

ALASKA STATE LEGISLATURE
SENATE RESOURCES COMMITTEE

April 17, 2002
3:35 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Gary Wilken, Vice Chair
Senator Rick Halford
Senator Ben Stevens
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Robin Taylor

COMMITTEE CALENDAR

SENATE BILL NO. 360

"An Act establishing additional requirements for the consideration of applications under the Right-of-Way Leasing Act for an Alaska North Slope natural gas project, authorizing expeditious priority treatment of all applications under that Act and under other relevant state laws for issuance of a right-of-way lease for that project, authorizing the commissioner of natural resources to act to modify the terms of certain state oil and gas leases related to the project and to act, with legislative approval, to waive, reduce, or defer the collection of royalties due the state, and authorizing the commissioner of revenue to act, with legislative approval, to waive, reduce, or defer the levy and collection of taxes by the state and municipalities under the oil and gas exploration, production, and pipeline transportation property tax related to the project, authorizing the Alaska Railroad Corporation to provide financing for the acquisition, construction, improvement, maintenance, equipping, operation, or expansion of the project and related facilities for the transportation of natural gas within and outside the state by others and the corporation's issuance of its bonds to finance the project and facilities, and limiting consideration of judicial challenges to decisions made with respect to that project under this Act; and providing for an effective date."

MOVED CSSB 360(RES) OUT OF COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 30

SENATE RES COMMITTEE

-1-

April 17, 2002

Relating to Alaska Salmon Day.

MOVED CSSCR 30(RES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 206(RLS)

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

MOVED CSHB 206(RLS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

SB 360 - See Resources minutes dated 4/15/02.

SCR 30 - See State Affairs dated 4/9/02.

HB 206 - See Resources minutes dated 3/20/02.

WITNESS REGISTER

Mr. Harold Heinze

Consultant to the Alaska Legislative Council
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on 'Legislator Attitudes on Issues Related to North Slope Gas Development.'

Mr. Patrick Coughlin

Consultant to the Senate Resources Committee
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 360.

Ms. Sara Nielson

Staff to Senator Ben Stevens
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SCR 30.

Ms. Barbara Belknap, Executive Director
Alaska Seafood Marketing Institute (ASMI)
311 North Franklin Street, Ste 200
Juneau AK 99801

POSITION STATEMENT: Supported SCR 30.

ACTION NARRATIVE

TAPE 02-20, SIDE A

Number 001

CHAIRMAN JOHN TORGERSON called the Senate Resources Committee meeting to order at 3:35 p.m. Senators Wilken, Halford, Stevens, Elton and Chairman Torgerson were present. Chairman Torgerson announced the committee would first hear a report by Harold Heinze on some work he did for the Legislative Council.

MR. HAROLD HEINZE told members he completed his contract with the Legislative Council in which he conducted a series of interviews with about half of the legislature to identify areas of consensus and areas of non-consensus related to a broad array of issues surrounding North Slope natural gas. The first eight pages of his report contain a summary of the results; the last eight pages contain an appendix that represents the briefing package he used to interview individual legislators. He noted page 4 contains the areas of legislative consensus. He said the thing that struck him is that everyone understands both the importance of North Slope natural gas and the importance of the decisions that need to be made by the legislature this year and into the future. There was a very strong feeling in the legislature that a more pro-active posture is needed. He said:

Quite frankly, most legislators felt that things were kind of being pushed and tugged around the legislature rather than the other way around and recognizing that the legislature is the policymaker in this very basic resource issue, folks thought it maybe ought to be the other way around.

He identified four areas that were broadly accepted. On page 5, he identified four areas that had a broad range of legislative opinion. He found it difficult to find a consensus on those areas based on the interviews he conducted.

MR. HEINZE told members the first interview question that seemed to delineate people's viewpoint was: What are the producers up to? He stated:

Some people felt that this was a big negotiation over the last several years and on into the future. Some people felt that the project had been studied, found to be marginally economic and what you were seeing was a reluctance to make a business decision in that marginal world.

There was a very broad range of opinion as to what benefits should drive Alaska's decision making, especially on the routing. Back in the appendix, a portion of that, pages A4 and A5, represent a delineation of benefits and impacts I had made up and those were actually lifted from a legislative report that had been done in 1983 looking back on the TAPS experience and attempting to delineate at that time both the benefits and impacts of what had happened during the TAPS period.

Some legislators thought a big part of the pipeline would come in terms of the construction impacts on the economy in the generation of work and money during that period of time. At the other extreme were people who really felt the whole payoff of the whole idea would be in the generation of other industries that would use the natural gas and create jobs and industry here in Alaska. What that told him was that each legislator would be looking at different lines on the "benefit statement" so it is important that all of those lines be on the page.

He said a regional difference was apparent because of the more direct interaction in Fairbanks with the gas line. The legislators from that area took a much more aggressive approach to almost every issue related to the gas line.

Regarding how hard the legislature should push the project, there was a sense of urgency, but it was balanced with a strong feeling that the private sector needs to be given a chance to work the issues. He said at the time he did the interviews, he presumed that the initiative would qualify. He discussed it with every legislator he interviewed and did not ask what they thought should happen. He said the legislature has the opportunity during this session to deal with the route issue through legislation.

He said that pages 6 and 7 represent his attempt to translate the areas of consensus and non-consensus into suggestions that are strategy oriented for the natural gas issue.

His first suggestion is that the strategy needs to focus on defining what information the legislature needs to make decisions. He didn't think the legislature could reference an exact list at this point of what they need to know before making a decision. Defining that information would be a very proactive step. Answering those questions is the responsibility of the sponsor, whoever is putting forward a project. If they cannot answer those questions, their project probably isn't ready to move forward.

Communication is a paramount issue. While there has been a

tremendous amount of information that has come from all of the committee hearings, it is not a process that necessarily fosters communication with other legislators or with the public at large. He urged them to consider other efforts in addition to the hearing process to keep improving the communication.

MR. HEINZE said that finally, it seemed that legislators had the patience to give the private sector one more try even if the producers feel they cannot move forward on the project. He thought most legislators would like to see at least one group have the chance to move the cause forward. He said he would be happy to answer questions.

SENATOR ELTON said he noted the report says, on page 6, that if a project proponent can't answer the questions, they're probably not ready. He said he sometimes feels that they can answer the questions, but are reluctant to and asked how legislators can tell the difference.

MR. HEINZE replied, as an example, in the course of the hearings, there has been concern expressed by a lot of communities about how they would fit into the logistics plan. They question where the pipe will be brought in and how it would be moved. He noted, "If someone cannot answer that question, I think it's pretty common sense they have not studied the project to a depth that they have a project." He thought it comes down to the level of detail and how reasonable the questions are. He continued:

Training plans, logistics plans, those kinds of things, I think are very reasonable requirements that you may want to set and, once set, I would expect a proponent of a project to tell you that information if they want your support.

CHAIRMAN TORGERSON thanked Mr. Heinze for his work and announced an at ease at 3:47 p.m.

#SB360

SB 360-ALASKA NATURAL GAS PROJECT ACT

CHAIRMAN TORGERSON called the meeting back to order at 3:50 p.m. and announced SB 360 to be up for consideration. He said he wanted to go into the details today. He announced that Bill Britt, Mark Meyers, and a representative of the Alaska Railroad Corporation were available to answer questions. He said they had crafted nine or ten amendments on different subjects so that the committee could debate each subject as the amendments are introduced. He noted he would have Mr. Coughlin review each amendment for the committee.

SENATOR WILKEN moved to adopt Amendment 1, L.1 Chenoweth, which

reads as follows:

22-LS1649\L.1
Chenoweth
10/30/02

A M E N D M E N T 1

TO: SB 360

Page 8, line 21, following "**commissioner.**":
Insert "(a)"

Page 9, following line 6:

Insert a new subsection to read:

"(b) For the purpose of determining under (a) of this section that, in an application pending on the effective date of this Act for a lease under this chapter for an Alaska North Slope natural gas project, an applicant has complied with the requirements of AS 38.35.240 by obtaining all certificates described in AS 38.35.240(b) - (d), the commissioner

(1) shall consider the application to be in compliance with the requirements of that section if the applicant has filed for all certificates described in AS 38.35.240(b) - (d) and has included, with or as part of the filing for the certificates, the applicable plans, studies, and stipulations described in that section; and

(2) may not decide that an application determined to be in compliance under (1) of this subsection is no longer in compliance with the requirements of AS 38.35.240 unless a certificate described in AS 38.35.240(b) - (d) is denied by the applicable authority."

Page 13, line 15, following "schedule.":

Insert "For the purpose of determining under this subsection that, in an application pending on the effective date of this Act for a lease under AS 38.35 for the pipeline project described in this subsection, an applicant has complied with the requirements of AS 38.35.240 by obtaining all certificates described in AS 38.35.240(b) - (d), the agency responsible for making the consistency determination

(1) shall consider the application to be in compliance with the requirements of AS 38.35.240 if the applicant has filed for all certificates described in AS 38.35.240(b) - (d) and has included, with or as part of the filing for the certificates, the applicable plans, studies, and stipulations described in that section; and

(2) may not decide that an application determined to be in compliance under (1) of this subsection is no longer in compliance with the requirements of AS 38.35.240 unless a certificate described in AS 38.35.240(b) - (d) is denied by applicable authority.

CHAIRMAN TORGERSON announced an at-ease from 3:52 to 3:54 p.m. He then explained that SB 360 has provisions that require anyone who wants to take advantage of the benefits offered, the limited judicial review, the railroad or royalty reductions, etc., must provide a certificate for local hire, instate access and shipping royalty gas. However, inadvertently, he was putting a larger than expected burden on the pipeline companies that have submitted and are currently working on a application. Amendment 1 is transition language so that they are still required to get the certificates, but they don't have to get them right away.

MR. PATRICK COUGHLIN, consultant to the Senate Resources Committee, said the intent is that the companies that have already filed their application could get the benefits merely by filing for the certificate. They would be deemed in compliance unless ultimately those certificates [indisc.] and could carry on with their work.

CHAIRMAN TORGERSON said there was some fear that the Administration might read it a little differently and stop everything until a certificate was issued.

SENATOR ELTON restated for clarity:

This changes none of the benefits that may accrue. It only allows those who already have a work in progress before the department to take advantage of it.

CHAIRMAN TORGERSON said it deems them in compliance until they come in compliance before they're turned down for not being in compliance. They have 90 days to get that done in the bill already. He asked if there was any objection to Amendment 1. There were none and it was adopted.

SENATOR WILKEN moved to adopt Amendment 2, L.3 Chenoweth, which reads as follows:

22-LS1649\L.3
Chenoweth
10/30/02

A M E N D M E N T 2

TO SB 360:

Page 11, line 10:

Delete "a new subsection"

Insert "new subsections"

Page 11, following line 21:

Insert a new subsection to read:

"(c) The corporation may retain any consideration in excess of the consideration necessary to meet the payments and to maintain the reserves that are required by (b) of this section."

Page 12, line 9:

Delete "The"

Insert "Except as provided in AS 42.40.630(c), the

CHAIRMAN TORGERSON explained that on page 12, line 9, a provision in the bill said that the proceeds from the sale of the bonds can only be spent by other than the corporation for the Alaska gas pipe line. He noted:

It's anticipated that the corporation would, in fact, probably make some money on this, depending on the negotiations that they do when they enter into contract negotiations or bond negotiations with the companies. But, in any event, there's probably going to be some amount above and beyond the amount that is needed for the actual administration of the fees. This makes it clear that the corporation can keep anything in excess of what it required to maintain the reserves and so forth.

SENATOR ELTON restated for clarification that this allows them to retain only what they negotiate between the project sponsors and themselves.

CHAIRMAN TORGERSON said that is a fair way to put it. He said there will be a fee associated with the administration of the bonds and more than likely, the Railroad may or may not get more than the actual costs. He wants the Railroad to be able to negotiate to the best of their ability. He asked if there were any objections to adopting Amendment 2. There were no objections and Amendment 2 was adopted.

SENATOR WILKEN moved to adopt Amendment 3, L.4 Chenoweth, which reads as follows:

22-LS1649\L.4
Chenoweth
10/30/02

A M E N D M E N T 3

TO: SB 360

Page 2, line 14, following "the":

Insert "exploration,"

Page 3, line 8, following "development,":

Delete "and production"
Insert "production, and transportation"

MR. COUGHLIN explained that Amendment 3 is a technical amendment to make two corrections. On page 2, line 14, the word "expiration" was left out and on page 3, line 8, the word "transportation" was left out.

CHAIRMAN TORGERSON asked if there were any objections to Amendment 3. There were no objections and it was adopted.

SENATOR WILKEN moved Amendment 4, L.8 Chenoweth, which reads as follows:

22-LS1649\L.8
Chenoweth
10/30/02

A M E N D M E N T 4

TO: SB 360, as amended by the adoption of amendment 22-LS1649\L.2

Page 4, line 31:

Delete "a new subsection"
Insert "new subsections"

In amendment L.2, page 1, following line 20, insert:

"(ff) The commissioner may not negotiate or take other action under (ee) of this section unless the project applicant has met all requirements of AS 38.35.240 and obtained all certificates described in that section not later than June 30, 2003."

In amendment L.2, page 4, following line 24, insert:

"(e) The commissioner may not negotiate or take other action to develop a contract under this section unless the project applicant, or lessee if applicable, has met all requirements of AS 38.35.240 and obtained all certificates described in that section not later than June 30, 2003."

CHAIRMAN TORGERSON explained that Amendment 4 adds a sunset provision to the bill. Ken Thompson recommended a sunset. The legislature has always put expiration dates in other gas acts. He added, "This basically says that this is alive and well until June 30, 2003."

SENATOR HALFORD moved to change the year 2003 to 2005.

SENATOR ELTON objected and asked if there was a reason they were predicating it on getting the certificates rather than applying.

CHAIRMAN TORGERSON responded, "The way the bill reads, you can't get the certificates until you apply."

MR. COUGHLIN added that you can't apply until you get the certificates, which is at the beginning of the application process.

SENATOR LINCOLN asked if extending the date to 2005 will slow the process down because the producers could say they have an extra three years so they wouldn't have to act until the last year.

CHAIRMAN TORGERSON said he didn't have an answer for that. He said he was not bothered by 2005, but would prefer 2004 because it would put a little pressure on the producers.

SENATOR HALFORD said this is a much bigger process than they thought and 2005 isn't that far away on the scale of things, but he didn't have a problem with whatever the committee wanted.

SENATOR LINCOLN pointed out that they could go with 2004 and it would be easier to amend it to 2005 later than the other way around.

SENATOR ELTON said he would support 2005.

CHAIRMAN TORGERSON asked if there were any objections to Amendment 4. There were no objections and it was adopted.

SENATOR WILKEN moved Amendment 5, L.9 Chenoweth, which reads as follows:

22-LS1649\L.9
Chenoweth
10/30/02

A M E N D M E N T 5

TO: SB 360, as amended by adoption of amendment 22-LS1649\L.2

In amendment L.2,
Page 2, line 27, following "incorporated":
Insert "into the contract
(A)"

Page 2, line 28:
Delete "into the contract;"
Insert "; and
(B) for a contract that waives, reduces, or
defers royalty or tax payments, a mechanism to

recapture all or any portion of the royalty or tax payments that are waived, reduced, or deferred by the operation of a contract provision if the price of natural gas increases above the projected price of natural gas upon which the findings and determination made under (7) of this subsection are based;"

CHAIRMAN TORGERSON noted that this was another recommendation from Ken Thompson.

MR. COUGHLIN explained the bill currently provides that the DNR commissioner could waive, reduce or defer royalty under certain circumstances so the purpose of this amendment is:

If that reduction, I'll just call of them collectively a reduction in royalty, were based on a gas price, say of \$3 and the gas price averaged \$4 an mcf, this amendment would require that a mechanism be put in to place in the royalty reduction to recapture some of that foregone royalty. It's similar to a provision that we have in the current royalty reduction bill.

CHAIRMAN TORGERSON said this is a "no-brainer" for him because they have discussed the severance and royalty schemes with the Department of Revenue and they all have a sliding scale that gives up on the low end and recoups on the high end. He assumed that's what would happen, but there has been concern that if specific language wasn't put in, someone may not know.

SENATOR ELTON thought they might be inserting it into the wrong spot.

MR. COUGHLIN explained that this amendment was drafted to an amendment that would be offered later. "It would really go in the current bill on page 5, lines 10 - 15...In essence, it would be inserted as a (c) after (b).

SENATOR WILKEN moved and asked unanimous consent to withdraw Amendment 5. There were no objections and it was withdrawn.

SENATOR WILKEN moved Amendment 6, L.12 Chenoweth, which reads as follows:

22-LS1649\L.12
Chenoweth
10/30/02

A M E N D M E N T 6

TO: SB 360
Page 7, line 29, following "by":

A M E N D M E N T 7

TO: SB 360

Page 5, lines 1 - 25:

Delete all material and insert:

"(ee) In conjunction with the development and construction of an Alaska North Slope natural gas project, as defined by AS 38.35.259, that requires the grant of a right-of-way lease under AS 38.35 for which the project applicant has complied with AS 38.35.240 and obtained all certificates described in that section, the commissioner

(1) may, notwithstanding any contrary provision in this chapter, negotiate, with the consent of the lessee,

(A) to modify any provision of an oil and gas lease entered into under this section, except a provision described in (B) of this paragraph, that impedes development of the project; and

(B) to waive, reduce, or defer the payment of all or any portion of the royalty due the state under this chapter; a waiver, reduction, or deferral of the royalty due may be made by the commissioner only if the project applicant, or a lessee that has contracted with the applicant to ship natural gas through the project, shows, by clear and convincing evidence, that construction and operation of the project would not otherwise be economically feasible; and

(2) shall transmit to the commissioner of revenue any proposed terms relating to the lease and royalty developed under this subsection that should be included in a contract developed under AS 43.56.185."

Page 12, line 15, through page 13, line 4:

Delete all material and insert:

"Sec. 43.56.185. Action by the commissioner to develop a contract covering certain tax laws; submission to governor for action; legislative action. (a) In conjunction with the development and construction of an Alaska North Slope natural gas project, as defined by AS 38.35.259, that requires the grant of a right-of-way lease under AS 38.35 for which the project applicant or a lessee that has contracted to ship natural gas through the project has complied with AS 38.35.240 and obtained all certificates described in that section, the commissioner may negotiate terms for inclusion in a contract to

(1) waive, reduce, or defer the payment of all or any portion of the tax levied by the state or a municipality of the state under this chapter;

(2) make certain adjustments regarding the oil and gas lease under AS 38.05.180(ee); and

(3) make or amend other terms and conditions that

are necessary to carry out the purposes of AS 38.35.235 or that are in the best interests of the state.

(b) The commissioner may develop a proposed contract described in (a) of this section only if

(1) the commissioner has consulted with any affected municipality, has considered and prepared a report on the socioeconomic effects of the project on any affected municipality, and has considered how any affected communities will provide services required by the project;

(2) the commissioner has considered whether other jurisdictions in which the project will be located have granted financial incentives;

(3) the project applicant shows, by clear and convincing evidence, that construction and operation of the project would not otherwise be economically feasible;

(4) the commissioner and the project applicant have entered into an agreement to begin construction of the project by a date certain; and

(5) the commissioner has incorporated any proposed terms relating to the oil and gas lease and royalty developed under AS 38.05.180(ee) into the contract.

(c) If the commissioner develops a proposed contract under (a) and (b) of this section, the commissioner shall

(1) make preliminary findings and a preliminary determination that the proposed contract is in the long-term fiscal interests of the state, furthers the purposes of AS 38.35.235, and is in the best interest of the state, including a description of the principal factors, such as the projected price of gas, projected production rate or volume of gas, projected recovery, and projected development, construction, and operating costs, upon which the findings are based;

(2) give reasonable public notice of the preliminary findings and determination, conduct a public hearing, and give a reasonable opportunity of at least 30 days, for receipt of public comment on the preliminary findings and determination;

(3) make copies of the proposed contract, the commissioner's preliminary findings and determination, and the supporting financial, technical, and market data available to the public and to

(A) the presiding officer of each house of the legislature;

(B) the chairs of the finance and resources committees of the legislature; and

(C) the chairs of the special committees on oil and gas, if any, of the legislature;

(4) if the legislature is not in session, offer to appear before the Legislative Budget and Audit Committee to provide the committee a review of the commissioner's preliminary findings and determination, the proposed

contract, and the supporting financial, technical, and market data; if the Legislative Budget and Audit Committee accepts the commissioner's offer, the committee shall give notice of the committee's meeting to the public and all members of the legislature;

(5) within 30 days after the close of the public comment period under (2) of this subsection,

(A) prepare a summary of the public comments received in response to the proposed contract and the preliminary findings and determination;

(B) after consultation with the commissioner of natural resources, if appropriate, prepare a list of proposed amendments, if any, to the proposed contract that the commissioner determines are necessary to respond to public comments;

(C) make final findings and a determination as to whether the proposed contract and any proposed amendments prepared under (B) of this paragraph meet the requirements and purposes of AS 38.35.235; and

(D) after considering the material described in (A) - (C) of this paragraph and securing the agreement of the other parties to the proposed contract regarding any proposed amendments prepared under (B) of this paragraph, issue final findings and a final determination; and

(6) transmit the proposed contract to the governor, who may transmit the contract to the legislature together with a request for authorization to execute the contract.

(d) A contract developed under this section is not binding upon or enforceable against the state or other parties to the contract unless the governor is authorized to execute the contract by law. The state and the other parties to the contract may execute the contract within 60 days after the effective date of the law authorizing the contract.

(e) A person may not bring an action challenging the constitutionality of a law authorizing a contract enacted under this section or the enforceability of a contract executed under a law authorizing a contract enacted under this section unless the action is commenced within 120 days after the date that the contract was executed by the state and the other parties to the contract."

MR. COUGHLIN explained that Amendment 7 addresses a producer's concern that if royalty relief or tax changes are made, they would like those changes to be put into a contract. Amendment 7 would accomplish that and basically sets the process up so that royalty reduction would be negotiated with the DNR commissioner. If there is agreement on that, it would then be put into the ultimate contract that the DOR commissioner would be negotiating

and he is responsible for changes to [indisc.] laws. He stated:

If the DOR commissioner were to find that changes to the tax law or royalty laws would be in the state's best interests, it would advance the project; it sets forth a process that's followed thereafter. That is that the Department of Revenue commissioner will prepare a preliminary best interest finding. In fact, the process would be sort of like the royalty in-kind contracts. The commissioner would prepare a preliminary best interest finding. He would then put that out for public comment, he would conduct a public hearing. After that, if the legislature was not in session, he would offer to appear before LB&A to make an overview presentation of the contract. Following an opportunity for public comments, he would then prepare a written final finding of determination. In that finding he is required to address or summarize the public comments and additionally, if the commissioner felt it was appropriate to make any changes to the contract, he would discuss those changes and why they are being made. Then, the commissioner of Revenue would transmit that contract to the governor who sends it to the legislature and the contract would only become effective upon legislative approval.

MR. COUGHLIN explained that the proposed amendment that was discussed before would require that if a waiver, reduction or deferral of royalty were issued, there would have to be some mechanism to capture the upside.

CHAIRMAN TORGERSON said Amendment 7 also has the same property tax provision where the commissioner has to engage the municipalities, prepare a socio-economic impact study and decide whether or not it's a good idea to waive municipal property taxes.

SENATOR ELTON commented that there were some changes that he had concerns with, although he wouldn't object to the amendment. He would be more comfortable with "waive" rather than "reduce." He said further, "I'm still not willing to buy off yet on the notion that the commissioner can impose a tax decision on the municipalities that is now exclusively theirs."

CHAIRMAN TORGERSON added that it would come back to the legislature.

SENATOR ELTON responded that the net effect is that something that is now exclusively the authority of a municipality is no

longer exclusive.

CHAIRMAN TORGERSON said he didn't think it was in the best interest of anybody to just go out and reduce taxes, unless they had gone through the five things listed there. He thought that they had to at least have the discussion with the municipalities. He said this project might not be economical without this provision.

He asked if there were any objections to Amendment 7. There were no objections and it was adopted.

SENATOR WILKEN moved to adopt Amendment 8, L.14 Chenoweth, which reads as follows:

22-LS1649\L.14
Chenoweth
10/30/02

A M E N D M E N T 8

TO: SB 360, as amended by the adoption of amendment 22-LS1649\L.13

Page 4, line 31:

Delete "a new subsection"
Insert "new subsections"

In amendment L.13, page 1, following line 20:

Insert a new subsection to read:

"(ff) The commissioner may request from an applicant or lessee any information and records that the commissioner determines may be necessary to carry out a duty under (ee) of this section. Information and records requested by the commissioner, and working documents that analyze or incorporate the requested information and records that are prepared by the commissioner

(1) shall, notwithstanding any other provision of law, be kept confidential until the commissioner of revenue makes and publishes preliminary findings and a preliminary determination under AS 43.56.185(c) if the information, records, or working documents contain sensitive, proprietary, or privileged information and the applicant or lessee requests that the information, records, or working documents be kept confidential;

(2) are public records when the commissioner of revenue makes and publishes preliminary findings and a preliminary determination under AS 43.56.185(c)."

In amendment L.13, page 4, following line 19:

Insert a new subsection to read:

"(f) The commissioner may request from a project applicant or from a lessee affected by AS 38.05.180(ee) and (ff) and this section any information and records that the commissioner determines may be necessary to carry out a duty under this section. Information and records requested by the commissioner, and working documents that analyze or incorporate the requested information and records that are prepared by the commissioner

(1) shall, notwithstanding any other provision of law, be kept confidential until the commissioner makes and publishes preliminary findings and a preliminary determination under (c) of this section if the information, records, or working documents contain sensitive, proprietary, or privileged information and the applicant or lessee requests that the information, records, or working documents be kept confidential;

(2) are public records when the commissioner makes and publishes preliminary findings and a preliminary determination under (c) of this section."

MR. COUGHLIN explained that Amendment 8 provides that documents that are supplied to either the commissioners of DOR or DNR as part of an application for a change to either royalty or tax laws would be held confidential until such time as there is an agreement with the company, in which case that would be at the preliminary finding stage. At that point, the commissioner of DOR would make the documents available that support his decision as to whether they are confidential or not.

CHAIRMAN TORGERSON said they basically didn't want the issue tried in the press or other places.

SENATOR HALFORD asked whether certain documents that don't support the commissioner's decision would remain confidential.

MR. COUGHLIN replied that is not what it says; it says all of the documents will be available following a decision.

SENATOR ELTON asked if this had been an issue with Foothills work or other applications that DNR has considered in the past.

CHAIRMAN TORGERSON said the short answer is no, because they haven't asked for royalty relief.

4:20 p.m.

MR. COUGHLIN added that when he was Deputy Director for the Division of Oil and Gas he received applications for royalty relief and that information was kept confidential.

CHAIRMAN TORGERSON asked if there were any objections to

Amendment 8. There were no objections and it was adopted.

SENATOR WILKEN moved to adopt Amendment 9, L.15 Chenoweth, which reads as follows:

22-LS1649\L.15
Chenoweth
10/30/02

A M E N D M E N T 9

TO: SB 360

Page 8, lines 2 - 15:

Delete all material and insert:

"(i) the rates for expansion service are designed to ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion, including a reasonable rate of return on the investment;

(ii) the rates do not require the existing shippers on the pipeline portion of the project to subsidize expansion shippers;

(iii) the proposed shipper will comply with, and the proposed expansion and the expansion of service will be undertaken and implemented based on, terms that are consistent with the then-effective tariff of the pipeline portion of the project;

(iv) the proposed facilities will not adversely affect the financial or economic viability of the pipeline portion of the project;

(v) the proposed facilities will not adversely affect the overall operations of the pipeline portion of the project;

(vi) the proposed facilities will not diminish the contract rights of existing shippers to previously subscribed certificated capacity;

(vii) all necessary environmental reviews have been completed; and

(viii) the expansion is required by the present and future public convenience."

MR. COUGHLIN explained:

On page 8, one of the purposes we had in mind was trying to exactly mimic the language of the current version of the federal energy law that has been passed by the Senate in terms of how can you get an expansion. If you meet these criteria, you can get an expansion. When that went over to legislative drafting, it didn't come back the same way. Some of the verbs and names had been changed. So, this change does not really change

any of the substance. It's just an attempt to actually make the language be as close as possible to the federal law. Both the producer, in particular, the DNR, expressed some concern if there were any variances to that language.

SENATOR LINCOLN thought some of the wording wasn't consistent with what they had just discussed in Amendment 6.

MR. COUGHLIN explained that Amendment 9 was written assuming the committee would adopt amendment 6. It addresses the one definitional problem of having defined the project larger than they wanted to. This amendment inserts "the pipeline portion of the project" for "project" on line 14. Otherwise it's consistent with federal law.

CHAIRMAN TORGERSON said she had a good point and apologized for the confusion. He asked if there were any objections to Amendment 9.

SENATOR ELTON said it would be helpful for Mr. Coughlin to go through the amendments to check for consistency after the drafters are done.

CHAIRMAN TORGERSON said they sent over the language they wanted, but the drafter had changed some of the words to make it read better. He commented, "So we're going from federal legalese to state legalese."

SENATOR WILKEN moved to adopt Amendment 10.

MR. COUGHLIN explained that Amendment 10 makes it clear that they are not giving the commissioner of DNR the authority to change oil royalties. They are just dealing with gas royalties since they are dealing with a gas project.

CHAIRMAN TORGERSON asked if there were any objections to Amendment 10. There were no objections and it was adopted.

SENATOR WILKEN moved to adopt Amendment 5, L.9 Chenoweth, which reads as follows:

22-LS1649\L.9
Chenoweth
10/30/02

A M E N D M E N T 5

TO: SB 360, as amended by adoption of amendment 22-LS1649\L.2
In amendment L.2,

Page 2, line 27, following "incorporated":
Insert "into the contract
(A)"

Page 2, line 28:
Delete "into the contract;"
Insert "; and
(B) for a contract that waives, reduces, or
defers royalty or tax payments, a mechanism to
recapture all or any portion of the royalty or tax
payments that are waived, reduced, or deferred by the
operation of a contract provision if the price of
natural gas increases above the projected price of
natural gas upon which the findings and determination
made under (7) of this subsection are based;"

TAPE 02-20, SIDE B

CHAIRMAN TORGERSON asked if there were any objections to Amendment 5. There were no objections and it was adopted.

SENATOR WILKEN moved to report CSSB 360(RES) from committee with individual recommendations. There were no objections and it was so ordered.

#

#SCR30

SCR 30-ALASKA SALMON DAY

CHAIRMAN TORGERSON announced SCR 30 to be up for consideration.

MS. SARA NIELSON, staff to Senator Ben Stevens, said that SCR 30 proclaims June 30, 2002 as Alaska Salmon Day. It recognizes that the salmon industry has a huge part of all Alaskan's lives and will raise public awareness of one of Alaska's most important industries by promoting and celebrating the catching and eating of salmon. Alaska is the largest commercial wild salmon fishery in the world. In the last decade state salmon harvest totaled more than \$4.5 billion, making it extremely vital to Alaska's economy. Last year almost 450,000 resident and non-resident licenses were issued for sport fishing.

CHAIRMAN TORGERSON asked why this resolution is being sent to Alaska's congressional delegation instead of someone in Alaska. He noted, "They're not going to celebrate salmon day back there."

SENATOR STEVENS said he would entertain some instate suggestions as well.

CHAIRMAN TORGERSON said it should be sent to organized fishing

groups and maybe hatcheries.

MS. BARBARA BELKNAP, Executive Director, Alaska Seafood Marketing Institute (ASMI), thanked Senator Stevens for introducing this resolution. ASMI is trying to augment its promotions with seafood stores and retailers this summer and actually wanted a National Alaska Salmon Day declared by the President, but wasn't able to do that. She said ASMI would also send the resolution to chambers and tourism bureaus.

SENATOR WILKEN asked why it wouldn't be an Alaskan Salmon Week.

MS. BELKNAP answered that ASMI wants to have a "kick off" with particular retailers. She got the idea from British Columbia, which established last year as the Year of the Bear. Everyone who went through there was inundated with information about bears. She thought it would be terrific to have the Year of the Salmon here, but it was too late to go that far and ASMI didn't have the budget to make it what they would like.

CHAIRMAN TORGERSON asked that copies go to ASMI with instructions to distribute the resolution throughout the state and to Senators Frank Murkowski and Ted Stevens.

MS. BELKNAP replied that she would be happy to do that.

SENATOR ELTON said on page 1, line 15 there are two extraneous words "to and".

SENATOR LINCOLN commented that the resolution emphasizes just catching and eating, not marketing of salmon.

MS. BELKNAP said ASMI wanted to expand this into something statewide that would actually celebrate the industry as well and the cultural importance of salmon.

SENATOR WILKEN moved to insert, "Alaska Seafood Marketing Institute" on page 2, lines 5 - 7.

SENATOR ELTON asked if they could also send a copy to the Governor.

SENATOR WILKEN moved to add the Governor to the list of recipients. There were no objections and it was so ordered.

SENATOR STEVENS moved to pass CSSCR 30(RES) from committee with individual recommendations and its attached zero fiscal note. There were no objections and it was so ordered.

#

#HB206

CSHB 206(RLS)-LIMITED ENTRY FOR COMM. FISHERIES

CHAIRMAN TORGERSON announced CSHB 206(RLS) to be up for consideration and said he had already taken public testimony and that no amendments had been proposed. He noted that there was quite a bit of opposition to the bill since the committee heard it - a few petitions signed by about 10 people each and a number of individual letters.

SENATOR ELTON moved to pass CSHB 206(RLS) from committee with individual recommendation and the attached zero fiscal note.

SENATOR HALFORD objected.

A roll call vote was taken and the motion carried with Senators Lincoln, Elton, Stevens and Wilken in favor and Senators Halford and Torgerson opposed.

#

There being no further business to come before the committee, CHAIRMAN TORGERSON adjourned the meeting at 4:43 p.m.