

HOUSE FINANCE COMMITTEE

April 14, 2017

1:38 p.m.

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CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 1:38 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Randall Hoffbeck, Commissioner, Department of Revenue; Ken Alper, Director, Tax Division, Department of Revenue; Chantal Walsh, Division Director, Oil and Gas, Department of Natural Resources; Ed King, Special Assistant, Department of Natural Resources; Jerry Burnett, Deputy Commissioner, Treasury Division, Department of Revenue; Representative Ivy Spohnholz, Sponsor; Dr. Barney, Board of Optometry; Elizabeth Bolling, Staff Representative Dan Ortiz; Britteny Cioni-Haywood, Director, Division of Economic Development and Commerce, Department of Commerce; Tamsen Peeples, Lead Alaska Operations, Blue Evolution, Juneau; Julie Decker, Alaska Fisheries Development Foundation, Juneau; Mary Hakala, Staff, Representative Dan Ortiz; Forrest Bowers, Deputy Director, Division of Commercial Fisheries, Department of Fish and Game; Ginny

Eckert, Alaska King Crab Research, Rehabilitation and Biology Program, Juneau; Angel Dvobnica, Aleutian Pribilof Island Community Development Association; Senator Bert Stedman, Sponsor; Michael A. Neussl, Deputy Commissioner, Department of Transportation and Public Facilities; Dave Scott, Staff, Senator Bert Stedman; Representative Gabrielle LeDoux, Sponsor; Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit;

PRESENT VIA TELECONFERENCE

Tomi Marsh, Board Member, Oceans Alaska, Ketchikan; Erik O'Brien, Southwest Alaska Municipal Conference, Anchorage; Doug Griffin, Southwest Alaska Municipal Conference, Anchorage; Tomi Marsh, Oceans Alaska, Ketchikan; Jamey Cagle, Alaskan Dream Cruises, Sitka; Peter Butz, Alaskan Dream Cruises, Sitka;

SUMMARY

HB 76 MARICULTURE REVOLVING LOAN FUND

HB 76 was HEARD and HELD in committee for further consideration.

HB 103 OPTOMETRY & OPTOMETRISTS

CSHB 103(FIN) was REPORTED out of committee with a "do pass" recommendation and with a previously published fiscal impact note: FN2 (CED).

HB 128 SHELLFISH ENHANCE. PROJECTS; HATCHERIES

HB 128 was HEARD and HELD in committee for further consideration. 1

HB 167 STATE AGENCY PERFORMANCE AUDITS

HB 167 was HEARD and HELD in committee for further consideration.

SB 3 SMALL VESSEL WASTEWATER EXEMPTION; 1 Percent ART

HCSSB 3 (TRA) was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note by the Department of Transportation

and Public Facilities and with a previously published zero fiscal note: FN1 (DEC).

SPRING REVENUE FORECAST: POWERPOINT

Co-Chair Foster conveyed the agenda for the day. The committee would be hearing six bills and one presentation.

^SPRING REVENUE FORECAST: POWERPOINT

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RANDALL HOFFBECK, COMMISSIONER, DEPARTMENT OF REVENUE, introduced the PowerPoint Presentation: "Revenue Sources Book Spring 2017." He reported comments having been made in the House finance Committee speculating that the Revenue Sources Book information had been withheld for political purposes. He reassured the committee that nothing was further from the truth. The department was committed to providing accurate information in a timely fashion. He reported that the department had a draft of the final report done about a month prior to its release. There was a concern about releasing the information prior to completing March tax returns. However, the department had released it in the prior year in advance and intended to do so in the current year. However, the department recognized it would have to release Advisory Bulletin 2017-1, which would have a dramatic impact on revenues. He did not feel it was appropriate to release a document that was going to have large changes of about \$100 million in revenues. The staff of the Department of Revenue (DOR) was instructed to get 2017 out the door before tax returns were due so that taxpayers would have the advisory bulletin to use for filling out tax returns. Afterwards, the department was told to focus on the Revenue Sources Book so that it could be released as quickly as possible. The department had not held onto the report, as the numbers were being finalized the previous afternoon. He clarified that the department released the Revenue Sources Book as quickly as it could.

Commissioner Hoffbeck began with slide 4: "FORECAST CHANGE: Production Tax Revenue Highlights":

- Oil price forecasts up by 7% for FY17. Post FY 2018 unchanged from fall forecast

- Long-term prices (FY 2025+) expected to settle around \$70-75 real
- Oil production forecasts up by 7% for FY17. FY18 forecast increased by 1%.
 - Long-term forecast decreased slightly (~ 2% per year)
- Unrestricted revenue forecast increased due to higher oil price and production forecasts

Commissioner Hoffbeck relayed that due to the higher oil price and production forecast, the state showed substantially more revenue in FY 18. This was driven largely by the advisory bulletin, and the treatment of credits moving forward.

Commissioner Hoffbeck advanced to slide 5: "FORECAST CHANGE: Comparison from Fall 2016 Forecast for FY 2017." He explained that the slide showed a breakout of the forecast data and the difference between the Fall 2016 and the Spring 2017 forecasts. In the Fall 2016 forecast, the department projected the annual average price of oil to be \$46.81 per barrel (/bbl). The Spring 2017 forecast showed the annual average price of oil to be \$50.05 per barrel, an increase of \$3.24 and a 7 percent change.

Commissioner Hoffbeck highlighted that Alaska North Slope (ANS) oil production would move from 490.3 thousand barrels per day (bbls/day) to 523.7 thousand bbls/day, an increase of 33.4 thousand bbls/day (7 percent). He continued that, based on data that the state had received, the ANS deductible lease expenditures and transportations costs decreased. The net effect was that from the time of the fall forecast with revenue estimated at \$966.9 million in UGF petroleum revenue it had increased to \$1,158.5 million, an increase of \$191.6 million (20 percent).

Vice-Chair Gara commented that in looking at the unrestricted petroleum revenue it would reach \$1.279 billion by FY 18 according to the Revenue Sources Book. There had been discussion about a revenue cap, which he understood would take effect until the price of oil reached \$85 /bbl. He wondered if revenue would reach \$1.279 billion by the coming fiscal year.

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KEN ALPER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, responded in the negative. He elaborated that the \$1.2 billion included the other two unrestricted petroleum revenues: the property tax and the corporate income tax. If those numbers were backed out, the number would be below the \$1.2 billion threshold.

Vice-Chair Gara asked when the state would hit the revenue cap. Commissioner Hoffbeck responded that he would have to refer to his chart, which he did not have with him. Mr. Alper believed it kicked in around \$75 /bbl. He would confirm the number and get back to the committee.

Representative Guttenberg had a question about the transportation costs noted on slide 5. He mentioned how many construction projects happened in the summer months. He wondered if it was typical for the transportation costs to go down outside of the summer months as reflected in the Spring 2017 forecast. Commissioner Hoffbeck responded that the chart reflected the department's estimate of the annual average cost for transportation. The department had additional data showing the transportation costs being lower.

Commissioner Hoffbeck pointed to slide 6: "FORECAST CHANGE: Comparison from Fall 2016 Forecast for FY 2018." He indicated the information on the slide reflected the same items for FY 18. Slide 5 showed additional revenue for FY 17 and the current slide showed additional revenues for FY 18. The department had forecasted \$54 /bbl for Fall FY 16 and \$54 /bbl for Spring FY 17. Therefore, there was no change estimated for the forecast going forward in FY 18. He expounded that the forecast was consistent with what could be seen in the present market. It was difficult to get beyond the price point between \$55 to \$60 /bbl because of the volume of oil and supply and demand. Likewise, production was not adjusted dramatically going into the spring forecast. There was a slight increase of 1 percent. The deductible lease expenditures and transportation costs were expected to be higher in the following year. Overall, state revenue was estimated to go from \$1.099 billion UGF in the fall to \$1.279 billion UGF in the spring, a \$179.2 million increase in revenues for the following year. The largest component driving the change was the way the department was looking at oil and gas tax credits under the advisory bulletin that was released. He noted that Mr.

Alper would discuss the bulletin later in the presentation. He indicated that if the number had been released prior to calculating the impacts with the advisory bulletin, the \$179.9 million would have been about \$62 million, hence, why the department held off releasing the figures.

Commissioner Hoffbeck highlighted slide 8: "REVENUE FORECAST: 2016 to 2018 Unrestricted General Fund (UGF) Revenue." He pointed out the total UGF for FY 17 was \$1.64 billion. He noted that the revenue was up from about \$1.4 billion in the fall forecast. The forecast for FY 18 was \$1.831 up from about \$1.6 billion in the fall forecast.

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Representative Wilson asked if the numbers included the motor fuel tax that had not passed yet, or if they reflected only what was currently in law. Commissioner Hoffbeck responded that it only included taxes already in statute.

Commissioner Hoffbeck detailed slide 9: "REVENUE FORECAST: Revenue Available for Appropriation":

- Useful for outside analysts not familiar with Alaska's budget conventions
- Better reflects ability of state to meet its obligations
 - Alaska has a budget framework that restricts certain revenue based on constitution, statute, or customary practice
 - The ability of the state to meet its obligations is not fully reflected by the UGF revenue category
- All revenue subject to appropriation for any purpose can be used by the legislature to fund government services or obligations, including:
 - Constitutional Budget Reserve Fund
 - Earnings Reserve of the Permanent Fund

Commissioner Hoffbeck indicated that slide 9 was an explanatory slide.

Commissioner Hoffbeck turned to slide 10: "REVENUE FORECAST: 2016 to 2018 Totals to Appropriate." He reported that the slide was included to provide a broader explanation to entities unfamiliar with the Permanent Fund

and Alaska's budget. Typically, the department had to explain that there was more money than just UGF revenues available for appropriation. In particular, the information was important when dealing with bond rating agencies.

Representative Thompson did not see the constitutional budget reserve (CBR) or Permanent Fund (PF) Earnings Reserve account (ERA) totals listed. Commissioner Hoffbeck responded that the department had to decide about what information to include. It chose to include the earnings in a given year rather than the value of the pool of money available for appropriation. He argued that the department could have included \$5 billion for the CBR and \$10 billion for the PF ERA but they would be a one-time appropriation rather than a repeatable number. The information was footnoted in the Revenue Sources Book.

Representative Thompson requested the balances of those accounts. Commissioner Hoffbeck would provide the numbers to the committee.

Vice-Chair Gara wondered if there was any talk of getting rid of the distinction between designated general funds (DGF) and UGF. He thought using one designation of UGF with a subcategory would be more favorable. Commissioner Hoffbeck could not speak for the Legislative Finance Division (LFD) but thought it agreed with the administration about speaking in terms of total numbers. It would simplify things to use UGF. Otherwise, moving funds between accounts had to be tracked between DGF and UGF. He thought it would provide a much cleaner picture about what the state was spending in a given year. It would require a shift in thought process. He believe the administration would be supportive.

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Representative Wilson disagreed with Commissioner Hoffbeck. She thought DGF provided a means of looking at programs and their utilization. She wanted to see more emphasis on evaluating the different departments and their ability to be self-sufficient. A portion of government could pay for itself and other portions would require UGF. Commissioner Hoffbeck responded that it would be a process to make the change with a goal in mind of more clarity.

Commissioner Hoffbeck advanced to slide 12: "12 PRODUCTION FORECAST: ANS Details." He detailed that the slide addressed the production forecast. He highlighted the official forecast figure under P90 of 523,686 bbls/day, an average daily rate for the entire year of 2017. Next, he highlighted the significant drop of 12 percent going into 2018. The process that the department had always had in place regarding the spring forecast update was to take the new data since the prior fall forecast and update the current year's numbers. However, the department did not do a whole new forecast. The department only did a new full forecast each fall. He noted production was robust in 2017. He complimented BP for its field management. He summarized that the state had a better than expected production for FY 17 going to a legacy number from the fall forecast in 2018 creating a big delta. He anticipated a dramatic increase in the fall forecast. He explained that no one was forecasting a 12 percent decline; rather it was comparing a new number to a legacy number.

Representative Thompson purported that the production number had not been adjusted. In years past, the legislature had paid a consultant to generate a production forecast twice per year. He thought that the 459,000 bbls/day did not look realistic, as new fields, such as Armstrong Oil and Gas Inc.'s, had come online. He wondered what would trigger forecasts that would include Armstrong's numbers. Commissioner Hoffbeck responded that there was a slide further in the presentation that laid out which fields were not included and some of the triggers that would bring certain fields into the forecast. He agreed that the FY 18 number was not correct. In general, 50 thousand bbls/day was worth \$100 million in revenue. He relayed that the Department of Natural Resources (DNR) could provide a reasonable estimate of how to adjust.

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Representative Wilson was looking at the Revenue Sources Book for the fall. She relayed that the official forecast was 490,289. She asked if 523,686 was the correct number for an estimate. Commissioner Hoffbeck responded that it was the estimate to the end of the fiscal year. The number reflected the current date up to two weeks prior with an estimate to the end of the year.

Representative Wilson referred to the fall revenue book and asked for further clarification about the 12 percent decrease. Commissioner Hoffbeck replied that the 12 percent decrease was a comparison between the current number and a legacy number from the fall forecast for FY 18 with a slight adjustment. He would have to consult with his staff regarding the 1 percent adjustment. The department was forecasting a 4 percent to 5 percent decline, a more reasonable decline going into FY 18. He indicated that DNR could further address the production forecasting.

Representative Wilson stated that at the beginning of the presentation he had a 7 percent increase and a 1 percent increase. She wondered why the numbers did not match. Commissioner Hoffbeck encouraged Representative Wilson to look at the FY 17 number, which reflected the 7 percent increase. He referred to slide 5 where it read 523.7 thousand bbls/day ANS oil production [Column titled: Spring 2017 Forecast). He drew attention back to slide 12 where the same number could be found under the forecast for 2017. Again, the commissioner referred to slide 5. In the fall [2016] forecast 490.3 bbls/day thousand was projected. The difference between 490.3 thousand and 523.7 was a 7 percent increase. The 7 percent increase was imbedded into the number on slide 12. The 2018 number included 1 percent.

Representative Wilson asked if the 1 percent went with 523,686. Commissioner Hoffbeck responded that it went with the 490,000 in the fall forecast. The one percent went against the 455,000 from the fall forecast.

Representative Wilson asked about the current oil production rate per day. Commissioner Hoffbeck responded 550 [thousand].

Representative Wilson asked about the accuracy of the numbers based on the gains the state had seen. Commissioner Hoffbeck indicated the answers could be found on the following slide, slide 13.

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Commissioner Hoffbeck continued to the chart on slide 13: "PRODUCTION HISTORY: FY15 -FY17 Production Comparison." He highlighted the green dashed line that showed the FY 15 actual production. The black dashed line showed FY 16 and the solid red line reflected FY 17 to-date. The state had

heard since early in the year that production was up from the previous year. However, he pointed out that in the first 2 months there was not a major turnaround of the facilities during 2016. There was a head start on production for the beginning of the fiscal year. It fell behind the prior year's production in September and October and remained behind FY 16 until December. In the fall, when the revenue forecast was being done, the state was well below the prior year's forecast. The state had more production than in the prior year, but on a daily basis, the state was below. There had been a bump by not having the turn-a-round. In December, the production became more consistent - greater than the prior 2 years. There was a greater upswing in February and March. He believed the numbers would change in the summer because turbines were not nearly as efficient in warm weather. He expected production to drop dramatically. On the North Slope, maintenance took place with warmer temperatures. He anticipated the number being low for FY 2018 and would need to be adjusted. He reported that DNR estimated an increase in production of about 20 thousand to 30 thousand.

Representative Wilson asked what 550,000 bbls/day would equate to in additional revenue for 2018. Commissioner Hoffbeck responded that an additional 100,000 thousand barrels would be about \$200 million.

Vice-Chair Gara referred to the dips in the prior 2 years. He explained that the state normally had a partial field maintenance shutdown. He wondered if there was not a dip because there was not a shutdown. Commissioner Hoffbeck replied that in the two prior years they had done substantial maintenance turn-arounds. However, a decision was made that a significant turn-around was not necessary in 2016. He suggested being several months away from the start of the maintenance process in Prudhoe Bay. The state was several months away from the steep downturn that accompanied the turn-around. However, it would roll over and start to decline as temperatures warmed up.

Vice-Chair Gara asked that if there had been a stem on the decline and an increase and whether particular fields were responsible. Commissioner Hoffbeck answered that CD5 was driving the increase because it had stemmed the decline in Prudhoe Bay over the previous couple of years. It was an anomaly and a remarkable achievement by BP. Otherwise, CD5 would have shown up as a flattening of the decline.

However, because BP was able to keep Prudhoe Bay at a relatively stable level, CD5 showed up as an increase in production.

Vice-Chair Gara noted that several years prior in the Revenue Sources Books it indicated that by FY 17 the production decline was projected at 2 percent per year. He wondered how the actual decline compared.

Commissioner Hoffbeck reported that the decline was relatively flat. He suggested obtaining an exact decline rate from DNR.

Representative Guttenberg asked if the chart would look any different if the comparison was made for a 6-year period rather than a 3-year period. Commissioner Hoffbeck answered affirmatively. He indicated that everything would move up slightly because production was higher in previous years. The turn-around in the summer, the roll over in the springtime as production declined, and the wobbliness through the winter could be seen.

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Representative Pruitt wanted to clarify that he should direct his questions regarding methodology to DNR. Commissioner Hoffbeck replied, "That's correct."

Representative Pruitt asked if the commissioner felt that in 2026 the state would have 326,000 barrels coming out of the line. He wondered if the state had considered all factors. Commissioner Hoffbeck would be able to answer his question by going to slide 14. He could address what was not included.

Commissioner Hoffbeck turned to slide 14: "PRODUCTION FORECAST: ANS." He reported that the slide showed the bulk of production coming from the legacy fields rather than the new fields.

Commissioner Hoffbeck reviewed slide 15: "PRODUCTION FORECAST: Excluded from Forecast":

Characteristics:

Unknown first-oil date/estimated greater than 5 years
Discovery (contingent resource) or just prospects
(prospective resource)

Uncertain finances (e.g., sourcing for private equity)
Facilities incomplete or nonexistent
Projects in Appraisal
Technological Uncertainty
Environmental/Permitting Uncertainty
Economic Uncertainty

Examples: Pikka, Ugnu, Placer, Tofkat, Pt Thomson (MGS or full-cycling), Liberty, Fiord West, Smith Bay

Commissioner Hoffbeck elaborated that if an oil date were more than 5 years out it would not be factored into the forecast. The decision to exclude the information was based on fields typically coming online late. He used the example of the Liberty field, which was incorporated into the forecast 15 years prior and was still not online. He added that some fields could be online within 6 or 7 years. However, they were outside of the forecast window. He indicated that the department could provide an estimate that assumed certain fields coming online 5 to 7 years from the present. He reiterated that those figures would not be a part of the official forecast.

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Representative Pruitt commented on the discussions regarding the restructuring of the Permanent Fund and highlighted that DOR had done modeling out to 2041. He appreciated the department being conservative with the forecast. However, he thought that not having enough money was driving the conversation. He suggested that the department use similar long-term projections for oil and gas. Commissioner Hoffbeck responded that speculative numbers could be provided with the caveat that they were strictly estimates. He commented that forecasting investment returns was fraught with peril and forecasting production was even more so. There were so many moving parts to production including price, a producer's financing issues, and the quality of a field. He noted that, although he was willing to do some estimating, he would be hesitant to do any robust budgeting based on those numbers.

Mr. Alper added that DOR had made a presentation 2 years prior to the House Resources Committee that looked speculatively at what revenues from Alaska National Wildlife Refuge (ANWR) would be out to 2070. The information included a 60-year full field development with

certain assumptions based on different studies, the number of fields, and the position of the fields. He agreed the information would need to be heavily caveated.

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Representative Ortiz wondered how much the graph would change on slide 14 if 7 of the 9 fields came online in 5 years. He thought his example might be optimistic.

Commissioner Hoffbeck agreed that it would be very optimistic.

Representative Ortiz restated his question.

Commissioner Hoffbeck thought production would stop declining and the graph would begin to curve up. He provided a hypothetical scenario as to how much new production would be needed to solve the state's fiscal problem. He suggested that at \$60 /bbl oil the state would need 1.6 million barrels produced per day. Currently, 550,000 barrels were produced per day. The fields ranged from 20,000 to 200,000 bbls/day. The graph would reflect an increase in production if all of the fields came on together. However, they would not get the state close to solving its fiscal problem.

Representative Ortiz asked if it was safe to deduct that the state would not return to above 500,000 bbls/day. Commissioner Hoffbeck thought it was possible if several fields came online. However, looking at the present decline, if PICA (100,000 - 150,000 bbls/day field) came online in 5 years in 2022 and production was currently at 440,000 bbls/day production would bump to about 600,000 bbls/day.

Representative Thompson understood the importance of being conservative because the state had not made accurate projections in the past. He thought that some of the new fields, such as PICA, looked more promising at coming online than the Liberty field. He did not think the two fields were a fair comparison. Commissioner Hoffbeck stated that there were different issues associated with bringing the fields online. He thought PICA could be challenged with the issue of obtaining capital with a prolonged oil price environment of \$50 to \$55 /bbl. The industry was currently capital constrained. It might take a while before finances

would be available to bring on a field that appeared to be robust. It would require some production facilities in order to get to production. Some fields were technically challenged. He noted that Liberty was going to be offshore; the producers planned to build an island. However, the plan changed due to other challenges.

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Representative Thompson asked if HB 111 [Legislation passed in 2017 - Short Title: OIL & GAS PRODUCTION TAX; PAYMENTS; CREDITS] had been factored into the forecasts. Commissioner Hoffbeck responded in the negative.

Representative Thompson asked if the administration thought HB 111 would increase or decrease the amount of oil getting through the line. Commissioner Hoffbeck responded that a stable oil and gas tax system was needed. If there were a full fiscal plan in place, the governor would support paying off the old oil and gas tax credits. A tremendous amount of capital would be injected into the fields, which could help with production. He posed the question whether higher taxes would increase production and indicated they would not. The larger question to ask about HB 111 was whether it made Alaska non-competitive elsewhere.

Representative Thompson thought the current tax system was successful in that the state had increased production and increased revenues. He wondered if changing the system would reduce investment. He was concerned with hearing feedback about a poor atmosphere.

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Representative Grenn referred to slide 14. He asked if there were specific fields that fell under the categories of under development (orange) or under evaluation (grey). Commissioner Hoffbeck confirmed that there were and that in the presentation of the fall forecast there had been a more detailed discussion on the topic. He would be happy to provide Representative Grenn the information.

Representative Pruitt relayed that the administration was predicting that the petroleum corporate income tax would double. He wondered if it had to do with the effects of HB 247 limiting the ability of corporations to use their credits for corporate income tax. Mr. Alper referred to the

same table. He was unclear where Representative Pruitt was getting his numbers. He relayed that the issue with the corporate income tax was that there was a lot inherent lag and delay in it. For instance, the 2016 number was negative, in part, because of large estimated tax payments that were paid in 2014. The price of oil went down so much that the oil companies lost money or owed much less taxes than they thought when they were paying their quarterly estimated taxes. They ended up paying large refunds in the fall of 2015, which was part of the FY 16 cash flow even though it was part of a 2014 tax. There was an inherent lag. The tax for 2017 was largely based on 2015 company performance. He thought a mild creeping up of oil had been seen from the \$30 range from the previous session to the \$50 range presently.

Commissioner Hoffbeck advanced to slide 17: "PRICE FORECAST: Nominal ANS Price Distribution." He reported that the new data was projected in the slide. The slide reflected the 50 percent line across the board for the fall forecast. Oil Producing and Exporting Countries (OPEC) reached an agreement to limit production. Prices jumped about \$5 /bbl shortly after the fall forecast was released. In putting the spring forecast together, the department moved to the 60 percent line for the current year but had not adjusted the other years going forward. They still seemed to be in line with other forecasting agencies.

Commissioner Hoffbeck continued to slide 18: "PRICE FORECAST: Impact of other prices in FY 2017." He relayed that the slide showed the price by month and the effect of various price points until the end of the fiscal year. The price forecast was \$50.05, which would result in \$50 to \$55 /bbl for the remainder of the year. He continued that if prices averaged \$55 /bbl the average would be \$50.56. If they only averaged \$50 /bbl, the state would average at \$49.31. The department was forecasting an average of about \$53 /bbl until the end of the year.

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Commissioner Hoffbeck continued to slide 19: PRICE FORECAST: Historical ANS West Coast Price 2015+." He highlighted that the slide showed the impact of the OPEC production cuts, which had flattened the price dramatically in the previous few months more than in the last two years.

Representative Guttenberg assumed that the spikes on slide 19 were associated with certain events. He wondered if there was a correlation between spikes or if the assumptions created the spikes. He wondered what caused the spike to go down on August 15th when Saudi continued to produce record oil. Commissioner Hoffbeck responded that, in hindsight, it was the best estimate about what was driving the volatility. Obviously, it would have been nice to be able to forecast them. It was important to look back at the point in which the price turned to evaluate what changed.

Commissioner Hoffbeck reported on slide 21: "COST FORECAST: North Slope Capital Lease Expenditures." He indicated that the slide showed the forecast for capital lease expenditures declining for the remainder of 2017 and at the beginning of 2018. The expenditures would increase in 2019 and 2020. They would drop again in 2021 to stabilize with the long-term forecast. The slide was based on additional information the department received from the producers and developers since the fall forecast.

Commissioner Hoffbeck continued to slide 22: "COST FORECAST: North Slope Operating Lease Expenditures." He relayed that the slide showed the operating lease expenditures based on updated information provided by the producers.

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Representative Pruitt referred to slide 21. He asked about the difference in the spring forecast versus the fall forecast. He wondered how it translated into additional barrels. Commissioner Hoffbeck responded that DNR could discuss the issue with more authority. He noted concern about the limited amount of capital monies being spent in the fields currently. He suggested that it would eventually manifest itself in reduced production.

Mr. Alper suggested that there was also an inverse relationship because the tax was a net profit based production tax. He suggested that a decrease in spending could result in an increase in revenue for the short term because the companies were slightly more profitable.

Representative Pruitt commented that subsequently the state's expectation regarding revenue was that if they

decided to make up for it later, an inverse would take place unless money came into the general fund. He asked if he was understanding correctly. Mr. Alper responded in the affirmative. He elaborated that if a company were to spend and increment of money it would reduce their profitability and their tax collections.

Commissioner Hoffbeck addressed slide 24: "CREDITS FORECAST: Compared with Production Tax" and slide 25: "CREDITS FORECAST: Compared with Unrestricted Petroleum Revenue." He specified that slide 24 showed the impact of tax credits against a severance tax. Slide 25 showed the impact of credits against total oil and gas revenues. He reported that in FY 16 after deducting credits against liability and repurchased credits the state was in the negative. In FY 17 and FY 18, the state was positive after applying the deduction of credits. He noted that the figures were based on the statutory payment levels for the credits. He estimated an underlying credit liability that would reach an estimate of \$1.04 billion by the end of FY 18 in the form of unredeemed credit certificates.

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Representative Wilson asked how much pertained to Cook Inlet versus the North Slope. Mr. Alper replied that on the revenue side it was nearly all the North Slope. Very little revenue came in from Cook Inlet oil and gas production. He pointed to the credit against liability (the gap between the blue and the orange lines) which was almost entirely North Slope. There was very little Cook Inlet liability to offset. The credits paid were limited because of the limited appropriation. About 60 percent was going to Cook Inlet because of the nature of the backlog. The data applied primarily to the North Slope, give or take a rounding error. The credits that were owed in the amount of approximately \$1 billion was a 50/50 split - 50 percent North Slope and 50 percent Cook Inlet.

Representative Wilson asked if the state's liability was reflected in the charts. Mr. Alper replied that the blue bar represented revenue and the orange bar represented the actual revenues collected after the credits were applied to offset the liability. The grey bar represented the cash that was appropriated to buy credits. However, the grey bar did not reflect the credits that had not been paid which totaled about \$1.04 billion.

Representative Wilson asked if the outstanding credits were equally split between the North Slope and Cook Inlet. Mr. Alper replied the numbers were approximate. The department would follow up with precise amounts.

Vice-Chair Gara asked for clarification regarding what the blue bar encompassed. Mr. Alper replied that the per-barrel credit was the largest of the credits used against liability. The orange represented the actual revenue - the amount of money in the door. The blue bar represented what the amount would have been before the per-barrel credit was accounted for. He added that of the \$1.04 billion in outstanding credits \$592 million applied to North Slope liability and \$451 million to non-North Slope liability.

Vice-Chair Gara did not count the per-barrel credit as a real credit and would focus on the orange bar. He referred to a report that had been generated by Dan Stickle earlier in the year wondering if the information remained accurate. He asked if companies would generate more credits than were owed placing the state in a negative position. Mr. Stickle had replied in the affirmative. He asked if that was still the case. Mr. Alper replied that the department would have to revisit the analysis. He added that the anticipated number of credits earned in FY 18 would not change much. However, the revenue in FY 18 was expected to be slightly higher.

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Mr. Alper addressed slide 27: " REVENUE FORECAST: Advisory Bulletin Impacts":

DOR Advisory Bulletin (2017-1)

- Clarification of existing regulation regarding the application of per-taxable-barrel credits for non-GVR oil (024(j))
- If a company applies 024(j) credits, they cannot use other credits to reduce below minimum tax
- A company can forego their use of the 024(j) credits and use other credits to reduce below minimum tax (if allowed)
- Estimated Impacts:
 - 2014 to 2016 Tax Years: ~ \$50 - \$100M tax due to the State

- 2017 and 2018 small UGF increases
- Credit transfers decrease in FY 2018, thus less are used against tax liability. This increases both tax revenue and balance of credits outstanding.

Mr. Alper mentioned having briefly spoken with the chairman when discussing HB 111 about the advisory bulletin published by DOR about two weeks previously. The bulletin related back to the passage of SB 21 [Legislation passed in 2013 - Short title: OIL AND GAS PRODUCTION TAX]. The bill had a late amendment that hardened the floor specifically to the per-barrel credit for legacy oil (O24J Credit). The way the amendment was worded was that the credit could not be used to reduce tax payments below the minimum tax. He continued that regulations were drafted to implement the provision and to interpret the testimony by the sponsor of the amendment and the House Resources Committee. Over the past year, contradictory information had been given in different forms. There were certain taxpayers that had treated the circumstances differently. The department had seen cases where the per-barrel credit had been used to go to the minimum tax (4 percent) level and then some other credit might be used to reduce taxes further to zero. He noted that the other credit could be a carry-forward loss credit or a small producer credit, or a per-barrel credit for a gross value reduction (GVR) eligible oil. It turned out that the state's regulations, drafted in 2013 as part of SB 21, were clear that an entity could not reduce taxes below the minimum tax level by combining per-barrel credits with other credits for North Slope production. He listed the specific regulation: 15 AAC 55.335(g). He explained that when faced with the reality that the state had released inconsistent information to the public it had to act quickly to publish the advisory bulletin (2017-1). The department's goal was to release the bulletin by late March prior to the due date of the 2016 tax payments. The bulletin included the story he just relayed and the fact that the per-barrel credit could not be combined with other credits. The alternative, at low prices, was that a company could choose not to use any per-barrel credits but to use other credits potentially down to zero. The other credits were not hardened to the floor. He argued that it was not necessarily a hardship at \$40 oil because, typically, a company would not earn any per-barrel credits in that circumstance. As the price of oil lowered, the ability of companies to use the per-barrel credit became more limited

as the 4 percent minimum tax became a larger part of the tax calculation. Therefore, some companies would be able to forego their minimum tax still paying zero and some would have to re-file their taxes not using all of their small producer credits. He indicated that 2014, 2015, and 2016 taxes would be affected. He relayed that the main impact in the Revenue Sources Book was in 2018. As of the fall forecast, the department was forecasting with the assumption that there were a lot of credits for which money had not been appropriated to re-purchase them. The thought was that there would be more of a secondary market developing where companies would purchase those credits and use them to offset their taxes.

[2:41:22 PM](#)

Mr. Alper pointed to the chart on slide 28: "REVENUE FORECAST: Advisory Bulletin Impacts." He continued to explain that what the department learned in researching the advisory bulletin was that a purchased credit could not be used in conjunction with O24J credits to go below the minimum floor. The most prominent revision the department needed to make between the fall and spring forecast was to take \$100 million out of the system. The result was that it reduced the number of credits being used against liability and therefore increased by \$100 million the number of available credits that were awaiting state appropriation. It also increased the production tax revenue by \$100 million. The production tax revenue line in the Revenue Sources Book was about \$240 million, but the fall forecast was only about \$90 million. He furthered that of the \$150 million difference, \$100 million was from the single item.

Representative Wilson surmised the state was going to make the companies go back to 2014 taxes to make the corrections. She wondered how much it would cost companies to correct an error the state made. Mr. Alper replied that if the department made a mistake it was in communication. The regulations underwent a public review process and companies were given the opportunity to read and comment on them. He indicated that no one ever commented on that particular provision during the public review process of regulations for SB 21. Some companies would have to refile their 2014 and 2015 taxes. The numbers were not huge: the sum total of the older tax returns were about \$50 million in aggregate among multiple companies and multiple tax returns.

Representative Wilson commented that companies would have to pay to make the changes. Mr. Alper responded that any company that used other credits to pay below the minimum tax while also claiming a per-barrel credit would have to re-file their taxes. Several companies misinterpreted the law and would have to refile their returns.

Representative Wilson commented that many of the companies had highly paid experts that did taxes all of the time. She thought that if the state's regulations had been clear the specific mistake would not have been made. She wondered if companies had interpreted the law one-way and the department went back and interpreted it another way, the result of which would provide the state \$100 million in additional revenues and lost credits for companies.

2:45:09 PM

Mr. Alper replied that when he first had the issue brought to his attention he was in denial. Once he reread the regulation, he thought it was very clear that the intent of the regulation was to harden the floor. The regulation was written with the expectation that it was interpreting the intent of the legislature based on the provision debate. He reiterated it came in the form of an amendment introduced in the House Resources Committee. He could not speak to why the corporations misinterpreted the law. He pointed out that the \$100 million seen on slide 28 was not being taken from any particular company. It simply stayed in the pool of credits that the state owed and would have to pay back at some point. The credits would not be sold from one of the small explorers to one of the major producers. The major producers did not have the capacity to purchase the credits and use them against their taxes to go below the floor.

Representative Wilson responded that it explained why the state should not be writing oil tax law.

Vice-Chair Gara clarified that Mr. Alper had reviewed the regulations and found them to be clear although he missed it originally. Mr. Alper responded that the regulations were clear and had been written 4 years ago. He had not been working at DOR at the time. It was done in a previous administration to implement a bill passed in 2013. It was possible that companies would disagree with the

department's interpretation, which could end up in an appeal process.

Commissioner Hoffbeck added that in the audit process it was common that parties interpreted statutes and regulations differently than the state. The advisory bulletin would provide direction to head off such circumstances.

Representative Pruitt asked if the interest provisions applied to companies that would have to re-file. Mr. Alper responded affirmatively.

Representative Pruitt wondered if some of the companies, not necessarily the ones that received the credits, who purchased them from another company would have to re-file. Mr. Alper stated that there might be a couple of circumstances in 2016 regarding purchased credits. However, there had not been a robust market for second-hand tax credits in Alaska because the state used to buy them all. He reported that when the issues were happening in 2014 and 2015 companies were not buying and selling credits. The circumstances were limited to producer created credits.

Mr. Alper turned to slide 29: REVENUE FORECAST: Advisory Bulletin Impacts: Spring 2017 Forecast Credits Available for Purchase." He pointed out that the slide showed the relative impact of the advisory bulletin versus the credit obligation. The credit obligation was heavy in 2018 because the value that was vetoed was rolled forward and a new value was accumulating at the higher rate prior to the impact of HB 247. He highlighted that what was a little over \$1 million was a little under \$1 billion without the guidance memo of the advisory bulletin. The numbers were relatively smaller and closer to neutral in 2019 and beyond.

Co-Chair Foster reviewed a list of people available for additional questions.

[2:50:35 PM](#)

Representative Wilson wanted a better understanding of the numbers per barrel and the difference between the spring and fall forecast.

CHANTAL WALSH, DIVISION DIRECTOR, OIL AND GAS, DEPARTMENT OF NATURAL RESOURCES, introduced herself.

Representative Wilson brought up that the state was producing about 550,000 bbls/day. She did not see the number reflected in the forecast for 2018.

Ms. Walsh indicated that the 2018 numbers were not adjusted. The spring forecast involved inserting the actual available data. The department entered real production numbers and adjusted the annualized average number in 2017. The numbers for 2018 were untouched.

Representative Wilson asked why the department would not make the adjustment for 2018.

ED KING, SPECIAL ASSISTANT, DEPARTMENT OF NATURAL RESOURCES, agreed that the state should adjust the numbers. Unfortunately, the state did not have the resources to conduct an entire new forecast twice per year. The Department of Natural Resources absorbed the responsibility of producing a fall forecast from the DOR consultant. The number reflected in FY 18 presently was the forecast number from the previous December.

Representative Wilson asked if the consultant completed the fall and spring forecast or just the fall forecast. Mr. King responded that when the consultants were doing the forecasts, they did not do an entirely new forecast in the spring. They made some adjustments incorporating the actual data since the fall forecast. If there were room left in the consultants' contract, they would update the particular fields that needed adjusting. He confirmed that the state had never had two full forecasts per year: the state had one in the fall and an update in the spring.

Representative Wilson argued that the current year was different. In the current year, the state was looking to take money out of the pockets of Alaskans because of a gap the state might or might not have. She also noted that the difference was that the state did not see the decrease that it had seen, but rather, an increase. She thought it was important to show whether there was more oil in the pipeline. Ms. Walsh concurred. She indicated the department would provide a range but would not be able to provide a full reassessment of the fall approach to the forecast.

Mr. King added that the department knew that the number did not reflect the data from the Kuparuk and Alpine fields and Prudhoe Bay. He expected the number to change substantially in the fall. He encouraged Representative Wilson to ask DOR to plug in a number she thought was more realistic to see the resulting number. Unfortunately, it was the best number DOR had at the time to insert into their model. However, the department could easily determine what an additional 30,000 or 40,000 bbls/day of oil would potentially generate in revenue.

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Representative Wilson appreciated the information. However, it was her understanding that it was up to DNR rather than DOR. She asked if he could look at the totals for January through April comparing the previous year to the current year to determine a better range. She understood the number would be an estimate. Mr. King thought 480,000 barrels was a reasonable number. The number was a rough estimate of what might happen and how the forecast might be adjusted. He thought she should run some scenarios to see what 500,000 or 520,000 looked like. He thought that if the numbers were plugged in and everything else was held constant the state could see another \$50 to \$00 million in potential revenue. He also encouraged her as she was going through the process and looking at what might happen in the future that she acknowledge the other uncertainties that were in the forecast looking at the entire range. He thought it was important that the legislature did not overcommit itself to budgeting to something that might not come to fruition.

Representative Wilson commented that it was not her job to make those calculations. However, it was her job to be able to provide those numbers to her constituents.

[2:57:22 PM](#)

Representative Pruitt thought the numbers had actually changed more than reported. The numbers appeared to decrease in the out years beginning in 2019. He observed that the number was reduced by 1 percent in 2019, 2 percent in 2020, 1.8 percent in 2021, 2.3 percent in 2022, and 2.3 percent in 2023. He continued to provide the percentage adjustments. He wondered why the department would publish lower numbers if the numbers were not changing much and

there was recognition that there was something wrong with the data. He did not believe the numbers correlated. Mr. King reported that the department had not made any changes to the base forecast, which encompassed all of the producing fields and a field-by-field analysis. However, one adjustment was made to one of the fields expected to come online in the following couple of years. The start-up date of that field was changed in the model. He realized the small change created some confusion but advised that it should not be interpreted as a new forecast.

Representative Pruitt asked why there was a spring forecast if the legislature was going to rehash the fall numbers with changes that were known for the current year

Ms. Walsh reported that the spring forecast was adjusted to show reality. In the past, adjustments had been made in the opposite direction. Therefore, rather than having more revenue, it was less revenue. The information was pertinent because of closing up the year. It was important to have real data. The spring forecast had never been a total re-run of the forecast in the out years. The current year was a particularly sensitive year. Revenues in 2018 were also very critical. It lent itself to needing a better guesstimate of what was going on in the 2018 timeframe.

Mr. King added that there should have been a change to the forecast. However, the department did not have the resources to do a full forecast. As the department looked into the fall forecast, reviewed the forecast methodologies, looked at where the errors were made, and made necessary adjustments, it would figure out a way to be more accommodating in the following year.

Representative Pruitt commented that the state was faced with the same challenges from the previous year. In the previous year, there was an effort to ensure that the legislature received something earlier, March 21st. He wondered if in the previous year the early push resulted in an adjusted fall forecast that included reality numbers. He thought the concern of the department to produce a forecast earlier had evaporated. Mr. King responded that DNR had not been involved with the spring forecast in the previous year. The department took over in the spring. He suggested the representative redirect his questions to DOR.

Representative Pruitt mentioned that the state had decided to use DNR to produce the forecast rather than using an

outside consultant. He asked if the decision would result in a cost savings to the state. He asked about what the consultant was paid. He noted that DNR individuals were currently doing the work, which also cost the state money. He wondered if it was a better investment to use an outside consultant. Mr. King responded that he did not know what the contract amount was with the consultant. He pointed out that DNR had absorbed all of the costs and the workload related to doing the forecast. The department was trying to give the legislature the best answers possible and the best pulse on what was going on. He indicated it was up to the legislature whether it wanted to pay for a consultant.

Ms. Walsh noted the oil companies underestimated their field productions in the current year. Production was flat or up in fields that had not been so before.

Representative Pruitt asked her to elaborate. Ms. Walsh reported the fields on the North Slope, on average, had declined 4 percent to 6 percent per year with high activity levels. She thought it was reasonable to expect the same pattern to continue into the future. She thought it spoke to innovative and creative ways that the companies had managed the fields. Even their own experts in their companies underestimated the production of the fields.

[3:05:30 PM](#)

Representative Pruitt asked if DNR would continue doing the forecasts. If so, he wondered what the legislature should expect going forward. Mr. King answered that it was the first year DNR had done the forecast. There would be lessons learned from the process over the previous year. The department would take the data for the year, review the previous forecast, and look at how it could improve. He would expect DNR would continue doing the forecast if an appropriation for a consultant was not included in the budget.

Representative Thompson thought it seemed that the hired contractor that had done the production forecasting was paid about \$50,000 per year. Their forecasts had been accurate. He valued the accuracy of the production forecast.

Co-Chair Seaton suggested having someone from DOR respond.

[3:07:43 PM](#)

JERRY BURNETT, DEPUTY COMMISSIONER, TREASURY DIVISION, DEPARTMENT OF REVENUE, reported having been involved in the revenue forecasting process for the previous 13 years. In that time, the state had used two different consulting firms. The previous year was the last in which the state used a consultant. The contract amount was for \$100,000. The state had never had the consultant do 2 complete forecasts in a year. The department had had systematic overproduction analysis for a number of years because certain fields had been included. For example, for 10 years in a row the department had included Point Thompson 5 years out and eventually stopped. The department switched to a risk-based analysis. There had been a number of changes over time. The Department of Natural Resources did the forecasting for the first time in the current year due to budget reductions. The department had access to the information and a professional staff that could do an excellent job of generating the production forecast. The forecast was not updated in the spring and DOR did not know what it should have been. He confirmed that DOR and DNR worked closely together and would take all of the comments provided seriously. He added that the forecasts that were provided were 93 percent accurate.

Vice-Chair Gara did not think any of the people at DNR or DOR should be put on the defensive for the work they were doing. He reviewed that Mr. King had made it clear that the state was doing once-a-year forecasts in the fall. He gave kudos to the departments for dealing with the budgets they were given. He understood that there would be a full forecast in the fall and that the interim spring forecast was inaccurate. Mr. King responded that he was correct.

Vice-Chair Gara thought the state could spend additional monies on forecasting but they had never been accurate. He did not want to spend more money on a forecast. He asked if reality would kick in and production would be declining in the summer months and increasing in the winter months. Mr. King responded in the affirmative.

Vice-Chair Gara referred to the statement that the state might or might not have a budget gap. If production went up the amount would not equal the budget gap of \$2.9 billion. Mr. King indicated the representative was correct.

[3:12:00 PM](#)

Co-Chair Seaton thought the state had to take into consideration the reductions that had been made within departments. He added that anticipating a greater number of forecasts was illogical. He appreciated the estimate of an increase of 30,000 bbls/day. He indicated that an additional 50,000 bbls/day would equate to \$100 million, a figure helpful to the legislature in making its estimates. He remembered being frustrated with forecasts that were high because all of the fields that might come online were factored in. The numbers were never accurate and the legislature had to consider a lesser number. He appreciated changes to avoid over-forecasting. The legislature would know in the fall whether the new change would result in a more accurate forecast. He was pleased that oil companies had embraced new technologies, which resulted in greater production. He was glad to know that even if oil production increased by 50,000 bbls/day, it did not fill the gap. He appreciated the department's work and particularly the P50, P90, and P10 ranges. It provided probability and was helpful to policy makers. He thanked both departments for coming up with the best forecast with the resources allowed by the legislature.

Co-Chair Foster indicated the committee had 6 more bills to address and would be powering through them.

[3:15:45 PM](#)

Representative Guttenberg recalled consultants coming into the room over the years admitting that most of them were wrong most of the time. Otherwise, they would be taking care of their own business rather than being consultants to other people. He thought there was a certain amount of uncertainty built into forecasting. He had been troubled that the state did not have the expertise from within, as Alaska was primarily an oil state. He was glad the state was doing the work in-house presently. If the state rehired the consultant, it could challenge their answers. He highlighted the observation that was made about the industry being wrong about some of their estimates. It was not only about what was being pumped out of the ground. He provided several examples of unpredictable circumstances that could arise that could potentially affect a production forecast. He thought the accuracy of 93 percent was very good but could be better. He encouraged the department to

keep working on it. He was the chair of DNR's finance subcommittee and indicated there would be more discussion on the topic in the following year.

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Representative Pruitt asked how much the state paid the consultant to write the tax structure being proposed. Mr. Burnett relayed that the consultant was hired and paid through the Department of Law but thought it was about \$80,000 to \$100,000.

Representative Pruitt wondered what was used as the basis for revenue for any of the models other than the PF information. He specifically asked what Mr. Teal used. Mr. Burnett was uncertain which part of the model Representative Pruitt was referring.

Representative Pruitt responded, "The revenue aspect of the model." He asked if it was the fall forecast. Mr. Burnett answered in the affirmative.

Representative Pruitt concluded that the legislature was making decisions about how the state would move forward based on a very key piece, the fall forecast. Mr. Burnett replied, "Correct."

Representative Pruitt continued that \$85,000 was spent on a gentleman to write a tax system instead of spending that money on making sure the state had the appropriate information to make the right decisions regarding revenue. He asked about the decision making process of hiring someone to write the tax system. Mr. Burnett responded that it had not been his decision.

Representative Pruitt highlighted that there was money that could have been appropriated to hire someone to do the forecasting but the money was spent elsewhere. He opined that when the legislature started talking about \$100 million as if it were "chump change" and pushing it aside, it had lost touch with reality. He thought it was important to be as accurate as possible, especially when making decisions about going into people's pocketbooks.

Representative Ortiz understood that the state was producing more than 500,000 bbls/day at present. He asserted that it was unlikely in the year 2025 that the

state would be about 500,000 bbls/day. He asked if he was correct.

Mr. Burnett relayed that based on what was known and the forecast of prices he thought it would be very unlikely.

Co-Chair Foster stated that the committee would be taking a 10-minute break. He reviewed the order in which the bills would be heard.

[3:23:22 PM](#)

AT EASE

[3:37:42 PM](#)

RECONVENED

#hb103

HOUSE BILL NO. 103

"An Act relating to the practice of optometry."

[3:37:42 PM](#)

Co-Chair Foster MOVED to ADOPT Amendment 1:

Page 2, line 27, following "practice."
Insert "(a)" 3

Page 2, following line 30:

Insert new subsections to read:

"(b) A licensee may not perform ophthalmic surgery unless the procedure is

(1) within the scope of the licensee's education and training from an accredited school of optometry; and

(2) authorized by regulations adopted by the board.

(c) In this section, "ophthalmic surgery" means an invasive procedure in which human tissue is cut, ablated, or otherwise penetrated by incision, laser, or other means to treat diseases of the human eye, alter or correct refractive error, or alter or enhance cosmetic appearance; "ophthalmic surgery" does not include the procedure described under AS 08.72.273."

Representative Wilson OBJECTED.

REPRESENTATIVE IVY SPOHNHOLZ, SPONSOR, explained the amendment. She decided to advance an amendment in response to some of the concerns expressed about the potential that optometrists might work outside of their scope of practice. The amendment would do two things to clarify and further codify the restrictions the original bill stated. She read directly from the amendment (See above). She conveyed that the definition of surgery provided in the amendment was borrowed from Washington state law and preferred by the ophthalmologists. They would not practice any of the items unless they were clearly trained in them by an accredited school of optometry. It would ensure that there would not be fly-by-night optometry trainings offered in hotel conference rooms that could result in unsafe care.

Vice-Chair Gara wanted it on record that if either amendment passed there was an ophthalmic surgery definition. The amendments were different. His understanding was that, regardless of her definition, it would allow optometrists to continue doing things they were doing presently. He did not want to limit their ability to perform procedures they were currently allowed to do. He asked her to comment. Representative Spohnholz responded that there were two amendments. Amendment 1 would continue to allow optometrists to practice as they did currently. It was her understanding Amendment 2 would not. The second amendment would roll back some of the authorization that optometrists had to practice. She thought a member of the Board of Optometry was available online.

Vice-Chair Gara did not want the amendment to stop optometrists from doing the procedures they had already been authorized to perform. He asked if the amendment was aimed at future things that optometrists were thinking about doing. Representative Spohnholz responded that the language in Amendment 1 stipulated clearly that a licensee could not perform ophthalmic surgery unless the procedure was within their scope of education and training. Anything that they were currently practicing were items they had already received training in at an optometry school. The amendment allowed them to continue with their practices.

Vice-Chair Gara wanted to get on record that the amendment should not be interpreted in a way that would somehow erase their ability to practice what they were already practicing.

Co-Chair Foster relayed the list of testifiers available.

3:43:05 PM

Representative Kawasaki asked about removing foreign bodies. He wanted to make sure they would be able to continue to perform the surgery. Representative Spohnholz responded in the affirmative because it was within the scope of their training and licensure.

Representative Kawasaki mentioned the 40 schools of optometry and asked if any of them taught Lasik surgery. Representative Spohnholz thought Lasik surgery was not within the scope of practice for optometrists. She deferred to the doctor online for clarification.

DR. BARNEY, BOARD OF OPTOMETRY, responded that Lasik was not taught at any optometry school in the US.

Representative Wilson commented that the definitions were the same. She was concerned that optometrists wanted to do surgery. She was unclear of the purpose of the amendment. She wondered what the amendment would do to change what optometrists could do without the amendment. Representative Spohnholz responded that the amendment codified some things that had been verbally expressed on the record but not explicitly stated in statute and the original bill. She felt the amendment might give people more comfort and clarity that there would not be a dramatic scope of practice change. She emphasized the importance of specifying that education and training needed to come from an accredited school of optometry. The amendment clarified that drive-by-night trainings in Lasik surgery offered at hotels by non-accredited institutions and rammed through a board of optometry was not possible.

Representative Wilson asked what procedure optometrists could currently perform that fit within the definition provided in the amendment. Representative Spohnholz deferred to Dr. Barney. Dr. Barney provided a list of procedures optometrists could currently perform that met the definition of surgery as written in the amendment. The list included corneal foreign body removal, rust ring removal, epithelial debridement, removal of corneal filament, and draining a hidrocystoma.

Representative Wilson wondered if all of the procedures he mentioned had been taught at an accredited school. Dr. Barney responded affirmatively.

3:48:41 PM

Representative Wilson was trying to address concerns that were brought to her attention via email. She understood there was a difference between the two groups concerning surgery. She wanted to make sure people remained safe. She had heard in testimony that they [optometrists] did not want to do surgery. However, they were already doing what was considered surgery based on the definition in the amendment. She did not understand the purpose of the amendment. Representative Spohnholz clarified that accreditation was done by a separate nationally recognized body which was true for all accredited universities. The Alaska board was not in charge of accrediting universities that offered optometric education.

Representative Wilson thought that the board could require all training to be from an accredited university. Under regulation, they [optometrists] could already perform defined services. She believed the legislation allowed providers to go beyond the scope of their training. She would be voting based on the testimony she heard and received.

Co-Chair Seaton thought that regulations required training to be obtained by an accredited institution. He added that the board could implement the same requirement. However, he believed the amendment clarified that the training would have to be obtained by an accredited school of optometry. He thought the definition of surgery was too broad, based on feedback from the entire medical field. He provided an example of an optometrist removing a fishhook from a person's eyes and it being considered a surgical procedure. He indicated he was comfortable with the amendment.

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, Amendment 1 was ADOPTED.

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Representative Wilson WITHDREW Amendment 2.

Vice-Chair Gara commented that he thought the bill should be decided with a floor vote. Therefore, he would not object to moving the bill from committee.

Vice-Chair Gara reviewed that there was one fiscal note: Office of Management and Budget (OMB) component number 2360 in the amount of \$5,100 for the drafting and implementation of regulations.

Representative Wilson clarified that the amount would be paid for with program receipts rather than general fund dollars.

Co-Chair Seaton MOVED to report CSHB 103 (FIN) out of Committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, it was so ordered.

CSHB 103 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a previously published fiscal impact note: FN2 (CED).

[3:54:48 PM](#)

At EASE

[3:55:31 PM](#)

RECONVENED

#hb76

HOUSE BILL NO. 76

"An Act relating to the mariculture revolving loan fund and loans from the fund; and providing for an effective date."

[3:55:40 PM](#)

REPRESENTATIVE DAN ORTIZ, SPONSOR, mentioned that about 6 weeks prior US Senator Dan Sullivan addressed the Alaska State Legislature. In his address, he spoke of the robust fishing industry (\$6 billion/year) existing in Alaska. He spoke about how the State of Alaska provided about 60 percent of the seafood sold within the U.S. He had also spoken about the need to do everything possible to protect and enhance the fishing industry. He relayed that HB 76 looked to provide a small jump-start to a potential part of

the fishing industry growing it by another \$1 billion/year. In the previous year, the governor appointed a mariculture task force with the intent of exploring ways in which to develop mariculture along the coastal communities of Alaska.

Representative Ortiz read the sponsor statement:

This bill amends the existing Alaska Mariculture Revolving Loan Fund to allow up to forty percent of the fund to be used for loans to permitted shellfish hatcheries for planning, construction and operation.

Alaska shellfish farms currently do not have a stable supply of seed for the propagation of oysters, and no regular, in-state source of seed for resident aquatic plants and other shellfish. A stable supply of seed is one of many hurdles the industry must overcome to grow and become a viable Alaskan industry.

This bill will amend the program to shift its focus and eligibility from individual mariculture farmers to include shellfish hatcheries that would market stock to local Alaskan mariculture farmers.

The mariculture industry in Alaska is not yet fully developed, and is extremely high risk, from a financial standpoint. These obstacles make private financing difficult to obtain, but this bill will enable Alaskans to maintain their businesses and grow Alaska's mariculture industry.

Co-Chair Foster relayed a list of available testifiers.

[3:59:37 PM](#)

Vice-Chair Gara was hesitant about expanding the use of hatcheries in the state because of the possible contamination of wild fish. However, in the legislation being discussed he only saw changes to the eligibility and the use of the loan fund, not changes to the ability to engage in mariculture. He wondered if his assessment accurate. Representative Ortiz responded that he was correct.

Representative Wilson asked if the bill offered up to \$1 million per year for an applicant.

ELIZABETH BOLLING, STAFF REPRESENTATIVE DAN ORTIZ, explained that the \$1 million per year limit only applied to the 40 percent (non-profit associations and enhancement projects). She expounded that the cap for one loan would be \$1 million. However, she did not believe it was likely for people to ask for \$1 million loans due to the collateral requirements.

Representative Wilson wanted to know the number of loans that were \$1 million. She pointed to page 5, lines 27-31 of the bill. It stated that the department could defer the principle of and interest on a loan made under the terms of the bill for a period of up to 11 years after the loan was made. She argued that it was a long time. It also appeared that the state could defer the interest between 6 years and 11 years. She wondered if the terms were based on an outside model. She thought many people would like the terms of such a loan. Ms. Bolling replied that the deferred interest was accrued on individual farmers in the 40 percent category. The 6 years to 11 years was consistent with the finfish fund, a fund that had been very successful. She noted that additional deferments applied to the non-profit associations.

Representative Wilson did not understand the difference between an individual receiving the loan and a non-profit. She wondered what type of non-profit would apply for the loan. Ms. Bolling responded that it was very expensive to operate a seed supply organization. The payoff was small and only came over a long period. She suggested it would be unreasonable to expect a short-term payback. The reason the bill was needed and why there was a bottleneck in the growing industry was because there was no substantial gain from participating in just the seed supply. She opined that it was necessary for the state to get involved due to the riskiness of the developing industry. She noted that it was unlikely to be able to find financing in the private sector.

Representative Wilson asked Ms. Bolling if she was concerned that an entity could get into the process and not be able to pay the money back to the state. Representative Ortiz deferred to the Department of Commerce, Community and Economic Development.

BRITTENY CIONI-HAYWOOD, DIRECTOR, DIVISION OF ECONOMIC DEVELOPMENT AND COMMERCE, DEPARTMENT OF COMMERCE, introduced herself and asked Representative Wilson to repeat her question.

Representative Wilson suggested that the bill would allow her to borrow \$1 million with a plan. She could obtain \$100 thousand in grant funding to develop her plan. The committee had just heard that the industry was difficult to get started and to see returns. She asked if the department had concerns that the payments would not begin for 11 years. Ms. Cioni-Haywood indicated that the department was diligent about properly collateralizing the loans to protect the state's assets. She was more concerned about the loan fund and its ability to be revolving in the first decade. Once the payments started returning a revolving loan fund would be available for the industry.

Representative Wilson asked Ms. Cioni-Haywood about the number of loans. Ms. Cioni-Haywood responded there were currently 5 loans all of which were loans made to individual farmers rather than hatcheries.

Representative Wilson asked about the balances. She had a figure of approximately \$4.5 million in the fund. Ms. Cioni-Haywood answered that Representative Wilson was correct.

[4:05:53 PM](#)

Representative Pruitt reported that it had been 3 years or 4 years since he had visited one of the farms in Ketchikan. He recalled that most of the seed was coming from the Puget Sound area. He wondered if he was correct. Representative Ortiz responded that there was an organization called Oceans Alaska in the Ketchikan area that provided seed that was not in business 4 years previously.

Ms. Bolling added that per a regulation from the Department of Fish and Game (DFG) all native plants and marine aquatic shellfish that were produced in the State of Alaska were required to come from seed created in Alaska.

Representative Pruitt noted that 3 years or 4 years ago South or Southeast was a great place for this emerging industry. He asked if some of the seed could be utilized outside of Alaska. He wondered if the intent was to grow

the industry in Alaska or to possibly to provide seed to places outside of Alaska to make a profit. Representative Ortiz responded that the intent of the bill was to promote local mariculture farms. He understood that the demand for seed was strong enough that it would like be used up in Alaska. In the case of Oceans Alaska, he understood they could not produce seed fast enough for the demand within the state.

Representative Pruitt asked if there was a market. He wondered if there would be a challenge to pay the funds in the future. Representative Ortiz thought it was appropriate, as it was a developing industry. However, there was an element of risk. He did not see a way to develop the industry to get to the point where there was a viable industry without getting through a period of relatively high risk.

[4:10:05 PM](#)

Representative Pruitt asked if the expansion of the loan fund - by adding another group - would create a problem with pressure on the fund at a future time. Ms. Cioni-Haywood responded that it explained the reason for the construction of a 40/60 split. She noted that 60 percent of the fund would remain available for individual farmers. The remaining 40 percent (set at a particular time so it would not be in flux) would be available for hatchery and enhancement projects.

Representative Kawasaki asked about the 40/60 split. He wondered if the 60 percent portion would be enough for the remaining mariculture businesses that were originally listed. Representative Ortiz replied that to-date the fund had been underutilized. There were currently 5 loans with a balance of just under \$5 million in the fund. The initial funding amount was \$5 million. The industry recognized that the supply of seed was a problem. If the state were to see an increase in the manufacturing of seed resulting from the 40/60 split, then it was possible there would also be an increase in the number of farmers interested in getting into the business. There would likely be an increase on the demand of the remaining 60 percent. He noted Ms. Cioni-Haywood talking about the fund initially not having a revolving nature because of the funds being expended. He thought it was better to have a fund that was being used rather than underutilized.

Co-Chair Seaton noted that there was a shellfish hatchery in Seward focused on a King Crab project. He reported that the oyster farms in the area were having difficulty getting seed. He clarified that seeds other than oyster seeds could not be brought into Alaska. Oyster seeds were grandfathered in. Currently, because of warm waters, the State of Washington's seed production was down significantly. Farmers in Alaska had to have new seed each year if they were harvesting annually. He concluded that without a good seed supply, the business model would not work. He wanted to make sure to report that the bill was not only related to Southeast Alaska. He mentioned another bill that had passed regarding Geoducks. It was 9 years to 11 years before Geoducks were harvestable. He suggested that putting off the payment of principle and interest was necessary. He pointed out that a farmer might have a valuable product with a lengthy cycle. He mentioned that previously Geoducks could not be planted or farmed anywhere outside of Southeast Alaska. It did not make sense because they did not reproduce naturally further North. However, North could provide a great growing area. He cited a village corporation project in the Port Graham area.

[4:15:42 PM](#)

Co-Chair Foster OPENED Public Testimony.

[4:16:05 PM](#)

TAMSEN PEEPLES, LEAD ALASKA OPERATIONS, BLUE EVOLUTION, JUNEAU, spoke in favor of HB 76. Blue Evolution was a company developing commercial seaweed maricultures in Alaska. The previous August she constructed and operated the first commercial kelp hatchery in the state located in Juneau, Alaska, at the University of Alaska Southeast in the Anderson Building. She produced over thirty thousand feet of seeded line and distributed it to three independent Alaskan growers: two out of Kodiak and one out of Ketchikan. The first harvest of material would occur the following week. The company aimed to collect over thirteen thousand pounds of kelp that grew from its independent farmer from seed material produced in Juneau. Her company would be purchasing the product from the farmer, drying it, and making added value products such as a seaweed pasta. Her company was already producing the pasta and selling it online. As Representative Ortiz mentioned, seed was a huge

choke point in production even within her own company. All three independent farmers applied to increase their farm space substantially. The company would be going over 500 percent production from the past year. She relayed that having access through the mariculture revolving loan fund to the hatcheries would greatly increase Blue Evolution's production but all other shellfish and seaweed hatcheries throughout the state. As an Alaskan and marine biologist, she whole-heartedly supported the industry in its entirety.

4:18:00 PM

JULIE DECKER, ALASKA FISHERIES DEVELOPMENT FOUNDATION, JUNEAU, spoke in support of HB 76. She explained that her organization broadly represented the seafood industry from harvesters, processors, and support sector businesses. The foundation had a vision to grow a \$1 billion industry in 30 years. The foundation believed that there was a major opportunity in developing mariculture in the State of Alaska including wild fishery enhancement, aquatic farming, and restoration of shellfish and aquatic plants. She mentioned that finfish farming was off the table and not allowed in the state. The organization believed there was serious opportunity available. She mentioned examples in the State of Washington and provided some statistics. She also noted an announcement in a publication that China was making a \$200 million investment in Eastern Russia to grow sea cucumbers, mussels, and scallops - three species present in Alaska. The foundation firmly believed there was an opportunity. In addition to supporting HB 76, she offered that the following bill, HB 128, was also a part of the building blocks needed to develop the industry efficiently. The governor's mariculture task force agreed that the two bills were necessary and supported both bills. There was also a list of 16 other organizations from across the state that supported the bills. She also mentioned the support of the farmers because they needed a consistent source of seed. She thanked the committee.

4:20:20 PM

TOMI MARSH, BOARD MEMBER, OCEANS ALASKA, KETCHIKAN (via teleconference), spoke in support of HB 76 and HB 128. Oceans Alaska was a non-profit shellfish hatchery. The company started producing oyster seed prior to 2015 and wanted to expand into seaweed and geoduck seed. It went from producing 5.0 thousand oyster seeds to about 10.0

million oyster seeds. The non-profit's ability to produce seeds would allow more expansion by existing and new Alaskan businesses and farmers and would help with rehabilitation and enhancement. She reported that the Ketchikan Gateway Borough had invested over \$600 thousand of economic development funds to Oceans Alaska. Many individual board members had also contributed. There was a significant amount of local support for the hatchery. She indicated that if the bill passed Oceans Alaska would pursue a loan from the Mariculture revolving loan fund, which would help stabilize its existing operations and allow for expansion.

[4:22:06 PM](#)

ERIK O'BRIEN, SOUTHWEST ALASKA MUNICIPAL CONFERENCE (SWAMC), ANCHORAGE (via teleconference), spoke in favor of HB 76. He was an independent farmer and intended to apply for a mariculture loan. He thought kelp mariculture was a stepping-stone into other mariculture activities. He also planned on participating in hatchery operations.

[4:23:33 PM](#)

DOUG GRIFFIN, SOUTHWEST ALASKA MUNICIPAL CONFERENCE, ANCHORAGE (via teleconference), spoke in support of HB 76. He explained that about 4 years prior SWAMC had become interested in mariculture as a development initiative to increase economic activity. It was seen as a perfect fit in communities that were experiencing a loss of fisheries access. Coastal communities were well placed to succeed in the mariculture industry. The bottleneck for development was access to capital to get into what was considered by regular banks as a speculative industry. The initiative SWAMC started 4 years ago had not gained momentum for the reasons he mentioned. He opined that Mariculture was complimentary to other fisheries and would be a great initiative of job creation. He relayed that high value products in demand worldwide would come from the industry. He asserted that along with the initiative the state would need to move to marketing and other items. He noted that Kodiak was actively looking at permitting and access to capital within the mariculture industry.

Co-Chair Foster CLOSED Public Testimony.

Co-Chair Foster relayed that amendments were due in his office by Tuesday, April 17th.

HB 76 was HEARD and HELD in committee for further consideration.

#hb128

HOUSE BILL NO. 128

"An Act relating to management of enhanced stocks of shellfish; authorizing certain nonprofit organizations to engage in shellfish enhancement projects; relating to application fees for salmon hatchery permits; and providing for an effective date."

[4:27:17 PM](#)

REPRESENTATIVE ORTIZ, SPONSOR, thanked the committee for hearing HB 128. He noted Ms. Decker had mentioned pieces of a puzzle being put together to help spur the development of Alaska's mariculture industry. He opined that HB 128 was one of the pieces of the puzzle. He read the sponsor statement:

Enhancement of Alaska's shellfish industry holds the potential of expanded economic opportunities in Alaska's coastal communities and increased resilience of the State's fisheries portfolio.

To tap this potential HB 128 allows qualified non-profits to pursue enhancement and/or restoration projects involving shellfish species including red and blue king crab, sea cucumber, abalone, and razor clams.

The bill creates a regulatory framework with which Alaska Department of Fish and Game can manage shellfish enhancement projects and outlines criteria for issuance of permits. It sets out stringent safety standards to ensure sustainability and health of existing natural stocks. The Commissioner of ADFG must also make a determination of substantial public benefit before a project can proceed.

In addition, the bill sets the application fee for a shellfish enhancement project at \$1,000 and amends the

application fee for a salmon hatchery permit, increasing the fee from \$100 to \$1,000.

HB 128 plays an important role in the development of mariculture in Alaska by providing a method to increase the available harvest of shellfish for public use in an environmentally safe manner.

Co-Chair Foster reviewed the available testifiers in the room and online.

Vice-Chair Gara asked about Representative Ortiz's reference to a provision in the legislation about protecting against contamination or danger to wild species. He asked if the representative was referring to wild shellfish or wild fish also. Representative Ortiz asked if Vice-Chair Gara was talking about salmon.

Vice-Chair Gara responded affirmatively. He wanted to make sure there were provisions in place to ensure that there was no danger of contamination that would spread to wild fish or shellfish. Representative Ortiz deferred to DFG. His understanding was that a totally different enhancement process was being discussed. He thought the shellfish were staying in one area without intermixing. He asked DFG to add to his comments.

[4:31:34 PM](#)

FORREST BOWERS, DEPUTY DIRECTOR, DIVISION OF COMMERCIAL FISHERIES, DEPARTMENT OF FISH AND GAME, explained that the enhancement or rehabilitation projects that would be promoted under the bill would target existing stocks. For example, there was a King Crab stock around Kodiak. The abundance level was too low to harvest. The efforts that would be undertaken with the bill would attempt to restore the stock to a level where fisheries could occur. The bill would allow for a restoration of native existing stocks rather than introducing a new species into an area where they were not native.

[4:32:42 PM](#)

MARY HAKALA, STAFF, REPRESENTATIVE DAN ORTIZ, added that a definition was provided on page 9, line 3 of the bill. The bill specifically spoke to shellfish. The definition detailed that shellfish was exclusively indigenous to state

waters. She highlighted a provision on page 5, line 11 regarding collecting brood stock. The permit holder would be directed to (where feasible) first take shellfish native to the area in which the shellfish would be released. She continued that in some case where an entity was restocking depleted stock it could take from another area. She thought there were strong directives in the bill.

Vice-Chair Gara was mainly concerned with protecting native stock. He asked if the bill authorized hatcheries beyond the relocation of shellfish from one area to another or if it had more to do with enhancement that did not involve hatcheries. Mr. Bowers responded that hatcheries could be used as tools for enhancements. However, there were other methods available.

Vice-Chair Gara asked if there were rules in place to avoid contaminating native fish with hatchery species. Mr. Bowers replied that all of the shellfish that would potentially be involved in one of the projects would undergo pathological testing for disease. The department had a genetics policy that ensured that genetic diversity of native stocks was maintained. In addition, the department had fishery management policies dealing with harvest rates to avoid overexploiting stocks.

Vice-Chair Gara remarked that he was not a scientist. He asked for assurance that there were rules in place to do no harm to native stocks. Mr. Bowers responded that the department's directive was to do no harm. The department's interest was in conserving the wild resources of the state, enhancing them if they became depleted, or rehabilitating them. The department would not permit a project if it thought it would do harm.

[4:36:17 PM](#)

Representative Wilson asked how the issue was different from mixing wild salmon with farmed salmon. She wondered if the state would be raising shellfish in a separate way and then mixing them with wild shellfish. Mr. Bowers answered that there were a number of ways in which enhancement could occur. One approach to shellfish enhancement was to take, for example, female King Crab bred and fertilized naturally in the wild, brought into a hatchery where they would span. The juvenile crab would be raised up to a certain size and released into the wild. Essentially, they would be

naturally produced organisms that had been helped to survive a vulnerable life stage. They would not be a hatchery-produced fish. They would be native and placed back into their native habitat. He suggested that other approaches might include moving organisms such as abalone closer together. Speculations had been made that their reproduction was limited because the individuals were geographically too far apart to breed successfully. There were other approaches as well including back planning hatchery-produced organisms to speed up natural recruitment to allow fisheries to happen more quickly. In the case of the fish Representative Wilson mentioned, some interior hatcheries were non-native species like Rainbow Trout. He noted that triploid organisms could not reproduce naturally. They were introduced into areas such as land-locked lakes where they could not interact with wild salmonids.

Representative Wilson discussed the general concern about releasing them [enhancement fish] into the wild potentially causing issues with the population. She wondered how to address the concern. She asked for clarification.

[4:40:12 PM](#)

Mr. Bowers responded that the native organisms would be placed back into the area where they would have been produced in the wild. He cited the example of Kodiak Red King Crab. The department was not moving organisms into places where they were not native. He noted that the existing hatchery programs were situated in areas where the department believed straying and interbreeding between hatchery and naturally produced fish would be minimized. There were protections in place. He reemphasized he was speaking about native organisms.

Representative Wilson asked if any other states had similar programs. Mr. Bowers was not aware of any.

Representative Guttenberg reiterated the information Mr. Bowers had provided. He asked if there had been lessons learned regarding overharvesting issues that would help in avoiding recreating problems from the past.

Mr. Bowers replied that in the case of Red King Crab, some of the declines were due to over fishing. There had also been changes in the North Pacific eco system that made the

environment less favorable for shellfish than it was 30 years to 40 years ago. The department had learned a significant amount about conservative management of shellfish stocks because of their volatile history. In general, the department's harvest policies were much more conservative at present than they were 30 years or 40 years ago. The department has spent a significant amount of time working on the issue with the Alaska Board of Fisheries. The department's stock assessment was better than it used to be. With regard to other research, the department believed some of the stocks had not rebuilt because they were recruitment limited. In other words, there were not enough juvenile crab being produced to overcome predation and natural mortality to rebuild the stock to levels where harvests could be sustained. The intent of the bill was to overcome the recruitment limitation in order to get the stocks back to a sustainable level. Enhancement would help to provide additional harvest opportunity.

[4:44:52 PM](#)

Representative Guttenberg asked if the department would be able to monitor the habitat changes to determine the success of the harvest. Mr. Bowers indicated that the major benchmark of success would be abundance or stock size, which was measured through annual surveys. Even fisheries that had been closed for several years, such as Kodiak Red King Crab stocks, were still surveyed annually.

Representative Ortiz furthered that in addition to overharvesting being a contributing factor to decreasing stocks in shellfish in Southeast Alaska, sea otters and other predators have influenced stock levels.

Representative Guttenberg referred to page 9, Section 6 of the bill. He asked about the definition of a shellfish facility. He thought the definition was placed within the definition of farmed fish. He asked for clarity. Mr. Bowers answered that the section simply adds shellfish to the exemption provided in the farmed fish definition. The existing language exempted salmon hatcheries from the farmed fish definition and added shellfish operations to the exemption under the bill, as they were wild fish.

[4:48:58 PM](#)

Representative Guttenberg asked if shellfish hatcheries were being added. Mr. Bowers responded that a hatchery could be used. It was one tool for enhancement or rehabilitation. Shellfish produced in a hatchery or any other enhancement operation that would be permitted under the bill would not be considered farmed fish.

Co-Chair Seaton spoke of segments of shoreline in his area that did not have clam populations return after an earthquake. He wondered if the state had been successful in reestablishing subsistence and sport harvest areas that had reduced stocks such that they were not available for harvest. He also wondered about an overly large population of pink salmon interfering with other stocks. He wondered if the bill would apply to his examples. He wondered if there were concerns about filter feeders. Mr. Bowers appreciated Co-Chair Seaton bringing up his question about clams in South Central Alaska. They were stocks that had declined significantly over the previous several decades. They would be candidate stocks for rehabilitation under the bill.

Co-Chair Seaton clarified that he was talking about the harvest of stocks from beaches and repopulating the beaches - not bringing in stocks from another area. Mr. Bowers answered in the affirmative. He relayed that the department would look for the nearest available stock that had surplus biomass available which would be used as brood stock. He was unaware of concerns that had been raised by increasing any shellfish populations to their native or historical biomass levels. It would be a reasonable part of sustaining eco system diversity.

Representative Pruitt made a joking remark. Representative Ortiz responded in kind.

Co-Chair Foster OPENED Public Testimony for HB 128.

[4:53:34 PM](#)

GINNY ECKERT, ALASKA KING CRAB RESEARCH, REHABILITATION AND BIOLOGY PROGRAM, JUNEAU, spoke in support of HB 128. She was a fisheries professor at the University of Alaska Fairbanks. She provided additional background information indicating her shellfish expertise in Alaska. She had been doing research on King Crab since 2007 to investigate the feasibility of rehabilitation. She had learned a

significant amount about King Crabs in their early years of life. She was convinced that one bottleneck was their early life history. For example, in Kodiak when she went looking for small baby King Crab she did not find them in the places they had been historically. She had worked on methods to rear King Crab in a hatchery. She had also conducted experimental out-plantings to determine which habitat would best promote survival for juveniles. She also looked at predation. She reported that she had not done any experiments in areas where there were wild stocks. She indicated that some of the concerns that had been discussed such as genetic issues were real and viable. However, crabs were very different from salmon and other fish. King Crabs were reproducing in the wild. She reported that the goal was to increase the survival of offspring that had been produced in the wild. She noted that in some cases the rehabilitation could increase genetic diversity through the process. She reported examples of hatchery production in the wild to restore wild stocks including a huge effort on the east coast to restore wild oysters and an effort on the west coast to restore Abalone.

[4:57:16 PM](#)

TOMI MARSH, OCEANS ALASKA, KETCHIKAN (via teleconference), spoke in support of HB 76 and HB 128. She believed HB 128 was very important because it allowed an infrastructure in order to enhance some of the wild stocks that needed rehabilitation due to predators or environmental changes. She emphasized that Oceans Alaska supported both pieces of legislation.

[4:58:34 PM](#)

ANGEL DVOBNICA, ALEUTIAN PRIBILOF ISLAND COMMUNITY DEVELOPMENT ASSOCIATION (APICDA), reported she was also a member of the Mariculture Task Force. The association had submitted letters of support on both of the mariculture bills. The Aleutian Pribilof Island Community Development Association was one of six groups in the Community Development Quota Program and represented six communities in the Aleutian Pribilof Region. She provided additional information regarding the association. She opined that HB 128 was necessary to bring a certain program out of its research phase into implementation. The association saw tremendous opportunity in mariculture in Western Alaska for increasing access to commercial and subsistence fisheries

and to better understand in impacts of climate related ocean changes on important fisheries species and building resiliency to those changes. The communities of APICDA were heavily invested in fisheries and were very interested in mariculture development. Such development could play an important role in diversifying the existing seafood operations. She indicated that both mariculture bills had wide support throughout Western Alaska and thought both were necessary. She added that on a personal note as a Dungeness crab fisherman in the Southeast she would support Representative Pruitt's amendment.

[5:01:08 PM](#)

Co-Chair Foster CLOSED Public Testimony on HB 128.

Co-Chair Foster indicated amendments for HB 128 were due on Tuesday, April 18, 2017 by 5:00 p.m.

HB 128 was HEARD and HELD in committee for further consideration.

Co-Chair Foster relayed that there were two additional bills to be heard before the end of the meeting.

#sb3

SENATE BILL NO. 3

"An Act relating to the regulation of wastewater discharge from small commercial passenger vessels in state waters; relating to art requirements for certain public facilities; and providing for an effective date."

[5:02:01 PM](#)

Co-Chair Foster invited Senator Stedman and his staff to the table.

SENATOR BERT STEDMAN, SPONSOR, thanked the committee for the opportunity to present his bill. He read the sponsor statement:

HCS SB 3(TRA) addresses marine vessels operating in Alaska waters. This legislation reinstates the statutory exemption from large cruise ship discharge requirements for small commercial passenger vessels.

Small commercial passenger vessels and ferries with capacity to accommodate between 50 and 249 overnight passengers have been covered by a statutory exemption from the treatment system and discharge requirements for large cruise ships in Alaska. Instead they have operated under Best Management Practices (BMP) plans that are submitted to and approved by DEC. Operation under these plans has dramatically improved the quality of wastewater discharged from these vessels since the program was established.

The exemption became law in 2004 and had a sunset date of January 1, 2016. Support for the exemption was provided by a 2004 DEC report on small cruise ships and Alaskan ferries that found meeting the terms for large cruise ships would be financially and feasibly prohibitive.

SB 3 is necessary to reinstate the exemption, which was automatically repealed on January 1, 2016. Without the exemption, small cruise ships and ferries would be required to install and operate Advanced Wastewater Treatment Systems, which would be cost and space prohibitive. Department of Transportation and Public Facilities estimates the cost to retrofit ferries is over \$5 million.

Senator Stedman remarked that the bill was an extension of policy put in place by the legislature. He noted that it would be very difficult for the smaller ship if they did not get the proposed exemption. He wanted to see the industry encouraged to grow, as it was good for commerce in coastal Alaska. He opined that forcing smaller ships out of the market place was not good for anyone. In terms of the Alaska Marine Highway system, there was a budget struggle. The state was trying to operate a transportation system in the rail belt and on the coast. The state had an old fleet it was attempting to modernize. There were a couple of new vessels under construction presently. He believed that trying to make the older smaller vessels to comply rather than obtain extensions would not work. He was available for questions.

Co-Chair Foster reviewed the available testifiers.

Representative Kawasaki asked how many boats the legislation would apply to in the state.

[5:07:27 PM](#)

AT EASE

[5:07:52 PM](#)

RECONVENED

Senator Stedman responded that there were about ten of the smaller ships. There was a list in the packets provided to members.

Representative Kawasaki asked about any sunset provisions. Senator Stedman thought it was the first sunset. He recalled that there had been considerable debate regarding cruise ship discharge. In the process, a sunset date was included. He thought it should be dealt with right away.

Representative Kawasaki asked if there was a current sunset in the bill. Senator Stedman responded in the negative.

Representative Kawasaki asked if a new boat would automatically comply with requirements and, therefore, not need an exemption. Senator Stedman deferred to a representative from the Division of the Alaska Marine Highway System respond.

[5:10:28 PM](#)

MICHAEL A. NEUSSL, DEPUTY COMMISSIONER, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, responded that it did not apply to the two Alaska class ferries for the marine highway. The vessels had a Type 3 marine sanitation devise that held all discharge waters onboard discharging ashore. The legislation would apply to the proposed MV Tustumena replacement vessel, which met the standards for a small passenger vessel. The vessel was designed under the provisions of the best management practices statute. It had a MSD type 2 system to put an advanced wastewater treatment system onboard to comply with large cruise ship discharge standards. It would not fit in the marine sanitation devise room. It was three times the size and three times the weight of the system. The ship would need a redesign to accommodate it, which would be costly.

Representative Kawasaki asked about the original exemption in 2004 and why there was a sunset in 2016. Mr. Neussl suggested the question be directed to Michelle Hale, Division of Water, Department of Environmental Conservation (DEC).

Vice-Chair Gara suggested having the Senator's staff review the changes in the bill. Senator Stedman indicated he would be returning to the Senate Resources Committee. His staff could answer member's questions.

Vice-Chair Gara asked about the differences of the current version of the bill and the version of the bill the committee previously heard.

DAVE SCOTT, STAFF, SENATOR BERT STEDMAN, responded that the changes were minor. House Bill 151 had a retroactivity effective date, whereas, the Senate version did not. He reported that when he spoke with DEC, the department did not have a problem with the bill not having a retroactivity clause.

Representative Pruitt mentioned that the bill previously had a different title and contained an additional piece. He inquired as to why the piece was removed. He noted there had been a discussion about 1 percent of monies for art on the ferries and another discussion relating to the cost of the new ferries.

Mr. Scott spoke to the 1 percent for art. He indicated the amount was removed by the House Transportation Committee. There were three sections removed that all dealt with the 1 percent for art. He reported that the MV Taku was for sale and the FVF Chenega was tied up. The art in both vessels would be removed and placed on the new Alaska class ferries.

Co-Chair Foster OPENED Public Testimony.

[5:15:18 PM](#)

JAMEY CAGLE, ALASKAN DREAM CRUISES, SITKA (via teleconference), spoke in support of the bill as amended. He thought it was an integral part to the operation of his vessels.

[5:15:58 PM](#)

PETER BUTZ, ALASKAN DREAM CRUISES, SITKA (via teleconference), spoke in support of the bill with the amendment being passed. The legislation was necessary for the continuation of his company's small fleet to operate out of Sitka.

[5:16:38 PM](#)

Co-Chair Foster CLOSED Public Testimony.

Representative Wilson asked if the bill was going to be moved.

Co-Chair Foster was open to moving the bill if the committee members did not have amendments.

Vice-Chair Gara agreed with Representative Wilson.

Representative Wilson relayed that there were two zero impact fiscal notes [OMB Component Number 2062 from the Department of Environmental Conservation and OMB Component Number 2604 from the Department of Transportation and Public Facilities].

[5:18:10 PM](#)

AT EASE

[5:18:36 PM](#)

RECONVENED

Co-Chair Foster invited Mr. Neussl to review the new fiscal note for OMB Component Number 2604.

Mr. Neussel explained that the new fiscal note was an update of the previous fiscal note. The previous fiscal note covered the bill when it had both the 1 percent for art and the wastewater discharge provisions in it. The department striped out the 1 percent for art language from the fiscal note. The note remained a zero fiscal impact note and contained the same language regarding the wastewater discharge bill.

Representative Pruitt asked if there was enough artwork for the vessels. Mr. Neussel responded that the artwork salvaged from the MV Taku and the FVF Chenega would be sufficient for the new Alaska class ferry.

Representative Pruitt relayed that the original fiscal note stated that there was approximately \$2.37 million for the future MV Tustumena replacement vessel. He asked if the money was still necessary. Mr. Neussl responded that regarding the 1 percent for art portion, the MV Tustumena replacement vehicle was not currently under contract, therefore, did not apply. He detailed that \$2.37 million was the estimated cost of 1 percent for art. He did not think the department could spend that much on art for the vessel. It was a large amount for artwork on a vessel. The department planned to salvage the art off of the existing MV Tustumena to reuse on its replacement and supplemented as necessary with a small increase.

Representative Pruitt thought that using the art from the MV Tustumena was the right thing to do. He wondered if there was a statutory requirement concerning the amount spent on art. Mr. Neussel relayed that there were some concerns about the 1 percent for art account being a dedicated fund and unconstitutional. Therefore, it was removed from the bill.

Representative Pruitt asked if there was an expectation that the state spent an additional amount on art. He wondered if additional language was necessary. Mr. Neussel did not believe additional language to deal with the issue of the 1 percent for art. The new vessel would have reused art. Any additional monies for art would come from funding from within the construction project. He did not believe it would be 1 percent.

Representative Wilson MOVED to report HCSSB 3 (TRA) out of Committee with individual recommendations and the accompanying fiscal notes.

HCSSB 3 (TRA) was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note by the Department of Transportation and Public Facilities and with a previously published zero fiscal note: FN1 (DEC).

[5:23:05 PM](#)
AT EASE

[5:27:01 PM](#)
RECONVENED

#hb167

HOUSE BILL NO. 167

"An Act relating to performance reviews, audits, and termination of executive and legislative branch agencies, the University of Alaska, and the Alaska Court System."

5:27:23 PM

REPRESENTATIVE GABRIELLE LEDOUX, SPONSOR, explained that the bill would repeal the requirement for performance audits. She reported that performance audits had not been funded for the previous couple of years. She thought their costs ran over \$1 million. The audits were typically 800 to 1000 pages in length. She doubted anyone had ever read any. Someone had requested that she introduce the bill to eliminate the requirement.

Representative Wilson did not agree with the reason for the proposed elimination. She wondered if the legislature was taking the wrong approach to finding efficiencies and measuring programs. She wondered if there was a better approach to take rather than requiring performance audits.

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, replied that she believed there was an expectation gap in terms of the definition of a performance audit. Performance audits were not in place to cut the budget. She continued that a very small piece of the audits had to do with the budget. Departments were asked to submit 10 percent reductions in their general funds and the consultant was asked to evaluate whether the reductions were in line with their findings of the reviews. She explained that a performance review included looking at the agency's mission and evaluating how it conducted its business. The performance reviews were not intended to help solve the state's budget crisis. The inherent problem with the audit reviews was that they had not been read. If the expectation was the performance reviews were going to help solve the budget, it was not valid. If the legislature chose to fund audits in the future, many changes should be made to make them effective. She had been asked to provide a summary of suggested changes. However, she did not have the resources to do so at present. She suggested it might be possible in the off-season. She added that if performance audits were to continue at the request of the

legislature, some tweaks would need to be made to the process.

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Vice-Chair Gara commented that the largest department had already been reviewed - the Department of Health and Social Services. He wondered if was correct. Ms. Curtis confirmed that DHSS had been audited.

Vice-Chair Gara imagined that the DHSS audit would have been the most expensive audit process. He recalled that the department made the changes that seemed rational on the audit report. He could not say there was no value to the reports. However, the goal of the original bill was to review internal practices in the hopes of achieving 10 percent reductions wherever possible. He did not see the need for future audit reports.

Representative Wilson thought only a portion of the Department of Health and Social Services had been audited. She asked if she was accurate. Ms. Curtis replied that the process called for Legislative Audit to help draft a scope of work. The scope was then provided to the committee, they approved it, and contractors were hired. The audit had been focused on the overall organization of the department, long-term care, and another piece that she did not recall in the moment.

Representative Wilson thought that the entire department was going to be audited and noted her disappointment. She stated that if there was a possibility to tweak the program to achieve the original intent of the legislation at a lower price.

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Ms. Curtis responded that she would have to receive guidance from policy makers on what they wanted to see from the bill. She clarified they were not audits, but reviews. The budget request was so high because the University was included in the list of departments to be reviewed. The cost was contingent on the size of the department.

Representative Pruitt asked when the legislature's review had been scheduled. Ms. Curtis answered that it was scheduled the year it was defunded. The legislature, the

Office of the Governor, and the Alaska Court System were scheduled in the same cycle.

Representative Pruitt asked if there was harm to revising the program. He referred to a memorandum in members' packets. He wondered if there was a problem with leaving the law on the books. Ms. Curtis responded that the only problem had to do with the uncertainty of staffing. She detailed it was difficult to determine whether staff would be available. It had taken a lot to get the program running. If it was the will of policy makers, she could provide feedback on some of the obstacles in getting the reports to lawmakers to make a difference. She had feedback if individuals were interested in continuing the program. If it were left on the books, she would have to come before the legislature each year to request the funding.

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Representative Pruitt thought the reviews were misunderstood. He believed there was an understanding by legislators and the public that the audits were to assist in finding efficiencies. He referenced suggestions made by Mr. Alexander and asked if the items he highlighted would assist in addressing inefficiencies in government. Ms. Curtis responded that she did not believe the problem with the program was how it had been structured. She offered that the current statutes provided direction for looking for efficiencies within departments and essentially providing a grade to an agency for accomplishing its mission. She believed it [the review process] had been well set up; however, using it as a tool to cut the budget appeared to be the expectation. She indicated that she was not in agreement with some of Mr. Alexander's suggestions. She reported that if the expectation were to use the review process to help an agency cut its budget, some tweaks should be made. She suggested that the Office of Management and Budget, because they have oversight of the agencies, might be a better source for suggested reductions. It was left to the departments to recommend cuts; however, some did not provide any feedback. She mentioned some other problems with the structure of the reports that limited their effectiveness. For instance, the reports came out in December, a time of the year when the Legislative Finance Division was busy with reviewing the budget. There was not much time to get the information to legislators, and the legislature lacked a working group to vet the report. There

was also a lack of feedback as to what to include in the reports or any kind of follow-up mechanism.

Ms. Curtis indicated that she struggled with how to get the legislature's attention. She posed the question as to who was responsible for implementing items. In the Legislative Budget and Audit Annual Report, the Legislative Finance Division was required to report on the savings. She shared that DHSS had reported over \$1 million in savings from one of the recommendations in the report. She opined that there had been gems in the report. She noted that there was information in the Department of Corrections report about booking fees, parole fees that were on the books but not being collect. However, there was no one to gather the information. She claimed there were real problems with the way things were set up. She speculated that it was not a good use of funds to generate a report if the information was not used. She had a neutral position, but it was disappointing, based on the effort that went into generating the reports, not to see the material utilized.

[5:43:00 PM](#)

Representative Guttenberg discussed that in the past the legislature had spent significant time defining missions and measures for the departments that he believed had been forgotten. The administration was required to produce a tool that would help the legislature in determining where to make reductions. He reported people did not like that the tool revealed certain places where additional monies should be spent. He cited an example of a mission and measure in the Recorder's Office. He thought the legislature had not had a vested interest in the report. He expressed concerns about eliminating the report in its entirety. He was glad Ms. Curtis pointed out some of the recommendations. He asked how often the recommendations had been taken up by the departments.

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Ms. Curtis did not know of a mechanism in place to track implementation. She urged members to look at the Department of Education and Early Development's performance review. She characterized the report as a phenomenal report and encouraged all members to review it. She highlighted that the reports depended on a contractor, an expert in the field, being hired. In managing the reports, contractors

had a vested interest in having additional studies done. She suggested contractors would always recommend conducting additional studies. She thought it was one obstacle. She added that it was important that the relationship between the department and the contractor remained professional. She shared that her staff had attended every meeting with the contractor. There were many lessons that had been learned that she believed could be applied in the future.

Co-Chair Seaton reported that the House Finance Subcommittee for the Legislature's budget met on February 23rd and decided to ask the House Rules Committee to introduce a bill that would eliminate the provision of reviewing all of the departments in a 10-year cycle. The cost included \$1 million and 3 full-time positions. The legislature did not fund the amount. He thought that routine performance reviews were not being used enough to justify the expense. He would rather that the legislature request a specific audit for a department when needed. He believed the committee should move the bill and get something off the books that required full-time positions to be hired.

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Representative Wilson disagreed. She believed the legislature was partially at fault. She thought finance should have had a subcommittee review the reports. She also recommended reviewing a lesser number of departments each year. She had read the reviews and believed they contained good information. She found that some of the departments had done better than other ones. If the legislature were more involved, agencies would be more cooperative knowing they would be held accountable. She believed that accountability was a missing link. She thought that based on the times, the legislature should be taking a deeper look beyond a 90-day or 120-day session. She spoke to the importance of finding efficiencies. She thought follow-through was important to put into place without any additional costs. Members of the legislature could be appointed to review the reports. She believed the situation was a disservice to Legislative Budget and Audit. She did not support rushing the bill through when she thought the review process could be saved.

Co-Chair Seaton surmised that Representative Wilson wanted to fund the reviews and to fund the three positions.

Representative Wilson believed the legislature could not afford three positions. She thought that spending money on the University to conduct the review did not make sense. She suggested that maybe the issue could be addressed over the interim and that the state could pay for one review.

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Representative Guttenberg was concerned that if the required audits were eliminated in statute, institutional memory could potentially be lost. In reference to the university, he thought one of its problems was in looking at its self.

Co-Chair Foster asked committee members if they wanted to take action on the bill. He would provide more time for members to think about the bill. He indicated that the deadline for amendments was on Tuesday, April 17, 2017 at 5:00 p.m.

Co-Chair Foster OPENED Public Testimony on HB 167.

Co-Chair Foster CLOSED Public Testimony on HB 167.

HB 167 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the agenda for the following day and recessed the meeting to a call of the chair [Note: the meeting never reconvened].

#

ADJOURNMENT

[5:57:15 PM](#)

The meeting was adjourned at 5:57 p.m.