

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

March 15, 2002

1:09 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 Mary Kapsner  
Representative Beth Kerttula

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 462

"An Act relating to the release of certain confidential records and reports concerning fishing, fish buying, or fish processing; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 44

Urging the President of the United States, the United States Congress, and appropriate federal officials to support the construction and operation of the Alaska Highway Natural Gas Pipeline route.

- MOVED CSHJR 44(RES) OUT OF COMMITTEE

SENATE BILL NO. 115

"An Act extending the termination date of the Board of Storage Tank Assistance."

- MOVED SB 115 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 153(FIN)

"An Act replacing the storage tank assistance fund with the underground storage tank revolving loan fund and relating to

that revolving loan fund; repealing the tank cleanup program and the tank upgrading and closure program; and providing for an effective date."

- MOVED CSSB 153(FIN) OUT OF COMMITTEE

HOUSE BILL NO. 503

"An Act relating to evaluating state assumption of the wastewater discharge program under the federal Clean Water Act; and providing for an effective date."

- MOVED CSHB 503(RES) OUT OF COMMITTEE

HOUSE BILL NO. 376

"An Act relating to management of fish and game in and on the navigable waters and submerged lands of Alaska."

- MOVED HB 376 OUT OF COMMITTEE

HOUSE BILL NO. 232

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

- BILL HEARING POSTPONED TO 3/18/02

#### **PREVIOUS ACTION**

BILL: HB 462

SHORT TITLE:CONFIDENTIALITY OF FISHING RECORDS

SPONSOR(S): REPRESENTATIVE(S)STEVENS

Jrn-Date	Jrn-Page		Action
02/19/02	2312	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2312	(H)	FSH, RES
03/04/02		(H)	FSH AT 3:30 PM CAPITOL 124
03/04/02		(H)	Moved Out of Committee
03/04/02		(H)	MINUTE(FSH)
03/06/02	2486	(H)	FSH RPT 2DP 3NR
03/06/02	2486	(H)	DP: SCALZI, STEVENS; NR: COGHILL,
03/06/02	2486	(H)	KAPSNER, KERTTULA
03/06/02	2486	(H)	FN1: ZERO(DFG)
03/06/02	2486	(H)	FN2: ZERO(DPS)
03/15/02		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HJR 44

SHORT TITLE:ALASKA NATURAL GAS PIPELINE ROUTE  
 SPONSOR(S): OIL & GAS BY REQUEST OF NATURAL GAS

Jrn-Date	Jrn-Page		Action
02/19/02	2307	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2307	(H)	O&G, RES
03/05/02		(H)	O&G AT 10:00 AM CAPITOL 124
03/05/02		(H)	Moved CSHJR 44(O&G) Out of Committee
03/05/02		(H)	MINUTE(O&G)
03/06/02	2483	(H)	FN1: ZERO(H.O&G)
03/06/02	2483	(H)	O&G RPT CS(O&G) NT 5DP 1NR
03/06/02	2483	(H)	DP: CHENAULT, FATE, GUESS, JOULE, OGAN,
03/06/02	2483	(H)	NR: KOHRING
03/13/02		(H)	RES AT 1:00 PM CAPITOL 124
03/13/02		(H)	-- Meeting Canceled --
03/15/02		(H)	RES AT 1:00 PM CAPITOL 124

BILL: SB 115

SHORT TITLE:EXTEND BOARD OF STORAGE TANK ASSISTANCE  
 SPONSOR(S): RLS BY REQUEST OF LEG BUDGET &

Jrn-Date	Jrn-Page		Action
02/22/01	0474	(S)	READ THE FIRST TIME - REFERRALS
02/22/01	0474	(S)	RES, FIN
04/06/01		(S)	RES AT 3:30 PM BUTROVICH 205 -- Meeting Canceled --
04/20/01		(S)	RES AT 3:30 PM BUTROVICH 205
04/20/01		(S)	Heard & Held
04/20/01		(S)	MINUTE(RES)
04/23/01		(S)	RES AT 3:30 PM BUTROVICH 205
04/23/01		(S)	Moved Out of Committee
04/23/01		(S)	MINUTE(RES)
04/24/01	1234	(S)	RES RPT 2DP 3NR
04/24/01	1234	(S)	DP: TORGERSON, TAYLOR;
04/24/01	1234	(S)	NR: HALFORD, LINCOLN, ELTON
04/24/01	1234	(S)	FN1: (DEC)
04/26/01		(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/26/01		(S)	Scheduled But Not Heard
04/26/01		(S)	FIN AT 6:00 PM SENATE FINANCE 532
04/26/01		(S)	Scheduled But Not Heard
01/31/02		(S)	FIN AT 9:30 AM SENATE FINANCE

532

01/31/02		(S)	Heard & Held
01/31/02		(S)	MINUTE(FIN)
02/06/02		(S)	FIN AT 9:30 AM SENATE FINANCE 532
02/06/02		(S)	Moved Out of Committee
02/06/02		(S)	MINUTE(FIN)
02/06/02	2121	(S)	FIN RPT 8DP
02/06/02	2121	(S)	DP: DONLEY, KELLY, AUSTERMAN, HOFFMAN,
02/06/02	2121	(S)	OLSON, WILKEN, LEMAN, WARD
02/06/02	2121	(S)	FN2: (DEC)
02/11/02		(S)	RLS AT 10:30 AM FAHRENKAMP 203
02/11/02		(S)	MINUTE(RLS)
02/11/02	2154	(S)	RULES TO CALENDAR 10R 2/11/02
02/11/02	2156	(S)	READ THE SECOND TIME
02/11/02	2156	(S)	ADVANCED TO THIRD READING UNAN CONSENT
02/11/02	2156	(S)	READ THE THIRD TIME SB 115
02/11/02	2156	(S)	PASSED Y19 N- A1
02/11/02	2159	(S)	TRANSMITTED TO (H)
02/11/02	2159	(S)	VERSION: SB 115
02/13/02	2219	(H)	READ THE FIRST TIME - REFERRALS
02/13/02	2219	(H)	RES, FIN
03/13/02		(H)	RES AT 1:00 PM CAPITOL 124
03/13/02		(H)	-- Meeting Canceled --
03/15/02		(H)	RES AT 1:00 PM CAPITOL 124

BILL: SB 153

SHORT TITLE: UNDERGROUND STORAGE TANK LOANS & PROGRAM

SPONSOR(S): SENATOR(S) LEMAN

Jrn-Date	Jrn-Page		Action
03/21/01	0753	(S)	READ THE FIRST TIME - REFERRALS
03/21/01	0754	(S)	RES, FIN
03/30/01		(S)	RES AT 3:30 PM BUTROVICH 205
03/30/01		(S)	-- Meeting Canceled --
04/09/01		(S)	RES AT 3:30 PM BUTROVICH 205
04/09/01		(S)	-- Meeting Canceled --
04/20/01		(S)	RES AT 3:30 PM BUTROVICH 205
04/20/01		(S)	Heard & Held
04/20/01		(S)	MINUTE(RES)
04/23/01		(S)	RES AT 3:30 PM BUTROVICH 205
04/23/01		(S)	Moved CS(RES) Out of

			Committee
04/23/01		(S)	MINUTE(RES)
04/24/01	1236	(S)	RES RPT CS 1DP 2DNP 2NR SAME TITLE
04/24/01	1236	(S)	DP: TORGERSON; DNP: TAYLOR, HALFORD;
04/24/01	1236	(S)	NR: LINCOLN, ELTON
04/24/01	1236	(S)	FN1: ZERO(DEC)
04/26/01		(S)	FIN AT 6:00 PM SENATE FINANCE 532
04/26/01		(S)	Scheduled But Not Heard
01/31/02		(S)	FIN AT 9:30 AM SENATE FINANCE 532
01/31/02		(S)	Heard & Held
01/31/02		(S)	MINUTE(FIN)
02/06/02		(S)	FIN AT 9:30 AM SENATE FINANCE 532
02/06/02		(S)	Moved Out of Committee
02/06/02	2122	(S)	FIN RPT CS 8DP SAME TITLE
02/06/02	2122	(S)	DP: DONLEY, KELLY, AUSTERMAN, HOFFMAN,
02/06/02	2122	(S)	OLSON, WILKEN, LEMAN, WARD
02/06/02	2122	(S)	FN2: ZERO(DEC)
02/11/02		(S)	RLS AT 10:30 AM FAHRENKAMP 203
02/11/02		(S)	MINUTE(RLS)
02/11/02	2155	(S)	RULES TO CALENDAR 1OR 2/11/02
02/11/02	2157	(S)	READ THE SECOND TIME
02/11/02	2157	(S)	FIN CS ADOPTED UNAN CONSENT
02/11/02	2157	(S)	ADVANCED TO THIRD READING UNAN CONSENT
02/11/02	2157	(S)	READ THE THIRD TIME CSSB 153(FIN)
02/11/02	2157	(S)	PASSED Y18 N2
02/11/02	2158	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
02/11/02	2160	(S)	TRANSMITTED TO (H)
02/11/02	2160	(S)	VERSION: CSSB 153(FIN)
02/13/02	2220	(H)	READ THE FIRST TIME - REFERRALS
02/13/02	2220	(H)	RES, FIN
03/13/02		(H)	RES AT 1:00 PM CAPITOL 124
03/13/02		(H)	-- Meeting Canceled --
03/15/02		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 503

SHORT TITLE:WASTEWATER DISCHARGE PROGRAM

SPONSOR(S): RESOURCES

Jrn-Date	Jrn-Page		Action
03/06/02		(H)	RES AT 1:00 PM CAPITOL 124
03/06/02		(H)	Scheduled But Not Heard
03/06/02	2487	(H)	READ THE FIRST TIME - REFERRALS
03/06/02	2487	(H)	RES, FIN
03/15/02		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 376

SHORT TITLE:FISH & GAME IN NAVIGABLE WATERS

SPONSOR(S): REPRESENTATIVE(S)OGAN

Jrn-Date	Jrn-Page		Action
02/01/02	2121	(H)	READ THE FIRST TIME - REFERRALS
02/01/02	2121	(H)	RES, JUD
03/01/02		(H)	RES AT 1:00 PM CAPITOL 124
03/01/02		(H)	Heard & Held
03/04/02		(H)	RES AT 1:00 PM CAPITOL 124
03/04/02		(H)	Failed To Move Out Of Committee
03/15/02		(H)	RES AT 1:00 PM CAPITOL 124

**WITNESS REGISTER**

GORDY WILLIAMS, Legislative Liaison  
Office of the Commissioner  
Alaska Department of Fish & Game (ADF&G)  
P.O. Box 25526  
Juneau, Alaska 99802-5526

POSITION STATEMENT: Addressed concerns and questions relating to HB 462.

AL CAIN, Captain  
Division of Fish & Wildlife Protection  
Department of Public Safety (DPS)  
5700 East Tudor Road  
Anchorage, Alaska 99507

POSITION STATEMENT: Testified in support of HB 462, which would enable DPS to obtain records and investigate matters more quickly than through the current search-warrant process.

SUE ASPELUND, Executive Director  
Cordova District Fishermen United (CDFU)  
P.O. Box 939

Cordova, Alaska 99574

POSITION STATEMENT: Testified in support of HB 462; indicated there are legitimate needs for reported information and said CDFU supports access by affected parties and their designees to their own reported information.

REPRESENTATIVE SCOTT OGAN

Alaska State Legislature  
Capitol Building, Room 108  
Juneau, Alaska 99801-1182

POSITION STATEMENT: Presented HJR 44 on behalf of the House Special Committee on Oil and Gas, sponsor by request.

HEATHER BRAKES, Staff  
to Senator Gene Therriault  
Alaska State Legislature  
Capitol Building, Room 121  
Juneau, Alaska 99801

POSITION STATEMENT: Presented SB 115 on behalf of the Senate Rules Committee, which had sponsored the bill at the request of the Joint Committee on Legislative Budget and Audit.

JOHN BARNETT, Executive Director  
Board of Storage Tank Assistance  
P.O. Box 240651  
Douglas, Alaska 99824

POSITION STATEMENT: Testified on SB 115 and SB 153.

ANNETTE KREITZER, Staff  
to Senator Loren Lemam  
Alaska State Legislature  
Capitol Building, Room 516  
Juneau, Alaska 99801

POSITION STATEMENT: Presented SB 153 on behalf of Senator Lemam, sponsor.

TOM CHAPPLE, Director  
Division of Air and Water Quality  
Department of Environmental Conservation  
555 Cordova Street.  
Anchorage, Alaska 99501

POSITION STATEMENT: Testified on HB 503.

ZACH WARWICK, Staff  
to Senator Gene Therriault  
Alaska State Legislature  
Capitol Building, Room 121

Juneau, Alaska 99801

POSITION STATEMENT: During hearing on HB 503, discussed SB 326, the companion bill, and suggested conceptual Amendment 1.

CHARLOTTE MACCAY, Vice President

Council of Alaska Producers

3601 Lakeshore Drive

Anchorage, Alaska 99517

POSITION STATEMENT: Testified in support of HB 503 and suggested there is a significant potential benefit from having the program administered by people familiar with Alaska's unique conditions.

### **ACTION NARRATIVE**

TAPE 02-16, SIDE A

Number 0001

CO-CHAIR DREW SCALZI called the House Resources Standing Committee meeting to order at 1:09 p.m. Representatives Scalzi, Masek, Kerttula, Kapsner, Stevens, Fate, and McGuire were present at the call to order. Representatives Green and Chenault arrived as the meeting was in progress.

### HB 462-CONFIDENTIALITY OF FISHING RECORDS

CO-CHAIR SCALZI announced the first order of business, HOUSE BILL NO. 462, "An Act relating to the release of certain confidential records and reports concerning fishing, fish buying, or fish processing; and providing for an effective date."

[There was a motion to adopt HB 462 as the working document, but it was already before the committee.]

Number 0120

REPRESENTATIVE STEVENS, speaking as sponsor of HB 462, explained that the bill "cleans up" several problems; it also provides several changes in regard to releasing certain types of information held as confidential by the Alaska Department of Fish and Game (ADF&G) and the Commercial Fisheries Entry Commission (CFEC). That is information that has been received by the fishermen, fish buyers, and fish processors. The bill clarifies that upon request, reports of certain information that has been submitted by fishermen, fish buyers, or processors can be provided back to the person who submitted it or who has been

identified as a designee. The bill also provides for the release of certain information to the Department of Public Safety (DPS), to law enforcement personnel of the National Marine Fisheries Service (NMFS), and to the National Oceanic and Atmospheric Administration (NOAA) to help with the enforcement of fisheries laws.

Number 0333

GORDY WILLIAMS, Legislative Liaison, Office of the Commissioner, Alaska Department of Fish & Game, told the committee there had been some questions in regard to language in the bill. He turned attention to page 2, line 19, paragraph (6), which refers to the release of fishing activity to the person who submitted the information. The new language adds "or to a designee of the person whose fishing activity is the subject of the report". He explained that there had been some instances with the Small Business Administration (SBA) in the "fishing disaster" area, or other loan programs for which a fisherman's fishing information has been requested as part of the application process. Currently, that information can be released back to the fisherman; however, if that fisherman's desire is to release the information to the SBA or another party, it takes longer to get it back to them if it's the middle of the fishing season, for example. Therefore, this is permissive. It would take a notarized form filled out by the person that would authorize the department to release [the information] for a specific purpose. Information would not be released without permission.

MR. WILLIAMS referred to [page 2] paragraph (7), a new addition that refers to annual statistical reports of a buyer or processor. He said the report is known by ADF&G as a "COAR report" or the Commercial Operators Annual Report. Some situations have come up wherein the processor or buyer who submitted the report technically doesn't have the ability to get the report back. For example, if the [submitter] needs an official copy that had been submitted to ADF&G, there is no authority for ADF&G to return it. He said it is also a problem if the [submitter] chooses to send the report to a designee. He said this has come up in recent instances: he mentioned some entitlement programs for processors as an example. He said [HB 462] would enable the [submitter] to get his/her own report back or have it sent on [to a designee] by request.

MR. WILLIAMS turned attention to [page 2] paragraph (8) and said changes were made for DPS, adding a saltwater charter logbook statewide. He explained that the charter fishing fleet is

required to fill out logbooks of catch information; that has been instituted statewide over the last six or seven years. Currently, DPS doesn't have access to [logbooks] without obtaining a court order. However, DPS does have access to fish tickets and fish ticket information, which refers to the commercial fleet. He mentioned that DPS thought it was important information that it would like to have to enforce laws. He reiterated that [HB 462] would add annual statistical reports of buyers and processors and also would give DPS access to the COAR report if it was needed in an investigation.

MR. WILLIAMS referred to [page 2] paragraph (9) and said it adds the same language about [releasing information contained in the] annual statistical reports of buyers and processors to NOAA. Last spring [NOAA] went forward with regulations on the federal level requiring the offshore "mother ship" in a catcher-processor fleet that fishes beyond three miles off [the coast of] Alaska to file a COAR report with ADF&G in order to get more holistic information about what's being caught and to help with management. In the process of going forward with those regulations, [NOAA] noted that it didn't have enforcement capability.

Number 0692

MR. WILLIAMS turned attention to paragraph (1) and said any of the records or reports that ADF&G or [CFEC] has are available to management personnel of [NOAA] for drawing up its fishery management plans. However, there was not a reference to the enforcement, and "they" feel that in order to ensure good information, they should have access to that.

Number 0753

REPRESENTATIVE GREEN asked if [HB 462] would create additional work.

MR. WILLIAMS said it doesn't create any great amount of work for [ADF&G].

Number 0807

AL CAIN, Captain, Division of Fish & Wildlife Protection, Department of Public Safety, told the committee DPS is most interested in paragraph (8). This would provide [DPS] access to saltwater charter logbook information and the annual statistical reports for processors in a manner similar to that now used for

fish tickets. He said DPS doesn't have any standing requests that the aforementioned documents be sent to them; consequently, DPS basically requests [the documents] on a case-by-case basis only when there is a demonstrated need. For example, some of DPS's cases involve processors. A few years back, a processor on the Yukon River was involved in quite a network of violations involving king salmon, and having access to the statistical reports would have aided [DPS] in that investigation. He concluded by saying the saltwater charter logbooks contain detailed catch information that assists [DPS] to identify and investigate violations which happen in that arena, in the same way that fish tickets help [DPS] when it has commercial fishing or reporting violations.

Number 0928

CO-CHAIR MASEK asked Mr. Cain if [obtaining] certain confidential records is a serious problem.

MR. CAIN answered that he wouldn't quantify it as a serious problem. He said currently when [DPS] needs to obtain charter logbook information, the annual statistical information on processors, it approaches the court for a search warrant, files an affidavit, relays the investigative information to a judge or magistrate, obtains a warrant, serves the warrant at ADF&G's office, obtains the records, and then makes a return to the court of that warrant. He said this process is fairly time-consuming for [DPS]. The information contained in the two additional sources is almost identical to the information that [DPS] was previously provided in fish tickets.

MR. CAIN said it has been of great assistance to [DPS] through the years when there is a reported violation or incorrect reporting - for example, a fishing vessel is observed fishing in one area but the report on the fish ticket indicates the vessel took the fish in another area, to circumvent a quota or a cap; consequently, [DPS] is able to obtain those records quickly and investigate the matter quickly. Presently, by contrast, for log books and statistical information on processors, [DPS] has to go through the search-warrant process. He said, "So, this bill simply seeks to add to the list, to the fish tickets, this other very similar statistical information that [ADF&G] collects."

Number 1084

SUE ASPELUND, Executive Director, Cordova District Fishermen United (CDFU), testified via teleconference, informing the

committee that she also represents the fishing families of Prince William Sound and the Copper River. She said HB 462 is good legislation. She expressed a need for this legislation and offered the following example: In Cordova, fishermen needed access to their fishing records in order to document their claims against Exxon following the [oil] spill [from the Exxon Valdez] in Prince William Sound. She said Glacier Bay is another good example where fishermen need access to their landing information.

MS. ASPELUND said [CDFU] believes there are legitimate needs for the information, and supports access by affected parties and their designees to their own reported information. In addition, [CDFU] believes it is completely appropriate to add saltwater charter logs and processor reports to those currently covered in statute. Adequate reporting, and the ability to assure that, is an important and necessary function in resource management, she concluded.

Number 1217

CO-CHAIR SCALZI closed public comment. He indicated HB 462 would be held over at the request of the sponsor.

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

CO-CHAIR MASEK called an at-ease from 1:25 p.m. to 1:28 p.m.

#### HJR 44-ALASKA NATURAL GAS PIPELINE ROUTE

CO-CHAIR MASEK announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 44, Urging the President of the United States, the United States Congress, and appropriate federal officials to support the construction and operation of the Alaska Highway Natural Gas Pipeline route. [Before the committee was CSHJR 44(O&G)].

Number 1269

REPRESENTATIVE SCOTT OGAN, Alaska State Legislature, presented the sponsor statement for HJR 44 on behalf of the House Special Committee on Oil and Gas, which he chairs. He told the committee he thought the issue was extremely timely and encouraged moving the bill forward. He mentioned that the [U.S.] Senate was simultaneously debating energy legislation. He remarked, "We are hoping to have this in hand for our congressional delegation to clearly articulate a position of the

State of Alaska on natural gas development and the pipeline routes."

Number 1335

[There was a motion to adopt CSHJR 44(O&G), but it was already before the committee.]

CO-CHAIR MASEK called an at-ease from 1:29 p.m. to 1:30 p.m.

REPRESENTATIVE OGAN mentioned that he wanted to offer some technical amendments.

Number 1385

REPRESENTATIVE GREEN said he thinks the resolution is a great idea, but he expressed concern about the length of the six-page resolution and the fact that it contains a lot of language about the route [of the proposed gas pipeline, which had already been set out at the congressional level]. He suggested offering a "rendered down" version to avoid creating any "friction."

REPRESENTATIVE OGAN mentioned the difficulty of working on a resolution while legislation on the federal level is [changing]. He suggested keeping some references to the northern route. He said there will be a conference committee on the [U.S.] energy bill. Representative Ogan suggested that certain [oil company] producers might not be happy with the mandated southern route and may try to lobby some changes in conference committee [in Congress]. He agreed that the resolution was long.

Number 1587

REPRESENTATIVE OGAN, in response to Co-Chair Masek, explained that the [resolution] had come out of [the Joint Committee on Natural Gas Pipelines]; he said the committee chairman had "pretty much introduced it and we did go over it as a joint committee." Representative Ogan mentioned that the bill had been "tweaked" in the House Special Committee on Oil and Gas.

REPRESENTATIVE GREEN remarked that the [resolution] was in the House Special Committee on Oil and Gas well before the [U.S.] Senate had started hearing the issue. He expressed concern about timing.

Number 1665

REPRESENTATIVE OGAN turned attention to page 3, line 2, and offered Amendment 1, which read [original punctuation provided]:

Page 3, line 2            delete (S. 1766)

                              replace with the "Energy Policy Act of 2002",

REPRESENTATIVE OGAN explained that [the resolution] talks about [U.S.] S. 1766, but that isn't the bill currently before [Congress]. He added: "We just thought we should call it the Energy Policy Act of 2002, because that's what it's being referred to in [the] title. So, just a technical amendment so it doesn't confuse people about what bill it is. Again, this thing [the Congressional legislation] morphs faster than we can keep up with it, and it will probably morph again before it's over."

Number 1726

REPRESENTATIVE GREEN moved to adopt the foregoing as Amendment 1. There being no objection, Amendment 1 was adopted.

Number 1740

REPRESENTATIVE OGAN offered Amendment 2, which read [original punctuation provided]:

Page 3 line 10 delete (and which right is not in S. 1766)

REPRESENTATIVE OGAN referred to page 3, lines 7-10, which read:

**WHEREAS** ANGTA granted the State of Alaska "authoriz[ation] to ship its royalty gas on the approved transportation system for use within Alaska and ... to withdraw such gas from the interstate market for use within Alaska," which rights will be impaired if a northern route is followed and which right is not in S. 1766; and

REPRESENTATIVE OGAN explained that the language ["and which right is not in S. 1766"] would be removed [by Amendment 2] to conform because the northern-route issue had been settled and because it referred to the wrong bill.

Number 1783

REPRESENTATIVE GREEN moved to adopt the foregoing as Amendment 2. There being no objection, Amendment 2 was adopted.

CO-CHAIR MASEK announced that public testimony was closed.

Number 1852

REPRESENTATIVE GREEN suggested a reduction of several of the "whereas" [clauses]. However, he mentioned the time constraint regarding the resolution and said maybe he would talk with [Representative Ogan] before the resolution goes to the [House] floor.

Number 1903

REPRESENTATIVE OGAN said he would be happy to work with Representative Green on some possible floor amendments. He again mentioned the [U.S. energy bill] in Congress and time constraints.

Number 1929

REPRESENTATIVE FATE agreed that time is of the essence. He offered his view that people in Washington, D.C., and the oil companies are looking for an "expression" that leads to an accelerated interest by "this" legislative body. He indicated other things in [the resolution] besides the northern route are extremely important so that Congress knows the interest at stake for Alaska. He concurred with moving the resolution from committee and instead having amendments on the floor.

Number 1967

REPRESENTATIVE McGUIRE suggested Representative Kott, who chairs the House Rules Standing Committee, would be willing to hold a meeting there to clean up the language.

REPRESENTATIVE OGAN reiterated his concern about time constraints.

Number 2013

REPRESENTATIVE STEVENS offered his view that all of the [clauses] of the resolution were important. He suggested sending it along as it is.

Number 2034

REPRESENTATIVE FATE moved to report CSHJR 44 [CSHJR 44(O&G), as amended] out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHJR 44(RES) was moved out of the House Resources Standing Committee.

SB 115-EXTEND BOARD OF STORAGE TANK ASSISTANCE

[Contains discussion of SB 153]

Number 2076

CO-CHAIR MASEK announced that the next order of business would be SENATE BILL NO. 115, "An Act extending the termination date of the Board of Storage Tank Assistance."

Number 2100

HEATHER BRAKES, Staff to Senator Gene Therriault, Alaska State Legislature, presented SB 115 on behalf of the Senate Rules Committee, which had sponsored the bill at the request of the Joint Committee on Legislative Budget and Audit. She explained that [SB 115] would extend the [Board of Storage Tank Assistance (BSTA)] for an additional two years, from June 30, 2001, to June 30, 2003. The board is currently in its wind-down year and will cease to exist on June 30, 2002, if the legislature chooses not to extend it this year.

MS. BRAKES referred to a legislative audit released on December 6, 2000, by the [Joint Committee on Legislative Budget and Audit], performed under legislative oversight statutes. She directed attention to page 11 of the audit report and noted that the legislative auditor lays out the following audit report conclusions: The board should be reestablished, and it plays an integral role in promoting compliance throughout the state with federal regulations related to specifications for underground storage tanks (UST). Compliance is important in promoting public health in that it protects underground drinking water supplies from pollution and provides funding necessary to remediate pollution brought on by leaking USTs owned and operated by private-sector interests. As an independent board, BSTA has been instrumental in mediating disputes between the Department of Environmental Conservation (DEC) and tank owners and operators. The board has enhanced cooperation, which promotes compliance with governmental regulations related to the

underground tanks. Ms. Brakes said there were no findings or recommendations made on the audit. However, the auditor did recommend that BSTA be extended to June 2003.

Number 2239

JOHN BARNETT, Executive Director, Board of Storage Tank Assistance, told the committee he was a private-sector contractor contracted to BSTA.

Number 2248

REPRESENTATIVE GREEN asked Mr. Barnett whether this is "proper form" when it is past the termination date to extend the date, or whether it has to be "reinstated."

MR. BARNETT answered that BSTA is "sunsetting" but is still in existence and doesn't terminate until June [2002]. On the books, it shows a sunset date of June 30 [2002], so the sunset date has to be reestablished for 2003, which [SB 115] would do.

REPRESENTATIVE GREEN said he thought [the sunset date] was June 2001, and that the [sunset] had already happened.

MR. BARNETT said [June 2001] was the original sunset date.

REPRESENTATIVE GREEN asked if [the original sunset date] was extended to 2002.

MR. BARNETT said there is one year wind-down period after the sunset date, and [BSTA] is in that wind-down period, as opposed to its being a termination date.

Number 2318

REPRESENTATIVE KERTTULA asked the reason for the extension. She also asked Mr. Barnett if [BSTA] had planned on remaining after [the proposed extension] and whether the [extension] was too short or was the right amount of time.

MR. BARNETT told Representative Kerttula [SB 115] was "somewhat tied" to SB 153, which terminates the grant program on June 30, 2004. So, with a sunset date of 2003 for BSTA and the wind-down year, [BSTA] would essentially terminate on [June 30, 2004]. He said a loan program would continue, and the need for BSTA would have to be evaluated later; at this time, however, BSTA and the

Alaskan underground tank owners and operators are satisfied with this [date].

Number 2372

REPRESENTATIVE STEVENS asked whether the entire annual operating budget of \$51,000 included travel and administrative costs.

MR. BARNETT answered that BSTA was privatized in 1999 through SB 128, and the only costs associated with BSTA are for travel of the board members and for the sole employee, himself. The actual tank program costs are for the loan program and the grant program, and administration of that is under the operating budget through DEC.

CO-CHAIR MASEK closed public testimony.

Number 2427

REPRESENTATIVE FATE moved to report SB 115 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 115 was moved out of the House Resources Standing Committee.

SB 153-UNDERGROUND STORAGE TANK LOANS & PROGRAM

[Contains discussion of SB 115]

Number 2460

CO-CHAIR MASEK announced that the next order of business would be CS FOR SENATE BILL NO. 153(FIN), "An Act replacing the storage tank assistance fund with the underground storage tank revolving loan fund and relating to that revolving loan fund; repealing the tank cleanup program and the tank upgrading and closure program; and providing for an effective date."

Number 2470

ANNETTE KREITZER, Staff to Senator Loren Leman, Alaska State Legislature, presented SB 153 on behalf of Senator Leman, sponsor. She referred to the fiscal note on SB 115 and explained that in SB 153 there is a provision "that in the revolving loan fund will come the cost for the board." The programs are tied together, and as long as the underground storage tank (UST) program continues, the legislature will continue to decide if it wants to extend the board. She said,

"Your conference committee will have to ratify the fiscal note with [SB] 115 with the operating budget for DEC [Department of Environmental Conservation], so that's what's going to happen with that \$51,000 fiscal note."

MS. KREITZER mentioned a sectional analysis provided to committee members. Since 1990, she said, the state has assisted small businesses to conduct risk assessment; build containment structures; upgrade, close, or install new USTs; and help clean up contamination. She said these efforts have protected water and lands from oil pollution. Furthermore, over \$38.9 million has been appropriated since 1991 for this program, which is why there have been so many efforts to streamline the program and get a "handle" on the cost.

MS. KREITZER told members, "One of the questions that we get [is]: how are applicants affected by the spill - people who have been waiting for state money to upgrade and close or clean up their underground storage tank site?" She said all applications for grant assistance for any of the programs under [AS] 46.03 had to have already been in; [the program] is not shutting people out, but dealing with existing lists. She said the current Senate Resources Committee chairman had sponsored SB 128.

MS. KREITZER offered the following example of how the costs have been [reduced]: one of the programs was the upgrade and closure grant program, which is phased out completely by SB 153. Ms. Kreitzer said the reason is because prior to SB 128 in 1999, the total of applications for upgrade-and-closure grants was \$3 million; after that legislation, the amount dropped to about \$1 million, which is what was estimated to happen. In all actuality, the cost of the upgrade-and-closure grant applications, with all of the financial limitations on the program, dropped closer to about \$35,000. She said the legislature had made [significant] progress in streamlining the program.

Number 2661

JOHN BARNETT, Executive Director, Board of Storage Tank Assistance (BSTA), told the committee he was a private-sector contractor employed by BSTA. He said BSTA supports SB 153, an excellent piece of legislation. It cleans up the statutes by removing the upgrade-and-closure program in its entirety, and it sets a determination date for the grant program of June 30, 2004, which also coincides with the board's sunset. Currently,

there are about 40 active grants, and it is estimated most of those will be wrapped up by that time. This bill provides an effective tool for "prodding" some of the applicants to get their paperwork done in a timely manner, which is helpful to BSTA. Furthermore, SB 153 converts the existing loan program to a revolving loan program. He said the hope is that it will help make the loan program self-sustaining for future remediation costs for long-term monitoring, and so forth, which will extend beyond 2004.

MR. BARNETT noted that the bill limits who can get loans from the program. Currently, any company, individual, or business that originally applied for financial assistance in the "window of application" between 1990 and 1994 can get a loan. In 1999, SB 128 set some thresholds about who could get grants and who could get loans. Consequently, grants were limited to small businesses, but loans were still available to everyone, regardless of the size of the corporation. He said SB 153 is important because it sets a limit; the large corporations could not get loans from the state, and given the current low interest rates, certain corporations could conceivably make money off of the program if they were allowed to obtain loans. There are 57 applicants or entities that have expressed interest in applying for a loan, he noted, and 14 of those are large corporations that [SB 153] would eliminate.

Number 2794

MR. BARNETT said [AS 46.03.422] limits applicants for loans to those that don't meet the federal self-insurability test, and it references] the federal C.F.R. [Code of Federal Regulations]. He reiterated that [SB 153] keeps the money in the smaller and medium-sized businesses for loans, retains the grant program, and gives [BSTA] time to "wrap up" the grants for the small "mom, and pops" and small, individual businesses. He concluded, "So it's a good bill. It's something that Senator Leman's office should be proud of. And both the Alaska Underground Tank Owners and Operators Association as well as the Board of Storage Tank Assistance urge passage of this bill."

Number 2827

REPRESENTATIVE GREEN asked Mr. Barnett what the federal limit for self-insurability is.

MR. BARNETT said it is a net worth of \$10 million. On the loan list, it would eliminate a good percentage of the applicants and

still leave the moderate-sized companies in there. Also, they do pay registration fees into the program.

CO-CHAIR MASEK announced that public testimony was closed.

Number 2985

REPRESENTATIVE FATE moved to report CSSB 153(FIN) out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSSB 153(FIN) was moved out of the House Resources Standing Committee.

HB 503-WASTEWATER DISCHARGE PROGRAM

[Contains discussion of HB 361 and SB 326]

Number 2920

CO-CHAIR MASEK announced the next order of business, HOUSE BILL NO. 503, "An Act relating to evaluating state assumption of the wastewater discharge program under the federal Clean Water Act; and providing for an effective date." [The bill was sponsored by the House Resources Standing Committee.]

TAPE 02-16, SIDE B  
Number 2969

TOM CHAPPLE, Director, Division of Air and Water Quality, Department of Environmental Conservation (DEC), testified before the committee. He mentioned the sponsor statement for a Senate companion bill [SB 326] [sponsored in part by] Senator Gene Therriault. He said [HB 503] is an "outgrowth" of a workgroup that DEC created a couple years ago in looking at redesigning and rebuilding its wastewater discharge permitting.

MR. CHAPPLE said the workgroup [members] thought that eventually the possibility of achieving delegation from the EPA [Environmental Protection Agency] for primary authority on discharge permits in Alaska may be something desirable for the state. However, the workgroup was guarded about that because it's a complex question and there are many "pros and cons" as to whether that would be good for Alaska. He said this bill would essentially ask DEC, through an effort with the stakeholders in the workgroup and other Alaskans, to craft out what an NPDES [National Pollutant Discharge Elimination System] discharge program would look like, and bring that before the legislature for a future decision. He said [the workgroup] would look at

statutory changes, regulatory changes, necessary permitting procedures, and funding sources, and "put it all on the table" so that an informed decision could be made.

MR. CHAPPLE mentioned that Idaho is in a similar situation but approximately one year ahead of [Alaska in development]. He said the constituents in Idaho are grappling with the same dilemma, not really knowing whether it would be better. Mr. Chapple said the equivalent of DEC in Idaho had gone through the same effort with the stakeholder group to look at all of the changes that were necessary so that a decision could be made.

Number 2863

REPRESENTATIVE GREEN mentioned that [HB 503 and SB 326] appeared to be identical on the first page; however, the second page of the Senate version deviates from the House version. He asked Mr. Chapple [which version would be more suitable]. He expressed concern that [if the House version were sent over to the Senate], it would probably be returned with changes.

MR. CHAPPLE expressed his belief that changes were being made in the Senate. He said that through speaking with Senator Therriault's aide, he thought a committee substitute (CS) would be introduced. Mr. Chapple said he couldn't speak specifically to what the changes would be, however.

Number 2807

ZACH WARWICK, Staff to Senator Gene Therriault, Alaska State Legislature, began discussion of what would become conceptual Amendment 1. He told the committee that a "blank" CS was going to be introduced to the Senate Resources Standing Committee [for SB 326]. He explained that there was an error made in the blank CS [for SB 326], which [HB 503] was based on. He said there are some other problems with the bill that are being addressed.

MR. WARWICK indicated [the intention, with both HB 503 and SB 326, is that page 2, subsection (b), should read]: "Second Regular Session of the Twenty-Third Alaska State Legislature."

CO-CHAIR MASEK referred to [HB 503] page 2, lines 11-12. She asked Mr. Warwick if he was suggesting the aforementioned changes as a conceptual amendment.

MR. WARWICK responded in the affirmative.

CO-CHAIR MASEK asked the committee members if they understood the proposed changes.

[Although there was no formal motion, conceptual Amendment 1 was treated as adopted.]

Number 2720

REPRESENTATIVE FATE referred to a support document and said the action plan was in operation to secure federal funding. He asked how the program would be funded.

MR. CHAPPLE said the project would look at what sources of federal funds might be acquired in Alaska to implement the program. He said it is not a foregone conclusion that federal funds could be acquired, but "we" certainly would look at what federal funds might be brought to bear and how else the program would be funded.

MR. CHAPPLE mentioned HB 361, which he said was a policy direction in how wastewater discharge permits and solid-waste discharge permits would be funded through a combination of program receipts, user fees, and state general funds. He said HB 361 and its policy direction would be "brought into this work" and that other federal funding sources would be looked at to bring forward a funding mix to make the program workable.

Number 2658

REPRESENTATIVE GREEN said the state has primacy on disposal "down-well annuli" from the EPA. He asked: If primacy were [given] and federal funding were not [received], would "we" be gaining enough to offset the general funding used to pay for [the project]? He offered his belief that the process is [designed] to get a quicker turnaround, so that "we" don't have to go through the EPA NPDES permitting and "can do it" by the state. He mentioned concerns about still having "strings attached" by the federal government. He asked if [HB 503] would be a similar program and whether there would still be requirements or "strings" from EPA on NPDES; also, would there be a quicker turnaround that would allow programs to move more smoothly?

MR. CHAPPLE said, "Correct." He said EPA would still have an oversight role similar to other programs that DEC implements wherein the federal law - in this case, the Clean Water Act (CWA) - has a strong impetus for states to implement those laws,

yet the EPA has an oversight role. Mr. Chapple described another program he had implemented, the air quality program with air permits, the authority for which he said is fully delegated to the state. He said [Alaska] makes the decisions, and those decisions made in Alaska give [the state] more opportunities to understand the businesses and the environmental situation. He offered his belief that it is usually a better opportunity to understand what will work best. He said the EPA has an oversight rule, and if it believes the state isn't implementing [the rule] according to the Clean Water Act, then it can take independent enforcement actions or withdraw the delegation. He added that this situation would be similar.

REPRESENTATIVE GREEN expressed concern that in regard to air quality, the applicants pay a significant amount of money for the permits. He said he assumes that the [money from the permits] would essentially pay for the costs [of the program]. However, if the [wastewater discharge program] didn't get federal funding, it would be a general-fund expenditure, as opposed to [having applicant fees pay for the costs of the program]. He pointed out that Mr. Chapple had said he was looking for ways to find federal funding. Representative Green asked Mr. Chapple, if [federal funding is not available], whether the state is going to be subject to "a quarter of a million dollars a year" to allow applicants to come to the state for their NPDES.

Number 2508

MR. CHAPPLE said the funding in the fiscal note is only to do the implementation plan: that money is to "lay out" the program, to decide whether the state should seek primacy. Mr. Chapple said the Clean Air Act requires that for operating permits in Alaska, the permittees pay 100 percent of the cost, which is in the Clean Air Act. However, a similar requirement is not in the Clean Water Act.

REPRESENTATIVE GREEN expressed concern that in the [Clean Air Act] it is "spelled out" and that [permittees] pay for [the program], but in the [Clean Water Act] it is undetermined whether [federal funding would be available] or if the state would have to pay for [the program]. He asked Mr. Chapple: If the program went forward and federal funding wasn't available, what would it cost the state in "years three, four, five, and six?"

MR. CHAPPLE answered that he didn't have an understanding of what the program would ultimately cost; additionally, that would be a major piece of what "this" work would provide, including what other funding sources exist such as federal funds to help run the program. He said he didn't have those answers and that it would take a fair amount of work to figure out.

REPRESENTATIVE GREEN remarked that [the legislature] is in a "reduction-of-expenditure mode, and here we're spending money to see whether we want to spend more money."

MR. CHAPPLE said the policy request [in HB 503] is to really examine the option, and there is no commitment to doing the program. Furthermore, the cost of the program would be a very significant contributor to what decision is ultimately made if the implementation is moved forward.

REPRESENTATIVE GREEN asked if the [cost] would be recouped if the program went forward. He suggested that applicants who are going to benefit from "more expeditious handling" should be involved, rather than just the state.

MR. CHAPPLE indicated there may be people on teleconference who could answer those questions better.

Number 2367

REPRESENTATIVE KERTTULA noted a conflict because her husband works for [DEC] and does some NPDES permitting in Mr. Chapple's section. She then asked Mr. Chapple if the "companies" were going to donate toward the [fiscal cost] or donate separately toward the study effort.

MR. CHAPPLE said the proposal would envision the companies' being part of the discussion and the evaluation; however, it doesn't anticipate a direct financial commitment at this point.

REPRESENTATIVE KERTTULA asked if that was just for sending people to the meetings and cooperating. In regard to current cruise [ship] efforts, she offered her belief that companies pay for part of the research. She asked if there had been any thought about the companies' helping with the study money.

MR. CHAPPLE said he had not discussed that directly with the companies.

REPRESENTATIVE KERTTULA asked about the cost of Idaho's NPDES program or that of a similar state.

MR. CHAPPLE said he didn't know the figures regarding Idaho's program, but said he could acquire that information.

MR. WARWICK offered that Maine's [program] received federal grants through "Section 106" of the Clean Water Act, which covers approximately 30 percent of the "source" and totals under \$1.5 million.

Number 2235

CHARLOTTE MACCAY, Vice President, Council of Alaska Producers ("Council"), testified via teleconference. Ms. MacCay noted that the Council represents the hard-rock mining industry in the state. She read from the following letter given to Senator Therriault when the Council asked him to sponsor [SB 326]:

The Council of Alaska Producers has a strong interest in the State of Alaska assuming the NPDES permit program. We believe there is significant potential to benefit from having the program administered by people familiar with the unique conditions of Alaska, as well as the potential for expediting the permitting process through more accessible permitting staff.

Resource development in Alaska may become more economic and attractive to mining and other industries, and the protection of the state waters may be improved as locally knowledgeable persons make water use determinations. However, we also have some reservations. We are concerned whether or not the State will have permitting flexibility equal to that provided through the State permit certification process.

We are also concerned whether the state can best resolve water-permitting conflicts with the EPA, if and when they should arise, as program administrator or if they have greater power as a separate entity. It is our hope that with further evaluation of the NPDES assumption, and with an implementation plan that would provide us with a preview of the state NPDES program, that it will be evident that state assumption of the program will benefit Alaska citizens and Alaskan waters. State assumption of the NPDES program

will be costly. It would be unwise to request the appropriation of funds for this program without first providing an implementation plan and an evaluation of the consequences. The legislation proposed in the attached document requests the funds and authority to take this first step.

MS. MACCAY stated that the [Council] shares many of the concerns raised by Representative Green, which is why [the Council] had asked that the bill be introduced. This issue is a recurring issue; it's continually brought up whether the state should be taking over the program. However, she said, it is such a costly program that it is really unwise not to research it first. Ms. MacCay requested that the bill be passed so that it can be researched and addressed with an intelligent answer.

Number 2088

REPRESENTATIVE KERTTULA indicated there isn't going to be money in the budget for the study. She asked whether the Council or [others in the industry] might benefit by having Alaska have primacy might be willing to be part of the effort to pay for it.

MS. MACCAY indicated that paying for primacy had not been discussed by the Council or other industries. The [industry] is losing considerable amounts of money this year; consequently, "Red Dog" is expecting to lose about \$40 million dollars this year. She remarked, "So, we're not exactly a deep pocket at this point in time, but it's something that I could take back and ask."

REPRESENTATIVE KERTTULA suggested discussing the possibility of a joint effort with the state and the companies.

Number 2000

REPRESENTATIVE FATE moved to report CSHB 503 [HB 503, as amended] out of committee with individual recommendations and the accompanying fiscal notes.

Number 1970

REPRESENTATIVE GREEN objected for purposes of discussion. He referred to previous discussion about the possibility of a review and asked Ms. MacCay if it could be made available in the near future so the House Finance Committee would have more answers about finances than currently available.

MS. MACCAY indicated she could get back with an answer in time for the House Finance Committee's meeting and that the Council was expecting, by the aforementioned meeting, that some "creative solutions would need to be sought."

Number 1922

REPRESENTATIVE GREEN removed his objection.

Number 1912

CO-CHAIR MASEK indicated CSHB 503(RES) was moved out of the House Resources Standing Committee.

CO-CHAIR MASEK called an at-ease from 2:23 p.m. to 2:25 p.m.

HB 376-FISH & GAME IN NAVIGABLE WATERS

CO-CHAIR MASEK announced that the final order of business would be HOUSE BILL NO. 376, "An Act relating to management of fish and game in and on the navigable waters and submerged lands of Alaska."

CO-CHAIR MASEK noted that Representative Ogan, sponsor of HB 376, was in another meeting. She mentioned that there had been previous discussion on HB 376. [It had failed to move out of committee at the second hearing, on 3/04/02.]

Number 1871

REPRESENTATIVE FATE moved to report HB 376 out of committee with individual recommendations and the accompanying fiscal notes.

Number 1869

REPRESENTATIVE STEVENS objected.

CO-CHAIR MASEK, in response to Representatives Green and Stevens regarding the unexpected hearing of HB 376, said the bill had been brought up under [bills] "previously heard."

A roll call vote was taken. Representatives Fate, Chenault, Green, McGuire, and Masek voted to move HB 376 out of committee. Representative Stevens voted against it. Therefore, HB 376 was moved out of the House Resources Standing Committee by a vote of 5-1.

**ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:29 p.m.