

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

April 4, 2014

1:12 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Craig Johnson

**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 AND 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
02/19/14	(S)	MINUTE(RES)
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  
02/21/14 (S) Heard & Held  
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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02/27/14 (S) FIN AT 9:00 AM SENATE FINANCE 532  
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02/28/14 (S) FIN AT 9:00 AM SENATE FINANCE 532  
02/28/14 (S) Heard & Held  
02/28/14 (S) MINUTE(FIN)  
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  
03/04/14 (S) Heard & Held  
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03/05/14 (S) FIN AT 9:00 AM SENATE FINANCE 532  
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  
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 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  
 03/28/14 (H) Heard & Held

03/28/14	(H)	MINUTE(RES)
03/31/14	(H)	RES AT 1:00 PM BARNES 124
03/31/14	(H)	Heard & Held
03/31/14	(H)	MINUTE(RES)
04/01/14	(H)	RES AT 4:30 PM BARNES 124
04/01/14	(H)	Heard & Held
04/01/14	(H)	MINUTE(RES)
04/02/14	(H)	RES AT 1:00 PM BARNES 124
04/02/14	(H)	Heard & Held
04/02/14	(H)	MINUTE(RES)
04/03/14	(H)	RES AT 4:30 PM BARNES 124
04/03/14	(H)	Heard & Held
04/03/14	(H)	MINUTE(RES)
04/04/14	(H)	RES AT 1:00 PM BARNES 124

#### **WITNESS REGISTER**

MICHAEL PAWLOWSKI, Deputy Commissioner  
Office of the Commissioner  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided the administration's position on proposed amendments to CSSB 138(FIN) am.

CHRISTOPHER POAG, Assistant Attorney General  
Labor and State Affairs Section  
Civil Division (Juneau)  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** In regard to CSSB 138(FIN) am, answered questions related to amendments.

JOE BALASH, Commissioner  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided the administration's position on proposed amendments to CSSB 138(FIN) am.

SUSAN POLLARD, Assistant Attorney General  
Oil, Gas & Mining Section  
Civil Division (Juneau)  
Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to amendments to CSSB 138(FIN) am.

**ACTION NARRATIVE**

[1:12:39 PM](#)

**CO-CHAIR ERIC FEIGE** called the House Resources Standing Committee meeting to order at 1:12 p.m. Representatives Hawker, P. Wilson, Tarr, Kawasaki, Olson, Seaton, Saddler, and Feige were present at the call to order.

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

[1:12:54 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 stated today would be the beginning of amendments to CSSB 138(FIN) am. He offered appreciation to Mr. Bullock and Ms. Nauman of Legislative Legal and Research Services for their work drafting the many amendments.

1:15:20 PM

CO-CHAIR FEIGE moved to adopt Amendment 1, labeled 28-GS2806\I.A.29, Nauman/Bullock, 4/2/14, which read:

Page 1, line 1:

Delete "**purposes, powers, and duties of the**"

Page 4, following line 11:

Insert a new bill section to read:

**\* Sec. 3.** AS 31.25.020(a) is amended to read:

(a) The corporation shall be governed by a board of directors consisting of

(1) five public members; and

(2) two individuals designated by the governor that are each the head of a principal department of the state, except that the commissioner of natural resources and the commissioner of revenue may not be designated to serve on the board [UNLESS THE PROJECT FOR WHICH A LICENSE IS ISSUED UNDER AS 43.90 HAS BEEN ABANDONED OR IS NO LONGER RECEIVING THE INDUCEMENTS IN AS 43.90.110(a) OR THE COMMISSIONER OF NATURAL RESOURCES AND THE COMMISSIONER OF REVENUE ARE NO LONGER SIGNATORIES ON A VALID CONTRACT UNDER AS 43.90]."

Re-number the following bill sections accordingly.

Page 14, line 3:

Delete "sec. 14"

Insert "sec. 15"

Page 17, line 24:

Delete "sec. 17"

Insert "sec. 18"

Page 21, line 16:

Delete "sec. 27"  
Insert "sec. 28"

Page 25, line 9:  
Delete "sec. 30"  
Insert "sec. 31"

Page 31, line 18:  
Delete "sec. 37"  
Insert "sec. 38"

Page 53, lines 24 - 25:  
Delete "sec. 23"  
Insert "sec. 24"

Page 54, line 25:  
Delete "sec. 14"  
Insert "sec. 15"

Page 56, line 6:  
Delete "Sections 1 - 14, 16, 17, 23 - 27, 29, 30,  
37, 39, and 55 - 61"  
Insert "Sections 1 - 15, 17, 18, 24 - 28, 30, 31,  
38, 40, and 56 - 62"

Page 56, line 8:  
Delete "Section 38"  
Insert "Section 39"

Page 56, line 9:  
Delete "secs. 62 and 63"  
Insert "secs. 63 and 64"

CO-CHAIR SADDLER objected [for purposes of discussion].

CO-CHAIR FEIGE explained Amendment 1 would delete the section in existing law, AS 31.25.020(a), which allows the commissioners of natural resources and revenue to come back on the board after those events have occurred. He requested the administration to comment on the proposed amendment.

[1:16:14 PM](#)

MICHAEL PAWLOWSKI, Deputy Commissioner, Office of the Commissioner, Department of Revenue (DOR), said Amendment 1 provides clarity that, regardless of whether the project license under the Alaska Gasline Inducement Act (AGIA) is abandoned, the

commissioners of revenue and natural resources are prohibited from serving on the board of the Alaska Gasline Development Corporation (AGDC). The administration conditionally supports Amendment 1 and that support looks forward to other actions that retain the caliber of professionalism that is had on the AGDC board today. The caliber of the AGDC board, which is appointed by the governor, is extremely important to the administration and the administration is interested in seeing those members continue to serve there.

[1:17:23 PM](#)

REPRESENTATIVE KAWASAKI inquired whether the commissioners of revenue and natural resources would be the best people for serving on the AGDC board, and he further inquired whether an appropriate designee would be an equal.

MR. PAWLOWSKI replied that when looking at this project and the interrelated roles of the departments, there are very good policy benefits to having a diversity of the cabinet represented on the board in conjunction with the private sector expertise that also sits on the board. If a diminishment is seen in the private sector expertise on the board, the administration might view it differently, but, today, the commissioners of labor and commerce are other important voices of the administration, given that this project will have broad impacts across the state's workforce, communities, and economy. Other sections in the legislation create consultation processes between the agencies as the resource owner; therefore, the administration thinks the interests of the Department of Revenue (DOR) and the Department of Natural Resources (DNR) are protected in standing up as custodians of the people's resource. The way the bill is currently constructed, the administration does not see that same concern, but if some of those were to change the administration would take a different view. The administration is comfortable with the way it is constructed now.

[1:19:19 PM](#)

REPRESENTATIVE P. WILSON observed Amendment 1 would add a new [bill] section. She asked where in the bill it is said how many members are on the board.

MR. PAWLOWSKI confirmed Amendment 1 creates a new section and explained that existing statute from HB 4 established the membership of the board, which is five public members and two

individuals that are the head of a principal department of the state, designated by the governor.

1:20:16 PM

REPRESENTATIVE SEATON noted it is often the commissioner or the designee of the commissioner. He inquired whether it would be valuable here to include the term that it could be a designee of the commissioner.

MR. PAWLOWSKI responded that the administration would prefer not to see a designee available on this board. He understood that when HB 4 was drafted, the intent was that there are certain boards within the state where the level of engagement is appropriate to reside in a commissioner; for example, the commissioner of revenue does not have the opportunity to appoint a designee to the board of the Alaska Permanent Fund Corporation. The Alaska Gasline Development Corporation is a critical piece of the state's effort in advancing gas development in Alaska. To that end, it makes sense to retain the commissioner and not enable a designee.

1:22:01 PM

CO-CHAIR FEIGE related that as an entity of the state, AGDC is subject to regulation by the departments of revenue and natural resources. He asked whether it is fair to say that by keeping those two commissioners off of the board, a very bright line is kept between the regulators and the regulated.

MR. PAWLOWSKI answered it is a policy concern that the departments deal with across multiple boards or multiple agencies. The degree to which it is relevant is up to the committee members. The administration sees the professionalism of the current AGDC board as the key, and the diversity of voice within the state administration being involved in this project is important. The departments of labor and commerce each bring an important perspective to the AGDC board, so the administration sees it as a bigger group working on gas development in Alaska rather than a narrower group.

1:23:25 PM

REPRESENTATIVE HAWKER, speaking as a prime sponsor of HB 4, which put the AGDC board into statute, assured committee members that Amendment 1 accomplishes the objectives involved in crafting HB 4. The objective is to preserve a very bright line

between the regulators and the regulated. Other provisions in CSSB 138(FIN) am involve cross-communications between AGDC and the departments of revenue and natural resources, and those provisions give the proper direction for a business relationship rather than a conflicted management relationship. He offered his strong support for Amendment 1.

[1:24:30 PM](#)

CO-CHAIR SADDLER removed his objection. There being no further objection, Amendment 1 was adopted.

[1:25:12 PM](#)

CO-CHAIR FEIGE moved to adopt Amendment 2, labeled 28-GS2806\I.A.17, Nauman/Bullock, 4/2/14, which read:

Page 55, following line 30:

Insert a new bill section to read:

"\* **Sec. 61.** The uncodified law of the State of Alaska is amended by adding a new section to read:

PRIVATE LETTER RULING. Before the final investment decision enabling a natural gas project under this Act, the Alaska Gasline Development Corporation (AS 31.25) shall obtain a private letter ruling from chief counsel of the federal Internal Revenue Service regarding taxability of the corporation and its activities related to a natural gas project developed under this Act in the state."

Renumber the following bill sections accordingly.

Page 56, line 6:

Delete "61"

Insert "62"

Page 56, line 9:

Delete "secs. 62 and 63"

Insert "secs. 63 and 64"

REPRESENTATIVE HAWKER objected.

CO-CHAIR FEIGE explained Amendment 2 would require that before final investment decision (FID) for a natural gas project developed under the act, AGDC must get a private letter ruling (PLR) from the Internal Revenue Service (IRS) regarding the taxability of the corporation. It is prudent to make absolutely

sure that when becoming part of a business entity the state knows exactly what the tax status of that entity is.

[1:26:19 PM](#)

REPRESENTATIVE OLSON understood that even a routine IRS private letter ruling takes 18-24 months for something of this size. He inquired as to the approximate timeframe for such a ruling on this project.

CO-CHAIR FEIGE said the requirement would be that a private letter ruling be obtained before the final investment decision, and, right now, the timeline for FID is four to five years.

[1:27:00 PM](#)

CO-CHAIR SADDLER asked about the cost of private letter rulings.

CO-CHAIR FEIGE replied he is unsure what the cost is, but one of the original ideas during the course of committee testimony was to have it due before Front-end Engineering and Design (FEED). It was stated by the tax folks in testimony that more and more information is acquired as the project goes through the process of Pre-Front-End Engineering and Design (Pre-FEED) and FEED. Typically, a considerable amount of information must be included in the application; the more accurate and well defined the information in the application, the greater the likelihood of success on the private letter ruling. Therefore, it makes sense to delay it as long as possible, which would be until FID.

[1:28:12 PM](#)

REPRESENTATIVE HAWKER strongly opposed Amendment 2, pointing out that all facts and circumstances must be known and detailed as best as possible when going forward with a private letter ruling request. A private letter ruling takes an extraordinary amount of time that involves a legion of lawyers, consultants, and accountants. This mandate is to obtain -- not ask for, but obtain. It is unknown when all the facts and circumstances necessary will be had for having the strongest position going forward to obtain that letter. As was stated by counsel the other evening, the IRS is not obligated to respond to requests for private letter rulings. Every year the IRS issues a revenue procedure, and the first one always talks about the types of private letter ruling requests that the IRS will be accepting. So, it is not even known if the IRS would accept a private letter ruling request on behalf of AGDC or this project. To put

this mandate in the bill at this time has a potential of compromising forward momentum on this project by introducing a degree of uncertainty. He offered his belief that the state's agencies and AGDC will seek such a letter ruling if and when it is appropriate and at the most appropriate time. This level of micromanagement has the ability to unintentionally compromise forward motion on the project, rather than providing clarity and certainty to the project.

[1:31:07 PM](#)

CO-CHAIR FEIGE requested the administration to comment.

MR. PAWLOWSKI replied Amendment 2 can be read in multiple ways and one concern identified by the administration is use of the words "taxability of the corporation and" on line 8. There are multiple nuances to private letter rulings, and there might actually be private letter rulings relating to different activities within a project. So, taxability of the corporation, and calling that out specifically, rather than the broadest possible directive, raises a concern. The administration has previously testified that this is going to be done and is a necessary piece of the puzzle to move this project forward.

[1:32:20 PM](#)

REPRESENTATIVE KAWASAKI recalled it being said in testimony that private letter rulings take a long time and are rarely rescinded once made, and asking for a ruling requires that all ducks be in a row. He inquired whether the state will have all its ducks in a row as anticipated under Amendment 2.

MR. PAWLOWSKI answered all of the appropriate information will have to be in place to make that final investment decision. The administration believes these issues will need to be clarified, if there are any issues. There may not be any issues depending upon the ultimate corporate structure, which is one of the administration's concerns because a ruling may not need to be sought because it may be clear that a ruling is unnecessary. The issue with taxability is that often private letter rulings are needed related to financing and the administration believes that all of these things will be in place to make a final investment decision.

REPRESENTATIVE KAWASAKI asked what the harm of Amendment 2 is if the ruling can be had at any time before the final investment decision is made.

MR. PAWLOWSKI responded he is not talking about harm but is trying to identify unintentional consequences as was described by Representative Hawker. The administration's concern is that the calling out of taxability sends a message potentially in the organization that may, today, be unproductive.

REPRESENTATIVE KAWASAKI posed a scenario in which a private letter ruling is requested for this project for AGDC to prove that it is an integral part of the state, but the project does not go forward. He asked whether that would then hamper AGDC if it were to do something different or would the private letter ruling be specific to the project and the scope of the project that is defined.

MR. PAWLOWSKI allowed the aforementioned is a good point. He said the impact of a private letter ruling sought on one issue that may have impacts on another project is something he is not equipped to describe today, but it is a potential issue.

[1:35:33 PM](#)

REPRESENTATIVE SEATON understood the problem with "shall obtain" is that there are timelines that might not occur. The committee has had a lot of discussion about financing and whether tax-exempt bonds can be done, he said, which is something the state needs to know, and Amendment 2 would put on sideboards or requirements of something that is very basic to the project. The ramifications of taxable/nontaxable status might well impact what the legislature has to consider in future contracts. He said he is less worried about finding out the taxable/nontaxable status than the portion where it says to obtain. He therefore offered Amendment 1 to Amendment 2: page 1, line 7, before "obtain", insert "attempt to". He said it is unknown for sure what the application is with the IRS, but this way there is an attempt to find out that status before key decisions have to be made. He clarified that under Amendment 1 to Amendment 2, lines 6 and 7 would read "the Alaska Gasline Development Corporation (AS 31.25) shall attempt to obtain a private letter ruling ...."

CO-CHAIR SADDLER objected for discussion purposes.

[1:38:08 PM](#)

CO-CHAIR SADDLER recalled the administration had previously indicated that the information that would be developed in a private letter ruling would be developed by the state anyway.

He inquired at what point in the process the administration would do this and further inquired whether there is some other way outside of a formal application to obtain the information that would be gotten through a private letter ruling.

MR. PAWLOWSKI deferred to Chris Poag of the Department of Law.

[1:38:59 PM](#)

CHRISTOPHER POAG, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Juneau), Department of Law (DOL), noted that while he is not tax counsel he has been around tax issues for the work he does for the Alaska Retirement Management Board and the Alaska Permanent Fund Corporation. He recommended consideration be given to Representative Hawker's concern that if a point in time is reached where the IRS is not equipped to, or offering, private letter rulings, the state may seek through tax counsel an alternative letter, a device that has been used by the state in other instances. This is a policy call, he said, and he is not attempting to curtail how the committee decides whether a private letter ruling should or should not be obtained; however, providing some flexibility that would allow AGDC to just get the assurances it needs to ensure that there is not a tax consequence is probably more appropriate at this point in time, given the lack of clarity on where and how the state is headed. He recommended that if the committee wants to make a clear point that it would like to direct AGDC to give strong consideration to seeking a private letter ruling, the word "shall" be deleted and the words "may if appropriate" be inserted. He added that "private letter ruling or advice from tax counsel" could also be said. Alternatively, he continued, the amendment could be withdrawn and a clear acknowledgement be made on the record that AGDC probably already understands that the tax consequences are an incredibly important issue to this investment. He clarified that these are his thoughts and they are not legally driven.

[1:40:50 PM](#)

CO-CHAIR SADDLER asked how the information developed through a private letter ruling or advice from tax counsel would affect AGDC's ability to participate and would taxability be a deal breaker for the state.

MR. POAG replied no, it would mean that if AGDC sought a private letter ruling and the IRS said AGDC is not an integral part of the state or not a political subdivision and does not qualify

for Section 115, then the income that was earned on that investment would be taxable and taxable at a corporate rate. In further response, he said the same thing would go with tax-exempt bonding - [AGDC] would still want to issue bonds, but it would pay a slightly different rate.

[1:41:58 PM](#)

REPRESENTATIVE KAWASAKI inquired whether the private letter ruling for AGDC is project specific. He further inquired whether it would be problematic for AGDC to move forward on a different project if a private letter ruling finds AGDC not to be an integral part of the state.

MR. POAG said he is unsure what is meant by problematic, but it would mean that [AGDC] would pay tax on the income it earned.

[1:42:39 PM](#)

REPRESENTATIVE HAWKER posed a scenario in which AGDC as an entity is challenged by the IRS as being a taxable entity. He said he believes this possibility remote, but asked whether the state would vigorously defend that position and believe it to be completely mistaken.

MR. POAG responded absolutely. State tax immunity has its core in the constitution and [DOL] feels strongly about that tax exemption that applies to the state and its public corporations. Income earned by the state, whether from a proprietary or government function, is immune from taxation. Congress, since the beginning, has not taxed state entities, so [DOL] would vigorously defend that.

[1:43:45 PM](#)

REPRESENTATIVE TARR commented that the suggested language change to "may" or "advice from tax counsel" is more permissive in terms of the information that the state might request. She said she is trying to feel comfortable with the idea that the state would not make a decision until such time that it had that information and knew whether its revenue potential would be compromised. She inquired whether, without any of that language, Mr. Poag would feel comfortable that that will happen before getting to final investment decision.

MR. POAG answered he does, saying those issues are already being focused on, as can be seen. The taxation of the entity is an

important part of any investment. As the facts start to get concrete and the state knows which direction it is headed, tax counsel will be engaged to look at the issues and to highlight if and when and how it is appropriate to seek a private letter ruling if that is the right way to go.

[1:44:50 PM](#)

CO-CHAIR SADDLER removed his objection. There being no further objection, Amendment 1 to Amendment 2 was adopted.

CO-CHAIR FEIGE set aside Amendment 2, as amended, saying it will be worked on further and will perhaps be brought back later.

[1:45:44 PM](#)

CO-CHAIR FEIGE moved to adopt Amendment 3, labeled 28-GS2806\I.A.11, Bullock, 4/1/14, which read:

Page 4, following line 11:

Insert a new bill section to read:

"\* **Sec. 3.** AS 31.25.020 is amended by adding a new subsection to read:

(e) A public member appointed by the governor under (b) of this section shall be a citizen of the United States. Notwithstanding AS 39.05.100, a person appointed under (b) of this section is not required to be or have been a registered voter in the state and is not required to reside in the state."

Renumber the following bill sections accordingly.

Page 14, line 3:

Delete "sec. 14"

Insert "sec. 15"

Page 17, line 24:

Delete "sec. 17"

Insert "sec. 18"

Page 21, line 16:

Delete "sec. 27"

Insert "sec. 28"

Page 25, line 9:

Delete "sec. 30"

Insert "sec. 31"

Page 31, line 18:  
Delete "sec. 37"  
Insert "sec. 38"

Page 53, lines 24 - 25:  
Delete "sec. 23"  
Insert "sec. 24"

Page 54, line 25:  
Delete "sec. 14"  
Insert "sec. 15"

Page 56, line 6:  
Delete "Sections 1 - 14, 16, 17, 23 - 27, 29, 30,  
37, 39, and 55 - 61"  
Insert "Sections 1 - 15, 17, 18, 24 - 28, 30, 31,  
38, 40, and 56 - 62"

Page 56, line 8:  
Delete "Section 38"  
Insert "Section 39"

Page 56, line 9:  
Delete "secs. 62 and 63"  
Insert "secs. 63 and 64"

REPRESENTATIVE TARR objected.

CO-CHAIR FEIGE addressed Amendment 3, stating much attention has been paid to who sits on the board of AGDC. He said the amendment clarifies that any U.S. citizen may sit on the AGDC board. This significant investment by the state requires the absolute very best minds and people that can be put on the board. Requiring that members of the AGDC board be Alaska residents exclusively limits the pool of expertise.

REPRESENTATIVE TARR said her objection to Amendment 3 at this time is because a separate piece of legislation was introduced today to address this matter, the issue is time sensitive, and not wanting to put pressure on the rest of the legislation given the confirmation hearings coming up next week.

[1:48:00 PM](#)

REPRESENTATIVE P. WILSON supported Amendment 3, noting it is very important for this project to have the best that can be

had. The people in Alaska are wonderful, but if they are not the best for this situation then the state must get the best that it possibly can.

CO-CHAIR SADDLER supported Amendment 3, pointing out the governor would still have the option to appoint an Alaskan. State law requires it be Alaska citizens for the most continual ordinary run of business, but construction of a \$40-\$60 billion natural gas pipeline project is not the normal run of business and it is important the state open itself to the broadest possible realm of potential candidates throughout the nation.

REPRESENTATIVE HAWKER supported Amendment 3, saying it is a very workable fix to what was an oversight in the passage of last year's HB 4, which he sponsored. The amendment would provide statutory clarification for the sponsors' intent in HB 4, which was stated in testimony in one committee.

[1:50:15 PM](#)

REPRESENTATIVE KAWASAKI opposed Amendment 3, stating he understands the need for getting the best expertise to move forward a project, especially one as large as this, and having good staff at AGDC means something. However, he said, it is known that this is because of one person and one issue, and it is insulting to think that the experience is not had in the state and that the state must shop around outside. If that same logic were used for members of the legislature, some members would not be here. This person could be hired as a consultant. When it comes to high level decisions on policy, Alaskans would do a better job of representing Alaskans' interest at the table. A degree in engineering is not needed to do that; the person needs to be qualified and have talents and there are people in the state who have those talents. This person will potentially be negotiating such things as eminent domain and state takings of public lands and an outsider should not be making those decisions. If a person is counsel or staff to AGDC on contract, that person's advice should be taken and heeded, but it is up to the policy board of AGDC to make those final decisions.

REPRESENTATIVE OLSON supported Amendment 3, recounting that he made the argument yesterday in another committee that the state has been using the best and brightest all the way through this process and some of those people, such as the consultants in the room today, are world class but not from Alaska. The gentleman being talked about is world class and will be reimbursed \$400 a day for his time, so this gentleman is truly offering to do

public service. To the best of his knowledge no one with experience comparable to this gentleman's has put forth his or her name, so in addition to supporting this amendment he will support this particular gentleman next week.

[1:53:33 PM](#)

REPRESENTATIVE SEATON said he supported Amendment 3, noting his comments are not related to any specific person and he agrees that a broad field is needed. The appointment by the governor for this particular expertise is broader than, say, the normal commissioner who is dealing specifically with Alaskan issues all the time. While a piece of legislation containing this provision was introduced in the House, he has been assured by the sponsor of that legislation and the person that makes the assignments that there is agreement to offer that same idea here in this legislation and the bill will not be pulled from another committee, as that is not done without concurrence of both the committee chair and the sponsor.

CO-CHAIR FEIGE stated there is no effort to pull the bill from another committee; it is an amendment that stands alone.

[1:55:19 PM](#)

REPRESENTATIVE P. WILSON said eminent domain is another reason she supports Amendment 3 as she would rather have an unbiased person helping make those decisions than an Alaskan because many times Alaskans are a bit biased depending on where they live. Someone from outside the state would have a refreshing and unclouded view.

REPRESENTATIVE TARR said she thinks the other piece of legislation will have to be dealt with because legislators would be prohibited from appointing this individual next Friday since the bill before the committee will not have become law by then.

CO-CHAIR SADDLER commented that this is a law of general applicability, a law for any individual, and he is uncomfortable with talking about an individual.

REPRESENTATIVE KAWASAKI continued his opposition to Amendment 3, remarking that if the best is wanted then why is the amendment restricting the public member to being a U.S. citizen. He pointed out that the legislature's consultants are not U.S. citizens.

CO-CHAIR FEIGE responded it would require a change to the state's constitution.

1:57:37 PM

REPRESENTATIVE TARR maintained her objection to Amendment 3.

A roll call vote was taken. Representatives Hawker, Olson, Seaton, P. Wilson, Saddler, and Feige voted in favor of Amendment 3. Representatives Tarr and Kawasaki voted against it. Therefore, Amendment 3 was adopted by a vote of 6-2.

1:58:54 PM

REPRESENTATIVE HAWKER moved to adopt Amendment 4, labeled 28-GS2806\I.A.48, Nauman/Bullock, 4/2/14, which read:

Page 9, line 2, following "fund":  
Insert "of the state"

CO-CHAIR SADDLER objected.

The committee took a brief at-ease.

2:00:19 PM

REPRESENTATIVE HAWKER explained Amendment 4 addresses a response he received to the question asked of tax counsel, Manley & Brautigam, [on 4/1/14] about how the state could posture itself in statute to give the greatest possible advantage if and when a private letter ruling is pursued. The section of statute where "of the state" would be added provides that the commissioner of revenue direct where the net revenue received from the corporation is to go. He allowed that saying "fund of the state" rather than just an open-ended fund is a tax geek nit, but said it is exactly as recommended by tax counsel.

CO-CHAIR FEIGE requested the administration's comments on the amendment.

MR. PAWLOWSKI supported Amendment 4, saying the administration thinks the amendment is an important one.

2:02:23 PM

CO-CHAIR SADDLER removed his objection. There being no further objection, Amendment 4 was adopted.

[2:03:20 PM](#)

CO-CHAIR FEIGE moved to adopt Amendment 5, labeled 28-GS2806\I.A.13, Nauman/Bullock, 4/2/14, which read:

Page 13, line 14, following "revenue":

Insert "and the Alaska Gasline Development Corporation (AS 31.25)"

Page 15, line 8, following "revenue":

Insert "and the Alaska Gasline Development Corporation (AS 31.25)"

CO-CHAIR SADDLER objected.

CO-CHAIR FEIGE explained that under Amendment 5, the language in the bill on page 13, line 14, would in part read, "in consultation with the commissioner of revenue and the Alaska Gasline Development Corporation (AS 31.25), participate". This would ensure there is plenty of consultation between DNR and DOR as well as between AGDC and the departments of the state, he said. It also seeks to clarify that the consultation will go in both directions in the production of the agreements that will come back at some point towards the end of Pre-FEED.

[2:05:23 PM](#)

REPRESENTATIVE SEATON inquired whether the intent of the language on lines 17-18, "a North Slope natural gas project", means any project and does not specifically relate to [the Alaska LNG Project].

CO-CHAIR FEIGE believed the way "North Slope natural gas project" is defined includes both the [Alaska LNG Project] and the Alaska Stand-Alone Pipeline (ASAP).

CO-CHAIR FEIGE, responding to Representative Kawasaki, confirmed that Section 14 deals with the powers and duties of the commissioner of revenue.

[2:06:38 PM](#)

REPRESENTATIVE HAWKER endorsed having cross communications between all of the agencies and that it is spelled out clearly in statute, but requested comment on Amendment 5 from the administration.

JOE BALASH, Commissioner, Department of Natural Resources (DNR), offered the administration's support for the spirit of the amendment, but said the administration has crafted a similar amendment that is more narrowly tailored to achieve the objective that is appropriate here. The burden of consultation on AGDC with the two departments is narrow and AGDC is not obligated to consult with [the administration] on all contracts or activities that AGDC engages in or enters into. Engaging in consultation with AGDC needs to be for the appropriate contracts, and basically that is for the infrastructure, the midstream services, liquefaction services, and potentially marketing if AGDC engages in marketing activities for the LNG. The administration prefers the amendment that it has provided to the committee because it is more prescriptive and more specific.

2:08:39 PM

CO-CHAIR FEIGE responded that [the administration's] language has not yet come back from the drafter.

MR. PAWLOWSKI said the administration believes the intent underlying the conversation about consultation is important.

The committee took a brief at-ease.

CO-CHAIR FEIGE set aside Amendment 5, reserving the right to bring it back or to offer the administration's amendment that deals with a similar problem.

The committee took another brief at-ease.

2:11:45 PM

CO-CHAIR FEIGE drew attention to the amendments labeled 28-GS2806\I.A.49, Nauman/Bullock, 4/2/14, and 28-GS2806\I.A.79, Nauman/Bullock, 4/4/14 [text provided at the end of this document]. He requested Mr. Pawlowski to relate the concern had by the commissioner of revenue.

MR. PAWLOWSKI turned to page 54 of CSSB 138(FIN) am, explaining that Section 60 requires the Department of Revenue to develop a plan for municipalities, regional corporations, and residents to participate in the ownership of a North Slope natural gas pipeline. Regarding 28-GS2806\I.A.49 (.49), he said DOR sees some good additions to the study that would be called for in this section; they could be characterized as buyer-beware

options. The amendment captures potentially significant issues to individual Alaskans, municipalities, and other investors in a natural gas project; for example, the income tax consequences to the holder of that investment. Amendment 28-GS2806\I.A.79 (.79) would require a study to be done on the financing options. For the efficiency of needing only a single contract, he said the department would encourage the committee to consider combining amendments .49 and .79 and put them under Section 60 such that it is one report delivered to the legislature, rather than a series. This way, DOR is not looking at multiple contracts with multiple engagements all around the concepts of financing, be it for the state, individuals, municipalities, or corporations. Regarding the reporting requirements proposed in amendment .79, he said the commissioner of revenue would request that an interim report come back to the legislature in January 2015 and a subsequent follow-up report when the contracts are submitted. This recognizes that more information will be developed over time and the full range and suite of options, as called for in the amendments, need to be delivered to the legislature so that members have information and DOR continues to do work. The department is trying to consolidate the efficient use of resources to do the study, but the increased [work] will add something to DOR's fiscal note, which is currently being analyzed.

[2:15:45 PM](#)

REPRESENTATIVE HAWKER, sponsor of amendment .49, said he is very amenable to DOR's proposal.

CO-CHAIR FEIGE, responding to Representative Seaton, confirmed amendments .49 and .79 will be sent back to Legislative Legal and Research Services to be combined into one new amendment.

REPRESENTATIVE TARR inquired whether 28-GS2806\I.A.32, by Co-Chair Saddler and about legislative briefings, is something the committee may also want to consider at this time.

CO-CHAIR FEIGE replied he will bring it up separately because amendments .49 and .79 are both about financial analysis by the Department of Revenue so it makes sense to combine them.

CO-CHAIR SADDLER, regarding amendments .49 and .79, said the idea is intriguing, but comes with challenges and questions. It is appropriate to ask and answer these questions before people get their expectations up and their checkbooks out. Given the

complexity, the idea of an interim report followed by a more detailed report is appropriate.

CO-CHAIR FEIGE inquired whether DOR has an idea on a timeframe for the interim and final reports.

MR. PAWLOWSKI drew attention to amendment .79, page 1, line 18, which provides the expectation that "the report described in (a) of this section" is "available to the legislature on the first day of the First Regular Session of the Twenty-Ninth Alaska State Legislature." He said that seems appropriate for an interim report that is starting to identify the range of options so that members can start to consider the suite of opportunities available to the state on a financing side. The report currently existing in Section 60, and in which DOR would ask to put both amendments .49 and .79, is for when the contracts are submitted to the legislature, which would be the latter part of 2015. That would be the more appropriate place for the final report, recognizing that a final report in this stage would be an identification of the range of financing options. During the FEED process, those will narrow as options get taken off the table in this Pre-FEED stage. So, it is methodical steps towards resolution as DOR does more detailed due diligence.

CO-CHAIR FEIGE set aside amendments .49 and .79.

[2:19:37 PM](#)

CO-CHAIR FEIGE, for discussion purposes, brought attention to the amendments labeled 28-GS2806\I.A.18, Nauman, 4/2/14 (.18) and 28-GS2806\I.A.54, Nauman/Bullock, 4/2/14 (.54) [text for both amendments provided at the end of this document]. In reviewing CSSB 138(FIN) am, he explained, it was determined that some of the proposed changes would have impacts on other parts of the state besides the North Slope. Under current statute, certain exemptions on Cook Inlet oil and gas expire at the end of 2021. Under CSSB 138(FIN) am, the new provisions would begin at the start of 2022. Thus, there is a question as to the exact issues and how best to resolve them. He asked Mr. Pawlowski to provide suggestions.

[2:21:09 PM](#)

MR. PAWLOWSKI noted amendment 28-GS2806\I.A.18 (.18), page 2, line 1, lays out two reports for the Oil and Gas Competitiveness Review Board, which was established last session by SB 21 and is located within the Department of Revenue. The board would be

charged with making written findings and recommendations in subparagraph (A) before the date of January 31, 2015 and in subparagraph (B) before the date of January 31, 2021. Subparagraph (B), sub-subparagraph (iii), describes "a review of the current effectiveness and future value of any provisions of the state's oil and gas tax laws that are expiring in the next five years." He said looking ahead to the expiration of some of the incentives and ceilings that currently exist in Cook Inlet is good guidance and DOR sees this as an opportunity to come back to the legislature with comprehensive review of the issues related to the Cook Inlet oil and gas tax regime. Amendment .54 identifies the important issues of competitiveness, tax regime, and incentive regime within Cook Inlet, which are broader than the Oil and Gas Competitiveness Review Board. For example, page 1, lines 16-18, talks about unique economic circumstances, clearly identifies the reduction in gross value at the point of production as a mechanism to achieve the replacement of the tax ceilings, and looks at the effect specifically in the area of Cook Inlet. Amendments .18 and .54 are seen by DOR as complementary, with some valuable language in .54, as well as the date. Being conscious of the reports and burdens that DOR is looking at, DOR likes the date in amendment .54 of January 15, 2017, whereas the date in amendment .18 of January 31, 2015, does not provide enough time to do a credible review and bring forth recommendations to the legislature, public, and interested parties. Mr. Pawlowski requested that the committee consider combining amendments .18 and .54 into one amendment, saying .54 gives the Oil and Gas Competitiveness Review Board appropriate direction with which to advance this issue.

[2:24:40 PM](#)

CO-CHAIR FEIGE understood Mr. Pawlowski to be saying January 2017 is the preferred date for the additional report requirement for the review board.

MR. PAWLOWSKI confirmed the aforementioned as correct, but added also with the unique language that is included in amendment .54 because there are unique circumstances in the Cook Inlet basin that need to be considered.

[2:25:12 PM](#)

REPRESENTATIVE HAWKER inquired whether the Oil and Gas Competitiveness Review Board has yet been constituted.

MR. PAWLOWSKI responded it has not yet been appointed.

REPRESENTATIVE HAWKER said he is a bit uncomfortable commending a very important study and very important issue when, if it is unaddressed, will result in a likely massive increase in taxes and utility rates and a very chilling effect on the successful enhancement that has been achieved in Cook Inlet development and production without having a better feeling as to who, what, how, and why that review board might be constituted. He queried whether Mr. Pawlowski can allay his anxiety in this regard.

MR. PAWLOWSKI replied the composition of the Oil and Gas Competitiveness Review Board, as developed last year, provides the opportunity for the right type of people to be appointed. While he has not been engaged with the governor's office around specific appointments to this board, other people have been. The important thing is the 2017 date of the report called for in amendment .54. The review board with the broad perspective is an appropriate place for this, he said, adding he understands the concern that the board has not yet been appointed. The expiring tax ceilings and maintenance of positive momentum in Cook Inlet are seen by DOR as a critical issue that must be dealt with in the longer term and done in a deliberative way.

[2:27:56 PM](#)

REPRESENTATIVE SEATON drew attention to the language in amendment .54, line 18, which states "could be achieved by authorizing a reduction in gross value at the point of production." Noting the state is currently using tax rates and royalty modifications, he asked what would be looked at by the report in regard to authorizing a reduction in the gross value at the point of production.

MR. PAWLOWSKI answered the gross value reduction (GVR) is a mechanism of taking a unified system and mathematically reducing that effective tax rate and the curve, while maintaining the shape of the curve. A useful tool in differentiating between specific tax treatments of resources, this was done in SB 21 around specifically new geologic oil and also an additional differentiation around units with a higher royalty rate. The same mechanism could be used in Cook Inlet, or any basin, with just a very simple gross value reduction built into the architecture of the existing system. It is seen by DOR as mathematically a good approach to look at and provide a recommendation.

[2:29:36 PM](#)

REPRESENTATIVE SEATON understood the report would have the other components and would look at it from other aspects as well. He inquired whether reduction of gross value at the point of production would be an additional component or the only thing that is analyzed.

MR. PAWLOWSKI deferred to the sponsor of amendment .54, but said his reading is that the study must also take into account, as written on page 1, lines 16-17, "the unique economic circumstance of each producing area south of 68 degrees North latitude" and focus on the gross value reduction as a tool to achieve the type of differentiation within the basins that is now done with tax ceilings.

[2:30:36 PM](#)

REPRESENTATIVE SEATON believed it is talking about these two in combination and said he wants to ensure that what DOR is anticipating is not supplanting amendment .18, which looks at tax rates and other things, with only a report based on the reduction of gross value at the point of production.

CO-CHAIR FEIGE responded amendment .18 only adds one particular paragraph at the end. It basically adds to the subjects of the report due at the end of January 2015.

REPRESENTATIVE SEATON understood that is a review of the tax structure and rates.

CO-CHAIR FEIGE replied correct.

REPRESENTATIVE SEATON reiterated he wants to ensure that when the amendments are combined those tax structures and rates are not totally being supplanted by only looking at reduction in the gross value at the point of production.

CO-CHAIR FEIGE answered he plans to set aside amendments .18 and .54 so the combination language can be worked on.

[2:31:57 PM](#)

CO-CHAIR FEIGE related that a number of utility contracts are expiring in 2018 and what is trying to be done is give certainty to those explorers and utility companies as to what their tax situation is going to be in the years beyond 2018. He asked

whether getting a report by January 15, 2017, is enough time to give them certainty.

MR. PAWLOWSKI responded the tax ceilings in the Cook Inlet basin expire in 2022; so, DOR believes January 15 2017, gives an appropriate amount of time to pass recommendations to the legislature. These would just be recommendations because it is the legislature's role to enact tax policy, and there would be suitable time for the legislature to act.

[2:33:15 PM](#)

REPRESENTATIVE KAWASAKI asked how DOR would take the definition for unique economic circumstance.

MR. PAWLOWSKI deferred to the sponsor of the amendment for clarification, but he said his initial interpretation is that there are unique economic circumstances in, for example, Middle Earth, which has a very different producing economic situation because there is no infrastructure at this point for some of the basins. While the tax ceilings in Middle Earth were extended beyond 2022, it would be important to consider any work in Cook Inlet as a potential model to fit into those. The direction in amendment .54 is for areas south of 68 degrees North latitude, which he read as inclusive, so when he thinks of unique economic circumstances he is thinking about different infrastructure support in producing basins.

REPRESENTATIVE KAWASAKI understood Mr. Pawlowski to be qualifying unique as unique in the state, not compared with other producing basins or similarly situated producing areas.

MR. PAWLOWSKI answered DOR engages with consultants to look at multiple different producing basins. Every basin is different, but there are similarities that DOR will draw from. He said he does not want to put it that DOR will not look at other analogous basins around the world, but DOR will look at what is unique about each place. Interesting about Middle Earth is the lack of infrastructure and very little investment in pipe. The area where the Chair is from may be very different than the area where another representative is from. He said he takes unique to mean DOR should pay special attention to what is very different and specific about the location being worked on and will look broadly at other analogous areas.

[2:35:57 PM](#)

REPRESENTATIVE KAWASAKI observed amendment .54 includes the language "the department shall deliver a report to the legislature that includes the results of the study and a proposal" [page 1, lines 19-20]. He inquired what "a proposal" means to Mr. Pawlowski.

MR. PAWLOWSKI responded it is solely the legislature's power to set tax rates. He said he reads this language as being a requirement for the Department of Revenue to commission a study and to then bring a proposal forward, either through legislation or recommendations in a report, using the tool of a gross value reduction. In that proposal would be a number, but without the study he cannot predict today what that number would be.

REPRESENTATIVE KAWASAKI queried whether "a proposal" potentially means legislation in the future.

MR. PAWLOWSKI believed it would be either legislation or a recommendation in a report that a member of any legislative body could pick up and choose to introduce on his or her own. No change to the tax rate, extension of the ceilings, or actual change can be done without legislation, so what is done with that study and report is up to future members, or future governor, or department head.

REPRESENTATIVE KAWASAKI said he shares [Representative Tarr's] concern about dealing specifically with using the gross value at the point of production as a means to potentially increase production of oil. He expressed his hope that it is part of the matrix and not limited to only that.

[2:38:03 PM](#)

CO-CHAIR FEIGE set aside amendments .18 and .54 so they can be combined into one amendment.

[2:38:57 PM](#)

CO-CHAIR SADDLER moved to adopt Amendment 6, labeled 28-GS2806\I.A.32, Nauman/Bullock, 4/2/14, which read:

Page 55, following line 30:

Insert a new bill section to read:

"\* **Sec. 61.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE BRIEFINGS. Before the first flow of gas in an Alaska liquefied natural gas project

developed under this Act, the parties to the project shall, at least once each calendar quarter, provide briefings to interested legislators, legislative staff, and legislative consultants on the progress of an Alaska liquefied natural gas project developed under the authority of this Act. A briefing under this section must be accompanied by a written report of the amount of money the state may be liable to pay a third party if an Alaska liquefied natural gas project is terminated before the first flow of gas in the project."

Renumber the following bill sections accordingly.

Page 56, line 6:

Delete "61"

Insert "62"

Page 56, line 9:

Delete "secs. 62 and 63"

Insert "secs. 63 and 64"

CO-CHAIR FEIGE objected.

[2:39:05 PM](#)

CO-CHAIR SADDLER explained the Heads of Agreement promises that during Pre-FEED the project parties shall provide regular Alaska LNG Project briefings and updates to the administration, the legislature, and the public. He said he hopes alignment with this is sufficiently strong to enshrine it in statute. It needs to be ensured that the public is informed, transparency is maintained, and that TransCanada's development costs are kept up with, given the state may at some point be liable to reimburse these costs. The Heads of Agreement only covers the Pre-FEED, and there are going to be certain times in this project timeline where, if the agreement is terminated, the state is going to be required to reimburse TransCanada [for its costs] plus the 7.1 percent allowance for funds used during construction (AFUDC). Amendment 6 would ensure that at least quarterly the legislature and the public are updated on how the tab is running for development costs and the amount of money the state could be on the hook for should the project falter or should TransCanada terminate its involvement. Amendment 6 does not require disclosure of any proprietary information or information that would interfere with or supplant the ability of legislatures to meet to be privy to certain information under a signed

confidentiality agreement or an executive session. Responding to Representative Seaton, Co-Chair Saddler confirmed the report to the legislature would not need to be given when the legislature is in session.

[2:40:54 PM](#)

CO-CHAIR FEIGE asked whether the language on line 6 of the amendment, "the parties to the project shall," implies that DNR or that all of the parties must give a briefing.

COMMISSIONER BALASH replied DNR reads "the parties" as being all of the parties, not a singular entity. Depending upon the particular phase the project is in, and whether it is talking about the project sponsors per se, DNR and DOR will not be necessarily signatories to the equity agreements directly. Those would be signed by the private parties as well as AGDC. So, this would be imposing on those private parties, but that is appropriate as they will be the project sponsors and able to inform the legislature and the public of the activities.

[2:42:05 PM](#)

CO-CHAIR FEIGE inquired whether the aforementioned is the sponsor's intention.

CO-CHAIR SADDLER answered that, to the extent DNR and DOR are going to be involved, he would like to have the reports from them. He requested Mr. Balash to restate his point.

COMMISSIONER BALASH responded "the parties" generally were all of the parties to the Heads of Agreement, including private parties as well as the agencies. As things move forward and the venture agreements are signed and executed, DNR and DOR will not likely be parties to those agreements. As the joint venture organization comes together, DNR or DOR staff will not be seconded to that organization, but employees of each of the other parties will be. If the intent is for the agencies to report, then he would recommend stating it in that manner.

CO-CHAIR SADDLER understood that at a certain point the interest of the state will be picked up by AGDC and AGDC will become a party for that purpose. It would be his intention, after DNR and DOR step back, to have the responsibilities seconded to AGDC so AGDC would become one of the parties that must report.

COMMISSIONER BALASH said that is correct.

[2:43:43 PM](#)

REPRESENTATIVE HAWKER asked whether Amendment 6 would restrict the ability of any legislative committee from at-will convening a committee and requesting the same sort of briefings as is attempted to be codified in the amendment.

CO-CHAIR SADDLER replied no, that is not his reading or intent. He further said it is envisioned that there might be other confidential briefings to legislative committees.

REPRESENTATIVE SEATON inquired whether TransCanada would be considered one of the parties on behalf of the state or as an entity making expenditures. He said he wants to ensure the report will be inclusive of the information that is desired.

MR. PAWLOWSKI allowed that is a good point and said direction of who does the written report is important. He said he looks at the amendment as having two separate concepts -- the project providing updates and a written report being provided about the amount of money the state may be obligated to pay. He recommended that DNR be the one developing the report for the legislature, given it would be the lead in this negotiation of contracts. Given that the agreement between DNR and TransCanada would be that of shipper/transporter developed under AS 38.05.020(b)(10) and (11), it may be appropriate to get specific about exactly the relationship and the expenses that are obligated under those contracts. He offered to work with the amendment sponsor to come up with additional language.

[2:46:39 PM](#)

CO-CHAIR FEIGE asked whether the sponsor is asking for the quarterly reports to be delivered from the unified project with all parties as signatories or individual reports from each party.

CO-CHAIR SADDLER answered his intent is for a collective report.

REPRESENTATIVE TARR inquired whether amendments to Amendment 6 will be made now.

CO-CHAIR SADDLER responded he will take the amendment back and work on the changes.

REPRESENTATIVE HAWKER drew attention to the language on [line 7] of "interested" legislators, legislative staff, and legislative consultants. He asked whether the intent is for public briefings or for executive session confidential briefings.

CO-CHAIR SADDLER replied the briefings would be public.

REPRESENTATIVE HAWKER commented the amendment seems redundant to the power that legislative committees already have.

[2:48:49 PM](#)

CO-CHAIR FEIGE set aside Amendment 6.

[2:49:54 PM](#)

CO-CHAIR SADDLER moved to adopt Amendment 7, labeled 28-GS2806\I.A.46, Bullock, 4/2/14, which read:

Page 53, following line 14:

Insert a new bill section to read:

**\* Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to read:

AGREEMENTS AND CONTRACTS RELATING TO THE TRANSPORTATION OF NATURAL GAS. (a) An agreement or contract entered into by the state or an agency of the state for the transportation of natural gas may not allow the transporter to have an option to participate in an in-state natural gas pipeline project as described in AS 31.25.005(4).

(b) In this section,

(1) "Alaska liquefied natural gas project" has the meaning given in AS 31.25.390(7), enacted by sec. 12 of this Act;

(2) "transporter" means a person providing gas treatment plant processing and natural gas transportation services in natural gas pipelines and gas transmission lines that are components of an Alaska liquefied natural gas project."

Renumber the following bill sections accordingly.

Page 56, line 6:

Delete "61"

Insert "62"

Page 56, line 9:

Delete "secs. 62 and 63"  
Insert "secs. 63 and 64"

CO-CHAIR FEIGE objected.

2:50:04 PM

CO-CHAIR SADDLER, to address Amendment 7, explained that Section 9 of the MOU provides TransCanada with what he calls the "back in provision" or what has been termed the right of first refusal. Under this provision, if the state's agreement with TransCanada is terminated and the state pursues a substantially similar project within five years, TransCanada must be offered the opportunity to come back into the deal. The MOU states that this "back in provision" would only apply to something that is substantially similar to the full-bore Alaska LNG Project, he said, but there is not a clear definition of "substantially similar." The committee has heard that there is no bright line definition that delineates what is a small diameter ASAP line and what is a substantially similar Alaska LNG Project, particularly if the constraints of AGIA are lost as is proposed in the bill. While optimistic that a large diameter line will be built, and that the Heads of Agreement and Memorandum of Understanding provide a good shot at getting there, he said it must be ensured that the clear backup plan will not get hung up or confused. However, should the Alaska LNG Project falter, there needs to be a way to go forward with a smaller diameter plan, a backup option, that includes a clean break between what TransCanada would or would not be allowed to back into.

2:51:30 PM

REPRESENTATIVE KAWASAKI requested clarification of "codified" and "uncodified" law and the full impacts of the bill.

MR. PAWLOWSKI deferred to the Department of Law for an answer.

SUSAN POLLARD, Assistant Attorney General, Oil, Gas & Mining Section, Civil Division (Juneau), Department of Law (DOL), spoke to the difference between uncodified law and something that is in statute, noting that quite a few amendments here are being placed in uncodified law. She explained that when something is of short-term duration, such as one contract that will happen and that will not be a law of general applicability, the drafter will put it in uncodified law because it is not going to need to be adhered to five years from now when the situation has changed. Sometimes there is the belief that uncodified law does

not have to be complied with, but that is not necessarily accurate. It will still be in the statute books and it must be paid attention to. When it is there, but there for a limited duration, it is not like it can just be ignored.

[2:53:50 PM](#)

REPRESENTATIVE P. WILSON requested a restatement of Amendment 7.

CO-CHAIR SADDLER explained Amendment 7 would prohibit TransCanada from exercising its right of first refusal, or "back in provision" as he terms it, to a project described as ASAP, the smaller in-state line, should the large diameter line be terminated.

CO-CHAIR FEIGE surmised the sponsor's reasoning is that ASAP is not a substantially similar project to the Alaska LNG Project.

CO-CHAIR SADDLER responded the reason for Amendment 7 is that it is not clearly delineated whether ASAP is substantially similar and it is not clear when it might change from one or the other. Amendment 7 would establish a bright line that TransCanada would not have the right to join the ASAP line as described under AS 31.25.005(4); it would keep the state's backup plan clean.

The committee took a brief at-ease.

[2:55:59 PM](#)

CO-CHAIR FEIGE clarified that AS 31.25.005(4) is new and is included in CSSB 138(FIN) am, page 3, line 4.

REPRESENTATIVE HAWKER understood Amendment 7 would deny, in any one of the contracts that would be executed under passage of the bill, the five-year period in which TransCanada can come back in and participate in another project in the state of Alaska that is substantially similar. In the amendment, page 1, lines 7-8, state that the transporter, TransCanada in this case, would not be allowed to have an option to participate in an in-state natural gas pipeline project as described in AS 31.25.005(4). Directing attention to the bill, page 3, lines 4-11, he pointed out that the language is carryover language from HB 4, last year's original AGDC legislation, which talks about moving forward a natural gas pipeline in accordance with the project plan under House Bill 369 while AGDC was a subsidiary corporation of Alaska Housing Finance Corporation (AHFC). The words "with modifications" allowed AGDC to move forward but

modify that original project plan as determined by AGDC to be appropriate. Some of those modifications came into fruition under the 7/1/11 project plan as AGDC moved into its own Pre-FEED process; a project is modified as it evolves into what it is going to become. Bringing attention to subsection (b) of Amendment 7, Representative Hawker noted it defines an Alaska liquefied natural gas project and asked where the language is that is relevant to this section. The prohibition is against an in-state natural gas pipeline project defined in AS 31.25.005(4), but the words "Alaska liquefied natural gas project" are not seen in that paragraph or in the paragraph describing the prohibition.

CO-CHAIR SADDLER responded it is an artifact of bill drafting requiring a definition of transporter. It is easier understood if (b)(2) of the amendment is taken first. It is necessary to define transporter as done in the amendment, page 1, line 7, and then go to (b)(1). The transporter is defined as a party in the Alaska liquefied natural gas project and the project in (b)(1) is defined as AS 31.25.390(7).

[3:01:51 PM](#)

COMMISSIONER BALASH said he would appreciate further explanation of intent from the sponsor in regard to line 8 of the amendment, which describes the ASAP project as originally planned in 2011 but then modified. He asked whether modified is up to the present date or as it continues to be modified over time. He said he is concerned that the AGDC board in the future might further modify the ASAP plan to be substantially similar; therefore, he is trying to get his arms around this particular reference and what is being said. Is the legislature saying that [the state's] agreements cannot include options on them? [The administration] has had conversations with TransCanada and AGDC, and AGDC and TransCanada have had conversations, that TransCanada is not particularly interested in participating in ASAP. TransCanada is not part of the builder, owner, operator process that has been going on. If a stake could be driven in the ground on this reference in AS 31.25.005(4) to ASAP today, it is an easy no-harm no-foul approach.

CO-CHAIR SADDLER replied there seems to be a lingering trail in the bill on page 3, line 6, and the word "modifications" such that what he is trying to address here could continue to transmogrify over time. Therefore, at this time, he does not know how to re-craft the amendment to cut off that line of development.

[3:04:19 PM](#)

The committee took a brief at-ease.

CO-CHAIR FEIGE said discussion of Amendment 7 will be continued on April 5, 2014.

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

[3:05:24 PM](#)

#### **ADJOURNMENT**

The House Resources Standing Committee was recessed at 3:05 p.m. to be continued at 10:00 a.m. on 4/5/14.

Following is the text for amendments labeled 28-GS2806\I.A.49, 28-GS2806\I.A.79, 28-GS2806\I.A.18, and 28-GS2806\I.A.54:

**Amendment [by Representative Hawker], labeled 28-GS2806\I.A.49,  
Nauman/Bullock, 4/2/14**

Page 54, line 28:

Delete "of"

Insert "and analysis by"

Page 55, line 21:

Delete "and"

Page 55, line 23, following "interest":

Insert ";

(8) whether the ownership interest held by a municipality, regional corporation, or resident would be subject to project assessments;

(9) how cash calls for the project and the expansion of the project would be managed;

(10) the income tax consequences to the holder of an ownership interest, including the timing and recognition of income related to the ownership interest, including differentiating income related to the ownership interest from the receipt of dividends or other distributions;

(11) the risk that the receipt of a benefit from the project by a person other than the state

would make income received from the project by the state subject to federal income tax; and

(12) constitutional issues that may be implicated by restricting ownership interests under the plan to residents and municipalities in the state"

Page 55, following line 24:

Insert a new paragraph to read:

"(1) "municipality" means a municipality in the state;"

Renumber the following paragraphs accordingly.

**Amendment by Representative Feige, labeled 28-GS2806\I.A.79, Nauman/Bullock, 4/4/14**

Page 2, line 5, following "credit;":

Insert "requiring the commissioner of revenue to provide a report to the legislature on financing options for state ownership and participation in a North Slope natural gas project;"

Page 53, following line 14:

Insert a new bill section to read:

"\* **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to read:

IDENTIFICATION OF AND REPORT ON FINANCING OPTIONS FOR STATE OWNERSHIP AND PARTICIPATION IN A NORTH SLOPE NATURAL GAS PROJECT. (a) The commissioner of revenue shall identify and report to the legislature on a range of financing options for state acquisition of an ownership interest and participation in a North Slope natural gas project. The report must include a description of the risk associated with each option and the effect of each option on the bonding capacity and bond rating of the state. In this subsection, "North Slope natural gas project" has the meaning given in AS 38.05.965, as amended by sec. 23 of this Act.

(b) The commissioner shall make the report described in (a) of this section available to the legislature on the first day of the First Regular Session of the Twenty-Ninth Alaska State Legislature."

Renumber the following bill sections accordingly.

Page 56, line 6:  
Delete "61"  
Insert "62"

Page 56, line 9:  
Delete "secs. 62 and 63"  
Insert "secs. 63 and 64"

**Amendment by Representative Feige, labeled 28-GS2806\I.A.18,  
Nauman, 4/2/14**

Page 2, line 14, following "**projects;**":  
Insert "**relating to the duties of the Oil and Gas  
Competitiveness Review Board;**"

Page 53, following line 13:  
Insert a new bill section to read:

"\* **Sec. 57.** AS 43.98.050 is amended to read:

**Sec. 43.98.050. Duties.** The duties of the board  
include the following:

(1) establish and maintain a salient  
collection of information related to oil and gas  
exploration, development, and production in the state  
and related to tax structures, rates, and credits in  
other regions with oil and gas resources;

(2) review historical, current, and  
potential levels of investment in the state's oil and  
gas sector;

(3) identify factors that affect investment  
in oil and gas exploration, development, and  
production in the state, including tax structure,  
rates, and credits; royalty requirements;  
infrastructure; workforce availability; and regulatory  
requirements;

(4) review the competitive position of the  
state to attract and maintain investment in the oil  
and gas sector in the state as compared to the  
competitive position of other regions with oil and gas  
resources;

(5) in order to facilitate the work of the  
board, establish procedures to accept and keep  
confidential information that is beneficial to the  
work of the board, including the creation of a secure  
data room and confidentiality agreements to be signed  
by individuals having access to confidential  
information;

(6) make written findings and recommendations to the Alaska State Legislature before

(A) January 31, 2015, or as soon thereafter as practicable, regarding

(i) changes to the state's regulatory environment and permitting structure that would be conducive to encouraging increased investment while protecting the interests of the people of the state and the environment;

(ii) the status of the oil and gas industry labor pool in the state and the effectiveness of workforce development efforts by the state;

(iii) the status of the oil-and-gas-related infrastructure of the state, including a description of infrastructure deficiencies; [AND]

(iv) the competitiveness of the state's fiscal oil and gas tax regime when compared to other regions of the world; and

(v) a review of the state's tax structure and rates on oil and gas produced from deposits south of 68 degrees North latitude;

(B) January 31, 2021, or as soon thereafter as practicable, regarding

(i) changes to the state's fiscal regime that would be conducive to increased and ongoing long-term investment in and development of the state's oil and gas resources;

(ii) alternative means for increasing the state's ability to attract and maintain investment in and development of the state's oil and gas resources; and

(iii) a review of the current effectiveness and future value of any provisions of the state's oil and gas tax laws that are expiring in the next five years."

Page 56, line 6:

Delete "61"

Insert "62"

Page 56, line 9:

Delete "secs. 62 and 63"

Insert "secs. 63 and 64"

**Amendment by Representative Hawker, labeled 28-GS2806\I.A.54,  
Nauman/Bullock, 4/2/14**

Page 2, line 14, following "project;":

Insert "requiring the Department of Revenue to deliver a report and recommendations relating to a reduction in gross value at the point of production or creation of other incentives for production of oil and gas in the state south of the North Slope;"

Page 55, following line 30:

Insert a new bill section to read:

"\* **Sec. 61.** The uncodified law of the State of Alaska is amended by adding a new section to read:

STUDY AND REPORT ON OIL AND GAS PRODUCTION INCENTIVES. The Department of Revenue shall study the effect of providing a reduction in the gross value at the point of production for oil and gas produced in the state south of 68 degrees North latitude that is similar to the reduction in gross value at the point of production in AS 43.55.160(f) and (g), as amended by secs. 48 and 49 of this Act, for certain areas north of 68 degrees North latitude. The study must take into account the unique economic circumstance of each producing area south of 68 degrees North latitude, and estimate the additional production that could be achieved by authorizing a reduction in gross value at the point of production. Before January 15, 2017, the department shall deliver a report to the legislature that includes the results of the study and a proposal to create an incentive for oil and gas production south of 68 degrees North latitude in the form of a reduction in the gross value at the point of production or by other means."

Renumber the following bill sections accordingly.

Page 56, line 6:

Delete "61"

Insert "62"

Page 56, line 9:

Delete "secs. 62 and 63"

Insert "secs. 63 and 64"