

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

April 18, 2001

5:09 p.m.

**MEMBERS PRESENT**

Representative Scott Ogan, Chair (via teleconference)  
Representative Hugh Fate, Vice Chair  
Representative Fred Dyson  
Representative Mike Chenault  
Representative Vic Kohring  
Representative Gretchen Guess

**MEMBERS ABSENT**

Representative Reggie Joule

**COMMITTEE CALENDAR**

CS FOR SENATE BILL NO. 121(RES)

"An Act adding, for purposes of the Alaska Right-of-Way Leasing Act, a definition of 'substantial change' as applied to an amended right-of-way lease application; and providing for an effective date."

- MOVED CSSB 121(RES) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 158(RES) am

"An Act directing the commissioner of revenue to prepare a report to the legislature relating to the state's participation in owning or financing a gas pipeline project; and providing for an effective date."

- MOVED HCS CSSB 158(O&G) OUT OF COMMITTEE

**PREVIOUS ACTION**

BILL: SB 121

SHORT TITLE:RIGHT-OF-WAY LEASING ACT

SPONSOR(S): SENATOR(S) LEMAN

Jrn-Date	Jrn-Page		Action
02/27/01	0520	(S)	READ THE FIRST TIME - REFERRALS
02/27/01	0521	(S)	RES, FIN

03/16/01		(S)	RES AT 3:30 PM BUTROVICH 205
03/16/01		(S)	Heard & Held MINUTE(RES)
03/30/01		(S)	RES AT 3:30 PM BUTROVICH 205 Meeting Canceled
04/02/01		(S)	RES AT 3:30 PM BUTROVICH 205
04/02/01		(S)	Moved CS(RES) Out of Committee MINUTE(RES)
04/03/01	0920	(S)	RES RPT CS 4DP SAME TITLE
04/03/01	0920	(S)	DP: TORGERSON, TAYLOR, PEARCE, KELLY
04/03/01	0920	(S)	FN1: ZERO(DNR)
04/09/01	1032	(S)	FIN REFERRAL WAIVED REFERRED TO RULES
04/09/01		(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/09/01		(S)	Scheduled But Not Heard
04/10/01	1047	(S)	RULES TO CALENDAR 4/10/01
04/10/01	1049	(S)	READ THE SECOND TIME
04/10/01	1049	(S)	RES CS ADOPTED UNAN CONSENT
04/10/01	1049	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/10/01	1049	(S)	READ THE THIRD TIME CSSB 121(RES)
04/10/01	1049	(S)	PASSED Y17 N3
04/10/01	1050	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/10/01	1053	(S)	TRANSMITTED TO (H)
04/10/01	1053	(S)	VERSION: CSSB 121(RES)
04/10/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/11/01	0949	(H)	READ THE FIRST TIME - REFERRALS
04/11/01	0949	(H)	O&G, RES
04/18/01		(H)	O&G AT 5:00 PM CAPITOL 124

BILL: SB 158

SHORT TITLE:REPORT:STATE PARTICIPATE IN NAT GAS PIPE.  
SPONSOR(S): RESOURCES

Jrn-Date	Jrn-Page		Action
03/23/01	0785	(S)	READ THE FIRST TIME - REFERRALS
03/23/01	0785	(S)	RES, FIN
03/28/01		(S)	RES AT 3:30 PM BUTROVICH 205
03/28/01		(S)	Moved CS(RES) Out of

			Committee
			MINUTE(RES)
03/29/01	0855	(S)	RES RPT CS 6DP 1NR SAME TITLE
03/29/01	0856	(S)	DP: TORGERSON, TAYLOR, HALFORD, PEARCE,
03/29/01	0856	(S)	KELLY, ELTON; NR: LINCOLN
03/29/01	0856	(S)	FN1: (REV)
04/06/01	0974	(S)	FIN RPT CS(RES) 6DP 3NR
04/06/01	0974	(S)	DP: DONLEY, KELLY, AUSTERMAN, OLSON,
04/06/01	0974	(S)	LEMAN, WILKEN; NR: GREEN, HOFFMAN,
04/06/01	0974	(S)	WARD
04/06/01	0974	(S)	FN1: (REV)
04/06/01		(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/06/01		(S)	Moved Out of Committee MINUTE(FIN)
04/09/01	1013	(S)	RULES TO CALENDAR 4/9/01
04/09/01	1017	(S)	READ THE SECOND TIME
04/09/01	1017	(S)	RES CS ADOPTED UNAN CONSENT
04/09/01	1018	(S)	AM NO 1 OFFERED BY WARD
04/09/01	1018	(S)	AM TO AM 1 UNANIMOUS CONSENT
04/09/01	1018	(S)	AM NO 1 AS AMENDED ADOPTED Y12 N8
04/09/01	1019	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/09/01	1019	(S)	READ THE THIRD TIME CSSB 158(RES) AM
04/09/01	1019	(S)	PASSED Y20 N-
04/09/01	1019	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/09/01	1032	(S)	TRANSMITTED TO (H)
04/09/01	1032	(S)	VERSION: CSSB 158(RES) AM
04/09/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/10/01	0917	(H)	READ THE FIRST TIME - REFERRALS
04/10/01	0917	(H)	O&G, RES, FIN
04/18/01		(H)	O&G AT 5:00 PM CAPITOL 124

**WITNESS REGISTER**

ANNETTE KREITZER, Staff  
to Senator Loren Leman  
Alaska State Legislature  
Capitol Building, Room 516

Juneau, Alaska 99801

POSITION STATEMENT: Presented SB 121 on behalf of the sponsor.

JAMES E. EASON, Lobbyist  
for Foothills Pipe Lines Ltd.

8611 Leeper Circle

Anchorage, Alaska 99504

POSITION STATEMENT: Testified in support of SB 121 on behalf of Foothills Pipe Lines Ltd.

SENATOR JOHN TORGERSON  
Alaska State Legislature  
Capitol Building, Room 427  
Juneau, Alaska 99801

POSITION STATEMENT: As chairman of the Senate Resources Standing Committee, sponsor, presented SB 158.

LARRY PERSILY, Deputy Commissioner  
Department of Revenue  
P.O. Box 110405

Juneau, Alaska 99811-0405

POSITION STATEMENT: Clarified that Amendment 2 to CSSB 158(RES) would return the fiscal note to \$215 [thousand]; stated personal support for the amendment.

#### **ACTION NARRATIVE**

TAPE 01-29, SIDE A  
Number 0001

VICE CHAIR HUGH FATE, chairing the meeting, called the House Special Committee on Oil and Gas meeting to order at 5:09 p.m. Members present at the call to order were Representatives Fate, Ogan (via teleconference), Dyson, and Kohring. Representatives Chenault and Guess arrived as the meeting was in progress.

#### SB 121 - RIGHT-OF-WAY LEASING ACT

Number 0090

VICE CHAIR FATE announced the first item of business, CS FOR SENATE BILL NO. 121(RES), "An Act adding, for purposes of the Alaska Right-of-Way Leasing Act, a definition of 'substantial change' as applied to an amended right-of-way lease application; and providing for an effective date."

Number 0129

ANNETTE KREITZER, Staff to Senator Loren Leman, presented SB 121 on behalf of the sponsor. She requested that Jim Eason [lobbyist on behalf of Foothills Pipe Lines Ltd.] join her at the witness table. She then explained that Senator Leman wants to remove real and potential roadblocks to the commercialization of Alaska's North Slope gas. Therefore, SB 121 provides a definition of the term "substantial change" as used in AS 38.35.050(c), which reads:

(c) Any amendment to an application filed under this section which constitutes a substantial change in the application is subject to all provisions of this chapter applying to an original application.

MS. KREITZER pointed out that currently whether an amendment to a pipeline is or isn't a substantial change is decided by the Department of Natural Resources (DNR) on a case-by-case basis. The concern isn't that, but is the challenge to that decision on a case-by-case basis in which the court would make the decision instead of its being a policy [decision] of the department.

MS. KREITZER noted that the following would be consistent with existing department policy, and under SB 121 would constitute a substantial change that would require restarting the entire process: a 10 percent net increase in state acreage beyond what was in the original application; using less-effective environmental or safety-mitigation measures than proposed in the original application; or proposing a fundamental change in the route as proposed in the original application.

Number 0284

MS. KREITZER drew attention to page 2 of the bill, suggesting that the language about the acreage not included in the 10 percent net increase may be somewhat confusing. She reminded members that if it is a 10 percent net increase in state acreage beyond what was in the original application, it would be a "substantial change" under this bill. However, not included would be acreage attributed to an amendment to an existing right-of-way lease across federal lands originally issued by the federal government - regardless of whether the state or federal government administers the land - or land under a federal right-of-way grant that is transferred to the state for administration.

MS. KREITZER explained the reason for the foregoing exceptions. When there are right-of-way leases across federal and state lands, federal rights-of-way are, by law, 50 feet plus the amount of the improvement - typically about 80 feet. By contrast, state rights-of-way are 100 to 150 feet, and most of the North Slope rights-of-way are 150 feet. This provision allows for alignment of those rights-of-way without making them subject to the 10 percent net increase.

MS. KREITZER concluded by saying SB 121 provides an increased measure of certainty and will minimize unnecessary challenges and delays in processing, approving, and issuing right-of-way leases.

Number 0432

JAMES E. EASON, Lobbyist for Foothills Pipe Lines Ltd., testified in support of SB 121, noting that [he and the company] had worked closely with the sponsor to draft legislation that would meet the requirements of DNR's pipeline office as well as comport with what they believe to be the traditional criteria that the department looks to in determining whether an amendment to an application is or is not considered substantial.

MR. EASON agreed that the concern is not with the commissioner or the pipeline office; instead, lacking a definition of "substantial change" for the purposes of the statute, the courts ultimately will make that decision on a case-by-case basis, if a project has a high enough profile so that someone challenges a decision by the commissioner or the pipeline office regarding whether a change is substantial. Mr. Eason suggested that is not in the best interest of either the state or a company trying to commercialize gas on behalf of the state. He encouraged adoption of the policy suggested by the bill, as well as the definitions, in order to give guidance to the court, the commissioner, and the commissioner's staff in processing and adjudicating applications.

Number 0555

VICE CHAIR FATE asked whether anyone else wished to testify; there was no response.

REPRESENTATIVE OGAN remarked that the bill has some of the most common-sense, unambiguous language he has seen. He suggested it is timely and that it should be moved from committee.

Number 0641

REPRESENTATIVE DYSON made a motion to move CSSB 121(RES) from committee with individual recommendations and the zero fiscal note. There being no objection, CSSB 121(RES) was moved out of the House Special Committee on Oil and Gas.

SB 158 - REPORT:STATE PARTICIPATE IN NAT GAS PIPE.

VICE CHAIR FATE announced the final item of business, CS FOR SENATE BILL NO. 158(RES) am, "An Act directing the commissioner of revenue to prepare a report to the legislature relating to the state's participation in owning or financing a gas pipeline project; and providing for an effective date."

Number 0802

SENATOR JOHN TORGERSON, Alaska State Legislature, came forward as the chairman of the Senate Resources Standing Committee, sponsor of SB 158. He explained that he'd had SB 158 introduced in order to have a study on whether the state should have any sort of equity ownership in a pipeline, if and when one is built. The "meat" of the bill, on page 2, stipulates some of the desired reporting, then goes on to look at the state's financial position and whether this creates additional risk regarding the state's creditworthiness, for example.

SENATOR TORGERSON pointed out that on page 3, the bill directs the commissioner of [the Department of] Revenue to enter into a contract with a qualified person or firm; on [lines] 11-13, because the contract is to be done immediately, it excludes that from the competitive sealed-bid process. In addition, paragraph (b)(2) directs the commissioner to report to the chairs of the standing committees [that have legislative jurisdiction over natural resources ... or their designees] to provide the data available to make the report.

SENATOR TORGERSON also alluded to paragraphs (b)(3) and (b)(4), which stated that the commissioner shall provide progress reports to the chairs of the standing committees at intervals of no more than 60 days, and shall prepare and deliver a comprehensive report with final recommendations. He noted that the report is to be done by January 31, 2002.

Number 1002

REPRESENTATIVE OGAN thanked Senator Torgerson for presenting the bill. He explained that his own thinking has changed over the years about state ownership of a gas pipeline, through becoming more familiar with the constitution and the fact that the state owns the subsurface rights to the resources of the state, making the resources basically publicly owned. He mentioned ambiguity surrounding the oil pipeline and said he is more interested in at least exploring the opportunity on the gas pipeline project. He asked Senator Torgerson to comment.

SENATOR TORGERSON said he agrees, but won't be sure until he sees the report whether the state should take an equity interest. At the time of the oil pipeline, he said few people thought state ownership was a good idea. However, there is a lot of discussion today that the state should at least be at the table for its 12.5 percent royalty interest; he suggested perhaps 12.5 percent is what the state should own in the pipeline, in order to be at the bargaining table and to be informed regarding tariffs, for example, which now are confidential. He expressed hope that the report generated by SB 158 will answer all the questions about whether it is a good or bad idea.

SENATOR TORGERSON noted that there was a similar report in 1982; it was a \$27-billion project, and the recommendation was that the state not get involved, "but that maybe we would issue what they called 'senior debt' or maybe a guaranteed debt, in case there [were] overruns on the pipeline and other things." Times have changed, however, and he said people are looking at the history of TAPS [Trans-Alaska Pipeline System] and thinking perhaps [the state] should have been part of that. He pointed out that there are many more possibilities for in-state usage of natural gas than for oil, so it opens a lot of avenues. He emphasized the need for the report in order to make some of those determinations.

Number 1235

REPRESENTATIVE OGAN asked Senator Torgerson whether he had thought about modifying the bill to study possible state ownership up to a point, like for the "hub" concept being considered currently. He said it appears to be drafted for ownership of the entire pipeline; he asked whether that is how Senator Torgerson envisions this being studied or whether there would be enough latitude for the chairs to ask that the report be broken out more than one way, such as ownership to a point

"where everybody connects," from which the pipeline would continue,

SENATOR TORGERSON replied:

First of all, I believe that any ownership would only go to our borders; so it wouldn't be the entire line, but it could be everything within the borders, if that was determined ... that that's what we wanted to do.

In my thinking, we should be able to take the report, and the components that are generated by that report, and either back in or extend it to any degree we'd like to, such as if ... the hub's in Fairbanks or Big Delta, and that's as far as we want to own it, that could very well be something that we could mathematically back into, once we take the components that are generated by the report.

I believe that for a lot of in-state usage and excess capacity in the line, we may have to pay for that. And ... that may be dead space for a while, until we find some in-state usage. But, again, we don't know until ... we have all this taken care of. But I didn't really put "hub" in here for that reason, that "owning all or a portion of the project" [page 2, line 5] pretty well covers, I think, the latitude that I want the department to have.

SENATOR TORGERSON, in further response, surmised that once the state finally decides to be a part-owner, there will be further studies, at least through the administration and other economists, "to grind out numbers" before signing on the dotted line; he said he himself would need that. It would require another bill, he suggested, which would entail a lot of research in order to create authority or ownership, as well as agreements with the producers. This is just the first step, he concluded.

Number 1462

REPRESENTATIVE DYSON drew attention to Amendment 1, submitted by Representative Ogan, which read [punctuation added]:

Page 3, line 17:  
Delete "standing"

Page 3, line 22:

Delete "standing"

[There were two versions; the corrected version added the handwritten portion relating to page 3, line 22.]

REPRESENTATIVE DYSON asked Senator Torgerson whether he intended to preclude the participation of the House Special Committee on Oil and Gas in the process.

Number 1564

SENATOR TORGERSON noted that the bill [page 3, lines 18-19] says "standing committees ... or their designees". He stated, "It was not to preclude anything else." Senator Torgerson specified that he had seen the proposed amendment and had no objection to it, but added that "or designees" is wide-open to anybody appointed to do it.

REPRESENTATIVE DYSON suggested that if Representative Ogan, as chairman of the House Special Committee on Oil and Gas, was comfortable with it, the leadership would add the committee to prevent the bill from having to go to a conference committee, for example.

REPRESENTATIVE DYSON then referred to page 2, beginning at line 8, and asked Senator Torgerson whether he intended to preclude the investigation of using the permanent fund corpus as a financing vehicle.

Number 1564

SENATOR TORGERSON answered, "No, I just didn't list it." He referred to [page 2, lines 10-12], which says "issue debt ... in [another] appropriate form". He stated, "The recommendations could be anything." He added that he wouldn't recommend paying cash for it upfront.

REPRESENTATIVE DYSON indicated investing in this project might be a better investment [for the permanent fund than investing in stocks, which had declined in value recently].

SENATOR TORGERSON responded:

I didn't think it necessary for us to do that. If we want to pay cash for it, that's a legislative decision down the road a ways, and certainly ... the governor would have the right to veto that. But ... I don't

think you'll see a recommendation to just throw cash on the table.

Now, it may be that a GO [general obligation] bond, you're actually pledging the assets of the state, so any GO bond, we're actually pledging the permanent fund because it is an asset of the state. ... And that is going to give us ... probably a higher bond rating because we do have that; of course, we have no debt, either ....

REPRESENTATIVE DYSON mentioned another option, forming a new corporation and having the permanent fund owning some or a lot of the stock. He then asked, "So, on the record, this bill does not preclude exploring that option?"

SENATOR TORGERSON replied, "No."

Number 1741

REPRESENTATIVE OGAN made a motion to adopt Amendment 1 [text provided previously].

REPRESENTATIVE DYSON objected in order to ask Representative Ogan whether he'd heard Senator Torgerson indicate he didn't believe Amendment 1 was necessary because there could be a designee of the standing committee.

REPRESENTATIVE OGAN said he had heard that, and expressed confidence that the House Resources Standing Committee wouldn't have a problem designating the House Special Committee on Oil and Gas. However, this puts the committee in the loop without having to go through the designation process. He said it just means that the committees being reported to will be the Senate Resources Standing Committee, the House Resources Standing Committee, and the House Special Committee on Oil and Gas.

REPRESENTATIVE DYSON removed his objection.

Number 1795

VICE CHAIR FATE asked whether there was any further objection. There being no objection, Amendment 1 was adopted.

Number 1805

VICE CHAIR FATE brought attention to Amendment 2, also submitted by Representative Ogan, which read:

Page 3, lines 1 - 7:  
Delete all material

The language being deleted by Amendment 2 read:

6) consistent with the constitutional authority that requires provision for "the utilization, development, and conservation of all natural resources belonging to the state . . . for the maximum benefit of its people," state participation under (1), (2), or (5) of this subsection would ensure or materially contribute to natural gas development and distribution within the state by installation of additional pipeline facilities connecting to population centers in the state, thereby supplying the energy base required for the state's long-term economic development.]

REPRESENTATIVE OGAN brought to the committee's attention that the above language, inserted by an amendment on the Senate floor, had resulted in a substantial fiscal note; he said the fiscal note looks inflated. He said he doesn't disagree with the language, but "population centers" is somewhat ambiguous; Bethel, for example, is a population center in its region. He said it is a "no brainer" that it would happen if there were a pipeline built down the southern route.

VICE CHAIR FATE announced that the additional amount is \$375,000; the fiscal note started at \$215 [thousand] and is now up to \$590 [thousand].

REPRESENTATIVE OGAN, noting that Senator Torgerson had voted against the Senate floor amendment, asked, "What are we going to get for 300,000 bucks?"

VICE CHAIR FATE expressed his own concern that it may legislate the distribution of gas into areas that may not be practical now. In addition, it cuts out private industry; usually, the market will dictate where the gas will go, and people who can make a profit will take the gas there. He noted that on the House side, a study is in its final stages, and it looks promising that some entrepreneur in the private sector will undertake that project. He said [the section] isn't applicable at every point, especially in rural Alaska; other than the way

it is structured, however, he had no problem with it. He added that things may be demanded of the state, which perhaps is the reason for the escalation of the fiscal note.

Number 2016

SENATOR TORGERSON said everyone wants gas in all the communities, but it just doesn't fit in the bill; that is why he opposed it on the floor. He told members:

This is a bill that looks at financing and whether or not the state should take participation in financing, not a bill on routes, and not a bill on additional pipelines to try to supply routes somewhere. That's an engineering question and a financing question. And that's why the fiscal note is so high.

SENATOR TORGERSON indicated the Department of Revenue would have to hire an engineer to determine what will be built, including details, and then have to come up with a number to determine whether the state should be part of that, as far as building it or owning it. He said it is a great piece of legislation for another bill, "once you get things figured out," but just doesn't fit into this bill.

Number 2053

REPRESENTATIVE DYSON expressed concern about the time left in this session. He asked whether, if this committee deleted the section, that would cause problems on the Senate floor.

SENATOR TORGERSON said he didn't know. He reiterated that it didn't belong in the bill to begin with, then suggested the language perhaps could be fixed by making it a financing study, which would be germane to the bill, rather than an engineering study. "You can't use population center," he added, concurring with Representative Ogan.

REPRESENTATIVE DYSON replied that if Amendment 2 were moved, he would support it.

REPRESENTATIVE OGAN suggested that amending the language back out of the bill at least would draw attention to it. He said it is important legislation and emphasized the need to pass it this session. He then said he wanted the record to clearly reflect that [Amendment 2] is in no way discouraging the development [and distribution] of gas to these areas.

Number 2236

REPRESENTATIVE OGAN made a motion to adopt Amendment 2 [text provided previously]. There being no objection, Amendment 2 was adopted.

Number 2269

LARRY PERSILY, Deputy Commissioner, Department of Revenue, testified briefly via teleconference. He sought confirmation that Amendment 2 would take out the Senate floor amendment, then agreed that the fiscal note would return to the original amount of \$215 [thousand]. He commented, "That's fine. We were not excited about becoming engineers." In response to a question regarding whether it could be interpreted that the administration supports the amendment, Mr. Persily stated, "You [can] interpret that I support the amendment."

Number 2340

REPRESENTATIVE DYSON made a motion to move CSSB 158(RES) am, as amended, out of committee with individual recommendations and a fiscal note of \$215 [thousand].

VICE CHAIR FATE thanked the sponsor, then announced that the bill was moved from the committee.

REPRESENTATIVE KOHRING pointed out that he hadn't heard Vice Chair Fate ask whether there was any objection. He said he'd been going to object, but instead would address it on the House floor.

[There being no objection, HCS CSSB 158(O&G) was moved out of the House Special Committee on Oil and Gas.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Oil and Gas meeting was adjourned at 5:45 p.m.