

ALASKA STATE LEGISLATURE

JHB111

Anchorage, Alaska

July 12, 2017

3:08 p.m.

MEMBERS PRESENT

Representative Geran Tarr, Chair

Representative Andy Josephson

Representative David Talerico (via teleconference)

Senator Cathy Giessel, Chair (via teleconference)

Senator Bert Stedman (via teleconference)

Senator Donald Olson

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Bryce Edgmon

Representative George Rauscher

Representative Chris Birch

Representative Cathy Tilton

Representative DeLena Johnson

Representative Gabrielle LeDoux

Representative Matt Claman

Representative Justin Parish (via teleconference)

Senator Peter Micciche (via teleconference)

Senator Mia Costello (via teleconference)

Senator Dennis Egan (via teleconference)

Senator Kevin Meyer (via teleconference)

Senator Anna MacKinnon (via teleconference)

Senator John Coghill (via teleconference)

Senator Click Bishop (via teleconference)

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 111(FIN)(efd fld)

"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; relating to carried-forward lease expenditures based on losses and limiting those lease expenditures to an amount equal to the gross value at the

point of production of oil and gas produced from the lease or property where the lease expenditure was incurred; relating to information concerning tax credits, lease expenditures, and oil and gas taxes; relating to the disclosure of that information to the public; relating to an adjustment in the gross value at the point of production; and relating to a legislative working group."

- HEARD & HELD

SENATE CS FOR CS FOR HOUSE BILL NO. 111(FIN)

"An Act relating to credits against the oil and gas production tax; relating to the applicability of certain credits earned under the oil and gas production tax to the tax on corporations; relating to tax credit certificates against the oil and gas production tax and the issuance and assignment of those certificates; relating to interest applicable to delinquent taxes; relating to lease expenditures; relating to the oil and gas tax credit fund; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 111

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

SPONSOR(S): RESOURCES

02/08/17	(H)	READ THE FIRST TIME - REFERRALS
02/08/17	(H)	RES, FIN
02/08/17	(H)	TALERICO OBJECTED TO INTRODUCTION
02/08/17	(H)	INTRODUCTION RULED IN ORDER
02/08/17	(H)	SUSTAINED RULING OF CHAIR Y23 N15 E2
02/08/17	(H)	RES AT 1:00 PM BARNES 124
02/08/17	(H)	Heard & Held
02/08/17	(H)	MINUTE(RES)
02/13/17	(H)	RES AT 1:00 PM BARNES 124
02/13/17	(H)	Heard & Held
02/13/17	(H)	MINUTE(RES)
02/17/17	(H)	RES AT 1:00 PM BARNES 124
02/17/17	(H)	Heard & Held
02/17/17	(H)	MINUTE(RES)
02/20/17	(H)	RES AT 1:00 PM BARNES 124
02/20/17	(H)	Heard & Held
02/20/17	(H)	MINUTE(RES)
02/22/17	(H)	RES AT 1:00 PM BARNES 124
02/22/17	(H)	Heard & Held

02/22/17 (H) MINUTE(RES)
02/22/17 (H) RES AT 6:30 PM BARNES 124
02/22/17 (H) Heard & Held
02/22/17 (H) MINUTE(RES)
02/24/17 (H) RES AT 1:00 PM BARNES 124
02/24/17 (H) Heard & Held
02/24/17 (H) MINUTE(RES)
02/27/17 (H) RES AT 1:00 PM BARNES 124
02/27/17 (H) Heard & Held
02/27/17 (H) MINUTE(RES)
02/27/17 (H) RES AT 7:00 PM CAPITOL 106
02/27/17 (H) Heard & Held
02/27/17 (H) MINUTE(RES)
03/01/17 (H) RES AT 1:00 PM BARNES 124
03/01/17 (H) Heard & Held
03/01/17 (H) MINUTE(RES)
03/01/17 (H) RES AT 6:00 PM BARNES 124
03/01/17 (H) Heard & Held
03/01/17 (H) MINUTE(RES)
03/06/17 (H) RES AT 1:00 PM BARNES 124
03/06/17 (H) Scheduled but Not Heard
03/06/17 (H) RES AT 6:30 PM BARNES 124
03/06/17 (H) Heard & Held
03/06/17 (H) MINUTE(RES)
03/08/17 (H) RES AT 1:00 PM BARNES 124
03/08/17 (H) Heard & Held
03/08/17 (H) MINUTE(RES)
03/08/17 (H) RES AT 6:00 PM BARNES 124
03/08/17 (H) Heard & Held
03/08/17 (H) MINUTE(RES)
03/09/17 (H) RES AT 5:00 PM BARNES 124
03/09/17 (H) -- MEETING CANCELED --
03/10/17 (H) RES AT 1:00 PM BARNES 124
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
03/14/17 (H) -- Continued from 3/13/17 Meeting at
1:00 PM --
03/15/17 (H) RES RPT CS(RES) NT 4DP 4DNP 1AM
03/15/17 (H) DP: PARISH, DRUMMOND, JOSEPHSON, TARR
03/15/17 (H) DNP: TALERICO, BIRCH, RAUSCHER, JOHNSON
03/15/17 (H) AM: WESTLAKE
03/20/17 (H) FIN AT 1:30 PM HOUSE FINANCE 519

03/20/17 (H) Heard & Held
 03/20/17 (H) MINUTE(FIN)
 03/21/17 (H) FIN AT 9:00 AM HOUSE FINANCE 519
 03/21/17 (H) Heard & Held
 03/21/17 (H) MINUTE(FIN)
 03/21/17 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/21/17 (H) Heard & Held
 03/21/17 (H) MINUTE(FIN)
 03/22/17 (H) FIN AT 9:00 AM HOUSE FINANCE 519
 03/22/17 (H) -- Continued from 3/21/17 at 1:30 PM --
 03/22/17 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/22/17 (H) Heard & Held
 03/22/17 (H) MINUTE(FIN)
 03/23/17 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/23/17 (H) Heard & Held
 03/23/17 (H) MINUTE(FIN)
 03/24/17 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/24/17 (H) Heard & Held
 03/24/17 (H) MINUTE(FIN)
 03/25/17 (H) FIN AT 10:00 AM HOUSE FINANCE 519
 03/25/17 (H) Heard & Held
 03/25/17 (H) MINUTE(FIN)
 03/27/17 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/27/17 (H) Heard & Held
 03/27/17 (H) MINUTE(FIN)
 04/07/17 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/07/17 (H) Heard & Held
 04/07/17 (H) MINUTE(FIN)
 04/08/17 (H) FIN AT 1:00 PM HOUSE FINANCE 519
 04/08/17 (H) Moved CSHB 111(FIN) Out of Committee
 04/08/17 (H) MINUTE(FIN)
 04/09/17 (H) FIN RPT CS(FIN) NT 4DP 4DNP 2NR 1AM
 04/09/17 (H) DP: GARA, GUTTENBERG, SEATON, FOSTER
 04/09/17 (H) DNP: WILSON, THOMPSON, PRUITT, TILTON
 04/09/17 (H) NR: ORTIZ, GRENN
 04/09/17 (H) AM: KAWASAKI
 04/10/17 (H) MOVED TO BOTTOM OF CALENDAR
 04/11/17 (H) TRANSMITTED TO (S)
 04/11/17 (H) VERSION: CSHB 111(FIN)(EFD FLD)
 04/12/17 (S) READ THE FIRST TIME - REFERRALS
 04/12/17 (S) RES, FIN
 04/13/17 (S) RES WAIVED PUBLIC HEARING NOTICE, RULE
 23
 04/13/17 (S) FIN WAIVED PUBLIC HEARING NOTICE, RULE
 23
 04/14/17 (S) RES AT 3:00 PM BUTROVICH 205
 04/14/17 (S) Heard & Held

04/14/17 (S) MINUTE(RES)
 04/15/17 (S) RES AT 9:00 AM SENATE FINANCE 532
 04/15/17 (S) Heard & Held
 04/15/17 (S) MINUTE(RES)
 04/15/17 (S) FIN AT 9:01 AM SENATE FINANCE 532
 04/15/17 (S) <Pending Referral> Uniform Rule 23
 Waived
 04/15/17 (S) FIN AT 2:00 PM SENATE FINANCE 532
 04/15/17 (S) <Pending Referral> Uniform Rule 23
 Waived
 04/15/17 (S) RES AT 2:00 PM SENATE FINANCE 532
 04/15/17 (S) Heard & Held
 04/15/17 (S) MINUTE(RES)
 04/17/17 (S) RES AT 1:00 PM BUTROVICH 205
 04/17/17 (S) Heard & Held
 04/17/17 (S) MINUTE(RES)
 04/17/17 (S) RES AT 5:00 PM BUTROVICH 205
 04/17/17 (S) Heard & Held
 04/17/17 (S) MINUTE(RES)
 04/18/17 (S) RES AT 2:00 PM BUTROVICH 205
 04/18/17 (S) Heard & Held
 04/18/17 (S) MINUTE(RES)
 04/19/17 (S) RES AT 2:00 PM BUTROVICH 205
 04/19/17 (S) Heard & Held
 04/19/17 (S) MINUTE(RES)
 04/20/17 (S) RES AT 2:00 PM BUTROVICH 205
 04/20/17 (S) -- MEETING CANCELED --
 04/21/17 (S) RES AT 2:00 PM BUTROVICH 205
 04/21/17 (S) -- MEETING CANCELED --
 04/24/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/24/17 (S) -- MEETING CANCELED --
 04/24/17 (S) RES AT 2:00 PM BUTROVICH 205
 04/24/17 (S) Moved SCS CSHB 111(RES) Out of
 Committee
 04/24/17 (S) MINUTE(RES)
 04/25/17 (S) RES RPT SCS 4DP 2NR NEW TITLE
 04/25/17 (S) DP: GIESSEL, COGHILL, VON IMHOF, MEYER
 04/25/17 (S) NR: HUGHES, STEDMAN
 04/25/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/25/17 (S) <Bill Hearing Canceled>
 04/25/17 (S) RES AT 3:30 PM BUTROVICH 205
 04/25/17 (S) -- MEETING CANCELED --
 04/26/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/26/17 (S) Heard & Held
 04/26/17 (S) MINUTE(FIN)
 04/26/17 (S) RES AT 2:00 PM BUTROVICH 205
 04/26/17 (S) -- MEETING CANCELED --

04/27/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/27/17 (S) Heard & Held
 04/27/17 (S) MINUTE(FIN)
 04/27/17 (S) RES AT 3:30 PM BUTROVICH 205
 04/27/17 (S) -- MEETING CANCELED --
 04/28/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/28/17 (S) Heard & Held
 04/28/17 (S) MINUTE(FIN)
 04/28/17 (S) RES AT 2:00 PM BUTROVICH 205
 04/28/17 (S) -- MEETING CANCELED --
 04/29/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/29/17 (S) Heard & Held
 04/29/17 (S) MINUTE(FIN)
 05/01/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/01/17 (S) -- MEETING CANCELED --
 05/02/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/02/17 (S) -- MEETING CANCELED --
 05/03/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/03/17 (S) -- MEETING CANCELED --
 05/04/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/04/17 (S) Heard & Held
 05/04/17 (S) MINUTE(FIN)
 05/05/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/05/17 (S) Heard & Held
 05/05/17 (S) MINUTE(FIN)
 05/06/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/06/17 (S) -- MEETING CANCELED --
 05/09/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/09/17 (S) <Bill Hearing Canceled>
 05/10/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/10/17 (S) <Bill Hearing Canceled>
 05/11/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/11/17 (S) Heard & Held
 05/11/17 (S) MINUTE(FIN)
 05/12/17 (S) FIN RPT SCS 4DP 2NR 1AM NEW TITLE
 05/12/17 (S) DP: MACKINNON, BISHOP, VON IMHOF,
 HUGHES
 05/12/17 (S) NR: HOFFMAN, MICCICHE
 05/12/17 (S) AM: OLSON
 05/12/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/12/17 (S) Moved SCS CSHB 111(FIN) Out of
 Committee
 05/12/17 (S) MINUTE(FIN)
 05/13/17 (S) FIN SCS ADOPTED Y15 N3 E2
 05/13/17 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/13/17 (S) -- MEETING CANCELED --
 05/15/17 (S) VERSION: SCS CSHB 111(FIN)

05/18/17	(S)	FIRST SPECIAL SESSION BILL
05/18/17	(H)	FIRST SPECIAL SESSION BILL
05/22/17	(H)	CONFERENCE COMMITTEE APPOINTED
05/22/17	(H)	TARR (CHAIR), JOSEPHSON, TALERICO
06/01/17	(S)	CONFERENCE COMMITTEE APPOINTED
06/01/17	(S)	GIESSEL (CHAIR), STEDMAN, OLSON
06/09/17	(H)	HB 111 AT 9:00 AM BARNES 124
06/09/17	(H)	Heard & Held
06/09/17	(H)	MINUTE (HB 111)
06/23/17	(S)	SECOND SPECIAL SESSION BILL
06/23/17	(H)	SECOND SPECIAL SESSION BILL
07/12/17	(H)	HB 111 AT 3:00 PM Anch LIO Conf Rm

WITNESS REGISTER

KEN ALPER, Director
Tax Division
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Answered questions and provided information during the Conference Committee on HB 111 meeting.

ACTION NARRATIVE

[3:08:13 PM](#)

CHAIR GERAN TARR called the Conference Committee on HB 111 to order at 3:08 p.m. Representatives Talerico (via teleconference), Josephson, and Tarr and Senators Olson, Stedman (via teleconference), and Giessel (via teleconference) were present at the call to order.

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

[3:08:35 PM](#)

CHAIR TARR announced that the only order of business would be CS FOR HOUSE BILL NO. 111(FIN)(efd fld), "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; relating to carried-forward lease expenditures based on losses and limiting those lease expenditures to an amount equal to the gross value at the point of production of oil and gas produced from the lease or property where the lease expenditure was incurred; relating to information concerning tax credits, lease expenditures, and oil and gas taxes; relating to the disclosure of that information to the public; relating to an adjustment in

the gross value at the point of production; and relating to a legislative working group." and SENATE CS FOR CS FOR HOUSE BILL NO. 111(FIN), "An Act relating to credits against the oil and gas production tax; relating to the applicability of certain credits earned under the oil and gas production tax to the tax on corporations; relating to tax credit certificates against the oil and gas production tax and the issuance and assignment of those certificates; relating to interest applicable to delinquent taxes; relating to lease expenditures; relating to the oil and gas tax credit fund; and providing for an effective date."

CHAIR TARR stated that the conference committee operates under Uniform Rule 42. She explained that the Conference Committee on HB 111 was meeting in two locations (in Anchorage, Alaska, and via teleconference in Juneau); therefore, she would lead the discussion pertaining to CS FOR HOUSE BILL NO. 111(FIN)(efd fld), while Chair Giessel would lead the discussion pertaining to SENATE CS FOR CS FOR HOUSE BILL NO. 111(FIN).

[3:09:47 PM](#)

SENATOR STEDMAN expressed concern about procedure. He said it is standard to address a bill that was in existence in the previous session or special session. He relayed that today the Senate had convened and passed a resolution by two-thirds vote to take up HB 111. He offered his understanding that the House would have to convene and decide by a two-thirds vote to bring its version before the Conference Committee on HB 111.

[3:10:52 PM](#)

CHAIR TARR responded that she and Chair Giessel had addressed the issue through conversation, and she offered her understanding that Chair Giessel had not indicated any hesitation in moving forward with a plan to discuss two versions today: Version F and Version X. She indicated she had not since been made aware by Chair Giessel of the desire to follow any other procedure. Furthermore, Chair Tarr stated that she possessed a legal memorandum ("memo") from Doug Gardner, the director of Legal Services, which indicates that "all of the actions that we're taking today are acceptable."

SENATOR STEDMAN opined that elected officials have the responsibility to explain to the public what they are doing and why, which includes explaining the reason for deviating from the rules. That transparency promotes public support in a process

that can be followed and understood. In response to an offer from Chair Tarr to take an at-ease, he stated that he would like an explanation of the process she intends to follow. He said the Uniform Rules set out the process by which conference committees operate, and any deviation from that is fine, but should be explained. He said he is aware of the conversations that the two chairs have had, but he reiterated that the public deserves to be given an explanation of the process and any deviation from it.

CHAIR TARR responded that the Conference Committee on HB 111 is operating as other conference committees do. At this point it does not have "powers beyond the powers of a regular conference committee," which means that its consideration of HB 111 is limited to language currently in the latest House and Senate versions of the bill. She offered her understanding that Senator Stedman, having been involved in the meetings of the last few weeks, would be aware of the extensive conversations that had taken place to determine "points of agreement." She said Chair Giessel had requested Version F, while she had requested Version X, and she indicated that both versions include points upon which both bodies have agreed or "think there might be agreement," as well as "the five sections that remain for discussion." She stated that she is prepared to move on with the plan, which she discussed with Chair Giessel this morning; however, if that is not what all members wish to do, she would consider adjourning the meeting.

[3:14:07 PM](#)

REPRESENTATIVE JOSEPHSON read a sentence from the aforementioned memo from Doug Gardener, dated July 11, 2017, as follows:

There is no legal impediment to the conference committees meeting and the houses ultimately convening on the floor to consider adopting the conference committee substitute, passing a concurrent resolution, prior to voting on adoption of the conference committee report.

REPRESENTATIVE JOSEPHSON said he thinks it is clear that "no one's talking about advancing a bill today." He characterized the current conference committee meeting as "a sort of preliminary meeting to go over the versions of the bill." Further, he offered his understanding that "the top mind in our legal department says it's entirely appropriate for us to do this" and, he added, "that's what we're doing."

3:15:05 PM

CHAIR GIESSEL explained the procedure outlined in the Uniform Rules wherein a concurrent resolution is passed by each body to bring alive a bill that died in a previous session and legitimizes the conference committees that were appointed during a previous session. She opined that Senator Stedman's request for an explanation was straight forward. She offered her understanding that in his legal memorandum, Mr. Gardner had opined that the legislature can waive its own rules; therefore, it is okay for the current Conference Committee on HB 111 to proceed in bringing forward a bill that died in a previous session. She reviewed that today the Senate had passed the concurrent resolution to bring the bill back to life and legitimized the appointees to the Conference Committee on HB 111.

3:17:15 PM

CHAIR TARR asked Senator Stedman if he wanted the Conference Committee on HB 111 meeting to proceed or [adjourn].

SENATOR STEDMAN reiterated his point that the Senate had passed the resolution, but the House had not done so; therefore, a discussion can take place today, but no action can be taken. He expressed doubt that the House would have the necessary two-thirds vote that would be required to bring forward the proposal that is in front of the committee. He reiterated the need to share with the public the reason for any deviation from the rules.

CHAIR TARR explained the House does not want to spend public dollars to send its legislators [back] to Juneau until an agreement has been reached. She mentioned that a news station has been keeping a tally of the cost of the ongoing special session. She noted that the Senate had gone to Juneau and conducted a floor session to pass the aforementioned concurrent resolution. She said the House decided, based on the consultation with its lawyers, that the action to move forward today is an appropriate one, and it is not going to send its members to Juneau "until such time as it's necessary."

3:19:59 PM

CHAIR GIESSEL introduced the offering of the Senate: Conference Committee Substitute (CCS) for HB 111, Version 30-LS0450\F,

Nauman, 7/7/17 ("Version F"). She explained the proposed changes outlined in the Sectional Analysis [included in the committee packet]. She highlighted Sections 1 and 2, of the Sectional Analysis, which read as follows [original punctuation provided, with some formatting changes]:

Section 1 Amends AS 31.05.030(n), *Alaska Oil and Gas Conservation Act, Powers and duties of commission*.
Conforming to the Sec. 27 requirement that the Alaska Oil and Gas Conservation Commission determine the start of regular production for purposes of applying a carry-forward annual loss. Effective Jan. 1, 2018.

Section 2 Amends AS 43.05.225, *Administration of Revenue Laws, Interest*.
For all delinquent taxes under the Department of Revenue, interest is 5.25 points above the annual rate set by the 12th Federal Reserve District, compounded quarterly, and is applied the entire time a tax is delinquent. Effective Jan. 1, 2018.

CHAIR GIESSEL noted that the current federal reserve interest rate is 1.75 percent, and the Senate had offered 3 percentage points above the federal rate, while the House had requested 7 percent above the federal rate. She explained that the interest rate is for all delinquent taxes in the state, not just those from oil and gas. The House members of the Conference Committee on HB 111 asked for the 5.25 interest rate shown in Section 1, which the Senate agreed to. She said that with the 1.75 federal reserve rate, the amount would equal 7 percent.

CHAIR GIESSEL continued to Sections 3-4 of the Sectional Analysis, which read as follows [original punctuation provided, with some formatting changes]:

Section 3 Amends AS 43.20.044(a), *Alaska Net Income Tax Act, Exploration incentive credit*.
A taxpayer that earns an exploration credit under AS 43.55.025 for work done after July 1, 2016, may apply the credit against the taxpayer's own corporate income tax. Effective immediately.

Section 4 Amends AS 43.20.047(h), *Alaska Net Income Tax Act, Liquefied natural gas storage facility tax credit*.
Conforming to the future repeal of the Oil and Gas Tax Credit Fund and conforming repeals. Effective the

later of Jan. 1, 2022, or when there are no outstanding applications for credit refunds.

Section 5 Amends AS 43.55.023(c), *Oil and Gas Production Tax, Tax credits for certain losses and expenditures.*

Credits earned under this section may be applied against prior-year taxes, interest, penalties or fees related to the oil and gas production tax, providing those liabilities have not been subject to an administrative proceeding or litigation. Credits may not be used against conservation surcharges or the private royalty tax. Effective immediately.

CHAIR GIESSEL stated that the Senate's intent was to provide an opportunity for companies that have earned cash credits over the years to begin to benefit from them. She explained that there has been a reduction in the amount of credits that are available.

[3:23:51 PM](#)

CHAIR GIESSEL directed attention to Sections 6-8, which read as follows [original punctuation provided, with some formatting changes]:

Section 6 Amends AS 43.55.023(d), *Oil and Gas Production Tax, Tax credits for certain losses and expenditures.*

Cash payments for credits under this section are available only for lease expenditures incurred before July 1, 2017. Effective immediately retroactive to July 1, 2017.

Section 7 Amends AS 43.55.023(d), *Oil and Gas Production Tax, Tax credits for certain losses and expenditures*, as amended by Sec. 6.

Conforming to the future repeal in Sec. 30 of the Oil and Gas Tax Credit Fund. Effective the later of Jan. 1, 2022, or when there are no outstanding applications for credit refunds.

Section 8 Amends AS 43.55.023(e), *Oil and Gas Production Tax, Tax credits for certain losses and expenditures.*

Transferrable tax credit certificates issued under this section may be applied against prior-year taxes,

interest, penalties or fees related to the oil and gas production tax, providing those liabilities have not been subject to an administrative proceeding or litigation. Credits may not be used against conservation surcharges or the private royalty tax. Effective immediately.

CHAIR GIESSEL noted Section 6 is an amendment being offered by the Senate, with the understanding that the credits being earned right now equate to about \$1 million a day and suspending these credits needs to happen immediately. Over the next year, that would equate to approximately \$200 million, which would be a significant help to Alaska's budget. She explained the reason for the timing proposed in Section 7 is to ensure enough time to pay out promised credits before repealing the fund from which the payments come. Regarding Section 8, she said the credits may not be used against liability for royalty, spill response, or money that would go into the constitutional budget reserve.

Section 9 Amends AS 43.55.023(g), *Oil and Gas Production Tax, Tax credits for certain losses and expenditures.*

Conforming to the future repeal in Sec. 30 of the Oil and Gas Tax Credit Fund. Effective the later of Jan. 1, 2022, or when there are no outstanding applications for credit refunds.

Section 10 Amends AS 43.55.025(a), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.*

Credits under this section for work done on or after July 1, 2016, may be applied against corporate income taxes. Effective immediately.

CHAIR GIESSEL noted that Section 10 applies to Middle Earth, which pertains to areas in the Interior and the Western Coast where there are opportunities for exploration and development. She said applying the credits to corporate income tax would allow companies involved in exploration to reap some benefit. She said it involves a small amount of money.

[3:27:28 PM](#)

CHAIR GIESSEL addressed Sections 11 and 12, which read as follows [original punctuation provided, with some formatting changes]:

Section 11 Amends AS 43.55.025(a), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration*, as amended by Sec. 10.

Conforming to the sunset of the AS 43.55.025(a)(4) credit after Jan. 1, 2018, in Sec. 10. Effective Jan. 1, 2018.

Section 12 Amends AS 43.55.025(b), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration*.

The 40% credit for seismic work under AS 43.55.025(a)(4) will not be available for work done after Jan. 1, 2018. Effective Jan. 1, 2018.

CHAIR GIESSEL, regarding Section 12, compared seismic work to ultrasounds. She related that the Senate Finance Committee learned that the state is receiving massive volumes of data, related to seismic activity, which may or may not be useful to the state; therefore, the credit needs to be repealed.

CHAIR GIESSEL moved on to Sections 13 through 18, which read as follows [original punctuation provided, with some formatting changes]:

Section 13 Amends AS 43.55.025(f), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration*.

Exploration credits under AS 43.55.025 for work done after July 1, 2016, against corporate income taxes. Effective immediately.

Section 14 Amends AS 43.55.025(g), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration*.

Exploration tax credits under this section that are transferred to another taxpayer may not be applied against the purchaser's corporate income taxes. Effective immediately.

Section 15 Amends AS 43.55.025(h), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration*.

Tax credit certificates and tax credits under this section may be applied against prior-year taxes, interest, penalties or fees related to the oil and gas production tax, providing those liabilities have not been subject to an administrative proceeding or

litigation. Credits may not be used against conservation surcharges or the private royalty tax. Effective immediately.

Section 16 Amends AS 43.55.025(i), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.*

Exploration credits issued under this section for work done after July 1, 2016, may be used against corporate income tax, but may not be used to reduce corporate income taxes below zero. Effective immediately.

Section 17 Amends AS 43.55.025(k), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.*

Conforming to the sunset of the seismic credit in Sec. 12. Effective Jan. 1, 2018.

Section 18 Adds a new subsection to AS 43.55.025, *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.*

Creates a conditional tax credit certificate that the Department of Revenue must issue to explorers. The conditional certificate enables the holder to submit an application for a refund while waiting for the state to issue a transferrable certificate, but the conditional certificates may not be purchased by the state. Effective immediately retroactive to July 1, 2017.

CHAIR GIESSEL, regarding Section 18, explained that there are companies in line waiting for credit, and the State of Alaska has been reducing the amount of money available for payment; therefore, "as they wait, they fall further and further back in line."

[3:31:43 PM](#)

CHAIR GIESSEL moved on to Sections 19 through 26, which read as follows [original punctuation provided, with some formatting changes]:

Section 19 Amends AS 43.55.028(a), *Oil and Gas Production Tax, Oil and gas tax credit fund established; cash purchase of tax credit certificates.*

The tax credit fund is only able to purchase oil and gas tax credits issued for work done before July 1,

2017, and to purchase instate refinery and LNG storage facility income tax credits. Effective immediately retroactive to July 1, 2017.

Section 20 Amends AS 43.55.028(e), *Oil and Gas Production Tax, Oil and gas tax credit fund established; cash purchase of tax credit certificates*. Allows the Department of Revenue to accept, but not purchase, a conditional certificate from an explorer. Effective immediately retroactive to July 1, 2017.

Section 21 Amends AS 43.55.029(a), *Oil and Gas Production Tax, Assignment of tax credit certificate*. Conforming to the Sec. 29 repeal of the net operating loss credit. Effective Jan. 1, 2018.

Section 22 Amends AS 43.55.160(d), *Oil and Gas Production Tax, Determination of production tax value of oil and gas*. Conforming to the Sec. 29 repeal of the net operating loss credit. Effective Jan. 1 2018.

Section 23 Amends AS 43.55.160(e), *Oil and Gas Production Tax, Determination of production tax value of oil and gas*. North Slope and Middle Earth lease expenditures may be used to establish a carried-forward annual loss. Gross value reductions for new oil cannot make a loss larger than it would otherwise be. Also, makes conforming changes to the Sec. 29 repeal of the net operating loss credit and the Sec. 24 terms for lease expenditures. Effective Jan. 1, 2018.

Section 24 Amends AS 43.55.165(a), *Oil and Gas Production Tax, Lease expenditures*. Lease expenditures include those, for the North Slope and Middle Earth, that were unable to be deducted in the previous year. Effective Jan. 1, 2018.

Section 25 Amends AS 43.55.165(f), *Oil and Gas Production Tax, Lease expenditures*. Conforming to the Sec. 29 repeal of the net operating loss credit. Effective Jan. 1, 2018.

Section 26 Adds a new paragraph to AS 43.55.165(l), *Oil and Gas Production Tax, Lease expenditures*.

Defines "carried-forward annual loss" as a loss established per Sec. 23. Effective Jan. 1, 2018.

[3:34:37 PM](#)

Section 27 Adds new subsections to AS 43.55.165, *Oil and Gas Production Tax, Lease expenditures*.

Implements new terms for how a carried-forward annual loss is applied. A taxpayer may choose to apply all or some of its loss, or to carry it forward. In applying carry-forward annual losses, a producer subject to the minimum tax may apply the amount that would reduce taxes to the equal amount under the minimum tax (before the application of any other credits), and not to zero. Carry-forward annual losses in excess of the amount applied to reduce taxes to the equal of the minimum tax are carried forward. Carry-forward annual losses may be applied only once production starts from the property on which they were incurred; at that time, the losses may be applied against a taxpayer's entire segment (ie, North Slope or Middle Earth). Effective Jan. 1, 2018.

Section 28 Amends AS 43.55.170(c), *Oil and Gas Production Tax, Adjustments to lease expenditures*.

Conforming to the Sec. 29 repeal of the net operating loss credit. Effective Jan. 1, 2018.

Section 29 Repealer

Repeals the net operating loss credit, AS 43.55.023(b), on Jan. 1, 2018.

Section 30 Repealer

At the later of Jan. 1, 2022, or when all outstanding applications for credit refunds have been paid, repeals the Oil and Gas Tax Credit Fund and AS 43.55.028; assignability of credits to third parties, AS 43.55.029; and makes conforming repeals in sections of statute referencing the fund: AS 43.05.230(l), *Administration of Revenue Laws, Disclosure of tax returns and reports*, annual disclosure of disbursements from the fund; AS 43.20.046(e), *Alaska Net Income Tax Act, Gas storage facility tax credit*, use of fund to pay the credit; AS 43.20.047(e), *Alaska Net Income Tax Act, Liquefied natural gas storage facility tax credit*, use of fund to pay the credit; and AS 43.20.053(e), *Alaska Net Income Tax Act*,

Qualified in-state oil refinery infrastructure expenditures tax credit, use of fund to pay the credit.

[3:37:57 PM](#)

CHAIR GIESSEL directed attention to Section 31 of the Sectional Analysis, which read as follows [original punctuation provided, with some formatting changes]:

Section 31 Legislative Working Group
Adds a new section to uncodified law establishing a Legislative Working Group to analyze the state's oil and gas fiscal regime and recommend changes to the Second Session of the 30th Alaska State Legislature. Articulates specific points for the working group to analyze, specifies membership, and provides support by the legislature's consultants now under contract. Effective immediately.

CHAIR GIESSEL said Section 31 reflects a concession made by the Senate to a request made by the House.

CHAIR GIESSEL brought attention to the issue of applicability, found in Sections 32 through 34 of the Sectional Analysis, which read as follows [original punctuation provided, with some formatting changes]:

Section 32 Applicability
Credits under AS 43.55.025 may be applied against corporate income taxes by the company that incurred the credits, regardless of when the credits were earned. Effective immediately.

Section 33 Applicability
Credits may be applied against prior year oil and gas tax liabilities, regardless of when the credits were earned. Effective immediately.

Section 34 Applicability
The new provisions related to lease expenditures apply to lease expenditures incurred on or after Jan. 1, 2018. Effective Jan. 1, 2018.

CHAIR GIESSEL moved on to the issues of transition language, retroactivity, and conditional affect, addressed in Sections 35

through 41 of the Sectional Analysis, which read as follows [original punctuation provided, with some formatting changes]:

Section 35 Transition language

Interest rates charged on delinquent taxes for calendar year 2017 are the rates in statute before the changes in Sec. 2 take effect on Jan. 1, 2018. Effective Jan. 1, 2018.

Section 36 Transition language

Ensures the public disclosure of tax credit refund recipients is made on April 30 of the year following the year in which the Oil and Gas Tax Credit Fund is repealed, as the public disclosure is also repealed to conform. Effective the later of Jan. 1, 2022, or when there are no outstanding applications for credit refunds.

Section 37 Transition language

Taxpayers who incur a loss before Jan. 1, 2018, remain eligible for the net operating loss credit in current statute that is repealed as of Jan. 1, 2018. Effective immediately.

Section 38 Transition language

Taxpayers who incur a loss before the Jan. 1, 2018 repeal of the net operating loss credit may apply for a net operating loss credit. Effective Jan. 1, 2018.

Section 39 Transition language

When the Oil and Gas Tax Credit Fund is repealed after outstanding applications have been paid, any balance of the fund lapses into the general fund. Effective the later of Jan. 1, 2022, or when there are no outstanding applications for refunds.

Section 40 Transition language

Dept. of Revenue may adopt regulations retroactively. Effective immediately.

Section 41 Retroactivity

Sections related to the eligibility of credits for cash refunds are retroactive to July 1, 2017. Effective immediately.

Section 42 Conditional effect, notification language. Effective immediately.

Sections related to the repeal of the Oil and Gas Tax Credit Fund take effect only after the Commissioner of Revenue notifies the revisors when there are no outstanding applications for the purchase of tax credits, and it has been at least one year since an application has been received. Effective immediately.

[3:41:08 PM](#)

CHAIR GIESSEL highlighted effective dates, as shown in Sections 43-46 of the Sectional Analysis, which read as follows [original punctuation provided, with some formatting changes]:

Section 43 Effective date

Sets an immediate effective date for sections related to the ability to use Middle Earth exploration credits against the company's own corporate income tax liability, and to use credits against prior year tax liabilities that have not been subject to an administrative proceeding or to litigation. Also, sets an immediate effective date for sections retroactively changing the eligibility for cash credits.

Section 44 Effective date

Sets a Jan. 1, 2018, effective date for Section 24, which is treated separately because it makes changes to a section of statute that is undergoing other changes this year based on House Bill 247 of 2016.

Section 45 Effective date

Sets an effective date of the later of Jan. 1, 2022, or Jan. 1 of the year in which notice is provided that all outstanding applicants for credit purchases have been paid, for the repeal of the Oil and Gas Tax Credit Fund and conforming sections.

Section 46 Effective date

Sets a Jan. 1, 2018 effective date for all other sections.

[3:41:49 PM](#)

CHAIR GIESSEL said tax policy is complex, which is why it takes so long for it to be written, and she emphasized the importance of all legislators understanding it.

3:42:11 PM

CHAIR TARR announced the discussion would now turn to the offering of the House: Conference Committee Substitute (CCS) for HB 111, Version 30-LS0450\X, Nauman, 7/10/17 ("Version X"). She noted the following related publications available in the committee packet: a Sectional Analysis, a one-page summary, and a page with three columns, which compares the House and Senate versions along with a list of compromises. She indicated that the three-column page illustrates that very few changes recommended by the House have been incorporated, which means significant concessions have been made by members of the House, including: not changing the statutory tax rate to 25 percent; not changing the interest rate to 7 percent; weaker ring fencing language; elimination of new transparency language; removal of language that ended the per barrel credit; removal of adjustment to GVR; removal of conversation to the PPV brackets; and removal of progressivity at higher prices.

CHAIR TARR directed attention to the one-page summary of Version X and pointed out some specific sections. She specified that Sections 1, 23, 24, 26, 27, 34, and 44, in Version F, pertained to carry-forwards, and they were incorporated into Version X in Sections 21, 22, 23, 24, and 25. She stated that the House majority considers [HB 111] a critical piece of legislation in determining the state's fiscal plan. She reviewed that Alaska currently has a multibillion dollar deficit, and to date the legislature has "drained the savings account" - the Constitutional Budget Reserve (CBR); therefore, the one remaining fund is the Alaska Permanent Fund. She stated that every dollar not earned through a reasonable oil tax "puts more pressure on use of the [permanent fund dividend] (PFD) for state government."

3:45:20 PM

CHAIR TARR stated that the agreement [between the House and the Senate] is on ending cash credits. She said Alaska is the only place in the world that offers the cash credits, and the program is not working. She related that the state has more than a billion-dollar obligation in cash credits currently, and Governor Bill Walker has vetoed payments of those cash credits over the last few years, because the state cannot afford to pay them at this time; she indicated that the state is, instead, paying the statutory minimum. She said, "We have admitted and talked about how this has been unstable and bad for business, and that is what has motivated us to correct the system today."

CHAIR TARR noted the point of disagreement is in determining what will replace the cash credits. She said the Senate's Version F would maintain a status quo system by eliminating cash credits but allowing for carry-forward losses at the same statutory rate currently allowed. She said that is problematic for House members, because the current tax system has an artificially high statutory tax rate at 35 percent. She the tax calculation includes allowing lease expenditure deduction, transportation deduction, and the addition of a per barrel credit. The effective tax rate currently paid in Alaska varies between 8 and 12 percent; the statutory tax rate is 35 percent. She explained, "What that means is when they apply their losses, they're applying them at about 20 percent more than they actually pay in taxes." Chair Tarr said House majority members view switching from one unaffordable system to another problematic. She opined that if stability in the oil industry is the goal, then the State of Alaska must offer incentives that it can afford.

CHAIR TARR said fiscal notes that accompanied the versions of HB 111 that passed the House and Senate at the end of the regular session [of 2017] show more than a \$20 million difference by 2027, and she questioned whether that is affordable and sustainable. Not paying credits to the industry has caused "a domino effect in the industry that has been bad for business." She reiterated that the idea to use a carry-forward loss system as a deduction on future taxes concerns [House majority members]. Further, she said the repetitively changing oil taxes every year will also be bad for business, which she said efforts have been made to resolve "that point of disagreement." She emphasized that that resolution of disagreement has not yet been reached.

[3:48:35 PM](#)

CHAIR TARR reiterated that [the House majority] does not want to put into a place a program that allows an additional 20 percent to be earned as losses, because it thinks it is not fiscally responsible or sustainable. She said, "We also want to be mindful of how this fits into the overall need for a fiscal plan and try to figure out how we will maintain essential services." She said historically the state's oil tax revenue has significantly funded state services; however, in the low-price environment that [tax revenue] has been reduced substantially to the point where it covers a much smaller portion of the state's expenses. She said the state has used savings to pay the

difference over the last few years. She reiterated that now all that is left is the permanent fund. She emphasized the House majority's commitment to maintaining the permanent fund dividend for the people of Alaska. She said in the past oil was \$94 a barrel; the low point was \$27 a barrel; and for the last couple years, the price has been hovering around \$50 a barrel. She indicated that the news announced a few weeks ago that Alaska hit a nine-month low and the price was in the low forties. She said not having a tax system that works well in a low-price environment has been motivation to create a sustainable plan.

[3:50:30 PM](#)

CHAIR TARR mentioned a one-page summary, which she said describes the point of disagreement. She said Version X would end cash credits; however, an agreement needs to be reached as to what would replace them. She said there are just a few days left in the Second Special Session. She said "we" believe putting an effective date in place would force the legislature to continue working on the issue. She stated, "There is no intention on the part of the House that that program would be eliminated altogether." The intent is to set up a program the state can afford. She said she thinks anyone in the industry would say that "not being able to offer the incentive is just like having no incentive at all." She reiterated the concern that Alaska could become less attractive to investors if it continues to address this issue perennially.

CHAIR TARR pointed to the second bullet point on the summary page. She said [the House majority] is concerned about the July 1 date proposed by the Senate, because consultants and the Department of Revenue (DOR) have cautioned that mid-year tax changes can be problematic. She said [the House majority] is "approaching" the July 1 recommendation "cautiously." She said DOR has suggested a way that this can be accomplished by allowing the losses to be calculated for the year: the first six months of losses would be eligible for cash credits and the last six months would be carry-forward losses.

CHAIR TARR acknowledged the work of Legislative Legal and Research Services.

[3:56:49 PM](#)

SENATOR STEDMAN offered his understanding that contrary to Chair Tarr's comment about the lack of funds in the CBR, that reserve has approximately \$2 billion in it. He said he does not want

the public to think "the only thing is left is the permanent fund and we've liquidated everything in sight." He said there is also a billion dollars in the fund used for energy relief, as well as "some other miscellaneous funds sloshing around." He suggested a clarification be made for the public.

[3:57:52 PM](#)

KEN ALPER, Director, Tax Division, Department of Revenue (DOR), in response to Senator Stedman's remarks, relayed that the balance of the CBR at the end of June 2017 was approximately \$4.5 billion; the deficit in the budget that was passed by the legislature and signed by the governor on June 30, 2017, was approximately \$2.5 billion, and it will be paid for out of the CBR; forecasts show there will be approximately \$2 billion left at the end of the current fiscal year, next June 2018, "presuming the price and production of oil meet our forecast." He emphasized that the amount in the CBR a year from now will not be sufficient to pass a budget with a similar size deficit, and this creates an urgency for the legislature to find a long-term solution to the fiscal problem.

[3:59:25 PM](#)

SENATOR GIESSEL stated that during the period of January through May 2017, \$70 million went into the CBR from royalties and \$843 million went into "total take." Of the total take, \$615 went into the general fund (GF); \$251 went into the permanent fund; and \$1.7 million went into the school fund. She indicated that Version F reflects the Senate's focus on continued production, because royalty values are significant. She said \$58.3 million in the month of May alone in royalties is a huge number.

MR. ALPER explained how money gets into the CBR. Under the Alaska State Constitution, money that results from an administrative proceeding or some sort of legal action, such as a lawsuit or audit - when the state gets a settlement on past taxes or past royalty - is put in the CBR. He said the original billions of dollars that went in to the CBR were settlements from large royalty lawsuits from the 1970s, '80s, and early '90s. He said Senator Giessel referred to additional payments that came in from proceedings. He offered an example. He said typically the division forecasts about \$100 million per year of new money going into the CBR. Because of a couple large settlements related to the Federal Energy Regulatory Commission (FERC), the amount put in the CBR in fiscal year 2017 (FY 17) was over \$300 million.

4:03:03 PM

SENATOR OLSON asked Mr. Alper "what kind of optimism" he could give the public in terms of either Version F or Version X.

MR. ALPER said he is encouraged by the points of agreement between the two versions. He said most of the sections in the two versions are in accord, and the two bodies have reached compromise on what many may consider "secondary provisions of the bill," such as the ability to use credits against prior year taxes, the linkage in corporate income tax of Middle Earth exploration credits, and the consensus on interest rate. Most important, he indicated, is that either version will move the state away from cash credits. He said, "That's a program that however wise it might have been ten years ago and however helpful it might have been, it's something Alaskans can no longer afford; ... therefore, we're leaning away from it."

MR. ALPER said what to replace that with and how to calculate values into the future is "a manageable point of disagreement" on which he believes the two bodies should be able to find compromise. He said, "Then we can get out of this era of cashable tax credits and move forward with a clear head, until perhaps taking a closer look at taxes at some point in the future, the way that this working group envisions." He stated that the governor supports passage of HB 111 in some form that would eliminate cash credits, and he reiterated that both Version X and Version F would do that. He encouraged the Senate and House to continue to talk to find a middle ground on the valuation of losses - "on what some would call 'cost recovery'" - so that the project can be completed in 2017 and [the legislature can] move on to passing a fiscal plan.

MR. ALPER, in response to a follow-up question from Senator Olson, said the only bill in the Second Special Session call is HB 111. He said he is here to help everyone understand what is in the different versions of the bill, but the House and Senate must finish the job of reaching consensus. He offered his belief that "we can get this bill done on Saturday." He said he cannot say what happens after that.

MR. ALPER, in response to a question from Senator Olson, said he thinks that in the absence of a formal carry-forward lease expenditure program and a formal credit program, passing the 35 sections on which the House and Senate concur essentially would mean passing the House version. He indicated this would cause

consternation in the industry, because it would leave uncertainty as to what would happen to immediate and short-term expenditures that are being made. He said he appreciates Chair Tarr's explanation that the idea is to fix taxes with a retroactive effective date - to assign whatever the appropriate value is to a carry-forward once the next bill is passed; however, he reiterated that not knowing what value will result from spending creates uncertainty.

SENATOR OLSON asked if he is correct that the administration would not be satisfied with 35 out of 40 [agreed upon sections].

MR. ALPER answered that the ultimate purpose of "leaving it blank" was to force everyone back to the table to pass a bill as soon as possible. He said, "As long as there's some confidence - real confidence - that we're going to pass that bill and not leave everyone hanging, I imagine people shouldn't have to worry about it for too long." He acknowledged the difficulty of the task. He said he is not sure "what the timing would be to finish that project," and he concluded that he is not prepared to [answer the question] on behalf of the administration as to whether it would support Version X.

[4:09:32 PM](#)

REPRESENTATIVE JOSEPHSON, regarding the viability of Version X, asked if the following scenario would be "workable": most of Version F adopted; and carry-forward lease expenses expired at a time-certain, but a time adequate to allow both chambers to work on "the issues that we've compromised away that Representative Tarr talked about."

MR. ALPER answered that the two versions that have already passed, Version Q in the House and Version L in the Senate, contrasted most in terms of the valuation ten years from now of carried forward lease expenditures. He said [Version L] had roughly \$1.4 billion-worth of accumulated carry-forward [lease expenditures], while Version Q had approximately \$600 million, which is a difference of about \$800 million. Version X, he said, is zero, because carry-forwards would be eliminated under that version. He said Representative Josephson's question relates to a loss of value over time. He stated that one main reason for the gap that was in Version Q and L was that Version Q held a provision that carry-forwards left unused for seven years begin to lose 10 percent of their value per year, which has been referred to as a "downlift" - the opposite of an uplift - but he said he is not fond of the term. He concluded, "If

there were a different version of ... an erosion - something that was not quite so onerous, maybe a longer time horizon or a smaller percentage - and the Senate were amenable to that, that would certainly go a long way toward splitting the difference between the versions of the bill."

REPRESENTATIVE JOSEPHSON acknowledged that that would be one of area of compromise, but clarified that he is talking about adopting the Senate's proposed carry-forward lease expenditures, but sun-setting the expenditures as a guarantee to the House that "some of the serious restructuring that we believe is necessary for an overhaul of the state's fiscal crisis would be taken up in earnest next January."

MR. ALPER offered his understanding that Representative Josephson is suggesting the Senate's structure of carry-forwards valued at the rate of 35 percent until some point in the future when they would go to zero. He said he thinks this plan would create less "immediate" anxiety for those making investments now, and it would certainly put pressure [on the legislature] to "come back and resolve the tax issue."

REPRESENTATIVE JOSEPHSON clarified that it is not the position of the House that "in perpetuity, there would be a zero-value assigned to carry-forward lease expenditures ... to net operating losses."

MR. ALPER said he thinks the House's position was made clear in the version that initially passed the House: change the tax rate; change certain credits that align the carry-forward value; and have effective, nominal tax rates. He said if the House is not going to push for those comprehensive changes now, the goal would be to ensure that conversation happens in the future. He said, "My understanding, from reading both versions of that bill, is that the most important part is the working group." He indicated that a working group means the two bodies will continue the conversation. He mentioned the Legislative Budget and Audit Committee bringing in consultants who will make recommendations. He opined that the ground is ripe for a conversation about Alaska's fiscal regime, in terms of oil and gas, next year, and that is a two-part conversation concerning fair share and the issue of raising revenue. He shared that he thinks the two bodies are looking for "almost a verbal, public commitment that that conversation is going to happen."

CHAIR TARR said advice from the Division of Legislative Finance is that the remaining balance of the CBR cannot be used to pay

for next year's budget, because it is needed for "these cashflow purposes." She said that causes her to be concerned about where the state is today and what its remaining options are.

MR. ALPER said every year the budget provides language that allows the state to borrow from the CBR within a given year for cashflow purposes. This can be done as a loan that is paid back with interest, without the three-quarter vote of the legislature. He advised that the people who manage the state's funds believe at least \$2 billion is needed to meet any major occurrence that might require "a sudden injection of state money to resolve" it. When the balance drops below \$2 billion, [those in charge of the state's finances] are not comfortable appropriating any more money out of the CBR. He added, "And that's the number we'll reach at the end of the new fiscal year, 11.5 months from now."

CHAIR TARR expressed her hope that hearing that would help people understand that although there are dollars left in the CBR, they are not available for appropriation at this time.

[4:18:16 PM](#)

CHAIR TARR invited general discussion from committee members.

[4:18:21 PM](#)

SENATOR STEDMAN said one of the problems [the legislature] has faced in changing from a gross tax to a net tax is finding stability and predictability for the oil industry so that it can make forecasts and have reasonable expectations on a rate of return. He said when the legislature adopted the system known as Alaska's Clear and Equitable Share (ACES) [passed in the Twenty-Fifth Alaska State Legislature], the industry was not able to comfortably forecast probability outcomes and felt ACES put Alaska at a disadvantage in the board room when competing for capital. He said the elimination of losses proposed in Version X reminds him of where the state has been in terms of the unpredictable nature of outcomes for both the industry and the state. He said there are no cashable credits in a net system - those are normally done on capital expenditures. He stated the number one goal of "most of us" today is to eliminate cashable credits, because they don't work as perceived. He said, "There has been some substantial new oil found ... and gas in Cook Inlet that could be targeted for some of these credits, so it wasn't all lost money out the door, but clearly they don't work in the long run in the industry and they're not using ...

[cashable credits] worldwide for that very ... [reason], so we're looking at getting rid of them."

SENATOR STEDMAN stated that with the net system, there is always the ability to deduct expenditures. Not having the ability to carry forward substantially alters the rate of return and "time/value/money profiles that the industry's expecting today" on its past expenditures and development, as well as its future development. He cautioned that telling the industry that the legislature will come up with a proposed solution and legislation in the future will lead to a lot of uncertainty. He remarked on the predictability of "the unpredictability of the legislature." He opined that going down this path would lead to a substantial, negative impact in the oil basin, in terms of the industry moving forward with additional projects.

SENATOR STEDMAN said he thinks the issue of "35 percent base tax with a per barrel slider" is one that needs to be addressed, with feedback from the three consultants that have been hired to find solutions to "the mathematical irregularities that persist in our system with this 35 percent base tax and the per barrel slider." He said he does not feel that having the 35 percent base tax in place will preclude the legislature from allowing the net carry-forward of losses. He said some of the losses will not be taken for a decade. He explained that one must have revenue to "use your loss," and to do that, one must have oil. He mentioned Smith Bay as one example of where there have been billions of dollars in expenditures, and he said that "they're not going to have production to take those expenditures against for some time." He said some other companies will. He indicated that this is apparent when looking at "a full cycle of accounting on our profitability, both to the state and the industry."

SENATOR STEDMAN warned that removing the ability to deduct expenditure losses and telling the industry that the legislature will fix that in the future would be disastrous and would lead to "a substantial slowdown" greater than any seen in the past. He said a projected \$54 per barrel on oil would result in only \$1.5 billion in profit oil; at \$45 per barrel there would be no profits. He said, "So, nobody's cutting a fat hog in the butt right now at these prices, and we're not in the net system currently - we're in gross tax, minimum floor, until we get somewhere close to \$70 a barrel." He said that leads to some complexity, but it also buys some time to sort out the issue.

SENATOR STEDMAN expressed uncertainty that Version X would have the support of two-thirds of House members for a proposal he described as "throwing the industry into the freezer and shutting the door on them." He said the discussion is about something that is "economically alarming," and he opined that it is not productive to "ring a fire alarm of this magnitude" on a bill with "little chance of getting the votes." He said the legislature needs to end cashable credits but allow them to be carry-forward. He posited that there is no need to do an uplift, "downlift," or even "time them out." He mentioned the consultants and the intertwining relationship of this issue and other factors related to the state's tax code, and he said that "it's very significant to the rate of return and net present value of these projects." He talked about working with the industry and the public to devise a fair handling of net operating losses, but offered his understanding that eliminating them is done nowhere in the world. He opined that Version X would freeze out the industry and effective large oil fields, and he recommended taking Version X "with a grain of salt" and putting it "in the shredder."

4:29:07 PM

REPRESENTATIVE TALERICO expressed appreciation for the work Chair Giessel and Chair Tarr have done, and he noted there are quite a few points of agreement in both Version F and Version X. He said he finds the full elimination of a net operating loss system to be an impossible hurdle. He noted that the consultant, Castle Gap Advisors, had presented findings to the legislature in February 2017 and recommended a more global perspective on the oil industry. Representative Talerico said the market is competitive. He indicated that the consultant advised that the state have a system under which operators could recover all their costs, where net operating losses could be carried forward and be recovered from production-based income. He said the point is that every other basic tax system allows for that. He emphasized that such a system "keeps us active and flowing."

REPRESENTATIVE TALERICO offered his understanding that Version F would allow those carry forwards and provide the ability to get to production level and recover those costs. He said he thinks that is what the consultant recommended. He said there must be upstream investment to have downstream volume. He stated, "If I was an investor, it may not necessarily terrify me, but to remove this and have it potentially not ever be a consideration again removes us from the game in my opinion." He said Alaska

is an oil-based economy, and even when working on diversification, the state will rely a lot on its oil economy.

[4:32:44 PM](#)

CHAIR GIESSEL opined that if the legislature's focus had been on repealing cash payments to oil companies, then it could have resolved this issue back in April 2017. She said the discussion has continued. She mentioned the cost of having special sessions and said, "These absolutely were not needed." She said the Senate, House, governor, and the public all agree that the cash payments to oil companies need to be repealed. She said more than half of the Senators are lifelong Alaskans, who were here in 1986 and know what "the downturns" can feel like. She expressed fear that the proposals in Version X would accelerate the decline of the state's gross domestic product, which the Department of Labor just reported has gone down four consecutive years - an unprecedented length of time. She said the repeal of the ability to use losses, as is provided in the federal income tax code, would have an egregious effect on the state's major industry and, by association, on families, businesses, and jobs. She stated her belief that the state has experienced attrition because of this [economic] decline. She said, "Our vision is for our children and our grandchildren in this state, and we are trying ... to reign in the spending on the cash payments. We all agree to do this and we're dragging this out." She said [the legislature] is wrestling over the rewrite of a tax policy, on which it has not yet heard a complete presentation from its consultants. She emphasized that the issues being considered are complex, and the legislature has not had a full vetting of them.

CHAIR GIESSEL said DOR put out a white paper in June 2017, entitled "Valuing Carried Forward Lease Expenditures Versus Oil and Gas Credits." The content of the white paper points out that the losses are something companies will have to carry forward until there is production; it never comes out of [the state's] treasury; "they have to deduct it from their tax payment when they have production." So, the loss deductions require production. Further, she said when there is production, the state will be getting royalties, corporate income taxes, and property taxes. She stated, "Carrying these forward is actually not as devastating as the House is trying to portray it."

CHAIR GIESSEL pointed out that the value of a dollar today is not the same as the value of a dollar going forward, because inflation erodes the value. The value of the deductions, by

carrying them forward 7-10 years, goes down significantly, but it does not go down for the state. She explained, "By retaining ... this money that we're paying out right now in cash payments - this money can be invested." She said the state has financial investments currently that are making 7 percent return. She said the carry forward losses are being portrayed as a credit that someone would get today, but they are not at all the same; they are significantly less lucrative.

CHAIR GIESSEL told Chair Tarr that the Senate members of the Conference Committee on HB 111 continue to be interested in compromise and in agreeing with the House to end cash payments. She noted that the House had recessed until Friday, and she said no action can be taken by the Conference Committee on HB 111 until the House has convened, passed a concurrent resolution, and legitimized its conference committee. She expressed her willingness to continue to discuss the differences of the Senate and House versions with Chair Tarr.

[4:39:13 PM](#)

REPRESENTATIVE JOSEPHSON said he thinks fundamentally "we're here because we lack a fiscal plan." He emphasized that the state has financial problems but great resources on which it can rely now. He expressed the possibility of figuring out a good fiscal plan as being like putting chess pieces in the right places. He expressed concern that without further discussion on the proper rate for carry-forward lease expenditures in a way that puts pressure on both bodies to act, "the other body would not act." He said [the Senate] "refused to take up any new revenue." He said the House had a hearing on a Senate bill, which he indicated would "happen in 2018." He said tax directors noted that although there may be \$2 billion in the CBR, the state cannot spend that money. He agreed with Chair Tarr that a solution needs to be found as soon as possible, and he said the House prepared that solution.

REPRESENTATIVE JOSEPHSON said he speaks candidly about his view of "the other body's willingness to look at revenue," because of comments made such as [Senator Stedman's] remark that Version X should be put in the shredder. He explained, "Candor should be met with further candor." He said, "I would note that there were a number of laborers here; they rely on a robust capital budget." He mentioned an amount of \$130 million having been spent on the capital budget. He emphasized the need for balance and the request of his caucus for fairness. He said [the House] is willing to postpone the discussion on reform of the oil tax

structure to 2018 and to compromise - for now. He expressed concern that the Senate's unwillingness to discuss "the revenue question" will continue on "with a look at the overall tax structure."

REPRESENTATIVE JOSEPHSON said he thinks the House understands that as a general rule, "the 100 percent of expenses are what is customary," but the question is the rate at which the state would contribute to those expenses. He said the House wants to resolve cash credits. Regarding the comment [by Chair Giessel] that this could have been done in April, he remarked that the House had a desire to end cash credits in 2016. He said, "My colleagues at the time were most eager, and we only finished half the job last year." He said he understands that ultimately the net operating losses would have to take some other form as part of a profits-based system, and not having that could create anxiety. He remarked on the time taken by the legislature, saying, "We're the people that shop for Christmas on Christmas Eve." He said he thinks a deadline by which serious discussions must take place by both bodies would make it happen. He expressed his wish that "something can bear fruit over the next couple days," and he expressed appreciation for the hard word of Chair Giessel and Chair Tarr.

[4:44:07 PM](#)

SENATOR OLSON applauded the efforts by all parties involved, especially Chairs Tarr and Giessel, in trying to resolve this issue. He said there certainly is a lot of distance between the two bodies, but the people sent legislators to Juneau to do the work. He encouraged a compromise that will end the hemorrhaging of the state and, even though many people will not be happy with the outcome, will offer some financial stability throughout the state.

[4:45:03 PM](#)

CHAIR TARR summarized that both bodies agree on the need to end cash credits. The Senate offered a measure wherein any unpaid credits could be used against other liabilities to the state, which would recuse the liability in a shorter duration of time, which she said is a move in the right direction. She echoed Representative Josephson that there is no intention on the part of the House to not allow for recovery of losses. The point of disagreement, she reviewed, is "how generous that will be." She said, "Our concern is if it's too generous, it leaves us vulnerable to pressure for continued changes, which will lead to

continued instability in the industry, which could be bad for jobs and the economy." She indicated that the House stated early on that its goal was to create a system that could be in place for five to seven years, which may seem difficult to accomplish. She pointed out that the Economic Limit Factor (ELF) formula [passed in the Tenth Alaska State Legislature and modified in 2005] was in place for decades, and it has only been in the recent past that the legislature has been continually changing the tax regime. She opined that the legislature should be committed to a path that will resolve these issues for a period of time that would allow a focus on other major issues, such as education and health care.

CHAIR TARR said while she does not want to get involved in "a blame game," there were instances where "people sent their members home," which made it more difficult to address business. She acknowledged the time it takes to bring 60 individuals together with diverse points of view and work through processes. In that regard, she said she thinks the entire legislature has been working hard.

CHAIR TARR stated that the deduction is not a cash payment, but it is a loss of revenue to the state that would otherwise go to state services. She said, "The question for us, without resolving this issue, is: What would a fiscal plan look like going forward and where will the revenue come from?" She talked about receiving multiple resolutions for the last three years from businesses, nonprofits, and local governments pleading the legislature to come up with a fiscal plan. She talked about the importance of the industry to the state and need to craft a system with more predictability. She said when Senate Bill 21 [passed in the Twenty-Eighth Alaska State Legislature] was passed, the legislature did not contemplate \$27 per barrel prices and the new normal being a low-price environment, because \$60 per barrel seemed like a low price at that time.

[4:49:24 PM](#)

CHAIR TARR said while it is true that inflation affects the price of a dollar into the future, it is also true that "we don't depreciate those assets." She said 100 percent of the cost of a capital expenditure can be recovered at the time that the losses are applied. Conversely, equipment sold cannot be sold at the same price at which it was purchased on day one. She said the state does receive royalties, but people consider that in different ways - some as government take and some as "the part that Alaskans own and get a royalty for." She said it

is true that Alaska receives corporate income tax, but it is a much-reduced dollar amount relative to what the severance tax or petroleum production tax has been over the years. She said property tax largely goes to local communities. Regarding an overall fiscal plan for state government and the source of those state dollars, she stated, "We think that the revenue from our petroleum tax will remain a key component of that."

CHAIR TARR echoed Chair Giessel's remarks about continuing to work toward a resolution. She said she remains optimistic. She thanked those in attendance. She reemphasized the hard work that is being done by the legislature throughout the year, and she said she wants the public to know that work is done not just during the meeting process. She encouraged any members of the public interested in the issue to visit her office.

[4:53:39 PM](#)

ADJOURNMENT

There being no further business before the committee, the Conference Committee on HB 111 was adjourned at 4:54 p.m.