

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON OIL AND GAS**

February 13, 2001

10:03 a.m.

**MEMBERS PRESENT**

Representative Scott Ogan, Chair  
Representative Hugh Fate, Vice Chair  
Representative Fred Dyson  
Representative Mike Chenault  
Representative Vic Kohring  
Representative Gretchen Guess  
Representative Reggie Joule

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 38

"An Act amending the application deadline, and the standards applicable to determining whether a proposed new investment constitutes a qualified project, for purposes of the Alaska Stranded Gas Development Act; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 9

"An Act amending the standards applicable to determining whether a proposed new investment constitutes a qualified project for purposes of the Alaska Stranded Gas Development Act; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: HB 38

SHORT TITLE:ALASKA STRANDED GAS DEVELOPMENT

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
01/08/01	0034	(H)	READ THE FIRST TIME - REFERRALS

01/08/01	0034	(H)	O&G, RES, FIN
01/08/01	0034	(H)	FN1: ZERO(DNR)
01/08/01	0034	(H)	REFERRED TO O&G
02/13/01		(H)	O&G AT 10:00 AM CAPITOL 124

BILL: HB 9

SHORT TITLE: STRANDED GAS DEVELOPMENT PROJECT

SPONSOR(S): REPRESENTATIVE(S) GREEN

Jrn-Date	Jrn-Page		Action
01/08/01	0026	(H)	PREFILE RELEASED 12/29/00
01/08/01	0026	(H)	READ THE FIRST TIME - REFERRALS
01/08/01	0026	(H)	O&G, RES
01/08/01	0026	(H)	REFERRED TO O&G
01/30/01		(H)	O&G AT 10:00 AM CAPITOL 124
01/30/01		(H)	Heard & Held
01/30/01		(H)	MINUTE(O&G)
01/30/01		(H)	MINUTE(O&G)
02/01/01		(H)	O&G AT 10:00 AM CAPITOL 124
02/01/01		(H)	Scheduled But Not Heard
02/13/01		(H)	O&G AT 10:00 AM CAPITOL 124

**WITNESS REGISTER**

WILSON CONDON, Commissioner  
 Department of Revenue  
 P.O. Box 110400  
 Juneau, Alaska 99811-0400

POSITION STATEMENT: Presented HB 38 on behalf of the administration; answered questions pertaining to HB 38 and HB 9.

RICHARD PETERSON, President  
 Alaska Natural Gas to Liquids Company  
 310 F Street, Suite 200  
 Anchorage, Alaska 99501

POSITION STATEMENT: During hearing on HB 38, suggested that HB 393 (from 1998) may have sent unintended message; proposed that any changes not specify types of projects; answered questions relating to HB 38 and HB 9.

REPRESENTATIVE JOE GREEN  
 Alaska State Legislature  
 Capitol Building, Room 403  
 Juneau, Alaska 99801

POSITION STATEMENT: Sponsor of HB 9.

**ACTION NARRATIVE**

TAPE 01-14, SIDE A  
Number 0001

CHAIR SCOTT OGAN called the House Special Committee on Oil and Gas meeting to order at 10:03 a.m. Members present at the call to order were Representatives Ogan, Kohring, Guess, and Joule. Representatives Dyson, Chenault, and Fate arrived as the meeting was in progress.

HB 38 - ALASKA STRANDED GAS DEVELOPMENT

[Contains testimony relating to HB 9]

CHAIR OGAN announced that the first order of business would be HOUSE BILL NO. 38, "An Act amending the application deadline, and the standards applicable to determining whether a proposed new investment constitutes a qualified project, for purposes of the Alaska Stranded Gas Development Act; and providing for an effective date." [Committee packets included a copy of SCS CSHB 393(FIN), the version of HB 393 that in 1998 became the Alaska Stranded Gas Development Act.]

Number 0127

WILSON CONDON, Commissioner, Department of Revenue, explained that HB 38, introduced on behalf of the governor, would amend the Alaska Stranded Gas Development Act, passed by the legislature in 1998 and codified in AS 43.82. First, HB 38 would expand the applicability of that Act beyond the current LNG [liquefied natural gas] option, to include any option that would commercialize stranded gas in Alaska, including a long-distance transmission proposal or a gas-to-liquids (GTL) option. Second, HB 38 would extend by six months the current June 30, 2001, deadline for people to make applications for consideration under the Alaska Stranded Gas Development Act.

COMMISSIONER CONDON reviewed the history of the 1998 Act. Its fairly detailed procedures were put in place by the legislature for consideration of modifications to the fiscal system that might be appropriate to a gas development project. At the time, there was much discussion that [HB 393], as introduced, would apply to any project that would have commercialized stranded gas in Alaska. After much deliberation, the legislature chose to limit the applicability of the Act to an LNG project only.

Number 0507

COMMISSIONER CONDON explained the procedures established by the 1998 Act. The Act envisions an application made by a project sponsor; review by the commissioners of [the Departments of] Revenue and Natural Resources to determine whether the project qualifies; negotiations between the state executive branch and the project sponsors over proposed fiscal arrangements, which would be structured in the form of a contract, with contractual payments in lieu of taxes; public review; an opportunity for modification; and submittal of the proposal to the legislature, which would decide to either grant or deny the executive branch the authority to enter into the contract.

COMMISSIONER CONDON noted that also important in the Act is a provision for the participation of both revenue-affected municipalities and economically affected municipalities. In the former, arrangements would change the applicability of local property tax; in the latter, costs related to activities surrounding the project would cause a potential financial burden. These communities would be given a role in developing the fiscal contract.

Number 0845

CHAIR OGAN recalled that the genesis of [HB 393] was the Van Meurs report, which said one key to unlocking the economics of the LNG line to Valdez was to defer taxes and compensate affected communities.

COMMISSIONER CONDON said that was a fair characterization. The state had employed, under contract, Dr. Pedro van Meurs, a consultant with offices in Calgary [Alberta, Canada] who specializes in advising governments about fiscal arrangements in terms of their participation in the oil and gas business. Speaking of Dr. van Meurs, Commissioner Condon said:

As he looked at Alaska's fiscal system, he advised us, as you know, in a lengthy report focused principally on LNG; but in helping us with the legislation, he believed that it was important that the legislation apply to any potential project that would commercialize gas in Alaska.

And he advised us that the fiscal system that we have in place, which works ... relatively well for the oil

production that we have, ... was not ideally suited to the public interest in terms of ... the gas business.

... In terms of the public's share in the resource, he thought that we would be better served by a fiscal system that was less front-end-loaded, which means ... a system ... where the state gets ... much of its share even before a potential project begins to earn money, ... and, as well, less regressive, which means that when prices are high, we take a much smaller share of the economic rent than when prices are low.

And in terms of tailoring a fiscal system that would best serve the public interest for gas commercialization, he advised us that we should come up with a set of procedures that would tailor our fiscal system to the particulars of the gas development project, and that we ought to try to achieve one that was less front-end-loaded and more progressive.

CHAIR OGAN invited Representative Green to join members at the committee table.

Number 1172

REPRESENTATIVE DYSON referred to HB 38, page 2, line 4, which read, "reasonably foreseeable demand in this state for gas". He asked whether "in this state" means the provisions of HB 38 "would only be available to a scenario that would supply gas to consumers and wholesalers in the Interior and ... along the length of the pipe."

COMMISSIONER CONDON replied no, then suggested going to the underlying question. If the question is whether somebody who was going to try to build the "over the top" project could apply, for example, he said the answer is yes. The Act certainly envisions that the state would insist on making gas available within the economic proximity of the project, and that means anything close.

Number 1336

REPRESENTATIVE DYSON requested clarification. He referred to [HB 38, page 2, lines 3-5], which read, "making gas available to meet the reasonably foreseeable demand in this state for gas

within the economic proximity of the project." He asked what "in this state" means besides for people in this state.

COMMISSIONER CONDON emphasized the phrase "within the economic proximity of the project." He said if a project goes by Fairbanks and Delta [Junction] and across the border, it was not envisioned that this Act would require the delivery of gas to Ketchikan, for example. This provision of the Act deals with who can apply and what a qualified project is, not what can be imposed on the project; the latter is in a different provision. There is no question that envisioned under this Act would be a requirement that gas be delivered to Fairbanks if the pipeline went by Fairbanks.

Number 1409

REPRESENTATIVE DYSON asked whether deleting that entire phrase wouldn't make any difference, then, because "making gas available for folks within the state and along the pipeline route is covered in other portions."

COMMISSIONER CONDON said this has to do with whether the application will be considered in the first place. He stated, "I think you ought to leave this in there, as well as the provision in the Act that deals specifically with what you're [going to] make them do."

Number 1499

REPRESENTATIVE GUESS asked how projects unrelated to LNG would move forward if [the legislature] doesn't make these changes.

COMMISSIONER CONDON replied that this [HB 38] provides an opportunity for project sponsors with a project other than an LNG project to come to the state with an application, before December 31 of this year, and "engage with the state in an exercise which hopefully would tailor the state's fiscal system to the particulars of a project." If no one applied before the December 31 deadline, that would be the end of it unless the legislature later extended the deadline.

Number 1578

REPRESENTATIVE GUESS asked: If the legislature didn't pass this, and projects came that were not LNG projects, how would "you" approach that project?

COMMISSIONER CONDON posed a scenario in which the three producers decide they want to build a pipeline to mid-North America, or perhaps Foothills Pipe Lines Ltd. would file an application with the FERC [Federal Energy Regulatory Commission] and the Canadian National Energy Board to refresh the arrangements made 20 years ago to carry gas to mid-North America. Instead of deciding to apply under the Alaska Stranded Gas Development Act, they may decide to talk to the legislature; the ball would land in the legislature's court in terms of making decisions about what the state's tax policy ought to be with respect to whatever project is being proposed. Commissioner Condon said this is simply one of many possible vehicles to put before the legislature the issue of what the state's fiscal system regarding a gas project ought to be.

Number 1704

CHAIR OGAN requested confirmation that the governor already has the ability to negotiate an agreement like this and then present his own bill before the legislature regarding payments in lieu of taxes or deferments, for example. He stated his understanding that [Governor Knowles] had done that with Northstar.

COMMISSIONER CONDON clarified that the arrangements made with respect to Northstar pertained to royalty, not tax. But yes, he said, the governor could present to the legislature a set of proposed statutory changes that would modify the tax system that would be applicable to gas production in Alaska; then the legislature would act upon that, as it deemed appropriate.

Number 1771

CHAIR OGAN said he interprets this as a concession and a negotiating tool. He likened it to rewarding a horse with a carrot before it even heads out, rather than using it as a reward afterwards.

COMMISSIONER CONDON replied that he is reluctant to use the word "concession" because it implies giving something away, which he hopes the state won't do. Alaska's fiscal system that would apply to a gas project is in place, he reminded members, including royalties and a "suite of taxes." Noting that three years ago this was worked on jointly by the legislature and the executive branch, Commissioner Condon explained:

We thought it made sense to have ... a pretty definite structure in place, which the executive branch was to use to bring a proposal to the legislature for its consideration ... in tailoring the fiscal system to meet the precise needs of both the public and the project.

And so, that's how we ... ended up with this [Alaska] Stranded Gas Development Act that was put on the books. And, of course, ... the Act itself doesn't make any changes at all. It simply provides a procedure for developing a set of proposed changes, which would be presented to the legislature for its consideration.

There are obviously lots of different ways that proposals could be put together for the legislature. But what was envisioned three years ago was to have the executive branch go out and do a specified set of assignments - homework, if you will - for developing a proposal for dealing with a gas project, and then to bring that before the legislature for the legislature's consideration. ...

And clearly, ... the legislature establishes tax policy. ... Of all the areas where ... the executive branch proposes and the legislative branch disposes, I think tax policy is about the most sensitive.

Number 1988

CHAIR OGAN responded that nothing prevents the governor, at this point, from using this as a model for the pipeline route or GTL, for example, and going ahead and negotiating these kinds of terms and then presenting [the legislature] with a bill for passage. He indicated that with the proposed system, the legislature can only vote yes or no; if the administration presents a bill, however, the legislature can modify it.

CHAIR OGAN said he sees this, essentially, as a delegation of legislative powers to the governor. If the public is excited about a project such as a pipeline, that "head of steam" might cause the legislature to avoid trying to stop it, even if there were some negotiated items that legislators didn't like.

CHAIR OGAN indicated he is more comfortable with the governor negotiating, using this as a model, and then coming back to the

legislature; legislators could see what they did or didn't like and then [send it back] for renegotiation. That would give the legislature a little more power, which is "constitutionally defined to the legislature" to manage resources.

Number 2100

COMMISSIONER CONDON responded that he doesn't fully agree with that analysis. If, for example, the governor negotiates a package and brings it before the legislature, asking that it be voted up or down, the legislature could decide it didn't like three provisions and pass bills which reflect its own judgment regarding what is the best set of provisions. The legislature would send that to the governor; although the governor could veto it, clearly [the legislature] has full plenary authority and hasn't delegated any of it. Commissioner Condon pointed out that the only way the governor could, for example, hire a consultant and ask the consultant to pay for part of the negotiating would be to follow this procedure.

CHAIR OGAN remarked that for him, the issue is timing, which is everything when negotiating a contract.

Number 2238

REPRESENTATIVE JOULE said he thinks the point is well made that the [legislature], through the committee process, has the opportunity to make changes that legislators deem necessary. He said he didn't agree with the governor then, and is glad to see something like this come out. He noted that [HB 9 and HB 38] are almost identical except that one has a date changed from June 30, 2001, to December [31], 2001, and the other doesn't. He asked Commissioner Condon to speak to that.

COMMISSIONER CONDON noted that Representative Green's bill [HB 9] would expand coverage of the Act in exactly the same manner as the governor's bill [HB 38]. He explained the other change in the governor's bill, extending the deadline:

The governor believed that we ought to change ... those dates, believing that ... given the likelihood that any legislation might not pass until the end of the legislative session, there simply wouldn't be enough time for someone ... to gear up and make an application if the bill passed in May and you had a June 30 cutoff point for making applications under the bill.

So, it was his thought we ought to extend the deadline until the end of the year, but nevertheless that the deadline should be ... an early deadline so that ... if people are going to use this vehicle, ... they do it soon and get moving.

Number 2380

REPRESENTATIVE JOULE referred to the change to open it up to more than LNG. He asked whether this gives people additional time "in looking at other things and making those other potentials a part of their application process."

COMMISSIONER CONDON clarified that passage of either HB 38 or HB 9 would make it possible for someone who is proposing to build a project to "pipeline" gas from the North Slope to mid-North America, for example, to apply under this Act; the same is true for someone proposing a GTL project. They could not apply now because only a project that would take gas to market as LNG would qualify for consideration.

Number 2486

CHAIR OGAN asked how the producers' working group is doing and whether Commissioner Condon expects them to apply regarding LNG before June 30.

COMMISSIONER CONDON specified that he doesn't expect them to apply for consideration under the [Alaska] Stranded Gas Development Act on June 30; however, he doesn't know that they won't apply.

Number 2553

REPRESENTATIVE GUESS requested confirmation that under this proposal, after the administration has negotiated the contract and it has come back to the legislature, the legislature would still have authority to change the contract.

COMMISSIONER CONDON affirmed that.

Number 2583

CHAIR OGAN asked: Has a report or study has been done to justify this legislation? Who is asking for this? And what basis is the governor using to bring this legislation forward?

He noted its mention as a "sidebar issue" with the Van Meurs report, but pointed out that when HB 9 was heard [January 30, 2001], there was no testimony regarding the need for it. He related that he'd had some off-the-record conversations with producers, who had indicated they weren't ready to discuss this because they don't really know whether they have a project yet.

COMMISSIONER CONDON answered:

The governor asked me what I thought we had to do, in terms of legislative proposals relating to commercializing North Slope gas. And I said to him, "When we had this issue looked at three years ago by ... Dr. van Meurs, he recommended that we make this legislation applicable to all the different possibilities for commercializing North Slope gas, and ... I recommend that you put legislation in that tracks the recommendation we got from Dr. van Meurs." And so, the governor thought about it and accepted the proposal that I made. ... I made the recommendation because I thought we ought to return ... to the proposal that we made three years ago.

Number 2688

CHAIR OGAN asked whether this is the legislation that Cambridge [Energy Research Associates] was hired to work on.

COMMISSIONER CONDON answered:

As has proven to be the case, the question of commercializing North Slope gas is something that you and other members of the legislature are vitally interested in. And we retained Cambridge to help in gathering information and presenting information which we thought would be pertinent to whatever legislative deliberations, including this legislation, but just a general question, policy making with respect to commercializing North Slope gas. And so, the thought was ... that Cambridge would be a good resource for gathering and evaluating information relating to North Slope gas commercialization.

Number 2761

CHAIR OGAN asked Commissioner Condon whether anyone had consulted with him regarding his testimony that day.

COMMISSIONER CONDON replied no; this procedural legislation, which deals with the state fiscal system, is not in the realm of expertise of Cambridge Energy Research Associates.

Number 2816

CHAIR OGAN expressed concern about Commissioner Condon's statement that he doesn't see this as a concession. Chair Ogan compared this to a balloon payment, which he believes to be a concession. Without it, [project sponsors] would have to pay taxes now instead of later, and it is perhaps a powerful negotiating tool. He reiterated his concern about the timing of giving what he perceives as a concession and just trusting the governor to "do us right."

COMMISSIONER CONDON replied that this legislation doesn't do anything other than set up a process. This Alaska Stranded Gas Development Act just sets up a structure for dealing with the issues; this would expand the applicability of that structure [beyond LNG]. He stated:

It's a policy call that the executive branch and the legislature worked closely together on when we went through this exercise three years ago, and we're certainly prepared to do that with you once again. But, obviously, the objective here is to come up with what we believe to be the most sensible way for addressing these issues and bringing them before you for your consideration.

Number 2973

CHAIR OGAN asked whether anyone is "kicking tires on GTL at this point."

COMMISSIONER CONDON said that depends on what Chair Ogan means by "kicking tires." He then stated:

You're going to hear from ... the folks that proposed to link up with the Sasol folks for a GTL project. We have the pilot plant that BP's constructing on the Kenai Peninsula. The folks that have talked to us often about GTLs - Exxon - sort of have not been by to talk to us lately about GTLs ....

TAPE 01-14, SIDE B

Number 3001

CHAIR OGAN asked whether, if this legislation passes, someone is "ripe to apply."

COMMISSIONER CONDON answered that he believes there won't be a GTL application between now and December 31. That belief is based on conversations with various people that he deals with; nobody has mentioned it.

CHAIR OGAN commented that a couple of years ago, Exxon was "seriously at the table on this." He thanked Commissioner Condon and turned to public testimony.

Number 2946

RICHARD PETERSON, President, Alaska Natural Gas to Liquids Company, came forward to testify, specifying that his company is based on Anchorage. He told members:

When we look at legislation or projects that are going to go on in Alaska, we generally like to say, "Well, they're going to look at all projects and not single out any one specific project." When we looked at House Bill 393 with the limitation to LNG, it may have sent an unintended message to the rest of the potential gas development community that this was the only type of project that would be considered.

So, we would say that in any future legislation or change that ... maybe you shouldn't be specific. Maybe we shouldn't even say "with respect to a gas pipeline, GTL, or LNG," because ... maybe there is somebody else out there who could say, "My goodness, Alaska will consider anything that can be economic." And maybe there's a different way than those three. So, I would say that legislation that you put in place would not be specific to any one particular project, and it would just open the field for any viable project.

Number 2860

REPRESENTATIVE DYSON asked Mr. Peterson whether HB 38 or HB 9 seemed to fit his criteria more.

MR. PETERSON answered that Representative Green's proposal [HB 9] is not specific as to the type of project; in that respect, he thinks it would be more what the Alaska Natural Gas to Liquids group would propose. In further response, Mr. Peterson said he would be glad to discuss his organization with Representative Dyson in the future.

Number 2788

CHAIR OGAN asked Mr. Peterson whether, if this legislation passed - assuming that the date of the [deadline] is at the end of this year - he would "have the resources to be ready to build a project and apply for it, between now and then?"

MR. PETERSON answered that a lot of it has to do with whether the Department of Natural Resources and "Commissioner Condon's area" believe that the proposal that [his group] has presented makes sense for the state. He added, "Until they tell us that they're willing to continue on [working] with us in that area, we're not going to do anything further. So, it's hard to say whether or not we will apply this year ... for one on the North Slope."

Number 2760

CHAIR OGAN said in his mind, the record has been established fairly clearly that the governor isn't precluded from using this as a framework to negotiate and then propose legislation. He said he doesn't see a project associated with at least the GTL portion of the legislation. He asked, "Now, you don't own any gas; is that correct?"

MR. PETERSON affirmed that.

CHAIR OGAN asked, "Whose gas do you anticipate turning into GTLs?"

MR. PETERSON answered:

Initially, we proposed to do this with Exxon's gas, BP's and, back in that timeframe, ARCO's gas. And at that time, Exxon told us that they would not enter into a project that used competing GTL technology, although it was difficult to say that it was competing because Exxon does not have a commercially proven technology at this point, and neither did the other two "majors" at that point. So, their general feeling

is, they would not like to participate in a project that uses technology that is not their own.

So, the next option was the state royalty gas. And once you go into the state royalty gas, it seriously limits the size of a GTL project, and that can affect the economics - and which it does. And that's what has created additional issues that we've had to deal with, because ... the volume that would be available for a GTL project being so limited reduces the economics and makes it a little more difficult to happen.

Number 2661

CHAIR OGAN asked whether there were further questions. He thanked Mr. Peterson, then asked whether anyone else wished to testify. There being no response, Chair Ogan closed the hearing on HB 38.

CHAIR OGAN called an at-ease at 10:57 a.m. He called the meeting back to order at 11:04 a.m.

HB 9 - STRANDED GAS DEVELOPMENT PROJECT

[Contains discussion of HB 38]

CHAIR OGAN announced that the next order of business would be HOUSE BILL NO. 9, "An Act amending the standards applicable to determining whether a proposed new investment constitutes a qualified project for purposes of the Alaska Stranded Gas Development Act; and providing for an effective date."

Number 2625

REPRESENTATIVE JOE GREEN, Alaska State Legislature, sponsor of HB 9, told members that Commissioner [Condon], who had just presented HB 38 to the committee, had said perhaps 90 percent of what he himself would refer to. He himself would offer comments and ask questions relating to Commissioner Condon's remarks.

REPRESENTATIVE GREEN reminded members that the state has had incentives in the past; some have been activated, and some haven't. He offered examples: a "low-production royalty reduction" instituted several years ago for the marginal wells in Cook Inlet; the exploration credits instituted several years ago to encourage exploration in unexplored regions of the state;

and modification of the Northstar royalty agreement that had been struck some years before.

REPRESENTATIVE GREEN noted that there was extensive dialogue surrounding [HB] 393 [in 1998]; a member of the body was very vocal about wanting to limit this possible incentive to LNG, the "hot" issue at the time. Representative Green pointed out that gas prices have fluctuated wildly, and projecting gas prices and development is difficult; furthermore, the huge resource at the North Slope is extremely far from the market, including the Pacific Rim. A company will be reluctant to spend billions of dollars in such a situation, he indicated.

REPRESENTATIVE GREEN mentioned the current gas shortage in the Midwest. Although there is a desire to get American gas to American markets, he said, it is a long, long way. He asked what can be done to help, if help is needed. Representative Green pointed out that if [gas] can be sold at \$16, a company would build the line tomorrow. But can that be expected to last? If gas goes to \$6 or \$4, for example, will there be a return on the investment? He emphasized that any company - whether producing gas, oil, or candy bars - aims to make a profit.

Number 2296

REPRESENTATIVE GREEN pointed out that if the incentive is a deferred tax, the tax would be paid anyway. Many "royalty companies" will use their own money, but they also borrow capital. There is a cost for that. The company would be paying a tremendous amount of interest on that money until there is a return; if taxes were added to that, it would be a burden.

REPRESENTATIVE GREEN differentiated between how companies and governments look at "present worth" dollars. If a company could defer current expenses for a few years - and then pay them back, even with interest, after the product is coming in and there is an inflow of money - it would be to the company's advantage; that is called present worth. Governments, however, whether state or local, doesn't work on a present-worth basis, other than the discounted value of the money they may get; governments aren't concerned about this year or next year, other than how it affects their spending.

Number 2197

REPRESENTATIVE GREEN referred to discussion during the hearing on HB 38 that day. He stated:

We heard that if we pass this kind of an incentive that goes beyond just going to LNG, ... it would apply whether they go to a gas-to-liquids project or go to just [a] gas sales project. Is there a benefit of having an incentive potential?

It's not a giveaway. It's not a negotiation. It just says that if you qualify, we've got a thing over here that you can work under. Does that benefit? And the concern was expressed, "Well, yeah, but if they exercise that, they come running in and they've got a head of steam." And I submit to you that this is selling the legislature short.

REPRESENTATIVE GREEN recalled that last year there was a "head of steam" to allow BP to take over ARCO; that was a very popular concept with the public and many legislators. To their credit, the leadership of both bodies developed a committee of House and Senate members who "worked long and hard, got some heavy-weight consultants to back us up, went to the Federal Trade Commission [FTC], and said we didn't think that that was the best, in the interest of the state."

REPRESENTATIVE GREEN acknowledged that he didn't know whether that committee of legislators was instrumental in persuading the FTC or not. But finally, the BP takeover was disallowed. He emphasized his belief that the legislature has some clout and doesn't always listen to the governor. He added, "We do have the wherewithal to take a long look at it and make sure it is in the best interest of the state."

REPRESENTATIVE GREEN cautioned that right now, there is an attitude among the industry that maybe the State of Alaska isn't open for business, because the state is only interested in allowing an incentive relating to LNG.

Number 2038

REPRESENTATIVE DYSON asked, "Aside from what we both probably consider a limitation we put into [HB] 393, how else do you think we have been sending the message that we're not open to any other options?"

REPRESENTATIVE GREEN answered that although there was a desire to not limit it to LNG, the dialogue was, "No, no, no, it's LNG or nothing." That reverberated around the domestic investment world. Representative Green said he believes it is time to show that it isn't necessarily the case, and that the state truly is open to "as good a deal as we can make."

Number 1980

REPRESENTATIVE DYSON asked whether that is on any kind of delivery of the product.

REPRESENTATIVE GREEN replied, "Certainly. If the only delivery might be ... to the Midwest, then it's better to have that delivery than no delivery at all." He indicated it could be LNG or gas-to-liquids, or the line could come down to Fairbanks and "trifurcate into three different ways, to sell the gas." Those aren't mutually exclusive. Emphasizing that the market is fluctuating, Representative Green suggested that the state doesn't want to limit or even send the message that it's limiting the possibility of selling to that market.

REPRESENTATIVE GREEN explained that there is a tremendous amount of gas available right now, not only around the world but in the Lower 48. If the gas price stayed at \$15 or \$16, [Alaska] probably would not be able to sell its gas because a lot more gas would be developed closer to the market. "And that's something we must not lose sight of, that it's not a given that our gas is going to be a marketable product," he said. Representative Green stated:

We need to be able to react when there's a chance to react. And I don't want to cause a lot of pessimism or fear, but you may recall that I talked to this group - or certainly to several of you - that the gas line, once in, whatever it is, is not going to be a panacea to replace the crude line.

The value that nets back to us, as a royalty owner, is going to be a far cry from [what] it was when we were selling oil barrels. And so, don't ever think that what we're going to get from a gas line, no matter where we sell it, is going to be anything like Prudhoe Bay was. It'll be a big step forward, but it won't be the panacea.

Number 1850

REPRESENTATIVE GREEN addressed the question of why HB 9 doesn't have an expiration date. He explained that he didn't want to put an expiration date until he found out the will of a committee, either the House Special Committee on Oil and Gas or the House Resources Standing Committee. He noted that with a six-month extension, should the legislature adjourn in May, "there really isn't a whole lot of benefit to anything going to the end of the year, because the deal might be made but we wouldn't be able to react until next year - the bill's dead."

REPRESENTATIVE GREEN suggested that if there is going to be a "short fuse," it should be at least through July 1, 2002. That way, people who are working on a potential deal will have time, and it will allow the legislature to reconvene and see what is going to happen. If something is working, the legislature could extend the sunset date; otherwise, the legislature could let it die. At least it would allow time for people to think about it.

REPRESENTATIVE GREEN reiterated Commissioner [Condon's] point: It isn't the case that once the deal is cut, it is cut in stone. Rather, if the legislature didn't like a deal that was cut by the governor and a company, just as with the BP merger, the legislature wouldn't approve it. Then the company would go back to the boards, drop it altogether, or do something else.

Number 1684

CHAIR OGAN expressed concern that the governor might "spin it" that a pipeline deal in the Lower 48 was stopped by legislators who turned down a deal that the governor negotiated. He returned to the analogy of a train with a head of steam, emphasizing how hard it is to stop. Although HB 393 talked about approval by the legislature, Chair Ogan said, his impression was that it was an "up or down" [vote]. He isn't sure the legislature would have a line-item veto on a deal negotiated by the governor, although Commissioner Condon, a former attorney general whose opinion he respects, had said differently. Chair Ogan asked Representative Green to comment.

REPRESENTATIVE GREEN responded:

My feeling is just the opposite: yes, we do. And we did hear it from - as you say - a member of the present administration, both currently as commissioner of [the Department of] Revenue and a prior attorney general, so his word would certainly be more

impressive than mine, because I'm neither a lawyer [nor] a tax expert.

REPRESENTATIVE GREEN reiterated that with the proposed BP merger, the legislature didn't stop it but was instrumental in going to the FTC to perhaps get it stopped; the legislature stood together, saying it was not the best thing for the state, which was very powerful. In this particular case, however, the legislature would just not approve it.

REPRESENTATIVE GREEN commented on changes regarding Northstar, which [the legislature] did approve: "I think there was a lot of thoughtful deliberation that it was a better deal for the state to modify that royalty. There may be those of you who disagree, but the majority of us felt that this was a better deal."

Number 1480

CHAIR OGAN asked Representative Green whether he considers this a concession.

REPRESENTATIVE GREEN answered no; he considers this as "a way to look for a way - it says that now you are free to negotiate."

Number 1438

CHAIR OGAN referred to AS 29.45.810, which read in part:

Sec. 29.45.810. Exemption from municipal taxation.

(a) A party to a contract approved by the legislature as a result of submission of a proposed contract developed under AS 43.82 or as a result of acts by the legislature in implementing the purposes of AS 43.82, and the property, gas, products, and activities associated with the approved qualified project that is subject to the contract, are exempt, as specified in the contract, from all taxes identified in the contract that would be levied and collected by a municipality under state law as a consequence of the participation by the party in the approved qualified project.

CHAIR OGAN said he doesn't understand how it isn't a concession to exempt people from municipal taxes, even if they are going to pay them later.

REPRESENTATIVE GREEN emphasized that both parties would have to agree before it is a "done deal." The contract is where the negotiations occur, he added, "and that hasn't been signed by anybody, and won't be, with this bill; it just says, 'Hey, go do your best.'" Representative Green emphasized that it is a deferral, not an exemption.

CHAIR OGAN indicated it is an exemption that requires trusting that the governor will consult with the municipalities and negotiate an adequate payment in lieu of taxes.

REPRESENTATIVE GREEN replied that he doesn't know; it hasn't been determined. "That's when the negotiations start," he added.

Number 1278

REPRESENTATIVE GUESS asked what Representative Green what he thinks about the date proposed by the governor [in HB 38].

REPRESENTATIVE GREEN replied that if the legislature is out of session, he would prefer to know that the legislature still has this bill in effect, so that whatever is negotiated through the interim can be approved under the bill. He recommends going to 2002 because it allows another legislative session to review whatever might be done. He said if [the committee] wished to extend it another year, he would suggest having it until July, so that it is through another legislative session.

Number 1188

REPRESENTATIVE GUESS asked whether the date is for accepting applications or negotiating a contract.

REPRESENTATIVE GREEN said he would have to reread the language, but he believed the intent was that it would have to be a "done deal" by that termination date.

REPRESENTATIVE GUESS pointed out that those are two different questions: submitting a contract and having a "done deal," and just submitting a contract.

REPRESENTATIVE GREEN replied, "That's not so critical then, and I wouldn't have any objection. ... My estimation was that it would be a 'done deal,' and I would like us to be in session before that happened."

REPRESENTATIVE GUESS suggested perhaps the [committee] could look into that.

Number 1101

CHAIR OGAN referred to page 22, line 21, of HB 393, which is codified as AS 43.82.435. That statute read:

The governor may transmit a contract developed under this chapter to the legislature together with a request for authorization to execute the contract. A contract developed under this chapter is not binding upon or enforceable against the state or other parties to the contract unless the governor is authorized to execute the contract by law. The state and the other parties to the contract may execute the contract within 60 days after the effective date of the law authorizing the contract.

CHAIR OGAN read the first sentence. He commented that it seems to be contrary to [Representative Green's] contention that "we can basically renegotiate the terms if we don't like some of it." He said it appears the legislature would either give the governor authorization to execute the contract or not, although he supposed the legislature could deny authorization and then ask that [the governor] renegotiate. Chair Ogan reiterated that if it is presented in a bill, the legislature has a lot more line-item, hands-on authority.

Number 1020

REPRESENTATIVE GREEN suggested that if legislators don't like all or a part of a contract, it would go back to the governor with the caveat that the legislature would accept it if, and only if, that change was made.

CHAIR OGAN announced that he would like to call in Jack Chenoweth [Legislative Legal Services attorney] to clarify that, because he himself was interpreting the statute differently.

REPRESENTATIVE GREEN emphasized that it would be "yes" or "no," but the "no" would be "no, because" if [the contract] was close [to gaining legislative approval], unless it was an outright rejection. "But that's not required in there; it just says 'yes' or 'no,'" he added.

CHAIR OGAN said that is the way he interpreted it.

Number 0905

REPRESENTATIVE CHENAULT referred to lines 23-25 [page 22 of HB 393, and the second sentence of AS 43.82.435], which read:

A contract developed under this chapter is not binding upon or enforceable against the state or other parties to the contract unless the governor is authorized to execute the contract by law.

REPRESENTATIVE CHENAULT commented, "I assume we give him the authorization to execute the contract."

Number 0880

CHAIR OGAN affirmed that. He offered closing comments:

I hope that industry doesn't interpret that ... we're not open for business. I think I'd be more comfortable if they were coming to us and saying, "Yeah, we have this project," or, "We're ready to build a gas pipeline ... down the highway, and we've done these studies; here are the facts; these are the bottom lines." ... That's basically what was being done with the LNG project. ... We had some real good data to base this on, and ... I was comfortable delegating this authority to the governor to do this, under that scenario.

CHAIR OGAN noted that when the "working group" makes its scheduled presentation to the committee, he wants to know how far along they are.

Number 0740

CHAIR OGAN suggested that Representative Green consider modifying [HB 9] so that the "execution provision" is not an "up or down." Rather, the governor would negotiate the contract and submit all the terms of the contract in a bill; the legislature could either modify the bill or send it back to the governor to renegotiate specified portions. That would give the legislature a little more leverage.

Number 0714

REPRESENTATIVE GREEN emphasized that he wants to do this now, then explained:

It's not [a] good time to pass legislation if there is a bill pending; then you have a tremendous pressure to approve, ... and so you really don't have the time to study it in detail that you do now. If this is done and he comes in, we have as much time as we think we need to take. And if it's a short-term contract, don't even bring it to us, because we won't have time to look at it. He knows that.

But what I'm concerned about is if we wait to pass the enabling legislation to modify or get another incentive, they've negotiated some incentive, and we are almost ... pressure-bound to say, "Well, okay, in order to get this project, ... we're going to have to go the way it's been negotiated." I think that's the wrong way to negotiate.

Number 0555

REPRESENTATIVE GREEN asked when HB 9 might be heard again by the House Special Committee on Oil and Gas.

CHAIR OGAN answered:

A few years ago, when we passed [HB] 393, we had Exxon actively here saying, "We want this, we need this." I haven't heard anybody but a bill sponsor - either you or the governor - come before us and explain any desire for this legislation, with the exception of Mr. Peterson [who testified during the hearing on HB 83]. ... I hope sincerely someone comes to us and says, "We've got a project; ... we need to discuss this."

REPRESENTATIVE GREEN noted his disagreement with Chair Ogan about when the best time is to pass legislation or negotiate. Rather than setting it aside, Representative Green said, he believes the incentive should be passed; if nobody wants it, nothing is lost. "But we may have deterred somebody if we don't pass it," he cautioned.

CHAIR OGAN cited his personal experience in negotiating contracts and said he would like to get the best deal possible for Alaska. He reiterated that he believes this is a concession.

REPRESENTATIVE GREEN pointed out that this is not the negotiation but a method to use. He said there is a significant difference between a government and a billion-dollar deal, and what [Chair Ogan] did as a person. Chair Ogan was negotiating, but this is not negotiating.

CHAIR OGAN said he would respectfully disagree. He believes this is an important negotiating tool, and that it is the legislature's constitutional responsibility to negotiate the best deal and be at the table. "We are a 12-1/2 percent owner," he added, "and we need to be treated like an owner rather than a renter." [HB 9 was held over.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Oil and Gas meeting was adjourned at 11:21 a.m.