

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 31, 2003

3:39 p.m.

MEMBERS PRESENT

Senator Scott Ogan, Chair
Senator Thomas Wagoner, Vice Chair
Senator Fred Dyson
Senator Ralph Seekins
Senator Ben Stevens
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 139

"An Act repealing the termination date of the Alaska salmon price report program; and providing for an effective date."

MOVED SB 139 OUT OF COMMITTEE

SENATE BILL NO. 122

"An Act relating to an annual wildlife conservation pass and the fee for that pass; relating to nonresident and nonresident alien big game tag fees; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE BILL NO. 16(FIN) am

"An Act amending, for purposes of the Alaska Stranded Gas Development Act, the standards applicable to determining whether a proposed new investment constitutes a qualified project, the standards used to determine whether a person or group qualifies as a project sponsor or project sponsor group, and the deadline for applications relating to the development of contracts for payments in lieu of taxes and for royalty adjustments that may be submitted for consideration, and modifying the conditions bearing on the use of independent contractors to evaluate applications or to develop contract terms; providing statements of intent for the Act relating to use of project labor agreements and to reopening of contracts; and providing for an effective date."

HEARD AND HELD

PREVIOUS ACTION

SB 139 - No previous action to record.

SB 122 - See Resources minutes dated 3/28/03.

HB 16 - No previous action to record.

WITNESS REGISTER

Mr. Ian Fisk
Staff to Representative Ogg
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Presented SB 139

Mr. Bruce Schactler
United Salmon Association
PO Box 2399
Kodiak, AK
POSITION STATEMENT: Supports SB 139

Mr. Jerry McCune
United Fishermen of Alaska
211 4th Street, Suite 110
Juneau, Alaska 99801-1172
POSITION STATEMENT: Supports SB 139

Mr. Gordy Williams
Special Assistant
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226
POSITION STATEMENT: Presented SB 122 for the Administration

Ms. Michelle Sydeman
Assistant Director
Division of Wildlife Conservation
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226
POSITION STATEMENT: Answered questions about SB 122

Representative Hugh Fate
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 16

Ms. Wendy King
Conoco Phillips Alaska, Inc.
P.O. Box 100360
Anchorage, Alaska 99510

POSITION STATEMENT: Supports HB 16

Mr. Mark Myers, Director
Division of Oil and Gas
Department of Natural Resources
550 W. 7th Ave. Ste 800
Anchorage AK 99501-3560

POSITION STATEMENT: Supports HB 16

Mr. Dan Dickinson
Tax Division
Department of Revenue
550 W 7th Ave.
Anchorage, AK 99501-3566

POSITION STATEMENT: Answered questions about HB 16

ACTION NARRATIVE

TAPE 03-20, SIDE A

CHAIR SCOTT OGAN called the Senate Resources Standing Committee meeting to order at 3:39 p.m. Senators Wagoner, Stevens, Seekins, Elton and Ogan were present. Senator Lincoln arrived momentarily. The committee took up SB 139.

SB 139-AK SALMON PRICE REPORT PROGRAM

MR. IAN FISK, staff to Representative Ogg, told members he has been working with Senator Dyson on SB 139 and presented it to the committee as follows.

SB 139 repeals the sunset date of a Department of Revenue (DOR) program called the Alaska Salmon Price Report (ASPR). Under the ASPR, processors who sell over 1 million pounds of salmon products in one year are required to report to DOR the wholesale prices they receive for those products. This report is due three times per year: January 31, May 31, and September 30. It details monthly and annual average wholesale prices sorted by salmon species, by product form, and by the eight regions in which the salmon are produced. The ASPR allows government agencies and industry analysts to estimate inventory of Alaska salmon and it

provides data that is helpful in negotiations between harvesters and processors. DOR issues an annual report to the legislature to enable legislators to see what is being done with a public resource. The statute sunsets on July 1, 2003. The sponsor believes the ASPR program should be a permanent function of DOR so SB 139 repeals the sunset date.

CHAIR OGAN asked if SB 139 will make this law permanent.

MR. FISK said that is correct.

CHAIR OGAN pointed out that the bill has no fiscal note because the program is currently funded with federal money. He asked what will happen if the federal money dries up and the state has an obligation to fund it with general fund monies.

MR. FISK said that is a good question. He noticed today, when the fiscal note was delivered, that the Tax Division has proposed changing the funding source to [federal] salmon treaty fund money appropriated to the Alaska Department of Fish and Game (ADF&G). He said to his understanding, that is a stable source of funding but he has not spoken with anyone in the department about it.

CHAIR OGAN pointed out that if the federal money is not received, the cost to the state would be \$50,000 per year.

MR. FISK said that is correct, according to DOR.

SENATOR BEN STEVENS explained that the Pacific Salmon Treaty is an international treaty that has been in effect for many years and is likely to be funded for many years to come. He noted that as long as the treaty is in effect, Alaska will continue to be a recipient of funds. He also said the original salmon price report contained price information and was funded by the Alaska Seafood Marketing Institute (ASMI).

MR. FISK said he believes that was the case with the wholesale price report, which was changed to the ASPR when more data was required. He understands the funding no longer comes through ASMI, it comes through the salmon market information service, which is provided by ASMI.

CHAIR OGAN pointed out if there is a question about the fiscal note, it is more appropriate that the Senate Finance Committee examine it. He then took public testimony.

In response to a question by Chair Ogan about whether there is a compelling need to continue the ASPR, MR. BRUCE SCHACTLER, testifying from Kodiak, told members that he would question whether the report actually costs \$50,000 per year. He noted the only reason fishermen are as informed as they are about prices for different products is because of the ASPR. The ASPR is the only database close to real time that provides this information. The price report is authored by the McDowell Group and is used by ASMI, the National Marine Fisheries Services (NMFS), the U.S. Departments of Agriculture and Commerce, the University of Alaska, the University of Washington, a host of academic entities, the legislature and hundreds of individuals.

MR. JERRY McCUNE, Executive Director of the United Fishermen of Alaska (UFA), stated support for SB 139 because the ASPR provides a good snapshot of what products are going where.

CHAIR OGAN asked if the ASPR is an appropriate state function or whether it should be supported by UFA.

MR. McCUNE said that would be difficult for UFA to do because DOR gathers the information, most of which is confidential. He added that UFA does not have the staff or funds to produce the report.

SENATOR WAGONER moved SB 139 and its zero fiscal note from committee with individual recommendations. With no objection, CHAIR OGAN announced the motion carried.

SB 122-NONRES.GAME TAG FEES/WILDLIFE TOUR PASS

MR. GORDY WILLIAMS, special assistant, Alaska Department of Fish and Game (ADF&G), explained to members that SB 122 contains two parts. The first part establishes a \$15 wildlife conservation pass for certain visitors who use a commercial opportunity to view wildlife. The second part raises non-resident alien big game tag fees for certain species. He provided the following statement:

The Administration believes it is appropriate for a broad range of visitors to the state to make contributions to the management of our wildlife resources. Historically, hunters, fishermen and trappers have provided the bulk of the funding and we think it is appropriate that those who are coming to the state - visitors - help out in that regard when they're viewing our wildlife. About 1.5 million

visitors come to Alaska annually and the opportunity to view wildlife is an important part of that experience for many of them.

The wildlife conservation pass will raise a little over \$7 million annually at the beginning. As provided in the bill, those revenues will be deposited into a separate account in the general fund and appropriated for various wildlife management programs and other uses.

The pass establishes a requirement for nonresidents who use a commercial provider of an opportunity to view wildlife to have one of these passes unless they qualify for one of the exemptions in the bill. Alaska residents are exempt from this requirement; all persons under 16 are exempted; disabled veterans are exempted; travelers on the marine highway system are exempted; and any visitor who holds a hunting, fishing or trapping license good for that year would also be exempt. We believe that people who come to the state should make a contribution to wildlife management. If they're making it through the purchase of a hunting or fishing license, than that is a contribution enough [so] that showing that license will allow them to take the commercial tours.

MR. WILLIAMS said ADF&G believes a portion of the additional revenue raised can assist the state in reaching match requirements for the federal-state wildlife grant program. Alaska receives about \$3.9 million under that program. ADF&G is currently in a planning phase with that funding, which means the state is only matching it at a rate of 1:3. Once the programs are implemented, the match rate will increase to 1:1.

He explained that the second part of the bill will raise tag fees for non-residents and non-resident aliens for caribou, moose, sheep, and goat in varying amounts from \$50 to \$100. Alaska's tag fees fall in the mid-range when compared to fees charged by other Western states. The Governor believes it is appropriate to increase these fees for non-residents and non-resident aliens. He offered to answer questions.

SENATOR ELTON asked Mr. Williams why programs like fish and wildlife protection or the promotion of tourism were precluded as appropriate uses of the fund that these fees could be deposited into.

MR. WILLIAMS said nothing has been excluded as the money will be deposited into the general fund and the legislature has appropriation powers.

SENATOR ELTON noted that SB 122 specifies three purposes for which the legislature intends to use those funds.

MR. WILLIAMS said that ADF&G believes it can make good use of a portion of these funds but it will be under the purview of future legislators to decide exactly how the funds are spent.

CHAIR OGAN stated the separate accounting language really pushes the limits but will have no effect due to the constitutional ban on dedicated funds. He added if the legislature is going to raise taxes, he believes the money should go into the general fund to be used to offset the budget gap.

SENATOR WAGONER asked whether vendors who do not submit the collected fees to the state will be subject to penalties and whether any enforcement will be available.

MR. WILLIAMS said that is not specifically addressed in SB 122 but, by adding the wildlife conservation fee to the list of licenses in the bill, violators will be subject to the same penalties that apply to a vendor who does not submit revenues raised from the sale of sport fish licenses. He offered to provide specific information at a later date.

SENATOR WAGONER noted that vendors will also be collecting the fees, not just those who sell hunting and fishing licenses. He asked if a person who runs raft trips will sell the \$15 permit to his or her customers.

MR. WILLIAMS said those business owners will become vendors. He pointed out that ADF&G has about 1500 vendors who sell fish and game licenses statewide. ADF&G anticipates that number will increase significantly if this bill passes because a lot of tourist operators will want to sell these licenses.

CHAIR OGAN noted the presence of Representative Kohring.

SENATOR SEEKINS asked how much money SB 122 is anticipated to raise per year.

MR. WILLIAMS said about \$7.5 million in FY 04.

SENATOR SEEKINS asked how much revenue ADF&G receives from the sale of fish and game licenses each year.

MR. WILLIAMS did not have that information and offered to provide it at a later date.

SENATOR SEEKINS said it appears to him that the only new purpose for which this fund would be used is for wildlife viewing. He asked if ADF&G is currently using any fish and game fees that it collects for viewing programs.

MR. WILLIAMS said the short answer is yes, for the match of the state wildlife grant funds. He then deferred to Ms. Sydeman for the specifics.

MS. MICHELLE SYDEMAN, Assistant Director of the Division of Wildlife Conservation, told members that ADF&G does not currently use fish and game funds to match the federal funds it receives for wildlife viewing programs. The source of the matching funds for those programs are receipts from the McNeil River bear viewing area, Pack Creek, and the Round Island walrus viewing area.

SENATOR SEEKINS asked if, under current statute, the receipts from viewing areas can be used as a match for federal funds.

MS. SYDEMAN said they can.

SENATOR SEEKINS asked if SB 122 will just add another category from the \$7.5 million that can be used for matching funds for those same purposes.

MS. SYDEMAN said the difficulty that Mr. Williams spoke about is due to the fact that under the statute that pertains to receipt of the federal funds, the state match rate is 1:3 while wildlife viewing programs are in the planning phase. As ADF&G moves into the implementation phase, the required match rate will increase to 1:1. In addition, ADF&G does not have an adequate source of matching funds for research or management of non-hunted species or for any of ADF&G's education programs.

SENATOR SEEKINS asked:

In the total universe of funding that comes to the department, what percentage would this add? If we were to pass this, let's say, you know kind of on a weak manner, as the Chairman said, that you may use these

funds for this purpose, how much as a percentage would that add to the budget that you are already getting from these various sources of federal funds - Pittman Robinson funds, fish and game funds, etcetera, that are dedicated now to the department?

MS. SYDEMAN replied it is her understanding that the division's budget totals about \$25 million. ADF&G's request to the administration and to the legislature would be for a portion of these funds. ADF&G has stated a hope that if this bill passes, some of this money might be made available to match the state wildlife grant money. She thought the fees might amount to \$3 million of the division's total \$25 million budget.

SENATOR ELTON referred to page 1, line 10, and asked what the breakdown is between state general funds, federal, and other funds for the wildlife management program.

MS. SYDEMAN said the Division of Wildlife Conservation does not receive any general funds at this time. It receives about \$8 million of fish and game funds, primarily from the sale of hunting and trapping licenses and other tag fees. It also receives about \$8 million of Pittman Robinson money.

SENATOR ELTON commented that SB 122 makes it sound as if the fees will replace general fund dollars, while it will actually add dollars to a program that does not get any general fund dollars. He then noted that about 800,000 people will visit Alaska on cruise ships this year. Those ships have programs in place to collect receipts for onshore tours, a portion of which is remitted to the businesses. He felt this legislation will give the cruise ships the opportunity to collect up to \$500,000 for something they are already doing. He asked if that is correct.

MR. WILLIAMS said that cruise ships provide an opportunity to view wildlife so cruise ship passengers will have to pay this fee or be exempted when they enter Alaskan waters.

SENATOR ELTON asked if those licenses will be sold by the cruise ship operators, who will retain \$1 for each license.

MR. WILLIAMS said they would be eligible to do that should they want to become vendors.

SENATOR ELTON noted their profit margin could go up significantly.

CHAIR OGAN said that "significantly" is subjective if they have to process 500,000 applications.

SENATOR ELTON asked Mr. Williams if he anticipates any skewing whereby a person could evade the \$15 wildlife viewing fee by purchasing a fishing license for \$10.

MR. WILLIAMS said that possibility was discussed, but ADF&G does not believe that will be a significant problem. He said for one thing, he assumes some folks who choose to sell these passes will also become full vendors and sell all licenses. He noted the problem with exempting people who have a \$10 one-day fishing license is the burden it will place on the commercial operators who must verify that passengers have valid licenses.

SENATOR WAGONER said it would be a lot simpler to avoid the ability to do that by raising the one-day license fee to \$15.

SENATOR LINCOLN asked where the entry point is for collecting the fees.

MR. WILLIAMS said it is an annual pass and will be purchased the first time a person avails him or herself of a commercial opportunity to view wildlife. The pass could be purchased from the vendor or from other sources.

SENATOR LINCOLN asked what will happen if a person does not have one.

MR. WILLIAMS said the person would not be eligible to take the trip.

SENATOR LINCOLN asked who will enforce that.

MR. WILLIAMS said because the program is under Title 16, it will be enforced in the same way the Division of Fish and Wildlife Protection deals with other hunting and fishing license violations.

SENATOR LINCOLN said the Governor's budget reduces the number of fish and game wildlife protection officers. She expressed concern that enforcement as proposed in this bill will rely on an honor system. She pointed out that a tour operator will not be required to sell these licenses. She then noted the Alaska Travel Industry Association does not support this legislation

and questioned whether the Administration asked the Association's opinion of this bill.

MR. WILLIAMS said there are different levels of support in different sectors of the industry. He said he does not know what the level of outreach was to specific groups. The Governor feels this is an appropriate contribution. ADF&G believes a lot of visitors will be happy to make this contribution because wildlife viewing is one of the reasons they travel to Alaska. Regarding enforcement, he pointed out there will be penalties for the operator and the person who does not hold a license.

SENATOR LINCOLN asked where that provision is located in the bill.

MR. WILLIAMS repeated it falls under Title 16 so it is not specifically listed in the legislation.

SENATOR LINCOLN emphasized that someone will have to enforce it for a person to be penalized. She suggested that with a reduction in the number of wildlife protection officers, this will place another burden upon a smaller staff. She then asked if the Administration has assessed the impact this legislation will have on the Alaska Visitors Association. She noted she has not received one letter of support from that Association. She asked what kind of an assessment the Administration did before it introduced this legislation.

MS. SYDEMAN said she does not know much about the outreach that was done, but she does know that the Alaska Wilderness, Recreation and Tourism Association came forward and said it supported this concept. That organization represents 300 small operators.

SENATOR SEEKINS commented that when the Governor provided his budget, it appeared to be targeted toward meeting a certain draw down in the Constitutional Budget Reserve (CBR) by cutting expenses in one place and providing additional revenue elsewhere. In some respects, this fee was represented as a source of additional revenue. He asked if ADF&G views it as an additional source of revenue for the department, not necessarily as a budget balancing mechanism to provide revenue to offset other cuts.

MR. WILLIAMS said that ADF&G is hopeful that with this kind of revenue generating mechanism, it could make a case that a portion of it should go to the department for needs he described

earlier. He stated it will be a revenue generator for the state and the Governor has stated support for tourism related wildlife experiences.

SENATOR SEEKINS said if some of this money is used for additional matching funds while the intent was to use it to balance the budget, the legislature would be rather disingenuous about how it is earmarked. He said he is supportive of more wildlife management education programs for tourists, but he is concerned that legislators don't misrepresent the facts that the funds are to be earmarked for ADF&G rather than to balance the draw down on the CBR.

CHAIR OGAN noted that he shares Senator Seekins' concern and suggested striking that language from the bill.

SENATOR SEEKINS noted he is a wildlife viewer for all but the one time he harvests a moose each year so he appreciates the value of wildlife viewing and wants to enhance it as much as possible. He repeated his concern is about the impression the legislature may leave with SB 122 if not careful.

SENATOR WAGONER questioned whether the legislature will set a bad precedent by allowing the separate accounting language to remain in the bill. He pointed out that the Administration already knows that the wildlife viewing stamp will generate so much money and it is up to the Administration to recommend where it wants to budget that money, therefore it is not necessary to keep that language in the bill.

SENATOR SEEKINS commented that the tourism industry would also like to have a slice of this pie.

SENATOR WAGONER noted that he contacted the tourism industry and asked where the proposal is that they told legislators they would be submitting. That proposal was a tax package that would amount to a 2 percent sales tax on certain tourist-oriented activities. He was told two weeks ago they would have that package to the legislature but he has not received it so he said he is not sure how serious they are.

CHAIR OGAN asked if SB 122 will be a "freebie" for those who drive up the highway and never use a vendor to view wildlife. He asked if passengers would owe the state \$15 each if they saw a moose along the highway.

MR. WILLIAMS said the issue of how to charge independent travelers was raised on the House side. ADF&G anticipates that a large number of those folks will purchase either a hunting or fishing license or avail themselves of some commercial opportunity. He said short of a tollgate at the border, it would be difficult to collect the fee.

CHAIR OGAN considered renaming the fee and whether visitors could file a class action lawsuit if they do not see any wildlife.

TAPE 03-20, SIDE B

SENATOR ELTON noted the Governor is not calling it a tax, he is calling it a user fee, which means the committee would want to name it for its intended purpose.

SENATOR WAGONER suggested renaming it the "Alaska State Conservation Fee." He said the word "wildlife" should be removed because he agrees with Chair Ogan that people might not see any wildlife.

CHAIR OGAN informed members that he did not intend to pass SB 122 from committee today.

SENATOR LINCOLN asked how many states have a similar fee and what amount they charge.

MS. SYDEMAN said the notion of charging to set up a user-pay system akin to the programs in place for hunting and fishing licenses has taken a lot of forms. She said she is not aware of fees in any other states except Louisiana, which requires a wildlife stamp to visit fish and game state managed lands. Some states have imposed a sales tax on items used by consumptive wildlife users and some use a portion of the proceeds from lotteries. Some countries charge a conservation fee of several dollars upon exit.

CHAIR OGAN said he thought there was consensus among committee members to rename the fee the "Alaska Wolf Control Tax" and to change the intent language so that the money will be used for a predator control program.

SENATOR ELTON noted that although he does not plan to make a motion today, he would like the committee to consider amending the bill to add, on page 2, line 12, after the word "viewing," "fish and wildlife protection, tourism promotion,". He explained

that the intent of the amendment would be to use the balance of the \$7 million that is not used for fish and wildlife conservation for enforcement and tourism promotion. He felt this money might be an appropriate source to replace those general fund dollars. He said he would wait for a response from ADF&G and members of the industry before he offers the amendment.

SENATOR BEN STEVENS noted that as a Senate Finance Committee member, he is the chair of the subcommittees on the Departments of Fish and Game and Public Safety. He told members that the wildlife conservation portion of ADF&G's budget is \$29.3 million, an increase of \$1.5 million over last year. It receives no general funds. The Division of Fish and Wildlife Protection's budget [in the Department of Public Safety] is \$15.6 million with a decrement of about \$400,000 under the Governor's proposal. He noted the Division will lose two administrative positions, not enforcement positions. He said from his perspective, ADF&G is asking for a fish and wildlife viewing fee but the Division of Fish and Wildlife Protection has not been at the table even though it has the responsibility of protecting fish and game for everybody. He said he'd be interested in exploring the concept of using the increased revenues for existing protection in a department that is already stretched to fulfill its current obligations. He said that Section 2 [Separate accounting for wildlife conservation pass fees] concerns him because it says the money will be appropriated for management, viewing and education programs when the state has a problem protecting the existing game.

CHAIR OGAN announced that with no further discussion, he would hold SB 122 in committee and that the committee would take up HB 16.

The committee took a brief at-ease.

HB 16-STRANDED GAS DEVELOPMENT ACT AMENDMENTS

CHAIR OGAN asked Representative Fate to present the bill.

REPRESENTATIVE HUGH FATE, prime sponsor of HB 16, gave the following explanation of the measure.

The Stranded Gas Act was enacted in 1997 but its authorization has terminated. HB 16 reauthorizes the Stranded Gas Act until March of 2005. The original Act was designed to apply to LNG only. That language was removed from HB 16 so that it allows for any form of gas. It also allows more businesses to qualify as it

reduces the entry fee. In the past, a corporation was required to have a net worth of 33 percent of the estimated construction cost of a project. That percentage was reduced to 10 percent in HB 16. The line of credit equal to the amount that is not encumbered to the project cost was also reduced from 25 percent to 15 percent. The word "contractor" was made plural because the state often needs more than one contractor to review the qualified work. HB 16 also contains intent language that will not disturb the clause that allows negotiations between a qualified sponsor and the State of Alaska. Those negotiations are the centerpiece of the legislation.

REPRESENTATIVE FATE said he worked with the Administration and industry personnel on HB 16 and attempted to keep it as clean as possible to allow the negotiations that take place between the State of Alaska and the qualified sponsors to be as unencumbered as possible. He believes HB 16 achieves that and embodies intent language as a reminder that the renegotiation of contracts cannot be forgotten. He noted that Senator Ted Stevens pointed out the U.S. Senate may have another hurdle to clear regarding a gas pipeline. He believes this legislation is extremely important to show that the state is responsibly trying to facilitate the construction of a gas pipeline. He offered to answer questions.

CHAIR OGAN noted the original Stranded Gas Act applied to projects north of latitude 64 degrees and was specific to a route that parallels the TransAlaska pipeline system and the Alaska Highway. He noted that HB 16 is silent on the Alaska Highway route, as well as the latitude. He asked why the pipeline route language was dropped and why it would be open to any pipeline and any gas in the state.

REPRESENTATIVE FATE said specific legislation regarding the route has already been enacted [AS 38.35.017] so it was unnecessary to duplicate it. The removal of the latitude 64 degrees provision was done to encourage others to get into the "play." At the present time, the only stranded gas is on the North Slope.

CHAIR OGAN said that might be true but it sets a new policy. He asked if any other projects have been discussed.

REPRESENTATIVE FATE said no other projects have been discussed.

CHAIR OGAN asked where latitude 64 degrees cuts across Alaska.

REPRESENTATIVE FATE said it parallels the Brooks Range and includes the coal bed methane at Red Dog but nothing south of that.

CHAIR OGAN asked if this Act could include any natural gas projects.

REPRESENTATIVE FATE replied that it could. He explained:

...if there were a large natural gas find - an exploratory - and they delineated a field along the route of that pipeline, I'm sure that they would try to incorporate that pipeline given the capacity of the pipeline. But any find, for example in the Cook Inlet, or somewhere that's not on that route even though it's certainly below the 64th parallel, it wouldn't be included in that. It's not stated in this Act but it's just a matter of common sense that you're not going to run a pipeline up from Cook Inlet to where the gas pipeline comes down from Prudhoe Bay.

CHAIR OGAN asked, "Whose got a dog in the fight on the 10 percent?"

REPRESENTATIVE FATE said no one but he has been approached by individuals who suggested that a combination of Native corporations could get "underneath that wire." That gave him the idea to change the net worth provision to 33 percent instead of placing strict parameters around the negotiations at the back-end. Even though that lowered the bar substantially, the producers had no real objection. However, there was objection to placing language in the bill that would set the parameters for the negotiations. He noted the first figure he had in the bill was 20 percent, which he changed to 10 percent in a committee substitute to encourage more exploration and to share the risk.

SENATOR WAGONER asked Representative Fate to repeat what he said about Cook Inlet.

REPRESENTATIVE FATE said in response to Chair Ogan's question about the 64th latitude, he was suggesting that if a large enough gas field was found along the pipeline, the company would want to tap into the pipeline if it had the capacity. If the find is in Cook Inlet, it would be impractical to run a line up to the other because of the distance.

CHAIR OGAN noted that the Joint Natural Gas Pipeline Committee had many discussions about open season and how to ensure that others can access the gas line but the bill is silent on that issue.

REPRESENTATIVE FATE said the bill is silent on that issue because that will have to be negotiated and because it is unclear whether the regulatory authorities will weigh in on that issue. He said he hopes the Federal Energy Regulatory Commission (FERC) will issue an opinion about which authorities will be involved, how they conflict and how their roles can be coordinated.

CHAIR OGAN asked who will be involved in the open season negotiations.

REPRESENTATIVE FATE answered the State of Alaska and the qualified sponsors.

CHAIR OGAN expressed surprise and said he thought that was an internal matter.

REPRESENTATIVE FATE said his understanding is that it can be negotiated and that FERC will not determine the open season.

SENATOR ELTON referred to Section 5 on page 3 and called it a "double barreled edition." He said the applicant can reimburse the state for reasonable expenses according to language on line 24, but those expenses are capped at \$1.5 million. He pointed out that both of those provisions are additions to existing law. He asked if anyone has determined that any expenses over \$1.5 million would be unreasonable.

REPRESENTATIVE FATE said the House labored with that section and considered the words "redundant," "non-redundant" and "reasonable." The amendment adopted on the House floor contained the word "reasonable." The House does not want the state or contractor to duplicate bills and it wants to make sure that any overlap of costs is reasonable, for example, in a situation where one expert might be used to corroborate the work of another one.

SENATOR ELTON again asked if anyone made the determination during those discussions that any expense over \$1.5 million would be unreasonable.

CHAIR OGAN noted that the maximum is \$1.5 million for each application. He asked if it could apply more than once.

REPRESENTATIVE FATE responded that amount applies for each application.

SENATOR ELTON asked, "So you could have a series of expenses, each of which would be a separate application?"

REPRESENTATIVE FATE replied, "Not to exceed - correct, through the Chair, not to exceed \$1.5 million for each application."

SENATOR LINCOLN referred to Section 1 on page 1, the intent section, and asked why it was included as intent language since no one can be held accountable to it.

REPRESENTATIVE FATE explained that if it was included as part of the bill and was not intent language, it would begin to set the sideboards of the negotiations. He explained the intent language is basically a reminder of something that is usually done. He stated:

...To place that and to force any type of sideboards that have to be negotiated was not acceptable. Very frankly, it [began] to muddy the water because you begin - and this is what we're very good at in the Legislature, is trying to assert our will into things rather than to let the negotiating process take place in good faith.

SENATOR SEEKINS asked what benefits would accrue to a qualified project.

CHAIR OGAN explained that the original legislation was passed to enable the state to negotiate a payment in lieu of taxes, an approach recommended by a consultant named Van Meers who cautioned the project was front-end loaded with too many taxes. A major stumbling block to making a project economically feasible was the requirement to pay all of the upfront money before the project made a nickel. The idea was to negotiate a payment in lieu of taxes to compensate the communities directly affected by the impact of the pipeline. The discussion surrounding the original legislation was to pick up those costs at the back-end when the project was amortized and making money.

SENATOR SEEKINS said it is important to reiterate that because many people do not understand the concept. He then questioned

the phrase in the intent section that says "the qualified sponsor group may develop and enter into project labor agreements with appropriate collective bargaining organizations..." and noted that should be assumed.

REPRESENTATIVE FATE repeated the intent language is just a reminder.

SENATOR SEEKINS said he wanted to distinguish that because he is not aware of any legislation that forbids a sponsor group from entering into a project labor agreement.

SENATOR ELTON said he is still concerned about the \$1.5 million limit. He pointed out the Department of Revenue's fiscal note leads him to believe that the state agencies are not clear about whether the limit is per application. He asked that the committee double-check with the Department of Revenue.

CHAIR OGAN said that Department of Revenue staff would be available to answer questions via teleconference.

SENATOR LINCOLN noted a concern was raised on the House side that this bill is too broad and could give incentives to projects that don't need them, for example projects in areas where the gas is not stranded. She asked if that is a possibility.

REPRESENTATIVE FATE said he does not believe so because the project must be qualified and the qualified sponsor must have a certain level of capitalization. In addition, the project must produce at least 500 BCF of gas so it sets benchmarks to prevent a "fly-by night" operator to get in on this type of activity.

CHAIR OGAN said he shares Senator Lincoln's concerns because the requirement to produce 500 BCF in 20 years is so low that it could provide a two-year window for a project that might not even be related to North Slope gas to negotiate a payment in lieu of taxes. He questioned whether the bill may have a lot of unintended consequences.

REPRESENTATIVE FATE said the producers have already acknowledged that negotiations will have to take place but at such a level of capitalization that even with the bar lowered to encourage others to get in, very few Alaska companies could meet it, even with this piece of legislation.

CHAIR OGAN said Representative Fate is missing the point because this legislation is not specific to the North Slope anymore. He suggested inserting language on page 2, line 15 to read, "the transportation of North Slope natural gas by a." He noted that would mean the project has to be principally, not exclusively, involved in North Slope natural gas.

REPRESENTATIVE FATE said he would not object to that change. He said HB 16 was his attempt to clean up the language and allow and encourage exploration of other hydrocarbon prospects.

CHAIR OGAN said his intent is to prevent creative lawyers from applying the incentives to projects they were not intended for.

SENATOR ELTON said nothing in the bill compels the state to enter into a contract so, if the state enters into negotiations for a questionable project, the terms of the contract would be fundamentally different than they would be with a major company from the North Slope. Furthermore, the fact that the contracts will be given to the legislature for confirmation provides additional protection. He asked if his understanding is correct.

CHAIR OGAN said he is correct in that any contract would come before the legislature for approval.

SENATOR ELTON said he believes the legislature needs to be cautious about opening the door too wide but, to some extent, it has to rely on the good faith of the administration that is negotiating the contracts.

CHAIR OGAN pointed out that Senator Elton has defended the Governor twice today.

REPRESENTATIVE FATE noted the deadline for applications will limit the number of applicants. That deadline was extended one year from the original date to allow other Alaska corporations that could meet the bar to do so.

CHAIR OGAN said although that is true, once a precedent is set in legislation, an applicant with a catch-all project would only have to extend the date. There being no further questions, he informed members that he would hold this legislation until Wednesday to give members time to think about possible changes. He then told members he was recently in Washington, D.C. and met with Senator Murkowski's chief of staff who has been asked what Alaska is doing to help commercialize natural gas. The staffer

was not aware the Legislature was working on this legislation. He then took public testimony.

MS. WENDY KING, representing Conoco-Phillips, stated support for HB 16. Conoco-Phillips believes a three-pronged strategy to make a gas pipeline a reality is necessary. First, federal legislation should streamline the permitting process. Second, federal fiscal legislation should provide insurance against the risk of extreme price volatility. Third, state legislation should reauthorize the Stranded Gas Act. As currently written, the Stranded Gas Act only applies to an LNG project and not to a gas pipeline. It also had a date of June 30, 2001 by which companies had to file applications. If it were not for those two limitations, companies that want to build a gas pipeline could be negotiating with the state today under the Act, creating new jobs. She repeated support for HB 16.

CHAIR OGAN asked why no one from BP or Exxon is available to testify.

MS. KING said she could not comment.

SENATOR ELTON asked the representatives from the Department of Revenue to address his concern about whether the \$1.5 million cap is per application.

MR. DAN DICKINSON, Director of the Tax Division, Department of Revenue, said the language in the statute is the correct language. He pointed out in the fiscal note analysis the words "the project applicant(s)" should have been "a project applicant." The division believes there will be only one application, but there could be more.

SENATOR ELTON said his concern is that in the statutory language, the companies are called "applicants." Therefore, when the word "application" is used, he assumes it would be up to the companies to bundle if they wanted to. In that case, the state could not be reimbursed for costs over \$1.5 million.

MR. DICKINSON said he believes if multiple companies qualify as the sponsor of a single project, they would submit a single application. He noted that AS 43.82.120 says that a qualified sponsor or qualified sponsor group may submit an application.

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SENATOR ELTON said his concern is that two thresholds are being applied: one a reasonable threshold; the other is reasonable up to \$1.5 million. He said it sounds as though that may not be of concern to others.

CHAIR OGAN said he believes the committee needs to establish on the record that the legislature's intent is that each application cannot exceed \$1.5 million but it does not limit it to only one application. He stated, "We may wish to put language in there that there can be more than one application just to make it really clear so creative lawyers don't get creative."

SENATOR ELTON suggested getting that language from Mr. Dickinson rather than himself.

MR. DICKINSON drew members' attention to AS 43.82.160, which addresses multiple applications for similar or competing qualified projects and said HB 16 says the limit per application is \$1.5 million.

CHAIR OGAN felt that clarified the issue.

MR. MARK MYERS, Director of the Division of Oil and Gas, Department of Revenue, stated support of the project. The division recognizes, particularly with the North Slope project, with over 35 TCF approved and over 100 TCF of additional potential gas, the gas pipeline will enable development of Alaska's incredible gas resources for at least the next 50 years. He stated HB 16 sets the stage for broad-based technical negotiations between project sponsors and the administration.

CHAIR OGAN said there is a noticeable difference in the number of people testifying today and the number that testified at the last Joint Natural Gas Pipeline Committee hearing. He asked Mr. Myers his read on that change.

MR. MYERS said the state is looking at a good opportunity for development of gas due to higher gas prices. He noted the last year has illustrated that supply in North America is problematic. Overall, people are more optimistic about a gas line, especially with the war in the Persian Gulf. He said the three major producers on the North Slope are very interested in the project, as are individual producers. He could not explain why they were not at today's meeting, but he believes they are more optimistic about the project now than they have been over the last few years.

CHAIR OGAN pointed out that HB 16 is written so that it grants a short-term window of two years and makes no mention of a route or the location of the gas. He reads that to mean a company that wants to build a pipeline over the next two years could apply for the incentives as long as the company could produce 500 BCF over the next 20 years. He asked Mr. Myers if he agrees.

MR. MYERS said he does agree. The standard is broad; it applies statewide and includes GTL and LNG projects. He said he agrees with Representative Fate's statement that the state could not permit an over-the-top pipeline under AS 38.35.017(b), which does not allow the commission to issue a lease for a pipeline across state land in or adjacent to the Beaufort Sea for pipeline right-of-way purposes to authorize construction or operation of a natural gas pipeline. However, that is not to say fiscal terms on a pipeline could not be negotiated or that one could never be permitted under current law.

CHAIR OGAN asked if that would not prevent the federal government from doing it, although it can't traverse ANWR and would have to put a pipeline three miles off of the coast to be in federal water.

MR. MYERS said that is correct. The pipeline would have to cross state waters at some point and get from Prudhoe Bay to Point Thompson and over.

CHAIR OGAN asked if GTLs would be transported in the TransAlaska pipeline.

MR. MYERS said under the definition of the project, a GTL or LNG project would qualify. He referred to subsection (C) on page 2, line 19.

CHAIR OGAN asked if a qualified group could negotiate tax breaks on a GTL plant that might affect the North Slope Borough.

MR. MYERS said that could be done.

CHAIR OGAN said it is his opinion that GTLs should be talked about in a separate discussion. He referred to language on page 3, lines 11 and 12, and asked who "has a dog in that fight?"

MR. MYERS said he believes Representative Fate addressed that question when he said the threshold is high enough to require parties to be very serious about the project and have

significant capitalization. He said the intent was to try to be inclusive to capture more potential sponsors.

CHAIR OGAN asked if Anadarko would qualify.

MR. MYERS said depending on the project, he believes that could happen.

CHAIR OGAN asked if the North Slope Regional Corporation or Cook Inlet Regional Corporation could qualify.

MR. MYERS replied, "Mr. Chairman, I believe a consortium of Native corporations certainly would have the net worth on several potential projects."

CHAIR OGAN asked if Mr. Myers could think of anyone else who would qualify.

MR. MYERS said that some of the major pipeline companies outside of the state could.

SENATOR ELTON said he has no problem with the bill as written but the bill cannot be heard in the Senate Finance Committee on Thursday unless it moves from committee today.

CHAIR OGAN said he would like to work with the bill sponsor on a few details so he will hold it in committee one more day.

CHAIR OGAN then told members it is an honor to work with them as he feels the Senate Resources Committee members have some of the brightest minds in the Legislature and ask very good questions.

There being no further business to come before the committee, CHAIR OGAN adjourned the meeting at 5:33 p.m.