for inequities based on fisheries that use vessel length in their classifications. He stated the issue was

separate from the fee cap and whether or not the four-tenths of one percent formula was in regulation or statute.

Co-Chair Thompson remarked that they appeared to be looking for a problem with a solution, but the answer had not yet been determined.

Representative Wilson provided a wrap up on the amendment. She explained the amendment aimed to address the concern that when the cap was removed it may become easier for the department to increase fees. The amendment maintained CFEC's current regulation and would put it into statute. She summarized the amendment would put into statute CFEC's current regulations for the calculation of the annual base fee, a renewal and issuance of an entry permit or limited use permit. With the removal of the statutory cap of a maximum fee in the current bill, there was a concern that fees could be raised arbitrarily in the future because the calculation for the fee was in regulation. She acknowledged there was a process to change the fee, which would have to be followed. She detailed the amendment protected smaller Alaskan fishing operations as well as larger operations and retained the current fiscal impact of removing the cap, while ensuring the calculation for the fees remained consistent with the current regulation and calculation CFEC approved of. She relayed she had spoken with CFEC about the amendment. She observed there appeared to be many other concerns that were unrelated to the regulation.

Co-Chair Thompson MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Wilson

OPPOSED: Pruitt, Saddler, Edgmon, Gara, Gattis, Guttenberg, Kawasaki, Munoz, Neuman, Thompson

The MOTION to adopt Amendment 1 FAILED (1/10).

[5:51:24 PM](#)

Representative Munoz MOVED to ADOPT Amendment 2, 29-GH2460\A.5 (Martin/Nauman, 5/28/16) (copy on file):

Page 1, lines 1 - 2:

Delete "removing the minimum and maximum restrictions on the annual base fee for the reissuance"

Insert "relating to the nonresident surcharge for the issuance"

Page 1, lines 9 - 10:

Delete "[MAY NOT BE LESS THAN \$30 OR MORE THAN \$3,000. THE ANNUAL BASE FEE]" Insert "may not be less than \$30 or more than \$3,000. The annual base fee"

Co-Chair Thompson OBJECTED for discussion.

Representative Munoz explained that Mr. Brown had discussed the inequities where vessel length was part of the criteria in establishing permit fees. She detailed the fees followed the captain or boat skipper. She furthered that many vessels had multiple skippers; therefore, the removal of the fee would significantly impact the operations. She discussed that in a certain vessel length class where the length was one of the criteria in establishing the fee (e.g. 60 to 90 feet), there could be a great variation in the actual catches on the various vessels. The current formula used an average of the fishery permits within a specific class; therefore, there was an inherent inequity in the way the permits were currently calculated. She believed it was necessary to maintain the cap until there was a more thorough analysis of the issue and recommendations on a comprehensive change.

Representative Edgmon mentioned that the House Fisheries Committee chair was present in the room and had been very active on the issue [Representative Louise Stutes]. He asked if the cap was removed whether it would give the commission the opportunity to begin working on points of concern raised by House members. He thought it was a valid point. Alternatively, he asked if the commission would prefer to have the cap in place with a separate plan to address the other issues in the following year. He noted the removal of the cap would mean \$2 million to the state in a time it was looking everywhere for revenue.

Mr. Twomley answered that he did not believe the removal of the cap would enhance or hinder CFEC's chances to do something. He detailed it would require analysis and review of specific cases. He relayed CFEC was neutral on the bill.

Mr. Brown added that HB 4006 had an effective date of January 1, 2017. He noted the original effective date was July 1, 2016, which would have been a bad idea because CFEC

fees were assessed on a calendar year basis. He explained that individuals who did not want to pay a higher fee would not be happy about it when they received their notices in the fall. The commission's research staff had been cut from four positions to two - a hiring freeze had been implemented and other there were other structural existential issues affecting the agency; therefore, the present was not the easiest time for the commission to commit to doing a full-blown analysis of the issues raised by November. The removal of the cap was a policy call for the legislature. The commission would do its best to address the inequities if the cap was removed or maintained. He relayed CFEC would do whatever the legislature directed it to do.

[5:56:09 PM](#)

Representative Edgmon asked for verification that CFEC believed it would not have the ability to achieve the goal of the amendment at least in the first year the additional fees may be issued if the cap was removed. Alternatively, Mr. Brown was telling the committee CFEC would do the best it could and did not know what the outcome would be.

Mr. Brown answered that if the cap was removed it would not be difficult for the commission's research staff to calculate the fees - the exercise would be formulaic. Alternatively, it would be difficult to do an analysis quickly on whether or not some skippers paying dramatically increased fees were being unfairly burdened because of the removal of the cap. He reiterated implementing the cap removal would not be difficult. He detailed that the more challenging research project would be analyzing the effect of the cap removal on a 6 skipper operation where varying quotas impacted the ability to pay the increased fee.

Representative Edgmon surmised that CFCE would require a statutory change in order to do the analysis properly. Mr. Brown answered in the negative. He explained that the commission would need certainty about its future and an ability to hire one or two more researchers to look at each permit issued in the entry permit fisheries where the fees would be increasing by \$75 to \$7,000 in order to determine how the removal of the cap was impacting the fishermen and why it was or was not equitable.

Representative Edgmon asked for verification that the commission could achieve the amendment's action without a statutory change.

Mr. Brown believed the commission had submitted a fiscal note for another bill (HB 241) showing there would be zero cost to the commission if the cap were to be removed. He stated a simple cap removal was absorbable by the commission's existing staff resources. Whereas, an exhaustive analysis on the effect of the cap removal on fishermen was more of an unknown quantity of work.

Co-Chair Neuman surmised the answer was no.

Representative Edgmon understood that it was a complicated issue, but he was not getting a clear "yes" or "no" he needed in order to make a decision. He summarized the amendment was not needed in order for CFEC to do its analysis, but an additional research person would be needed to get the analysis done due to the complexity of the work. At the same time, there was a significant amount of money attached to the amendment. He wanted to make sure he understood what he was voting on. He surmised the issue was not clear cut.

[5:59:53 PM](#)

Co-Chair Neuman saw some fairly simple changes in the tax structure but now it appeared the community was taking the opportunity to try to change other pieces of statute that did not seem to have been vetted in the House Fisheries or Resources Committees. He could not support something that the committee did not know about and had not discussed. The committee had heard CFEC needed to analyze the issue further. Additionally, he believed CFEC could already take action under regulation. He reasoned that when amendments were not fully vetted, mistakes could be made. He was uncomfortable with the amendment.

Representative Munoz replied that the biggest impact was on individual fishermen. She thought it was necessary to be careful in removing the cap due to any inadvertent impact it could have on Alaskan fisheries operations, specifically on individual captains. She believed in some cases the permit fee could go from \$3,000 to \$6,000 overnight for an individual skipper. She furthered that many operations required six skippers over the course of a season. She

agreed with Co-Chair Neuman's comments, but she believed the removal of the cap rose greater concerns and supported his comments more than leaving the cap in place.

Co-Chair Neuman stated he did not believe CFEC was ready to take the action because analysis was needed. Additionally, he believed the agency could already take the action if it chose to do so.

Representative Gara noted the CFEC commissioners had already testified the formula was based on the earnings of the vessel. He wondered what kind of vessels would pay above the current \$3,000 cap if it was removed.

Mr. Twomley answered that the applicable vessels were large high sea factory trawlers and crab vessels, which had substantial earnings.

Representative Gara asked for further explanation on high sea vessels that were not factory trawlers. Mr. Twomley answered that he was referring to substantial vessels capable of functioning in high seas.

Representative Gara surmised captains were not the same on every boat, but they shared the value of the catch in some way. Mr. Twomley answered that captains were compensated in some way by the venture.

Representative Gara stated the cap applied to the captain. Mr. Twomley affirmed.

Representative Gara provided an example of a factory trawler with three captains in one year and five captains the next. He asked if each captain paid the same amount if the boat had the same costs each year. Alternatively, he wondered if the cost was proportional and divided among the number of captains.

Mr. Twomley responded that each captain would pay the same fee; the fee applied to the IUP, which was a captain's ticket to operate the vessel. A number of vessels at sea for long periods had numerous captains.

Representative Gara asked if a captain's share of the fee decreased when the number of captains on a vessel increased. Mr. Twomley answered in the negative; the fee would remain the same for the IUP for each captain.

6:05:15 PM

Representative Munoz asked for verification the captains on a high sea vessel of 80 feet or more would pay the same as captains on a 60-foot vessel if it they fell into the same vessel length category.

Mr. Twomley answered that it could be but was not necessarily the case. He elaborated there would be an average based on the vessel length within the vessel category. He furthered the fee could come out the same, but could vary; it would depend on the vessel earnings.

Representative Munoz stated there could be a category for vessels between 60 to 90 feet and CFEC would average out the earnings within the fishery in the specific vessel category. Mr. Twomley answered in the affirmative.

Representative Munoz surmised a captain on a larger vessel over 80 feet would pay the same as a captain on a 60-foot vessel.

Mr. Twomley replied in the negative. He detailed IUPs were issued based on vessel size; CFEC averaged per vessel size category, which would yield a different fee from one vessel category to another within the same fishery.

Representative Munoz asked for examples of vessel categories.

Mr. Twomley answered there were vessels over 90 feet, vessels under 90 feet. He stated there could be a variety. The categories were based on data and where there were cutoff points that made sense when categories were established.

Representative Munoz asked if 60 feet was a cutoff point on the low end. Mr. Twomley answered yes, in some fisheries.

Representative Munoz asked for verification 90 feet was the cutoff on the high end within the same category. Mr. Twomley answered yes, in some fisheries.

Representative Munoz believed captains on a 90-foot and 60-foot vessels were paying the same fee because it was averaged over the fishery within the category.

Mr. Twomley replied in the negative. He detailed that within the vessel categories the fees were based on the average earnings of the IUPs within the categories.

Mr. Brown clarified that every fishery was defined by a geographical area that could be statewide and a species, which could be miscellaneous finfish. He detailed all skippers fishing statewide waters for miscellaneous finfish on vessels that were 60 feet applied for the same kind of IUP. He elaborated that if the next category was for vessels between 60 to 90 feet, those vessels would all fall into the same category. He explained the skippers in the first group would not pay the same amount as the skippers in the second group; however, people within the second group may be earning different amounts of money. He continued that skippers may not even pay their own fee, which could be paid by whoever owned the boat; it was a contractual arrangement CFEC was not aware of. The agency only had visibility into was the average boat's earnings landed on a specific permit category in the past three years multiplied by 0.04; the fee was then charged and capped at \$3,000 at present. He expounded that it would be a hardship for some people and not for others. The fee was not arbitrary in the sense that someone on a very large boat was paying the same fee as someone on a very small boat; it only became an issue at the margins of where the fishery was defined by vessel length that the disparities were arising.

[6:09:25 PM](#)

Representative Gattis believed the issue should be vetted through the House Fisheries Committee. She did not believe the committee could do the necessary due diligence it should. She was uncomfortable the committee may be breaking open an issue that was bigger than the committee.

Representative Wilson stated that the governor was responsible for bringing up the issue. She questioned whether to keep or discard the cap. She referred to CFEC testimony that it was easy to do the math if the cap was removed, but the problem involved needing time and personnel to do the research to understand the impact of removing the cap. She noted the information was not something the committee had received from the administration. She stressed the topic was being discussed

because it is a tax issue. She stressed the removal of the cap could mean a person currently paying the cap of \$3,000 could pay upwards of \$15,000. She observed the difference was substantial. She surmised a boat may be big enough and earn enough to pay the amount, but that was not known. The bill would remove the cap and bring the state \$2.1 million in revenue, but she wondered how many boats could be put out of business because of that decision. She did not know the answer. She would vote to maintain the cap to give time for CFEC to do the research and present the analysis. She agreed the committee should know the answers prior to voting on the bill, but she would be fine to set the bill aside until the following session in order to make the right decisions based on information that would help the economy. She did not want to devastate the state's fisheries. She would vote for the amendment because the current cap was working. Although smaller vessels were paying the full amount, she was nervous about what they could be "doing on the outside" and she could wait one year to find out.

Co-Chair Thompson MAINTAINED his OBJECTION.

Representative Pruitt expressed frustration with the issue and believed the legislature had been given half of a solution. He had heard from colleague who supported maintaining the cap to fix it later and another colleague who wanted to remove the cap in order to force the agency to fix the problem sooner. He wondered if the administration believed the legislature would be addressing the issue again the following year. He believed the problem needed to be fixed. He noted the situation was not a failure on CFEC's part, but he wanted to know if the agency could come back the following year with information to help the legislature address the issue.

Mr. Twomley answered that CFCE could use its best efforts to try to analyze the problems put forward by the committee to determine if there was a practicable solution. He communicated the agency would appreciate hearing from fishermen experiencing a problem. The agency would hope to come back with the best information it could generate.

Representative Pruitt stated that he would vote to keep the cap. He was expecting to have a conversation the following year where the entire issue was addressed. He reiterated his frustration with the bill. He surmised it appeared to

be more of a money grab than addressing an equity scenario within an industry. He wanted a whole picture instead of an incomplete one.

A roll call vote was taken on the motion.

IN FAVOR: Wilson, Pruitt, Gattis, Munoz, Kawasaki
OPPOSED: Saddler, Edgmon, Gara, Guttenberg, Thompson, Neuman

The MOTION to adopt Amendment 2 FAILED (5/6).

6:15:49 PM

AT EASE

6:25:42 PM

RECONVENED

Representative Wilson MOVED to ADOPT new Amendment 3, 29-GH2460\A.4 (Glover/Nauman, 5/28/16) (copy on file):

Page 2, line 8:

Delete "five"

Insert "4.5"

Page 2, line 12:

Delete "four"

Insert "3.5"

Page 2, following line 14:

Insert a new bill section to read:

"*Sec. 3. AS 43.75.015(b) is amended to read:

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to

(1) 3.5 [ONE] percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(2) six [THREE] percent of the value of the developing commercial fish species processed by a floating fisheries business during the year."

Renumber the following bill sections accordingly.

Page 2, line 19:

Delete "one"

Insert "3.5 [ONE]"

Page 2, line 21:

Delete "four"

Insert "3.5"

Page 2, lines 28 - 29:

Delete "The amount of tax revenue equal to one percent of the value of each fishery taxed under this chapter shall be deposited into the general fund."

Page 2, line 30, through page 3, line 1:

Delete "and not including the revenue equal to one percent of the value of each fishery taxed under this section deposited in the general fund"

Insert "and not including the revenue derived from the value of each fishery taxed under this chapter deposited in the general fund as provided in (h) of this section"

Page 3, following line 11:

Insert a new bill section to read:

"*Sec. 7. AS 43.75.130 is amended by adding a new subsection to read:

(h) Notwithstanding (a) of this section, the amount of tax revenue from the following sources in the following amounts shall be deposited in the general fund:

(1) one-half percent of the tax revenue collected under

AS 43.75.015(a)(1) and (2);

(2) one percent of the tax revenue collected under AS 43.75.015(a)(3);

(3) two and one-half percent of the tax revenue collected under AS 43.75.015(d)(1); and

(4) one-half percent of the tax revenue collected under

AS 43.75.015(d)(2)."

Renumber the following bill sections accordingly.

Page 3, line 19:

Delete "one"

Insert "five [ONE]"

Page 3, line 21:

Delete "four"

Insert "five"

Page 3, lines 23 - 24:

Delete "The amount of tax revenue equal to one percent of the value of each fishery taxed under this chapter shall be deposited into the general fund."

Page 3, lines 25 - 27:

Delete "and not including the revenue equal to one percent of the value of each fishery taxed under this section deposited in the general fund"

Insert "and not including the revenue derived from the value of each fishery taxed under this chapter deposited in the general fund as provided in m of this section"

Page 4, lines 12 - 13:

Delete "The amount of tax revenue equal to one percent of the value of each fishery taxed under this chapter shall be deposited in the general fund."

Page 4, lines 15 - 16:

Delete "equal to one percent of the value of each fishery taxed under this section deposited in the general fund"

Insert "derived from the value of each fishery taxed under this chapter deposited in the general fund as provided in (g) of this section"

Page 5, following line 10:

Insert a new bill section to read:

"*Sec. 11. AS 43.77.060 is amended by adding new subsections to read:

(f) Notwithstanding (a) of this section, the amount of tax revenue from the following sources in the following amounts shall be deposited in the general fund:

(1) four percent of the tax revenue collected under AS 43.77.010(1); and

(2) two percent of the tax revenue collected under AS 43.77.010(2).

(g) Notwithstanding (b) of this section, the amount of tax revenue from the following sources in the following amounts shall be deposited in the general fund:

(1) four percent of the tax revenue collected under AS 43.77.010(1); and

(2) two percent of the tax revenue collected under AS 43.77.010(2)."

Renumber the following bill sections accordingly.

Page 5, line 13, following "AS 43.75.015(a)":
Insert", AS 43.75.015(b),"

Page 5, lines 13 - 14:
Delete "secs. 2 and 3"
Insert "secs. 2 - 4"

Page 5, lines 14 - 15:
Delete "secs. 2 and 3"
Insert "secs. 2 - 4"

Page 5, line 16:
Delete "sec. 6"
Insert "sec. 8"

Page 5, line 17
Delete "sec. 6"
Insert "sec. 8"

Page 5, line 25:
Delete "Section 10"
Insert "Section 13"

Page 5, line 26:
Delete "secs. 11 and 12"
Insert "secs. 14 and 15"

Representative Gattis OBJECTED for discussion.

Representative Wilson read from prepared remarks:

The fisheries business tax is paid by Alaska's small boat fleet - the gillnetters, trollers, and more, who live and work in Alaska communities. The fisheries landing tax is paid by the Seattle-based trawl fleet. Our tax rates should be equitable to those fishermen who invest in Alaska. The small boat fleet already pays into Alaska's economy in more diverse ways than through taxes. They home port in Alaska's harbors, live in Alaska communities, hire local crews, and buy local groceries. The revenue gets recirculated in Alaska many times over and the economic impact on

Alaska is proportionately far greater. This orients Alaska's fisheries tax structure in a way that doesn't penalize small boat fishermen who generally fish clean with very little Chinook salmon or halibut bycatch. This is in contrast to the largely Seattle-based trawl fleet, which has an unfortunate track record of vast amounts of halibut and king salmon bycatch, which are caught, killed, and discarded and never able to be caught by Alaska-based sports and commercial fishermen.

Co-Chair Thompson clarified that the committee was addressing the new Amendment 3.

Representative Wilson responded in the affirmative.

Representative Gara supported the amendment. He communicated he did not care who owned the trawl fleet and relayed it would be unconstitutional for the state to tax fishermen from Washington a different tax than fishermen from Alaska. However, he cared that the trawl fleet had cost the state significant money in terms of research on king salmon bycatch and soon halibut bycatch. He detailed those fisheries were being decimated. He reasoned if the state had to keep researching the issue it would continue to cost the state money. He surmised if the issue kept costing the state money, it needed to have the means to pay for the research. He wished he could solve the issue related to bycatch of some of the state's most prized wild fish and was very troubled by the situation. He reasoned there was nothing to do about the issue in the current bill, but the legislature could factor in the knowledge that continued research was needed to determine how to limit the bycatch. He referred to page 3, lines 4 through 6 of the amendment and referenced the high seas boats that fished beyond Alaska's territorial limit and returned to Alaska to process or transport their fish. He stressed the boats were costing the state a huge amount of grief and money. He suggested increasing the number from 4 to 5.5 percent. He stressed the boats were fishing the world's greatest fishery. He reasoned the boats were not going to leave because Alaska was one of the last great wild fisheries in the world. He emphasized the factory trawlers were contributing greatly to the bycatch problem and damaging the fisheries. He believed the trawlers should help contribute to the cost of the damage they were causing.

6:30:42 PM

Representative Edgmon stated that the numbers in new Amendment 3 were all over the place. He requested to hear from DOR. He referred to Representative Gara's comments related to bycatch. He mentioned federal fisheries bycatch, the North Pacific Fisheries Management Council, and federal funds. He was hearing remarks on taxation issues and management issues, which did not seem to be linked together.

Mr. Alper summarized Representative Edgmon's question about the numbers listed in the amendment. He relayed the administration's intent with the original bill was to increase tax rates on the fisheries business and landing taxes by 1 percent. Additionally, the 1 percent was not subject to the existing 50/50 revenue sharing formula with municipalities. The 1 percent was intended to go directly to the state and the remaining amount (the original tax prior to the proposed tax increase) would be split 50/50 holding municipalities harmless. Amendment 3 changed some of the increases so the shore-based processers, which were primarily buying from the small boat fleet in coastal communities, would receive a smaller tax increase. Whereas, the large floating processers and the landing tax in particular received a larger tax increase. The intent was to shift the tax burden towards those perceived as not supporting the local economy to the same degree or having a large amount of bycatch. He explained the changed numbers in the amendment (some of the increases were 0.5 percent or 2 percent). He detailed if 1 percent went to the state and the remainder was split, it created some distortion to the revenue sharing formula. For example, if a 4 percent tax increased to 5 percent the state would receive 1 percent and remaining 4 percent was split, municipalities would still receive the same 2 percent they received prior to the increase. However, if the tax was raised from 4 percent to 4.5 percent, municipalities would only receive 1.75 percent. He elaborated that while benefiting the fishermen with a smaller tax increase, it would actually harm the community. Therefore, changes in new Amendment 3 equalized the revenue sharing formula by specifying the state's piece was limited to the amount of the increase (whether it was 0.5 percent, 1 percent, or 2 percent) and the municipality received half of the remainder, thereby holding

municipalities harmless in the changes made by the legislation.

Representative Edgmon was trying to assign the numbers to the proper category. He had voted against all amendments during the day because the theme had been consistent. He felt the amendments could not be properly analyzed during the meeting; therefore he would oppose the amendment.

Representative Gara recalled that several years earlier the legislature had funded a king salmon study, which had been in part based on bycatch (from boats outside the state's 3-mile limit) that was damaging the returns of fish to the state's streams. The study had been to determine how much of the issue pertained to certain areas; it had also included what the state could do to help enhance returns. There had been some impact, but he did not want to exaggerate it.

[6:36:04 PM](#)

Vice-Chair Saddler agreed with Representative Edgmon that the question of bycatch was biological, scientific, and financial and the North Pacific Fishery Management Council was staffed and funded and scheduled to conduct the complicated analysis, but the state was not. He did believe not enough information was available to make an informed decision; therefore, he was opposed to the amendment.

Co-Chair Thompson expressed confusion. He remarked that the original Amendment 3 had a big impact on communities. He discussed the governor's original bill designated 1 percent of the value of each fishery tax to the General Fund and increased the taxes by 1 percent on each fishery, which meant many of the communities did not get the revenue sharing back. He asked if that was still the case.

Mr. Alper replied that the administration's bill did not affect the municipalities. For example, under existing law a 4 percent tax was split 50/50 with municipalities. Under the original legislation a 4 percent tax increased to 5 percent and the state received the additional 1 percent increase, while the original 4 percent was split; therefore, municipalities still received 2 percent, while the state received 3 percent. The language had been included in order to exempt the additional 1 percent from the 50/50 split. The amendment increased taxes on shore-

based fisheries by 0.5 percent and increased floating fishery taxes by 2 percent, which would go to directly to the state. He explained the new Amendment 3 maintained the idea that whatever the tax increase was, the municipalities would be held harmless and would continue to receive their current amount.

Representative Gattis WITHDREW her OBJECTION.

Co-Chair Thompson OBJECTED.

Representative Wilson explained that her intent had never been to take any money away from municipalities - the situation had been corrected in the new Amendment 3. She explained there were fishermen who required more state spending because it was necessary for the state to do research studies on impacts. She relayed it was one way for the state to recoup costs from people using state resources. The amendment would also protect local fishermen more and charged more to those from out-of-state who were not investing the same amount into Alaska's economy. The amendment tried to make the situation more equal. She stressed the state was paying for the studies.

A roll call vote was taken on the motion.

IN FAVOR: Wilson, Gara, Gattis, Kawasaki, Munoz,
OPPOSED: Edgmon, Guttenberg, Pruitt, Saddler, Neuman,
Thompson

The MOTION to adopt new Amendment 3 FAILED (5/6).

[6:41:08 PM](#)

At EASE

[6:41:25 PM](#)

RECONVENED

Representative Gara MOVED to ADOPT Amendment 4, 29-GH2460\A.2 (Glover/Nauman, 5/28/16)(copy on file):

Page 3, line 21:
Delete "four"
Insert "five"

Co-Chair Thompson OBJECTED for discussion. He asked for verification the amendment was similar to the amendment the committee had just voted against.

Representative Gara replied in the negative. He explained that the amendment increased the tax rate from 4 percent to 5 percent.

Co-Chair Thompson noted new Amendment 3 would have done the same thing.

Representative Gara replied that new Amendment 3 would have done a number of things. He explained that Amendment 4 would increase the tax on high seas vessels fishing from 4 to 5 percent. He elaborated the large vessels fished beyond the state's 3-mile limit and returned to Alaska for processing or to deliver fish. He continued the vessels (e.g. factory trawlers and other) had the privilege of fishing some of the most pristine wild fish in the world. He underscored the state owned the resource in common and under the constitution it was supposed to receive the maximum benefit for its commonly owned resources. He thought that the percentage increase would be fair to Alaska and reflected the value of the fisheries.

[6:43:32 PM](#)

Co-Chair Thompson MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Gara, Guttenberg, Kawasaki

OPPOSED: Edgmon, Gattis, Munoz, Pruitt, Saddler, Wilson, Neuman, Thompson

The MOTION to adopt Amendment 4 FAILED (3/8).

[6:44:14 PM](#)

Co-Chair Thompson MOVED to ADOPT Amendment 5, 29-GH2460\A.1 (Martin/Nauman, 5/28/16) (copy on file):

Page 2, lines 1 - 3:

Delete "[AT AN AMOUNT THAT IS AS CLOSE AS IS PRACTICABLE TO THE MAXIMUM ALLOWED BYLAW]"

Insert "at an amount that is as close as is practicable to the maximum allowed by law"

Representative Guttenberg OBJECTED for discussion.

Co-Chair Thompson relayed the amendment was conforming regarding the Carlson case [a class action case filed against the state in 1984 related to commercial fishing fees].

Mr. Brown relayed that CFEC strongly supported Amendment 5. When the commission had seen the original bill, it had communicated there was no reason to remove language calling for a nonresident surcharge to be as close as practicable as law to the maximum amount. He understood Legislative Legal Services initially thought the language was superfluous. He continued that Mr. Twomley could speak to the long history of the Carlson case. He emphasized the language was not superfluous. The state did not want to return to undercharging nonresidents any more than it wanted to be accused of unconstitutionally overcharging them.

Co-Chair Neuman asked for clarification on the amendment. He observed the language to be deleted was identical to the language to be inserted.

Representative Gara had the same question.

Mr. Brown clarified that the current version of the bill deleted the language. The amendment would reinstate the language.

Representative Guttenberg WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 5 was ADOPTED.

HB 4006 was HEARD and HELD in committee for further consideration.

Co-Chair Thompson relayed the agenda for the following day. The meeting was recessed to a call of the chair. [Note: the meeting never reconvened.]

ADJOURNMENT

6:47:00 PM

The meeting was adjourned at 6:47 p.m.

