

HOUSE FINANCE COMMITTEE

June 28, 2011

9:10 a.m.

9:10:24 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:10 a.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Co-Chair
Representative Mia Costello
Representative Bryce Edgmon
Representative Les Gara
Representative Reggie Joule
Representative Mark Neuman
Representative Tammie Wilson
Representative Mike Hawker (Alternate)

MEMBERS ABSENT

Representative Anna Fairclough, Vice-Chair
Representative Mike Doogan
Representative David Guttenberg

ALSO PRESENT

John J. Burns, Attorney General, Department of Law; Larry Hartig, Commissioner, Department of Environmental Conservation; Michelle Ridgeway, Marine Ecologist, Juneau; Marilyn Crockett, Executive Director, Alaska Oil and Gas Association; Representative Alan Austerman; Representative Mike Chenault; Representative Berta Gardner; Representative Carl Gatto; Representative Bob Herron; Representative Lindsey Holmes; Representative Craig Johnson; Representative Beth Kerttula; Representative Cathy Munoz; Representative Dan Saddler; Representative Paul Seaton; Representative Steve Thompson; Representative Chris Tuck; Representative Peggy Wilson.

PRESENT VIA TELECONFERENCE

Alice Ruby, Chair, Bristol Bay Coastal Resource Service Area Board, and Mayor, City of Dillingham; Frank Kelty, Chair, Aleutian West Coastal Resource Area; Marv Smith, Manager, Bristol Bay Borough; Rebecca Logan, General Manager, Alaska Support Industry Alliance; Bill Jeffress, Alaska Miners Association; Celeste Novak, Director, Bristol Bay Coastal Resource Service Area Program; Gary Hickling, Alaskan Resident; Art Allen, Alaskan Resident; Kelley Walters, Alaskan Resident.

SUMMARY

CSSB 45(CRA)am

COASTAL MANAGEMENT PROGRAM

CSSB 45(CRA)am was REPORTED out of committee with a "do not pass" recommendation, two new fiscal impact notes by the Department of Environmental Conservation, and one new fiscal impact note by the Department of Natural Resources.

#sb45

CS FOR SENATE BILL NO. 45(CRA) am

"An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities and regulations of the Alaska coastal management program; establishing the Alaska Coastal Policy Board; relating to the development, review, and approval of district coastal management plans; relating to the duties of the Department of Natural Resources relating to the Alaska coastal management program; relating to the review of certain consistency determinations; providing for an effective date by amending the effective date of secs. 1 - 13 and 18, ch. 31, SLA 2005; and providing for an effective date."

9:12:50 AM

JOHN J. BURNS, ATTORNEY GENERAL, DEPARTMENT OF LAW, reviewed history of the legislation. He recalled that he had been before the House Finance Committee several months prior during the regular legislative session to discuss an earlier version of the bill, HB 106. The committee had reported HB 106 out and the House had approved it with a 40

to 0 vote. House Bill 106 was then transmitted to the Senate. He recalled that the regular session had started with two competing bills; one was offered by the administration for a simple six-year extension, and another was offered by a legislator for a simple one-year extension. Over the course of the legislative session, it became evident that members of the legislature wanted an extensive discussion to explore a re-write of the legislation.

Co-Chair Stoltze asked whether the amended bill was still a governor's bill.

Attorney General Burns responded "not in the current form." He continued that there had been a desire to discuss modifications to the Alaska Coastal Management Program (ACMP). He reported that Commissioners Larry Hartig, Dan Sullivan, and Cora Campbell had been involved in the extensive discussion, along with other industry, rural community, tribal, and legislative stakeholders.

Attorney General Burns detailed that the discussions were premised on four principal caveats: stability and predictability, consistent standards, meaningful local input, and no local veto. He stressed that hundreds of hours were spent by all stakeholders working on HB 106, which, when it passed, reflected a fine balance of all the interests involved. He highlighted that people like North Slope Borough Mayor Edward Itta did not object to the bill, which amounted to tacit support for HB 106 as it was. The bill passed through the House to the Senate, but nothing happened during regular session or the ensuing special session, even though ACMP had been recognized by the governor as a substantive item that needed to be addressed in the special session immediately following the regular session.

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Attorney General Burns added that there had again been extensive discussions, and noted that Representatives Joule and Hawker and others had attempted to address a meaningful fix for the legislation. However, he felt frustrated that the "goalposts continued to be moved" during each step of the process on the Senate side. In the end, no bill was passed before the special session ended.

Attorney General Burns pointed out that without the availability of appropriations or statutory authority to operate the program beyond June 30, ACMP had to be wound down. The program had stopped taking applications as of June 9 because there was no physical way for the applications to be processed before the sunset date. He emphasized that the approval process typically took 21 days, which was the basis for choosing the June 9 date. In addition, the employees of the program had begun to look for work elsewhere. The program had gone from 33 positions to 5; none of the remaining employees were policy-level positions with the ability to ramp the program back up. He noted that ACMP required specialized expertise, not simply in the diverse coastal programs of the various 33 communities involved; familiarity with the permitting procedures of both state and federal agencies was also required.

Attorney General Burns stressed that the functional reality was that ACMP was "decimated" and that there was physically no ability with existing personnel to meaningfully process consistency review applications.

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Co-Chair Thomas asked where the permits went in the absence of ACMP personnel.

Attorney General Burns responded that the ACMP was involved in a consistency review process. An application was reviewed to make certain that the applicant had obtained all of the permits and met the various requirements of various coastal districts. He stressed that the state and federal permit requirements still had to be met, regardless of the ACMP. In addition, various local coastal district plans had to be met.

Attorney General Burns pointed out that the positions that were no longer filled required trained individuals with expertise in the permitting processes. He noted that discussions with the Department of Natural Resources (DNR) had revealed that it would take at least between six months to one year to attract and train qualified personnel to revamp the program and be able to proceed with permitting. In the meantime, applicants would still apply; there were an average of 100 applications per month. The permits would have to be processed. There would be a continually growing

backlog, with no ability to process the new applications coming in.

Attorney General Burns detailed that the current bill before the committee had no transition language reflecting the reality of the situation, including the fact that there were only five employees who were not capable of handling the required process. He emphasized that if SB 45 passed with an immediate effective date, the expectation would be that ACMP would process the permits with meaningful review. However, without that ability, the program would not meet its functional requirements. He underlined that the process of ramping the program back up was not a simple one.

Attorney General Burns outlined legal issues that could arise. Applications had not been submitted since June 9; he believed permittees had been told not to submit. He pointed out that there could be legal ramifications if the program did not sunset and permittees were required to go into the permit-review process, as projects would have been significantly delayed. There could possibly be lawsuits related to negligent interference with contract from a tort perspective, from which the state was self-insured.

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Attorney General Burns continued that there could be the potential of litigation from third parties because of the state not meeting statutory obligations under ACMP to conduct meaningful reviews. He noted that there had been discussion about some kind of transitory process if the House decided to recognize the reality that the number of applications could not be processed. For example, a transition process could allow the program to remain in place and ramp back up and only handle federal permits, which the state was obligated to do. Eliminating the requirement to do state permits would apply to about half the applications and affect the backlog.

Attorney General Burns pointed to the issue of potential equal-protection or due-process claims, because some applications would be evaluated and not others. He stressed that the nature of the judicial system meant that claims would be filed. He asked what permittees would do when claims were filed; they would have to decide whether to proceed with a project or wait until the litigation was resolved. An alternative route would be to keep the program

in place and suspend everything, because the federal permit reviews were not done as well. There would be a shell of a program, with no state or federal review, which "certainly" would result in third-party litigation for not meeting federal standards.

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Attorney General Burns continued that under constitutional requirements, a bill typically became effective 90 days after passage. There could therefore be a 90-day gap if SB 45 passed through and was not passed "effective immediately" by a two-thirds vote; this would mean the program would sunset on July 1, and the gap would be retroactive. There would be no program, and questions would arise about what would happen to the permit applicants during the gap. He questioned whether the projects would proceed without the consistency review or whether the state would have the ability to pull the applicants back in, since it knew the law would come back into place. An area of uncertainty and unpredictability would be created.

Attorney General Burns argued that a dilemma had been created in which projects were at risk as well as the ability to do what the program was supposed to do: give meaningful analysis to coastal district plans and provide an avenue by which coastal policies could be evaluated and applied in the context of industry projects.

Attorney General Burns stated that there would unquestionably be delays. How long the delays would be was unpredictable, but he expected that jobs and other economic opportunities would be lost.

Attorney General Burns raised the question of what the state would lose if the program sunsetted. He did not think Alaska would lose its voice, as the coastal districts would still be able to affect federal regulations. He pointed out that the National Environmental Policy Act (NEPA) process required consultation, and that every federal regulation required notice and community participation. He did not think the opportunity for participation was the same as it would be under ACMP, but he did not feel that all would opportunity would be lost. He stressed that the result would not be catastrophic; the Department of Law (DOL) had conducted an evaluation in conjunction with DNR about the levels of protection available, and had found that there

were a number of protections. He emphasized that the state would "not lose all" if ACMP sunsetted.

Attorney General Burns added that DOL could not predict the legal implications of passing one or another version of the bill. He stated that there was no practical ability at the present time for ACMP to perform the functions or meet the requirements that would be imposed by SB 45. He referred to concerns about some of the language in the bill that he thought could be easily addressed.

LARRY HARTIG, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, described what ACMP had done to wind down the present program and what it would take to ramp the program up again if it were re-instituted in its present or another form.

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Commissioner Hartig informed the committee that he had had experience putting together other programs, including the wastewater discharge permitting program.

Commissioner Hartig pointed out that the ACMP sunset date would be midnight on June 30, 2011, but employees had to find other jobs; only five employees were left, and they did not have experience building and running programs. He reviewed the necessary, practical details of shutting down the program, including vacating the building, shutting off phones, and clearing furniture. In addition, the annual \$2.5 million received from the federal government was shared with coastal districts and some went to other agencies that worked on the consistency reviews; the Department of Environmental Conservation (DEC) was notified May 31 that bills had to be paid before the authority to pay was lost. Local districts had to do the same.

Commissioner Hartig noted that DNR had a June 3 deadline for submitting its request for the following year's grant to the federal government for funding. The department had not submitted the application; there was some indication that the situation would be addressed, but there was still uncertainty.

Commissioner Hartig continued that people still wanted to do projects and had been getting applications in for coastal zone management consistency review in case the

program continued. On June 9, applicants had been informed that the completeness review would not be done. He described the completeness review process, which required more than the 21 days stipulated in statute.

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Commissioner Hartig continued that the average number of applications received by the program had been about 100 each month. The department's best estimate was that it would take a minimum of six months to get the program functioning again, which would mean an additional accumulated backlog of 600 or 700 applications, in addition to the applications backed up from June. He pointed out that there were another 100 or 200 applications that had already been received prior to June that were still in process.

Commissioner Hartig pointed out that one of the applications anticipated was from Shell, which wanted to start exploration plans for 2012 for the Beaufort Sea and Chukchi Sea projects. Shell had anticipated that it would be ready to submit the 14,000-page application to ACMP. The application was bulky, complicated, very technical, and had a history of litigation and appeals. He stressed that whoever worked on the application had to do a very good job. In addition, Shell intended to have another application for ACMP review for the Chukchi exploration plan; that document would also be extensive and require a high-level review.

Commissioner Hartig stressed that there would be major applications on top of an existing and growing backlog. He referred to other possible projects that needed to move forward, including for Umiat, Cook Inlet, Apache, and Buccaneer, as well as other mineral exploration projects. He noted that there were often applications for winter activities on the North Slope for ice roads and drilling; DNR also expected large applications for communication projects.

Commissioner Hartig described two scenarios related to what it would take to ramp the program back up. Assuming that the necessary authority and duties remained intact, an immediate recruitment effort would be needed for a program manager. He noted that the program had previously required 33 employees, but there would be additional duties and

increased workloads, as the backlog would require a lot of work to process and the new employees would have to be trained. He stressed that there was not just one set of regulations and processes, but 28 local plans and local coastal areas, each with its own differences. The local boards would have to be ramped up. The regulation package would have to be developed; he noted that there would be three different sets of regulations associated with the new bill.

Commissioner Hartig continued that the application would have to go to the National Oceanic and Atmospheric Administration (NOAA) for approval of the modifications to the program, and an advisory board would have to be created and briefed. Funding for the program would have to be established, depending on what was happening with the \$2.5 million in federal money and the fiscal notes that would be attached to the bill.

Commissioner Hartig emphasized that recruitment for personnel would be difficult for an obviously controversial new program with a huge backlog. In addition, there would be difficulty starting a new program from scratch; local districts would have to resubmit local plans, which might have to be changed because of changes in the statute.

Commissioner Hartig reminded the committee that all the statutes had to be submitted to NOAA for approval. In 2003, ACMP statutes were submitted with a delayed effective date, contingent upon NOAA's approval of the package. The package of regulations would be needed, with delayed effective dates, as well as public hearings before the NOAA submission. There would have to be a detailed program description about how the program would be implemented, including guidance documents, management structure, position descriptions, and a matrix showing the federal requirements and how they would be met in the various proposed elements of the program.

Commissioner Hartig emphasized that in 2003, it had taken two years to do everything required for NOAA approval. For that period of time, the program would be uncertain.

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Representative Gara summarized his understanding of ACMP and questioned whether his understanding was correct:

- State law applied to programs on federal lands and waters;
- Alaska state law tended to be more pro-development than federal law; and
- Under a program (apart from the problems listed in testimony), state law would apply on the projects instead of federal law.

Attorney General Burns responded that the stated premises were not correct.

Representative Gara added that a fact had been left out of his list: under an ACMP program, local district rules on development that were consistent with state law would apply instead of federal law.

Commissioner Hartig replied that substantive permitting requirements (such as those under the Clean Air Act and the Clean Water Act) applied regardless of an ACMP program. In addition, state water-quality standards would continue to apply, as well as air-quality standards set by the state under federal law. Standards set by the federal government under federal law would also apply. He emphasized that none of the standards were superseded by an ACMP or enforceable policies; those were a layer on top. The permitting requirements would be the same with or without ACMP. In addition, there would be the enforceable policies developed by the applicable local coastal resource district. The differences that Representative Gara referred to applied more outside of the state's jurisdiction, such as out on the Outer Continental Shelf (OCS); there, federal standards would apply and not state standards, as there was no state jurisdiction. For an improved ACMP, federal law would require federal agencies to be consistent with the enforceable policies adopted under a state plan, which in Alaska included the local districts.

Representative Gara clarified his question. He wondered whether a coastal zone program and local rules consistent with state law on development would apply to federal lands and waters. He wondered whether, for example, the state's oil-spill response plan would apply if the state had a better response plan than the federal government.

Commissioner Hartig replied regarding the specific example. Under federal law, Shell had to have a spill-prevention

contingency plan for work done the OCS; there would be differences between state and federal requirements. To the extent that the state requirements were different through the ACMP, those requirements would also have to be met, and would be imposed through the consistency provisions of ACMP.

Representative Gara asked about a hypothetical offshore development program for which the federal government put a four-mile limit for drilling. He wondered whether the project would move forward under ACMP if the state had a rule allowing drilling outside that limit, or whether the federal rule would bar the project.

Commissioner Hartig replied that state requirements would not supersede the federal requirement; if there was a federal activity, the project would have to show that there was nothing inconsistent with state requirements. A federal requirement precluding drilling more than four miles would still be in place, but a state requirement that precluded drilling more than three miles would have to be met as well.

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Representative Gara remarked that most of Attorney General Burns' testimony had been based on the fact that most of the ACMP employees had left. He noted that discussion with Representative Kerttula had shown that ACMP employees left unwillingly and because the program was disappearing, but many wanted to come back if a program was reinstated. He wondered whether a survey had been done to determine whether employees would return. He did not believe it would be that difficult set up a new office.

Attorney General Burns replied that he had not conducted an employee survey. He did not know what the displaced employees would do. He reported that discussions with Randy Bates, the former ACMP director, had revealed that there had always been issues with changes, and that it would take a significant amount of time to ramp back up.

Representative Hawker wanted to make sure he understood what Attorney General Burns had said in committee testimony. He had heard that SB 45 proposed changes to the existing ACMP that would be acceptable to the

administration and largely good policy (assuming some transition details were worked out).

Attorney General Burns responded that the bill was significantly different than the bill that the governor supported (assuming the language issues could be resolved). He thought the substance of the bill was one thing, but the effectiveness of the transition period was another issue.

Representative Hawker pointed to the statutory termination date of the program and the wind-down process that had already occurred. He believed the current situation was that the clock had run out and the window of opportunity had closed to revive the program without harming progress on projects that were already underway.

Attorney General Burns thought Representative Hawker's assessment was very fair.

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Representative Joule noted that part of the history of the issue had been the administration's reluctance to really engage prior to the current governor; the "status quo" had been good enough, and there was no interest in changing the bill to include the issues of local involvement that had been discussed during the session. He noted that when deadlines approached, he had watched a transformation from "we can't do this" to "let's roll up our sleeves and go to work." The result was a product that worked, in spite of the delicate balance. He stressed that when the administration chose to engage, significant progress was made. He urged action.

Representative Joule pointed out that he had been hearing from coastal communities that if the coastal management program failed, they wanted to bypass the state system and go directly to the federal government. He noted that the local coastal communities had their own relationships with the federal government, just like the state did. He pointed to developments that had taken place around the issue of subsistence, where the state and people had not been able to come to agreement. People went to the federal government, and the state was under a dual management system of game resources; there was an entrenchment on the issue. He had listened to informal and formal discussions about the ACMP; he believed that if the program went away,

it would take from one and one-half to more than two years to get the federal government to approve a new program.

Representative Joule opined that the state was running the risk becoming entrenched on the current issue as well. He argued that if the people were able to deal with the federal government, and the federal government was willing to deal with them directly, he did not know where the state would be left when it decided to revisit the issue in the future.

Representative Joule referred to issues related to endangered species, critical habitat, and wild lands, and the state of Alaska challenging the federal government so that it could clear the way for development. He understood that the NEPA process would allow for people to have a voice, but he did not think that was as strong as due deference; that would be lost. He thought the state would have less power. He did not want to cede to the federal government.

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Representative Joule referred to a visit to Alaska by the National Ocean Council and the planned coastal and marine spatial planning. He noted that Alaska would have its own region and appointments would be made by the Obama Administration. He wondered whether the state had considered how it would interact with the process without a coastal zone management program. He voiced concerns about the state's inability to solve problems at home.

Attorney General Burns responded that Representative Joule had been instrumental in the development of HB 106 as a good solution and a workable and balanced piece of legislation. He noted that the values of local voice and no veto were considered pillars of the ability to reach a good agreement. He stated that the "unfortunate reality" was that the opportunities that were available then were no longer present; there was no program. There had been a full program, which had been audited by the Legislative Budget and Audit Committee and found to be functioning well, meeting federal and state requirements, fully staffed, and doing well.

Attorney General Burns acknowledged concerns about the potential for a polarizing effect; local communities might

go off on their own. He thought there was currently an opportunity and necessity to fully engage in continued dialogue with communities such as the North Slope and Arctic Slope Boroughs.

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Attorney General Burns agreed that Alaskan residents had to work together and make decisions together about the interests of the state as a whole regardless of ethnicity and geographic location. He asserted that the opportunities on which HB 106 were based were no longer present. He assured the committee that the administration would be very engaged in the process.

Commissioner Hartig acknowledged Representative Joule's contributions to the process. He believed there was still opportunity and that people were ready to discuss options. He referred to the National Ocean Commission and noted that Alaskans had been in Washington, D.C. to learn more about the program. He thought the program was of interest but would not take the place of ACMP; the two programs were different.

Representative Joule stated concerns that Alaska would be looked at as not being able to deal with ACMP and there would be questions about how the state dealt with resource development.

Representative Joule believed the crux of the transitional discussion was the language and how regulations were written connected with a statute, in particular the effective date of 2012. He asked whether there were creative actions that could be taken in concert with the federal government regarding regulations in the transition period so that development would not be stopped and jobs lost because of industries that could not get permits. He wondered whether regulations could be adopted that would assist in the transition.

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Commissioner Hartig began his reply by providing background facts. He pointed out that the approximately 100 applications received each month were about 50 percent state and 50 percent federal projects. He defined "state projects" as those requiring only state permits. The

federal projects had a combination of two things: federal actions where a federal agency proposed to do a lease, or a federal-permitted project where someone wanted to do a project but needed a federally-issued permit, such as Shell's project on the OCS.

Commissioner Hartig detailed that for the federal projects, with a coastal management program, the federal agencies were required by law to have the consistency determination before they could issue a final permit. As far as transition language, SB 45 would not require the state to continue consistency review determinations for state projects, but it would require the review for federal projects. He believed the reality was that (given the workload) a majority of the consistency reviews for state projects were actually not done by the DEC Division of Coastal and Ocean Management (DCOM); the reviews were done by the state agency or division that had primary responsibility for the permit that would be issued. However, DCOM had to conduct the consistency reviews for the federal projects, which made up the bulk of its workload and tended to be more complicated.

Commissioner Hartig believed the interim language in SB 45 that would take away the duty to conduct reviews on federal projects would not affect the workload. He noted that the federal agencies had to have the consistency review in order to issue federal permits. Adopting provisions (either through statute or regulation) allowing DCOM to suspend doing the consistency reviews for federal projects would violate federal law and would open the state to the risk of litigation.

Commissioner Hartig addressed another option that had been considered, for DCOM to decide simply not to act on the application from the federal agency, which would then be deemed consistent under federal law. Still another option would be trying to put something in place such as a simple state review for consistency, such as a complete questionnaire. He warned that at that point, there would be only a shell of a program; from a public perspective, he considered the option as paying people to accomplish nothing. He reported that they did not consider the option legally defensible. A review of all different options resulted in the realization that there was no real way to suspend federal projects for a period, as could be done with state projects.

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Representative Costello asked whether legal challenges were expected in the event that the legislature was able to resurrect the program. She recalled past committee discussion related to increasing funding for legal defense.

Attorney General Burns thought that she was asking two questions. First, the current discussion had been focused more on the transition and the sunset provision. He acknowledged that there were substantive concerns relative to the language itself. Related to the first issue, he had tried to outline some of the possible areas of concern from a legal perspective. He pointed out that a complete review had not been done to see whether the state had immunity from certain types of lawsuits, what would happen if there was a gap period, and possible consequences to suspending state versus federal reviews that could result in equal protection or due process challenges. He believed there were multiple uncertainties, depending on which variable was changed. He stressed that there were legal concerns.

Attorney General Burns turned to the second issue, related to the substance of SB 45. He directed attention to page 14, Section 20. He noted that he had proposed language to correct some of the items. For example, Section 20 addressed the definition of "aggregate evidence," which "means the most complete and competent information available."

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Attorney General Burns questioned what the language meant. He noted that agencies did not make the determination, but made determination based on the evidence and data available, and then exercised discretion. In a review, the standard used was an abuse of discretion standard. A definition requiring that the information had to be the most complete and competent available raised the question whether every review would require DCOM or the coastal districts to "scour" all the data; the situation would require a proof requirement, which could subject the process to potential litigation. He argued that a problem would be created, but that language changes could fix the problem.

Attorney General Burns pointed to another issue in Section 20 related to "data that are obtained through the scientific method." He did not believe the only consideration should be the scientific method; there were other methods available and he felt alternative sources should be allowed for.

Attorney General Burns reiterated concerns that the language could open the state in coastal districts to significant litigation because of its specificity. He preferred language allowing the department to determine what was reliable and relevant, which would be a more quantitative assessment. He stated that the concerns were twofold. First, there was concern regarding what would happen in the event that the legislature tried to fix elements of the transition; there were also concerns with the substantive language of the bill itself.

Co-Chair Stoltze noted that Representative Kerttula was not a member of the House Finance Committee, but two minority members were absent and she had been asked to join the committee table [as House Minority Leader].

REPRESENTATIVE BETH KERTTULA informed the committee that she had been present in Washington, D.C. for the presentation about marine spatial planning. She reported that all of the Alaskans present were surprised by the lack of specificity about what the federal government wanted done. She had asked why coastal zone management was not being used as a program, as it had a lot of history with the state and the federal governments. She stated that she shared grave concerns about marine spatial planning in Alaska with Alaska's U.S. senators and their staffs. Given that, she felt much more resolved to save a program that the state had experience with and understanding of.

Representative Kerttula pointed out that coastal management was the law in Alaska. She thought the legislature had been put in an awkward position because of the state Senate's recent adjournment. She hoped that the legislature could figure out a way to define terms and create a transition through regulation. She understood concerns about the broadness of completeness, but noted that the state had had terms (such as due deference) under coastal zone management for a long time that depended on regulation. She assumed that the issues could be resolved for the interim period

through regulation and that the rest could be resolved during the following regular legislative session.

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Representative Kerttula recalled work done in the House Finance Committee DNR subcommittee during the past regular session; DNR had a big permit backlog and money had been put into the budget to resolve it. She believed DNR, DEC, and the Department of Fish and Game (DFG) had great expertise in working on coastal zone management. She asked whether some of the staff from those agencies could be pulled together along with hiring a contractor or two to assist in a transition, as the state had done in other similar situations.

Commissioner Hartig responded that ACMP was not a big program for DEC; Gary Mendivil [program coordinator for the DEC Office of the Commissioner] oversaw many other different permitting activities besides ACMP, and there was only one other person who worked on the program. He pointed out that DFG and the Division of Land, Mining, and Water at DNR did a lot of the work, but he did not know how many people were involved.

Representative Kerttula recommended pulling from the existing expertise of state agencies to get the program through the critical time. She had heard from coastal districts that were shocked that the funding had been suddenly stopped. She asked whether staff was communicating with the applicants during the month's wind-down to avoid legal challenges.

Attorney General Burns replied that DOL had been dealing with various legal implications, but the implications continued to change as variables were shifted. He added that he did not have direct experience with the individual applicants.

Commissioner Hartig added that DCOM had sent out a list of instructions and timelines to employees, agencies, local districts, and potential permittees about how the program would be wound down. He thought the uncertainty was related to whether the program would ultimately be continued and in what form. He did not think that there could be a firm answer.

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Representative Kerttula thought he was wise not to say the issue would be resolved one way or the other. She believed there was enough staff in agencies to overcome the transitional challenges if the program survived. She acknowledged that there were a lot of applications, but she argued that many of them could be simple and routine.

Representative Kerttula referred to federal consistency. She knew the state could be allowed to comment under NEPA and other acts. She thought the strength of federal consistency was related to federal projects on federal land and water where there was no other jurisdictional hook. She believed the state was able to have a strong say through AMCP. She referred to discussion about the oil spill contingency plan issue. She believed Alaska had a strong say through the granting of power from the federal government.

Commissioner Hartig responded that the state was very active in the described arena. He added that it was not just about having more say on federal actions, but included the issue of international traffic through state waters, which was currently a big consideration on the OCS. He said the state was spending a lot of time on oil spill prevention and protection and other avenues. He agreed it was important to have the hook through ACMP, but pointed out that the state would still be engaged without the program.

Representative Kerttula believed the program was the best way to have the power. She stated that it would be a shame for the largest coastline in the nation not to have a coastal zone program. She noted that discussions with the federal government about the gap and funding had revealed that the federal government was engaged in helping the state through the transition. She reiterated her desire to save the program.

10:35:52 AM

Representative Edgmon expressed confusion and reviewed the various actions taken on the issue:

- The legislature adjourned and was followed by a special session;

- A May 14 letter went out to the coastal resource service areas (CRSAs);
- A May 26 communication followed to cease ACMP funding in a five-day time period (May 26 to May 31);
- On June 3, the department elected not to apply for the federal funding; and
- The July 9 date marking the 21-day period and stopping all applications.

Representative Edgmon believed there were not enough votes to reauthorize the program and that it would end. He did not believe the program would be resurrected. He was confused because it was not clear what the loss of the program would entail. He stressed that there were many unknowns. He pointed out that local CRSAs in his district felt the program was useful and valuable. He thought the issue of local input was very important.

Representative Edgmon asked why the legislature had not been aware of the urgency of the situation much earlier, which would have resulted in coastal districts being more involved in keeping the program alive. He felt there had been lukewarm support of the program all along.

Representative Edgmon voiced disappointment about the lack of reference to the loss of local input in statements made by Attorney General Burns. He did not want a valuable program to close and leave the state in an unknown situation.

[10:39:03 AM](#)

Attorney General Burns commented that the Op-Ed piece referred to had intended to provide a balanced perspective as to options from the standpoint of a voice. He had wanted to make clear that the loss of ACMP would mean a challenge for the state. He believed he had made clear in the Op-Ed piece that the sunset of ACMP would result in state agencies and communities losing the ability to adopt enforceable policies. He did not know what the ultimate result of losing the program would be; he thought it would present a challenge, but felt the state had to fully embrace the challenge. He wanted the state to look at options for continuing the dialogue. He did believe the state had to lose its voice if it lost ACMP, but local communities, the legislature, and the administration had to remain in dialogue to retain the voice.

Attorney General Burns referred to discussions and battles related to federal regulatory oversight. He noted that the issue was not only related to litigation, which was only one of the tools. He emphasized the importance of dialogue.

Representative Edgmon referred to the Op-Ed piece and the description of a substitute program that could be put in place that would allow the administration to better track the rule-making process, including the standards, designations, and federal actions. The ability would allow the administration to put together a model that would work with community organizations and help better coordinate with the state's resource-development agencies and the 12 to 14 federal agencies that the ACMP helped coordinate. He questioned the political reasons ACMP had been lost, and why the legislature had not known earlier about the value of the program and the ramifications of its loss.

Attorney General Burns responded that he was not in a position to comment on the political reasons for the loss of ACMP. He knew that the program had been in the state since the 1970s and had come before the legislature and been debated on numerous occasions, including through the vehicle of HB 106. He believed the House was aware of the issue. He maintained that the administration had been fully engaged at all times, and that the engagement was not lukewarm. He thought the sunset provision addressed practical realities. He believed there was no point in having a program that was not functioning to do what it had been designed to do.

Representative Edgmon asked what would happen to the coastal impact assistance program and the money attached to the program.

[10:44:30 AM](#)

Commissioner Hartig replied that the program and the funding stream would remain. He explained that the monies came through the federal leasing programs; if there was a big federal lease sale on the OCS, a certain amount of lease revenues were generated and distributed to the affected communities according to formula. He added that DCOM (which oversaw ACMP) had coordinated the effort in the past, but the program itself was not tied to ACMP in any way. He assured the committee that the funding and

opportunity to apply for projects would still be there. He added that any effect because of the decline in DCOM staffing would get addressed.

Representative Neuman noted that he had gotten involved in the issue about three years prior as the co-chair of the House Resources Committee. He had spoken to ACMP staff frequently and had spent time listening and trying to understand the issues.

Representative Neuman referred to the discussion about consistency reviews, the transition, and reservations that DEC had had. He knew that former director Mr. Bates had spent a considerable amount of time with communities trying to create a program that worked, and had made suggestions to the administration. He questioned what happened to the suggestions.

Representative Neuman relayed problems people in his district had had getting permits for simple projects; for example, it had taken 60 to 70 days to get a permit through the process to replace two stair treads on a set of steps going down to a lake, jobs were lost through another program, and another person had been stopped from transporting house-building materials over state land, resulting in the inability to construct the house that season.

[10:47:55 AM](#)

Representative Neuman thought the current program had many problems. He did not feel the program was fully supported by the administration. He referred to testimony that the program was decimated and that there was a backlog. He reported that he had been engaged with the spatial planning discussion by the National Ocean Commission and knew how it would affect the state. He wanted to focus on solutions and how to assure the citizens of communities that the state would be engaged, address the concerns, and allow them to participate in the discussion. He questioned how to move forward in a practical manner.

Commissioner Hartig replied that there had to be a general vision of a goal as a starting point, and then consensus had to be built around the goal. He suggested that the legislature work with the administration about the goal of the program, and then build the discussion through public

workshops and meetings about the key elements needed. The agencies should then build a proposal for the stakeholders, the legislature, and the administration to review. He believed that HB 106 could be a starting point for the process.

Commissioner Hartig pointed out that sunseting the program did not preclude other opportunities; he hoped sunseting would not cause people to back away from the discussion. He noted that other programs had been built in the manner he described. One of the challenges that had been recognized during the regular session was the amount of distrust that existed; people were unwilling to talk with each other. There had been a breakthrough when the North Slope Borough and industry communicated with the administration with the help of key legislators. He recommended that all involved keep moving forward.

[10:52:11 AM](#)

Attorney General Burns agreed. He referred to communication with the North Slope Borough about critical habitat issues. He had been struck with the level of distrust; he felt progress was only made when people moved beyond distrust and engaged in conversation.

Representative Neuman asked whether the commissioners had discussed together what would happen next and how the state would move forward.

Commissioner Hartig replied that since they did not know what would happen with ACMP, he felt it would have been premature to talk about a new program. He reported that there had been many discussions about concerns voiced by local districts and other stakeholders and how to enhance the other public permitting processes at state and local levels, as well as how to engage local groups with the federal agencies.

Co-Chair Stoltze noted that there would be a significant amount of public testimony on SB 45.

[10:56:02 AM](#)

Representative Wilson asked whether there were states in the country without a coastal management program.

Attorney General Burns did not know, although he knew there were non-coastal communities that did not have the program but had the same opportunity for input that Alaska would have without an ACMP.

Representative Wilson recalled communication received about the issue and asked whether other groups in the country were solving the problems Alaska was facing so that Alaska could benefit from what they had learned.

Representative Gara believed that Illinois had been the last state in the country not to have a program, and that its program had just been approved. He stated that Alaska would be the only state without a program.

Representative Gara summarized that if ACMP was lost, state policies would be enforced in coastal zone areas through NEPA. He thought NEPA was a weak alternative, as under it, the federal government only had to ask for public comments and prove that the comments were considered before making a decision. He referred to past complaints about NEPA, which he viewed as a much weaker way for the state to have a voice than a law that enforced state policy.

Attorney General Burns agreed that NEPA, like the Administrative Procedures Act (APA), mandated the opportunity for a public voice. He reported that the state had recently sought opportunities to increase the state's participation in the federal agency process through trying to qualify for cooperating agency status under NEPA, which would provide the state with a more elevated position in the process.

Commissioner Hartig agreed that NEPA was a process-oriented statute and was not substantive, while ACMP was both. Under ACMP, there could be enforceable policies that set standards not existing under federal law; NEPA focused on process coordination.

Representative Gara read from a May 25, 2011 letter from U.S. Senator Mark Begich, stating that in the areas where the coastal zone policy applied,

the partnership ensures state and local interests are addressed in managing coastal resources and requires federal actions to be consistent with state policies if the state has an approved program.

Representative Gara asked whether the letter was a fair summary of the coastal zone policy.

Attorney General Burns believed the summary was accurate.

Representative Gara continued reading from the Begich letter, which said that without the coastal zone policy,

federal authorities would no longer be required to ensure their actions in areas such as aquaculture, oil spill response, forestry, and mining are consistent with state policies as the current coastal zone policy.

[11:00:34 AM](#)

Attorney General Burns responded that [federal authorities] did not have to assure that proposals were consistent, but they were still obligated under APA and NEPA to issue regulations and invite public comment.

Representative Gara believed there was a big difference between a law that allowed the public to comment but then ignored the comment, and a law (ACMP) that made state policies enforceable. He argued that the loss of ACMP would represent a big loss of state sovereignty.

Representative Gara addressed claims that the state could not make the program work. He assumed that there were not state employees breaking the law. Currently, because of lack of staff, applicants did not have to go through the coastal zone consistency process. He assumed that the same thing could be done through SB 45; until the program was ramped up, applicants would not have to go through the coastal zone consistency process until a certain time, or other transitional regulations could be adopted to allow development to move forward. He believed there should be ways to make the transition work.

Attorney General Burns clarified that the consistency review did not take the place of the requirement that the applicants meet the permit requirements. Applicants had to meet all permit requirements, regardless of whether a consistency review was done. He claimed that sunseting the program would not violate federal law. The dilemma related to violating federal regulations and possible litigation

would come in if a transition plan allowed the picking and choosing of which items would apply or suspended the requirement to do any.

[11:04:12 AM](#)

Attorney General Burns believed Representative Gara was saying that one of the options was to keep the program, and say that the requirements had to be met because it was federally sanctioned. However, if the program remained and nothing was done, the state would clearly be in violation. He believed those were the issues that had to be struggled through.

Co-Chair Stoltze referred to a past House Finance Committee hearing.

[11:05:27 AM](#)

RECESSED

[11:19:43 AM](#)

RECONVENED

Co-Chair Stoltze discussed housekeeping and OPENED public testimony.

[11:20:24 AM](#)

ALICE RUBY, CHAIR, BRISTOL BAY COASTAL RESOURCE SERVICE AREA BOARD, and MAYOR, CITY OF DILLINGHAM (via teleconference), testified in support of the reauthorization of ACMP. She reported that she had been on the Bristol Bay Coastal Resource Service Area (CRSA) Board for over twenty years. She stressed that having ACMP had allowed the state to have a seat directly at the table in considering permits and other activities. Her district did not have an organized borough and relied on the state for representation on development issues, both pro-development and pro-resource. She felt that relying on the NEPA process would set the process back and that her district would lose its voice.

Ms. Ruby did not believe it was too late to revive the program. She asserted that the boards, offices, staff, and active citizens in coastal districts would go away if the program was allowed to lapse. Her board was still functioning; the landlord had agreed to let them stay in

their office until the issue was settled. The board and staff had been volunteering and were ready and able to assist the state in reviving the plan. She pointed out that a lapse would require all the regional plans and infrastructure to be set up again from scratch.

Ms. Ruby did not want to lose strong say by the state (deference) in regions without organized boroughs. She believed allowing the program to lapse would be a disaster.

11:26:15 AM

FRANK KELTY, CHAIR, ALEUTIANS WEST COASTAL RESOURCE SERVICE AREA (via teleconference), testified in support of saving the ACMP. He noted that Dutch Harbor in Unalaska was the number one commercial fishing port in the nation. He described the various important fisheries that took place in his region and stressed that the region depended on the resource. He stated that it was necessary for his area, which was unorganized, to have a seat at the table on development issues.

Mr. Kelty stated that people were keeping track of the National Oceans Council and the marine spatial planning program, which would be zoning the coastlines of Alaska. He strongly urged the state to maintain its place at the table in coastal management discussions and stressed the need for local input.

Mr. Kelty agreed with Representative Kerttula that the state had the resources to put the program back together.

11:30:28 AM

MARV SMITH, MANAGER, BRISTOL BAY BOROUGH (via teleconference), strongly urged support for the retention of the coastal management program. He thought that the cost of rewriting each district plan would exceed the cost of rebuilding and re-staffing the program. He felt the coastal districts needed a voice at the table.

REBECCA LOGAN, GENERAL MANAGER, ALASKA SUPPORT INDUSTRY ALLIANCE (via teleconference), testified on behalf of 460 member companies against moving the bill out of committee. She noted that the alliance president Mark Hysten had sent a letter detailing their position (copy on file). She expressed concerns about the ability of a reduced staff to

review permits in a timely fashion and about the delay of future projects. The organization wanted more clarity about the term "aggregate evidence," which they feared opened the door for litigation and delay. She stressed that delays meant job loss for members.

11:33:59 AM

BILL JEFFRESS, ALASKA MINERS ASSOCIATION (via teleconference), testified against the passage of SB 45. He cited experience as a former director of the state's office of project management and permitting. He stated that the program had had conflicts between the district CRSAs, DCOM, and industry. He thought HB 106 had been a good bill. He felt that SB 45 was a sub-optimal bill. He referred to a letter sent by Director Steve Borell to the committee detailing the association's stance (not on file).

Mr. Jeffress believed that the best resource that DCOM had in ACMP was the experience of the staff. He noted that CRSA directors also had a lot of experience with regulations and issues. Although DCOM did not issue permits, it largely controlled the timelines for permitting. He disagreed that the program would take six months to get up and running again; he believed from his experience that it would take longer and cost the coastal areas significantly. He pointed out that 82 percent of the state's population resided in coastal areas and 84 percent of economic development was in the areas. He felt that projects would be delayed, which would be bad for industry.

Mr. Jeffress described the application process, and thought there could be a serious lag. The investment companies that he worked with would not want to work in the state. He stressed that not only the mining industry would be affected, but many small businesses. He emphasized that most state permits had a federal element because of wetlands and the Rivers and Harbors Act. He wanted to spend the next two years developing a new program rather than reinstating the current one.

11:41:12 AM

CELESTE NOVAK, DIRECTOR, BRISTOL BAY CRSA PROGRAM (via teleconference), spoke in support of the legislation. She stated that former ACMP director Randy Bates had given a limited overview of the program to the legislature during

the regular session. She noted that in the past, the ACMP statewide conference had been held in Juneau in the spring, which would have given people who work in the program a chance to speak directly to legislators; the meeting had been moved to Anchorage in May 2011. She felt the change had been made to deter contact with legislators. She felt that the governor had wanted to end the program.

Ms. Novak referenced a May 25 email to the Bristol Bay CRSA from Mr. Bates stating that they were legally obligated to continue the Coastal Project Questionnaire (CPQ) process [consistency certification questionnaire] until the end of the program on June 30. Two days later, on May 27 (right before the Memorial Day weekend holiday) they received a stop-work order for May 31. In her opinion, the actions were an indication that someone was trying to stop the program.

Ms. Novak believed there were a number of options related to keeping staff, including a temporary assignment for former ACMP staff and other staff that were still working (without pay) to ensure the information needed to make the policy decision was available. She opined that current projects could be allowed to become consistent in 90 days without a finding, as provided in AS 46.40.096(n). She believed litigation was not an issue, as citizen lawsuits had been eliminated in 2003; review participants could litigate, but rarely had.

Ms. Novak referred to administration testimony in the media and presentations made to various organizations communicating that the state would not lose much if ACMP were shut down. She pointed out that the Coastal Zone Management Act (CZMA) was the only program with state and local enforceable policies that federal agencies had to follow. She noted a "muddled response" to a question about the state's enforceable policies needing to be re-submitted; she argued that nothing would have to be re-submitted if SB 45 passed.

Ms. Novak referred to a \$500,000 grant approved for the Bristol Bay Region; there was no one to disburse and administer the grant.

Ms. Novak asked why the state grant application was not filed with the federal government. She questioned the usual date the grant was filed.

Ms. Novak informed the committee that DCOM had not given clear instructions for the wind-down. She did not think the program had been running smoothly.

11:49:09 AM

Representative Gara asked whether the coastal zone management program had sped up the permitting process.

Ms. Novak responded in the affirmative. She stated that the CPQ afforded the opportunity to review permits that would be required for whatever project that was being worked on. Her organization was able to help people streamline the process. For example, if there was going to be an issue with subsistence related to the repeater stations proposed for fiber optic infrastructure, the program could help alter timelines to lessen the impact. She felt that losing the program would mean losing the thousands of lifestyles that rely on the program to have a voice.

11:50:17 AM

GARY HICKLING, ALASKAN RESIDENT (via teleconference), testified against the legislation. He thought that the coastal management program was a "job killing program" because it was an additional layer of bureaucracy. He felt that the program stopped mining projects. He suggested that the legislature review the Alaska Constitution and let its simplicity inform decisions. He pointed to Article VIII, Section 1: "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." He added that Section 2 of the same article read that "the legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people."

Mr. Hickling noted that people in Bristol Bay might not like the Pebble Mine, but they would get the jobs and other benefits the mine would generate. He believed the government should not stop jobs but put people to work. He believed every layer of bureaucracy made it more difficult to get projects going, which were needed especially in areas in the state without jobs and the resulting social

ills. He reiterated concerns about the size of bureaucracy in the state.

ART ALLEN, ALASKAN RESIDENT (via teleconference), urged support of the coastal management program and the passage of SB 45.

Mr. Allen believed the ACMP provided people in outlying communities with opportunities to be heard about coastal management projects.

11:58:08 AM

MICHELLE RIDGEWAY, MARINE ECOLOGIST, JUNEAU, testified in support of the program and the passage of SB 45. She echoed the testimony of Mr. Kelty from Dutch Harbor; she believed he had explained the value of the program to people who relied on it to advance programs that were vital for employment to coastal communities. She had served on the North Pacific Fishery Management Council for over a decade and had heard testimony from hundreds of Alaskans that the program had directly benefited Alaskan residents and industry. She assured the committee that the federal fishery management program had benefitted tremendously from the direct input of coastal residents that depended on fisheries and associated activities.

Ms. Ridgeway reported that she was currently serving on the federal advisory committee for marine protected areas and on a Coastal and Marine Spatial Planning subcommittee because she strongly felt that Alaskans had to have a voice at the table during discussions concerning coastal land management.

Ms. Ridgeway noted that she had had direct experience with ACMP and had served as a consulting biologist for mining companies and government agencies. She highlighted the value of the program in bringing groups together to create synergy when considering specific projects. She thought that allowing the program to stop would leave Alaskans without a vehicle for participating in discussions with the federal government about coastal issues. She urged restarting the program.

12:03:43 PM

MARILYN CROCKETT, EXECUTIVE DIRECTOR, ALASKA OIL AND GAS ASSOCIATION (AOGA), spoke to concerns about SB 45. She stated that AOGA represented oil and gas producers and explorers, the three in-state refineries, and Alyeska Pipeline, as well as a couple of new players. She had closely followed ACMP issues from its inception. She stated that AOGA supported a program that had predictability and certainty.

Ms. Crockett listed concerns about what would happen during the transition. She believed SB 45 would leave the current program in place and the changes would apply in July 2012. She stated that the association was "extremely concerned" about not having the resources in the state to process consistency determination applications. She emphasized that AOGA members would not proceed with operations if the statutes and regulations required them to have the piece of paper.

Ms. Crockett detailed that operations and projects would be delayed. She noted that operations were conducted on a seasonal basis, with construction in the summer and operations in the winter. She did not believe that the applications would be processed in time for the summer activity even if the applications could be processed with the limited staff at ACMP. She noted that the activities required a federal permit of some kind; there were serious concerns about the federal component, especially the OCS component. She pointed out that Shell had exploration plans for the Beaufort Sea; the required documents were lengthy, technical ones that would take time and expertise to process. The timelines for Shell and other offshore projects were very specific and the project could easily die based on missing a deadline.

Ms. Crockett stated concerns about what would happen on July 1, given the language in SB 45. She detailed that AOGA supported a coastal management program that met two criteria: the certainty of the timing for permit issuance and consistency determinations, and the ability to predict what the process would be.

Representative Joule stated that he used the same criteria when he supported development.

[12:08:03 PM](#)

Representative Gara believed things would speed up once the program was up and running because of coordinated permitting; once that was lost, the state would be subject to the whims of federal government. He asked whether the program would help development through coordinated permitting.

Ms. Crockett replied that the coordination process through ACMP was an important component, but less critical for oil and gas operations. She referred to previous testimony related to how ACMP provided resources to individuals and companies that did not understand the permitting process; she believed the function was valuable for companies that did not routinely operate in Alaska. However, the oil and gas companies had a long history of operating in the state and had expertise and familiarity with the process. She noted that AOGA members formed the largest component of consistency determinations. She believed the function was important, but not critical.

Representative Gara stated concerns related to a state oil-spill contingency plan applying under the ACMP; the state could craft a strong plan that was better than federal requirements. He asked whether losing ACMP and stronger oil-spill plans would negatively affect offshore development.

Ms. Crockett responded that she was not as concerned about the issue currently as she would have been two years prior. She thought the federal requirements would continue to be lowered and that the federal government would seriously consider comments submitted by Alaska's governor and local communities related to a plan of exploration.

Representative Gara argued that state contingency plans have been much stronger and gave the state the best chance of developing offshore.

Representative Wilson asked whether AOGA had been in favor of HB 106.

Ms. Crockett replied that AOGA had been neutral on HB 106, which was a different stance than other trade associations. She added that AOGA had concerns that unanticipated consequences would be experienced when HB 106 was implemented. She stated that AOGA wanted to see coastal zone management work in Alaska, but not at the risk of its

operations. They were not convinced that HB 106 would accomplish its goals, but not to the degree that they opposed it.

Representative Joule pointed out that the neutral stance had been important.

[12:12:46 PM](#)

KELLEY WALTERS, ALASKAN RESIDENT (via teleconference), voiced support for SB 45. He expressed concerns, particularly about testimony by the Bristol Bay CRSA about the program being shut down over Memorial Day weekend. He did not want Alaska, the state with the largest coastline in the country, to be left without a coastal management program. He believed that the administration was surrendering the sovereignty of the state to the federal government.

Mr. Walters wondered how the state would recover the many of millions of dollars that Alaska could lose without a coastal management plan. He pointed to other coastal states with plans that shared in the federal government's revenue, as much as 30 to 35 percent. He questioned the cost of the special session and the political uncertainties. He hoped that the House could show that it was not an extension of the Parnell Administration. He felt the governor was planning to veto the bill.

Mr. Walters shared concerns about the Pebble Mine and building the largest open-pit dam on the planet in a volcanic and earthquake seismic area. He thought the input of Bristol Bay and other coastal Alaskans was needed.

[12:18:12 PM](#)

Co-Chair Stoltze CLOSED public testimony.

Co-Chair Hawker offered clarification to the recent testimony related to risks of sharing revenues from the oil and gas industry with the federal government. He stated that the state's royalty-sharing agreements and revenue sharing would not be affected by the ACMP changes. However, some amount of federal funding was at stake through grants that were available for operating activities within the various regions of the state.

Co-Chair Stoltze believed significant effort had been made by the administration related to state sovereignty.

12:20:07 PM

RECESS

3:09:42 PM

RECONVENED

Co-Chair Stoltze mentioned three fiscal notes, two from DEC and one from DNR.

Co-Chair Hawker noted that the fiscal note originally prepared by the Senate Finance Committee included some money that was a duplicate of something already appropriated in the capital budget, which explained the difference.

Co-Chair Hawker MOVED that the committee adopt the three fiscal notes. There being NO OBJECTION, it was so ordered.

Co-Chair Thomas MOVED to report CSSB 45(CRA)am (27-GS 1965\B.A) out of committee with individual recommendations and the accompanying fiscal notes.

Representative Neuman OBJECTED. He did not feel the legislation was ready to move forward.

Co-Chair Hawker recommended that the committee move the bill and noted that he would make a "do not pass" recommendation on the committee report sheet. He thought the issue merited the full vote of the House.

Representative Gara stated that he would support the bill moving out of committee so that there would be a full debate on the House floor. He acknowledged and supported the right of any committee member to call for a vote in the committee. He thought that the public deserved a full debate and vote on the House floor. He pointed out that 27 representatives had voted to come to a special session.

Representative Gara referred to prior testimony regarding what would happen if coastal management people were not hired back quickly. He believed there were many creative ways to get the program running quickly again, but pointed to a statute stipulating that someone filing a complete application was entitled to a "yes" or "no" answer within

90 days; if they did not get the "yes" or "no" within the 90 days, they would get the consistency review approval. He stressed that any one filing a complete application would get approval in 90 days if the state did not hire back any staff.

3:15:45 PM

Representative Gara noted that the governor had stated that the bill was a "job killer." He saw the bill as a job creator; ACMP would speed up permitting, was one of the few areas of the state with coordinated permitting, and permitting would be under state law instead of more stringent federal law. In addition, there would be a local voice. He argued that the Trans-Alaska Pipeline had been constructed and the North Slope and Cook Inlet had been developed under a more stringent coastal zone program than proposed by SB 45.

Co-Chair Hawker commented that the statement about an application being approved after 90 days was partially correct when relating to state-only permits, but was not accurate related to federal project permits. More importantly, the 90-day clock would only begin running after the department determined that there was a completed application on file. The department had a separate timeframe for completing the pre-compliance determinations.

3:18:41 PM

Representative Costello stated that she would vote to move the bill out of committee and save her true feelings for the vote on the floor.

Co-Chair Thomas stated that the bill was poorly presented and lacked back-up information, sectional analysis, and a sponsor statement. He stated that the bill should be moved forward to allow for debate on the floor. He emphasized that he did not like the presentation; the administration had not presented their own bill, they only spoke in opposition to a bill. He thought good public policy was lacking.

Representative Wilson appreciated the vetting of the bill in the committee. She felt that the bill was bad for Alaska. She expressed disappointment in the bill and said she would vote against moving it out of committee.

3:20:53 PM

Representative Gara responded to Co-Chair Hawker regarding the timelines for completed applications. He stated that the completed application point was the trigger; an applicant had only to file a completed application and would get the permit within 90 days if they did not have an answer. He believed a smart applicant would file a completed application.

Co-Chair Stoltze stated that he would support moving the bill out of committee, with some of the same reservations already voiced.

Representative Neuman MAINTAINED his OBJECTION to the motion to move the bill from committee.

A roll call vote was taken on the motion.

IN FAVOR: Joule, Costello, Edgmon, Hawker, Gara, Thomas, Stoltze

OPPOSED: Neuman, Wilson

Representatives Fairclough, Doogan, and Guttenberg were absent from the vote.

The MOTION PASSED (7/2).

CSSB 45(CRA)am was REPORTED out of committee with a "do not pass" recommendation, two new fiscal impact notes by the Department of Environmental Conservation, and one new fiscal impact note by the Department of Natural Resources.

#

ADJOURNMENT

The meeting was adjourned at 3:22 PM.