

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

February 24, 2010

3:41 p.m.

**MEMBERS PRESENT**

Senator Lesil McGuire, Co-Chair  
Senator Bill Wielechowski, Co-Chair  
Senator Charlie Huggins, Vice Chair  
Senator Hollis French  
Senator Thomas Wagoner

**MEMBERS ABSENT**

Senator Bert Stedman  
Senator Gary Stevens

**COMMITTEE CALENDAR**

**SENATE BILL NO. 220**

"An Act declaring a state energy policy; relating to energy efficiency and alternative energy; establishing the energy efficiency grant fund, an emerging energy technology fund, a renewable energy production tax credit, and an energy use index; and relating to a fuel purchasing cooperative, to energy codes and efficiency standards, to energy conservation targets in public buildings, to a state agency energy use reduction plan, to the alternative energy revolving loan fund, and to the renewable energy grant fund."

- HEARD AND HELD

OVERVIEW: ALASKA RAILROAD BONDING AUTHORITY AND GAS LINE DEVELOPMENT

- HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 220

SHORT TITLE: ENERGY EFFICIENCY/ ALTERNATIVE ENERGY

SPONSOR(s): RESOURCES

01/19/10 (S) READ THE FIRST TIME - REFERRALS  
01/19/10 (S) RES, FIN

01/20/10 (S) RES AT 3:30 PM BUTROVICH 205  
 01/20/10 (S) Heard & Held  
 01/20/10 (S) MINUTE(RES)  
 01/21/10 (S) RES AT 3:30 PM BUTROVICH 205  
 01/21/10 (S) -- MEETING CANCELED --  
 01/25/10 (S) RES AT 3:30 PM BUTROVICH 205  
 01/25/10 (S) Heard & Held  
 01/25/10 (S) MINUTE(RES)  
 01/27/10 (S) RES AT 3:30 PM BUTROVICH 205  
 01/27/10 (S) Heard & Held  
 01/27/10 (S) MINUTE(RES)  
 02/03/10 (S) RES AT 3:30 PM BUTROVICH 205  
 02/03/10 (S) <Bill Hearing Postponed>  
 02/11/10 (S) RES AT 3:30 PM BUTROVICH 205  
 02/11/10 (S) <Bill Hearing Postponed to 2/15/10>  
 02/15/10 (S) RES AT 3:30 PM BUTROVICH 205  
 02/15/10 (S) Heard & Held  
 02/15/10 (S) MINUTE(RES)  
 02/17/10 (S) RES AT 3:30 PM BUTROVICH 205  
 02/17/10 (S) <Bill Hearing Canceled>  
 02/18/10 (S) RES AT 3:30 PM BUTROVICH 205  
 02/18/10 (S) Heard & Held  
 02/18/10 (S) MINUTE(RES)  
 02/22/10 (S) RES AT 3:30 PM BUTROVICH 205  
 02/22/10 (S) Heard & Held  
 02/22/10 (S) MINUTE(RES)  
 02/24/10 (S) RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

MIKE PAWLOWSKI

Aide to Senator McGuire  
 Alaska State Legislature  
 Juneau, AK

**POSITION STATEMENT:** Explained amendments to CSSB 220(RES) version D.

JAY LIVEY

Aide to Senator Hoffman  
 Alaska State Legislature  
 Juneau, AK

**POSITION STATEMENT:** Explained Amendment 1 to CSSB 220(RES) version D.

WILDA LAUGHLIN, Legislative Liaison  
 Department of Health and Social Services (DHSS)  
 Juneau, AK

**POSITION STATEMENT:** No position on Amendment 1 to CSSB 220(RES) version D.

GENE THERRIAULT, Senior Policy Advisor  
In-state Energy  
Office of the Governor  
Juneau, AK

**POSITION STATEMENT:** Commented on Amendment 5 to CSSB 220(RES) version D.

SHARON LONG, aide to Senator Huggins, said she had not read all of the federal regulations, but she had talked to someone who had taken a nuclear project farther than anyone else had in Alaska.

**POSITION STATEMENT:** Commented on Amendment 5 to CSSB 220(RES) version D.

GENERAL PATRICK GAMBLE, President and CEO  
Alaska Railroad Corporation (ARRC)  
Anchorage AK

**POSITION STATEMENT:** Presented overview of the Alaska Railroad Bonding Authority and Potential Role in Gas Line Development.

BILL O'LEARY, Chief Financial Officer  
Alaska Railroad Corporation (ARRC)  
Anchorage, AK

**POSITION STATEMENT:** Answered questions on Alaska Railroad bonding authority and financing mechanisms.

#### **ACTION NARRATIVE**

[3:41:05 PM](#)

**CO-CHAIR LESIL MCGUIRE** called the Senate Resources Standing Committee meeting to order at 3:41 p.m. Present at the call to order were Senators French, Wielechowski, Wagoner, and McGuire.

#### **SB 220-ENERGY EFFICIENCY/ ALTERNATIVE ENERGY**

[3:42:04 PM](#)

**CO-CHAIR MCGUIRE** announced SB 220 to be up for consideration [CSSB 220(RES) version K was before the committee].

**MIKE PAWLOWSKI**, aide to Senator McGuire, said Amendment K.13 [1] was the first amendment they would take up today and Jay Livey would explain it.

CO-CHAIR MCGUIRE said this would be called Amendment 1.

26-LS1197\K.13  
Chenoweth/Kane

**AMENDMENT 1**

**OFFERED IN THE SENATE TO:**

**CSSB 220(RES), Draft Version "K"**

Page 1, line 3, following "**cooperative**,":

Insert "**to the Alaska affordable heating program**,"

Page 13, following line 18:

Insert new bill sections to read:

**\* Sec. 21.** AS 47.25.621 is amended to read:

**Sec. 47.25.621. Alaska affordable heating [ASSISTANCE] program.** (a) The Alaska affordable heating [ASSISTANCE] program is established in the Department of Health and Social Services to provide expanded eligibility for Alaska residents for home heating assistance, to the extent funds are available in the Alaska affordable heating fund [APPROPRIATED BY THE LEGISLATURE FOR THAT PURPOSE].

(b) The Alaska affordable heating [ASSISTANCE] program established under this section is in addition to the federal low-income heating and energy assistance provided under 42 U.S.C. 8621 - 8629 (Low-Income Home Energy Assistance Act of 1981), as amended, and implementing regulations.

**\* Sec. 22.** AS 47.25.621 is amended by adding a new subsection to read:

(c) The Alaska affordable heating fund is established as a separate fund to be managed by the Department of Revenue. The fund consists of appropriations made to it. Interest earned by the fund may be appropriated to it. The Department of Health and Social Services shall use money in the fund for Alaska affordable heating payments.

**\* Sec. 23.** AS 47.25.621 is amended to read:

**Sec. 47.25.622. Duties.** The Department of Health and Social Services [DEPARTMENT] shall

(1) administer the Alaska affordable heating [ASSISTANCE] program provided under AS 47.25.621;

(2) adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the purpose of the program;

(3) coordinate payments among other heating assistance programs to avoid duplication of payments.

\* **Sec. 24.** AS 47.25.623 is amended to read:

**Sec. 47.25.623. Eligibility; payment amount.** An individual is eligible for home heating assistance payments under the Alaska affordable heating [ASSISTANCE] program if the individual

(1) is a resident of the state;

(2) is physically present and resides in a home in the state when the home heating costs are incurred;

(3) for assistance calculated under (b) and (c) of this section, has gross household income not to exceed, as a percentage of the federal poverty guideline for Alaska set by the United States Department of Health and Human Services and revised under 42 U.S.C. 9902(2),

(A) 225 percent for a determination to be made under (c)(1) - (3) of this section; and

(B) 250 percent for a determination to be made under (c)(4) of this section; and [HAS GROSS HOUSEHOLD INCOME ABOVE 150 PERCENT BUT THAT DOES NOT EXCEED 225 PERCENT OF THE FEDERAL POVERTY GUIDELINE FOR ALASKA SET BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AND REVISED UNDER 42 U.S.C. 9902(2);]

(4) meets other eligibility requirements specified in regulations adopted under AS 47.25.622.

\* **Sec. 25.** AS 47.25.623 is amended by adding new subsections to read:

(b) The Department of Health and Social Services shall determine the number of points for each eligible individual based on the point formula used under 42 U.S.C. 8621 - 8629 (Low-Income Home Energy Assistance Act of 1981), as amended, and implementing regulations. Except as provided in (d) of this section, the amount of the Alaska affordable heating payment for an individual equals the base amount calculated under (c) of this section minus the amount the individual is eligible to receive under the federal low-income home energy assistance program under 42 U.S.C. 8621 - 8629, as amended, and implementing regulations.

(c) The Department of Health and Social Services shall calculate the base amount of the Alaska affordable heating payment for the individual based on points determined under (b) of this section and on the average price a barrel of Alaska North Slope crude oil for sale on the United States West Coast during September through February of the preceding fiscal year as follows:

(1) \$130 a point when the average price is not more than \$75 a barrel;

(2) \$140 a point when the average price is more than \$75 and not more than \$100 a barrel;

(3) \$150 a point when the average price is more than \$100 and not more than \$150 a barrel;

(4) \$165 a point when the average price is more than \$150 a barrel.

(d) Under the program authorized by AS 47.25.621 - 47.25.626, taking into consideration the gross household income rates established in (a) of this section and the base amounts to be calculated under (b) and (c) of this section,

(1) if insufficient money is appropriated to fully fund the Alaska affordable heating payments during the fiscal year, the department

(A) shall, for the duration of that fiscal year, suspend calculation and payment under (a)(3)(B) of this section and calculate and pay all eligible individuals under (a)(3)(A) of this section; and

(B) may, to the extent there is or may be an appropriation balance surplus to the amount required to make all payments under (A) of this passenger, by regulation, establish at any time during the fiscal year a prospective pro rata reduction of the payment rates that the department will pay to eligible individuals under the program during that fiscal year qualifying under (a)(3)(B) of this section and, thereafter, may provide for prorated payments; and

(2) if the commissioner reasonably determines that the total of appropriations from all sources during the fiscal year may exceed the amount required to fully fund all applications for assistance for Alaska affordable heating payments, the commissioner may expend the amount of excess money, not to exceed the total amount of the appropriations, to carry out the purpose of AS 47.25.621 - 47.25.626; under the authority of this paragraph, the

commissioner shall distribute the estimated excess money pro rata among individuals receiving assistance under this section without regard to the limitations set out in the dollar value of the point formula expressed in (c)(1) - (4) of this section.

\* **Sec. 26.** AS 47.25.626(a) is amended to read:

(a) The Department of Health and Social Services [DEPARTMENT] may develop a regional Alaska heating [ASSISTANCE] program for the administration of AS 47.25.621 - 47.25.626 to provide home heating assistance in a uniform and cost-effective manner in a region of this state if an Alaska Native organization is authorized to implement a federally approved tribal family assistance plan that includes that region and has been awarded a tribal energy assistance grant for a program that includes that region under 42 U.S.C. 8623(d).

\* **Sec. 27.** AS 47.25.626(b) is amended to read:

(b) The department may award contracts to implement a program developed under (a) of this section. A contract authorized for delivery of home heating assistance under a regional Alaska heating [ASSISTANCE] program under this section is exempt from the competitive bid requirements of AS 36.30 (State Procurement Code). Subject to appropriation, a contract under this section must be in an amount that represents a fair and equitable share of the money appropriated for the Alaska affordable heating [ASSISTANCE] program under AS 47.25.621 - 47.25.626 to serve the state residents specified in (a) of this section. The authority provided under this section to contract is in addition to the authority to contract in AS 47.05.015 or other law.

\* **Sec. 28.** AS 47.25.626(f) is amended to read:

(f) If the department establishes a regional Alaska heating [ASSISTANCE] program and awards a contract to provide home heating assistance under this section, a person applying for home heating assistance under AS 47.25.621 - 47.25.626 in the region of the state covered by the regional Alaska heating [ASSISTANCE] program may obtain home heating assistance from the department only through the organization designated by the department to serve the region."

Renumber the following bill sections accordingly.

JAY LIVEY, aide to Senator Hoffman, turned to Amendment K.13 version labeled for this meeting as Amendment 1.

CO-CHAIR WIELECHOWSKI moved to adopt Amendment 1 labeled 26-LS1197\K.13.

SENATOR FRENCH objected for discussion purposes.

MR. LIVEY explained that the first change appears in the previous section on page 3, lines 2-8. He recalled that when the numbers of points an applicant would achieve through the heating assistance programs were calculated before, they included one additional point for applying to the weatherization program. From a policy perspective they thought it was a good way to get folks into that program. In further talks with the department they determined that is a very administratively burdensome item for them. So it was deleted.

[3:44:29 PM](#)

MR. PAWLOWSKI thanked Mr. Livey for working with them to find a way to fit efficiency standards into this amendment, but finding out it was too difficult to do. It was a good effort.

CO-CHAIR WIELECHOWSKI asked if the administration had a position on the amendment.

WILDA LAUGHLIN, Legislative Liaison, Department of Health and Social Services (DHSS), said this amendment was currently under consideration and they didn't have a position on it.

SENATOR FRENCH withdrew his objection and Amendment 1 [K.13] was adopted.

CO-CHAIR MCGUIRE found no further objection to Amendment 1 and so it was adopted.

[3:46:18 PM](#)

CO-CHAIR WIELECHOWSKI moved to adopt Amendment 2, labeled 26-LS1197\K.2, Kane [referred to as K.2 in 2/18/10 meeting].

26-LS1197\K.2  
Kane

## AMENDMENT 2

OFFERED IN THE SENATE SENATORS WIELECHOWSKI AND  
MCGUIRE TO: CSSB 220(RES), Draft Version "K"

Page 1, line 3:

Delete the first occurrence of "**and**"

Page 1, line 5, following the second occurrence of "**fund**":

Insert "**establishing an Alaska energy efficiency revolving loan fund; and authorizing and relating to the issuance of bonds by the Alaska Housing Finance Corporation**"

Page 3, line 18:

Delete "sec. 15"

Insert "secs. 6, 17, and 29"

Page 3, following line 20:

Insert a new bill section to read:

"\* **Sec. 4.** AS 14.08.101 is amended to read:

**Sec. 14.08.101. Powers.** A regional school board may

- (1) sue and be sued;
- (2) contract with the department, the Bureau of Indian Affairs, or any other school district, agency, or regional board for the provision of services, facilities, supplies, or utilities;
- (3) determine its own fiscal procedures, including but not limited to policies and procedures for the purchase of supplies and equipment; the regional school boards are exempt from AS 37.05 (Fiscal Procedures Act) and AS 36.30 (State Procurement Code);
- (4) appoint, compensate, and otherwise control all school employees in accordance with this title; these employees are not subject to AS 39.25 (State Personnel Act);
- (5) adopt regulations governing organization, policies, and procedures for the operation of the schools;
- (6) establish, maintain, operate, discontinue, and combine schools subject to the approval of the commissioner;
- (7) recommend to the department projects for construction, rehabilitation, and improvement of schools and education-related facilities as specified in AS 14.11.011(b), and plan, design, and construct the project when the responsibility for it is assumed under AS 14.11.020;

(8) by resolution adopted by a majority of all the members of the board and provided to the commissioner of the department, assume ownership of all land and buildings used in relation to the schools in the regional educational attendance area, as provided for in AS 14.08.151(b);

(9) provide housing for rental to teachers, by leasing existing housing from a local agency or individual, by entering into contractual arrangements with a local agency or individual to lease housing that will be constructed by the local agency or individual for that purpose, or, without using for the purpose that portion of public school funding that consists of state aid provided under AS 14.17, by constructing or otherwise acquiring housing that is owned and managed by the regional educational attendance area for rental to teachers;

(10) employ a chief school administrator;

(11) apply for and use the proceeds of a loan from the Alaska energy efficiency revolving loan fund (AS 18.56.855);

(12) exercise those other functions that may be necessary for the proper performance of its responsibilities."

Renumber the following bill sections accordingly.

Page 3, following line 25:

Insert a new bill section to read:

"\* **Sec. 6.** AS 18.56 is amended by adding a new section to read:

**Sec. 18.56.855. Alaska energy efficiency revolving loan fund.** (a) The Alaska energy efficiency revolving loan fund is established in the corporation to carry out the purposes of this section. The revolving loan fund consists of money or assets appropriated or transferred to the corporation for the revolving loan fund, including money and assets deposited in the revolving loan fund by the corporation and earnings on investments of money held in the revolving loan fund. The corporation may establish separate accounts in the fund. The corporation shall establish the interest rates, security provisions, and other terms of a loan made under this section taking into consideration the corporation's cost of funds and other factors the corporation considers appropriate.

(b) Money and other assets of the Alaska energy efficiency revolving loan

fund may be used to

(1) make loans to regional educational attendance areas or to municipal governments, including subdivisions of municipal governments, or to the state for the purpose of financing energy efficiency improvements to buildings owned by regional educational attendance areas, by the state, or by municipalities in the state;

(2) secure bonds issued by the corporation to finance the loans described in (1) of this subsection;

(3) pay costs of administering the revolving loan fund; and

(4) pay the costs of administering and enforcing the terms of loans made by the corporation from the revolving loan fund.

(c) Before a regional educational attendance area, a municipal government, or a subdivision of a municipal government, may borrow money from the corporation under this section, the regional educational attendance area or the municipal government shall waive any sovereign immunity defense it may have available to it with respect to enforcement of the terms of the loan. A regional educational attendance area or a municipal government may waive sovereign immunity to comply with the requirement of this subsection. The state waives any sovereign immunity defense against enforcement of the terms of a loan made to the state under this section. A person or corporation having a claim under this section shall bring an action in a state court in Alaska that has jurisdiction over the claim.

(d) All regional educational attendance areas and municipal governments in the state are authorized to borrow from the corporation under this section. The corporation shall set out the terms of a loan to a regional educational attendance area in a loan agreement or similar document. At the discretion of the corporation, a borrowing by a regional educational attendance area or a municipal government under this section may be effected by use of a loan agreement or similar document evidencing and setting out the terms of the loan or by issuance of a bond by the municipal government to the corporation. Notwithstanding a charter provision requiring public sale by a regional educational attendance area or a municipality

of its municipal bonds or other indebtedness, a regional educational attendance area or municipality may sell its bonds under this section to the corporation at a negotiated, private sale. At the discretion of the corporation, the bonds or other indebtedness of the municipality may be general obligations of the municipality or may be secured by an identified revenue source or by a combination of the full faith and credit of the municipality and an identified revenue source.

(e) Notwithstanding any other provision of law, to the extent that a department or agency of the state is the custodian of money payable to a regional educational attendance area or to a municipality, at any time after written notice to the department or agency head from the corporation that the regional educational attendance area or municipality is in default on the payment of principal of or interest on municipal bonds or other indebtedness then held or owned by the corporation, or amounts due under an agreement between the corporation and a regional educational attendance area or a municipality, the department or agency shall withhold the payment of that money from that regional educational attendance area or municipality and pay over the money to the corporation for the purpose of paying the principal of and interest on the bonds or indebtedness. The notice must be given in each instance of default. If a notice is given under this subsection and under AS 44.85.170 and the default is continuing under this subsection and under AS 44.85.170, the department or agency shall make payment to the corporation and to the Alaska Municipal Bond Bank Authority on a pro rata basis, taking into consideration the principal amount of the respective default amounts.

(f) An authorized state officer may borrow from the corporation under this section for buildings owned by the state. The superintendent of a regional educational attendance area, at the direction of the regional educational attendance area school board, may borrow from the corporation under this section for buildings owned by the regional educational attendance area.

(g) In addition to other security that may be given with respect to a loan made under this section, the corporation may require a deed of trust on the building that is the subject of the energy efficiency loan and the real estate on

which the building is located. A regional educational attendance area or a municipality may grant a deed of trust to the corporation as needed for this purpose. An authorized state officer may grant a deed of trust to the corporation as needed for this purpose.

(h) The corporation shall administer the Alaska energy efficiency revolving loan fund in accordance with regulations adopted by the corporation. The corporation may adopt regulations under AS 18.56.088 to carry out the purposes of this section.

(i) This section applies to home rule municipalities.

(j) In this section, "authorized state officer" means

(1) the commissioner of the department of the state for a building owned by the state;

(2) the executive director of a public corporation for a building owned by the public corporation;

(3) the legislative council for a building owned by the legislature;

(4) the administrative director of courts for a building owned by the judicial system;

(5) any other person designated in writing by a person listed in (1) - (4) of this subsection."

Renumber the following bill sections accordingly.

Page 13, line 20:

Delete "sec. 15"

Insert "sec. 17"

Page 13, line 21:

Delete "sec. 11"

Insert "sec. 13"

Page 13, lines 21 - 22:

Delete "sec. 12"

Insert "sec. 14"

Page 13, line 27:

Delete "sec. 13"

Insert "sec. 15"

Page 14, following line 10:

Insert new bill sections to read:

"\* **Sec. 29.** The uncodified law of the State of Alaska is amended by adding a new section to read:

**BOND AUTHORIZATION AND PROVISIONS.** (a) In addition to the powers in AS 18.56.090, the Alaska Housing Finance Corporation may issue bonds in an amount not to exceed \$250,000,000 to make loans from the energy efficiency revolving loan fund established by AS 18.56.855, enacted by sec. 6 of this Act, and to finance the purposes permitted by AS 18.56.855, enacted by sec. 6 of this Act. AS 18.56.110 - 18.56.190 and 18.56.855, enacted by sec. 6 of this Act, apply to bonds issued under this section, except that bonds issued under this section are not subject to, and may not be counted against, the bond issuance limitation set out in AS 18.56.110(g).

(b) The Alaska Housing Finance Corporation shall deposit the proceeds of bonds issued under (a) of this section in the Alaska energy efficiency revolving loan fund in accordance with AS 18.56.855, enacted by sec. 6 of this Act.

\* **Sec. 30.** The uncodified law of the State of Alaska is amended by adding a new section to read:

**REVISOR'S INSTRUCTION.** The revisor of statutes is instructed to change the heading of art. 6 of AS 18.56 from "Article 6. Energy Conservation" to "Article 6. Energy Efficiency and Conservation Programs."

SENATOR FRENCH objected for discussion purposes.

MR. PAWLOWSKI reminded members that this was the AHFC program that took the federal money and worked it into a revolving loan fund for energy efficiency. The change that was made from the governor's bill in this amendment was the inclusion of regional education attendance areas so that they could qualify to borrow from the fund. This in large part was to be included in the CS in lieu of the Energy Efficiency Grant Fund that was taken out of the K version of SB 220. Originally that fund was dealt with through grant funds where one-time monies would be spent upgrading buildings and state public facilities. The revolving loan fund was viewed as a more sustainable mechanism where money could be loaned out, the work could be done, and the energy

savings would come in and refill the coffers for the next round of work.

CO-CHAIR WIELECHOWSKI said he was pleased with this amendment. It will take \$18 million of the federal stimulus money and leverage it into \$250 million. It will save Alaskans tens if not hundreds of millions of dollars and create about 1500-2000 jobs.

CO-CHAIR MCGUIRE said she is also pleased.

SENATOR FRENCH withdrew his objection and Amendment 2 was adopted.

[3:49:50 PM](#)

CO-CHAIR WIELECHOWSKI moved Amendment 3, labeled 26-LS1197\K.3.

26-LS1197\K.3  
Kane

### AMENDMENT 3

OFFERED IN THE SENATE TO: CSSB 220(RES), Draft  
Version "K"

Page 1, line 3:

Delete the first occurrence of "and"

Page 1, line 5, following the second occurrence of  
"fund":

Insert "; and directing the Department of  
Transportation and Public Facilities to prepare a  
report on the feasibility of using compressed natural  
gas to power vehicles in the state, including vehicles  
owned or operated by the state, and including in that  
study, if warranted, a pilot program proposal for  
powering some vehicles owned or operated by the state  
with compressed natural gas"

Page 14, following line 10:

Insert a new bill section to read:

"\* **Sec. 27.** The uncodified law of the State of  
Alaska is amended by adding a new section to read:

USE OF COMPRESSED NATURAL GAS TO POWER VEHICLES;  
PILOT PROGRAM; STUDY; PROPOSAL; REPORT. (a) The  
Department of Transportation and Public Facilities  
shall, under the authority of AS 44.42.020(a)(3),

study the feasibility of using compressed natural gas to power vehicles in the state. The study must

(1) review existing government programs and incentives offered in Utah and other North American jurisdictions that promote the use of compressed natural gas to power vehicles;

(2) review and summarize relevant studies and investigations on existing public policy incentives that encourage the use of compressed natural gas to power vehicles;

(3) evaluate the environmental benefits and technical merits of using compressed natural gas to power vehicles;

(4) consider the economic, environmental, and technological advantages and disadvantages of using and promoting the use of compressed natural gas to power vehicles in the state; and

(5) if warranted by the findings of the study, set out a proposal for a pilot program in the state to test the use of compressed natural gas to power vehicles owned or operated by the state; the proposal must

(A) recommend the most cost-effective and appropriate departments and geographic locations for a pilot program;

(B) detail how the pilot program, if successful, could be expanded to provide for increased use of compressed natural gas to power vehicles owned or operated by the state, as well as privately owned or operated vehicles;

(C) estimate the costs to the state of a pilot program in which the state would purchase vehicles powered by compressed natural gas or convert existing vehicles to be powered by compressed natural gas, including

(i) the costs of maintaining vehicles powered by compressed natural gas and training maintenance personnel;

(ii) the costs of adapting, or encouraging the adapting of, state vehicle fueling locations to provide compressed natural gas;

(iii) the costs of using compressed natural gas instead of diesel fuel or gasoline;

(iv) the costs of expanding the pilot program or developing additional pilot programs under (B) of this paragraph;

(v) other costs or savings that can be reasonably expected to accompany the pilot program.

(b) The Department of Transportation and Public Facilities shall prepare a report containing the results of the study under (a) of this section not later than December 1, 2010. The department shall notify the legislature when the report is available."

SENATOR FRENCH objected for discussion purposes.

MR. PAWLOWSKI recalled that Amendment 3 was offered through the chair at the request of Senator Dyson. It directs the Department of Transportation and Public Facilities (DOTPF) to prepare a report on the feasibility of using compressed natural gas to power transportation vehicles.

CO-CHAIR MCGUIRE remarked that Barrow was considering setting up a compressed natural gas station.

SENATOR DYSON thanked them for bringing this issue up for consideration. He said he could have lined up a number of people to testify on how this works very well in their jurisdictions, but he didn't. He assumed there was support for it.

CO-CHAIR WIELECHOWSKI commented that he thought this was a great amendment, particularly as people reach points in the next decade where we have oil to gas price ratios of 15:1 or 20:1. This is a great step forward. This makes all the sense in the world in terms of cost and environmental savings. It also starts moving the state in the direction of powering vehicles with natural gas seeing as how the state has so much of it.

SENATOR DYSON added that Merrill Field has enough gas coming off of the regional landfill to power all of the government vehicles in the Anchorage Bowl area nearly for free. Environmental folks always like this. Most of the resistance he has had is from is "bureaucratic inertia." This study would help get past the "sticking point" of getting some high compression filling stations that can fill a vehicle up quickly.

SENATOR FRENCH removed his objection.

CO-CHAIR MCGUIRE found no further objection and Amendment 3 was adopted.

[3:53:19 PM](#)

CO-CHAIR MCGUIRE brought up an Amendment labeled 26-LS1197\K.6.

SENATOR WAGONER said he withdrew it the other day and that he wanted to work on it for later.

CO-CHAIR MCGUIRE moved Amendment 4, labeled 26-LS1197\K.11.

26-LS1197\K.11  
Kane

**AMENDMENT 4**

OFFERED IN THE SENATE BY SENATOR MCGUIRE  
TO: CSSB 220(RES), Draft Version "K"

Page 12, line 3, through page 13, line 18:

Delete all material and insert:

**\* Sec. 17.** AS 45.88.010(a) is amended to read:

(a) There is established in the Department of Commerce, Community, and Economic Development the alternative energy **conservation** revolving loan fund to carry out the purposes of AS 45.88.010 - 45.88.090. Loans made under AS 45.88.010 - 45.88.090 are to be used

(1) to develop means of energy production utilizing **one or more alternative energy systems; and**  
(2) **to purchase, construct, and install energy conservation improvements in commercial buildings** [ENERGY SOURCES OTHER THAN FOSSIL OR NUCLEAR FUEL, INCLUDING, BUT NOT LIMITED TO, WINDMILLS, WATER AND SOLAR ENERGY DEVICES].

**\* Sec. 18.** AS 45.88.010 is amended by adding a new subsection to read:

(e) The Alaska energy conservation revolving loan fund consists of

(1) money appropriated to the fund by the legislature;

(2) gifts, bequests, or contributions from other sources;

(3) principal and interest payments or other income earned on loans or investments in the fund and appropriated to the fund; and

(4) money chargeable to principal or interest that is collected through liquidation by foreclosure or other processes on loans made under AS 45.88.010 - 45.88.090 and appropriated to the fund.

**\* Sec. 19.** AS 45.88.020(a) is amended to read:

(a) The department may

(1) make loans for the purchase, construction, and installation, in commercial buildings that are located in the state, of

(A) alternative energy systems; and

(B) energy conservation improvements;

(2) adopt regulations necessary to carry out the provisions of AS 45.88.010 - 45.88.090, including regulations to establish reasonable fees for services provided and charges for collecting the fees;

(3) collect the fees and collection charges established under this subsection.

\* **Sec. 20.** AS 45.88.025 is amended by adding a new section to read:

**Sec. 45.88.025. Eligibility.** To be eligible for a loan under AS 45.88.010 - 45.88.090, an applicant must

(1) physically reside in the state and maintain a domicile in the state during 12 consecutive months prior to the date of application for a loan and may not have

(A) declared or established residency in another state; or

(B) received residency or a benefit based on residency from another state;

(2) be at least 51 percent owned by individuals described in (1) of this section if the applicant is a corporation, joint venture, or partnership; or

(3) be a nonprofit organization under AS 10.20.

\* **Sec. 21.** AS 45.88.030(a) is repealed and reenacted to read:

(a) A loan made under AS 45.88.010 - 45.88.090 may not exceed \$50,000. If the requested loan amount exceeds \$30,000, the applicant must deliver to the department a document from a financial institution stating that

(1) the applicant has been denied a loan for the same purpose; or

(2) the loan from the financial institution is contingent on the applicant also receiving a loan from the fund.

\* **Sec. 22.** AS 45.88.030(e) is amended to read:

(e) The rate of interest for a loan under AS 45.88.010 - 45.88.090 shall be the prime rate, as defined by AS 44.88.599, plus one percentage point, but may not be less than five percent a year [FOR AN ALTERNATIVE ENERGY SYSTEM IS FIVE PERCENT FOR THE

FIRST \$15,000 OF THE LOAN AND 15 PERCENT FOR THE AMOUNT OF THE LOAN THAT EXCEEDS \$15,000].

\* **Sec. 23.** AS 45.88.030 is amended by adding a new subsection to read:

(f) A loan under AS 45.88.010 - 45.88.090 must be secured by a mortgage or other security instrument in the real property to be improved and a lien on the improvements financed with the loan.

\* **Sec. 24.** AS 45.88.090(a) is amended to read:

(a) In AS 45.88.010 - 45.88.090,

(1) "alternative energy system"

(A) [(1)] means a source of thermal, mechanical or electrical energy **that** [WHICH] is not dependent on oil or gas or a nuclear fuel for the supply of energy for space heating and cooling, refrigeration and cold storage, electrical power, mechanical power, or the heating of water;

(B) [(2)] includes

(i) [(A)] an alternative energy property as defined by 26 U.S.C. 48(a)(3)(A) (Sec. 301, P.L. 95-618, Internal Revenue Code);

(ii) [(B)] a method of architectural design and construction which provides for the collection, storage, and use of direct radiation from the sun;

(iii) [(C)] a woodstove with a catalytic converter or a catalytic converter for a wood stove; [AND]

(iv) [(D)] a steam, hot water, or ducted hot air central heating system that uses wood or coal for fuel; **and**

(v) a high efficiency wood pellet stove;

(C) [(3)] does not include

(i) [(A)] a stove that uses only wood, coal, or oil for fuel; or

(ii) [(B)] a fireplace or fireplace insert;

(2) "commercial building"

(A) means a building that is intended to be used for commercial purposes;

(B) does not include

(i) a residential structure or mobile home that contains one to four family housing units; or

(ii) individual units of condominiums or cooperatives;

(3) "energy conservation improvement" means

(A) structural insulation;

(B) thermal windows and doors;

(C) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency;

(D) a device for modifying flue openings designed to increase the efficiency of operation of the heating system;

(E) an electrical or mechanical furnace ignition system that replaces a gas pilot light;

(F) an automatic energy-saving setback thermostat;

(G) a meter that displays the cost of energy usage;

(H) caulking and weather stripping of doors and windows;

(I) insulating shades and shutters;

(J) air and water recuperators."

Renumber the following bill sections accordingly.

Page 13, line 19, following "45.88.010(c),":

Delete "45.88.030(e)"

Insert "45.88.030(c), 45.88.030(d),"

Page 14, following line 10:

Insert a new bill section to read:

"\* **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REVISOR'S INSTRUCTION. The revisor of statutes shall change the heading of art. 1 of AS 45.88 from "Alternative Energy Revolving Loan Fund" to "Alternative Energy Conservation Revolving Loan Fund."

SENATOR FRENCH objected for discussion purposes.

MR. PAWLOWSKI clarified that members' amendments on line 19 and 22 should be crossed out. This repeals and replaces Sections 20-23 of the K version of SB 220. It resurrects the Alternative Energy Loan Fund, an old program through the Department of Commerce, Community and Economic Development (DCCED) that provided small loans to residences and businesses that allowed for conservation programs. He recalled that this program actually returned money to the state in the long run and the money was appropriated out of what was a successful program. So they have lain dormant on the statute books. The idea was to resurrect that program and extend it to more commercial entities. However, when this amendment was brought up in the

last committee, they had just learned from the DCCED that the federal laws relating to how mortgage lenders were governed changed July 1, getting in the way of helping residences. So, K.11 is only for commercial alternative energy conservation loans. The important points are that language on page 1, line 19, was crossed out at the direction of the department specifically because the intent was to be a revolving loan fund similar to the AHFC fund and this created problems in the way the money would revolve through the fund.

The other final important point is that Section 21 on page 2, lines 22-28 - the "turn down provision" for loans of \$30,000-\$50,000 to work with private sector commercial banks. It was found that it was better to work with the traditional marketplace of public banks for amounts over \$30,000. This allows businesses to borrow from the state usually when they don't have access to other financing to do small projects to provide efficiency. It fills an important hole within the Omnibus as a whole to get to the commercial side.

CO-CHAIR MCGUIRE said many Alaskans, particularly small business owners, have asked for this kind of a provision. And it does fill a hole.

MR. PAWLOWSKI thanked Greg Winegar who presented this amendment for the DCCED at the last committee hearing. This actually started as an idea in Senator Egan's office, and they worked closely with his staff to integrate his concepts.

SENATOR FRENCH withdrew his objection and Amendment 4 was adopted.

[3:58:33 PM](#)

CO-CHAIR MCGUIRE offered Amendment 5, labeled 26-LS1197\K.10.

26-LS1197\K.10  
Kane

**AMENDMENT 5**

OFFERED IN THE SENATE TO: CSSB 220(RES), Draft  
Version "K"

Page 1, line 5, following "loan fund,":

Insert "to nuclear waste material, to nuclear energy production and facilities, to the definition of 'power project' or 'project' as it relates to rural and statewide energy programs and the Alaska Energy

**Authority, to the definition of 'alternative energy system,'"**

Page 3, line 18:

Delete "sec. 15"

Insert "sec. 20"

Page 3, following line 20:

Insert new bill sections to read:

**"\* Sec. 4.** AS 18.45.020 is amended to read:

**Sec. 18.45.020. United States licenses or permits required.** A person may not manufacture, construct, produce, transfer, acquire, or possess a special nuclear material, by-product material, special nuclear material facility, by-product material facility, production facility, or utilization facility, or act as an operator of a production facility or utilization facility, wholly within the state without first obtaining a license or permit for the activity in which the person proposes to engage from the Nuclear Regulatory Commission if the commission requires a license or permit to be obtained by persons proposing to engage in the activities.

**\* Sec. 5.** AS 18.45.025(a) is amended to read:

(a) A person may not construct a nuclear fuel production facility, nuclear utilization facility, utilization facility, reprocessing facility, or nuclear waste disposal facility in the state without first obtaining a permit from the Department of Environmental Conservation to construct the facility on land designated by the legislature under (b) of this section.

**\* Sec. 6.** AS 18.45.025(b) is amended to read:

(b) The legislature shall designate by law the land in the state on which a nuclear fuel production facility, nuclear utilization facility, utilization facility, nuclear reprocessing facility, or nuclear waste disposal facility may be located. In designating the land in the state on which

(1) a nuclear utilization facility or utilization facility may be located, the legislature shall act in the interest of regulating the economics of nuclear energy;

(2) a nuclear fuel production facility, [NUCLEAR UTILIZATION,] nuclear reprocessing facility, or nuclear waste disposal facility may be located, the

legislature shall act to protect the public health and safety.

\* **Sec. 7.** AS 18.45.025(c) is repealed and reenacted to read:

(c) The Department of Environmental Conservation shall adopt regulations governing the issuance of permits required by (a) of this section. However, a permit may not be issued until the municipality with jurisdiction over the proposed facility site has approved the permit."

Renumber the following bill sections accordingly.

Page 7, following line 28:

Insert a new bill section to read:

"\* **Sec. 15.** AS 42.45.990(4) is amended to read:

(4) "power project" or "project" means a plant, works, system, or facility, together with related or necessary facilities and appurtenances, including a divided or undivided interest in or a right to the capacity of a power project or project, that is used or is useful for the purpose of

(A) electrical or thermal energy production [OTHER THAN NUCLEAR ENERGY PRODUCTION];

(B) waste energy utilization and energy conservation; or

(C) transmission, purchase, sale, exchange, and interchange of electrical or thermal energy, including district heating or interties;"

Renumber the following bill sections accordingly.

Page 12, following line 2:

Insert a new bill section to read:

"\* **Sec. 22.** AS 44.83.990(6) is amended to read:

(6) "power project" or "project" means a plant, works, system, or facility, together with related or necessary facilities and appurtenances, including a divided or undivided interest in or a right to the capacity of a power project or project, that is used or is useful for the purpose of

(A) electrical or thermal energy production [OTHER THAN NUCLEAR ENERGY PRODUCTION];

(B) waste energy utilization and energy conservation; or

(C) transmission, purchase, sale, exchange, and interchange of electrical or thermal energy, including district heating or interties;"

Renumber the following bill sections accordingly.

Page 13, following line 18:

Insert a new bill section to read:

"\* **Sec. 27.** AS 46.11.900(1) is amended to read:

(1) "alternative energy system"

(A) means a source of thermal, mechanical, or electrical energy that is not dependent on oil or gas [OR A NUCLEAR FUEL] for the supply of energy for space heating and cooling, refrigeration and cold storage, electrical power, mechanical power, or the heating of water;

(B) includes

(i) an alternative energy property as defined by 26 U.S.C. 48(a)(3)(A); and

(ii) a method of architectural design and construction that provides for the collection, storage, and use of direct radiation from the sun;"

Renumber the following bill sections accordingly.

Page 13, line 19:

Delete "AS 45.88.010(c)"

Insert "AS 18.45.027; AS 45.88.010(c)"

Page 13, line 20:

Delete "sec. 15"

Insert "sec. 20"

Page 13, line 21:

Delete "sec. 11"

Insert "sec. 16"

Page 13, lines 21 - 22:

Delete "sec. 12"

Insert "sec. 17"

Page 13, line 27:

Delete "sec. 13"

Insert "sec. 18"

SENATOR FRENCH objected for discussion purposes.

CO-CHAIR MCGUIRE explained that fundamentally the notion is that nuclear is a type of energy production that may be beneficial to Alaska; it might solve problems particularly in rural Alaska. She said it was left out of the original legislation because it is controversial.

MR. PAWLOWSKI said Section 4 provides conforming language to include "special nuclear material facility", kind of grabbing the universe of facilities on page 1, lines 16-17, into the express provision in state law that says you have to go to NRC.

[4:00:19 PM](#)

SENATOR HUGGINS joined the committee.

MR. PAWLOWSKI explained that Section 5 was more conforming language including that new form of facility. Section 6 deals with some questionable law on how the state can regulate health and safety on nuclear waste disposal facilities, while it does have the ability to regulate on the economics of nuclear energy. Section 6 gives the state and the legislature the ability of regulating the economics of nuclear energy.

He said Section 7 changes existing statute to repeal the governor from issuing a permit for nuclear facility within the state; it would be NRC, the Department of Environmental Conservation (DEC), and then the municipality with jurisdiction would be allowed to overrule the siting of a facility. Section 15 is a revision in the Power Project Loan statutes within AEA allowing nuclear projects to qualify. Right now they can't.

Section 22 is the Power Project Fund information.

[4:02:34 PM](#)

Section 27 is in the definition of alternative energy as it relates to the consideration of financing for energy improvements. So when banks are financing energy improvements they have to look at alternative energy life-cycle costs. Current law would not allow nuclear to be considered in that. So, if the state was building a school in Galena and they had a small nuclear reactor, the state would consider what the long term life-cycle costs of that energy system.

On page 4, lines 9-11, were crossed out because it repealed the prohibition against the transportation of nuclear material in statute. When they did further research, they found that language wasn't necessary because the prohibition was on the transport of high level nuclear waste material except for the purposes of

disposal out of state. Therefore, the existing prohibition made sense and rather than repealing it, they crossed out that language.

CO-CHAIR MCGUIRE said this should be a Huggins amendment and she asked if he wanted to add anything to the discussion.

SENATOR HUGGINS said there was discussion about the approval authority and the attempt he is making is to depoliticize that. He recalled that the governor doesn't have approval authority on other energy projects.

MR. PAWLOWSKI said the governor has the line item veto authority if the state was funding projects. He said it's also important to recognize that the governor, being the head of state, and the DEC being tasked with permitting, that the relationship between the department and the governor is fairly direct.

SENATOR HUGGINS said the governor is the control factor, but he doesn't have the final approval and he didn't have a problem with that.

CO-CHAIR WIELECHOWSKI applauded the effort in bringing this issue forward. They heard a lot from people when they traveled the state that they wanted the option and opportunity to talk about nuclear energy in Alaska. He had one slight philosophical difference on the approval issue in Section 7. He thought this was a major policy shift in moving towards nuclear and he would feel more comfortable letting the governor have the final say - only because when you give it to one department, the DEC, they would look at DEC issues. Whereas the governor would bring in other departments like Public Safety, for instance, to verify that this couldn't be accessed, or Health And Social Services commissioners and staff to assess whether or not this was a public health issue, or other departments like ADF&G.

SENATOR HUGGINS said he hoped any projects, not just nuclear, would have those considerations and balances. This doesn't change the fact that the governor has a chief of staff that has all the agencies working through him to the governor.

CO-CHAIR WIELECHOWSKI asked if the administration has a position on this issue.

[4:08:13 PM](#)

CO-CHAIR MCGUIRE called an at ease from 4:08:13 to 4:08:25.

GENE THERRIAULT, Senior Policy Advisor, In-state Energy, Office of the Governor, said they have to make a policy call. Right now if the requirement is that the governor makes the decision, all the departments are below him; so he would be soliciting information out of the agencies where it might be applicable. If they put the responsibility into one of the agencies, they have to decide if there is a guarantee that that agency would reach across to another and bring information in. He mentioned an email from "geologic folks" saying there could be some seismic issues. In conversation with Senator Huggins' staff it's been said that maybe the federal process reviews all of that adequately.

He said if they give authority to an agency, there would probably be some language either in statute or regulation that they will render a decision in consultation with another agency. It's possible that some valuable information to the decision that is to be made could be lost otherwise.

MR. PAWLOWSKI clarified that language on page 2, lines 17-18, directs the DEC to adopt regulations to govern the universe of options to them in granting permits; it's very broad language.

CO-CHAIR MCGUIRE asked him to comment on the federal regulations.

MR. PAWLOWSKI said he wouldn't feel comfortable doing that.

CO-CHAIR MCGUIRE said her concern is if a governor had a particular opinion about nuclear, that could somehow infiltrate the decision making process and be the preventative first step.

4:11:04 PM

SHARON LONG, aide to Senator Huggins, said she had not read all of the federal regulations, but she had talked to someone who had taken a nuclear project farther than anyone else had in Alaska. He said the NRC has control over all health and safety issues - the seismic, the geologic, the air, the water. According to the legislature's legal advisors, the state can legislate only on economic issues related to a nuclear project. This legislation is wide open for the state to adopt regulations requiring whatever level of scrutiny it they may think are necessary to look at it. The State of Alaska doesn't have any nuclear regulations on the books. Thirty-one other states have commercial nuclear industry and she assumed Alaska wouldn't have to reinvent the wheel.

SENATOR HUGGINS said it's important to get nuclear on the books, and he preferred to not belabor the approval or disapproval part. He agreed with Senator McGuire on the political piece, but politics plays in about everything they do. He didn't think it was that huge of a deal. He was firmly convinced that no matter who was governor or commissioners that the NRC will be in the driver's seat.

CO-CHAIR WIELECHOWSKI said he thought this was an important amendment in moving Alaska into the nuclear age. He didn't know enough about nuclear to know whether the NRC would do enough and he was concerned about taking away an extra layer of protection. When nuclear goes wrong, it's big. He would feel more comfortable in having the governor ultimately approving the permit.

CO-CHAIR MCGUIRE said, "Depending on who is the governor at the time."

CO-CHAIR WIELECHOWSKI said you can't escape politics. Removing Section 7 on page 2, lines 16-20, would alleviate his concerns.

CO-CHAIR WIELECHOWSKI moved to amend Amendment 5 by deleting Section 7 on page 2, lines 16-20.

CO-CHAIR MCGUIRE called an at ease from 4:17:31 to 4:18:03.

4:18:03 PM

SENATOR HUGGINS objected. A roll call vote was taken: Senators French and Wielechowski voted yea; Senators Huggins, Wagoner and McGuire voted nay. So the Amendment 1 to Amendment 5 failed to pass.

SENATOR FRENCH removed his objection to Amendment 5.

CO-CHAIR MCGUIRE found no further objections and so Amendment 5 was adopted.

SENATOR HUGGINS moved conceptual Amendment 6 as follows:

On page 2, line 24 to insert "nuclear" after "including".

There were no objections and it was so ordered.

CO-CHAIR MCGUIRE recapped that SB 220 had 6 amendments and set it aside.

**Overview: Alaska Railroad Bonding Authority  
and Gas Line Development**

[4:20:24 PM](#)

CO-CHAIR MCGUIRE announced an overview of the Alaska Railroad Bonding Authority and Potential Role in Gas Line Development would be the next order of business. She said prior to the start of session, they had a Senate retreat in which the role of in-state gas was discussed. She and Senate Huggins had different ideas and decided to have an in-state gas caucus to find a place in the legislation where the issue could get discussed without dealing with the return to the treasury of a bigger line. The overall mission is to get, as soon as possible, natural gas into the hands of Alaskans, both for residential and commercial purposes. For a fresh look they came up with two different entities: the first was the Alaska Housing Finance Corporation (AHFC) and the second was the Alaska Railroad Corporation (ARRC). When it was fine-tuned the thinking was the ARRC.

She said AS 42.40.560 specifically pertains to a North Slope natural gas pipeline and the following language was imbedded already about the ARRC:

May provide financing for the acquisition, construction, improvement, maintenance, equipping and operation of a natural gas pipeline and related facilities for the transportation of natural gas recovered from the North Slope of this state without regard to whether the facilities are or will be owned in whole or in part by the corporation or located on land owned by the corporation.

She said below that was a broader reference to the Kenai gasification project. Her point is that the ARRC has already been referenced with respect to a natural gas pipeline and other economic development opportunities in the state.

CO-CHAIR MCGUIRE said the caucus met with General Gamble and his staff and talked with them about the unique bonding authority ARRC has. She asked them to come here today to talk a little bit about that. She said the ARRC is a non-political entity and would take no position on SB 287 that would task them with this project.

[4:25:39 PM](#)

GENERAL PATRICK GAMBLE, President and CEO, Alaska Railroad Corporation (ARRC), introduced himself.

BILL O'LEARY, Chief Financial Officer, Alaska Railroad Corporation (ARRC), introduced himself.

[4:26:19 PM](#)

MR. GAMBLE said the legislative intent language of the corporate act that created the railroad had four items: one was transportation and three were economic development for the State of Alaska. The railroad has grown up as a separate entity from the Department of Transportation and Public Facilities (DOTPF). In that lifespan they have developed a methodology for independently dealing with railroad projects. He and his staff actually go out to the communities and talk to them about railroad projects as opposed to having it done by the department. The small ones are as important as the large ones.

That cuts two ways, he said; one is trying to work with cities through which the proposed rail line (spurs or extensions) might go. They have also developed the ability in-house to do projects that are getting larger and larger. He remarked that the fact of their getting invited here today says something about their track record and a level of trust.

He said the Railroad deals in things like export coal, marketing out of state and internationally; they have worked hard to increase passenger service and moved toward becoming more commuter oriented rather than recreation.

MR. GAMBLE said they have gotten used to going after federal money, to advocating for certain kinds of dollars for certain kinds of projects, for permitting, licensing, and figuring out how to fit into certain pots of federal money.

[4:29:55 PM](#)

The Railroad Corporate Act set them up in 1985 to do these things, but they have just recently started doing them. Now they are talking about a project of significant magnitude. In fact on the financing side, the Act foresaw the development of the State of Alaska and set the Railroad up with certain powers alongside its independency that allows the state to use it as a tool for economic development on a macro scale. That is what they are discussing today.

MR. GAMBLE said the original intent was for projects like funding the gas pipeline under the Knowles Administration for \$17 billion. This unique function had not been taken advantage of before. The ARRC talked to the Legislature about a \$2.9

billion project for Agrium. So there is the knowledge that the Railroad can contribute to large scale economic development in Alaska. The Railroad has those powers and it has some powers that AHFC doesn't have. Mr. O'Leary could help discuss those differences.

MR. GAMBLE said the Railroad Corporation is "hunkered down" right now with the rest of the economy in Alaska and will probably continue that for a few years until recovery begins to show in Alaska. They have reduced the size of the railroad by 20-25 percent, management has been cut back and they have hiring freezes. They have managed to preserve the bottom line reasonably well; they are not deferring huge amounts of maintenance. But the Railroad is in "reasonably good shape." He said the management team is one of the things they would be concerned about if they went forward with something like this proposal.

In the meantime the ARRC is going ahead with several large projects; they are contracting to a project at Port McKenzie \$300 million, a project in Fairbanks that could run close to that amount and they are continuing to build the rail line between Anchorage and Fairbanks, which they bonded \$165 million for. They are on time and on money and four years into a six year project.

[4:34:55 PM](#)

MR. GAMBLE said they have sold debt five times over the life of the Railroad; four of those have no expiration date and are on the books. One of them is the Agrium project with a termination date of June 2015. The associated \$300 million Port McKenzie piece was tacked on and has a sunset date of 2012.

CO-CHAIR WIELECHOWSKI said his understanding is that the idea of having the Railroad do a bullet line has come up before and he asked why it hasn't happened in the past.

MR. GAMBLE answered that the only time it formally came up was when Governor Knowles announced the tax free capability for financing the big gas pipeline in order to move the project forward. It flared and died. Since that time they have had no other overtures.

CO-CHAIR WIELECHOWSKI asked if there are IRS issues.

MR. GAMBLE replied that the IRS issues are definitely there; and they would have to get a letter of ruling from the IRS, which Mr. O'Leary could explain.

[4:37:34 PM](#)

MR. O'LEARY answered that when the Railroad was transferred from the federal government in the Federal Transfer Act, there was a provision that effectively removes the Railroad for many of the IRS rules related to tax exempt bonds. One of the biggest issues with tax exempt debt is in most situations you can't use it for the benefit of private entities. Normally it has to be used for governmental purposes. The provision in the Transfer language appears to put the Railroad outside of those particular rules. Therefore, it can issue debt in an unlimited quantity to support private activity, a very unique provision. It is the only entity in the United States that has it. A number of different law firms, including the legislature have reviewed this issue and each one has come back, in varying degrees, of agreeing that the Railroad does have this ability, but they have all said they would need to go through the "private letter ruling process" with the Internal Revenue. It is project specific and the project would have to be further along to be able to bring to them a plan of finance.

Also, he said, before the Railroad can issue any public debt it has to get legislative approval. Any use of these abilities would have to have substantial Railroad involvement. For example, the Agrium project would have been a significant financial benefit to the Railroad because it would have hauled the coal, a lot of it.

CO-CHAIR WIELECHOWSKI asked if this project were to cost \$65 billion and the Railroad would bond for it, what kind of interest rate would it have and what would be the annual payment.

MR. O'LEARY said he couldn't guess. He would have to know who the actual owner would be, the term of the debt and the security behind it. If the state were the security behind the debt, he could generate those numbers based on the state's credit rating.

CO-CHAIR WIELECHOWSKI asked if the Railroad could bond for a private entity, like EnStar who could go out and build the line and pay back the Railroad; so nothing would come out of the general fund.

O'LEARY replied that was one possibility.

[4:42:30 PM](#)

MR. GAMBLE said the Railroad would be a conduit financier; there would be no recourse to the Railroad or to the State, and he assumed that model would be the one they would be most interested in. The Railroad would be the administrator for the life of the bonds, but they would take a fee for that and make some money for the Railroad as well.

[4:44:01 PM](#)

SENATOR WAGONER asked what he saw as the complexity in the Railroad financing a megaproject like a gas line.

MR. GAMBLE replied that the bigger and more complex a project is the more leadership is needed. If it gets diluted the project will consume itself. Leadership strength causes difficulties in large business deals, but it's also the strength. Their reputation for getting things done depends on them being very "authoritative" about the way it's done. The project leadership has to have support. In his view it is the number one threat to a large project. If you're an engineer, you just build bigger. That's not where the complexity lies.

SENATOR WAGONER said that isn't what he has been told by other people who have megaprojects.

SENATOR HUGGINS said that is why they approached the Railroad. They are talking about unanimity of effort.

[4:48:58 PM](#)

MR. GAMBLE said he didn't want to trivialize the complexity of this project. Second to leadership and support for leadership to get the project done, there has to be a business case. He's assuming there is one. If you're building a rail or a pipeline one of the biggest jobs you have is moving dirt; with a rail, however, you can't go over a 3 percent grade and you have to go around things. Things could be simplified with permitting and coordination. He said Enstar had approached them about using their rights-of-way a couple of years ago.

CO-CHAIR MCGUIRE said he has talked about their mission being broad economic development, bonding and financing authority, rights-of-way, and she wanted to talk a little about experience. One of the difficulties with an in-state gas line is the business of making it economic - bringing in the residential and industrial anchors. What intrigued her about the Railroad is that as well as being a public private entity geared toward

profit and other things, he brings buyers and sellers together for transportation opportunities. She asked him how the Railroad reaches out to the private sector.

[4:53:30 PM](#)

MR. GAMBLE answered that two things come to mind. One gets back to the fact that there needs to be a business case. You've got a producer and a buyer and they link the two as a transportation organization. The Railroad has people who manage construction projects, like the extension from Fairbanks to Delta Junction, but those are rail not pipelines. They have people who do marketing and go out and talk to customers, but they don't necessarily talk to the kinds of customer relationships they would see in an open season between a producer on the North Slope and a buyer in California.

When Governor Knowles "dropped this bomb on us," years ago, Mr. Gamble said, he went on TV and said the Railroad was ready to go. But a pipeline is so different from what the Railroad's core business is - even though they are into real estate, which is where they make a lot of their money. He said people realized they couldn't hurt the ARRC in an attempt to take something like this on. So, they thought they would have to wall-off the corporation and create a subsidiary or an LLC or something like that that could handle the new tasking. It would make as much sense today as it did then.

CO-CHAIR MCGUIRE said under AS 18.56.086 the Railroad has the authority to create subsidiaries. Have they done that yet?

[4:56:55 PM](#)

MR. O'LEARY answered that is Title 18, which is the AHFC statute. The ARRC is Title 42, and they have not created any subsidiary corporations.

CO-CHAIR MCGUIRE asked if the board believed they had the authority to create a subsidiary when Knowles said it without further statutory change.

MR. GAMBLE answered that it was an informal discussion that never went very far because the initiative didn't go very far.

CO-CHAIR MCGUIRE speculated that they might want to replicate Title 18 for the Railroad at some other time. She thanked everyone.

MR. GAMBLE said he didn't want to appear as an advocate at this early stage. It is very complicated and a lot is at stake. He has not had a discussion with his board other than to inform them of the meeting. "But at the end of the day our position is when the Governor signs a bill, we'll follow the law."

[4:59:22 PM](#)

CO-CHAIR MCGUIRE thanked him again for his willingness to consider this issue and adjourned the meeting at 4:59 p.m.