

ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE

April 17, 2015

1:03 p.m.

MEMBERS PRESENT

Representative Benjamin Nageak, Co-Chair
Representative David Talerico, Co-Chair
Representative Mike Hawker, Vice Chair
Representative Bob Herron
Representative Kurt Olson
Representative Paul Seaton
Representative Andy Josephson
Representative Geran Tarr

MEMBERS ABSENT

Representative Craig Johnson

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 70(FIN)

"An Act relating to exceptions from designation as a special purpose site under art. VIII, sec. 7 of the Constitution of the State of Alaska for portions of Denali State Park, Captain Cook State Recreation Area, Nancy Lake State Recreation Area, and Willow Creek State Recreation Area to allow leasing a right-of-way for a natural gas pipeline."

- MOVED HCS CSSB 70(RES) OUT OF COMMITTEE

CS FOR SENATE JOINT RESOLUTION NO. 18(RES)

Supporting the leases issued by the United States Department of the Interior to Royal Dutch Shell in the Chukchi and Beaufort Seas; urging the Governor of the State of Washington, the Seattle City Council, and other public officials in the State of Washington to refrain from destructive attacks on the economy, jobs, and lives of the people of this state and the State of Washington and to look first at closing the Boeing production facilities to reduce emissions of carbon dioxide from commercial activity; inviting Royal Dutch Shell to use a port in this state as the homeport of its Arctic drilling fleet if the lease with the Port of Seattle is terminated; and requesting that the Alaska Congressional delegation support restricting the Export-Import Bank of the United States to lending only to small businesses.

- MOVED CSSJR 18(RES) OUT OF COMMITTEE

HOUSE BILL NO. 191

"An Act relating to the oil and gas corporate income tax; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 70

SHORT TITLE: GAS PIPELINE RIGHT-OF-WAY;PARKS;REC AREAS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/06/15	(S)	READ THE FIRST TIME - REFERRALS
03/06/15	(S)	RES, FIN
03/09/15	(S)	RES AT 3:30 PM BUTROVICH 205
03/09/15	(S)	Heard & Held
03/09/15	(S)	MINUTE(RES)
03/30/15	(S)	RES AT 3:30 PM BUTROVICH 205
03/30/15	(S)	Moved CSSB 70(RES) Out of Committee
03/30/15	(S)	MINUTE(RES)
03/31/15	(S)	RES RPT CS 3DP 3NR SAME TITLE
03/31/15	(S)	DP: GIESSEL, COSTELLO, COGHILL
03/31/15	(S)	NR: WIELECHOWSKI, STEDMAN, STOLTZE
04/10/15	(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/10/15	(S)	Heard & Held
04/10/15	(S)	MINUTE(FIN)
04/13/15	(S)	FIN RPT CS 5DP 2NR SAME TITLE
04/13/15	(S)	DP: KELLY, MACKINNON, MICCICHE, BISHOP, HOFFMAN
04/13/15	(S)	NR: DUNLEAVY, OLSON
04/13/15	(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/13/15	(S)	Moved CSSB 70(FIN) Out of Committee
04/13/15	(S)	MINUTE(FIN)
04/14/15	(S)	TRANSMITTED TO (H)
04/14/15	(S)	VERSION: CSSB 70(FIN)
04/15/15	(H)	READ THE FIRST TIME - REFERRALS
04/15/15	(H)	RES
04/17/15	(H)	RES AT 1:00 PM BARNES 124

BILL: SJR 18

SHORT TITLE: SUPPORT SHELL PORT OF SEATTLE LEASE

SPONSOR(S): RESOURCES

04/13/15 (S) READ THE FIRST TIME - REFERRALS
 04/13/15 (S) RES
 04/15/15 (S) RES AT 3:30 PM BUTROVICH 205
 04/15/15 (S) Moved CSSJR 18(RES) Out of Committee
 04/15/15 (S) MINUTE(RES)
 04/16/15 (S) RES RPT CS 6DP SAME TITLE
 04/16/15 (S) DP: GIESSEL, COSTELLO, COGHILL,
 MICCICHE, STEDMAN, STOLTZE
 04/17/15 (H) RES AT 1:00 PM BARNES 124

BILL: HB 191

SHORT TITLE: OIL AND GAS CORPORATE TAXES

SPONSOR(s): SEATON

04/11/15 (H) READ THE FIRST TIME - REFERRALS
 04/11/15 (H) RES, FIN
 04/17/15 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

BEN ELLIS, Director
 Division of Parks & Outdoor Recreation
 Department of Natural Resources (DNR)
 Anchorage, Alaska

POSITION STATEMENT: Introduced CSSB 70(FIN) on behalf of the Walker Administration, sponsor.

JOHN HUTCHINS, Assistant Attorney General
 Oil, Gas & Mining Section
 Civil Division (Juneau)
 Department of Law
 Juneau, Alaska

POSITION STATEMENT: Answered questions regarding CSSB 70(FIN).

CHARLES MCKEE
 Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on CSSB 70(FIN).

FRANK RICHARDS, P.E., Vice President
 Engineering and Program Management
 Alaska Gasline Development Corporation (AGDC)
 Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding CSSB 70(FIN).

JULIE MORRIS, Staff
 Representative David Talerico

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing on CSSB 70(FIN) explained the provisions proposed in Amendment 1.

KARI NORE, Staff
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced CSSJR 18(RES) on behalf of Senator Giessel, sponsor.

KEN ALPER, Director
Tax Division
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Answered questions related to HB 191.

ACTION NARRATIVE

[1:03:05 PM](#)

CO-CHAIR BENJAMIN NAGEAK called the House Resources Standing Committee meeting to order at 1:03 p.m. Representatives Seaton, Josephson, Tarr, Talerico, and Nageak were present at the call to order. Representatives Olson, Herron, and Hawker arrived as the meeting was in progress.

SB 70-GAS PIPELINE RIGHT-OF-WAY;PARKS;REC AREAS

[1:04:00 PM](#)

CO-CHAIR NAGEAK announced that the first order of business is CS FOR SENATE BILL NO. 70(FIN), "An Act relating to exceptions from designation as a special purpose site under art. VIII, sec. 7 of the Constitution of the State of Alaska for portions of Denali State Park, Captain Cook State Recreation Area, Nancy Lake State Recreation Area, and Willow Creek State Recreation Area to allow leasing a right-of-way for a natural gas pipeline."

[1:04:33 PM](#)

BEN ELLIS, Director, Division of Parks & Outdoor Recreation, Department of Natural Resources (DNR), introduced CSSB 70(FIN) on behalf of the Walker Administration, sponsor. He explained that the bill is necessary to open a corridor through four state

legislatively designated areas - Denali State Park, and Willow Creek, Nancy Lakes, and Captain Cook state recreation areas - through the Right-of-Way Leasing Act for the purposes of construction of a natural gas pipeline from the North Slope.

MR. ELLIS projected a map provided by DNR of Denali State Park depicting the proposed right-of-way corridor. He explained that of the four areas it is the only area with the potential of having either the Alaska Liquefied Natural Gas Project (Alaska LNG Project or AK LNG) pipeline or the Alaska Stand Alone Pipeline (ASAP) within the corridor. The green squared-off area down the middle of the map delineates the sections included in the bill, and this proposed area is wide enough to accommodate either gasline, or even both, coming from the North Slope.

MR. ELLIS displayed a map provided by DNR of the Nancy Lakes State Recreation Area. He pointed out that the red line which denotes the ASAP route touches the Nancy Lakes State Recreation Area in a few places, but not nearly as much as in Denali State Park. Drawing attention to the left side of the map he said the corridor that is depicted is where the AK LNG gasline would go, but that the Nancy Lakes Recreation Area would only be impacted by the ASAP gasline.

MR. ELLIS showed a map provided by DNR of the Willow Creek State Recreation Area. He explained that the red line going through the area colored in light green is the area included in the bill and is for the ASAP gasline, and to the left of it on the map is the AK LNG gasline.

MR. ELLIS presented a map provided by DNR of the Captain Cook State Recreation Area, explaining that this map focuses only on the AK LNG gasline because the ASAP gasline would have stopped north of Anchorage.

[1:08:45 PM](#)

MR. ELLIS said CSSB 70(FIN) would accomplish the following primary objectives: 1) Authorize the issuance of a right-of-way lease under AS 38.35, the Pipeline Right-of-Way Leasing Act, for a natural gas pipeline in an identified corridor through Denali State Park, and Willow Creek, Nancy Lakes, and Captain Cook state recreation areas. 2) The corridor will be adequate for either the AK LNG or the ASAP project. 3) Requires the corridor to be managed as parkland or recreation area until a right-of-way lease is issued under AS 38.35; upon termination of the lease the corridor returns to original parkland and recreation

area management. 4) Provides supplemental requirements to reserve traditional means of public access and minimize the impact of a pipeline on the specific values of park and recreation areas. 5) Clarifies that the DNR commissioner's power to delegate condemnation authority to the lease does not apply within the bounds of the park and recreation areas. 6) Requires the gas pipeline lease to be issued before January 1, 2025, and pipeline construction to begin within 10 years of the effective date of the lease.

MR. ELLIS explained the bill is needed because the parks at issue are special-use sites, reserved from the public domain by the legislature. General state land is open to multi-purpose use and leases are appropriate; there are many leases under general state land, also known as Title 38 lands. But, when a parkland or recreation area is created by the legislature, that land is pulled out of general state land and put into a special-use area, in this case it is for recreation, called Title 41 land. Neither a director nor a commissioner has authority to lease Title 41 land and that is the basic reason for bringing forward this bill. A director can give a short-term contract to a user in an area of concessionaire, but usually that is for a period of 5-10 years. State game refuges and Susitna Basin recreational rivers are not included in the bill because these areas aren't closed to leasing under AS 38.35 where a lease would be compatible with the purposes of the reserves.

[1:12:01 PM](#)

MR. ELLIS stated the corridor specified in the bill would suffice for both the ASAP and the AK LNG projects. The Alaska LNG Project and the Alaska Gasline Development Corporation (AGDC) have worked cooperatively to select a common alignment for both projects; AGDC has completed its route revisions to the common alignment and is calling it Rev. 6.1. Field efforts for both projects have changed to reflect the common alignment as evidenced in the geo-technical site locations currently being conducted within Denali State Park and these efforts are close to being completed at this point in time.

MR. ELLIS said the changes made in CSSB 70(FIN) from the bill as introduced are as follows: 1) CSSB 70(FIN) expands references in three of the four recreation area sections to include authorization to issue right-of-way leases under the Pipeline Right-of-Way Leasing Act in Denali State Park, Captain Cook State Recreation Area, and Nancy Lakes State Recreation Area. No change was needed for Willow Creek State Recreation Area. 2)

CSSB 70(FIN) changes the survey language by removing "including land that would lie within the described parcels but for a U.S. survey," and replacing it with "state or federal survey does not remove land from the parcels described in (a) of this section." 3) In an effort to provide for ample time for a right-of-way leasing on the project, CSSB 70(FIN) deletes in four locations of the original bill the language "provide for termination of the lease if commercial operation of the pipeline has not begun five years after the effective date of the lease" and replaces it with "provide for termination of the lease if construction of the pipeline has not begun 10 years after the effective date of the lease." 4) Also in an effort to provide for ample time, CSSB 70(FIN) in four locations of the bill extends the date of the lease to become effective from January 1, 2020, to January 1, 2025. It was done in four locations because each park or recreation area has a section in the bill, so if the language is changed in one it must be changed in all four of the references.

[1:14:57 PM](#)

MR. ELLIS pointed out that CSSB 70(FIN) does not identify a right-of-way. It opens a sufficient amount of acreage to the Pipeline Right-of-Way Leasing Act within which a right-of-way can be selected. The corridor designated by CSSB 70(FIN) would be adequate for the final engineering determinations as to where the exact right-of-way is issued. The right-of-way within the area authorized by CSSB 70(FIN) will be approximately 120 feet wide for construction reduced to 53 feet wide for operation for the ASAP Project, and approximately 180 feet for construction and 100 feet for operation for the Alaska LNG Project. No Native allotments are within the corridor proposed in CSSB 70(FIN) for Denali State Park, and Willow Creek, Nancy Lakes, and Captain Cook state recreation areas. Further, CSSB 70(FIN) will not affect hunting and fishing in any way, the access will be secured. Until such time as a right-of-way corridor is leased, access will be the same as it is today. Once a right-of-way is leased and construction begins there may be some temporary restrictions on hunting and fishing for construction purposes, but only in the areas that are under construction at that particular time. The bill provides for full return of the land to the park when it is no longer needed for pipeline purposes. Two releases of land are anticipated. First, once construction is complete, the construction right-of-way will contract to operating right-of-way. This will result in the release of land, which would become fully part of the park again without further action by the legislature. Second, at the end of the pipeline life, the lessee will be required to return the

land to a condition acceptable to the commissioner of the Department of Natural Resources and upon completion of this the land will be released and returned to the park.

[1:17:34 PM](#)

REPRESENTATIVE SEATON inquired whether the granting of the lease would change the availability of that corridor for oil and gas exploration, drilling, and development.

JOHN HUTCHINS, Assistant Attorney General, Oil, Gas & Mining Section, Civil Division (Juneau), Department of Law, replied that currently the land is parkland and not part of the public domain and that he doesn't think oil and gas exploration and development is authorized in parkland to begin with.

REPRESENTATIVE SEATON asked whether creation of the lease corridor without a restriction or change on it alters that designation so that it would then be available for oil and gas exploration and production.

MR. HUTCHINS responded no, the statute as drafted limits disposal of the land in the corridor to leasing for a right-of-way for a gas pipeline from the North Slope and that is the only reason that land within this corridor can be disposed of or used in any manner other than park purposes.

[1:19:12 PM](#)

REPRESENTATIVE SEATON noted there has been some question about access and road access along the corridor once the pipeline is built. He inquired whether the road that will be along the pipeline will be available for public use and what will be the standard of roadway.

MR. ELLIS answered that once the pipeline is in the ground an access road will be built on top of the pipeline area. The discussion as to the requirements of how vigorous that access road would be has not yet taken place. He understood the access road would provide for the need of access to the pipeline necessary for the health of the pipeline. He further understood, and his vision is, that it would provide all-terrain vehicle (ATV) access along that area, which is not currently had. He said he can also see the road providing snow machine access in the wintertime for recreational use, which is not available now. Unlike the Trans-Alaska Pipeline System (TAPS) corridor where the pipeline is above ground and that area

limited to the amount of access, this pipeline is below ground and the access should be as free as it is today once the pipeline is in place.

REPRESENTATIVE SEATON understood it is not anticipated that the access road would be a roadway for regular vehicle traffic that would then divide the park.

MR. ELLIS replied correct, it would be an access road to provide for the checking of the pipeline and it would not be a road as such. He reiterated that he envisions it being used for recreational activities within the park of ATVs in the summer, which currently there is none, and of snow machines north and south, again which currently there is none. The access road will come by or near a lot of the Parks Highway right-of-way and that will play a part into all of this as well.

1:22:12 PM

REPRESENTATIVE TARR observed that the map produced by AGDC for the Denali State Park withdrawals depicts the DNR additions to SB 70 in red and the proposed additions to withdrawal in blue. She further observed that the maps produced by DNR reflect the DNR additions, but the proposed additions to withdrawal are not reflected.

MR. ELLIS responded the [DNR] maps were provided through the SB 70 process, starting with the Senate Resources Standing Committee followed up by the Senate Finance Committee. The [AGDC] map has not been introduced to DNR and, while DNR is aware of it, he cannot comment on it at this time.

1:23:30 PM

REPRESENTATIVE JOSEPHSON related he has visited and backpacked in the park and recreation areas in question and the Captain Cook State Recreation Area has massive trees along the shoreline. He noted he is a great supporter of this project, but asked whether the trees will be removed before there is a definitive natural gas plan.

MR. ELLIS answered that CSSB 70(FIN) allows for a right-of-way, which for the Captain Cook State Recreation Areas is a 2,000-foot corridor because it deals with the AK LNG line. At whatever point a gasline is determined to be constructed, if it is the ASAP line then Captain Cook Recreation Area won't be affected at all. If it is the AK LNG line, then there will be

further testing as to where in that 2,000-foot corridor the construction corridor would be created. He anticipated that in that phase there would be no tree removal. He also anticipated the possibility of some seismic testing for soil samples and so forth, much like what there currently is in Denali State Park. Once the construction corridor of 180 feet is determined that area will be cleared. After construction that corridor will be reduced to 100 feet and the other 80 feet will go back to natural regrowth. He understood there will be no issuance of right-of-way that would allow for anything to happen in the area until such time a determined route was decided upon and the party or parties would then go forward in asking to have a right-of-way through the Pipeline Right-of-Way Leasing Act for these four park and recreation areas.

[1:26:52 PM](#)

CO-CHAIR NAGEAK opened public testimony.

[1:27:21 PM](#)

CHARLES MCKEE testified he has acreage on the Parks Highway in the vicinity of mile 88 and is concerned about how the right-of-way might affect that particular area. He noted he was injured on the job and now has a much reduced income and could therefore lose his land for lack of payment to the bank.

[1:31:45 PM](#)

CO-CHAIR NAGEAK requested AGDC to respond to the question about tree removal within the proposed corridor.

FRANK RICHARDS, P.E., Vice President, Engineering and Program Management, Alaska Gasline Development Corporation (AGDC), replied that the cutting of trees along a pipeline right-of-way doesn't come into play until actually into the construction mode. The granting to DNR of the ability to provide a corridor or right-of-way for AGDC in the planning efforts in no way means AGDC is going to go out and start cutting trees. Only at the point that a pipeline route has been selected, funding and financing procured, and a final investment decision (FID) made, would AGDC go out and with a defined right-of-way route of [180] feet start removing trees.

[1:33:08 PM](#)

CO-CHAIR TALERICO moved to adopt Amendment 1, labeled 29-GS1820\N.1, Shutts, 4/15/15, which read:

Page 2, following line 11:
Insert "Section 5: E1/2"

Page 2, following line 16:
Insert "Section 29: SW1/4"

Page 2, following line 22:
Insert "Section 4: SE1/4"

Page 3, following line 13:
Insert "Section 21: NW1/4"

Page 3, line 29:
Delete ": NE1/4, S1/2"

Page 4, line 3:
Delete "SE1/4"
Insert "S1/2, NE1/4"

Page 4, following line 8:
Insert "Section 25: SE1/4"

REPRESENTATIVE SEATON objected for discussion purposes.

[1:34:20 PM](#)

JULIE MORRIS, Staff, Representative David Talerico, Alaska State Legislature, explained Amendment 1 would add small pieces to the right-of-way. She read through the legal descriptions provided in the amendment and drew attention to the map prepared by the Alaska Gasline Development Corporation (AGDC), which depicts in blue these proposed additions to withdrawal for the proposed right-of-way.

[1:36:58 PM](#)

REPRESENTATIVE JOSEPHSON inquired whose idea is the amendment and asked what the purpose is of these additions.

MS. MORRIS offered her understanding that this section of the right-of-way needs to be wide enough to have both the AK LNG and the ASAP pipelines. The amendment widens the corridor.

REPRESENTATIVE JOSEPHSON asked whether this is DNR's request.

MS. MORRIS responded DNR is aware of the amendment.

REPRESENTATIVE JOSEPHSON understood, then, that DNR is aware of the amendment but it is not DNR's amendment.

MS. MORRIS deferred to DNR to provide an answer.

[1:38:15 PM](#)

REPRESENTATIVE TARR said it appears that there are not amended areas to include all of the parcels indicated in blue on the AGDC map. She requested that DNR respond in this regard.

MR. RICHARDS answered that the map prepared by AGDC is based on AGDC's knowledge of the request for additional parcels, which is what AGDC has represented in blue. He said he believes those line up with what is identified in Amendment 1.

REPRESENTATIVE TARR observed that Amendment 1 includes seven additions, but the map indicates eight or nine parcels.

CO-CHAIR TALERICO replied that line 18 of the amendment is for two separate portions and said anywhere there is a comma in the amendment [it is a separate portion]. So, there are actually 10 in the amendment and they should coincide with each area on the map. He explained that this is a kind of flexibility to allow the folks to find the best location for the pipeline. Sections are in squares but the pipeline direction runs at a diagonal, so it is an effort to expand the potential footprint to find the best laydown area for the pipeline. It widens the corridor in areas that appear to be very narrow.

[1:40:57 PM](#)

CO-CHAIR NAGEAK requested Mr. Ellis to comment.

MR. ELLIS responded that Amendment 1 did not originate in DNR, but DNR was aware of it and DNR's opinion was that the right-of-way as described was wide enough. That said, he added, DNR is not opposed to the additions.

CO-CHAIR NAGEAK inquired about how much [acreage] it is for each of those areas.

MR. ELLIS deferred to Mr. Hutchins for an answer.

MR. HUTCHINS answered that a full section is approximately 640 acres and each of these is a quarter section, so each of the blue squares on the map is 160 acres.

[1:43:01 PM](#)

REPRESENTATIVE TARR observed the right-of-way will come close to Byers Lake, a high value recreation area. She asked whether DNR anticipates any problems with that.

MR. ELLIS replied DNR does not anticipate any negative impacts upon Byers Lake or Byers Lake Campground during this process.

[1:43:45 PM](#)

REPRESENTATIVE SEATON removed his objection. [Amendment 1 was treated as adopted.]

[1:43:53 PM](#)

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

[1:44:37 PM](#)

CO-CHAIR TALERICO moved to report CSSB 70(FIN), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 70(RES) was reported from the House Resources Standing Committee.

The committee took an at-ease from 1:45 p.m. to 1:48 p.m.

[1:48:09 PM](#)

CO-CHAIR NAGEAK clarified that Amendment 1 was adopted and that CSSB 70(FIN), as amended, is reported from committee.

SJR 18-SUPPORT SHELL PORT OF SEATTLE LEASE

[1:48:15 PM](#)

CO-CHAIR NAGEAK announced the next order of business is CS FOR SENATE JOINT RESOLUTION NO. 18(RES), Supporting the leases issued by the United States Department of the Interior to Royal Dutch Shell in the Chukchi and Beaufort Seas; urging the Governor of the State of Washington, the Seattle City Council,

and other public officials in the State of Washington to refrain from destructive attacks on the economy, jobs, and lives of the people of this state and the State of Washington and to look first at closing the Boeing production facilities to reduce emissions of carbon dioxide from commercial activity; inviting Royal Dutch Shell to use a port in this state as the homeport of its Arctic drilling fleet if the lease with the Port of Seattle is terminated; and requesting that the Alaska Congressional delegation support restricting the Export-Import Bank of the United States to lending only to small businesses.

[1:48:40 PM](#)

KARI NORE, Staff, Senator Cathy Giessel, Alaska State Legislature, introduced CSSJR 18(RES) on behalf of Senator Giessel, sponsor. She explained the resolution is in support of Royal Dutch Shell's Port of Seattle leases. The resolution urges Washington to stop interfering with Alaska's economic development, especially when it comes to the development of the oil and gas deposits in the Beaufort and Chukchi seas, as well as the economic development in Alaska's Arctic region. The resolution offers ports in the state of Alaska as other possible ports for Royal Dutch Shell to base its operations if Seattle decides to move forward with its attempts to nullify Shell's current leases at the port.

[1:49:48 PM](#)

CO-CHAIR NAGEAK opened public testimony, then closed it after ascertaining that no one wished to testify.

[1:50:36 PM](#)

REPRESENTATIVE JOSEPHSON commented that there is an outstanding article in today's Bristol Bay Times written by Mayor Brower of the North Slope Borough in which she puts forth some good arguments. He reminded committee members that he has already indicated on the House floor that he has real concerns with Shell as an institution because its record in 2012 was really bad. He said he thinks drilling in the Chukchi Sea is a riskier proposition than drilling in the Beaufort Sea. While the resolution is a clever argument in some ways and he takes the point about Boeing, he doesn't know how helpful any of this is.

[1:51:38 PM](#)

CO-CHAIR TALERICO offered his appreciation and support for the resolution. He said he has read much of the documentation from the governor of Washington and is disappointed with the discussion of Arctic policy without the mention of Alaska. The only reason the U.S. is an Arctic nation is because of Alaska. There was complete misrepresentation in that letter with absolutely no mention of Alaska or Alaska's economy, he said, so he takes offense to what was produced with no prior communication. There could have been some outreach and contact with Alaska's administration. Further, he is disappointed by the letter from Washington that went to Sally Jewell, Secretary of Interior.

[1:53:24 PM](#)

REPRESENTATIVE HERRON agreed it is a clever resolution and said he has read Mayor Brower's letter to the governor of Washington and the mayor of Seattle and the city council, which he thinks was appropriate. He reported that Mayor Brower gave the same kind of speech when she spoke to Secretary Jewell in Kotzebue. Many people, including Secretary Jewell, didn't realize that in her polite speech Mayor Brower kicked Secretary Jewell in the rear end. The Washington government entities are biting off their nose to spite their face because Alaska is not a colony. This conversation between the state of Alaska and the state of Washington is an issue that Alaska is going to face elsewhere as well. He related that while he was before Congress, Minnesota U.S. Senator Al Franken asked him whether he understands the irony that Alaska wants to drill for its future yet contribute to the carbon footprint so that Alaska's coastal communities will go under water. He said he does not take his vote lightly to pass CSSJR 18(RES) because the resolution emphasizes Alaska's difficult realities in maintaining sustainable communities and to have a vibrant economy for the residents of Alaska.

[1:56:21 PM](#)

REPRESENTATIVE SEATON said he appreciates the last resolve clause that the legislature invite Royal Dutch Shell to use a port in the state of Alaska. However, he added, he has a question about the second to last resolve clause regarding the legislature requesting the congressional delegation of the state to support restricting the Export-Import Bank of the United States to only small businesses. He noted that this resolve relates to the last whereas clause on page 2 regarding the financing of Boeing by that bank. He said he thinks there are a lot of other things the Export-Import Bank can do and he is not

wanting there to be an impact on Alaska businesses or other businesses that are not involved in this dispute. He urged it be put on the record that it is for one company and not a general statement for all import/export activity across the U.S.

[1:58:11 PM](#)

REPRESENTATIVE TARR noted that the Alaska State Legislature hasn't asked other states when it considers resolutions that pertain to another state; for example, the resolution for New York's Central Park and the resolution for the proposed Keystone pipeline. She urged the legislature to tread carefully in relationships with Alaska's economic partners and to not be confrontational, but rather find ways to resolve the state's concerns in constructive ways in recognition that each legislature is representing its constituents. The Alaska State Legislature needs to hold itself to the same standards that it is asking the other states to uphold.

[2:01:21 PM](#)

REPRESENTATIVE JOSEPHSON added that Mayor Brower's article was well considered. An irony, though, is that Mayor Brower talks about Alaska needing to buildout the Arctic so search and rescue can be done for hunters drifting on the ice, while the push back from Washington is that there isn't going to be any ice.

[2:02:03 PM](#)

CO-CHAIR NAGEAK offered a reminder about the history between Alaska and Washington, especially Seattle. In the past Alaska and Washington were closely tied together by the economics and proximity of Alaska to Washington. Seattle used to tout itself as the gateway to Alaska because everything going up to Alaska came through Seattle. U.S. Senator Magnuson from Washington and U.S. Senator Stevens from Alaska created the Magnuson-Stevens Act on fisheries, a relationship of the two states that continues today. Washington depends on Alaska as seen by the crab fishermen from Washington who fish in Alaska waters. Therefore, he said, he was upset when the City of Seattle starting writing resolutions. The two states used to work together and now they are working against each other and that is not good for either state or for Seattle. Alaska is a huge economy for Seattle and this is how Seattle is paying back Alaska. He said he is glad Mayor Brower responded accordingly.

[2:06:14 PM](#)

CO-CHAIR TALERICO moved to report CSSJR 18(RES) out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSSJR 18(RES) was reported from the House Resources Standing Committee.

The committee took an at-ease from 2:06 p.m. to 2:10 p.m.

HB 191-OIL AND GAS CORPORATE TAXES

[2:10:19 PM](#)

CO-CHAIR NAGEAK announced that the final order of business is HOUSE BILL NO. 191, "An Act relating to the oil and gas corporate income tax; and providing for an effective date."

CO-CHAIR NAGEAK noted the committee will not take any action on HB 191 and the bill will be held over for future discussion.

[2:10:43 PM](#)

REPRESENTATIVE SEATON, sponsor, introduced HB 191 using a PowerPoint presentation. He said HB 191 would ensure fair and equitable treatment among [corporate] taxpayers, whether they are multi-national companies or Alaska companies producing oil or gas only in Alaska. He addressed slide 2, explaining that worldwide apportionment attributes a percentage of a corporation's total worldwide expenses to each jurisdiction and treats the [parent] company and all of its subsidiaries as a single entity for tax purposes. The problem is that when a corporation's subsidiaries outside of Alaska are less profitable than they are inside of Alaska, it reduces the taxes the company pays to Alaska to account for the expenses incurred overseas or in the Lower 48. He noted he is using the word profit a little vernacular; everyone understands what that means - people are often talking about net margin, which means profit before taxes. Continuing, he explained that under separate accounting each jurisdiction is looked at separately. The difference between the revenue generated in a jurisdiction and the expenses attributed to generation of that revenue in a jurisdiction is the net margin/profit. The method of separate accounting means that everybody is going to pay the same. A corporation that exists solely in Alaska, producing oil and gas in Alaska, with all expenses related to Alaska, will pay 9.4 percent tax on its profit. Historically under worldwide apportionment, the multi-national corporations pay much less than 9.4 percent tax because

they can write off their overseas expenses against the profits they made in Alaska.

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REPRESENTATIVE SEATON turned to slide 3, "History of Separate Accounting," reporting that Alaska originally began with worldwide apportionment and found it was not collecting what it felt was its fair share from revenues generated in Alaska. The state subsequently changed its system to separate accounting, using this system from 1978-1981, but the state was sued by oil companies. The fear was the amount of money the state would have to pay to the oil companies if the state lost the lawsuit because the companies would be paying less under worldwide apportionment, so the legislature went back to worldwide apportionment. The state ended up winning on all counts in the Alaska Supreme Court. This was appealed to the U.S. Supreme Court, but the U.S. Supreme Court dismissed the case because it didn't bring up any issues of federal importance. He moved to slide 4 to show the cover page of the lawsuit case [in the Alaska Supreme Court]. Displaying slide 5 he pointed out that during the years 1978-1981, inclusive, the total difference between separate accounting and worldwide apportionment was \$1.8 billion. Fearing Alaska might have to repay this amount, the legislature repealed separate accounting. Representative Seaton explained that slide 6 is from a presentation made by Dan Dickinson of the Department of Revenue in 1999. Between 1982 and 1997 the state collected \$4.6 billion less by using worldwide apportionment than it would have collected using separate accounting. He clarified that the only thing being talked about is deduction of expenses from overseas, the tax rate would not be changed and would remain at 9.4 percent. He noted slide 7 is a graphic representation of Mr. Dickinson's report. The blue bars are what the state actually collected and the grey bars are what would have been collected at the same tax rate under separate accounting, with the difference between the quite large.

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REPRESENTATIVE SEATON related that an argument heard is that separate accounting is difficult to do. He displayed a synopsis (slide 8) of the two states (Oklahoma and Mississippi) and the 80 countries that use separate accounting, drawing attention to the companies that operate in Alaska as well as those two states and the other countries. [Companies operating in both Alaska and Mississippi include Anadarko Petroleum, Apache Corporation,

Aurora Exploration, Chevron USA, ExxonMobil, Hilcorp Energy Company, Shell Oil, Tesoro, and Ultra Oil & Gas; Companies operating in both Alaska and Oklahoma include Anadarko Petroleum, Apache Corporation, BP Exploration & Production, Chevron USA, ConocoPhillips, ExxonMobil Corporation, and XTO Energy]. He pointed out that it is more difficult for the companies to do separate accounting in Oklahoma and Mississippi because there are close adjoining states where the companies are also doing oil and gas development, while Alaska is thousands of miles away from another state. Regarding the 80 oil-producing countries, he reported that for nonresident corporations in these countries the vast majority of the companies must use separate accounting. [Companies operating in both Alaska and other countries include Anadarko Petroleum, Apache Corporation, BP Exploration & Production, Chevron USA, ConocoPhillips, Eni Petroleum, ExxonMobil Corporation, Repsol, Shell Oil Company (Royal Dutch Shell), and Statoil]. Thus, these companies already are doing separate accounting. Ten states in the U.S. allow a company to choose whether to use worldwide apportionment or separate accounting, he added, and almost always the companies choose worldwide apportionment. However, that doesn't mean the companies aren't calculating it all the time because they will swap back and forth when it is beneficial.

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REPRESENTATIVE SEATON reviewed the tax rates and net income for the top five oil companies paying taxes to Alaska for tax years 2006-2013 (slides 9-12). He explained ConocoPhillips is separated out [slides 11-12] because it is the only corporation required to separate its Alaska production, thus it is the only company that reports it to the Securities and Exchange Commission (SEC). Because tax data in Alaska is confidential, data for the top five companies in Alaska is combined into an aggregate rather than individually for each of those companies. Turning to slide 10, "Top Five Oil Companies - Corporate Income Tax Comparison," he pointed out that in 2013 the tax paid under worldwide apportionment was \$355 million less than what it would have been under separate accounting. Further, between 2006 and 2013 the effective tax rate paid to Alaska by these five multi-national companies declined [from 10.1 percent] in 2006, when there was a change in tax rate halfway through the year, to 4.4 percent in 2013. However, an Alaska-only company pays 9.4 percent corporate income tax.

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REPRESENTATIVE SEATON brought attention to slide 11, "Table 2: ConocoPhillips Exploration and Production Net Income per Barrel of Oil Equivalent by Selected Jurisdictions." He noted that the average net income per barrel [for the years 2000-2014] is \$18.73 for Alaska, \$7.66 for the Lower 48, and \$10.95 for the global total. Those differences in net income per barrel of oil equivalents is explained by the taxes being paid to Alaska being less than half of what would be required of an Alaska-only producer. There is a problem with mixing oil and gas because gas is generally less profitable. However, the companies have never separated their oil production from their gas production; they have been asked to do so, but they have declined. Displaying slide 12, a graphic representation of the numbers on slide 11 for ConocoPhillips, he noted the huge difference in net income per barrel that is seen on the graph.

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REPRESENTATIVE SEATON moved to slide 13 to continue addressing ConocoPhillips and Alaska. He explained he isn't picking on ConocoPhillips, but since ConocoPhillips is the only corporation required to make reports to the SEC [the information is available]. Bringing attention to slide 14 depicting a 2011 article from Petroleum News, he noted that Greg Garland, the ConocoPhillips senior vice president for exploration and production in the Americas, states that ConocoPhillips likes the Eagle Ford [shale play in Texas] because [the \$45 per barrel margin] was twice that of Conoco's global portfolio, meaning the global portfolio was about \$23 per barrel. Looking at Alaska's oil economics in 2011 (slide 15), Representative Seaton pointed out that the net margin [of \$43.50] per barrel of oil was essentially the same as the Eagle Ford net margin [of \$45] that ConocoPhillips said it liked. Alaska's 2011 margins were twice ConocoPhillips' global average, which shows how Alaska's taxes get diluted. Moving to slide 16, he noted that ConocoPhillips is very bullish on Alaska: making a final investment decision on expanding the 1H drill site at West Sak and going to viscous oil production, sanctioning construction of site 2S at Kuparuk River, and so forth. The question is how that relates to Alaska versus other oil economics (slide 17). He pointed out that the [total] rig count for Alaska increased between 2008 and 2015 as did the rig count just for ConocoPhillips in Alaska, whereas the rig count in the Lower 48 and in Canada went down between [2012 and 2015]. Oil companies are not investing in new exploration and production in the Lower 48 because they are investing for profit, he said. They are investing in Alaska because it is

more profitable - without separate accounting that lower profitability in the Lower 48 reduces their Alaska taxes.

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REPRESENTATIVE JOSEPHSON said he is interested in this but is inclined to play a bit of devil's advocate. Noting that Representative Seaton is talking about how Alaska's investment climate is better due to worldwide apportionment, he asked whether this isn't the Senate Bill 21 argument all over again. He further asked what the difference is from the oil industry's perspective.

REPRESENTATIVE SEATON replied there is quite a bit of difference because it is corporate income tax that is being talked about, which is based on profitability of the oil company, not oil production tax as in Senate Bill 21. He clarified he isn't saying the companies are more profitable here because of worldwide apportionment, rather the state is reducing its taxes because Alaska is more profitable than the other places. From the historical data it can be seen that there was only one time when worldwide apportionment would have gotten Alaska a little more money than separate accounting. Exploration and production, which Alaska is heavy in, is generally more profitable than retail oil sales and refining.

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REPRESENTATIVE JOSEPHSON reiterated that HB 191 is intriguing to him and noted that he voted against Senate Bill 21, but said it seems that all of last summer's ads on television and in print could have been cut and "corporate income tax" pasted in and statements made about how it would suppress interest in development and the positive economics of development, even though it is a different topic.

REPRESENTATIVE SEATON responded he doesn't believe so - the profits are there and then the taxes are applied. He said he doesn't think it is the tax differential that is driving investment in Alaska, the tax differential actually subsidizes investment in lower-profit areas. For example, a company could go into an area where its profit isn't quite as good because the expenses are higher, but those would be somewhat offset because it would reduce the company's taxes in Alaska. It is to Alaska's detriment, not its benefit, that that happens.

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REPRESENTATIVE SEATON displayed slide 18, "Estimated average oil industry 'margin' per taxable barrel in Alaska for FY16." He pointed out that [under the current production tax method] the company margin before state and federal income tax is \$11.04. He opined that companies "are still investing here; the point of this is that rigs are being laid down all over in the Lower 48 and other places, whereas current investment is going here because it's more profitable, if you're more profitable than the other regions then you are going to reduce your taxes here for the expenses that are occurring elsewhere."

REPRESENTATIVE SEATON drew attention to slide 19, pointing out that for tax year 2013 the top five oil companies paid taxes of 4.4 percent, whereas under separate accounting they would have paid the statutory rate of 9.4 percent. Thus, under worldwide apportionment rather than separate accounting, Alaska's loss in 2013 was \$355 million. The average loss over the last few years is \$220 million and \$220 million a year is significant given the fiscal times that Alaska is in.

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REPRESENTATIVE JOSEPHSON inquired whether a policy call was made by either the Hammond Administration or the Sheffield Administration in the early and mid-1980s to come off the corporate income throttle and come down harder on gross income tax or severance tax.

REPRESENTATIVE SEATON answered he doesn't believe so. When he came to the legislature there was the Economic Limit Factor (ELF), which was totally broken. Under the Murkowski Administration the second largest oil field wasn't paying anything. There was not a balance made of increasing taxes, there was only a lowering of those and not going back to separate accounting even though there was an Alaska Supreme Court decision telling the legislature that that was an adequate and appropriate way to tax. History has shown that the state would be better off under a [separate accounting] tax regime with a 9.4 percent tax rate, but the legislature for one reason or another has not changed its tax policy and that is why HB 191 is before the committee. The bill would ensure that the taxes are fairly and equitably apportioned to international oil companies as well as Alaska-only oil companies; under separate accounting a tax rate of 9.4 percent would be applied to both types of companies. So, the question before the legislature is whether to charge double taxation on Alaska-only companies,

given the tax rate for Alaska-only companies is 9.4 percent and the tax rate for international companies has been 4.4 percent.

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REPRESENTATIVE TARR asked whether, in relation to activities on the Alaska Liquefied Natural Gas Project (Alaska LNG Project or AK LNG), under separate accounting oil development activities would be accounted for separate from the corporate activities related to AK LNG or would all of that be considered Alaska.

REPRESENTATIVE SEATON replied that oil and gas properties generally are consolidated as being Alaska operations in the oil and gas. He deferred to the Department of Revenue for an answer as to whether the transportation is going to be separated.

KEN ALPER, Director, Tax Division, Department of Revenue (DOR), responded to Representative Tarr's question by explaining that Alaska's corporate income tax taxes activities within Alaska. It doesn't tax them directly because the relative profitability for those Alaska activities, which includes the profit on the production, the profit on the transportation, and so forth, gets run through this formula of apportionment where it gets compared with the relative numbers in other parts of the world. He said he doesn't envision any difference inside AK LNG. The state's, the corporations', and the partners' in AK LNG's profits would be subject to this tax just as they currently are. In the conversations before the body last year, say, during debate of Senate Bill 138, the property tax and the corporate income tax were sort of outside the in-kind conversation. The expectation was that the State of Alaska would be taking its royalties and its production taxes in-kind and the state would own that gas and run it through that project. Whatever the companies' profits were on their portions of AK LNG would then be subject to corporate income tax. He said he doesn't see where HB 191 would change that mechanism in any way.

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REPRESENTATIVE JOSEPHSON requested Mr. Alper to provide a few sentences on the foundational philosophy between royalty, a gross severance tax, be it profit or through some other method, and corporate income tax.

MR. ALPER answered that the royalty is the landowner's share. In most parts of North America oil and gas are produced from privately owned land so the royalty would go to the owner of

that land. Alaska is fortunate in that most of the oil and gas that has been developed on the North Slope is on land that is owned and selected by the state, so the state gets to take that piece as the landowner, regardless of the state's role as the sovereign. The severance tax is the state's right as the sovereign. Because it is a nonrenewable resource that's being severed from the ground, the state is being compensated in some form for the one-time removal of something that fundamentally belongs to the state, a subsurface resource. A corporate income tax is separate from the natural resource world. It is the state's taxation power, also a sovereign power as the state, for the privilege of doing business within Alaska's borders in exchange for the services the state provides. The state collects a tax on the profit of corporate entities. It is a broad tax, it goes beyond the corporations that produce oil and gas; it applies to other large companies that meet the threshold of the corporate income tax.

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REPRESENTATIVE JOSEPHSON commented that the corporate income tax is literally the fact that the state is enforcing laws and contracts, has a court system, all those privileges that the state affords a corporation.

MR. ALPER concurred. The fact that there is an apportionment mechanism is in many ways a simplifying factor, he said, a way in which the various states and their tax administrations cooperate with each other to balance the deck. Where HB 191 goes is to recognize that there are some inherent imbalances specifically in the oil and gas world, perhaps because the nature of the production in Alaska is very different from what happens in the Lower 48.

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REPRESENTATIVE SEATON pointed out that nothing in the bill would affect credits. All of the credits that would be applicable to the current income tax that is being paid are transferred and are applicable to the tax here. There is no slight-of-hand trying to eliminate or impact credits. Credits are mentioned in the bill only so that all of the credits are available and none of them are available twice: in the year that a credit would be there, it could not be claimed on both the old and new income tax.

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REPRESENTATIVE TARR inquired whether the accounting system proposed in HB 191 could lead to increased investment, given that a company is balancing credits and investments against each other.

MR. ALPER replied that the suite of credits currently available against the corporate income tax are somewhat different in nature than the credits on, say, the oil and gas production tax. The credits tend to be targeted to very specific activities, such as manufacturing, value-added, refinery, education. The corporate income tax, because it has a broad taxpayer base, has been used as a place where credits can be used for desired activity. For example, many of the companies earning a film credit don't pay income tax in the state of Alaska because they are not Alaskan companies, but those credits would then be sold and used by corporate income tax payers. He said HB 191 would maintain all of that structure. All of those taxes, transferable and otherwise, could be used against either the traditional corporate income tax, which would continue to be apportioned, or this new oil and gas corporate income tax, which would use a separate accounting mechanism.

[HB 191 was held over.]

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ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:47 p.m.