

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

April 2, 2018

6:36 p.m.

**MEMBERS PRESENT**

Representative Andy Josephson, Co-Chair  
Representative Geran Tarr, Co-Chair  
Representative John Lincoln, 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. 288

"An Act relating to the minimum tax imposed on oil and gas produced from leases or properties that include land north of 68 degrees North latitude; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 315

"An Act relating to the confidentiality of certain records on animals and crops; and providing for an effective date."

- MOVED CSHB 315(RES) OUT OF COMMITTEE

HOUSE BILL NO. 399

"An Act disallowing a federal tax credit as a credit against the corporate net income tax; repealing a provision allowing the exclusion of certain royalties accrued or received from foreign corporations for purposes of the corporate net income tax; repealing the reduced rate for the alternative tax on capital gains for corporations; repealing an exemption from filing a return under the corporate net income tax for a corporation engaged in a contract under the Alaska Stranded Gas Development Act; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 27

"An Act relating to chemicals that are of high concern for children and to the manufacture and sale of products containing certain flame retardant chemicals; relating to an interstate chemicals clearinghouse; adding an unlawful act to the Alaska Unfair Trade Practices and Consumer Protection Act; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 260

"An Act relating to electronic possession of certain licenses, tags, and identification cards issued by the Department of Fish and Game; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 288

SHORT TITLE: OIL AND GAS PRODUCTION TAX

SPONSOR(S): REPRESENTATIVE(S) TARR

01/16/18	(H)	READ THE FIRST TIME - REFERRALS
01/16/18	(H)	RES, FIN
01/22/18	(H)	RES AT 1:00 PM BARNES 124
01/22/18	(H)	Heard & Held
01/22/18	(H)	MINUTE(RES)
01/26/18	(H)	RES AT 1:00 PM BARNES 124
01/26/18	(H)	Heard & Held
01/26/18	(H)	MINUTE(RES)
01/29/18	(H)	RES AT 1:00 PM BARNES 124
01/29/18	(H)	Heard & Held
01/29/18	(H)	MINUTE(RES)
03/30/18	(H)	RES AT 1:00 PM BARNES 124
03/30/18	(H)	Scheduled but Not Heard
04/02/18	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 315

SHORT TITLE: CONFIDENTIALITY OF ANIMAL & CROP RECORDS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/26/18	(H)	READ THE FIRST TIME - REFERRALS
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01/26/18	(H)	JUD, RES
02/09/18	(H)	JUD AT 1:00 PM GRUENBERG 120
02/09/18	(H)	Heard & Held
02/09/18	(H)	MINUTE(JUD)
02/12/18	(H)	JUD AT 1:30 PM GRUENBERG 120
02/12/18	(H)	Moved HB 315 Out of Committee
02/12/18	(H)	MINUTE(JUD)
02/14/18	(H)	JUD RPT 3DP 2NR 1AM
02/14/18	(H)	DP: KOPP, KREISS-TOMKINS, CLAMAN
02/14/18	(H)	NR: LEDOUX, MILLETT
02/14/18	(H)	AM: EASTMAN
03/02/18	(H)	RES AT 1:00 PM BARNES 124
03/02/18	(H)	-- MEETING CANCELED --
03/16/18	(H)	RES AT 1:00 PM BARNES 124
03/16/18	(H)	Heard & Held
03/16/18	(H)	MINUTE(RES)
03/21/18	(H)	RES AT 1:00 PM BARNES 124
03/21/18	(H)	Scheduled but Not Heard
03/23/18	(H)	RES AT 1:00 PM BARNES 124
03/23/18	(H)	-- MEETING CANCELED --
03/26/18	(H)	RES AT 1:00 PM BARNES 124
03/26/18	(H)	-- Meeting Postponed to 3/27/18 at 6:30 pm--
03/27/18	(H)	RES AT 6:30 PM BARNES 124
03/27/18	(H)	Scheduled but Not Heard
04/02/18	(H)	RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

CHRISTINA CARPENTER, Director  
 Division of Environmental Health  
 Department of Environmental Conservation  
 Anchorage, Alaska

**POSITION STATEMENT:** Presented amendments and answered questions during the hearing of HB 315.

JENNIFER CURRIE, Senior Assistant Attorney General  
 Environmental Section  
 Civil Division(Anchorage)  
 Department of Law  
 Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing of HB 315.

ROBERT GERLACH, VMD, State Veterinarian  
 Office of the State Veterinarian  
 Division of Environmental Health

Department of Environmental Conservation  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing of HB 315.

**ACTION NARRATIVE**

[6:36:03 PM](#)

**CO-CHAIR GERAN TARR** called the House Resources Standing Committee meeting to order at 6:36 p.m. Representatives Tarr, Johnson, Rauscher, Talerico, Lincoln, Drummond, Birch, and Josephson were present at the call to order. Representative Parish arrived as the meeting was in progress.

**HB 288-OIL AND GAS PRODUCTION TAX**

[6:37:04 PM](#)

**CO-CHAIR TARR** announced that the first order of business would be HOUSE BILL NO. 288, "An Act relating to the minimum tax imposed on oil and gas produced from leases or properties that include land north of 68 degrees North latitude; and providing for an effective date."

[6:37:11 PM](#)

**REPRESENTATIVE LINCOLN** moved to adopt the committee substitute (CS) for HB 288, labeled 30-LS1155\D, Nauman, 3/27/18, as the working document.

**CO-CHAIR TARR** objected for discussion purposes.

[6:37:29 PM](#)

**CO-CHAIR TARR** passed the gavel to Co-Chair Josephson.

**CO-CHAIR TARR** provided a PowerPoint presentation entitled, "House Bill 288 CS Version D Fairness in Oil Taxes." She began her introduction of CS for HB 288, Version D, by reviewing provisions of HB 288. The bill affects the oil and gas minimum tax statute which is currently 4 percent of the gross value at the point of production (GVPP); the original version of the bill increased the minimum tax to 7 percent. She reminded the committee the reason to propose this legislation is because Alaska's effective tax rate is one of the lowest in the U.S. at lower price levels (slide 1). Slide 2 illustrated the

difference in taxes collected at various minimum tax rates at an oil price of \$60 [per barrel]; for example, the current severance tax collected by the state is approximately \$2 per barrel; at a minimum tax of 7 percent the state would collect about \$3.51. Co-Chair Tarr pointed out the proposed legislation affects tax rates at lower oil prices, acknowledging that industry seeks to react to higher or lower oil prices by adjusting lease expenditures. Slide 3 listed three questions related to the bill: how much profit per barrel; how many barrels total; how much revenue to the state? Slide 4 illustrated various calculations based on the total production of taxable barrels and royalty barrels, and she advised production must rise over 100,000 new barrels per day to achieve an increase in state revenue that would make a significant impact on the state's financial situation. Slide 5 was a bar graph that showed an estimated deficit of \$2.7 billion, which when adjusted to the [Tax Division, Department of Revenue, Revenue Sources Book (RSB) Revenue Forecast: Spring 2018], would be \$2.3 billion. Slide 6 illustrated the current minimum tax at oil prices from \$25 to over \$65 per barrel, and the effects of changes made by HB 288 and CSHB 288, Version D. Co-Chair Tarr observed an oil price of above \$50 places industry in a profit margin relative to "old spending," thus the proposed increase impacts companies when they "have a little bit of ability to make those adjustments."

[6:43:32 PM](#)

CO-CHAIR TARR continued to slide 7 that illustrated effective severance tax rates paid by the industry in various [Lower 48] states, and she acknowledged the difficulty in comparing Alaska with other states due to its development costs. She returned attention to slide 2 and noted Alaska's tax rate at \$60 per barrel oil prices, as a percentage of GVPP, is 4 percent; however, tax as a percentage of production tax value (PTV) is currently approximately 9 percent due to the net profit system. Co-Chair Tarr directed attention to [Fiscal Note Identifier: HB288-DOR-TAX-1-20-18, and a document entitled "Provisions in HB 288 with possible amendment ... Revised 3/27/18 by DOR, provided in the committee packet]. She said the adjusted [fiscal note to CSHB 288, Version D] indicated the total fiscal impact in FY 19 would be about \$64 million; however, for later years, the impact is similar to that of the original version of the bill. In response to comments related to [the legislative working group, which is a provision of House Bill 111, passed in the Thirtieth Alaska State Legislature], she cautioned the working group may not focus on increasing revenue but may seek to improve how the

tax system operates in order to enable the state to better predict and understand oil and gas tax revenue. Further, Co-Chair Tarr estimated the working group would not have a proposal for a new tax structure in place before FY 22; she stressed the importance of CSHB 288 is to address additional revenue for FY 19 through FY 21.

[6:50:23 PM](#)

REPRESENTATIVE BIRCH said the proposed legislation is a bad idea; he returned attention to slide 4 and pointed out the royalty share is four times that of revenue from taxable barrels. He expressed his concern a significant increase in the taxable rate, and another change in the tax structure, would adversely impact steady production on the North Slope. Further, the bill would not encourage the investment that is needed to sustain exploration; for example, a 100,000 barrel per day increase would result in an increase in state revenue of \$300 million. Representative Birch asked how the bill would encourage or attract investment.

CO-CHAIR TARR said Alaska is a profitable jurisdiction for Alaska businesses; in fact, BP reported Alaska businesses garnered an annual profit of \$118 million [letter/report/article not provided]. She said the state must balance its competing needs with other proposals that would benefit industry.

CO-CHAIR JOSEPHSON recalled in 2013, when oil prices were [higher], royalty barrel revenue was "sort of an afterthought, in this calculus, and now they've become the dominant theme." He questioned the projection of additional production shown on slide 4.

[6:54:08 PM](#)

CO-CHAIR TARR acknowledged the most recent RSB does not predict an increase [in production] and said she does not expect 100,000 barrels of new production "anytime soon."

REPRESENTATIVE RAUSCHER asked for the basis of both the current tax rate and the changes proposed in CSHB 288, Version D.

CO-CHAIR TARR recalled the tax rates originated from earlier legislation: Senate Bill 21, [the More Alaska Production Act passed in the Twenty-Eighth Alaska State Legislature] and House Bill 2001, [Alaska's Clear and Equitable Share (ACES), passed in the Twenty-Fifth Alaska State Legislature]. The minimum tax

structure established by ACES was 10 percent, which was lowered to 4 percent in Senate Bill 21. However, at the time the provisions of Senate Bill 21 were debated, oil prices were \$110 per barrel thus there was not much discussion about the bill's impact on state revenue at low oil prices over an extended period of time. She characterized the impact of Senate Bill 21 as a "surprise." Co-Chair Tarr returned attention to slides 6 and 2 and provided a further explanation of how the minimum tax rate is calculated and restated the intent of CSHB 288.

6:59:27 PM

REPRESENTATIVE RAUSCHER expressed his concern about making changes to "certain price points" instead of debating a change to the tax structure system.

CO-CHAIR TARR stated the intent of the proposed legislation is to not attempt a fundamental overhaul of oil and gas tax statute; in fact, that is the purpose of the working group which is a bipartisan and bicameral group that will consider improvements to the tax structure. One of the important aspects that will be reviewed is the per barrel tax credit which affects the minimum tax as illustrated on slide 2.

REPRESENTATIVE RAUSCHER questioned whether [oil and tax regime legislative] consultants provided guidance for the proposed legislation.

CO-CHAIR TARR said a consultant advised [HB 288] should be changed to provide protection [for industry] in a low oil price environment - when prices are \$25 to \$40 per barrel - as shown on slide 6. She remarked:

... net profits means you get to deduct all of your expenses before ... we consider any taxes but under a net profit system in that price range, there's nothing left to tax because the price is so low.

REPRESENTATIVE JOHNSON asked for further information related to BP's financial position in Alaska.

CO-CHAIR TARR referred to a letter from BP [letter/report/article not provided]. She said BP noted many costs were not included [in the letter/report/article] related to its profits, for example, operating the Trans-Alaska Pipeline System (TAPS). Co-Chair Tarr pointed out TAPS costs are recouped by shipping tariffs and other deductions,

transportation costs are deducted, costs associated with developing new projects are business decisions, and deductible capital investment in Prudhoe Bay is necessary to produce oil. She opined the proposed legislation is a stopgap measure to address the state's situation over the next three years because oil prices have not stabilized.

[7:05:43 PM](#)

CO-CHAIR JOSEPHSON recalled in 2016, the administration proposed an increase from 4 percent to 5 percent at a time when oil prices were in the \$40 to \$55 range, which is consistent with the proposed legislation.

REPRESENTATIVE PARISH returned attention to slide 7 and asked whether the tax rates shown are based on GVPP.

CO-CHAIR TARR said yes.

REPRESENTATIVE PARISH surmised the effective tax rate paid by industry [in Alaska] is around 4 percent.

CO-CHAIR TARR remarked:

... the minimum tax is a 4 percent tax at the gross value of the point of production so, effectively, we have a 4 percent gross tax right now.

CO-CHAIR TARR, in further response to Representative Parish, said the [reduced taxes] are not entirely a result of the \$8 per barrel credit, but also because the per barrel credit is given after deductions for transportation and lease expenditures, "and then we apply the 35 percent tax rate so you reduce it by essentially a third, and then you add the \$8 per barrel credit, so it's the order in which those things happen that makes that per barrel credit have so much power to distort the math."

[7:08:13 PM](#)

REPRESENTATIVE PARISH asked why Alaska's rates are low compared with the tax rates of other states illustrated on slide 7.

CO-CHAIR TARR described some of Alaska's legislative history in this regard. Turning to the issue of the stability [of Alaska's tax policy], she cautioned Alaska could experience instability from teacher strikes and a citizen's initiative in support of an aggressive policy to increase oil and gas state revenue.

REPRESENTATIVE JOHNSON expressed her concern that the committee's discussion of tax rates is driven by the state's internal needs, rather than an external analysis of oil tax policy in the world market. She cautioned against driving the oil industry out of Alaska because the state cannot control its spending and said she has read in the Wall Street Journal that trade war worries are driving down the price of oil internationally [document not provided]. Representative Johnson restated her concerns about "stopgap, last-minute, tax policy destabilization" late in the legislative session.

CO-CHAIR TARR observed HB 288 was introduced early in the legislative session and the CS now proposed is in response to present funding questions. She acknowledged the preceding concerns and restated aspects of Alaska's present tax policy.

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REPRESENTATIVE BIRCH returned attention to slide 2 and pointed out the state's royalty share is omitted. He said the 12.5 percent royalty share is a huge component and should not be set aside or ignored; in fact, "you could have a, a great big high tax and no production, and it doesn't matter." Representative Birch opined the focus should be turned to production, attracting investment to increase production, and exploration. He restated royalty share is a very significant component that is discounted and ignored too often.

CO-CHAIR TARR said, "... a barrel is going to be a taxable barrel or it's going to be a royalty barrel - one barrel is not both things. So, [slide 2] is what's happening with taxable barrels but that's why we've made sure to include [slide 4] so folks can see the accompanying royalty barrels." She advised one of the tasks for the working group would be to review other jurisdictions because royalty rates are increasing on newer leases. Other systems for the working group to consider are a gross tax, an adjusted net profits tax, or that new leases, with higher royalties, would negate debates about taxes.

REPRESENTATIVE BIRCH opined it is inaccurate to portray barrels of oil as taxable barrels or royalty barrels. He said:

The barrels come out of the ground and there's an allocation that for our royalty share and the taxable component is ... they all come out of the ground at the same time ... and I think it's fair to say that

that the more production you have the more royalty revenue you have.

REPRESENTATIVE PARISH asked whether there has been research to determine the amount of a subsidy that would be required to lead to an increase in production.

[7:19:49 PM](#)

CO-CHAIR TARR said according to DOR, the state has spent approximately \$6 billion on the tax credit program. She said "some people" have buyer's remorse about the tax credit program and referred to [House Bill 331, passed in the Thirtieth Alaska State Legislature], the governor's [tax credit] repayment program, which proposes a better rate for repayment if a company reinvests in Alaska. In further response to Representative Parish, she agreed it is unclear whether the tax credit program is responsible for projects; in fact, one of the provisions of Senate Bill 21 is the gross value reduction (GVR) on "new oil," and there was contention about whether GVR would apply to projects that were new oil or that were already planned. Further, House Bill 247 [passed in the Twenty-Ninth Alaska State Legislature] scaled back GVR by imposing a time limit. She acknowledged decisions are made without enough information.

CO-CHAIR JOSEPHSON observed the limitation on GVR oil was a reform of Senate Bill 21.

CO-TARR agreed and pointed out the tax credit program was repealed.

REPRESENTATIVE RAUSCHER gave several examples of infrastructure that is only necessary during the winter season in Alaska and that is provided by industry in an environmentally responsible way. He cautioned against comparing the cost of oil and gas extraction in Alaska to that of other states.

[7:25:56 PM](#)

CO-CHAIR TARR reminded the committee spending by industry falls into two categories of lease expenditures, operating expenses and capital expenses, thus some of the abovementioned infrastructure costs would be included in capital expenditure deductions. Also, because the winter season is shortening, costs will rise as projects dependent upon ice roads and ice platforms will be delayed. However, the state invested \$10 million into the Arctic Strategic Transportation and Resources

(ASTAR) project, Department of Transportation & Public Facilities, which seeks to develop a permanent road system; she suggested investing in infrastructure instead of tax credits is a better choice for the state.

REPRESENTATIVE RAUSCHER said:

I just wanted to say that is probably why we fall in where we do on this line [slide 7] of when you asked why our percentage is the way it is - because of the extra added cost.

CO-CHAIR TARR responded Alaska's [effective tax rate shown on slide 7] is due to the state's hard minimum tax of 4 percent. The chart [on slide 7] is not reflection of costs.

REPRESENTATIVE RAUSCHER said Alaska could not afford a tax rate equal to Wyoming's of 13.4 percent.

CO-CHAIR TARR recalled the original version of Senate Bill 21 provided for a 25 percent tax rate.

REPRESENTATIVE JOHNSON reviewed related topics from the previous year such as: discussions about production; there was to be no tax bill this session; there was increased production. In January 2018, production was slightly down again. She said a simple economic principle is that if a product is highly taxed, there is less production. She suggested the proposal is backwards, and to encourage production, the state should not increase taxes as production goes up at higher prices. Representative Johnson urged for more evaluation.

[7:30:13 PM](#)

REPRESENTATIVE TALERICO encouraged the committee to obtain a production cost [analysis] for the various jurisdictions [listed on slide 7]. He advised Alaska is in competition with the Permian Basin in Wyoming; although Wyoming's effective tax rate is 13.4 percent, the oil wells in the Permian Basin are within 70 miles of the refinery and the tankers, and Alaska's pipeline [to marine transportation] is 800 miles long, which would account for a difference in production cost. Representative Talerico questioned whether the committee has access to a good comparison [of production cost] that is sufficient to determine an effective tax rate. Further, he related Northrim Bank reported 2017 non-oil and gas construction spending in Alaska was about \$1.57 billion [document not provided]; however,

Representative Talerico said his constituents who work in the oil industry reported even in a very low year, compared to 2013 and 2014, [in 2017] the industry spent \$2.43 billion on oil and gas construction projects throughout the state. He cautioned an impact to [oil and gas industry spending] "goes well beyond the oil and gas industry." He restated the importance of gathering expense information and related his personal observations in Texas and Wyoming. Additional information important to the committee would be: spending by support services related directly and indirectly to the industry, competitors' construction spending, and industry reinvestment.

CO-CHAIR TARR said industry is not required to provide spending plans or privileged tax information that would provide the information needed to compile the [production cost] document requested. She directed attention to the PowerPoint presentation entitled, "Analysis of HB 288 Increase to Gross Minimum Tax . . .," dated 1/26/18 [previously provided in the committee packet at the meeting of 1/26/18]. Slide 9 was a revenue graph which illustrated minimum tax rates; slide 14 listed historical average tax rates; slide 18 indicated that the effect of HB 288 on the [breakeven price] of oil would be \$1.

[7:36:25 PM](#)

REPRESENTATIVE BIRCH remarked:

Earlier we had a presentation [document not provided] from an oil and gas consultant regarding . . . a comparison if you will, . . . It's basically how much the producers earn for \$60 barrel of oil. This was a basically by our legislative oil and gas consultant . . . presentation in January. The west Texas shows about a \$31 . . . producer earnings, it shows North Slope at \$12 and then new Alaska fields at [\$1.50]. And I think that, you know, I'd be interested in how the consultant . . . we're using, how they would assess this because this doesn't appear very attractive for inducing new investment in my view . . . and I'm concerned that if we start, you know, cranking up . . . there's not a lot of room in here for . . . . And I think even on the chart that you had there below \$60, under the prior tax regime . . . we would have received less than we're receiving today. . . . [This] represents the problem that we're up against here, is that we have to make sure that we're doing the very best we can to attract investment.

CO-CHAIR TARR stated information from DOR is that the production tax value (PTV) [projected at an oil price of \$60] would be \$23.35, and the tax would be [\$8.17], which is all the information that is available to the committee.

REPRESENTATIVE BIRCH said, "This is based on the, our legislative oil consultant and it's part of their oil and gas "102 presentation ...." [document not provided].

REPRESENTATIVE PARISH expressed skepticism about trusting the word of the oil and gas industry. He said industry representatives successfully protect the interests of their shareholders, and legislators must protect the interests of [Alaskans]. He expressed his interest in knowing the effect of Alaska's tax structure on industry's rate of investment and production, and noted the proportion of nonresidents working on the North Slope has never been higher. Representative Parish restated his interest in obtaining "good data" on long-term investment and productivity.

[7:41:07 PM](#)

CO-CHAIR TARR opined it is difficult to glean the causal data requested by Representative Parish because [oil] price has been a dominant influence on industry investment; she acknowledged oil and gas operations on the North Slope are expensive and more difficult; however, its existing infrastructure was "paid for many years ago." She observed DOR can provide a breakdown on tax credits invested in projects that have - and have not - led to new production, and extensively reviewed aspects of Alaska's tax structure that she characterized as "mistakes."

REPRESENTATIVE JOHNSON advised her constituents are greatly affected by the oil industry thus she could not separate the interests of the oil companies from that of the state; in fact, for both of those interests "it goes hand-in-hand." She supported the earlier request for a production forecast that reflects "different things" and inquired as to whether an oil and gas legislative consultant was available for testimony.

CO-CHAIR TARR said the Legislative Budget and Audit Committee (JBUD) consultants are not available to testify on this legislation; she related comments from an earlier private conversation and offered to request authorization from JBUD allowing the committee to ask questions of a legislative consultant.

[7:46:38 PM](#)

REPRESENTATIVE JOHNSON stressed there are many unanswered questions related to HB 288 and asked whether HB 288 was related to [the administration's proposal to reimburse tax credits].

CO-CHAIR TARR said HB 288 and [the administration's proposal] are two separate bills.

REPRESENTATIVE JOHNSON opined the bill needs additional work.

REPRESENTATIVE PARISH requested the committee execute an agreement on the goals of an oil tax structure that would then be submitted to a professional consultant with extensive experience in the oil and gas industry, who could develop the committee's goals into a long-standing tax structure.

CO-CHAIR TARR recalled a similar request in 2017 led to [provisions in House Bill 111 that passed in the House but were removed from the version passed by the Senate]. She said at that time recommendations by the consultant were: delink tax rates from oil prices; address the problems caused by where the per barrel credit applies; reduce the base rate of 35 percent; tax from PTV to retain a true net profits system; defer to industry in a low-price environment; obtain much more information to evaluate expenditures. Last year, one of the unmet goals for House Bill 111 was to establish a tax system that would be in place for five to ten years; however, due to the amount of time needed to facilitate an overhaul of the tax system, CS for HB 288 addresses only the minimum tax.

[7:51:12 PM](#)

The committee took a brief at-ease.

CO-CHAIR JOSEPHSON returned the gavel to Co-Chair Tarr.

[7:53:20 PM](#)

The committee took a brief at-ease.

There followed a short discussion on HB 315 and the committee returned to HB 288.

[7:53:33 PM](#)

CO-CHAIR TARR removed her objection to the motion to adopt the committee substitute for HB 288. Without further objection, Version D was adopted.

[HB 288 was held over.]

**HB 315-CONFIDENTIALITY OF ANIMAL & CROP RECORDS**

[7:53:48 PM](#)

CO-CHAIR TARR announced that the next order of business would be HOUSE BILL NO. 315, "An Act relating to the confidentiality of certain records on animals and crops; and providing for an effective date."

[7:53:58 PM](#)

CO-CHAIR TARR moved to adopt Amendment 1, labeled AM - 1, 2/14/18, which read [original punctuation provided]:

Page 2, line 7, following "law,":  
Insert "(1)"

Page 2, line 11, following "public":  
Insert ";

(2) the Department of Environmental Conservation shall, at the request of the Department of Natural Resources, disclose to the Department of Natural Resources records necessary to implement programs of the Department of Natural Resources designed to increase consumer awareness and consumption of Alaska agriculture products identified by the "Alaska Grown" trademark; the Department of Natural Resources shall maintain confidentiality of the records disclosed under this paragraph"

CO-CHAIR JOSEPHSON objected for discussion purposes.

[7:54:33 PM](#)

CHRISTINA CARPENTER, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), stated that Amendment 1, proposed at the request of the Department of Natural Resources (DNR), would allow DEC to share with DNR information from animal importation records held by the Office of the State Veterinarian, Division of Environmental Health,

DEC; said information would allow the Division of Agriculture, DNR, to verify the eligibility of Alaska meat producers who are participating in the Alaska Grown program [administered by the Division of Agriculture, DNR].

CO-CHAIR JOSEPHSON questioned whether the purpose of Amendment 1 would be to place this authority in the proper statute.

MS. CARPENTER said correct. Sharing the aforementioned information would allow DNR to verify when, or if, an animal was imported to confirm whether the animal or animals are eligible for the certification.

CO-CHAIR TARR related her understanding that imported animals have been sold as Alaska Grown, although they have not been living in the state for 51 percent of their lifetime; Amendment 1 would protect the brand.

[7:57:29 PM](#)

CO-CHAIR JOSEPHSON removed his objection to Amendment 1.

There followed a short discussion describing how Amendment 1 would be incorporated into the bill.

REPRESENTATIVE RAUSCHER asked whether there would be testimony from the Division of Agriculture, DNR, or Farm Bureau, Inc., regarding the amendment.

MS. CARPENTER restated the amendment was requested by DNR and is supported by DNR.

CO-CHAIR TARR clarified the Division of Agriculture is a division of DNR.

There being no further objection, Amendment 1 was adopted.

[7:59:44 PM](#)

CO-CHAIR TARR moved to adopt Amendment 2, labeled AM - 2 to HB 315, 2/23/2015, which read [original punctuation provided]:

Page 1, line 11, following "individual;":  
Insert "or"

Page 2, lines 5 - 6:  
Delete"; or

(3) are trade secrets or proprietary business or financial information"

Page 2, line 9:

Delete "any records that are"

Insert "information from a record"

Page 2, line 11, following "public":

Insert "and that disclosure of the information is necessary to address a threat to the health or safety of the animal, crop, or public"

CO-CHAIR JOSEPHSON objected for discussion purposes.

[8:00:08 PM](#)

MS. CARPENTER said Amendment 2 was requested by stakeholders who are concerned about DNR releasing proprietary business information or trade secrets; the amendment deletes language specific to releasing business information. Also, Amendment 2 expands proposed [subsection] (b) to clarify only information from records, and not actual records, may be disclosed in the event of a public health risk.

CO-CHAIR JOSEPHSON surmised in a public health event, [DNR and /or DEC] would paraphrase or summarize the needed information.

MS. CARPENTER said correct.

REPRESENTATIVE PARISH said lines 9 and 10 of Amendment 2 imply there would be a redaction of records and asked for an estimate of the staff hours needed to do so.

MS. CARPENTER said she was unsure; however, DEC is already in the practice of redacting and summarizing information for the U.S. Department of Agriculture and other entities thus no additional staff hours would be required.

REPRESENTATIVE PARISH directed attention to the bill on page 2, lines 7-11, which read:

(b) Notwithstanding (a) of this section or any other provision of law, the Department of Environmental Conservation and the Department of Natural Resources may disclose any records that are subject to this section if the Department of Environmental Conservation or the Department of Natural Resources

determines there is a threat to the health or safety of an animal, a crop, or the public.

REPRESENTATIVE PARISH directed attention to lines 13 and 14 of Amendment 2 and asked whether the amendment brings any change to the standard of proof by adding that the disclosure of the information is necessary to address the threat.

MS. CARPENTER said the department seeks to further limit the release of said disclosure to only "when necessary."

[8:05:23 PM](#)

REPRESENTATIVE PARISH asked whether changing the language of the bill on page 2, line 9, from "may" disclose to "shall" disclose would allow the department to "better exercise the discretion that already exists within this proposed legislation?"

MS. CARPENTER agreed. She said, "... it would further limit the information that we would have to disclose ... [and] it would raise the bar on what ... would be disclosed in the event of a public health threat."

REPRESENTATIVE PARISH questioned the purpose of Amendment 2 because the language in the bill is already permissive, rather than prescriptive.

CO-CHAIR TARR remarked:

As I understand it, is, what's being deleted, the "trade secrets or proprietary business or financial information," that's the part that stakeholders have concerns about, and this is an attempt to eliminate that concern, but also have the space to release the records.

MS. CARPENTER said correct.

REPRESENTATIVE TALERICO pointed out section 1 of HB 315 does not contain a reference to "the disclosure of necessary information" and opined the intent of the amendment was to do so.

REPRESENTATIVE PARISH asked, "Could the state be taken to court over the point of whether or not a piece of information was actually necessary?"

MS. CARPENTER deferred to the Department of Law (DOL).

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JENNIFER CURRIE, Senior Assistant Attorney General, Environmental Section, Civil Division (Anchorage), DOL, restated Representative Parish's question.

REPRESENTATIVE PARISH clarification his question.

MS. CURRIE opined any statute is subject to interpretation and thus the state could be subject to a lawsuit; however, in this regard, because the statute is centered on the discretion of the Office of the State Veterinarian, the necessity of the disclosure would be given discretion.

CO-CHAIR JOSEPHSON surmised in a lawsuit that alleges a breach in the release of information, the plaintiff would have to show damages, which would be difficult.

MS. CURRIE said correct and added that damages would need to be enough to support a lawsuit.

CO-CHAIR JOSEPHSON directed attention to the bill on page 2, line 11, [text previously provided] and questioned whether the language "an animal" could mean any animal.

MS. CURRIE answered yes.

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CO-CHAIR JOSEPHSON withdrew his objection to Amendment 2.

REPRESENTATIVE PARISH objected to Amendment 2. He opined the amendment would leave the state exposed to additional liability. Representative Parish removed his objection. There being no further objection, Amendment 2 was adopted.

CO-CHAIR TARR asked for discussion on HB 315, as amended.

REPRESENTATIVE JOHNSON asked Dr. Gerlach if there were any problems in terms of business or trade secrets for farmers importing farm animals, or with the information that the Office of the State Veterinarian would have to disclose.

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ROBERT GERLACH, VMD, State Veterinarian, Office of the State Veterinarian, Division of Environmental Health, DEC, answered he did not believe the amendments would affect the business of livestock producers who import animals into the state.

REPRESENTATIVE TALERICO asked for clarification on how an animal gets approved to be imported into the state, and whether importation is approved solely by DEC or also by the U.S. Department of Agriculture (USDA).

DR. GERLACH explained an animal traveling on land would need to meet the Canadian requirements necessary to enter Canada, and meet USDA requirements to leave the U.S., enter another country and then reenter the U.S., in addition to Alaska's requirements. If an animal is flown in, or travels to Alaska via the Alaska Marine Highway System, the animal would need to meet state and port regulations.

REPRESENTATIVE TALERICO surmised a multitude of regulations must be met for an animal transported via land-based transportation.

DR. GERLACH answered yes.

CO-CHAIR JOSEPHSON asked whether it is legal to import domestic animals that may have a disease.

DR. GERLACH answered no. The state relies on the veterinarian at the source of origin to assess an animal; he acknowledged the possibility an animal might not have symptoms of an illness but is harboring a pathogen. If there is a concern, the state relies on diagnostic testing. He reiterated all animals can harbor certain pathogens and could transport them; it is not possible to test for every known pathogen, so the state uses testing regulations to address those of primary concern which would pose a threat to the health and welfare of domestic animals or wildlife in Alaska.

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REPRESENTATIVE PARISH asked whether the actions of DEC, DNR, or the public would be restricted in the presence of an infectious disease.

DR. GERLACH advised if animals came into the state and were discovered to have a disease acquired during transport, or exhibited symptoms when they arrived, there would be no restriction on the state's ability to respond in order to

prevent the threat of that disease to domestic stock or wildlife, or to public health.

REPRESENTATIVE PARISH further inquired as to whether the ability of a member of the general public to inform themselves about potential disease outbreaks would be constrained by this bill.

DR. GERLACH assured the committee there is no restriction upon members of the general public; in fact, his office regularly responds to concerns and provides information in this regard.

REPRESENTATIVE RAUSCHER asked for clarification on the state's response to a group of animals exhibiting symptoms of disease.

DR. GERLACH stated the state's response depends upon the pathogen, its mechanism of transmission, and its threat to domestic stock, wildlife, or public health; for example, an animal exposed to tuberculosis would be quarantined and tested. If there were a high degree of concern, the animal would be returned to its source of origin or euthanized.

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CO-CHAIR JOSEPHSON moved to report HB 315, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 315(RES) was reported out of the House Resources Standing Committee.

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#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 8:23 p.m.