

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

March 10, 2017

1:02 p.m.

**MEMBERS PRESENT**

Representative Andy Josephson, Co-Chair  
Representative Geran Tarr, Co-Chair  
Representative Dean Westlake, Vice Chair  
Representative Harriet Drummond  
Representative Justin Parish  
Representative Chris Birch  
Representative DeLena Johnson  
Representative George Rauscher  
Representative David Talerico

**MEMBERS ABSENT**

Representative Mike Chenault (alternate)  
Representative Chris Tuck (alternate)

**COMMITTEE CALENDAR**

PRESENTATION(S): DEPARTMENT OF REVENUE - THE COMPETITIVENESS  
REVIEW BOARD (O&GCRB)

- HEARD

CONFIRMATION HEARINGS(S):

Alaska Oil and Gas Conservation Commission

Hollis French - Anchorage

Daniel Seamount Jr. - Eagle River

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 111

"An Act relating to the oil and gas production tax, tax  
payments, and credits; relating to interest applicable to  
delinquent oil and gas production tax; and providing for an  
effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 111

SHORT TITLE: OIL & GAS PRODUCTION TAX; PAYMENTS; CREDITS

SPONSOR(S): RESOURCES

02/08/17	(H)	READ THE FIRST TIME - REFERRALS
02/08/17	(H)	RES, FIN
02/08/17	(H)	TALERICO OBJECTED TO INTRODUCTION
02/08/17	(H)	INTRODUCTION RULED IN ORDER
02/08/17	(H)	SUSTAINED RULING OF CHAIR Y23 N15 E2
02/08/17	(H)	RES AT 1:00 PM BARNES 124
02/08/17	(H)	Heard & Held
02/08/17	(H)	MINUTE(RES)
02/13/17	(H)	RES AT 1:00 PM BARNES 124
02/13/17	(H)	Heard & Held
02/13/17	(H)	MINUTE(RES)
02/17/17	(H)	RES AT 1:00 PM BARNES 124
02/17/17	(H)	Heard & Held
02/17/17	(H)	MINUTE(RES)
02/20/17	(H)	RES AT 1:00 PM BARNES 124
02/20/17	(H)	Heard & Held
02/20/17	(H)	MINUTE(RES)
02/22/17	(H)	RES AT 1:00 PM BARNES 124
02/22/17	(H)	Heard & Held
02/22/17	(H)	MINUTE(RES)
02/22/17	(H)	RES AT 6:30 PM BARNES 124
02/22/17	(H)	Heard & Held
02/22/17	(H)	MINUTE(RES)
02/24/17	(H)	RES AT 1:00 PM BARNES 124
02/24/17	(H)	Heard & Held
02/24/17	(H)	MINUTE(RES)
02/27/17	(H)	RES AT 1:00 PM BARNES 124
02/27/17	(H)	Heard & Held
02/27/17	(H)	MINUTE(RES)
02/27/17	(H)	RES AT 7:00 PM CAPITOL 106
02/27/17	(H)	Heard & Held
02/27/17	(H)	MINUTE(RES)
03/01/17	(H)	RES AT 1:00 PM BARNES 124
03/01/17	(H)	Heard & Held
03/01/17	(H)	MINUTE(RES)
03/01/17	(H)	RES AT 6:00 PM BARNES 124
03/01/17	(H)	Heard & Held
03/01/17	(H)	MINUTE(RES)
03/06/17	(H)	RES AT 1:00 PM BARNES 124
03/06/17	(H)	Scheduled but Not Heard
03/06/17	(H)	RES AT 6:30 PM BARNES 124

03/06/17	(H)	Heard & Held
03/06/17	(H)	MINUTE(RES)
03/08/17	(H)	RES AT 1:00 PM BARNES 124
03/08/17	(H)	Heard & Held
03/08/17	(H)	MINUTE(RES)
03/08/17	(H)	RES AT 6:00 PM BARNES 124
03/08/17	(H)	Heard & Held
03/08/17	(H)	MINUTE(RES)
03/09/17	(H)	RES AT 5:00 PM BARNES 124
03/09/17	(H)	-- MEETING CANCELED --
03/10/17	(H)	RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

RANDALL HOFFBECK, Commissioner  
 Department of Revenue (DOR)  
 Juneau, Alaska

**POSITION STATEMENT:** Provided a presentation on the Oil and Gas Competitiveness Review Board (OGCRB), Department of Revenue.

HOLLIS FRENCH, Appointee  
 Alaska Oil and Gas Conservation Commission (AOGCC)  
 Anchorage, Alaska

**POSITION STATEMENT:** Provided his qualifications and responded to questions, as appointee to the Alaska Oil and Gas Conservation Commission (AOGCC).

DANIEL SEAMOUNT, JR., Appointee  
 Alaska Oil and Gas Conservation Commission (AOGCC)  
 Eagle River, Alaska

**POSITION STATEMENT:** Provided his qualifications and responded to questions, as appointee to the Alaska Oil and Gas Conservation Commission (AOGCC).

LISA WEISSLER, Staff  
 Representative Andy Josephson  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Presented a side by side sectional analysis/description of the committee substitute (CS), Version N, for HB 111, on behalf of Representative Josephson, co-chair, House Resources Standing Committee, sponsor.

**ACTION NARRATIVE**

[1:02:50 PM](#)

**CO-CHAIR GERAN TARR** called the House Resources Standing Committee meeting to order at 1:02 p.m. Representatives Tarr, Birch, Parish, Talerico, Rauscher, Johnson, Westlake, and Josephson were present at the call to order. Representative Drummond arrived as the meeting was in progress.

**PRESENTATION(S): DEPARTMENT OF REVENUE - THE COMPETITIVENESS  
REVIEW BOARD (O&GCRB)**

[1:03:25 PM](#)

CO-CHAIR TARR announced that the first order of business would be a presentation by the Department of Revenue on the Oil and Gas Competitiveness Review Board, as requested by Representative Johnson.

[1:04:48 PM](#)

RANDALL HOFFBECK, Commissioner, Department of Revenue (DOR), informed the committee the Oil and Gas Competitiveness Review Board was formed as a provision of Senate Bill 21, [passed in the Twenty-Eighth Alaska State Legislature], and was charged with two tasks. First, the board was to gather data and make recommendations to the Alaska State Legislature concerning the competitiveness structure of the state, not just on tax, but also in areas such as regulatory and transportation issues. Second, the board was to advise the legislature on its findings regarding the state's fiscal system, labor pool, and regulatory competitiveness. The diverse board seats the following members: two members of the public who are not affiliated with the oil and gas industry; three administrative department heads, one each from the Department of Environmental Conservation (DEC) and the Department of Natural Resources (DNR), and one from DOR; one commissioner from the Alaska Oil and Gas Conservation Commission (AOGCC); three oil and gas subject matter experts - a petroleum engineer, a geologist, and a financial analyst; and two industry trade group representatives. The board's initial, 93-page report was delivered in March 2015, as a general competitiveness overview and is available on the DOR web site. The focus of the report was a compilation of existing data with minimal new analysis, including a table which provided a high-level overview comparing Alaska's tax system to that of other states.

COMMISSIONER HOFFBECK relayed that the next report was due in January 2017 and was to be a review of the Cook Inlet tax regime. However, Cook Inlet is in a transition phase after its tax policy was rewritten under House Bill 247 [passed in the Twenty-Ninth Alaska State Legislature], and a delay of the

report until January 2019 was requested from legislative leadership. The board decided to use the available time to compile and facilitate the early delivery of the required 2021 report, which is to be a comprehensive report covering the state. Further, the board realized that by teaming with the Alaska Oil and Gas Association (AOGA), the integrity of the report would be acceptable to a broader sector of the legislature. However, procurement issues arose, and AOGA has contracted with the consulting firm of Wood Mackenzie to do an overall review of the state's competitiveness, and the state has contracted with the firm of Black and Veatch for a review of similar scope and deliverables. The board will consolidate the two reports and provide a comparative analysis to the legislature. The reports have as yet to be delivered, and thus, the board has not been able to begin the compilation. Commissioner Hoffbeck said he expected there would be no information available to the committee prior to its deliberations on HB 111.

[1:11:03 PM](#)

REPRESENTATIVE BIRCH asked whether the commissioner has had an opportunity to review the [upcoming] committee substitute (CS) for HB 111, and whether the bill and the committee substitute reflect the administration's position.

COMMISSIONER HOFFBECK noted that the bill is very different from the bill introduced by the administration in [the Fourth Special Session of the Twenty-Ninth Alaska State Legislature, which occurred in 2016]; DOR has assisted the committee with the structure of the proposed legislation, but it is not the administration's bill.

REPRESENTATIVE BIRCH asked whether the CS is supported by the administration.

COMMISSIONER HOFFBECK said administrative policy precludes taking a position on a bill during the legislative process.

CO-CHAIR TARR questioned the effectiveness of the board, as it was established without resources, and she suggested that if the committee believes the board is important, then it may reconsider staffing the board.

COMMISSIONER HOFFBECK added that DOR has also questioned whether, without resources, the board has a purpose. Although difficult to achieve without resources, the board as a whole

determined that it has a purpose, which could be achieved given the appropriate resources. In response to Representative Johnson, he reiterated why a report date has not been determined.

**CONFIRMATION HEARINGS(S):**  
**ALASKA OIL AND GAS CONSERVATION COMMISSION (AOGCC)**

[1:16:57 PM](#)

CO-CHAIR TARR announced that the next order of business would be the confirmation hearings for the Alaska Oil and Gas Conservation Commission (AOGCC).

CO-CHAIR TARR announced that the committee would first hear from Hollis French.

[1:18:48 PM](#)

HOLLIS FRENCH provided an overview of his work experience that is relevant for being seated on the commission, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

I began work in Alaska's oil industry in 1979, when I was hired as a bullcook on Shell Platform A in Cook Inlet. I worked continuously on that platform for five years. I was promoted from bullcook to roustabout in 1980, and a year later Shell Oil Company hired me and trained me to be a production operator.

I became familiar with all aspects of offshore oil production including water injection, power generation, gas compression and oil separation and shipping. We worked closely with drilling crews when the rotary drill rig was running. We shipped pigs in the oil transport line and proved custody transfer meters. Every member of the crew was a firefighter as well.

In 1984 I was hired by ARCO Alaska Inc. as a production operator at the Kuparuk River Field on the North Slope. ARCO had an aggressive training program in place that moved operators through a half-dozen positions at roughly six month intervals. I became qualified to work every station in the plant: waterflood, oil separation and shipping, gas lift and

compression, power generation, diesel production, natural gas liquids handling and waste injection. I was also assigned to Drill Sites, which entailed monitoring and testing wells, and coordinating work with wireline operations and drilling. I became versed in one of AOGCC's primary missions by conducting witnessed tests of each well's surface and subsurface safety valves for AOGCC field inspectors. The top job at that time for operators was to be assigned to the control room as Board Operator. I worked approximately fifty week-long shifts, at ninety hours per week, as a Board Operator.

The performance reviews I received from ARCO were all positive. Here is an example from 1991, just prior to my being promoted to Lead Operator, a position created that year to replace the company's foremen: "Hollis exceeds expectations. Hollis' technical expertise, maturity and leadership abilities make him uniquely qualified for advancement into supervision."

In addition to my operator duties I was a member of the Kuparuk Fire Brigade.

In 1992 I left the oil industry to go to law school.

[1:23:15 PM](#)

REPRESENTATIVE BIRCH asked what Mr. French considers to be the most important role of the commission, for example, the key aspects and responsibilities.

MR. FRENCH responded that the commission is focused primarily on management of the state's enormous oil, gas, and geothermal resources through conservation practices designed to provide the highest possible level of recovery, while ensuring workers have a high level of personal safety and protecting the fresh groundwater of the state. Further, it is part of the commission's mission to make sure that every owner is able to extract their share of the resource, and he provided an example. Along with staff engineers and geologists, as a public member of the commission, he provides another set of eyes on issues.

REPRESENTATIVE RAUSCHER inquired of Mr. French, based on his commission experience thus far, what changes he would like to see occur or visions adopted.

MR. FRENCH said one action is the revision of the bonding practices, which came as a recommendation from a legislative audit dating back to 1991. The current practice is to collect a \$100,000 bond from a drilling company to ensure that the well will be ultimately plugged and abandoned at the end of its economic life. When the same company drills another well, the state receives another \$100,000 bond for the second well, which is the bond for all subsequent wells the company may drill. Thus, most companies operating in Alaska never post more than \$200,000 in bonds as a promise to plug and abandon however many wells they drill. He said that the commission recognizes that \$200,000 is an insufficient amount to cover the cost of plugging and abandoning a typical well in Alaska.

REPRESENTATIVE RAUSCHER asked how many wells have not been closed appropriately, causing the state to pursue the company for mitigation purposes.

MR. FRENCH answered that the legacy wells are the best example. The wells were drilled by the U.S. Navy (USN) in the National Petroleum Reserve-Alaska (NPR-A), circa 1940-1970. The wells were not sufficiently plugged and abandoned when the drilling company contracted by the USN pulled off the sites. He said these wells have become enormous environmental and economic headaches, despite the \$50 million appropriated by the federal government to clean up the well sites. Although these wells stand as the dominant example of how not to manage an oilfield, it's estimated that there are 750 wells in Alaska that are neither abandoned nor producing, but are standing shut-in with their ultimate fates unknown. Ten years ago, the number was 500, and it is now over 750, which is cause for concern by the commission.

[1:29:48 PM](#)

CO-CHAIR JOSEPHSON noted that the experience the appointee brings to the commission's public member seat is beneficial, but not a prerequisite for serving.

MR. FRENCH pointed out that a statutory change was made to the public membership qualifications: AS 31.05.009(3) directs that the public member being seated must have "training or experience that gives the person a fundamental understanding of the oil and gas industry in the state." Therefore, some background in oil and gas is necessary to assume this "very technical job," and someone who has no knowledge of oilfield operations is prevented from being appointed as a public member.

CO-CHAIR JOSEPHSON said there has been a "dust-up" on the Kenai Peninsula regarding [hydraulic fracturing, also fraccing, frac'ing, hydrofracturing or hydrofracking], and he asked about both the risks and concerns for this practice and if public notices are being provided in a fair and sufficient manner.

MR. FRENCH opined that the physical and environmental risks for fracking in the affected area are extremely low. A tough set of permit requirements is in place to govern the practice, and one aspect of the permit requires notification of landowners within a one-half mile radius of a site. The public is concerned about the pollution of freshwater; however, the engineering being applied should alleviate those concerns. Currently out for public comment is a proposed regulation that would make fracking permit requests immediately available for public review, allowing 10 days for feedback and keeping residents informed of what is being considered.

CO-CHAIR JOSEPHSON reported one concern is that industry is allowed 30 days to review proposed fracking regulations and the residents have only 10 days.

MR. FRENCH acknowledged that the proposal out for notice and comment is to allow the public 10 days to review a regulation, which, he estimated, can usually be read in about one hour.

[1:35:15 PM](#)

REPRESENTATIVE DRUMMOND asked when the governor appointed Mr. French to the commission.

MR. FRENCH responded that the appointment was made in July 2016.

REPRESENTATIVE DRUMMOND established that this hearing is not for a re-appointment but is an initial confirmation. She asked what had been accomplished since Mr. French assumed the seat on the commission.

MR. FRENCH recalled that permits have been received, reviewed, and signed for nearly 300 workover permits and almost 100 new wells. He offered that Hilcorp executives have expressed their support for his confirmation. In further response to Representative Drummond, he said workover permits cover actions other than drilling new wells, such as moving the location of a rig.

REPRESENTATIVE RAUSCHER queried how many permits have been refused.

MR. FRENCH estimated zero permits have been stopped. He said that the companies operating in Alaska know what they're doing, and if the rules are followed, the permit is issued.

REPRESENTATIVE RAUSCHER concluded that the oil companies understand the permits and realize the necessary steps to follow and the due diligence required.

MR. FRENCH said the interesting aspect of a permit is often the back and forth dialogue documented by the engineers on each side, as they consider the best way to proceed with a project.

REPRESENTATIVE JOHNSON asked what process he would follow to have a statute changed.

MR. FRENCH responded that he would bring issues requiring statutory changes to the House Resources Standing Committee and the Senate Resources Standing Committee.

REPRESENTATIVE PARISH questioned whether the commission requires legislative action on any topic at this time.

MR. FRENCH responded no.

REPRESENTATIVE TALERICO asked if Mr. French has seen an improvement in facility and personal safety within the oil and gas industry.

MR. FRENCH recalled taking a tour of Point Thomson as a legislator and being stunned to see the improvement in safety practices that had occurred since he left the industry in 1992; there has been a step up of safety measures in all areas.

[1:43:07 PM](#)

CO-CHAIR TARR opened public testimony on the confirmation hearing of Mr. French. After ascertaining no one wished to testify, public testimony was closed.

[1:43:32 PM](#)

CO-CHAIR TARR announced that the committee would next hear from Daniel Seamount, Jr.

1:44:15 PM

DANIEL SEAMOUNT, JR., Appointee, Alaska Oil and Gas Conservation Commission (AOGCC), said he has served on a public seat on AOGCC for over 17 years and looks forward to another 6 years. He provided personal history and directed attention to the committee packet and his resume, biography, and letter of interest provided, and reviewed highlights, which include: work with 10 AOGCC commissioners and 5 governors; service in Alaska for 25 years; industry service for 27 years in onshore and offshore exploration and development in many parts of the world; and extensive reviews of AOGCC orders and permits. Mr. Seamount praised the AOGCC staff for their outstanding work in assisting industry. He provided many details on work the commission has accomplished during his service. He endorsed the appointment of Hollis French as commissioner.

REPRESENTATIVE RAUSCHER asked what Mr. Seamount considers to be his biggest contribution to the state, after 16 years of service on AOGCC.

MR. SEAMOUNT answered that his focus has been to keep things running smoothly and to maintain oversight of the operators to ensure that they are adhering to state regulations and statutes. The low number of blowouts compared to other oil production states is notable, with only 17 in 60 years, versus North Dakota, which had 17 blowouts in 6 months.

REPRESENTATIVE RAUSCHER noted the resume references to work performed in the various areas of the state and said the experience Mr. Seamount brings is appreciable.

1:55:02 PM

REPRESENTATIVE BIRCH observed there has been recent discussion about the marketing of seismic data, and he remarked that DNR may make seismic data in its possession available to enhance exploration efforts. He asked whether seismic data is effective.

MR. SEAMOUNT said seismic data has come a long way. There are over 20 basins in Alaska that have oil and gas potential, although only 2 have been productive, leaving a tremendous amount of oil and gas left to be discovered, and seismic will have a big part in future discoveries.

REPRESENTATIVE PARISH directed attention to the ongoing Cook Inlet natural gas leak where 200,000-300,000 cubic feet per day of natural gas is "bubbling away." He asked what the legislature can do and what action the commission is taking about the pipeline leak.

MR. SEAMOUNT advised the commission is divided, but the majority opinion is that the authority over the leak is held by the Department of Environmental Conservation (DEC) and the U.S. Coast Guard (USCG), because "that gas has already been bought and paid for; ... that gas belongs to somebody else now."

REPRESENTATIVE PARISH disagreed, noting that the gas was to be "provided to Alaskan ... businesses and homes, and we capture more of its economic value that way."

MR. SEAMOUNT expressed his personal confidence that the leak will be stopped by May 2017.

REPRESENTATIVE TALERICO expressed his strong support for the appointment of Mr. Seamount.

[2:00:16 PM](#)

CO-CHAIR TARR opened public testimony on the confirmation hearing of Mr. Seamount. After ascertaining no one wished to testify, public testimony was closed.

REPRESENTATIVE DRUMMOND expressed her support for the appointment of Mr. Seamount.

REPRESENTATIVE WESTLAKE expressed his support for the appointment of both Mr. French and Mr. Seamount.

REPRESENTATIVE PARISH requested that AOGCC members reexamine the loss of hydrocarbons in Cook Inlet.

[2:03:14 PM](#)

CO-CHAIR JOSEPHSON made a motion to advance the names of Hollis French and Daniel Seamount, Jr., appointees to the Alaska Oil and Gas Conservation Commission, to a joint session of the House and Senate for consideration. He reminded committee members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or

rejection. There being no objection, the confirmations of Mr. French and Mr. Seamount were advanced from the House Resources Standing Committee.

[2:03:44 PM](#)

The committee took an-at ease from 2:03 p.m. to 2:11 p.m.

**HB 111-OIL & GAS PRODUCTION TAX; PAYMENTS; CREDITS**

[2:11:46 PM](#)

CO-CHAIR TARR announced that the final order of business would be HOUSE BILL NO. 111, "An Act relating to the oil and gas production tax, tax payments, and credits; relating to interest applicable to delinquent oil and gas production tax; and providing for an effective date."

[2:12:01 PM](#)

CO-CHAIR JOSEPHSON moved to adopt the proposed committee substitute (CS) for HB 111, Version 30-LS0450\N, Nauman, 3/10/17, as the working document.

[2:12:19 PM](#)

CO-CHAIR TARR objected for discussion purposes. She stated the intent of the co-chairs is to give the committee an opportunity to review the CS and, following that, the bill would be held in committee.

[A discussion ensued regarding the committee's development and handling of the CS.]

[2:19:50 PM](#)

LISA WEISSLER, Staff to Representative Andy Josephson, directed attention to a document, entitled "Comparison of HB 111 with Committee Substitute Work Draft (Resources)," dated 3/9/17, to point out the side by side analysis/comparison. The first change is an addition of intent language such that contingent on the passage of a fiscal plan, a substantial portion of the outstanding transferable and production tax credit certificates would be purchased.

CO-CHAIR TARR interjected that another vehicle for establishing legislative intent could be brought via a letter of intent;

however, having the language included in the bill provides a stronger message in which to outline a means to address the existing debt.

MS. WEISSLER said the interest statement in Section 1 became Section 2 in the CS ("Version N"), without change. Section 2 in the original bill raised the minimum tax from 4 percent to 5 percent; Section 6 in Version N would set the minimum tax at 5 percent, when the average Alaska North Slope (ANS) price is \$50 or more, and at 4 percent, when the average ANS price is less than \$50, and it would remove the variable minimum tax rate.

[2:22:46 PM](#)

The committee took an at-ease from 2:22 p.m. to 2:24 p.m. due to technical difficulties.

[A series of intermittent technical difficulties caused interruptions and some testimony was lost.]

CO-CHAIR TARR commented that changing the minimum oil tax to reflect a benchmark rate of \$50.00 per barrel was done in response to industry to better reflect the current low-price environment.

[2:25:11 PM](#)

The committee took an at-ease from 2:25 p.m. to 2:34 p.m. due to technical difficulties.

[2:34:04 PM](#)

MS. WEISSLER returned attention to the comparison and said there was a mistake in Section 2 of the original bill, which ended the minimum tax for oil in 2022 when the net production tax for gas was slated to change to a gross value tax. Version N makes the necessary correction to apply the minimum tax to oil indefinitely and end it only for gas in 2022. A new section to AS 43.55.011 related to reducing the minimum tax below the floor was not changed. In order to stop industry's use of the per barrel tax credit in months that would reduce their tax, Section 7 of Version N would delete language in AS 43.05.011(q) and add new language in AS 43.05.011 (j) that better addresses the issue of the credits being applied in different months. [Indisc. due to audio recording technical difficulties.]

REPRESENTATIVE RAUSCHER asked whether per barrel tax credits are being applied in the same fiscal or calendar year.

MS. WEISSLER answered that credits have been allowed during the same calendar year.

[2:37:36 PM](#)

The committee took an at-ease from 2:37 p.m. to 2:42 p.m. due to technical difficulties.

[2:42:34 PM](#)

MS. WEISSLER explained that HB 111 initially proposed, in Section [5], to change the North Slope carry forward annual net operating loss (NOL) credit rate, as established under AS 43.55.023(b), from 35 percent to 15 percent for the purpose of matching the production tax rate with the carry forward or NOL rate. Currently, the per barrel credits added in by Senate Bill 21 [passed in the Twenty-Eighth Alaska State Legislature] distort the 35 percent matching rates. Ms. Weessler referred to testimony by legislative consultants related to carry forward losses, and noted that another provision of HB 111 was to eliminate cash credits for NOLs.

REPRESENTATIVE RAUSCHER paraphrased a quote from a consultant, stating, "If you're not allowed to recover your costs, that puts Alaska on the bottom of the competition scale around the world." He noted that [the proposed change from 35 percent to 15 percent] represents a significant percentage drop.

CO-CHAIR TARR advised that the remainder of the presentation should provide an understanding of how the consultant's recommendation is being followed.

MS. WEISSLER restated the original intent of HB 111 was to reduce NOLs to 15 percent and eliminate cash credits, which would be "a very big hit to the independent producers." She said the state seeks to keep independent producers operating in Alaska; therefore, Version N, Sections 9 and 24-26, introduce carry forward deductions. She continued, as follows:

We get rid of the net operating loss credits - people carry the deduction forward. Now, typically that would be 100 percent of someone's cost .... The issue that we have here in Alaska is this distortion that we refer to of a 35 percent tax rate with per barrel

credits and where the effective tax rate is lower than that 35 percent. And so, speaking in the context of major producers who have tax liability, if they came to a point where they had a net operating loss that was carry forward, where they got an uplift - and the uplift, I should mention, and this will be in Section 26 of [Version] N, is 7 percent above the [U.S. Federal Reserve System] rate - they'll get that interest, they carry forward a hundred percent of their net operating loss. However, when they accrued that loss they would have only been paying an effective tax rate of say 15, 17 percent. And so, to ... correct for that, ... because of our tax system, it's being set at 50 percent of the net operating loss carry forward, and that has the same effect as how the original bill was written, ... taking 35 percent tax rate, 15 percent net operating losses. So, ... that's how this works.

For the major producers, it won't have a huge effect ... because they generally have tax liability; they are able to take a hundred percent of their deductions in a year. Now, we'll talk about the independents, who don't have production, or the explorers. ... They'll be able to carry 50 percent of their net operating losses forward, they'll have the uplift - this interest that will address the time value of money - but they are getting 50 percent of their net operating losses, where the major producers, who have a tax liability, are getting a hundred percent. So, this is essentially a policy call in terms of our tax structure.

MS. WEISSLER pointed out that this structure has been set up in an effort to level the playing field between majors and independents, and she specified that the provision would apply to operators only on the North Slope, not to those in Middle Earth or Cook Inlet.

[2:49:24 PM](#)

CO-CHAIR TARR recalled the work session that included information on the carry forward losses. By allowing the losses to be carried forward, at the 100 percent level with the uplift included, in seven years the value would be 200 percent. This action represents a big commitment on the part of the state, she opined, when an initial year investment, with interest, is able

to grow by 100 percent in value in seven years. A seven-year timeframe is the acceptable time described for an oil project to come on line. The effort here is to make Alaska attractive to investors and to allow producers to recover 100 percent of their losses and 200 percent of their investment over time. Other considerations are to ensure that the state's tax policy is sustainable, that it will allow the state to meet its obligations, and that it will not result in a financial circumstance of being overcommitted.

MS. WEISSLER, in response to Representative Birch, clarified a portion of the language in Version N as described in the comparison document.

[2:55:12 PM](#)

MS. WEISSLER returned attention to the comparison document, on page 2, and said Section 6, removing the ability for taxpayers to apply for purchase of NOL credits, remains the same and appears in Version N as Section 11. She noted that Section 7, with amendments to sliding scale per barrel credits, is found in Section 14 of Version N.

CO-CHAIR TARR further explained that the current lower price environment, which led to a change to the minimum tax, is also reflected in changes to the per barrel credits. Currently, per barrel credits "slide" from \$8 to zero, which has been adjusted down [from the highest oil price of \$150 per barrel and above, to \$110 per barrel and above] to ensure the per barrel credit can be applied in a lower price environment. The original bill would have cut the credit to \$5, which was deemed too extreme.

MS. WEISSLER explained that a dry hole credit was not previously in HB 111, and now appears in Version N as Section 17. It is designed to assist a company that explored in good faith but realized no production. The language would allow an explorer to take up to a 15 percent purchasable tax credit of exploration expenditures incurred for drilling that results in a dry hole, based on the following specific conditions: payment of all service contracts; return of the lease to the state; proof the explorer has no oil or gas production; and the expenditure is not the basis for another credit claimed under the production tax.

CO-CHAIR TARR added that the aforementioned measure was included on the recommendation of the consultant to provide a means for explorers that never see production to cover their costs.

MS. WEISSLER explained that Section 8, without change, became Section 18 in Version N, and would amend the tax credit fund to reflect the change that removes the ability for taxpayers to apply for a cash payment for net operating loss credits. Section 9, without change, became [Section 19] in Version N, and would change the limit on cash payment of tax credits from a \$70 million cap to a \$35 million cap per company and limit purchasable credits to companies with not more than 15,000 barrels per day production, which is down from 50,000 barrels. She pointed out that this provision applies only to Middle Earth [non-North Slope, non-Cook Inlet areas of the state], and to qualified capital expenditure credits and well lease expenditure credits.

MS. WEISSLER directed attention to Section 27, "Assignment of Tax Credit Certificates," in Version N, which would repeal the 2013 statute that allowed for the assignment of production tax credits to a third-party assignee. This provision is required because a change in current statute that was intended to apply to gas in Cook Inlet actually applied to the entire state; as a result of the current statute, the state has been placed in the position with banks holding credits, which Alaska must now pay for in cash.

REPRESENTATIVE RAUSCHER asked if this measure will be retroactive.

CO-CHAIR TARR replied no.

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MS. WEISSLER continued to Sections 20 and 21, "Tax Credit Information," two new sections in Version N, which would allow certain information related to tax credits to be made public, and to Sections 3-5, "Confidential Tax Information," also new sections of Version N, which would allow certain confidential taxpayer information to be disclosed to legislators in executive session in conformance with a signed confidentially agreement.

CO-CHAIR TARR informed the committee the foregoing language was the same as was used [for House Bill 247, passed in the Twenty-Ninth Alaska State Legislature] and was drafted with the participation of the Alaska Oil and Gas Association (AOGA).

MS. WEISSLER continued to Section 26, "Net Operating Loss Carry Forward," a new section in Version N which would direct the

Department of Natural Resources (DNR) to develop regulations to establish a review process for agency preapproval of lease expenditures that would generate a carry forward annual loss. Finally, Section 28 in Version N would establish a legislative working group to analyze the Cook Inlet fiscal regime.

CO-CHAIR TARR added that a Cook Inlet working group is needed to review the tax regime in Cook Inlet; currently, there is a dollar per barrel oil tax, but no gas tax, and the working group will meet on this issue during the legislative interim period. Membership in the working group is open to industry.

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CO-CHAIR TARR removed her objection to the motion to adopt the proposed committee substitute (CS) for HB 111, Version 30-LS0450\N, Nauman, 3/10/17, as the working document. There being no further objection, Version N was before the committee.

[3:04:28 PM](#)

REPRESENTATIVE BIRCH asked for clarification on the uplift provision in the bill.

CO-CHAIR TARR said the consultant recommended seven years as the average timeframe for a project to come on line. There were other options discussed, and the decision was made to use the same interest rate that is applied to delinquent tax payments.

CO-CHAIR TARR said the upcoming hearing schedule on HB 111 would be adjusted as necessary to accommodate forthcoming amendments.

[HB 111 was held over.]

[3:06:17 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:06 p.m.