

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 28, 2014

1:04 p.m.

MEMBERS PRESENT

Representative Eric Feige, Co-Chair
Representative Dan Saddler, Co-Chair
Representative Peggy Wilson, Vice Chair
Representative Mike Hawker
Representative Craig Johnson
Representative Kurt Olson
Representative Paul Seaton
Representative Scott Kawasaki
Representative Geran Tarr

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 138(FIN) AM

"An Act relating to the purposes, powers, and duties of the Alaska Gasline Development Corporation; relating to an in-state natural gas pipeline, an Alaska liquefied natural gas project, and associated funds; requiring state agencies and other entities to expedite reviews and actions related to natural gas pipelines and projects; relating to the authorities and duties of the commissioner of natural resources relating to a North Slope natural gas project, oil and gas and gas only leases, and royalty gas and other gas received by the state including gas received as payment for the production tax on gas; relating to the tax on oil and gas production, on oil production, and on gas production; relating to the duties of the commissioner of revenue relating to a North Slope natural gas project and gas received as payment for tax; relating to confidential information and public record status of information provided to or in the custody of the Department of Natural Resources and the Department of Revenue; relating to apportionment factors of the Alaska Net Income Tax Act; amending the definition of gross value at the 'point of production' for gas for purposes of the oil and gas production tax; clarifying that the exploration incentive credit, the oil or gas producer education credit, and the film production tax credit may not be taken against the gas production tax paid in gas; relating to the oil or gas producer

education credit; requesting the governor to establish an interim advisory board to advise the governor on municipal involvement in a North Slope natural gas project; relating to the development of a plan by the Alaska Energy Authority for developing infrastructure to deliver affordable energy to areas of the state that will not have direct access to a North Slope natural gas pipeline and a recommendation of a funding source for energy infrastructure development; establishing the Alaska affordable energy fund; requiring the commissioner of revenue to develop a plan and suggest legislation for municipalities, regional corporations, and residents of the state to acquire ownership interests in a North Slope natural gas pipeline project; making conforming amendments; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 138

SHORT TITLE: GAS PIPELINE; AGDC; OIL & GAS PROD. TAX

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/24/14	(S)	READ THE FIRST TIME - REFERRALS
01/24/14	(S)	RES, FIN
02/07/14	(S)	RES AT 3:30 PM BUTROVICH 205
02/07/14	(S)	Heard & Held
02/07/14	(S)	MINUTE(RES)
02/10/14	(S)	RES AT 3:30 PM BUTROVICH 205
02/10/14	(S)	Heard & Held
02/10/14	(S)	MINUTE(RES)
02/12/14	(S)	RES WAIVED PUBLIC HEARING NOTICE, RULE 23
02/12/14	(S)	RES AT 3:30 PM BUTROVICH 205
02/12/14	(S)	Heard & Held
02/12/14	(S)	MINUTE(RES)
02/13/14	(S)	RES AT 8:00 AM BUTROVICH 205
02/13/14	(S)	Heard & Held
02/13/14	(S)	MINUTE(RES)
02/14/14	(S)	RES AT 3:30 PM BUTROVICH 205
02/14/14	(S)	Heard & Held
02/14/14	(S)	MINUTE(RES)
02/19/14	(S)	RES AT 3:30 PM BUTROVICH 205
02/19/14	(S)	Heard & Held
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02/20/14	(S)	RES AT 8:00 AM BUTROVICH 205
02/20/14	(S)	Heard & Held

02/20/14 (S) MINUTE(RES)
02/21/14 (S) RES AT 8:00 AM BUTROVICH 205
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02/21/14 (S) MINUTE(RES)
02/21/14 (S) RES AT 3:30 PM BUTROVICH 205
02/21/14 (S) Heard & Held
02/21/14 (S) MINUTE(RES)
02/24/14 (S) RES RPT CS 2DP 4NR 1AM NEW TITLE
02/24/14 (S) DP: GIESSEL, MCGUIRE
02/24/14 (S) NR: FRENCH, MICCICHE, BISHOP,
FAIRCLOUGH
02/24/14 (S) AM: DYSON
02/24/14 (S) RES AT 8:00 AM BUTROVICH 205
02/24/14 (S) -- MEETING CANCELED --
02/24/14 (S) RES AT 3:30 PM BUTROVICH 205
02/24/14 (S) Moved CSSB 138(RES) Out of Committee
02/24/14 (S) MINUTE(RES)
02/25/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
02/25/14 (S) Heard & Held
02/25/14 (S) MINUTE(FIN)
02/25/14 (S) FIN AT 5:00 PM SENATE FINANCE 532
02/25/14 (S) Heard & Held
02/25/14 (S) MINUTE(FIN)
02/26/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
02/26/14 (S) Heard & Held
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02/28/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
02/28/14 (S) Heard & Held
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03/03/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/03/14 (S) Heard & Held
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03/04/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
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03/05/14 (S) Heard & Held
03/05/14 (S) MINUTE(FIN)
03/05/14 (S) FIN AT 5:00 PM SENATE FINANCE 532
03/05/14 (S) Scheduled But Not Heard
03/06/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/06/14 (S) Heard & Held
03/06/14 (S) MINUTE(FIN)
03/07/14 (S) FIN AT 9:00 AM SENATE FINANCE 532

03/07/14 (S) -- MEETING CANCELED --
03/10/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/10/14 (S) Heard & Held
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03/10/14 (S) FIN AT 5:00 PM SENATE FINANCE 532
03/10/14 (S) Heard & Held
03/10/14 (S) MINUTE(FIN)
03/11/14 (S) FIN AT 5:00 PM SENATE FINANCE 532
03/11/14 (S) Heard & Held
03/11/14 (S) MINUTE(FIN)
03/12/14 (H) RES AT 1:00 PM BARNES 124
03/12/14 (H) -- MEETING CANCELED --
03/14/14 (S) FIN RPT CS 6DP 1AM NEW TITLE
03/14/14 (S) LETTER OF INTENT WITH FINANCE REPORT
03/14/14 (S) DP: KELLY, MEYER, DUNLEAVY, FAIRCLOUGH,
BISHOP, HOFFMAN
03/14/14 (S) AM: OLSON
03/14/14 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/14/14 (S) Moved CSSB 138(FIN) Out of Committee
03/14/14 (S) MINUTE(FIN)
03/14/14 (H) RES AT 1:00 PM BARNES 124
03/14/14 (H) <Pending Referral>
03/17/14 (H) RES AT 1:00 PM BARNES 124
03/17/14 (H) <Pending Referral>
03/18/14 (S) TRANSMITTED TO (H)
03/18/14 (S) VERSION: CSSB 138(FIN) AM
03/19/14 (H) READ THE FIRST TIME - REFERRALS
03/19/14 (H) RES, L&C, FIN
03/19/14 (H) RES AT 1:00 PM BARNES 124
03/19/14 (H) Heard & Held
03/19/14 (H) MINUTE(RES)
03/21/14 (H) RES AT 1:00 PM BARNES 124
03/21/14 (H) Heard & Held
03/21/14 (H) MINUTE(RES)
03/24/14 (H) RES AT 1:00 PM BARNES 124
03/24/14 (H) Heard & Held
03/24/14 (H) MINUTE(RES)
03/25/14 (H) RES AT 4:30 PM BARNES 124
03/25/14 (H) Heard & Held
03/25/14 (H) MINUTE(RES)
03/26/14 (H) RES AT 1:00 PM BARNES 124
03/26/14 (H) Heard & Held
03/26/14 (H) MINUTE(RES)
03/27/14 (H) RES AT 4:30 PM BARNES 124
03/27/14 (H) Heard & Held
03/27/14 (H) MINUTE(RES)
03/28/14 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

DAVID VAN TUYL, Regional Manager
BP Exploration Alaska (BP)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of [CSSB 138(FIN) am] and answered questions.

W.A. (BILL) MCMAHON, Jr., Senior Commercial Advisor
ExxonMobil Production Company (ExxonMobil)
Houston, Texas

POSITION STATEMENT: Testified in support of [CSSB 138(FIN) AM] and answered questions.

PATRICK FLOOD, Supervisor
North Slope Gas Development Team
ConocoPhillips Alaska, Inc. (ConocoPhillips)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of [CSSB 138(FIN) AM] and answered questions.

TONY PALMER, Vice-President
Major Projects Development
TransCanada Pipelines, Limited (TC)
Calgary, Alberta, Canada

POSITION STATEMENT: Testified in support of [CSSB 138(FIN) AM] and answered questions.

DAN FAUSKE, President
Alaska Gasline Development Corporation
Department of Commerce, Community & Economic Development
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on CSSB 138(FIN) am.

ACTION NARRATIVE

[1:04:06 PM](#)

CO-CHAIR ERIC FEIGE called the House Resources Standing Committee meeting to order at 1:04 p.m. Representatives Hawker, Tarr, Kawasaki, Olson, Seaton, P. Wilson, Saddler, and Feige were present at the call to order. Representative Johnson arrived as the meeting was in progress.

SB 138-GAS PIPELINE; AGDC; OIL & GAS PROD. TAX

1:04:17 PM

CO-CHAIR FEIGE announced that the only order of business would be CS FOR SENATE BILL NO. 138(FIN) am, "An Act relating to the purposes, powers, and duties of the Alaska Gasline Development Corporation; relating to an in-state natural gas pipeline, an Alaska liquefied natural gas project, and associated funds; requiring state agencies and other entities to expedite reviews and actions related to natural gas pipelines and projects; relating to the authorities and duties of the commissioner of natural resources relating to a North Slope natural gas project, oil and gas and gas only leases, and royalty gas and other gas received by the state including gas received as payment for the production tax on gas; relating to the tax on oil and gas production, on oil production, and on gas production; relating to the duties of the commissioner of revenue relating to a North Slope natural gas project and gas received as payment for tax; relating to confidential information and public record status of information provided to or in the custody of the Department of Natural Resources and the Department of Revenue; relating to apportionment factors of the Alaska Net Income Tax Act; amending the definition of gross value at the 'point of production' for gas for purposes of the oil and gas production tax; clarifying that the exploration incentive credit, the oil or gas producer education credit, and the film production tax credit may not be taken against the gas production tax paid in gas; relating to the oil or gas producer education credit; requesting the governor to establish an interim advisory board to advise the governor on municipal involvement in a North Slope natural gas project; relating to the development of a plan by the Alaska Energy Authority for developing infrastructure to deliver affordable energy to areas of the state that will not have direct access to a North Slope natural gas pipeline and a recommendation of a funding source for energy infrastructure development; establishing the Alaska affordable energy fund; requiring the commissioner of revenue to develop a plan and suggest legislation for municipalities, regional corporations, and residents of the state to acquire ownership interests in a North Slope natural gas pipeline project; making conforming amendments; and providing for an effective date."

CO-CHAIR FEIGE invited the speakers to make opening remarks in relation to CSSB 138(FIN) am.

1:04:41 PM

DAVID VAN TUYL, Regional Manager, BP Exploration Alaska (BP), gave a brief personal history and expressed his belief that executing the Heads of Agreement (HOA) was the right way to advance the [gas pipeline] project. His company has reviewed [CSSB 138(FIN) AM] and is in support of the bill.

[1:05:41 PM](#)

W.A. (BILL) MCMAHON, Jr., Senior Commercial Advisor, ExxonMobil Production Company (ExxonMobil), informed the committee he has over 30 years of experience. He said ExxonMobil supports [CSSB 138(FIN) AM] and is ready to move into the next phase of the project.

[1:06:17 PM](#)

PATRICK FLOOD, Supervisor, North Slope Gas Development Team, ConocoPhillips Alaska, Inc. (ConocoPhillips), gave a brief history of his experience in the oil and gas industry. He said ConocoPhillips supports the HOA and [CSSB 138(FIN) AM], which is consistent with the HOA.

[1:07:42 PM](#)

TONY PALMER, Vice-President, Major Projects Development, TransCanada (TC), expressed TransCanada's support of [CSSB 138(FIN) AM].

[1:08:03 PM](#)

CO-CHAIR FEIGE opened the hearing to questions from the committee.

CO-CHAIR SADDLER recalled testimony by Mr. Roger Marks [petroleum economist, contract consultant to the Legislative Budget and Audit Committee, at the hearing of 3/27/14] urging the legislature to take the time necessary to seek better terms. He asked whether there are potential benefits to the state, or the other entities involved, by "waiting for something else later on."

MR. VAN TUYL cautioned that schedule-driven megaprojects run into problems. Taking sufficient time is important to avoid mistakes; however, from BP's perspective, it is also important to attain data and permits so that the project can compete in the Asian market for natural gas as soon as possible. It is expected that the defined range for the project on a cost/supply

basis allows the project to compete and monetize the resource, therefore, the parties must keep doing the work necessary to mature the cost estimate and obtain permits. Mr. Van Tuyl stated that it behooves all of the parties to expeditiously advance the project.

MR. MCMAHON observed that ultimately this project is going to be underpinned with commitments from the liquefied natural gas (LNG) [purchasers of LNG who comprise the] market. The execution of the HOA by the three producers and the state was a clear, strong signal to the market, and additional progress will strengthen credibility for the project. He warned that unwarranted pauses in the progress of the project will send a [negative] signal to the market.

MR. FLOOD stated that ConocoPhillips is prepared to move into the preceding front-end engineering and design (pre-FEED) phase, as the project is at that point. In the event one party is not ready, his company will work to solve problems and avoid any delay to the extent possible.

[1:12:28 PM](#)

DAN FAUSKE, President, Alaska Gasline Development Corporation (AGDC), Department of Commerce, Community & Economic Development (DCCED), opined that all legislation should be thoroughly investigated and analyzed. He recalled that previous legislation related to a large project was significantly improved over time, but the delay of one year was at a cost of over \$210 million. He pointed out that timely review is important, albeit without "skip[ing] the steps."

MR. PALMER reiterated that the market is looking for a signal that Alaska is ready to market its LNG globally, and has indicated its interest. He agreed with the previous speakers on the effects of a delay.

REPRESENTATIVE HAWKER drew attention to the HOA, ARTICLE 4: ALASKA LNG PROJECT WORK, Article 4.5 which read [original punctuation provided]:

During the Pre-FEED phase, each of the Producer Parties and the State would initiate preliminary, individual LNG or gas sales or shipping efforts. During the FEED phase, each of those Parties would seek to execute individual LNG (or gas) sales and shipping agreements.

REPRESENTATIVE HAWKER reminded the presenters there has been lengthy discussion about the state marketing its own gas by seeking a joint marketing agreement with one or more of the producer parties. He asked whether the use of the word "individual" in Article 4.5 compromises the ability of the state to negotiate a sales agreement in that regard.

1:16:25 PM

MR. MCMAHON responded that ExxonMobil does not see any inconsistencies as the "individual" marketing term refers to the fact that the parties would not market LNG jointly. He directed attention to ARTICLE 8: ROYALTIES AND PRODUCTION TAXES, 8.3: State Gas Share, 8.3.3 which read [original punctuation provided]:

Consistent with advice from antitrust counsel, the Producer Parties are willing, in conjunction with a fiscal arrangement for an Alaska LNG Project under which the State has a State Gas Share, to agree that each Producer Party, if asked by the State, would offer to negotiate separately with the State in good faith to enter into an agreement with the State regarding the purchase or other disposition of a portion of the LNG that is made from the State's deliveries of natural gas to the Alaska LNG Project, with each Producer Party negotiating a potential agreement regarding the purchase or other disposition of a portion that equals or exceeds that Producer Party's respective proportionate share of the total of the Producer Party's capacities (i.e., exclusive of the capacity owned or used by the State) in the LNG Plant component of the Alaska LNG Project.

MR. MCMAHON said the intent of the above clause is to allow the state to approach one or all of the producers to discuss purchasing the state's gas; these discussions would be on an individual basis. He noted that Articles 4.5 and 8.3.3 were written with the advice of antitrust counsel, and there is no conflict.

CO-CHAIR SADDLER asked for the strength of the commitment [stated in 8.3.3].

1:18:03 PM

MR. VAN TUYL explained the language of 8.3.3 states the commitment of each of the producer parties to negotiate in good faith the envisioned agreements. One of the underpinning principles in the HOA is for the state to be a direct participant in the project and to take its 25 percent tax as a combination of royalty-in-kind and gas. Under CSSB 138(FIN) am, the Department of Natural Resources (DNR) would make a decision [to market its gas jointly with one or more of the producers] if the appropriate agreements are in place. The fact that a portion of the taxes are paid through royalty-in-kind provides a substantial incentive for each of the producers to ensure that the state is able to reach an agreement as envisioned in 8.3.3.

CO-CHAIR SADDLER remarked:

Yesterday we heard a proposal that might suggest the state should seek to have the producers market Alaska's share of gas along with yours on whatever basis described, but at the same price that your companies were getting. ... My understanding is that Alaska's gas would be at some price advantage. How would that play out in efforts to try and market Alaska's gas individually?

MR. MCMAHON said - based on advice from antitrust counsel - the producers do not discuss marketing prices or purchase prices amongst each other, or with the state, as they are potential competitors.

[1:20:24 PM](#)

CO-CHAIR FEIGE recalled the cost overruns that occurred during construction of the Trans-Alaska Pipeline System (TAPS). Although the location of this project is not without some existing supporting infrastructure, the state's equity stake in the partnership puts it at risk should the need for additional billions of dollars arise. He inquired as to the companies' and the project's strategies to avoid cost overruns, and asked how each producer has dealt with cost overruns historically.

MR. VAN TUYL stressed that each of the entities are motivated to deliver the project at the lowest possible cost, because that will define each parties' profits. The producers are highly motivated to manage costs in a systematic and effective manner. Using a stage-gate process to advance projects ensures that the project does not "go to the next phase until certain risks are quantified, defined, and everybody is comfortable" He said

each of the producers has delivered megaprojects successfully and brings that collective experience from around the world to the Alaska LNG Project. Furthermore, the entities involved have the right expertise in Arctic operations, mega LNG projects, and pipeline operations, to manage costs.

1:24:01 PM

MR. FLOOD agreed that the stage-gate process is critically important for a project to proceed in a predictable manner. The significant cost of the project is a risk shared by all of the parties, and that risk motivates all to bring the project in at the best possible cost without any sacrifice of health or the environment. He opined that the parties' alignment with the state is a key area of the pre-FEED and FEED work on planning and execution.

MR. PALMER agreed with the previous speakers, and added that the strength of the team and the state, and the records of the corporations, indicate a focus on cost, quality, schedule, and probability of success. All of the corporations provide experience and expertise in different - and in some similar - areas, and he offered to provide to the committee TC's performance records on schedule and cost. In response to Co-Chair Feige, he said he would do so.

1:26:19 PM

REPRESENTATIVE HAWKER directed attention to the HOA, ARTICLE 6: REGULATORY FRAMEWORK, ACCESS AND EXPANSION, Articles 6.1, 6.2, and [6.4 paragraph a.] which read [original punctuation provided]:

6.1 The Parties have discussed a tailored regulatory framework for the Alaska LNG Project under Section 3 of the Natural Gas Act, 15 U.S.C. § 717b ("NGA Section 3"), and recognize the availability of this framework to meet the needs of all Parties.

6.2 During Pre-FEED, the Alaska PNG Project will be advanced under NGA Section 3.

6.4 a. The Parties will support, including holding discussions (as permitted by FERC rules) with the FERC staff regarding the application and implementation of NGA Section 3 to the Alaska LNG Project.

REPRESENTATIVE HAWKER said the aforementioned Articles commit to using Section 3 of the National Gas Act, [15 U.S.C. §717b] (NGA Section 3) as the regulatory umbrella under which the project will be developed. Previous testimony from Mr. Marks indicated that framework may not be appropriate for this type of pipeline project due to the level of transparency required; in fact, regulation under the Regulatory Commission of Alaska (RCA) may be more appropriate.

MR. MCMAHON observed that Mr. Marks said NGA Section 3 applies to LNG projects; however, the question relates to how much of the project is applicable. He said the parties to the HOA - along with the state and its co-venture partners - intend to approach the Federal Energy Regulatory Commission (FERC) for direction on the application and implementation of NGA Section 3 to the project.

REPRESENTATIVE HAWKER asked whether there is a substantial risk that FERC would not agree to the application of NGA Section 3 as the regulatory umbrella.

MR. MCMAHON said no.

CO-CHAIR SADDLER asked when a decision will be made on whether TC will build the pipeline, and/or operate the pipeline to midstream.

[1:29:19 PM](#)

MR. PALMER stated that TC would be pleased to be the party that leads the construction and operation of the pipeline. At this time, there has been no decision or serious discussion on this matter because the next stage is pre-FEED, and the lead [party] at the moment is ExxonMobil. TransCanada will be the lead party for the pipeline in the pre-FEED stage, along with a team of personnel from the team, and the decision will be made by the entire group. In further response to Co-Chair Saddler, he said it is not timely yet.

CO-CHAIR SADDLER asked for any comments from the producers.

MR. FLOOD confirmed that those decisions have not been made yet.

[1:30:51 PM](#)

REPRESENTATIVE SEATON recalled that for oil projects the "hurdle rate ... is somewhere between 12 and 17 percent," and the range

for a gas pipeline was lower. Referring to the economics of the project, he asked what kind of range the individual producers have as a hurdle rate to determine the project.

MR. VAN TUYL advised that attaining a specific benchmark to approve the project is not discussed amongst the producers. In order for each of the parties to approve the project it will look at the latest cost estimates and data, run its individual economics, and seek corporate approval to fund the next phase. Generally, LNG projects are low-margin projects and are very capital intensive, thus maintaining low initial upfront costs is very important.

CO-CHAIR FEIGE surmised there are laws that restrict the parties from conferring on "these rates."

MR. VAN TUYL nodded in affirmation.

[1:33:30 PM](#)

REPRESENTATIVE SEATON remarked:

... I'm not asking for a specific number, I'm trying to get a range ... I recall that we were talking in those kind of ranges when we were talking oil projects, and if this project is competing with projects around the world that the companies participate in, I'm trying to figure out whether ... we're in the same range or typically the hurdle rate that is used is lower for a gas line that's going to be in competition with other projects in your company, that would ... be assessed at higher hurdle rates.

MR. VAN TUYL clarified that the metrics used by BP to evaluate an LNG project are fundamentally different from those used to evaluate an oil project because of the capital cost. In fact, one thing that distinguishes LNG projects from other projects is their ability to generate cash for a longer period of time due to long-term sales and purchase agreements, and long-term financing.

REPRESENTATIVE SEATON asked for responses from the other producers.

MR. MCMAHON informed the committee that ExxonMobil also looks at metrics such as the rate of return, present value profit, and actual value profit, but the best way to describe its approach

is related to risk management. An investment decision is based on the cost of supply and on managing cost overruns through the stage-gate process. Close watch on the regulatory permitting process is needed also. For an LNG project, individual contracts must be negotiated with credit-worthy customers. Although he said he cannot share a particular hurdle rate, he said ExxonMobil takes a holistic management approach that looks at the metrics and the risks associated with a project.

[1:37:05 PM](#)

MR. FLOOD also could not offer a specific number; however, he pointed out that when ConocoPhillips evaluates a project, the real question is whether it is ready to take the next step. In this case, subject to legislation and "the right" commercial agreements, ConocoPhillips has determined the project is ready for pre-FEED. He agreed that there will be assessment and risk management at each stage using many different measurements. Also, LNG projects offer a different risk profile than other oil and gas projects due to counterparties and long-term sales and purchase agreement. Regarding the testimony from Mr. Marks, [the hurdle rate] is a convenient tool to compare projects, but it is not the only consideration.

REPRESENTATIVE SEATON reminded the committee that Mr. Marks estimated hurdle rates of between 8 percent and 12 percent, and a project cost of between \$45 billion and \$65 billion. Mr. Marks's estimated breakeven point for a \$65 billion project at 12 percent was \$17 on gas, which is probably uneconomic for sales in Asia. Representative Seaton continued:

... I just want to make sure that we don't have a project here that you, producers, need to show is uneconomic so that another project such as an LNG plant on the North Slope and shipment by sea would be available in the future, and so that's why I'm trying to balance these economics and see - [Mr. Marks] also cautioned us we could be putting \$600 million into something that isn't going to get sanctioned ...

MR. VAN TUYL said:

BP believes that this project can compete in the Asian markets and that's why we are where we are, that's why we entered into the Heads of Agreement with the state, that's why we're continuing to put our share of the capital forward to advance the project. The simple

truth is: Today, we don't know for sure if it will compete and we will be able to execute those sales and purchase agreements with buyers ... but we think there's a significantly highly enough likelihood that we're ready to go into the pre-FEED phase if we get this, this legislation passed.

MR. VAN TYLE reviewed the stage-gate process.

[1:42:13 PM](#)

MR. MCMAHON agreed with Mr. Van Tuyl, and added that if [CSSB 138(FIN) AM] passes and remains consistent with the HOA, ExxonMobil is prepared to participate in pre-FEED, based on its belief that the project has the potential to be commercially viable.

MR. FLOOD agreed with the representatives of BP and ExxonMobil. He assured the committee that ConocoPhillips believes that this project can compete in the market on terms that are favorable to its shareholders; the decision to advance to pre-FEED has been made.

REPRESENTATIVE KAWASAKI directed attention to Exhibit C of the Memorandum of Understanding (MOU), [dated 12/12/13, Key Item 9, Termination Event Alaska LNG Midstream Services Term Sheet] which gives TC a five-year time period for a "look-back" with favorable terms. He expressed his discomfort with those provisions because, "it doesn't seem clear that there's a clear off-ramp."

MR. FLOOD noted that ConocoPhillips is supportive of the state's participation in the HOA but is not a party to the MOU. He deferred to the state and TC.

MR. VAN TUYL said BP is also not a party to the MOU. He agreed that the provision directs that five years after the state exercised the termination right, if the state continued to pursue a project substantially similar, the state would have to offer terms back to TC, qualified by the facts that caused the termination.

[1:46:16 PM](#)

MR. PALMER observed that [the Key Item 9] clause is there as part of the overall agreement with the state. The primary rationale for the clause is based on the reality that TC earns

its money by investing through the development and construction periods of a project, and then receives its return over the life of the project as the owner and operator of the pipeline. This is unlike a company that makes its return providing engineering or construction services. As a shipper, the state is provided with a number of "off-ramps" through the MOU, and if the state exercises its termination right, TC must transfer its assets and equity to the state in exchange for the return of its investment with an allowance for funds used during construction (AFUDC). Mr. Palmer pointed out that there is no profit margin for TC at that point; therefore, if the state is provided with the customary off-ramps, and if TC is required to convey its assets and the state proceeds with a project without TC, it is appropriate for TC to be fairly compensated.

REPRESENTATIVE KAWASAKI, addressing the producers, relayed Mr. Marks's assertion that if the producers are highly interested in an LNG project, they may proceed without the state. He asked how the proposed agreements impact the producers should they decide to "build your own line at some point in time."

MR. MCMAHON stressed that the state's participation in the project has tremendous benefits for the producers and the state. In fact, the state's decision to take its return by royalty-in-kind and tax in lieu of production tax allows the parties to avoid the historic disputes over the valuation of hydrocarbons for settling royalty tax and production tax, and disputes over cost deductions for pipelines and tankers. He opined that the proposed agreements are optimal and the terms between the state and TC are not an impediment to the project.

MR. VAN TUYL agreed with Mr. McMahon's comments and added that BP has decided to advance the project as outlined in the HOA. Although BP wants to advance the project jointly with the state, if irreconcilable differences arose between the state and TC that delayed the project for five years, he said he was unsure how the project would be impacted.

[1:53:20 PM](#)

MR. FLOOD said the key element for ConocoPhillips is the state's policy decision of participation [CSSB 138(FIN) am sections 1-12 for the Alaska Gasline Development Corporation]; process [CSSB 138(FIN) am sections 14-15]; and percentage [CSSB 138(FIN) am section 36], as outlined in the HOA. He concluded that the state's participation "at a percentage" is critical for ConocoPhillips.

REPRESENTATIVE KAWASAKI recalled that in 2002 the Department of Revenue (DOR) reported that "state ownership would not likely improve the feasibility of the project or be valued by private-sector sponsors. General consensus among industry representatives interviewed [was that] a public-private partnership relationship with the state either wouldn't help or would be a hindrance to the project" due to political and regulatory issues. He inquired as to what has changed since 2002.

MR. VAN TUYL opined facts have changed since 2002. Firstly, the Alaska LNG Project includes the manufacturing of LNG and the model to have direct state participation is a fairly common way to advance such a megaproject. Secondly, the state has now formed the Alaska Gasline Development Corporation (AGDC) to act as a commercial entity independent from the state as regulator or sovereign.

MR. MCMAHON added that a benefit seen by the producers in this project is that the producers are allowed to invest in the portion of the project associated with their gas. Traditionally, producers were required to invest in a larger percentage of the project in order to pay royalty and production taxes to the state in cash. The state will benefit from the proposed agreement because of its share in the cash flow from the project and its participation in the marketing of the gas.

REPRESENTATIVE KAWASAKI inquired as to the partnership between AGDC and the producers.

MR. FAUSKE expressed his support of the state's equity position in the project, which is an important change since 2002. In addition, the owners will be able to negotiate their shares of the gas flowing through the pipe at a higher rate of return. An ownership position puts the state in a stronger position for negotiation, and promotes long-term fiscal stability and a more congenial relationship with the producers. Internal issues, such as providing natural gas for Alaskans, have also changed.

[2:01:36 PM](#)

REPRESENTATIVE P. WILSON returned attention to the HOA, Article 8.3 State Gas Share, 8.3.3 which read in part [original punctuation provided]:

Consistent with advice from antitrust counsel, the Producer Parties are willing, in conjunction with a fiscal arrangement for an Alaska LNG Project under which the State has a State Gas Share, to agree that each Producer Party, if asked by the State,

REPRESENTATIVE P. WILSON asked for clarification from the producers on the aforementioned language.

MR. FLOOD said the agreement is that for purposes of antitrust, the good faith negotiations can be entered into upon the request of the state and not upon initiation by the producers.

MR. VAN TUYL agreed with Mr. Flood, adding that the provision envisions the state acting as a resource owner, but without an established marketing arrangement. In order to solve this problem, the state can choose to develop a marketing program, contract with another company for marketing, or negotiate with one or more of the producers to market its gas.

REPRESENTATIVE P. WILSON asked for an opinion from TC.

[2:05:08 PM](#)

MR. PALMER explained that TC would not be providing services to market the gas, but would provide services to transport the gas to the gas treatment plant (GTP) and through the pipeline.

REPRESENTATIVE HAWKER returned attention to the termination events described in the MOU, and asked whether he was correct in that the "five-year right to participate in any substantially similar project" does not apply before a firm transportation services agreement (FTSA) is negotiated. If that is so, at what point is the FTSA negotiated.

MR. PALMER confirmed that Representative Hawker was correct. The FTSA is targeted to be signed in 2015; if the proposed legislation is approved, the FTSA would be signed within 90 days after [CSSB 138(FIN) AM] became effective. The FTSA would come back before the legislature prior to its signature by the parties.

REPRESENTATIVE HAWKER surmised that if the state fails to execute the FTSA prior to 12/31/15, the state would be in default, and TC would have the right to terminate the venture agreement.

MR. PALMER confirmed that under that circumstance TC would have the right to terminate.

2:08:43 PM

CO-CHAIR SADDLER directed attention to the HOA, Appendix A, Pro-Expansion Principles, which read in part [original punctuation provided]:

A.1 Alaska LNG Project Expansion. The potential expansion of any component of the Alaska LNG Project (excluding the modification of an installed Alaska LNG Project liquefaction train, or installation of a new liquefaction train) would be addressed in the agreements to be developed during Pre-FEED, reflecting the following principles.

A.1.1. Following start-up of the Alaska LNG Project, any Alaska LNG Party may initiate the process for an expansion of any component of the Alaska LNG Project in which that Alaska LNG Party has an interest, unless that expansion would:

a. Materially and adversely affect or alter the Alaska LNG Project facilities or operations, including technical aspects, or scheduling or quality of deliveries from the Alaska LNG Project facilities;

b. Diminish service to the existing shippers or users of the Alaska LNG Project;

c. Cause the Alaska LNG Project to be in violation of any applicable environmental or safety laws or regulation; or

d. Cause a violation of the Alaska LNG Project right-of-way agreements or any other contractual obligations with respect to the Alaska LNG Project facilities.

CO-CHAIR SADDLER pointed out that expansion can only take place at the expansion parties' cost and if there is no harm to the non-expansion parties. Further, if there is a benefit to the non-expansion parties, they have no cost. He asked why there are no provisions in Appendix A to share the cost of expansion if the expansion is a benefit to all of the parties.

2:09:37 PM

MR. FLOOD explained that expansion is done for capacity and the parties that spend the money benefit from the increased capacity. On the other hand, there are economic consequences of an expansion. The original parties built a pipeline with a certain economy of scale. The expanding party improves the economy of scale [of the original pipeline] but "made [the expansion] happen because everybody else [built the original pipeline]." He characterized the above referenced provision as a very fair provision that recognizes the contribution of the original parties and says all of the parties will share, but not in the capacity. However, all of the parties have a right to join the expansion.

MR. VAN TUYL addressed the question of whether an expansion can benefit non-expanders: If the existing facilities are in operation and additional volume is added by an additional compression station, the cost is low because the other infrastructure is already there. Thus the incremental cost for the expansion is low, and with more volume going through the system, the average cost for all of the shippers is reduced. So the parties that did not directly participate in the expansion indirectly benefit. However, the non-expansion parties do not gain access to the expansion volume. To address the question as to why all of the parties should not have to pay for an expansion, he described a scenario in which one party invests a portion of the cost to move a certain volume of gas, and if additional costs are added, that party's business plan is unexpectedly at risk. The parties that want to expand should be responsible for the additional cost of expansion.

2:15:19 PM

CO-CHAIR SADDLER asked whether the producers would want a provision that when it is clear an expansion benefits non-expansion parties, the non-expansion parties would be required to pay a pro-rata share of the expansion costs.

MR. MCMAHON directed attention to Appendix A, A.1.2 which read [original punctuation provided]:

The Expansion Parties will pay all costs related to the expansion and will have access to and share the incremental capacity developed by the expansion, provided terms related to impacts on fuel use for an

expansion would be addressed during Pre-FEED by the Parties. Those Alaska LNG Parties that do not elect to participate in the proposed expansion ("Non-Expansion Parties"), will be kept whole and will not bear any costs related to the expansion, will not have access to or share in the incremental capacity developed by the expansion, and will not bear any risks or adverse impacts of the expansion or that may result from the expansion, including construction, operation, commercial viability of the capacity expansion or level or capacity utilization.

and Appendix A, A.1.3 which read [original punctuation provided]:

Both the Expansion Parties and the Non-Expansion Parties will share in the benefits of an expansion of an Alaska LNG Project component (other than access to or sharing of the expansion capacity). For example, if incremental capital costs of expansion on a unit of capacity basis are lower than the average pre-expansion capital costs per unit of capacity, the capital cost would be equalized, which could include some reallocation of past costs. In addition, both Expansion Parties and Non-Expansion Parties would share proportionately in any reduction in unit operating costs.

MR. MCMAHON said A.1.2 addresses spending additional money for capacity and A.1.3 addresses how to share smaller benefits with all parties.

CO-CHAIR SADDLER called attention to the incremental per unit cost savings from expansion, and asked whether it is appropriate to have those who benefit bear some of the cost.

MR. MCMAHON acknowledged that the benefits would flow to all parties and if parties do not participate, they have no cost.

MR. FLOOD clarified that all parties have paid the initial costs of development and construction. He advised that ConocoPhillips considers both the position of the parties in the original investment that are not participating in expansion, and also the position of the expanders. He concluded that the principles in Appendix A are fair provisions for both and there is no motivation to do otherwise.

MR. PALMER redirected attention to A.1.3. [text found above]. He pointed out the above provision includes "... some reallocation of past costs," which addresses the question raised by Co-Chair Saddler.

2:18:30 PM

REPRESENTATIVE HAWKER returned attention to Exhibit C of the MOU, [Key Item 9 Termination Event], heading Conveyance of Transporter Alaska LNG Project Interest to Shipper, second bullet point which read [original punctuation provided]:

Within a period of 5 years of SOA exercising its termination right, if SOA participates in a pipeline project to commercialize North Slope gas that is substantially similar to the Alaska LNG Project, SOA shall offer to Transporter an option to participate in the GTP and Pipelines of such project on terms and conditions consistent with those set forth in this Term Sheet, except the cost of debt and ROE to be negotiated based on conditions existing at the time. The SOA shall not be obligated to offer the foregoing option to the Transporter if:

- i. the Transporter is in material default of the PA or FTSA at the time of the termination, and
- ii. the material default was capable of being remedied, and
- iii. Transporter was offered a reasonable time period to remedy the material default and failed to do so.

REPRESENTATIVE HAWKER said he is trying to assess whether the language in the MOU matches the testimony given. He stated the MOU clearly directs that within a five-year period of [the state] exercising its termination right, it offers TC the five-year option to participate on those similar terms. He then directed attention to [Key Item 9, Termination Event], heading Shipper's Rights To Terminate (Shipper Termination Event), which read [original punctuation provided]:

Prior to FEED:

Any time provided a 90-day notice is given to Transporter,

From state of FEED through FID:

Within 60 days from the date one or more ANS Producers or Transporter withdraws from the Alaska LNG Project

At any time if Shipper (or the ANS Producers, if the SOA elects RIV) is unable to sign agreements to sell all of its royalty or tax gas on terms acceptable to Shipper.

At FID, for any reason.

REPRESENTATIVE HAWKER remarked:

... and we look at the Shipper's Right[s] To Terminate, which here it says, 'prior to FEED' and as we talked earlier, this transaction contemplates the FTSA being executed prior to FEED, and I guess that's my first question: Is that a correct understanding?

[2:20:47 PM](#)

MR. PALMER said yes. The project would be moving through pre-FEED and into FEED by that timeframe.

REPRESENTATIVE HAWKER surmised that if the state fails to negotiate and execute the FTSA by 12/31/15, the intention is for that to coincide with the end of pre-FEED; thus if the FTSA is not executed by the end of pre-FEED, TC has the right to terminate.

MR. PALMER explained that TC and the group contemplated that it would complete pre-FEED in the year 2015. He confirmed that prior to FEED, the state has the right to terminate with 90 days' notice. In the event the state does not execute the FTSA by the end of 2015, TC has the right - but not the obligation - to terminate.

REPRESENTATIVE HAWKER expressed his understanding of the previous testimony that should the legislature execute a right to terminate prior to executing a FTSA, the five-year obligation to TC would not exist.

MR. PALMER said correct.

[2:23:08 PM](#)

REPRESENTATIVE HAWKER opined the testimony makes this provision very clear but the MOU as written does not specify "a termination right after the execution of the FTSA."

MR. PALMER acknowledged discussions with the administration on this matter and expressed his intent to clarify the meaning

through his testimony; in fact, TC has executed the MOU in good faith and his testimony has confirmed "that would only apply once the FTSA is in place."

[2:24:31 PM](#)

REPRESENTATIVE TARR observed that the producers do not have some of the same financial responsibilities the state has related to risk assessment and its financial responsibilities in the case of a termination. She said the state would have difficulty anticipating the reasons why the producers would terminate.

[2:25:15 PM](#)

MR. FLOOD responded that he was unclear about not having financial responsibilities because the producers have financial responsibilities in regard to pre-FEED; consistent with their share of the project, the producers have the same financial responsibilities as the state. Regarding how the state could anticipate the producers' actions, he noted that ConocoPhillips is prepared to enter the pre-FEED phase and to make an assessment at the end of the pre-FEED phase as to whether to go forward with the project at FEED.

REPRESENTATIVE TARR clarified that she was referring to the penalties the state would incur at termination because of its relationship with TC, pointing out the state "would still be vulnerable to your choice of ending the project" She concluded that the producers are ready to proceed into pre-FEED, but are unable to commit to later stages without further assessment.

[2:27:23 PM](#)

MR. VAN TUYL said yes. The project will be evaluated one stage at a time should the proposed legislation pass; however, in 18 months all parties will reevaluate the project. He stressed the importance of maintaining a disciplined, stage-gate approach, and assured the committee that BP is highly motivated to addressing any impediment to commercializing its gas.

[2:28:46 PM](#)

REPRESENTATIVE SEATON stated one of the problems to address is the risk of failure to sanction. Although the state has been working toward the success of the project, the decision [to proceed] "is really going to be with any one of the three

producers ... [based on] whatever the economics are." He related that a suggestion was made to pursue an option with the producers that the state buy into the project once it's sanctioned, or at FEED, and then pay back the incremental cost, as the major capital is funded after the point of sanction and state participation at that point would be assured. He asked for comments from the producers.

[2:30:20 PM](#)

MR. MCMAHON, speaking for ExxonMobil, said it is important to be involved early in the project because there will be a lot of decisions during pre-FEED that will not be revisited at the final investment decision (FID). For example, at pre-FEED, the producers will be working to accommodate the in-state delivery of gas, and designing the pipeline for off-take points to deliver gas in-state as well as to the LNG plant. He assumed the state would seek to influence these decisions. Furthermore, the alignment of the proposed agreement provides for the early presence of the state along with the producers, TC, and AGDC. Mr. McMahon restated that the stage-gate process requires the parties to pause at the end of pre-FEED; this process will manage the capital exposure for all of the parties. He deferred to the administration for its comments.

[2:32:37 PM](#)

REPRESENTATIVE HAWKER returned attention to the HOA, ARTICLE 6: REGULATORY FRAMEWORK, ACCESS AND EXPANSION, Article 6.3, paragraph c. which read [original punctuation provided]:

c. Each Producer Party's individual capacity in the Alaska LNG Project components would be owned and operated on a proprietary basis.

REPRESENTATIVE HAWKER asked the producers for their interpretation of the aforementioned paragraph.

[2:33:39 PM](#)

MR. VAN TUYL explained this provision envisions that the project would be regulated by FERC under NGA Section 3. Regulation under NGA Section 3 provides advantage to the project because of its flexibility. He described the flexibility as allowing a "pipe within a pipe," in that one 42-inch pipeline is divided into four quarters operated independently by each of the four

entities. This provides the producers certainty of terms, and provides the state choices of access and tariff terms.

REPRESENTATIVE HAWKER then directed attention to the HOA, ARTICLE 6: REGULATORY FRAMEWORK, ACCESS AND EXPANSION, Article 6.3, paragraph b. which read [original punctuation provided]:

b. AGDC and TADI shares of capacity in the Alaska LNG Project components would be owned and operated, in whole or in part, on terms that would provide access for third-parties, for both in-state and export volumes. These access terms would be developed by the State, AGDC and TADI and would utilize contract carriage principles.

REPRESENTATIVE HAWKER advised paragraph b. refers to the state's and [TransCanada Alaska Development Inc.'s (TADI's)] share of capacity and their terms of access for third-parties for in-state and export volumes. He asked whether paragraph b. implies that the producers would operate their pipe within a pipe in a manner that would deny future access under any terms.

[2:36:38 PM](#)

MR. VAN TUYL, speaking for BP, answered that there is no implication in the language of Article 6.3, paragraph c., that BP would operate its portion of the capacity in a manner in which access would be specifically prohibited.

MR. MCMAHON said if ExxonMobil were to grant third-party access it would negotiate terms with the third-party to use its capacity.

MR. FLOOD agreed with the other producers' comments subject to the commercial terms regarding capacity. He also agreed there is no prohibition from entering into agreements with third-parties at this time.

REPRESENTATIVE HAWKER understood that the pipes within a pipe are proprietary and operated under a regulatory framework constructed in the HOA, therefore, the producers are not obligated to have a formal tariff developed under any ratemaking structure; in fact, the tariff would be part of each producer's cost portfolio.

[2:38:56 PM](#)

MR. MCMAHON said correct. Each producer is free to structure the costs of moving the gas from the North Slope to the LNG plant, the pipeline, and the GTP internally.

CO-CHAIR SADDLER said previous testimony has informed the committee that the ownership structures of LNG projects change during development and/or during operations. He asked whether the producers desire that the equity-ownership structure of the state's share of the project remains the same throughout the project.

MR. VAN TUYL responded that ownership of the infrastructure is an asset that each of the parties may retain or sell as it sees fit. Typically, there are certain transfer limitations or stipulations included in commercial agreements related to the financial or technical capabilities of an incoming entity. Otherwise, parties are free to divest at will.

[2:41:37 PM](#)

MR. PALMER acknowledged that in the Alaska LNG Project Equity Option Agreement of the MOU, there is a provision enabling the state - if desired - to purchase 40 percent of TC's share and in certain circumstances to vend to a party that is an "LNG player."

CO-CHAIR SADDLER pointed out there are also provisions that limit the state from selling its share - up to 40 percent - to a competitor of TC; however, there are no similar provisions limiting to whom TC can sell its assets.

[2:43:04 PM](#)

MR. PALMER said correct, there is not a limitation on TC in the Equity Option Agreement. He explained that TC's fundamental business is investing in pipeline opportunities across North America; in fact, TC historically has increased, not decreased, its percentage of ownership in pipeline assets over time. He agreed with Mr. Van Tuyl it is important that incoming partners do not diminish the value of the partnership, and stressed that TC would seek to increase its interest in the project, given the opportunity.

CO-CHAIR SADDLER asked whether the producers desire the right of first refusal should TC choose to divest.

MR. MCMAHON acknowledged that is not a term that came up during the HOA discussions. Furthermore, ExxonMobil desires to own its share of the project equal to its volume of gas, and would not see a need for the addition of [the right of first refusal].

[MR. FLOOD indicated no.]
[MR. VAN TUYL indicated no.]

2:45:18 PM

REPRESENTATIVE TARR asked for the ramifications, if any, of the amendment to allow municipalities, regional corporations, and residents to participate in ownership. She also requested an assessment of the changes in the role of AGDC.

MR. FAUSKE recalled the ability of residents, municipalities, and corporations to invest in state projects and generate capital, has been proposed before and is a good idea. As a matter of fact, when Alaska Housing Finance Corporation (AHFC) sells its bonds there is a 24-hour retail period opportunity during which Alaskans invest. He opined the language [of the portion of the bill related to AGDC] has been improved to clarify AGDC's function as a separate entity.

MR. MCMAHON said ExxonMobil does not take exception with the concept of residents, municipalities, and regional corporations investing in the project, as long as ExxonMobil is allowed to own its share of the project equal to its throughput.

[MR. FLOOD indicated agreement.]
[MR. VAN TUYL indicated agreement.]

2:49:00 PM

REPRESENTATIVE HAWKER directed attention to ARTICLE 7: GENERAL ENABLING LEGISLATION, Article 7.5 which read [original punctuation provided]:

The Administration will submit to the Alaska Legislature, and the Parties will support, to the extent permitted by law, legislation in a 2015 legislative session to ratify any Alaska LNG Project-enabling contracts developed by the Parties under the process authorized in the 2014 legislation and address any other matters the Parties mutually agree are necessary for advancement of the Alaska LNG Project.

REPRESENTATIVE HAWKER advised the aforementioned article refers to contracts that will be brought back to the legislature, and the legislative decision will be made between pre-FEED and FEED. He requested a description of what is entailed in "project-enabling contracts" and asked, "What should we be anticipating out of this provision?"

[2:50:07 PM](#)

MR. VAN TUYL began by reviewing the overall construct of the HOA envisioned a two-step process: The first step was SB 138, which established participation, percentage, and process. The second step was established in Article 7.5, and also alluded to in paragraph 7.2 c. which read:

c. Allow for inclusion of contract terms which could include and address: State participation; a State share of gas (royalty in kind and gas in lieu of production taxes); property taxes; upstream costs and lease expenditures; in-state gas deliveries; ownership interest; operating agreements; gas treatment, transportation, and liquefaction services agreements; State LNG or gas sales contract; contract duration and durability; periodic project reporting; Alaska hire; Alaska contracting; and other terms necessary to advance projects to commercialize Alaska's natural gas resources.

MR. VAN TUYL said the aforementioned paragraph contains additional details about issues beyond participation, percentage, and process. He was unsure whether all of the details would be included in one or multiple individual or collective contracts, although it is expected that multiple contracts would be necessary after the progression of discussions with the administration and the legislature.

MR. PALMER added that a specific item that would come forward would be an FTSA agreement for the state's consideration.

REPRESENTATIVE SEATON referred to the additional terms included in Article 7.2. He expressed his and others' concern that this provision grants carte blanche for oil tax fiscal certainty, and questioned whether an amendment to [CSSB 138(FIN) AM] that removes oil tax fiscal certainty as an additional term could be negotiated.

[2:53:02 PM](#)

MR. MCMAHON responded that all of the parties are challenged by how to put together agreements that will enable the project. He advised the best way to solve a problem is to consider every approach, and he encouraged the committee to let the proposed language stand and proceed to the development of the enabling contracts. The parties who executed the HOA have made a commitment to involve the legislature in finding solutions to problems through confidential briefings; keeping all options open facilitates finding an answer for the producers, AGDC, TC, the legislature, the administration, and Alaskans.

REPRESENTATIVE SEATON restated his concern about ending up with a 25-year contract setting oil tax fiscal certainty. In fact, if oil tax fiscal certainty is one of the items to be negotiated with the producers, "we better be upfront with it now." He cautioned that this issue is too important to be included with other terms to be negotiated.

MR. VAN TUYL agreed with Mr. McMahon and added that BP has directly participated in past efforts [to commercialize Alaska's natural gas] and learned from experience. However, BP accepts that [CSSB 138(FIN) AM] and subsequent legislation "ha[ve] to ... work for everybody, it can't be worked in a silo and come as a surprise to people." He reminded the committee that the processes in the HOA and [CSSB 138(FIN) AM] intend for legislative consultation, and warned that removing general language related to one hot-button issue may prevent finding a creative solution to a problem.

[2:57:33 PM](#)

MR. FLOOD stated that senior management at ConocoPhillips has made clear and consistent statements about the requirement of stability and predictability of fiscal terms related to large LNG projects. ConocoPhillips has not negotiated for the referred-to terms, and he was unable to predict the outcome of the proposed negotiations.

MR. VAN TUYL further noted that last year a major step was taken to provide an "oil fiscal environment that engenders additional investment" through [Senate Bill 21, passed in the 28th Alaska State Legislature], which has had a corresponding reaction by the industry evidenced by additional investment at several oil production sites. He concluded that the solution to this issue has been undertaken.

2:59:18 PM

MR. FLOOD concurred.

REPRESENTATIVE SEATON expressed concern that Senate Bill 21 was characterized as "first steps and ... a good way to start." He remarked:

Negotiating with the administration on that is not exactly my preference [for] solving the issue.

CO-CHAIR SADDLER recalled previous discussion about financing the project through tax-free bonds such as general obligation (GO) bonds or Alaska Railroad Corporation (ARRC) bonds; in fact, AGDC has some authority to issue GO bonds. He asked about any of the possibilities for the state underwriting its financing share using debt- and tax-free bonds.

3:00:32 PM

MR. FAUSKE confirmed that AGDC has the authority to issue debt, and he said he would examine ARRC's ability to issue tax-exempt bonds. Tax-exempt debt in the U.S. is controlled by the Internal Revenue Service (IRS) and before issuing millions of dollars in tax-exempt bonds to finance a project, approval from IRS is required by way of a private letter ruling. However, AGDC would be more inclined to issue revenue bonds, most of which are taxable, depending on circumstances, and he provided an example. General obligation bonding is a right of the state, thus AHFC has a GO rating and Mr. Fauske offered to pursue this possibility for AGDC. He pointed out the difference in bonds with a GO rating is that one is pledging the full faith and credit of the state, which requires a vote of the people and, because of their authority to tax, Alaska GO bonds are attractive to investors.

REPRESENTATIVE TARR directed attention to the HOA, ARTICLE [10: ADDITIONAL STATE SUPPORT FOR THE ALASKA LNG PROJECT, Article 10.1, paragraph e. which read [original punctuation provided]:

e. A healthy, long-term oil business; and

REPRESENTATIVE TARR asked the producers whether Senate Bill 21 fulfilled the requirement of support for a healthy, long-term oil business.

MR. VAN TUYL answered that Senate Bill 21 provides a good framework for additional investment, and BP looks forward to continued investment in oil development.

MR. MCMAHON concurred, adding that Senate Bill 21 has spurred renewed investment on the North Slope, which is evidence of a healthy oil business.

MR. FLOOD said yes, " ... that appears to be a healthy oil business."

REPRESENTATIVE TARR then directed attention to paragraph c. which read [original punctuation provided]:

c. Appropriations and permitting for the construction of necessary in-state infrastructure (e.g., roads, bridges), including drafting, introducing and supporting legislation;

REPRESENTATIVE TARR recalled that previous estimates for transportation infrastructure improvements, roads, and bridges for an earlier gas pipeline project were up to \$2 billion. She pointed out that there has not been an updated presentation describing these costs for the Alaska LNG Project, except that the HOA directs that all of these costs would be borne by the state.

[3:05:29 PM](#)

MR. MCMAHON said there has been no discussion on this subject, but during pre-FEED the producers will determine what is needed in infrastructure development, and will work with the state and federal government on implementation.

MR. VAN TUYL acknowledged the language does relate to "support for" which needs to come in a variety of forms in addition to funding, such as support during the permitting phase and from the Department of Transportation & Public Facilities (DOT&PF). He agreed this discussion would arise during pre-FEED.

REPRESENTATIVE TARR cautioned that a \$2 billion investment in infrastructure is 50 percent more than the state's estimated low-end total investment of \$4 billion, and that possibility should be part of the legislature's deliberations.

CO-CHAIR FEIGE observed "to some degree, a lot of that infrastructure improvement has already occurred ... we have one more bridge to go on the Richardson Highway, then we're ready."

REPRESENTATIVE JOHNSON reminded the committee of previous testimony from the commissioner of DOT&PF that the department has been working diligently in the last few years, thus "the numbers are considerably different." He said the commissioner's comments are on the record before the House Transportation Standing Committee in 2014, and opined that "we're almost pipeline ready in terms of transportation."

REPRESENTATIVE HAWKER stated that moving forward with the project under the HOA is predicated upon the passage of satisfactory enabling legislation, which would be [CSSB 138(FIN) AM]. In addition, under the conditions of the MOU, TC must agree that [CSSB 138(FIN) AM] is satisfactory enabling legislation. He asked whether the enabling legislation must be satisfactory to all of the parties unilaterally, or if the Alaska LNG Project could advance without an established partnership between the state and TC as directed by the MOU.

[3:09:43 PM](#)

MR. VAN TUYL restated that BP's objective is to find a solution to any problem that affects reaching a decision for the project. Although it is possible to proceed through a stage-gate without one of the original parties, the best way forward is as identified in the HOA: the producers, the state, and the state's choice of TC for its business partner in the midstream.

MR. MCMAHON concurred, adding that ExxonMobil is committed to work with the state, the other producers, TC, and AGDC to reach the pre-FEED stage following the directives of the HOA and [CSSB 138(FIN) AM].

[3:11:41 PM](#)

MR. FLOOD stressed that ConocoPhillips believes the key concept of the HOA is state participation, percentage, and process - while recognizing that the administration will make choices on its share of the project - and will work to keep the project moving.

[CSSB 138(FIN) am was held over.]

[3:12:50 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:13 p.m.