

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 SENATE BILL NO. 350

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Department of Nonrenewable Re-
7 sources; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 44 is amended by adding a new chapter to read:

10 CHAPTER 40. DEPARTMENT OF NONRENEWABLE RESOURCES.

11 Sec. 44.40.010. STATEMENT OF PURPOSE AND POLICY. The legislature
12 finds that nonrenewable resources play a vital role in the economic
13 well-being of the citizens of the state. Without these resources sus-
14 tained economic growth would not be possible. Accordingly, the legis-
15 lature finds it necessary to create a new department in the executive
16 branch which will be responsible for the development of Alaska's non-
17 renewable resources.

18 Sec. 44.40.020. COMMISSIONER OF NONRENEWABLE RESOURCES. The prin-
19 cipal executive officer of the Department of Nonrenewable Resources is
20 the commissioner of nonrenewable resources.

21 Sec. 44.40.030. POWERS AND DUTIES OF THE DEPARTMENT. The depart-
22 ment shall

- 23 (1) coordinate and develop programs designed to encourage the
- 24 beneficial use of nonrenewable resources;
- 25 (2) coordinate and develop programs relating to the develop-
- 26 ment and conservation of nonrenewable resources;
- 27 (3) prescribe application procedures and practices for the
- 28 sale, lease or other disposition of nonrenewable resources;
- 29 (4) issue leases or other conveyances disposing of nonre-

1 newable resources or any interest in them;

2 (5) have jurisdiction over state land, but only to the extent
3 necessary to effect the development and disposal of nonrenewable re-
4 sources;

5 (6) adopt regulations under the Administrative Procedure Act
6 (AS 44.62) necessary to implement the provisions of this chapter.

7 Sec. 44.40.040. ANNUAL REPORT. The commissioner shall submit to
8 the governor and the legislature an annual report before February 1 of
9 each year. The report shall include the recommendations of the commis-
10 sioner for legislation necessary to develop and conserve the nonre-
11 newable resources of the state.

12 Sec. 44.40.050. DEPARTMENTAL ORGANIZATION. The commissioner may,
13 with the approval of the governor, organize the department into those
14 divisions that can most efficiently perform the functions of the depart-
15 ment.

16 Sec. 44.40.060. DEFINITIONS. In this chapter, "nonrenewable re-
17 sources" means resources which are not capable of producing a sustained
18 yield for an indefinite period of time, including, but not limited to
19 coal, sulphur, potassium, sodium, oil and gas, and other mineral re-
20 sources having an economic value.

21 * Sec. 2. AS 27.07.010 is amended to read:

22 Sec. 27.07.010. ADMINISTRATION. The Department of Nonrenewable
23 Resources [NATURAL RESOURCES] shall administer this chapter.

24 * Sec. 3. AS 27.07.060(a) is amended to read:

25 (a) The Department of Nonrenewable Resources [NATURAL RESOURCES]
26 shall reimburse expenditures made by qualified prospectors for

27 (1) purchase of

28 (A) tents, camp stoves, and other camp gear, but not
29 clothing, bedding, light plants and lanterns, hunting and

1 fishing equipment, cooking utensils, boats, motors, or vehicles;

2 (B) small tools, drill steel, camp hardware, first aid
3 kits;

4 (C) food, soap, and similar consumable items;

5 (D) gasoline and oil, blasting supplies, chemicals for
6 mineral testing;

7 (E) transportation from the prospector's place of resi-
8 dence to the prospecting area and return and transportation within
9 the prospecting area;

10 (F) recording fees, postage on samples, assays, maps;

11 (2) rental of geochemical or geophysical equipment, if the
12 prospector is trained in its use, light weight percussion or diamond
13 drills, churn drills, tracked or wheeled transport equipment, boats, and
14 horses.

15 * Sec. 4. AS 27.07.190(1) is amended to read:

16 (1) "department" means the Department of Nonrenewable Re-
17 sources [NATURAL RESOURCES];

18 * Sec. 5. AS 27.20.010(a) is amended to read:

19 (a) The commissioner of nonrenewable resources [NATURAL RESOURCES]
20 may adopt the [RULES,] regulations [,] and orders which he considers
21 necessary to carry out the purposes of this chapter, and his [RULES
22 AND] regulations shall have the force and effect of law. Regulations
23 [RULES, REGULATIONS,] and orders authorized by this chapter shall be
24 consistent with its purposes, and may include but are not limited to
25 [RULES,] regulations [,] and orders pertaining to and supplementing the
26 subject matter contained in this chapter. The commissioner of non-
27 renewable resources [NATURAL RESOURCES], in adopting coal mining safety
28 regulations, shall, as nearly as is practicable, conform to the federal
29 regulations applicable to bituminous coal and lignite mine safety.

1 * Sec. 6. AS 27.20.061(2) is amended to read:

2 (2) "department" means the Department of Nonrenewable Re-
3 sources [NATURAL RESOURCES].

4 * Sec. 7. AS 27.22.010(a) is amended to read:

5 (a) To stimulate prospecting for, discovery of, and production
6 from new domestic mineral-bearing deposits, and in the interest of the
7 general industrial development of the state, the commissioner [OF THE
8 DEPARTMENT OF NATURAL RESOURCES] shall, upon sufficient proof, pay a
9 bonus of \$10,000 to a person or persons, partnership, company, or
10 corporation that discovers and produces ore in Alaska under the terms of
11 this chapter.

12 * Sec. 8. AS 27.22.060(1) is amended to read:

13 (1) "commissioner" means the commissioner of the Department
14 of Nonrenewable Resources [NATURAL RESOURCES];

15 * Sec. 9. AS 27.25.010(1) and (2) are amended to read:

16 (1) "commissioner" means the commissioner of nonrenewable
17 resources [NATURAL RESOURCES];

18 (2) "department" means the Department of Nonrenewable Re-
19 sources [NATURAL RESOURCES].

20 * Sec. 10. AS 31.05.170(3) is amended to read:

21 (3) "department" means the Department of Nonrenewable Re-
22 sources [NATURAL RESOURCES];

23 * Sec. 11. AS 38.05.020(b)(5) is amended to read:

24 (5) notwithstanding the provisions of any other section of
25 this chapter, grant an extension of the time within which payments due
26 on any lease or sale of state land [, MINERALS,] or materials may be
27 made, including payment of rental [AND ROYALTIES], if he finds that
28 compliance with the requirements is or was prevented by reason of war,
29 riots, or acts of God.

1 * Sec. 12. AS 38.05.027(a) is amended to read:

2 (a) Consistent with their [HIS] authority under law, the commis-
3 sioners of natural resources and nonrenewable resources [COMMISSIONER],
4 after determining that the agreement is in the best interests of the
5 public and the state, may enter into cooperative resource management
6 or development agreements affecting resources under their respective
7 regulatory jurisdictions with the federal government, a state agency, a
8 village or municipality, or a person as defined in AS 01.10.060(7).
9 Specific guidelines to protect the state and public interest shall be
10 established, if necessary, by the responsible commissioner before
11 entering into an agreement under this section.

12 * Sec. 13. AS 38.05.035(a)(4), (6), (7) and (14) are amended to read:

13 (4) prescribe application procedures and practices for the
14 sale, lease or other disposition of available lands, renewable resources,
15 property, or interest in them;

16 (6) under the conditions and limitations imposed by law and
17 the commissioner, issue deeds, leases or other conveyances disposing
18 of available lands, renewable resources, property or any interests in
19 them;

20 (7) have jurisdiction over state lands, except those lands
21 acquired by the Alaska World War II Veterans Board and the Agricultural
22 Loan Board or the departments or agencies succeeding to their respective
23 functions through foreclosure or default and except for the lease or
24 other disposal of nonrenewable resources; to this end the director
25 possesses the powers and, with the approval of the commissioner, shall
26 perform the duties necessary to protect the state's rights and interest
27 in state lands, including the taking of all necessary action to protect
28 and enforce the state's contractual or other property rights;

29 (14) when he makes a written finding that the interests of the

1 state will be best served, he may, with the consent of the commissioner,
2 approve contracts for the sale, lease, or other disposal of available
3 lands, renewable resources, property or interests in them, and in addi-
4 tion to the conditions and limitations imposed by law, he may impose
5 additional conditions or limitations in the contracts as he, with the
6 consent of the commissioner, determines will best serve the interests
7 of the state; and no contract for the sale, lease, or other disposal of
8 available lands or interest in them, is legally binding on the state
9 until the commissioner formally records his consent to the contract;
10 but if the appraised value is not greater than \$10,000 in the case of
11 the sale of land or an interest in land, or \$1,000 in the case of the
12 annual rental of land or interest in land, the director may approve and
13 issue the contract without the consent or approval of the commissioner.
14 The written finding shall be available to the public upon request.
15 Before a public hearing, if held, or in any case no less than 21 days
16 before the sale, lease, or other disposal of available land, property,
17 renewable resources, or interests in them, the director shall make
18 available to the public a written decision in which he sets out the
19 facts and applicable law upon which he based his determination that the
20 sale, lease, or other disposal will best serve the interests of the
21 state.

22 * Sec. 14. AS 38.05.145(a) is amended to read:

23 (a) Deposits of coal, phosphates, oil shale, sodium, potassium,
24 oil, gas, geothermal resources and state lands containing these deposits
25 are subject to disposition under [RULES AND] regulations [, RECOMMENDED
26 BY THE DIRECTOR AND] adopted by the commissioner of nonrenewable re-
27 sources, and the provisions of secs. 145 - 181 of this chapter. In
28 applying the acreage limitations the commissioner of nonrenewable re-
29 sources may apply the rule of approximation. The uses of the rule of

1 approximation made before March 31, 1960, by the commissioner of
2 natural resources are ratified.

3 * Sec. 15. AS 38.05.137 is amended to read:

4 Sec. 38.05.137. LEASING AGREEMENTS. The commissioner of non-
5 renewable resources is authorized to enter into cooperative mineral
6 leasing agreements with the United States regarding lands which are the
7 subject of a title dispute between federal and state authorities. Any
8 such lease need not conform to the provisions of state law applicable
9 to state leases issued under the authority of this chapter.

10 * Sec. 16. AS 38.05.140(b) and (d) are amended to read:

11 (b) The commissioner of nonrenewable resources shall, after posting
12 notice of the pending application in the local land office, conduct
13 public hearings on the application for additional acreage. After public
14 hearings, to the extent he finds to be in the public interest and neces-
15 sary for the applicant in order to carry on business economically, the
16 commissioner of nonrenewable resources may, under regulations he pre-
17 scribes, permit the person to take or hold coal leases or permits for
18 an additional aggregate acreage of not more than 5,120 acres.

19 (d) The commissioner of nonrenewable resources, for the purpose of
20 encouraging the greatest ultimate recovery of coal, oil, gas, oil shale,
21 phosphate, sodium, potassium, sulphur, and geothermal resources and in
22 the interest of conservation of natural resources, after public hearing,
23 or, when the state's title to land beneath navigable waters has been
24 legally challenged by the United States and litigation initiated, may
25 waive, suspend, refund, or reduce the rental, or minimum royalty, or
26 reduce the royalty on an entire leasehold, or on any tract or portion of
27 a leasehold segregated for royalty purposes, whenever in his judgment
28 it is necessary to do so in order to promote development, or whenever
29 in his judgment the lease cannot be successfully operated under its

1 terms. If the commissioner of nonrenewable resources, in the interest
2 of conservation, directs or assents to the suspension of operations and
3 production under a lease granted, the payment of acreage rental or of
4 minimum royalty prescribed by the lease may be suspended during the
5 period of suspension of operations and production. The term of the lease
6 shall be extended by adding the period of suspension to the lease.

7 * Sec. 17. AS 38.05.150(a), (b) and (c) are amended to read:

8 (a) The commissioner of nonrenewable resources may, and upon the
9 petition of a qualified applicant, shall divide coal lands or the de-
10 posits of coal owned by the state into leasing tracts of 40 acres each,
11 or multiples of 40 acres, and in the form which will permit the econo-
12 mical mining of the coal in the tract.

13 (b) Thereafter the commissioner of nonrenewable resources may,
14 upon the request of a qualified applicant or on his own motion, from
15 time to time, offer the lands or deposits of coal for leasing. Each
16 lease shall be awarded to a qualified applicant by competitive bidding
17 or by the method which the commissioner of nonrenewable resources adopts
18 by general regulation.

19 (c) Where prospecting or exploration work is necessary to determine
20 the existence or workability of coal deposits in an unclaimed and un-
21 developed area, the commissioner of nonrenewable resources may issue to
22 qualified applicants prospecting permits for a term of two years, not
23 exceeding 5,120 acres. If within the period of two years the permittee
24 shows to the commissioner of nonrenewable resources that the land
25 contains coal in commercial quantities and submits a satisfactory mining
26 plan for the coal's recovery, the permittee shall be entitled to a lease
27 for all or part of the land in his permit. A coal prospecting permit
28 may be extended by the commissioner of nonrenewable resources for a period
29 of two years, if he finds that the permittee has been unable, with the

1 exercise of reasonable diligence, to determine the existence or work-
2 ability of coal deposits in the area covered by the permit and desires
3 to prosecute further prospecting or exploration, or for other reasons
4 in the opinion of the commissioner of nonrenewable resources warranting
5 extension.

6 * Sec. 18. AS 38.05.160(a) is amended to read:

7 (a) The commissioner of nonrenewable resources may lease to a
8 qualified person deposits of oil shale belonging to the state and the
9 surface of as much of the land containing these deposits, or land
10 adjacent to it, as may be required for the extraction and reduction of
11 the lease minerals. The lease may not exceed 5,120 acres of land, and
12 the terms of the lease shall be limited to the extraction of minerals
13 from the oil shale so leased. The lease may be for indeterminate pe-
14 riods upon the conditions imposed by the commissioner of nonrenewable
15 resources.

16 * Sec. 19. AS 38.05.165(a) is amended to read:

17 (a) The commissioner of nonrenewable resources may grant a pros-
18 pecting permit to a qualified applicant. The permit gives the exclusive
19 right to prospect for chlorides, sulphates, carbonates, borates, sili-
20 cates, or nitrates of sodium in lands belonging to the state for a
21 period of not exceeding two years. The area included in a prospecting
22 permit shall not exceed 2,560 acres of land in reasonably compact form.
23 Upon showing to the satisfaction of the commissioner of nonrenewable
24 resources that valuable deposits of sodium minerals have been discovered
25 by the permittee within the area covered by his permit, and that the
26 land is chiefly valuable for these deposits, the permittee is entitled
27 to a lease for all or a part of the land embraced in the prospecting
28 permit at a royalty of not less than two per cent of the quantity or
29 gross value of the output of sodium compounds and other related products

1 at the point of shipment to market. The commissioner of nonrenewable
2 resources may lease lands known to contain valuable deposits of sodium
3 compounds which are not covered by permits or leases through advertise-
4 ment, competitive bidding, or other methods which he adopts by general
5 regulation. The area covered by a lease may not exceed 2,560 acres.

6 * Sec. 20. AS 38.05.170(a) is amended to read:

7 (a) Under [RULES AND] regulations prescribed by the commissioner
8 of nonrenewable resources, he [THE COMMISSIONER] shall grant a pros-
9 pecting permit for sulphur to a qualified applicant. The permit gives
10 the applicant the exclusive right to prospect for sulphur, in lands
11 belonging to the state, for a period not exceeding two years. The area
12 included in a permit shall not exceed 2,560 acres of land in reasonably
13 compact form. Upon showing to the satisfaction of the commissioner
14 of nonrenewable resources that valuable deposits of sulphur have been
15 discovered by the permittee within the area covered by his permit, and
16 that the land is chiefly valuable for these deposits, the permittee is
17 entitled to a lease for all or a part of the land embraced in the pros-
18 pecting permit, at a royalty of five per cent of the quantity or gross
19 value of the output of sulphur at the point of shipment to market. The
20 commissioner of nonrenewable resources may lease lands known to contain
21 valuable deposits of sulphur which are not covered by permits or leases
22 through advertisement, competitive bidding, or other methods which he
23 adopts by general regulation. The area covered by the lease may not
24 exceed 2,560 acres.

25 * Sec. 21. AS 38.05.175(a) is amended to read:

26 (a) Under [RULES AND] regulations prescribed by the commissioner
27 of nonrenewable resources, he [THE COMMISSIONER] may grant a prospecting
28 permit to a qualified applicant. The permit gives the applicant the
29 exclusive right to prospect for chlorides, sulphates, carbonates,

1 borates, silicates, or nitrates of potassium, in lands belonging to the
2 state, for a period not exceeding two years. The area included in a
3 permit may not exceed 2,560 acres of land in reasonably compact form.
4 Upon showing to the satisfaction of the commissioner of nonrenewable
5 resources that valuable deposits of potassium compounds have been dis-
6 covered by the permittee within the area covered by his permit, and that
7 the land is chiefly valuable for these deposits, the permittee is
8 entitled to a lease for all or a part of the land embraced in the pros-
9 pecting permit, at a royalty of not less than two per cent of the
10 quantity or gross value of the output of potassium compounds and other
11 related products, except sodium, at the point of shipment to market.
12 The commissioner of nonrenewable resources may lease lands known to con-
13 tain valuable deposits of potassium compounds which are not covered by
14 permits or leases through advertisement, competitive bidding, or other
15 methods as he adopts by general regulation. The area covered by the
16 lease may not exceed 2,560 acres.

17 * Sec. 22. AS 38.05.180(a), (b), (d), (k), (m), (n), (q) and (r) are
18 amended to read:

19 (a) All tide and submerged lands, mental health lands, school
20 lands, and university lands shall be leased by competitive bidding, and
21 whenever oil or gas is discovered in commercial quantities, the commis-
22 sioner of nonrenewable resources shall determine the extent of the area
23 of lands in addition to tide, submerged, mental health lands, school,
24 or university lands in the same general area of the discovery well which,
25 by reason of the discovery, the commissioner of nonrenewable resources
26 reasonably believes to be capable of producing oil or gas, and the
27 additional lands shall be leased to the highest responsible qualified
28 bidder by competitive bidding under general regulations, in units of
29 not exceeding 2,560 acres (except that tide and submerged lands shall

1 be leased in units of not exceeding 5,760 acres), which shall be as
2 nearly compact in form as possible, upon the payment by the lessee of
3 such bonus as may be accepted by the commissioner of nonrenewable re-
4 sources and of such royalty as may be fixed in the lease which shall
5 not be less than 12 1/2 per cent in amount or value of the production
6 removed or sold from the lease. All lands other than those above pro-
7 vided to be leased by competitive bidding may be leased competitively
8 or noncompetitively as determined by the commissioner of nonrenewable
9 resources to be in the best interests of the state. Noncompetitive
10 leases shall be issued in units of not exceeding 2,560 acres in any
11 one lease. Noncompetitive leases shall be conditioned upon the payment
12 by the lessee of a royalty of 12 1/2 per cent in amount or value of the
13 production removed or sold from the lease. Competitive leases issued
14 under this subsection shall be for 10 years except that in the Cook Inlet
15 sedimentary basin, leases shall be for a primary term of not more than
16 10 years and not less than five years at the discretion of the commis-
17 sioner of nonrenewable resources, and shall continue so long thereafter
18 as oil or gas is produced in paying quantities. Noncompetitive leases
19 issued under this subsection shall be for a primary term of five years
20 and shall continue so long thereafter as oil or gas is produced in
21 paying quantities. If drilling has commenced on the expiration date
22 of the primary term of the lease and is continued with reasonable
23 diligence, such operations to include redrilling, sidetracking or other
24 means necessary to reach the originally proposed bottom hole location,
25 the lease shall continue in effect until 90 days after drilling has
26 ceased and for so long thereafter as oil or gas is produced in paying
27 quantities. If all or part of the lands covered by the lease are lands
28 that have been selected by the state under laws of the United States
29 granting lands to the state and a patent has not been issued on them,

1 a conditional lease may be issued. However, no term extension may be
2 granted for the period during which the lease was conditional.

3 (b) An oil or gas lease issued under this section which is sub-
4 ject to termination by reason of cessation of production does not
5 terminate if, within 60 days after production ceases, reworking or
6 drilling operations are commenced on the land under lease and are there-
7 after conducted with reasonable diligence during the period of non-
8 production. No lease issued under this section expires because operation
9 or production is suspended under an order, or with the consent of the
10 commissioner of nonrenewable resources. No lease issued under this sec-
11 tion covering lands on which there is a well capable of producing oil
12 or gas in paying quantities expires because the lessee fails to produce
13 oil or gas, unless the licensee is allowed a reasonable time within which
14 to place the well on a producing status. After producing status is
15 established, production shall continue on the leased premises until sus-
16 pension of production is allowed by the commissioner of nonrenewable
17 resources.

18 (d) The commissioner of nonrenewable resources may provide for
19 extension of the term of a lease whether competitive or noncompetitive,
20 if all or part of the lease is included in an approved unit plan or
21 program of secondary recovery operation to bring about or restore pro-
22 duction.

23 (k) Instead of the foregoing procedure, the federal lessee or his
24 assignee may, at his option, exercise his preference right for a state
25 lease on the shorelands included within the exterior boundaries of his
26 federal lease by applying to the Department of Nonrenewable Resources
27 [DIVISION OF LANDS, DEPARTMENT OF NATURAL RESOURCES]. If, at the time
28 of applying, the lands are classified as noncompetitive, the state shall,
29 upon application, issue a lease covering whatever shorelands are

1 included within the exterior boundaries of the federal lease. If, at
2 the time of applying, the shorelands included in the federal lease are
3 classified as competitive lands, the lands shall be leased by competitive
4 bidding. The competitive lease shall be issued to the federal lessee
5 or his assignee upon payment to the state of an amount equal to the
6 highest bid for the lease, plus the rental for the first year, payment
7 to be made within 10 days after the lessee's or assignee's receipt of
8 written notice from the commissioner of nonrenewable resources [DIRECTOR
9 OF THE DIVISION OF LANDS] of the amount of the highest bid. These
10 leases, whether competitive or noncompetitive, shall carry the same
11 conditions as an ordinary state lease on the same lands, except that the
12 term of the state lease shall conform to that of the adjoining federal
13 lease, including extended terms, and shall terminate if the federal lease
14 is terminated for any reason. The lease shall provide for annual ren-
15 tal at the rate of \$100 a unit of 640 acres or part thereof of the lands
16 included within the federal lease until agreement is reached between the
17 state and the Secretary of the Interior of the United States, or his
18 authorized representative, as to the actual area of the shorelands
19 included in the federal lease, and as to the apportionment between the
20 state and federal government of the rental theretofore paid under the
21 federal lease.

22 (m) To conserve the natural resources of all or a part of an oil
23 or gas pool, field, or like area, (whether or not the part is then sub-
24 ject to a cooperative or unit plan of development or operation), lessees
25 and their representatives may unite with each other, or jointly or
26 separately with others, in collectively adopting or operating under a
27 cooperative or a unit plan of development or operation of the pool,
28 field, or like area, or a part of it, whenever determined and certified
29 by the commissioner of nonrenewable resources to be necessary or

1 advisable in the public interest. The commissioner of nonrenewable
2 resources may, with the consent of the holders of leases involved,
3 establish, alter, change, or revoke drilling, producing, rental minimum
4 royalty, and royalty requirements of the leases and make regulations with
5 reference to the leases, with like consent on the part of the lessees,
6 in connection with the institution and operation of a cooperative or
7 unit plan as he determines necessary or proper to secure the proper
8 protection of the public interest. The commissioner of nonrenewable
9 resources may provide that oil and gas leases issued under this section
10 shall contain a provision requiring the lessee to operate under a
11 reasonable cooperative or unit plan, and he may prescribe a plan under
12 which the lessee shall operate. The plan shall adequately protect all
13 parties in interest, including the state.

14 (n) A plan authorized by (m) of this section, which includes lands
15 owned by the state, may contain a provision vesting the commissioner of nonrenewable
16 resources, or a person, committee, or state agency with
17 authority to alter or modify from time to time the rate of prospecting
18 and development and the quantity and rate of production under the
19 plan. All leases operated under a plan approved or prescribed by the
20 commissioner of nonrenewable resources are excepted in determining
21 holdings or control under sec. 140 of this chapter. The provisions of
22 this section concerning cooperative or unit plans are in addition to,
23 and do not affect AS 31.05.

24 (q) The commissioner of nonrenewable resources may, on conditions
25 which he prescribes, approve drilling, or development contracts made
26 by one or more lessees of oil or gas leases, with one or more persons,
27 whenever, in his discretion, the conservation of natural products or
28 the public convenience or necessity requires it or the interests of the
29 state are best served. All leases operated under approved drilling, or

1 development contracts, and interests under them are excepted in deter-
2 mining holding or control under sec. 140 of this chapter.

3 (r) To avoid waste or to promote conservation of natural resources,
4 the commissioner of nonrenewable resources may authorize the subsurface
5 storage of oil or gas whether or not produced from state lands, in lands
6 leased or subject to lease under this section. This authorization may
7 provide for the payment of a storage fee or rental on the stored oil or
8 gas, or, instead of the fee or rental, for a royalty other than that
9 prescribed in the lease when the stored oil or gas is produced in con-
10 junction with oil or gas not previously produced. A lease on which
11 storage is so authorized shall be extended at least for the period of
12 storage and so long thereafter as oil or gas not previously produced
13 is produced in paying quantities.

14 * Sec. 23. AS 38.05.181(q)(2) and (3) are amended to read:

15 (2) "commissioner" means the commissioner of the Department
16 of Nonrenewable Resources [NATURAL RESOURCES];

17 (3) "department" means the Department of Nonrenewable Re-
18 sources [NATURAL RESOURCES];

19 * Sec. 24. AS 38.05.182 is amended to read:

20 Sec. 38.05.182. ROYALTY ON NATURAL RESOURCES. Any royalty provided
21 for in secs. 135 - 181 of this chapter may be taken in kind rather than
22 in money if the commissioner of the Department of Nonrenewable Resources,
23 with the consent of the Alaska Royalty Oil and Gas Development Advisory
24 Board, determines that the taking in kind would be in the best interest
25 of the state. The consent of the board is required only with respect
26 to oil and gas royalty-in-kind under sec. 183 of this chapter.

27 * Sec. 25. AS 38.05.183 is amended to read:

28 Sec. 38.05.183. SALE OF ROYALTY. (a) The sale, exchange or other
29 disposal of a mineral obtained by the state as a royalty under sec. 182

1 of this chapter, or the sale, exchange or other disposal in whole or in
2 part of a right to receive future mineral production under a state lease
3 under this chapter, shall be by competitive bid and the sale, exchange
4 or other disposal made to the highest responsible bidder, except that
5 competitive bidding is not required when the commissioner of the Depart-
6 ment of Nonrenewable Resources, with the prior written approval of the
7 Alaska Royalty Oil and Gas Development Advisory Board where applicable,
8 determines that the best interest of the state does not require it or
9 that no competition exists.

10 (b) When competitive bids are required, the commissioner of of
11 nonrenewable resources, with the prior written approval of the Alaska
12 Royalty Oil and Gas Development Advisory Board, may reject all bids if
13 he determines that because of the amount of the bids, the lack of res-
14 sponsibility on the part of the bidders, or for reasons consistent with
15 the criteria set out in AS 38.06.070, the acceptance of the bids would
16 not be in the best interest of the state.

17 (c) If the commissioner of nonrenewable resources determines that
18 a sale, exchange or other disposal of a mineral obtained by the state as
19 a royalty under sec. 182 of this chapter or of a right to receive future
20 mineral production under a state lease under this chapter shall be made
21 otherwise than by competitive bid, and the Alaska Royalty Oil and Gas
22 Development Advisory Board where applicable has approved that determina-
23 tion, the commissioner of nonrenewable resources shall make public in
24 writing the specific findings and conclusions upon which that determina-
25 tion is based.

26 (d) Oil or gas taken in kind by the state as its royalty share may
27 not be sold or otherwise disposed of for export from the state until the
28 commissioner of nonrenewable resources with the approval of the Alaska
29 Royalty Oil and Gas Development Advisory Board determines that the

1 royalty-in-kind oil or gas is surplus to the present and projected
2 intrastate domestic and industrial needs. The commissioner of non-
3 renewable resources shall make public, in writing, the specific findings
4 and reasons on which his determination is based and shall, within 10
5 days of the convening of a regular session of the legislature, submit
6 a report showing the immediate and long-range domestic and industrial
7 needs of the state for oil and gas and an analysis of how these needs
8 are to be met.

9 * Sec. 26. AS 38.05.185(a) is amended to read:

10 (a) The acquisition and continuance of rights in and to deposits
11 on state lands of minerals which on January 3, 1959, were subject to
12 location under the mining laws of the United States shall be governed
13 by secs. 185 - 280 of this chapter. Nothing in secs. 185 - 280 of this
14 chapter affects the law pertaining to the acquisition of rights to
15 mineral deposits owned by any other person or government. The [DIRECTOR,
16 WITH THE APPROVAL OF THE] commissioner of the Department of Nonrenewable
17 Resources, shall determine those lands from which mineral deposits may
18 be mined only under lease, and, subject to the limitations of sec. 300
19 of this chapter, those lands which shall be closed to mining.

20 * Sec. 27. AS 38.06.020 is amended to read:

21 Sec. 38.06.020. ESTABLISHMENT. There is established in the
22 Department of Nonrenewable Resources [NATURAL RESOURCES] the Alaska
23 Royalty Oil and Gas Development Advisory Board.

24 * Sec. 28. AS 38.06.025 is amended to read:

25 Sec. 38.06.025. MEMBERSHIP. The board consists of the commis-
26 sioner of nonrenewable resources [NATURAL RESOURCES], who is chairman,
27 the commissioner of revenue, and three public members. Each of the pub-
28 lic members shall possess experience in petroleum-related fields in
29 such areas as exploration, development, production and economics, and

1 shall be appointed by the governor to serve at his pleasure for three-
2 year staggered terms and confirmed by a vote of a majority of the mem-
3 bers of the legislature in joint session. The public members may not be
4 state officers or employees. A public member, upon the expiration of
5 his term, shall continue to hold office until his successor is appointed
6 and qualifies. Vacancies in public membership shall be filled in the
7 same manner as original appointment. An appointee to fill a vacancy
8 shall hold office for the balance of the term for which his predecessor
9 on the board was appointed. A vacancy in board membership does not
10 impair the authority of a quorum of the board members to exercise all
11 the powers and duties of the board.

12 * Sec. 29. AS 38.06.040(1) is amended to read:

13 (1) direct the commissioner of nonrenewable resources [NATURAL
14 RESOURCES] to solicit inquiries, development plans or bids from persons
15 for the sale, exchange or other disposal of oil or gas or both obtained
16 by the state as a royalty under AS 38.05.182, or for the sale, exchange
17 or other disposal in whole or part of rights to receive future oil or
18 gas production or both under a state lease, subject to terms and condi-
19 tions established by the board;

20 * Sec. 30. AS 38.06.050 is amended to read:

21 Sec. 38.06.050. BOARD APPROVAL REQUIRED. (a) No sale, exchange,
22 encumbrance, or other disposition of oil or gas or of the rights or
23 waiver of the rights to receive future production of royalty oil or gas
24 may be made by the commissioner of nonrenewable resources [NATURAL
25 RESOURCES] under AS 38.05.183 without the prior written approval of the
26 board.

27 (b) Bids or applications for the purchase of royalty oil or gas
28 may not be rejected by the commissioner of nonrenewable resources
29 [NATURAL RESOURCES] without the prior written approval of the board.

1 (c) Competitive bidding in a sale, exchange or other disposition
2 described in (a) of this section may not be waived by the commissioner
3 of nonrenewable resources [NATURAL RESOURCES] under AS 38.05.183 without
4 the prior written approval of the board.

5 (d) The board may require conditions relating to the sale, deli-
6 very, transportation, or refining or processing within the state to be
7 included by the commissioner of nonrenewable resources [NATURAL RE-
8 SOURCES] in the offer of and sale by competitive bidding of oil or gas
9 obtained by the state as royalty under AS 38.05.182.

10 * Sec. 31. AS 38.06.055(a) is amended to read:

11 (a) In addition to the approval by the board required under sec.
12 50 of this chapter, no sale, exchange or other disposition of oil or gas
13 or of the rights or waiver of the rights to receive future production of
14 royalty oil or gas may be made by the commissioner of nonrenewable
15 resources [NATURAL RESOURCES] under AS 38.05.183 without the prior
16 approval of the legislature by a concurrent resolution concurred in by a
17 majority of the members of each house.

18 * Sec. 32. AS 41.08.010 is amended to read:

19 Sec. 41.08.010. DIVISION OF GEOLOGICAL AND GEOPHYSICAL SURVEYS.
20 There is established in the Department of Nonrenewable Resources
21 [NATURAL RESOURCES] a division of geological and geophysical surveys
22 under the direction of the state geologist.

23 * Sec. 33. AS 44.37.020 is amended to read:

24 Sec. 44.37.020. DUTIES OF DEPARTMENT WITH RESPECT TO NATURAL RE-
25 SOURCES. The Department of Natural Resources shall administer the state
26 program for the conservation and development of natural resources, in-
27 cluding forests, parks, and recreational areas, lands, waters, agricul-
28 ture, and soil conservation [AND MINERALS (INCLUDING PETROLEUM AND
29 NATURAL GAS)], but excluding commercial fisheries, sport fish, game,

1 [AND] fur-bearing animals in their natural state, and nonrenewable
2 resources as defined in AS 44.40.060.

3 * Sec. 34. TRANSFER OF FUNCTIONS. (a) The Department of Nonrenewable
4 Resources is vested with the duties, powers and responsibilities formerly
5 exercised and held by the Department of Natural Resources in respect to
6 geological and geophysical surveys, mineral and energy management, and oil
7 and gas conservation.

8 (b) The powers, duties and responsibilities of the following agencies
9 are transferred to the Department of Nonrenewable Resources:

10 (1) division of mineral and energy management, Department of
11 Natural Resources;

12 (2) division of oil and gas conservation, Department of Natural
13 Resources;

14 (3) mines information office, Department of Natural Resources;

15 (4) division of geological and geophysical surveys, Department
16 of Natural Resources.

17 (c) Supervision of the Alaska Royalty Oil and Gas Development Advisory
18 Board is transferred from the Department of Natural Resources to the Depart-
19 ment of Nonrenewable Resources.

20 (d) Appropriations, records, equipment and other property of depart-
21 ments and divisions referred to in (a) and (b) of this section are trans-
22 ferred to the Department of Nonrenewable Resources.

23 (e) Appropriations and other money available to and to become available
24 to a department, division, agency or commission, the functions, powers and
25 duties of which have been transferred to the department established under this
26 Act, shall be available for the objects and purposes for which appropriated
27 or otherwise made available, subject to terms, restrictions, limitations or
28 other requirements imposed under this section or other state and federal law.

29 (f) Regulations, rules, orders or other Acts in effect with respect to

1 a department, division, agency or commission transferred to the department
2 under this section shall continue in full force and effect until amended,
3 repealed, modified or rescinded as the commissioner of nonrenewable resources
4 determines in accordance with law. Existing contracts made by a department,
5 division or agency transferred to the Department of Nonrenewable Resources
6 under this section shall continue in full force and effect until amended,
7 repealed, modified or rescinded as the commissioner of nonrenewable resources
8 determines in accordance with law. Existing contracts made by a department,
9 division or agency transferred to the department under this Act remain in
10 effect according to the terms of the contracts.

11 (g) The powers, duties and functions transferred to the department under
12 this section are in addition to and not derogated by the powers, duties and
13 functions otherwise vested in the department under this Act.

14 * Sec. 35. This Act takes effect on January 1, 1978.

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