

CS FOR SENATE BILL NO. 102 (FINANCE)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/27/92  
 Referred: Rules

Sponsor(s): SENATORS COTTEN, Zharoff, Sturgulewski, Eliason, Menard

A BILL  
 FOR AN ACT ENTITLED

1 "An Act enacting and entering into the Pacific Ocean Resources Compact."

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

3 \* Section 1. AS 46 is amended by adding a new chapter to read:

4 CHAPTER 47. PACIFIC OCEAN RESOURCES COMPACT.

5 Sec. 46.47.010. COMPACT ENACTED AND ENTERED INTO. (a) The Pacific Ocean  
 6 Resources Compact as set out in AS 46.47.020 is enacted into law and entered into on behalf of  
 7 the state. This compact shall take effect after two or more of the states of California, Hawaii,  
 8 Oregon, or Washington ratify the compact in substantially the same form as set out in  
 9 AS 46.47.020 and consent is granted by the Congress as required by section 10, Article I, of the  
 10 Constitution of the United States.

11 (b) In addition to the states named in (a) of this section, the Province of British Columbia  
 12 may become an associate party to the compact, without voting power. Upon request of the  
 13 Province of British Columbia and approval of the Congress, the Province of British Columbia  
 14 may become a full party to the compact with the same rights and powers as the party states.



- 1 (A) prevention of oil and hazardous substance spills;
- 2 (B) transportation of oil and other hazardous substances;
- 3 (C) oil and hazardous substance spill response planning; and
- 4 (D) environmental monitoring and research;

5 (4) each party has jurisdiction over the submerged and submersible land within  
6 its territorial sea and responsibility for management of many marine resources and ocean uses;  
7 each party has unique natural resource, social, economic, and political conditions for which local  
8 management by the individual party is the most appropriate; this is particularly true with respect  
9 to subsistence resource use in Alaska;

10 (5) the parties now do not have an effective means to address mutual concerns  
11 related to transport of oil and hazardous substances in waters within and beyond the party's  
12 jurisdiction that may jeopardize ocean resources and uses important to one or more coastal  
13 parties;

14 (6) the 1983 Presidential Proclamation of the 200-mile United States Exclusive  
15 Economic Zone has created the opportunity for all coastal states to more fully exercise and assert  
16 their responsibilities pertaining to the protection, conservation, and development of ocean  
17 resources under United States jurisdiction;

18 (7) citizens of the Pacific states and the Province of British Columbia are  
19 increasingly concerned with the environmental integrity of the ocean and protection of all ocean  
20 resources;

21 (8) recent studies conducted in the wake of major accidental releases of oil or  
22 hazardous substances have concluded that the existing system of response to spills could be  
23 improved in the following ways to provide better protection of ocean resources:

- 24 (A) enhanced personnel training and qualifications;
- 25 (B) improved vessel design and integrity;
- 26 (C) better mechanisms for cost recovery by the states or the province;
- 27 (D) improved coordination in regulatory oversight;
- 28 (E) enhanced traffic management; and
- 29 (F) an improved information base dealing with marine and coastal

30 environments;

31 (9) a spill or discharge of oil or a hazardous substance from an ocean-going vessel

1 has the potential of causing major regional effects.

2 (b) Therefore, the purpose of this compact is to

3 (1) assist in the promotion of interstate commerce by encouraging uniform  
4 regulation of the transportation of oil or hazardous substances within the compact zone;

5 (2) provide a legal mechanism to regulate certain ocean activities within the  
6 United States Exclusive Economic Zone;

7 (3) enhance regional coordination of issues of critical importance;

8 (4) work with federal agencies to advance the best interest of the region;

9 (5) foster regional cooperation and pooling of resources to reduce costs and  
10 increase effective use of scarce resources;

11 (6) monitor activities of concern to the parties;

12 (7) address issues of mutual concern to the Pacific states and the Province of  
13 British Columbia and enhance the parties' influence over activities of concern that are not now  
14 addressed through existing compacts, including

15 (A) spill prevention;

16 (B) transportation of oil and other hazardous substances;

17 (C) spill response planning; and

18 (D) environmental monitoring and research;

19 (8) foster cooperation and coordination among the parties in order to increase the  
20 effectiveness of the individual party's ocean laws and programs;

21 (9) provide technical assistance to parties for ocean activities covered by this  
22 compact;

23 (10) provide for formal participation by the Province of British Columbia with  
24 the compact to more fully address issues of regional concern;

25 (11) ensure that the citizens of the region have opportunities to participate in  
26 discussions and deliberations of regional ocean resources issues;

27 (12) establish an innovative system under which the parties can represent their  
28 shared interests within the compact zone, including

29 (A) the maintenance and protection of common ocean resources; and

30 (B) vessel transportation of oil and other hazardous substances;

31 (13) recommend uniform safety standards for routes, crews, and equipment for

- 1 (A) prevention of oil and hazardous substance spills;  
2 (B) transportation of oil and other hazardous substances;  
3 (C) oil and hazardous substance spill response planning; and  
4 (D) environmental monitoring and research;

5 (4) each party has jurisdiction over the submerged and submersible land within  
6 its territorial sea and responsibility for management of many marine resources and ocean uses;  
7 each party has unique natural resource, social, economic, and political conditions for which local  
8 management by the individual party is the most appropriate; this is particularly true with respect  
9 to subsistence resource use in Alaska;

10 (5) the parties now do not have an effective means to address mutual concerns  
11 related to transport of oil and hazardous substances in waters within and beyond the party's  
12 jurisdiction that may jeopardize ocean resources and uses important to one or more coastal  
13 parties;

14 (6) the 1983 Presidential Proclamation of the 200-mile United States Exclusive  
15 Economic Zone has created the opportunity for all coastal states to more fully exercise and assert  
16 their responsibilities pertaining to the protection, conservation, and development of ocean  
17 resources under United States jurisdiction;

18 (7) citizens of the Pacific states and the Province of British Columbia are  
19 increasingly concerned with the environmental integrity of the ocean and protection of all ocean  
20 resources;

21 (8) recent studies conducted in the wake of major accidental releases of oil or  
22 hazardous substances have concluded that the existing system of response to spills could be  
23 improved in the following ways to provide better protection of ocean resources:

- 24 (A) enhanced personnel training and qualifications;  
25 (B) improved vessel design and integrity;  
26 (C) better mechanisms for cost recovery by the states or the province;  
27 (D) improved coordination in regulatory oversight;  
28 (E) enhanced traffic management; and  
29 (F) an improved information base dealing with marine and coastal

30 environments;

31 (9) a spill or discharge of oil or a hazardous substance from an ocean-going vessel

1 has the potential of causing major regional effects.

2 (b) Therefore, the purpose of this compact is to

3 (1) assist in the promotion of interstate commerce by encouraging uniform  
4 regulation of the transportation of oil or hazardous substances within the compact zone;

5 (2) provide a legal mechanism to regulate certain ocean activities within the  
6 United States Exclusive Economic Zone;

7 (3) enhance regional coordination of issues of critical importance;

8 (4) work with federal agencies to advance the best interest of the region;

9 (5) foster regional cooperation and pooling of resources to reduce costs and  
10 increase effective use of scarce resources;

11 (6) monitor activities of concern to the parties;

12 (7) address issues of mutual concern to the Pacific states and the Province of  
13 British Columbia and enhance the parties' influence over activities of concern that are not now  
14 addressed through existing compacts, including

15 (A) spill prevention;

16 (B) transportation of oil and other hazardous substances;

17 (C) spill response planning; and

18 (D) environmental monitoring and research;

19 (8) foster cooperation and coordination among the parties in order to increase the  
20 effectiveness of the individual party's ocean laws and programs;

21 (9) provide technical assistance to parties for ocean activities covered by this  
22 compact;

23 (10) provide for formal participation by the Province of British Columbia with  
24 the compact to more fully address issues of regional concern;

25 (11) ensure that the citizens of the region have opportunities to participate in  
26 discussions and deliberations of regional ocean resources issues;

27 (12) establish an innovative system under which the parties can represent their  
28 shared interests within the compact zone, including

29 (A) the maintenance and protection of common ocean resources; and

30 (B) vessel transportation of oil and other hazardous substances;

31 (13) recommend uniform safety standards for routes, crews, and equipment for

1 vessels transporting oil and hazardous substances within the compact zone and monitor the  
2 implementation of these standards and regulations by federal agencies, states or provinces, and  
3 private industry;

4 (14) promote more coordinated management of ocean resources that are of mutual  
5 concern;

6 (15) provide a forum for the regional coordination of the individual parties' plans  
7 for the management and protection of those areas of the Pacific Ocean and adjacent waters over  
8 which the compacting parties jointly or separately now have or may acquire jurisdiction.

## 9 ARTICLE II

### 10 DEFINITIONS

11 In this compact,

12 (1) "compact" means the representative body created by Article IV of this  
13 compact;

14 (2) "compact zone" means the portion of the oceans bordering the parties within  
15 the 200-mile exclusive economic zone;

16 (3) "hazardous substance" means an element or compound that, when it enters in  
17 or on the water, presents an imminent and substantial danger to the public health or welfare or  
18 the environment, including fish, animals, vegetation, or a part of the natural habitat in which they  
19 are found; "hazardous substance" includes a substance designated under 33 U.S.C. 1321(b)(2)(A),  
20 an element, compound, mixture, solution, or substance designated under 42 U.S.C. 9602, a  
21 hazardous waste having characteristics identified under or listed under 42 U.S.C. 6921, a toxic  
22 pollutant listed under 33 U.S.C. 1317(a), and an imminently hazardous chemical substance or  
23 mixture with respect to which the administrator of the United States Environmental Protection  
24 Agency has taken action under 15 U.S.C. 2606;

25 (4) "navigable waters" means the waters of the United States, including the  
26 territorial sea;

27 (5) "oil" means crude petroleum oil or any other hydrocarbon, regardless of  
28 gravity, that is produced at the well in liquid form by ordinary production methods, and any  
29 petroleum products or petrochemicals of any kind and in any form whether crude, refined, or a  
30 petroleum byproduct, including petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily  
31 refuse, or mixed with other wastes, liquefied natural gas, or propane;

1 (6) "party" means a state or province that ratifies this compact as provided in  
2 Article III of this compact;

3 (7) "representative" means an individual appointed as provided in Article IV of  
4 this compact to represent a party;

5 (8) "vessel" means a watercraft, whether self-propelled or propelled by another  
6 vessel, that is constructed or adapted to carry, or that carries oil or hazardous substances in bulk  
7 as cargo or cargo residue and that is greater than 5,000 gross weight tonnage, and that

8 (A) operates on the navigable waters of the compact zone; or

9 (B) transfers oil or hazardous substances in a place subject to the  
10 jurisdiction of the United States.

### 11 ARTICLE III

#### 12 OPERATIVE DATES

13 (a) Except as provided in (b) of this article, this compact shall become effective when  
14 this state and two or more of the states of California, Hawaii, Oregon, or Washington ratify the  
15 compact and the consent of the Congress is or has been granted as required by section 10,  
16 Article I, of the Constitution of the United States.

17 (b) This agreement shall become operative as to the Province of British Columbia as a  
18 full party upon request of the Province of British Columbia and approval of the Congress.

### 19 ARTICLE IV

#### 20 PACIFIC OCEAN RESOURCES COMPACT

21 (a) The Pacific Ocean Resources Compact is created and shall have its offices within the  
22 territorial limits of one of the parties, shall carry out its duties and functions in accordance with  
23 this compact, shall continue in force and effect in accordance with this compact, and, except as  
24 specifically provided in this compact, may not be considered an agency or instrumentality of the  
25 United States for the purpose of any federal law. Each party participating in this compact shall  
26 appoint two persons, subject to the applicable laws of the appointing party, to undertake the  
27 functions and duties of representatives of the compact. This compact shall be invested with the  
28 powers and duties set out in this compact.

29 (b) The term of each representative shall be four years. A representative shall hold office  
30 until a successor is appointed and qualified but the successor's term shall expire four years from  
31 the legal date of expiration of the term of the predecessor. Vacancies occurring in the office of

1 a representative for any reason or cause shall be filled for the unexpired term by the party  
2 represented by the vacancy. A party may remove the representative for that party in accordance  
3 with the statutes of the party concerned. Each representative may delegate to a deputy the power  
4 to be present and participate, including voting as the representative or substitute, at any meeting  
5 of or hearing by or other proceeding of the compact.

6 (c) The compact shall invite the Secretary of the United States Department of  
7 Transportation, the Administrator of the United States Environmental Protection Agency, and the  
8 Administrator of the National Oceanic and Atmospheric Administration or their designees to  
9 participate as nonvoting members of the compact.

#### 10 ARTICLE V

#### 11 PACIFIC OCEAN RESOURCES COMPACT AUTHORITY

12 (a) The Pacific Ocean Resources Compact is authorized to

13 (1) facilitate the prevention of or response to oil and hazardous substance spills  
14 by

15 (A) serving as a West Coast Spill Prevention Advisory Committee to the  
16 United States Coast Guard; as such, the compact shall advise the United States Coast  
17 Guard on matters pertaining to spill prevention and response within the compact zone and  
18 also shall advise the United States Coast Guard on other matters within the compact's  
19 authority as set forth in this compact;

20 (B) participating as an interested person in any rulemaking proceeding by  
21 the United States Coast Guard related to the establishment of safety standards for routes,  
22 crews, and equipment for vessels transporting oil and hazardous substances; the United  
23 States Coast Guard shall adopt the recommendations of the compact, unless the United  
24 States Coast Guard makes a finding, as part of the rulemaking process, that the adoption  
25 of a recommendation would not prevent or facilitate response to oil and hazardous  
26 substance spills;

27 (C) as an interested person, requesting the United States Coast Guard to  
28 initiate rulemaking for the establishment or amendment of safety standards for routes,  
29 crews, and equipment for vessels transporting oil and hazardous substances; the United  
30 States Coast Guard shall initiate rulemaking as requested by the compact, unless the  
31 United States Coast Guard makes a finding that the initiation of the rulemaking would not

1 further the prevention of or response to oil and hazardous substance spills;

2 (D) making recommendations to other appropriate state, federal, and  
3 regional entities regarding uniform safety standards for routes, crews, and equipment for  
4 vessels transporting oil and hazardous substances in the compact zone;

5 (2) ensure a coordinated network of oil and hazardous substance spill response  
6 plans and programs of the parties, federal agencies, and private organizations;

7 (3) by regulation, establish the requirements for submission of and approval by  
8 the compact of a contingency plan by any vessel transporting oil or hazardous substance in the  
9 compact zone; the requirements must be compatible with the requirements for response plans  
10 under sec. 4202 of the Oil Pollution Act of 1990 (P.L. 101-380); a plan developed in accordance  
11 with the regulations adopted by the compact and approved by the compact shall satisfy the  
12 requirements of sec. 4202 of the Oil Pollution Act and shall satisfy and supersede any  
13 requirements of an individual party for submitting a vessel contingency or spill response plan;  
14 however, all plans approved by parties to this compact before the operative date of the compact  
15 shall remain in full force and effect until a contingency plan is approved by the compact under  
16 this paragraph; if a contingency plan approved by one of the parties to this compact expires after  
17 the compact contingency plan regulations are adopted, a new contingency plan must be adopted  
18 under the compact regulations; in establishing regulations under this paragraph, the compact shall  
19 work closely with officials of the parties to assure that the vessel contingency plans required  
20 under this compact include all subject areas included by the member parties in the standards for  
21 vessel contingency plans of the parties, in the aggregate, before the adoption of the compact;

22 (4) establish and maintain an informational clearinghouse related to spill response,  
23 including a directory of personnel, equipment, technical expertise, organizations, and other  
24 resources available to assist as part of a regional oil or hazardous substance spill response;

25 (5) provide a forum for discussion and recommendation to resolve conflicts  
26 among member parties or the federal government regarding various ocean resources programs  
27 that have been or may be established by each party;

28 (6) provide opportunities for public participation in compact activities by holding  
29 meetings of the compact in various locations within the territorial limits of the parties, providing  
30 opportunities for public comment at meetings and developing a public outreach program;

31 (7) designate state or provincial agency officials to act on behalf of the compact

1 as liaisons with federal agencies;

2 (8) identify the regional data needs related to ocean resources and recommend a  
3 method for compiling the data in a format that can be shared by all parties;

4 (9) consult with and advise any pertinent party or federal agency with regard to  
5 problems connected with ocean resources management and recommend the adoption of any rules  
6 or regulations the compact considers advisable that are within the jurisdiction of the agency;

7 (10) establish sanctions and a schedule of civil penalties for violations of the rules  
8 or regulations of the compact and impose those sanctions or civil penalties in accordance with  
9 5 U.S.C. 551 - 559 and 701 - 706;

10 (11) request the United States Coast Guard to enforce or assist in the enforcement  
11 of any regulations adopted by the compact including, but not limited to, regulations related to the  
12 submission of a contingency plan or financial assurance requirements in the compact zone;

13 (12) establish a schedule of reasonable fees to be assessed for the review of a  
14 contingency plan submitted under (3) of this subsection; the fees must be sufficient to recover  
15 the costs of reviewing the plans and conducting any related inspections; the fees may be assessed  
16 in increments up to the maximum amount.

17 (b) In addition to the authority granted under (a) of this article, the compact may

18 (1) accept grants and gifts;

19 (2) enter into contracts for whose performance the compact shall be solely  
20 responsible in order to support its operations;

21 (3) conduct and prepare, independently or in cooperation with others, studies,  
22 investigations, research, and programs relating to the purposes of this compact;

23 (4) conduct public hearings on matters pertaining to the purposes of this compact;

24 (5) establish, for the purpose of reducing litigation costs, a standardized cost  
25 recovery formula, based on the amount of oil or hazardous substance spilled, to be used to  
26 estimate damages to other resources from small oil or hazardous substance spills in areas with  
27 well established coastal resource inventories; however, a standardized formula may not be used  
28 for the economic evaluation of damage to subsistence use of resources;

29 (6) enter into an agreement with the United States Coast Guard under which the  
30 compact will administer compliance with the requirements for demonstrating financial  
31 responsibility under section 1016 of the Oil Pollution Act of 1990 in an amount established by

1 the compact; proof of financial responsibility, if established by the compact under this paragraph,  
2 shall satisfy and supersede the requirement of any individual party for demonstrating financial  
3 responsibility; however, all financial responsibility requirements established by the parties to this  
4 compact before the compact establishes an amount under the paragraph shall remain in full force  
5 and effect until the compact establishes a requirement and enters into an agreement with the  
6 United States Coast Guard under this paragraph; in establishing the amount of financial  
7 responsibility under this paragraph, the compact shall work with officials of each party to assure  
8 that such requirements are sufficient to satisfy the requirements of the parties, in aggregate;

9 (7) in accordance with the provisions of 5 U.S.C. 551 - 559 and 701 - 706,  
10 enforce the rules and regulations adopted by the compact to carry out the authority of the  
11 compact as set out in this article;

12 (8) appoint technical and advisory committees for the purpose of advising the  
13 compact on regional ocean resources issues, data needs and format, and other purposes related  
14 to the compact's activities; a technical or advisory committee appointed by the compact is not  
15 subject to the provisions of the Federal Advisory Committee Act (P.L. 92-463, as amended);

16 (9) allow a variance from the provisions of this compact or rules or regulations  
17 adopted by the compact under this article; a variance must be based on a showing by the person  
18 or entity seeking the variance that the activity allowed under the variance will have no regional  
19 effect and that the variance is economically necessary; under no circumstances may a variance  
20 result in the regulation of the transportation of oil or hazardous substance according to standards  
21 less stringent than standards imposed under federal law.

22 (c) The compact shall adopt all regulations necessary to carry out its duties and exercise  
23 its authority under this article. The compact shall adopt the regulations in accordance with the  
24 provisions of 5 U.S.C. 500 - 559.

## 25 ARTICLE VI

### 26 PACIFIC OCEAN RESOURCES COMPACT ORGANIZATION

27 The compact shall select a chair and a vice-chair. After the initial chair and vice-chair  
28 are selected, the compact shall establish a rotation for the selection of the chair and vice-chair  
29 so the office rotates through the parties to the compact. The compact shall appoint and at its  
30 pleasure remove or discharge such officers and employees as may be required to carry the  
31 provisions of this compact into effect and shall fix and determine their duties, qualifications, and

1 compensation. The compact shall adopt rules and regulations for the conduct of its business.  
2 It may establish and maintain one or more offices for the transaction of its business and may  
3 meet at any time or place within the territorial limits of the signatory parties but must meet at  
4 least once a year.

#### 5 ARTICLE VII

#### 6 VOTING AND QUORUM

7 (a) A majority of the representatives shall constitute a quorum.

8 (b) Each representative shall be entitled to one vote. An action or decision of the  
9 compact may not be approved unless the action or decision receives a majority of the votes of  
10 the representatives, including at least one affirmative vote from each party.

#### 11 ARTICLE VIII

#### 12 SUPPORT AGENCIES

13 The compact may contract for the staff support necessary to carry out the purposes of this  
14 compact or request appropriate agencies of the signatory parties to act as the research agencies  
15 of the compact.

#### 16 ARTICLE IX

#### 17 PARTIES' POWERS UNDER COMPACT

18 Except as specifically provided in Article V of this compact, nothing in this compact may  
19 be construed to limit the powers of a party or to repeal or prevent the enactment of legislation  
20 or the enforcement of a requirement imposing additional conditions and restrictions to conserve  
21 ocean resources.

#### 22 ARTICLE X

#### 23 ABSENCE

24 Continued absence of representation or of a compact representative from a party shall be  
25 brought to the attention of the appointing authority of the party not represented.

#### 26 ARTICLE XI

#### 27 FUNDING

28 (a) Each party shall contribute to the support of the compact.

29 (b) The annual contribution of each party shall be figured to the nearest \$100.

30 (c) The compact shall prepare an annual budget which shall be approved by vote of the  
31 compact. After approval, the proposed budget shall be presented to the chief executive and the

1 legislative body of each party.

2 (d) Each party shall be responsible for the expenses of its own representatives.

3 ARTICLE XII

4 WITHDRAWAL FROM COMPACT

5 This compact shall continue in force and remain binding upon each party until renounced  
6 by it. Renunciation of this compact must be preceded by sending six months' notice in writing  
7 of intention to withdraw from the compact to the other parties to the compact.

8 Sec. 46.47.030. REPRESENTATIVES. The two representatives of the state to the Pacific  
9 Ocean Resources Compact shall be appointed by the governor, subject to confirmation by the  
10 legislature.

11 Sec. 46.47.040. PUBLIC REVIEW OF REGULATIONS. A representative of this state  
12 may not vote for the adoption of a regulation of the Pacific Ocean Resources Compact that  
13 affects this state unless the regulation has been subjected to public review under the procedures  
14 of AS 44.62 (Administrative Procedure Act) relating to public comment and hearings.