

ALASKA STATE LEGISLATURE
SENATE RESOURCES COMMITTEE

April 30, 2001
5:35 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Drue Pearce, Vice Chair
Senator Rick Halford
Senator Robin Taylor
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Pete Kelly

COMMITTEE CALENDAR

HOUSE BILL NO. 236

"An Act relating to the contracting and financing authority of the Alaska Industrial Development and Export Authority; authorizing the authority to issue bonds in a principal amount not to exceed \$76,000,000 to finance the acquisition, design, construction, inventory, and operation of natural gas, propane air, or manufactured gas public utility facilities; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE BILL NO. 244(FIN)

"An Act relating to a grant of state land to the Denali Borough for a railroad and utility corridor and a railroad development project; repealing provisions relating to a grant of a right-of-way of land for a railroad and utility corridor to the Alaska Industrial Development and Export Authority; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE CONCURRENT RESOLUTION NO. 17(RES)

Expressing the legislature's support for sale of a portion of Alaska's North Slope natural gas for electrical generation to power data centers within the North Slope Borough.

MOVED CSHCR 17(RES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 154(FSH)

"An Act relating to security for the payment of fishery business taxes and to payment of the fisheries resource landing tax."

MOVED CSHB 154(FSH) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 26

Requesting the National Marine Fisheries Service to relocate the Alaska Fisheries Science Center Steller sea lion research team to Alaska.

MOVED HJR 26 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

HB 236 - No previous action to record.

HB 244 - No previous action to record.

HB 154 - No previous action to record.

HCR 17 - No previous action to record.

HJR 26 - No previous action to record.

WITNESS REGISTER

Mr. Randy Ruaro
Staff to Representative Williams
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on HB 236.

Mr. Paul Rosenowski
Alaska Intrastate Gas Co.
900 West 5th Ave.
Anchorage AK

POSITION STATEMENT: Supported HB 236.

Representative Jeannette James
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Prime sponsor of HB 244.

Mr. Richard Schmitz
Staff to Representative James
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Answered questions about HB 244.

Mr. John Nierenberg
Mile 14 San Pedro
Healy AK 99743
POSITION STATEMENT: Opposed HB 244.

Ms. Linda Paganelli
Healy AK 99743
POSITION STATEMENT: Opposed HB 244.

Mr. David Braun
No address provided
POSITION STATEMENT: Opposed HB 244.

Mr. Dick Mylius, Director
Division of Mining, Land and Water
Department of Natural Resources
550 W 7th Ave. Ste 1050
Anchorage AK 99501
POSITION STATEMENT: Opposed HB 244.

Mr. Land Cole
P.O. Box 67
Denali National Park AK 99755
POSITION STATEMENT: Opposed HB 244.

Mr. Jeff Yunachi
Stampede Rd.
Denali National Park AK 99755
POSITION STATEMENT: Opposed HB 244.

Ms. Joan Frankevich
National Park Conservation Association (NPCA)
750 W 2nd Ave.
Anchorage AK 99501
POSITION STATEMENT: Opposed HB 244.

Mr. Joe Fields
Kantishna Holdings Inc.
P.O. Box 71047
Fairbanks AK 99707
POSITION STATEMENT: Supported HB 244.

Mr. Chuck Harlamert
Division of Tax
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Supported HB 154.

Mr. Mark Myers, Director
Division of Oil and Gas
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724
POSITION STATEMENT: Commented on HCR 17.

Representative Fred Dyson
State Capitol Bldg.
Juneau AK 99811
POSITION STATEMENT: Sponsor of HJR 26.

ACTION NARRATIVE

TAPE 01-35, SIDE A

Number 001
#HB236

HB 236-AIDEA BONDS FOR GAS PUBLIC UTILITIES

CHAIRMAN JOHN TORGERSON called the Senate Resources Committee meeting to order at 5:35 p.m. and announced HB 236 to be up for consideration.

MR. RANDY RUARO, staff to Representative Williams, said this bill provides legislative authority under AS 44.88.100(g) for AIDEA to issue bonds for a specific natural gas project. The natural gas service would offer a fairly cheap and environmentally clean alternative source of fuel to communities.

MR. PAUL ROSENOWSKI, Alaska Intrastate Gas Co. (AIGC), said his company believes introduction of gas utility service to these communities will provide a very good, clean, environmentally friendly alternative fuel source that will help the economy of these communities as well as significantly reduce their energy costs.

He said the cost of heating the Ketchikan high school is \$400,000 per year fuel oil. If the school was heated with natural gas instead, that cost would be reduced by \$60,000 to \$80,000. That amount would significantly boost the school budget but gas is not available in that community. The same kind of savings could occur elsewhere. He said the City of Cordova has the capability of supporting a seafood processing plant, but the costs of operating in the community are such that there are no longer any seafood processors there. That situation could change with the introduction of natural gas.

CHAIRMAN TORGERSON asked what percentage of AIGC's portfolio the \$76 million represents.

MR. ROSENOWSKI replied that \$76 million represents about 66 percent of the total project costs. The 17 communities are estimated to cost approximately \$115 million. AIGC and AIDEA have discussed the possibility of bonding approximately \$50 million, which would leave \$26 million of that bonding available for subsequent communities. They would use \$50 million in Phase I for three communities and then the remainder would be used for the subsequent build-out in the smaller communities. The total \$76 million would be sufficient to cover the entire project.

CHAIRMAN TORGERSON asked if the \$50 million was front-end loaded. He said that amount would fix three communities and asked, "How much are you going to have into it before you run out of our AIDEA money?"

MR. ROSENOWSKI replied, "The financing package would be approximately \$70 million for Phase I, which is three communities. Eleven million dollars of that would be brought in through ourselves. Thirteen million dollars would be brought in through internal financing and the remainder would be the debt financing through AIDEA, which would bring us up to approximately the \$70 million."

CHAIRMAN TORGERSON said the committee would hold the bill to await further information.

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#HB244

HB 244-RIGHT-OF-WAY TO DENALI BOR. FOR RR/UTIL.

CHAIRMAN TORGERSON announced HB 244 to be up for consideration.

MR. RICHARD SCHMITZ, staff to Representative Jeannette James, told members their packets contained two maps that accompany his comments. The green map shows the old Stampede Trail, which is an old mining road that goes back into Kantishna. The yellow map shows a piece of state land, four townships wide, extending from Healy into the park boundary, known as the Wolf Townships. A group called Kantishna Holdings, organized by Joe Fields, has been working on putting a railroad through that area for nine years. Two years ago, HB 386 provided an opportunity to do that, but it didn't happen. As a result, Representative James came up with the idea of replacing AIDEA with the Denali Borough; that's what HB 244 is about.

MR. SCHMITZ explained that the original idea was to allow the

right-of-way for the railroad to be identified. Under HB 244, whatever land is not needed of the four townships to create the right-of-way would remain with the state. Only the actual right-of-way will be transferred to the Denali Borough, or about 3,500 acres maximum. However, Representative James believes the acreage will be closer 1,500 acres. He stated, "For that return, the idea is to get economic development into the Healy area, a hotel possibly on some railroad land has been worked on near the road. Eventually, the long-term goal would be to connect into the Kantishna area where it could meet up with the existing road."

MR. SCHMITZ said subsections (a) and (b) of the proposed committee substitute (CS) allows the Denali Borough to work with Kantishna Holdings, Inc. to identify the railroad utility corridor. The rest of subsection (b) is a description of the railroad right-of-way and what it will need to include, such as a turn-around yard or a maintenance shed.

New subsection (c) puts in writing where the land will come from and identifies it by township. That was not included in the original bill. Subsection (d) contains a standard clause that prohibits the grant from impairing valid property rights on the land. It sets a date when the Borough will allow the process to go ahead. Subsection (e) mandates that this corridor does not count toward the fulfillment of the Denali Borough's general entitlement, at the request of the borough. Subsection (f) was added to require DNR to designate an employee to be the liaison.

REPRESENTATIVE JAMES interjected that the yellow area is not in the bill any more, because originally they had to transfer it to the borough. First, DNR has to identify all of the existing rights that may be in that area and then work with everyone to identify where the corridor would go. Once that is done, they would do the surveying and then the land could be transferred.

CHAIRMAN TORGERSON asked if the original bill gave AIDEA the land.

REPRESENTATIVE JAMES said that it authorized DNR to transfer the yellow portion of land to AIDEA so it could bond for this project but, "That never did happen."

CHAIRMAN TORGERSON asked if that is repealed in Section (2).

REPRESENTATIVE JAMES indicated that was correct.

Number 1000

CHAIRMAN TORGERSON asked if the capital budget contains any federal

money for this project.

REPRESENTATIVE JAMES replied that Congress appropriated \$1.23 million for the corridor but it has been sitting there because of no matching state funds. She understands that there are now enough funds for the state's share.

SENATOR ELTON asked who Kantishna Holdings is.

REPRESENTATIVE JAMES replied that it is a holding company that was created nine or 10 years ago with Mr. Joe Fields of Fairbanks leading it. Other people are investors in it for this purpose.

SENATOR ELTON said he sold a house and it took a private company four weeks to do a title search. He expressed concern that setting a deadline of September 1, 2001 to identify all valid property rights in the yellow section is very aggressive. He asked Representative James how she came up with that date.

REPRESENTATIVE JAMES replied that her daughter works for a title insurance company and said, "I can tell you they weren't working for four weeks to do it. That was the time it took you to get it." She thought that most of the existing rights were pretty well known at this time. She said the fiscal note would help them get it done.

CHAIRMAN TORGERSON said he intended to hold the bill in committee until the fiscal note "caught up to us."

SENATOR LINCOLN said she didn't know what rights the holding company would have to build a railroad and asked if it was originally given the bonding authority through AIDEA to do this project.

REPRESENTATIVE JAMES replied that Kantishna Holdings already has less expensive financing than what AIDEA could offer for the project. This legislation gives this particular land to the Denali Borough, which Kantishna Holdings would have to pay to use. Kantishna Holding Inc. does not want to own the land; it wants to lease it from the borough.

SENATOR LINCOLN asked if the Kantishna Holding Company has the right-of-way now.

REPRESENTATIVE JAMES said it does not; DNR has the entire interest in this land.

MR. JOHN NIERENBERG, a Healy resident, said he saw some problems with the bill. He said that no EIS has been completed on the lands

in question and the public has not had any chance to comment on proposals. There is strong local opposition to any plan that does not allow public comment on alternatives and other concerns. HB 244 mandates that land be transferred to the borough and then leased to a private company without a competitive bid process. He said the Denali Borough does not have a land use or transportation plan.

MS. LINDA PAGANELLI, a Healy resident, opposed HB 244. She said she has driven a bus for 20 years on the Denali Park Road. This bill mandates DNR to transfer of 3,500 acres of state land to the Denali Borough. The land in question, the Wolf Townships, is not available for selection as part of the entitlement. The bill authorizes DNR to disregard this fact. She added, "If this bill passes, there will be no [indisc.] that the transfers will be in the best interests nor will there be opportunity for public comment."

She recommended that line 15 be deleted because it says: "However, other provisions of AS 29.65 do not apply to the transfer."

Number 1600

MS. PAGANELLI commented:

This bill appears to be a state give away of prime wildlife habitat of recreation lands to a private developer. I question where the state's common interest is in bestowing this sweetheart deal...

She said, "The Denali Borough and the state legislature hogtied the citizens of the borough to a company that has not demonstrated a need for a railroad, the economic feasibility of a railroad, nor financial backing to support a railroad." She reiterated that the borough has no land use or transportation plan and no infrastructure to absorb the responsibilities inherent in this project.

MS. PAGANELLI also expressed concern that the bill does not contain a sunset date to prevent the option of remaining open in perpetuity if the borough does not act on the railroad project within a designated time frame. In addition, the bill contains vague language that alludes to facilities to support economic development in conjunction with the railroad project. She questioned what those facilities would be. She thought some general guidelines need to be included in the bill and said, "One Glitter Gulch in the Denali Borough is more than enough."

MR. DAVID BRAUN said he opposes HB 244 because public and private land developers are trying to appropriate state land to Denali Borough and develop it for their own financial gains. It attempts

to bypass state government and the public process. He thought keeping the Wolf Townships out of the arch is good for economic development. He said this bill has very little to do with the railroad, since it will probably not be built for economic and political reasons, but the Denali Borough Assembly will still get land in the Wolf Townships that they have coveted for many years.

MR. DICK MYLIUS, Division of Mining, Land and Water, Department of Natural Resources (DNR), said:

I have four points regarding the proposed bill. The first one is that DNR believes that a lot more acreage is going to be needed to determine the best access route into the north side of Denali National Park. The railroad in the corridor may or may not be the best approach. There are two other planning efforts that the rail project could maybe coordinate with. The State Department of Transportation is poised to receive \$1.5 million in federal funding for an EIS for the [indisc.] access and this effort is subject to an appropriation, which is contained in SB 3. In addition, the National Park Service has invited the state to participate in its study up North on access alternatives. Because so much of this route into Kantishna will be across National Park Service lands, the railroad cannot be built without Park Service concurrence. DNR believes it is essential to work with the National Park Service to achieve an agreed upon access plan for the Denali National Park.

Our second concern regards what rights the bill grants to Kantishna Holdings. Once the corridor is identified, the implication is that Kantishna Holding would have the exclusive right to build in the railroad corridor. We believe that the land should be conveyed to the borough so that other uses or developers could make use of the land as well.

Two additional concerns DNR has is with the committee substitute presented today. The first one is that the land will not be charged to part of the borough's entitlement and we believe it should be. Our concern is that if the legislature starts granting additional lands for specific projects, you're opening the door to requests from municipalities. Right now we are in the process of conveying land at Hatcher Pass to the Mat-Su Borough for the ski area. That land will be charged against their entitlement. The municipal entitlements were based on a formula that was established by the legislature back in 1978 and that formula was established

to avoid disagreements over entitlements that had existed prior to that date and actually is involved in litigation. The specific issue of the litigation was how much the entitlement should be for all the municipalities. The legislature established a standard formula that [indisc.]. Land for development is exactly the type of land that is supposed to be conveyed under the entitlement.

The final concern we have would be the question of why DNR was deleted from the consultation upfront. We're concerned because in the end, DNR is going to have to approve the railroad corridor and we think it's essential that DNR be involved in the process from the beginning so we can assure that more statewide and public concerns are addressed upfront rather than having to try to deal with those issues at the end of the process.

CHAIRMAN TORGERSON asked how much of the Denali Borough's entitlement is unfulfilled.

MR. MYLIUS answered that the borough's entitlement was 49,000 acres and it has received about 20,000 acres.

CHAIRMAN TORGERSON said he would look at Mr. Mylius's concerns and see what he could do.

MR. LAND COLE opposed HB 244 and said he is a 30-year resident of the Denali Borough. [Indisc.].

MR. JEFF YUNACHI said he and his family run the Stampede Trail Bed and Breakfast and Sled Dog Tours. Their sled dog tour in the winter utilizes areas in the Wolf Townships. He is concerned that a railroad through that area would "virtually kill our business." He said it is an especially critical time for them, because they are in the process of negotiating another sled dog business. He said they don't feel that there has been any public input. They are concerned that language in HB 244 could possibly exclude other business interests from occurring in the 3,500-acre tract. They don't know if they would be able to continue to use their traditional sled dog trails if this bill goes through.

MS. JOAN FRANKEVICH, National Park Conservation Association (NPCA), opposed HB 244. The NPCA considers the Denali Borough to have the wrong role in this project. The logical player would be a state/federal partnership. She said there is no public process and the bill does not provide for competition. She said the railroad would not serve visitor needs or demands. She commented, "It is a most unusual way for a land selection to be conducted."

She said that Kantishna Holdings has had eight years to establish a right-of-way. There is no demand for a less scenic route to Wonder Lake. She stated, "The better alternative is south Denali."

MR. JOE FIELDS, Kantishna Holdings, supported HB 244.

TAPE 01-35, SIDE B

MR. FIELDS said that all the cities and boroughs along the Railbelt have written letters in support of this project and two legislatures have passed resolutions supporting it. On the positive side of the project, he said it should be noted that the National Park System Advisory Board looked at the Denali Task Force Report and found it extremely wanting because the charter business given to that committee was not fulfilled by it. Their response was to amend the Denali Task Force Report to call for the creation of a new northern railroad right-of-way to Wonder Lake. They included follow-through on the balance of issues of items within the Task Force Report and one of those was the south Denali plan, but no money was forwarded to it and it doesn't access the park. Although, it might provide some good access for short trips out of Anchorage and it might not be a bad idea, he didn't think it would happen. There was just too much opposition.

In response to the conflict of interest issue, MR. FIELD said this is not in response to an RFP. An evaluation of the corridor needs to be done and they have been trying for some time to get one established. The result of their first attempt in 1993 was that Commissioner Olds of DNR put forward a proposal to allow an access permit at the edge of park and do that they could move their facilities on to that. They were not able to put the entire right-of-way into action and, therefore, were not able to come up with a study for the entire corridor to the edge of the park. After 1994, the National Park System Advisory Board didn't act on it either.

MR. FIELDS stated that there had been a public process. Kantishna Holdings had been before the Denali Borough several times and they were in favor of it. He said the opposition to it is specifically from people in the NPCA. The Secretary of the Board of Trustees is the owner of Camp Denali, Land Cole. These people have a conflict of interest when they don't want to have people come into the backcountry of Denali.

CHAIRMAN TORGERSON indicated there were no further questions. He questioned why a sunset date wouldn't work and why this land transfer shouldn't be part of the borough selections. He also wanted to know if it is necessary to mention Kantishna Holdings in the bill.

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#HB154

HB 154-FISHERY BUS. TAX/FISHERIES RES. LAND. TAX

CHAIRMAN TORGERSON announced HB 154 to be up for consideration.

REPRESENTATIVE SCALZI, prime sponsor, said the fisheries business tax is set up so that processors will collect the tax during the year, hold it and pay it to the state on April 1 of the following year. He explained:

They're allowed to hold that tax so they can pay their fishermen and sell their pack before they are financially solvent. In doing so, they give a security to the state of Alaska of either three times the amount of lienable property in the amount of taxes they collected the year before or a bond in that amount. This works fine for canneries and large processors who have a lot of real property as assets, but after the advent of IFQs we have new buyers - a fish processor who operates an option block for some type of quick sales of fish. In doing so, they generate a lot of money and a lot of raw fish tax, sometimes in excess of half million dollars. To do this under current statutes, they have to bond for that money for the next year. Even though they haven't collected any, if they had a half million dollars worth of taxes collected the previous year, they have to bond for half a million dollars or have three times that amount in lienable property, which would be \$1.5 million.

These fish buyers don't have that kind of assets. They operate with a computer, an office, a few cell phones. They operate on a very small margin, but they are very valuable to the industry right now. We have produced a very high price for halibut and sable fish since IFQs and with the long season we have, they are very valuable to the industry. When we have higher fish prices, we also have higher fisheries business tax.

I went to the Department of Revenue to see how we could make this work and they were very cooperative in designing something that they felt would secure the State of Alaska, which would be to allow these fish buyers to pay their raw fish tax on a 30-day allotment. So, if they pay as they go, the Department of Revenue has no problem with that. For a bond, they will have to issue a \$50,000 bond or have \$100,000 in lienable property.

MR. CHUCK HARLEMERT, Division of Tax, Department of Revenue (DOR), supported HB 154.

CHAIRMAN TORGERSON indicated there were no further questions and that he would hold the bill for a quorum.

He announced an at-ease from 6:37 to 6:39 p.m.

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#HCR17

HCR 17-SALE OF NATURAL GAS TO POWER DATA CENTERS

CHAIRMAN TORGERSON announced HCR 17 to be up for consideration.

MR. MARK MYER, Division of Oil and Gas, Department of Natural Resources (DNR), said that DNR supports HCR 17. He said the amendments adopted in the House significantly improved the bill. He thought the challenge of this project would be to determine a valuation methodology that would be fair prior to a gas sale. Some of the questions that would have to be discussed with the producers are the structure of the facilities and the method of repayment of gas.

SENATOR TAYLOR asked if a sale could take place without approval of the legislature because it says the commissioner "can determine on his own" and make such a sale.

CHAIRMAN TORGERSON responded if DNR puts it out as a competitive bid, it can sell it, but it can't negotiate one without the legislature's approval.

SENATOR TAYLOR asked if DNR could make a determination, go through a competitive bidding and sell the state's royalty gas on the North Slope.

CHAIRMAN TORGERSON answered affirmatively.

MR. MYERS said that one of the "WHEREAS" clauses requires DNR to have long-term substantial sales of the state's oil and gas and to obtain the approval of the legislature.

CHAIRMAN TORGERSON asked if sales from competitive bids must have legislative approval.

MR. MYERS answered yes.

SENATOR PEARCE moved to pass HCR 17 from committee with individual recommendations. There were no objections and it was so ordered.

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#HB154

HB 154-FISHERY BUS. TAX/FISHERIES RES. LAND. TAX

CHAIRMAN TORGERSON announced that a quorum was present and they

would take up HB 154.

SENATOR TAYLOR moved to pass HB 154 from committee with individual recommendations. There were no objections and it was so ordered.
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#HJR26

HJR 26-STELLER SEA LION RESEARCH TEAM TO ALASKA

CHAIRMAN TORGERSON announced HJR 26 to be up for consideration.

REPRESENTATIVE DYSON, sponsor of HJR 26, said it is a very simple resolution that asks the National Marine Fisheries Service to move a research team to Alaska to study the Steller sea lion, which threatens the polluck fishery in Alaska. This resolution is important because there are travel restrictions on National Marine Fisheries Service personnel so they can't always be where they need to be to study the creatures and because it's important to realize that there is space available for the team to relocate. He stated, "Basically, the idea is that we should relocate this team to where the critters are and not to where they aren't."

SENATOR TAYLOR moved to pass HJR 26 from committee with individual recommendations. There were no objections and it was so ordered.
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CHAIRMAN TORGERSON adjourned the meeting at 6:50 p.m.