

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

April 10, 2007

1:02 p.m.

**MEMBERS PRESENT**

Representative Carl Gatto, Co-Chair  
Representative Craig Johnson, Co-Chair  
Representative Vic Kohring  
Representative Bob Roses  
Representative Paul Seaton  
Representative Peggy Wilson  
Representative Bryce Edgmon  
Representative David Guttenberg  
Representative Scott Kawasaki

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Anna Fairclough  
Representative Berta Gardner

**COMMITTEE CALENDAR**

HOUSE BILL NO. 177

"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 177

SHORT TITLE: NATURAL GAS PIPELINE PROJECT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/05/07	(H)	READ THE FIRST TIME - REFERRALS
03/05/07	(H)	O&G, RES, FIN
03/06/07	(H)	O&G AT 3:00 PM BARNES 124
03/06/07	(H)	-- MEETING CANCELED --

03/08/07 (H) O&G AT 3:00 PM BARNES 124  
03/08/07 (H) -- MEETING CANCELED --  
03/13/07 (H) O&G AT 3:30 PM HOUSE FINANCE 519  
03/13/07 (H) Heard & Held  
03/13/07 (H) MINUTE(O&G)  
03/15/07 (H) O&G AT 3:00 PM BARNES 124  
03/15/07 (H) Heard & Held  
03/15/07 (H) MINUTE(O&G)  
03/19/07 (H) O&G AT 8:30 AM CAPITOL 106  
03/19/07 (H) Heard & Held  
03/19/07 (H) MINUTE(O&G)  
03/20/07 (H) O&G AT 3:00 PM BARNES 124  
03/20/07 (H) Heard & Held  
03/20/07 (H) MINUTE(O&G)  
03/21/07 (H) O&G AT 5:30 PM SENATE FINANCE 532  
03/21/07 (H) Heard & Held  
03/21/07 (H) MINUTE(O&G)  
03/22/07 (H) O&G AT 3:00 PM BARNES 124  
03/22/07 (H) Heard & Held  
03/22/07 (H) MINUTE(O&G)  
03/23/07 (H) O&G AT 8:30 AM CAPITOL 106  
03/23/07 (H) Heard & Held  
03/23/07 (H) MINUTE(O&G)  
03/24/07 (H) O&G AT 1:00 PM SENATE FINANCE 532  
03/24/07 (H) -- Public Testimony --  
03/26/07 (H) O&G AT 8:30 AM CAPITOL 106  
03/26/07 (H) Heard & Held  
03/26/07 (H) MINUTE(O&G)  
03/27/07 (H) O&G AT 3:00 PM BARNES 124  
03/28/07 (H) O&G AT 7:30 AM CAPITOL 106  
03/28/07 (H) Heard & Held  
03/28/07 (H) MINUTE(O&G)  
03/28/07 (H) O&G AT 8:30 AM CAPITOL 106  
03/28/07 (H) Heard & Held  
03/28/07 (H) MINUTE(O&G)  
03/29/07 (H) O&G AT 3:00 PM BARNES 124  
03/29/07 (H) Heard & Held  
03/29/07 (H) MINUTE(O&G)  
03/30/07 (H) O&G AT 8:30 AM CAPITOL 106  
03/30/07 (H) Heard & Held  
03/30/07 (H) MINUTE(O&G)  
03/31/07 (H) O&G AT 1:00 PM BARNES 124  
03/31/07 (H) -- MEETING CANCELED --  
04/02/07 (H) O&G AT 8:30 AM CAPITOL 106  
04/02/07 (H) Heard & Held  
04/02/07 (H) MINUTE(O&G)  
04/03/07 (H) O&G AT 3:00 PM BARNES 124

04/03/07 (H) Moved CSHB 177(O&G) Out of Committee  
04/03/07 (H) MINUTE(O&G)  
04/04/07 (H) O&G RPT CS(O&G) NT 3DP 2NR 2AM  
04/04/07 (H) DP: RAMRAS, DOOGAN, OLSON  
04/04/07 (H) NR: SAMUELS, KAWASAKI  
04/04/07 (H) AM: DAHLSTROM, KOHRING  
04/04/07 (H) O&G AT 8:30 AM CAPITOL 106  
04/04/07 (H) -- MEETING CANCELED --  
04/05/07 (H) O&G AT 3:00 PM BARNES 124  
04/05/07 (H) -- MEETING CANCELED --  
04/10/07 (H) RES AT 1:00 PM BARNES 124

#### **WITNESS REGISTER**

DON BULLOCK, Attorney  
Legislative Legal and Research Services  
Legislative Affairs Agency  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Provided an overview of CSHB 177(O&G) and answered questions.

PATRICK GALVIN, Commissioner  
Department of Revenue  
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 177, answered questions.

#### **ACTION NARRATIVE**

**CO-CHAIR CARL GATTO** called the House Resources Standing Committee meeting to order at [1:02:51 PM](#). Representatives Gatto, Johnson, Seaton, Roses, Guttenberg, Edgmon, Kawasaki, Kohring, and Wilson were present at the call to order. Also in attendance were Representatives Fairclough and Gardner.

#### HB 177-NATURAL GAS PIPELINE PROJECT

[1:03:18 PM](#)

CO-CHAIR GATTO announced that the only order of business would be HOUSE BILL NO. 177, "An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date." [CSHB 177(O&G) was before the committee.]

1:05:08 PM

DON BULLOCK, Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, Alaska State Legislature, began by stating that he is nonpartisan and is charged with the responsibility of drafting the legislation and any requested amendments. He pointed out that the legislation was originally drafted and introduced at the request of the administration. However, once the legislation is in the legislature, the Legislative Legal and Research Services Division drafts the amendments and committee substitutes. He related that CSHB 177(O&G) incorporates many changes that the administration requested as well as amendments requested by members of the House Special Committee on Oil and Gas.

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CO-CHAIR GATTO pointed out that the committee packet should include a document from Governor Sarah Palin to Senate President Lyda Green dated March 2, 2007. The committee packet should also include an executive summary dated March 5, 2006.

1:06:55 PM

MR. BULLOCK informed the committee that questions regarding the policy behind a certain amendment or provision put forth by the administration would be best posed to the administration.

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MR. BULLOCK then proceeded to review CSHB 177(O&G). He explained that Section 1 establishes a new chapter to Title 43, which is the revenue and taxation title. This new chapter includes provisions that: state the purpose of the Alaska Gasline Inducement Act (AGIA); address the state's inducement for someone to apply for and receive a license for the project, including the cash incentive and the expenditures to which the state will contribute; require that the commissioners of the Department of Natural Resources (DNR) and the Department of Revenue (DOR) act together jointly in pursuing licensees and reviewing applications; require the commissioners to start the application process as soon as practical after the Act is enacted; provide a list of equipment and information that an applicant must submit to the state; establish the criteria which the commissioners will use to rank and evaluate each application; and allow the public to comment. After the

commissioners have reviewed all of the applications, they will reject those that weren't responsive to the request or don't meet the statutory requirements. Therefore, the commissioners will narrow the applicants down to a group that satisfy the application requirements, although they may not necessarily be in the best interest of the state. The complete applications are then placed before the public, after which the commissioners narrow the group to a single applicant that it recommends to the legislature for approval. The commissioners also have the option to determine that none of the applications offer significant benefit for the state to make the cash contribution. In the aforementioned situation, the commissioners have the ability to start [a new application process]. If the commissioners do find a satisfactory application that meets the requirements and is in the best interest of the state, notice is sent to the presiding officers of the House and Senate. The Rules Committee in each house will introduce legislation for approval.

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MR. BULLOCK reminded the committee that HB 177 originally provided 30 days to disapprove a license. If the legislature didn't disapprove the license, the commissioners/state would be able to issue the license and begin contributing to the expenditures. Now both CSHB 177(O&G) and its Senate companion require affirmative approval by the legislature. Therefore, if the legislature doesn't take affirmative action to approve [a license], then it's effectively disapproved. He highlighted that CSHB 177(O&G) requires a bill for approval and the Senate companion requires the introduction of a resolution for approval. Mr. Bullock opined that requiring an approving bill is most appropriate based on the State v. A.L.I.V.E. Voluntary case. When the legislature takes actions that impact those outside of its body, it must be done through a bill rather than a resolution. Because a bill [is required], there is timing that is built into consideration of a bill. He acknowledged that there have been discussions of time limits, which is a policy decision for the committee to consider. He pointed out that if a bill isn't passed, then a license won't be issued and thus the license fails. In such a case, there would be the opportunity for the licensee to raise the separation of powers argument. The separation of powers doctrine in the constitution is based on Article 2, Section 1 - Legislative Powers and Article 3, Section 1 - Executive Powers. If the legislature doesn't act, the license is disapproved and the licensee could

go to court, under the executive branch's separation of powers, to obtain the license from the executive branch.

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REPRESENTATIVE WILSON asked whether including language allowing the legislature to vote [on an application/license] anytime it's called together for session would make a difference.

MR. BULLOCK answered that it would. However, the requirements of three readings, referral to committee, et cetera would remain. With regard to the introduction of a bill, Mr. Bullock suggested that the committee should think about how much review the committee wants to give the license itself. This legislation sets up a lot of policy and directs the commissioners to review the net present value of the future cash flow to the state and the likelihood of success of the project. Mr. Bullock acknowledged that the committee does have the option of including more criteria and policy decision in the Act itself, which may reduce the amount of time that would be necessary for the legislature to make its own decision regarding whether to issue a license.

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REPRESENTATIVE SEATON asked whether the bill is the only way to go, and was the original tact of disapproval disregarded for legal reasons.

MR. BULLOCK answered that he didn't know. When the bill was introduced it was a little more consistent with the separation of powers doctrine in that the legislature could review it and it was an advisory request. The issue would only arise if the legislature disapproved a license and the argument is whether it's the legislature's opinion or is binding on the governor. If it's binding on the governor, then under the A.L.I.V.E. Voluntary case it should probably be in the form of a bill.

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CO-CHAIR GATTO asked whether it's a legal posture to say if something isn't disapproved by default, it's approved. Is the legislative approval mandatory and does it count if the legislature simply doesn't disapprove, he further asked.

MR. BULLOCK specified that under CSHB 177(O&G) if the legislature does nothing, the license dies. The legislation

requires the legislature to take positive action to approve the license before it can be issued. In further response to Co-Chair Gatto, Mr. Bullock said that the original legislation specified that if the legislature did nothing, that would be deemed to be approval.

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MR. BULLOCK, continuing discussion of the separation of powers issue, pointed out that CSHB 177(O&G) establishes a coordinator position in the governor's office. This position would "grease the skids for the licensee; it's supposed to make sure that state agencies aren't doing anything unnecessary to hold up the project and to expedite, but still make sure that all the reviews are appropriate," he said. This bill and the governor's original bill required that the person appointed to this position be approved by the legislature. There's a constitutional issue because the constitution has been narrowly construed to limit those positions subject to legislative approval. Mr. Bullock clarified that this coordinator position isn't the head of any agency, it's a position that has a job to do. When thinking of a potential challenge, one must identify who would challenge the action. Mr. Bullock opined, "If the governor's agreeing to this, this was the position of the governor's bill, you can expect that [the legislature] will have the say on the confirmation. However, there's always the possibility that if the governor were to feel that the nomination was unfairly rejected, then that would present the separation of powers issues."

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MR. BULLOCK turned to another constitutional issue, which arises in the statute of limitations in which a challenge to the constitutionality of the Act must be brought within 90 days after the license is issued. The question becomes whether something is constitutional if there's a challenge within a certain period of time. He said, "Generally, an issue like that doesn't die and there's also the Alaska Declaratory Judgment Act in AS 22.10.020(g) ... requires an actual controversy." The courts, he related, have been reluctant to issue declaratory judgments unless there's something in controversy. In the case of a constitutional challenge with regard to contracting away the tax issue, there's the possibility that the courts could say that since the taxes haven't been increased there is no knowledge as to the actual tax benefit "under that tax exemption that the state basically guarantees that whatever the tax rate

is at the beginning of the first binding open season, that that's going to be the tax rate that applies to producers that make a commitment to ship through the pipeline for 10 years. So, the courts say, 'Well, it's not ripe yet; let's see how it works.' and then take the case ... would be outside the 90 days." Although there are issues with the 90-day parameter, it's a good idea because timing is important to this matter.

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MR. BULLOCK then turned to the severability section that the administration requested be added. He said that all legislation the legislature enacts is presumed to have the severability clause. The severability clause means that if any provision in an Act is found to be unconstitutional, the remainder of the Act survives. However, at the same time one reviews severability, one must consider the importance of the provision. If a provision that's found to be unconstitutional is critical to the entire project, the severability clause isn't of much help because the project won't go forward.

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CO-CHAIR GATTO asked then if Mr. Bullock is suggesting that the 90-day provision isn't necessary or that it should be included with the hope that it isn't challenged.

MR. BULLOCK answered, "You don't decide constitutional issues, but you can decide risks." With regard to the issue of contracting away the tax, it has been said many times that the Supreme Court will be the final arbiter regarding constitutionality. However, the legislature would need to decide where to take the risk and the likelihood of success.

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REPRESENTATIVE GUTTENBERG related his understanding that those who put in a proposal that's considered have to waive the right to challenge. He asked if there's an ability to limit those who don't put forth a proposal.

MR. BULLOCK directed the committee's attention to page 3, line 25. He pointed out that under the proposed AS 43.90.130 the license itself is a contract. This section also includes the commitment that the applicant won't appeal if the application is accepted or if the commissioners don't award an application to anyone. The aforementioned is a contractual provision between

the state and the person who submitted the application. Mr. Bullock noted that anybody in the state has standing to challenge the constitutionality of it and aren't bound by [the aforementioned contractual provision]. Furthermore, certain issues that are a matter of public policy may be challenged. The provision not to appeal only applies to the licensee, which is why something similar to the statute of limitations provision is necessary to limit the period in which someone can bring forward a challenge, he said.

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CO-CHAIR GATTO posed a scenario in which a licensee has a side agreement with a subcontractor, and asked if that would be an adequate connection allowing a subcontractor to sue for loss of revenue or profit.

MR. BULLOCK explained that when the commissioners evaluate the applications they will review who the applicant is going to rely on to carry the application forward. He then noted that the commissioners can establish additional requirements beyond those specified in the legislation.

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MR. BULLOCK, returning to Representative Guttenberg's earlier comments, pointed out that the ability to waive the right to appeal the award to another applicant is located on page 8, line 22. At this point, the applicant is committing to that. If the committee desires to address that directly, as a condition of receiving the license, the licensee could also be required to have the subcontractors make the same waiver. Mr. Bullock opined that one must ensure that the requirements don't become so onerous that no one applies. Therefore, there must be a balance with regard to the number of requirements imposed.

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REPRESENTATIVE WILSON inquired as to how involved the application is for the [state].

MR. BULLOCK explained that the plan in the bill is that the commissioners will issue a request for applications. That request will have certain requirements that the applicant will have to meet. There are also statutory requirements that the application must meet, which must be very complete. After all the applications have been received by the commissioners, the

applications are reviewed per the requirements. The applicants that don't satisfy the requirements are rejected by the commissioners. Under proposed AS 43.90.140, on page 9, the statute specifies that the commissioners can request more information. Once those applications are complete, the information and applications are released to the public. After public review, the applications are evaluated and ranked as laid out on page 10, proposed AS 43.90.170. At this point, the commissioners make the decision based on what the applications present. During this time the commissioners review the anticipated cash flow to the state, the net present value of anticipated cash flow from the project, as well as the likelihood of success. At that point the information has to be very complete. In fact, the information probably has to be completed prior to the notice for public comment because at that point the applications that will be considered will have been identified.

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MR. BULLOCK turned to the net present cash flow. He related that the state's greatest interest in the gasline will be the netback value on the North Slope. The netback value starts with the price of the gas coming out of the pipe minus the transportation costs, which in the case of an over land route would be the tariff while for a marine route it would be tanker costs, liquefaction, the pipeline to the North Slope, and the cost of the gas treatment plant. Mr. Bullock pointed out that a project that looks great for the pipeline company, their tariff will guarantee a rate of return. However, there still may be no wellhead value if the tariff is so high that it [surpasses] the difference between what the gas sells for after subtracting the transportation costs. The aforementioned is why so much of this bill is aimed at keeping the tariff down. One intent of the bill is that the \$500 million contributed by the state not be included in the base that the Federal Energy Regulatory Commission (FERC) or the Regulatory Commission of Alaska (RCA) will review when determining the tariff. He explained that the pipeline owner is going to receive a certain return on his/her costs, and therefore keeping the \$500 million out will reduce the costs and keep the tariff down. He noted that the commissioners will also review the ability of whoever is carrying the project forward to minimize cost overruns. Anytime there are costs, one must keep in mind the effect it will have on the tariff. Provisions in CSHB 177(O&G) relate to the gas treatment plant on the North Slope, which is part of the tariff and thus there are additional requirements put in place by the

committee that request more information related to the netback value. The netback value, he highlighted, is the basis for determining the value of the royalty. Furthermore, with the petroleum production profits tax (PPT) that's the starting point for determining the taxable value of gas.

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CO-CHAIR JOHNSON asked if by merely submitting an application, an entity gives up its right to appeal.

MR. BULLOCK responded, "That's the condition of this, that they have to make that commitment in the application."

CO-CHAIR JOHNSON asked if people can be deprived of due process.

MR. BULLOCK opined that the courts will have to decide that. He pointed out that the courts will take into consideration the fact that the legislature has said that it is a final action and not subject to further approval. However, he mentioned that in the K&L Distributors case the courts said that if there is a due process violation, it will be reviewed because a person's constitutional rights are separate from a legislative enactment that doesn't allow an appeal. At the same time, there is a presumption that what the legislature passes is constitutional. Therefore, the courts will review and strictly construe a provision to uphold its constitutionality while a due process challenge may trump a legislative prohibition.

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CO-CHAIR JOHNSON said he envisions a situation in which someone submits an application that is rejected. He related his understanding that between the time the legislature [receives an application] and approves a contract, all the applicants that weren't awarded could go to court before the legislature has the opportunity to make the award.

MR. BULLOCK specified that the application is the commitment not to protest, and therefore would apply to anyone who submits an application. The commissioners have a lot of discretion along with some guidance. When the court reviews administrative determinations, it will defer on factual decisions made by an agency, the commissioners, so long as they are reasonable. If there's a flaw in the process, such as a due process issue, and the consideration of the applications does violate due process, then that becomes a legal issue that the courts must evaluate.

He mentioned that there would be constitutional issues that override. Basically, if the legislature does everything reasonably and follows the procedures to which everyone has notice, there won't be much basis for appeal.

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CO-CHAIR JOHNSON expressed concern that the legislature is in court before reaching the process or anyone submitting an application based on denial of due process.

MR. BULLOCK said this is one of those issues on which one must speculate. He asked if including a provision in the application requirements would discourage someone from even taking the risk. There may be those who are willing to take the risk and submit an application, while retaining the ability to appeal based on the constitutional right to due process. Mr. Bullock opined that if more than one application is received, litigation of various issues in HB 177 should be expected.

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CO-CHAIR GATTO posed a scenario in which there's a winning bidder and a license is issued, and asked if the winning bidder could back out at that point.

MR. BULLOCK pointed out that the legislation includes two provisions that provide for revoking a license once it is issued. One such provision is the abandonment provision, which is based on whether the project is uneconomic. The other issue in which the license could be terminated is if there's a violation of the license agreement. He noted that the state makes assurances that benefits to a competing pipeline won't be given. If the aforementioned is violated, there's a requirement that the state pay treble damages, which are based on the amount of qualified expenses the licensee spent. The license could also be revoked if there has been a violation of the terms of the license by the licensee. The commissioners will determine whether the violation has been cured, at which point the parties can continue the project. The bill includes provisions for the case of a revoked license such that permits and information generated during the project will be transferred to the state.

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REPRESENTATIVE SEATON commented that there's a lot of case law regarding nonresponsive bids being thrown out. He asked if that's the point at which the state would be in court.

MR. BULLOCK replied no. By regulation, the commissioners are required to set up informal appeal rights as specified on page 3, line 21, as follows:

(c) The provisions of AS 36.30 do not apply to requests for applications under this chapter, but the commissioners shall adopt regulations that provide protest and appeal procedures relating to the solicitation of the applications and award of a license that are substantially similar to the provisions of AS 36.30.550 - 36.30.699.

MR. BULLOCK opined that the aforementioned provision along with the commitment not to appeal would preserve the applicants administrative appeal rights before the commissioners, but that they wouldn't take it to court after that. That, he said, could be made clear in the bill.

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REPRESENTATIVE GUTTENBERG inquired as to the timeline, and asked if the procedures have to be written in regulations prior to the issuance of request for proposals (RFP).

MR. BULLOCK answered that it could happen concurrently. He noted that there are several places in the bill that require regulations. The administration can provide a better idea of the timeframe to do so. He recalled testimony [from the administration] that the hope is that there will be a licensee in the next session. He then noted that there is a provision for emergency regulations, which shortens the time period during which regulations would be adopted. The PPT bill includes a provision specifying that the agencies can adopt regulations that are retroactive to the start date of the effective date of the Act, provided that's specified. Therefore, some of the regulations may not be complete at the time the applications are received, but the regulations could apply later. Of course, there will be a timing issue, he acknowledged.

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REPRESENTATIVE ROSES recalled that Mr. Bullock said there would be several issues that would probably end up being litigated.

MR. BULLOCK replied yes, adding that it depends upon where the interest lays. He identified the following issues: separation of powers issues, legislative approval of [the license] or nominee to the coordinator, statute of limitations, constitutionality of locking the tax benefit by contract. In further response to Representative Roses, Mr. Bullock related that there are a number of provisions in the bill that address possible litigation. He related his understanding that the administration offered a bill that tried to eliminate as many possibilities of litigation as possible. However, one must realize that there are parties that are directly connected to the bill, the applicants, and their constitutional rights to due process and fair consideration of the applicant. There are also those who will simply have political differences with the process. Mr. Bullock emphasized his belief that it's impossible to stop litigation on a project this big. He opined that the bill does as good a job as possible to avoid litigation or lessen the issues that could be litigated. Giving the commissioners discretion is helpful so that the action they take can't be struck down so long as they acted reasonably and there was a reasonable basis of what they reviewed to support their decision.

REPRESENTATIVE ROSES commented that he found comfort in Mr. Bullock's comments.

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MR. BULLOCK opined that CSHB 177(O&G) contains some structural improvements. For example, originally the coordinator position and the intent that agencies expedite the review of anything related to the license were moved into Article 2 since they were directly related to the licensee. Another structural change was to move the earlier mentioned abandonment section of the bill to the end of Article 2. The public review and comment was moved ahead of the ranking and evaluation section by the commissioners in order that the structure of the bill is consistent with the intent for the public to review all the applications. Mr. Bullock pointed out that CSHB 177(O&G) includes a requirement of an applicant for a gas utility revolving loan fund, which means that the applicant must have five take-off points within the state to provide gas to the state. The aforementioned would provide at least one option for financing a utility to install gas lines for home delivery.

[1:52:14 PM](#)

CO-CHAIR GATTO asked if the location of the five take-off points are defined.

MR. BULLOCK said that the committee [could craft language] specifying the location of the take-off points. He noted that the bill includes references that as more gas fields are developed that there be in-take points along the line.

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CO-CHAIR GATTO related his understanding that an off-take point is nothing more than a place where a valve is and asked if that's correct.

MR. BULLOCK deferred to DNR staff.

[1:53:10 PM](#)

REPRESENTATIVE GUTTENBERG pointed out that a provision of FERC Order 2005 includes an in-state needs study. The provision specifies that any prospective applicant must conduct or adopt a study of gas consumption needs and prospective points of delivery within the state. He asked if Mr. Bullock is aware of that.

MR. BULLOCK said that he was aware of it. Furthermore, many of the requirements that are required to be submitted to the commissioner are similar to those in FERC's regulations relating to an open season. This Act is written so that it could be applied to either a project that is eventually offered to FERC or that would be presented to the RCA. He pointed out that a license is a contract and thus regardless of the in-state study, there would be five take-off points allowing people in the state access to the gas.

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REPRESENTATIVE GUTTENBERG questioned whether it's an appropriate section to have in AGIA as well as the FERC study.

MR. BULLOCK acknowledged that the committee could do the aforementioned. He pointed out that the committee could also make someone else make the determination. Again, it's a balancing act in which the state provides \$500 million and places requirements [on the licensee]. The question is at what

point would a potential applicant decide not to submit an application because of the requirements.

[1:56:12 PM](#)

REPRESENTATIVE GUTTENBERG opined, "The sooner something like this is in consideration, the better off we would be as far as the study."

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MR. BULLOCK, returning to the issue of whether the project is uneconomic or not, pointed out that one of the changes embodied in CSHB 177(O&G) is that an arbitration panel will be used. The governor's bill was originally introduced such that in a situation in which the commissioners believe a project is not uneconomic and the licensee believes it is, the licensee and the commissioners would agree on a third party to make a decision. He recalled that at the request of the administration, the bill was changed such that the aforementioned situation would go to an arbitration panel selected by the American Arbitration Association. The decision of that panel would be filed in court and be the decision that's acted upon. He noted that there are provisions if the project is found to be uneconomic.

CO-CHAIR GATTO related his understanding that the aforementioned situation is when each side picks an arbitrator and the two sides pick a third arbitrator to make the decision.

MR. BULLOCK said he believes that's the case. He pointed out that the abandonment of a project is addressed in proposed AS 43.90.240 on page 16, line 24, in which subsection (b) is the arbitration provision.

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CO-CHAIR GATTO highlighted that the bill doesn't address environmental considerations. He posed a situation in which there is a charge that the polar bears will suffer due to the construction of the pipeline, which causes the pipeline to be stopped halfway. In such a situation, do the pipeline builders take all of the costs or does the state share in the abandonment.

MR. BULLOCK opined that this bill is, in some ways, quite narrow. This bill, he explained, solicits someone that wants to develop the project, obtain the financing, and live up to the

requirements and commitments made in the application. The bill includes a provision that if there is a state agency reviewing an environmental issue, it's to be done fairly and quickly in order not to unreasonably hold up the project. He noted that since it's a pipeline project, there will be environmental impact statements associated with it and addressed by other environmental and state laws. The risk associated with any project that could result in an environmental challenge aren't addressed in this bill, which he said he didn't believe is the place to address it.

[2:00:26 PM](#)

CO-CHAIR GATTO inquired as to what happens the day after this bill is passed.

MR. BULLOCK highlighted that the effective date is an issue. Section 6 of the Act says that it's the intent of the legislature that the request for applications be issued within 90 days. He suggested that the administration be asked if it's working on that aspect already. In further response to Co-Chair Gatto, Mr. Bullock related his understanding that the 60 days for review comes after the applications have been received. The time that isn't addressed in the bill is the time the commissioners will set for the applications to be returned to them. The requirements, he pointed out, seem to be quite detailed.

[2:03:00 PM](#)

CO-CHAIR GATTO surmised then that in the worst case scenario 90 days is necessary to get it out, an undetermined amount of time for the applicants to be returned, and a 60-day review period.

MR. BULLOCK clarified that the 60-day period for public review is after the commissioners have determined that all the applications are complete. The initial application review by the commissioners prior to [the 60-day public review period] is in proposed AS 43.90.140 on page 9 and doesn't specify a time period. Therefore, that period is flexible.

[2:04:24 PM](#)

CO-CHAIR GATTO posed a scenario in which the commissioners reject an application on the basis that it's nonconforming, but a winner hasn't been selected. In such a situation, is there

any reason that an applicant couldn't modify his/her application.

MR. BULLOCK pointed out that those applicants that don't respond adequately are "out." As long as an applicant has a complete application, that applicant will move forward. Those applicants without a complete application have an option to reconsider and start the process over again.

[2:05:15 PM](#)

REPRESENTATIVE GUTTENBERG drew attention to proposed AS 43.90.140, on page 9, line 19, and inquired as to the definition of "timely".

MR. BULLOCK explained that when commissioners send out notice of the need for additional information, it specifies a response time. Therefore, "timely" would be established by the two commissioners.

[2:05:50 PM](#)

CO-CHAIR GATTO inquired as to what happens if the two commissioners disagree.

MR. BULLOCK related his assumption that the boss of the commissioners [the governor] would break the tie. He did mention that by the time this goes forward there could be another governor. He then noted that there are provisions of the license that continue after the license has been issued. Mr. Bullock opined that at some point, perhaps after 10 years when the project has commenced operation, the license and terms would probably just run out.

[2:07:09 PM](#)

REPRESENTATIVE SEATON posed a scenario in which there is an uneconomic decision or an arbitration panel. He related his understanding that the language on page 17, line 22, means that a licensee can't pull the license but is required by the contract to deliver the license if the state agrees to pay.

MR. BULLOCK noted his agreement that the licensee is required to give that information and the reimbursement is based on the qualified expenditures described in proposed AS 43.90.110. The qualified expenditures are what the state money has gone to. Mr. Bullock then related his belief that there could be a

determination that the project is uneconomic, which means that the state isn't involved, but the project itself could continue. The legislation doesn't say that the pipeline itself is uneconomic, rather it's whether it's uneconomic to the state to keep paying money or for the project applicant to continue to have to meet the requirements imposed as a condition of the license. He noted that there's the possibility that the pipeline would continue without the restrictions of the license.

[2:08:56 PM](#)

REPRESENTATIVE SEATON asked if the legislation should include language to preclude such a scenario and that a determination is made regarding whether the state wants to do that.

MR. BULLOCK acknowledged that it could be addressed. The Senate's companion bill includes a statement specifying that AGIA doesn't preclude someone else from building a pipeline. Within CSHB 177(O&G), if the inducements offered in AGIA are offered to a competing pipeline, then this license ends and the state has violated its assurance. This bill, he opined, is about inducements that draw someone to put a project together.

[2:10:37 PM](#)

CO-CHAIR GATTO opined that he didn't foresee anyone lending money [for a pipeline] without a firm transportation (FT) commitment. Therefore, he surmised that until transportation commitments are obtained, there is no pipeline.

MR. BULLOCK deferred to DNR and the Department of Revenue (DOR). However, he related his understanding that FT commitments mean that "they" are committing to the capacity and even if they aren't shipping gas, they are still going to pay money to the project.

[2:12:23 PM](#)

CO-CHAIR JOHNSON asked if the Senate companion legislation allows for a competing pipeline by removing the treble damages.

MR. BULLOCK emphasized that this Act is to offer state money as an encouragement for someone to move forward with a pipeline and in return for the state's money there is the desire for certain assurances that the [applicant] makes in the application. There would still be gas on the North Slope and the need for the

pipeline to be developed, he opined. As written, this bill doesn't preclude another pipeline from going forward.

[2:13:44 PM](#)

CO-CHAIR JOHNSON asked if another pipeline would receive the tax credits.

MR. BULLOCK replied no, those are the commitments to a project licensed under AGIA. In further response to Co-Chair Johnson, Mr. Bullock said he didn't believe there is anything in AGIA that prevents a private entrepreneur from going forward with a project.

[2:14:16 PM](#)

CO-CHAIR JOHNSON recalled that in the original bill the pipeline [coordinator] couldn't utilize state agencies to assist other pipelines, which is no longer in CSHB 177(O&G). He asked if anything in CSHB 177(O&G) prohibits the pipeline or a state agency from lending its assistance in forwarding a venture.

MR. BULLOCK pointed out that the assurances that the state makes under AGIA are on page 23, line 13. He highlighted the language on page 23, lines 16-21, which read:

If, before the commencement of commercial operations, the state extends to another person preferential royalty, tax, or monetary treatment for the purpose of facilitating the construction of a competing natural gas pipeline project in this state and if the licensee is in compliance with the requirements of the license and with the requirements of state and federal statutes and regulations relevant to the project, the licensee is entitled to payment from the state ...

[2:16:08 PM](#)

CO-CHAIR JOHNSON posed a hypothetical situation in which three or four years from now the legislature decides it should revisit the PPT and pass a law. He asked if the aforementioned would be construed, under AGIA, as an economic inducement to build a pipeline and the [state] would be forced to treble damages.

MR. BULLOCK answered that it could be. He pointed out that with monetary treatment one must review what is being given and

whether it's for the purpose of the construction of a competing pipeline. He characterized it as a judgment call.

[2:17:08 PM](#)

CO-CHAIR JOHNSON asked if by attempting to stay out of court, the state is giving up its ability to change any taxes on the North Slope for the next 10-15 years or when the pipeline is started.

MR. BULLOCK said that if something the state does monetarily could be construed to violate the assurance, then the state would have to pay damages under this section. If it were a general law, then arguably it wasn't for the purpose of facilitating another pipeline. With regard to whether the state is locking taxes, the only provision that attempts to do so is the tax inducement that's offered to shippers. Mr. Bullock opined that he didn't believe what's being proposed could be viewed as prohibiting the legislature from changing the tax structure.

[2:18:35 PM](#)

REPRESENTATIVE SEATON, referring to page 23, line 17, asked if the language "the state extends to another person preferential royalty, tax, or monetary treatment" would mean that the state would be giving an inducement to a company or pipeline entity solely as a preference. If the state decided to change its tax or royalty treatment, he opined that it wouldn't be a preferential tax.

[2:19:17 PM](#)

CO-CHAIR JOHNSON posed a scenario in which "Craig's Pipeline Company" obtains the pipeline contract and the producers receive a tax break even though they're not involved in the pipeline. He asked if that is preferential treatment to allow them to construct a pipeline. As "Craig's Pipeline Company", he contended that the aforementioned would be preferential treatment and would result in the company going to court.

REPRESENTATIVE SEATON said that would be the case if it's a preferential tax for a pipeline. However, if it's referring to the PPT or an oil tax change that impacts the entire state or a region, that wouldn't be a preferential tax.

MR. BULLOCK said the aforementioned are good questions for the administration. He then posed a scenario in which the route that's selected is the in-state route with the liquefaction of natural gas and water-borne delivery. At some point, the state may decide to pass a bill similar to AGIA that offers the same benefits. He opined that is what this [provision] is aimed at.

[2:20:43 PM](#)

CO-CHAIR GATTO, referring to page 23, line 16, inquired as to the meaning of "commercial operations."

MR. BULLOCK said that the term refers to sending gas down the line, which is specified in the definitions section of the bill. He pointed out that the definition refers to the gas that would be subject to the tariff, not test gas.

[2:21:19 PM](#)

CO-CHAIR GATTO related his assumption that there's much work that can be done prior to commercial operations. In fact, during that time is when there's the secondary builder. He asked if it's possible to simultaneously have a 48-inch line going down the highway and a 16-inch line going to Valdez.

MR. BULLOCK responded that he didn't know. However, he pointed out that one of the restrictions in the assurances is that a competing natural gas project has to be capable of more than 500 million cubic feet (mcf) and it has to be North Slope gas. Therefore, it depends upon the size and throughput of the source of gas.

[2:22:17 PM](#)

REPRESENTATIVE GUTTENBERG related his understanding that nothing in AGIA addresses property taxes and the waiver of property taxes during construction. He asked if the aforementioned is assumed to be excluded from this and that an applicant interested in such would need to include such a provision in the proposal.

MR. BULLOCK pointed out that the state does have a 20 mills tax on oil and gas property as specified in AS 43.56. This would be a good question for the administration.

REPRESENTATIVE GUTTENBERG recalled that under the previous administration's plan there was a study identifying pipeline impacts, which amounted to about \$180 million.

[2:23:45 PM](#)

CO-CHAIR GATTO mentioned that the state has had plenty of experience with the impact of the Trans-Alaska Pipeline System (TAPS) on communities. However, the impact to communities occurs even before construction, although there's no revenue.

[2:24:15 PM](#)

REPRESENTATIVE GUTTENBERG recalled that under TAPS there was an exemption during construction, but impact aide was available to the state.

MR. BULLOCK highlighted that one interesting provision in HB 177 is the provision that provides that a project licensee would benefit from a state training program. That inducement has been changed in CSHB 177(O&G) by including a provision that requires the commissioner of the Department of Labor & Workforce Development (DLWD) to develop a state training program, which could be construction jobs or jobs to operate the pipeline upon its construction.

[2:25:25 PM](#)

CO-CHAIR GATTO surmised then that there's no explanation as to what is expected to happen, just that the DLWD commissioner is charged with that ability.

MR. BULLOCK noted his agreement, and pointed out the language on page 24, line 21, proposed AS 43.90.470, which read:

The commissioner of labor and workforce development shall develop a job training program that will provide training for Alaskans in gas pipeline project management, construction, operations, maintenance, and other gas pipeline-related positions.

[2:25:54 PM](#)

CO-CHAIR GATTO asked if the funding to do so would come from general fund (GF) monies or would a funding bill be required.

MR. BULLOCK indicated that the aforementioned language could be the basis for another bill. However, there are already institutions and other vocational schools that may design the curriculum, but there would be funding involved at some point.

CO-CHAIR GATTO surmised that there probably would be a fiscal note submitted by the Department of Commerce, Community, & Economic Development (DCCED) with regard to its part of this.

MR. BULLOCK said he isn't sure.

[2:26:46 PM](#)

REPRESENTATIVE WILSON related her understanding that the federal government has committed to helping Alaska with money for that when the time comes.

CO-CHAIR GATTO asked if there is a way to verify that statement.

MR. BULLOCK said that he would ask the commissioner of DLWD.

[2:27:37 PM](#)

CO-CHAIR JOHNSON asked if anything in this legislation keeps the \$500 million or the matching funds from being used for vocational education.

MR. BULLOCK pointed out that in the proposed AS 43.90.110 there are descriptions of the qualified expenses for which the state will pay. He directed attention to the provision on page 2, starting on line 30. He related his understanding that the language means to do those things necessary to go through the first binding open season. He opined that the aforementioned section would directly include that.

[2:28:39 PM](#)

CO-CHAIR GATTO surmised then that one could arguably say that it isn't necessary to select Alaskans to help build the pipeline and that it wouldn't be a necessary component of the bill.

MR. BULLOCK referred to page 8, line 18, paragraph (15), which specifies that the applicant must commit to hire qualified state residents for pipeline-related positions to the extent permitted by law.

CO-CHAIR GATTO highlighted the word "qualified", and inquired as to whether it's statutorily determined or is determined by the person hiring the individual.

MR. BULLOCK expressed the need to train people in the skills the employer needs.

[2:30:32 PM](#)

REPRESENTATIVE WILSON related her understanding that some of the universities and technical schools in the state are already ramping up and extending their programs to offer certification.

[2:31:53 PM](#)

REPRESENTATIVE GUTTENBERG, referring to page 8 and the section on local hire, pointed out that line 20 addresses businesses. He asked if there are similar local hire restrictions on businesses.

MR. BULLOCK said that he would expect similar scrutiny, although it's generally subject to a lower equal protection analysis.

[2:32:44 PM](#)

REPRESENTATIVE WILSON opined that there would be times when it would be more costly to deal with a business in Alaska rather than a business from somewhere else. Therefore, she suggested that be given some thought if there is an effort to keep the pipeline costs down in order to keep the tariff low.

[2:33:18 PM](#)

CO-CHAIR GATTO related his understanding that the people who are hired have to: 1) have a skill set; 2) pass a drug test; 3) be available to work during hunting and fishing season.

[2:34:21 PM](#)

MR. BULLOCK, in response to Representative Seaton, specified that on pages 2 and 3, proposed AS 43.90.110(1)-(3) are three inducements offered by the state. In further response, Mr. Bullock clarified that the structure of the proposed statute is that (1)-(3) are paragraphs within subsection (a).

[2:35:47 PM](#)

CO-CHAIR GATTO then turned attention to page 3, line 3, and inquired as to the jurisdiction of FERC and the RCA.

MR. BULLOCK pointed out that there are in-state tariffs that would fall under the RCA and interstate tariffs that fall under FERC. He related his impression that the RCA would have jurisdiction over the gas produced on the North Slope through the in-state delivery points.

[2:37:08 PM](#)

REPRESENTATIVE EDGMON returned to the vocational opportunities and other benefits that would accrue to Alaskans, and asked if this bill speaks to opportunities along the entire pipeline, including areas outside of Alaska as well.

MR. BULLOCK answered that it isn't based on location so much as the project itself. If the selected project goes through Canada, it would be subject to another nation's jurisdiction, which is a matter the commissioners will review. Mr. Bullock clarified that it's focused on project work and to hire, when possible, residents who are qualified to work on the project without identifying from where they would come or where they would actually perform the work. In further response to Representative Edgmon, Mr. Bullock said that the commitment to hire qualified state residents, as related on page 8, describes qualified state residents and the positions for which they would be hired without specifying a location.

[2:39:25 PM](#)

CO-CHAIR GATTO related his belief that the pipeline will be constructed at four different locations simultaneously. In which case, one segment could be located entirely in Alaska and another segment could be located entirely in Canada and another segment could cross the border. The aforementioned will create a bigger demand for labor, quicker use of materials, and more need for equipment. However, that's a minor inconvenience when considering that time is money.

REPRESENTATIVE GUTTENBERG noted his agreement that there will be many segments of the pipeline going on simultaneously.

MR. BULLOCK pointed out that the criteria the commissioners will use relates to the likelihood of success. Furthermore, the net present value evaluation criteria will also relate to how soon the pipeline will be built.

CO-CHAIR GATTO opined that within the four separate sections there can be 12 separate sections depending upon the terrain.

MR. BULLOCK reminded the committee that the focus of the bill is one project and the sections would be left to the licensee.

[2:41:37 PM](#)

MR. BULLOCK, speaking as the drafter, suggested that he can best and most expediently serve the committee with amendments that are marked up clearly with regard to the concept on the working document. He said that statutory language isn't necessary as he [and the other attorneys] would do their best in that realm.

[2:43:27 PM](#)

REPRESENTATIVE GUTTENBERG inquired as to how the chair intends to proceed with HB 177.

[2:43:35 PM](#)

CO-CHAIR GATTO announced that there's a schedule in which the administration will offer the next presentation. Co-Chair Gatto pointed out that much has already been done on HB 177, and therefore the committee has the opportunity to markup the bill and pen questions for the administration. Co-Chair Gatto announced his goal to try to get HB 177 to the House Finance Committee by the end of the following week. He then sought any committee discussion regarding the information brought forward today.

[2:45:01 PM](#)

REPRESENTATIVE SEATON expressed concern with the structure of the bill in which a bill is required to approve the contract.

[2:47:04 PM](#)

PATRICK GALVIN, Commissioner, Department of Revenue, explained that with the original legislation, the administration envisioned that the legislative process would be a safety valve. The legislative process provides the legislature the assurance that if the commissioner has made a decision with which the legislature doesn't agree, the legislature would have the opportunity to "put the breaks on it." Commissioner Galvin said, "We felt that it was a reasonable response to the concern

to move the project through that process, to allow the legislature the opportunity to act to stop the decision, but also to allow the legislature to let it go if there was no opposition. And we wouldn't have to go through the exercise of convening the body and going through the formal steps, if everybody was in agreement that the decision was proper."

[2:48:09 PM](#)

CO-CHAIR GATTO inquired as to how much time is consumed in the process in which the legislature doesn't do anything.

COMMISSIONER GALVIN answered, "There's 30 days." In further response to Co-Chair Gatto, Commissioner Galvin agreed that if the legislature meets on a date certain for only three days to make the decision, it's ahead of everything. The question becomes what is the more likely area of delay. If there is a license that isn't likely to be opposed, then the 30 days probably won't slow down the process. The concern is that even if there's a 60-day deadline to approve the licensee, it merely means that the commissioners can start the entire process over again if it doesn't happen within 60 days. "Clearly, if the legislature is basically trying to get to a decision, that 60 days is just going to pass and we're going to keep working to try to get to a decision. We're not going to start the whole process over again, if we're basically trying to work to a resolution." Therefore, he opined that by switching from the structure of the legislature acting if it chooses to reject [the licensee] to require the legislature to act in order to approve the [licensee], the timeframe doesn't matter because the step of legislative approval, no matter how long it takes, must occur. To some extent, the matter is in regard to what the appropriate role of the legislature is in the decision-making process at that point. Commissioner Galvin said this is an area ripe for discussion.

[2:51:53 PM](#)

REPRESENTATIVE GUTTENBERG related his understanding that if the legislature passes AGIA, then the administration goes out with an RFP. Once the RFPs return, the commissioners make a decision on the licensee and the first open season begins. He inquired as to what occurs in the time between when the licensee is designated and the first open season. He inquired as to what inducements would occur and for what reason.

COMMISSIONER GALVIN stated that the qualified expenditures are those that move [the licensee] to certification from the FERC or the RCA. As the engineering, field work, and cost estimates are being done, there will be the determination that there's enough information to have the first open season. He noted that different companies will draw the line in different places depending upon how much certainty is desired prior to the initial open season. Within AGIA, the companies are allowed to propose that. He recalled previous testimony on the bill in which some companies have said they could have an open season within months after expending tens of millions of dollars, half of which would be state dollars. However, ConocoPhillips Alaska, Inc. said it would take them a couple years and approximately \$400 million in order to reach that initial open season. Commissioner Galvin said:

All of it is the same type of work ... involved in moving from a project on paper to ground-truthing it and making sure that you actually have a good sense of what your costs are going to be. But, it's just a matter of how far the company's come already, in terms of work they've already done before they get the license, how much work they feel they need to do, and how fine of a target they're willing to put on that open season. And all that is subject to their own discretion and it's part of the proposal process.

[2:54:54 PM](#)

CO-CHAIR GATTO noted that he has been asked how each of the 20 requirements would be weighed.

COMMISSIONER GALVIN clarified that the 20 requirements are the requirements to be considered for evaluation. In the previous committees, there was refinement of the evaluation criteria such that it has been narrowed down to the following two major criteria: net present value to the state, likelihood of success. Within those two criteria, there's a breakdown of criteria in order to provide the more objective number for net present value. The projects will be ranked based on that number, which will be weighted on the likelihood of success. Within the likelihood of success there are many variables, including work plans, permits, participants in an open season, and when the open season is held. All of those variables will be weighed against the net present value estimate in order to rank [the projects]. Commissioner Galvin opined that although the way it has been re-structured will provide more clarity with

regard to how the analysis will be done, it will be a judgment call on the factors. Therefore, there will be a substantial written finding associated with explaining how the decision is made.

2:58:20 PM

CO-CHAIR GATTO inquired as to what is the tariff and the tax.

COMMISSIONER GALVIN said that the answer is that AGIA is established to create an opportunity for the various commercial players who want to participate to provide the answer to those questions. The administration anticipates that it is going to receive a reflection of the view of various companies on the various aspects of the two different types of projects. The administration, he related, recognizes the need to get those numbers out on the table in order to review the range between the different choices and the factors going into the various estimates and how much confidence can be had in any of those estimates. Through AGIA, a project will be selected that provides the best balance in order to end up with the best possible tariff structure.

3:01:09 PM

COMMISSIONER GALVIN then turned to the tax, which is known and specified in statute. The appropriate question is whether that's the appropriate tax, which can't be answered at this point as information is still being gathered. The administration recognizes, he said, that within AGIA a point in time has to be chosen in order to provide that predictability and durability on the tax side. Commissioner Galvin related his belief that the state nor the producers want to lock into the current tax, knowing that there's work to be done on determining whether it's the appropriate tax. Therefore, the bill locks in a rate that's in existence at the time of the commitment that the Act tries to induce, which will be the tax at the time of the open season. In summary, Commissioner Galvin said that he doesn't know what the tax and tariff will be, but pointed out that AGIA will move to the point of obtaining those answers.

3:03:11 PM

REPRESENTATIVE SEATON asked if the intent is for the administration to set the tax rate at the time of the open season.

COMMISSIONER GALVIN said that the point of the bill is that at the time of open season there will be a tax rate established by the legislature on the books. That tax rate will then be the basis for the aforementioned durability. However, he mentioned that there's no commitment or expectation in the bill that there will be a change to the tax rate between now and the [open season].

[3:04:19 PM](#)

REPRESENTATIVE SEATON surmised then that the intent of the legislation is that the legislature will set the tax rate. He then inquired as to the royalty rate.

COMMISSIONER GALVIN specified that the royalty rate is the rate that's established in the leases, which isn't changed by the bill. The royalty rate is a contractual right that the company will have in place from existing leases or will have from leases that are obtained. The bill doesn't attempt to change the royalty rate, although there are changes offered with regard to the treatment of royalty valuation that's alternate from what exists in current leases. He noted that there's another option to change the way that royalty in-kind and royalty in-value switching can be done by the state. Other than those two potential changes in the lease, there's no other proposed change in the royalty structure.

[3:05:47 PM](#)

REPRESENTATIVE SEATON expressed concern that the criteria and the valuation criteria don't include environmental criteria. He requested that the aforementioned be addressed tomorrow in light of the recent Supreme Court decision. He also requested that tomorrow there be discussion regarding retaining fugitive methane and other green house gas.

[3:07:25 PM](#)

CO-CHAIR GATTO said he expects that the federal government will have a carbon tax and carbon caps in place long before the pipeline is built. He suggested that the aforementioned will change the tariff and the netback.

[3:08:20 PM](#)

COMMISSIONER GALVIN said that [the administration] is working on the best way to instill those concerns and values in the bill to

make the project as environmentally friendly as possible. In the end, the biggest selling point for this project is that it provides a source of fuel that will hopefully be available to replace other sources currently being used and will ultimately be recognized as a solution to some of the concerns raised.

[HB 177 was held over.]

[3:09:05 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:09 p.m.