ALASKA STATE LEGISLATURE
SENATE SPECIAL COMMITTEE ON NATURAL GAS DEVELOPMENT
June 3, 2006
9:10 a.m.

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Lyda Green
Senator Gary Wilken
Senator Con Bunde
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman
Senator Donny Olson
Senator Thomas Wagoner
Senator Ben Stevens
Senator Kim Elton
Senator Albert Kookesh

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Gary Stevens
Senator Bettye Davis
Senator Hollis French

COMMITTEE CALENDAR

SENATE BILL NO. 2003
"An Act establishing the Alaska Natural Gas Pipeline Corporation to finance, own, and manage the state's interest in the Alaska North Slope natural gas pipeline project and relating to that corporation and to subsidiary entities of that corporation; relating to owner entities of the Alaska North Slope natural gas pipeline project, including provisions concerning Alaska North Slope natural gas pipeline project indemnities; establishing the gas pipeline project cash reserves fund in the corporation and establishing the Alaska natural gas pipeline construction loan fund in the Department of Revenue; making conforming amendments; and providing for an effective date."
HEARD AND HELD

SENATE BILL NO. 2004

"An Act relating to the Alaska Stranded Gas Development Act, including clarifications or provision of additional authority for the development of stranded gas fiscal contract terms; making a conforming amendment to the Revised Uniform Arbitration Act; relating to municipal impact money received under the terms of a stranded gas fiscal contract; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB2003
SHORT TITLE: NATURAL GAS PIPELINE CORPORATION
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

05/31/06	(S)	READ THE FIRST TIME - HELD ON SECY'S DESK
06/01/06	(S)	REFERRALS - NGD
06/01/06	(S)	NGD AT 1:30 PM SENATE FINANCE 532
06/01/06	(S)	Heard & Held
06/01/06	(S)	MINUTE(NGD)
06/02/06	(S)	NGD AT 11:15 AM SENATE FINANCE 532
06/02/06	(S)	Heard & Held
06/02/06	(S)	MINUTE(NGD)
06/03/06	(S)	NGD AT 9:00 AM SENATE FINANCE 532

BILL: SB2004
SHORT TITLE: STRANDED GAS DEVELOPMENT ACT AMENDMENTS
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

05/31/06	(S)	READ THE FIRST TIME - HELD ON SECY'S DESK
06/01/06	(S)	REFERRALS - NGD
06/01/06	(S)	NGD AT 1:30 PM SENATE FINANCE 532
06/01/06	(S)	Heard & Held
06/01/06	(S)	MINUTE(NGD)
06/02/06	(S)	NGD AT 11:15 AM SENATE FINANCE 532
06/02/06	(S)	Heard & Held
06/02/06	(S)	MINUTE(NGD)
06/03/06	(S)	NGD AT 9:00 AM SENATE FINANCE 532

WITNESS REGISTER

DAVID VAN TUYL, Commercial Manager
Alaska Gas Group
BP
POSITION STATEMENT: Supported passage of SB 2003 and SB 2004.

HAROLD HEINZE, Chief Executive Officer
Alaska Natural Gas Development Authority (ANGDA)
Department of Revenue
411 West 4th
Anchorage, AK 99501
POSITION STATEMENT: Testified on SB 2003 and SB 2004.

STEVEN B. PORTER, Deputy Commissioner
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Testified on SB 2003 and SB 2004.

MARK HANLEY, Public Affairs Manager in Alaska
Anadarko Petroleum
POSITION STATEMENT: Testified during hearing on SB 2003 and SB 2004.

JIM BALDWIN
Counsel to the Office of the Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300
POSITION STATEMENT: Answered questions on amendments during hearing on SB 2003 and SB 2004.

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Special Committee on Natural Gas Development meeting to order at 9:10:40 AM. Present at the call to order were Senators Fred Dyson, Bert Stedman, Ben Stevens, Gary Wilken, Lyda Green, Lyman Hoffman, Kim Elton, Donny Olson and Chair Ralph Seekins; Senators Con Bunde, Thomas Wagoner and Albert Kookesh joined the meeting soon thereafter. Also in attendance were Senators Gary Stevens, Bettye Davis and Hollis French.

SB 2003-NATURAL GAS PIPELINE CORPORATION
SB 2004-STRANDED GAS DEVELOPMENT ACT AMENDMENTS

CHAIR SEEKINS announced SB 2003 and SB 2004 to be up for consideration.

9:11:50 AM
DAVID VAN TUYL, Commercial Manager, Alaska Gas Group, BP, testified as follows:

It's a privilege for me to be here to offer my testimony on these two bills. We definitely support the intent behind both SB 2003 and SB 2004. We believe these bills will help progress the gas pipeline fiscal contract.

First, I'd like to offer some comments on SB 2003, the Act that would ... establish the Alaska Natural Gas Pipeline Corporation, which I'll call "PipeCo" for short. SB 2003, as drafted, will enable the state to form a public corporation as the vehicle for the state to be a direct participant in the project.

Article 1 establishes PipeCo and sets the rules of governance within PipeCo. An important aspect of the rules of governance is an exemption from the Open Meetings Act, which ensures that PipeCo can hold certain confidential information it receives from the limited liability corporation, or LLC, as confidential. But the rules of governance strike a good balance in that they require a policy of conducting at least one meeting in public each year.

Article 2 establishes the purpose and powers of the new corporation. This article establishes PipeCo's authorities ... in an appropriate manner to conduct its business as a member of the gas pipeline LLC. But we do have a concern that PipeCo needs to be able to hold confidential information as confidential. This will ensure the free flow of information between the members of the LLC, which is critical to the efficient functioning of the corporation.

The remaining provisions of SB 2003 are fit for purpose and allow PipeCo to effectively participate in the project. We therefore support passage of SB 2003, provided that the bill ensures that PipeCo can keep confidential information as confidential.

Now I'd like to turn attention briefly to SB 2004, which includes amendments to the Stranded Gas Development Act. SB 2004 will enable the legislature to authorize approval of the gas pipeline fiscal contract. The administration did a good job in structuring these amendments and in explaining them to this committee. However, there is one point that we

see just a bit differently than the administration and that we'd like to take a moment briefly to clarify for the record.

The administration stated that the amendment to AS 43.82.220(a)(2) that allows for the inclusions of terms in the contract related to the state reimbursing the producers for certain upstream costs was required because this was not a right the producers currently hold under either existing lease or unit agreements.

We don't agree. In old-form leases, commonly known as DL-1 leases, the state is obligated to pay for certain upstream costs associated with any of its gas it takes in kind. So we feel that this ... is a lease right associated with these DL-1 leases. And the vast majority of the known North Slope gas resource - around 90 percent - is found on these DL-1 leases. The fiscal contract simply extends that existing lease right to all gas from all leases.

To conclude my brief comments, I want to emphasize that BP stands ready, willing and able to advance the gas pipeline project along with our partners, ConocoPhillips, ExxonMobil and the State of Alaska. The gas pipeline fiscal contract, coupled with SB 2003 and SB 2004, makes that objective possible. BP also stands ready to work with the legislature as you complete your work on these bills.

We support passage of SB 2003 and SB 2004 and then encourage the legislature to approve the gas pipeline fiscal contract to enable all Alaskans to benefit from one of the largest energy projects on the planet.

9:17:12 AM
CHAIR SEEKINS asked why it wouldn't be simpler to hold the state similar to the companies with respect to confidentiality of documents.

MR. VAN TUYL agreed it may be a fit solution. He expressed concern that although certain proprietary information could be exchanged among LLC partners to the benefit of all partners, competitive information should remain within the bounds of the LLC. Furthermore, internal discussions about security measures would be appropriate to hold within the LLC. Such information

typically wouldn't be made available to shareholders of a public corporation, he noted.

CHAIR SEEKINS said that appears to be the intent, duplicating the level of equal footing in terms of confidentiality. He suggested reviewing this provision.

MR. VAN TUYL highlighted the need for clarity.

9:20:20 AM
SENATOR ELTON inquired about protocols established among the private partners for handling confidential information.

MR. VAN TUYL explained it's a typical provision within any LLC or undertaking between companies apart from government entities. The desire is to ensure proprietary information is held confidential. Provisions also recognize the need to share good ideas that may not be public; those provisions usually are clearly, carefully and tightly drafted. His company is looking at that to ensure the language establishing PipeCo is written that clearly and carefully.

9:21:43 AM
SENATOR BUNDE related a strongly held tenet among Alaskan businesses and many citizens: the state should stay out of, and out of the way of, private enterprise, which does a better job. However, the companies involved in this project are requesting state participation. He asked for successful models worldwide relating to arrangements between governments and private companies.

MR. VAN TUYL offered to provide that information.

CHAIR SEEKINS announced all members were present.

9:24:20 AM
HAROLD HEINZE, Chief Executive Officer, Alaska Natural Gas Development Authority (ANGDA), Department of Revenue, informed members that ANGDA is a public corporation of the state which was assigned broad powers in 2002, under AS 41.41.010, to bring natural gas from the North Slope to market. He continued:

> ANGDA has taken the lead on in-state gas uses and in lateral-line connection to the Cook Inlet area. The ANGDA board has closely followed, over the last couple years, the public information on Stranded Gas Act negotiations. Since the release of the gas contract

and supporting documents less than a month ago, ANGDA has been reviewing its provisions with a focus on in-state gas use. That review has been expanded over the last few days to include the gas-related legislation introduced by the Murkowski Administration.

Since ANDGA was not inside the negotiating confidentiality fence, we have had to cold read the contract and absorb the numerous consultant studies. In this first past review, several of us have flagged concern that the contract language and provisions will make the actual delivery and use of North Slope gas to Alaskan communities and citizens very difficult.

Discussion papers on the several topics are currently being prepared for the June 12th special ANGDA board meeting, and a listing of the topical items is attached. At the June 12th meeting, the ANGDA board will be considering specific modifications to contracts, and I believe that these suggestions, if incorporated, will facilitate the common goal of making North Slope gas available in Alaska.

Prior to that time, there are two observations that I'd like to flag for the committee's consideration. First, ANGDA already exists. ANGDA may be useful to the state in the creation and/or transition to "Alaska Pipe" proposed in SB 2003. Also, the relationship of these two similar corporations of the state is of longer-term significance to accomplish the state's goals.

And then, secondly, it is important that the state not disadvantage itself by failing to create and fully fund the operations of its gas pipeline corporations. At the same time, it should be recognized that in creating Alaska Pipe under SB [2003], the legislature is making the decision that the state invest in the gas pipeline project. Alaska Pipe is not the decider, only the management implementer of that decision.

The legislature's decision to invest billions of dollars of public money and debt should be based on due-diligence standards; that has not been part of the public legislative considerations to date. The legislature may wish to create and fund Alaska Pipe,

but ... condition the activation of its full authorities on the approval of the contract.

ANGDA wishes to be a positive force in advancing the gas line contract and will interact with you as requested.

9:27:59 AM
SENATOR BUNDE referred to his concern expressed to Mr. Porter at the previous meeting about gearing up and funding PipeCo before a contract is signed and ratified, and that Mr. Porter had noted state entities have worked diligently on this for a long time. Senator Bunde said that's true, but cautioned about the tail wagging the dog. He questioned, if a gas pipeline contract failed, whether the desire would be to have a PipeCo out there negotiating with private enterprise to create a new contract to replace it. He suggested this duty should continue to lie with the administration. He also encouraged Mr. Heinze to establish clear lines of communication with the administration regarding the contract, if they don't exist already.

9:29:40 AM
MR. HEINZE suggested the need now to create an entity that has some project identity and can be part of moving forward the big project. He said it is neither practical nor possible for the bureaucratic arm of the state to do that, since the negotiators have other duties and so forth. While the amount of money seems large on one scale, it is small compared with the payoff. Noting his group has struggled with funding levels and been prudent, he cautioned that things don't happen without money.

He addressed communication, stating intent at the June 12 ANGDA board meeting to review documents on a number of points and then submit those "white papers" as letters to the administration and legislature for consideration. The intent is to be in a positive, suggestive mode. He indicated that since ANGDA's formation, Steve Porter has been it liaison with the administration.

9:31:53 AM
SENATOR BUNDE referenced Mr. Heinze's testimony that the legislature may wish to create and fund a pipeline corporation, but condition the activation of its full authorities on the approval of the contract. Senator Bunde agreed it shouldn't be activated before contract approval, but also questioned funding it before that point.

MR. HEINZE clarified that the grant of power to the corporation - and under the current grant of power to ANGDA - will be broad: the ability to go out and raise money to accomplish the purposes for which the entity has been created. He spoke of the ANGDA board's fiscal restraint, surmising the new pipeline corporation would show similar restraint. Expressing concern that the grant of power in SB 2003 "makes the decision to invest in the pipeline," Mr. Heinze highlighted the diligence required with that decision, which he didn't necessarily believe had been satisfied in the legislative review process.

SENATOR BUNDE offered general agreement, but opined that the decision to invest in the pipeline occurs when the legislature chooses to approve a contract which does that, not when a corporation is authorized.

9:34:28 AM
SENATOR OLSON asked how ANGDA would remedy the difficulty of delivering and using North Slope gas in Alaskan communities.

MR. HEINZE indicated he couldn't answer in detail yet; it's the purpose of the June 12 board meeting. However, he said, he believes the concerns can be resolved through modifying the contract to remove impediments. For example, it would require major commitments in a difficult, complex process for any Alaskan utility to successfully take gas from the pipeline. There is a lack of necessary information and so forth. The contract doesn't provide any "bootstrapping" for the state to help achieve this.

He mentioned Wyoming's highly successful development authority, of benefit to that state, but also the challenge when standing between two private-sector entities and providing a line of credit as a guarantee and assurance for certain things to happen. He suggested this may be an appropriate role in the state for ANGDA or some other group. Noting the contract limits normal Regulatory Commission of Alaska (RCA) jurisdiction, he remarked, "Frankly, we don't even understand at this point fully what that means, but we do understand that an agency that has to play a major role in in-state decisions is somehow, again, limited by the contract language."

9:37:26 AM
SENATOR OLSON said he didn't see the difference between the producers' ability to provide natural gas to smaller communities and ANGDA's ability. He suggested the former would be easier, in fact, especially if RCA was outside some of the process.

MR. HEINZE replied that smaller communities will have to make long-term, binding commitments to get gas delivered. For utilities in his area, those would involve several times the utilities' current worth. For a smaller community along the way, it likely would exceed the net property value within the whole jurisdiction. It's not that those terms are unreasonable; rather, if the only way to protect those interactions is through the Federal Energy Regulatory Commission (FERC), then a tremendous burden of expense would be incurred to get natural gas to even the smallest entity.

9:38:56 AM
CHAIR SEEKINS asked Mr. Heinze to expand on his testimony that the legislature's decision to invest billions of public dollars and debt should be based on a due-diligence standard that hadn't been part of the legislative considerations to date.

MR. HEINZE compared the legislature's decision to a high-level corporate decision, noting he's familiar with what constitutes due diligence in such an instance. As a careful reviewer of the record, he told members nothing right now says $20 billion is the right number "in a diligence sense." A diligence standard usually requires receiving professional, accurate advice as to the range of the numbers, probabilities and so forth. Although there has been a lot of work to arrive at the estimate, it's worth a little money for the legislature to have someone look at the estimate, understand it and then provide a written opinion about the quality and range of that estimate.

CHAIR SEEKINS agreed and suggested that hearing from one or two more consultants shouldn't be a problem.

9:41:12 AM
SENATOR BEN STEVENS asked whether Mr. Heinze agreed the aforementioned amount wouldn't be known until FERC makes a determination and issues a request for the owners for an authorization for expenditure, after when FERC is prepared to issue its certificate of public convenience. He suggested even the other members of the LLC don't know how much it will cost.

MR. HEINZE agreed the project that will actually be built hasn't been defined; until then, the cost won't be known. However, he disagreed on the last point, opining that the corporate entities have far more knowledge than the state does about the quality of the estimates and related issues. "In a public sense, we have zero," he said.

SENATOR BEN STEVENS partially agreed and partially disagreed. He concurred that the corporate entities have greater knowledge of the potential costs of a project of this magnitude, but said the decision by the board of directors of the partner corporations won't commit the funds until FERC has given them the permit that says, "Show us your authorization for expenditure, and here will be the rate of return and here will be the tariff set, based on the project costs ... that we approve that you have given to us." He suggested, at that point, FERC may not approve it.

9:43:59 AM
MR. HEINZE agreed with the assertion regarding FERC. Under federal regulations for the open season in Alaska and under its general proceedings, FERC clearly requires public disclosure of the estimate, cost factors and so forth that have gone into the cost calculation. Hopefully, in this case that will occur. He cautioned, however, that it would be "terribly unfortunate if we found ourselves in Washington, D.C., before FERC, having to drag that information out on the table." Mr. Heinze proposed that the process of moving forward is better served by being aware that information exists which hasn't yet been revealed.

SENATOR BEN STEVENS suggested there is a need for public access to confidential information only if and when the state commits to being a participant. At the time of FERC's sanctioning, all LLC members could determine whether to be partners, and the LLC would vote on whether to move forward. He said he respects both positions: wanting information before participating, and refusing to provide it until there is a commitment to become a partner. He noted that's the policy call the legislature must make about moving to the next level before undertaking due diligence.

9:47:02 AM
MR. HEINZE pointed out two parts to the issues. First, to his understanding, a legislative decision on the contract is a decision to move forward with state involvement; from what can be seen of the "withdrawal provisions," however, and from what isn't seen with respect to LLC voting procedures, the state's "voice" and choices aren't known after that point. "Clearly, at that moment, the legislature is in charge of the decision whether to become an interest owner in the pipeline or not," he added. Second, people beyond the legislature need information. If the marketing arms of the corporate entities have certain

information available, he asked, why isn't it available to local utilities, for example? Why isn't it available through RCA?

9:48:35 AM
STEVEN B. PORTER, Deputy Commissioner, Department of Revenue (DOR), came forward to answer questions, affirming he'd been immersed in the project for some time.

CHAIR SEEKINS asked whether the administration has a good idea of the quality of the rough cost estimates.

MR. PORTER agreed with Mr. Heinze that it's appropriate to do due diligence on the cost estimate; he indicated DOR did that due diligence and spent substantial time with its contractor to ensure there was comfort in depending on the information and cost estimates provided by the producers. However, the report it received is a summary. The data itself isn't available to third parties - including the public, ANGDA or utilities - because it is confidential. It puts third parties in a little more difficult position.

9:50:57 AM
SENATOR BEN STEVENS asked Mr. Porter whether he was referring to information developed during a multimillion-dollar study a few years ago; if so, he requested details.

MR. PORTER affirmed it was that $125 million study, saying the information is owned by the three producers - ConocoPhillips, BP and ExxonMobil. Noting Mr. Van Tuyl could provide details, Mr. Porter said he'd spent a substantial number of hours with the study as well. Pointing out "they do have a data room," he characterized it as a scoping study of the project and a pretty comprehensive analysis, at that point in time, done to arrive at a rough cost estimate.

9:52:09 AM
MR. VAN TUYL specified the aforementioned study was jointly conducted by BP - "actually done by Phillips at the time" - and ExxonMobil over 18 months in 2001-2002. They completed a technical feasibility study; did a commercial analysis of the project; and conducted fieldwork - people walked much of the route and sampled streams and more than 1,000 river crossings, flew the aerial extent of the pipeline route, and completed Global Positioning System (GPS) survey data and a preliminary engineering estimate.

He said conclusions from that study were 1) the project was technically feasible and 2) at the time, it wasn't commercially viable because the identified risks - including regulatory risks and potential fiscal risks - outweighed the rewards. Thus they embarked on two activities. The first was pursuing federal legislation to define the federal regulatory process to ensure the process is efficient and well defined; he noted that in October 2004 the federal government passed the Alaska Natural Gas Pipeline Act, which defined the regulatory process. The second was that in January 2004, "on the back of that study," the three companies jointly submitted an application to the state to initiate negotiation of a fiscal contract under the Alaska Stranded Gas Development Act ("Stranded Gas Act").

9:54:42 AM
SENATOR HOFFMAN requested confirmation that even after the due diligence was concluded, the state: 1) felt the project made fiscal sense, 2) was considering investment at 16 percent and 3) because of the lucrativeness of the venture, negotiated with the "majors" to increase its participation to 20 percent. He recalled hearing that from Dr. Pedro van Meurs.

MR. PORTER offered his personal knowledge: in the negotiations, the state's intent has always been to align its ownership interest with its gas interest. Although there has been discussion of what that ownership interest would be, he didn't remember being at a point of trying to increase the ownership interest by 4 percent because it was an economic venture.

9:56:56 AM
MR. VAN TUYL clarified that the project evaluated during the 2001-2002 joint study involved transporting natural gas from the North Slope to Alberta, Canada. That is the first major hub; from there, gas can be placed virtually anywhere on the North American grid with the existing infrastructure. It also looked at the option of continuing on to Chicago.

He explained that one unknown factor was what the world would look like when Alaska's gas entered the Alberta market - what the western Canadian sedimentary basin would do, for example, or how much ullage out of Alberta would exist. Thus the study also looked at a project continuing to the Midwest; Chicago was chosen because it is North America's most "liquid" market. Indicating the study looked at a full 4 billion cubic feet (Bcf) a day from Alberta to Chicago, Mr. Van Tuyl said it isn't known whether any or part of that section would have to be built.

SENATOR WAGONER asked whether figures for both the aforementioned scenarios were based on 4 Bcf of gas a day.

MR. VAN TUYL affirmed that. He then specified that looked at was a "sort of nameplate capacity" of 4.5 Bcf a day leaving the North Slope. "I think the actual numbers came out to be 4.3, with ultimate delivery to market to be something around 3.9 when you have fuel and shrinkage along the way," he added.

9:59:21 AM
SENATOR BEN STEVENS asked whether the study included in-state transmission or demand.

MR. VAN TUYL answered in detail:

> We did not do ... any kind of a full, independent study of in-state use. What we did do was look at how we might accommodate a future LDC or local distribution company's ability to satisfy that in-state need. And in the fiscal contract, that manifested itself in the commitment of the companies to provide up to four off-take points in Alaska. But we didn't do an independent study of what ... the demand might be.
>
> We did reference some studies that were done by the state to look at in-state demand and whatnot. So we used those numbers to determine sort of what in-state needs might be, but we didn't do a separate, bottoms-up cost analysis or a study analysis, at least none that I can recall right now.

10:00:32 AM
SENATOR BEN STEVENS asked whether it's anticipated, if the contract is ratified, that data from the due diligence of the $125 million study would be made available for informational purposes to the state and to a state entity such as ANGDA.

MR. PORTER replied that under certain circumstances and under certain confidentiality rights, he thinks the state and its affiliates possibly could be brought into that data room for a look. "I don't know that we've discussed the timing of a public sharing of the data," he added.

10:01:30 AM
MR. VAN TUYL suggested this relates to his own testimony regarding the desire of his company - and to his belief, his

partners - to hold certain information as proprietary, in that the cost estimates include the use of proprietary technologies to develop those costs and savings. He surmised certain information might be made public, whereas other information wouldn't; to his knowledge, details hadn't been parsed out as to what could be made public. He noted there is a process whereby people can sign confidentiality agreements and have access to the data, but that is a controlled access.

10:02:28 AM
CHAIR SEEKINS asked whether it would be advantageous for the companies to underestimate the due diligence relating to the cost and "surprise us later."

MR. VAN TUYL noted he is an engineer trained to come up with the best technical data possible; support the data; and then do an internal risk analysis and have other experts on other areas of the project "sort of poke holes at the estimate and say, 'Well, you didn't adequately identify the range of possible outcomes on labor or on the cost of steel or whatnot.'" A contingency to cover that is included as part of the estimate. The effort is to come up with a hard estimate of the cost, he said, rather than a highball or lowball estimate, within a range.

He reported that, currently, with the data available and the rigor with which the cost estimate was done, that range is "plus or minus 20 percent," given market conditions at the time. This is an important caveat. Since the 2001 timeframe, for instance, the cost of steel has more than doubled; he also mentioned the labor market for industrial development. If that estimate were redone - which it hasn't been - the number probably would be higher today.

10:04:34 AM
MR. HEINZE offered his experience: at this level of corporate decision, several people would scrutinize what was going on and ensure points of challenge were put on the table so management had full information. In this instance, however, he didn't know of any way to do that, other than for the legislature to hire somebody to review the estimate and offer independent advice.

MR. PORTER highlighted one reason the state was comfortable with the data-room information created by the industry: it was created for internal purposes at the time, not to negotiate with the state; their job was to provide their management teams with a number they believed accurate in order to facilitate good decision making.

10:06:24 AM
CHAIR SEEKINS surmised someone was estimating how the economic conditions had changed and thus would affect this project.

MR. VAN TUYL said BP did its own internal assessments compared with the work finished in 2002, and updated it; he imagined the partner companies did the same, though they hadn't come together collectively with a consensus view of the updated number.

10:07:08 AM
SENATOR WAGONER questioned whether $20 billion is known to be a good number. Regarding due diligence on the part of the state, he acknowledged the necessity, but said he wasn't sure how to go about it. He cautioned about knowing what it entails before the legislature goes much further in investing in "plus or minus 20 percent" of this high-risk line. He highlighted the legislature's responsibility to be diligent in investing the state's money.

10:08:54 AM
MR. HEINZE brought attention to an article in the June 4 electronic issue of Petroleum News about success in big projects; it quotes heavily from Al Rogers of Independent Project Analysis (IPA). Mr. Heinze clarified that he didn't question the intention of the people who made the estimates. However, the state needs to understand that competent people may get it wrong half the time, and to understand what kind of labor productivity is built in, for example. There is plenty of opportunity for things to go awry. As part of diligence, therefore, those questions should be asked. In response to Chair Seekins, he agreed to fax a copy of the article.

10:10:33 AM
SENATOR WAGONER noted the aforementioned article summarized what Mr. Rogers said during the recent meetings at Centennial Hall. Senator Wagoner remarked that it was no great revelation.

MR. PORTER acknowledged that point, but clarified the state's commitment to authorize this contract or participate in this gas pipeline is not a commitment to spend the 20 percent; rather, it's to move forward with the analysis "to get us there." That's why the work commitments are designed as they are. There can be no decision today to build the gas pipeline, which is why Mr. Rogers in the IPA presentation talked about a staged analysis, Mr. Porter added.

He explained, "We're going to go back through, a scoping time where we do project planning, we continue to go back through a review of the engineering, do the analysis in the project planning to get that cost estimate even more accurate." That's why a project-sanction decision on whether to move forward with a major process of building this pipeline is actually three to four years away. At that point, the state needs the right to decide whether to take the risk as a participant.

MR. HEINZE said Mr. Porter had just highlighted the reason for moving forward to form the corporation. Someone is needed to examine not only the financial aspects, but also the entire project, to be a good participant in defining the project and moving forward. Absent forming the corporation and providing money, Mr. Heinze questioned how it would get done.

10:13:38 AM
SENATOR BEN STEVENS referred to the Alaska Natural Gas Pipeline Act passed by Congress in October 2004 and its $18 billion loan guarantee. He asked whether this federal guarantee would apply if the state became a participant.

MR. VAN TUYL affirmed that, noting the aforementioned legislation had many facets, including loan guarantees for up to $18 billion and providing for financing for "up to 80 percent debt" associated with the project. One key aspect of the LLC agreement is to ensure the participants can access the financing they need to go forward with the project. He highlighted the importance to participants of being able to take advantage of those loan guarantees.

SENATOR BEN STEVENS surmised that if the sponsor group anticipated costs exceeding the loan-back guarantee, they'd ask Congress for an increase in the loan guarantee amount.

MR. VAN TUYL indicated he wasn't aware of that intent by BP.

SENATOR BEN STEVENS clarified he was observing that Congress likely would be receptive to a request for an increase, given the situation with gas in the Lower 48.

10:17:27 AM
SENATOR STEDMAN referred to Mr. Porter's earlier comments and the cost estimates. Senator Stedman said it seems "we're going through the normal process" and wouldn't know the exact cost until the project is sanctioned in two or three years; even

then, it would be a guess, likely a low estimate, from what they'd heard about dealing with mega-projects.

CHAIR SEEKINS suggested due diligence is a continuing standard.

The committee took an at-ease from 10:18:02 AM to 10:29:24 AM.

SENATOR BUNDE observed that the state is often accused of not doing business well; he gave examples.

MR. VAN TUYL said he could give a more complete response after additional research. He provided as an example the involvement of the federal Minerals Management Service (MMS) in taking its royalty share of gas in kind, similar to the arrangement proposed here for the state. The MMS royalty-in-kind (RIK) program started a number of years ago on a relatively small scale in order to get experience and then decide whether it is an appropriate government role; it has grown, and recently MMS took out ten-year firm transportation (FT) - similar to what will be looked at for this project - to transport its royalty share of gas and commit the gas to a project.

He said MMS cited three reasons for continued expansion of its RIK program: higher market value for the royalty gas; lower administrative costs than with the traditional royalty-in-value program; and fewer disputes with the industry, because of commercial alignment. Mr. Van Tuyl reported a similar RIK arrangement with the State of Wyoming for which similar reasons were cited. He offered to reference articles in which MMS stated the foregoing, and to try to provide international examples of equity participation by governments as well.

10:33:37 AM
MR. PORTER related his belief that the business of state government is not to be in private enterprise. In government, the advocates for participating in a major project tend to overestimate benefits to the public and to underestimate costs and risks; he noted a substantial amount of research has been done on this. Mr. Porter said he has some comfort with this project, however, because the state's three partners are some of the largest corporations in the world and have private decision-making analysis, with the state as a minority partner.

SENATOR DYSON asked in which ways the interests of the state or its people aren't exactly aligned with the fiscal interests of the major companies, even potentially.

MR. PORTER answered that the corporations have one primary responsibility: to their shareholders, to make a profit. The state's additional responsibilities include creating and participating in a project and trying to bring the maximum benefit to Alaska's people; in-state gas use is somewhat in that arena. Another issue, for which a solution hasn't yet been found, is that a number of people in the Interior and the Cook Inlet area want to see a petrochemical industry. Although elements of four studies have looked at trying to make it economically viable, none of the contractors have come back and said it's a good idea. The producers are less interested in where it occurs, other than trying to capture the most value.

10:37:45 AM
MR. VAN TUYL highlighted a key aspect: unprecedented commercial alignment, with the state able to align itself with experienced participants, creating a good synergy. Although different interests exist, he offered the belief that the contract deals with those specific interests. He cited examples, including the studies required in Article 9 by all participants; provisions for "Alaska hire"; and that any party is free to compete for the opportunity to provide in-state gas, something BP - which brings energy to customers - will compete for.

10:40:23 AM
MR. PORTER pointed out the parties' different positions regarding financial structures. Even the three producers have different financial priorities and ways they like to finance projects, he said. Any of the three producers may be able to pay cash for this project, for example, under today's oil-price scenarios. The state has an interest in protecting its downside risk, and its cash-flow issues differ from those of the producers. When the state comes to the table to negotiate how to finance this, ensuring it is protected in that environment is challenging.

SENATOR DYSON remarked that in his years at BP, he learned about environmental, political and permitting issues. While the "over-the-top" route desired by the industry would have been shorter and perhaps cheaper, he opined, the highway route could be built sooner and be less problematic, and would allow more in-state use. He asked how financial arrangements are being structured so they don't do a disservice to the producers' stockholders and yet take care of state interests including the following: timing, since doing the project soon would increase state income for services; in-state use such as gas in the Cook Inlet region seven or eight years from now for power, home

heating and, hopefully, continuation of value-added industry; and "people" issues such as training for construction and long-term operating jobs.

10:45:09 AM
MR. PORTER recognized the desire to bring the gas on line as soon as possible, but also recalled testimony by IPA that being schedule-driven can ultimately cost more than holding off for a couple of years and doing it right. He suggested the industry, while good at methodically walking through the process, has a "freight train" problem as well: once a management team decides to move forward, it tends to minimize costs and be schedule-driven, which occasionally in the past had created an environment in which information was lacking in the decision-making processes, leading to cost overruns. Thus the state may be the party dragging its feet to ensure a particular stage of the project is done effectively and thoroughly before jumping to the next stage - ensuring the producers spend the money necessary for the analysis required to make the decision to move forward.

10:47:51 AM
SENATOR DYSON said he hopes Mr. Porter is right. He expressed concern about getting the revenue stream flowing and getting gas, particularly for the Interior and Cook Inlet. For whatever reasons, including some valid ones, he noted, the producers may want to go slowly, and the state's 20 percent interest doesn't give it veto power over the qualified project plan.

MR. PORTER highlighted one problem encountered in negotiations with regard to voting in the LLC: generally, veto power provides the ability only to delay a project, not to move it faster. What can move a project faster is the stability of the teams - ensuring the producers aren't trading out their management teams continually - and ensuring the project is done well and efficiently. In addition, as co-owner, the state plans to watch the diligence under which they proceed, and has the right to blow the whistle, if necessary, if there is stalling.

SENATOR DYSON indicated he had continuing concerns. He said it appears the only option for the state would be to quit. He asked about other sanctions or inducements that wouldn't stop the progress or cause a change in teams.

10:51:23 AM
MR. VAN TUYL said Senator Dyson raised a number of excellent issues. Regarding the over-the-top or highway route, he

reported both were looked at in the 2001-2001 joint study; it was concluded there was no cost advantage to either. More important, the northern route is prohibited by both federal and state law. Thus the exclusive focus is on making the highway route as efficient as possible regarding costs and schedules.

He emphasized BP's desire to diligently advance this pipeline project, noting the contract package includes terms that would increase oil taxes by a billion dollars a year, just for the opportunity to do the project. With respect to timing, Mr. Van Tuyl said the contract gives the state a "stick," a diligence standard. If the producers fail to live up to it, the state can terminate their rights under the contract, the fiscal stability they've bargained for, which BP wouldn't want to jeopardize.

He discussed minimizing unfructified capital - that which isn't bearing fruit. Once a company starts investing in a project, the idea is to get it on-stream as soon as reasonably possible. There is a dynamic tension: do it quickly, but do it right, avoiding mistakes such as becoming schedule-driven. The fear is having a project cost two or three times what was anticipated. He suggested the contract recognizes this tension and ensures diligent advancement of the project, recognizing the goal isn't, at all costs, to deliver a project by a certain date.

10:55:12 AM
SENATOR BUNDE voiced concern about misalignment between the legislature and the people: the legislature may want high prices in order to fund services, and yet the people may want low gas prices and legislators may campaign on providing that. He asked whether the firewalls are adequate to protect the legislature from this, for instance.

MR. PORTER replied the issue has arisen several times, especially with the Municipal Advisory Group (MAG) and interested parties. He suggested the misalignment could be focused, rather than eliminated. The gas that Alaska sells has to be based on a commercial basis. The tension must lie with the legislature, not the entity selling the gas. If people want cheap gas in Cook Inlet, for example, they need to understand it's a subsidy and ask the legislature for it; if the legislature decides to provide Alaskans with cheap gas, then it's up to the legislature to handle that stress, tension and decision from a policy standpoint. It's a subsidization decision, one legislators make daily.

SENATOR BUNDE asked whether there's an adequate firewall between PipeCo and the legislature so that PipeCo can continue to be commercial.

MR. PORTER answered it's exactly why PipeCo was created as it was. It's meant to be as independent as possible, with minimum exposure to political influence. It's the reason for six-year terms, for example, so any one administration can't control the entity's decision making. Together with removal for cause, this provides an amount of independence that Mr. Porter said he hopes will protect the entity from such influence.

11:00:31 AM
SENATOR SEEKINS expressed appreciation for the insulation of a corporate group from political influence. He cited a personal example.

SENATOR BEN STEVENS commented on the state's unfructified resources. He then turned to the balance between the state's exposure to risk and the potential benefits. Referring to the presentation from Mr. Rogers and IPA, he cited an estimated cost of $22.5 billion; $18 billion in loan-back guarantees; and the state's $1.2 billion share of the $5.8 billion overall equity at risk over the project life.

He indicated this pales when compared with the amount the legislature will spend over the next 30 years. Even if a 50 percent overrun resulted in a cost of $33.7 billion - and if Congress didn't raise the loan-back guarantee - the state's share of the $15.7 billion total risk would be $3 billion over 35 years or so. Senator Ben Stevens suggested this amount is almost insignificant when considering the benefits of infrastructure, employment, revenues for public services and so forth. If the state's participation is the catalyst that moves the project forward, he said, it's worth the risk.

11:06:23 AM
CHAIR SEEKINS asked how long it would take the state to recover that at-risk capital once gas starts to flow.

SENATOR BEN STEVENS answered it would be four to five years, from the cash flow this project would generate.

MR. VAN TUYL noted it could be sooner, depending on the price.

SENATOR BEN STEVENS said the question is whether state participation is the catalyst that leaps it forward.

11:07:20 AM
SENATOR OLSON agreed with Senator Ben Stevens' concern regarding investment and long-term payoff, but asked how to ensure this bureaucracy doesn't become "a dinosaur that can't feed itself," especially if gas prices go down. He also asked about safeguards if a situation isn't in the state's best interest.

MR. PORTER noted the legislature has control over the operating budget. Referring to the legislation and the fiscal note, he said the intent is to identify that organization as a "non-operator" organization, primarily responsible for tracking the operator, ensuring a good job is done and having staff available so the non-operator's decision is fully supported by information and documentation. The state entity should never be more than a dozen people; it's controlled by the amount of money provided in the operating budget. The operator - probably one of the producers, unless the decision is to have a third party build or operate the pipeline - will have the so-called bureaucracy.

SENATOR OLSON pointed out the lack of fiscal restraint this year.

MR. PORTER replied that from the gas pipeline standpoint, no personnel have been hired to date, despite the authority to spend about $1.5 million on personnel. "We felt like it was appropriate to timely delay that until we had an organization set in place," he explained. "So we have been trying to be efficient with your money ... and to spend it wisely."

11:11:06 AM
SENATOR STEDMAN opined that if the oil-tax change is linked with the gas line, more than the equity-position exposure would likely be generated by the time the line is constructed, and certainly by the time the gas first flows. "We don't have near the exposure that is readily apparent on the surface," he added.

SENATOR WILKEN referred to the payment in lieu of taxes (PILT) with respect to municipalities, noting it is done presently on full and true value, whereas now a "20 percent throughput PILT" is being established to replace it. According to Randy Hoffbeck, he said, that's established with the valuation at $3.5 billion; in mid-May, a decision increased that by 20 percent, to $4.3 billion. He asked whether it's proper, in the amendments or the contract, to go back and adjust the [20.4]-cents-per-barrel throughput based on the new, increased valuation of the pipeline, and also to set out that the PILT

payment - whatever it's established on in the future - is established on the most current valuation of the pipeline.

11:14:00 AM
MR. PORTER deferred to Mr. Van Tuyl for details regarding future payments, but offered his understanding that the valuation of the pipeline is established, whether at 4.3 or 3.5, the amounts coming from the PILT. The contract incorporates an automatic inflation factor so the amount is certain over time.

MR. VAN TUYL added that the Trans-Alaska Pipeline System (TAPS) rate in the contract is the 20.4 cents Senator Wilken referred to. He related his view that all contract terms are part of the whole: if any one is adjusted, there needs to be consideration given for the entire contract. He agreed with Mr. Porter that all rates included in Article 17 have an escalation factor; that effective rate increases through time for the duration of the contract.

He pointed out that the value of TAPS has declined virtually every year, with one exception in addition to this current year; thus it's a departure from the past to have an escalator. As part of the balance for the deal, however, to get the desired certainty, the rate was locked in at an increased value from what the valuation was last year. "Industry came in at, I think, $1.4 billion; the actual valuation was set at 3," he said. "The contract value was established at the 3.5, the 20.4 cents, with an escalator. So, yes, that's how the TAPS rate works."

SENATOR WILKEN asked whether the 20.4 cents should be escalated by "the '05 increase of the valuation of the pipeline."

MR. PORTER referred to a resolution passed by MAG in recognition of the same issue - which, he said, would only become a problem if there were a decision to attempt to renegotiate those terms. He noted MAG recommended that if the basis of the pipeline truly has changed "from 3.5 to 4.3," it would be appropriate to change the PILT as well. From a procedural standpoint, it is the commissioner's responsibility during this public hearing process to review those comments, evaluate them and determine whether amendments are necessary based on those comments - in essence, to determine whether renegotiation of those terms should occur and, if so, to renegotiate them and return to the legislature with amended terms. He added, "That would be the process under which ... we'd evaluate that 4.5."

11:17:45 AM
SENATOR WILKEN asked whether the PILT would be flat for nine years.

MR. VAN TUYL clarified that it escalates right away.

SENATOR WAGONER agreed with Senator Ben Stevens' earlier remarks, but qualified it somewhat, expressing concern that one mega-project has been built in Alaska since 1969. Noting the same companies will build this line, he asked what assurances exist, or what the companies are doing to ensure there won't be similar huge cost overruns, since this line will be 2.5 longer than TAPS, for instance, and there will be similar issues such as workforce availability, contractors and so forth.

11:19:25 AM
MR. VAN TUYL indicated BP and its board of directors have worked to learn from the TAPS experience to ensure it isn't repeated. One reason TAPS overran preliminary estimates is related to regulatory snags. Calling it a classic example where schedule-driven mega-projects fail, Mr. Van Tuyl said this is a key reason they sought clarity on the federal regulatory process. They've learned a lot about technology, including engineering for river crossings and designing traverses for passes. Furthermore, they've learned the importance of lining up materials and resources, two areas of significant overrun for TAPS. This includes access to steel and having the right people identified and trained. Thus Article 6 of the contract includes subsidizing training for the workforce. Characterizing it as front-end loading, Mr. Van Tuyl indicated the approach will be highly disciplined, with the dynamic tension of wanting to get to the point of producing gas and having a return.

11:23:11 AM
SENATOR BUNDE asked what percentage of the cost would be for labor.

MR. VAN TUYL said he would find out.

CHAIR SEEKINS offered his experience that it is difficult to estimate even the cost of a new building four years from now.

SENATOR BUNDE highlighted differing interests of the state and its citizens: building a pipeline as cheaply as possible versus wanting high wages.

CHAIR SEEKINS concurred, noting the state is an investor in this and neither the producers nor the state would want costs to escalate unreasonably. He recalled ballooning prices during TAPS construction in the Fairbanks area, in particular, but said TAPS was a good investment in the end, even though much more expensive than anticipated. He acknowledged there would be tension between the best interests of the state and its citizens.

The committee took an at-ease from 11:27:47 AM to 2:21:43 PM.

MARK HANLEY, Public Affairs Manager in Alaska, Anadarko Petroleum, told members his company is extremely interested in ensuring a gas line gets built, although official comments on the contract itself aren't ready yet. Regarding amendments to the Stranded Gas Act, he encouraged members to review Don Shepler's June 2, 2006, memorandum and perhaps talk with the consultant. Mr. Hanley said the memo raises issues Anadarko also has identified, generally relating to expansion and regulatory authority, not the contract's fiscal terms. One new issue raised is the 45-day public comment period, which Anadarko had planned to be part of; the memo suggests amendments drafted to address a number of concerns could be included in the Stranded Gas Act amendments. Mr. Hanley agreed it's better to address them in statute, rather than just as comments.

2:25:02 PM
MR. HANLEY, in response to Senator Dyson, listed the following issues raised in Mr. Shepler's June 2 memo that are of like concern to Anadarko: lack of an LLC available to look at, of concern since that entity will apply for the FERC certificate, set the rate and decide who gets to expand the pipe; expansion issues; absence of commitments regarding voluntary expansion; rolled-in-price issues; sole-risk expansions on the state's part as an option, which Anadarko believes is a valuable option; the weakness of the state-initiated expansion; and that the LLC agreements aren't there for the legislature to review. Mr. Hanley said he didn't know about requiring the state to consent to any material change in the qualified project plan.

SENATOR DYSON noted Mr. Hanley hadn't mentioned the absence of commitments regarding capital structures for tariff purposes.

MR. HANLEY replied he'd have to look at it. He specified that the final item, about the net book value, would concern his company as well. In response to Senator Elton, he said Anadarko's team members were still going through the contract;

most hadn't read the June 2 memo yet, and they hadn't looked at specific amendment language. He suggested they could testify next week. He noted they would have submitted public comments in another week and a half, but the memo had made him realize it might be too late at that point.

CHAIR SEEKINS asked whether Mr. Hanley had an opportunity to discuss any of these points with Mr. Shepler or his staff.

MR. HANLEY replied not since the memo came out. He elaborated on his contacts with Mr. Shepler over the years, noting Anadarko hadn't shared an official position on the proposed contract with him or anyone, although Mr. Shepler's memo is a good representation of issues Anadarko has dealt with. In further response, regarding when Anadarko's comments would be available on the contract, Mr. Hanley said they're aiming for early next week with respect to issues raised in the memo.

2:31:50 PM
CHAIR SEEKINS noted members had received a complete version of the Stranded Gas Act that morning, and said he'd received the information referred to by Mr. Hanley from the Internet. He asked whether anyone else wished to testify. He then turned attention to amendments.

The committee took an at-ease from 2:33:44 PM to 2:36:38 PM.

SENATOR DYSON moved to adopt Amendment 1 to SB 2004, labeled 24-GS2046\A.5, Bailey, 6/3/06, which read:

A M E N D M E N T 1

OFFERED IN THE SENATE BY SENATOR DYSON
TO: SB 2004

Page 3, lines 3 - 4:
Delete "**modifications of taxes on oil and gas, including terms providing for**"

Page 3, line 4, following "taxes":
Insert "**on oil or gas or both**"

SENATOR DYSON objected for discussion purposes. He explained that this section allows the commissioner to substitute payments in lieu of taxes. Although it seems clear that the phrase being deleted on lines 3-4 is superfluous, the administration had testified that this language or something like it is needed to

clarify there could be a PILT substitute for oil or gas taxes. Senator Dyson said he thinks this is accomplished, but he is less confident that adding "on oil or gas or both" is needed.

2:39:06 PM
JIM BALDWIN, Counsel to the Office of the Attorney General, Department of Law, concurred that Amendment 1 preserves the ability to agree to establish a payment in lieu of taxes on oil or gas. While the language being deleted is helpful, to his belief, the amendment still preserves the aforementioned ability.

2:40:30 PM
SENATOR DYSON removed his objection.

CHAIR SEEKINS announced that without objection, Amendment 1 to SB 2004 was adopted.

He confirmed with Senator Dyson that a second amendment wouldn't be offered.

The committee took an at-ease from 2:41:20 PM to 2:43:01 PM.

SENATOR BUNDE moved to adopt Amendment 1 to SB 2003, labeled 24-GS2056\A.2, Cook, 6/2/06, which read:

A M E N D M E N T 1

OFFERED IN THE SENATE BY SENATOR BUNDE
TO: SB 2003

Page 5, line 16, following "(c)":
Insert "At least three of the public members of the board must be state residents. Other public members need not be state residents."

CHAIR SEEKINS objected for discussion purposes.

SENATOR GREEN also objected.

SENATOR BUNDE recalled discussion of whether members of the new natural gas advisory group should be Alaskans, and that the administration wanted the best expertise possible, perhaps even from Canada. He suggested that having three public members of the board be state residents gives the administration its option, while there will be the "buy-in" and institutional

memory with having five total members - including, presumably, the commissioners - who are Alaska residents.

CHAIR SEEKINS asked whether anyone from the administration wished to comment.

SENATOR GREEN inquired whether Tam Cook, director of Legislative Legal and Research Services, believed the second sentence was necessary. She said it seemed superfluous.

SENATOR BUNDE, noting the amendment was created by Legislative Legal Services, said he hadn't asked for that specifically.

2:46:30 PM
CHAIR SEEKINS and SENATOR GREEN removed their objections. Without objection, Amendment 1 to SB 2003 was adopted.

2:47:41 PM
SENATOR BUNDE moved to adopt Amendment 2 to SB 2003, labeled 24-GS2056\A.3, Cook, 6/2/06, which read:

A M E N D M E N T 2

OFFERED IN THE SENATE BY SENATOR BUNDE
TO: SB 2003

Page 6, line 8:
Delete "or portion of a day spent"
Insert "during which the member spent at least four hours"

SENATOR GREEN objected.

SENATOR BUNDE explained that Amendment 2 to SB 2003 was offered to generate discussion. Although people on this board will have valuable expertise and deserve adequate compensation, someone might show up for a teleconference or "15-minute check in and check out" and get the $400 honorarium. Requesting discussion of what is an adequate amount of time spent, he said four hours was chosen because it's the amount of time necessary for a legislator to claim "long-term per diem."

SENATOR ELTON noted early morning or late-night meetings might require a member to travel either the previous day or the following morning. When this is coupled with language saying the four hours must be spent at a meeting of the board, people are penalized.

2:50:39 PM
SENATOR BUNDE asked whether Senator Elton was suggesting a board member would qualify for three days' worth of honorarium if the person spent one day traveling, one day meeting and then a day returning.

SENATOR ELTON responded, saying he anticipates that the people of the caliber desired for the board would deserve the honorarium. Furthermore, he isn't bothered by providing an honorarium for the time during which they're away from their other professional lives.

SENATOR WAGONER concurred, noting $400 a day isn't a lot of compensation, considering the quality of people who'll be asked to serve. However, he agreed $400 shouldn't be provided for 15 minutes on teleconference. He suggested looking at providing a 50 percent honorarium for anything less than two hours spent on the business of the LLC, for example, but pointed out that these people could be put in a position where their time was taken up because of scheduling problems and so forth.

SENATOR BEN STEVENS opposed Amendment 2 for multiple reasons: other members of state boards receive compensation, although only on a day when a meeting has been called and public notice sent; there also could be travel per diem, at a different pay level; and considerable time is spent preparing for board meetings, and may even result in shorter meetings. Unless it's applied to all state boards and commissions, he said, it is unfair to target a single board with such a four-hour requirement. He pointed out that although legislators have a four-hour requirement, theirs is a job, not a board position.

2:55:54 PM
SENATOR STEDMAN agreed this isn't the time to be pinching pennies with respect to the honorarium, and noted that per diem for transportation is covered by statute.

CHAIR SEEKINS remarked that it's the same amount of honorarium he received in the early 1990s while serving on the Alaska Permanent Fund Corporation Board of Trustees.

SENATOR BUNDE withdrew Amendment 2 to SB 2003.

2:56:53 PM
SENATOR BUNDE offered a conceptual amendment to SB 2003, later labeled conceptual Amendment 4, to add "in-person or face-to-

face" following language beginning on page 6, line 7, of the bill, relating to the $400 honorarium.

SENATOR GREEN objected. She explained that the time involved can be the same, regardless of whether the meeting is via teleconference; she related personal experience. She also agreed with Senator Ben Stevens' previous comment, on Amendment 2, that if it applies to this board, it should apply to all others. She asked about Chair Seekins' experience.

CHAIR SEEKINS recalled that some teleconferencing had been allowed, and that if the time was spent, the honorarium was provided.

SENATOR HOFFMAN objected as well. He pointed out that teleconferencing is encouraged today in order to save time and money. Such encouragement would disappear with this amendment.

2:59:35 PM
SENATOR BUNDE suggested the need to revisit other boards and commissions. He expressed concern about spending the public's money to pay someone who made a 15-minute phone call.

CHAIR SEEKINS indicated he'd have staff member Brian Hove check with someone from the Alaska Permanent Fund Corporation board.

SENATOR GREEN pointed out that page 6, beginning at line 12, says the board shall adopt policies and procedures to ensure compensation isn't paid to a member or other person if the value would exceed the value of the consideration provided to the corporation. Thus it is addressed somewhat, with the policy determined by the board.

SENATOR WILKIN noted he sits on boards, one of which does much work by teleconference, sometimes requiring six hours in a day. He said while he appreciates what Senator Bunde is attempting, it may be a bit misguided because of how the real world works. Highlighting the cost savings, he said he'd hate to be penalized because he chose to participate by teleconference.

SENATOR BUNDE withdrew conceptual Amendment 4 to SB 2003.

3:02:17 PM
SENATOR BUNDE moved to adopt Amendment 3 to SB 2003, labeled 24-GS2056\A.4, Cook, 6/3/06, which read:

A M E N D M E N T 3

OFFERED IN THE SENATE BY SENATOR BUNDE
TO: SB 2003

Page 6, line 29:
Delete "promptly"

Page 6, line 30, following "board":
Insert "within 30 days after the seat becomes vacant"

SENATOR GREEN objected.

SENATOR BUNDE indicated this relates to the governor's appointment, saying "promptly" could last for months, possibly prohibiting action by a group highly important to the state.

3:04:10 PM
SENATOR WILKEN moved to adopt Amendment 1 to Amendment 3 to SB 2003, deleting "30" and inserting "90".

SENATOR GREEN objected for discussion purposes.

SENATOR WILKEN explained that this board will be one of the three most important in Alaska. He questioned the governor's ability to easily find someone with the necessary qualifications, and said he'd hate to rush that process.

SENATOR BUNDE said he had no objection.

SENATOR GREEN withdrew her objection.

SENATOR ELTON spoke in support of 90 days, noting it also imposes a deadline for someone who is being asked to serve.

CHAIR SEEKINS asked whether there was any objection to adopting Amendment 1 to Amendment 3 to SB 2003. There being no objection, it was so ordered.

3:06:02 PM
SENATOR GREEN withdrew her objection to Amendment 3.

CHAIR SEEKINS asked whether there was any objection to adopting Amendment 3 to SB 2003 as amended. There being no objection, it was so ordered.

3:06:27 PM

CHAIR SEEKINS moved to adopt Amendment 5 to SB 2003, on page 6, line 4, to delete "provided", which he surmised wasn't intended by the drafters. There being no objection, it was so ordered.

3:07:34 PM
SENATOR WILKEN said he'd misread signals and therefore hadn't done an amendment to the PipeCo bill - SB 2003 - with regard to voting on fiscal issues by teleconference. He offered to do a conceptual amendment or type one for later.

CHAIR SEEKINS agreed to having it typed for later. He returned attention to SB 2004.

3:08:25 PM
SENATOR WILKEN moved to adopt Amendment 3 to SB 2004, labeled 24-GS2046\A.4, Bailey, 6/3/06, which read:

A M E N D M E N T 3

OFFERED IN THE SENATE BY SENATOR WILKEN
TO: SB 2004

Page 9, following line 14:
Insert a new subsection to read:
"(f) Before making awards of grants under this section for a fiscal year, the commissioner of commerce, community, and economic development shall provide reasonable public notice of all grant applications received, the recommendations of the relevant municipal advisory group, preliminary determinations made concerning the eligibility of each municipality or organization for a grant, the eligibility of each expenditure or proposed expenditure for a grant, and the proposed allocation of available money among grant proposals. The public notice must specify a time and place for a public hearing during which the commissioner will receive comments concerning the preliminary determinations and allocations of the department. The commissioner shall give reasonable public notice of the final awards of grants made under this section. Final awards take effect 30 days after public notice is given and may be paid to the grantees according to procedures established by regulation."

Reletter the following subsections accordingly.

Page 9, following line 25:
Insert a new subsection to read:
"(j) In this section, "direct or severe impact" means a clearly demonstrable effect on a community that proximately contributes to a material change to transportation, infrastructure, law enforcement, emergency services, health and human services, education, labor force, population, wages, subsistence, or another sociocultural element brought about by the construction of a gas pipeline."

SENATOR WILKEN objected for discussion purposes. He noted the first section of Amendment 3 to SB 2004 relates to public notice, and the second section defines "direct or severe impact".

CHAIR SEEKINS invited Mr. Baldwin to give the administration's perspective on any amendment.

SENATOR WILKEN explained that the first section of Amendment 3 to SB 2004 makes public how the grants are analyzed, validated and awarded, in a public forum. There was trouble in the past with a grant process done out of the public eye, without record or with records that couldn't be obtained. This ensures that communities know who's getting what, and that Alaska's people know how this impact money is being divided up.

3:11:11 PM
SENATOR WILKEN noted the second section of Amendment 3 to SB 2004, instead of saying what impacts are, says what they aren't, providing sideboards. It combines definitions from the Alaska Coastal Management Program; the Alaska Surface Coal Mining Control and Reclamation Act; and Legislative Research, which rolled in its suggestion and other definitions from government.

3:12:30 PM
CHAIR SEEKINS began discussion of what later became Amendment 3 to Amendment 3 to SB 2004, relating to the first section of the amendment, line 13, which says in part, "Final awards take effect 30 days after public notice". He surmised this refers to public notice of the final awards, not the notice specifying a time and place for public hearing. He asked whether it would be advantageous, after "public notice", to insert "of the final awards".

SENATOR WILKEN said he'd accept that as a friendly amendment.

3:13:36 PM
SENATOR ELTON began discussion of Amendment 1 to Amendment 3 to SB 2004. He requested a legal opinion about the inconsistency between the phrase "or another sociocultural element" in the second section of Amendment 3 and the phrase "and for socioculture" on page 9, line 8, of the bill.

MR. BALDWIN suggested making them parallel for consistency purposes, replacing the language in the amendment with the language from page 9, line 8, of the bill.

3:15:31 PM
SENATOR ELTON moved to adopt Amendment 1 to Amendment 3 to SB 2004 as follows, which included his addition of a hyphen to the word "sociocultural":

> Page 1, line 23, of the amendment, following "subsistence":
> Delete "or another sociocultural element"
> Insert "and for socio-cultural impacts"

3:16:38 PM
SENATOR OLSON asked about adding "the impact or planning for" to the list of provisions at the bottom of the amendment because planning must come up in order to remedy an impact.

CHAIR SEEKINS announced it would be taken up as a separate issue.

3:18:12 PM
SENATOR DYSON returned to Amendment 1 to Amendment 3. He said it had been suggested that "and" be used, implying all those items listed must be taken into account. However, "or" allows picking from any or all, which he surmised would be the desire.

SENATOR ELTON accepted "or for" to replace "and for" as a friendly amendment. He noted it would probably mandate a conforming amendment on page 9, line 8, of the bill.

SENATOR BUNDE spoke against "or", saying it wouldn't allow any sideboards or limitations. He pointed out that the maker of the main amendment said it denotes what isn't allowed. Thus he preferred "and" in order to have it list a totality of impacts.

SENATOR WILKEN supported "or". Highlighting the difficulty of defining impacts in statute, he suggested impacts are whatever a

group of people think they are when, in good faith, they sit down to determine whether an impact exists. The decisions of the commissioner or MAG will be public, and they'll be held accountable for their decisions. Thus he proposed "or" is appropriate because it broadens it and yet there is accountability. He indicated that if "and" were left in, the community would have to qualify for all those on the list.

3:22:12 PM
CHAIR SEEKINS asked whether Senator Bunde maintained his objection.

SENATOR BUNDE affirmed that, saying he'd like to strike that whole last phrase.

SENATOR ELTON clarified that with Amendment 1 to Amendment 3, including the change to "or", the language to be inserted would read "or for socio-cultural impacts".

3:23:09 PM
A roll call vote of 10 yeas and 2 nays proved Amendment 1 to Amendment 3 to SB 2004 passed, with Senators Kookesh, Ben Stevens, Stedman, Olson, Dyson, Wilken, Elton, Hoffman, Wagoner and Seekins voting yea and Senators Bunde and Green voting nay.

3:23:52 PM
SENATOR OLSON informed Chair Seekins that he'd like to hold off on the amendment he'd mentioned earlier, since he didn't see a good place for it.

CHAIR SEEKINS said it would be kept open until tomorrow.

3:24:18 PM
SENATOR BUNDE moved to adopt conceptual Amendment 2 to Amendment 3 to SB 2004, second section of the amendment, as follows:

Page 1, line 23, of the amendment, following "wages":
Insert "or subsistence."
Delete the rest of the amendment

SENATOR BUNDE explained that the preceding are all socio-cultural impacts. If put in the negative, it would be difficult to define and would open a loophole he chose not to see opened.

SENATOR OLSON objected.

SENATOR GREEN questioned whether Senator Bunde really meant to delete "brought about by the construction of a gas pipeline".

SENATOR BUNDE said it was a good catch; he revised conceptual Amendment 2 to Amendment 3 accordingly. It would read as follows because of Amendment 1 to Amendment 3, just adopted:

Page 1, line 23, of the amendment, following "wages":
Insert "or subsistence"
Delete ", or for socio-cultural impacts"

CHAIR SEEKINS suggested the original sentence probably included Senator Bunde's thought when it said "and another socioeconomic impact", implying all the previous items were included.

3:26:52 PM
SENATOR WILKEN remarked that "proximately" on line 21 of Amendment 3 means accurately or close to, and thus there must be a linkage to the socio-cultural impacts. He said it enables keeping "or for other socio-cultural impacts" in the language and so he wouldn't support the amendment.

CHAIR SEEKINS clarified it now says "or for socio-cultural impacts". He suggested it wasn't indicating that the others are socio-cultural impacts.

SENATOR BUNDE remarked that the definition of "proximately" probably lies in the eyes of the beholder.

SENATOR GREEN asked Senator Wilken whether this language is similar to other legislation he has worked on.

SENATOR WILKEN replied that with the exception of tying into the bill itself, it's essentially the same language. He noted that on another issue there'd been an attempt to define "impact", and this was the best they could do. In further response, he said the National Petroleum Reserve-Alaska (NPR-A) legislation didn't include "socio-cultural".

SENATOR GREEN opined it is dangerous language.

SENATOR ELTON provided context, stating his understanding from testimony the previous day that this language was suggested by MAG, working with the deputy commission of DOR. The commissioner will make a decision on impact funds after consulting with the MAG group. Thus thresholds must be crossed on any decision, whether it relates to transportation or socio-

cultural impacts. Senator Elton said he's comfortable with that process, especially given that the first part of this amendment clarifies the process and what is accomplished.

3:30:53 PM
SENATOR GREEN responded that with all due respect to MAG, it gives her no assurance. It's a self-interest group, and this is what they want. It will be a direct gift to their village, town or borough.

SENATOR ELTON acknowledged that point, but suggested there is also a self-policing element in MAG: the more money that goes to another community for any kind of interest, the less money there is for them.

SENATOR BUNDE responded that he also expected to be told there is honor among thieves. Saying this isn't only directed at small communities, he provided an example and expressed concern about Alaskans' creativity in artfully using state money to their own advantage.

3:32:43 PM
CHAIR SEEKINS asked about the difference between a socio-cultural impact and a socioeconomic impact.

MR. BALDWIN replied that it was hard to say, but suggested "socioeconomic" has more to do with actual dollars and cents, whereas "socio-cultural" relates to almost anthropological considerations such as lifestyle and perhaps recreation.

SENATOR OLSON spoke in favor of retaining "socio-cultural" because it relates to impacts from the gas line. He said it goes far beyond recreation, having to do with a lifestyle that people either were raised with or have come in to. Looking at the amendment, he said it addresses a multifaceted element.

3:34:20 PM
SENATOR DYSON spoke in support of conceptual Amendment 2 to Amendment 3. He suggested "material" on line 21 indicates an objective change; an example is a new road for which individuals don't have a choice. Socio-cultural impacts, though important, are far more subjective and hard to evaluate - they involve choice and aren't something the government is responsible to fix; he cited effects from television or impacts on marriages from "ladies of the night" during TAPS construction as examples. Voicing hope that affected communities would use good judgment in responding to changes, he also noted the reference to "health

and human services", surmising the legislature would be financing remedies for some of the negative social effects.

SENATOR HOFFMAN remarked that it's a bad, bad amendment.

3:38:21 PM
A roll call vote of 3 yeas and 9 nays proved conceptual Amendment 2 to Amendment 3 to SB 2004 failed, with Senators Bunde, Dyson and Green voting yea and Senators Ben Stevens, Stedman, Olson, Wilken, Elton, Hoffman, Kookesh, Wagoner and Seekins voting nay.

3:39:45 PM
SENATOR GREEN returned to Amendment 3 to Amendment 3 to SB 2004. She offered the following language beginning on line 13 of the amendment:

> Thirty days after such public notice is given, final awards take effect and may be paid to the grantees according to procedures established by regulation.

She pointed out that this makes it refer to the final award of grants in the previous sentence.

SENATOR WAGONER suggested it could be simplified further by saying "final grant awards".

SENATOR GREEN explained that this is designed to specify which public notice it refers to.

CHAIR SEEKINS asked whether there was any objection to adopting Amendment 3 to Amendment 3 to SB 2004. There being no objection, it was so ordered.

3:41:52 PM
CHAIR SEEKINS asked whether there was any objection to adopting Amendment 3 to SB 2004 as amended. There being no objection, it was so ordered.

The committee took an at-ease from 3:42:08 PM to 3:55:38 PM.

SENATOR BEN STEVENS moved to adopt Amendment 4 to SB 2004, which read:

A M E N D M E N T 4

AS 43.82 is amended by adding a new section to read:

Sec. 43.82.255. Term of contract provisions related to oil. (a) The provisions of this section apply to a contract developed under AS 43.82.020 that provides for periodic payment in lieu of taxes on oil under AS 43.55.

(b) For the part of the contract term beginning immediately after the date of full project funding or the date of issuance of a certificate of public convenience and necessity for construction and initial operation of the Alaska Natural Gas Pipeline, whichever date is later, and ending 14 years after that date, the commissioner may develop a term for the contract that provides for payments in lieu of the taxes on oil set out in AS 43.55. For the part of the contract term covered by this subsection, the payments in lieu of taxes may be established with as much certainty as the Constitution of the State of Alaska allows.

(c) For the part of the contract term beginning immediately after the period described in (b) of this section, and ending on a date not later than 25 years after the effective date of the contract, the amount of the payment in lieu of tax on oil under AS 43.55 must be equal to the amount of the tax levied by law. However, the commissioner may develop a contract term that, in the event of a material change in the taxes enacted after the effective date of the contract, establishes a procedure for restoring the parties to substantially the same economic position they had as of the end of the period described in (b) of this section immediately before the change.

(d) Implementation of a contract provision authorized in this section may be made subject to the dispute resolution procedures of the contract.

SENATOR BEN STEVENS objected for discussion purposes. He explained that Amendment 4 to SB 2004 adds a new section under terms of the contract related to oil. He paraphrased subsection (a), indicating he believes it validates the portion discussed yesterday afternoon, AS 43.82.210(a)(1), "oil and gas production taxes and oil surcharges under AS 43.55". Noting subsection (b) is complex, he pointed out the contract term is from the

effective date to some future point; other provisions in law say it cannot be longer than 45 years.

3:58:15 PM
SENATOR BEN STEVENS read from the first sentence of (b), saying it relates to the term beginning when: a project is fully funded, with commitments by the corporations' boards; a FERC certificate of public convenience has been issued and permits are in order; and there is certainty that a pipeline will be constructed. The 14-year period, derived from contemplation, is a time of capital-cost recovery, defined as "total revenues minus corporate income tax equals total expenditures." The project will have moved forward and substantial money will have been spent, he said, going beyond the time of first gas.

He explained that there is some leniency because of uncertainties about delays, cost overruns and so forth. During that time, the terms in AS 43.55, which would be incorporated into the contract related to oil, shall be part of a payment in lieu of taxes and be established with as much certainty as the state constitution allows. With subsections (a) and (b), certainty begins on oil when a project is funded, permitted and committed to by all sponsor members to move forward, and shall last 14 years "in firm certainty."

He turned to subsection (c), which addresses the period after the 14 years has expired, ending no later than 25 years after the effective date of the contract. He highlighted three time periods: 1) the effective date, 2) the project sanction or full project funding and 3) this uncertain date 14 years after sanction.

4:02:06 PM
SENATOR BEN STEVENS read from (c). He noted payments due in the PILT during the above-described period must equal what's in the tax law at that time. However, if there's a change that the legislature has the authority to effect, there is an agreement to go back and look at those terms with regard to "substantially the same economic position."

He proposed thinking in terms of timing. The overall picture is 25 years from the effective date. Phase one is anticipated to be 4 years, although the time until project sanction isn't known; during that time, there is no certainty and oil is not locked in. For phase two, from the point of sanction - once the project is permitted and there's an issuance from FERC - there will be firm certainty on taxation for 14 years; the legislature

will agree not to change the terms during that time, which is the period of capital-cost recovery. Phase three is 7 years.

He recalled that the industry and financial presenters advocated certainty for the term of the first firm shipping commitments; he indicated FERC will require such FT commitments during the open season. He proposed that the 21 years following sanction is ample time to cover this period of concern.

4:06:46 PM
SENATOR BEN STEVENS said he anticipated a lot of reaction from Amendment 4. However, he suggested it's not unreasonable to have the right to modify a new petroleum tax regime - which it's anticipated will be enacted - between now and the period for the project when the desire is to lock it in. He acknowledged technical corrections may be required. Thus he didn't believe it unreasonable to request the state's ability to make modifications during that time. Nor did he believe it unreasonable for the industry to demand certainty regarding cash flow during the period of "cash outflow to a capital-cost recovery." It's a normal industry practice and standard, he said. He reiterated details from subsection (c).

CHAIR SEEKINS suggested it provides for a balancing clause.

SENATOR BEN STEVENS concurred. With regard to why the balancing clause isn't included, he said there was a lot of deliberation about it. The balancing clause won't be needed for a minimum of 18 years, and then only if a future legislature changes the contract materially. He asked why the legislature would want to tell the commissioner what balancing clause the commissioner is supposed to use, 18 years from now, when trying to balance elements and dynamics of market conditions for which they cannot make an accurate forecast.

4:10:35 PM
SENATOR ELTON drew attention to subsection (b) in Amendment 4, "and ending 14 years after that date". He inferred it allows for the period up to commencement of the project and then recovery of capital costs. He said it seems capital costs could be recovered after 12 years or 16 years. Rather than having a firm 14 years, he therefore asked about using language such as "and ending after capital costs are recovered".

SENATOR BEN STEVENS replied he'd thought about it a lot. Subsection (b) is phase two, from sanction to some point in the future. His original intention was to say "from sanction date

that covers through capital expenditure and then through a period of revenue generation to capital-cost recovery." Delays and pricing considerations are unknown factors. He said he'd concluded that in order to try to meet those three timelines - 4 or 5 years for permitting, 10 to 14 years for capital-cost recovery, and 20 years for FT commitment - he'd wanted to give certainty for some period, and had ended up at 14 years.

4:12:58 PM
SENATOR ELTON turned to subsection (c) in Amendment 4. He asked what the commissioner's responsibility is in developing a contract term that, in the event of material change in the taxes enacted after the effective date of the contract, establishes the procedure for restoring parties. He asked whether the legislature is ceding some authority to the executive branch in the establishment of payments in lieu of taxes.

SENATOR BEN STEVENS answered "no" to the last question. He paraphrased the first sentence in (c), adding "or by the contract" after the written phase "the payment in lieu of tax on oil under AS 43.55 must be equal to the amount of tax levied by law". He said they have to be equal in the law at "the end of (b), which is the terms of fiscal certainty."

SENATOR ELTON observed that the next sentence seems to modify the first, however.

SENATOR BEN STEVENS said the next sentence in (c) gives latitude to future legislators to change it. He paraphrased a portion, which begins, "However, the commissioner may develop a contract term that, in the event of a material change in the taxes enacted after the effective date of the contract". He interpreted this to say that if the legislature changes that tax structure between the effective date and the end-date mentioned in (b) - which could be 17 or 20 years from now - the agreement is to allow the commissioner to enter into a contract term that is essentially a rebalancing agreement. He emphasized that it has to be a "material change on the contract."

SENATOR ELTON asked the purpose of "may" in the second sentence of (c) and whether it could say, "However, the commissioner shall develop a contract term".

SENATOR BEN STEVENS indicated it could be changed to "shall", but "may" allows the commissioner, at a future date, to deal with uncertain market conditions; there might be no need to change it for that last 7-year period.

4:16:18 PM
SENATOR ELTON observed it's a different way of looking at the certainty issue. Rather than locking it in for 30 years, at the end of (b) there still is a constitutional issue being addressed, but the lock-in is for a shorter period of time.

SENATOR BEN STEVENS agreed it's a significant shift from locking in taxation immediately after ratification of the contract. This says certainty isn't locked in until there is a commitment from all parties, as well as validation that all permits are in place and everything is active to move forward. "At that point, in my mind, the reason why I came up with that is because that is when a firm business commitment ... has been signed," he added, noting at that point the financial markets and investors will want to have certainty during that period of time.

He told members he'd spent a lot of time looking at comparisons of what other nations do with respect to forgiveness on taxes. For example, Alberta's system forgives all taxes until full capital-cost recovery on the oil sands and has a 1 percent royalty during that time, which may take years. With Alaska's project, he stated the intent of providing certainty without locking it in over a period of time that isn't necessary.

4:18:57 PM
SENATOR ELTON returned to subsection (b), noting he has assumed project funding cannot be finalized until issuance of a certificate of public convenience and necessity. He asked whether funding may possibly occur before that.

SENATOR BEN STEVENS said "full project funding" is defined in the Stranded Gas Act, AS 43.82.900(7), which states:

> (7) "full project funding" means full approval by a party to a contract under AS 43.82.020 for the expenditure of the capital necessary for construction and operation of the approved qualified project that is subject to the contract;

He explained that he'd inserted the issuance of the certificate of public convenience. He suggested it's almost a redundant requirement because the FERC certificate cannot be issued until the authorization for expenditure has been approved by the board of directors of the sponsor groups. He said he believes the issuance of that certificate is the later of the two "because they could make approval and then there would be a period of

time that it locks in." He opined that the FERC issuance is the real marker for when the project moves forward or doesn't, which is why he'd included that.

4:21:41 PM
SENATOR WILKEN asked whether there is a general definition of "material change" in the industry.

SENATOR BEN STEVENS said it's a good question. He gave his personal understanding that it's anything with an impact over 3 percent, "plus or minus 3 percent on annual forecasted revenues."

CHAIR SEEKINS called it a GAAP (generally accepted accounting principles) term.

SENATOR BEN STEVENS said he wasn't sure whether it was defined in statute, but noted it wasn't defined in the Stranded Gas Act.

MR. BALDWIN said not to his knowledge, but he'd seen the term used in international agreements.

CHAIR SEEKINS requested confirmation that the intent here is "an effective plus or minus 3 percent."

SENATOR BEN STEVENS affirmed that, specifying it would be a change that had a material effect on the revenues generated under the contract, plus or minus 3 percent.

4:22:46 PM
SENATOR WILKEN asked whether firm transportation commitments normally are in 20-year blocks.

SENATOR BEN STEVENS affirmed that as his understanding. He indicated his understanding that the open season under the FERC timeline occurs 2 years before sanction; from first gas forward, FERC wants a commitment for 20 years.

SENATOR WILKEN requested confirmation that if it took 4 years to get to sanction, the legislature could come back in 2 years, if it so chose, and do a whole new petroleum production tax (PPT).

SENATOR BEN STEVENS agreed there'd be such freedom, but said he believed there'd have to be the caveat that it would materially impact the contract and put it in jeopardy. "But there's nothing that says that we would have to make the change," he added.

4:24:02 PM
CHAIR SEEKINS suggested it would put the project at risk.

SENATOR BEN STEVENS said it could. In response to Senator Wilken, he added, "We would have the consequences of that decision, but ... the industry does not get the certainty of our decision to move forward on ratification until they show us there is a project."

CHAIR SEEKINS summarized, "Show us the money, show us the project - you get certainty."

SENATOR BEN STEVENS cautioned that future legislators would have to be aware of the jeopardy that they may cause to the future diligence of pursuit of the project.

4:24:47 PM
SENATOR DYSON said he'd been intrigued by this concept since first hearing about it. He referred to (c), however, where it talks about "substantially the same economic position" as at the end of (b). If the oil industry were struggling and losing money on the pipeline at the end of the period described in (b), he said, it appears under (c) the state couldn't fix it for them. Or if the people of Alaska weren't getting a fair share, that couldn't be fixed either, because of the requirement to stay in that plus-or-minus-3-percent range discussed earlier.

4:26:29 PM
SENATOR BEN STEVENS clarified that capital-cost recovery is "total revenues minus corporate income tax equals total expenditures," whereas full debt retirement would occur much further into the future and is unknown because the debt instruments and amounts would vary from company to company. "We looked at that in terms of saying that maybe it should be a period of certainty through debt retirement," he noted, but said that date is hard to pick because of the uncertainty with respect to each company.

He continued, saying "same economic position" to him means "the same distribution of economic rent." As the state is an economic participant and takes its gas in value, it bears both the high side and the low side with the industry; therefore, it has nothing to give back, under the way the contract has been developed, unless there is a decision to give back the gas. There is no severance tax. "The only thing we could give back would be royalty in terms of the gas economics," he added. "But

the oil economics is another element, and that's why it's unpredictable ... how those two will interact into the future." Thus he said he hadn't known how to phrase it.

4:28:51 PM
SENATOR DYSON asked whether his main point was still true, that if there is a real problem - either for the state or the producers at the end of the period in (b) - it cannot be fixed.

SENATOR BEN STEVENS suggested that's encompassed in Senator Elton's statement about "shall" versus "may".

SENATOR DYSON said that wasn't his reading of it.

SENATOR BEN STEVENS replied, "If we say 'shall', then they would not be able to make any changes. If it says 'may' - if there is something that is so dramatic at the end of period (b) - they may do it, they may not do it. But certainty ends at the end of period (b)."

SENATOR DYSON asked whether the initiation of the remedy is only at the discretion of the commissioner.

SENATOR BEN STEVENS replied no, it's at the discretion of the legislature under AS 43.55, because the legislature changes taxes. He indicated this doesn't go into the changes of the terms of the contract as a whole. Rather, it only relates to how oil interacts with the contract. He said he hadn't ventured into the economics of the gas in the future.

4:30:07 PM
SENATOR DYSON said he was still charmed by this, but asked for time to think about it overnight.

CHAIR SEEKINS suggested there'd never be an objection to "the downward change in the economic burden from the producers."

SENATOR DYSON expressed concern that it's precluded by this, and added he wanted to think about putting into statute something he'd thought would be in the contract.

CHAIR SEEKINS pointed out that the contract needs to be developed in concert with the requirements and purposes of the Act.

4:31:23 PM

SENATOR BEN STEVENS replied to Senator Dyson, saying the development of Section 43.82.255 is in response to terms in Exhibits P and R of the contract, which are based on terms that will be incorporated from passage of a final PPT. Those exhibits are oil terms and credit terms of the PPT. This says those exhibits can be part of the contract for this specific period of time, to his understanding.

SENATOR BUNDE agreed these are things he'd expect to see in the contract, but opined that the legislature's only guarantee of getting something into the contract is through this bill. Whether it's a good idea, on this or any issue, is worthy of discussion, but it's one of the few sure routes the legislature has with respect to affecting the contract.

4:33:13 PM
SENATOR ELTON referred to (c), line 2, "ending on a date not later than 25 years". Assuming 4 years before construction and then another 14 years, he said the plain language suggests it could end after 19 years.

SENATOR BEN STEVENS replied that is theoretically correct. The flexibility is intentional because the length of phase one isn't known. It could be 7 years before project funding and final FERC certification. There could be permit challenges or U.S. Supreme Court challenges, for example. He acknowledged it could say, for instance, "A date certain 25 years after effective date, it ends."

CHAIR SEEKINS requested clarification about the effective date.

4:35:15 PM
MR. BALDWIN specified that the Act says the contract takes effect 60 days after signature.

CHAIR SEEKINS surmised that after approval by the legislature there is 60 days to execute the contract; the effective date is 60 days after the date of full execution.

SENATOR BEN STEVENS said that's correct.

4:36:03 PM
SENATOR ELTON turned to subsection (d) in Amendment 4, "Implementation of a contract provision authorized in this section may be made subject to the dispute resolution procedures of the contract." He said he'd assumed it would have been covered by arbitration without this, but this specifies that the

dispute resolution process in the contract will govern the provisions of this. He surmised the Alaska Supreme Court could have had jurisdiction, for example, rather than using this process.

SENATOR BEN STEVENS said the only contract provision authorized under this section is the balancing provision whereby the commissioner may develop a contract term in the event of a material change. If there is disagreement, it will go to arbitration under the terms of the contract; eventually, a court would determine it. He said this balancing provision won't be in use for 18 years, and thus the attempt was to be as flexible as possible.

SENATOR ELTON noted that in anticipation of a lawsuit over locking in the tax regime, today the Senate adopted legislation providing that the Alaska Supreme Court is the first court of jurisdiction. This provision in the Stranded Gas Act would lock in tax terms, and yet, in this case, any disputes will be decided by an arbitrator, rather than the Alaska Supreme Court.

4:38:39 PM
SENATOR BEN STEVENS replied that the difference between the two - the locking in or the creation of fiscal certainty under a PILT - is given in (b), where it says taxes may be established with as much certainty as the constitution allows; that's the piece where a supreme court challenge is anticipated. The second piece would be a renegotiation of contract terms through a balancing clause in the contract. It would be contractual terms, not statutory terms. Therefore, the provision in (d), "implementation of a contract provision," would be the provision established under the authority of (c), which says the commissioner may develop a contract term.

4:39:40 PM
SENATOR ELTON suggested it should say "in the above subsection", rather than "section", since section includes subsection (b).

SENATOR BEN STEVENS agreed with the need to look at that, although he opined that only one contract provision is authorized under this section, AS 43.82.255, and all the rest just give allowances for the contract to be part of it.

4:40:25 PM
SENATOR WAGONER noted the first time period could be shorter than 4 years, perhaps less than 44 months as far as FERC review. He said he hadn't been willing to commit to locking this in for

an extended period of time; this provides more comfort than earlier, and is a good attempt at solving the problem.

CHAIR SEEKINS said under Amendment 4 it appears there is a 14-year period of certainty, after which the commissioner may activate a balancing clause for a period of time up to 25 years from the contract's effective date. Although there is something approximating certainty beyond that 14 years, it is discretionary.

SENATOR BEN STEVENS agreed, but said this tries to address a lot of different needs: meeting the needs of the financial community and investors, securing cash flow that won't be interrupted by legislative action, and meeting the needs of legislators who are concerned about locking in fiscal certainty on a project that isn't certain to happen. For the legislature, the need is for the front end. For industry, the financial world, and the federal government with respect to the loan-back guarantee, the need is for the capital-cost recovery component as well as the recovery period that will be demanded from FERC with respect to the duration of a shipping commitment. Thus he suggested it's 20 years, not 14 years.

4:44:18 PM
CHAIR SEEKINS remarked that he hadn't yet talked to a rational Alaskan who wants to materially adversely affect the economics of a project. His constituents seem to understand giving certainty for a period of time to recovery capital expenses, rather than having the legislature be able to change the economics of the deal at the end of the construction period, for example, before first gas. However, there also is the risk that the legislature will destroy the project in that first 4 years if the structure is changed. Beyond that, he said this meets a lot of the needs of the people with whom he has discussed it.

4:45:30 PM
SENATOR WAGONER echoed Senator Dyson's request to take up Amendment 4 to SB 2004 tomorrow, in order to have more time.

SENATOR BEN STEVENS said he wouldn't object, but asked that members try not to conceptually amend the provisions. He said it hadn't gone through Legislative Legal Services for a multitude of reasons, but he would ask them now to draft it in regular format.

4:47:08 PM

CHAIR SEEKINS agreed it would be good to get such a draft and their input. He thanked participants and held SB 2003 and SB 2004 over.

There being no further business to come before the committee, Chair Seekins adjourned the Senate Special Committee on Natural Gas Development meeting at 4:47:50 PM.