

MINUTES
SENATE FINANCE COMMITTEE
May 10, 2007
1:51 p.m.

CALL TO ORDER

Co-Chair Bert Stedman convened the meeting at approximately [1:51:48 PM](#).

PRESENT

Senator Bert Stedman, Co-Chair
Senator Lyman Hoffman, Co-Chair
Senator Charlie Huggins, Vice Chair
Senator Fred Dyson
Senator Kim Elton
Senator Donny Olson
Senator Joe Thomas

Also Attending: SENATOR JOHNNY ELLIS; SENATOR HOLLIS FRENCH; REPRESENTATIVE BOB LYNN; MARK DAVIS, Director, Division of Banking & Securities, Department of Commerce, Community and Economic Development; PAT GALVIN, Commissioner, Department of Revenue; STEVE PORTER, Staff to Senator Bert Stedman; MARCIA DAVIS, Deputy Commissioner, Department of Revenue; KEVIN BREELAND, President, Alaska Mortgage Bankers Association, and Partner and Mortgage Loan Originator, Residential Mortgage; PETER EASAW, Primerica Financial Services; JULIE GRANGER, Primerica Financial Services; LYNNEA OLSEN, Citigroup

Attending via Teleconference: From an Offnet Location: SIMON KEYMER, American Financial Services Association; From Mat-Su: JEFFREY SMITH, Primerica Financial Services; PHYLISS HOFFMAN, Primerica Financial Services; From Anchorage: FRED LAURION, Primerica Financial Services; LAIRD JENKINS, Primerica Financial Services; CARL MCINTYRE, Primerica Financial Services; JOHN PEEK, Primerica Financial Services; MIKE CLAYBORN, Primerica Financial Services; JULIA COSTER, Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Anchorage), Department of Law; DUSTIN SHANNON, Primerica Financial Services; JOHN MARTIN, Alaska Mortgage Solution, and Past President, Alaska Mortgage Brokers Association; ROGER PRINCE, Securities Examiner, Division of Banking, Securities and Corporations,

Department of Commerce, Community and Economic Development; From Fairbanks: NICOLE STRELTSOVA, Primerica Financial Services; LAVADA CHRISTINASON, Primerica Financial Services; ROSE BAADE, Primerica Financial Services; JENNIFER MACOMBER, Primerica Financial Services; RON HUNT, Primerica Financial Services; DENNIS SHINN, Primerica Financial Services; CURTIS MACOMBER, Primerica Financial Services; DAVID MUELLER, Primerica Financial Services; BETTY KETZLER Primerica Financial Services; DOTHORTHY JONES, Primerica Financial Services; MAUREEN MISEWICZ, Primerica Financial Services; JONATHAN BOURNE, Primerica Financial Services

SUMMARY INFORMATION

HB 162-MORTGAGE LENDING

The Committee heard from the bill's sponsor, the Department of Commerce, Community and Economic Development, and the industry. A committee substitute was adopted, and the bill was held in Committee.

SB 104-NATURAL GAS PIPELINE PROJECT

The Committee heard from the Department of Revenue. A committee substitute and eight amendments were adopted, and the bill reported from Committee.

[1:51:56 PM](#)

#hb162

CS FOR HOUSE BILL NO. 162(L&C)

"An Act relating to mortgage lenders, mortgage brokers, mortgage originators, state agents who collect program administration fees, and other persons who engage in activities relating to mortgage lending; relating to mortgage loan activities; relating to an originator fund; relating to fees for mortgage loan transactions; making certain violations unfair trade practices; relating to persons who are licensed under the Alaska Small Loans Act; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

AT EASE [1:52:18 PM](#) / [1:54:11 PM](#)

Senator Elton moved to adopt Finance committee substitute Version 25-LS0070\N, Bannister, dated May 8, 2007, as the working document.

There being no objection, the Version "N" committee substitute was ADOPTED as the working document.

[1:54:38 PM](#)

REPRESENTATIVE BOB LYNN, the bill's sponsor and a licensed Alaska real estate broker, contended that the largest real estate loan typically committed to by an individual is the one utilized to finance the purchase of their home. Nonetheless, few people understand the "hidden mechanisms and inner workings" of mortgage loans or keep abreast of "ever-changing" federal and state mortgage laws. Not finding the right loan with the right terms "could be a very expensive 30 year mistake."

Representative Lynn became aware of the intricacies of the mortgage business when he became a licensed realtor. "The most important thing I know about mortgages is what I don't know."

Representative Lynn recounted that when he made his first home real estate sale, he purposely arranged for the home buyer to meet with an experienced mortgage lender; one he believed to be honest, knowledgeable about the law, and qualified to arrange the proper loan and address any problem that arose.

Representative Lynn considered finding the right mortgage lender to be as important as finding the perfect home for his client. This is "exactly why" he sponsored this bill.

Representative Lynn noted that this bill is supported by the Alaska Mortgage Bankers Association, the Alaska Mortgage Brokers Association, the Alaska Independent Lenders Association, realtors from across the State, and the Division of Banking & Securities in the Department of Commerce, Community and Economic Development.

Representative Lynn pointed out that Alaska is the only state that does not regulate the mortgage loan industry. There are no licensing or training requirements for people working in the

mortgage industry. This is nonsensical since the State has licensing and training requirements for tattoo artists and hairdressers. No background checks or periodic examinations by the Division of Banking & Securities are conducted. This bill would "fix that."

[1:57:29 PM](#)

Representative Lynn favored licensing any entity, large or small, making a home loan in the State. The goal should be to provide "a level playing field" in the mortgage lending industry. This is contrary to the opinion of those wishing to "exempt affiliates" and companies that operate via the internet from outside Alaska.

Representative Lynn characterized state and federal loan origination laws as complex and ever-changing. "One must be an expert to speak with any kind of competence on the subject" addressed in this legislation.

[1:58:13 PM](#)

Representative Lynn informed the Committee that Mark Davis with the Department of Commerce, Community and Economic Development and industry professionals were available to further address the intricacies of the subject and the bill before the Committee.

[1:58:35 PM](#)

Representative Lynn deemed this a consumer protection bill of "great importance". He asked the Committee to support the bill.

[1:58:51 PM](#)

MARK DAVIS, Director, Division of Banking & Securities, Department of Commerce, Community and Economic Development specified that this bill would require the licensing of mortgage bankers, brokers, and originators. No such licensing requirements currently exist in Alaska.

Mr. Davis noted that even though ten federal statutes are applicable to this industry, the absent of a State licensing requirement prevents the State from ensuring "that the mortgages being done in this State were in compliance with those laws."

Mr. Davis explained that this bill would allow for State examination and investigation of licensees and would prohibit certain acts such as deceptive advertising. It would also require licensees to comply with federal laws including the Truth in Lending Act and the Real Estate Settlement Procedures Act of 1974 (RESPA). In addition, the bill would allow disciplinary action against any licensee conducting a mortgage loan in violation of these laws.

Mr. Davis informed that the bill would provide a mechanism through which the State could examine licensees to ensure they followed the law and met educational requirements. Predatory practices, specifically the practice referred to as "flipping", would be prohibited. Flipping is a practice in which a property is refinanced within a 12-month period. This practice is not in the best interest of the borrower.

Mr. Davis contended that "the best deterrence was not the force of the law", it was education. "If people are educated and understand the laws then they are able to comply with them."

[2:00:42 PM](#)

To that point, Mr. Davis specified that the bill would mandate continuing education to ensure that people in the mortgage industry have "the minimum standard of education." This is a requirement imposed on numerous professions.

Mr. Davis revealed that during recent Division-sponsored investment and financial education seminars conducted in 13 communities throughout the State, numerous complaints about the mortgage lending industry surfaced.

Mr. Davis opined that the incorporation of federal mortgage laws" into this legislation avoided the creation of "a second layer of regulation," as, in essence, the licensee would be required "to follow the laws they should already be following." The decision to incorporate federal mortgage laws was based on a report compiled by the State of Maine. That report concluded "that the best reform Maine could make for their mortgage licensing would be to re-incorporate those federal mortgage laws in the State law."

Mr. Davis stated that the deceptive advertising prohibitions would ensure that accurate information on loan percentage rates

and the type of loan qualifying for a specified rate would be provided.

[2:02:17 PM](#)

Mr. Davis recounted that legislation was adopted a few years earlier that allowed the Division to license and regulate deferred deposit lenders commonly referred to as payday lenders. Since that time, ten lenders have left the profession: "some voluntarily, some by order". However, "30 new companies have entered the industry and rates have gone down."

Mr. Davis noted that the payday lender legislation also contained restitution language. As a result, the Division has been able to collect in excess of "\$700,000 in restitution for people who took out loans that were in violation of the Statute." This bill contains "similar restitutions provision," which would allow the State to "make people whole who had been harmed by predatory lending practices."

[2:03:01 PM](#)

Mr. Davis noted that the majority of the exemptions specified in the bill follow federal law. State banks and other entities currently subject to regulation would not be subject to this bill.

Mr. Davis agreed with Representative Lynn's assessment that this bill would create "a more level playing field." Lending practices of banks operating in the State are subject to Division supervision; however, there are mortgages being processed "by other companies that may be affiliated with that bank that are not being regulated."

Mr. Davis advised that the Division was in support of the bill, "as important financial transactions should be licensed." The education requirements and criminal background checks on licensees are also important components.

Mr. Davis also specified that the Federal Bureau of Investigations (FBI), which is currently conducting a mortgage investigation in the State, has issued a favorable opinion on the bill, as documented in a [unspecified] newspaper article.

Mr. Davis emphasized that the adoption of this bill would allow the Division to respond to consumer complaints.

Mr. Davis concluded by stating that the bill's combination of licensing and continuing education requirements would improve mortgage lending industry operations in the State.

[2:04:26 PM](#)

Senator Dyson inquired to the cost and time required to obtain a mortgage lender's license.

Mr. Davis estimated that the initial cost would be approximately \$1,000. This would include a \$250 one-time licensing fee, a biannual licensing fee of \$500, and annual continuing education costs of approximately \$200. Many states allow the use of internet training programs. There are also companies that would contract with the State to provide training.

Mr. Davis advised that the bill would create a commission to assist the Department in developing the training component. The goal would be to keep costs to a minimum.

[2:05:43 PM](#)

Senator Dyson asked an estimate of the time that would be required to complete the training requirements.

Mr. Davis expressed that a specific number of training hours would be required. Internet training programs are favored because a person could do them at their convenience. While this would be subject to the "honor system", internet training is currently permitted for other professions, including Alaska Bar Association training.

[2:06:25 PM](#)

Senator Dyson cited the argument that the enactment of this bill could limit competition. That would be detrimental to Alaska consumers as they might not be able to access the best deal available.

Mr. Davis disagreed. The Division receives calls each week from mortgage loan entities inquiring to the State's mortgage lending licensure requirements. There are two reactions to being told

there were none: some say okay with it while others say they'll wait until some are established.

Mr. Davis reminded the Committee that more payday lenders are operating in the State now than before the State began to license and regulate that industry.

Mr. Davis also pointed out that there is no shortage of mortgage lending companies in the State. Like the payday lending legislation, this bill would also require internet mortgage lenders to abide by Alaska law. Two internet payday lender entities went out of business due to their inability to comply with State law.

[2:07:36 PM](#)

Senator Thomas, describing this as a long and difficult bill to read, asked whether interest-only loans were addressed in the bill.

Mr. Davis clarified that the "bill does not prohibit any particular type of lending", with the exception of flipping, as addressed earlier in the discussion. The bill does however require lenders to comply with federal law, refrain from deceptive practices, and fully disclose loan terms.

Mr. Davis allowed that even though certain types of loans are riskier than others the bill would not curtail loan products. Thus, experienced borrowers would continue to have a variety of loan products to choose from.

Mr. Davis informed the Committee that while the Division wholeheartedly supports the State enacting a predatory loan law that law should not occur until after the State enacts legislation requiring money transmitters and mortgages lenders to be licensed.

Mr. Davis communicated that banning interest-only loans might limit some people's ability to utilize a loan that might be appropriate for them. Nonetheless, certain people should not consider interest-only loans. "That's the reason RESPA and Truth in Lending and other statutes require disclosure.

Mr. Davis advised that testimony before the House of Representatives on this topic indicated "that there have been

repeated violations of RESPA at closings in Alaska and they often pertain to lack of disclosure."

2:09:15 PM

Senator Thomas clarified his question. He was not implying that interest-only loans should be banned, but rather that some type of warning ought to be provided.

Mr. Davis expressed that the prohibition of deceptive advertising would help address this concern. Some deceptive advertising does not disclose the mechanics involved in establishing the actual interest rates. Thus, one of the goals of this legislation is to educate consumers about terminology such as "a reset rate" that might be referenced in the terms of a loan and how it might affect the loan they are agreeing to.

2:10:07 PM

Senator Elton asked for clarification about the \$150 fee that would be charged for a person to retake the competency test, as specified in Section 1 Section 06.60.040. Competency testing. (a), page 6 line 11 of Version "N". It is unclear whether there would be a fee for the initial test.

Mr. Davis replied that in an effort to keep an individual's costs to a minimal, the cost of taking the competency test the first time would be covered in the fees collected to establish the educational program. A fee would only be charged if the person failed the first test and had to retake it.

Senator Elton suggested that the language be changed to clarify no fee would be charged for the first test.

Mr. Davis agreed. Further discussion in this regard would occur.

Senator Huggins commended Mr. Davis on the effort the Division exerted on the bill. Legislation considered the previous year on this issue recommended exempting people who conducted six or less loans annually from the licensing requirements. He asked whether that recommendation was included in this legislation.

2:12:14 PM

Mr. Davis affirmed the bill contained a provision which allowed for "a very small exemptions for mortgage lenders" who conducted six or less loans a year. However, they would still be subject to the enforcement provisions of the bill; they would be "required to register," comply with "all the dictates of the bill and be subject to examination upon a complaint."

[2:12:39 PM](#)

Senator Dyson understood that the majority of "bad loan" problems could be attributable to an "organization that offers many financial products and services" and hires "part time employees to sell those services". This might include insurance, real estate sales, and investment services.

[2:13:33 PM](#)

Mr. Davis affirmed that as being part of the problem. However, the Division has received complaints about loans made through larger entities including federal banks and large mortgage companies.

[2:13:59 PM](#)

Senator Olson surmised that the process of licensing individuals would be a "cumbersome" task. He questioned whether this impact was adequately reflected in the fiscal notes accompanying the bill.

Mr. Davis agreed the licensing task would be labor intensive. Nonetheless, it would be appropriate action. He agreed with Representative Lynn that buying a home is one of "the most important financial commitments" a person could make. The person offering a mortgage loan service should have "the type of licensing required of an insurance agent, a securities agent, or an investment advisor." Requiring loan originators to undergo background checks and take education courses will help prevent "a lot of the problems" that have been experienced.

Mr. Davis disclosed that four cases involving the mortgage loan industry have been filed in United States Federal Court in Anchorage in the last month. This "is indicative of the problem we have in the State."

Senator Olson asked whether having the licensing requirements proposed in this legislation in place would have prevented the events depicted in the articles [copies on file] printed in the Alaska Daily News newspaper on April 21 and May 3, 2007.

Mr. Davis hoped that would be the case. Individuals seeking to acquire a license would undergo a background check which would likely alert authorities about prior suspect activities. The background check activity has been helpful in other professions, such as security broker dealers.

[2:16:07 PM](#)

Senator Thomas asked whether the non-profit organization exemptions referenced in paragraph (5) of Section 1, subsection Sec. 06.60.015.Exemptions; requirements of registration., page 3 lines 9 through 12, referred to exemptions allowed under federal law and well as non-profit housing authorities such as the Alaska Housing Finance Corporation (AHFC) and the Tlingit Haida Housing Authority.

[2:16:44 PM](#)

Mr. Davis affirmed that to be correct.

Senator Thomas acknowledged. He then asked whether individuals who work for an exempted institution such as a bank licensed under federal law would be exempt from the licensing requirements of this bill.

[2:17:15 PM](#)

Mr. Davis clarified that those employees would not be required to be licensed, however "they would be subject to general supervision". For example, when conducting an examination of a State bank, the Division would review the bank's loan portfolio including its mortgage loan files, to ensure the bank was compliant with federal law, the Truth in Advertising Act, and RESPA regulations.

Mr. Davis noted that the rating given a bank by the Division is based on its compliance record. That rating "has a profound affect on the bank's ability to raise money." Banks have reason to maintain a high rating.

Senator Thomas deduced therefore that a loan officer would be responsible for individuals reporting to them.

Mr. Davis affirmed.

[2:18:21 PM](#)

SIMON KEYMER, American Financial Services Association (AFSA) testified via teleconference from an offnet location. AFSA is a financial trade association based in Washington DC. Its members include mortgage lenders and other "financial services companies who provide credit to consumers and small businesses."

Mr. Keymer communicated AFSA's "grave concern" about the bill, as written. He encouraged the Committee to review the amendment language recommendations [copy not on file] the Association had provided which mirror language in the mortgage lending bill, SB 272 that passed the Senate the previous year. Else wise, the recommendation would be to hold this bill in Committee until the next Legislative session in order to allow time for its "complex technical and legal issues" to be further scrutinized.

Mr. Keymer pointed out that holding the bill in Committee would not be detrimental since the licensing provisions in the bill would not be implemented until 2009.

Mr. Keymer communicated that AFSA believes the best approach would be to license "large multi-state lenders", but provide a licensing exemption to their employees. This would balance consumer protection needs with a wide array of consumer credit options. This bill, in its current form, could lead to a "flawed law" that would require it to be re-addressed during the next session.

Mr. Keymer highlighted some of the consumer protection language proposed by AFSA: a company would be required to sign an agreement with the Department of Commerce, Community and Economic Development "stating that they would accept full responsibility for ensuring that the employee acts in full compliance with this chapter." The agreement might also require a company to conduct employee background checks, provide continuing education, and other items deemed important by the Department.

[2:20:34 PM](#)

Mr. Keyner pointed out that the Department could retain their "ability to examine the company to ensure compliance with the Act". Other recommendations by AFSA include requiring a company to secure a bond, at a level specified by the Department, to address any cost the State or a person might experience as a result of a violation of this chapter.

Mr. Keyner stated that, in its current form, the bill is contrary to actions of other states. Fewer than ten states require employees of large multi-State mortgage companies to acquire individual licenses. Doing so significantly increases the administrative burden on lenders and regulators; lenders would be forced to pass costs on to consumers.

Mr. Keyner urged the Committee to recognize the differences between small and large interstate and intrastate mortgage lending companies. AFSA members are typically big companies that are licensed in multiple states and have large numbers of employees. They are concerned about their reputation and are often affiliated with a company regulated by the Federal Reserve Board. These are the reasons they conduct pre-employment screening including background checks and provide education, and compliance training.

Mr. Keyner urged the Committee to adopt the amendment language proposed by ASFA.

[2:22:56 PM](#)

KEVIN BREELAND, President, Alaska Mortgage Bankers Association and Partner and Mortgage Loan Originator, Residential Mortgage Alaska, shared his extensive background in the mortgage loan profession. Alaska is the only state that does not require mortgage lender licensing for companies. 26 states require some form of licensing for mortgage loan originators. All that is currently required in Alaska is a business license.

Mr. Breeland stated that except for the non-licensed mortgage loan originator, a typical real estate transaction involves numerous licensed individuals including, for example, a licensed real estate agent, a licensed home inspector, a licensed engineer if such service is required, and a licensed real estate appraiser. Any construction work required would be done by a licensed and bonded contractor and any new construction must be

inspected by a licensed or certified inspector or a municipal or borough inspector. The title work on the transaction is performed by a licensed title company under the jurisdiction of the insurance commission.

[2:25:58 PM](#)

Mr. Breeland thought that everyone in the industry, regardless of their length of experience, should take competency tests. He also contended that the 2009 effective date specified in the bill would provide sufficient time for those in the industry to comply with its regulations.

[2:26:54 PM](#)

Mr. Breeland characterized this as "an industry bill brought to you by industry. It is a collaborated effort," eight years in the making, involving the Alaska Mortgage Bankers Association and the Alaska Mortgage Brokers Association. The bill has the support of AARP, the Alaska Association of Realtors, the Alaska Home Builders Association, the Alaska Land Title Association, the Appraiser Institute, Alaska Chapter, the Anchorage Board of Realtors, the Valley Board of Realtors, and the Anchorage Homebuilders Association. He urged the Committee to support the bill.

[2:27:34 PM](#)

PETER EASAW, Primerica Financial Services, reviewed his background in the mortgage industry. This bill would be "a disservice to" Primerica and its customers. Primerica offers personalized "financial solutions" to its customers and believes in educating its customers prior to selling or proposing a product to them.

Mr. Easaw considered this legislation a duplication of the efforts currently administered by Primerica. The company already strives to educate its clients, provides continuing education to its employees, and has a mission of doing "what's right".

Mr. Easaw strongly believed this bill would prevent people from having the same opportunity he has had with his company. He urged a no vote on the bill in its current form.

[2:30:17 PM](#)

Senator Dyson asked Mr. Easaw to discuss what he would change in the bill.

Mr. Easaw supported licensing a company as opposed to each individual working for it.

[2:30:51 PM](#)

JULIE GRANGER, Primerica Financial Services, introduced herself.

Co-Chair Stedman asked Ms. Granger to clarify her capacity with Primerica.

Ms. Granger worked at Primerica's corporate head office in Atlanta Georgia and was testifying today on behalf of the company and its 150 Alaskan employees.

Co-Chair Stedman, observing that the public testimony ledger for this bill included numerous Primerica employees, asked whether the company closed its offices today in order to allow its employees to testify on the bill.

Ms. Granger responded no. Primerica employees elected to testify because they were "passionate about the service that we provide to Alaska borrowers." They are concerned that their services might be jeopardized by some of the requirements in the bill. The hope is that a workable solution could be achieved; one that would protect consumers and allow the Department to examine the industry to ensure there were no problems with the company or its services.

In response to a question from Co-Chair Stedman, Ms. Granger affirmed the company sent her to testify on the bill and express how important Alaska is to Primerica.

Co-Chair Stedman specified that his questions were intended to assist him in understanding the nature of the testimony that would be provided by other Primerica employees.

Ms. Granger expressed that the number of Primerica employees willing to testify today should be viewed as an indication of the importance of the bill and concern about its effects on their livelihood.

[2:32:51 PM](#)

Senator Olson inquired to Primerica's position on the bill.

Ms. Granger expressed support for regulating the mortgage industry in the State; however, the company did not favor the bill as written. She was optimistic that a workable solution, one that would protect consumers and allow for regulatory oversight, was obtainable.

[2:33:30 PM](#)

Senator Olson concluded from the testimony that the changes made in the Version "N" committee substitute did not address the company's concern about the bill.

[2:33:38 PM](#)

Ms. Granger affirmed.

Co-Chair Stedman asked that the company provide his office a list of concerns specific to Version "N".

Ms. Granger agreed.

[2:34:05 PM](#)

Senator Huggins deduced that the company had been actively involved in legislation on this issue in other states.

Ms. Granger confirmed that to be the case. 26 states have enacted legislation in this regard. While the recent trend has been to require individual licensing, the majority of the 26 states that have enacted mortgage lending legislation have recognized the company's "good compliance history" and the uniqueness of its business model. They have allowed the company to be licensed and accountable for its employees instead of requiring employees to hold individual licenses.

Ms. Granger reiterated that the company's reputation and financial success are affected by its agents' actions.

Senator Huggins asked the number of states that require individual licensing.

Ms. Granger stated that fewer than ten states the company operates in require individual licensing; several of those are simply registrations wherein the company just provides a listing of its employees. This listing is utilized by the state to track where individuals are employed. While a multitude of approaches have been taken, the majority of states have endeavored to reach a reasonable solution.

Senator Huggins asked Ms. Granger to identify components of the bill deemed particularly onerous.

[2:35:47 PM](#)

Ms. Granger responded that the company's business model requires them to screen its agents. This would include background checks and internal auditing. The company is also subject to federal law since its loans involve federal lenders. Insurance products sold by the company must also comply with insurance and security regulations.

Ms. Granger declared that this legislation, in its current form, would produce "another level of regulation that does not provide any additional benefit to consumers".

Ms. Granger declared that Primerica "is stepping up" in support of State licensing and regulations. The money raised from licensing fees will support the State's mortgage regulation efforts. The amendment Primerica supports is "fiscally neutral".

[2:36:49 PM](#)

Senator Thomas understood that Primerica, as the owner company, supported having the company, rather than individuals, assume the entirety of licensing responsibilities specified in this bill. He noted that the only element missing from the mortgage lending legislation considered the previous year was the determination of who would be applying for the license.

Senator Thomas asked for further information about why Primerica considered individual licensing requirements so burdensome; specifically whether it was the cost associated with individual licensing or whether the employment status of the individuals working for it would change from being independent contract agents to being employees.

[2:37:37 PM](#)

Ms. Granger responded that Primerica has successfully utilized the independent contract agent business model for approximately 30 years. The company sees it as "a way to cut costs" and thereby support its ability "to market to middle and lower income consumers who have very low transaction amounts".

[2:38:18 PM](#)

Senator Elton appreciated Ms. Granger's testimony. Rather than protecting consumers from companies such as Primerica which might have "all the controls in place", the purpose of licensing "is to protect the consumer from bad actors". Thus, his concern is that implementing something that helps a company like Primerica would "open the door for companies that might not have the same kind of controls".

Ms. Granger stated that this concern had been raised during deliberations on the bill in the House. There was concern that the amendment proposed by Primerica was "not narrow enough" and that other companies would not perform in the same manner as Primerica.

Ms. Granger advised that the amendment has been narrowed in scope in that it would now apply "to exclusive agents". The company would be required to pay licensing fees and also hold an insurance license. The amendment is now significantly different than the one offered in the House.

[2:40:09 PM](#)

Ms. Granger emphasized that "the solution" being proposed has worked in other states.

[2:40:45 PM](#)

Senator Elton asked that, after review, the Department provide its recommendation on the amendment being offered by the industry.

[2:41:03 PM](#)

In response to a question from Senator Olson, Co-Chair Stedman clarified that the amendment being discussed "is not on the table".

[2:41:15 PM](#)

LYNNEA OLSEN, Citigroup, informed the Committee that Citigroup is the parent company to Primerica. She traveled here from California to testify on behalf of Citigroup in opposition to the bill in its current form. Citigroup strongly supports regulation of the mortgage industry and has actively participated in establishing "high thresholds" for the industry in other states in its desire to uphold its reputation, enhance its economic viability, and provide appropriate products to consumers.

Ms. Olsen cited Citigroup's willingness to continue working with the State to reach a solution that would benefit the Primerica business model. This would include corporate rather than individual licensure. She reminded the Committee that that concept had been included in the mortgage lending legislation considered the previous year.

Ms. Olsen stressed that corporate licensure would ensure consumer protection. The company would commit to being responsible for any violation of State Statute and would file a surety bond with the State. In addition, the company would pledge "to make any borrower whole" if they suffered an injury. They would also pledge that the company and its agents would comply with State law. The company was confident that its business model, which includes such things as internal training and auditing, would be able to uphold its commitments.

[2:43:34 PM](#)

Ms. Olsen also considered corporate licensure an appropriate mechanism as it would allow the State to review the company's operations through routine, spot, or periodic audits. She urged that the bill be held in Committee in order for further discussion to occur. Primerica has a good business model and it would be disappointing were its Alaska operations and consumer services limited.

Co-Chair Stedman, noting that a number of individuals working with Primerica had signed up to testify, asked, in consideration

of time that those individuals limit their remarks to whether they support or oppose the legislation. They should only expand their remarks if they had something "new to add to the discussion".

[2:45:05 PM](#)

JEFFREY SMITH, Primerica Financial Services testified via teleconference from Mat-Su in opposition to the bill. It would place a "huge financial burden on my small business". This in turn would be detrimental to his clients.

[2:45:29 PM](#)

PHYLISS HOFFMAN, Primerica Financial Services, testified via teleconference from Mat-Su in opposition to the bill. Primerica agents are internally monitored, must meet internal continuing education requirements, and must comply with regulations. "A duplicate mortgage loan originator license makes absolutely no sense." The services provided by Primerica agents to people in this State are appreciated.

Co-Chair Stedman repeated his request that Primerica agents keep their comments on point.

[2:48:02 PM](#)

FRED LAURION, Primerica Financial Services, testified via teleconference from Anchorage and elaborated on the importance the company places on educating the consumer. Anything that might hamper the company's ability to operate in the State would be detrimental to that effort. He opposed the bill, as written, and urged the Committee to either amend or postpone action on it.

[2:49:37 PM](#)

LAIRD JENKINS, Primerica Financial Services, testified via teleconference from Anchorage in opposition to the bill, as written.

[2:49:53 PM](#)

CARL MCINTYRE, Primerica Financial Services, testified via teleconference from Anchorage. He opposed the bill as written.

[2:50:12 PM](#)

JOHN PEEK, Primerica Financial Services, testified via teleconference from Anchorage and spoke in opposition to the bill, as written. The company provides a great service to residents of the State.

[2:50:36 PM](#)

MIKE CLAYBORN, Primerica Financial Services, testified via teleconference from Anchorage. He opposed the bill as written.

JULIA COSTER, Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Anchorage), Department of Law testified via teleconference from Anchorage and informed the Committee she was available to answer questions.

[2:51:00 PM](#)

DUSTIN SHANNON, Primerica Financial Services, testified via teleconference from Anchorage in opposition to the bill as written. While receiving his economics degree at the University of Alaska Anchorage, he became aware of the "unintended consequences" that sometimes occur when the government attempts to protect the consumer. He was opposed to the bill, as written. Increasing overhead expenses on individuals might dissuade them from participating in this business.

[2:52:06 PM](#)

JOHN MARTIN, Alaska Mortgage Solution, and Past President, Alaska Mortgage Brokers Association, testified via teleconference from Anchorage. Recent media attention on mortgage loan fraud in the State has contributed to the effort behind this bill. People in the mortgage loan industry "recognize the need for change" and have assisted in the development of "this industry bill". "This bill effectively addresses our concerns;" particularly in respect to licensing mortgage companies and, specifically, mortgage loan originators.

Mr. Martin clarified that the bill would not require people who process or underwrite loans to be licensed.

Mr. Martin asserted that the bill has broad industry support. Other professional organizations also recognize the importance of this legislation and the protection it can afford to our residents.

Mr. Martin declared that the bill is "revenue neutral". Furthermore, this "straight forward" bill would "not place an undue burden or cost on business."

Mr. Martin reiterated that the bill would license an industry that is currently unregulated.

Mr. Martin stated that the licensing fee being proposed would cost a large multi-state lender, for example, approximately \$20 each month. Those entities would save money by not having to conduct background checks or provide continuing education programs to their associates, as that effort would be conducted under State oversight. This savings could be beneficial to consumers.

Mr. Martin also noted that this legislation would require each mortgage loan originator to be "responsible for paying their very own low fees" which would amount to less than one dollar per day.

Mr. Martin considered the best features of the bill to be that the State would conduct licensee background checks and establish industry performance standards. He supported the bill in its current form; it would protect the citizens of the State.

[2:55:04 PM](#)

ROGER PRINCE, Securities Examiner, Division of Banking, Securities and Corporations, Department of Commerce, Community and Economic Development testified via teleconference from Anchorage and informed the Committee he was available to answer questions.

[2:55:28 PM](#)

NICOLE STRELTSOVA, Primerica Financial Services, testified via teleconference from Fairbanks in opposition to the bill.

[2:56:00 PM](#)

LAVADA CHRISTINASON, Primerica Financial Services, testified via teleconference from Fairbanks and opposed the bill as written.

[2:56:19 PM](#)

ROSE BAADE, Primerica Financial Services, testified via teleconference from Fairbanks and spoke in opposition to the bill as written. She urged the Committee to either postpone action on the bill or amend it.

[2:56:33 PM](#)

JENNIFER MACOMBER, Primerica Financial Services, testified via teleconference from Fairbanks in opposition to the bill, as written.

[2:56:52 PM](#)

RON HUNT, Primerica Financial Services testified via teleconference from Fairbanks and voiced opposition to the bill as written.

[2:57:12 PM](#)

DENNIS SHINN, Primerica Financial Services, testified via teleconference from Fairbanks in opposition to the bill, as written.

[2:57:37 PM](#)

CURTIS MACOMBER, Primerica Financial Services, testified via teleconference from Fairbanks and opposed the bill, as written.

[2:58:08 PM](#)

DAVID MUELLER, Primerica Financial Services, testified via teleconference from Fairbanks in opposition to the bill as written.

[2:58:22 PM](#)

BETTY KETZLER Primerica Financial Services testified via teleconference from Fairbanks in opposition to the bill.

[2:58:39 PM](#)

DOTHORTHY JONES, Primerica Financial Services, testified via teleconference from Fairbanks and spoke in opposition to the bill, as written.

[2:59:08 PM](#)

MAUREEN MISEWICZ, Primerica Financial Services, testified via teleconference from Fairbanks and spoke in opposition to the bill as written. The bill should be amended in consideration of Primerica's business model.

[2:59:33 PM](#)

JONATHAN BOURNE, Primerica Financial Services, testified via teleconference from Fairbanks and opposed the bill as written.

[3:00:30 PM](#)

Senator Olson asked Roger Prince whether the Division was in support of the bill.

Mr. Prince deferred to Mr. Davis to speak on behalf of the Department; however, Mr. Davis was no longer available.

Co-Chair Stedman ordered the bill HELD in Committee.

RECESS TO CALL OF THE CHAIR [3:01:30 PM](#) / [6:23:56 PM](#)

#sb104

CS FOR SENATE BILL NO. 104(FIN)

"An Act relating to the Alaska Gasline Inducement Act; providing inducements for the construction of a natural gas pipeline and shippers that commit to use that pipeline; 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."

This was the 20th hearing for this bill in the Senate Finance Committee.

[6:24:56 PM](#)

Co-Chair Hoffman move to adopt the Finance committee substitute Version 25-GS1060\T, Bullock, dated May 10, 2007, as the working document.

Without objection, the Version "T" committee substitute was ADOPTED as the working document.

[6:25:24 PM](#)

Chapter 90. Alaska Gasline Inducement Act.

STEVE PORTER, Staff to Senator Bert Stedman, discussed the changes the Version "T" committee substitute would make to provisions of Chapter 90, added to AS 43 by Section 1 of the bill.

Article 2. Alaska Gasline Inducement Act License.

Section 43.90.110. Natural gas pipeline project construction inducement.

Mr. Porter stated that the first change in Version "T", as compared to the previous Finance committee substitute Version 25-GS1060\N, was in Article 2, Section 43.90.110 subsection (a)(1). The words "in the form of reimbursements" was added following "contributions" on page 2, line 17.

[6:26:25 PM](#)

MARCIA DAVIS, Deputy Commissioner, Department of Revenue, informed the Committee that this "technical" change would strengthen language pertaining to the \$500 million grant reimbursement monies provided by the State to the licensee. It would require "adequate support and identification of the costs before monies are provided for that particular expenditure". Requesting "reimbursement monies for an expenditure that does not meet the qualifications as a qualified expenditure" would be a violation.

[6:28:36 PM](#)

Mr. Porter noted that the word "match" was replaced with "reimburse" in two sections of Section 43.90.110: page 2 line 24 of subsection (a)(1)(A) and page 2 line 29 of subsection

(a)(1)(B). This change would further clarify provisions relating to qualified expenditures.

Mr. Porter also noted that the language "pursuing firm transportation commitments in a binding open season, to securing financing for the project, or" was inserted following the phrase "reasonably related to" in subsection (a)(1)(C), page 3 line 4 of this section, in order "to expand" the activities "the licensee could actually perform during" the five year period immediately following receipt of the license.

[6:29:56 PM](#)

Senator Dyson asked whether changing from a matching situation to a reimbursement scenario, as specified by the revisions to Section 43.90.110, subsections (a)(1)(A) and (B), would have "the affect of cutting in half the amount of money for the work that would be done during this period."

(1) subject to appropriation, state matching contributions in the form of reimbursements in a total amount not to exceed \$500,000,000, paid to the licensee during the five-year period immediately following the date the license is awarded;...

Ms. Davis identified "the actual language change" as being in subsection (a)(1), page 2 lines 17 through 19. She read the language and expressed the following.

...the actual matching percentage is still in play. So, if they say, I want a match prior to open season of 40 percent, it would be a reimbursement up to the 40 percent. So the percentage level of match is still in play. The only thing that the addition of the word reimburse does is affect the timing, so that the State isn't paying the match at the initial outlay of cash by that licensee but rather its after they've outlaid, provided the documentary support, then we provide the reimbursement that's still subject to those caps of percentages.

Senator Dyson appreciated the clarification.

[6:31:31 PM](#)

Section 43.90.130. Application requirements.

Mr. Porter next directed attention to paragraph (1) of Section 43.90.130, page 3 beginning on line 26. The phrase "the applicant shall file with the commissioners the number of copies of the application, and any amended application, required by the commissioners; at the same time the copies of the application or an amended application are filed with the commissioners, the applicant shall provide six copies of the application or amended application to the presiding officer of each chamber of the legislature" was added following "request for applications" in paragraph (1), page 3 line 31.

[6:32:21 PM](#)

Section 43.90.160. Notice, review, and comment.

(c) After the commissioners determine that the applications are complete under AS 43.90.140, ...

Mr. Porter advised that the change in subsection (c) of this section was to pluralize "the application is complete" to read "the applications are complete", as reflected on page 12 line 3.

Ms. Davis noted that this language had been pluralized in previous versions of the bill. Changing it from the singular to the plural recognized that all license applications would be received at one time rather than at staggered times.

[6:34:07 PM](#)

Section 43.90.170. Application evaluation and ranking.

(b) When evaluating the net present value of anticipated cash flow to the state from the applicant's project proposal, the commissioners shall use an undiscounted value and, at a minimum, discount rates of two, five, six, and eight percent, and consider

Mr. Porter stated that the discount rate of six percent was added to subsection (b) page 12 line 20.

[6:34:49 PM](#)

Section 43.90.200. Certification by regulatory authority and project sanction.

(a) A licensee that is awarded a certificate of public convenience and necessity from a regulatory agency with jurisdiction over the project shall accept the certificate on or before the date the order granting the certificate is no longer subject to judicial review.

[6:35:43 PM](#)

Mr. Porter stated that, as a clarifying measure, the words "on or before the date" were added following the first reference to "the certificate" in subsection (a) page 15 line 4. The words "or earlier at the licensee's discretion" were deleted following "judicial review" at the end of the subsection, page 15 line 5.

Mr. Porter informed the Committee that the term "amended certificate" was utilized throughout the previous version of the bill. That term is deleted entirely from Version "T" by changing the definition of certificate to include "both certificate and language sufficient to cover amended certificate as well." Further discussion on this change would be forthcoming.

(f) In this section, "effective date of the certificate of public convenience and necessity" means the earlier of the date the order granting the certificate is no longer subject to judicial review or the date the licensee accepts the certificate.

Mr. Porter advised that two changes were made to subsection (f) of this section. The words "the earlier of" were inserted following "means" on page 16 line 3 and the words "or the date the licensee accepts the certificate" were added following "review" on line 4.

[6:37:30 PM](#)

(e) The transfer and assignments under (d) of this section as a result of failure to comply with (a) or (b) of this section are at no cost to the state or the state's designee. A transfer under (c) of this section shall be subject to the state's payment to the licensee of the net amount of expenditures incurred and paid by the licensee that are qualified expenditures for the purposes of AS 43.90.110.

Ms. Davis advised that the phrase "is at the licensee's net cost" were deleted and replaced with "shall be subject to the state's payment to the licensee of the net amount of expenditures incurred and paid by the licensee that are qualified expenditures" following "A transfer under (c) of this section" on page 15 line 30.

[6:38:17 PM](#)

Section 43.90.210. Amendment of or modification to the project plan. Subject to the approval of the commissioners, a licensee may amend or modify its project plan if the amendments or modifications improve the net present value of the project to the state, are necessary because of an order or requirement by a regulatory agency with jurisdiction over the project or by the Alaska Oil and Gas Conservation Commission, or the amendment or modification is necessary because of changed circumstances outside the licensee's control and not reasonably foreseeable before the license was issued. An amendment or modification approved under this section must be consistent with the requirements of AS 43.90.130 and, except for an amendment or modification required because of an order or requirement of a regulatory agency with jurisdiction over the project or by the Alaska Oil and Gas Conservation Commission, may not substantially diminish the value of the project to the state or the project's likelihood of success.

Mr. Porter informed that the words "an order issued" were deleted following "jurisdiction over the project or" on page 16 lines 9 and 15 of this section.

Ms Davis advised that the phrase "net present" was also deleted following "may not substantially diminish the" on line 16. This phrase was inadvertently included in the previous version of the bill as the result of a technical drafting error.

[6:39:33 PM](#)

Section 43.90.220. Records, reports, conditions, and audit requirements.

(2) receive all relevant notices when and as issued and information when and as sent to the governing body or bodies and equity holders;

Mr. Porter stated that the words "when and as" were inserted in subsection (d)(2), page 17 line 4, of this section.

[6:40:03 PM](#)

Section 43.90.240. Abandonment of project.

(b) If the commissioners and the licensee do not agree that the project is uneconomic, the disagreement shall be settled by arbitration administered by....

Mr. Porter stated that the phrase "or the licensee find that the project is uneconomic and the other parties disagree" was deleted and replaced with "and the licensee do not agree" following "commissioners" on page 18 line 26 of subsection (b) of this section in order to clarify that "commissioners and licensees don't make findings, they disagree".

[6:40:51 PM](#)

Article 3. Resource Inducements.

Section 43.90.300. Qualification for resource inducements.

Mr. Porter stated that the word "inducement" was pluralized to "inducements" on page 20, line 27 of the section title.

Section 43.90.310. Royalty inducement.

(c) To claim the inducement under (b) of this section, a lessee or other person qualified under AS 43.90.300 shall agree, on an application form provided by the Department of Natural Resources, that the lessee or other person, and the lessee's or other person's affiliates, successors, assigns, and agents will not protest or appeal a filing by the licensee to roll in expansion costs of the mainline up to a level that is required in AS 43.90.130(7) if the Federal Energy Regulatory Commission does not have a rebuttable presumption in effect that rolled-in treatment applies to the cost of the expansion of the project. The agreement not to protest may not preclude the lessee or other person, or the lessee's or other person's affiliates, successors, assigns, and agents from protesting a filing to roll in mainline expansion costs that licensee is not required to propose and support under AS 43.90.130(7).

Section 43.90.320. Gas production tax exemption.

(c) The person claiming the exemption under this section shall agree that the person, and the person's affiliates, successors, assigns, and agents will not protest or appeal a filing by the licensee to roll in mainline expansion costs up to the level that the licensee is required to propose an support under AS 43.90.130(7) if the Federal Energy Regulatory Commission does not have a rebuttable presumption in effect that rolled-in treatment applies to the cost of the expansion of the project. The agreement required under this subsection may not preclude the person, or the person's affiliates, successors, assigns, and agents, from protesting a filing to roll in mainline expansion costs that licensee is not required to propose and support under AS 43.90.130(7).

Section 43.90.330. Inducement vouchers.

(d) A person that receives a voucher under this section and a gas producer that receives resource inducements under a voucher shall agree that the person and the gas producer and their respective affiliates, successors, assigns, or agents will not protest or appeal a filing by the licensee to roll-in mainline expansion costs up to the level that the licensee is required to propose and support under AS 43.90.130(7) if the Federal Energy Regulatory Commission does not have a rebuttable presumption in effect that rolled-in treatment applies to the cost of the expansion of the project. The agreement required under this subsection may not preclude the person or gas producer or their respective affiliates, successors, assigns, or agents from protesting a filing to roll-in mainline expansion costs that the licensee is not required to propose and support under AS 43.90.130(7).

Mr. Porter stated that the clause "if the Federal Energy Regulatory Commission does not have a rebuttable presumption in effect that rolled-in treatment applies to the cost of the expansion of the project." has been inserted following the first reference to "AS 43.90.130(7)" in three subsections of the bill: Section 43.90.310. Royalty inducement., subsection (c), page 23 line 8; Section 43.90.320. Gas production tax exemption., subsection (c), page 24, line 9; and Section 43.90.330. Inducement vouchers., subsection (d), page 25 line 9.

Article 4. Miscellaneous Provisions.

Section 43.90.400. Alaska Gasline Inducement Act matching contribution fund; disbursements; audits.

(c) The commissioners shall adopt regulations that provide for application to receive matching contributions in the form of reimbursements for qualified expenditures as provided under AS 43.90.110, and

Mr. Porter stated that the phrase "in the form of reimbursements" was inserted following "contributions" in subsection (c) page 25 line 30 of Section 43.90.400.

[6:43:14 PM](#)

Section 43.90.440. Licensed project assurances.

(a) Except as otherwise provided in this chapter, the state grants a licensee assurances that the licensee has exclusive enjoyment of the inducements provided under this chapter before the commencement of commercial operations...

Mr. Porter pointed out that the word "operation" in Section 43.90.440, subsection (a) page 26 line 22 was pluralized to "operations" in this version of the bill.

[6:43:32 PM](#)

Article 5. General Provisions.

Section 43.90.900. Definitions.

(4)"certificate of public convenience and necessity" and "certificate" mean a certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, and a certificate of public convenience of necessity issued by the Federal Energy Regulatory Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas Transportation Act of 1976) that is amended to comply with the terms of the license;

Mr. Porter stated that, as mentioned earlier, the definitions of "certificate of public convenience and necessity" and

"certificate" were changed to accommodate the deletion of the term "amended certificate" from this version of the bill. This definition is depicted in paragraph (4), page 28 line 31 through page 29 line 5, of Section 43.90.900.

[6:44:55 PM](#)

(17) "open season" means the process that complies with 18 C.F.R. Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects) or similar procedures for soliciting commitments for pipeline capacity under the regulations, policies, rules or precedent of the Regulatory Commission of Alaska;

Mr. Porter also advised that the language "or similar procedures for soliciting commitments for pipeline capacity under the regulations, policies, rules or precedent of the Regulatory Commission of Alaska" was added to the definition of "open season", as depicted in paragraph (17) of the Definitions section, page 30 line 9.

[6:45:35 PM](#)

This concluded the overview of the changes included in the Version "T" committee substitute.

AT EASE [6:46:34 PM](#) / [6:50:31 PM](#)

Amendment #1: This amendment inserts "lobbying costs," following "overhead costs," in Section 43.90.110(a)(1)(C), page 3 line 10, of Article 2. Chapter 90. Alaska Gasline Inducement Act License., added to AS 43 by Section 1.

Co-Chair Stedman moved and objected for discussion.

Co-Chair Stedman explained that this amendment would disqualify lobbying costs from being a qualified expenditure, as defined in this subsection.

[6:51:03 PM](#)

PATRICK GALVIN, Commissioner, Department of Revenue, communicated that the Department did not object to the amendment.

Co-Chair Stedman removed his objection.

[6:52:26 PM](#)

There being no further objection, Amendment #1 was ADOPTED.

Amendment #2: This amendment increases the "five-year" time period specified in Section 43.90.110(a)(1), page 2 line 19, of Article 2. Chapter 90. Alaska Gasline Inducement Act License., added to AS 43 by Section 1, to a "seven-year" time period.

Co-Chair Stedman moved and objected for discussion.

[6:53:26 PM](#)

Commissioner Galvin advised that subsection (a)(1) addressed the time period in which qualified expenditures would be matched by the State. The amendment would increase that time period to seven years after the issuance of the license.

Commissioner Galvin spoke as follows.

In response to testimony and information provided by potential applicants, its been requested to provide more flexibility in terms of both the time line and in the ability of applicants to potentially have costs associated with the actual FERC [Federal Energy Regulatory Commission] determination timeframe, if there's additional costs while FERC may be considering an application and also providing potentially more time between an open season and when the beginning ... engineering and other field work would be undertaken to pursue the FERC certificate that this would provide more flexibility for applicants and potentially increase our pool of applicants by providing this flexibility.

[6:54:42 PM](#)

Senator Huggins stated he would "counter-intuitively" support the amendment in spite of his concern that it might have "the potential net effect of expanding the timeline."

[6:55:13 PM](#)

Co-Chair Stedman maintained his objection to the amendment.

A roll call was taken on the motion.

IN FAVOR: Senator Olson, Senator Huggins, Senator Thomas, Senator Dyson, Senator Elton and Co-Chair Hoffman

OPPOSED: Co-Chair Stedman

The motion PASSED (6-1)

Amendment #2 was ADOPTED.

6:56:07 PM

Amendment #3: This amendment deletes "80" and inserts "90" in AS 43.90.110(a)(1)(B), page 2 line 30. The language would read, in part, as follows.

(B) after the close of the first binding open season, the state shall reimburse the licensee's qualified expenditures at the level specified in the license; however, the state's matching contribution may not exceed 90 percent of the qualified expenditures ...

Co-Chair Stedman moved and objected for discussion.

6:56:46 PM

Commissioner Galvin explained that this amendment pertained to the timeframe in which an applicant could establish the level of the State's matching contribution rate after the initial open season. The adoption of this amendment would increase that level to no more than 90 percent of the qualified expenditures.

Commissioner Galvin continued as follows.

Again, it is something that the applicant will establish in their proposal. This provides more flexibility for applicants to potentially put more of the weight on the State. It is being responsive to primarily concerns raised by TransCanada in terms of recognizing the risk sharing after an open season and concern with regard to the fact that its primarily the State's desire and in the State's interest to have the project continue to move forward, whereas the company may see a different risk profile, and

allowing for the State to take on more of that weight may again encourage more applications, which is the ultimate goal, and recognizing, also, that the State's cap on expenditures remains at \$500 million.

Commissioner Galvin considered "it appropriate to be responsive to the desire for flexibility in that area with the primary desire to increase the potential pool of applicants."

[6:58:24 PM](#)

Co-Chair Stedman thought that changes, such as the one proposed in this amendment, have been made to "attract more midstream participants" such as potential pipeline builders like TransCanada and Enbridge.

[6:59:57 PM](#)

Commissioner Galvin expressed that, over the past few weeks, numerous changes have been made "to the bill to attract additional applicants" in an effort "to eliminate potential barriers" identified by producers and others. Concerns raised by TransCanada and others about such things as upstream activities have been addressed. More changes would be anticipated in the endeavor to make the Alaska Gasline Inducement Act (AGIA) "more flexible for all potential participants."

[7:00:34 PM](#)

Senator Huggins appreciated the Commissioner's "candor" and hoped that the actions taken in the bill "would attract more applicants." Nonetheless, he would be voting against the amendment because he was uncomfortable being told by a company that, in order to get them to apply, the State must increase its matching contribution level to 90 percent.

[7:01:14 PM](#)

Commissioner Galvin clarified that "neither TransCanada nor any other applicant has stated if this changed from 80 to 90 that they would come." The overall effort is to make AGIA "more attractive" and "to be responsive to our applicant pool." The issue addressed in this amendment "was identified as an area of concern."

Senator Huggins appreciated the clarification. Nonetheless, "when it comes to dollars and cents, I have a little different value system. So I'm a no vote."

A roll call was taken on the motion.

IN FAVOR: Senator Olson, Senator Thomas, Senator Dyson, Senator Elton and Co-Chair Hoffman

OPPOSED: Senator Huggins and Co-Chair Stedman

The motion PASSED (5-2)

Amendment #3 was ADOPTED.

[7:03:01 PM](#)

Amendment #4: This amendment deletes "and" following "AS 43.90.130(9);" on page 12 line 31 of Article 2, Section 43.90.170(b)(5) of Chapter 90, added to AS 43 by Section 1, and adds a new paragraph that reads as follows.

(6) economic value resulting from payments required to be made to the state under the terms of the proposal;

Co-Chair Stedman moved and objected for discussion.

[7:03:40 PM](#)

Commissioner Galvin stated that this amendment would allow the State to consider a variety of applicant payment options. Further clarifying remarks were provided as follows.

If an applicant were to propose, as part of their proposal, making payments to the State, either in the form of a passive equity interest, where the payment would be made as part of some profit sharing or payments based upon the revenues generated by the project, or, as the port authority has indicated, they would create a profit sharing opportunity for the State, or if the applicant were to propose some sort of repayment in a form of just a set payment as opposed to something based upon revenues.

All of those would be something that could be considered and evaluated as part of the net present value economic evaluation criteria. And, we believe that this is the most responsive way to capture some of those areas of interest and also to provide flexibility from the applicants.

But, make it clear that within the bill the requirement that any State contribution will reduce the rate base and thereby reduce the tariff remains: that this is not a substitute where the State contribution will become the loan and will end up being paid by the shippers when they make their tariff payments. This would be something that would be offered by the licensee out of their proceeds from the project and would be offered as a way of making their proposal more attractive and more likely to potentially succeed in the competitive bidding process.

7:06:03 PM

In response to a concern voiced by Senator Elton, Co-Chair Stedman stated that any language issues associated with inserting this new paragraph into the bill would be addressed by the bill's drafters.

7:06:41 PM

Senator Olson asked whether the net affect of the amendment would be to provide an opportunity "to have an increased bottom line for the State."

Commissioner Galvin responded in the affirmative. "This would anticipate that if the licensee were to propose making these payments it would result in an increased bottom line for the State. We would get more value out of the project."

7:07:08 PM

Senator Huggins complimented the Commissioner on developing amendment language that would provide an opportunity for the State to further benefit from the project.

Co-Chair Stedman removed his objection.

There being no further objection, Amendment #4 was ADOPTED.

[7:07:53 PM](#)

Amendment #5: This amendment inserts the word "maximum" following "the" in Article 2, Section 43.90.130. Application requirements, subparagraph (15) on page 9 line 21 of Chapter 90, added to AS 43 by Section 1. The language would read, in part, as follows.

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

Co-Chair Stedman moved Amendment #5.

There being no objection, Amendment #5 was ADOPTED.

[7:09:22 PM](#)

Commissioner Galvin addressed another area of concern in the bill; specifically language added to paragraph (1) of Article 2, Section 43.90.130. Application requirements., page 3 line 30 through page 4, line 4 that reads, in part, as follows.

...the applicant shall file with the commissioners the number of copies of the application, and any amended application, required by the commissioners; at the same time the copies of the application or an amended application are filed with the commissioners, the applicant shall provide six copies of the application or amended application to the presiding officer of each chamber of the legislature;

Commissioner Galvin was particularly concerned about the language requiring the applicant to provide copies of their application to the presiding officer of each chamber of the legislature. The concern is that this action could compromise the integrity of the process. It is imperative that there be "no opportunity for one of the applicants, who that point still has the opportunity to amend their application, to have access to information provided by a competing applicant."

Commissioner Galvin declared that the commissioners must be able to keep the applications "secure" and "within their control".

Co-Chair Stedman advised that forthcoming Amendment #6 might address this concern.

AT EASE [7:11:54 PM](#) / [7:24:26 PM](#)

Amendment #6: This amendment deletes the ";" following "legislature" on page 4 line 4 of subsection (1) of Article 2, Section 43.90.130 of Chapter 90 added to AS 43 by Section 1 and inserts new language as follows.

in a sealed envelope, and such envelope shall not be opened and the contents distributed until the receipt by the presiding officers of each chamber of notice, that the commissioners have determined the applications are complete under AS 43.90.140 and the presiding officer may open the envelop after signing a confidentiality agreement under AS 43.90.160(c).

Co-Chair Stedman moved and objected for discussion.

Co-Chair Stedman thought this language would address the confidentially concern arising from providing copies of the applications to the presiding officer of each chamber of the Legislature.

[7:25:26 PM](#)

Commissioner Galvin advised that the issue "still causes us concern." He elaborated as follows.

...the Executive Branch is still responsible for implementing the laws. And, as part of that, we are responsible for implementing the AGIA process. And, that process has safeguards with regard to both the flow of the applications and the retention of the confidential materials. What this does, is it goes outside of the process and additional language that, as far as I'm aware, is unprecedented anywhere else in State procedure, to have the information provided simultaneously to the Executive Branch and to the presiding officers.

Now, there's no limitation in here on, once the presiding officers open these, whether they are bound to not distribute the confidential information as is provided in other sections with regard to the commissioners. It states that the commissioners can only provide the information to others once those others within the Legislature have signed

a confidentially agreements provided by the commissioners. This does not have those safeguards built into it. It's coming in from a completely different angle. I cannot understand the motivations given that this information will basically be available to the Legislature at the exact same time under this as under this other provision, as the existing provision.

[7:27:22 PM](#)

Commissioner Galvin advised that the Department of Law recommends the existing bill language and has "established that it's got the safeguards necessary to ensure that the integrity of the process remains. This is not worked out in that regard and there are potential loopholes that I can already see."

Commissioner Galvin noted that, in addition to the question of confidentiality, the inclusion of an amended application in the requirement is troublesome because "no where in the bill do we talk about them being able to submit an amended application."

Commissioner Galvin pointed out that the application process currently involves the submittal of an application, with additional information to be provided as requested by the commissioners. "That information would then be made public, as well as the correspondence, when the applications are deemed complete. This just is basically additional process that's being tacked on here late in the day without us being able to work through the various pitfalls that may be associated with this additional process that, again, I'm not aware of anywhere else" in the bill.

Commissioner Galvin urged the Committee to return to the language in the original version of the bill as it would provide the Legislature "full access to the information once its been complete, full access to the confidential information, and ensures that there isn't any question after the fact about the integrity of the information flow."

AT EASE [7:29:28 PM](#) / [7:30:07 PM](#)

Without objection, Co-Chair Stedman WITHDREW Amendment #6.

Conceptual Amendment #8: This amendment deletes "the applicant shall file with the commissioners the number of copies of the

application, and any amended application, required by the commissioners; at the same time the copies of the application or an amended application are files with the commissioners, the applicant shall provide six copies of the application or amended application to the presiding officer of each chamber of the legislature" following "applications;" on page 3 line 30 through page 4 line 4 of paragraph (1) of Article 2, Section 43.90.130. Application requirements. in Chapter 90 added to AS 43 by Section 1

Co-Chair Stedman moved and objected for further discussion.

[7:32:34 PM](#)

No discussion forthcoming, Co-Chair Stedman removed his objection.

There being no further objection, Conceptual Amendment #8 was ADOPTED.

[7:33:18 PM](#)

Amendment #7: This amendment inserts "an amendment to" following "and" in paragraph (4), page 29, line 2 of Section 1, Article 5, Section 43.90.900. Definitions, of Chapter 90 added to AS 43 by Section 1.

The amendment also deletes "that is amended to comply with the terms of the license" following "(Alaska Natural Gas Transportation Act of 1976)" on page 29, line 4 of that same paragraph.

The changes proposed in the amendment would read as follows.

(4) "certificate of public convenience and necessity" and "certificate" mean a certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, and an amendment to a certificate of public convenience of necessity issued by the Federal Energy Regulatory Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas Transportation Act of 1976);

Co-Chair Stedman moved and objected for discussion.

[7:33:27 PM](#)

Commissioner Galvin explained that, as mentioned earlier, the term "or amended certificate" accompanied all references made to a FERC certificate in previous bill versions. A "global change" was made in this committee substitute in that the term "or amended certificate" was omitted, and the concept of that term was added to the definition of "certificate".

Commissioner Galvin communicated, however, that the Department has determined that the manner in which the amended certificate is referenced in that definition could "be clarified further". This is the purpose of the amendment.

In response to a question from Co-Chair Stedman, Commissioner Galvin affirmed that the Department supported the amendment.

Co-Chair Stedman removed his objection.

There being no other objection, Amendment #7 was ADOPTED.

No further amendments were offered.

AT EASE [7:35:33 PM](#) / [7:36:56 PM](#)

[7:37:24 PM](#)

Senator Dyson was pleased with the Committee's bill and with the cooperation provided by the Administration in the endeavor. While he would have welcomed having the bill reviewed by Legislative consultants, he was sympathetic to the time constraint placed on Committee actions.

[7:38:21 PM](#)

Co-Chair Stedman appreciated Senator Dyson's remarks. The amount of time he, Co-Chair Hoffman, and Senator Huggins spent "working through the details" of the bill, with the assistance of the Administration, is evidenced by the limited number and nature of the amendments offered today.

[7:39:06 PM](#)

Co-Chair Hoffman moved to report the Version 25-GS1060\T committee substitute, as amended, from Committee with individual recommendations and accompanying fiscal notes.

[7:39:27 PM](#)

There being no objection, CS SB104(FIN) was REPORTED from Committee with six previous fiscal notes: zero fiscal note #2 from the Division of Oil & Gas, Department of Natural Resources; \$2,226,000 fiscal note #3 from the Department of Revenue; zero fiscal note #4 from the Department of Commerce, Community and Economic Development; zero fiscal note #5 from the Department of Administration; \$302,100 fiscal note #6, from the Division of Oil & Gas, Department of Natural Resources; and \$6,500,000 capital expenditure fiscal note #7 from the Department of Labor and Workforce Development.

#

[7:40:32 PM](#)

Co-Chair Stedman conducted housekeeping on the following day's Committee schedule.

ADJOURNMENT

Co-Chair Bert Stedman adjourned the meeting at [7:40:48 PM](#).