ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE
April 23, 2007
1:07 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Anna Fairclough

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
04/10/07	(H)	Heard & Held
04/10/07	(H)	MINUTE(RES)
04/11/07	(H)	RES AT 1:00 PM BARNES 124
04/11/07	(H)	Heard & Held
04/11/07	(H)	MINUTE(RES)
04/12/07	(H)	RES AT 1:00 PM BARNES 124
04/12/07	(H)	Heard & Held
04/12/07	(H)	MINUTE(RES)
04/13/07	(H)	RES AT 1:00 PM BARNES 124
04/13/07	(H)	Heard & Held
04/13/07	(H)	MINUTE(RES)
04/14/07	(H)	RES AT 1:00 PM BARNES 124
04/14/07	(H)	Heard & Held
04/14/07	(H)	MINUTE(RES)
04/16/07	(H)	RES AT 1:00 PM BARNES 124
04/16/07	(H)	Heard & Held
04/16/07	(H)	MINUTE(RES)
04/17/07	(H)	RES AT 1:00 PM BARNES 124
04/17/07	(H)	Heard & Held
04/17/07	(H)	MINUTE(RES)
04/18/07	(H)	RES AT 1:00 PM BARNES 124
04/18/07	(H)	Heard & Held
04/18/07	(H)	MINUTE(RES)
04/19/07	(H)	RES AT 1:00 PM BARNES 124
04/19/07	(H)	Heard & Held
04/19/07	(H)	MINUTE(RES)
04/20/07	(H)	RES AT 1:00 PM BARNES 124
04/20/07	(H)	Heard & Held
04/20/07	(H)	MINUTE(RES)
04/21/07	(H)	RES AT 1:00 PM BARNES 124
04/21/07	(H)	Heard & Held
04/21/07	(H)	MINUTE(RES)
04/23/07	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

MARCIA DAVIS, Deputy Commissioner

Department of Revenue
Juneau, Alaska
POSITION STATEMENT: During hearing of the administration's amendments to CSHB 177(O&G), answered questions.

CODY RICE, Staff
to Representative Gatto
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: During hearing of HB 177, answered questions.

PAT 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 1:07:16 PM. Representatives Gatto, Johnson, Kawasaki, Wilson, Seaton, Roses, Guttenberg, and Edgmon were present at the call to order. Representative Kohring arrived as the meeting was in progress. Representative Fairclough was also in attendance.

HB 177-NATURAL GAS PIPELINE PROJECT

1:07:25 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." [Before the committee was CSHB 177(O&G).]

1:09:51 PM

CO-CHAIR GATTO moved that the committee adopt Administration Amendment 1, which read [original punctuation provided]:

> Page 1, line 4-5- Delete "establishing the gas utility revolving loan fund;"

CO-CHAIR GATTO objected for discussion purposes. He noted that Administration Amendment 1 changes the title.

1:10:09 PM

REPRESENTATIVE SEATON surmised that this is a policy call regarding entirely eliminating the gas utility revolving loan fund from the legislation.

CO-CHAIR GATTO responded yes. He withdrew his objection. There being no further objections, Administration Amendment 1 was adopted.

1:10:44 PM

CO-CHAIR GATTO [moved that the committee adopt] Administration Amendment 2, which seems to be merely a grammatical correction. Administration Amendment 2 read:

> Page 1, line 12, replace the second "of" with "in"

There being no objection, Administration Amendment 2 was adopted.

1:10:58 PM

CO-CHAIR GATTO moved that the committee adopt Administration Amendment 3, which read [original punctuation provided]:

> Page 2, line 3 - replace "from the" with "of"
>
> Page 2, line 5 - insert "state" after "encourages" and delete "in the state"
>
> **Section 43.90.110 Natural gas pipeline project construction inducement**
>
> Page 2 Line 16 - Page 3, line 8 - Revise (1) and (2) as follows:
>
> (1) subject to appropriate, state matching contributions in an [a total] amount not to exceed $500,000, paid in total to the licensee over a [during the] five-year period; the payment period may be extended by the commissioners under an amendment or modification of the project plan under AS 43.90.210; the payment period commences on the date of the

issuance of the license; [immediately following the date the license is awarded;] payments under this paragraph shall be made according to the following:

(A) on or before the close of the first binding open season, the state shall match [contribute the amount of] the licensee's qualified expenditures at the [a] level specified in the license; however the state's matching contribution may not be more than [exceed] 50 percent of the qualified expenditures incurred before the close [end] of the first binding open season;

(B) after the close of the first binding season, the state shall match [may contribute an amount for] the licensee's qualified expenditures at a [the] level specific in the license; however, the state's matching contribution may not be greater than 80 percent of the qualified expenditures incurred after the close of the first open season;

(C) [a] qualified expenditures are [is a] costs that are [is] incurred after the license is issued under this chapter, [is incurred] by the licensee or the licensee's designated affiliate, and are [is] directly and reasonably related to obtaining a certificate or amended certificate of public convenience and necessity from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, for development of the project; [but] in this subparagraph, "qualified expenditures" does not include overhead costs, litigation costs [the cost of an] assets or work product predating the issuance of the license, [acquired by the licensee before the license is issued] or civil or criminal penalties, [criminal penalties] or fines; and

(2) the benefit of an Alaska Gasline Inducement Act coordinator who has the authority prescribed in AS 43.90.250.[; and]

Page 2, line 9 - Insert "(a)" between "project." and "The".

Page 2, line 12 -Insert "(b)Nothing in this section precludes a person's pursuing a gas pipeline independently from this chapter."

1:11:20 PM

REPRESENTATIVE SEATON said that he doesn't understand the change to page 2, line 3, specified in Administration Amendment 3.

MARCIA DAVIS, Deputy Commissioner, Department of Revenue, explained that the change to page 2, line 3, specified in Administration Amendment 3 is merely a grammatical change. She mentioned that this is a small change that will also drive CSHB 177(O&G) closer to the language of the Senate companion legislation. The change specified in Administration Amendment 3 to page 2, line 5, is a similar change.

1:13:17 PM

MS. DAVIS, in response to Representative Seaton, confirmed that the term "appropriate" in paragraph (1) of Administration Amendment 3 is a typographical error and should be the term "appropriation".

REPRESENTATIVE SEATON moved that the committee adopt an amendment to Administration Amendment 3 such that the term "appropriate" in paragraph (1) is replaced with "appropriation". There being no objection, the amendment to Administration Amendment 1 was adopted.

1:14:39 PM

MS. DAVIS specified that all of Administration Amendment 3, as amended, save lines 11-13 of the written amendment, are changes to conform to the Senate companion legislation. The changes specified on lines 11-13 of the written amendment is a change that was adopted on the Senate side that the administration recommends be included in the HB 177. This change would provide some flexibility to allow the payment period to be extended.

1:15:11 PM

REPRESENTATIVE SEATON, referring to subparagraphs (A) and (B) of Administration Amendment 3, as amended, related his understanding that the language specifying that the state "shall" match the qualified expenditures would only occur "if

the licensee has requested in its proposal for license for matching money, this doesn't require the match be taken."

MS. DAVIS confirmed that is correct.

1:16:00 PM

CO-CHAIR JOHNSON inquired as to the reasons the payment period would be extended.

MS. DAVIS explained that there is a hard deadline of 36 months for the initiation of open season, thereafter there is no hard deadline for the initiation of the Federal Energy Regulatory Commission (FERC) certification process. However, the legislation does specify a hard deadline of five years for the dispersal of the matching funds. The desire, she related, is to ensure that there is an intelligent expenditure of funds and that the applicant doesn't feel the need to accelerate some of the expenditures in order to come in under the five-year deadline. There may be expenditures that occur after the five years and may be more in step with the manner in which FERC certification occurred. Ms. Davis said that the administration didn't believe that any delay of the matching fund would hurt the state, but there is the desire for intelligent decision making with regard to the applicant's expenditures.

1:17:28 PM

CO-CHAIR JOHNSON commented that he didn't know if he conceptually agreed that the state should give another unlimited period of time for an applicant to continue to a second or third open season. This would extend the second open season beyond five years.

MS. DAVIS pointed out that the funds aren't tied to the open season but rather to the FERC certification process. Therefore, there could be multiple open seasons with the five-year period. The five-year deadline is a straight deadline regardless of the point at which the applicant is in the FERC certification process.

CO-CHAIR JOHNSON said he would like to qualify that statement by referring to "successful open season."

1:19:33 PM

REPRESENTATIVE GUTTENBERG, referring to the language inserted on page 2, line 12, as specified in Administration Amendment 3, as amended, asked, "Doesn't that go without saying?"

MS. DAVIS stated that it's a matter of federal law and that this language was added in the Senate companion legislation in order to quell the producers' concerns that this was an exclusive arrangement and process.

1:20:33 PM

REPRESENTATIVE ROSES inquired as to how one would pursue a gas pipeline independently from the contract.

MS. DAVIS explained that one would essentially apply for their right-of-ways, their permitting processes, and apply to the RCA and FERC where appropriate.

REPRESENTATIVE ROSES related his understanding that there is no mechanism in place to proceed with the state other than AGIA.

MS. DAVIS replied no, and pointed out that part of the mechanism for obtaining permitting for a pipeline is to apply to the Department of Natural Resources (DNR) for rights-of-way for which they have the exclusive province for issuing and deal with the Department of Environmental Conservation (DEC) for environmental permitting. Therefore, a pipeline builder would deal with the state for all of its permitting and various administrative jurisdictional areas. The state would be engaged in issuing permits and authorizing the various activities on state land and the areas for which the state exercises police powers. Ms. Davis pointed out that there would be consequences if the state preferentially issued a tax rebate, preferentially provided a royalty benefit, or provided an outright monetary grant. Although the state could do the aforementioned, there would be consequences under AGIA for supporting a competing pipeline project with the AGIA licensee.

1:22:36 PM

REPRESENTATIVE ROSES surmised, "You would only be precluded up until a point in which you issued or selected, according to AGIA, a licensee. Prior to the assignment or the awarding of a licensee, that would not preclude the state from making those kinds of inducements, would it?"

MS. DAVIS said that's correct.

1:22:59 PM

CO-CHAIR GATTO related his understanding that such would be the case with any pipeline.

MS. DAVIS said that's correct, adding that essentially any pipeline can be built in the state. She reiterated that consequences for building a competing pipeline are set forth in AGIA. The legislation defines a competing pipeline as one that delivers gas of greater than 500 million cubic feet a day.

1:23:41 PM

CO-CHAIR GATTO, after ascertaining there were no objections to Administration Amendment 3, as amended, announced that Administration Amendment 3, as amended, was adopted.

1:24:17 PM

CO-CHAIR GATTO moved that the committee adopt Administration Amendment 4, which read [original punctuation provided]:

> Page 2, line 13 - Delete "(a)"

There being no objection, Administration Amendment 4 was adopted.

1:25:03 PM

CO-CHAIR GATTO moved that the committee adopt Administration Amendment 5, which read [original punctuation provided]:

> Page 3, line 9-14 - Delete subsection (3) and subsection (b).

MS. DAVIS explained that [paragraph] (3) is being deleted because the benefits of the qualified job training has been moved to a later section in the legislation and isn't an exclusive inducement. Subsection (b) has been addressed in the [provisions] addressing the right of the commissioners to issue regulations.

1:25:51 PM

REPRESENTATIVE GUTTENBERG related his desire to have a committee substitute (CS) that incorporates these amendments for the committee to review prior to it moving out of committee.

CO-CHAIR GATTO related his understanding that the amendments will be adopted and the CS will be presented in the House Finance Committee.

REPRESENTATIVE GUTTENBERG surmised then that once all the amendments are dispensed with, the motion will be to report the legislation, as amended, from committee without the committee seeing that amended legislation. He reiterated his desire to have the amended legislation in a CS for the committee to review prior to moving the legislation from committee.

1:26:37 PM

CO-CHAIR GATTO inquired as the time required for the committee to have a CS that incorporates the amendments. He noted that the House Finance Committee would like to have the legislation on Friday in order to take it up that day.

MS. DAVIS said that one of the challenges is working with the legislative attorneys who work in a certain Word format. She said she can work in a Word format to create a document that has the changes without the numbering down the margin. She offered to check with Legislative Legal and Research Services in order to coordinate and facilitate getting the committee a CS.

1:28:24 PM

CO-CHAIR GATTO returned the committee's attention to Administration Amendment 5.

REPRESENTATIVE SEATON inquired as to why the language on page 3, lines 12-14 of CSHB 177(O&G) is being deleted.

MS. DAVIS explained that later in the legislation there is a general authorizing provision that allows the commissioners to enact all regulations necessary for the implementation of the chapter. Therefore, the drafter felt it appropriate to eliminate the special regulation for each section and maintain the general authorizing authority at the back of the chapter. In response to Representative Guttenberg, Ms. Davis confirmed that the language in paragraph (3) on page 3, lines 9-12 of CSHB 177(O&G) is located elsewhere in the legislation.

CO-CHAIR GATTO noted that there has been a substantial amount of re-ordering in order to mesh HB 177 and SB 104.

CO-CHAIR GATTO, after ascertaining that there were no objections, announced that Administration Amendment 5 was adopted.

1:29:57 PM

CO-CHAIR GATTO moved that the committee adopt Administration Amendment 6, which read [original punctuation provided]:

> **Sec. 43.90.120. Request for applications for the license.**
>
> Page 3, Line 16, insert after "license"-"under this chapter"
>
> Page 3, Line 18-20, Revise to read: "The commissioners may use independent contractors [,including technical advisors] to advise [them] in developing the provisions for the application for a license and in evaluating [the] applications received under this chapter.
>
> **Section 43.90.130. Application requirements**
>
> Page 3, line 25 - Delete first sentence and replace with:
>
> "An application for a license must be consistent with the terms of the request for applications under AS 43.90.120 and must"
>
> Page 3, line 28, replace "file the application" with "be filed"

MS. DAVIS characterized Administration Amendment 4 as a conforming amendment.

1:31:09 PM

REPRESENTATIVE GUTTENBERG requested an explanation of the language change of "shall" to "must" in the new language for the first sentence on page 3, line 25.

MS. DAVIS informed the committee that the change was made by the drafter to comport with standard drafting protocols. Ms. Davis related her understanding that there is no difference in the meaning of "must" versus "shall".

REPRESENTATIVE SEATON related his understanding that "shall" is an order for somebody to do something while "must" refers to an application including something.

There being no objection, Administration Amendment 6 was adopted.

1:32:34 PM

CO-CHAIR GATTO moved that the committee adopt Administration Amendment 7, which read [original punctuation provided]:

> Page 3, lines 22-24 - Delete the rest of the sentence after "chapter"

MS. DAVIS said that Administration Amendment 7 relates to the adoption of regulations and there is a provision in the legislation that requires applicants to waive their appeal rights, both appeal against an award and the decision not to award. Therefore, these provisions aren't necessary.

1:33:18 PM

REPRESENTATIVE GUTTENBERG asked if there are any changes in the way in which protest and appeal procedures are provided.

MS. DAVIS explained that in this case, because there was a policy change to remove the right of appeal to protest the application, the award of licenses, the provision [deleted in Administration Amendment 7] no longer has a function. In other words, she explained that there is no need to adopt or incorporate analogous provisions to the procurement code because there won't be authorized an administrative appeal of the award of licenses. In further response to Representative Guttenberg, Ms. Davis said that she would expand on the new procedure, which is found in the application requirements.

There being no objection, Administration Amendment 7 was adopted.

REPRESENTATIVE ROSES mentioned that although he didn't object to Administration Amendment 7, he reserves the right to reconsider

Administration Amendment 7 once the committee reviews the provision where the language appears.

1:35:57 PM

CO-CHAIR GATTO moved that the committee adopt Administration Amendment 8, which read [original punctuation provided]:

> Page 4, line 12 - Insert "how the applicant will implement practices for controlling carbon emissions from natural gas systems as established by the United States Environmental Protection Agency" between "engineering," and "and"
>
> Page 4, line 12 - Delete "complying" and insert "how the applicant will comply"

There being no objection, Administration Amendment 8 was adopted.

1:36:41 PM

CO-CHAIR GATTO moved that the committee adopt Administration Amendment 9, which read [original punctuation provided]:

> Page 4, line 1, insert semi-colon after "pipeline" and delete remainder of subsection (A)
>
> Page 4, line 3, delete "the location of" and add "s" to end of "receipt"
>
> Page 4, line 6, after "points" and before semi-colon, add "unless the application proposes specific in-state delivery points"
>
> Page 4, line 8-9, revise (C) to read "an analysis demonstrating the project's economic and technical viability [of the project] as required in the request for application;
>
> Page 4, line 9-14 revise (D) to read "an economically and technically viable work plan, timeline and associated budget for developing the proposed project, including how the applicant will perform [and work associated with the project that includes] field work, environmental studies, design, and engineering, how the applicant will implement practices for controlling

carbon emissions from natural gas systems as established by the United States Environmental Protection Agency, and how the applicant will comply [and complying] with all applicable state, federal, and international regulatory requirements that affect the proposed project; the [applicant shall provide] work plan must address the following:

Page 4, line 16: revise to read "...a [detailed] description in detail of the ..."

Page 4, line 17 - add semi-colon after "Canada"

Page 4, line 20 - add semi-colons after "agencies" and "services", insert "and" after "agencies;"

Page 4, line 24 - insert "marine" after "the"

Page 4, line 24-26 - Delete from "pipeline" to "of"

Page 4, line 28 - delete "and" after "services;" then insert "by third parties" after "services;"

Page 4, line 29 - delete "that" and insert "propose" after "would"

Page 4, line 29-31 - delete "including" through "terms"

Page 4, line 31 delete "a" and replace "party" with "parties"

1:37:12 PM

CO-CHAIR GATTO asked if there is another location in the legislation where the over the top route is addressed.

MS. DAVIS said that she will have to double check that.

1:38:37 PM

CO-CHAIR JOHNSON opined that he wasn't sure about the deletion proposed in Administration Amendment 9. He mentioned the possibility of bifurcating the amendment.

CO-CHAIR GATTO announced that the committee will review Administration Amendment 9 and address it once there is an

answer regarding whether the over the top route is addressed elsewhere in the legislation.

The committee took an at-ease from 1:39:21 PM to 2:02:35 PM.

2:02:38 PM

CO-CHAIR GATTO suggested that from this point on the committee will stop voting on the administration's amendments and have the drafter incorporate the administration's amendments into a CS for review. The committee would then turn to the member's amendments and take those up and vote on them. Therefore, he explained that the committee would review Administration Amendment 9, but won't vote on it because it will be in the CS for the committee to consider.

2:06:05 PM

REPRESENTATIVE WILSON pointed out that the portion of Administration Amendment 9 deleting from "pipeline" to "of" on page 4, lines 24-26, should actually delete from "pipeline" through "of".

MS. DAVIS noted her agreement.

CO-CHAIR GATTO announced that the committee will address the members' amendments at 6:00 p.m.

2:07:52 PM

REPRESENTATIVE ROSES agreed with the proposed approach, but opined that he didn't know if it's appropriate to continue to review the administration's amendments without them in the context of the CS. Therefore, he related his preference to suspend addressing the administration's amendments until the CS is before the committee.

MS. DAVIS interjected that there are large chunks that have a substantive rationale that she could review in order to perhaps save the committee some time.

CO-CHAIR GATTO stated his agreement.

2:09:13 PM

REPRESENTATIVE SEATON indicated that perhaps the administration's amendments that are policy calls could be discussed.

CO-CHAIR GATTO asked if the Senate deleted the over the top route.

MS. DAVIS answered that the provision wasn't included in the Senate legislation. She offered her guess that the over the top route language was added in the House Special Committee on Oil and Gas.

REPRESENTATIVE EDGMON confirmed that the language was added in the House Special Committee on Oil and Gas.

2:11:25 PM

CO-CHAIR JOHNSON moved to divide Administration Amendment 9 such that Administration Amendment 9A would read [original punctuation provided]:

> Page 4, line 1, insert semi-colon after "pipeline" and delete remainder of subsection (A)

Administration Amendment 9B would read, with technical changes noted during the meeting, [original punctuation provided]:

> Page 4, line 3, delete "the location of' and add "s" to end of "receipt"
>
> Page 4, line 6, after "points" and before semi-colon, add "unless the application proposes specific in-state delivery points"
>
> Page 4, line 8-9, revise (C) to read "an analysis demonstrating the project's economic and technical viability [of the project] as required in the request for application;
>
> Page 4, line 9-14 revise (D) to read "an economically and technically viable work plan, timeline and associated budget for developing the proposed project, including how the applicant will perform [and work associated with the project that includes] field work, environmental studies, design, and engineering, how the applicant will implement practices for controlling carbon emissions from natural gas systems as

established by the United States Environmental Protection Agency, and how the applicant will comply [and complying] with all applicable state, federal, and international regulatory requirements that affect the proposed project; the [applicant shall provide] work plan must address the following:

Page 4, line 16: revise to read"...a [detailed] description in detail of the ..."

Page 4, line 17 - add semi-colon after "Canada"

Page 4, line 20 - add semi-colons after "agencies" and "services", insert "and" after "agencies;"

Page 4, line 24 - insert "marine" after "the"

Page 4, line 24-26 - Delete from "pipeline" to "of"

Page 4, line 28 - delete "and" after "services;" then insert "by third parties" after "services;"

Page 4, line 29 - delete "that" and insert "propose" after "would"

Page 4, line 29-31 - delete "including" through "terms"

Page 4, line 31 delete "a" and replace "party" with "parties"

2:12:23 PM

CO-CHAIR GATTO, upon determining there was no objection, announced that Administration Amendment 9 was divided as specified above. He then announced that before the committee was Administration Amendment 9A.

REPRESENTATIVE WILSON objected for discussion purposes.

CO-CHAIR GATTO explained that if the committee fails to adopt Administration Amendment 9A, then the over the top route would remain in the legislation as written on the first few lines of page 4. He then related his understanding that the over the top route was eliminated as a possibility by FERC.

2:13:37 PM

REPRESENTATIVE SEATON pointed out that federal statute does eliminate the over the top route. However, noting precludes someone wanting the gas to seek a change from the federal government to allow it to traverse over the top. If that occurred and the state removed its prohibition on going over the top, then the pipeline owner can make the modification and go over the top. The state has consistently said the pipeline will go through Alaska. Therefore, leaving the language prohibiting the proposal of an over the top route simply means that the state doesn't support and won't allow such a pipeline to take gas from the North Slope over the top and through the McKenzie Valley. He related his belief that the prohibition of the over the top route should be left in the legislation.

2:15:19 PM

REPRESENTATIVE WILSON highlighted that the language in CSHB 177(O&G) says "may not be the route described in AS 38.55.017(b)" rather than "shall not".

MS. DAVIS explained that this language is in the context of the application an applicant is required to file under AGIA. The applicant must describe the route of the proposed pipeline. By leaving intact the language currently in CSHB 177(O&G), the applicant can't propose a pipeline that would utilize the over the top route. The Senate companion legislation didn't have such a prohibition, which she said could be related to the fact that the language hadn't yet passed through the House Special Committee on Oil and Gas. In an effort to conform the House and Senate legislation, the notion with Administration Amendment 9A is to delete the language. However, she acknowledged that it's a policy issue.

2:16:58 PM

REPRESENTATIVE KOHRING noted his agreement with Representative Seaton's statements, adding that the House Special Committee on Oil and Gas was being proactive by adding the prohibition.

REPRESENTATIVE WILSON removed her objection.

REPRESENTATIVE SEATON stated his objection, adding that in order to maintain the language in CSHB 177(O&G) the committee would have to oppose Administration Amendment 9A, which proposed to delete the language.

CO-CHAIR GATTO stated his objection also.

A roll call vote was taken. Representative Gatto voted in favor of Administration Amendment 9A. Representatives Kohring, Wilson, Seaton, Roses, Guttenberg, Edgmon, Kawasaki, and Johnson voted against it. Therefore, Administration Amendment 9A failed to be adopted by a vote of 1-8.

2:20:51 PM

CO-CHAIR GATTO, upon determining there was no comment on Administration Amendment 9B, turned the committee's attention to Administration Amendment 9C, which, with technical changes noted during the meeting, read [original punctuation provided]:

> Page 5, line 1, delete "the identification of that" and replace with "identify the"
>
> Page 5, line 2, replace "party with "parties" and delete "applicable to the liquefaction services" and insert "they would offer"
>
> Page 5, line 3 - delete from "marine" through "the"
>
> Page 5, line 7 - delete semi-colon and replace with ", and"
>
> Page 5, line 8 - delete "and licenses"
>
> Page 5, line 10 - insert after "Commission" - " for the transportation of liquefied natural gas in interstate commerce if United States markets are proposed;"
>
> Page 5, line 12 - insert "commit that" before "if"
>
> Page 5, line 13 - delete "commit to" and insert "the applicant will"
>
> Page 5, line 14, delete "is"
>
> Page 5, line 20 - insert "or amended certificate" after "certificate"
>
> Page 5, line 23 - insert "or amended certificate" after "certificate"

Page 5, line 26 - insert "commit that" before "if"

Page 5, line 27 - delete "commit to" and insert "the applicant will"

CO-CHAIR GATTO highlighted that the changes to page 5, line 10 in Administration Amendment 9C are referencing liquefied natural gas (LNG). He then requested explanation of that change.

MS. DAVIS explained that beginning on page 4, line 23, through page 5, line 11, sub-subparagraph (ii) is designed to focus exclusively on a project that proposes an LNG project.

2:22:59 PM

REPRESENTATIVE SEATON related his understanding that if the project goes through pipeline, then there will be pipeline details. However, he said that he doesn't see the details of the 800 miles of pipeline if it were to go to Valdez. He requested that Ms. Davis ensure it's addressed.

MS. DAVIS specified that the intent is for the application to describe each component of the transportation arm with a project that involves a pipeline to an LNG plant that then proceeds into marine transportation. She pointed out that the language on page 4, lines 1-14, address the details focusing on pipelines while page 4, line 15 through page 5, line 11, details a project involving transport through Canada or liquefaction of natural gas liquids. She noted that the administration "tried not to double up the requirements within" sub-subparagraphs (i) and (ii) on page 4, line 15 through page 5, line 11.

2:25:49 PM

REPRESENTATIVE SEATON said that he doesn't see the tariffs for the in-state portion of either pipeline.

CO-CHAIR GATTO directed Representative Seaton to page 4, lines 20-22.

REPRESENTATIVE SEATON clarified that the language refers to the Canadian tariffs and terms.

MS. DAVIS acknowledged that the structure is misleading because it suggests that the rate information only relates to the Canadian portion. However, she didn't believe that's the case because the language discusses regulatory agencies. Therefore,

the focus is on the whole pipeline. Still, Ms. Davis suggested that the language should be placed in a section that applies to all. To that end, she suggested that she would [review] the language to ensure that the generic request for description of ratemaking methodology and rates is included. Ms. Davis highlighted that part of the challenge is that the legislation, under the application requirements, reflect upon the tariff rates.

2:30:53 PM

CODY RICE, Staff to Representative Gatto, Alaska State Legislature, speaking to Administration Amendment 9C, related his belief that the language change to "amended certificate" is substantive. He said that language references the possibility of an amended certificate, such as the certificate that TransCanada currently holds.

MS. DAVIS explained that because TransCanada already holds a certificate, TransCanada wanted to be sure that under this process they would be committing to amend their certificate versus obtaining a new certificate.

2:32:42 PM

CO-CHAIR GATTO turned the committee's attention to Administration Amendment 11, which read [original punctuation provided]:

> Page 6, line 20 - page 7 line 8 - Delete this section in its entirety and substitute:
> "Sec. 43.90.130. (7) commit that the applicant
>
> A. will propose and support the recovery of mainline capacity expansion costs, including fuel costs, from all mainline system users through rolled-in rates as provided in (B) and (C) of this paragraph or through a combination of incremental and rolled-in rates as provided in (D) of this paragraph;
>
> B. will propose and support the recovery of mainline capacity expansion costs, including fuel costs, from all mainline system users through rolled-in rates; an applicant is obligated under this subparagraph only if the rolled-in rates would increase the rates
>
> i. not described in (ii) of this subparagraph by not more than 15 percent above the initial maximum recourse rates for capacity acquired

before commercial operations commence; in this sub-subparagraph, "initial maximum recourse rates" means the highest cost-based rates for any specific transportation service set by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or the National Energy Board of Canada, as appropriate, when the pipeline commences commercial operations;

ii. by not more than 15 percent above the negotiated rate for pipeline capacity on the date of commencement of commercial operations where the holder of the capacity is not an affiliate of the owner of the pipeline project; for the purposes of this sub-subparagraph, "negotiated rate" means the rate in a transportation service agreement that provides for a rate that varies from the otherwise applicable cost-based rate, or recourse rate, set out in a gas pipeline's tariff approved by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or the National Energy Board of Canada, as appropriate; or

iii. for capacity acquired in an expansion after commercial operations commence, to a level that is not more than 115 percent of the volume-weighted average of all rates collected by the project owner for pipeline capacity on the date commercial operations commence;

2:33:35 PM

MS. DAVIS explained that this is the provision that identifies the size of the cap for the cost of expansion. In the original legislation the cap was identified as 15 percent of the maximum initial recourse rate. She reminded committee members that the recourse rate, the rack rate, is the listed price approved by FERC. However, what happens most often is that an entity shipping that entity's own gas will negotiate a rate in order to obtain more favorable terms, which often results in a tariff lower than the rack rate. The independent pipeline companies expressed concern that capping expansion at 15 percent of the higher rack rate would impair their ability to negotiate rates with the shippers. Therefore, the independent pipeline companies wanted the cap to reflect the reality of the marketplace. The aforementioned resulted in the administration taking the 15 percent cap and created three different caps. She explained that a shipper paying the rack rate is capped at 15 percent of the maximum initial recourse rate. If an entity

negotiates a rate with the shipper, that entity is capped at 15 percent above the negotiated rate. For an entity that enters after the initial shippers have signed on, subsequent shippers, the third category is a weighted average of the rack rate and the negotiated rate and thus the cap will be 15 percent of the blended rate.

2:36:38 PM

CO-CHAIR GATTO questioned why the language "not more than 115 percent of" when the language "15 percent" could've been used each time.

MS. DAVIS related her understanding that it works best in the math and has to do with the weighted number. She offered to check into that.

MR. RICE related his understanding that sub-subparagraph (ii) of Administration Amendment 11 doesn't appear to be available to integrated pipelines and upstream shippers. He characterized the aforementioned as a policy call for the committee.

2:38:17 PM

CO-CHAIR GATTO then moved on to Administration Amendment 11A, which read [original punctuation provided]:

> C. will, if recovery of mainline capacity expansion costs, including fuel costs, through rolled-in rate treatment would increase the rates for capacity described in (B) of this paragraph, propose and support the partial roll-in of mainline expansion costs, including fuel costs, to the extent that rates acquired before commercial operations commence do not exceed the levels described in (B) of this paragraph;
>
> D. may, for the recovery of mainline capacity expansion costs, including fuel costs, that, under rolled-in rate treatment, would result in rates that exceed the level in (B) of this paragraph, propose and support the recovery of those costs through any combination of incremental and rolled-in rates;
>
> E. agrees not to enter into a negotiated rate agreement that would preclude the applicant from collecting from any shipper, including a shipper with a negotiated rate agreement, the rolled-in rates that are required to be proposed and supported by the applicant under (B) of this paragraph or the partial

rolled-in rates that are required to be proposed and supported by the applicant under (C) of this paragraph;"

MR. RICE highlighted that the fuel costs are included in Administration Amendment 11A.

2:39:02 PM

CO-CHAIR GATTO moved on to Administration Amendment 12, which read [original punctuation provided]:

Page 7, line 19 - insert a comma after "plant"; insert "that" after "whether" and delete "such a"

Page 7, line 20 - delete "such a" and insert "that" after "that"

Page 7, line 22, insert comma after "commerce"

Page 7, line 25, delete "owned" and insert "used" after "previously"

Page 7, line 27 - insert semi-colon after "operation"

Page 7, line 31, insert "for the state's matching contribution under AS 43.90.110(1)(A) and (B)" after "amount"

MR. RICE suggested that it may be better to insert the language "described the identity of" before "operation" on page 7, line 27, in Administration Amendment 12. He also suggested on page 7, line 29, inserting "described" between "and" and "the" in order to clarify the requirement.

2:41:03 PM

CO-CHAIR GATTO moved on to Administration Amendment 13, which read [original punctuation provided]:

Page 8, line 1 - replace comma with semi-colon after "license" and delete remainder of sentence.

Page 8, line 3 - delete "to" after "commit" and insert "that the applicant will" after "commit"

Page 8, line 7 - after "means", delete "for preventing or" and insert "by which the applicant plans to"; replace "managing cost overruns for" with "manage overruns in costs of"

Page 8, line 8 - insert "if any," after "project,"; after "measures", delete "for minimizing" and insert "that the applicant proposes to mitigate"; replace "from" with "of"

Page 8, line 9, insert "for" after "provide"

Page 8, line 22 - Replace "award" with "issuance of a license"; insert "to appeal" after "or"

Page 8, line 28, insert "matching" after "state"

Page 8, line 29 - insert comma after "base"

Page 8, line 31 - replace semi-colon with comma

MR. RICE highlighted that Administration Amendment 13 does deal with specific language related to managing cost overruns. He said that he didn't view it as specifically substantive.

2:41:43 PM

MR. RICE related his understanding that Administration Amendment 14 is one that addresses an area in which Representative Roses is interested. Administration Amendment 14 read [original punctuation provided]:

Page 8, line 18-21 - Delete section (15) and substitute:

(15) to the extent permitted by law, commit to

(A) hire qualified residents from throughout the state for management, engineering, construction, operations, maintenance, and other positions on the proposed project;

(B) contract with businesses located in the state;

(C) establish hiring facilities or use existing hiring facilities in the state; and

(D) use, as far as is practicable, the job centers and associated services operated by the Department of Labor & Workforce Development and an

Internet-based labor exchange system operated by the state;

Page 8, line 25-27

Line 25 - delete "prior to" and replace with "before"

Line 26 - after "agreement" delete "to assure expedited construction and" and replace with "; in this paragraph, "project labor agreement means a comprehensive collective bargaining agreement between the licensee or its agent and the appropriate labor representatives to ensure expedited construction with"

MS. DAVIS explained that Administration Amendment 14 fleshes out paragraph (15) in response to concerns expressed regarding local hire and business impact. The language also makes more specific references to hiring facilities and the use of existing and future job centers.

2:42:39 PM

CO-CHAIR GATTO expressed concern with the use of the term "hiring facilities". Although he indicated that it isn't necessary to describe such facilities specifically, but the language in the amendment could be satisfied by establishing a phone booth.

MS. DAVIS recalled that part of the concern was that the term "hiring hall" carries many legal nuances, including institutional knowledge relative to being restricted to union halls. The attempt with Administration Amendment 14 was to use broader language than the phrase "hiring hall".

CO-CHAIR GATTO stated his satisfaction with the language.

2:43:34 PM

REPRESENTATIVE SEATON recalled testimony at a previous hearing in which the only requirement under subparagraph (D) is 30-day residency whereas under project labor agreements (PLAs) an individual has to be a resident, but there can be pre-applications over time. He asked if there is an explanation regarding whether the inclusion of subparagraph (D) lessens the ability of residents to get on a priority list for applying under a PLA.

MR. RICE said he can't speak to this definitely, but pointed out that Administration Amendment 14 does address the definition of PLA. He related his assumption that through the PLA process there will be clarified residency requirements. He then related his understanding that most union halls require one year of residency.

2:45:11 PM

REPRESENTATIVE SEATON clarified that his question about subparagraph (D) is that it automatically results in 30-day residency. However, he doesn't see any language specifying that these facilities will be used where jobs can't be filled through a PLA. Therefore, he asked whether there needs to be a default position so that jobs that can't be filled through the PLA will use subparagraph (D). He opined that it seems that the legislation would circumvent the PLA requirements by mandating that job centers and the Internet be used, which only require 30-day residency. He then asked Ms. Davis to review this matter with the labor organizations.

MS. DAVIS agreed to do so.

2:47:36 PM

CO-CHAIR GATTO inquired as to whether the term "practicable" is the preferred term.

MS. DAVIS deferred to the drafter.

2:48:06 PM

CO-CHAIR GATTO turned the committee's attention to Administration Amendment 15, which, with technical changes, read [original punctuation provided]:

> Page 9, line 1 - replace semi-colon with comma
>
> Page 9, line 2 - replace semi-colon with comma
>
> Page 9, line 8, Replace "the readiness and ability" with "that the applicant is ready and able"
>
> Page 9, line 9 - delete "following"
>
> Page 9, line 10 - delete "operation within the"

Sec. 43.90.140. Initial application review; additional information requests; complete applications.

Page 9, line 12 - insert "submitted under AS 43.90.120" after "application"

Page 9, line 13 - Replace "meets the requirements in" with "is consistent with the terms of"; insert "meets" after "and"

Page 9, line 14 - Replace "in" with "of"; Replace "an" with "any"

Page 9, line 15 - Replace "the" with "those terms and"

Page 9, line 16 - Replace "The" with "To evaluate an application not rejected in (a) of this section, the"; insert "from an applicant" after "request"

Page 9, line 17-18 - Insert period after first "application". Delete "from an applicant for the purpose of evaluating an application that is not rejected under (a) of this section."

Page 9, line 19 - Replace "An application shall be rejected if the" with " If, within the time specified by the commissioners, an"; delete "timely"

Page 9, line 20 - Insert "additional" at the beginning of the line; delete "in"

Page 9, line 21 - Delete "answer to a request under (b) of this section"; replace period with comma and insert after comma, "the application will be rejected."

Page 9, line 22 - Replace "The" with "For an application not rejected under (a) or (c) of this section, the"; delete "that an application not"

Page 9, line 23 - Delete "rejected under this section" and insert "that the application" before "including"

MR. RICE highlighted the deletion of "timely" on page 9, line 19, which refers to the requirement when documents were to be returned to the commissioners. He questioned whether that deletion would weaken the commissioners' position or not.

MS. DAVIS explained that the changes amplify the term "timely" and sets it out as a specific time specified by the commissioners. Therefore, the timeliness requirement is actually fortified.

2:49:53 PM

REPRESENTATIVE ROSES drew attention to the change made to page 9, lines 17-19, which would make the language read as follows: "The commissioners may request additional information relating to the application from an applicant."

MS. DAVIS characterized the change as a stylistic change made by the drafter. She specified that the change in Administration Amendment 15 on page 9, lines 17-19, results in subsection (b) reading as follows: "To evaluate an application not rejected in (a) of this section, the commissioners may request from an applicant additional information relating to the application."

2:51:16 PM

CO-CHAIR GATTO moved on to Administration Amendment 15A, which read [original punctuation provided]:

> **Sec. 43.90.150. Proprietary information and trade secrets.**
>
> Page 9, line 28 - insert comma after "AS 40.25"
>
> Page 9, line 29 - replace semi-colon with period; replace "after" with "After"
>
> Page 9, line 30 - insert "and retained" before "under"

MR. RICE noted that the one substantive change in this amendment is the insertion of "and retained" on page 9, line 30. He related his understanding that the language change means that if the document is returned to the originator, some of the release requirements could be waived.

MS. DAVIS explained that this was picked up in the Senate Judiciary Standing Committee because information not considered confidential or trade secret by the commissioners can be requested and returned to the applicant if they so choose. The existing language is inaccurate.

2:52:26 PM

CO-CHAIR GATTO continued with Administration Amendment 16, which read [original punctuation provided]:

> Page 10, line 1 - delete "is not" after "or" and before "trade secret"
>
> Page 10, line 2 - replace "at the" with "on"
>
> Page 10, line 3 - Replace "An" with "The"; insert "challenges" after "that" and delete "protests or appeals"
>
> Page 10, line 4 - Replace "by which the award of a license is made" with "for making the award"
>
> Page 10, line 6 - Replace "protest or appeal" with "challenge"; replace "that is" with "held"
>
> **Sec. 43.90.160. Notice, review, and comment.**
>
> Page 10, line 15 - Delete "not public records and are"
>
> Page 10, line 20 - Replace "this subsection" with "AS 43.90.150"
>
> Page 10, line 21 - Insert "confidential" before "information"; insert "that is" before "satisfactory"; insert comma after first "commissioners"
>
> Page 10, line 22 - Insert "of the information" after "summary"
>
> Page 10, line 27 - Replace "upon" with "on"

CO-CHAIR GATTO related his understanding that the point behind this amendment is to help the applicant with trade secrets and confidentiality.

MS. DAVIS confirmed that to be the case in the first section of Administration Amendment 16.

2:53:16 PM

REPRESENTATIVE ROSES drew attention to the language on page 10, lines 3-7 of (CSHB 177(O&G).

MS. DAVIS clarified that it will read: "The applicant that challenges the award of a license or the process for making the award shall be considered to have consented to the disclosure of all information submitted under this chapter by the applicant making the challenge, including information held confidential under (a) of this section."

REPRESENTATIVE ROSES related his understanding that no challenges were going to be allowed.

MS. DAVIS noted her agreement, adding that she didn't believe anyone caught this. She then reminded the committee that the remaining piece is a constitutional challenge in the section of the legislation addressing the statute of limitations. She explained that if an applicant filed a constitutional challenge against the award process, conceivably they wouldn't be held to have waived a constitutional claim. Therefore, this could operate in that limited context. In further response to Representative Roses, Ms. Davis confirmed that as it's currently written it only challenges the award. The only right to challenge would be a constitutional challenge, she said.

REPRESENTATIVE ROSES said that he didn't read the language in the same way.

2:55:32 PM

REPRESENTATIVE SEATON asked if [the changes proposed in Administration Amendment 16] mean that an applicant's data will be released or does the language refer specifically to a supreme court challenge.

MS. DAVIS explained that this section was written before the right to challenge was eliminated. Therefore, the primary focus was on an applicant who challenged the award and felt they should've received the award. The concern was to be sure not to have the successful applicant's information fully public and allow the unsuccessful applicant to "shoot from the bushes" and select what they were willing to put out or not put out. The goal was to ensure that the challenger is on equal footing with the winning licensee. However, since the right to challenge awards has been eliminated, the only provision left is a constitutional challenge. The question then becomes, she said, whether the [remaining language] has a limited function in the context of constitutional challenges. She acknowledged that the aforementioned is a policy call.

2:57:34 PM

REPRESENTATIVE SEATON posed a situation in which an applicant who opposes the license will fall under the suggested term "challenge." He then asked if the challenging applicant will have to make all of its bid information public under the suggested term "challenge."

MS. DAVIS replied yes.

MR. RICE related his understanding that Representative Seaton believes the term "challenge" may be somewhat broader than the previous language and questions whether that could encompass an editorial critical of the licensee. He said that he didn't know the answer and suggested that perhaps several lawyers would need to debate the matter.

2:59:04 PM

CO-CHAIR GATTO recessed until 6:00 p.m.

6:12:50 PM

CO-CHAIR GATTO reconvened the meeting at 6:12 p.m. Present upon reconvening were Representatives Gatto, Johnson, Seaton, Roses, Wilson, Guttenberg, Edgmon, and Kawasaki.

6:12:55 PM

CO-CHAIR JOHNSON moved that the committee rescind its previous action in approving or disapproving Administration Amendments 1-9A to CSHB 177(O&G). There being no objection, it was so ordered.

REPRESENTATIVE GUTTENBERG moved that the committee adopt Conceptual Amendment 1, which read [original punctuation provided]:

Page 24, line 25

Add

Sec. 43.90.480 Community impacts. The Legislature recognizes that as a result of construction of an Alaska Natural Gas Pipeline, municipalities and communities will be faced with potential increased

demand for public services without increased tax revenue to pay for those services. The Department of Commerce, Community and Economic Development shall develop an assessment of the socio-economic impacts of the Natural Gas Pipeline project. The examination of community impacts should include socio-cultural impacts, and cumulative impacts.

The Department shall review the Stranded Gas Development Act Municipal Impact Analysis, dated November 8, 2004 (corrected) developed by the Municipal Advisory Group as a basis for developing the socio-economic impact assessment.

The Department shall also make recommendations to the Legislature about the best way to provide assistance, such as Payment in Lieu of Taxes, or other financial assistance, to impacted communities.

The Department shall deliver a report and recommendations on municipal and community impacts to the Speaker of the House and President of the Senate of the Alaska Legislature within 30 days after the convening of the 2nd Regular Session of the Alaska Legislature after the date a natural gas pipeline project that provides for delivery points in the state receives a license under 43.90.100, as enacted by sec. 1 of this Act.

CO-CHAIR JOHNSON objected.

6:15:43 PM

REPRESENTATIVE GUTTENBERG opined that the history of Alaska is a boom and bust cycle and every community will be impacted by this project. He recalled that last year the Stranded Gas Development Act Municipal Impact Analysis found that the socio-economic impacts will amount to about $180 million. He said he wanted to be sure that the communities understand that the state and the legislature recognize there will be impacts long before the communities will be able to raise taxes to mitigate those impacts.

6:17:04 PM

REPRESENTATIVE GUTTENBERG moved that the committee adopt Amendment 1 to Conceptual Amendment 1, such that paragraph three of Conceptual Amendment 1 would read:

> The Department shall also make recommendations to the Legislature about the best way to provide assistance,

CO-CHAIR GATTO questioned whether Representative Guttenberg wanted to use the language "about the best way" or is the intent merely to make a recommendation to the legislature "about how to provide assistance."

REPRESENTATIVE GUTTENBERG said he considered that a friendly amendment.

CO-CHAIR GATTO moved that the committee adopt Amendment 1 to Conceptual Amendment 1, such that the third paragraph of Conceptual Amendment 1 would read:

> The Department shall also make recommendations to the Legislature about how to provide assistance,

There being no objection, it was so ordered. Therefore, Conceptual Amendment 1, as amended, was before the committee.

6:18:18 PM

CO-CHAIR JOHNSON maintained his objection to Conceptual Amendment 1, as amended, and questioned whether the timeframe specified in the last paragraph of Conceptual Amendment 1, as amended, should be shortened in order to accommodate the 90-day session. He suggested having the report delivered within 15 days rather than 30 days.

REPRESENTATIVE GUTTENBERG pointed out that the amendment specifies that the report should be delivered within 90 days, and therefore it could be delivered within 15 days. He noted that he isn't sure when the license will be issued.

CO-CHAIR GATTO noted his inclination to leave the language as is.

CO-CHAIR JOHNSON moved that the committee adopt Amendment 2 to Conceptual Amendment 1, as amended, such that in the last paragraph of Conceptual Amendment 1, as amended, the deadline for the report would be changed from "30 days" to "15 days".

There being no objection, Amendment 2 to Conceptual Amendment 1, as amended was adopted.

6:20:05 PM

REPRESENTATIVE ROSES expressed concern that the third paragraph of Conceptual Amendment 1, as amended, assumes that all the socio-economic impacts will be negative, which is why assistance is being requested. He questioned whether there would be the need for assistance in how the communities spend any increases in revenue or will such be shared with other communities in the state.

REPRESENTATIVE GUTTENBERG stated that the impacts come in prior to the project and the gas flowing. With regard to how those revenues will be spent or spread throughout the state, he offered that, generally speaking, it's an enhancement to the community. He highlighted that it cost more to have a pipeline and it brings in revenue.

6:21:33 PM

REPRESENTATIVE ROSES clarified that his concern is that the underlying assumption is that the impacts are only going to be negative impacts, and therefore communities will need assistance. He informed the committee that he was a property owner when the oil pipeline was built and still holds many of the same apartments. He assured the committee that during the pipeline's construction his rents weren't stagnate and although there were impacts, there were positive economic impacts. In fact, he recalled that he went from owning one business to three during that time [when the pipeline was constructed]. Representative Roses said that he didn't believe he experienced any negative impact, although he acknowledged that municipal services had to be increased. Still, during the construction of the pipeline, property values increased 1-1.5 percent per month. Therefore, municipalities were receiving additional revenue during that time. Furthermore, that additional revenue came from the many businesses that came into town to construct the pipeline. He expressed hope that the aforementioned would be taken into consideration when determining assistance levels. Representative Roses asked if HB 177 specified that the impacts must be addressed in the impact analysis.

6:24:07 PM

PAT GALVIN, Commissioner, Department of Revenue, clarified that currently the Alaska Gasline Inducement Act (AGIA) doesn't include a requirement on impacts. There is some language in FERC regulations referencing the need for an impact study primarily associated with local demand rather than impacts. He acknowledged that this project is going to have impacts beyond just impacts to municipalities as it will have statewide impacts and those will have to be dealt with at all levels of government. Commissioner Galvin said, "What we recognize, as far as the legislature's intent, is to assure the public that those [impacts] are going to be identified, addressed, and responded to in a timely manner." He said that he didn't believe the method proposed in Conceptual Amendment 1, as amended, is the most comprehensive way of doing so as it seems to address the impacts in a piecemeal fashion. Although the administration believes that there's a more comprehensive manner in which to deal with the impacts, the administration doesn't believe it needs to be in AGIA at this time.

6:26:25 PM

REPRESENTATIVE GUTTENBERG opined that he wanted to make sure that the impacts are at least recognized.

REPRESENTATIVE WILSON expressed concern because this will take place before open season and thus it's just going to be a guess. She noted her agreement that there will be statewide impacts and that now isn't the time to address it.

6:27:55 PM

REPRESENTATIVE GUTTENBERG pointed out that it was already done last year as it was part of the requirement. He noted that the [Stranded Gas Development Act Municipal Impact Analysis] is a statewide document that reviews many things. He opined that the state simply needs to be prepared because there is great prosperity to gain from this project, but without managing its impacts there is a risk of having undue impacts in communities.

REPRESENTATIVE EDGMON noted his support of the amendment, although he opined that Representative Wilson's comment does have merit in terms of timing of the report. He opined that it's valid to place this requirement in AGIA.

6:29:32 PM

CO-CHAIR GATTO related his understanding that Representative Wilson's concern is that if the impact is addressed prior to the gasline, her community would be hurt.

REPRESENTATIVE SEATON reminded the committee that when the legislature addressed this matter [under the prior administration] there was a contract and any taxes during pipeline construction were forgiven. However, nothing in this legislation forgives those property taxes that accumulate as the process occurs. If the [property taxes accumulate], there will be the need to offset it. Therefore, he opined that it should be addressed in a situation under a contract that specifies that property taxes won't be collected until the pipeline is in service. The aforementioned is why the payment in lieu of taxes was utilized under the [prior administration]. Representative Seaton said that although he agrees with the concept of Conceptual Amendment 1, as amended, it seems to clutter AGIA without achieving anything and thus it should be part of the contract discussion.

REPRESENTATIVE GUTTENBERG withdrew Conceptual Amendment 1, as amended.

6:32:43 PM

REPRESENTATIVE GUTTENBERG moved that the committee adopt New Amendment 1, which read [original punctuation provided]:

> **Sec. 43.90.320 Gas production tax exemption**
> Page 21-22
> Delete page 21, line 16 through page 22, line 9.

REPRESENTATIVE WILSON objected.

REPRESENTATIVE GUTTENBERG explained that New Amendment 1 removes the provision that locks into rates for 10 years. He said he believes that can't be done anyway. He opined that this is one of the constitutional issues of the legislation that will probably be laid out early on.

6:33:52 PM

COMMISSIONER GALVIN related the administration's opposition to New Amendment 1 because the administration believes that the tax inducement is necessary to have in the legislation in order to provide the appropriate level of inducement at the initial open season. Although he did acknowledge that the constitutionality

of the provision is an issue, the language in CSHB 177(O&G) provides a strong constitutional argument with regard to providing that durable tax assurance for that 10 years. He pointed out that the amendments that the committee will be discussing tomorrow that have to do with the changes made in the Senate Judiciary Standing Committee affect the durability of the state's offer. He specified that the administration opposes the removal of the entire inducement.

6:35:44 PM

REPRESENTATIVE ROSES noted his opposition to New Amendment 1. He then reminded the committee of Dr. Scott's presentation, the basis of which reviewed the effect of locking in the taxes for 10 years. Whether one agrees or disagrees with the numbers he presented, it doesn't change all of the economics on which it was based, which had to do with holding the tax at a fixed rate for 10 years.

REPRESENTATIVE SEATON stated his opposition to New Amendment 1, and opined that this provision has to be viewed as an inducement as well as a constraint on inducements. Without a tax rate provision, the bids could come forward with various tax ratings and a very hard to calculate proposal. Representative Seaton stated his objection.

6:38:32 PM

REPRESENTATIVE GUTTENBERG acknowledged that he has heard much dialogue regarding concerns about the state's taxes. However, the state's history doesn't support [those concerns]. He recalled that the committee saw a PowerPoint that related that even the most radical idea for tax increase has less impact than the price fluctuations that will occur.

A roll call vote was taken. Representative Guttenberg voted in favor of New Amendment 1. Representatives Kawasaki, Wilson, Seaton, Roses, Edgmon, Gatto, and Johnson voted against it. Therefore, New Amendment 1 failed to be adopted by a vote of 1-7.

6:41:10 PM

REPRESENTATIVE GUTTENBERG moved that the committee adopt Amendment 2, which read [original punctuation provided]:

page 2, line 30 through page 3, line 6

Sec. 43.90.110(a)(1)(C)

(C) a qualified expenditure is a cost that is incurred after the license is issued under this chapter, is incurred by the licensee or the licensee's designated affiliate, and is directly and reasonably related to obtaining a certificate of public convenience and necessity from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, for development of the project, but does not include overhead costs, litigation costs, the cost of an asset or work product acquired by the licensee before the license is issued, civil penalties, criminal penalties, **lobbying expenses,** or fines.

CO-CHAIR JOHNSON objected.

REPRESENTATIVE GUTTENBERG explained that with Amendment 2 he wanted to ensure that lobbying fees didn't enter into the calculation as a qualified expenditure.

6:41:52 PM

REPRESENTATIVE ROSES posed a situation when someone hires an attorney and asked if that would be considered legal [work] or lobbying [work].

REPRESENTATIVE GUTTENBERG related his belief that an attorney sitting before the committee on the behalf of someone should be considered lobbying whereas an attorney working on someone's case is legal work.

REPRESENTATIVE ROSES said that he doesn't object to [not including in the qualified expenditure] lobbying expenses. However, he emphasized that it will be difficult to determine what is considered lobbying and what isn't.

6:43:17 PM

CO-CHAIR GATTO pointed out that lobbyists have to be registered. Therefore, an attorney who is registered as a lobbyist is such, but those not registered as such are merely attorneys. He noted that lobbyist is defined in statute.

6:43:43 PM

REPRESENTATIVE SEATON interjected that the definition of a lobbyist is in reference to the amount of contact with legislators. An attorney who is registered as a lobbyist can be so and not be strictly a lobbyist. An individual [being paid to be before the legislature] and who is before legislators for more than 10 hours in a 30-day period is considered a lobbyist and has to register as such, he said. Representative Seaton stated that he has the same concern as Representative Roses with regard to differentiating what is lobbying. He then questioned whether lobbying is incorporated in overhead, which can't be included [in a qualified expenditure].

COMMISSIONER GALVIN drew attention to the language in Amendment 2 that says "directly and reasonably related to obtaining a certificate of public convenience and necessity". He said that he doesn't consider lobbying expenses as directly and reasonably related to obtaining the certificate. Therefore, lobbying expenses could be excluded on those terms or as a matter of being an overhead cost. However, he said he didn't view lobbying expenses as a typical overhead cost. Since lobbying expenses weren't intended to be included in a qualified expenditure, it isn't particularly troubling that it's explicitly specified, he said. He mentioned that it's the administration's intent to provide clarifying language in the request of applications (RFA) on a number of items, which will probably include qualified expenditures.

6:47:01 PM

REPRESENTATIVE ROSES asked if the oil and gas companies currently performing exploration with production or corporate taxes are allowed to deduct their lobbying expenses under that scenario.

COMMISSIONER GALVIN replied no. In further response to Representative Roses, Commissioner Galvin confirmed that the state doesn't have any taxation in which lobbying expenses are deductible.

REPRESENTATIVE ROSES opined, then, that it appears to be a moot point.

6:47:32 PM

REPRESENTATIVE GUTTENBERG said if the commissioner is going to take this into consideration in the RFA, he would withdraw Amendment 2. He then announced that after discussions with the

administration today he was satisfied with their definitions of offtake and intake points, and therefore will not offer his remaining amendments.

CO-CHAIR GATTO questioned whether nonquality pipeline gas could be placed in intake pipe that holds pipeline quality gas.

COMMISSIONER GALVIN said that would be regulated by FERC, which wouldn't allow that. Commissioner Galvin, in terms of Representative Guttenberg's amendments, clarified that the administration considers its use of "delivery points" to be both inclusive of receipt points and thus the line could go either way.

6:49:28 PM

REPRESENTATIVE ROSES posed a situation in which there were five offtake points, and inquired as to how the pipe could be expanded or allow for a new well to come on without the possibility of having an intake. He related his understanding that as part of a plan to expand or bring on new production, the [licensee] has to specify how it will get the gas in the line.

COMMISSIONER GALVIN explained that the issue is that there would be expansion that would be seen as coming through the existing infrastructure at the initial intake location, which would merely be an expansion issue. However, if expansion is necessary due to a new discovery, then this issue would arise. He said the pipeline is going to be acting as a competitive commercial player and it's going to have a commercial incentive to provide for this in most instances. He further said that it's necessary to provide for a certain expectation of what the state's needs will be, whether that number is ultimately going to prove to be the right number remains.

REPRESENTATIVE ROSES opined, "I think we ought to be very, very careful in sticking to numbers because ... my hope would be that 25 years down the road that we've got all kinds of pipes coming into that pipe. And I don't think we want to stick a number in here for fear of the fact that we don't want someone to assume there's a limitation."

The committee took an at-ease from 6:54:20 PM to 6:57:43 PM.

6:57:44 PM

REPRESENTATIVE ROSES moved that the committee adopt Amendment 5, which read [original punctuation provided]:

Sec. 43.90.250 is amended by adding a new title

Commissioner of Alaska Gasline Inducement Act

Pg. 17 Line 27
Following "**of**"
Insert "**commissioner of**"

Pg. 17 Line 28
Delete "**coordinator**"

Pg. 17 Line 31
Following "**of**"
Insert "**commissioner of**"

Pg. 18 Line 1
Delete "**coordinator**"

Pg. 18 Line 6
Following "**The**"
Insert "**commissioner of**"

Pg. 18 Line 6
Delete "**coordinator**"

Pg. 24 Line 31
Following "**(2)**"
Insert "**Commissioner of**"

Pg. 24 Line 31
Delete "**coordinator and "coordinator**""

Pg. 3 Line 7
Delete "**an**"
Insert "**the**"
Delete "**coordinator**"
Following "**the**"
Insert "**commissioner of**"

CO-CHAIR GATTO objected.

6:58:27 PM

REPRESENTATIVE ROSES reminded the committee that although HB 177 originally called for the Alaska Gasline Inducement Act coordinator, Senate Judiciary Standing Committee members questioned whether it was constitutional for the legislature to have approval over that position and cited a case during the Knowles Administration. He highlighted that the amendment striking the language for any oversight removes the original intent of the legislation. Also, the House Labor and Commerce Standing Committee is considering legislation addressing the Regulatory Commission of Alaska (RCA) and an amendment under discussion has to do with the governor appointing the chair of the RCA. Therefore, if there is no approval process for the coordinator and the governor appoints the chair of the RCA, then the legislature would have no oversight over any of the positions involving a gasline that was constructed instate because the RCA would have preference over FERC. The aforementioned would mean that the coordinator, the regulator, and board members of the RCA would all be appointed by the governor, with no legislative oversight. Representative Roses suggested then that changing the reference from "coordinator" to "commissioner" would maintain the original intent of the legislative confirmation of the coordinator position and avoid constitutional concerns. The aforementioned would also mean that the position would be dealt with in a similar fashion as other commissioners with regard to salary, et cetera.

7:01:47 PM

COMMISSIONER GALVIN explained that the position was originally envisioned a one that was appointed by the governor and didn't require legislative approval. [The legislative approval] was added by the House Special Committee on Oil and Gas. The question of constitutionality resulted in the Senate Judiciary Standing Committee removing that language and inserting language that addresses the aforementioned concerns. The Senate Judiciary Standing Committee included language that specifies that the governor can appoint the position as well as remove the position. He highlighted that the position doesn't have any specific authority in regard to departmental-type authority. The position has a coordination role and the position exercises authority with regard to the expedited review process that doesn't directly contravene another agency's authority. The language merely specifies that coordination must be done through the AGIA coordinator who can eliminate any requirements that aren't legally required. The aforementioned, he opined, is an exercise of the governor's authority, administrative prerogative. Within that construct, the administration feels

that it's appropriate to have the position appointed by the governor, to work with the commissioners of the respective agencies, and serve at the pleasure of the governor. He acknowledged that the commissioners are subject to legislative confirmation, and pointed out that the commissioners exercise agency authority under the direction of the governor. The administration, he related, provides a fair balance of both legislative oversight of appointment and the governor's ability to exercise executive power.

7:04:21 PM

REPRESENTATIVE ROSES asked if there are any other positions that fall into this same category in which the governor appoints a position and has the ability to remove an individual without following due process rights.

COMMISSIONER GALVIN responded that would be any position within the governor's office. Furthermore, positions within the governor's office serve at the same type of discretionary pleasure of the governor and aren't subject to legislative approval.

7:05:23 PM

REPRESENTATIVE EDGMON related his opposition to Amendment 5. He opined that when the governor appoints a commissioner, the governor is de facto appointing additional staff. He then recalled hotly contested confirmation battles.

REPRESENTATIVE SEATON related his belief that changing the name from coordinator to commissioner doesn't get around the constitutional problem because this AGIA coordinator position isn't the head of an agency.

7:07:17 PM

REPRESENTATIVE GUTTENBERG noted that there is a history of commissioners and turf wars. This position coordinates expeditious performance of all activities by state agencies. If it was a single commissioner, he opined that there would be an immediate conflict of interest within the governor's office. Without the amendment, is the right way to go, he said. He then mentioned that the committee just received a fiscal note, and asked if the position went from a step A to a step B.

COMMISSIONER GALVIN said that he can't comment since he doesn't have access to the fiscal note at this time.

REPRESENTATIVE GUTTENBERG related his understanding that it was a step A.

REPRESENTATIVE ROSES withdrew Amendment 5.

7:09:28 PM

REPRESENTATIVE ROSES moved that the committee adopt Amendment 6, which read [original punctuation provided]:

Pg. 12 Line 6

Following "**success**"
Insert: "**which may include multiple design proposals that may include different pipe sizes and capacities**"

CO-CHAIR JOHNSON objected.

7:09:37 PM

REPRESENTATIVE ROSES reminded the committee that he has asked the presenters whether a bid would be considered out of compliance if the applicant listed multiple sizes of pipe. Two of the three producers said that if they were to submit a bid, it probably would include various sizes of pipe since the commitment for the gas is unknown. Amendment 6 is to ensure that an entity did submitting a bid with varying sizes of pipe wouldn't be considered noncompliant.

7:10:37 PM

CO-CHAIR GATTO offered an amendment to Amendment 6, such that it would read as follows:

Pg. 12 Line 6

Following "**success**"
Insert: "**which may include multiple design proposals that may include but not limited to pipe diameters, wall thicknesses, and capacities**"

REPRESENTATIVE ROSES said he considered that a friendly amendment.

COMMISSIONER GALVIN related his understanding that the common statutory interpretation of the term "include" means "include but not limited to". Commissioner Galvin then opined that it's problematic for this language to be inserted strictly into the evaluation criteria as it would be more appropriate in the application description itself. He suggested that on page 3, line 31, following the word "market" delete "including" and insert the language "; a proposal may include multiple designs with different pipe sizes and capacities; the detail description shall include".

REPRESENTATIVE ROSES said he didn't have a problem with Commissioner Galvin's proposed amendment to Amendment 6.

The committee took an at-ease from 7:13:56 PM to 7:17:28 PM.

7:17:38 PM

REPRESENTATIVE ROSES stated that he didn't object to changing Amendment 6 to Conceptual Amendment 6 such that opportunities for multiple pipe sizes, capacities, and designs to be included in the AGIA language wherever most appropriate in the legislation. However, he did note his preference for the language to be inserted in AS 43.90.130.

7:18:09 PM

REPRESENTATIVE GUTTENBERG objected. He then posed a scenario in which an entity comes forward with three projects within their application and then they are granted the license. He inquired as to whether an entity would be required to bring all three proposals to FERC. He further inquired as to whether [the state] would be part of the discussion.

COMMISSIONER GALVIN explained that in order to be evaluated, an applicant would need to provide a description of its primary project and what it will use to determine which design will go forward. He surmised that the selection of a design would primarily depend upon the amount of gas that's committed during an open season. The project would be evaluated upon the expectation of the likelihood of each scenario. To some extent, he explained, the applicant would provide these various paths as well as the conditions upon which the entity would make the determination in order to evaluate the ultimate value of the proposal to the state.

7:19:53 PM

REPRESENTATIVE GUTTENBERG posed a situation in which an applicant with three projects is accepted and the process moves forward to the open season and the applicant renders its proposal to the parameters going forward. However, one of the applicants had a better focus on what is going forward, but the criteria/understanding didn't arrive until later. He inquired as to the potential for a challenge at that point.

COMMISSIONER GALVIN reminded the committee that the legislation includes limitations on challenges. He recognized the need to provide fair competition and in that regard [the legislation] tries to establish a balance between allowing the applicants to provide a complete picture of what they are considering in order to maximize the state's opportunity to obtain the greatest value. If another project comes in low and doesn't pursue a more aggressive project, consideration of the likelihood of each of these coming through would have to be made as part of the ranking of the projects. If the more complete application, through subsequent events, resembles the modest application, there's not much that can be done other than ensure that the evaluation is being rigorous in evaluating those conditions placed on it and that the applicant is legitimately pursuing each of those alternatives.

7:22:36 PM

REPRESENTATIVE GUTTENBERG inquired as to whether the administration would prefer a multi-tiered project or a single-tiered project.

COMMISSIONER GALVIN said he can't answer that question in the abstract. The decision would come down to whether or not that multi-tiered approach has a legitimate possibility of coming in with a higher-valued project. If so, the [administration] would prefer that the applicant make the provisions for that potential success opportunity that would provide some value to the state. Therefore, it wouldn't be looked upon favorably if an applicant came forth with three options, two of which were really just "pie in the sky." He opined that the [administration] would be looking for an applicant that is proposing a full package with the greatest likelihood of moving forward and identifying the highest value project. If the aforementioned is unattainable at the time of selection but the applicant has the ability to move forward, that would provide value to the state.

7:24:27 PM

REPRESENTATIVE GUTTENBERG asked if the administration considered the multi-tiered proposal when AGIA was originally conceived.

COMMISSIONER GALVIN answered that [the administration] always considered the multi-tiered approach as one that might likely be reflected back through the application process. In further response to Representative Guttenberg, Commissioner Galvin said that he didn't view the [proposed process] as precluding a multi-tiered approach.

7:24:59 PM

REPRESENTATIVE ROSES posed a situation in which there is a single source applicant with no right to an appeal. In such a situation, if that applicant comes in with a 52-inch pipe but at open season it's discovered that there's only enough commitment for 48-inch pipe, there's no ability to go back and evaluate whether an applicant tossed out in the application process had already discovered that 48-inch pipe was the best pipe. However, allowing for a multi-tier approach allows for multiple options and doesn't waste time redesigning.

COMMISSIONER GALVIN clarified that under AGIA the scenario described by Representative Roses in which the pipe would have to be redesigned for a lower size and smaller capacity line couldn't occur. The aforementioned couldn't occur because the commissioners don't have the ability to modify the license to allow for such a reduction in the value of the licensed project. Therefore, the assumption was that there would be a step-down opportunity that would be presented in the applicant's proposal in order to avoid the outcome of the license being withdrawn after significant expenditures.

7:28:08 PM

REPRESENTATIVE KAWASAKI surmised that the decision is made harder when the applicants come forward with single proposals and others come forward with multiple proposals. He then inquired as to how the public process would work.

COMMISSIONER GALVIN reminded the committee that the evaluation criteria is in two parts: the net present value analysis and the likelihood of success. The net present value, he pointed out, will have to deal with these potential multiple projects. Therefore, there would have to be some probability associated

with which would likely be the ultimate design of this project, which would weigh the net present value figure for that proposal. There would be overlap between the likelihood of success and the net present value, which will be inherent in the evaluation. Commissioner Galvin said that Representative Kawasaki has hit upon the fact that it will be incumbent upon [the administration] to explain how its decision was made at the quantitative side as well as the ultimate ranking of proposals. Although it isn't going to be simple, it is going to be based on the following: the type of proposal that the applicants make; the level of confidence that the applicants can demonstrate regarding their ability to succeed at any particular point of the proposal; and the state's assessment of whether the market will accommodate that.

7:31:13 PM

REPRESENTATIVE SEATON questioned whether all applicants would come forward with a 48-inch, 42-inch, and 24-inch pipeline. If that's the case, then the likelihood of success under any scenario would be that anyone controlling the gas would automatically obtain the license. If this full range of projects is allowed, is any pipeline company expected to forward a proposal, he asked.

COMMISSIONER GALVIN related his belief that the proposals will likely have some form of that tiered-down approach, although he didn't believe they would all be exactly the same. However, those proposals will likely include all those factors that go toward the likelihood of success, in terms of the ability to deliver the design. The pipe diameter and the capacity of the line are only one part of the ultimate determination of whether the project has value and will succeed. Whether the proposals mirror each other in terms of how they approach the problem, he said there will be significant variety regarding the applicants and the projects.

7:33:40 PM

REPRESENTATIVE WILSON said that she likes Conceptual Amendment 6 because it gives the applicant permission to have some variables. Furthermore, any applicant would be wise [to use a multi-tiered approach].

REPRESENTATIVE GUTTENBERG withdrew his objection to Conceptual Amendment 6.

There being no further objections, Conceptual Amendment 6 was adopted.

7:34:38 PM

REPRESENTATIVE ROSES moved to adopt Amendment 7, as follows:

Pg. 8 Line 31 - Pg. 9 Line 1
Following "**applicant**"
Delete "**; the affiliates of the applicant; all partners, members of a joint venture,**"

CO-CHAIR GATTO objected.

7:35:03 PM

REPRESENTATIVE ROSES spoke to Amendment 7. He said he thinks requiring the applicant to provide a detailed description of all affiliates, partners, and members of a joint venture who are not even involved in the pipeline is inappropriate.

REPRESENTATIVE SEATON pointed out that in between semi-colons the language read: "; all partners, members of a joint venture, and other entities participating with the applicant and the project proposed by the applicant;". He said that means that the bill would only require the applicant to submit the names of only those entities involved with the project for which the application is being submitted.

COMMISSIONER GALVIN stated his agreement with the intent of Representative Roses' amendment. He noted that in the Senate version of this legislation, there is a comma instead of a semi-colon on page 8, line 31 and on page 9, line 1, after "applicant". He indicated that the punctuation in the Senate version seems to support Representative Seaton's observation.

7:39:47 PM

REPRESENTATIVE ROSES moved to amend Amendment 7 to make it a conceptual amendment to reflect his intent that the applicant would not be required to reveal global information.

CO-CHAIR GATTO announced that Amendment 7 is now Conceptual Amendment 7.

7:40:17 PM

REPRESENTATIVE GUTTENBERG asked Commissioner Galvin if there are some aspects of "revealing disclosure in that manner" that would be relevant to the success of an evaluation.

COMMISSIONER GALVIN answered that yes, there is a possibility that having information regarding the worldwide affiliation of an applicant may provide insight into some additional value; however, he said he also recognizes that there is a certain level of reasonableness with regard to the level of information expected from the applicants. He said he thinks it is an unreasonable request to require huge companies to disclose much information beyond that pertaining to the parties that would be participating in the project. He concluded:

> To the extent that there may be additional values in an affiliate, we would expect that if it's something that adds value to the application, then it's incumbent upon the applicant to include that in their application ....

7:42:12 PM

REPRESENTATIVE GUTTENBERG asked:

> And so, if an applicant didn't disclose something because they didn't think it was relevant, and then it became very relevant after the licensing had been either evaluated or issued, would you think you had the authority to go back and take corrective action?

COMMISSIONER GALVIN said Representative Guttenberg's question assumes that the missing information is negative.

7:43:12 PM

REPRESENTATIVE GUTTENBERG offered an example wherein one component of the equation went bankrupt and that information was significant.

COMMISSIONER GALVIN directed attention to the definitions section of the legislation, and pointed out that when companies submit an application a lot of information will be received. Therefore, he said he didn't believe it's necessary to cast the net beyond the participants in the project, who they're bringing into the project, and the affiliates of those - under the definition of affiliate. "Beyond that you're getting pretty far removed from the types of behavior or contingency that may

ultimately wind back and affect the actual success of this project," he opined.

7:44:47 PM

CO-CHAIR GATTO questioned whether there may be oil companies that are embargoed. He explained that his concern is to know whether the company that may apply is affiliated with any other embargoed company.

COMMISSIONER GALVIN suggested considering how Alaska protects itself against "that type of arrangement" in other places, for example, the hurdle that must be cleared to enter the oil and gas leasing program. He stated, "I think that here the stakes are raised in that we're offering a significant amount of state money." He said he thinks it's appropriate to look beyond the applicant to ensure there are no wayward subsidiaries; however, he indicated that Representative Roses' interpretation of the current language goes "far beyond that level of information that we would need to protect the state's interest."

7:46:50 PM

REPRESENTATIVE ROSES said he thinks the legislation unnecessarily asks for information from the applicant that tends to be included in putting together a financial package. He said the state is the reviewer of the application and it assigns the license - it doesn't finance the project.

CO-CHAIR GATTO withdrew his objection to Conceptual Amendment 7. There being no further objection, Conceptual Amendment 7 was adopted.

7:49:29 PM

REPRESENTATIVE KAWASAKI moved to adopt Amendment 9, labeled 25-GH1060\M.16, Bullock, 4/21/07, which read:

> Page 30, following line 21:
> Insert a new bill section to read:
> "*** Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:
> CONSISTENCY WITH THE ALASKA NATURAL GAS PIPELINE ACT. It is the intent of the legislature that that the licensed project the commissioners submit to the presiding officer of each house of the legislature under AS 43.90.180, as enacted in sec. 1 of this Act,

conforms as closely as possible with 15 U.S.C. 720a et seq. (Alaska Natural Gas Pipeline Act)."

Renumber the following bill sections accordingly.

Page 31, line 4:
Delete "sec. 9"
Insert "sec. 10"

REPRESENTATIVE ROSES objected for discussion purposes.

7:49:43 PM

REPRESENTATIVE KAWASAKI explained that Amendment 9 relates to "some of the public law dealing with the sense of Congress." He cited Title 15, Chapter 15D, Section 720m of U.S. Code, which read as follows:

It is the sense of Congress that—
(1) Alaska Native Regional Corporations, companies owned and operated by Alaskans, and individual Alaskans should have the opportunity to own shares of the Alaska natural gas pipeline in a way that promotes economic development for the State;

REPRESENTATIVE KAWASAKI said although it wouldn't be possible to include "this portion of text" without significant constitutional challenges, it is important to "add this into the law in the uncodified section."

7:50:42 PM

CO-CHAIR GATTO asked, "Was this already deleted in the list of amendments from the administration?"

COMMISSIONER GALVIN answered no. He explained, "Somehow this was similar ... in theme to an amendment that was offered in [the House Special Committee on Oil and Gas] ... that failed, but it is not something that has been in the bill and was removed."

7:52:16 PM

REPRESENTATIVE ROSES asked Representative Kawasaki to clarify if Amendment 9 would allow Native corporations to be part owners in the pipeline.

REPRESENTATIVE KAWASAKI responded that the amendment does not specify how that can be done; it is more of a policy and framework statement.

REPRESENTATIVE WILSON offered her understanding that Native corporations already have the ability to be part owners if they so chose.

REPRESENTATIVE KAWASAKI explained that he wanted to include the language from the U.S. Code in the bill to make it "measurable."

7:55:22 PM

COMMISSIONER GALVIN directed attention to page 8, line 18, [paragraph (15)], which read:

> (15) commit to hire qualified state residents for management, engineering, construction, operation, maintenance, and other positions on the proposed project and to contract with businesses located in the state to the extent permitted by law;

COMMISSIONER GALVIN noted that the previous committee of referral had proposed an amendment to this paragraph to add Native corporations. He said there is a difference between the federal government making such a requirement and the state making it. He said, "It raises legal questions with regard to the state providing some sort of advantage to these types of entities under a state law." He offered his belief that Representative Kawasaki, through Amendment 9, is trying to establish, through an unenforceable provision of the law, the legislature's stated desire that there be consideration of "these entities" among the application process.

7:57:22 PM

REPRESENTATIVE GUTTENBERG said he thinks "the folks at home" are looking for a way to invest in this project - not directly through a corporation or licensee, but through another device. He indicated that there would be some way for that to happen.

REPRESENTATIVE KAWASAKI noted that another consideration had been to provide a means by which individuals could own shares. He said there had been consideration of how to put that into the law itself. However, the drafter pointed out that if a limited liability company (LLC) was the pipeline owner, there would be

no way to own equity shares in an LLC. The aforementioned is why it couldn't be included in the legislation as it stands.

7:58:44 PM

REPRESENTATIVE ROSES said although he doesn't necessarily object to the concept of Amendment 9, the language is nearing the point of being overly prescriptive. Choosing to offer private stock is an option. He related that he supports giving the opportunity to every Alaskan who wants to work on the project, if and when it gets completed. Furthermore, anyone who wants to be able to invest his/her money in it ought to be able to do so. However, he said he doesn't think the [state] should tell the applicant what they have to do in that regard. He characterized it as stretching the limit of expectation.

REPRESENTATIVE KAWASAKI opined that [Amendment 9] isn't prescriptive because:

> It's consistent with ANGPA [Alaska Natural Gas Pipeline Act], and if you want a $18 billion loan guarantee, that's what ANGPA's going to require under the ... Sense of Congress portion. ... We're going to be using an $18 billion federal loan guarantee - the federal government's going to sign off on that - $20 million for workforce development. I think that this is fair. It's not constitutional under state law, but it's constitutional under federal law, and I think it needs to be weighed in on in a pretty significant way.

REPRESENTATIVE KAWASAKI explained that since he has been told that the provision isn't constitutional, he placed it in the uncodified section of law.

REPRESENTATIVE ROSES maintained his objection.

8:01:16 PM

A roll call vote was taken. Representatives Edgmon, Kawasaki, Seaton, and Guttenberg voted in favor of Amendment 9. Representatives Wilson, Roses, Johnson, and Gatto voted against it. Therefore, Amendment 9 failed by a vote of 4-4.

REPRESENTATIVE KAWASAKI moved to adopt Amendment 10, which read [original punctuation provided, with some handwritten changes]:

> Page 30, following line 26:

Insert a new bill section to read:
"***Sec.7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONSEQUENCES FOR A LACK OF FIRM TRANSPORTATION COMMITMENTS. It is the intent of the legislature, that in the event insufficient firm transportation commitments are made during the first binding open season, the State of Alaska will act to secure additional firm transportation commitments, including the consideration of

(1) A gas reserves tax; or
(2) Enforcement of oil and gas lease terms

CO-CHAIR JOHNSON objected.

REPRESENTATIVE KAWASAKI indicated that HB 177 is full of inducements whereas Amendment 10 uses "the stick approach."

8:04:11 PM

REPRESENTATIVE ROSES indicated that he thinks the language of Amendment 10 is an option whether or not it is written in the legislation. Furthermore, he questioned whether stating the two considerations with "or" between them would mean that no other type of consideration could be made. He said the language of Amendment 10, if adopted, would be "an unnecessary, negative part of the bill."

REPRESENTATIVE GUTTENBERG said he thinks the people of Alaska need to state how important [the gas pipeline] is to the state, and negotiations are currently being made publicly. He said Amendment 10 supports the strongest possible considerations to be made. He said he sees the amendment as a recommendation for a change to the uncodified section of law, and it is a strong statement of beliefs.

8:06:43 PM

REPRESENTATIVE ROSES expressed concern that there is language in the legislation that discusses going to a second open season if the first one is unsuccessful. Amendment 10 would, between the first and second season, allow prescriptive measures to be used. He said, "Nothing stops us from doing that, even if this isn't in the bill. So, I don't see how hanging a threat - specifically stating it in the bill, whether it's codified or uncodified - does us any good." He said he does not think there is a single producer who doesn't realize that this could be a

possibility. He offered his understanding that the state has "already done that in one area" and is currently involved in a court case.

REPRESENTATIVE KAWASAKI disagreed with Representative Roses. He stated his belief that Amendment 10 would result in some commitments. He said if the committee were to pass "this" unanimously, that would send a statement.

8:09:09 PM

REPRESENTATIVE KAWASAKI, in response to the comments of Representative Roses, moved to adopt a conceptual amendment to Amendment 10, to add: "(3) Other methods to secure our natural resources."

[No objection was stated and the committee treated the conceptual amendment to Amendment 10 as adopted.

The committee took an at-ease from 8:09:39 PM to 8:10:15 PM.

8:10:19 PM

CO-CHAIR GATTO, after conferring with Representative Kawasaki, announced that before the committee was now Conceptual Amendment 10, with the added paragraph (3).

REPRESENTATIVE SEATON objected to Conceptual Amendment 10 [as amended] because it would change the whole perspective of the proposed legislation.

A roll call vote was taken. Representatives Kawasaki, Guttenberg, and Edgmon voted in favor of Conceptual Amendment 10 [as amended]. Representatives Wilson, Seaton, Roses, Gatto, and Johnson voted against it. Therefore, Conceptual Amendment 10 [as amended] failed by a vote of 3-5.

The committee took an at-ease from 8:13:43 PM to 8:31:17 PM.

8:31:19 PM

REPRESENTATIVE SEATON moved to adopt Amendment 11, labeled 25-GH1060\M.17, Bullock, 4/23/07, which read:

> Page 11, line 19, following "state":
> Insert ", including the value of state income tax or equivalent payment in lieu of tax, supplemental

profit-sharing to the state if contractually stipulated, and supplemental profit-sharing to municipalities if contractually stipulated and equitably distributed to all municipalities"

CO-CHAIR JOHNSON objected for discussion purposes.

8:31:40 PM

REPRESENTATIVE SEATON explained that [Amendment 11] falls under the evaluation criteria. Representative Seaton opined, "We need to have everything in the evaluations ... so that everyone knows what's being evaluated for netback to the state." Furthermore, there was discussion of a 60 percent supplemental profit-sharing with the state. Amendment 11 specifies that the aforementioned would only be calculated as part of the net present value to the state and apply if the contract stipulated that such a profit-sharing arrangement existed. With regard to supplemental profit-sharing with municipalities, the amendment says it would be considered only if stipulated in the contract and equitably distributed to all municipalities. Therefore, there would basically need to be revenue sharing to all communities in the state.

COMMISSIONER GALVIN said that the administration doesn't object to Amendment 11 conceptually. He pointed out that the administration considers the specific things in Amendment 11 as items that would likely be evaluated in the catch-all provision of the current language. The section addressing revenue sharing amongst municipalities is something that would go beyond the legislation's existing language. He opined that adding this language is going to add a level of complexity to the RFA and obtaining the necessary information to perform this type of evaluation and ensure that it will be carried out. Commissioner Galvin opined that it's really a matter of policy in how the administration is going to weigh the various projects and the types of revenue streams that will be included.

8:35:54 PM

REPRESENTATIVE KAWASAKI inquired as to what an equitable distribution would be. He pointed out that the City of Fairbanks, where the gasline will likely pass through, will be differentially impacted than a city not on the gasline. He questioned whether the aforementioned would be considered in determining whether there has been an equitable distribution.

8:36:49 PM

REPRESENTATIVE ROSES inquired as to what happens in those communities that aren't incorporated boroughs or municipalities.

REPRESENTATIVE SEATON indicated that perhaps Amendment 1 should be conceptual. He reminded the committee that for some time the state has had a revenue sharing formula and perhaps that and the community dividend formula should be specified. If a pipeline was giving a lot of money to Fairbanks, there is no reason why the state should consider that as net value to the state. He explained, "Say [there is a] revenue sharing formula or community dividend formula that we utilize to distribute revenue through the state that's going to replace ... revenue that the state generally does through a community dividend or revenue sharing. ... in that case, that would make a logical thing to analyze that at net present value." He confirmed that this is a policy call. Either way, he opined that the policy should be specified so that [applicants] know how to structure their proposal for the evaluation. If the committee decides not to consider community revenue sharing as a net value to the state, it can be eliminated and the applicant will know what will be considered in the formulation and analysis.

8:39:39 PM

COMMISSIONER GALVIN said that basically questions whether applicants will be encouraged to review ways of spreading project money throughout the state other than the money coming in through the general fund and the legislature deciding how to spread it through the state. He surmised that the existing language [of Amendment 11] is crafted such that there would need to be a determination as to whether the proposed distribution is appropriate. "Well, that puts the commissioners in a bit of a bind in terms of trying to substitute our judgment for the legislature in terms of what is an appropriate distribution and whether it should be considered or not," he opined. He further opined that this path is uncomfortable in terms of how to determine whether a particular type of distribution should be considered appropriate and thus count versus not. The aforementioned speaks primarily to the distributions to the municipalities, as it's one level of it. However, if it's a commitment on the part of the project to make a payment to the state, then it's difficult to argue that should be excluded from consideration given that royalties and other payments to the state are being considered. Commissioner Galvin opined that when [Amendment 11] is reviewed in terms of the rest of the

section to which it's inserted, it does create complexity and a level of difficulty in the evaluation that he would prefer to avoid.

8:42:01 PM

REPRESENTATIVE GUTTENBERG opined that Amendment 11 is too conceptual or doesn't have enough detail. He pointed out that the City of Fairbanks is not going to have any of the gasline in it, but it will be impacted to a significant degree. He opined that the City of Fairbanks will be impacted such that it will be unrecognizable, which is what occurred with TAPS. He then questioned how the term "equitable" would be applied since the commissioner isn't being provided enough guidance. Representative Guttenberg said he failed to see how this will actually provide fairness.

REPRESENTATIVE ROSES related his understanding that this doesn't become an issue unless it's specified in the contract in the bid. If a bid is based on the fact that [the applicant] is a nonprofit entity, then it's appropriate to describe the distribution process in terms of the legislation, which this amendments seems to address, he opined. With regard to the difficulty for the commissioners to evaluate that as part of the process, he opined that the other 20 items are far more difficult and cause more of an impact than the item [addressed in Amendment 11].

8:45:25 PM

REPRESENTATIVE SEATON opined that it's very necessary to have this policy debate. Therefore, he moved that the committee divide Amendment 11 such that Amendment 11A would read as follows:

> Page 11, line 19, following "state":
> Insert ", including the value of state income tax or equivalent payment in lieu of tax, supplemental profit-sharing to the state if contractually stipulated,"

Amendment 11B would read as follows:

> Page 11, line 19, following "state":
> Insert "and supplemental profit-sharing to municipalities if contractually stipulated and equitably distributed to all municipalities"

There being no objection, Amendment 11 was divided as specified above.

CO-CHAIR GATTO announced that before the committee is Amendment 11A.

CO-CHAIR JOHNSON withdrew his objection.

CO-CHAIR GATTO objected to Amendment 11A.

COMMISSIONER GALVIN related his belief that all of the described payments on page 11, lines 18-19 of CSHB 177(O&G) already encompass the provision of Amendment 11A.

8:47:45 PM

REPRESENTATIVE SEATON opined that clarity is necessary. The descriptions in the legislation refer to the net present value of the netback and wellhead value. Therefore, there is no other description throughout the evaluation criteria of income tax, other payments in lieu of taxes, or profit-sharing. He said it would be good for the legislation to clarify that the aforementioned items do count as factors, which is why the language being inserted modifies paragraph (6).

A roll call vote was taken. Representatives Wilson, Roses, Seaton, Edgmon, Kawasaki, Guttenberg, and Johnson voted in favor of Amendment 11A. Representative Gatto voted against it. Therefore, Amendment 11A was adopted by a vote of 7-1.

8:49:18 PM

REPRESENTATIVE SEATON moved that the committee adopt Amendment 11B [text previously provided].

CO-CHAIR JOHNSON objected.

8:49:35 PM

REPRESENTATIVE GUTTENBERG inquired as to how the term "equitably" is defined in Amendment 11B.

REPRESENTATIVE SEATON said that it isn't well-defined.

CO-CHAIR GATTO asked if Representative Seaton wanted to change Amendment 11B to Conceptual Amendment 11B.

REPRESENTATIVE SEATON replied yes.

REPRESENTATIVE WILSON objected for discussion purposes. She opined that Conceptual Amendment 11B is a good amendment because it gives every community some kind of sharing. Furthermore, if a community isn't a municipality, it would still receive something.

CO-CHAIR GATTO pointed out that Conceptual Amendment 11B refers to municipalities not communities, many of which aren't close to being a municipality.

8:51:27 PM

CO-CHAIR JOHNSON expressed concern with Conceptual Amendment 11B, and questioned whether it's entering into the legislature's ability to appropriate. Profit-sharing is something that's voted on each year, and he questioned whether [this amendment] is setting up the legislature to take away the legislature's appropriation ability by contractually having a predetermined payment to a municipality or entity.

REPRESENTATIVE GUTTENBERG highlighted that many of the entities along the proposed routes of the gasline aren't municipalities. Furthermore, there is a lot of motivation for some of these entities to form boroughs. This amendment would prevent profit-sharing from going to areas that aren't municipalities, which he opined is a basic unfairness.

8:52:42 PM

REPRESENTATIVE ROSES offered an amendment to Conceptual Amendment 11B, such that the term "municipalities" is replaced with "communities".

REPRESENTATIVE EDGMON objected, and noted that he doesn't know the definition of "communities". He then suggested that perhaps the amendment could refer to "municipalities in organized and unorganized areas" in order to capture the unincorporated communities.

CO-CHAIR GATTO related his belief that there is a definition of "community" in statute.

8:53:44 PM

REPRESENTATIVE SEATON clarified that under the definitions of the state a borough is a municipality. He then suggested that following the term ["municipalities"], the language "under the formula used by the state department of commerce" could be inserted in order to include the unincorporated communities, boroughs, cities, and municipalities.

REPRESENTATIVE ROSES withdrew his amendment to Conceptual Amendment 11B.

8:55:16 PM

COMMISSIONER GALVIN specified that his primary request is that the intent be clear with regard to which revenue streams should be counted during the evaluation process.

REPRESENTATIVE KAWASAKI said that he believes he will vote against Conceptual Amendment 11B because it's getting into a policy realm that the legislature could address later. Furthermore, revenue sharing has some inherent problems and falsehoods. He suggested that the amendment should be voted down and the policies of community dividends could be discussed at a later time. He then opined that any pipeline route will likely head to Fairbanks first and thus anything along that route will be disproportionately impacted.

8:57:57 PM

REPRESENTATIVE SEATON moved that the committee adopt an amendment to Conceptual Amendment 11B such that the term "municipalities" would be deleted and the language "communities under the formula used by the state Department of Commerce, Community, & Economic Development" inserted.

REPRESENTATIVE KAWASAKI objected.

REPRESENTATIVE SEATON explained that the language refers to the formulation that the Department of Commerce, Community, & Economic Development (DCCED) has used that gives $250,000 to boroughs, $75,000 to municipalities, $25,000 (indisc.). He further explained that nothing in the system prevents money from going to a particular municipality, [the amendment] merely means that the money wouldn't be considered net present value to the state.

8:59:39 PM

REPRESENTATIVE GUTTENBERG opined, "... it still falls short when we start to micromanage these things. He returned to the concern with the use of the term "equitable" and asked if there will be a definition for each area. Representative Guttenberg said that Conceptual Amendment 11B raises too many concerns and leaves too many unanswered questions.

REPRESENTATIVE KAWASAKI withdrew his objection to the amendment to Conceptual Amendment 11B.

There being no further objection, the amendment to Conceptual Amendment 11B was adopted.

CO-CHAIR JOHNSON maintained his objection.

9:02:21 PM

A roll call vote was taken. Representatives Wilson, Seaton, and Edgmon voted in favor of Conceptual Amendment 11B, as amended. Representatives Roses, Guttenberg, Kawasaki, Johnson, and Gatto voted against it. Therefore, Conceptual Amendment 11B, as amended, failed to be adopted by a vote of 3-5.

The committee took an at-ease from 9:03 p.m. to 9:18 p.m.

9:18:43 PM

REPRESENTATIVE SEATON moved that the committee adopt Conceptual Amendment 12, labeled 25-GH1060/M.18, 4/23/07, which read [original punctuation provided]:

Page 20, line 23, following "by":
Insert "(A)"

Page 20, line 25, following "project":
Insert " ;or

(B) eliminating the ability of the state to take its royalty in kind for gas in the quantity and volume committed to the firm transportation capacity acquired during the first binding open season of the project, if the person entitled to this election agrees to provide gas for in-state residential and commercial uses at the delivery points described in the license at the same value as would be received by the state if the state receives its royalty in value under subsection

43.93.10(c)(1) with the corresponding distance-sensitive transportation charges; if the lessee or other person exercising this election fails to adequately supply the in-state gas requirements, after reasonable notice, or if the contract effectively prevents the state from exercising its rights with other lessees to switch between taking its royalty in value or in kind because of various unit agreements among lessees, the election is considered to terminate, and the provisions of the original lease relating to the state's taking its royalty gas in kind or in value apply"

CO-CHAIR GATTO objected.

REPRESENTATIVE SEATON explained that Amendment 12 eliminates the ability of the state to take royalty in-kind (RIK), but only if the person with the initial FT in the open season agrees to provide in-state gas to residential and commercial users at the delivery points described in the license at the royalty rate plus the distance-sensitive transportation rates required by FERC. The aforementioned would eliminate the problems with the RIK and royalty in-value (RIV) switching. However, he highlighted that this change would only occur so long as the [lessee] fulfills its obligation to supply the in-state gas needed and the contract terms don't prevent the state from taking RIV and RIK from other leaseholders under a unit agreement. He mentioned that such an arrangement would normally be required if one member of a unit is taking off gas.

9:21:54 PM

REPRESENTATIVE KAWASAKI pointed out that the subsection to which Conceptual Amendment 12 refers should be 43.93.010(c)(1).

COMMISSIONER GALVIN stated that although the [administration] doesn't oppose the concept of Conceptual Amendment 12, he wasn't sure if it's practical to achieve this concept given the nature of the RIV and RIK scenario. This amendment tells a company that if it chooses the option presented in the amendment, the state won't ever switch to RIK. Furthermore, the company would be bound, any time it receives a request to sell in state. There are practical limitations whether the requirement has been met. Conceptual Amendment 12 creates a practical hurdle that may not be overcome through careful language crafting. Moreover, he questioned whether this will ever be requested or

implemented because it includes exceptions that "swallow the value of it."

9:25:14 PM

REPRESENTATIVE ROSES asked if the language in Conceptual Amendment 12 is an impediment for an entity to enter a bid or for the state to evaluate a bid that an entity may provide in the application process.

COMMISSIONER GALVIN replied no.

CO-CHAIR GATTO withdrew his objection. There being no further objection, Conceptual Amendment 12 was adopted.

9:26:02 PM

CO-CHAIR JOHNSON moved Amendment 13, labeled 25-GH1060\M.20, Bullock, 4/23/07, which read:

> Page 11, line 4, following "section.":
> Insert "When evaluating each application, the commissioners shall give a preference to an application that meets all of the requirements in AS 43.90.130 and may consider applications that fail to meet the requirements in AS 43.90.130 but that address in-state needs, financing, access, and alternatives for expansion of the project."

CO-CHAIR GATTO objected.

CO-CHAIR JOHNSON explained that Amendment 13 maintains the ability of the commissioners to evaluate the criteria without automatically rejecting a bidder who can't meet all 20 of the "must-haves".

9:27:15 PM

REPRESENTATIVE KAWASAKI opined that Amendment 13 "guts a better part of AGIA." He opined that if the "must-haves" aren't liked, then there should be discussion of those.

COMMISSIONER GALVIN said that the administration agrees with the view expressed by Representative Kawasaki in that AGIA will either include "must-haves" or it won't. He opined that only a handful of the "must-haves" are perceived as posing a barrier to applications. Again, those perceived as barriers should either

be required or changed to something more reasonable. From the administration's view, none of the requirements that it has heard objection to are what it considered to be commercially unreasonable. Additionally, the expansion and rolled-in rates are something that the state has strove for in FERC advocacy, with regard to their regulations, and fought hard to achieve. The administration, he related, feels strongly that AGIA needs to have "must-haves". Otherwise, it eliminates the state's negotiating position.

9:31:05 PM

REPRESENTATIVE ROSES asked how the language on page 12, lines 24-31 of CSHB 177(O&G) is different than that proposed in Amendment 13.

COMMISSIONER GALVIN said that the [state] wouldn't have the authority to put out a "watered down request for applications" if the first one fails. In such a situation, the matter would return to the legislature to decide whether the criteria would have to be changed. The provision cited by Representative Roses is primarily designed to address a situation in which applications that qualify are received, and yet the commissioners decide not to proceed with qualifying applications. Amendment 13 proposes that the list of "must haves" are recommendations and all applicants will be evaluated and have a shot at receiving a license regardless of whether the state's requirements are met. The state should consider what is necessary to be considered, he emphasized.

9:33:23 PM

REPRESENTATIVE ROSES pointed out that language in Amendment 13 specifies that any applicant that meets all of the requirements will receive more consideration than those that don't. The amendment addresses a situation in which no applicant meets all the requirements and allows [the commissioners] to use the criteria in AGIA to determine who has the best project from the proposals received, without having to return to the legislature to change the criteria. He offered his belief that if the [state] had to return to the state in such a situation it would end up where Amendment 13 proposes.

COMMISSIONER GALVIN interpreted the language, "give a preference to" [in Amendment 13] to mean there are qualifying and nonqualifying applications. He reiterated that [the administration] needs to send a clear message that either the

applicant meets the "must-haves" or it won't be considered. If a company takes the chance to submit a noncomplying application, then it takes the risk that the state will receive compliant applications with which it will go forward. Either the state says these are criteria that are to be met or they must be reconsidered now. Additionally, merely stating that a preference will be given to those applications that meet the "must-haves" doesn't provide any indication as to how much of an advantage it will mean.

COMMISSIONER GALVIN then turned attention to the language that closes the amendment: "may consider applications that fail to meet the requirements in AS 43.90.130 but that address in-state needs, financing, access, and alternatives for expansion of the project." He opined that the aforementioned language doesn't provide any standard and would basically open the door to any application, regardless of whether the applicant meets the state's requirements. If there is a concern about a particular "must-have" being unreasonable or an unreasonable obstacle for an otherwise acceptable offer, he encouraged the committee to have a discussion about that. However, by changing this language the "must-haves" become "hopefuls" and all comers will be evaluated based on whatever they provide.

9:38:49 PM

REPRESENTATIVE ROSES asked if Commissioner Galvin holds a reasonable expectation that if the language regarding the 20 "must-haves" isn't changed, there would be an entity that meets the criteria and becomes an applicant. He further asked if Commissioner Galvin believes that changing the criteria would result in an applicant coming forward fulfilling less of the criteria merely because the applicant could do so.

COMMISSIONER GALVIN replied yes to both.

REPRESENTATIVE ROSES asked, "If you feel strongly that you think somebody is going to come in with the 20, why would any other bidder that also might think somebody's going to come in with 20 not include the 20?"

COMMISSIONER GALVIN clarified that if the language remains as it is, he wouldn't expect an applicant to fail to meet the 20 "must-haves" simply to make a statement. If the language is changed per Amendment 13, then an applicant would have significantly less risk of meeting the 20 "must-haves" so long as they could make their case that one of the criteria really

wasn't a "must-have." Commissioner Galvin reiterated, "We feel strongly our 'must-have' list is something that the state has every right to ask for and also is commercially reasonable and shouldn't preclude anybody who would participate to participate."

9:40:34 PM

REPRESENTATIVE ROSES said not having worked for a company that has built a pipeline or a gas or oil company, he is unable to specify which criteria are "must-haves." Furthermore, in a situation in which no applicant comes in with the 20 "must-haves" [Amendment 13] provides some flexibility for the state by allowing the commissioners the ability to choose between the applicants without rejecting them all.

COMMISSIONER GALVIN added that the state will know by October whether there were any applications at which time the list of "must-haves" can be assessed to identify if there's an unreasonable barrier to applicants. Commissioner Galvin again stated, "We're fairly confident that if we have companies that legitimately want to build a pipeline that's an open access pipeline, which is what the state wants to get out of this process, that they should be able to meet all those requirements. ... The question becomes whether AGIA is going to work or not." He further related that the administration believes there are an appropriate balance of inducements and a reasonably commercial set of "must-haves" that won't preclude entry. Therefore, the administration would like to have the opportunity to give the aforementioned a chance because doing so provides the best opportunity to get the highest value for the state.

9:43:21 PM

REPRESENTATIVE SEATON expressed concern with Amendment 13 in that it makes the bid terms merely a preference, although it doesn't specify how much of a preference will be given to an applicant that fulfills the bid terms. The problem with this amendment would really arise during legislative approval because the legislature, he opined, would have to review all of the proposals and determine the evaluation for those that don't meet the "must-haves." The "must haves," he pointed out, are centered around the maximization of exploration. He acknowledged that the problematic "must-haves" are the rolled-in rates, the 70:30, the three-year open season, and having to proceed with certificate. Representative Seaton said that the

crux of AGIA seems to be whether there will be inducements and bid terms or whether the state will entertain all applications.

The committee took an at-ease from 9:46:21 PM to 9:50:17 PM.

9:50:19 PM

CO-CHAIR JOHNSON related his understanding that an applicant with all 20 "must-haves" remains the winner even under Amendment 13. He interpreted Amendment 13 as giving the commissioners the ability to make a decision and providing the legislature the ability to review the contracts. Amendment 13, he opined, will result in [more applicants] for evaluation. He stated that it's his responsibility to his constituents to ensure that all proposals are reviewed and evaluated, which this amendment does. The amendment doesn't preclude the commissioners from rejecting applicants, but merely allows the review of proposals "that may not dot an 'i' or cross a 't'." He opined that Amendment 13 will make it harder on the administration and the legislature.

9:52:14 PM

CO-CHAIR GATTO pointed out that Amendment 13 specifies that "the commissioners shall give a preference to an application that meets all the requirements". If that's the case, the remainder of the language proposed in the amendment isn't necessary. The only reason to have the remainder of the language, he opined, is to defeat the earlier language. He interpreted the amendment to mean that preference may be given, but it isn't a requirement. He emphasized that Amendment 13 is deeply concerning because it's a significant change.

9:53:03 PM

CO-CHAIR JOHNSON said he would consider an amendment to Amendment 13 that would refer to "considerable preference" rather than just "preference".

CO-CHAIR GATTO asked if there was objection to the amendment to Amendment 13 [as specified above]. There being no objection, the amendment to Amendment 13 was adopted.

9:53:29 PM

CO-CHAIR GATTO [maintained his objection and] announced that before the committee is Amendment 13, as amended.

A roll call vote was taken. Representatives Roses and Johnson voted in favor of Amendment 13, as amended. Representatives Seaton, Guttenberg, Edgmon, Kawasaki, Wilson, and Gatto voted against it. Therefore, Amendment 13, as amended, failed to be adopted by a vote of 2-6.

9:54:26 PM

REPRESENTATIVE ROSES moved that the committee adopt Amendment 8, which read [original punctuation provided]:

Pg. 9, Line 14

Delete "**shall**"
Insert "**may**"

CO-CHAIR GATTO and REPRESENTATIVE KAWASAKI objected.

REPRESENTATIVE ROSES explained that changing the language from "shall" to "may" allows the commissioners to consider applications that don't meet all 20 "must-haves" rather than go through a reapplication process.

9:55:55 PM

REPRESENTATIVE KAWASAKI pointed out that passage of Amendment 8 would eliminate the "must-haves."

REPRESENTATIVE ROSES suggested that when the state gets to the point of desperation to pass this legislation in order to obtain a gasline, the criteria may be adjusted very quickly.

REPRESENTATIVE SEATON characterized the amendment as resulting in a subjective in or out selection process. He opined that Amendment 8 takes this down the wrong path.

9:59:12 PM

CO-CHAIR GATTO suggested that there are many "must-haves" [of which] 20 are essential criteria that must be met while the remainder will be considered.

COMMISSIONER GALVIN suggested that the state isn't at the point of desperation and the state should maintain a strong position that these are "must-haves." The aforementioned should be maintained until the state is shown that it's an unreasonable position to hold. He opined that it's not inappropriate for the

state to take nine months to determine whether to become more accommodating. Although he recognized that this amendment would provide the commissioners more authority, he emphasized the need for the state to speak clearly through this legislation and through the authority granted to the administration that these are the "must-haves" to be considered for the inducements being offered.

10:01:42 PM

REPRESENTATIVE WILSON characterized the ["must-have"] language as stipulating who is driving the train. She opined that the state should be in charge unlike in the previous administration.

CO-CHAIR GATTO stated his opposition to Amendment 8.

10:02:49 PM

REPRESENTATIVE ROSES said that if the objective is to obtain the maximum number of applicants to move forward with a project for consideration, Amendment 8 would be helpful. However, if the objective is to "squeeze the producers so that if they don't come forward if somebody comes forward with a proposal, that you can then threaten to take away their leases" or impose tariffs or taxes, then the "must-haves" will achieve that. He stressed that he wasn't sure that prescriptive criteria without flexibility results in receiving an application. If the state is confident there will be applicants with the prescriptive requirements, then it should maintain confidence with the suggested change in Amendment 8. If the state isn't confident and is trying to leverage an entity to force them to do something they haven't in the past, leaving "shall" will achieve that.

A roll call vote was taken. Representatives Roses and Johnson voted in favor of Amendment 8. Representatives Guttenberg, Edgmon, Kawasaki, Wilson, Seaton, and Gatto voted against it. Therefore, Amendment 8 failed to be adopted by a vote of 2-6.

10:05:45 PM

CO-CHAIR JOHNSON moved that the committee adopt Amendment 14, labeled 25-GH1060\M.21, Cook, 4/23/07, which read:

Page 10, line 2, following "applicant.":

Insert "However, the commissioner shall first make the information available to the legislature under AS 43.90.170(d)."

Page 12, following line 6:

Insert "(d) After the evaluation of each application under this section, a copy of the application, evaluation, and all information submitted by the applicant, including proprietary information and trade secrets, shall be submitted to each house of the legislature for its review. The legislature shall maintain the confidentiality of information that the applicant claims is proprietary or a trade secret under AS 43.90.150."

Reletter the following subsection accordingly.

CO-CHAIR GATTO objected.

CO-CHAIR JOHNSON explained that Amendment 14 allows the legislature to review the winning and the losing bid, so long as each individual legislator signs a confidentiality agreement.

CO-CHAIR GATTO maintained his objection.

10:06:41 PM

COMMISSIONER GALVIN reminded the committee that the administration has previously stated that rejected applications would be available to the public, recognizing that there may be confidential information that must be addressed. He stated that the administration has no objection to providing a vehicle for the legislature to review that confidential information consistent with other confidential information from the qualifying applications. Therefore, the administration doesn't object to Amendment 14, he said.

A roll call vote was taken. Representatives Seaton, Roses, Johnson, and Wilson voted in favor of Amendment 14. Representatives Guttenberg, Edgmon, Kawasaki, and Gatto voted against it. Therefore, Amendment 14 failed to be adopted by a vote of 4-4.

The committee took an at-ease from 10:09 p.m. to 10:10 p.m.

10:10:45 PM

CO-CHAIR GATTO moved that the committee adopt Amendment 15, labeled 25-GH1060\M.12, Bullock, 4/21/07, which read:

> Page 5, following line 11:
> Insert a new subparagraph to read:
> "(E) if the project proposed by the applicant requires the discovery of additional gas, a timeline for the discovery and development of new gas reserves and a cost estimate for the exploration and development;"

CO-CHAIR JOHNSON objected.

10:10:57 PM

MR. RICE stated that Amendments 15, 16, and 17, were drafted based on information provided to the committee by the Port Authority regarding specific concerns it had with the process. The amendments were drafted for the purposes of discussion. However, after some discussion, Co-Chair Gatto was concerned that Amendment 15 seems to be predicated on the concept that this will be an integrated shipper upstream and midstream. The concept of a midstream project applicant being required to produce a timeline for discovery of gas isn't particularly appropriate. The purpose of the amendment, he clarified, is to allow the committee to make the policy decision about whether the aforementioned is appropriate or not.

CO-CHAIR GATTO directed attention to a memorandum from the drafter, Don Bullock. The third paragraph refers to Amendment 15, labeled M.12, as follows: "requires the applicant proposing the project to speculate about availability of gas on the North Slope. Most of the existing language ... requires the applicant to submit information for which the potential pipeline developer will have first-hand knowledge. The amendment M.12 requires speculation about what and when some third party may act and how much that third party might spend."

10:13:50 PM

REPRESENTATIVE ROSES questioned whether the amendment is necessary. He highlighted that a project would be adjusted based on the open season for discovery, and therefore somebody will have to "pay or play."

CO-CHAIR GATTO pointed out that the project asks for an applicant to discover additional gas. To specify a timeline for

discovery appears to place a hurdle that no one can meet, he opined.

10:14:53 PM

REPRESENTATIVE GUTTENBERG recalled that even last year the legislature was told that there wasn't enough gas, but that there would be and there would be a timeline for discovery and a timeline for development. He opined that if there isn't enough of gas, then [the applicant] should specify how it will get it, explore for it, and a timeline. He further opined that requiring a timeline for the development of additional gas could be helpful. He recalled that one of the difficulties [under the previous administration's proposal] was that there were no timelines. In conclusion, Representative Guttenberg said that Amendment 15 makes sense.

10:17:18 PM

CO-CHAIR JOHNSON inquired as to how TransCanada or MidAmerican could reasonably be expected to do what's proposed in Amendment 15. Co-Chair Johnson characterized it as speculation.

REPRESENTATIVE SEATON noted his agreement with Co-Chair Johnson. He then highlighted that AGIA is a pipeline not a gas development act, and therefore he suggested focusing on the pipeline. To require this timeline would almost preclude applications from an entity that didn't have the geological knowledge of those reserves, he opined.

10:18:22 PM

COMMISSIONER GALVIN, in discussion with various parties, surmised that Amendment 15 would create an additional hurdle on a larger capacity project that a lower capacity project wouldn't have to meet. However, given the previous testimony perhaps a low capacity project will likely have to go through "these" since there's no certainty with any particular off-take. Still, Amendment 15 doesn't fit the AGIA model in regard to type of information that will be available to all of the applicants that it's trying to attract.

A roll call vote was taken. Representatives Kawasaki and Guttenberg voted in favor of Amendment 15. Representatives Edgmon, Wilson, Seaton, Roses, Johnson, and Gatto voted against it. Therefore, Amendment 15 failed to be adopted by a vote of 2-6.

10:20:40 PM

CO-CHAIR GATTO moved that the committee adopt Amendment 16, labeled 25-GH1060\M.13, Bullock, 4/21/07, which read:

> Page 5, following line 11:
> Insert a new subparagraph to read:
> "(E) an analysis of how the proposed project may affect the production of oil on the North Slope, including the effect on the rate of production and the affect on the total volume of oil that may be produced;"

CO-CHAIR JOHNSON objected.

10:20:44 PM

REPRESENTATIVE GUTTENBERG related his belief that [Amendment 16] encompasses something that AOGCC would be asked to do. However, he surmised that the applicants are being asked to do [the analysis as specified in Amendment 16]. He questioned how this could be received from the applicants.

CO-CHAIR JOHNSON maintained his objection.

A roll call vote was taken. Representative Kawasaki voted in favor of Amendment 16. Representatives Wilson, Seaton, Roses, Guttenberg, Edgmon, Gatto, and Johnson voted against it. Therefore, Amendment 16 failed to be adopted by a vote of 1-7.

10:22:43 PM

CO-CHAIR GATTO moved that the committee adopt Amendment 17, labeled 25-GH1060\M.14, Bullock, 4/21/07, which read:

> Page 8, following line 30:
> Insert a new paragraph to read:
> "(19) state whether the project will make gas liquids available in the state for value-added processing;"
>
> Renumber the following paragraphs accordingly.

CO-CHAIR JOHNSON objected.

REPRESENTATIVE GUTTENBERG related his understanding that Amendment 17 adds another criteria, but doesn't specify whether gas liquids will be made available in the state.

10:23:18 PM

COMMISSIONER GALVIN clarified that Amendment 17 is a "must-have" in terms of information. He then reiterated that the question of whether the gas will be made available is a question for the owner of the gas and the liquids not the pipeline. The pipeline only provides a service for shipping the product. Therefore, it isn't appropriate to ask the pipeline whether it will sell liquids since it doesn't have the authority to do so.

REPRESENTATIVE GUTTENBERG suggested that the origin of the amendment may have been from the thought that the entire upstream and midstream are from the same entity. Again, Representative Guttenberg pointed out that there is no criteria for saying yes or no, the information merely has to be provided.

COMMISSIONER GALVIN commented that it's more a matter of whether the applicant would have the information to provide.

A roll call vote was taken. Representatives Wilson, Roses, Seaton, Edgmon, Kawasaki, Guttenberg, Johnson, and Gatto voted against Amendment 17. Therefore, Amendment 17 failed to be adopted by a vote of 0-8.

10:25:51 PM

A discussion ensued during which the committee ultimately decided that it would address the CS incorporating the changes tomorrow.

[HB 177 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 10:29:34 PM.