

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 14, 2017

3:20 p.m.

DRAFT

MEMBERS PRESENT

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

MEMBERS ABSENT

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

COMMITTEE CALENDAR

HOUSE BILL NO. 111

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

- MOVED CSHB 111(RES) OUT OF COMMITTEE

HOUSE BILL NO. 87

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

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 12

Opposing the United States Food and Drug Administration's approval of AquaBounty AquAdvantage genetically engineered salmon; and urging the United States Congress to enact legislation that requires prominently labeling genetically

engineered products with the words "Genetically Modified" on the product's packaging.

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 32

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

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 111

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

SPONSOR(s): RESOURCES

02/08/17	(H)	READ THE FIRST TIME - REFERRALS
02/08/17	(H)	RES, FIN
02/08/17	(H)	TALERICO OBJECTED TO INTRODUCTION
02/08/17	(H)	INTRODUCTION RULED IN ORDER
02/08/17	(H)	SUSTAINED RULING OF CHAIR Y23 N15 E2
02/08/17	(H)	RES AT 1:00 PM BARNES 124
02/08/17	(H)	Heard & Held
02/08/17	(H)	MINUTE (RES)
02/13/17	(H)	RES AT 1:00 PM BARNES 124
02/13/17	(H)	Heard & Held
02/13/17	(H)	MINUTE (RES)
02/17/17	(H)	RES AT 1:00 PM BARNES 124
02/17/17	(H)	Heard & Held
02/17/17	(H)	MINUTE (RES)
02/20/17	(H)	RES AT 1:00 PM BARNES 124
02/20/17	(H)	Heard & Held
02/20/17	(H)	MINUTE (RES)
02/22/17	(H)	RES AT 1:00 PM BARNES 124
02/22/17	(H)	Heard & Held
02/22/17	(H)	MINUTE (RES)
02/22/17	(H)	RES AT 6:30 PM BARNES 124
02/22/17	(H)	Heard & Held
02/22/17	(H)	MINUTE (RES)
02/24/17	(H)	RES AT 1:00 PM BARNES 124
02/24/17	(H)	Heard & Held
02/24/17	(H)	MINUTE (RES)
02/27/17	(H)	RES AT 1:00 PM BARNES 124
02/27/17	(H)	Heard & Held
02/27/17	(H)	MINUTE (RES)

02/27/17 (H) RES AT 7:00 PM CAPITOL 106
 02/27/17 (H) Heard & Held
 02/27/17 (H) MINUTE (RES)
 03/01/17 (H) RES AT 1:00 PM BARNES 124
 03/01/17 (H) Heard & Held
 03/01/17 (H) MINUTE (RES)
 03/01/17 (H) RES AT 6:00 PM BARNES 124
 03/01/17 (H) Heard & Held
 03/01/17 (H) MINUTE (RES)
 03/06/17 (H) RES AT 1:00 PM BARNES 124
 03/06/17 (H) Scheduled but Not Heard
 03/06/17 (H) RES AT 6:30 PM BARNES 124
 03/06/17 (H) Heard & Held
 03/06/17 (H) MINUTE (RES)
 03/08/17 (H) RES AT 1:00 PM BARNES 124
 03/08/17 (H) Heard & Held
 03/08/17 (H) MINUTE (RES)
 03/08/17 (H) RES AT 6:00 PM BARNES 124
 03/08/17 (H) Heard & Held
 03/08/17 (H) MINUTE (RES)
 03/09/17 (H) RES AT 5:00 PM BARNES 124
 03/09/17 (H) -- MEETING CANCELED --
 03/10/17 (H) RES AT 1:00 PM BARNES 124
 03/10/17 (H) Heard & Held
 03/10/17 (H) MINUTE (RES)
 03/11/17 (H) RES AT 12:00 AM BARNES 124
 03/11/17 (H) -- MEETING CANCELED --
 03/13/17 (H) RES AT 1:00 PM BARNES 124
 03/13/17 (H) <Bill Held Over from 3/11/17>
 03/14/17 (H) RES AT 3:00 PM BARNES 124

BILL: HB 87

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

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

03/13/17 (H) RES AT 1:00 PM BARNES 124
03/13/17 (H) -- Public Testimony --
03/14/17 (H) RES AT 3:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE LOUISE STUTES
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Speaking as the sponsor, answered questions during the hearing of CSHB 87(FSH).

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

POSITION STATEMENT: Speaking for the sponsor, Representative Stutes, introduced the bill and answered questions during the hearing of CSHB 87(FSH).

GLEN HAIGHT, Executive Director
Board of Fisheries
Alaska Department of Fish & Game
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing of CSHB 87(FSH).

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

POSITION STATEMENT: Answered a question during the hearing of CSHB 87(FSH).

JERRY MCCUNE
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 87.

JOHN MURRAY
Sitka, Alaska

POSITION STATEMENT: Testified in support of HB 87.

RICHARD DAVIS, Representative
Seafood Producers Co-op
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 87.

MATT ALWARD
Homer, Alaska

POSITION STATEMENT: Testified in support of HB 87.

ACTION NARRATIVE

[3:20:00 PM](#)

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

^#hb111
#hb133

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

[Contains discussion of HB 133.]

[3:21:16 PM](#)

CO-CHAIR TARR announced that the first order of business would be HOUSE BILL NO. 111, "An Act relating to the oil and gas production tax, tax payments, and credits; relating to interest applicable to delinquent oil and gas production tax; and providing for an effective date." [Before the committee, adopted as a work draft on 3/10/17, was the proposed committee substitute (CS) for HB 111, Version 30-LS0450\N, Nauman, 3/10/17.]

[3:21:20 PM](#)

CO-CHAIR TARR directed the committee's attention to fiscal note [identifier HB111CS(RES)-DNR-DOG-03-13-17, Department of Natural Resources], page 2, paragraph 1, and advised it refers to the preapproval process as follows:

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

CO-CHAIR TARR commented that the first paragraph may not be as clear as the committee would have liked, but as discussed yesterday, there is a challenge in the manner in which the state offers incentives because it is not engaged during the early part of that work, it does not have any influence over the spending or a manner in which to dispute any of the spending that had taken place. She explained that [HB 111] was an attempt to work with the Department of Natural Resources (DNR) to determine how the legislature could be better engaged in the early part of the process without it becoming cumbersome. She referred to previous industry testimony wherein they made clear that when they go to their board of directors they have to prove that the Alaska project is a good investment and, relative to other projects in different locations, they need to make the Alaska project look attractive. Her thought, she said, was that the same kind of information would be part of [industry's] conversation with the state, and in going through the regulation process it allows the opportunity for public comment and stakeholder engagement in helping to develop that process.

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CO-CHAIR JOSEPHSON stated that the proposed bill would create a need for new regulations and real cooperation from the department. He opined there was concern about costs associated with future developments entirely unforeseen by the state; therefore, there was a desire for some type of review of that process by the department. He referred to [CSHB 111, Version N, Sec. 26, AS 43.55.165(n), page 25, lines 16-23, which read as follows]:

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

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

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REPRESENTATIVE BIRCH argued that this is a terrible start: the fiscal note is vague and indeterminate and it is not acceptable because it read that the fiscal impact to the department could range from minimal to significant depending on final regulations. He further relayed that the bill would require the department to manage the indeterminable data. He indicated that the fiscal impact of HB 111 is indeterminable. He pointed out that the committee has spent a lot of time discussing fiscal uncertainty and instability in the area of investment and finance, and this speaks to the concerns members voiced when comparing these massive changes to what was already working vis a vis Alaska's oil and gas tax policy. He acknowledged that credits were being reviewed. He expressed deep disappointment that the committee did not have something more substantive from the fiscal note provided by the Department of Natural Resources. He concluded, "I don't see this [as] acceptable; I mean, it's ... incomplete."

[3:26:04 PM](#)

REPRESENTATIVE RAUSCHER said he echoes the remarks of the Representative from Anchorage, but emphasized the magnitude of the request made to the department for this fiscal note. He said, "It seems like two arms almost simultaneously doing two things [and] competing for different ... properties of the same project, and trying to define whose is whose seems to be a little bit of a problem." He offered his understanding that the Department of Revenue (DOR) operates under [a policy of] "we don't really tell what we know." He said he does not know if DNR has the same policy, and since DNR would be working with such a magnitude of data, he questioned, "How do we overcome that with ... DNR?"

[3:28:05 PM](#)

CO-CHAIR TARR responded that the Department of Revenue (DOR) receives information via tax returns, which is after the fact of spending and is confidential tax information. [The proposed legislation] envisions DNR as Alaska's resource manager that would, for example, review the pre-spending type of information and determine whether there was good management of a project,

what projects are taking place, and when the project will come on line. She explained that if the legislature allows losses to be carried forward and used against the production tax liability, the state does not write a check for that but there is lost revenue. From DNR's perspective, she pointed out, that is forgone lost revenue to the state, although, in the event DNR can make certain every dollar is spent as strategically as possible, then the money spent was actually necessary to bring that development on line. Rather than, for example, in the event poor management caused construction season delays and the project went into another full year, it could cause the project to be quite a bit more expensive. Yet, the state, through its obligation for the application of those losses, basically invested in poor management. The legislature is looking at every nickel, and if there is an opportunity to get a better handle on [lost revenue], it could be beneficial to the state. She reiterated that it is appropriate for DNR to develop regulations because it offers every company, with its unique development profile, an opportunity to weigh in. She added that it was something the legislature would not have the opportunity to take on at that level of detail. However, she related, she is interested in refining the language if it would result in better clarification.

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CO-CHAIR JOSEPHSON added that the concern is that even at a reduced net operating loss (NOL) not attributed to credits through the carry forward allowance, the state is in a joint-venture but it is not enjoying the full privileges that normally come with a joint-venture, and the companies seem to benefit with investments either by carrying forward those losses or "this uplift." He explained they were given the uplift to have some parity. He added that it is difficult to have full parity if cash credit cannot be offered. He opined that the state needs some role in these enterprises, and it should be other than simply affording a deduction against liability in the future. He offered that part of that is due to the lack of "ring fencing" where decisions could be made to take a loss in one field while knowing it will be largely offset by another [field]. This concern has been voiced publically throughout this session and, although the language needs some refinement, the state should be entitled to know, with a level of oversight over those expenses, when someone might claim an allowable deduction when it becomes a loss. He expressed that it is a lot to ask the state to bear the risk, and not worry about what the company is doing to the level of the company saying, "We've got

this." He pointed out that HB 111 was designed to check this issue to some degree.

[3:32:47 PM](#)

REPRESENTATIVE RAUSCHER emphasized the importance of understanding how legislation could affect Alaska's business partners and fully vetting the entire issue before voting on its outcome. He warned the committee should not go without a fiscal note, thereby "running over all of the red flags with a bulldozer."

CO-CHAIR TARR said she appreciated Representative Rauscher's bringing up the issue, thereby adding a level of scrutiny to thinking through the issue in follow-up conversations.

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REPRESENTATIVE PARISH noted that the legislature is entering into expensive deals with Alaska's industry clients involving the people to whom it sells its oil and the right to drill on Alaska's lands. He said that the notion the state cannot exercise discretion into how deep it wants to be in those deals is distressing. He offered a scenario wherein next year someone goes on a risky venture and spends \$1 billion on something which ultimately bore no fruit, the state would be into that project for \$350 million. Therefore, he pointed out, it makes sense to hire staff for DNR to provide some oversight as he does not want the state to take the industry's hand saying, "Take us wherever you want us to go." He emphasized the importance, when interacting with the state's clients, of having a degree of control and discretion.

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REPRESENTATIVE WESTLAKE offered that a camel is nothing but a horse designed by committee. He pointed out that coming from District 40, he knows oil and gas, and mining, and that the oil companies have a lot of money and will be the ones hiring the best in the field, and the state will get second best when it starts micromanaging basically on their leases. The question is, if the state wants expenditures and a monthly accounting, will this be an additional pressure for the industry, and how would the legislature make this right for everyone? He concluded, "They're willing to talk; they're willing to negotiate, but we all have to be reasonable."

3:37:51 PM

CO-CHAIR TARR clarified that the process is envisioned as a single preapproval and not approval on a monthly basis. She commented that she was of the school of thought that when approaching how bills are written, statutes should be less prescriptive in nature because regulations are designed by the people who know best from the industry and the state. Plus, regulations are easier to update and more fluid than sometimes getting something through in statute. The legislature must be mindful in its position to determine where state dollars are being spent and where it sees reductions in revenue. She opined that at this time the department is not prepared to offer fine details; however, she continues to reach out to the commissioner. Co-Chair Tarr pointed out that the next committee of referral for HB 111 is the House Finance Committee, followed by the floor of the House of Representatives, and she remarked that at each stop consideration and refinement of the proposed legislation would continue.

CO-CHAIR TARR pointed to the Department of Nature Resources fiscal note, page 2, paragraph 2, which read as follows:

This bill also requires the department to manage additional data associated with a new "dry hole credit." It is indeterminable how many of these credit applications would be filed, but additional staff time would be required to review applications and manage the data.

CO-CHAIR TARR reiterated that the first paragraph on page 2 applies to preapproval; the second paragraph refers to the "dry hole credit." She referred to Representative Birch's comment that it was indeterminable how these credit applications would be filed, and she noted that it would be helpful for the department to have time to work out that detail. Mr. Ruggiero previously explained that the dry hole credit concept was a way to not discourage exploration given the potential for a company to be unsuccessful, and there has been a lot of discussion around the costs of starting businesses in Alaska. She pointed out that this would allow a financial mechanism to compensate should a company experience the unfortunate event of performing the work, spending that money, and then turning up a dry hole.

3:41:05 PM

CO-CHAIR TARR referred to the DNR fiscal note, page 2, paragraph 3, which read as follows:

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

CO-CHAIR TARR opined that the bulk of that work would be done through the legislature. It would interact with DNR and DOR much in the same manner as currently; however, it would be during the interim, under less time pressure, and with "the expert arena" to assist the legislature in its work.

[3:41:59 PM](#)

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

[3:43:27 PM](#)

CO-CHAIR TARR mentioned emails the committee had received regarding confidentiality provisions.

[3:43:45 PM](#)

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

[3:53:09 PM](#)

CO-CHAIR TARR advised that she had been commenting on the provisions of the bill related to the access for legislators for the confidential tax information, and members had received an email advising that this was new language. In explanation, she referred to Amendment 45 to the committee substitute (CS) to House Bill 247 [passed in the Twenty-Ninth Alaska State Legislature], and advised that she submitted that language to Legislative Legal and Research Services and that language was incorporated into CSHB 111, Version N. She then directed the committee to Sec. 5, [AS 43.05.230] page 3, lines 26-31 and page 4, lines 1-20, and advised it is the exact language, of which she had worked with the Alaska Oil and Gas Association (AOGA) in drafting last year. Perhaps, she said, AOGA changed its support this year, but that was the language drafted last year.

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REPRESENTATIVE RAUSCHER asked about the legality of the language.

CO-CHAIR TARR responded that it is confidential tax information, which is why the provisions here are so strict in terms of who has access, no information being allowed to leave the room, and Internal Revenue Service (IRS) rules, for example, requiring a background check and fingerprinting. She said people could choose not to participate. She compared this to the confidentiality agreement related to the Alaska Liquefied Natural Gas Project (AKLNG) where "someone has to read that and agree to the very tough restrictions available." She said privileged tax information carries with it criminal penalties. She stated that from her perspective, "that would be restrictive enough and challenging enough that people would really think about it." She said she was unsure whether many people would want to even see the information; however, Mr. Ruggiero advised that a challenge the legislators have as policymakers is not having access to a lot of information to understand what is working and what is not working. She recollected a slide shown by Ken [Alper], Director, Tax Division, DOR, which illustrated the hundreds of millions of dollars that have been spent on credits, and she indicated that Mr. Alper was able to determine North Slope versus Cook Inlet [statistics] from aggregate information and advise what is in production and what is not in production; at this time it is a 50-50 split.

CO-CHAIR TARR stated that for there to have been hundreds of millions of dollars spent that didn't lead to production is of great concern to her. She opined, "This is the type of information that might help us understand it better." In turn, the goal would be that the committee would be better at making the policy, and the policy would work better as a result of having the information. She acknowledged this is a sensitive issue, which is why it was important to her to work with industry representatives last year in coming up with language to use now. She said she thought the concerns had been waylaid and, thus, was surprised by the email, but in the interest of full disclosure, she wanted to have a conversation on the record about that.

3:57:02 PM

REPRESENTATIVE RAUSCHER named the following: legislators, agents of legislators, contractors of legislators, and legislative committees. He said those are prefaced by "the department may disclose confidential tax information." He explained he is having a difficult time understanding the meaning of all that in terms of legality. He mentioned hole depth, viscosity, static line, what control is needed, other moving parts involved, and where the edge of the field is. He stated, "I think it's just a little broad, that's all." He said he recognizes there is a desire to move HB 111 out of committee, but he believes in saying when he sees a problem.

[3:58:18 PM](#)

REPRESENTATIVE BIRCH stated that he does not want to move the proposed legislation out of committee. He related that HB 111 would require the department to analyze each expenditure that could qualify to be carried forward and determine whether those expenditures meet the requirements set out in regulations yet to be written. He referred to the fiscal note, page 2, paragraph 1 [previously written] and pointed to CSHB 111, Version N, page 28, line 15, which read as follows:

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

REPRESENTATIVE BIRCH then referred to Sec. 35, page 28, line 18, which read as follows:

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

REPRESENTATIVE BIRCH then pointed to the fiscal note received today, page 1, lower half, under ASSOCIATED REGULATIONS, which read as follows:

ASSOCIATED REGULATIONS

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

REPRESENTATIVE BIRCH remarked that he doesn't understand how someone will be able to comport to regulations that don't have to show up until 01/01/19, and the legislature is expecting them to basically take effect a year earlier. In the event the regulations are that important, and they clearly are because it

could have a minimal to significant impact, the regulations are key; however, under HB 111, the department would have until 2019 for the regulations while there would be a retroactivity provision that goes to January 2017. He indicated that the timing may not be in sync.

[4:00:19 PM](#)

CO-CHAIR TARR noted that Representative Birch was discussing three different components of the bill which is confusing. The component that is retroactive to January 1, 2018, she explained, is related to the interest on delinquent taxes - expenditures that have already occurred - and the reason for the January 1, 2017, date is because "that would sync up with the existing statute on interest on delinquent taxes." She continued, "And so, there wouldn't be a gap in there being one period where one portion of law applied and then you'd have a year gap, and then you'd have another statute. So, that syncs up those two sections. So, that's why there's retroactivity just on that one part of the bill; that's the interest rate on delinquent taxes."

CO-CHAIR TARR advised that because all of the taxes are done on a calendar year and this is all prospective - it changes neither expenditures that are occurring in the current calendar year nor any of the accumulation of credits that have certificates due - the rest of the bill doesn't apply until January 1, 2018.

CO-CHAIR TARR explained that as is typical, once the bill takes effect [the department(s)] start drafting the regulations, and because there are requirements through the regulatory process to provide public comment periods and opportunities for stakeholder engagement, the producers would not be subject to the provisions of the regulatory process for the preapproval until such time as the regulations were completed. She concluded, "And so, that's [why] ... there's three different parts there with those dates."

[4:02:12 PM](#)

REPRESENTATIVE BIRCH argued that it appears backwards that the bill will impose something on someone and then have the regulations they are supposed to conform to be provided a year later.

CO-CHAIR TARR responded that, unfortunately, that's how it always works. She noted that one of the things that delayed the audits from Alaska's Clear and Equitable Share (ACES) [passed in the Twenty-Fifth Alaska State Legislature], for example, is it

took quite a bit of time to get all the regulations drafted. She said regulations are specific to the law that is taking effect; therefore, they will not be drafted until the law takes effect. She related, "And on that particular provision, that's only the one part of it, the preapproval part of it, so the regulations are specific to that preapproval process. You know, the other provision of the law that could take effect on January 1, 2018, would." Co-Chair Tarr suggested the legislature may want to consider how "to sync those things up better or whether it's a staffing issue that makes it take some time"; however, the public comment period, during which all the producers may want to weigh in, could take 30 days, after which the comments may be considered and result in a second draft of the regulations, followed by further public comment. She said hopefully that process creates the strongest work product by allowing the time for producers and the department to work together. She concluded that although this is not the first time someone has criticized the length of time it takes to put regulation in place, the good news is that no one is subject to provisions until such time as regulations are adopted.

[4:04:45 PM](#)

REPRESENTATIVE BIRCH argued that it is "straight up wrong" to "muscle this thing through" and not formulate regulations for eight or nine months, thus waiting up to a full year from the January 1, 2018, effective date for any regulations to be in place. He said the devil's in the details. He opined that the legislature should be wary of the uncertainty it is creating not only by this action, but with other efforts that "sow confusion and uncertainty" that may involve, for example, a \$300 million tax increase and a question of whether an initial investment can be recovered.

[4:05:58 PM](#)

CO-CHAIR TARR stated that over the last couple days of conversation, she has come to consider that allowing the department a regulatory process would actually make the legislation stronger because the regulatory process would engage people more intimately than only holding legislative hearings. For example, she said the committee may hear from the commissioner or deputy commissioner and perhaps a division director for a budget overview, but stakeholder engagement and the involvement of people working in the Division of Oil & Gas, for example, is important. She reiterated that part of the reason for the timing in developing regulations is due to making

sure the public has the opportunity to weigh in during public meetings.

[4:07:31 PM](#)

REPRESENTATIVE BIRCH related that the public comment has been overwhelmingly that this is a bad idea, and he suggested staying with Senate Bill 21 [passed in the Twenty-Eighth Alaska State Legislature] and seeing what sort of successes might materialize with House Bill 247, which "hasn't really kicked off yet." He said he still doesn't understand "the disconnect" between the one-year delay in writing the regulations.

[4:07:58 PM](#)

REPRESENTATIVE JOHNSON said she believes the committee has "beaten a dead horse," and if this bill moves out of committee it feels like the members are being actively encouraged - maybe strong-armed - to get it out of committee. She said she does not want to see this bill moved out of committee and the committee has dealt with many unknowns and things that are unintended, unsubstantiated, and probably not thought out to the logical conclusion, and to turn over the legislature's responsibility to a regulatory agency doesn't make sense. She proffered that sometimes turning over legislation like that means the legislature has not written clear law and doesn't have a clear understanding of where it wants to go. She stated, "You're going to let oversight happen where the producers can oversee their own business and we can write law that ... will take care of ... our own interests." She stated that the committee has heard from the experts, who, in their words, said that HB 111 could "put us at the bottom" of the companies out there that are producing oil in terms of their profitability and the places where people want to do some exploration and production. She said that she has heard from her constituents, and twice as many people have testified against HB 111 as have testified in favor of it. She specified that key constituents from the North Slope, NANA Regional Corporation, and the Arctic Slope Regional Corporation (ASRC) have weighed in and fairly consistently testified that this is not a good idea.

[4:10:39 PM](#)

CO-CHAIR TARR pointed out that there was no motion currently on the table. At this time, she further pointed out, the committee is offering wrap up comments about the issues that were raised, and she requested committee members stay on those topics. In

the event a motion is made, she concluded, there will be an opportunity for closing comments.

4:11:05 PM

REPRESENTATIVE RAUSCHER referred to previous testimony by the Alaska Oil and Gas Conservation Commission (AOGCC), and he said he thinks a lot of the duties the legislature would be charging to DNR under HB 111 "are kind of going hand in hand here, too." He expressed concern that somehow the legislature cannot get DOR to give up information because it's totally illegal, but will instead get information from DNR and entrust that information with legislators, whom, he expressed an uncertainty as to their ability to keep secrets. He opined the committee is going about this completely wrong and doubling and tripling some of the details that different departments have. He reiterated his concern about obtaining secret information through another avenue and entrusting it to the legislature.

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CO-CHAIR TARR offered that she could not say she did not share Representative Rauscher's concern; however, she hopes the fact that there are criminal penalties for disclosure would be persuasion enough for people to follow the law. She noted that back in the early 2000s, then Governor Frank Murkowski had the Alaska Stranded Gas Development Act (SGDA) [passed in the Twentieth Alaska State Legislature and updated in 2003], which was a circumstance in which legislators had to sign a confidentiality agreement that they wanted to see information. Currently, for AKLNG, in the event a legislator wants to see information, he/she will have to sign a confidentiality agreement. She said she wouldn't say it is atypical of the work in this area because, from the company's perspective in competition with other companies, [confidentiality] is their biggest concern, which is why they don't want that information disclosed.

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CO-CHAIR TARR explained that there is a sort of separation of powers in that the legislature would be entrusting DNR, as the actual resource manager, with the ability to draft these regulations, while the folks at DOR review the taxes.

CO-CHAIR TARR advised that the committee has held 17 meetings on HB 111, received over 104 written comments, and heard over five

hours of public testimony from approximately 125 other individuals. In response to the previous comment regarding the ratio of opposition to support, she said after reviewing all the feedback, the opinions show more evenly and not so heavily weighted in opposition. She said there were four hours of industry testimony in the overview, and four hours of industry testimony related to the proposed bill, as well as the multiple presentations from the Department of Revenue and consultant, Rich Ruggiero. She opined that the bill had been thoroughly vetted.

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CO-CHAIR JOSEPHSON moved to report the proposed committee substitute (CS) for HB 111, Version 30-LS0450\N, Nauman, 3/10/17, out of committee with individual recommendations and the accompanying fiscal notes.

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REPRESENTATIVE JOHNSON objected. She maintained that the bill had not been thoroughly vetted. She stated that initially modeling and discussion had been offered educationally and the committee had not had real time to "dig in and take a look at this bill." She continued that much of the conversation had not been specific as to what could happen; the committee doesn't have a good sense of where this will take the state; and she has a hard time voting on something that can't produce a fiscal note "on one piece of it." She said there are too many unknowns and, even if there are things in the bill that might be worth voting for, there is too much she must vote against.

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REPRESENTATIVE PARISH commented that initially he thought HB 111 was a small step in the right direction. He said Mr. Ruggiero had advised that Alaska was close to the bottom in the world in terms of information transparency and, before the state makes a large investment, such as at 35 percent, the legislature should know what it is investing the people's money in, and the legislature doesn't have a right to that information under current law. He pointed out that he sees that as an overwhelming problem. He expressed appreciation for the work that's gone into HB 111, and he said that although it would be more generous toward industry than he might be inclined, he has heeded the advice of the other members of this committee and is content with the proposed bill as it moves forward.

Representative Parish said he would appreciate that HB 111 would end the problem of the state writing out checks to industry, thus giving the people's money to large, profitable multi-nationals that can send that money anywhere in the world they choose. He reemphasized that currently the state does not have the ability to point to a project and say it subsidizes it at "X" percent, because the producers do not choose to disclose that information to the state. In other countries in the world, he said, they are much more willing [to make that disclosure], but Alaska has been remarkably lax and irresponsible, failing in its responsibility to the people of the State of Alaska in getting the information necessary to be responsible investors. Representative Parish said he has seen the legislature sink billions of dollars into an awful lot of projects from which, hopefully, the state will see substantial returns, but he would like the legislature to be better informed; therefore, he stated his support of the proposed legislation as it stands. He added that in particular he thinks the "dry hole credit" seems like a clever solution, and the uplift element is also wise.

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REPRESENTATIVE TALERICO commented that some of the concerns that we really have a responsibility to look at are the actual trend and data currently available. Obviously, the increase in throughput would interest everyone, particularly when the Alyeska Pipeline Service Company was here telling the legislature how important it is to have oil in that pipeline. He said he thinks the old system and the adjustments made there served to stir up some enthusiasm and promise on the producers' part to go ahead and produce more oil and get more oil in that pipeline, as shown in data from the first two months of this year. He said there has been discussion about the stability of the system; however, after adopting legislation just last year and not even having had the opportunity to put it in place, the legislature is once again looking at a change. He said he is not a "real big government guy," and regarding DNR's involvement here, in particular with the preapproval of lease expenditures, he said he can only assume that DOR has some criteria of what it considers to be a legitimate lease expenditure, and he is sure DOR considers that criteria when those are submitted. He said he is not sure that HB 111, as written, would have a blanket policy where the criteria is established so the people know well ahead of time, prior to bidding on a lease and paying the State of Alaska for it, what that expense might be, or regulatory-wise would there be just individual cases to be looked at. He said he thinks that particular regulatory structure would probably

bring up a lot of questions in the industry. He said, "They're going to be looking at lease expenditures but another department handles the money." He said he wants DOR to handle the money, because that department is comprised of the state's money experts. Conversely, DNR comprises the land experts, and he expressed big concern over allowing more involvement by another department. He said that with the preapproval of lease expenditures, it very well may be that [DNR] would come with a regulatory system that is "a blanket with a full list of ... what those approvals might be."

REPRESENTATIVE TALERICO acknowledged that there were a lot of different attitudes and opinions in the room, and sometimes he disagrees with what people say. Regarding "multi-nationals and writing them checks," he said he is not sure that happens. He said, "And I think people have produced more than 50,000 barrels a day and never get any money; I'm pretty sure that's what happens." He said he thinks the cashable credits were really designed for the mid-major type and smaller explorers and operators that would come in, and he offered his understanding that the history of that was to encourage those people to come up to Alaska and produce more. He said those are his biggest concerns.

REPRESENTATIVE TALERICO mentioned data that the legislature is following currently and a graph related to another bill, and he expressed great concern about incentive programs with not much return - something he witnessed while involved a couple years ago with some incentive programs in another area of the state. He indicated that at that time "we did come up with something," and he said he would like to "see that be given the chance to engage and see how well it would turn everything around because it does turn some things around." He surmised everyone could probably agree that the legislature will never come up with a perfect tax scenario for the state, the producers, or anyone. He said, "We know for a fact these things change around the world; in some places they make bigger changes than others." He said it would be incredibly difficult to support the proposed legislation and he would not; however, he expressed appreciation for the work put into such legislation and acknowledged that "these aren't easy decisions for anybody."

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REPRESENTATIVE BIRCH opined that a better job can be done by committee members, the legislative body, and the state. He remarked on the history of the state's resources that are

displayed on the walls of the committee room. He said members need to focus on that, because their predecessors had the vision and wisdom to realize that to be really successful, Alaskans need to develop a collaborative partnership to build Alaska's future. He expressed concern that the committee has not done that here; this effort has been all about raising revenue, and he thinks the state is at a point where it needs to attract investment, and as a testifier from the Alyeska Pipeline Service Company mentioned, the focus should be to keep oil flowing through the pipeline. He said there have been promising finds in the oilfields, but the state should be careful to remain competitive from an investment standpoint. He talked about the huge advantage Alaska has in the proper development of its resources. Representative Birch opined that the committee needs to be embracing the oil and gas, mining, timber, and fishing industries - not throwing roadblocks, "striking fear," and "putting uncertainty and instability in front of ... everybody." He said he thinks that is what the proposed legislation does, which is why he will not be supporting it.

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REPRESENTATIVE RAUSCHER remarked that he cannot wait to see what the legislation looks like when it comes back from the Senate and what it looks like when both bodies are done negotiating.

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CO-CHAIR JOSEPHSON noted that Representative Johnson offered the belief that some of the PowerPoint presentations were meant to be educational, and he agreed that "they sort of were"; however, he remarked that the proposed legislation had existed for almost 45 days. He said no doubt much of this is connectable to what the co-chairs thought would be unfinished work in House Bill 247. He said there has been discussion about whether or not there should be "more patience about [House Bill] 247." He stated that in the end House Bill 247 was mostly about Cook Inlet, although a cap was put on the eligibility for cash for the non-producers.

CO-CHAIR JOSEPHSON said he thinks many of the features in the current version of HB 111 are relatively consistent with Governor Bill Walker's House Bill 247 or at least do not run far afield from the original HB 111. He said the current version would increase the gross floor, which was something House Bill 247 did, and it supports the state being assured a hard floor minimum. He said prior to House Bill 247, and even to today,

many credits can penetrate the floor. The sense from Senate Bill 21, he said, was that "you've got this 4 percent when, frankly, you often didn't." He admitted this Sis at a time when the companies themselves are suffering, but at the same time, Senate Bill 21 resulted in a very generous portfolio of credits, which were affordable when the state brought in \$9 billion a year but not affordable when the state brings in \$1 billion a year and much of that billion - for example, in fiscal year 2017 (FY 17) - was royalty.

CO-CHAIR JOSEPHSON said he thinks that making adjustments to the per barrel credits that impact the \$78 to \$120 range is appropriate. He proffered that one thing that was not understood in Senate Bill 21 was that the effective tax rate was not going to match the operating loss credit - except at \$170 a barrel - and that's a problem. He said he thinks it's reasonable to change the interest rate. He said he appreciates the criticism that the state's auditors are slow to get their work done, and he pointed out that the budget the committee has been debating today would increase the number of auditors, which hopefully will help; however, he said he thinks one could surmise that if compounding interest is cut off after three years, then that might incentivize litigation and more dispute about tax returns.

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CO-CHAIR JOSEPHSON commented that with regard to the issue about taxpayer information, he shares Representative Rauscher's concern. He indicated that the proposed legislation would give the 60 legislators and the other folks mentioned the option of using their own discretion, just as legislators have to when they go into executive session, to ask themselves whether they can keep the information contained and have a segregation of thought. He said there are good people, such as Senator Berta Gardner, who have said they will not do that because "you can slip up." He said the other concern, which is also important, is that there are constituents who understandably ask why legislators get to know that information and they don't. He offered his understanding that there was some dispute with the Alaska Oil and Gas Association (AOGA), but there was a general belief, no doubt, that there should be some sort of compromise that could be reached, and it just wasn't adopted in House Bill 247.

CO-CHAIR JOSEPHSON said the other things that come to mind about HB 111 is that there is great appeal when looking at some of the

spreadsheet and noticing, for example, that Smith Bay could generate "X" dollars with a much smaller investment than that. However, he said what Ms. Colleen Glover, Tax Division, Department of Revenue, identified the net present value (NPV) brought that amount down and there were other options about what to do with the state's money. He stated, "I'm all for the independent; that's why I encourage and applaud the uplift feature to keep, hopefully in their mind, this competitive." He explained that is why he had championed the idea of the House Resources Standing Committee encouraging the pay down, contingent on a fiscal plan, of the credits that are "owed." He explained they are not technically owed, but he would like to see them paid contingent on a fiscal plan or at least a substantial part of them paid.

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CO-CHAIR JOSEPHSON remarked that HB 111 would also provide that the gross value at the point of production could never be beneath zero, which he said strikes him as a smart thing, because "one would think that if you're standing at the wellhead, the oil is always going to have some value; if it's not, it probably shouldn't be drilled." He admitted that that is easier said than done. He mentioned HB 133 - a moderate bill [sponsored by Representative Les Gara] - and Mr. Robin O. Brena's testimony [before the House Resources Standing Committee on 2/3/17]. He indicated that HB 133 attempts to question where the state's reasonable share is during both low prices and moderate to high prices. He said he is not aware of where, under existing law, the state gets anywhere near its 33 percent. He concluded that like all bills, HB 111 may have its imperfections, but it is a reasonable improvement. He stated his support for the proposed legislation.

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CO-CHAIR TARR thanked the committee for its work and the concerns raised. She said the diversity of backgrounds and points of view is what makes member stronger in working together. She remarked that she had been the only sitting member of the House Resources Standing Committee during the contemplation of Senate Bill 21, and at that time oil was \$94 a barrel. The committee at that time did not consider the \$40 to \$50 price range, because over the prior 10 years, the price of oil had remained between \$60 and \$100, with the exception of the spike to \$147. She offered her view that the committee at that time had not considered this lower price environment [could

become] the new normal, and thus did not really fully flush out how things might work.

CO-CHAIR TARR stated that the information she heard during the hearing of [HB 133] was that there will be more credits earned than the state receives in production taxes with the lower prices, which she said she finds concerning. She talked about a goal to consider all the state's responsibilities, including to public safety, education, resource management, the University of Alaska, and health care services, and the determination of how much the state can afford to put in each area. She said she had been convinced by some of the industry testimony, as well as hearing from the support businesses, about the strains on the industry right now, to be more mindful of the pressure in that lower price environment, and adjustments made on the minimum tax and the per barrel credit were scaled back to be more modest. She mentioned the addition of a windfall provision.

CO-CHAIR TARR indicated the reason for offering so much information was in consideration that perhaps there was still a lot more learning to do for the legislature to be good policymakers and to build trust with the public. She said now that there's an understanding that there's a buildup of credits, there has been a lot of pressure - evidenced by different polls and "things like that" - on the legislature to address the issue. She said an earnest attempt was made to listen to the consultant, Mr. Ruggiero, who recommended the following: carry forward losses, uplift, dry hole credit, and access to information. She noted that the consultant had 30 years of experience and was hired "to help us figure it out." Co-Chair Tarr said she hopes if the bill is passed out of committee, members would continue to work on the issue, so that ideas can be brought forward as they are learned. She stated, "Our goal is stability for the industry and ... to get more oil into the pipeline." She said she heard loud and clear the message in [the aforementioned testimony from the representative from the Alyeska Pipeline Service Company] regarding the importance of [maintaining oil flow through the pipeline] for the sake of the state's revenue and ability to maintain its critical infrastructure. She acknowledged that the committee members have similar goals, but may come at them in different ways, and she reiterated her appreciation of the committee's work through the process.

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REPRESENTATIVE JOHNSON [maintained her objection].

[4:38:44 PM](#)

A roll call vote was taken. Representatives Parish, Westlake, Drummond, Josephson, and Tarr voted in favor of the motion to report the committee substitute for HB 111, Version 30-LS0450\N, Nauman, 3/10/17, out of committee with individual recommendations and the accompanying fiscal notes. Representatives Birch, Johnson, Rauscher, and Talerico voted against it. Therefore, CSHB 111(RES) was reported out of the House Resources Standing Committee by a vote of 5-4.

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[4:39:38 PM](#)

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

^#hb87

HB 87-CONFLICT OF INTEREST: BD FISHERIES/GAME

[4:44:13 PM](#)

CO-CHAIR JOSEPHSON announced that the next order of business would be CS FOR HOUSE BILL NO. 87(FSH), "An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards."

[The minutes for HB 87 are forthcoming.]

HB 87 was held over.

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ADJOURNMENT

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