

**ALASKA STATE LEGISLATURE**  
**SENATE SPECIAL COMMITTEE ON ENERGY**

March 26, 2009

11:19 a.m.

**MEMBERS PRESENT**

Senator Lesil McGuire, Chair  
Senator Bill Wielechowski

**MEMBERS ABSENT**

Senator Lyman Hoffman  
Senator Albert Kookesh  
Senator Bert Stedman

**COMMITTEE CALENDAR**

SENATE BILL NO. 150

"An Act establishing an emerging energy technology fund."

HEARD AND HELD

SENATE BILL NO. 136

"An Act relating to noncompetitive leases of state land and for rights-of-way for oil or natural gas pipelines that originate and terminate within the state and to the regulation and certification of those pipelines; relating to conditional certification for certain new natural gas pipelines; relating to definitions of "common carrier" and "firm transportation service" in the Pipeline Act."

HEARD AND HELD

SENATE BILL NO. 135

"An Act clarifying the purpose of the Alaska Natural Gas Development Authority; and relating to definitions of certain terms in AS 41.41."

SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 150

SHORT TITLE: EMERGING ENERGY TECHNOLOGY FUND

SPONSOR(s): SENATOR(s) MCGUIRE

03/13/09	(S)	READ THE FIRST TIME - REFERRALS
03/13/09	(S)	ENE, RES, FIN
03/26/09	(S)	ENE AT 11:00 AM BUTROVICH 205

BILL: SB 136

SHORT TITLE: IN-STATE PIPELINES: LEASES; CERTIFICATION  
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/02/09	(S)	READ THE FIRST TIME - REFERRALS
03/02/09	(S)	ENE, RES, FIN
03/19/09	(S)	ENE AT 11:00 AM BUTROVICH 205
03/19/09	(S)	Scheduled But Not Heard
03/26/09	(S)	ENE AT 11:00 AM BUTROVICH 205

**WITNESS REGISTER**

TREVOR FULTON, Staff  
to Senator McGuire  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Introduced SB 150 on behalf of the sponsor.

LARRY PERSILY, Aide  
to the House Finance Committee  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Provided prospective on the federal stimulus as it relates to SB 150.

BILL LEIGHTY  
Alaska Applied Sciences, Inc.  
Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 150.

CHRIS ROSE, Executive Director  
Renewable Energy Alaska Project (REAP),

**POSITION STATEMENT:** Testified in support of SB 150.

DENALI DANIELS  
Denali Commission  
Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 150.

PAT PITNEY, Vice Chancellor  
University of Alaska Fairbanks  
Fairbanks, AK

**POSITION STATEMENT:** Stated support for SB 150 on behalf of Gwen Holdmann with the Alaska Center for Energy and Power.

GREG BROWN

Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 150.

KIRK HARDCASTLE

Taku River Reds

Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 150.

DOUGLAS JOHNSON

Ocean Renewable Power

Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 150.

KATE TROLL, Executive Director

Alaska Conservation Alliance and Board Member of Alaska  
Renewable Energy

Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 150.

BRENDON BABB, representing himself

Anchorage, AK

**POSITION STATEMENT:** Stated support for SB 150.

WAYNE WEIHING

Ketchikan, AK

**POSITION STATEMENT:** Testified that SB 150 provides opportunity  
for Alaska's future.

JOE BALASH, Special Assistant to the Governor

Energy and Natural Resource Issues

Alaska Capitol Building

Juneau, AK

**POSITION STATEMENT:** Presented SB 136 on behalf of the  
administration.

LARRY OSTROVSKY, Civil Division

Oil, Gas & Mining Section

Department of Law

Anchorage, AK

**POSITION STATEMENT:** Provided information related to SB 136.

ROBERT STOLLER, Assistant District Attorney

Civil Division

Commercial/Fair Business Section

Department of Law

Anchorage, AK

**POSITION STATEMENT:** Provided information related to SB 136.

**ACTION NARRATIVE**

[11:19:52 AM](#)

**CHAIR LESIL MCGUIRE** called the Senate Special Committee on Energy meeting to order at 11:19 a.m. Present at the call to order were Senators Wielechowski and McGuire.

**SB 150-EMERGING ENERGY TECHNOLOGY FUND**

CHAIR MCGUIRE announced the consideration of SB 150.

[11:20:49 AM](#)

TREVOR FULTON, Staff to Senator McGuire, introduced SB 150 and read the following into the record:

Alaska has great potential to become a world leader in researching and developing new energy technologies. We have a unique combination of remote communities, abundant energy resources - both renewable and fossil-based - and a stable and attractive investment environment. SB 150 would complete that picture by creating a mechanism for the funding of new research and development (R&D) energy technology projects.

SB 150 establishes the emerging energy technology fund (EETF), which would distribute R&D funding through a competitive grant program aimed at funding projects designed to research and test new energy technologies. The fund would be administered by the Alaska Center for Energy and Power (ACEP). ACEP is a University of Alaska agency whose mission is to meet state, industry and federal demand for applied energy research in order to lower the cost of energy throughout Alaska and develop economic opportunities for the state, its residents and its industries.

The timing for the creation a state energy fund like the one created by SB 150 is more critical than ever. The federal government has committed over \$13 billion to renewable energy research and development through the American Reinvestment and Recovery Act and President Obama has vowed to make renewable, alternative and clean energy technology a top and continued priority for his administration. In recent years the Department of Energy has offered millions in federal grants that typically require a mere 20

percent cost share at the state level. Every dollar of state funding invested in the EETF could generate up to an additional four dollars in federal funding.

Alaska has the available natural resources, the financial means and the political spirit to become a national and global leader in researching and developing new energy technologies. SB 150 creates the funding mechanism that will help us to achieve that goal.

11:23:24 AM

CHAIR MCGUIRE said she has been asked if the spirit of the bill came from the former Alaska Science and Technology Fund. In part it did, but the idea here is to focus on alternative energy and establish a structure so the fund is managed appropriately. She asked Mr. Fulton to discuss what the committee substitute (CS) does.

MR. FULTON explained that the CS makes two changes. The first is to add a five-member advisory committee that will carry out the business of soliciting, reviewing and selecting grant applications. This creates another level of separation between the agency that would administer the fund and the fund recipients. University members would not be appointed to the board. He noted that there had been concern with the university serving as the oversight agency because they likely would be a grant applicant or partner with others to apply for funding. The language that was used is loosely modeled on the Renewable Energy Fund language and is a common model for grant programs managed at universities nationwide. It allows a wide range of stakeholder voices in the selection process. The second change expands the definition of "eligible applicant" to include nonprofits as well as public and private sector entities.

CHAIR MCGUIRE asked him to talk about the educational criteria for becoming a board member.

MR. FULTON explained that the sponsor wanted to make sure that the board members have the appropriate scientific expertise and background. The bill requires that each member of the committee have a degree in science or engineering and at least two years experience working in Alaska.

11:27:53 AM

SENATOR WIELECHOWSKI asked if a private company like ExxonMobil could apply for and receive a grant under the bill.

MR. FULTON said he doesn't see any reason why a company like that would be excluded.

SENATOR WIELECHOWSKI asked if the bill specifies the means by which the board will evaluate the proposals.

MR. FULTON replied it would be at the discretion of the administering body, which would be the Alaska Center for Energy and Power (ACEP).

CHAIR MCGUIRE said the idea is for the board to decide how criteria would be weighted. Chris Rose is available online and can talk about some of the standards and there is a handout in the packet from ACEP, she said.

[11:30:05 AM](#)

LARRY PERSILY, Aide to the House Finance Committee, said his experience in following energy issues leads him to believe that alternative energy and emerging technologies will be the issue du jour for several years. There is a significant amount of money in the stimulus bill and there will be significant funds in federal budgets for years to come for energy technology, alternative energies and new research that will help the country reduce its reliance on fossil fuels. The state would not want to lose out on a research grant for lack of a qualified applicant or a mechanism to do it. The question for the Legislature is if there is a way to improve the state's odds of getting some of those grants.

[11:32:13 AM](#)

SENATOR WIELECHOWSKI asked if the state having a fund available improves the odds of getting funds.

MR. PERSILY said it's not so much having the fund itself, but having enough people with the skills, knowledge, and expertise to look for opportunities.

SENATOR WIELECHOWSKI asked if he envisions this fund establishing a position for someone to go out and look for alternative energy or emerging technology grants.

MR. PERSILY replied he hasn't thought to that detail. He is looking at whether there are federal dollars or programs in years to come that the state has a chance at and would want to make a considered effort to go after. It could be funding a position or staff or board members who serve for honorarium. It

might not be an employee, but you need to have somebody who is paying attention, he said.

11:34:15 AM

CHAIR MCGUIRE said the idea was to put the fund under the authority and management of the Alaska Center for Energy and Power because it has an administrative construct in place, but it will be interesting to see how the board evolves. Her hope is that this will draw attention from venture capital companies that might be looking for incentives to locate in Alaska. It was purposefully not funded; it's a shell and an idea. In her view it was shortsighted to remove the statutory language from the Science and Technology Fund.

11:36:01 AM

CHRIS ROSE, Executive Director, Renewable Energy Alaska Project (REAP), said REAP is a coalition of more than 60 urban and rural electric utilities, businesses, conservation groups, consumer groups, and Alaska Native organizations with an interest in developing Alaska's renewable energy resources. State and federal agencies contribute in an advisory capacity. REAP supports SB 150 and feels it is a niche in Alaska's energy portfolio and policy that is much needed.

Currently the renewable energy grant fund uses state money to fund commercial and mature technology projects, but there is a huge need to do research and development and demonstration projects because Alaska has some of the highest utility rates in the nation. At the same time the state has many renewable and fossil resources that could be developed, but the technologies for development aren't yet commercial. For example, tidal and wave power hold tremendous opportunity for coastal villages and communities statewide, but the technology isn't yet mainstream. Battery storage is another huge opportunity. Alaska could develop the technology for use in the state and for export. In fact, a lot of the technologies that could be developed for Alaskans could be technology and expertise that is exported around the world. An advantage to demonstrating projects in Alaska is that it also saves money for the people in the state who are using that technology. For example, a 45 cent per kilowatt hour tidal project wouldn't be much help to anybody in the Lower 48, but it would be very helpful to a village that is using diesel power to generate electricity.

MR. ROSE said there is also a huge opportunity to attract federal money as more comes available for R&D in renewable and alternative energy. A program such as the one created by SB 150

is necessary to get in line and apply for funding. The Alaska Center for Energy and Power is well suited and positioned to administer this program and the proposed advisory committee is a way to insulate the university from any potential conflict of interest. This simply creates the shell to attract state and federal money to help Alaska and Alaskans, he said.

11:40:40 AM

CHAIR MCGUIRE thanked Mr. Rose for his help in getting this concept off the ground.

DENALI DANIELS, representing the Denali Commission, noted that yesterday she sent a letter that was signed by the federal co-chair. She explained that the Denali Commission is an independent federal agency with seven commissioners. Each program area operates under the advisory committee structure and each committee makes recommendations about policy, project selection and funding determinations.

The energy program is the Denali Commission's legacy program. In 1998 the commission's original intent was to bring deficient bulk fuel facilities into EPA compliance. Today the focus is on bulk fuel, power plant upgrades and alternative renewable energy. The energy advisory committee has been developing a strategy for funding alternative renewable programs and roughly \$10 million is currently available. Part of the strategy includes emerging technologies. The commission has historically been involved in pilot projects including the Chena geothermal project, a hydrokinetic project in Eagle, and the Alaska Village Electric Cooperative Inc. (AVEC) high voltage direct current feasibility project. All of these projects have created efficiencies and have further developed technologies. At some point they can become eligible for the renewable fund that the state funded this last year.

11:43:45 AM

MS. DANIELS said this initiative is consistent with the commission's vision that emerging technology is instrumental in the overall continuum for energy development in Alaska. The commission has been in active dialog with ACEP, REAP and the national renewable laboratory (NREL) to develop a partnership to fund emerging technologies. Hopefully some stimulus funding will be included.

The Denali Commission held its quarterly meeting last week in Juneau and they heard a great deal of positive testimony about the commission's efforts to support emerging technology. SB 150

was mentioned frequently. From our perspective, it's our role to help to leverage resources and we hope to have a seat at the table as SB 150 moves forward, she said.

11:45:55 AM

CHAIR MCGUIRE said the Denali Commission will be added to the list of resources.

PAT PITNEY, Vice Chancellor, University of Alaska Fairbanks, said she is with the UAF administration, but she is speaking on behalf of Gwen Holdmann who is with the Alaska Center for Energy and Power. She is attending an energy conference in London. Ms. Pitney described the fund as an essential piece for the state to focus research on things that will be of benefit in Alaska. Energy funds are available and will be used nationwide, but Alaska will be better off to the degree that it can apply those funds to problems in Alaska.

MS. PITNEY said it makes no difference to the university if the fund is managed by ACEP, AEA, or the Denali Commission. There is a level of expertise with the Alaska Center for Energy and Power that makes it a reasonable choice for selection and the advisory committee is essential. But what this does is strengthen the tie between the university research and the application of the technology in society. The key points are that the fund is essential and although the university would do a good job as manager, it isn't essential. "We are 100 percent behind the idea of the fund and the essentialness of the fund to attract those federal dollars to put towards Alaska's problems," she said.

11:48:51 AM

BILL LEIGHTY said he is a 37 year resident of Juneau and a small business owner. Alaska Applied Sciences Inc. owns 14 wind machines in Palm Springs that he maintains. He also does energy consulting. The last 8 years he has spent most of his time pro bono as a director of the Leighty Foundation co-authoring research papers on the problem of transmission and firming storage for stranded renewable energy. The foundation also funds nonprofit organizations to do energy policy research.

MR. LEIGHTY noted that earlier in the week he emailed all legislators a paper he will present on March 31 at the National Hydrogen Association annual meeting. The title is "Alaska Village Survival: Affordable Energy Independence via Renewables Firmed via Hydrogen Storage in Liquid Anhydrous Ammonia." The essence of the research that's promoted is that energy independence for villages requires annual-scale firming storage.

He told the committee that last week he testified before the Denali Commission to suggest that they place \$5 million of the \$10 million that is available for renewable energy in this new emerging energy technology fund should it become law.

MR. LEIGHTY provided an example of a project. He explained that pro bono he helped write a grant application for AEL&P, the local electric utility, under HB 152. [25<sup>th</sup> Legislature - An Act establishing a renewable energy grant fund.] It wasn't funded, primarily because it was too much an (R&D) project and perhaps people didn't understand that it had village application. But it is a good match for SB 150 and it is shovel-ready in that the application has already been written, he said. That project is referenced in the research paper because it emphasizes storage. It's an R&D project and demonstration project that would happen at AEL&P because you want to do a research project close to good support and in a major city before it's propagated out to an Alaska village. He noted that he recently emailed some suggested modifications to the bill.

MR. LEIGHTY agreed with Mr. Rose that Alaska has particular needs and opportunities. Some of those opportunities can be pioneered here in Alaska and may have U.S. and worldwide application so it's important to pass SB 150 to create the fund. "I recommend that you move this out of committee and that somewhere in the Legislature it receive an appropriation," he said.

CHAIR MCGUIRE said she looks forward to reading his paper and he's invited to visit her office to discuss it.

[11:52:08 AM](#)

GREG BROWN, representing himself, said he was the president and CEO of Schneider Electric in Canada and Latin America, the largest electrical distribution and control products manufacturer in the world. He is also a former president and CEO of the company that makes Zantrex inverters. Although he's now retired and living in Juneau, he is doing work in Ontario Canada. That province probably has the most progressive alternative energy program in the Northern Hemisphere, he said. Their Legislature set up the renewable energy standard operating program to attract outside money to develop alternative energy. He is working for Silicon Solar Inc. to do a 30 megawatt solar project there. Another project he's working on is called plug-and-play and it could supply 100 kilowatts to remote Alaska villages. Standard components are used to hook up to wind power,

solar, tidal or anything that generates power and then it's run through an inverter.

MR. BROWN said that about six months ago he gave an alternative energy presentation and in that presentation his company offered to give the University of Alaska a cutting edge wind machine. In return they wanted information. The machine is in route from Spain and will likely end up in his garage since the university recently told him that they probably won't be accepting it because of funding problems. This is a concern because this is an opportunity to work with a seasoned company to use a cutting edge product, he said.

11:55:07 AM

MR. BROWN said he is also working on a biomass facility on Prince of Wales Island using pellets. The raw materials would come from thinning the forest and sawdust from the mills. They've also experimented with using 5 percent cardboard and mixed paper. This project would employ about 20 people, solve recycling issues and provide heat. He described SB 150 as a good first step in making Alaska a technology state and a leader in the industry.

CHAIR MCGUIRE commented that if nothing else this bill has brought out some very interesting people.

11:57:01 AM

KIRK HARDCASTLE, Taku River Reds, said he is a commercial fisherman in Southeast and he has identified fish waste as a tremendous renewable resource. In Juneau alone between 12 and 15 million pounds of fish waste goes into the water. He is currently working with the Alaska Energy Authority (AEA) on a feasibility study to recover up to 100,000 gallons of biodiesel from fish waste. Primarily it will be used for heating, but it might have power application as well. He would like to be able to venture to find sources for the product.

MR. HARDCASTLE said when he visited Finland he learned that some older communities that were no longer economically viable had started to venture into emerging technologies. Right now Finland is one of the few nations putting positive investments into alternative energies and emerging energy technologies. It has the only commercialized fish waste to biodiesel production plant in existence. Most places, like Dutch Harbor, use fish waste only as an in-house supplement. What was more impressive than the Finnish technology was their ability to redevelop a workforce. They created vocational tech schools and spun the

graduates out to business tech schools and research technology. Right now they are exporting emerging technology ideas to the rest of the world. There are a lot of analogies for Alaska. Finland leveraged innovation and Alaska can do that with this bill. Also, SB 150 will help his small alternative energy business cross the tipping point into the commercial realm.

12:01:28 PM

DOUGLAS JOHNSON, Alaska Projects Director, Ocean Renewable Power Company LLC. (ORPC), Anchorage, said he is pleased to speak in support of SB 150 because it's just what Alaska needs. He explained that ORPC is currently developing two hydrokinetic projects in Alaska: the Cook Inlet Tidal Power project, and a river project on the Tanana and Nenana. ORPC was started on the east coast and has received financial support from the technology funds established in Massachusetts and Maine, both of which are similar to the fund created by SB 150. This is an opportunity but it will take work to develop that opportunity, he said.

MR. JOHNSON said he has worked with the Alaska Center for Energy and Power and feels it is a credible and professional agency that will do a good job administering the fund if it is set up. Alaska is one of the few places in the world that has the full sweet of renewables. There is tremendous potential here and the biggest challenge is transmission and storage. He noted that as a company ORPC is up against some technology challenges and would like to work cooperatively with the university in R&D efforts to optimize their technology and be more effective in the work they are doing in Cook Inlet and Nenana.

MR. JOHNSON said he is speaking directly to ocean & river technologies, but there is also opportunity in transmission, storage, biomass to combine heat and power, low temperature geothermal, and wind turbine optimization. There's a lot of work to do but without an emerging energy technology fund, it more than likely won't happen, he said. It is happening in other states and Alaska needs to get on the bandwagon.

12:05:30 PM

KATE TROLL, Executive Director, Alaska Conservation Alliance (ACA), said she also serves on the board of the Renewable Energy Alaska Project. She highlighted that clean energy is estimated to be a \$55 billion business and is recognized as one of the few bright spots in the world economy. Because Alaska has world-class resources it is incumbent upon the state to be a leader in renewable energy. She said she is particularly excited about the

development of hybrid systems for distribution of energy in rural Alaska. The 220 villages provide a natural laboratory. This is something the world will need with the over 2 billion people in the developing world looking for levels of energy. The projects are exciting and it's exciting that they will in turn create jobs in rural Alaska where they are very much needed.

MS. TROLL stressed the importance of leveraging federal funds. Mr. Persily spoke of federal funds that may be available from the federal stimulus, but ACA anticipates there will be additional funds as Congress considers climate change and other energy-related legislation. Clearly it's a smart move for Alaska to have the fund in place. She said she understands that the CS expands the eligible applicant pool to include private companies and it adds the advisory council. She supports those efforts. She thanked the Legislature for establishing the fund and said it's critical that Alaska continue to be an energy leader.

[12:08:13 PM](#)

BRENDON BABB, representing himself, stated support for SB 150. He drew an analogy between JFK working to put a man on the moon and harnessing the moon to help man. There is huge amount of tidal resource here and it's the moon that causes these amazing tides that Alaska has, he said. Tidal power, geothermal and wind are tremendous resources that Alaska enjoys, and this fund will allow for R&D as well as demonstration projects to harness that energy and benefit rural villages. This is an opportunity for Lower 48 companies to collaborate to do a demonstration project and be able to say that they are saving money for a rural village at the same time.

A lot of the world looks like rural Alaska in terms of remoteness and lack of electricity. People want electricity and they want it yesterday so there is a huge marketplace in which to sell any new technology. Emerging energy is a \$55 billion industry that is expected to quadruple by 2015. This is the modern day race to put a man on the moon. Sadly, the U.S. is behind in that race, but the emerging energy technology fund and Alaska's vast natural resources can make this state a leader in the U.S. and the world. The timing is perfect.

CHAIR MCGUIRE said the Legislature has spent a lot of time this session talking about alternative energy as a method of sustaining reliable energy and testimony today points out that it also provides opportunity for the creation of jobs.

[12:10:59 PM](#)

WAYNE WEIHING, representing himself from Ketchikan, said SB 150 provides opportunity for Alaska's future. It will help the workforce and address energy issues in small communities. In Southeast small communities like Kake and Angoon are hurting because of power generation costs. Right now Ketchikan is running on diesel power rather than hydro because lake levels aren't replenishing in the cold weather. Instead of running diesels there is the opportunity to generate backup power with tidal, he said. The opportunities are exciting and he appreciates the forward thinking of the committee to put this fund in place.

CHAIR MCGUIRE announced she would hold SB 150 in committee.

### **SB 136-IN-STATE PIPELINES: LEASES; CERTIFICATION**

CHAIR MCGUIRE announced the consideration of SB 136.

[12:13:05 PM](#)

JOE BALASH, Special Assistant to the Governor for Energy and Natural Resource Issues, said SB 136 is part of the Governor's three-part plan to initiate an instate natural gas pipeline project. The first part is to secure funding in the current legislative budget cycle to initiate work to define the need for and timing of a pipeline to deliver natural gas to Alaskans, particularly in areas where it's needed most. That includes conducting an alternatives analysis, selecting a route, applying for major permits including rights-of-way, identifying the source of gas and customers, and bringing all the technical and commercial pieces together to create an opportunity to sanction a project as early as 2011. The Governor has appointed Harry Noah, a former DNR commissioner, as project manager for this first part.

The second part of the plan is a separate piece of legislation to change the statutory missions of the Alaska Natural Gas Development Authority. The notion is to broaden the horizon.

The third part, which is contained in SB 136, makes changes to the Right-of-Way Leasing Act and the Pipeline Act for the purpose of facilitating the commercial and business arrangements between shippers of gas, a pipeline project, and the customers that will be necessary for a commercial project to move forward.

[12:15:11 PM](#)

MR. BALASH explained that in late 2008 and early 2009 the administration began discussions with the parties that were

interested in pursuing a bullet pipeline project, specifically Enstar and Anadarko, and identified some things that could be smoothed out to make the process flow easier. The biggest potential roadblock they identified was that under current law state right of way leases require that a pipeline and lessee commit to providing common carrier service on that pipeline. Describing common carrier service as the gold standard of access for shippers of gas, he explained that, in general, a common carrier pipeline has to provide service to any and all comers when requested. If shippers' requests for service reach the maximum capacity of that pipeline, the pipeline must pro-rate the existing shippers and make room for the new entrant.

MR. BALASH pointed out that a 24 inch pipeline from the North Slope to Southcentral is certainly a world-class project that would require some significant financial commitments on the part of the players in order to secure the financing necessary to construct the project. The shipper, in this case Anadarko, would like contractual certainty that they won't be pro-rated if they make the financial commitments to develop a gas field and then want to get that gas to market. They want certainty that they won't lose any of their capacity in the pipe so that they'll be able to follow through on contractual commitments they've made to customers in terms of delivery.

12:17:31 PM

MR. BALASH said that as the administration moved forward to introduce the bill and was taking into consideration other dynamics with regard to the role and scope of ANGDA and the need to get gas to more than just Southcentral Alaska, the Governor asked why the kind of provisions they were asking the Legislature to make for a bullet line aren't good enough for any other pipeline. Thus SB 136 is drafted in a manner that would apply to all instate pipelines.

MR. BALASH said he would throw out one caveat before getting into the sectional analysis. That is that because the administration did its homework with parties interested in the bullet line, they did not do the homework necessary to understand how these changes might impact the operations of existing pipelines in Cook Inlet and in particular the potential impact to future pipelines in Cook Inlet.

CHAIR MCGUIRE said the bill is not retroactive in nature.

MR. BALASH said that's correct.

CHAIR MCGUIRE asked if there are any pipelines that are in early stages that this may impact.

MR. BALASH replied he isn't aware of any but the bill is a fairly complicated body of law, particularly in the Pipeline Act. With the Chair's indulgence he said he may defer some questions to the attorneys who are online representing the Department of Law and the Regulatory Commission of Alaska.

12:20:00 PM

CHAIR MCGUIRE noted that page 10, line 11, says that the Act is effective immediately. She asked Mr. Ostrovsky and Mr. Stoller if they see any impact to existing pipelines in Cook Inlet. Existing pipelines would probably argue that they shouldn't be forced to be common carriers when, looking forward, other pipelines have the opportunity to be contract carriers, she added.

LARRY OSTROVSKY, Civil Division, Oil, Gas & Mining Section, Department of Law, Anchorage, agreed with Mr. Balash that the bill is written to be prospective. It would apply to anybody who is going to apply for a pipeline right-of-way lease so it applies equally to every intrastate pipeline.

SENATOR WIELECHOWSKI asked if these provisions would apply if the line were built intrastate from Prudhoe Bay to Valdez.

MR. OSTROVSKY replied they would apply.

SENATOR WIELECHOWSKI asked if this would apply to a line built under AGIA by TransCanada Alaska to Valdez.

MR. OSTROVSKY said this is designed for gas pipelines that originate and terminate within Alaska. He cited Section 3 on page 2, line 19.

ROBERT STOLLER, Assistant District Attorney, Civil Division, Commercial/Fair Business Section, Department of Law, Anchorage, stated agreement with Mr. Ostrovsky.

CHAIR MCGUIRE said at least one proposal envisions supplying the LNG plant in Kenai for export capacity. Noting that this goes back to the FERC decision on jurisdiction, she asked what would happen if the line meets the requirements under Section 3, but it's envisioned, and it happens, that export of LNG comes out of that line.

MR. BALASH said the fundamental question will be whether or not FERC asserts jurisdiction, because in the Pipeline Act RCA more or less concedes federal jurisdiction in cases where that happens. When federal law preempts state regulation, the state does not assert regulation over the facilities or pipelines or assets. Fortunately TransCanada's license terms require them to abide by many of the things that are asked in SB 136.

[12:24:05 PM](#)

SENATOR WIELECHOWSKI asked if this would apply to a spur line off the main line as is being contemplated by ANGDA.

MR. BALASH replied he believes the answer is yes, but it will depend on where federal jurisdiction begins and where it ends.

CHAIR MCGUIRE asked if the FERC mandates common carrier status.

MR. BALASH explained that under the Natural Gas Act FERC provides for contract service in the regulation of pipelines. Firm service contracts are contemplated, but then all the provisions in the Natural Gas Act are designed to prevent discriminatory behavior by pipelines.

CHAIR MCGUIRE observed that if an intrastate pipeline contemplated export it would be a contract pipeline, so it wouldn't matter if it was under federal or state regulation.

MR. BALASH replied we would hope so but if federal jurisdiction is not asserted over the pipeline, the state right of way leases require the lessee to covenant that they will provide common carrier access. The Pipeline Act allows for firm transportation service to be offered and regulated by the RCA, but it's an incongruity between the Right-of-Way Leasing Act and the Pipeline Act. It's a brain teaser to try to marry the two and make sure that when the state enters into a lease arrangement with a pipeline that it is getting the kind of commitments from the pipeline that will protect the public interest. The Right-of-Way Leasing Act is intended to do that.

SENATOR WIELECHOWSKI asked the value of the lease for state land on TAPS.

MR. BALASH said he doesn't have that information but he'd be happy to find out.

[12:27:29 PM](#)

SENATOR WIELECHOWSKI noted that he had mentioned \$1 million, and asked if he has a sense of what the lease would run from Gubik to Southcentral.

MR. BALASH said the \$1 million threshold in bill Section 3, mimics language in AS 38.35.120 regarding covenants that a lessee is required to make for pipelines valued at \$1 million or more. He isn't certain in what year the \$1 million was put into law, but the decision was to use the amount that's in statute for purposes of consistency.

SENATOR WIELECHOWSKI said if he reads this correctly "these covenants are triggered when you have a noncompetitive lease of state land for rights-of-way for natural gas pipeline valued at a million dollars or more."

MR. BALASH said it's for a pipeline that is valued at \$1 million or more.

SENATOR WIELECHOWSKI said he isn't sure that it says that and asked if he's saying that the million dollars applies to the value of the natural gas pipeline and not to the value of the rights-of-way.

MR. BALASH said that's his understanding.

SENATOR WIELECHOWSKI asked for legal clarification because he reads it differently.

MR. OSTROVSKY said he reads the statute to mean a natural gas pipeline valued at a million dollars or more. He conceded that he can see how it could be read both ways and he'll verify his answer.

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SENATOR WIELECHOWSKI said if there's uncertainty he'd argue that it should be clarified.

CHAIR MCGUIRE suggested some modifying language. She asked what pipelines would be valued at less than \$1 million and who the state might want to keep out of this new statutory framework.

MR. BALASH said he believes the provision was put into AS 38.35.120 in 1972 or 1974, but the question is at what point a pipeline becomes big enough to affect the public interest such that these kinds of protections and requirements should apply.

CHAIR MCGUIRE asked him to clarify that before the next hearing. She understands that this is incorporates an existing statute to marry philosophical concepts, but it reflects a policy decision. Either the policy decision is good today and the dollar amount needs to coincide or the policy decision is no longer relevant and all pipelines should be regulated under this structure.

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MR. BALASH continued the bill overview and said that sections 1 and 2 make corrective references in statute sections of Title 38. Section 3 adds a new section 38.35.121 to the Right-of-Way Leasing Act. Section 120 requires a lessee to make certain covenants to the state and section 121 would put into place an additional set of covenants that a lessee would make when applying for a state right-of-way lease. The additional covenants are contained on pages 2-6 and are built on the must-haves in the Alaska Gasline Inducement Act. They are the things that were requested of applicants under AGIA that are intended to ensure that benefits of a project accrue to the citizens, businesses and workers in Alaska. In addition they provide the predictability of access to a pipeline that is important for additional exploration and development to occur.

The first is the commitment to solicit demand every two years for additional pipelines. Next are the terms under which they would solicit that demand. Item three is the commitment to seek the approvals to make the expansion happen. Item four is the commitment to reasonable engineering increments, and identifying what those increments might be based on the design of the pipe when it's first constructed. Item five is the commitment to expand on those increments on commercially reasonable terms.

Item six is the commitment to treat the expansions on a rolled-in basis with a cap up to 115 percent of the day-one rate. Item seven is the commitment to offer distance sensitive rates. The administration asked for that under AGIA for the big pipe and believes it is applicable here as well. Item eight relates to Alaska hire to make sure that the citizens are benefited in the construction of a project such as this. Item nine is the commitment to negotiate, prior to construction, a project labor agreement (PLA) that the lessee will commit to. Item ten is the commitment to be regulation by the RCA under AS 42.06, the Pipeline Act.

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Section 4 sets out the definitions for "commercially reasonable terms" and "reasonable engineering increments" in the Right-of-

Way Leasing Act to make sure everyone is talking about the same thing in section 121.

Section 5 amends the Pipeline Act and spells out that the covenants in Title 38 under the Right-of-Way Leasing Act are applicable to the lessee, and that the RCA has jurisdiction to enforce the covenants as a matter of its regulation of the pipeline provider.

Section 6 allows an additional certificate to be provided by the RCA. Mr. Balash continued as follows:

This goes back to the bigger picture in terms of what it is we're hoping to achieve in the next two and a half years in terms of getting all of the major permits under way and basically accumulated and put together for a project to be sanctioned as early as 2011. What this would allow the RCA to do is grant a conditional certificate and identify the conditions that need to be met. If for instance, we had an application for a certificate on a particular project that didn't necessarily have a gas supply committed yet. We want them to be able to go through the steps at the RCA to be able to get their certificate - much like we do for conditional rights-of-way at DNR. You can get a conditional right-of-way granted that spells out the conditions that must be satisfied to make that right-of-way firm. So this would take that same concept and apply it to a certificate that's required by the Regulatory Commission of Alaska and allow that same kind of head start, as it were, on the regulatory process to take place.

Section 7 sets out the enforcement authority of the RCA.

Section 8 changes the definition of firm transportation service in the Pipeline Act to make it clear that firm service means that a shipper on a pipeline can not be prorated.

Section 9 adds the definition for "common carrier" that allows somebody who has an existing right-of-way lease - where they made the commitment to common carrier service - to be able to then offer firm transportation service and interruptible transportation service on that pipeline.

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SENATOR WIELECHOWSKI asked the status of ANGDA's work on the spur line.

MR. BALASH replied his understanding is that ANGDA very recently entered into a reimbursable arrangement and paid funds to BLM to continue with the EIS for the Richardson Highway route on the spur line work.

SENATOR WIELECHOWSKI asked if the administration supports ANGDA's efforts to build the spur line.

MR. BALASH replied:

We have been supporting ANGDA since day one of the Palin administration. And the question is, fundamentally, how to evaluate what opportunities and needs there are for pipeline service in Alaska in terms of the spur line project that has been under pursuit here for the last 15 to 16 months by ANGDA. Certainly it is complementary to a large diameter project that would be going across the border and similar to that pursued by TransCanada and Denali. And in that regard is very helpful to the overall delivery of gas to Alaskans.

But, whether or not that's going to be the right vehicle - whether or not we need to see a bullet line constructed sooner than a large diameter pipeline may come into service - is something that we're attempting to spell out, flesh out and understand more fully. It may be that Cook Inlet gas supplies reach a critical point here, whether it be due to deliverability or any number of other reasons, and because a bullet line requires such a long lead time to plan and construct, we want to get started now. And so that's been the focus here lately from the Governor.

[12:41:00 PM](#)

SENATOR WIELECHOWSKI asked if the administration has to sign off on ANGDA expenditures.

MR. BALASH said he'd be happy to find out.

SENATOR WIELECHOWSKI asked if the administration has refused to sign off on expenditures that ANGDA has requested.

MR. BALASH said his understanding is that the most recent request for the work with BLM was delayed somewhat, but it did go through. They have been scrutinizing whether or not requests by ANGDA for contracting and expenditures are consistent with the statutory mission of the authority and the appropriations made by the Legislature.

SENATOR WIELECHOWSKI asked if he knows if any requests for expenditures by ANGDA have been denied.

MR. BALASH replied he isn't aware of any outright denials, but he isn't sure about the latest status.

SENATOR WIELECHOWSKI said he'd appreciate an update on that and asked if the administration has requested any changes in leadership at ANGDA.

MR. BALASH said he understands that there have been conversations about various approaches related to overall direction and willingness to consider additional information, but he hasn't participated in those deliberative conversations.

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SENATOR WIELECHOWSKI restated the question.

MR. BALASH replied he doesn't have an answer.

SENATOR WIELECHOWSKI asked him to look into that and get back to him.

MR. BALASH said he'd be happy to.

CHAIR MCGUIRE asked Mr. Balash find out how companies that are considering a bullet line are reacting to the implementation of the covenants. She noted that sometimes attempts to incentivize make for less incentive to the private sector. A company is considering building a bullet line and Alaska needs that project. She appreciates many of the covenants and she wouldn't want the committee to pass a piece of legislation that might interfere with current business plans and the free market opportunity for a bullet line.

MR. BALASH agreed and added that the parties they've had discussions with were aware of the administration's view and position on the need for the must-haves. But, he said he can't speak for them here.

CHAIR MCGUIRE announced she would hold SB 136 in committee.

12:46:06 PM

There being no further business to come before the committee,  
Chair McGuire adjourned the meeting at 12:46 pm.