

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 30, 2016

1:02 p.m.

MEMBERS PRESENT

Representative Benjamin Nageak, Co-Chair
Representative David Talerico, Co-Chair
Representative Bob Herron
Representative Kurt Olson
Representative Paul Seaton
Representative Andy Josephson
Representative Geran Tarr
Representative Mike Chenault (alternate)

MEMBERS ABSENT

Representative Mike Hawker, Vice Chair
Representative Craig Johnson

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 125(RES)

"An Act adding legislative nonvoting members to the board of directors of the Alaska Gasline Development Corporation."

- HEARD & HELD

HOUSE BILL NO. 282

"An Act relating to the board of directors of the Alaska Gasline Development Corporation; adding legislators as nonvoting members of the board of directors of the Alaska Gasline Development Corporation; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 253

"An Act requiring the electronic filing of a tax return or report with the Department of Revenue; establishing a civil penalty for failure to electronically file a return or report; relating to exemptions from the mining license tax; relating to the mining license tax rate; relating to mining license application, renewal, and fees; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 286

"An Act relating to sport fishing, hunting, or trapping licenses, tags, or permits; relating to penalties for certain sport fishing, hunting, and trapping license violations; relating to restrictions on the issuance of sport fishing, hunting, and trapping licenses; creating violations and amending fines and restitution for certain fish and game offenses; relating to commercial fishing violations; allowing lost federal matching funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs to be included in an order of restitution; adding a definition of 'electronic form'; amending Rule 5(a)(4), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 125

SHORT TITLE: LEGISLATIVE MEMBERS OF AGDC BOARD

SPONSOR(S): SENATOR(S) COSTELLO

01/19/16	(S)	PREFILE RELEASED 1/15/16
01/19/16	(S)	READ THE FIRST TIME - REFERRALS
01/19/16	(S)	L&C, RES
02/02/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/02/16	(S)	Heard & Held
02/02/16	(S)	MINUTE(L&C)
02/04/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/04/16	(S)	Moved CSSB 125(L&C) Out of Committee
02/04/16	(S)	MINUTE(L&C)
02/08/16	(S)	L&C RPT CS 4DP SAME TITLE
02/08/16	(S)	DP: COSTELLO, GIESSEL, MEYER, STEVENS
03/02/16	(S)	RES AT 3:30 PM BUTROVICH 205
03/02/16	(S)	Moved CSSB 125(RES) Out of Committee
03/02/16	(S)	MINUTE(RES)
03/04/16	(S)	RES RPT CS 4DP 1DNP 1NR SAME TITLE
03/04/16	(S)	DP: GIESSEL, COGHILL, MICCICHE, COSTELLO
03/04/16	(S)	DNP: WIELECHOWSKI
03/04/16	(S)	NR: STOLTZE
03/23/16	(S)	TRANSMITTED TO (H)
03/23/16	(S)	VERSION: CSSB 125(RES)
03/25/16	(H)	READ THE FIRST TIME - REFERRALS
03/25/16	(H)	RES, L&C
03/30/16	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 282

SHORT TITLE: AGDC BOARD OF DIRECTORS

SPONSOR(S): REPRESENTATIVE(S) CHENAULT

01/29/16	(H)	READ THE FIRST TIME - REFERRALS
01/29/16	(H)	RES, L&C
02/10/16	(H)	RES AT 1:00 PM BARNES 124
02/10/16	(H)	<Bill Hearing Canceled>
03/30/16	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 253

SHORT TITLE: ELCTRNC TAX RETURN;MINING LIC. TAX & FEES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/16	(H)	READ THE FIRST TIME - REFERRALS
01/19/16	(H)	RES, FIN
02/15/16	(H)	RES AT 1:00 PM BARNES 124
02/15/16	(H)	Heard & Held
02/15/16	(H)	MINUTE(RES)
02/17/16	(H)	RES AT 1:00 PM BARNES 124
02/17/16	(H)	Heard & Held
02/17/16	(H)	MINUTE(RES)
02/19/16	(H)	RES AT 1:00 PM BARNES 124
02/19/16	(H)	Heard & Held
02/19/16	(H)	MINUTE(RES)
02/23/16	(H)	RES AT 1:00 PM BARNES 124
02/23/16	(H)	Heard & Held
02/23/16	(H)	MINUTE(RES)
02/24/16	(H)	RES AT 8:30 AM BARNES 124
02/24/16	(H)	Heard & Held
02/24/16	(H)	MINUTE(RES)
03/28/16	(H)	RES AT 1:00 PM BARNES 124
03/28/16	(H)	Heard & Held
03/28/16	(H)	MINUTE(RES)
03/30/16	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

SENATOR MIA COSTELLO
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, introduced CSSB 125(RES).

WESTON EILER, Staff
Senator Mia Costello
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Answered questions regarding CSSB 125(RES) on behalf of the prime sponsor, Senator Costello.

TOM WRIGHT, Staff
Representative Mike Chenault
Alaska State Legislature

POSITION STATEMENT: Assisted in introducing HB 282 on behalf of the prime sponsor, Representative Chenault.

ED FOGELS, Deputy Commissioner
Office of the Commissioner
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 253, answered questions related to proposed amendments.

BRANDON SPANOS, Deputy Director
Tax Division
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 253, answered questions related to proposed amendments.

JERRY BURNETT, Deputy Director
Office of the Commissioner
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 253, answered questions related to proposed amendments.

ACTION NARRATIVE

[1:02:48 PM](#)

CO-CHAIR DAVID TALERICO called the House Resources Standing Committee meeting to order at 1:02 p.m. Representatives Seaton, Chenault (alternate), Olson, Josephson, Tarr, Nageak, and Talerico were present at the call to order. Representative Herron arrived as the meeting was in progress.

SB 125-LEGISLATIVE MEMBERS OF AGDC BOARD

[1:03:31 PM](#)

CO-CHAIR TALERICO announced that the first order of business is CS FOR SENATE BILL NO. 125(RES), "An Act adding legislative nonvoting members to the board of directors of the Alaska Gasline Development Corporation."

1:04:15 PM

SENATOR MIA COSTELLO, Alaska State Legislature, paraphrased from her sponsor statement, written as follows [original punctuation provided]:

Senate Bill 125 amends state law by adding two legislators as ex-officio (nonvoting) members to the Board of Directors of Alaska Gasline Development Corporation (AGDC).

As the AKLNG project moves forward, the State of Alaska will face increasingly complex financing and policy decisions. AGDC is the state's primary representative in the project and will be a focal point for these discussions in the coming years. It is essential the state have a transparent, clear decision making process in place. Senate Bill 125 helps accomplish this by giving all parties a seat at the table.

The AGDC Board of Directors currently consists of five public members appointed by the Governor and two commissioners of state departments. The commissioners for the Department of Revenue and Department of Natural Resources are prohibited from serving on the board. Having legislators participate in an advisory, nonvoting capacity adds experience and continuity to the board. Legislators understand the type of budget decisions that will be needed to meet the state's cash calls for a gasline project, and would be helpful for discussions on project financing. Senate Bill 125 will also increase collaboration on the project as any contract over two years in duration must be ratified by the Legislature.

SENATOR COSTELLO stressed that the importance of the gasline cannot be understated. Alaskans are following this project and during the last session the legislature received updates from AGDC. She described it as a generational project, one of the largest engineering projects in the world, and said this bill will help facilitate communication and teamwork between the

legislature and the AGDC Board and move this important project forward. Given the importance of the project, she said there is a need for transparent and clear decision making and the best way to make these decisions is to give all parties a seat at the state's table. Having legislators will provide perspective, institutional knowledge, and continuity; for example, six of the seven AGDC board seats turned over during the past year. The precedent in legislators serving on the board is that legislators currently serve on over a dozen state boards and commissions, including the Knick Arm Bridge Authority, the Alaska Aerospace Corporation, and the Alaska Seafood Marketing Institute. Each of those boards has two legislators as nonvoting ex officio members and serving as nonvoting members alleviates any constitutional concerns. The AGDC's mission and authority has expanded greatly during the past six years and has evolved to be the focal point of state decision making on developing liquefied natural gas on behalf of the state. It is important that the structure of organizations such as this are able to adapt to the types of decision making needed for a project of this magnitude. Legislators understand the type of budgeting decisions necessary to meet the state's cash calls and it would be helpful to have two legislators there to listen and participate in those discussions. Legislators at the table also lets policy makers better understand the ADGC Board's view of the business decisions facing the state. She reiterated that the gasline is one of the most important projects the legislature has before it and this bill promotes further cooperation, teamwork, and collaboration between the members of the ADGC Board and the legislature.

[1:08:35 PM](#)

REPRESENTATIVE SEATON asked how the sponsor addresses the prohibition of legislators holding dual offices under the constitution and legislative members being in the executive branch.

SENATOR COSTELLO responded that the bill was amended to require that legislators would not be paid per diem or receive any sort of financial benefit. When looking at the separation of powers among the branches, it is the judicial branch that would weigh in as to whether or not there is a constitutionality issue. She reminded the members of the precedent of members sitting on boards and corporations and if that is an issue, it may be something that is taken up as a group.

REPRESENTATIVE SEATON put forth that many of the topics that would be discussed would require confidentiality. He asked whether the legislators would be expected to sign confidentiality statements and how would they share information back to the legislature.

SENATOR COSTELLO responded that she is aware of only one member of the AGDC Board, currently, that has signed a confidentiality statement and, therefore, if it is not an issue for the current members on the board she does not see why it would be an issue for ex officio members.

[1:11:01 PM](#)

REPRESENTATIVE JOSEPHSON asked whether members of the Alaska Aerospace Development Corporation and Alaska Seafood Marketing Institute (ASMI) are appointed by the executive branch.

SENATOR COSTELLO answered that she is uncertain but believes they are appointed by the leadership in the House and Senate.

REPRESENTATIVE JOSEPHSON inquired whether there are any competing legal opinions from any source.

SENATOR COSTELLO responded that under [South Carolina v. Public Interest Foundation and Edward D. Sloan v. South Carolina Transportation Infrastructure Bank, 379 S.C. 160, 169, 666 S.E.2d 236, 241 (2008)], the court decided in favor of ex officio members who serve in the legislature also serving on the board. State courts are currently split on the issue, she said.

[1:12:23 PM](#)

REPRESENTATIVE SEATON surmised that in the event the appointees are challenged, it would probably go through a long legal process. He asked whether that would mean ADGC would either be at risk at having any of its decisions overturned or would not be able to make any decisions until the lawsuit was resolved.

SENATOR COSTELLO reiterated that these ex-officio members would be nonvoting and if this bill were to pass, any decision made by the board would be made by the voting members of the board and not the two listening participating members who are there simply to have a seat at the table. The spirit in which the bill has been offered is for cooperation and communication, so she does not see why that would be an issue.

[1:13:33 PM](#)

REPRESENTATIVE JOSEPHSON referred to how the AGDC has evolved, and asked whether the board in its present iteration happened in 2013 as part of Senate Bill 21. He further asked whether part of the argument is that that section of Senate Bill 21 needs reform.

WESTON EILER, Staff, Senator Mia Costello, Alaska State Legislature, offered his belief that Representative Josephson is referring to the changes that were made to the Alaska Gasline Development Corporation with passage of Senate Bill 138 in 2014. That bill outlined and structured the Alaska Gasline Development Corporation (AGDC) as it is currently arranged.

[1:14:44 PM](#)

REPRESENTATIVE HERRON inquired about the catalyst and need for this legislation.

SENATOR COSTELLO answered that last session it became evident that the communication and transparency amongst the interested parties could be improved. The impetus for this bill is to help with communication and certainly if there were two legislators sitting on this board as ex officio listening and participating members it would add to the conversation. She said she has heard from members of the legislature, currently sitting on other boards and corporations, that their participation is viewed as aiding the discussion and an asset to the corporation.

[1:15:58 PM](#)

REPRESENTATIVE JOSEPHSON recalled that Representative Tarr and he attended an ADGC meeting with a number of senators. He asked whether there is any reflection in attendance by the 60 legislators of interest in those meetings as they are happening.

SENATOR COSTELLO replied there is extreme interest in what is happening at AGDC board meetings. However, the board goes into executive session that cannot be attended by anyone else, and as the people's branch of government it is incumbent upon the legislature to be there. She noted the concerns focusing mainly on the role of the legislature and its participation, but pointed out that the role and scope of the project is of such magnitude it warrants a legislative view.

[1:18:06 PM](#)

CO-CHAIR TALERICO commented it would appear that with the nonvoting, uncompensated capacity this does not appear to be advisory as much as the legislature having a communication line open for better transparency and communication between the legislature and the board. He asked whether that was the sponsor's intent with this legislation.

SENATOR COSTELLO responded yes. She said it is common worldwide for corporations to have what would be considered viewing participating members who do not vote but are there as part of the discussion and listening.

[1:19:05 PM](#)

REPRESENTATIVE TARR said she does not have a problem with adding legislators because the role would be nonvoting members. However, she noted, if the board goes into executive session and the legislative members are able to participate, there is no mechanism for that information to be shared with other legislators. In the event the legislative members were participating and there was a clear communication breakdown, whether or not there is a way to make it a greater asset for the legislature in the sense that it could then, perhaps through executive session of the legislature, learn the information.

SENATOR COSTELLO answered that the ex officio nonvoting legislative participants would be under the same guidelines as the rest of the board so would not necessarily be able to share the information. She described it as a confidence building effort to have the legislative branch in those meetings.

[1:20:42 PM](#)

[CSSB 125(RES) was held over.]

[1:20:52 PM](#)

The committee took an at-ease from 1:20 p.m. to 1:21 p.m.

HB 282-AGDC BOARD OF DIRECTORS

[1:21:44 PM](#)

CO-CHAIR TALERICO announced that the next order of business is HOUSE BILL NO. 282, "An Act relating to the board of directors of the Alaska Gasline Development Corporation; adding

legislators as nonvoting members of the board of directors of the Alaska Gasline Development Corporation; and providing for an effective date."

[1:21:48 PM](#)

REPRESENTATIVE CHENAULT, prime sponsor of HB 282, advised that the bill has two provisions, one of which Senator Costello identified when speaking about CSSB 125(RES). The second provision, he advised, would amend AS 31.25.020(b) and would require the governor to appoint four of the five board members of the Alaska Gasline Development Corporation (ADGC) who have experience and expertise in natural gas pipeline construction, operation, marketing, finance, large project management, or other expertise and experience that is relative to the purpose, powers, and duties of AGDC. One board member is not required to have the expertise previously outlined. He explained that the original language established under Senate Bill 138 for board member appointment qualifications was permissive. Currently, the board consists of five public members and two departmental commissioners. He noted that the commissioners from the Department of Revenue (DOR) and the Department of Natural Resources (DNR) are prohibited from serving on the board.

REPRESENTATIVE CHENAULT advised that the original intent of House Bill 369, House Bill 4, House Bill 9, and Senate Bill 138 was to have a board free from political interference and influence, and to make decisions based on the state's and AGDC's best interests. However, this has changed in the last few years as most of the board members do not have the qualifications of previous board members, nor have the expertise that was sought under Senate Bill 138. Once pre-front-end engineering design (Pre-FEED) is completed and if the decision is made to advance to front-end engineering design (FEED), it is imperative that the AGDC board be comprised of members who provide the best expertise available. Governor Bill Walker stated, in requesting the resignation of the original president of AGDC, that the executive of the corporation have the ability to take AGDC to the next level, and the same should be true of the board.

[1:24:34 PM](#)

TOM WRIGHT, Staff, Representative Mike Chenault, advised Representative Josephson that the court case was South Carolina v. Public Interest Foundation and Edward D. Sloan v. South Carolina Transportation Infrastructure Bank, [379 S.C. 160, 169, 666 S.E.2d 236, 241 (2008)]. He said it is the only court case

the sponsor has been able to locate that discusses the issue of legislators serving as nonvoting members. When discussing the nonvoting members, he opined that if the administration was concerned about that it would have legislation out there to discuss the Alaska Seafood Marketing Institute (ASMI). There are not statutes that specifically state that ASMI have legislators serving on that board. As far as the Knik Arm Bridge and Toll Authority (KABATA) and the Alaska Aerospace Corporation, if this was a concern he would expect to see legislation from the administration addressing this.

REPRESENTATIVE JOSEPHSON noted that the existing statute on the governing body for AGDC is only advisory, because the statute states, "when appointing the governor shall consider", and then it goes on to discuss the expertise that is wanted. He inquired whether the sponsor's amendment would basically require that that expertise be there for sure.

MR. WRIGHT replied correct.

[1:26:29 PM](#)

REPRESENTATIVE SEATON asked whether there is a termination clause for current board members who do not have the qualifications the bill requires.

MR. WRIGHT responded that the sponsor's intent is for the current board members to remain and when new appointments come up that the qualifications be part of the consideration when nominating someone.

[1:27:27 PM](#)

CO-CHAIR TALERICO said he will hold over HB 282 and that his plan is to generate a committee substitute (CS) that utilizes both CSSB 125(RES) and HB 282.

REPRESENTATIVE JOSEPHSON pointed out that the opinions offered are what are called "persuasive opinions" as they are from out-of-state. Persuasive opinions can have some authority but they generally are not persuasive relative to Alaska decisions. The attorney general cites two Alaska decisions and three attorneys general opinions and states that even nonvoting status is a problem.

REPRESENTATIVE TARR commented that she will work with both sponsors as she is interested in addressing the issue of whether

the members can be added, and actually having a majority and minority member added as nonvoting members.

[HB 282 was held over.]

HB 253-ELCTRNC TAX RETURN;MINING LIC. TAX & FEES

[1:29:08 PM](#)

CO-CHAIR TALERICO announced that the next order of business is HOUSE BILL NO. 253, "An Act requiring the electronic filing of a tax return or report with the Department of Revenue; establishing a civil penalty for failure to electronically file a return or report; relating to exemptions from the mining license tax; relating to the mining license tax rate; relating to mining license application, renewal, and fees; and providing for an effective date." [Before the committee was the proposed committee substitute (CS) for HB 253, Version 29-GH2924\N, Nauman, 3/17/16, adopted as the working document on 3/28/16.]

[During this hearing, amendments to Version N of HB 253 were discussed or adopted. Because of their length, the longer amendments are found at the end of the minutes for this bill. The shorter amendments are included in the main text.]

[1:30:10 PM](#)

REPRESENTATIVE SEATON moved to adopt the corrected version of Amendment 1, labeled 29-GH2924\N.15, Nauman, 3/30/16. [The text of Amendment 1 is provided at the end of the minutes for HB 253.]

REPRESENTATIVE HERRON objected for discussion purposes.

REPRESENTATIVE SEATON explained that Amendment 1 relates to production royalties on mining. On page 1, line 2, following "fees" the amendment would insert "relating to production royalties on mining;" within the title. He said the meat of the amendment goes to Section 5. Under Amendment 1 the royalty would be recalculated from 3 percent of net profits to 3 percent of either net smelter return or the gross value at the point of production. The reason for two different definitions is because the minerals coming out of mines are handled in two different ways and this would establish how that is done. Section 6 establishes what the net smelter return is, which is when the mineral goes into a smelter and comes out as a finished product; an amount is subtracted for the processing fees and what comes

out is the value at that point of production. Section 7 defines gross value at the point of reduction. Those calculations are different because many times mines shift concentrates; a product that hasn't gone through a smelter may be sold at that point, so when it comes off of the mine and is shipped the gross value at the point of production is established there.

REPRESENTATIVE SEATON further explained that the additional verbiage in the sections on net smelter returns and gross value at the point of production would require that this must be an arm's length transaction similar to a transaction between two different parties, people, or companies. In the event a person sells it to themselves, the person could not declare all of the loss in an inappropriate place or declare inappropriate expenses. Representative Seaton pointed out that Sections 1-4 are also included in Amendment 1. He said royalty is the state's ownership value in the minerals that are there and it is inappropriate to have a tax credit applied against the state's ownership value. Exploration tax credits could be applied against taxes, whether that's the mining license tax or against corporation income tax, but it shouldn't reduce the value of the state's portion of the minerals.

[1:34:07 PM](#)

CO-CHAIR TALERICO asked how the gross value at the point of production is determined, given there is a lot of processing from pit to transportation system.

ED FOGELS, Deputy Commissioner, Office of the Commissioner, Department of Natural Resources (DNR), responded that DNR does not track these costs and does not have the expertise to figure it out. The department does not know how it would determine these values at this point, so it is something that would have to be determined going forward.

CO-CHAIR TALERICO asked whether DNR would be reliant, to some degree, upon the producer. He said he can think of a particular product that, although it may seem to be wildly profitable, it is after it is crushed, screened, smelted, transported, and sold, so there are all of those costs. Potentially, there is an argument that that it is not the point of production, the point of production is actually pulling it out of the ground. Everything, beyond all of the things he just mentioned are value added to the product. He asked whether there is an argument that could be posed that "this is point of production" and "this is processed product or value-added product."

MR. FOGELS replied is not in a position to answer the question, but he does know that if this were to go forward DNR would have to rely on the operator to tell the department what those costs are on either side. As to how the department verifies the costs or audits the operator somewhere down the road, he does not know. The department would be able to give the committee a clear picture of the fiscal benefits to the state from these changes, or the impact to the operator at this point.

1:36:50 PM

REPRESENTATIVE SEATON directed attention to Amendment 1, page 4, lines 7-10, [subsection (b)], and said they address exactly what Co-Chair Talerico is talking about. The language states:

(b) Except as provided in (c) of this section, the value of a resource immediately after its removal from the mine is the price received by the person engaged in the mining of the resource adjusted for value added after the resource was produced.

REPRESENTATIVE SEATON then referred to page 4, lines 11-13, subsection (c), of the amendment, which state:

(c) The price received by the person engaged in the mining of the resources may be rejected by the department as the gross value at the point of production when the

(1) price received is less than the fair market value;

(2) price received does not reflect the total value received by the seller in the transaction;

(3) parties to the transaction are affiliated; or

(4) price received was not negotiated in an arm's length transaction between the buyer and seller.

REPRESENTATIVE SEATON said this language is exactly as outlined by Co-Chair Talerico. In all these tax cases, including oil taxes, the producers will tell the state what the costs are. Those are then audited and would only be rejected if considered unreasonable or unfair. The state has an audit procedure and not a valuation determining feature under the way this bill is crafted. Subsection (c) provides the parameters of how the state could not accept a price that is given by the producer.

REPRESENTATIVE SEATON next referred to page 4, lines 20-23, subsection (d), of the amendment, which state:

(d) If the department rejects the price reported by the person engaged in the mining of the resource, the department shall substitute the fair market value of the resource on the date and at the place of production for purposes of determining the production royalty liability under this chapter.

REPRESENTATIVE SEATON pointed out that under this language if the department substitutes fair market value it will have to have reasoning for doing that, such as substantiation that the value is less than fair market value or any of the conditions [listed under subsection (c)]. He explained that that is what is being considered in the bill for determining the value of the material in order to calculate the state's royalty.

[1:39:20 PM](#)

REPRESENTATIVE JOSEPHSON surmised that, while the accounting called for under Amendment 1 is different than what the department is doing now, the department already has to look at varying types of information in documents to inspect a net profit value. While, Amendment 1 would be a different approach for that sort of analysis, he presumed it is something that DNR or the Department of Revenue (DOR) would have to do now.

MR. FOGELS answered he has not reviewed this with staff as far as all of the things that would have to be done by DNR. Clearly, as he reads the bill, there is a lot more involved here that DNR would have to be looking at in order to determine whether the amounts declared by the operator were true or not. The department is already collecting some of that information, but probably not all of it.

BRANDON SPANOS, Deputy Director, Tax Division, Department of Revenue (DOR), added that currently DOR's Tax Division does review those records because it is just a percentage of the net tax calculated in the division. Through a Memorandum of Understanding (MOU) the division shares that information; DNR provides DOR with a list of royalty recipients that it wants to have that information for, DOR gives DNR the net income, and DNR takes three percent of that. Someone would have to do a lot more work under the provisions of Amendment 1, because as he reads the amendment it only applies to the royalty and therefore tax wouldn't.

[1:41:38 PM](#)

REPRESENTATIVE JOSEPHSON stated that even if there is additional work, the testimony on 2/19/16, was that royalty on private land, using net smelter returns in Alaska was 4.5 percent, and that royalty on mental health trust land using net smelter return was 5 percent. Although, this bill began by the administration as a 28 percent increase, or numerical percent point increase of 2, it was identified and echoed by Representative Hawker on 2/15/16, "that royalty was this pure thing and we need to get it right." Representative Josephson noted he is paraphrasing and not directly quoting Representative Hawker's comment. He asked whether Amendment 1 would help the state do that.

MR. SPANOS replied he is unsure he is qualified to answer the question, but certainly it is a different calculation that on its face would appear fair.

[1:43:02 PM](#)

CO-CHAIR TALERICO understood Mr. Spanos to be saying that DOR is currently structured to do exactly what is being done with these mines as far as tax collection in the Tax Division, but it is the opinion of Mr. Spanos there more expense would be involved [under Amendment 1].

MR. SPANOS clarified that the Tax Division would no longer be of assistance to DNR in order to provide information to assist DNR get to its final number, whether there is additional expense or not, it is up to DNR to determine. Currently, the way DNR gets to its 3 percent is that the Tax Division does the work and provides DNR with those numbers.

[1:43:59 PM](#)

REPRESENTATIVE HERRON requested that an example of real dollars be provided to show what the state would get from the amendment's provisions.

REPRESENTATIVE SEATON responded that in 2014 the Pogo Mine, located on state land, produced 342,147 ounces of gold, which at approximately 3 percent of net smelter return would be \$13,000,942. Therefore, this tax would generate in a range somewhat equal to the amount that the fish tax increase is generating. These two industries are both large and expansive

across the state, with the fishing industry employing the most amount of people and the mining industry having the highest wages in the state. He reminded the committee that the royalty only applies to those mines on state land, but it is the state's ownership value on that that that would relate to. One of the problems is that the state has not been receiving an ownership share, but rather a net profit share. The question is, if someone is inefficient or has high expenses and doesn't control their expenses, should the state receive less value for its ownership of the minerals extracted or should it be on a value of the minerals? That is a policy call, and it is generally a policy call that the legislature has made on oil and gas, and it is 12.5 percent minimum royalty, that's the value that is extracted. It is not dissimilar to oil and gas because there are certain things taken in production tax, there is a point of production, and those upstream costs can be subtracted. For corporate income tax, all of the expenses can be taken off. This is done all the time with well lease credits - there has to be a computation of well lease expenditures, those that are qualified, and this is no different than that. There has been no reason to collect the numbers because it has been based on total profit so only the total profit number has been collected, not the intermediate number and not allowing all of the other extraneous expenses to be considered. He said Representative Hawker's point was that tax credits should not be allowed to be taken off against the state's oil royalty because that is the state's ownership value and the state shouldn't be reducing it. If the state's ownership value is just a profit-based value then that is not based on ownership, it is based on a company's efficiency of production.

[1:48:01 PM](#)

REPRESENTATIVE HERRON inquired as to the administration's position on Amendment 1.

MR. FOGELS responded that, at this point, there have been discussions on this concept, but since this amendment was just floated today he is not prepared to offer the administration's support or opposition to this. The amendment needs to be looked at in more detail.

REPRESENTATIVE HERRON asked why the state hasn't done this before.

MR. FOGELS answered that the 3 percent royalty was enacted by statute in 1989, and DNR's staff during that time did some

economic modeling to determine that royalty rate. There has never been any cause to have DNR, DOR, or other agency relook at the royalty structure. He said he cannot answer as to why, but added that DNR has not been asked to take another look at it in those intervening years.

[1:49:35 PM](#)

REPRESENTATIVE OLSON requested that in the event DNR performs modeling in the next couple of weeks to forward it to the committee.

MR. FOGELS agreed.

[1:49:44 PM](#)

REPRESENTATIVE SEATON requested the Tax Division be able to comment.

JERRY BURNETT, Deputy Director, Office of the Commissioner, Department of Revenue (DOR), commented that this is an issue that this commissioner and previous commissioners have looked at and talked to Representative Seaton about. It is something the department has committed to looking at in the future and noted that there is a short period of time between today and the end of the session. The concept is correct in terms of an ownership percentage similar to other things, so structurally DOR would think this is a rational way to go, but there is information the department does not have at this point. Representative Seaton's estimate of \$13 million is not an exact number and it could be more or less than that. This is not a time when the department has the resources to commit to doing that further analysis.

CO-CHAIR TALERICO noted that time is not on the bill's side and Amendment 1 is substantially different from the administration's original bill.

[1:51:48 PM](#)

REPRESENTATIVE SEATON withdrew Amendment 1, but noted that this is a very important concept to be worked on and that should be addressed at a future time. It is an important part of the conversation because the state's ownership share is not being realized through a net profit.

[1:52:41 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 2, labeled 29-GH2924\N.7, Nauman, 3/29/16. [The text of Amendment 2 is provided at the end of the minutes for HB 253.]

[1:53:43 PM](#)

REPRESENTATIVE SEATON withdrew Amendment 2, stating that it involves the same problem as the royalty and would replace the royalty with a 3 percent severance tax, which is an easier calculation than either net smelter return or gross value at the point of production. He opined it is a valuable consideration to have and it would still get the state to basically the same amount, except the way the amendment is crafted it is all mines across the state and so doesn't really hit the royalty. Thus, for the technical reasons that this amendment is removing royalty and the state is required by law to have royalty, he is withdrawing Amendment 2. He said he would put it on the table for future conversations. Structuring a royalty upon a severance tax is something that could be considered if people are thinking that a net smelter return or value at point of production would be too difficult.

[1:54:12 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 3, labeled 29-GH2924\N.8, Shutts/Nauman, 3/29/16, which read:

Page 1, line 2, following "**fees;**":

Insert "**establishing a legislative working group to study the tax structure for mining;**"

Page 2, following line 14:

Insert a new bill section to read:

"* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE WORKING GROUP. (a) A legislative working group is established to

(1) review the state's fiscal regime for mining taxation, including state mining license taxes, royalties, rents, and corporate income tax with consideration of federal and municipal taxation;

(2) develop terms for a comprehensive reform of the mining tax regime; and

(3) recommend changes to the legislature for consideration during the First Regular Session of the Thirtieth Alaska State Legislature.

(b) The working group consists of

(1) two co-chairs, one of whom is a member of the house appointed by the speaker of the house of representatives, and one of whom is a member of the senate appointed by the president of the senate; and

(2) members appointed by the co-chairs; members must be legislators and must include members of the majority and minority caucuses.

(c) The co-chairs of the working group may form an advisory group to the working group, composed of members who are not legislators and who have expertise and skills to assist in the review and development of a new plan for the tax structure and rates on mining licenses. The members of an advisory group may include commissioners or employees of state departments, members of the mining industry or trade associations, and economists.

(d) The working group is to be supported by legislative consultants under contract through the Legislative Budget and Audit Committee."

Renumber the following bill sections accordingly.

Page 2, line 28:

Delete "Section 6 of this Act takes"

Insert "Sections 5 and 7 of this Act take"

Page 2, line 29:

Delete "sec. 7"

Insert "sec. 8"

REPRESENTATIVE HERRON objected for discussion purposes.

[1:54:31 PM](#)

REPRESENTATIVE SEATON explained that Amendment 3 would establish a legislative working group. The committee has found that the mining taxes, whether royalty, rents, or mining license fees, are quite confusing and a longer dive needs to be taken to get it right. In parallel with the Cook Inlet Legislative Working Group established under consideration of oil taxes [HB 247], Amendment 3 would establish a legislative working group to study the tax structure of mining. He posited that this would be the way to come back and have the industry and both bodies of the legislature be involved to bring the administration to the table in other than a quick reactive way, but to craft something that would be good for the legislature.

1:56:06 PM

REPRESENTATIVE HERRON withdrew his objection. There being no further objection, Amendment 3 was adopted.

1:56:22 PM

REPRESENTATIVE SEATON moved to adopt the corrected version of Amendment 4, labeled 29-GH2924\N.16, Nauman, 3/30/16. [The text of Amendment 4 is provided at the end of the minutes for HB 253.]

REPRESENTATIVE SEATON explained Amendment 4 would not change the royalty, it would still be the 3 percent net royalty, but the amendment provides that the tax credits cannot be taken against the royalty. The royalty is the state's ownership value and therefore the tax credit cannot be taken to reduce the state's ownership value. He said he does not like the way the ownership value is created, but once it is created the legislature shouldn't be reducing that ownership value through a tax credit.

REPRESENTATIVE HERRON objected for discussion purposes.

REPRESENTATIVE SEATON further stated that Amendment 4 is a section of the royalty bill that doesn't change royalties, royalties are still calculated exactly the same. The amendment would prohibit applying an exploration incentive tax credit to reduce the state's ownership value in the minerals that are extracted. He reiterated that he does not like the way the calculation of ownership value is made, but at least the state should not allow that to be reduced by 50 percent by applying a tax credit against it. It is a royalty and even though it is on a net royalty it is a royalty and the state should not reduce its ownership value.

1:58:25 PM

REPRESENTATIVE JOSEPHSON recalled that at the bill's first hearing on 2/15/16, Fred Parady, Deputy Commissioner, Department of Commerce, Community & Economic Development, advised that he spent approximately 30-plus years working for and with the mining industry. Mr. Parady noted that royalty is uniquely an ownership share and should not be considered as part of government take. The point made in that committee hearing was that royalty should be unaffected by other things, such as discounts and credits, because the state does not treat the oil

and gas industry in that manner and it should not be done here. He said he therefore supports Amendment 4.

[1:59:34 PM](#)

REPRESENTATIVE HERRON withdrew his objection. There being no further objection, Amendment 4 was adopted.

[1:59:55 PM](#)

REPRESENTATIVE CHENAULT returned to Amendment 3 and drew attention to page 2, lines 5-6, of the amendment, which read:

(d) The working group is to be supported by legislative consultants under contract through the Legislative Budget and Audit Committee.

REPRESENTATIVE CHENAULT pointed out that currently there are no consultants on mining taxes, which is an issue if this bill passes and Amendment 3 stays in the bill. A discussion with the Legislative Budget and Audit Committee chair is necessary to ascertain that if this working group is formed whether the legislature has those folks available to consult with.

CO-CHAIR TALERICO said the aforementioned is so noted.

[2:00:46 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 5, labeled 29-GH2924\N.14, Nauman, 3/30/16, which read:

Page 2, line 3, following "\$100,000":
Insert "**and not over \$1,000,000**"

Page 2, line 4:
Delete "."

Page 2, following line 4:
Insert new material to read:
**"over \$1,000,000.....\$76,000 plus
9 percent of the excess over 1,000,000."**

REPRESENTATIVE HERRON objected.

[2:00:58 PM](#)

REPRESENTATIVE SEATON explained Amendment 5 by first noting that, basically, the purpose of HB 253 is to raise money and Version N took that amount from 9 percent down to 8 percent at the lower tax bracket. Amendment 5 would look at a new tax bracket at \$1 million, significantly higher than the current structure of 8 percent in excess of \$100,000, and at these higher values the amendment would add one more additional percent. That would gain the state back some of the revenue that Version N has lost, but would impact fewer players because there are quite a few players in the over \$100,000 range that would not be above the \$1 million range. The amendment would not return back all of the money to the original amount, but it would be somewhat more. This amendment would affect just the most profitable taxpayers at an additional one percent, wherein it starts at \$1 million which is 10 times the value of where it started at 8 percent.

[2:03:04 PM](#)

The committee took an at-ease from 2:03 p.m. to 2:07 p.m.

[2:07:42 PM](#)

REPRESENTATIVE HERRON noted that Mr. Burnett previously estimated what the governor's bill would generate in revenue. He asked Mr. Burnett to ballpark an estimate of the difference between the governor's bill, Version N, and this amendment, and the new revenues. He noted that this information would probably be appropriate for Amendments 6 and 7.

MR. BURNETT replied that for next year the difference between the governor's original bill and Version N is that the estimated revenue would be reduced by about \$3.2 million, from about \$6 million under the original bill down to about \$3 million under Version N. The department does not have a new fiscal note for it because DOR thought there may be some amendments offered today. Based on the last year of tax filings there are fourteen taxpayers over \$100,000, nine of which were between \$100,000 and \$1 million, and the others were over \$1 million. The taxpayers between \$100,000 and \$1 million are primarily large placer miners and part landowners that own part of the property under one of the larger mines. The total revenue from those nine taxpayers would be in the lower hundreds of thousands of dollars, so this would restore most of the revenue from the governor's bill but would reduce the tax rate for those people between \$100,000 and \$1 million to 8 percent rather than the 9 percent in the original bill. Those nine taxpayers earn

significantly less revenue than the five largest taxpayers that are over \$1 million.

[2:10:19 PM](#)

REPRESENTATIVE HERRON surmised that Amendment 5 would basically restore the co-chair's committee substitute amount.

MR. BURNETT responded that it would restore the majority of the money that was taken out because the nine taxpayers that earn between \$100,000 and \$1 million would have much less impact than the five taxpayers over \$1 million in revenue.

[2:11:03 PM](#)

REPRESENTATIVE SEATON noted that the purpose of HB 253 is to generate revenue, and the structure of Amendment 5 is to remove any additional burden on the majority of smaller players that would have to pay that tax. The 9 percent in the original bill would be moved up to those taxpayers earning \$1 million and above, instead of at \$100,000. Thus, more than one-half of the taxpayers would not be impacted by Amendment 5.

REPRESENTATIVE HERRON noted the five big mines would have 9 percent and asked what the amount of money is that would be generated by the smaller miners between \$100,000 and \$1 million.

MR. BURNETT answered that he does not have the exact amount as DOR has not had an opportunity to calculate that, but he estimated it would be in the lower hundreds of thousands of dollars total between all of them.

REPRESENTATIVE CHENAULT asked whether Mr. Burnett's earlier said that Amendment 5 would bring in an additional \$3 million.

MR. BURNETT replied it would be approximately \$3 million.

REPRESENTATIVE CHENAULT surmised it would be from the large mines and not the small mines.

MR. BURNETT agreed, and said DOR estimated \$3.2 million from each 1 percent at this level.

[2:13:33 PM](#)

CO-CHAIR TALERICO understood that every percentage point talked about is a 14.25 percent tax increase.

MR. BURNETT responded that at 7 percent every [1 percent] is a little over 14.2857 percent, but next time in moving from 8 percent to 9 percent it is not so much, it is only 12.5 percent.

CO-CHAIR TALERICO agreed.

[2:14:19 PM](#)

REPRESENTATIVE HERRON maintained his objection to Amendment 5.

A roll call vote was taken. Representatives Seaton, Josephson, and Tarr voted in favor of the adoption of Amendment 5. Representatives Olson, Herron, Chenault, Talerico, and Nageak voted against it. Therefore, Amendment 5 failed to be adopted by a vote of 3-5.

[2:15:17 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 6, labeled 29-GH2924\N.1, Nauman, 3/29/16, which read:

Page 1, line 10, through page 2, line 4:

Delete all material and insert:

"* **Sec. 2.** 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 2, line 19:

Delete "amended"

Insert "repealed and reenacted"

REPRESENTATIVE HERRON objected.

[2:15:29 PM](#)

REPRESENTATIVE JOSEPHSON explained that Amendment 6 would decrease some of the rates for small mines making under \$100,000 just on the margins. The state is receiving just \$51,000 from approximately 29 mines. He said he is okay with exempting those folks who he assumes may be hobbyists. However, Amendment 6 would raise the rate higher than was recommended by the governor. He outlined the applicable tax rates proposed in the amendment. He then reviewed the thinking behind the amendment. He recalled testimony that South Dakota has a net profit system and taxes at 14 percent, and he believed that Wisconsin taxes at 9 or 11 percent. Amendment 6 would provide a tax break for the smaller mining operations and encourage development of small mines while increasing taxes on larger mines. In tax years 2013 and 2014, the state generated \$51,000 and \$42,000 from mines with incomes under \$100,000, but generated most of its revenue from mines over \$100,000, respectively \$471 million and \$571 million. The effective rate, according to his calculations, works out to 6.6-7 percent. When all revenue from all sources is considered, such as the mining license tax, corporate income tax, and royalty rent, the industry contributes approximately 3.24 percent of total state revenue. Alternatively, the oil industry contributes approximately 54 percent at today's prices. He said his concern is that [the state] does not know the true value of the concentrate. Documents reflect that the value of the concentrate exceeds \$2 billion, but then there is the cost of processing the concentrate. Relative to the other net profit states, he posited, the amendment is warranted because he is concerned that something is being left on the table that the legislature doesn't fully appreciate or understand. He added that this industry provides fantastic jobs, [with wages] often \$90,000 and higher.

[2:20:29 PM](#)

REPRESENTATIVE HERRON turned to Mr. Burnett and asked the result when comparing the columns in Version N and Amendment 6.

MR. BURNETT explained that the department would have to break this out. It is based on estimated next-year numbers wherein the 2 percent increase in the original bill was roughly \$6-\$7 million based on current prices, so this would be approximately \$12-\$13 million because most of the income is at the highest level. [The amendment] averages out the lower ones and eliminates some taxpayers, but it is another \$9-\$10 million at current prices over Version N.

CO-CHAIR NAGEAK pointed out that the costs of doing business are higher in Alaska than they are in the states used as examples by Representative Josephson. Therefore that comparison is not useful in his opinion.

REPRESENTATIVE TARR noted that these taxes are net profits and even though it could be more expensive, the mines are not paying any taxes until they have a net profit and this is on the net profit.

REPRESENTATIVE SEATON offered his appreciation for getting rid of the burden on the smaller taxpayers and said the rationale for a graduated rate makes more sense than leaving off all of those under \$100,000. He surmised it would take away burden from the department as well, because the department is having to do a lot of taxpayer information and taxpayer forms for not a lot of money. But, he continued, it has to be compensated somewhere and he is still looking at where to get income for the state if the legislature doesn't raise the rate on the most profitable companies to correspond with some reasonable returns and therefore he supports this amendment.

REPRESENTATIVE HERRON disclosed he is a small miner and, like other miners, he would like this proposal. But, unfortunately, it goes back to when the legislature essentially abolished the income tax and so he is averse to not requiring the little guys to pay taxes as well. It's always easy to undo a tax, but more difficult to create a tax and therefore he likes the status quo.

[2:24:49 PM](#)

REPRESENTATIVE OLSON suggested that Amendments 5, 6, and 7 may be appropriate for the proposed working group.

REPRESENTATIVE SEATON commented that the state must obtain revenue from somewhere and if members choose to not tax the most profitable companies on their net profits it means the legislature will have to take more out of the permanent fund dividend allowances. Therefore, when discussing the state's budget, there must be alternatives to not spending money the state does not have. He pointed out that the committee does have a process in considering [alternatives] to determine how to obtain significant revenue, otherwise there will not be headway in reducing the state's \$4 billion budget deficit.

CO-CHAIR TALERICO noted his appreciation for the ideas and concepts, but posited that a 56 percent tax increase in one fell

swoop is incredibly steep for that highest bracket when jumping from 7 percent to 11 percent.

[2:27:19 PM](#)

REPRESENTATIVE JOSEPHSON clarified that South Dakota is 10 percent on profits, and Wisconsin is a 3-15 percent progressive tax, which is what Amendment 6 is, on net mining proceeds, which sounds like profits to him. Therefore he thinks Amendment 6 is reasonable. He cited a 2/3/2011 memorandum from Legislative Legal and Research Services, and paraphrased: "The resource value is just one indicator, in 2009 of all mineral extraction is approaching, it's just under \$2.5 billion; the government revenue was \$67 million." He reiterated that he understands concentrate [and processed product] are very different things.

[2:28:30 PM](#)

REPRESENTATIVE HERRON maintained his objection to Amendment 6.

A roll call vote was taken. Representatives Seaton, Josephson, and Tarr voted in favor of Amendment 6. Representatives Chenault, Olson, Herron, Talerico, and Nageak voted against it. Therefore, Amendment 6 failed to be adopted by a vote of 3-5.

[2:29:12 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 7, labeled 29-GH2924\N.12, Nauman, 3/30/16, which read:

Page 1, line 10, through page 2, line 4:

Delete all material and insert:

"* **Sec. 2.** 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 \$40,000 and not over \$100,000	three percent
over \$100,000 and not over \$250,000	\$1,800
plus five percent of the excess over \$100,000	
over \$250,000 and not over \$500,000	\$9,300
plus seven percent of the excess over \$250,000	
over \$500,000 and not over \$1,000,000	\$26,800
plus nine percent of the excess over \$500,000	

over \$1,000,000\$71,800
plus 11 percent of the excess over \$1,000,000."

Page 2, line 19:

Delete "amended"

Insert "repealed and reenacted"

REPRESENTATIVE HERRON objected for discussion purposes.

[2:29:25 PM](#)

REPRESENTATIVE TARR explained that Amendment 7 has a slightly different approach than Amendments 5 and 6. Amendment 7 would keep everything under \$100,000 at 3 percent, whereas the proposed legislation is that folks at \$40,000-\$50,000 would pay 3 percent and folks at \$50,000-\$100,000 would pay \$1,500 plus 5 percent. Thus, the amendment shifts what might be considered a small operator to \$100,000 and under. She said she wants to keep that in there because those individuals are currently taxpayers and it gives the department some understanding of the activity being done to assist in planning and ensuring there is staff to help get those projects going. Referring to a chart she passed out that compares current statute with what is proposed in Amendment 7, Representative Tarr noted there would not be a tax increase for anyone with annual net profit earnings of under \$800,000; rather those operators would see an annual tax decrease ranging between \$1,200 and \$5,200. For net profits of \$800,000 there would be a tax increase of about \$800 per year. For net profits of \$900,000 the tax increase would be about \$2,000 annually. An operator with net profits of \$1.1 million would see a tax increase of about \$8,800 annually and operators with net profits of \$1.5 million would see a tax increase of about \$24,000 annually.

REPRESENTATIVE TARR explained that Amendment 7 would spread out the income brackets relative to the legislation and the current statute, which could be helpful in understanding the relative size of different projects and who is doing work. It has been six decades since any significant changes have been made, and this would be durable relative to the dollars that are spent in 2016 and going forward. The Council of Alaska Producers and others have explained that these large-size projects are expensive. Version N would still retain a three year tax holiday, so all new mining operations, including the large projects, are exempt from the tax levied by this chapter for three years after production begins.

[2:34:31 PM](#)

REPRESENTATIVE HERRON asked Mr. Burnett the net difference in the amounts between the current statute, governor's proposal, and Version N.

MR. BURNETT replied that his "back of the napkin" calculation is that the total on Amendment 7 would be much the same as with the previous amendment because most of the revenue by far comes from the highest tax bracket in any proposal. He reminded the committee of DOR's previously distributed chart depicting the various incomes between small mines and large mines and nearly all the income is at the million-plus range.

[2:35:57 PM](#)

REPRESENTATIVE TARR concluded her explanation of Amendment 7 by noting that even when the operations are in the \$10 million range of net profit there is an approximate \$90,000 difference in taxes. She said it is difficult to believe that \$90,000 more would be overly burdensome for the \$10 million companies.

[2:37:17 PM](#)

REPRESENTATIVE HERRON maintained his objection.

A roll call vote was taken. Representatives Seaton, Josephson, and Tarr voted in favor of Amendment 7. Representatives Herron, Chenault, Olson, Talerico, and Nageak voted against it. Therefore, Amendment failed to be adopted by a vote of 3-5.

[2:38:09 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 8, labeled 29-GH2924\N.2, Nauman, 3/29/16. [The text of Amendment 8 is provided at the end of the minutes for HB 253.]

REPRESENTATIVE OLSON objected.

REPRESENTATIVE JOSEPHSON explained Amendment 8 would defer the tax exemption for a mine in its first 3 years of production. Testimony heard in February was that these mines enjoy a tax holiday for 3.5 years and he cannot think of anything analogous to that in the oil and gas industry. There is the gross value reduction of 20 percent, and there are the many credits that can add up to 85 percent, and when prices went low the state saw it go higher than that. The state had always enjoyed 15 percent,

and generally 35-40 percent or more. For example, if a mine such as the Pebble Mine is worth the tens of billions of dollars that its owner says it is, then it appears the state is waiving revenue. He recalled a gentleman testifying in February 2016 that the state would enjoy \$200 million per year just from the Pebble Mine. Unless he incorrectly understands the statute that creates the tax exemption, that is \$6 million the state wouldn't see for a mine the size of the Pebble Mine and at 3.5 years it would be \$700 million. Amendment 8 would transform the tax exception for a mining operation's first 3 years after production into a tax deferral with a 10 year payoff. Hypothetically, if an operation owes \$100 per year in taxes for each of three years, that total of \$300 would be divided by 10 for the decade after production, so the company would pay \$30 a year for those 10 years in addition to things such as the mining license fee. Amendment 8 would work in conjunction with other amendments by aiding a small producer without revenue and that producer could defer its small taxes spread out over many years. The amendment would also provide the same aid to companies trying to recover their startup costs and have quicker cash flow, and would generate revenue for the state. He recalled the extensive discussion regarding the purpose of the tax credit. The tax credit was useable over a 15 year span but was for exploration and development. There is no revenue at exploration and development and industry can argue that on the backend there is the anticipatory benefit, but in terms of the frontend they don't receive any tangible credit in the first years. So, he posited, it is hard to argue that it would deter new exploration in that it doesn't "pull the rug out" because the tax deferral would be there and gradulize rather than a full exemption.

[2:42:02 PM](#)

REPRESENTATIVE SEATON recalled that in 2005 or so, the Legislative Ways and Means Committee worked for a couple of different sessions on mining tax bills and this was one of the provisions from that committee. The committee looked at deferral rather than an exemption in order to assist mines on the frontend to recover their costs earlier. The state wouldn't lose its tax money because after the mine became more profitable and recovered its costs, the mine would still pay the tax but it would be over time when the mine was in a more profitable state. He offered his support for Amendment 8, saying the state needs to move from giving away credits it cannot afford and instead holding a tax expense that the mines will still need to pay at some point in the future.

2:43:28 PM

CO-CHAIR TALERICO asked whether the exemption clock starts the day a person receives his/her mining license.

MR. BURNETT responded that the 3.5 year exemption from tax begins on the day production starts, when the Department of Natural Resources certifies to the Department of Revenue that production has started.

CO-CHAIR TALERICO pointed out that according to the bill, the day a person receives a license the clock starts, but it actually begins on the day of production.

MR. BURNETT answered correct, because the mining tax is the mining license tax, so the mining license really has to do with the payment of the first tax returns.

CO-CHAIR TALERICO asked whether most of these people are in their wheelhouse of money in their first three years of production or does it usually come later.

MR. FOGELS replied that typically a new mine will have to pay back some of the initial capital costs, which are fairly significant, and a lot of that is done in the early years. The profits come later in the mine life.

2:45:32 PM

REPRESENTATIVE TARR referred to Version N, page 1, lines 7-9, which state:

(a) ... All new mining operations are exempt from the tax levied by this chapter for three [AND ONE-HALF] years after production begins.

REPRESENTATIVE TARR asked whether that is the correct provision.

CO-CHAIR TALERICO agreed, and said he wants to be certain it is clear because it could be read a couple of different ways.

2:46:04 PM

REPRESENTATIVE HERRON asked whether the administration has taken a position on Amendment 8.

MR. BURNETT responded that the administration has not taken a position on the amendment. The 3.5 year deferral, which is 3 years in Version N, is not likely to impact any major mine in the next several years. The money from this is not within the department's fiscal note or in the time period it is looking at, although it is something that will be reviewed over time. He referred to the discussion about the Pebble Mine and the \$200 million a year, and advised that the \$200 million a year estimate would have included corporate income tax and royalties because the mine is on state land. The figure wouldn't have been a \$600 million deferral or exemption because the company still would have been paying corporate income tax.

REPRESENTATIVE HERRON asked whether the structure, or mechanics, of Amendment 8 would be valuable to have for the future.

MR. BURNETT answered that the amendment is conceptually similar to some of the proposals the department has made with tax credits in the area of oil and gas where the discussion is paying less than the full amount and which was in the governor's bill and not necessarily in the committee substitute passed by this committee. There was a cap on that and then deferring it to production at some time in the future, so it might well be a valuable structure to review.

[2:48:30 PM](#)

REPRESENTATIVE JOSEPHSON said Mr. Burnett is correct and referred to page [17] of the committee's 2/19/16 hearing where Jason Brune advised that the Pebble Mine might earn the state and local government \$200 million. He added he is hearing great things about Donlin Creek Gold Mine and that it could be larger than anticipated. Representative Josephson noted the state doesn't do anything this generous for the oil and gas industry. He urged there be a mining license tax that is spread out because it is unknown whether an ore body might be at its best in the first three years. With the exception of a few people in the room, he does not believe the committee understands that and the state cannot afford to just give a tax holiday for 3 or 3.5 years. Deferring the tax over a decade makes more sense.

[2:49:52 PM](#)

REPRESENTATIVE OLSON maintained his objection to Amendment 8 and noted that he did not receive the amendments until he walked into the committee room today. Given they are tax amendments,

he prefers to err on the side of caution when he hasn't had adequate time to review the documents.

A roll call vote was taken. Representatives Tarr, Seaton, and Josephson voted in favor of Amendment 8. Representatives Herron, Chenault, Olson, Talerico, and Nageak voted against it. Therefore, Amendment 8 failed to be adopted by a vote of 3-5.

[2:51:22 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 9, labeled 29-GH2924\N.3, Nauman, 3/29/16. [The text of Amendment 9 is provided at the end of the minutes for HB 253.]

REPRESENTATIVE OLSON objected.

REPRESENTATIVE JOSEPHSON explained Amendment 9 would increase the minimum rental rate, which hasn't been modified in 16 years, and would increase the rate for mining rental rates, other than coal. Currently, the statute requires money in rent to be not less than 50 cents an acre for the first five years and \$2.50 an acre after that; the amount must be in that range but is negotiable between the parties. Amendment 9 would increase the rent to be not less than \$1.65 for the first five years, and \$3.30 after that. This amount would establish parity between the state and private landowners who charge higher rental rates. He said he would like input from the department regarding the amendment's fiscal impact, but suspects it is modest. Even if the impact is modest it is justified as an opportunity cost because, unlike with other activities, the land is occupied. Therefore, he posited, Amendment 9 is reasonable.

[2:53:20 PM](#)

REPRESENTATIVE SEATON inquired about the current rental rates that are being negotiated.

MR. FOGELS replied that page 2 of Amendment 9 is the current rental rate that would be deleted. Pointing to the far right column for the rental amount for each mining claim or leasehold location including each quarter-quarter section, he noted that the current rental rate is \$20 for each mining claim for the first 5 years, then \$40 for 6-10 years, and then \$100 for 11 or more years. Under Amendment 9 with the new per-acreage amount, the claim rentals for 0-5 years and 6-10 years would jump to \$66 a year, and after 11 years it would jump from \$100 to \$132. He

qualified that these are rough calculations given he has just seen this amendment.

REPRESENTATIVE SEATON surmised that, by regulation, the department has not adjusted these rates for inflation over the years and so the acreage rental rates are still the same as when they were set.

MR. FOGELS believed they have not been adjusted, but said he will get back to the committee on that.

CO-CHAIR TALERICO, regarding a "quarter-quarter section," asked whether it is a straight-across fee for 40 acres.

MR. FOGELS confirmed it is 40 acres.

[2:55:54 PM](#)

REPRESENTATIVE HERRON inquired whether DNR is supposed to review and follow inflation, or whether it is whenever.

MR. FOGELS replied he has been thinking about it, and the department probably has looked at this, but he cannot offer any details as to whether the claim rentals have been adjusted. He said he will get back to the committee.

REPRESENTATIVE HERRON commented that it appears the state would want to have a mechanism to allow the department, by regulation, to at least keep up with inflation rather than going to the legislature in any given year and creating a law, and maybe the legislature should be involved in the inflation amounts.

REPRESENTATIVE TARR pointed out that current statute doesn't allow that opportunity and therefore asked how [a review] could have happened.

MR. FOGELS reiterated he will get back to the committee with an answer.

CO-CHAIR TALERICO asked the significance behind the increase from 50 cents an acre to \$1.65 an acre.

REPRESENTATIVE JOSEPHSON advised his assistant contacted Legislative Legal and Services about this, and he does not know the answer. He offered that the increase from \$2.50 to \$3.30 appears to be a reflection of inflation, but he does not know.

2:58:29 PM

REPRESENTATIVE OLSON maintained his objection.

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 9. Representatives Herron, Chenault, Olson, Seaton, Talerico, and Nageak voted against it. Therefore, Amendment 9 failed to be adopted by a vote of 2-6.

Amendments to HB 253, Version 29-GH2924\N, Nauman, 3/17/16

Amendment 1, labeled 29-GH292\N.15, Nauman, 3/30/16:

Page 1, line 2, following "**fees**":

Insert "**relating to production royalties on mining**;"

Page 1, following line 4:

Insert new bill sections to read:

"* **Section 1.** AS 27.30.030(a) is amended to read:

(a) In a tax year [OR ROYALTY PAYMENT PERIOD], subject to (c) of this section and the respective limitations of this subsection, the person may apply the credit, the taking of which was approved under AS 27.30.020(2), against [(1)] taxes payable by the person

(1) [(A)] under AS 43.65; application of the credit under this paragraph [SUBPARAGRAPH] may not exceed the lesser of

(A) [(i)] 50 percent of the person's tax liability under AS 43.65 for the tax year that is related to production from the mining operation at which the exploration activities occurred, as shown under (b) of this section; or

(B) [(ii)] 50 percent of the person's total tax liability under AS 43.65 for the tax year;

(2) [(B)] under AS 43.20; application of the credit under this paragraph [SUBPARAGRAPH] may not exceed the lesser of

(A) [(i)] an amount equal to the amount determined under (1)(A) of this subsection [(A)(i) OF THIS PARAGRAPH]; or

(B) [(ii)] 50 percent of the person's total tax liability under AS 43.20 for the tax year [; AND

(2) MINERAL PRODUCTION ROYALTY PAYMENTS PAYABLE BY THE PERSON UNDER AS 38.05.135 - 38.05.160 AND 38.05.212 FOR PRODUCTION FROM THE MINING OPERATION

AT WHICH THE EXPLORATION ACTIVITIES OCCURRED; APPLICATION OF THE CREDIT UNDER THIS PARAGRAPH MAY NOT EXCEED 50 PERCENT OF THE PERSON'S MINERAL PRODUCTION ROYALTY PAYMENT LIABILITY FROM THE MINING OPERATION AT WHICH THE EXPLORATION ACTIVITIES OCCURRED].

* **Sec. 2.** AS 27.30.030(b) is amended to read:

(b) If the person applies the credit against the person's tax liability under (a)(1)(A) or (a)(2)(A) [(a)(1)(A)(i) OR (a)(1)(B)(i)] of this section, the commissioner of revenue shall disallow application of the credit under that provision unless the person files with the person's tax return an accounting of the person's mining operation activities for each mining operation that is included in the tax return and as to which the credit is being applied. The accounting of mining operation activities required by this subsection shall be made

(1) on a form prescribed by the Department of Revenue; on the form, the person shall

(A) identify the mining operations for which the credit is claimed; and

(B) set out the gross income attributable to the mining operations and other information about the mining operations that the Department of Revenue may require;

(2) without regard to an exemption to which the person may be entitled under AS 43.65.010(a).

* **Sec. 3.** AS 27.30.040 is amended to read:

Sec. 27.30.040. Credit may be carried forward. Except as its application is limited by AS 27.30.030 and 27.30.050, a portion of a credit that is not applied under AS 27.30.030 during a tax year [OR ROYALTY PAYMENT PERIOD] may be carried forward to and applied during a subsequent tax year [OR ROYALTY PAYMENT PERIOD].

* **Sec. 4.** AS 27.30.050 is amended to read:

Sec. 27.30.050. Limit on application of credit. An exploration incentive credit for a mining operation may not exceed \$20,000,000 and must be applied within 15 tax years [OR ROYALTY PAYMENT PERIODS] after the taking of the credit is approved under AS 27.30.020(2), but the tax years [OR ROYALTY PAYMENT PERIODS] in which the credit is applied need not be

(1) the tax year [OR ROYALTY PAYMENT PERIOD] in which the person first incurs liability for payment of tax [OR ROYALTY] based on the person's

activity that is the basis of the claim of the exploration incentive credit; or

(2) consecutive periods.

* **Sec. 5.** AS 38.05.212(b) is repealed and reenacted to read:

(b) The production royalty is three percent of

(1) the net smelter return for mining production that is further processed by a smelter or refinery; or

(2) the gross value at the point of production as determined under AS 38.05.213 for mining production that is not further processed by a smelter or refinery.

* **Sec. 6.** AS 38.05.212 is amended by adding new subsections to read:

(d) A new mining operation is exempt from the royalties under this section for three years after production begins.

(e) In this section,

(1) "net smelter return" means the value the person engaged in mining receives from the smelter or refinery and may be based on

(A) the spot or current price of the mineral minus deductions for the costs associated with the processing by the smelter or refinery and transportation between the smelter or refinery and the location of the mine; or

(B) another method adopted by the department by regulation;

(2) "new mining operation" has the meaning given to "new mining operations" in AS 43.65.060.

* **Sec. 7.** AS 38.05 is amended by adding a new section to read:

Sec. 38.05.213. Gross value at the point of production. (a) The gross value at the point of production

(1) is the value of a resource immediately after its removal from the mine;

(2) does not include income from the extraction or processing of resources from mine waste or residue of previously processed resources previously subject to tax under AS 43.65.

(b) Except as provided in (c) of this section, the value of a resource immediately after its removal from the mine is the price received by the person engaged in the mining of the resource adjusted for value added after the resource was produced.

(c) The price received by the person engaged in the mining of the resource may be rejected by the department as the gross value at the point of production when the

(1) price received is less than the fair market value;

(2) price received does not reflect the total value received by the seller in the transaction;

(3) parties to the transaction are affiliated; or

(4) price received was not negotiated in an arm's length transaction between the buyer and seller.

(d) If the department rejects the price reported by the person engaged in the mining of the resource, the department shall substitute the fair market value of the resource on the date and at the place of production for purposes of determining the production royalty liability under this chapter.

(e) The gross value at the point of production shall be calculated using the reasonable costs of transportation if the destination value is used to determine the value at the point of production. The reasonable costs of transportation shall be the actual costs, except when the

(1) parties to the transportation are affiliated;

(2) contract for the transportation is not an arm's length transaction or is not representative of the market value of that transportation;

(3) method of transportation is not reasonable in view of existing alternative methods of transportation.

(f) If the department finds that the conditions in (e)(1), (2), or (3) of this section are present, the department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or another reasonable method. Transportation costs fixed by tariff rates properly on file with the Regulatory Commission of Alaska or another regulatory agency shall be considered prima facie reasonable.

(g) In this section,

(1) "affiliated" means a person who directly, or indirectly through one or more

intermediaries, controls, is controlled by, or is under common control with the persons specified;

(2) "destination value" means the value of the resource at the destination where production from the mine is delivered for treatment or processing."

Page 1, line 5:

Delete "**Section 1**"

Insert "**Sec. 8**"

Renumber the following bill sections accordingly.

Page 1, line 10, through page 2, line 4:

Delete all material.

Renumber the following bill sections accordingly.

Page 2, line 17:

Delete "sec. 1"

Insert "sec. 8"

Page 2, line 18:

Delete "sec. 1"

Insert "sec. 8"

Page 2, lines 19 - 21:

Delete all material and insert:

"(b) AS 38.05.212(d), added by sec. 6 of this Act, applies to a mining operation that begins production on or after the effective date of sec. 6 of this Act.

(c) The changes to the applicability of the exploration incentive credit made in AS 27.30.030(a) and (b), as amended by secs. 1 and 2 of this Act, AS 27.30.040, as amended by sec. 3 of this Act, and AS 27.30.050, as amended by sec. 4 of this Act, apply to a royalty payment period beginning on or after the effective date of sec. 1 of this Act."

Page 3, line 28:

Delete "Section 6"

Insert "Section 12"

Page 3, line 29:

Delete "sec. 7"

Insert "sec. 13"

Page 1, line 1, following "An Act":

Insert "**repealing the mineral production royalty; enacting a mineral severance tax;**"

Page 1, following line 4:

Insert new bill sections to read:

*** Section 1.** AS 27.30.030(a) is amended to read:

(a) In a tax year or royalty payment period, subject to (c) of this section and the respective limitations of this subsection, the person may apply the credit, the taking of which was approved under AS 27.30.020(2), against

(1) taxes payable by the person

(A) under AS 43.65; application of the credit under this subparagraph may not exceed the lesser of

(i) 50 percent of the person's tax liability under AS 43.65 for the tax year that is related to production from the mining operation at which the exploration activities occurred, as shown under (b) of this section; or

(ii) 50 percent of the person's total tax liability under AS 43.65 for the tax year;

(B) under AS 43.20; application of the credit under this subparagraph may not exceed the lesser of

(i) an amount equal to the amount determined under (A)(i) of this paragraph; or

(ii) 50 percent of the person's total tax liability under AS 43.20 for the tax year; and

(2) mineral production royalty payments payable by the person under AS 38.05.135 - 38.05.160 [AND 38.05.212] for production from the mining operation at which the exploration activities occurred; application of the credit under this paragraph may not exceed 50 percent of the person's mineral production royalty payment liability from the mining operation at which the exploration activities occurred.

*** Sec. 2.** AS 38.05.205(c) is amended to read:

(c) A mining lease shall be for any period up to 55 years, and is renewable if requirements for the lease remain satisfied. Annual rental [AND PRODUCTION ROYALTIES] shall be paid as required under AS 38.05.211 [AND 38.05.212]. A valid mining claim

located and held under AS 38.05.195 may be converted to a lease at any time upon application by the owner, and issuance by the commissioner. Rights granted by a mining lease may not be exercised until the lease has been filed for record in the recording district where the land is located."

Page 1, line 5:

Delete "**Section 1**"

Insert "**Sec. 3**"

Renumber the following bill sections accordingly.

Page 2, following line 14:

Insert new bill sections to read:

"* **Sec. 7.** AS 43 is amended by adding a new chapter to read:

Chapter 68. Mining Severance Tax.

Sec. 43.68.010. Mining severance tax. (a) A person engaging in the business of mining in the state shall pay a mining severance tax in the amount of three percent of the gross production value of minerals produced.

(b) The tax under this section is due April 1 of each year.

(c) The department shall adopt regulations to implement this section.

* **Sec. 8.** AS 38.05.211(c) and 38.05.212 are repealed."

Page 2, line 17:

Delete "sec. 1"

Insert "sec. 3"

Page 2, line 18:

Delete "sec. 1"

Insert "sec. 3"

Page 2, line 19:

Delete "sec. 2"

Insert "sec. 4"

Page 2, line 21:

Delete "sec. 2"

Insert "sec. 4"

Page 2, following line 21:

Insert new subsections to read:

"(c) The repeal of AS 38.05.212 by sec 8 of this Act applies to minerals produced on or after the effective date of sec. 8 of this Act.

(d) The mining severance tax under AS 43.68.010, enacted by sec. 7 of this Act, applies to minerals produced on or after the effective date of sec. 7 of this Act."

Page 2, line 28:

Delete "Section 6"

Insert "Section 10"

Page 2, line 29:

Delete "sec. 7"

Insert "sec. 11"

Amendment 4, labeled 29-GH2924\N.16, Nauman, 3/30/16:

Page 1, line 2, following "**fees;**":

Insert "**relating to the exploration incentive credit;**"

Page 1, following line 4:

Insert new bill sections to read:

"* **Section 1.** AS 27.30.030(a) is amended to read:

(a) In a tax year [OR ROYALTY PAYMENT PERIOD], subject to (c) of this section and the respective limitations of this subsection, the person may apply the credit, the taking of which was approved under AS 27.30.020(2), against [(1)] taxes payable by the person

(1) [(A)] under AS 43.65; application of the credit under this **paragraph** [SUBPARAGRAPH] may not exceed the lesser of

(A) [(i)] 50 percent of the person's tax liability under AS 43.65 for the tax year that is related to production from the mining operation at which the exploration activities occurred, as shown under (b) of this section; or

(B) [(ii)] 50 percent of the person's total tax liability under AS 43.65 for the tax year;

(2) [(B)] under AS 43.20; application of the credit under this **paragraph** [SUBPARAGRAPH] may not exceed the lesser of

(A) [(i)] an amount equal to the amount determined under (1)(A) [(A)(i)] of this subsection [PARAGRAPH]; or

(B) [(ii)] 50 percent of the person's total tax liability under AS 43.20 for the tax year [; AND

(2) MINERAL PRODUCTION ROYALTY PAYMENTS PAYABLE BY THE PERSON UNDER AS 38.05.135 - 38.05.160 AND 38.05.212 FOR PRODUCTION FROM THE MINING OPERATION AT WHICH THE EXPLORATION ACTIVITIES OCCURRED; APPLICATION OF THE CREDIT UNDER THIS PARAGRAPH MAY NOT EXCEED 50 PERCENT OF THE PERSON'S MINERAL PRODUCTION ROYALTY PAYMENT LIABILITY FROM THE MINING OPERATION AT WHICH THE EXPLORATION ACTIVITIES OCCURRED].

* **Sec. 2.** AS 27.30.030(b) is amended to read:

(b) If the person applies the credit against the person's tax liability under (a)(1)(A) or (a)(2)(A) [(a)(1)(A)(i) OR (a)(1)(B)(i)] of this section, the commissioner of revenue shall disallow application of the credit under that provision unless the person files with the person's tax return an accounting of the person's mining operation activities for each mining operation that is included in the tax return and as to which the credit is being applied. The accounting of mining operation activities required by this subsection shall be made

(1) on a form prescribed by the Department of Revenue; on the form, the person shall

(A) identify the mining operations for which the credit is claimed; and

(B) set out the gross income attributable to the mining operations and other information about the mining operations that the Department of Revenue may require;

(2) without regard to an exemption to which the person may be entitled under AS 43.65.010(a).

* **Sec. 3.** AS 27.30.040 is amended to read:

Sec. 27.30.040. Credit may be carried forward.

Except as its application is limited by AS 27.30.030 and 27.30.050, a portion of a credit that is not applied under AS 27.30.030 during a tax year [OR ROYALTY PAYMENT PERIOD] may be carried forward to and applied during a subsequent tax year [OR ROYALTY PAYMENT PERIOD].

* **Sec. 4.** AS 27.30.050 is amended to read:

Sec. 27.30.050. Limit on application of credit.

An exploration incentive credit for a mining operation may not exceed \$20,000,000 and must be applied within

15 tax years [OR ROYALTY PAYMENT PERIODS] after the taking of the credit is approved under AS 27.30.020(2), but the tax years [OR ROYALTY PAYMENT PERIODS] in which the credit is applied need not be

(1) the tax year [OR ROYALTY PAYMENT PERIOD] in which the person first incurs liability for payment of tax [OR ROYALTY] based on the person's activity that is the basis of the claim of the exploration incentive credit; or

(2) consecutive periods."

Page 1, line 5:

Delete "**Section 1**"

Insert "**Sec. 5**"

Renumber the following bill sections accordingly.

Page 2, line 17:

Delete "sec. 1"

Insert "sec. 5"

Page 2, line 18:

Delete "sec. 1"

Insert "sec. 5"

Page 2, line 19:

Delete "sec. 2"

Insert "sec. 6"

Page 2, line 21:

Delete "sec. 2"

Insert "sec. 6"

Page 2, following line 21:

Insert a new subsection to read:

"(c) The changes to the applicability of the exploration incentive credit made in AS 27.30.030(a) and (b), as amended by secs. 1 and 2 of this Act, AS 27.30.040, as amended by sec. 3 of this Act, and AS 27.30.050, as amended by sec. 4 of this Act, apply to a royalty payment period beginning on or after the effective date of sec. 1 of this Act."

Page 3, line 28:

Delete "Section 6"

Insert "Section 10"

Page 3, line 29:
Delete "sec. 7"
Insert "sec. 11"

Amendment 8, labeled 29-GH2924\N.2, Nauman, 3/29/16:

Page 1, line 1:
Delete "**an exemption from**"
Insert "**a deferral of**"

Page 1, lines 5 - 9:

Delete all material and insert:

*** Section 1.** AS 7.30.030(b) is amended to read:

(b) If the person applies the credit against the person's tax liability under (a)(1)(A)(i) or (a)(1)(B)(i) of this section, the commissioner of revenue shall disallow application of the credit under that provision unless the person files with the person's tax return an accounting of the person's mining operation activities for each mining operation that is included in the tax return and as to which the credit is being applied. The accounting of mining operation activities required by this subsection shall be made

(1) on a form prescribed by the Department of Revenue; on the form, the person shall

(A) identify the mining operations for which the credit is claimed; and

(B) set out the gross income attributable to the mining operations and other information about the mining operations that the Department of Revenue may require;

(2) without regard to a deferral [AN EXEMPTION] to which the person may be entitled under AS 43.65.010(a).

*** Sec. 2.** AS 43.65.010(a) is amended to read:

(a) A [PERSON PROSECUTING OR ATTEMPTING TO PROSECUTE, OR ENGAGING IN THE BUSINESS OF MINING IN THE STATE SHALL OBTAIN A LICENSE FROM THE DEPARTMENT. ALL] new mining operation may defer the payment of tax due under [OPERATIONS ARE EXEMPT FROM THE TAX LEVIED BY] this chapter during the first [FOR] three and one-half years after the date production begins. A taxpayer that defers the payment of tax under this subsection shall pay the amount of tax deferred in 10 equal installments, without interest, before May 1 of

each year, beginning with the first calendar year following the date the deferral period ends.

* **Sec. 3.** AS 43.65.010(b) is amended to read:

(b) The Department of Natural Resources shall certify to the department the date upon which production begins, and the department shall issue a certificate of deferral [EXEMPTION] to the producer accordingly."

Renumber the following bill sections accordingly.

Page 2, following line 14:

Insert a new bill section to read:

"* **Sec. 7.** AS 43.65.060(4) is amended to read:

(4) "new mining operation [OPERATIONS]" means the first mining operation on a property that previously has not been subject to mining [OPERATIONS WHICH BEGAN PRODUCTION AFTER JANUARY 1, 1953, OR WHICH HAVE NOT BEEN LIABLE TO PAY A MINING LICENSE TAX UNDER THIS CHAPTER ON NET INCOME SINCE JANUARY 1, 1948];"

Renumber the following bill sections accordingly.

Page 2, line 17:

Delete "sec. 1"

Insert "sec. 2"

Page 2, line 18:

Delete "sec. 1"

Insert "sec. 2"

Page 2, line 19:

Delete "sec. 2"

Insert "sec. 4"

Page 2, line 21:

Delete "sec. 2"

Insert "sec. 4"

Page 2, line 28:

Delete "Section 6"

Insert "Section 9"

Page 2, line 29:

Delete "sec. 7"

Insert "sec. 10"

Page 1, line 1, following "An Act":

Insert "relating to rents for property involving mining;"

Page 1, following line 4:

Insert a new bill section to read:

"* Section 1. AS 38.05.211(a) is amended to read:

(a) The holder of each mining claim, leasehold location, prospecting site, and mining lease, including a mining lease under AS 38.05.250, shall pay, in advance, rental for the right to continue to hold the mining claim, leasehold location, prospecting site, and mining lease, including a mining lease under AS 38.05.250. Rental is due and payable as follows:

(1) the rental amount for a prospecting site is fixed at \$200 for the two-year term of the site;

(2) annual rental for a mining claim, leasehold location, prospecting site, or mining lease may not [SHALL] be less than

(A) \$1.65 for each acre during the first five years that the rental is due;

(B) \$3.30 for each acre after the first five years that the rental is due [BASED ON THE NUMBER OF YEARS SINCE A MINING CLAIM, A LEASEHOLD LOCATION, OR A MINING LEASE'S PREDECESSOR CLAIM OR LEASEHOLD LOCATION WAS FIRST LOCATED; THE ANNUAL RENTAL AMOUNTS FOR A MINING CLAIM, LEASEHOLD LOCATION, OR MINING LEASE ARE AS FOLLOWS:

NUMBER OF YEARS SINCE FIRST LOCATED	RENTAL AMOUNT PER ACRE FOR MINING LEASES	RENTAL AMOUNT FOR EACH MINING CLAIM OR LEASEHOLD LOCATION INCLUDING EACH QUARTER-QUARTER SECTION MTRSC SYSTEM
0 - 5	\$.50	\$ 20
6 - 10	\$1.00	40
11- OR MORE	\$2.50	100;

(3) THE ANNUAL RENTAL IN ANY YEAR FOR EACH QUARTER SECTION CLAIM, LEASEHOLD LOCATION, OR LEASE BASED ON THE MTRSC SYSTEM IS FOUR TIMES THE RENTAL AMOUNT FOR A QUARTER-QUARTER SECTION MINING CLAIM, LEASEHOLD LOCATION, OR LEASE IN THAT YEAR]."

Page 1, line 5:
Delete "**Section 1**"
Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

Page 2, following line 14:
Insert a new bill section to read:
"*** Sec. 6.** AS 38.05.211(b) is repealed."

Renumber the following bill sections accordingly.

Page 2, line 17:
Delete "sec. 1"
Insert "sec. 2"

Page 2, line 18:
Delete "sec. 1"
Insert "sec. 2"

Page 2, line 19:
Delete "sec. 2"
Insert "sec. 3"

Page 2, line 21:
Delete "sec. 2"
Insert "sec. 3"

Page 2, line 28:
Delete "Section 6"
Insert "Section 8"
^

Page 2, line 29:
Delete "sec. 7"
Insert "sec. 9"

[HB 253 was held over.]

[2:59:42 PM](#)

ADJOURNMENT

The House Resources Standing Committee was recessed at 3:00 p.m. to be reconvened at 1:00 p.m. on March 31, 2016.