

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 22, 2005

1:32 p.m.

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator Bert Stedman
Senator Thomas Wagoner

MEMBERS ABSENT

Senator Johnny Ellis
Senator Albert Kookesh

COMMITTEE CALENDAR

SENATE BILL NO. 171

"An Act amending the National Petroleum Reserve - Alaska special revenue fund; and establishing the Special Legislative Oil and Gas NPR-A Development Impact Review Committee and defining its powers and duties."

MOVED SB 171 OUT OF COMMITTEE

HOUSE BILL NO. 229

"An Act relating to the reinstatement of Native corporations; and providing for an effective date."

MOVED HB 229 OUT OF COMMITTEE

HOUSE BILL NO. 184 am

"An Act relating to firearms."

MOVED HB 184 am OUT OF COMMITTEE

SENATE BILL NO. 179

"An Act relating to the taxation of mining property; relating to contracts approved by municipalities for payments in lieu of taxes; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 171

SHORT TITLE: NPR-A COMMUNITY GRANT PROGRAM
SPONSOR(s): SENATOR(s) WILKEN

04/12/05 (S) READ THE FIRST TIME - REFERRALS
04/12/05 (S) CRA, FIN
04/20/05 (S) CRA AT 1:30 PM BELTZ 211
04/20/05 (S) Heard & Held
04/20/05 (S) MINUTE(CRA)

BILL: HB 229

SHORT TITLE: REINSTATEMENT OF NATIVE CORPORATIONS
SPONSOR(s): REPRESENTATIVE(s) FOSTER

03/22/05 (H) READ THE FIRST TIME - REFERRALS
03/22/05 (H) CRA, FIN
03/31/05 (H) CRA AT 8:00 AM CAPITOL 124
03/31/05 (H) Moved Out of Committee
03/31/05 (H) MINUTE(CRA)
04/01/05 (H) CRA RPT 4DP
04/01/05 (H) DP: LEDOUX, SALMON, OLSON, THOMAS
04/04/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/04/05 (H) Moved Out of Committee
04/04/05 (H) MINUTE(FIN)
04/05/05 (H) FIN RPT 8DP 1NR
04/05/05 (H) DP: HAWKER, HOLM, WEYHRAUCH, STOLTZE,
MOSES, FOSTER, MEYER, CHENAULT;
04/05/05 (H) NR: KELLY
04/08/05 (H) TRANSMITTED TO (S)
04/08/05 (H) VERSION: HB 229
04/11/05 (S) READ THE FIRST TIME - REFERRALS
04/11/05 (S) CRA, STA
04/20/05 (S) CRA AT 1:30 PM BELTZ 211
04/20/05 (S) Heard & Held
04/20/05 (S) MINUTE(CRA)

BILL: HB 184

SHORT TITLE: MUNICIPAL FIREARM ORDINANCES
SPONSOR(s): REPRESENTATIVE(s) CHENAULT

02/28/05 (H) READ THE FIRST TIME - REFERRALS
02/28/05 (H) CRA, JUD
03/22/05 (H) CRA RPT 3DP 1DNP 3AM
03/22/05 (H) DP: SALMON, NEUMAN, OLSON;
03/22/05 (H) DNP: CISSNA;
03/22/05 (H) AM: LEDOUX, KOTT, THOMAS
03/22/05 (H) CRA AT 8:00 AM CAPITOL 124
03/22/05 (H) Moved Out of Committee

03/22/05 (H) MINUTE(CRA)
 04/01/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/01/05 (H) Moved CSHB 184(JUD) Out of Committee
 04/01/05 (H) MINUTE(JUD)
 04/05/05 (H) JUD RPT CS(JUD) 6DP 1NR
 04/05/05 (H) DP: KOTT, GRUENBERG, ANDERSON,
 DAHLSTROM, COGHILL, MCGUIRE;
 04/05/05 (H) NR: GARA
 04/11/05 (H) BEFORE THE HOUSE
 04/13/05 (H) TRANSMITTED TO (S)
 04/13/05 (H) VERSION: HB 184 AM
 04/14/05 (S) READ THE FIRST TIME - REFERRALS
 04/14/05 (S) CRA, JUD
 04/22/05 (S) CRA AT 1:30 PM BELTZ 211

BILL: SB 179

SHORT TITLE: MINERALS TAX/PAYMENTS TO MUNIS IN LIEU

SPONSOR(S): SENATOR(S) THERRIAULT

04/18/05 (S) READ THE FIRST TIME - REFERRALS
 04/18/05 (S) CRA, FIN
 04/18/05 (S) CRA AT 2:00 PM BELTZ 211
 04/18/05 (S) Heard & Held
 04/18/05 (S) MINUTE(CRA)

WITNESS REGISTER

Senator Gary Wilken
 Alaska State Capitol
 Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor SB 171

Senator Donny Olson
 Alaska State Capitol
 Juneau, AK 99801-1182
POSITION STATEMENT: Asked the committee to wait to hear from
 communities before acting on SB 171

Kathy Ashby, Administrator
 P.O. Box 148
 City of Nuiqsut 99789
POSITION STATEMENT: Testified on SB 171

Paul Labolle
 Staff to Representative Richard Foster
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Available for questions on HB 229

Erich DeLand
Staff to Representative Mike Chenault
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced HB 184 for sponsor

Brian Judy, Alaska Liaison
National Rifle Association (NRA)

POSITION STATEMENT: Supported HB 184.

Jennifer Yuhas, Executive Director
Alaska Outdoor Council
P.O. Box 73902
Fairbanks, AK 99709

POSITION STATEMENT: Supported HB184

Cherrie Ruesch

POSITION STATEMENT: Supported HB184

Shannon Day
Bethel Resident

POSITION STATEMENT: Supported HB184

Ashlee Mcdougal
Houston Resident

POSITION STATEMENT: Supported HB184

Victoria Coan
Wasilla Resident

POSITION STATEMENT: Supported HB184

Heidi Shephard
Fairbanks Resident

POSITION STATEMENT: Supported HB184

Sasha Ruesch
Chugiak Resident

POSITION STATEMENT: Supported HB184

Benjamin Smith
Eagle River Resident

POSITION STATEMENT: Supported HB184

Justin Shattuck
Chugiak Resident

POSITION STATEMENT: Supported HB184

Kathie Wasserman
Policy and Program Coordinator
Alaska Municipal League
216 Seward Street
Juneau, AK 99801

POSITION STATEMENT: Testified on HB 184

Scott Hammon
Kenai Resident,

POSITION STATEMENT: Testified on HB 184

Cary Graves, Attorney
City of Kenai
210 Fidalgo Ave., Ste 200
Kenai, AK 99611

POSITION STATEMENT: Testified on HB 184

Denny K. Weathers

POSITION STATEMENT: Spoke in support of HB 184

Senator Gene Therriault
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 179

Al Clough, Deputy Commissioner
Department of Commerce, Community & Economic Development (DCCED)
PO Box 110800
Juneau, AK 99811-0800

POSITION STATEMENT: Testified on SB 179

Steve Van Sant, State Assessor
Department of Commerce, Community & Economic Development (DCCED)
PO Box 110800
Juneau, AK 99811-0800

POSITION STATEMENT: Available for questions on SB 179

Mr. Fueg
Placer Dome Representative

POSITION STATEMENT: Reiterated support for SB 179

Pat Schlicting
Delta Junction Resident

POSITION STATEMENT: Spoke in opposition to SB 179

ACTION NARRATIVE

CHAIR GARY STEVENS called the Senate Community and Regional Affairs Standing Committee meeting to order at [1:32:39 PM](#). Present were Senators Stedman, Wagoner, and Chair Gary Stevens.

SB 171-NPR-A COMMUNITY GRANT PROGRAM

CHAIR GARY STEVENS announced SB 179 to be up for consideration.

[1:33:06 PM](#)

SENATOR GARY WILKEN, Sponsor, distributed a map to indicate community proximity to oil & gas drilling and exploration activity in the National Petroleum Reserve - Alaska.

With regard to Ms. Burke's earlier challenge questioning the authority and latitude of the Legislature to analyze, rank and fund grants to communities, he said the bill is on course and does just what Judge Carpeneti told the Legislature to do. [Susan Burke testimony, 4/22/05 SCRA hearing on SB 171] He acknowledged she had several good suggestions and they would be incorporated in the Finance Committee.

He asked the committee to pass the bill on to the Finance Committee where it is already scheduled pending referral.

CHAIR GARY STEVENS noted the bill has two fiscal notes.

[1:36:23 PM](#)

SENATOR DONNY OLSON said his district includes the NPR-A and his perspective is different than the sponsor's. Because a number of legal questions were raised during the previous hearing, he asked the committee to take no action until it receives an opinion from the attorney general. It makes sense to wait and get detailed answers to some of the legal questions that were raised because the issue has a history of legal questions. Also, it's important to wait and hear about the impacts to the people that are living in the communities. That's difficult to do on short notice when the whaling/subsistence time is near.

He pointed out that in the past, the people from the North Slope have partnered with the State of Alaska and the successful vote on ANWAR bears witness to that. He suggested that relationship would be strained if the Legislature were to meddle with the

impact money that goes to these communities. He noted there was already one lawsuit challenging the impacts to the area that went in favor of the plaintiffs.

Impact means different things to different people and it's shortsighted to simply look at well locations to determine the impact on the North Slope and in the NPR-A. He distributed several maps of the area showing that active, trial, and abandoned oil and gas wells are located throughout the NPR-A and seismic activity crisscross the entire region. Certainly these maps indicate impact to the land and to the animals that live on the land, he said.

A map showing current and proposed oil and gas lease areas indicates that leases are reaching farther to the west, which makes it clear that the impact isn't in just the northeast corner. The impact is spread throughout the NPR-A area. Although rivers and streams aren't shown, he estimated that at least 100 fish and caribou camps operate in the area and seismic activity would definitely impact the people and animals in the area.

Noting that the sponsor had already scheduled the bill in another committee, he asked members to recognize the people that are impacted and to wait to hear from them before taking action on the bill.

[1:45:45 PM](#)

SENATOR THOMAS WAGONER said he would like to hear about the positive impacts.

SENATOR OLSON said he didn't want to give the impression that all the impact is negative. As the sponsor pointed out, there are more positive impacts to the activity in the NPR-A than negative. People going up to the NPR-A do business when they go through Fairbanks and as a result, there are more jobs in Fairbanks.

[1:47:08 PM](#)

SENATOR BERT STEDMAN asked if the residents in the area derive benefit from the activity in the NPR-A in terms of improved jobs and better lifestyles.

SENATOR OLSON said he doesn't know if there are more jobs, but speaking as a physician, the lifestyle of Native and non-Natives in the area has improved.

The sponsor questioned the merit of using funds for the small boat launch ramp in Wainwright, but it does make sense, he said. As seismic activity increases and the caribou are driven away, the area residents need to venture farther up river to subsistence hunt. That's why the launch ramp facility is reasonable even though it's a long way from the closest community.

SENATOR WAGONER suggested the new type of seismic activity might not affect calving season as much as it has in the past.

SENATOR OLSON reiterated it's a good idea to wait and hear from area residents.

[1:52:03 PM](#)

KATHY ASHBY, City Administrator, City of Nuiqsut, reported that the council members were sending a letter. She applauded Senator Olson for taking such a strong and loyal stand for people from the North Slope Borough and for understanding many of the impacts.

She remarked that it's ironic how very well informed Nuiqsut people are if they want to be. Industry has meetings in the community on a regular basis to explain what and how they are doing. Residents are very involved and frequently voice their opinions regarding how they will be impacted.

Although some argue that the bill opens NPR-A funds so that people that don't live in the NPR-A can apply for them, that's already being done, she said. The North Slope Borough applies for funds on behalf of villages not all of which are in NPR-A.

As a city administrator with a background in public administration, her personal contention is with the runaway engine that DCCED has in administering grant funds. Her interpretation of federal law and state statute is that the compact is for DCCED to administer funds to impacted communities on behalf of NPR-A. What has happened in Nuiqsut is anything but that. She likened the community to a stepchild to the North Slope Borough. She said "It would take me days to compile all of the grants that have been taken away from it and been given to the North Slope Borough." If Nuiqsut realized anything that was instructive or contributed to local self-sufficiency or strong local government, one might remain silent with the award

process. However, that process seems to have been onerous and heavy handed.

CHAIR GARY STEVENS asked her to make certain her comments were directed to the bill under consideration.

MS. ASHBY said the bill would take the authority to grant the NPR-A awards from DCCED. Another review process would be established with a six member committee and the finance committees would make the final award. She lauds that idea because, in her opinion, DCCED isn't doing a credible job. The current grant process won't stand the light of day if a good audit were conducted.

She applauded Senator Wilken for introducing the bill, but cautioned against going too far.

1:59:17 PM

SENATOR WAGONER noted there was a transportation proposal last year to build a bridge and he was curious where that was located.

SENATOR OLSON told him it would cross the Coleville River south of Nuiqsut.

2:00:22 PM

CHAIR GARY STEVENS referenced page 3, lines 19-21 and asked Senator Wilken for clarification regarding whether the recommendations had gone through the full legislative process.

SENATOR WILKEN acknowledged it might need further clarification. The intent and the way the system works is that the special committee recommendations will go to the full Finance Committees and be incorporated into the capital budget.

SENATOR WAGONER asked what the procedure would be if the bill moves to finance. With regard to Senator Olson's suggestion he noted that during the interim, hearings pertaining to SB 85 would be held on the North Slope. Dealing with the two issues during the same timeframe might be advantageous.

SENATOR WILKEN said his intention is to get the bill to finance where he will make a presentation and get input. Decisions are required regarding what the Legislature wants to do with the

existing \$24 million in grants, he said. He didn't intend to move the bill out of finance this year.

[2:05:30 PM](#)

SENATOR WAGONER motioned to report SB 171 and attached fiscal notes from committee with individual recommendations. There being no objection, it was so ordered.

CHAIR GARY STEVENS said he had been asked to do a roll call vote. The motion carried 3 to 0 with Senators Stedman, Wagoner and Chair Gary Stevens voting yea.

CHAIR GARY STEVENS called a brief recess at [2:06:46 PM](#).

HB 229-REINSTATEMENT OF NATIVE CORPORATIONS

CHAIR GARY STEVENS announced HB 229 to be up for consideration. He noted the committee heard the bill previously and asked Mr. Labolle why the bill comes back so frequently.

[2:08:23 PM](#).

PAUL LABOLLE, Staff to Representative Richard Foster, explained that as village Native corporations rotate leadership, some incoming leaders neglect to fulfill all the legal and financial requirements to keep the corporations in good standing. He clarified that this doesn't apply to regional Native corporations.

[2:09:51 PM](#)

SENATOR THOMAS WAGONER motioned to report HB 229 and attached fiscal notes from committee with individual recommendations.

CHAIR GARY STEVENS asked for a roll call vote. The motion carried 3 to 0 with Senators Stedman, Wagoner and Chair Gary Stevens voting yea.

HB 184 AM -MUNICIPAL FIREARM ORDINANCES

CHAIR GARY STEVENS announced HB 184 to be up for consideration.

Erich DeLand, Staff for Representative Mike Chenault, introduced HB 184 saying the intent is "to ensure that citizens be able to look to one law as the single and final authority regarding

firearm regulation." It will guarantee consistency in firearm laws within Alaska.

[2:11:44 PM](#)

BRIAN JUDY, Alaska State Liaison for the National Rifleman Association (NRA), urged support for HB 184. The legislation would broaden and strengthen the existing statute. Current law narrowly limits local municipalities' ability to restrict firearms in two areas. First is the right to own or possess firearms within a residence and the second is the transportation of unloaded firearms in a vehicle. Under current law, local municipalities can impose any other restrictions.

Existing law would allow restrictions in those two affirmation categories if approved by the voters. The NRA doesn't believe that's right. The fundamental constitutional rights of even a minority of the people should not be restricted by a majority of voters at some point in the future should they decide that they want to support such a restriction.

HB 184 would standardize all the firearms laws throughout the state based on current and future statutes enacted by the Legislature. It would void any ordinances that are more or less restrictive than state law. He emphasized it would not lessen the existing body of state or federal laws.

The problem with local firearm ordinances is that they create a complex patchwork of differing laws, which is unfair to citizens because they are at risk of violating laws that can vary widely from community to community.

Currently 45 states deal with the problem of patchwork firearm laws by having firearm preemption laws on the books. Alaska's firearm preemption law is now among the weakest and the NRA believes it should be strengthened and broadened.

[2:15:05 PM](#)

SENATOR BERT STEDMAN asked how many municipalities have ordinances that are more restrictive than the state's.

MR. JUDY replied he could speak to that with respect to one specific issue. The Legislature passed legislation two years ago repealing the requirement that a person hold a permit to carry a firearm concealed for self-protection. Currently eight municipalities have laws that require permits.

Some municipalities would oppose the bill based on the fact that their municipal ordinances would be overturned. Except for carrying concealed firearms, he believes most ordinances are consistent with state law. There's a state law dealing with firearms in schools and a state law restricting possession of firearms in bars. The bill was amended on the House floor to allow municipalities to enact discharge ordinances.

The NRA is concerned about what could happen in the future and wants to prevent future passage of restrictive gun control laws on the local level.

[2:17:36 PM](#)

JENNIFER YUHAS, Executive Director, Alaska Outdoor Council (AOC), echoed Mr. Judy's testimony and noted she sent written testimony to the committee. The AOC enthusiastically endorses the bill, which would more fully recognize the constitutionally guaranteed right to own firearms. Furthermore it would eliminate confusion for law-abiding citizens and remove the undue pressures of the already extended enforcement authorities.

[2:18:53 PM](#)

CHERRIE RUESCH, Chugiak resident, said she trains 4-H youth in shooting sports and the consistency provided by HB 184 would help 4-H clubs as they expand their shooting education programs. She would no longer have to worry about knowing all local firearm ordinances when she travels to other communities to do training.

SENATOR THOMAS WAGONER questioned how many 4-H clubs have shooting programs.

MS. RUESCH replied not every 4-H club works with firearms because not all firearms instructors are comfortable working with youths.

SENATOR WAGONER asked what the requirements are for a youth to get a hunting license.

MS. RUESCH replied those born after 1986 must take a hunter safety course.

[2:21:19 PM](#)

SHANNON DAY, Bethel resident, spoke in support of the bill.

ASHLEE MCDUGAL, Houston resident, spoke in support of the bill.

VICTORIA COAN, Wasilla resident, spoke in support of the bill.

HEIDI SHEPHARD, Fairbanks resident, spoke in support of the bill.

SASHA RUESCH, Chugiak resident, spoke in support of the bill.

LUKE ENGVALL, Kodiak resident, spoke in support of the bill.

BENJAMIN SMITH, Eagle River resident, spoke in support of the bill.

JUSTIN SHATTUCK, Chugiak resident, spoke in support of the bill.

[2:28:11 PM](#)

KATHIE WASSERMAN, Public Policy Coordinator, Alaska Municipal League (AML), said AML had reservations with the bill related to the word "use" but that appears to be resolved with the House amendment. Hopefully, the word "reasonable" doesn't become similarly problematic. She thought AML discomfort would cease as long as municipalities are able to prohibit the firing of arms within certain areas of the municipality.

CHAIR GARY STEVENS summarized that AML is comfortable with the House amendment to allow municipalities to deal with the discharge of firearms within municipal boundaries.

MS. WASSERMAN replied she believes AML would remove its objection as long as the House amendment is in the bill.

[2:30:06 PM](#)

CHAIR GARY STEVENS opened teleconference testimony.

SCOTT HAMMON, Kenai resident, testified that the bill is prudent and reasonable.

CARY GRAVES, Attorney, City of Kenai, testified that his testimony is similar to Ms. Wasserman's. The city has an ordinance that prohibits the discharge of firearms in residential areas, but allows it in non-residential areas. The concern with the original version of HB 184 was that it would

repeal the ordinance. The House floor amendment alleviates the concern by allowing municipalities to provide reasonable restrictions on the discharge of firearms. He urged members to keep the amended language in the bill.

DENNY K. WEATHERS, spoke in support of HB 184 and noted she also faxed her testimony to the committee.

CHAIR GARY STEVENS noted there was no further testimony.

[2:34:23 PM](#)

SENATOR WAGONER motioned to report HB 184 AM and attached fiscal notes from committee with individual recommendations.

CHAIR GARY STEVENS asked for a roll call vote. The motion to move HB 184 AM carried 3 to 0 with Senators Stedman, Wagoner and Chair Gary Stevens voting yea.

SB 179-MINERALS TAX/PAYMENTS TO MUNIS IN LIEU

CHAIR GARY STEVENS announced SB 179 to be up for consideration.

[2:35:07 PM](#)

SENATOR THERRIAULT, Sponsor, said he wanted to give members an update on the ongoing discussions, which address the concerns voiced by various entities.

He clarified that the intent is that only the state assessor's office would do the assessment for the full and true value of the mining property that would be subject to tax in AS 43.67.010. He would work with legislative legal to clear up that language.

There is no intent that any area that is annexed remain at the 4 mil rate. The intent is that if a borough forms or an area is annexed into an existing borough, the mill rate would increase by 2 mills to a cap of 6 mills. That too would be addressed with modified language.

He said that language on page 6, lines 16-17 also needs modification to make it clear that property used in the production of minerals is subject to taxation. The idea is to tax the economic activity associated with the mining and production of the ore. He submitted language to the drafters to clarify that point.

2:38:12 PM

The major question is whether the bill leaves sufficient flexibility to allow an area to incorporate while providing certainty for the purpose of securing financing for very large projects. He mentioned that the Donlin Project infrastructure is likely to amount to more than \$1 billion.

In reviewing the taxes levied around the state, he found that the total mill rate levied against mines is single digit. Often it is complemented with some other sort of revenue base. The Northwest Arctic Borough is an exception in that a payment in lieu of taxes is paid and the Fairbanks North Star Borough levies a double digit property tax against Fort Knox. It's primarily the Railbelt areas that tax at the higher rate, but it's also there that higher-level services are provided.

Another issue is the level of services provided by a given municipality. Although the Railbelt municipalities provide services such as water, sewer, garbage, roads, and police & fire protection, they don't necessarily provide those services in all parts of the borough. The City and Borough of Juneau divided the roaded and non-roaded areas of the borough into different service areas and they are taxed differently. The Greens Creek Mine and the prospective Kensington Mine are taxed at a lower rate of 6.6 mills in recognition of the fact that fewer services are provided.

He suggested the bill strikes a reasonable balance. Although he is very willing to work with others to resolve differences, the reality is that if some certainty isn't given to the tax consequences and tax load going forward, some mineral deposits won't be developed.

2:42:42 PM

AL CLOUGH, Deputy Commissioner, Department of Commerce, Community and Economic Development (DCCED), said the department's first reaction is that the proposal has considerable merit and it thanks the sponsor and industry groups that worked on the legislation. That being said, several issues merit attention.

The sponsor spoke to the issue of the state assessor being involved and the department would concur. The bill deals with three areas and DCCED is statutorily involved with all three.

First is the role of the state assessor. The issue of assessment fairness and statewide valuations is important and will be discussed as the bill moves forward.

Second, because DCCED has a community role through the Division of Community Advocacy, statutory restrictions on what would normally be the powers of a municipality are of concern. It's not unusual for a state to impose on a lower form of government, but the department wouldn't want the legislation to be viewed as a disincentive to forming regional governments. Although they don't necessarily see that it is, the question is pertinent and requires discussion.

Finally the economic development aspect is important to the department. Adding stability into a long-term and significant investment in a major mining project is a huge incentive for people to come to Alaska and explore and develop mines that will take billion dollar investments.

Each issue is valid and merits discussion. The department views the bill in terms of an algebraic equation which is to marry the economic development interest, the community interest, and the interest of the state assessor in a fair tax regime for everyone. The department hopes the equation can be solved and looks forward to working with the sponsor to help with implementation.

[2:46:25 PM](#)

CHAIR GARY STEVENS expressed surprise at the testimony in terms of community protection. Although he could understand the idea of wanting to make sure that industry operates with some stability, the testimony seems to have abrogated the responsibility of caring for and representing communities.

MR. CLOUGH replied he didn't intend to give that impression.

CHAIR GARY STEVENS said the issue as he sees it is to encourage industry, while dealing with the constitutional mandate to try to get the entire state into organized boroughs. You glossed over that, he said.

MR. CLOUGH replied he didn't intend to do that. Furthermore, he could state that the department has had considerable internal discussion on whether or not this bill would be contrary to borough government formation. That is a major concern of both

the commissioner and the department. He meant to say that the local government has a legitimate concern and DCCED recognizes and acknowledges that. From the department's perspective, they hope the local government concern, the development concern, and the assessor concern can be melded and that the agreement makes sense.

[2:48:24 PM](#)

STEVE VAN SANT said he was available to answer questions, but he had no testimony.

CHAIR GARY STEVENS expressed surprise that he had no testimony since this is a major issue with enormous repercussions. He noted the memo in the packets clarifying the value estimates for the Tanana Basin Borough and asked for comment.

MR. VAN SANT, State Assessor, Department of Commerce, Community & Economic Development (DCCED), explained the memo is an estimate of value for the proposed Upper Tanana Basin Borough. He issued it in response to requests to use values the assessor has established for REAAs. Those estimates were based on models that were built in the office and they haven't been in the field to check how much property is there.

For the last year they have been working in the Delta/Tok area. They built over 200 value models to come up with an estimated value of the proposed borough. The summary page memo reflects the total estimate. He mentioned there is a value in the summary for the Pogo Mine because they had little paperwork for the value. They used the estimate from the mine representative of total expected expenditure, which is about \$250 million. As of 2005 they were about 50 percent complete so 50 percent of the value was used. If the borough were to form, the assessor would conduct a detailed inspection and analysis of the books to derive an estimated value. That was done with the Red Dog Mines in the Northwest Arctic Borough.

[2:51:19 PM](#)

CHAIR GARY STEVENS asked Mr. Fuge with Placer Dome if he had any comments.

Mr. Fuge said he had no comments other than to reiterate industry support for the bill.

[2:52:13 PM](#)

PAT SCHLICHTING, Delta Junction resident, spoke in opposition to SB 179 saying it isn't good for Alaska, existing boroughs, unorganized areas, or communities considering borough formation. The tax amount offered is paltry and the terms locking in the proposed tax rate for 15 years are reprehensible. This represents corporate greed by primarily foreign companies.

The terms set forth would stifle growth in new boroughs and create disparate tax rates between existing and developing boroughs. Legislators have the responsibility to levy a responsible mining tax in the absence of organized local government. He suggested a severance tax would be fair because it would share the risk and the wealth.

When a borough forms, that responsibility should transfer to the municipality along with the tax dollars generated by the mining assets. He is alarmed by the suddenness of the bill and the lack of public input that has been solicited from constituents. The message is that rich corporations have special access to lawmakers and are allowed to set their own tax rates and terms.

[2:55:04 PM](#)

SENATOR THOMAS WAGONER asked if he is aware that mining operations currently have corporate taxes, licensing taxes and royalties levied.

MR. SCHLICHTING said he is aware of the taxes. He recognizes there is a cost for state oversight and he recognizes that in some instances playing the tax game allows mining corporations to pay no state tax.

SENATOR STEDMAN said his understanding is that the tax would be at the true value of the tangible property and not at a book value carried by the corporation. The state assessor would make the assessment.

He recalled that when industrialized logging started in Southeast Alaska, the communities brought in outside professional assessors. This structure appears to be similar and the state assessor would place the value.

Putting a cap on the property tax or coming up with some other mechanism so industry will know whether or not to go forward is a positive thing for the state to do. A 6 mill tax or a 4 mill

tax could be a substantial revenue stream for the surrounding area and he doesn't agree with the last testimony.

2:58:26 PM

CHAIR GARY STEVENS stated that the bill causes him serious concern. Mining companies do require some stability so they can develop, but if a maximum 6 mill property tax is locked in, it might be a disincentive for borough development. The question requires further discussion and study and he would also like to hear from the department and the commissioner.

Directing his comments to the sponsor, he said the Legislature sits as the assembly of the unorganized borough and he questioned why the Legislature shouldn't decide what level of tax would be reasonable in the areas that develop mining. Certainly we don't want to overtax the mines, but it's this committee's responsibility to take care of communities.

3:00:35 PM

SENATOR THERRIAULT said his intent is to work with the CRA staff on a proposed committee substitute (CS) to clarify the issue of the assessing entity, depreciation and other questions. In addition, he would meet with the commissioner over the weekend to iron out any difficulties.

Part of the discussion is complicated because the economic activity and level of sophistication to support local government isn't uniform in the unorganized borough. The balance is to craft something that not only fits an area with no services, but also fits a situation such as the Pogo Mine, which is on Fairbanks North Star Borough boundary. It is in potential play for the formation of a borough in the Delta Junction area.

With regard to whether the suggested millage rate is adequate, he reminded members that currently the projects that move forward in the unorganized area pay nothing. The balance is to have a contribution and ensure that jobs and infrastructure are created.

SENATOR STEDMAN remarked the Legislature could modify the millage rate if it saw fit.

SENATOR THERRIAULT replied that's an area they could discuss with the assessor to make sure the mechanism is adequate.

CHAIR GARY STEVENS said his understanding of the language is for a 4 mill tax if the area is unorganized and a maximum of 6 mills if government forms around the mine. That rate would be locked in for 15 years.

SENATOR THERRIAULT said the Legislature certainly has the authority to modify the legislation, but if balance is achieved legislation that is reasonable now will also be reasonable in the future.

SENATOR STEDMAN pressed the point that the Legislature would have the authority to change the mill rate without exposing the state to litigation.

SENATOR THERRIAULT said yes, but to remember that state law applies everywhere and millage rates impact different properties very differently. The Donlin Creek Mine expenditures will be more than \$1 billion and a low rate would generate a considerable revenue stream. On the other hand, Pogo will have a much smaller infrastructure.

SENATOR STEDMAN compared the proposal to the logging industry in the 1950s and 1960s in Southeast Alaska and observed that 6 mills seems low, but the ability to change that exists if the need arises.

SENATOR THERRIAULT remarked the comparison between logging and oil development is good. Oil and gas resources have tremendous value and although the North Slope Borough is remote and it's hard to build infrastructure, the return on the commodity that's produced is so high that no other resource in the state provides the same kind of return for the investment.

SENATOR STEDMAN agreed with the Chair that the committee should hear from the commissioner and the assessor.

CHAIR GARY STEVENS said he understands there are negotiations going on with the Deltana borough charter commission and with Pogo Mine representatives and this would trump those discussions.

SENATOR THERRIAULT pointed out that they could form a borough and under this proposal they would have a 6 mill tax cap plus the opportunity for a sales tax and the Legislature could talk about whether or not the 15 years that's proposed is appropriate. In the Pogo area they hope to find reserves that will extend the life of the mine and they have done that at Fort

Knox. Keep in mind, he said, we do want the initial investment to be made; we don't want to discourage the activity from taking place at all.

[3:11:21 PM](#)

CHAIR GARY STEVENS noted there are ongoing developments in organized areas of the state and local government has the duty of looking at what benefits itself in terms of jobs while not overtaxing to the point that it discourages investment.

SENATOR THERRIAULT said when there's a local government to conduct the debate that's one thing, but in the unorganized borough there is no local government so the debate is taking place in the Capitol.

[3:12:33 PM](#)

CHAIR GARY STEVENS repeated SB 179 has enormous consequences and he would hold it in committee to learn more before moving forward with a CS.

There being no further business to come before the committee, Chair Gary Stevens adjourned the meeting at [3:12:51 PM](#).