

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 11, 2001

1:10 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Mary Kapsner

COMMITTEE CALENDAR

HOUSE BILL NO. 129

"An Act relating to lifetime state park developed campsite permits."

- MOVED HB 129 OUT OF COMMITTEE

HOUSE BILL NO. 205

"An Act relating to resource development and to grants for the purpose of promoting resource development from appropriations of a portion of the revenue derived from the extraction of certain state natural resources."

- MOVED CSHB 205(RES) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 76

"An Act relating to the Alaska Right-of-Way Leasing Act; and providing for an effective date."

- MOVED SSSB 76 OUT OF COMMITTEE

SENATE BILL NO. 164

"An Act prohibiting leases under the Right-of-Way Leasing Act on state land in or adjacent to the Beaufort Sea; and providing for an effective date."

- MOVED HCS SB 164(O&G) OUT OF COMMITTEE

HOUSE BILL NO. 232

"An Act permitting state residents to purchase remote recreational cabin sites."

- BILL HEARING POSTPONED

PREVIOUS ACTION

BILL: HB 129

SHORT TITLE:FREE PARK PERMITS: DISABLED VETS/SR. CIT

SPONSOR(S): REPRESENTATIVE(S)MASEK BY REQUEST

Jrn-Date	Jrn-Page		Action
02/16/01	0344	(H)	READ THE FIRST TIME - REFERRALS
02/16/01	0344	(H)	RES, FIN
04/11/01		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 205

SHORT TITLE:RESOURCE DEVELOPMENT: BD./GRANTS/FUND

SPONSOR(S): REPRESENTATIVE(S)FATE

Jrn-Date	Jrn-Page		Action
03/22/01	0690	(H)	READ THE FIRST TIME - REFERRALS
03/22/01	0690	(H)	RES, FIN
04/11/01		(H)	RES AT 1:00 PM CAPITOL 124

BILL: SB 76

SHORT TITLE:RIGHT-OF-WAY LEASING ACT: TERM & RENEWAL

SPONSOR(S): SENATOR(S) THERRIAULT

Jrn-Date	Jrn-Page		Action
02/07/01	0301	(S)	READ THE FIRST TIME - REFERRALS
02/07/01	0301	(S)	RES
03/29/01	0859	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
03/29/01	0859	(S)	RES
04/02/01		(S)	RES AT 3:30 PM BUTROVICH 205
04/02/01		(S)	Moved Out of Committee MINUTE(RES)
04/03/01	0919	(S)	RES RPT 3DP 2NR
04/03/01	0919	(S)	DP: TORGERSON, PEARCE, HALFORD;

04/03/01	0919	(S)	NR: LINCOLN, ELTON
04/03/01	0919	(S)	FN1: INDETERMINATE(DNR)
04/04/01	0932	(S)	RULES TO CALENDAR 4/4/01
04/04/01	0943	(S)	READ THE SECOND TIME
04/04/01	0943	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/04/01	0943	(S)	READ THE THIRD TIME SSSB 76
04/04/01	0943	(S)	PASSED Y19 N- E1
04/04/01	0943	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/04/01	0946	(S)	TRANSMITTED TO (H)
04/04/01	0946	(S)	VERSION: SSSB 76
04/04/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/05/01	0852	(H)	READ THE FIRST TIME - REFERRALS
04/05/01	0852	(H)	O&G, RES
04/05/01	0870	(H)	CROSS SPONSOR(S): HARRIS
04/10/01		(H)	O&G AT 5:00 PM CAPITOL 124
04/10/01		(H)	Moved Out of Committee MINUTE(O&G)
04/11/01	0955	(H)	O&G RPT 5DP
04/11/01	0955	(H)	DP: KOHRING, DYSON, JOULE, GUESS, FATE
04/11/01	0955	(H)	FN1: INDETERMINATE(DNR)
04/11/01		(H)	RES AT 1:00 PM CAPITOL 124

BILL: SB 164

SHORT TITLE:NO GAS PIPELINE OVER BEAUFORT SEA

SPONSOR(S): SENATOR(S) TORGERSON

Jrn-Date	Jrn-Page		Action
03/23/01	0786	(S)	READ THE FIRST TIME - REFERRALS
03/23/01	0787	(S)	RES
03/28/01		(S)	RES AT 3:30 PM BUTROVICH 205
03/28/01		(S)	Moved Out of Committee MINUTE(RES)
03/29/01	0856	(S)	RES RPT 7DP
03/29/01	0856	(S)	DP: TORGERSON, TAYLOR, HALFORD, PEARCE,
03/29/01	0856	(S)	KELLY, LINCOLN, ELTON
03/29/01	0856	(S)	FN1: ZERO(DNR)
03/30/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/02/01	0903	(S)	RULES TO CALENDAR 4/2/01
04/02/01	0906	(S)	READ THE SECOND TIME

04/02/01	0906	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/02/01	0906	(S)	READ THE THIRD TIME SB 164
04/02/01	0907	(S)	PASSED Y18 N- A1 E1
04/02/01	0907	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/02/01	0908	(S)	TRANSMITTED TO (H)
04/02/01	0908	(S)	VERSION: SB 164
04/03/01	0821	(H)	READ THE FIRST TIME - REFERRALS
04/03/01	0821	(H)	O&G, RES
04/03/01	0831	(H)	CROSS SPONSOR(S): CROFT, WHITAKER
04/10/01		(H)	O&G AT 5:00 PM CAPITOL 124
04/10/01		(H)	Moved HCS SB 164(O&G) Out of Committee
04/10/01		(H)	MINUTE(O&G)
04/11/01	0957	(H)	O&G RPT HCS(O&G) 5DP
04/11/01	0957	(H)	DP: DYSON, GUESS, JOULE, CHENAULT, FATE
04/11/01	0957	(H)	FN1: ZERO(DNR)
04/11/01		(H)	RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

JENNIFER YUHAS, Staff
to Representative Beverly Masek
Alaska State Legislature
Capitol Building, Room 128
Juneau, Alaska 99801

POSITION STATEMENT: Spoke on behalf of Representative Masek,
sponsor (by request) of HB 129.

CAROL CARROLL, Director
Division of Support Services
Department of Natural Resources (DNR)
400 Willoughby Avenue, Fifth Floor
Juneau, Alaska 99801-1724

POSITION STATEMENT: Suggested an amendment to HB 129 changing
the lifetime pass to an annual pass.

PETER PANARESE, Field Operations
Central Office
Division of Parks & Outdoor Recreation
Department of Natural Resources (DNR)
550 West Seventh Avenue, Suite 1380
Anchorage, Alaska 99501-3561

POSITION STATEMENT: Answered questions regarding HB 129.

KRISTY TIBBLES, Staff
to Senator Drue Pearce
Alaska State Legislature
Capitol Building, Room 119
Juneau, Alaska 99801

POSITION STATEMENT: Answered questions relating to HB 205 on behalf of the Senate Resources Standing Committee, sponsor of SB 136, the companion bill.

EDWARD C. FURMAN
PO Box 2367
Cordova, Alaska 99574

POSITION STATEMENT: Testified in support of HB 205.

PAMELA LaBOLLE, President
Alaska State Chamber of Commerce (ASCC)
217 Second Street, Suite 201
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the ASCC in support of HB 205.

WILDA RODMAN, Staff
to Senator Gene Therriault
Alaska State Legislature
Capitol Building, Room 121
Juneau, Alaska 99801

POSITION STATEMENT: Spoke on behalf of Senator Therriault, sponsor of SSSB 76.

STEVEN (ph) JONES, Manager
TAPS [Trans Alaska Pipeline System] Right-of-Way Renewal Project
(No address provided)

POSITION STATEMENT: Testified in support of SSSB 76.

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

POSITION STATEMENT: Spoke as sponsor of SB 164.

MICHAEL HURLEY
Government Relations
North American Natural Gas Pipeline Group (NANGPG)
601 West 5th Avenue, Suite 500
Anchorage, Alaska 99501

POSITION STATEMENT: Spoke in opposition to SB 164, expressing concern that it is premature.

JACK GRIFFIN, Assistant Attorney General
Oil, Gas & Mining Section
Civil Division (Anchorage)
Department of Law
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501-1994

POSITION STATEMENT: Recommended amendments to SB 164.

ACTION NARRATIVE

TAPE 01-34, SIDE A
Number 0001

CO-CHAIR BEVERLY MASEK called the House Resources Standing Committee meeting to order at 1:10 pm. Representatives Fate, McGuire, Chenault, Stevens, Kerttula, Masek, and Scalzi were present at the call to order. Representative Green arrived as the meeting was in progress.

HB 129-FREE PARK PERMITS: DISABLED VETS/SR. CIT

CO-CHAIR MASEK announced that the first order of business would be HOUSE BILL NO. 129, "An Act relating to lifetime state park developed campsite permits."

Number 0142

JENNIFER YUHAS, Staff to Representative Beverly Masek, Alaska State Legislature, came before the committee to testify on behalf of Representative Masek, the sponsor (by request) of HB 129. She paraphrased the sponsor statement [included in the committee packet], which read:

This bill was introduced to support [our] older Alaskans. Seniors have every right to enjoy the beauty of our great state. Many have made a [long-term] contribution to Alaska's economy and community. Senior citizens generally find [themselves] on a fixed income. The Alaska Commission on Aging reports that the average annual income of an Alaskan senior citizen is \$8,097.

Alaska has many other programs that recognize this. Persons sixty years and older are able to receive a

hunting and fishing license at no charge. [Renters'] rebates are available for those sixty-five and over, as well as auto tax exemptions, exemptions for fees for property appraisals, food distribution, financial and medical assistance, energy assistance, rental assistance, and free college tuition. Giving our older Alaskans use of our parks would encourage their participation in wholesome outdoor activities that will enhance their quality of life. House Bill 129 is a reasonable recognition of our elders' contribution to our state.

[Also included in the committee packet was Ms. Yuhas's written testimony, which was handed out to the committee members.]

Number 0423

CAROL CARROLL, Director, Division of Support Services, Department of Natural Resources (DNR), told the committee the department certainly does not oppose HB 129 and recognizes that it is the policy of the legislature to set benefits to seniors; however, the Division of Parks & Outdoor Recreation ("State Parks") is 32 percent funded from fees and the bill would increase the cost of the department.

MS. CARROLL suggested many costs reflected in the fiscal note could be eliminated if the sponsor would accept an amendment changing the permit from a lifetime pass to an annual one. The process used for everybody now would remain the same: "We could sell them the same decal, et cetera, and they would just come in yearly for their free pass." Conversely, the lifetime pass would involve setting up another decal and "tracking."

MS. CARROLL told the committee that anytime the department does away with fees, there will be some impact. Although [DNR] has attempted to estimate the fiscal impact, the figures represent a "best guess" since the department does not count people or ask their age.

MS. CARROLL explained that with an amendment to change the process to an annual one, there would be the following: a zero fiscal note, with a funding source switched between program receipts and the general fund; a best estimate of which fees would no longer be coming to the department; and [an estimate] of how much of the general funds would be required to replace [program receipts] in order to avoid a service impact on the parks.

MS. CARROLL cautioned that the department is only appropriated a certain amount; therefore, any fees coming in over the amount estimated would go into the general fund. She emphasized that there would be a net zero revenue impact on the bill.

Number 0700

CO-CHAIR MASEK referred to the DNR's fiscal note [in committee packets] provided by Jim Stratton, Director, Division of Parks & Outdoor Recreation. She asked Ms. Yuhas to answer some of the concerns mentioned by Ms. Carroll.

Number 0728

MS. YUHAS stated her belief that Ms. Carroll had reviewed [the fiscal note] directly before the meeting and had addressed some of her own concerns regarding the fiscal note. She said, "One of the things that I had brought up was changing the way they did the pass to eliminate the printing and the other fees associated in the fiscal note." Ms. Yuhas explained that the DNR's original fiscal note included fees for creating and printing a brand-new pass. She agreed with Ms. Carroll that if [the department] issued an annual pass, then everything would not have to be restructured.

MS. YUHAS offered her belief that an entirely new database wouldn't be necessary to track the information. She said she would like someone to research what it would cost to track the following two items: issuing park passes at no charge, and [checking] that people are over 65 years old.

MS. YUHAS mentioned State Parks' RSA [reimbursable services agreement], a public information center, and printing costs. Pointing out that nothing in the bill gives an effective date, she said the committee has the liberty to decide when it would be effective, and could do so in conjunction with the printing schedule of the department to save on costs, or else the department could wait until it's time to reprint.

MS. YUHAS suggested if a new database is not being created, then there will not be a fee for maintenance of the database. She said there are a number of statistics that State Parks and [the Department of] Fish and Game supplied [regarding lost program receipts]. She commented, "I don't know how we can project lost program receipts [from having free permits] if we can't identify how many people are using the service to begin with." She

estimated, from her own observations, that a "generous" 15-20 percent [of people using the state's campgrounds] are seniors.

MS. YUHAS mentioned possible concern that the bill may encourage people who are not already using the service to seek permits, thereby causing overcrowding of parks; however, she argued that although there are times when the campgrounds are full, multiple open spaces are available the majority of the time. She concluded by saying she would like to see a much smaller fiscal note and to see the bill pass.

Number 1006

MS. CARROLL responded that if there is an impact and the program receipts do "disappear," as the department thinks they may, then there will be an impact on service. It is difficult to estimate something that has not been tracked. The department estimates that approximately 15-20 percent of the people in the parks are seniors, and that 30-40 percent of those who buy yearly annual passes are seniors. She emphasized that there will be an impact on the program receipts being collected by DNR.

Number 1075

REPRESENTATIVE CHENAULT asked Ms. Carroll if the annual senior passes are for residents only, or are also for use by nonresidents.

MS. CARROLL answered residents. The department has done away with the nonresident passes.

REPRESENTATIVE CHENAULT first commented that nobody would know how many of the senior citizens in the state's campgrounds during the summer are actually residents or nonresidents. He then surmised that the number of nonresidents would be higher and asked Ms. Carroll if she had information regarding that.

MS. CARROLL replied that she did not have any firm numbers because those statistics have not been tracked. She restated that if the amendment is made, making the permit an annual one instead of a lifetime one, the amount in the fiscal note will be zero but there will be a funding source switch.

Number 1168

REPRESENTATIVE FATE asked if it would be onerous to have seniors apply every year.

MS. CARROLL said that may be; it's a choice the committee needs to make.

Number 1272

MS. YUHAS conceded that the fiscal note may not be zero, but asked the committee to pass the bill anyway "as a reasonable gesture to honor our older ... Alaskans."

Number 1330

CO-CHAIR MASEK closed public testimony.

Number 1367

REPRESENTATIVE FATE recommended the committee leave "lifetime" permit in the bill.

CO-CHAIR MASEK read some statistics from Ms. Yuhas's written testimony that were provided by the Alaska Department of Fish & Game: In the fiscal year 2000, 3,997 permanent identification cards were issued to senior citizens to hunt and fish, and 466 licenses were issued to disabled veterans. She added, "The numbers would probably be a little less for a lot of our seniors." She said she would like the permit to be a lifetime one.

Number 1540

REPRESENTATIVE KERTTULA said she liked the idea of a lifetime pass, but asked whether there was a way to get around the cost of the printing. For example, a person could obtain one annual pass and then only have to prove his or her age.

Number 1497

MS. CARROLL responded that she couldn't think of any language. She added that one of the things found in other states is that once a person has a lifetime pass - if it's a decal on a car or a piece of paper - it can be passed around. It's difficult to figure out how to offer a lifetime pass and not have it be misused.

Number 1540

REPRESENTATIVE KERTTULA reiterated that she would like to figure out a way to issue a "one-time annual pass," thereby avoiding printing costs and the necessity for seniors to apply more than once.

Number 1593

PETER PANARESE, Field Operations, Central Office, Division of Parks & Outdoor Recreation, Department of Natural Resources (DNR), testified via teleconference. He reported that one challenge in managing State Parks' campgrounds is identifying people who have paid their fees and then collecting fees from those who haven't yet paid.

MR. PANARESE explained that the system now used is to provide decals for display on vehicles; those people may partake in recreational activities without being stopped each time by park management, because the decals are readily visible. Mr. Panarese pointed out that state employees and volunteers should not be put in the position of having to contact people in vehicles without decals just to find out if they are over 60. He indicated the request in the fiscal note is to come up with a system whereby State Parks personnel wouldn't have to contact a person directly once the pass is issued, but would be able to tell whether a person had a pass because it would be visible on the vehicle or on the person.

Number 1705

REPRESENTATIVE KERTTULA said perhaps the committee should wait to work this issue out, but she did not understand why "we can't just get a bunch of orange stickers and put them on top of the decal and be done with it." She stated that she didn't see the purpose of "bringing seniors in," and said there must be some way to overcome having to print a new decal.

Number 1751

CO-CHAIR MASEK said she plans to have her staff work with the department. Meanwhile, she would leave the bill as it is and send it on to the House Finance Standing Committee, where changes can be made to make the bill work.

Number 1765

REPRESENTATIVE FATE moved to report HB 129 out of committee with individual recommendations and the accompanying fiscal notes.

There being no objection, HB 129 was moved out of the House Resources Standing Committee.

HB 205-RESOURCE DEVELOPMENT: BD./GRANTS/FUND

[Contains discussion relating to SB 136, the companion bill]

Number 1815

CO-CHAIR MASEK announced that the next order of business would be HOUSE BILL NO. 205, "An Act relating to resource development and to grants for the purpose of promoting resource development from appropriations of a portion of the revenue derived from the extraction of certain state natural resources."

Number 1850

REPRESENTATIVE GREEN made a motion to adopt the proposed committee substitute (CS) [version 22-LS0803\C, Chenoweth, 4/5/01] for purposes of discussion. [No objection was stated.]

Number 1860

REPRESENTATIVE FATE, speaking as the sponsor, explained for the committee members that HB 205 is a companion to SB 136. He paraphrased his sponsor statement [included in the committee packet], which read as follows:

House Bill 205 will establish the Resource Development Board [RDB], which will be tasked with the primary duties of facilitating public education and promoting responsible resource development. The board will have authority to award matching grants to private nonprofit corporations for projects such as conducting marketing research, advertising, publishing, and distributing information related to responsible resource extraction. Grants may not be used for an election or a ballot proposition, nor can they be used for influencing issue-specific legislation at the state or local government level.

House Bill 205 also establishes the Resource Development Fund from which the board may award grants. The fund will be created within the general fund and will be subject to legislative appropriation from revenues received from the extraction of the state's natural resources. 20 percent of the balance,

after administrative costs, will also be appropriated to the New Business Incentive Fund to attract companies to Alaska that build on our resource base.

In his annual address to the legislature, [U.S.] Senator Frank Murkowski advised that "the state must do its part to promote economic development of its own lands, irrespective of the prevailing federal attitude and political landscape at the federal level."

House Bill 205 represents an investment in Alaska's future. Alaska has been, and will be, dependent on natural resource extraction to fuel our economic engine for the foreseeable future. We need to continue to promote responsible development of our resources while protecting the environment. The best way to protect Alaska's environment is to have a strong diversified economy. The majority of environmental groups apparently do not agree with this concept, as they continue to oppose nearly all development while offering no alternative economic plan. Alaska's environmental protection laws are among the strongest in the world, yet by opposing development of Alaska's natural resources, environmentalists push development offshore to Third World countries, ensuring exploitative development in the absence of adequate environmental protection laws.

There are now more than 90 environmental groups with offices in Alaska, and the vast majority of their money comes from the Lower 48. These organizations spend millions of dollars in Alaska attempting to sway public opinion, drive public policy, and inhibit the development of our natural resources. Because of the virtually unlimited funds available to these environmental groups, Alaska-based resource development advocates are unable to compete effectively in presenting a balanced message to the public and are overwhelmed by a one-sided message. House Bill 205 will provide assistance in disseminating a balanced message regarding responsible resource development.

Alaska invests in marketing our tourism and seafood industries and in supporting the opening of ANWR [Arctic National Wildlife Refuge] to petroleum exploration in order to benefit our economy. We also

need to invest in the promotion of our diverse mineral resources, timber, and oil and gas development.

Creating the Resource Development Board will promote responsible resource development in Alaska and assist us in meeting our constitutional mandate of developing our resources by making them available for maximum use consistent with the public interest.

REPRESENTATIVE FATE commented that the last statement was taken out of the constitution. He indicated the sectional analysis [in the committee packet] reflects the proposed CS, Version C.

Number 2145

REPRESENTATIVE FATE referred to [Amendment 1], which read as follows [original punctuation provided]:

Page 1, line 13:

After "amount"

Insert "based on the gross revenues but appropriated after the transfer of payments required by law to the Permanent Fund, School Fund,"

Number 2190

REPRESENTATIVE KERTTULA suggested a friendly amendment to proposed Amendment 1 as follows: after "the Permanent Fund, School Fund," add "and Constitutional Budget Reserve Fund,".

REPRESENTATIVE KERTTULA explained that there currently is not much being added to the Constitutional Budget Reserve Fund (CBRF) because "we are not getting those big settlements." She stated her belief that since an overall fiscal plan had not yet been made, it may make sense to "maintain where we're at right at the moment."

REPRESENTATIVE FATE expressed concern because the CBRF requires a three-quarters vote. He also expressed concern about using those types of funds in this effort.

REPRESENTATIVE KERTTULA agreed about the three-quarters vote to withdraw from the fund, but offered her belief that this bill would change how the money goes into the fund.

REPRESENTATIVE FATE responded that at some point the funds would have to be taken out to use for grants and to put into the

Resource Development Board. Just for argument's sake, Representative Fate said, if the funds were locked up, a three-quarters vote would be required in order to use them.

REPRESENTATIVE KERTTULA responded, "It's just that we're getting the money equal to whatever those amounts are. So it'll never take a three-quarters vote to ... get that money to this fund." She said money would never be appropriated back out of the CBRF for this fund.

Number 2347

KRISTY TIBBLES, Staff to Senator Drue Pearce, Alaska State Legislature, spoke on behalf of the Senate Resources Standing Committee, sponsor of SB 136, the companion bill to HB 205. She informed members that the same amendment is being offered on the Senate side with consideration to adding the CBRF, based upon the fiscal note provided by DNR. She told the committee the drafter of the bill had stated his opinion that the money in question does not pertain to the CBRF because [the bills] don't say "oil settlement money."

REPRESENTATIVE KERTTULA stated her understanding, "So it's simply because the money never is going to deal with the money that goes through the CBR anyway. ... So actually, then, the fiscal note may be somewhat misleading ... because it mentions the CBR."

MS. TIBBLES responded in the affirmative.

REPRESENTATIVE FATE stated that he had no personal objection to [Representative Kerttula's friendly amendment], but would like the issue clarified.

REPRESENTATIVE KERTTULA agreed that if the money isn't ever going to come from the CBR, there is no reason to mention it; however, it is mentioned in the fiscal note.

Number 2423

MS. CARROLL responded:

Yes, our fiscal note does do that. What this amount is: it calculates this, based on the gross amount of revenues from our mineral estate. ... So that's ... how you get the \$2.6 million. All of the distributions happen after that, and the appropriation

comes out of the general fund. The amount that comes out of the general fund is what you're worried about, and that's based on gross revenue. So that is essentially just a calculation. The revenue stream goes its merry way, the way that it always has. And then the appropriation that you make into this fund comes out of the general fund, based on that amount that the Department of Natural Resources has calculated.

MS. CARROLL, in response to a question from Representative Chenault, clarified that it is current gross receipts from the end of fiscal year 2000.

Number 2488

REPRESENTATIVE KERTTULA read from page 1, lines 12-14, continuing through page 2, line 1:

(b) From the money received in the administration of the resources of the state under AS 38.05, the legislature may appropriate an amount equal to one-quarter of one percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments, and bonuses received by the state as follows:

REPRESENTATIVE KERTTULA said, "It may be under 'bonuses.'" She stated her belief that Ms. Tibbles had been testifying to the fact that the money that would go into the CBR does not fit within that definition. She added, "And I guess that's the question."

Number 2508

MS. CARROLL responded:

In this fiscal note we calculated based on gross revenues, which, in my understanding, [include] those settlement amounts that go directly into the constitutional budget reserve because they are based on an error that was made on the revenue that we got - the receipts that we were supposed to receive in prior years. So that's how we did the calculations - the Department of Natural Resources. That's one way of doing it.

Number 2543

REPRESENTATIVE CHENAULT asked Ms. Carroll if the one-quarter [of one] percent is based on the latest revenue reports. He also asked if future resource development would be taxed at the current rate and the one-quarter [of one] percent would come out of the gross. In the alternative, would this be an added one-quarter percent increase in future revenue receipts?

Number 2588

MS. CARROLL answered that this doesn't increase any royalties that might need to be paid by industry; however, if there is further development "in there" for the royalties that are paid, it will be a part of the calculation, because those would be revenues that [DNR] receives. Addressing a follow-up question, Ms. Carroll clarified that if there is an increase in revenue coming from the mineral estate, this calculation would be done on the increased amount of revenue received. She stated her expectation that this calculation would be made annually.

Number 2682

CO-CHAIR MASEK asked whether there was any objection to the adoption of Amendment 1 with Representative Kerttula's amendment to it. There being no objection, Amendment 1, as amended, was adopted.

Number 2705

EDWARD C. FURMAN came before the committee to testify in support of HB 205. He said it was too bad that in the past, the government gave eight of our islands to Russia. He mentioned land sold by the federal government without legislative permission. Mr. Furman thanked the committee for taking time to listen to "this 65-year-old retired veteran." He passed out a newsletter [included in the committee packet] describing the things he frowns on about the government.

Number 2823

PAMELA LaBOLLE, President, Alaska State Chamber of Commerce (ASCC), testified on behalf of the ASCC in support of HB 205. She told the committee it is important that the state, which has ownership of its resources and is a "business partner at the table," needs help in marketing the importance of resource

development. She asserted that resource development was the basis upon which Alaska was allowed into statehood. She said:

It's very important at this time, when there is so much effort and false information that is perpetrated by those who would have Alaska be a park, instead of a self-sufficient state of the Union, that has the ability to be on equal footing in the world market as other states do.

Number 2924

CO-CHAIR MASEK closed public testimony.

Number 2930

REPRESENTATIVE GREEN mentioned the existence of the Resource Development Council (RDC) and asked how the proposed Resource Development Board (RDB) would go to operators and excite them about using Alaska's resources [any differently than the RDC would]. He also mentioned AOGA [Alaska Oil and Gas Association].

TAPE 01-34, SIDE B

REPRESENTATIVE FATE explained that the purpose of the RDB would be to not only support, but to promote - to act as a public relations [entity] and to be actively involved in the placement of funds. For example, the RDB might choose to use funds to support tourism, promote the development of resources, and fight the environmentalists who are opposed to it. The RDB could disseminate funds to aid the efforts of other established groups.

REPRESENTATIVE GREEN agreed that resources should be marketed. He mentioned the existence of fish marketing, including that by ASMI [Alaska Seafood Marketing Institute] and other existing organizations. He also mentioned approximately \$2.7 million in fiscal notes. He said, "From a commerce point of view, I just don't ... see where they're going to go that we're not already going." Representative Green stated his belief that an oil company, for example, would most likely talk to other oil companies, or approach DNR [for funds]. He named a fictitious oil company in Texas and asked how it would be notified to come to Alaska through the RDB.

REPRESENTATIVE FATE said that wouldn't be the purpose of the RDB.

Number 2833

CO-CHAIR MASEK referred to the sponsor statement and the proposed CS, which specifies that nonprofit corporations organized under the Alaska Nonprofit Corporation Act will be given preference for receiving grants. She asked Representative Green if the council he'd mentioned gives grants as well.

Number 2805

REPRESENTATIVE GREEN answered that the council does not give grants. He questioned whether there would be enough money available to give grants, to create that kind of an activity for something of any consequence regarding natural resources.

CO-CHAIR MASEK pointed out AS 44.33.917 in the proposed CS. She remarked, "From what I see here, this is another tool to help nonprofit organizations to develop our state's resources."

Number 2689

REPRESENTATIVE FATE said he understood Representative Green's concern regarding a possible duplication of process, which is a waste of money. He remarked that many times nonprofit corporations could be a benefit to the state by getting out the desired messages of the legislature and "other members of the state," which cannot get those messages out because of political correctness, for instance. Representative Fate said he envisions those funds as nonprofit funds that can promote economic development, especially in the extraction of resources.

Number 2625

REPRESENTATIVE GREEN said, "Rather than actually distribute the money to a nonprofit who might then try and extract, ... it's for an information dissemination, primarily, like Arctic Power."

REPRESENTATIVE FATE concurred.

REPRESENTATIVE GREEN stated that that was his point: another [entity] is already doing this.

REPRESENTATIVE FATE said the exception is that Arctic Power has not come under this purview; had this been in place, it might

have. However, it has received funds from other sources. He said he hadn't cited Arctic Power because [legislators] felt the necessity for a nonprofit organization to carry a message. He alluded to the fact that Arctic Power had been funded, partially, by the legislature recently [in its efforts to open ANWR]. He added, "Had this been in place, they would have had to go through those procedures that have been prescribed in this bill in order to get any grant funds from this organization, and I would suspect that they would have done that."

CO-CHAIR MASEK clarified that Arctic Power is solely promoting the opening of ANWR, whereas the bill refers to "many other resource entities."

Number 2527

REPRESENTATIVE KERTTULA said she must echo some of the same concerns Representative Green had offered. She referred to earlier mention of tourism and stated that if tourism were added [to the bill], she would "have to come pretty close to supporting an idea like this."

REPRESENTATIVE KERTTULA indicated [people involved in tourism] are struggling to "put it together to come back up with their marketing scheme." She also mentioned "responsible resource extraction" and expressed concern that there is not a balance with some of the other industries. Noting that differing statistics regarding tourism, fishing, and oil as leading industries, she concluded by saying, "This money stream is either going to be way up or possibly way down, and that kind of worries me too."

Number 2453

CO-CHAIR MASEK asked if the Department of Community and Economic Development (DCED) would "fall under" tourism. She noted that [the bill] states that the commissioner [of DCED] shall be on the board.

REPRESENTATIVE KERTTULA stated her interpretation that tourism is under that department; however, it is not being funded that way, because there is a private nonprofit board. She pointed out that tourism would never be able to get a grant, because it's not an extractive industry.

Number 2419

REPRESENTATIVE FATE said he does not preclude tourism; however, it is not the thrust of this legislation.

REPRESENTATIVE KERTTULA clarified that she had brought up the issue of tourism because neither the title of the bill nor the thrust includes it; however, unless the sponsor of the bill wanted to redo the whole idea, [she was not asking for an amendment.]

Number 2365

REPRESENTATIVE FATE noted that in Denver, in the mineral industry at large, it takes 7-15 years to get a project through. He said:

If we have somebody who is going to bat for the state, wherein sometimes we can't, and we have a nonprofit organization that needs some funds to help facilitate reducing the time it gets something [going], we should take advantage of that.

REPRESENTATIVE FATE told the committee Alaska's problem is worse than that of many of states in the Lower 48. For example, a gas pipeline from Prudhoe Bay to the Lower 48, by way of Chicago and California, was authorized, with all certificates, as long ago as 1978.

Number 2274

REPRESENTATIVE KERTTULA stated her belief, regarding promoting development in Alaska, that the money would be better spent by aiding the company itself, for example, or developing a good permitting system. She mentioned Red Dog [Mine], air [quality] violations, and a six-month lag in communication. She said she respects where Representative Fate is going, but respectfully disagrees that that is where the money is best spent.

Number 2229

REPRESENTATIVE McGUIRE drew attention to page 2, lines 4-7, of the proposed CS, which read:

(2) after allowance for the expenses described in (1) of this subsection, not more than 20 percent of the remaining estimated balance of the amount authorized for appropriation under this

subsection to the new business incentive fund for purposes authorized by AS 45.81.010 - 45.81.050;

REPRESENTATIVE McGUIRE remarked that she liked the idea. She offered her belief that one current problem is attracting new business to Alaska. She said she would like to see that [percentage] increase, although she did not know how that might affect the makeup of the rest of the bill. Representative McGuire said she thought new business incentives were one of the key elements of the bill.

REPRESENTATIVE FATE responded that there might be other problems, of which he is unaware, with increasing the percentage; however, he had no personal objection to the suggestion. He added that the next committee of referral would be a proper place to look at that.

Number 2142

REPRESENTATIVE GREEN asked how much of the \$2.7 million would be available to pass out, after the agencies that are writing these [grants] extract their [expenses]. He asked if anything would be gained by this, other than having some additional literature going somewhere. He said it is difficult to see how much more money will actually be required in order to do some good.

Number 2042

REPRESENTATIVE FATE told Representative Green he could not answer his questions at this point because there has been no experience with this to determine projected expenses.

REPRESENTATIVE GREEN responded that he loves the goal if it is certain it would work as planned. He agreed Alaska needs to extract its resources. He said some problems with permitting stem directly or indirectly from the EPA [Environmental Protection Agency]; therefore, if this [legislation] were going to go towards education and the EPA, he could be more easily persuaded, because it is a major stumbling block in need of correction. He suggested that striking a deal with the EPA may be an incentive for other companies to come to Alaska. He said [Alaska] operates in a more environmentally sound manner than any other place in the world. He added, "If we could strike a deal with EPA, because of that history, then ... let's go to ... two percent."

REPRESENTATIVE FATE asked Representative Green if he was suggesting an amendment.

REPRESENTATIVE GREEN answered, "If I knew where it was going."

Number 1931

MS. TIBBLES offered an example: the Alaska Miners Association could apply for a grant to produce new information regarding mining in Alaska.

REPRESENTATIVE GREEN said they produce the information now, without the grant. He mentioned a Canadian company that got Red Dog [Mine] started. He asked if "we" had talked to any of the people who might be looking for funding.

Number 1859

REPRESENTATIVE FATE restated that he understood Representative Green's concerns. This would be a reinforcement for things that already exist; the bill addresses the nonprofit aspect. He said there is a process to follow, and the grants would not be given out indiscriminately. Although there may be overlap, it may be very beneficial.

Number 1768

REPRESENTATIVE GREEN stated that the tourism business is in need of money every year; it competes with [businesses] that are "being subsidized by other states, by other countries." He said their marketing council has really helped. He also mentioned the battle to open ANWR and spoke of "specific need" and "specific issue." To illustrate his point, Representative Green told the committee that his children were given money when they were specific about what they wanted, rather than vague.

Number 1695

CO-CHAIR MASEK explained that the proposed board would be made up of [five] people: [one each] from the forestry, mining, oil, and gas industries [through their respective trade associations], as well as the commissioner of DCED. She indicated those people would be the ones to issue the grant money and that grants would help [groups] promote themselves.

Number 1614

REPRESENTATIVE FATE referred to the first line of his sponsor statement, which read:

House Bill 205 will establish the Resource Development Board, which will be tasked with the primary duties of facilitating public education and promoting responsible resource development.

REPRESENTATIVE FATE said to Representative Green:

If you consider that, I suppose, some of the beauty of this land is a resource, then I would assume also that you would say that this could help develop that resource through tourism, which both you and Representative Kerttula have been talking about. It does not, as I have said before, ... negate advancing any funds from ... going in that direction, but that's going to be a process that we'll have to go through from the applicant and from the review of each application.

Number 1523

REPRESENTATIVE KERTTULA emphasized, however, that there cannot be tourism under this. It is for the development of resources having commercial promise, using methods of responsible resource extraction. It cannot be used for tourism.

Number 1493

REPRESENTATIVE FATE moved to report CSHB 205 [version 22-LS0803\C, Chenoweth, 4/5/01, as amended] out of committee [with individual recommendations and the accompanying fiscal notes]. [Representative Kerttula first objected, then withdrew her objection.] There being no objection, CSHB 205(RES) was moved out of the House Resources Standing Committee.

SB 76 - RIGHT-OF-WAY LEASING ACT

CO-CHAIR MASEK announced that the next order of business would be SPONSOR SUBSTITUTE FOR SENATE BILL NO. 76, "An Act relating to the Alaska Right-of-Way Leasing Act; and providing for an effective date."

Number 1295

WILDA RODMAN, Staff to Senator Gene Therriault, Alaska State Legislature, gave a brief overview of the bill by paraphrasing the sponsor statement, which read:

Senate Bill 76 makes three important changes to the 1972 Alaska Right-of-Way Leasing Act, which gives the Department of Natural Resources [DNR] the authority to lease state land for oil and gas pipelines.

First, SB 76 increases the maximum term of right-of-way lease renewals from the current 10 years to 30 years. Leases for several pipelines, including the Trans-Alaska Pipeline System, Endicott, Kuparuk, Oliktok and Milne Point all expire in May, 2004. SB 76 changes the length of terms for renewals only, not the length of the original lease term, so the renewal process for the pipelines with leases that expire in 2004 will proceed uninterrupted. The 30-year term of renewal is consistent with that of federal grants of right-of-way for oil and gas pipelines, and will result in significant savings of time and money to industry and the state.

A section of the bill allows for existing leases to be amended, upon request, to incorporate the new provision for renewal periods of up to 30 years. The bill also places in statute a provision allowing for the extension of leases under their existing terms if the lessee has applied for renewal, but the terms of the lease are still under negotiation at the date of expiration. The language proposed in AS 385.110(b) states that the leases shall be continued until the commissioner issues a final determination on renewal.

Although current statutes give the commissioner leeway to extend a right-of-way lease or grant an interim lease pending finalization of a renewal determination, I believe the procedure for extending a lease pending renewal needs to be set out in statute. Although DNR believes it can adhere to a self-imposed deadline for renewing leases before they expire, I think such rationale injects unnecessary uncertainty into the renewal process.

Second, the bill amends the definition of "state land" for purposes of the right-of-way leasing Act to include only land in which the interest owned by the

state is sufficient to permit the state to lease it under the authority of the Department of Natural Resources.

Third, the bill requires lessees under new and renewed right-of-way leases to reimburse the state for costs associated with monitoring the operation, maintenance and termination of pipelines on state right-of-way leases. The bill requires the commissioner to use best efforts to reach agreement with the lessee on the cost reimbursement and to provide the lessee with an annual estimate of the projected costs and scope of the work.

Number 1021

STEVEN (ph) JONES, Manager, TAPS [Trans Alaska Pipeline System] Right-of-Way Renewal Project, thanked the committee for considering the bill. He said SSSB 76 contains language agreed upon among TAPS, the administration, and the DNR. He offered that SSSB 76 is "a good solution to a few relatively minor administrative issues that we had on renewal."

Number 0965

REPRESENTATIVE GREEN asked Mr. Jones if renewals in other states are typically of this magnitude, and rather than being every ten years, are over an extended period of time.

MR. JONES replied that he could not say what the common situation is in other states; however, the federal provisions, which have frequently been used over the years for renewal in the Lower 48, are for a maximum 30-year period.

REPRESENTATIVE GREEN said it has been rumored - because of the concern about environment-related challenges - that if there isn't an EIS [environmental impact statement] prepared, there could be court challenges and [the process] could get "tied up." He asked Mr. Jones whether he thought that if the renewal period were over a lesser period of time - ten years, for example - "this same sort of thing would have to be gone through every time." He stated his understanding that "multiple millions of dollars" are involved in getting this renewal.

MR. JONES said the reason there is a need to go through NEPA [National Environmental Policy Act of 1969] compliance is because of a federal requirement. He stated his understanding

that the Secretary of the Interior has determined an EIS would be necessary. He noted there is no state requirement to do an EIS or comply with NEPA. He continued:

The federal rules, again, provide for a 30-year renewal, so ... depending on the determination that was made by, in this case, the Bureau of Land Management, [which] administers the federal grant, we could have to go through another renewal in a lesser period of time than 30 years; but that's one of the decisions that the Secretary has to make in determining whether or not to renew the right-of-way, is the duration of the lease.

The main reason that we ... suggested the amendment to the state statute is because we're regulated by the Joint Pipeline Office, which, of course, is a combined federal and state office. And really it was just to put the two offices on similar footing, so that we didn't have the state looking at a renewal over a more frequent period of time than the federal renewal period, since the two of them work together and we work together with them.

Number 0662

REPRESENTATIVE KERTTULA asked how long TAPS is projected to run and what the production levels are projected to be for the next 30 years.

MR. JONES answered that "we" plan to submit an application called a "duration report." He offered the belief - based upon reports from the U.S. Department of Energy, for example, and just associated with the existing areas, not ANWR [Arctic National Wildlife Refuge] or NPRA [National Petroleum Reserve of Alaska] - that "we'll" have sufficient oil in commercial quantities to transport off the Slope, through TAPS, for at least another 30 years. He added, "Granted, no one can predict the price of oil, so this is with some caveat there."

Number 0490

REPRESENTATIVE FATE noted that Mr. Jones had mentioned the request of the Secretary of the Interior for an EIS. He asked if that had been under a different administration and whether there had been an opportunity to reverse that.

MR. JONES replied that the decision had been made under a different administration by, he believed, an assistant secretary. He said there was also a solicitor's opinion issued on the applicability of NEPA to the renewal decision. It is a decision that was made and that is subject to review by the new Secretary [of the Interior]; however "we" have to comply with the existing one made in 1999.

REPRESENTATIVE FATE said based upon Representative Green's earlier suggestion, it might be more prudent to do the EIS, rather than to run the risk of eventual environmental litigation.

Number 0299

REPRESENTATIVE FATE moved to report SSSB 76 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SSSB 76 was moved out of the House Resources Standing Committee.

SB 164-NO GAS PIPELINE OVER BEAUFORT SEA

CO-CHAIR MASEK announced that the next order of business would be SENATE BILL NO. 164, "An Act prohibiting leases under the Right-of-Way Leasing Act on state land in or adjacent to the Beaufort Sea; and providing for an effective date." [Before the committee was HCS SB 164(O&G).]

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

Number 0103

SENATOR JOHN TORGERSON, Alaska State Legislature, sponsor of SB 164, indicated the "over-the-top" route does not serve the best interests of the state. He listed some benefits of a pipeline that would not exist with the over-the-top route: in-state use of natural gas; maximum benefits for short-term and long-term jobs; a significant long-term property tax base for the state; and value-added industries.

TAPE 01-35, SIDE A
Number 0001

SENATOR TORGERSON paraphrased an excerpt from page 3, lines 11-14, which read in part:

(b) Consistent with the legislative policy and goals set out in (a) of this section, the commissioner may not grant a lease across state land that is in or adjacent to the Beaufort Sea for pipeline right-of-way purposes to authorize construction and operation of a natural gas pipeline following a "northern" or "over-the-top" route ...

(c) The limitation on leasing set out in (b) of this section does not apply on and after the date on which a natural gas pipeline following a "southern" route that parallels the Trans Alaska Pipeline System and the Alaska Highway to transport North Slope natural gas to North American markets or Alaska tidewater for delivery to foreign and domestic markets has been completed and has begun operation.

SENATOR TORGERSON pointed out the new language of HCS SB 164(O&G) on page 2 [lines 15-22], saying it originates from "the Northstar bill" and deals with the effectiveness of having maximum local hire.

Number 0210

REPRESENTATIVE GREEN inquired if SB 164 had been subjected to legal review regarding the issue of the legislature's limiting the commissioner's leasing authority.

SENATOR TORGERSON replied:

I do have a legal opinion that basically talks about three issues that were raised in earlier hearings: one is equal protection; one is a commerce clause; and one is separation of powers. And our legal department has found all of them not to be valid.

REPRESENTATIVE GREEN clarified that Senator Torgerson meant all language in the bill passes muster.

Number 0312

REPRESENTATIVE KERTTULA asked Senator Torgerson if his legal sources considered whether the companies had to study any alternative routes.

SENATOR TORGERSON said that question had not been raised. He mentioned that the committee might hear in upcoming testimony

that [the companies] are required to do alternative studies on a particular route. He offered his personal opinion:

The route has already been chosen by the President of the United States and by Congress. It's ratified by treaty between Canada and the United States. That is the route. So if they wanted to lay the pipe in the route that's already authorized, an alternative route - alternative methodology - is not required. If they wanted to select a different route, no matter what it was, then they would ... be required to do studies, unless they could prove cause that that route was the only route that is feasible and no other route could be. But in any event, they'd probably be involved in doing other studies.

REPRESENTATIVE KERTTULA clarified that she had asked out of curiosity, not because she objected to SB 164.

Number 0430

REPRESENTATIVE SCALZI expressed concern that although he likes the route, he has "just a little bit of reservation about tying our hands completely on this." He mentioned a resolution recently passed by the House, but said [SB 164] states more than the resolution; it "says this is the only way you're going to go." He asked Senator Torgerson if he could predict any future, detrimental consequences of closing the options, even though the intent of the bill seems clear today.

SENATOR TORGERSON answered that the "over-the-top" route is the option being closed off, for the reason that there will be no value-added industry in Alaska on "gas we can't get," and because jobs and tax valuations wouldn't be spread across the state to the maximum benefit. He added that LNG [liquefied natural gas] routes are still open and said this is just one buried pipe in the Beaufort Sea that [the legislature] is saying "no" to.

SENATOR TORGERSON mentioned a route proposed in 1977 that was "onshore ANWR." Although [the Alaska State Legislature] did not act on that, Senator Torgerson said Congress and the government of Canada did, because the proposed area was too environmentally sensitive. He remarked, "So, if a pipeline's environmentally sensitive onshore, heaven knows what it's going to be called offshore, buried under the ice." He added that the only benefit

of this route might be to the treasury, but overall it would not be good for the State of Alaska.

Number 0705

MICHAEL HURLEY, Government Relations, North American Natural Gas Pipeline Group (NANGPG), stated that he must respectfully disagree with Senator Torgerson. He mentioned that his written testimony was very similar to the testimony he gave the previous week for [HCR 8]; therefore, he would not read it to the House Resources Standing Committee today. [A copy of Mr. Hurley's written testimony is included in the committee packet and can be found in the minutes for HCR 8.] He specified that [NANGPG] believes passage of SB 164 at this time - removing options from the table - is not a good idea and is premature.

Number 0789

CO-CHAIR MASEK noted for the record a letter [included in the committee packet] from Commonwealth North. She said it appeared [Commonwealth North] would like to have adequate opportunity to evaluate all options prior to making this bill law.

Number 0850

REPRESENTATIVE FATE asked Mr. Hurley when an opportune time to pass this legislation would be.

MR. HURLEY replied that NANGPG is currently engaged in studies throughout this year, spending in excess of \$75 million to do the engineering work and to study the attributes of both routes. He suggested that the committee wait for NANGPG's input from its economic, socioeconomic, and environmental studies, as well as input from the U.S. federal government and the Canadian government.

REPRESENTATIVE FATE responded that although he is a strong proponent of the oil and gas industry, "input" means to him that [the legislators] are not really players at the table. He mentioned a recent energy meeting where "the considerations of the exploration of the gas were so prolific" that there may not be time to wait for NANGPG to produce a report that has no timeline, because the market may close.

REPRESENTATIVE FATE characterized the state's responsibility to its "shareholders" as similar to the responsibilities of companies to their shareholders. He expressed hope that SB 164

would be taken by the industry as "piece of legislation that mirrors our concern about these timelines." He also expressed hope that it would galvanize the producers into making some decisions that would speed up the process.

Number 1113

REPRESENTATIVE GREEN expressed his commitment to a pipeline that comes down through the middle of the state; however, he said he thought it was premature to determine now that the [over-the-top] route will not work, even though he is against it now. Representative Green said he wants to know what he is saying "no" to, rather than saying "no" to something that is just feared. Representative Green said although he thought the timing of SB 164 was wrong, however, he would support it.

Number 1218

CO-CHAIR MASEK said she shared Representative Green's concerns.

Number 1236

JACK GRIFFIN, Assistant Attorney General, Oil, Gas & Mining Section, Civil Division (Anchorage), Department of Law, testified via teleconference. He indicated some potential legal issues within the language of SB 164. He reminded members that neither he nor [Legislative Legal Services] could rule upon whether a particular legal objective was valid, however, because that is the courts' functional; he surmised, therefore, that counsel from [Legislative Legal Services] had probably said that if presented with "these legal arguments," the courts should rule that this law will withstand constitutional review. He went on to say:

At least with respect to the commerce clause issue [and equal] protection clause issue, I would like to say that I would agree with [Legislative Legal Services] on that. It would also be my view that, if the court were presented with the commerce clause issue and equal protection issues that I've identified previously in testimony, they should find that the laws withstand challenges under those clauses. But I don't think that's the case.

MR. GRIFFIN indicated the question to ask is whether any relatively simple changes could be made to the bill that would strengthen [the state's] position on these types of crucial

issues. From his perspective and that of the Department of Law, several relatively simple changes could be made without changing the ultimate intent of the legislature in any way, but which would help in defending any legal challenges that might ultimately be brought by those who might disagree with the legislature's policy choice in this case.

MR. GRIFFIN noted that he had been speaking to Senator Torgerson's staff and would make himself available to the Senator and the committee to explore possible changes to the language of the bill.

Number 1464

CO-CHAIR MASEK asked Mr. Griffin to share his ideas for amending the language. [Co-Chair Masek had a copy of the latest version faxed to Mr. Griffin; meanwhile, she called Senator Torgerson back to the witness table.]

Number 1636

SENATOR TORGERSON told the committee that Mr. Griffin has repeatedly proposed changes to SB 164 during his testimony at several committee meetings. Senator Torgerson stated that he will not be in favor of making the changes proposed by Mr. Griffin until he hears from [the governor's office] that they are in agreement to the bill. He explained that the governor has expressed dislike for SB 164 in his public speeches and other comments. He remarked on the difference between the Mr. Griffin's opinion and that of [Legislative Legal Services].

Number 1725

MR. GRIFFIN responded that he didn't think there was a difference between his opinion and that of [Legislative Legal Services], at least in regard to the commerce clause and the equal protection issue. Rather, the question is whether there is a better way to present [SB 164], ultimately, to the court.

Number 1822

MR. GRIFFIN informed the committee that he'd received the latest version of SB 164. He recommended the following amendments: On page 3, Section 3, subparagraph (b), lines 14-17, after "operation of a natural gas pipeline", delete "following a 'northern' or 'over-the-top' route running east from the North Slope to Canada's Mackenzie River Valley, then south to link to

existing pipeline networks to transport North Slope natural gas to North American markets."; and add "for distribution of natural gas market".

MR. GRIFFIN articulated the rationale for that change, saying at this time a route through the state's submerged lands off the coast of ANWR is not in the best interest of the state, given that there is another federally approved route to get North Slope gas to foreign and interstate markets. The reason for the change is to generalize the language as much as possible while still accomplishing the legislative purpose at hand. Mr. Griffin cautioned, "By identifying the project so specifically, you open the door to technical legal arguments."

MR. GRIFFIN also recommended the elimination of subparagraph (c), lines 18-22, from page 3 of the bill, because he said he did not think that language was necessary to accomplish the present legislative purpose. He explained:

It may very well be that even after the construction and operation of a southern pipeline, the legislature might feel that it's not in the state's best interest to have a sub-sea pipeline off the coast of Alaska that spans 100 or 150 miles. We don't have all the facts ... today to know whether that's going to be in the state's best interest or not.

MR. GRIFFIN recommended sticking with the legislative policy choice articulated in [his amended] subparagraph (b) until the legislature is presented with enough evidence to prove that the over-the-top route is in the state's best interest.

Number 2140

REPRESENTATIVE GREEN asked whether Mr. Griffin's concern regarding subsection (b) is that "without this indication of 'to market'" it could jeopardize or preclude a line, say, from Point Thomson, which would be onshore but would very likely be handling gas.

MR. GRIFFIN responded:

I would not see the language, as I proposed it, as in any way prohibiting development of Point Thomson gas, unless for some reason it was necessary to run the Point Thompson pipeline immediately adjacent to the Beaufort Sea or off the coast of the North Slope.

REPRESENTATIVE GREEN clarified that his concern was with the way (b) is written now. He asked Mr. Griffin if his concern was that the result of passing the bill without the modification under discussion would be to jeopardize "shipping gas adjacent to the shoreline."

MR. GRIFFIN replied that the concern centered around arguments that might be raised under the commerce clause and the equal protection clause for a gas project that fits the definition currently in subsection (b), whether that project involved Point Thomson or Prudhoe Bay.

Number 2235

REPRESENTATIVE GREEN continued his line of questioning:

It may ... seem foolish now, but it's possible, with the gas accumulation at Point Thomson, there could be significantly more gas in that immediate area that may ultimately prove better to go east and still have the Prudhoe Bay gas [in] a pipeline coming down through the state.

And so I'm wondering if, because of the way this is written, would that preclude Point Thomson, subsequently to a gas line coming through the state - subsequent development at Point Thompson - going east and down the Mackenzie? Would (b) prevent that as it's written now?

MR. GRIFFIN responded that he believed it would.

Number 2296

REPRESENTATIVE KERTTULA pinpointed that the new language of Mr. Griffin's proposed amendment preserves the intent of the original legislation, uses general rather specific language, does not interfere with any other projects, and protects the right to have offshore pipelines. She described Mr. Griffin's amendment as an effort to "get away from an attack on the face of the legislation." She asked Mr. Griffin to confirm that.

MR. GRIFFIN concurred, saying he was trying to avoid a potential "facial" challenge to the bill, based on either the commerce clause or an equal protection argument.

REPRESENTATIVE KERTTULA asked Mr. Griffin to confirm the following statement:

Without this language, ... if you were a company and you were seeking ... an alternative route, you wouldn't even have to come in and apply for a permit, potentially. You could just go straight to court. You'd never even have to come through and try, because you'd already be foreclosed.

MR. GRIFFITH answered that it could be a risk.

Number 2370

SENATOR TORGERSON offered excerpts of a legal opinion that he said was "on point" to Mr. Griffin's memo to another legislator. He said he would supply copies to members of the House Resources Standing Committee only, for confidentiality reasons. He mentioned the significance of the federal government having spoken in regard to the gas pipeline issue, and how SB 164 and the objectives of federal policy are congruent, according to the author of the letter. Senator Torgerson added that he didn't think Mr. Griffin believed in the fundamental policies that this legislature was trying to set.

Number 2440

REPRESENTATIVE KERTTULA asked Senator Torgerson what adverse effect would come from adopting Mr. Griffin's amendment. She also asked whether it wouldn't be preferable to "give ourselves the chance to stand up to that kind of a legal challenge?"

SENATOR TORGERSON replied that the language without the amendment was very clear and he liked it.

REPRESENTATIVE KERTTULA made a motion to adopt Mr. Griffin's amendment. She explained that she didn't believe it would change the intent of "this very good idea." Instead, she told members, it "protects us against facial challenges, puts us on better footing in the courts, and, with due respect to the sponsor, ... [follows] very good legal advice."

SENATOR TORGERSON reiterated that he opposed it.

Number 2604

CO-CHAIR MASEK called an at-ease. She called the meeting back to order.

A roll call vote was taken. Representative Kerttula voted in favor of the amendment. Representatives Fate, Chenault, Green, McGuire, Stevens, Masek, and Scalzi voted against it. [Representative Kapsner was absent.] Therefore, the amendment failed by a vote of 1-7.

Number 2660

REPRESENTATIVE McGUIRE moved to report HCS SB 164(O&G) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS SB 164(O&G) was moved out of the House Resources Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:30 p.m.