

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 4, 2001

1:05 p.m.

MEMBERS PRESENT

Representative Beverly Masek, Co-Chair
Representative Drew Scalzi, Co-Chair
Representative Hugh Fate, Vice Chair
Representative Mike Chenault
Representative Lesil McGuire
Representative Gary Stevens
Representative Beth Kerttula

MEMBERS ABSENT

Representative Joe Green
Representative Mary Kapsner

COMMITTEE CALENDAR

SENATE BILL NO. 77

"An Act repealing the exception that applies to collection and payment of interest of \$150 or less on royalty or net profit share underpayments and overpayments; and providing for an effective date."

- MOVED SB 77 OUT OF COMMITTEE

HOUSE BILL NO. 206

"An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

- HEARD AND HELD

HOUSE CONCURRENT RESOLUTION NO. 8

Expressing the legislature's opposition to the proposed "northern" or "over-the-top" route for a natural gas pipeline to transport North Slope natural gas reserves to the domestic North American market, and expressing the legislature's support of commercialization of North Slope natural gas for the maximum benefit of the people of the state.

- MOVED CSHCR 8(RES) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: SB 77

SHORT TITLE:NET PROFIT SHARE UNDER/OVERPAYMENTS

SPONSOR(S): SENATOR(S) TORGERSON

| Jrn-Date | Jrn-Page | | Action |
|----------|----------|-----|---|
| 02/08/01 | 0309 | (S) | READ THE FIRST TIME - REFERRALS |
| 02/08/01 | 0309 | (S) | RES, FIN |
| 02/21/01 | | (S) | RES AT 3:30 PM BUTROVICH 205 |
| 02/21/01 | | (S) | Moved Out of Committee |
| 02/21/01 | | (S) | MINUTE(RES) |
| 02/22/01 | 0467 | (S) | RES RPT 6DP |
| 02/22/01 | 0467 | (S) | DP: TORGERSON, PEARCE, TAYLOR, KELLY, LINCOLN, ELTON |
| 02/22/01 | 0467 | (S) | FN1: ZERO(DNR) |
| 02/28/01 | | (S) | FIN AT 9:00 AM SENATE FINANCE 532 |
| 03/13/01 | 0633 | (S) | FIN RPT 9DP |
| 03/13/01 | 0633 | (S) | DP: DONLEY, KELLY, GREEN, AUSTERMAN, HOFFMAN, OLSON, WILKEN, LEMAN, WARD |
| 03/13/01 | 0633 | (S) | FN1: ZERO(DNR) |
| 03/13/01 | | (S) | FIN AT 9:45 AM SENATE FINANCE 532 |
| 03/13/01 | | (S) | Moved Out of Committee |
| 03/13/01 | | (S) | MINUTE(FIN) |
| 03/19/01 | 0716 | (S) | RULES TO CALENDAR 3/19/01 |
| 03/19/01 | 0718 | (S) | READ THE SECOND TIME |
| 03/19/01 | 0718 | (S) | ADVANCED TO THIRD READING UNAN CONSENT |
| 03/19/01 | 0718 | (S) | READ THE THIRD TIME SB 77 |
| 03/19/01 | 0718 | (S) | PASSED Y20 N- |
| 03/19/01 | 0718 | (S) | EFFECTIVE DATE(S) SAME AS PASSAGE |
| 03/19/01 | 0720 | (S) | TRANSMITTED TO (H) |
| 03/19/01 | 0720 | (S) | VERSION: SB 77 |
| 03/19/01 | | (S) | RLS AT 10:45 AM FAHRENKAMP 203 |
| 03/19/01 | | (S) | MINUTE(RLS) |
| 03/20/01 | 0660 | (H) | READ THE FIRST TIME - REFERRALS |

03/20/01 0660 (H) RES, FIN
 04/04/01 (H) RES AT 1:00 PM CAPITOL 124

BILL: HB 206

SHORT TITLE:VESSEL LIMITED ENTRY FOR COMM. FISHERIES

SPONSOR(S): RESOURCES

| Jrn-Date | Jrn-Page | | Action |
|----------|----------|-----|---------------------------------------|
| 03/22/01 | 0691 | (H) | READ THE FIRST TIME - REFERRALS |
| 03/22/01 | 0691 | (H) | FSH, RES |
| 04/02/01 | | (H) | FSH AT 5:00 PM CAPITOL 124 |
| 04/02/01 | | (H) | Moved Out of Committee MINUTE(FSH) |
| 04/03/01 | 0826 | (H) | FSH RPT 2DP 4NR |
| 04/03/01 | 0827 | (H) | DP: SCALZI, WILSON; NR: DYSON, |
| 04/03/01 | 0827 | (H) | COGHILL, KERTTULA, STEVENS |
| 04/03/01 | 0827 | (H) | FN1: ZERO(DFG) |
| 04/03/01 | 0827 | (H) | REFERRED TO RESOURCES |
| 04/04/01 | | (H) | RES AT 1:00 PM CAPITOL 124 |

BILL: HCR 8

SHORT TITLE:NORTH SLOPE NATURAL GAS PIPELINE ROUTING

SPONSOR(S): REPRESENTATIVE(S)WHITAKER

| Jrn-Date | Jrn-Page | | Action |
|----------|----------|-----|---|
| 03/16/01 | 0625 | (H) | READ THE FIRST TIME - REFERRALS |
| 03/16/01 | 0625 | (H) | O&G, RES |
| 03/28/01 | | (H) | O&G AT 3:00 PM CAPITOL 124 |
| 03/28/01 | | (H) | Moved CSHCR 8(O&G) Out of Committee MINUTE(O&G) |
| 03/30/01 | 0785 | (H) | O&G RPT CS(O&G) 4DP 1DNP 1NR |
| 03/30/01 | 0786 | (H) | DP: FATE, GUESS, DYSON, OGAN; |
| 03/30/01 | 0786 | (H) | DNP: KOHRING; NR: CHENAULT |
| 03/30/01 | 0786 | (H) | FN1: ZERO(H.O&G) |
| 04/04/01 | | (H) | RES AT 1:00 PM CAPITOL 124 |

WITNESS REGISTER

DARWIN PETERSON, Staff
 to Senator John Torgerson
 Alaska State Legislature
 Capitol Building, Room 427
 Juneau, Alaska 99801

POSITION STATEMENT: Presented SB 77 on behalf of the sponsor.

BILL VAN DYKE, Lease Administration/Royalty
Division of Oil & Gas
Department of Natural Resources
550 West 7th Avenue, Suite 800
Anchorage, Alaska 99501-3560

POSITION STATEMENT: Answered question relating to SB 77.

MARY McDOWELL, Commissioner
Commercial Fisheries Entry Commission
Alaska Department of Fish & Game
8800 Glacier Highway, Suite 109
Juneau, Alaska 99801-8079

POSITION STATEMENT: Answered questions regarding HB 206.

KURT O. SCHELLE, Research & Planning Project Leader
Commercial Fisheries Entry Commission
Department of Fish & Game
8800 Glacier Highway, Suite 109
Juneau, Alaska 99801-8079

POSITION STATEMENT: Clarified language of HB 206.

JOE MACINKO
2625 Spruce Cape Road
Kodiak, Alaska 99615

POSITION STATEMENT: Testified on HB 206.

CHRIS BERNS
PO Box 26
Kodiak, Alaska 99615-0026

POSITION STATEMENT: Testified on HB 206.

PAUL SEATON
58395 Bruce Street
Homer, Alaska 99603

POSITION STATEMENT: Spoke in opposition to HB 206.

JOHN WINTHER (ph)
(No address provided)
Homer, Alaska

POSITION STATEMENT: Spoke in support of HB 206.

JOE KYLE
234 Gold Street
Juneau, Alaska 99801

POSITION STATEMENT: Spoke in support of HB 206 on behalf of Korean hair crab fishery vessel owners.

EDWARD C. FURMAN
(No address provided)

POSITION STATEMENT: Spoke on behalf of the fishermen of Cordova, in opposition to HB 206.

REPRESENTATIVE JIM WHITAKER

Alaska State Legislature
Capitol Building, Room
Juneau, Alaska 99801

POSITION STATEMENT: Testified as the sponsor of HCR 8.

MICHAEL J. HURLEY

Government Relations
North American Natural Gas Pipeline Group
601 West 5th Avenue, Suite 500
Anchorage, Alaska 99501

POSITION STATEMENT: Testified on HCR 8.

ACTION NARRATIVE

TAPE 01-29, SIDE A
Number 0001

CO-CHAIR BEVERLY MASEK called the House Resources Standing Committee meeting to order at 1:05 p.m. Representatives Fate, McGuire, Chenault, Stevens, Masek, and Scalzi were present at the call to order. Representative Kerttula arrived as the meeting was in progress.

SB 77-NET PROFIT SHARE UNDER/OVERPAYMENTS

CO-CHAIR MASEK announced that the first order of business would be SENATE BILL NO. 77, "An Act repealing the exception that applies to collection and payment of interest of \$150 or less on royalty or net profit share underpayments and overpayments; and providing for an effective date."

Number 0135

DARWIN PETERSON, Staff to Senator John Torgerson, Alaska State Legislature, came forth on behalf of Senator Torgerson, sponsor, to give a brief overview of SB 77. He explained that in 1998 the legislature exempted the Department of Natural Resources (DNR) from calculating interest on small overpayments or

underpayments of royalty, if the interest was \$150 or less. Prior to 1998, these small overpayments or underpayments were calculated manually, using Excel spreadsheets; the cost of manually calculating the payments was more than the interest received or the credit applied.

MR. PETERSON informed members that with the state's new oil and gas royalty accounting system, interested owed on even the smallest amount is calculated electronically, and royalty payments are sent electronically. Furthermore, if the legislature does not repeal the statute in question, both [DNR] and the payers of royalties would have to reprogram their computer systems to not compute underpayments or overpayments of interest in the amount of \$150 or less; that would be an unnecessary expense for all the parties involved, when there is a much easier option available, such as [SB 77].

Number 0258

CO-CHAIR MASEK asked Mr. Peterson whether the sponsor expects there to be a positive fiscal note. She asked how much money will be gained by passage of SB 77.

MR. PETERSON replied that the amount in question is minimal. For the 12 months prior to October 31, 2000, the state processed 1,716 royalty filings with interest amounts between a negative \$150 and a positive \$150; the net gain was \$4,096 to the state. He deferred to the DNR to explain why there isn't a positive \$4,096 in the fiscal note.

BILL VAN DYKE, Lease Administration/Royalty, Division of Oil & Gas, Department of Natural Resources (DNR), testifying via teleconference, noted that Mark Meyers, Director, Division of Oil & Gas, had asked him to fill in for him and that Jim Stoffer (ph), head of royalty accounting, was with him. He said, as aforementioned, the amounts of some of the returns are negative, while some are positive. Although the sample size taken resulted in a slightly positive number, the same analysis taken over more years would produce results closer to zero; sometimes royalty payers overpay, and sometimes they underpay, but the number should average zero over a long enough time period.

Number 0475

REPRESENTATIVE FATE moved to report SB 77 out of committee with individual recommendations and the accompanying fiscal note.

There being no objection, SB 77 was moved out of the House Resources Standing Committee.

[Co-Chair Masek turned the gavel over to Co-Chair Scalzi.]

HB 206-VESSEL LIMITED ENTRY FOR COMM. FISHERIES

CO-CHAIR SCALZI announced that the next order of business would be HOUSE BILL NO. 206, "An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

CO-CHAIR SCALZI mentioned that HB 206 had been heard in [the House Special Committee on Fisheries, on April 2, 2001], where Paul Seaton, Alan Parks, and Mako Haggerty testified against the bill via teleconference, at which time Co-Chair Scalzi invited them to submit their testimony in writing. Co-Chair Scalzi indicated Mr. Seaton's testimony was in the committee packet.

[There was a motion to adopt HB 206 for discussion purposes, but it was already before the committee.]

CO-CHAIR SCALZI, speaking on behalf of the House Resources Standing Committee, sponsor of HB 206, told listeners that he had been asked to submit HB 206 on behalf of the Commercial Fisheries Entry Commission (CFEC), at the request of the legislature. He explained that a few years ago the legislature had experienced a problem with the [Korean] hair crab and scallop fisheries in the Bering Sea. He mentioned a limit placed on the number of fishing vessels, as well as federal moratoriums and state moratoriums that are about to expire.

CO-CHAIR SCALZI stated that in order to enact a limitation plan, Alaska's current license limitation program must be altered. Currently, the CFEC's license limitation program designates a license to an individual, rather than to a vessel. Thus HB 206 will allow the [CFEC] to develop a program to "fix a limited license to a vessel." Co-Chair Scalzi explained:

Now, the reason that they want to do that is because if they [use] the traditional method that they have now, a license would have to go to every applicant who was eligible, which could mean if you had four ... or five skippers on a vessel, each one would be eligible for a ... limited entry license. And ... that would

... change the number of available boats that you could have. In other words, each skipper could get his own boat, and instead of having 10 boats in the fishery, you could have 40 boats in the fishery.

So ... having the ability to use this tool and create a license limitation program that is attached to the vessel ... will clearly limit the fishery to those vessels that are permitted, currently, and [that are] under the moratorium.

CO-CHAIR SCALZI clarified that HB 206 by itself is not a license limitation plan, but if passed, would give [CFEC] the ability to create one.

Number 0935

MARY McDOWELL, Commissioner, Commercial Fisheries Entry Commission, Alaska Department of Fish & Game, explained the genesis of HB 206:

The origins of this bill ... came at the time in 1996 when the legislature placed [a] moratorium on the entry of new vessels into the Korean hair crab fishery, and then they did the same thing with the weathervane scallop fishery in 1997. In implementing the moratorium [on] the hair crab fishery, the legislature directed that the [CFEC] and the Department of Law work together to draft, and bring back to the legislature, legislation creating a vessel-based limited entry program that could be used in fisheries in which limitation under Alaska's current limited entry program could not achieve the purposes of the limited entry Act.

MS. McDOWELL defined those purposes as conservation of the resource and protection of the economic viability of the fishery. She emphasized that HB 206 in no way changes the state's limited entry program; it just provides an alternative approach that would be available to limit the few fisheries that aren't suited for the method of limitation under the current program. Ms. McDowell pointed out that the current program has been in effect for over 17 years, with few changes made. She indicated that 63 fisheries have been limited under the current program.

MS. McDOWELL described the fisheries suited for the current limitation program as having small boats, usually individually owned and operated. Under that program, the limited entry permits are issued only to individual human beings, not to vessels, partnerships, or companies. She said [CFEC's] challenge has been to create a modified version of limited entry to effectively limit the few fisheries that have evolved in a much different way over recent years - fisheries that have ownership and participation patterns different from the model upon which the current limited entry program is based. Ms. McDowell characterized those fisheries as having bigger, more expensive vessels that are owned by partnerships or companies and that fish further offshore. Many use hired skippers - or multiple, successive skippers to fish throughout the season - who often have no ownership in the operation.

MS. McDOWELL explained that limiting fisheries under the current program might actually increase the number of participants over time, rather than "cap it," thereby defeating the whole purpose of limitation and posing a risk to the resource and the fishery. At that point, she said, the only remaining options might be as follows: to close the fishery entirely, which would mean the loss of harvesting and processing jobs and the loss of tax revenues to the state and local municipalities, or, in the case of some of these larger-boat fisheries, to let the federal government preempt [CFEC's] management and take it over. Ms. McDowell continued:

Even if you could find a feasible way to provide for the conservation and the economic viability under our current program, in those fisheries many of the permits would be issued to the hired skippers, who are essentially employees, and not to those who have invested in the development of the fishery.

So, as I said, the legislature recognized these problems and the traits in the hair crab and scallop fisheries in developing the moratorium for those fisheries, and, in those cases, they developed the moratorium, based on a vessel model. The interim-use permits, under which those vessels operate during [a] moratorium, are issued to the ... owners of the vessel, rather than to the skippers in those fisheries.

MS. McDOWELL recalled that last year the moratorium on hair crab was about to expire and [CFEC] didn't have a "tool in place," so

the legislature opted to extend the moratorium on hair crab until 2003, and on scallops until 2004, to allow enough time to look at developing a tool for the long-term for such fisheries. She added that [CFEC] didn't want to risk the return to open access, which could create an influx of new participants, many from outside of Alaska, or risk the closure of those fisheries.

MS. McDOWELL said HB 206 would provide the tools to deal with those few fisheries in which an alternative method is needed; the bill creates a generic program, as the legislature directed the department to do. She stated that currently the only two fisheries the department can foresee using it in would be those for hair crab and scallops, but it is possible that over the years other fisheries will come along for which the vessel-based program wouldn't be a useful tool.

MS. McDOWELL explained that the bill establishes a framework for this vessel-based program, similar to the framework for the individual-based program that is in our current statute. It was carefully drafted to preserve the use of the current person-based program in any fishery in which it could work, and to adhere to as many of the goals and purposes of the current program as would be feasible "for a program like this." She told members:

I'll point out a few of the important features of the bill that are aimed at accomplishing those things: First, on page 2, lines 16-31, is the criteria for when the commission may use this alternative program. It's tightly constructed to always default to our traditional person-based limited entry, unless we can determine that limitation under a current program is not workable - that you couldn't achieve the purposes of the limited entry Act by using that program.

As I said, that program is well designed to keep fishing privileges in the hands of the actual participants, and to avoid absentee ownership of our fisheries, and consolidation of ownership. And it does work well to protect the place of Alaskans in their fisheries, both at the time of initial issuance and over time, while still passing constitutional muster.

MS. McDOWELL reiterated that the first section of the bill would ensure that this alternative program would only be used in state-managed fisheries if the current program "wouldn't achieve

purposes of the Act." She added that CFEC could also use this program in a fishery that is in the waters of the exclusive economic zone (EEZ), if it would help gain or retain state management of a fishery. Ms. McDowell continued:

Another important feature in the bill is what can be referred to as "second generation" language or provisions that start on page 6, line 8. Under this program, the permits are initially issued to the owners of the vessels that qualify at the time of limitation, whether the owners are individual persons or partnerships or companies or any other entity. But under these transfer provisions, when the permits are transferred, either sold or given away, they can only be transferred to an individual human being, which is the case in our current program.

The bill provides that the transferee - the person receiving the permit - must hold an ownership interest in the vessel and must be onboard whenever that vessel is fishing, as is the case in our current program.

There's one exception to that that's spelled out in subsection (c), which would be where an initial "issuee" - even if that is an entity - could obtain another permit to use on the same vessel. So you wouldn't [have] to buy up additional vessels in the fishery. But in the case of endorsements where the permits in [a] given fishery may qualify for certain species or areas, if someone with one vessel wanted to stack two permits for use on one vessel in order to be able to fish more species in more areas, that would be the one exception to the "must be a person" rule.

MS. McDOWELL mentioned concern expressed about the enforceability of the provisions regarding ownership changes. She noted that a penalty section, starting on page 11, line 27, states that any person or entity who provides, or assists in providing, false information or fails to correct false information to the commission would be liable for a fine up to \$5,000 and suspension or revocation of all of fishing permits. She suggested it would be a disincentive for any kind of lying about a change of ownership, and said the CFEC believes it would be a "large deterrent to any kind of fraudulent information."

Number 1610

MS. McDOWELL continued:

In summary, I would ... say that we think the bill is responsive to the directive that we got from the legislature to design a program to be used in fisheries where the current program is unworkable. And it's pragmatic, in that it recognizes the need to develop a new tool for meeting the evolving needs in our fisheries, but does so in a very cautious way that departs from our current program as little as possible.

MS. McDOWELL said this legislation would be the first step; the department would still be faced with proposing limitations for the specific fisheries after passage of the bill. She said there would be a learning curve, because this would be the first time a program like this has been used; therefore, the department would have a lot of work to do in implementing the program, and working with the participants in the fishery to make sure that the program was well crafted to meet the needs of the fisheries. She told the committee members that having this enabling legislation in place soon would be very helpful in creating a good, workable program before the moratoriums on the hair crab and scallop fisheries expire. Ms. McDowell mentioned that Kurt Schelle was available to answer questions.

Number 1689

REPRESENTATIVE KERTTULA asked Ms. McDowell to clarify the issue of second-generation licensing and how "a vessel can stack."

MS. McDOWELL answered:

At the initial issuance, entities besides human beings could be issued the permits if they were the owner at the time of limitation. From then on, every time that permit changes hands, only a living human being - who must be a participant in the fishery and onboard the vessel - can obtain a permit. It ... prevents the idea of the fishery going more and more towards absentee corporate ownership, and [goes] more towards participant ownership.

MS. McDOWELL reiterated that the exception would be when the initial issuee - "whether a permit or an entity" - wants to obtain another permit to use, on the same vessel, in order to expand species, areas, and/or endorsements.

REPRESENTATIVE KERTTULA requested that Ms. McDowell explain CFEC's intent behind the language, found on page 8, regarding the commission's regulatory stance on "concentration of ownership." She added that it is the only language that "gives authority back to the CFEC."

MS. McDOWELL described a "protection" in the original program that limits permit ownership to only one human being, and which limits a human being from owning more than one permit in a fishery. The bill allows the department to study a fishery and cap the ownership within that fishery. She added that at initial issuance, one company might own a couple of vessels and might "grandfather in," but the department would have a cap so those particular companies could not continue "buying up" more and more of the fishery.

REPRESENTATIVE KERTTULA stated her [understanding] that those hypothetical companies would not, therefore, be able to "stack" all of the permits onto the vessels and control the fishery.

MS. McDOWELL concurred.

Number 1892

CO-CHAIR SCALZI said he would ask some of the questions posed by Mr. Seaton in the last hearing. Mr. Seaton had addressed the licensed limitation permit (LLP), which is issued by the federal government, and had suggested adopting a federal endorsement on an LLP, rather than using the state permit process.

MS. McDOWELL replied that there were several issues involved. She said the [Korean] hair crab fishery is not currently in any federal management plan (FMP), but is exclusively managed by the state. Ms. McDowell pointed out that if the state were to ask the federal government to manage the licensing of that fishery, it would be giving up control over the fishery and its limitation program. In the scallop fishery, her understanding is that the federal government has a FMP in federal waters only, she added. By asking for an LLP, the state would be asking the federal government to "preempt" state management in state waters. Ms. McDowell expressed confusion over why [Mr. Seaton] would propose that, because [fishermen] argue that it is better to have fisheries in which the participants are the holders of permits, and under the federal program permits would go entirely to entities.

Number 2021

KURT O. SCHELLE, Research & Planning Project Leader, Commercial Fisheries Entry Commission, Department of Fish & Game (ADF&G), concurred with Ms. McDowell's statements.

CO-CHAIR SCALZI explained that an LLP is a federal permit whereby the federal government puts an endorsement on a vessel that fishes for crab or groundfish in the Bering Sea or Gulf of Alaska and is qualified under a moratorium. Co-Chair Scalzi said, "And this is how they manage new entrants. And it is dissimilar from what the state does; the state does the management of the crab fisheries in federal waters."

Mr. Seaton also points out that there's co-managed fisheries in the state, such as the ... cod fishery within state waters, and there's also federal management [in] federal waters. They co-exist. And ... there is a sablefish fishery in Prince William Sound, as there is a federal fishery, and a chad fishery also, ... with licensed "permitation." I would just point out that those are just co-managed. It's not that you are managing one fishery; you're actually managing two. So that's where the co-management is. In this case, we're talking about the state managing fisheries in federal waters. And that's currently the way we do this, and ... it's a little different than what Mr. Seaton pointed out; we have two separate areas.

CO-CHAIR SCALZI made reference to Mr. Seaton's comments regarding AS 16.43.460, page 5, lines 3-6, of the bill, which read:

(2) the substitution of another vessel by the applicant for a vessel interim-use permit or a vessel entry permit if the vessel used to establish eligibility for a vessel entry permit is lost before the initial issuance of a vessel entry permit for the vessel.

CO-CHAIR SCALZI then drew attention to Mr. Seaton's comments on page 2 of 3 in his letter, under "Article 6A."

MS. McDOWELL stated her belief that the section to which [Mr. Seaton's comments] refer is "substitution language" on page 7. She added that she thought there was a misunderstanding, because

the vessel permits will have restrictions limiting capacity and types of gear; therefore, if one vessel is substituted for another, the replacement would have to be consistent within the range of what that permit would allow. Ms. McDowell paraphrased from HB 206, page 7, lines 21-23, subsection (b), which read:

A substituted vessel and the operation of the substituted vessel are subject to all terms and conditions attached to the vessel entry permit at the time that the vessel permit is transferred from the original vessel to the substituted vessel.

Number 2210

CO-CHAIR MASEK inquired whether a person whose vessel breaks down and who owns a permit may use another boat and continue fishing.

MS. McDOWELL replied that Co-Chair Masek would find the answer in the "substitution" language on page 7 of the bill, where it states that a person in that situation could apply to the commission for permission to substitute another vessel in its place. In response to a follow-up question by Co-Chair Masek, Ms. McDowell called attention to page 3 of the bill, beginning on line 16, which specifies that if a fishery is limited under this program, there would be capacity restrictions on the vessel permit. She asked Co-Chair Masek if she was referring to how the determination would be made as to whether [a vessel] would "fall under this program."

CO-CHAIR MASEK asked if it would be possible to add a size-specification into the language of the bill to clarify the intent to help the small-boat owners in the commercial fishing industry.

MS. McDOWELL reiterated that the department would always default to its current program in the small-boat fishery, whereby it issues the permit to the vessel owner-operator. The department may use the vessel-based program, however, in a fishery that meets three criteria [subsection (a), page 2, lines 16-24]: the fishery needs limitations; the purposes of the limited entry Act could be met by using the program; and the purposes of the limited entry Act could not be met by using the existing program [AS 16.43.140 - 16.43.330].

CO-CHAIR MASEK asked why, on page 9, Section 3, the language had been changed to "a fishery" from "a scallop fishery".

Number 2415

MR. SCHELLE responded that the only reason that language is in the bill is in case there are other fisheries to which the program would be applicable in the future. He speculated that this language may have come from the "scallop moratorium" language.

MS. McDOWELL asked the House Resources Standing Committee to recall the debate over the "Mr. Big" fishery that wiped out the scallop fishery resource for lack of a federal fishery management plan. She said she believed that, at that time, there was language added - specific to the scallop fishery - to clarify that the state may assume management of a fishery in the absence of a federal management plan. She explained that the proposed bill before the committee broadens the language to say, if a similar situation arises again, the state may step in and assume management.

CO-CHAIR MASEK asked for a definition of "United States exclusive economic zone", found on page 2, line 27.

MS. McDOWELL replied that she believes the federal exclusive economic zone (EEZ) is 3 miles to 200 miles [off the coast].

Number 2505

CO-CHAIR SCALZI specified that all United States waters fall in that range. He then opened public testimony.

Number 2538

JOE MACINKO, testifying via teleconference, mentioned the "over-investment" and "over-capitalization" of all our fisheries. He said if people are rewarded for doing what caused the problem, the problem won't go away. He asked why it makes sense to give permits to those who invest their "tax-deferred" dollars, rather than their lives. He said he took exception to Ms. McDowell's comment that there is no way to track entities. He said individual human beings pass away, but the "initial" corporation never goes away.

[A portion of Mr. Macinko's testimony was cut off due to technical difficulties.]

MR. MACINKO asked the committee to imagine the consequences, had this bill been active at statehood. He said the canneries owned all the boats back then; therefore, they would have owned all of the permits. He said he didn't see any compelling need to "go down this road" now. Mr. Macinko referred an earlier comment that if permits were given to operators, there would be too many boats participating. He indicated that would happen only if CFEC didn't make an "appropriate qualification for permits." He added, "Some people qualify and some people don't. They come up with an optimum number, and if [Ms. McDowell has] done her job well, there will be the same number of participants, whether you give them to individuals or entities."

Number 2675

CHRIS BERNS, testifying via teleconference, declared that [HB 206] "belongs in the garbage can." He stated that the bill is "the will of about three guys [who] are pushing it." He explained his view that this is a special-interest bill by a handful of participants. In the scallop fishery, for example, the majority of permits will go to one company. He told members:

You need to investigate this as a resource committee, and understand that this is a severe policy shift by the State of Alaska. It's not coming from the majority of the people of Alaska or the majority of the fishermen out of Alaska. It's only coming from about three or four people who have some highly paid lobbyists [who] have been beating doors in Juneau and elsewhere - about six years, as far as I can recall.
...

If the owners of the boat [had been given the permits] when the original limited entry for salmon was, ... the canneries would own the majority of the rights to harvest salmon right now. And that was the main reason you have points for residency, points for participation. And through the point system, the actual people that were operating the boat and making a living and taking the risk and taking the financial risk got the permits, and the majority of the (indisc.) permits in Alaska now are held by state residents. The majority of these, if you look at the ownership of the vessels in these fisheries, I think you'll find that most of these guys are residing in

Palm Springs, or Washington, or they're basically nonresidents.

So, I think that this resource committee should really investigate what this is going to do to change how fisheries are limited. And it's not going to do anything for the conservation of the fisheries. And ... the biological conservation could be done in a number of ways that don't have anything to do with giving one company half the scallop fishery industry.

MR. BERNS concluded by urging members to look at a letter to the editor by Barney Olson (ph) and at "Rationalization, Who Wins?" on page 8 of the "2001 yearbook" of Pacific Fishing magazine.

Number 2889

CO-CHAIR SCALZI asked Mr. Berns if he was in favor of the status quo and open access "in that fishery."

MR. BERNS said no, but began to qualify his answer.

CO-CHAIR SCALZI, in the interest of time, invited Mr. Berns to submit any further testimony in writing.

Number 2935

PAUL SEATON testified by teleconference in opposition to HB 206, indicating he would clarify points on previously submitted written testimony [included in the bill packet]. First, he said the oldest crab fishery in the Bering Sea is under a federal license limitation program, and although that LLP could require endorsements for specific species, it is not required presently. He specified that right now the crab fishery allows fishing of any crab; however, there is a moratorium on "this one." He added:

This is basically a federal fishery, and I hate to see us change the entire philosophy of the state, empowering fishermen, and going to this vessel-owner section for something that can be accomplished under the current LLP of the [federal government].

MR. SEATON disputed a previous statement that the small-boat fisheries are all owner-operated. He said the primary fishery to be impacted by this bill would be the [Pacific] cod fishery, which is managed in state waters.

TAPE 01-29, SIDE B
Number 2995

MR. SEATON mentioned specific boat names, and stated that probably 80 to 90 percent of the entire harvest in the Cook Inlet area is fished by operators other than the owners. He said the percentage of nonowner-operated vessels is probably greater than that in the Sand Point cod fishery. Mr. Seaton continued:

If this bill was implemented, I can very quickly see a move by people to petition to have limited entry in to these fisheries - which are functioning just fine right now - and turn them into ... much more of a (indisc.) fishery, especially out at Sand Point, because once you have the limited entry system out there, then there wouldn't be any reason for limiting the number of gear.

The whole idea of the Board of Fisheries in developing this entire fishery was to give a long-duration fishery that would supply fish to our communities over [a] long period of time. I think that this [bill] will undermine that.

The state-water sablefish fishery is not the limited access fisheries that we're talking about in Prince William Sound and Chatham Strait. We have two open-access sablefish fisheries that occur: one of them in the North Gulf Coast, that operates on its own guideline harvest - it's open right now to state-water fishermen - and we have the Aleutian Island/Bering Sea, which has its own (indisc.) - which is not the IFQ [individual fishery quota] fishery that operates and is totally manageable. ...

Having these "coincident" fisheries does not mean that they are unmanageable. And so, again, under the LLP program, ... crab is limited; you have to have an LLP to fish crab in the Bering Sea. If they put an endorsement on that ... for hair crab, that would take care of their problem.

I see severe ramifications of this in future CFEC ... limited entry programs, and we're going to have a big fight between vessel owners and fishermen when ...

these programs come out. And CFEC is going to be caught in the middle, trying to make a political decision as to whether, "Well, does this really constitute an owner-operator fleet or a nonowner-operated fleet, and does that base on the percentage of the catch or on the number of the vessels?"

This dual system here is going to create severe problems within communities in the future, when we go to any new limited entry systems in the state waters.

Number 2839

JOHN WINTHER (ph), testifying via teleconference, stated his support of HB 206. He said, contrary to previously heard testimony, he does not think "we" will be covered by LLP endorsement. He mentioned the methods of catcher-processors. He discussed the steps that would be taken to sell his own boat, including how the license would have to be passed on with an individual, not with the vessel. He addressed Mr. Seaton's concerns regarding the cod fishery, owners of vessels, and different skippers. He said he sees [HB 206] as an opportunity, "in that case," for ships to remain in the state. He mentioned multiple skippers on the vessels that have fished through the three- or four-year qualifying period.

Number 2631

JOE KYLE testified in support of HB 206 on behalf of Korean hair crab fishery vessel owners. He indicated he was not representing the scallop fishery. He said:

To my knowledge, there's no one working on this bill from the scallop fishery, primarily because the scallop fishery limited entry problem was mainly addressed by the "feds," because there is a federal management plan for the scallop fishery, and so the "feds" could limit entry there.

I also want to add that I'm the chief operating officer of one of the CDQ [Community Development Quota] companies that encompasses the Aleutian Island regions, and [am] intimately involved in the fisheries from a management perspective. Also, I was a voting member of the North Pacific Fishery Management Council (NPFMC) - Governor Knowles' nominee. ...

I appreciate the philosophical concerns that the two gentlemen from Kodiak and Paul Seaton from Homer have mentioned, but right now there is no federal fishery management plan for the Korean hair crab fishery. Paul is just wrong that they can go to the "feds" and get a license limitation endorsement - that is just wrong. And I'll be happy to talk with Paul about it offline.

But what will happen ,if this bill does not eventually pass, is that the participants in the Korean hair crab fishery will go to the "feds" and seek federal management of the fishery in lieu of the current ability that the state has to manage the fishery.

To me, what this bill does, is it gives the limited entry commission the opportunity to have another tool to manage fisheries. The major crisis in all fisheries is over-capitalization, over-capacity, too many boats in the fisheries.

The state has the ability, if this bill passes, to manage this fishery. And I would just ask the committee members to think that there are Alaskans in these fisheries. The Korean hair crab fishery has a CDQ vessel in it, jointly owned by a CDQ group out of St. Paul, with a gentleman from Sitka.

And I would personally rather have the Commercial Fisheries Entry Commission decide who can be in that fishery, rather than the North Pacific Fishery Management Council, which has members from Oregon and Washington and the federal government, as well as Alaska. [If] you pass this bill, you give Alaskans the ability to dictate and determine who can be in this fishery. If you don't, the "feds" will determine that.

Number 2483

The other thing that I would like to ... mention is that the people testifying against the bill, I ... really don't hear - and I really didn't hear them in [the House Special Committee on Fisheries] - testifying against limiting the entry in the Korean hair crab fishery. I hear it more that they're

worried about how the entry commission may use it in other fisheries.

I know Commissioner McDowell and the staff have worked for years to try to figure out how to get this bill to a point where it can only rarely be used, and before they can use it, they have to first find that their traditional way of limiting entry will not work. And right now ... there's only two fisheries that they can even foresee, and really the scallop fishery is not even an issue anymore because the "feds" have taken most of that problem away. The only one you ... have is this Korean hair crab fishery. ... If you don't limit the entry [and] give the commission the tools to limit the entry into it, the "feds" will [limit the entry]. So, I just ask you to please give the commission the tool they are seeking.

I would just close by saying I know Commissioner McDowell comes from a small-boat, coastal Alaskan background, and I know she's very personally familiar with the philosophical issues that we hear addressed here. And she has tried to craft a bill with the staff that addresses those concerns, while still giving the practical ability for the state to use a different program than it normally uses, in these very rare fisheries.

MR. KYLE urged the House Resources Standing Committee to support HB 206.

Number 2379

EDWARD C. FURMAN testified briefly in opposition to HB 206. He said, "The fishermen from Cordova, Alaska, are against this bill. That's all I have to say."

Number 2351

CO-CHAIR MASEK referred to page 2, lines 22-24. She asked Ms. McDowell about a guarantee that would protect the smaller owner-operator fishery.

MS. McDOWELL replied that it was true this issue would be left to the CFEC to determine. She detailed the categories considered before any limitation is decided upon: usually a petition process; data analysis done by research and data-

processing staff; a decision about what program to use; and a full analysis of ownership patterns. She said, "In a case where we could meet the purposes of limited entry Act, based on those ownership patterns, we would need to default to this."

MS. McDOWELL mentioned a point system used to rank applicants, but added that the dilemma with the current program is that the department is bound to create a "maximum number," which means that the number of permits that must be issued in a fishery must be set. Ms. McDowell stated, "The supreme court has ruled that we must issue permits to the highest number of participants in any one of the four years prior to a limitation." She added:

Yes, we could use a point system to rank those people, but if the number of permits that you have to hand out is much larger than the number of boats that have been participating, that's where you start to run into this problem of "grandfathering" in more participants than you had at the time of limitation. ... If we could limit with a number that would meet the purposes of limited entry Act, using our traditional program, we would feel bound by this statute to do that.

Number 2175

CO-CHAIR MASEK mentioned the zero fiscal note attached to the bill, but asked Ms. McDowell if this would add any cost to the limited commercial fishing industry or the CFEC.

MS. McDOWELL responded, "It wouldn't, in that this is enabling legislation that just creates another framework, and for any fishery that petitions us for limited entry, we would have to go through the same process either way."

CO-CHAIR MASEK referred to previous comments about scallop permits going to a large company, and asked if it would require investigation "if that is happening."

MS. McDOWELL answered that the risk that one company will buy many permits is [addressed] by the provisions allowing the department to cap how many permits in a given fishery any single entity could obtain. A permit has to be renewed every year, so if shareholders or partners change, that change of ownership would have to be reported, for each year, and could trigger the need to transfer it to a human being. She said she thought that although some details would need to be worked out, the language of the bill provides protection to avoid consolidation.

CO-CHAIR MASEK inquired how much a scallop or Korean hair crab boat costs.

CO-CHAIR SCALZI estimated \$600,000 to \$1.5 million.

MR. KYLE said he didn't have an answer regarding the cost of a scallop boat, but a crab boat runs between \$600,000 and \$1 million.

CO-CHAIR MASEK asked what percentage of owner-operators are sole owners, versus large corporate owners.

MS. McDOWELL responded that according to her records "most of them are owned by partnerships." She added that only about ten vessels qualified under the moratorium for scallops; however there are people outside the state interested in getting into these fisheries, if they should "go open-access." In response to a follow-up remark by Co-Chair Masek, Ms. McDowell stated, "In these fisheries, there are no smaller vessels. This is ... the whole ...state-water scallop fishery."

Number 1900

CO-CHAIR SCALZI announced that HB 206 be held over.

[Co-Chair Scalzi called a brief at-ease at 2:17 p.m. and turned the gavel over to Co-Chair Masek, who brought the meeting back to order at 2:28 p.m.]

HCR 8-NORTH SLOPE NATURAL GAS PIPELINE ROUTING

Number 1877

CO-CHAIR MASEK announced that the next order of business would be HOUSE CONCURRENT RESOLUTION NO. 8, Expressing the legislature's opposition to the proposed "northern" or "over-the-top" route for a natural gas pipeline to transport North Slope natural gas reserves to the domestic North American market, and expressing the legislature's support of commercialization of North Slope natural gas for the maximum benefit of the people of the state.

[There was a motion to adopt CSHCR 8(O&G) for discussion purposes, but it was already before the committee.]

Number 1825

REPRESENTATIVE JIM WHITAKER, Alaska State Legislature, sponsor, told members that HCR 8 is a special-interest resolution for the people of Alaska. Furthermore, the resolution does not compete with SB 164, but stands alone as a resolution that states clearly that "the legislature opposes a so-called over-the-top routing for a natural gas pipeline," and that the legislature will do all that is within its power to encourage natural gas commercialization "in a manner consistent with our maximum benefit constitutional mandate."

REPRESENTATIVE WHITAKER gave a PowerPoint presentation, which he explained was the result of consideration, over several years, of the subject of natural gas and what it means to the State of Alaska. [A written copy of the presentation is included in the committee packet.]

REPRESENTATIVE WHITAKER showed the first PowerPoint "slide," titled "Natural Gas in Alaska: What does It Mean to the People of the State?" He told the committee that natural gas means \$680 million to \$4.2 billion to the state per year; significantly lower energy costs for all Alaskans; and major direct and indirect employment opportunities for all Alaskans, "if we demand that our resource be developed in our best interest."

REPRESENTATIVE WHITAKER referred to charts provided by BP [Exploration (Alaska) Inc.]. He said between 1985 and 1998 the use of natural gas for home heating had increased substantially, to 70 percent. Even though heating use has decreased from electrical generation, other uses have significantly increased; therefore, use of natural gas has dramatically increased for generating electricity. Gas and oil [uses] are increasing, while coal [use] is declining, but gas is at the top of the "new energy mix."

REPRESENTATIVE WHITAKER indicated on a chart that natural gas is "clean and green," and he compared the differential between waste products associated with coal versus gas. Natural gas is also significantly less of an air pollutant, compared to oil and coal. He added, "the demand for natural gas is soaring."

REPRESENTATIVE WHITAKER referred to a chart titled "Supply & Demand For North America" that depicts a "demand curve" for natural gas in North America, conservatively projected by the Energy Information Administration. Representative Whitaker indicated a special additional supply expected from Mexico and the Rocky Mountain area, as well as the Mackenzie delta supply

and gas from an Alaskan pipeline project. Based upon the best information available today, he concluded that the demand [for natural gas] exceeds the supply.

REPRESENTATIVE WHITAKER highlighted another chart entitled "Supply & Demand For The Pacific Rim," showing "contracted supply volume" and "contracted supply extension." He mentioned an Alaskan LNG [liquefied natural gas] project scheduled to go online in 2007 and a Sakhalin LNG project scheduled to go online [by approximately 2004]. Representative Whitaker stated that given a low demand, supply exceeds demand; given a medium demand, "it's very tight"; and given a high demand, demand exceeds supply. He said he was not nearly as comfortable with this chart as the previous one; however, he stated his confidence that "we'll raise supply to this level."

Number 1378

REPRESENTATIVE CHENAULT asked Representative Whitaker if the number "70" on the chart stood for metric tons or billion cubic feet.

REPRESENTATIVE WHITAKER confirmed that it was in metric tons. He returned to the PowerPoint and introduced the next category entitled "The World Market Dynamic Reality: Supply Will Restrict Demand For The Foreseeable Future," which means that prices will remain significantly higher than they have been in the past. He said, "Given that Alaska's North Slope has the largest undeveloped reserve of natural gas in North America, we Alaskans, and particularly we legislators, need to ask ourselves, 'how do we take advantage of that situation?'" Representative Whitaker said the simple answer to that question is that we [Alaskans] take our gas to market.

REPRESENTATIVE WHITAKER outlined routing options shown on individual maps: the "over-the-top" route, which he described as undesirable; the [governor's preferred] "highway" route; the TAGS [Trans-Alaska Gas System] route, touted by Jeff Lowenfels [of Yukon Pacific Corporation]; and the "hub" approach.

REPRESENTATIVE WHITAKER referred to a projection showing the state constitution, Article VIII, Section 2, which reads, "The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people." He said that the constitution makes it clear what the responsibility of the legislature is.

REPRESENTATIVE WHITAKER outlined his ideas for attaining the maximum benefit and best interest of Alaska. He emphasized the need for maximum market exposure, saying an overland route alone would exclude markets throughout the world, specifically Asia and probably the U.S. West Coast. By connecting to multiple markets, "we stabilize market opportunities for this very ... valuable commodity resource." He noted that the "over-the-top" and "Foothills/highway" routes exclude Asia, and the TAGS route excludes mid-America; therefore, he stated that the hub approach provides maximum market exposure.

REPRESENTATIVE WHITAKER next discussed how to obtain maximum dollars to the state. He specified two options for financing: public and private. Public financing, he explained, will exempt the financing component from federal taxes, "which significantly improves the economics of an Alaskan gas project and increases the return to the state." Additionally, Representative Whitaker estimated that the return on financing a project this size should be "8-12 percent of capital costs per year, for 30 years," which would be a significant return to the state.

REPRESENTATIVE WHITAKER turned to the issue of public versus private ownership. He told the committee that under public ownership, besides being exempt from all federal income taxes, a state-owned pipeline would give a greater netback to the state. Furthermore, the state would not pay a tariff for royalty gas. In comparison, under private ownership the returns on a project would be much less to the state because of taxes paid to the federal government and a tariff paid on royalty gas to "big oil." Representative Whitaker clarified that he is not an enemy of "big oil," stating that he lived in Alaska before [those companies] were here and that his options for prosperity and for opportunity were significantly less than they are today. He continued:

What's the difference between public and private ownership? We've made an assumption. That assumption is a six bcf [billion cubic feet] per day project. ... Given that, and given a rather conservative gas price at \$2.59 per million Btu(s), which is roughly equivalent to 1,000 cubic feet, in mid-America -- this is the Purvin & Gertz model. We didn't change it; we used all their assumptions. What we did insert was a six bcf project, [with] four ... bcf per day going to mid-America [and] two bcf per day as an "LNG" option.

REPRESENTATIVE WHITAKER said assuming a price of \$2.59 per million Btu(s), the state would receive \$1.3 billion under public ownership and only \$680 million under private ownership. He indicated that the charts also gave assumptions of gas prices at \$4.50 and \$8.00. Currently the price is \$5.34. Representative Whitaker noted that the return to the state would be a fair one. He added, "This is a huge commodity resource, the power of which should never be minimized."

Number 0765

REPRESENTATIVE STEVENS asked Representative Whitaker to explain what he meant by "tariff."

REPRESENTATIVE WHITAKER replied that the tariff is a charge assessed to those who use the facility. In response to follow-up questions, he explained:

The owners of the current TAPS [Trans-Alaska Pipeline System] are those [who] assess the tariff. And that is charged to themselves, as well as other users, including the state. As the current owners of the existing TAPS line have the right and the opportunity to charge a tariff - which is essentially a return on investment - so too would the state ... have a right and an opportunity to charge a transportation tariff [on a state-owned gas pipeline].

REPRESENTATIVE WHITAKER returned to his discussion, detailing "maximum in-state usage opportunities" that increase in relation to two factors: the number of population centers the pipeline crosses, and the number of miles of pipe in the state. He indicated the "over-the-top" route does not include those two factors; the "highway" route is "close"; the TAGS route is "closer"; and the hub route works the best.

Number 0585

REPRESENTATIVE WHITAKER addressed the next PowerPoint idea: "Maximum Competition For Gas Production," which he emphasized was a key criterion. He stated:

Given that a competitor cannot have equal access to a gas pipeline, given that that competitor is not receiving the benefit of a tariff that an owner would, that competitor is at a competitive disadvantage. And

we find that to be true with the current TAPS line. We should not allow that to happen again.

There was a time when we were producing, on the North Slope, 2.1 million barrels of oil [per day]. Today we have three producers and they produce 1.1 million barrels per day. A number of factors relate to that; certainly depletion is one of those factors. But I am nearly emphatic in my statement that a significant part is played in the production decline on the North Slope that relates directly to the number of competitors doing business on the North Slope.

REPRESENTATIVE WHITAKER emphasized that [Alaska] should strive to have the maximum number of competitors for gas on the North Slope, which it cannot do unless there is a publicly owned pipeline, which ensures that no producer will be precluded from having equal access at an equal cost.

Number 0447

REPRESENTATIVE WHITAKER turned attention to "Maximum Job Opportunities For Alaskans," calling it a "no-brainer" that it is the state's job to ensure that both short-term and long-term jobs associated with the gas pipeline project are provided to Alaskans.

REPRESENTATIVE WHITAKER concluded his PowerPoint presentation by summarizing the reasons that the hub approach, publicly financed and owned, yet privately operated, would be the best choice and would serve the best interests of all Alaskans. He told the committee that there is substantial basis to what had been discussed: sound economics, and a sound understanding of the market. He added, "It is very clear that Alaska's natural gas resource is substantially larger than we might have thought at first glance."

REPRESENTATIVE WHITAKER emphasized that the resolution makes two statements: First, there should be no "over-the-top" routing. And second, the legislature should acknowledge its responsibility to ensure that this resource goes to market "in a manner consistent with the best interest of the people of the state of Alaska."

Number 0144

CO-CHAIR MASEK asked whether Representative Whitaker had plans to distribute the resolution to any groups in particular.

REPRESENTATIVE WHITAKER answered that he hadn't thought of a distribution list, but would certainly entertain any thoughts the committee might have in regard to that, in the form of a committee substitute.

TAPE 01-30, SIDE A
Number 0053

REPRESENTATIVE WHITAKER, in response to a question by Representative Stevens, said in "our" model an assumption was made that the cost of a pipeline project would be financed by the permanent fund. He said it is beyond him why "we" would borrow money when we have a substantial amount to begin with; he doesn't think [the state] could make a better investment, both for infrastructure or on investment return. The return from the permanent fund this past year was "less than sterling," which is to be expected during a market downturn, he commented.

REPRESENTATIVE WHITAKER explained that this is a long-term investment, guaranteeing a return somewhere in the neighborhood of 8 to 12 percent, which outperforms the permanent fund historically. The risk is that the market would "go away," but Representative Whitaker said he didn't think that would happen. He reiterated that the assumption is that the permanent fund would finance the project.

Number 0211

MICHAEL J. HURLEY, Government Relations, North American Natural Gas Pipeline Group, came forward to testify as follows:

As you are aware, the three companies participating in the group (BP, Exxon/Mobil, and Phillips) have been working diligently to develop an economically viable project to commercialize North Slope natural gas by pipeline through Canada to the Lower 48 market. And in doing that, it is incumbent on us to fully consider the options that could help us accomplish that goal.

Indeed, the Federal Energy Regulatory Commission [FERC], before it will issue a certificate of public convenience and necessity, requires us to analyze alternative pipeline route options as part of the application process.

This project has the potential to be the largest energy project in North America, and will require capital investments in the billions of dollars. These investment decisions cannot be taken lightly, and must be made with the confidence that can only be gained by a thorough evaluation of the alternatives, and an understanding of their relative strengths, weaknesses, risks, and rewards. Such an approach is fundamental to good business decision-making.

Our efforts have been focused on creating and understanding opportunities, not prematurely discarding them. This resolution seems to suggest we do the latter. We believe that legislative action which recommends shutting down options before they are fully understood limits dialog and interferes with the fundamental dynamics of a free-market economy.

It cannot be forgotten that any Alaskan gas project, whether it's LNG, GTL [gas-to-liquids] or pipeline technology, must be able to deliver products to the market at a competitive cost in order to succeed. There are many other competing sources of supply, and buyers will be going elsewhere if a project fails to deliver in this regard. If either Alaska project advances, the benefits to the state and its citizens and businesses will be substantial, and will make a significant contribution to Alaska's economic future.

Finally, the work we are undertaking this year will yield information that we believe will be necessary for reasoned decision making. We have been listening to the views and concerns of the Alaska legislature and Alaska's citizens, and we will be evaluating alternatives on the basis of seven criteria: overall project economics, Alaskan access to gas, jobs for Alaskans, revenues to the state, safety, environmental protection, and project timing.

MR. HURLEY said [his group] doesn't feel that it has enough information to make a "route" decision based on those criteria, which is the reason for its aggressive work program. The interest of commercializing North Slope gas is best served by creating, not eliminating, choices. [The group] expects there

will be many opportunities in the future for legislative guidance and action.

Number 0565

REPRESENTATIVE SCALZI asked if [the group has put] a value on what benefits Alaska might utilize in terms of production of gas in the state and the [sustainability of the] workforce when assessing choices.

MR. HURLEY said that is part of the seven criteria; [the group] understands that those are interests to the citizens and the legislature of the state. [The group] understands what those things mean to the parties involved, and [they] are taken into account. For any kind of analysis one does on a project of this magnitude, there is always a balance of benefits.

MR. HURLEY noted that those balances need to be made in an open discussion between industry and the stakeholders in the project. This will include the State of Alaska, Canada, some of the Lower 48 states that the pipeline will pass through, as well as the relevant federal [agencies]. All will have a stake in how this decision ultimately gets made; [the group] wants to try to recognize the interests of all parties involved.

Number 0730

REPRESENTATIVE SCALZI asked if an environmental impact statement (EIS) is going to be done to quantify a dollar value to these things, or whether there will just be the "generic tradeoff" language.

MR. HURLEY explained that [the group] fully expects that an EIS will be done during this process, as well as other socioeconomic studies that are required as part of the Federal Energy Regulatory Commission (FERC) application process. He said that is part of the program [the group] is working on during this year, which needs to be concluded before the applications go in.

Number 0783

REPRESENTATIVE FATE referred to FERC's issuance of a certificate. He asked if the discussion on this point referred to the northern or "over-the-top route," or to a route that FERC had already issued certificates on, the southern route down the pipeline.

MR. HURLEY responded that the "over-the-top" route would need a new certificate. It is [the group's] expectation that the southern route may end up getting a new certificate, too, but [the group] doesn't know that. Right now, there is a lot that FERC is unsure of, according to some of FERC's recent documents. What [the group] is doing right now is to push forward as if these are going to be "two green options," because [the group] doesn't want to wait for that to be resolved before starting work.

MR. HURLEY said in either case, whether using existing certificates or new ones, he believes a lot of the work that will be done by the group during the year will be necessary. A lot of the new environmental work and socioeconomic will need to be done; those kinds of things aren't under an existing certificate.

Number 0926

REPRESENTATIVE FATE referred to the seven criteria used for evaluation. He questioned the one that says, "Alaskans' access to gas" and asked if the intent was for local markets.

MR. HURLEY responded affirmatively. He said "we" understand the need and interest in having gas for local consumption in the state.

REPRESENTATIVE FATE said he didn't see anywhere where [the group] had taken into account the political awareness or the Alaska constitutional mandate, which was seen on the PowerPoint presentation. He asked if it would be among the points that [the group] uses as criteria.

MR. HURLEY replied that he wouldn't put it that way, but many things inherent in the constitutional mandate are things [the group] is looking at in the seven points. The constitutional mandate is a mandate to the legislature; [the group] recognizes the things [the legislature] is interested in, and is taking those into account within the seven points.

Number 1065

REPRESENTATIVE McGUIRE said she sees in Mr. Hurley's testimony that FERC requires an analysis of multiple options before issuing a certificate. She asked, "Are you making the assumption that anything in this resolution that the legislature

passes ... would preclude you from still analyzing those other options."

MR. HURLEY replied no. He explained that a resolution is a statement of preference, and said the legislature absolutely has a right to have a preference. [The North American Natural Gas Pipeline Group] would suggest [to the legislature] that it may be premature to have a preference in that there is a lot of information currently being developed. He noted that [the group] is spending \$75 million this year developing information about the alternatives, which will provide more information in order to make a better decision.

Number 1189

REPRESENTATIVE STEVENS asked Mr. Hurley if he disagrees with any of the figures that Representative Whitaker used in his presentation.

MR. HURLEY responded that he [would disagree]. However, he is not prepared to talk about the facts and figures in detail. He stated that he is suggesting that there is additional information that will be appropriate for [the legislature] to think about before making a decision on a preference.

REPRESENTATIVE STEVENS remarked that he assumes Mr. Hurley is not objecting to the figures that were used.

MR. HURLEY replied that he does disagree with some of them and has some questions; one example is with respect to the tariff number that was asked about earlier. His understanding of tariffs, having done them for some of the North Slope pipeline, is that they are primarily made up of two components: cost and rate of return. He noted that he has not had chance to look at Representative Whitaker's numbers; therefore, he doesn't know what they represent.

REPRESENTATIVE KERTTULA commented that she didn't understand how the tariffs worked either.

Number 1399

CO-CHAIR MASEK made a motion to adopt a conceptual amendment, at the bottom of the resolution, adding, "copies to be sent to President Bush, Secretary of Interior Gail Norton, the Governor, U.S. Congress, and other major development companies."

Number 1500

REPRESENTATIVE FATE made a motion to move CSHCR 8(O&G), as amended, out of committee with individual recommendations and attached fiscal note. There being no objection, CSHCR 8(RES) moved from the House Resources Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:10 p.m.