

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 14, 2017

3:20 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

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."

- MOVED CSHB 111(RES) OUT OF COMMITTEE

HOUSE BILL NO. 87

"An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards; and providing for an effective date."

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 12

Opposing the United States Food and Drug Administration's approval of AquaBounty AquAdvantage genetically engineered salmon; and urging the United States Congress to enact legislation that requires prominently labeling genetically engineered products with the words "Genetically Modified" on the product's packaging.

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 32

"An Act relating to the labeling of food; relating to the misbranding of food; requiring labeling of food produced with genetic engineering; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

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
 03/10/17 (H) Heard & Held
 03/10/17 (H) MINUTE (RES)
 03/11/17 (H) RES AT 12:00 AM BARNES 124
 03/11/17 (H) -- MEETING CANCELED --
 03/13/17 (H) RES AT 1:00 PM BARNES 124
 03/13/17 (H) <Bill Held Over from 3/11/17>
 03/14/17 (H) RES AT 3:00 PM BARNES 124

BILL: HB 87

SHORT TITLE: CONFLICT OF INTEREST: BD FISHERIES/GAME
 SPONSOR(s): STUTES

01/30/17 (H) READ THE FIRST TIME - REFERRALS
 01/30/17 (H) FSH, RES
 02/09/17 (H) FSH AT 10:00 AM GRUENBERG 120
 02/09/17 (H) Heard & Held
 02/09/17 (H) MINUTE (FSH)
 02/14/17 (H) FSH AT 10:00 AM GRUENBERG 120
 02/14/17 (H) Moved CSHB 87(FSH) Out of Committee
 02/14/17 (H) MINUTE (FSH)
 02/15/17 (H) FSH RPT CS (FSH) NT 2DP 1NR 3AM
 02/15/17 (H) DP: TARR, STUTES
 02/15/17 (H) NR: FANSLER
 02/15/17 (H) AM: EASTMAN, KREISS-TOMKINS, CHENAULT
 03/13/17 (H) RES AT 1:00 PM BARNES 124
 03/13/17 (H) -- Public Testimony --
 03/14/17 (H) RES AT 3:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE LOUISE STUTES
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Speaking as the sponsor, answered questions during the hearing of HB 87, Version R.

REID HARRIS, Staff
Representative Louise Stutes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Speaking on behalf of the sponsor, Representative Stutes, introduced the bill and answered questions during the hearing of HB 87, Version R.

GLENN HAIGHT, Executive Director
Board of Fisheries
Board Support Section
Alaska Department of Fish & Game
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing of HB 87, Version R.

ALPHEUS BULLARD, Attorney
Legislative Legal Counsel
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered a question during the hearing of HB 87, Version R.

JERRY MCCUNE, President
United Fisherman of Alaska
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 87.

JOHN MURRAY
Sitka, Alaska

POSITION STATEMENT: Testified in support of HB 87.

RICHARD DAVIS, Principal
Seafood Producers Cooperative
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 87.

MATT ALWARD

Homer, Alaska

POSITION STATEMENT: Testified in support of HB 87.

ACTION NARRATIVE

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CO-CHAIR GERAN TARR called the House Resources Standing Committee meeting back to order at 3:20 p.m. Representatives Tarr, Birch, Drummond, Johnson, Parish, Rauscher, Talerico, Westlake, and Josephson were present at the call to order. [The meeting reconvened after recessing on 3/13/17.]

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

[3:21:16 PM](#)

CO-CHAIR TARR announced that the first 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." [Before the committee, adopted as a work draft on 3/10/17, was the committee substitute (CS) for HB 111, Version 30-LS0450\N, Nauman, 3/10/17.]

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CO-CHAIR TARR directed the committee's attention to the fiscal note analysis [Identifier: HB111CS(RES)-DNR-DOG-03-13-17] on page 2, paragraph 1, that refers to Section 26(n), Version N, HB 111, which requires the Department of Natural Resources (DNR) to develop regulations to establish a preapproval process as follows:

This bill would require the department to analyze lease expenditures that could qualify to be carried forward and determine if those expenditures meet the requirements set out in regulations yet to be written. Because the regulations are not yet written, the extent of the required analysis is not clear. As written the fiscal impact to the department could range from minimal to significant, depending on final regulations.

CO-CHAIR TARR acknowledged the fiscal note is not as clear as the committee would have liked. As discussed at prior hearings,

the state currently is not engaged during the early part of a project, and thus does not have any influence over spending, or a mechanism to dispute any of the spending that has taken place. She explained that the aforementioned provision in the bill is an attempt to work with DNR to determine how the legislature could be better engaged in the early part of a project through a clear and regulated process. Previous industry testimony revealed that when a project in Alaska is proposed by a company to its board of directors, the project must be proven to be a good investment relative to other locations; in fact, this is the same kind of information that would be part of [industry's] "conversation" with the state [through the proposed review process]. Furthermore, a review process through regulation would also provide the opportunity for public comment and stakeholder engagement.

CO-CHAIR JOSEPHSON stated that the review provision in the bill creates a need for new regulations and cooperation from the department. He opined the provision came about because there was concern about costs associated with future developments that are unforeseen by the state, and so there was a desire for some type of review process by DNR. He acknowledged subsequent committees may modify [Version N, Section 26(n)], which read:

(n) The Department of Natural Resources shall adopt regulations that require the preapproval of lease expenditures carried forward under (a)(3) of this section. Regulations under this subsection may add additional requirements or restrictions on the ability of a producer or explorer to carry forward a lease expenditure under (a)(3) of this section. For a lease expenditure to qualify under (a)(3) of this section, a producer or explorer shall provide to the Department of Natural Resources the information necessary to determine whether a lease expenditure qualifies to be carried forward under regulations adopted under this subsection.

CO-CHAIR JOSEPHSON added, "But we thought this was a good start for beginning the process of reviewing lease expenditures through a preapproval system."

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REPRESENTATIVE BIRCH strongly disagreed and said he was expecting a fiscal note that actually had "some numbers tied to it." He observed the fiscal note indicates the fiscal impact to

the department could range from minimal to significant, depending on final regulations. He pointed out that the bill also requires the department to manage data, [the cost of which] is indeterminable; in fact, the department is unable to determine the fiscal impact of the proposed legislation. Representative Birch recalled the committee has discussed fiscal uncertainty and instability of the investment climate, and opined the fiscal note speaks to the concerns members have voiced when comparing "these massive changes to ... what's already working vis-a-vis our oil and gas tax policy." He acknowledged that credits do need to be reviewed; however, he expressed deep disappointment that the committee did not receive a more substantive fiscal note from the Department of Natural Resources. He concluded, "I don't see this is acceptable It's incomplete."

REPRESENTATIVE RAUSCHER agreed with Representative Birch on the incomplete fiscal note and emphasized the magnitude and scope of the provision, especially since DNR was asked to provide a fiscal note in one day. He said, "It seems like two arms almost simultaneously doing two things, competing for different ... properties of the same project, and trying to define, 'whose is whose?' [That] seems to be a little bit of a problem." Representative Rauscher expressed his understanding that the Department of Revenue (DOR) operates under a policy of confidentiality, and he questioned whether DNR has the same policy. Further, since DNR would be working with similar data, he asked, "How do we overcome that with the DNR?"

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CO-CHAIR TARR, in response to Representative Rauscher, explained DOR receives information from tax returns, which reveal "after-the-fact-spending" and is confidential tax information. The provision in the bill envisions DNR as Alaska's resource manager that would, for example, review the pre-spending type of information, such as what types of projects are underway and when projects would come on line. Further, DNR could determine whether there is good management of a project: if the state allows losses to be carried forward and used against production tax liability, even though the state does not write a check for a credit, there is lost revenue. However, if DNR can make certain every dollar is spent as strategically as possible, then the state is assured certain spending was necessary to bring the development on line. Co-Chair Tarr related the example of poor management that caused construction season delays, forcing a project into another year and resulting in a more expensive

project. In this case, the state, through the application of the subsequent losses against future revenue, would have invested in poor management. She continued, noting that because of the current fiscal crisis, the state seeks to control expenses, and it is appropriate for DNR to develop regulation, because it offers every company a unique development profile and an opportunity to comment. She observed the legislature does not have the opportunity [to develop regulations]; however, the sponsors are interested in refining the provision in the legislation if it would result in clarification.

CO-CHAIR JOSEPHSON added that the sponsors' concern is that even with a reduced net operating loss (NOL) not treated as a credit through the carry forward allowance, the state is a partner in a joint venture but does not enjoy the full privileges that normally come to partners in a joint venture; conversely, the companies see the benefit of their investments, either by carrying forward losses, or "this uplift." The purpose of uplift is to provide some parity, although it is difficult to have full parity without offering cash credits. He opined the state needs a role in these enterprises, other than simply affording a deduction against liability in the future. The situation is further influenced by "ring fencing," whereby decisions could be made to take a loss in one field knowing the loss will be largely offset by [profits in another field]. Co-Chair Josephson recalled his long-standing interest in a preapproval process, and although the provision needs some refinement, the state should be entitled to know - with a level of oversight - the expenses that become allowable deductions when they become a loss. He cautioned against allowing industry to ask the state to bear risk without the assurance of good management.

REPRESENTATIVE RAUSCHER stressed the importance of understanding how the proposed legislation could affect Alaska's business partners - the oil producers - before voting. He warned the committee should not proceed to a vote without a fiscal note that has identified the challenge the provision presents to DNR.

CO-CHAIR TARR said she appreciated Representative Rauscher bringing a level of scrutiny to this issue.

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REPRESENTATIVE PARISH advised that the legislature is entering into expensive deals with Alaska's industry clients to whom it sells its oil and to whom it [leases] the right to drill on

Alaska's lands; the notion the state cannot exercise discretion into those deals is distressing. For example, if a company spends \$1 billion on a risky venture, without success, the state would be co-invested for \$350 million; therefore, it makes sense to hire staff in order for DNR to provide some oversight. Representative Parish emphasized the importance of - when interacting with the state's clients - having a degree of control and discretion.

REPRESENTATIVE WESTLAKE said he would also like to see a fiscal note from DNR pertaining to this provision. Speaking from his experience representing House District 40, he said he knows the oil, gas, and mining industries and the oil and gas companies have a lot of money to hire the best [personnel] in the field; thus, if the state begins micromanaging [projects], "the best we're probably going to get is second-best in the field" He cautioned that the state will be micromanaging companies' leases and questioned whether a monthly accounting is possible given that the state is already five years behind in its accounting. He asked, "Is this going to be an additional pressure for the industry ... how do we make this right for everyone? They're willing to talk, they're willing to negotiate, but we all have to be reasonable."

[3:37:51 PM](#)

CO-CHAIR TARR clarified that the review process, as proposed, is for a single preapproval and not approvals on a monthly basis. Further, she opined statutes should be written in a less prescriptive manner because details can be provided in regulations, which are easier to update, and that is why the provision directs that the regulations are to be developed by expert DNR staff and industry, rather than by the sponsors of the legislation. Returning to the intent of the legislation, she stressed that the legislature must be mindful of where state dollars are spent and/or where there are reductions in revenue. Although DNR is not prepared to offer a detailed fiscal note at this time, if the legislation is reported from the committee, then it will advance to the House Finance Committee and then to the floor of the House for consideration and further refinement.

CO-CHAIR TARR returned attention to the aforementioned DNR fiscal note analysis on page 2, paragraph 2, which read:

This bill also requires the department to manage additional data associated with a new "dry hole credit." It is indeterminable how many of these

credit applications would be filed, but additional staff time would be required to review applications and manage the data.

CO-CHAIR TARR reiterated that the first paragraph on page 2 applies to preapproval; the second paragraph refers to the "dry hole credit," which was recommended by Richard Ruggiero, Managing Partner, Castle Gap Advisors, Castle Gap Energy Partners, [consultant to the Legislative Budget and Audit Committee]. In response to Representative Birch's comment that it was indeterminable how many credit applications would be filed, she acknowledged DNR would need more time to work on this detail. She said there was support within the committee for Mr. Ruggiero's recommendation of establishing a dry hole credit as it would not discourage exploration because there is always potential that an exploration company will be unsuccessful. Given the high costs of starting an oil and gas exploration company in Alaska, a dry hole credit would be a financial mechanism to compensate should a company experience the unfortunate event of performing work, spending money on exploration, and then finding a dry hole.

CO-CHAIR TARR returned attention to the DNR fiscal note analysis, page 2, paragraph 3, which read:

Finally, this bill contemplates the use of staff resources to participate in a legislative working group. This additional work would require backfilling of other assignments by those employees. For the reasons stated above, the department is unable to determine the fiscal impact of this legislation at this time; therefore, a[n] indeterminate fiscal note is submitted.

CO-CHAIR TARR opined that the bulk of the aforementioned working group's tasks would be done through the legislature, with participation from DNR and DOR; however, this work would take place during interim and the departments will be under fewer time constraints and more available to assist the legislature.

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The committee took an at-ease from 3:41 p.m. to 3:43 p.m.

[3:43:27 PM](#)

CO-CHAIR TARR said committee members have received an e-mail regarding the "confidentiality provision" in the bill.

[3:43:45 PM](#)

The committee took an at-ease from 3:43 p.m. to 3:53 p.m.

[3:53:09 PM](#)

CO-CHAIR TARR referred to the confidentiality provision of the bill related to legislators' access to confidential tax information and stated that the committee had received an e-mail advising that the confidentiality provision is new language. In explanation, she said the language was taken from Amendment 45 [labeled 29-GH2609\P.57, Nauman/Shutts, 3/21/16, that failed to be adopted during the House Resources Standing Committee meeting of 3/22/16] to the committee substitute for House Bill 247 [passed in the Twenty-Ninth Alaska State Legislature], and advised that she submitted the language to Legislative Legal and Research Services to be incorporated into the CS for HB 111, Version N. She then directed the committee to the bill on page 3, lines 26-31, and continuing to page 4, lines 1-20, which read:

Sec. 5. AS 43.05.230 is amended by adding a new subsection to read:

(m) The department may disclose confidential tax information, documents, or other materials related to a credit for oil and gas investment, exploration, production, delivery, storage, or use against a tax imposed under AS 43.20 or AS 43.55 to a legislator, an agent of a legislator or a legislative committee, or a contractor of a legislator or a legislative committee if

(1) the information is disclosed during an executive session of a committee hearing or an executive session of a meeting of one house of the legislature as a committee of the whole;

(2) only legislators, agents, and contractors complying with the remainder of this subsection are in attendance at the committee meeting;

(3) written information, documents, or other materials are clearly labeled as confidential tax information;

(4) the legislator, agent, or contractor has executed an agreement with the department

(A) that acknowledges that tax information, documents, and materials received under this subsection are confidential by law;

(B) that acknowledges that it is illegal to publicly disclose confidential tax information, documents, or materials received under this subsection unless the information is otherwise publicly available; and

(C) in which the legislator, agent, or contractor agrees not to

(i) disclose the information received during the meeting or the contents of documents or materials viewed during a committee meeting under this section; and

ii) remove any written information, documents, or materials from the physical location of the committee meeting

CO-CHAIR TARR related that this is the exact language which she drafted last year, with the support of the Alaska Oil and Gas Association (AOGA). Co-Chair Tarr posited AOGA may have changed its stance on the provisions, but the language is unchanged.

REPRESENTATIVE RAUSCHER questioned the legality of the language.

CO-CHAIR TARR remarked:

It's confidential tax information, which is why I think the provisions here are so strict, in terms of who has access - that no information can leave the room, that there [are] IRS rules, for example, that would require a background check and fingerprinting, so people could choose not to participate - there's no requirement. Similar to right now, for example, they're working on the confidentiality agreement related to [the Alaska LNG Project (AKLNG)] information, and you know, someone has to read that and agree to the very tough restrictions available. And this would be situated very similar to that, so that ... no information could be shared, no information could be removed from the room. There are criminal penalties actually associated with this, because it's privileged tax information, so ... from my perspective, that, that would be sort of restrictive enough and challenging enough that people would really think about it.

CO-CHAIR TARR added that although it is unknown how many people would want to see the information, Mr. Ruggiero advised that one of the challenges legislators face as policymakers is not having access to enough information in order to understand "what's working or what's not working." She recalled a statement by Ken Alper, Director, Tax Division, DOR, that hundreds of millions of dollars have been spent on credits. She said this was determined by the division from aggregate [income tax] information, and his conclusion was [50 percent of the credits led to production and 50 percent did not].

CO-CHAIR TARR expressed her concern that hundreds of millions of dollars were spent that didn't lead to production, and she suggested that [confidential tax information] "is the type of information that might help us understand it better." Furthermore, the goal is for the legislature to improve [oil and gas tax] policy, and the policy would work better as a result of having certain information. She acknowledged this is a sensitive issue, which is why it was important to work with industry representatives last year to draft the language found in the bill; in fact, she said she thought the concerns had been resolved and was surprised by the e-mail, but in the interest of full disclosure, she wanted to discuss the source of the language in the bill.

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REPRESENTATIVE RAUSCHER said he was unsure how strict a provision is that states "legislators, agents of legislators, contractors of legislators, [and] legislative committees" and is prefaced by: the department may disclose confidential tax information [to]. He again questioned the legality of the provision and advised that [confidential information] may include well depth, viscosity, static line, what control is needed, other moving parts involved, and the exact location of the oilfield. Representative Rauscher opined the provision is too broad, which is a problem.

[3:58:18 PM](#)

REPRESENTATIVE BIRCH stated he did not want to move the bill out of committee. He read in part from the aforementioned fiscal note analysis, on page 2, paragraph 1 [text previously provided], and then directed attention to the following:

1. Version N on page 28, line 15, which read:

RETROACTIVITY. Section 2 of this Act is retroactive to January 1, 2017.

2. Version N on page 28, line 18, which read:

Sec. 35. Except as provided in sec. 34 of this Act, this Act takes effect January 1, 2018.

3. Fiscal note analysis on page 1, which read:

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes.
If yes, by what date are the regulations to be adopted, amended, or repealed? 01/01/19.

REPRESENTATIVE BIRCH inquired as to how someone will be able to comport to regulations that are not written until 01/01/19 and which the legislature expects to take effect one year earlier. Although the regulations are key, the department has until 2019 to develop the regulations, while the bill has a retroactivity provision in effect January 2017. He indicated that the timing is not in sync.

CO-CHAIR TARR noted that Representative Birch brought up three different components of the bill, which is confusing. The component that is retroactive to January 1, [2017], is related to the interest on delinquent taxes for expenditures that have already occurred; the January 1, 2017, date is set to "sync up with the existing statute on interest on delinquent taxes. And so, there wouldn't be a gap in ... there being one period where one portion of law applied, and then you'd have a year gap, and then you'd have another statute. So, that syncs up those two sections. So, that's why there's retroactivity just on that one part of the bill - that's the interest rate on delinquent taxes."

CO-CHAIR TARR, turning to other provisions in the bill, advised that because all the taxes are done on a calendar year basis and this is all prospective - it changes neither expenditures that are occurring in the current calendar year nor any of the accumulation of credits that have certificates due - thus "the rest of the bill doesn't apply until January 1, 2018, so that's the effective date for that." Once the bill takes effect [DNR] starts drafting the regulations, and because there are requirements through the regulatory process to provide public comment periods and opportunities for stakeholder engagement,

the producers would not be subject to the provisions of the regulatory process for preapproval until such time as the regulations are completed. She concluded, "And so, that's [why] ... there's three different parts there with those dates."

REPRESENTATIVE BIRCH argued that it appears backwards that the bill will impose legislation on the industry, but the regulations with which they are supposed to conform are provided a year later.

CO-CHAIR TARR responded that unfortunately that's how it always works; for example, the audits from Alaska's Clear and Equitable Share (ACES) tax policy [passed in the Twenty-Fifth Alaska State Legislature] were delayed because of the amount of time taken to draft regulations. She pointed out that regulations are specific to the law that is taking effect and therefore are not drafted until the law is enacted. Co-Chair Tarr added, "And on that particular provision, that's only the one part of it - the preapproval part of it - so the regulations are specific to that preapproval process. You know, the other provisions of the law that could take effect on January 1, 2018, would [take effect]." Furthermore, the delay in regulations includes a 30-day public comment period, during which all the producers may want to weigh in, and after which the comments are considered and may result in a second draft of the regulations, followed by further public comment; hopefully, this process strengthens the work product by allowing time for the producers and DNR to work together. Although this is not the first time someone has criticized the length of time it takes to put regulations in place, companies are not subject to the provisions of the legislation until regulations are adopted, she said.

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REPRESENTATIVE BIRCH asserted it is wrong to enact legislation effective January 1, 2018, but not formulate regulations during the intervening eight or nine months, and thus wait a full year for regulations to be in place. He cautioned the legislature should be wary of the uncertainty it is creating, not only by this action, but with other efforts that "sow confusion and uncertainty"; for example, a \$300 million tax increase and the question of whether an initial investment can be recovered.

CO-CHAIR TARR stated that allowing the department to follow regulatory procedures would lead to a stronger review process, because the regulatory procedure would engage the industry more intimately than during legislative hearings. For example, she

said the committee may hear a department budget overview, but during the regulatory procedure stakeholders are directly engaged with the department and its divisions. She restated the value of public comment and industry engagement to all aspects of legislation.

REPRESENTATIVE BIRCH, on the topic of public comment, pointed out public comment has been overwhelmingly opposed to HB 111 and in support of continuing with the tax policy enacted by Senate Bill 21 [passed in the Twenty-Eighth Alaska State Legislature] and House Bill 247. He restated his concern related to the delay in writing regulations.

REPRESENTATIVE JOHNSON expressed her belief the committee is feeling pressured to move the bill out of committee, an action which she does not support; furthermore, discussion of the bill has raised many issues that are unknown, unintended, unsubstantiated, and illogical, and she questioned the sense of turning over the legislature's responsibility to a regulatory agency. In fact, doing so may indicate that the legislature has not "written clear law, [and] that you don't have a clear understanding of where you want to go." Representative Johnson suggested oversight happens when the producers oversee their business and the state protects its own interests. She recalled experts said that HB 111 could "put us at the bottom" of companies that are producing oil, in terms of their profitability, and their interest in exploration and production. Many of her constituents have testified against HB 111, and across the state testimony has been about two to one against the bill; further, key constituents from the North Slope, NANA Regional Corporation, and the Arctic Slope Regional Corporation have almost consistently testified against the bill.

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CO-CHAIR TARR pointed out a motion has not been made to move the bill, and, at this time, the committee is invited to make comments about issues that have been raised. In the event a motion is made, there will be an opportunity for closing comments.

REPRESENTATIVE RAUSCHER suggested many of the duties the bill charges to DNR fall under the purview of the Alaska Oil and Gas Conservation Commission (AOGCC). He restated his belief that it is illegal for DOR to release [confidential information], thus the bill seeks to subvert law and obtain said information from DNR instead. Furthermore, he questioned whether legislators

have the ability to keep secrets as required by the confidentiality provision in the legislation. Representative Rauscher also expressed concern about tripling the work of some departments and reiterated his caution about obtaining information through other means and entrusting it to legislators.

CO-CHAIR TARR shared Representative Rauscher's concern; however, criminal penalties for disclosure would be enough to persuade people to follow the law. She recalled that the Alaska Stranded Gas Development Act (SGDA) [passed in the Twentieth Alaska State Legislature and updated in 2003] was a circumstance in which legislators had to sign a confidentiality agreement to see certain information, which will be the same for AKLNG. She acknowledged the industry's perspective is that when in competition with other companies, [confidentiality] is their biggest concern. Co-Chair Tarr stressed the separation of powers between DNR, the agency that is acting as the actual resource manager, and DOR, the agency that is reviewing taxes.

CO-CHAIR TARR observed that the committee has held 17 hearings of HB 111, received over 104 written comments, and heard over 5 hours of public testimony from approximately 125 individuals. She said the written comments were not overwhelmingly in opposition. Also heard were 4 hours of industry testimony during the overview of [Alaska's oil and gas tax system] and 4 hours of industry testimony related to the proposed bill, as well as multiple presentations from DOR and the legislative consultant, Mr. Ruggiero, thus the co-chairs feel the committee has thoroughly vetted the bill.

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CO-CHAIR JOSEPHSON moved to report CSHB 111, Version 30-LS0450\N, Nauman, 3/10/17, out of committee with individual recommendations and the accompanying two fiscal notes.

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REPRESENTATIVE JOHNSON objected. She disagreed that the final version of the bill has been thoroughly vetted; the first hearings were focused on modeling and discussion, which were characterized as "educational," and therefore, the committee has not had sufficient time to review the bill. Furthermore, much of the debate has not been specific as to the consequences of the legislation, and the committee does not "have a good sense of where this will take us." Representative Johnson said she

was reluctant to vote on legislation without complete - not indeterminate - fiscal notes. She concluded that the legislation contains too many unknowns which cause her to vote against the bill.

REPRESENTATIVE PARISH commented that HB 111 is a small step in the right direction. He said Mr. Ruggiero advised that Alaska was near the bottom in the world in terms of information transparency, and he agreed with the consultant that before the state makes a 35 percent investment in a project, the legislature should know in what it is investing the people's money; however, the legislature doesn't have a right to that information under current law, which is an overwhelming problem. Representative Parish expressed appreciation for the work on HB 111, and although it is somewhat more generous toward industry, said he is content with the proposed bill; in fact, HB 111 would eliminate paying "the people's money" to industry. He reemphasized that currently the state does not have the ability to determine its investment because producers do not choose to disclose pertinent information. In fact, Alaska has been lax and irresponsible, failing in its responsibility to the people of the state to getting the information necessary to be responsible investors. Furthermore, he said the legislature has sunk billions of dollars into projects from which, hopefully, the state will see substantial returns, but he urged for the legislature to be better informed, and he expressed support specific to the dry hole credit and uplift.

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REPRESENTATIVE TALERICO stated that the committee has a responsibility to look at actual trends and data that are currently available, for example, the increase in throughput in the Trans-Alaska Pipeline System (TAPS). Testimony from Alyeska Pipeline Service Company was compelling in that more oil is needed in TAPS. He said the existing oil and gas tax system, and the adjustments thereto, have garnered enthusiasm and promise on the producers' part to go ahead and produce more oil and get more oil in the pipeline, as shown by data from the first two months of this year. Referring to the stability of the system, he pointed out the legislation adopted last year has not been put in place, yet HB 111 would bring more change. Turning to DNR's preapproval of lease expenditures, he assured the committee DOR follows criteria to determine what it considers to be a legitimate lease expenditure, and he asked, "Does [HB 111] have a blanket policy where the criteria is established so the people know well ahead of time - prior to

bidding on a lease and paying the State of Alaska for it - what that expense might be, or regulatory-wise would this be individual cases to be looked at?" He cautioned the [provision for review] regulatory structure would cause a lot of questions from the industry, because DNR would be looking at lease expenditures, but another department would handle the money. He urged for DOR to continue in its responsibility, as DOR staff "are our money experts, there's no question about that"; conversely, DNR staff are the state's land experts, and could develop a regulatory system that is "a blanket with a full list of ... what those approvals might be."

REPRESENTATIVE TALERICO acknowledged that there are a lot of different attitudes and opinions in the room, creating some disagreement. He remarked:

When we talk about multi-nationals and writing them checks, I'm not sure that happens. And I think [there are] people [who] have produced more than 50,000 barrels a day and never get any money - I'm pretty sure that's what happens. And I think the cashable credits were really designed for the mid-major type and smaller explorers and operators that would come in, and ... the history of that was to encourage those people to come up here and produce more. So, those are ... the biggest concerns that I have.

REPRESENTATIVE TALERICO recalled a presentation related to another bill, noting his previous concern about programs affecting other areas of the state that were providing enormous incentives without much return; these incentives were addressed with great difficulty two years ago, and he urged for the adjustments to be given the chance to take effect. Representative Talerico acknowledged the legislature will never come up with a perfect tax scenario for the state, the producers, and others, and said he would not support the proposed legislation.

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REPRESENTATIVE BIRCH opined that the committee, the legislature and the state "can do better." He remarked on the history of the development of the state's resources and said predecessors serving on the House Resources Standing Committee had the vision and wisdom to realize that to be really successful, Alaska needs to develop a collaborative partnership [with business] in building Alaska's future. Although the proposed legislation is

focused on raising revenue, the state needs to attract investment and to keep oil flowing through TAPS. He said the existing tax structure - which should be allowed to remain in place - has met with success in that there have been promising finds in the oilfields, and the state must remain competitive from an investment standpoint. Representative Birch urged the committee to be embracing and supporting the oil and gas, mining, timber, and fishing industries - "not throwing roadblocks and striking fear and putting uncertainty and instability in front of ... everybody," which is what he opined this legislation does.

CO-CHAIR JOSEPHSON agreed in part with Representative Johnson that some of the early presentations on the bill were meant to be educational; however, the proposed legislation has existed for almost 45 days. He said the intent of the co-chairs is to focus the bill on the unfinished work in House Bill 247; although House Bill 247 mostly affected Cook Inlet, it placed a cap on the eligibility for cash for non-producers [statewide]. Many of the features of Version N are consistent with House Bill 247 and are not far from the original version of HB 111, such as increasing the gross floor to assure the state a hard floor minimum. For example, prior to House Bill 247, and even today, many credits can penetrate the [percentage of interest] floor, so the 4 percent [interest rate] within Senate Bill 21 is not guaranteed. He acknowledged industry is suffering at this time; however, Senate Bill 21 provided a very generous portfolio of credits that were affordable when the state received \$9 billion a year, but that are not affordable when the state brings in \$1 billion a year - much of which is royalty - as in fiscal year 2017 (FY 17).

CO-CHAIR JOSEPHSON said adjusting the per barrel credit that impacts the \$70 to \$120 range in oil price per barrel is appropriate. He restated that one thing that was not understood in Senate Bill 21 was that the effective tax rate was not going to match the operating loss credit - except at \$170 a barrel, thus it is reasonable to change the interest rate. Although there is criticism that the state's auditors are slow to get their work done, and there are efforts to increase the number of auditors, the elimination of compounding interest after three years may instigate litigation and more dispute over tax returns.

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CO-CHAIR JOSEPHSON, in response to Representative Rauscher's concern about taxpayer confidentiality, pointed out the legislation gives 60 legislators, and certain others, the option of using their own discretion in a manner similar to the restraint required when convening in executive session. In addition, constituents may rightly question why legislators are privy to information and they are not. Although there is now some dispute with the Alaska Oil and Gas Association (AOGA) on confidentiality, he assured the committee a compromise could be reached. Turning to the projections of billions of dollars in return on state investment from oilfields such as Smith Bay, he reminded the committee Colleen Glover, Tax Division, DOR, [in testimony before the committee on 2/22/17], pointed out the project's net present value (NPV) greatly reduced the projected return and suggested there were other options for what to do with the state's money. He stated his support for independent [oil and gas companies], for the uplift feature in the bill, and for the state to begin to substantially pay down the amount of "owed" tax credits, contingent on a fiscal plan.

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CO-CHAIR JOSEPHSON remarked that HB 111 would also provide that the gross value at the point of production could never be beneath zero, because "one would think that if you're standing at the wellhead, the oil is always going to have some value; if it's not, it probably shouldn't be drilled." In comparison to other proposed oil and gas tax legislation, and proposals by Robin O. Brena [in testimony before the committee on 2/3/17], HB 111 is a very moderate bill that attempts to establish the state's reasonable share during periods of both low prices and moderate to high prices; under existing law, the state gets nowhere near the 33 percent target set by former Governor Jay Hammond. He concluded that HB 111 may have its imperfections, but it is a reasonable improvement, and he stated his support.

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CO-CHAIR TARR thanked the committee for its work; the diversity of background and points of view is what makes the work by the committee stronger. She recalled, as the only member of the House Resources Standing Committee who was a member during the contemplation of Senate Bill 21, oil was \$94 a barrel; the committee did not study the effects of \$40 to \$50 oil prices, because over the prior 10 years, the price of oil had remained between \$60 and \$100, except for one spike to \$147. She offered

her view that the committee at that time did not consider that a lower price environment [could become] the new normal.

CO-CHAIR TARR said she heard previous testimony that at the current lower oil prices, more credits will be earned than the state receives in production taxes, which is a problem considering the legislature must determine how to fund all the state's responsibilities including providing public safety, education, resource management, the University of Alaska, and health care services. Furthermore, in response to industry testimony of the strains the lower price environment has put on the industry, more modest adjustments were made to the minimum tax and to the per barrel credit in the bill, and the windfall provision was added.

CO-CHAIR TARR said the information gathering component of the bill will help legislators be good policymakers and to build trust with the public in light of the public awareness of the build-up of credits and the resulting pressure on the legislature to address this issue. She reviewed the recommendations made by the consultant that are included in the bill: carry forward losses, uplift, dry hole credit, and access to information. Co-Chair Tarr said she hopes that if the bill is passed out of committee, members would continue to work with the sponsors and bring ideas forward. She closed as follows:

Our goal is stability for the industry and ... to get more oil into the pipeline. And I heard Admiral Barrett [president, Alyeska Pipeline Service Company] loud and clear like all of you, that that's got to be a priority for both, you know, our revenue and what's necessary to maintain that critical infrastructure. ... We have, I think, similar goals, coming at them from a little bit different ways, but, again, I feel, just really fortunate to have worked with all of you to work through the process and all the good ideas you brought along, and all the challenges, and so we could try and get it right.

[4:38:42 PM](#)

REPRESENTATIVE JOHNSON [maintained her objection].

[4:38:44 PM](#)

A roll call vote was taken. Representatives Parish, Westlake, Drummond, Josephson, and Tarr voted in favor of the motion to

report CSHB 111, Version 30-LS0450\N, Nauman, 3/10/17, out of committee with individual recommendations and the accompanying fiscal notes. Representatives Birch, Johnson, Rauscher, and Talerico voted against it. Therefore, CSHB 111(RES) was reported out of the House Resources Standing Committee by a vote of 5-4.

[4:39:38 PM](#)

The committee took an at-ease from 4:39 p.m. to 4:44 p.m.

[Co-Chair Tarr handed the gavel to Co-Chair Josephson.]

HB 87-CONFLICT OF INTEREST: BD FISHERIES/GAME

[4:44:23 PM](#)

CO-CHAIR JOSEPHSON announced that the next order of business would be HOUSE BILL NO. 87, "An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards; and providing for an effective date." [Before the committee was CSHB 87(FSH), reported out of the House Special Committee on Fisheries 2/14/17.]

[4:45:13 PM](#)

REID HARRIS, Staff, Representative Louise Stutes, Alaska State Legislature, on behalf of Representative Stutes, prime sponsor of HB 87, informed the committee that in 1949 the Territorial Legislature created the Alaska Territorial Fisheries Service, which upon statehood became the Alaska Department of Fish & Game (ADF&G). At that time, a nine-member Board of Fisheries and Game was established. In 1975, ADF&G separated the board into two boards: Board of Fisheries and Board of Game. Currently each board consists of seven members who serve a three-year term and are appointed based on their interest in public affairs, good judgement, knowledge, and ability. The role of the Board of Fisheries is to conserve and develop the fisheries resources in the state, including subsistence, commercial, sport, guided sport, and personal use fisheries; the role of the Board of Game is to conserve and develop Alaska's wildlife resources. Mr. Harris said the boards serve as the state's regulatory authority over fisheries and wildlife respectively, and for each board the commissioner of ADF&G participates as an ex-officio member of board. The Joint Board of Fisheries and Game meets to set regulations for the advisory committees, which bring proposals

before the boards. Before the committee was CSHB 87, Version R, which makes two changes to the functions of the boards. The first change is that the bill allows members with a declared conflict of interest to deliberate on subjects, but not to vote. Currently, before a meeting, members declare a conflict either based on familial or financial interest. The conflicted member must leave the dais and participate only as a member of the public; when this happens the expertise of one or more board members is lost. In addition, board members can be repeatedly recused from deliberations. The second change made by Version R is to narrow the scope of who is defined as an immediate family member, when pertaining only to the Board of Fisheries and the Board of Game. Currently, AS 39.52 defines an immediate family member to include grandparents, aunts, and uncles; however, on page 1, beginning on line 13, the bill narrows the definition as follows:

In this subsection, "immediate family member" means

(1) the spouse of the member;

(2) a person cohabiting with the member in a relationship that is like a marriage but is not a legal marriage; or

(3) a parent, sibling, or child, including a stepchild and an adopted child, of the member if the parent, sibling, or child

(A) resides with the member;

(B) is financially dependent on the member;

or

(C) shares a substantial financial interest with the member.

MR. HARRIS pointed out the difference between AS 39.52 and the language in the bill is that grandparents, aunts, and uncles are removed.

[4:49:17 PM](#)

CO-CHAIR JOSEPHSON offered his understanding that the bill seeks to narrow the conflicts that arise due to family members, but asked about other conflicts based on economic interests.

MR. HARRIS said the definition of financial interest is unchanged in statute and read the following:

Financial interest means an interest held by a public officer or an immediate family member which includes an involvement or ownership in an interest in a business, including a property ownership, a professional or private relationship that is a source of income, or from which, or as a result of which, a person has received or expects to receive a financial benefit.

CO-CHAIR JOSEPHSON asked if limiting the definition to nuclear family members will mean board members will be eligible to vote more often.

MR. HARRIS indicated yes, and offered to provide supporting testimony.

CO-CHAIR JOSEPHSON pointed out proposed AS 39.52.120(g) prohibits a board member from voting if a conflict from a financial interest is determined to exist.

MR. HARRIS added that related legislation was previously introduced in the Nineteenth, Twentieth, and Twenty-Fifth Alaska State Legislatures.

CO-CHAIR JOSEPHSON questioned whether, after a member has declared a conflict, the board can find that the member need not be recused.

MR. HARRIS explained the board has a policy for members to "over-declare" and then the board chair decides whether to uphold the conflict.

CO-CHAIR JOSEPHSON asked if the aforementioned "unilateral power of the chair to make the final decision" applies to both the Board of Game and the Board of Fisheries.

MR. HARRIS answered that's correct.

REPRESENTATIVE LOUISE STUTES, Alaska State Legislature, speaking as the sponsor of HB 87, added that qualified potential board members are reluctant to apply for a seat on either board because they anticipate many conflicts that would prevent them from meaningful service to their industry.

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GLENN HAIGHT, Executive Director, Board of Fisheries, Board Support Section, Alaska Department of Fish & Game, in response to Co-Chair Josephson's question regarding a board member who may be overly conservative in his/her recusal, said members usually discuss potential conflicts with the Department of Law and the board chair in advance of a meeting.

MR. HARRIS concluded his presentation, noting that the bill has a zero fiscal note and seeks to allow both boards to make more informed decisions and thereby create stronger resource management for the state.

REPRESENTATIVE TALERICO gave an example of two acquaintances who are in partnership with their grandsons and who would be qualified to serve on the Board of Game, and he said this circumstance is not uncommon in the Interior. He acknowledged that family businesses are wonderful; however, he suggested that grandparents should not be removed as immediate family members, and he noted that board members with a conflict would still be allowed to participate.

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MR. HARRIS said currently if a grandparent is in partnership with a board member, then the board member would need to recuse himself/herself; however, HB 87 would allow said member to deliberate and vote.

REPRESENTATIVE PARISH agreed with the intent of the bill to keep members with expertise fully engaged in the deliberations of the board; however, he expressed concern about the new definition of immediate family, which differs from that of the Alaska Executive Branch Ethics Act. He referred to the bill on page 2, beginning on line 2, paragraph (3), subparagraphs (A), (B), and (C) [text previously provided] and said this is a dramatic narrowing of the scope of who can be considered an immediate family member; for example, none of his siblings lives with him, is financially dependent on him, or shares a substantial financial interest with him, and thus would not be immediate family members, which is obviously incorrect.

MR. HARRIS said narrowing the scope allows the boards to retain more expertise, without granting any one member undue power over legislation benefitting one member over another. He advised the sponsor reviewed many definitions of immediate family membership

and noted the definition would specifically pertain to the aforementioned boards.

REPRESENTATIVE PARISH asked for clarification that in the event the immediate family member - parent, sibling, or child - didn't meet the standards of [subparagraphs (A), (B), or (C)], the member would not declare a conflict.

REPRESENTATIVE PARISH restated the question and gave the following example: If my brother owned a fishing boat, and I serve on the Board of Fisheries, I would not declare a conflict of interest.

[5:02:53 PM](#)

ALPHEUS BULLARD, Attorney, Legislative Legal Counsel, Legislative Legal Services, Legislative Affairs Agency, said under AS 39.52.120(c), a member of the Board of Fisheries or Board of Game is prohibited from acting on a matter if they have not disclosed a conflict. Further, under AS 39.52.220, members of the board, after a conflict is disclosed, vote as to whether the member can continue to participate, deliberate, and vote. The bill would require, after a conflict is determined to exist, that the member continue deliberating, but not vote.

REPRESENTATIVE PARISH asked if the bill redefines what would qualify as a conflict.

MR. BULLARD directed attention to the bill on page 1, line 11, which read: "If a conflict is determined to exist". He advised that this is passive language that does not provide how a conflict is determined to exist, and the court would look to AS 39.52.220 for interpretation.

REPRESENTATIVE RAUSCHER referred to AS 39.52.120 and surmised subsections (a) through (f) would be unaffected by the bill.

CO-CHAIR JOSEPHSON suggested members review AS 39.52.120 subsections (a) through (f) and AS 39.52.220.

REPRESENTATIVE BIRCH asked for an example of the problem addressed by the bill.

MR. HARRIS said the problem is that because Alaska is a small state, and families are nuclear, many members of both the Board of Fisheries and the Board of Game are "conflicted out" and

cannot participate in the duties of the board due to certain activities of their family members.

REPRESENTATIVE BIRCH asked for an example.

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REPRESENTATIVE STUTES responded that recently at a meeting of the Board of Fisheries, a member was "conflicted out" due to a financial interest with her fisherman ex-husband, which led to a tie vote on the board and prevented "a season from taking place." In addition, in Sitka, the Board of Fisheries had two members declare a conflict and could only make a quorum with four unanimous votes.

REPRESENTATIVE BIRCH asked, "By whose judgement was she conflicted?"

REPRESENTATIVE STUTES answered the existing statute and the chair.

REPRESENTATIVE BIRCH cautioned the legislature is embarking on a tangled ethics road. He restated the circumstances were that the member declared a conflict and asked for a ruling from the chair.

REPRESENTATIVE STUTES said yes. The member was conflicted out based on existing statute.

MR. HAIGHT added that, in consultation with DOL, the conflict was upheld by the chair, who is the ethics officer for the board.

REPRESENTATIVE BIRCH asked for the composition of the board.

MR. HAIGHT explained a few members are commercial fisherman, others are active in the sport guiding fishery, or personal use, and/or subsistence. Board members are not placed by geographic preference or location, but must be good at public affairs, have good judgement, and be knowledgeable about fishing issues. Mr. Haight related that at a finfish meeting in upper Cook Inlet, there were 173 proposals, and no one was recused; however, at a Southeast finfish meeting in 2015, two members were recused from 55 of 130 proposals, one because his brother trolled and one because his son was involved in various fisheries. He said the situations change.

REPRESENTATIVE BIRCH clarified that there is no allocation on the Board of Fisheries for specific interests, or any diversity with respect to the composition of the board, unlike the Board of Registration for Architects, Engineers and Land Surveyors.

MR. HAIGHT said the board is not filled by user category; members are appointed by the governor and confirmed by the legislature.

CO-CHAIR JOSEPHSON, speaking from his experience, observed appointments to the board are selected through a competitive process surrounded by culture and tradition.

REPRESENTATIVE RAUSCHER expressed his belief that the bill would allow a conflicted member to continue in discussions, but not to vote.

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REPRESENTATIVE STUTES responded that's correct; a conflicted member can participate in board discussions, but is unable to vote. Currently, the member is unable to participate in discussion, which excludes pertinent knowledge, thus the intent is to utilize their knowledge "but not give them the advantage of a vote."

REPRESENTATIVE RAUSCHER restated his confusion related to how the change would affect a tie vote.

REPRESENTATIVE STUTES further explained fewer members will be conflicted out of the boards' discussions. In further response to Representative Rauscher, she said the bill reduces the scope of what a conflict is, so under the same conditions, a member may not be conflicted out and will be able to participate and vote.

REPRESENTATIVE BIRCH returned attention to the example given and opined the member who was receiving a check from her ex-husband was rightly disqualified.

REPRESENTATIVE STUTES advised the board in question was discussing a different fishery with no competing interest. In response to Co-Chair Josephson, she said the board member was forthcoming in her disclosure.

REPRESENTATIVE DRUMMOND asked whether the board member's check qualified as a "substantial" financial interest.

REPRESENTATIVE STUTES said she was unsure and suggested it could be, relative to one's income.

REPRESENTATIVE DRUMMOND concluded that the bill allows a conflicted member to continue deliberation, and thereby perhaps influence fellow board members by sharing information, even though he/she could not vote.

REPRESENTATIVE STUTES answered that's correct. She asked, "Why have a board member with all this information and knowledge and ... not be able to utilize it or have them participate in the discussion and impart that knowledge to others?"

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CO-CHAIR JOSEPHSON opened public testimony on HB 87.

[5:20:51 PM](#)

JERRY MCCUNE, President, United Fisherman of Alaska, informed the committee United Fisherman of Alaska is the largest commercial fishing group, including members from the Bering Sea to Southeast, and testified in support of the bill. He spoke to a situation in which a Board of Fisheries member was conflicted out because, although he had no commercial fishing permit, his aunt held a permit. Mr. McCune acknowledged that the financial part of the ethics code has been tightened; however, if a member has no financial gain, there should not be a conflict, and if there is a conflict, the member cannot participate. He said the bill is a modest change to the status of family members, and for a seven-man board, allowing a member to speak on a particular fishery is important. Mr. McCune said this situation has been a problem in Southeast.

REPRESENTATIVE BIRCH asked how often a conflict is declared.

MR. MCCUNE said declarations of conflict are more frequent in the Board of Fisheries than in the Board of Game; he provided examples of families who are in the fishing industry in small towns, especially in commercial fishing. In further response to Representative Birch, he said a conflict could occur at every meeting of the Board of Fisheries.

REPRESENTATIVE PARISH expressed his understanding the bill addresses two problems: members with a conflict cannot

participate and share their expertise, and the conflict of interest rules are too broad related to family members.

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MR. MCCUNE said yes. He restated his belief a member must have a financial or economic interest to gain from a certain proposal, in order to have a conflict of interest.

[5:25:47 PM](#)

JOHN MURRAY said he is a commercial fisherman who has fished in Sitka since the late '70s. From his experience attending Southeast Board of Fisheries meetings over the last 20 years, representing many interests in the industry, he said the bill is a commonsense way to help the board complete its work.

[5:27:00 PM](#)

RICHARD DAVIS, Principal, Seafood Producers Cooperative, informed the committee he is a 53-year Alaska resident and has been a commercial fisherman in Juneau for 45 years. He said the Seafood Producers Cooperative represents 600 commercial fisherman-owner members and is North America's largest and longest surviving fishermen's seafood harvesting, processing, and marketing cooperative; 500 of the cooperative's fisherman-owners are Alaska residents. For the last 20 years, the cooperative has advocated for a change to the stringent existing conflict of interest restrictions of commercial fishermen - and others with economic ties to fisheries in Alaska - who serve on the Board of Fisheries. Members of the board with economic, personal, or familial ties to commercial fisheries are excluded from deliberations and voting on proposals after a disclosure, and thus the experience of affected appointees is not utilized. He acknowledged that the members are appointed by the governor and confirmed by the legislature without regard to constituency, career, activities, geography, or diversity; for this reason, many qualified Alaskans fail to seek appointment to the Board of Fisheries. Speaking from his experience in Southeast, Mr. Davis said a conflict of interest due to familial ties is common. He said members of the Seafood Producers Cooperative support HB 87.

REPRESENTATIVE BIRCH inquired as to how close a relationship is permissible.

MR. DAVIS said he believed about one-half of the finfish proposals in Southeast required one member to recuse himself due

to the conflict established by his son, brother, and another relative. In further response to Representative Birch, he said if the bill is enacted, in the aforementioned circumstance, as long as the son did not live with the member or share a financial interest in the fishery, the restriction would be alleviated.

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MATT ALWARD, a commercial fisherman from Homer, testified in support of HB 87. He said working people with knowledge and experience in different professions are asked to serve on boards, which entails a month of their time per year, yet those with family members involved in a fishery proposal may not participate. Mr. Alward opined board members are closely vetted and have high integrity and morals; to change the conflict of interest standards of immediate family is responsible and reasonable. He agreed a conflicted member should not vote; however, board members are experts and should participate in board deliberations. Mr. Alward said if an individual is involved in business with a grandparent, under the provisions of HB 87, then the member would still have a conflict of interest. He urged for passage of the bill.

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CO-CHAIR JOSEPHSON announced HB 87 was held over with public testimony open.

[5:33:33 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 5:33 p.m.