

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5 - JUNEAU 99811

February 23, 1976

Honorable Kathryn Poland  
Chairman  
Senate Resources Committee  
Alaska State Legislature  
State Capitol Building  
Juneau, Alaska

Re: Senate Bill No. 612

Dear Senator Poland:

Senate Bill No. 612, an Act relating to the Kachemak Bay critical habitat was introduced in the Senate on February 6, 1976 by the Resources Committee by request.

For the consideration of the Senate Resources Committee, I am enclosing a memorandum dated February 20, 1976 from Mr. Thomas K. Williams, Director, Petroleum Revenue Division, Department of Revenue, Anchorage, Alaska, concerning effect on Treasury and problems of administration.

If you or any members of the Senate Resources Committee have any questions on the material submitted, please telephone the writer at 465-2397 and I will contact Mr. Williams in Anchorage for further information.

Very truly yours,

R. D. Stevenson  
Special Assistant

Enclosure

cc: The Honorable Bill Ray  
Chairman  
Senate Finance Committee  
Alaska State Legislature  
State Capitol Building  
Juneau, Alaska

Thomas K. Williams  
Director  
Petroleum Revenue Division  
Department of Revenue  
Anchorage, Alaska

# MEMORANDUM

## State of Alaska

TO: R. D. Stevenson  
Special Assistant  
Department of Revenue

DATE: February 20, 1976

FILE NO:

TELEPHONE NO:

FROM: Thomas K. Williams  
Director  
Petroleum Revenue Division  
Department of Revenue

SUBJECT: Senate Bill 612

Senate Bill 612 has two features: first, the Commissioner of Fish and Game is given a veto over any future oil and gas leasing in the Kachemak Bay critical habitat area. Second, the Commissioner of Natural Resources is authorized to buy back oil and gas leases already issued in the Kachemak Bay critical habitat area. He may do so either by payment or by authorizing credits against oil and gas income to the State from other interests of the seller on state land. The Department of Revenue is empowered to specify by regulation the procedures for granting these credits and for administering them.

The bill speaks of "oil and gas taxes under chs. 55, 56, 57 and 58 of this title". In the context of the bill, "this title" is AS 16, while the taxes are in AS 43. This should be corrected.

The bill should not allow credits against the reserves tax (AS 43.58). Because of the credits against later production tax that accrue from reserves tax payments, the reserves tax can be analogized to an interest-free loan to the State equal to the reserves tax actually paid. Crediting a repurchase price for Kachemak properties against reserves tax would simply reduce the amount that the State "borrows" under the reserves tax. The "payment" to the property owner under this proposal would therefore be highly illusory.

Repurchase of Kachemak leases could cost over \$35 million. Depending on the regulations adopted, this could occur all in one fiscal year or could be spread out over several years' time. No expansion of the Petroleum Revenue Division or its budget would be needed, assuming the Commissioner of Natural Resources negotiates or determines the repurchase price.

Frankly, I worry that the bill's failure to provide guidelines for the regulations may amount to an impermissible delegation of the legislative power to an executive agency. Regulations are to interpret and apply legislative policies and put them into action; the latitude given the Department under the bill seems to go beyond this.

The bill fails to provide for an effective date.

TKW:dh

cc: Frederick P. Boetsch  
Deputy Commissioner - Taxation

Introduced: 2/6/76  
Referred: Resources and  
Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE  
BY REQUEST

2 SENATE BILL NO. 612

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Kachemak Bay critical habitat  
7 area."

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

9 \* Section 1. AS 16.20 is amended by adding new sections to read:

10 Sec. 16.20.235. OIL AND GAS EXPLORATION OR PRODUCTION WITHIN  
11 KACHEMAK BAY. In addition to the other requirements of this chapter re-  
12 lating to critical habitat areas, an application for a permit or a lease  
13 to develop land or water for oil and gas exploration or production with-  
14 in the area specified in sec. 230(9) of this chapter, shall be submitted  
15 by the Department of Natural Resources to the commissioner of fish and  
16 game for approval. Before approval by the commissioner of fish and  
17 game, a public hearing shall be held, upon not less than 15 days notice,  
18 within the area to be affected. If, after the hearing, the commissioner  
19 determines that the activity, action, or use for which the permit or  
20 lease is sought will or is likely to seriously alter or endanger the  
21 environment or the fish or wildlife resources of the area specified in  
22 sec. 230(9) of this chapter, he shall disapprove the application and, if  
23 appropriate, return it to the Department of Natural Resources. Upon  
24 disapproval by the commissioner of fish and game, the lease or permit  
25 may not be issued.

26 Sec. 16.20.237. AUTHORIZATION FOR KACHEMAK BAY LEASE PURCHASES  
27 AND CREDIT. (a) The commissioner of natural resources may acquire, by  
28 purchase, title to or interests in real property, including leasehold  
29 interests, lying within the area specified in sec. 230(9) of this chap-

1 ter.

2 (b) In lieu of payment for a lease or other interest purchased  
3 under (a) of this section, the commissioner may authorize a credit to be  
4 granted the seller to be applied against lease rental payments, permit  
5 fees, or other oil and gas taxes under chs. 55, 56, 57, and 58 of this  
6 title which may be owed or are owing on other leases or property on  
7 state land held by the seller for oil and gas development.

8 (c) The procedure for granting and administering the credit  
9 specified in (b) of this section shall be specified by regulation of the  
10 Department of Revenue.  
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