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600

~~DRAFT~~

Original sponsors: Cowdery, Lindauer,
Bussell and Bettisworth

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 600 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to royalty oil; and providing for an
7 effective date."

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

9 * Section 1. AS 38.05.183 is amended to read:

10 Sec. 38.05.183. SALE OF ROYALTY. (a) The sale, exchange or
11 other disposal of a mineral obtained by the state as a royalty under
12 AS 38.05.182, or the sale, exchange or other disposal in whole or in
13 part of a right to receive future mineral production under a state
14 lease under AS 38.05.005 - 38.05.370, shall be by competitive bid and
15 the sale, exchange or other disposal made to the highest responsible
16 bidder. Competitive [, EXCEPT THAT COMPETITIVE] bidding is not
17 required for the sale, exchange, or other disposition of royalty gas
18 when the commissioner, after prior written notice to the Alaska
19 Royalty Oil and Gas Development [ADVISORY] Board under AS 38.06.050,
20 determines that the best interest of the state does not require it or
21 that no competition exists.

22 (b) When competitive bids are required, the commissioner, after
23 prior written notice to the Alaska Royalty Oil and Gas Development
24 [ADVISORY] Board, may reject all bids if the commissioner [HE] deter-
25 mines that because of the amount of the bids, the lack of responsibil-
26 ity on the part of the bidders, or for reasons consistent with the
27 criteria set out in AS 38.06.070, the acceptance of the bids would not
28 be in the best interest of the state.

29 (c) If the commissioner determines that a sale, exchange or

1 other disposal of a mineral obtained by the state as a royalty under
2 AS 38.05.182 or of a right to receive future mineral production under
3 a state lease under AS 38.05.005 - 38.05.370 shall be made otherwise
4 than by competitive bid, and the Alaska Royalty Oil and Gas Develop-
5 ment [ADVISORY] Board has been notified in writing of that determina-
6 tion, the commissioner shall make public in writing the specific
7 findings and conclusions upon which that determination is based.

8 (d) Oil or gas taken in kind by the state as its royalty share
9 may [NOT] be sold or otherwise disposed of for export from the state
10 unless [UNTIL] the commissioner determines that the royalty-in-kind
11 oil or gas is needed under (f) of this section [SURPLUS] to meet the
12 present [AND PROJECTED] intrastate domestic and industrial needs of an
13 in-state refiner or processor and the legislature approves of the
14 negotiated export sale. The commissioner shall make public, in writ-
15 ing, the specific findings and reasons on which the commissioner's
16 [HIS] determination is based [AND SHALL, WITHIN 10 DAYS OF THE CONVEN-
17 ING OF A REGULAR SESSION OF THE LEGISLATURE, SUBMIT A REPORT SHOWING
18 THE IMMEDIATE AND LONG-RANGE DOMESTIC AND INDUSTRIAL NEEDS OF THE
19 STATE FOR OIL AND GAS AND AN ANALYSIS OF HOW THESE NEEDS ARE TO BE
20 MET].

21 (e) When a sale, exchange or other disposal of oil or gas taken
22 in kind by the state as its royalty share, or a sale, exchange or
23 other disposal in whole or in part of a right to receive future roy-
24 alty oil or gas, under a state lease under AS 38.05.005 - 38.05.370 is
25 made other than by competitive bid, the sale, exchange or other dis-
26 posal shall be awarded by the commissioner to the prospective buyer
27 whose proposal offers the maximum benefits to citizens of the state.
28 The commissioner shall consider

- 29 (1) the cash value offered;

1 (2) the projected effects of the sale, exchange or other
2 disposal on the economy of the state;

3 (3) the projected benefits of refining or processing the
4 oil or gas in the state;

5 (4) the ability of the prospective buyer to provide refined
6 products or by-products for distribution and sale in the state with
7 price or supply benefits to the citizens of the state; and

8 (5) the criteria listed in AS 38.06.070(a).

9 (f) The commissioner may make a negotiated sale of royalty oil
10 under (a) of this section if the Royalty Oil and Gas Development Board
11 and the legislature approve of the sale and the commissioner finds
12 that the proposed purchaser is an in-state refiner or processor with
13 no other source of crude oil available to it at the prevailing market
14 price of like crude oil disposed of in Allocation Defense District
15 No. 5, other than a negotiated purchase of state royalty oil, and a
16 negotiated sale would be in the best interest of the state based on
17 the criteria contained in AS 38.06.070.

18 (g) Within 10 days of the convening of a regular session of the
19 legislature the commissioner shall submit a report showing the immedi-
20 ate and long-range domestic and industrial needs of the state for oil
21 and gas and an analysis of how these needs are to be met.

22 * Sec. 2. AS 38.05.020 is amended to read:

23 Sec. 38.06.020. ESTABLISHMENT. There is established in the
24 Department of Commerce and Economic Development the Alaska Royalty Oil
25 and Gas Development [ADVISORY] Board.

26 * Sec. 3. AS 38.06.025(a) is amended to read:

27 (a) The board consists of two members of the senate appointed by
28 the president of the senate, two members of the house of representa-
29 tives appointed by the speaker of the house, [THE COMMISSIONER OF

1 COMMERCE AND ECONOMIC DEVELOPMENT; THE COMMISSIONER OF REVENUE;] the
2 commissioner of natural resources, who is a nonvoting member, [;] and
3 two [THREE] public members with oil and gas marketing experience.

4 * Sec. 4. AS 38.06.040 is repealed and reenacted to read:

5 Sec. 38.06.040. POWERS AND DUTIES OF THE BOARD. (a) The board
6 shall examine proposed sales, exchanges or other disposal of, and
7 approve or disapprove a proposed sale, exchange or other disposal of

8 (1) the oil or gas that is obtained by the state as royalty
9 under AS 38.05.182; or

10 (2) the rights to receive future oil or gas production
11 under state leases; and

12 (3) recommend to the commissioner of natural resources the
13 conditions relating to the sale, delivery, transportation, refining or
14 processing of oil or gas which the commissioner may include in the
15 offer and sale of oil or gas obtained by the state as royalty under
16 AS 38.05.182.

17 (b) The board may not approve a contract for the sale, exchange,
18 or other disposition of royalty oil not by competitive bid unless the
19 contract provides that the price of the oil is equal to or greater
20 than the average or prevailing net value of like crude oil disposed of
21 in Allocation Defense District No. 5.

22 (c) Notwithstanding (b) of this section, the board may approve a
23 contract for the sale, exchange, or other disposition of royalty oil
24 only if:

25 (1) the contract price is not less than the highest posted
26 price at Pump Station No. 1 for equivalent crude, the weighted average
27 netback value of North Slope crude, or the weighted average netback
28 value of North Slope crude sold in Allocation Defense District No. 5,
29 whichever is higher;

1 (2) the contract contains a provision for the hiring of
2 residents of the state;

3 (3) the contract contains penalties for nonperformance;

4 (4) the contract includes a provision establishing a pref-
5 erence for refiners and processors operating in the state; and

6 (5) a material amendment to the contract may be made only
7 with the approval of the legislature.

8 (d) Approval by the board of a negotiated sale or the method of
9 disposal under this section may be rescinded by the legislature within
10 60 days if the legislature is in session when the board makes its
11 decision, within 60 days after convening the next regular session if
12 the legislature is not in session when the board makes its decision,
13 or within 10 days after convening a special session called for the
14 purposes of considering the board's decision, whichever is the earlier
15 date.

16 * Sec. 5. AS 38.06.050 is amended to read:

17 Sec. 38.06.050. BOARD REVIEW [AND RECOMMENDATION] REQUIRED. (a)
18 If board [LEGISLATIVE] approval is required by AS 38.06.055, a sale,
19 exchange, encumbrance, or other disposition of oil or gas or of the
20 rights or waiver of the rights to receive future production of royalty
21 oil or gas may not be made by the commissioner of natural resources
22 under AS 38.05.183 without prior approval [REVIEW] of the proposed
23 sale, exchange, encumbrance or other disposition by the board. [A
24 WRITTEN RECOMMENDATION OF THE BOARD ON THE PROPOSED SALE, EXCHANGE,
25 ENCUMBRANCE OR OTHER DISPOSITION OF OIL OR GAS OR OF THE RIGHTS OR
26 WAIVER OF THE RIGHTS TO RECEIVE FUTURE PRODUCTION OF ROYALTY OIL OR
27 GAS SHALL BE SUBMITTED TO THE LEGISLATURE AT THE TIME A RESOLUTION
28 APPROVING THE PROPOSED SALE, EXCHANGE, ENCUMBRANCE OR OTHER DISPOSI-
29 TION IS INTRODUCED IN THE LEGISLATURE.]

1 (b) Bids or applications for the purchase of royalty oil or gas
2 may be rejected by the [COMMISSIONER OF NATURAL RESOURCES IF PRIOR
3 WRITTEN NOTICE OF THE PROPOSED DISAPPROVAL IS GIVEN TO THE] board.

4 (c) Competitive bidding in a sale, exchange or other disposition
5 described in (a) of this section may not be waived by the [COMMIS-
6 SIONER OF NATURAL RESOURCES UNDER AS 38.05.183 UNLESS PRIOR WRITTEN
7 NOTICE OF PROPOSED WAIVER IS GIVEN TO THE] board except in the case of
8 negotiated foreign sale that requires legislative approval.

9 (d) (Repealed).

10 (e) Notwithstanding (a) - (c) of this section, the commissioner
11 of natural resources may dispose of royalty oil or gas for a period of
12 30 days without approval of the board in the case of a marketing
13 emergency. The 30-day period may be extended by 30 additional days
14 with the approval of the board.

15 * Sec. 6. AS 38.06.055(a) is amended to read:

16 (a) The [IN ADDITION TO THE RECOMMENDATION BY THE BOARD REQUIRED
17 UNDER AS 38.06.050, THE] commissioner of natural resources may not
18 enter into a sale, exchange, or other disposition of oil or gas or of
19 the rights or waiver of the rights to receive future production of
20 royalty oil or gas under AS 38.05.183 without the prior approval of
21 the board [LEGISLATURE. THE LEGISLATURE MAY APPROVE A SALE, EXCHANGE,
22 OR OTHER DISPOSITION OF OIL OR GAS OR OF THE RIGHTS OR OF A WAIVER OF
23 THE RIGHTS TO RECEIVE FUTURE PRODUCTION OF ROYALTY OIL OR GAS ONLY BY
24 ENACTING LEGISLATION].

25 * Sec. 7. AS 38.06.055(c) is amended to read:

26 (c) A sale, exchange, or other disposition of oil or gas made
27 under (b)(1) of this section may not be continued after the end of one
28 year or renewed with the same party to provide relief for market or
29 storage conditions without the prior approval of the board

1 [LEGISLATURE] under (a) of this section.

2 * Sec. 8. AS 38.06.060 is amended to read:

3 Sec. 38.06.060. CONFIDENTIALITY. Notwithstanding AS 09.25.110 -
4 09.25.120, the board may provide by regulation for the confidentiality
5 of those documents and records in its possession or control that
6 [WHICH] contain confidential business or marketing information the
7 protection of which is essential to the person who has submitted them
8 to the board or in the judgment of the board is essential to the best
9 interest of the state. [SUCH CONFIDENTIALITY, HOWEVER, SHALL NOT
10 PRECLUDE THE PROPER REVIEW BY THE LEGISLATURE.]

11 * Sec. 9. AS 38.06.080(1) is amended to read:

12 (1) "board" means the Alaska Royalty Oil and Gas Develop-
13 ment [ADVISORY] Board; and

14 * Sec. 10. AS 38.05.182(b) and 38.05.183(b) are repealed.

15 * Sec. 11. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).

ANALYSIS

CSHB#600

9 March, 1984

The bill would allow for sale of royalty gas by other than competitive bidding if the commissioner determines that the best interest of the state does not require it or that no competition exists. The sale would require approval by the Royalty Oil & Gas Development Board and the Legislature.

When competitive bids are required, the commissioner would have the ability to reject a bid consistent with state statutes.

The basic procedures for public notice of specific findings and conclusions have remained the same.

The bill would allow for negotiated export sale, if the royalty oil or gas was not needed to meet intrastate domestic and industrial needs, and if the legislature approved of the sale.

Sale of royalty oil other than by a competitive bid would be allowed to in-state refiners, if the commissioner found that the refiner had no other source of crude oil available to it at the prevailing west coast market price, and the terms of the negotiated sale were approved by the Board and the Legislature.

The bill restructures the present Royalty Oil & Gas Development Advisory Board, calling for the new 7 member board to be made up of 4 members of the legislature, 2 from the Senate and 2 from the House, the Commissioner of the DNR, as a non voting member, and two public members with oil & gas marketing expertise. The board would then have authority to approve or veto all sales and methods of dispositions of royalty oil and gas. The Legislature would have the ability to rescind any proposed sale within the first 60 days of a regular session, or 10 days of a special session. The board would not be able to approve a contract unless the price was equal to or greater than the average or prevailing net value of a like crude sold on the west coast. Likewise, in a competitive bid sale, the lowest acceptable bid would be either the weighted average in-value price, or the average netback value of a like crude sold on the west coast, or the posted price at Pump Station No. 1 for equivalent crude, whichever is higher.

Any material amendments to a contract would require legislative approval. The contract would have to include provisions for local hiring, penalties for nonperformance, and preference for refiners and processors operating in the state.

The bill would allow the commissioner the authority, in case of a marketing emergency, to dispose of royalty oil for a period of 30 days without the approval of the board or the legislature, and could extend the period another 30 days with board approval.

A confidentiality provision is provided for confidential business or marketing information obtained by the board or the legislature.

ANALYSIS OF NEW CS FOR HB#600

Date: 19 March, 1984

The major changes in the new draft of CSHB#600 from the original CS, heard by the Resources Committee Monday March 12th, deal with changes in the organization and language of the bill in order that the method and conditions for disposal of the states royalty minerals may be clearly understood and easily referenced by all concerned. The substantive content of the bill is unchanged, however, overlapping and repetitive sections have been deleted. A sectional analysis follows:

Section 1 of the bill requires that the sale exchange or other disposal of minerals obtained as royalties under AS 38.05.182, shall be by competitive bid to the highest responsible bidder. Subsection (a) then lists all the exceptions when bidding shall not be required when the Commissioner finds that it's in the best interest of the state.

- 1.) For a negotiated export sale of royalty crude oil to a foreign country or corporation.
- 2.) A negotiated sale to an in-state refiner under (f) of this section.
- 3.) In the case of a marketing or storage emergency.
- 4.) For the sale of mineral royalties other than crude oil.

Subsection (b) allows the Commissioner with approval of the board to reject any bid that lacks responsibility, or for reasons that are consistent with the criteria of AS 38.06.070.

Subsection (c) calls for the commissioner to notify the board in writing if the commissioner determines that competitive bidding should be waved, and to make public the specific findings and conclusions upon which the determinations are based.

Subsection (d) allows for the export sale of royalty oil or gas taken in-kind, unless the commissioner determines that it is needed to meet present in-state domestic and industrial needs of an in-state refiner, and requires public notification of such findings.

Subsection (e) lists the considerations for the commissioner for a sale of royalty oil or gas other than by competitive bid, for maximizing benefits to citizens of the state.

- 1.) The cash value offered;
- 2.) The projected effects of the sale on the economy of the state;
- 3.) The projected benefits of in-state refining or processing;
- 4.) The ability of the buyer to supply a price benefit of the refined product for the citizens of the state;
- 5.) The projected social and environmental impacts of the sale.

Subsection (f) is the criteria under which the commissioner may make a negotiated sale of royalty oil with the approval of the Royalty Oil & Gas Development Board, to an in-state refiner. The subsection states that

before a sale may be negotiated that the commissioner shall find that the in-state refiner has no other source of crude oil available to it at the prevailing west coast market price other than a negotiated purchase of state royalty oil, and that the sale would be in the best interests of the state according to the considerations of (e) in the same section. The commissioner is given 10 days from the signing of the contract to submit the terms of sale to the board for approval. The legislature maintains authority to rescind a sale under this section as provided in AS. 38.06.055 (d), which is amended in Section 8 of this bill.

Subsection (g) stipulates conditions for the sale of royalty oil. Requiring the price to be not less than the highest posted price at Pump Station #1 for equivalent crude, the weighted average netback value of North Slope crude, or the weighted average value of North Slope crude sold on the west coast. Provisions are also included in this subsection that provide for hiring state residents, penalties for nonperformance, and legislative approval of any material amendments to the contract.

Subsection (h) calls for the commissioner to submit a report showing the immediate and long range domestic and industrial needs of the state for oil and gas, and an analysis of how the needs are to be met, within 10 days of the convening of a regular session of the legislature.

Subsection (i) removes AS. 38.05.035 (a) (14), Powers and duties of the director from applying to a sale of oil or gas under this section. This eliminates overlapping authority found in this statute.

Section 2, drops the term advisory from the Alaska Royalty Oil and Gas Development [Advisory] Board.

Section 3, reconstructs the Board to consist of two members of the Senate, two members of the House, the commissioner of natural resources as a nonvoting member, and two public members.

Section 4, amends AS 38.06.025 Membership, (b), by adding the word marketing to the list of petroleum related experience that public members of the board are to possess, and replaces the word [HIS] with "the governor's pleasure for three year staggered terms and confirmed by a vote of a majority of the members of the legislature in joint session".

Section 5, gives the board authority to examine, and approve or disapprove all proposed sales, exchanges or other disposal of royalty oil or gas, by repealing AS 38.06.040, and reenacting it to have such powers.

Section 6, repeals AS 38.06.050 BOARD APPROVAL, and reenacts it providing for board approval of all disposition of oil or gas, and adding an emergency provision that allows the commissioner to dispose of royalty oil or gas for a period of 30 days without approval of the board or legislature in the case of a marketing or storage emergency. Also allows the 30 day period to be extended with approval of the board.

Section 7, allows the board to approve a negotiated sale of royalty oil or gas to a foreign country or corporation as long as it is approved by an act of the legislature.

Section 8, adds a new subsection to AS 38.05.055 that allows the legislature to rescind a negotiated sale to an in-state refiner within 60 days during a regular session, and within 10 days of a special session called for such purpose.

Section 9, provides for confidentiality of business or marketing information essential to the person who has submitted them to the board.

Section 10, drops the word advisory from the definition of the "board".

Section 11, amends AS 38.06 by adding a section to read: "Sec. 38.06.090 APPLICABILITY OF OTHER LAW. AS 38.05.035 (a) (14) does not apply to a sale, exchange, or other disposal of oil or gas under this chapter." In order to clarify the statutes.

Section 12, repeals statutes that are no longer necessary.

DRAFT

Original sponsors: Cowdery, Lindauer,
Bussell and Bettisworth

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BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 600 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to royalty oil; and providing for an
7 effective date."

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

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10 Sec. 38.05.183. SALE OF ROYALTY. (a) The sale, exchange or
11 other disposal of a mineral obtained by the state as a royalty under
12 AS 38.05.182, or the sale, exchange or other disposal in whole or in
13 part of a right to receive future mineral production under a state
14 lease under AS 38.05.005 - 38.05.370, shall be by competitive bid and
15 the sale, exchange or other disposal made to the highest responsible
16 bidder. Competitive [, EXCEPT THAT COMPETITIVE] bidding is not re-
17 quired when the commissioner, after prior written notice to the Alaska
18 Royalty Oil and Gas Development [ADVISORY] Board under AS 38.06.050,
19 determines that the best interest of the state does not require it and
20 the sale is:

21 (1) a negotiated ^{for export} export sale of oil to a foreign country or
22 corporation;

23 (2) a sale of oil to an in-state refiner or processor under
24 (f) of this section;

25 (3) an emergency sale of oil under AS 38.06.050(b); or

26 (4) a sale of mineral royalties other than oil [OR THAT NO
27 COMPETITION EXISTS].

28 (b) When competitive bids are required, the commissioner, after
29 prior written notice to the Alaska Royalty Oil and Gas Development

1 [ADVISORY] Board, may reject all bids if the commissioner with the
2 approval of the board [HE] determines that because of the amount of
3 the bids, the lack of responsibility on the part of the bidders, or
4 for reasons consistent with the criteria set out in AS 38.06.070, the
5 acceptance of the bids would not be in the best interest of the state.

6 (c) If the commissioner determines that a sale, exchange or
7 other disposal of a mineral obtained by the state as a royalty under
8 AS 38.05.182 or of a right to receive future mineral production under
9 a state lease under AS 38.05.005 - 38.05.370 shall be made otherwise
10 than by competitive bid, and in the case of a sale of oil or gas the
11 Alaska Royalty Oil and Gas Development [ADVISORY] Board has been
12 notified in writing of that determination, the commissioner shall make
13 public in writing the specific findings and conclusions upon which
14 that determination is based.

15 (d) Oil or gas taken in kind by the state as its royalty share
16 may [NOT] be sold or otherwise disposed of for export from the state
17 unless [UNTIL] the commissioner determines that the royalty-in-kind
18 oil or gas is needed under (f) of this section [SURPLUS] to meet the
19 present [AND PROJECTED] intrastate domestic and industrial needs of an
20 in-state refiner or processor. The commissioner shall make public, in
21 writing, the specific findings and reasons on which the commissioner's
22 [HIS] determination is based [AND SHALL, WITHIN 10 DAYS OF THE CONVEN-
23 ING OF A REGULAR SESSION OF THE LEGISLATURE, SUBMIT A REPORT SHOWING
24 THE IMMEDIATE AND LONG-RANGE DOMESTIC AND INDUSTRIAL NEEDS OF THE
25 STATE FOR OIL AND GAS AND AN ANALYSIS OF HOW THESE NEEDS ARE TO BE
26 MET].

27 (e) When a sale, exchange or other disposal of oil or gas taken
28 in kind by the state as its royalty share, or a sale, exchange or
29 other disposal in whole or in part of a right to receive future

1 royalty oil or gas, under a state lease under AS 38.05.005 - 38.05.370
2 is made other than by competitive bid, the sale, exchange or other
3 disposal shall be awarded by the commissioner to the prospective buyer
4 whose proposal offers the maximum benefits to citizens of the state.
5 The commissioner shall consider

6 (1) the cash value offered;

7 (2) the projected effects of the sale, exchange or other
8 disposal on the economy of the state;

9 (3) the projected benefits of refining or processing the
10 oil or gas in the state;

11 (4) the ability of the prospective buyer to provide refined
12 products or by-products for distribution and sale in the state with
13 price or supply benefits to the citizens of the state; and

14 (5) the projected social and environmental impacts of the
15 transaction [CRITERIA LISTED IN AS 38.06.070(a)].

16 (f) The commissioner may make a negotiated sale of royalty oil
17 under (a) of this section if the Royalty Oil and Gas Development Board
18 approves of the sale and the commissioner finds that the proposed
19 purchaser is an in-state refiner or processor with no other source of
20 crude oil available to it at the prevailing market price of like crude
21 oil disposed of in Petroleum Allocation Defense District No. 5, other
22 than a negotiated purchase of state royalty oil, and a negotiated sale
23 would be in the best interest of the state based on the criteria
24 contained in (e) of this section. The commissioner shall submit to
25 the board the terms of a proposed sale under this subsection within 10
26 days after the signing of a contract for that sale. The legislature
27 may rescind a sale under this subsection as provided in AS 38.06.-
28 055(d).

29 (g) The commissioner may enter a contract for the sale,

1 exchange, or other disposition of royalty oil only if: (1) the con-
2 tract price is not less than the highest posted price at Pump Station
3 No. 1 for equivalent crude, the weighted average netback value of
4 North Slope crude, or the weighted average netback value of North
5 Slope crude sold in Petroleum Allocation Defense District No. 5,
6 whichever is higher; (2) the contract contains a provision for the
7 hiring of residents of the state; (3) the contract contains penalties
8 for nonperformance; (4) a material amendment to the contract may be
9 made only with the approval of the legislature. The commissioner
10 shall give a preference to refiners and processors operating in the
11 state.

12 (h) Within 10 days of the convening of a regular session of the
13 legislature the commissioner shall submit a report showing the immedi-
14 ate and long-range domestic and industrial needs of the state for oil
15 and gas and an analysis of how these needs are to be met.

16 (i) AS 38.05.035(a)(14) does not apply to a sale, exchange, or
17 other disposal of oil or gas under this section.

18 * Sec. 2. AS 38.06.020 is amended to read:

19 Sec. 38.06.020. ESTABLISHMENT. There is established in the
20 Department of Commerce and Economic Development the Alaska Royalty Oil
21 and Gas Development [ADVISORY] Board.

22 * Sec. 3. AS 38.06.025(a) is amended to read:

23 (a) The board consists of two members of the senate appointed by
24 the president of the senate, two members of the house of representa-
25 tives appointed by the speaker of the house, [THE COMMISSIONER OF
26 COMMERCE AND ECONOMIC DEVELOPMENT; THE COMMISSIONER OF REVENUE;] the
27 commissioner of natural resources, who is a nonvoting member, [;] and
28 two [THREE] public members.

29 * Sec. 4. AS 38.06.025(b) is amended to read:

1 (b) Each of the public members shall possess experience in
2 petroleum-related fields in such areas as marketing exploration,
3 development, production and economics, and shall be appointed by the
4 governor to serve at the governor's [HIS] pleasure for three-year
5 staggered terms and confirmed by a vote of a majority of the members
6 of the legislature in joint session. The public members may not be
7 state officers or employees.

8 * Sec. 5. AS 38.06.040 is repealed and reenacted to read:

9 Sec. 38.06.040. POWERS AND DUTIES OF THE BOARD. The board
10 shall examine proposed sales, exchanges or other disposal of, and
11 approve or disapprove a proposed sale, exchange or other disposal of
12 (1) the oil or gas that is obtained by the state as royalty under
13 AS 38.05.182 or (2) the rights to receive future oil or gas production
14 under state leases. The board shall recommend to the commissioner of
15 natural resources the conditions relating to the sale, delivery,
16 transportation, refining or processing of oil or gas which the
17 commissioner may include in the offer and sale of oil or gas obtained
18 by the state as royalty under AS 38.05.182.

19 * Sec. 6. AS 38.06.050 is repealed and reenacted to read:

20 Sec. 38.06.050. BOARD APPROVAL. (a) A sale, exchange, encum-
21 brance, or other disposition of oil or gas or of the rights or waiver
22 of the rights to receive future production of royalty oil or gas may
23 not be made by the commissioner of natural resources under AS 38.05.-
24 183 without prior approval of the proposed sale, exchange, encumbrance
25 or other disposition by the board.

26 (b) Notwithstanding (a) of this section, the commissioner of
27 natural resources may dispose of royalty oil or gas for a period of ⁹⁰~~30~~
28 days without approval of the board or legislature in the case of a
29 marketing or storage emergency. The ⁹⁰~~30~~-day period may be extended

1 with the approval of the board.

2 * Sec. 7. AS 38.06.055(a) is amended to read:

3 (a) In addition to the approval [RECOMMENDATION] by the board
4 required under AS 38.06.050, the commissioner of natural resources
5 may not enter into a sale, exchange, or other disposition of oil or
6 gas or of the rights or waiver of the rights to receive future
7 production of royalty oil or gas with a foreign country or corporation
8 under AS 38.05.183 without the prior approval of the legislature. The
9 legislature may approve a sale, exchange, or other disposition of oil
10 or gas or of the rights or of a waiver of the rights to receive future
11 production of royalty oil or gas only by enacting legislation.

12 * Sec. 8. AS 38.06.055 is amended by adding a new subsection to read:

13 (d) Rescission by the legislature of a sale to an in-state
14 refiner under AS 38.05.183(f) shall occur within 60 days of when the
15 board makes its decision if the legislature is in session when the
16 board makes its decision, within 60 days after convening the next
17 regular session if the legislature is not in session when the board
18 makes its decision, or within 10 days after convening a special
19 session called for the purposes of considering the board's decision,
20 whichever is the earlier date.

21 * Sec. 9. AS 38.06.060 is amended to read:

22 Sec. 38.06.060. CONFIDENTIALITY. Notwithstanding AS 09.25.110 -
23 09.25.120, the board may provide by regulation for the confidentiality
24 of these documents and records in its possession or control that
25 [WHICH] contain confidential business or marketing information the
26 protection of which is essential to the person who has submitted them
27 to the board or in the judgment of the board is essential to the best
28 interest of the state. [SUCH CONFIDENTIALITY, HOWEVER, SHALL NOT
29 PRECLUDE THE PROPER REVIEW BY THE LEGISLATURE.]

1 * Sec. 10. AS 38.06.080(1) is amended to read:

2 (1) "board" means the Alaska Royalty Oil and Gas Develop-
3 ment [ADVISORY] Board; and

4 * Sec. 11. AS 38.06 is amended by adding a new section to read:

5 Sec. 38.06.090. APPLICABILITY OF OTHER LAW. AS 38.05.035(a)(14)
6 does not apply to a sale, exchange, or other disposal of oil or gas
7 under this chapter.

8 * Sec. 12. AS 38.05.182(b) and AS 38.06.055(b) and (c) are repealed.

9 * Sec. 13. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).

gas shall be taken in kind unless the commissioner determines that the taking in money would be in the best interest of the state.

(b) The commissioner shall submit a determination to take royalty in money to the legislature at the first opportunity during a current session or, if the legislature is not in session, at the next regular session. The legislature, within 60 days or by the adjournment of the session, whichever comes sooner, may revoke the determination by concurrent resolution. (§ 1 ch 56 SLA 1970; am § 7 ch 71 SLA 1971; am § 1 ch 9 SSSLA 1974; am § 5 ch 218 SLA 1976; am § 1 ch 146 SLA 1977; am § 8 ch 112 SLA 1980)

Effect of amendments. — The 1980 amendment deleted "(1)" following "in kind unless," and deleted "and (2) the Alaska Royalty Oil and Gas Development Advisory Board approves the taking in

money" following "best interest of the state," and in subsection (b), deleted "approved under (a) of this section" following "to take royalty in money."

NOTES TO DECISIONS

Quoted in *McKinnon v. Alpetco Co.*,
Sup. Ct. Op. No. 2413 (File No. 5546), 633
P.2d 281 (1981).

Sec. 38.05.183. Sale of royalty. (a) The sale, exchange or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182, or the sale, exchange or other disposal in whole or in part of a right to receive future mineral production under a state lease under AS 38.05.005 — 38.05.370, shall be by competitive bid and the sale, exchange or other disposal made to the highest responsible bidder, except that competitive bidding is not required when the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board under AS 38.06.050, determines that the best interest of the state does not require it or that no competition exists.

(b) When competitive bids are required, the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board, may reject all bids if he determines that because of the amount of the bids, the lack of responsibility on the part of the bidders, or for reasons consistent with the criteria set out in AS 38.06.070, the acceptance of the bids would not be in the best interest of the state.

(c) If the commissioner determines that a sale, exchange or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182 or a right to receive future mineral production under a state lease under AS 38.05.005 — 38.05.370 shall be made otherwise than by competitive bid, and the Alaska Royalty Oil and Gas Development Advisory Board has been notified in writing of that determination, the commissioner shall make public in writing the specific findings and conclusions upon which that determination is based.

(d) Oil or gas taken in kind by the state as its royalty share may not be sold or otherwise disposed of for export from the state until the commissioner determines that the royalty-in-kind oil or gas is surplus to the present and projected intrastate domestic and industrial needs. The commissioner shall make public, in writing, the specific findings and reasons on which his determination is based and shall, within 10 days of the convening of a regular session of the legislature, submit a report showing the immediate and long-range domestic and industrial needs of the state for oil and gas and an analysis of how these needs are to be met.

(e) When a sale, exchange or other disposal of oil or gas taken in kind by the state as its royalty share, or a sale, exchange or other disposal in whole or in part of a right to receive future royalty oil or gas, under a state lease under AS § 38.005 — 38.05.370 is made other than by competitive bid, the sale, exchange or other disposal shall be awarded by the commissioner to the prospective buyer whose proposal offers the maximum benefits to citizens of the state. The commissioner shall consider:

- (1) the cash value offered;
- (2) the projected effects of the sale, exchange or other disposal on the economy of the state;
- (3) the projected benefits of refining or processing the oil or gas in the state;
- (4) the ability of the prospective buyer to provide refined products or by-products for distribution and sale in the state with price or supply benefits to the citizens of the state; and
- (5) the criteria listed in AS 38.06.070(a). (§ 1 ch 56 SLA 1970; am § 3 ch 9 SSSLA 1974; am §§ 9, 10 ch 112 SLA 1986.)

Effect of amendments. — The 1980 amendment, in subsection (a), substituted "after prior written notice to" for "with the prior written approval of" and "under AS 38.06.050" for "where applicable," near the end of the subsection; in subsection (b), substituted "after prior written notice to" for "with the prior written approval of"; in

subsection (c), substituted "has been notified in writing of" for "where applicable has approved"; in subsection (d), deleted "with the approval of the Alaska Royalty Oil and Gas Development Advisory Board" following "until the commissioner"; and added subsection (e).

NOTES TO DECISIONS

Waiver of competitive bidding. — An initial waiver of competitive bidding and a second waiver at the time of amendment removed any obligation to open the

contract to competitive bidding. *McKinnon v. Alpetco Co.*, Sup. Ct. Op. No. 2413 (File No. 55-46), 633 P.2d 281 (1981).

Sec. 38.06.020. Establishment. There is established in the Department of Commerce and Economic Development the Alaska Royalty Oil and Gas Development Advisory Board. (§ 2 ch 9 SSSLA 1974; am § 1 ch 112 SLA 1980)

Effect of amendments. — The 1980 Economic Development" for "Natural amendment substituted "Commerce and Resources."

Sec. 38.06.025. Membership. (a) The board consists of the commissioner of commerce and economic development; the commissioner of revenue; the commissioner of natural resources, who is a nonvoting member; and three public members.

(b) Each of the public members shall possess experience in petroleum-related fields in such areas as exploration, development, production and economics, and shall be appointed by the governor to serve at his pleasure for three-year staggered terms and confirmed by a vote of a majority of the members of the legislature in joint session. The public members may not be state officers or employees.

(c) A chairman shall be elected by the board from among the public members.

(d) A public member, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualifies.

(e) Vacancies in public membership shall be filled in the same manner as original appointment. An appointee to fill a vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. A vacancy in board membership does not impair the authority of a quorum of the board members to exercise all the powers and duties of the board. (§ 2 ch 9 SSSLA 1974; am § 8 ch 207 SLA 1975; am § 2 ch 112 SLA 1980)

Effect of amendments. — The 1980 amendment restructured the section into present subsections (a) — (e); in subsection (a), substituted "commerce and economic development" for "natural resources, who is chairman," substituted a semi-colon for a comma following "commissioner of revenue," and inserted "the commissioner of natural resources, who is a nonvoting member"; added the provisions of subsection (e); and substituted "until" for "under" in subsection (d).

Sec. 38.06.035. Meetings, rules, quorum, votes required; conflict of interest. (a) The board shall prescribe its own rules of procedure. It shall meet at a time and place determined by the chairman, and at other times and places as the chairman, or a majority of the board members, considers necessary. A quorum is a majority of the voting members of the board. The votes of the board members shall be recorded. Effective action to carry out the powers granted under AS 38.06.010 — 38.06.080 requires the affirmative vote of a majority of the board members. No board member may, with respect to a matter before the board, vote for or on behalf of another member of the board.

(b) No member of the board may act upon a matter in which his relationship with any person creates a conflict of interest. No board member may have an official connection with or hold stock or securities in, or have a pecuniary interest in, a corporation, company or association engaged in the production or transportation of oil or gas. (§ 2 ch 9 SSSLA 1974; am § 3 ch 112 SLA 1980)

Effect of amendments. — The 1980 "voting" preceding "members" in the third amendment, in subsection (a), inserted sentence.

Sec. 38.06.040. Powers and duties of the board. (a) The board shall

(1) in accordance with the criteria set out in AS 38.06.070, develop a plan for the wise development of the state's oil and gas royalty interests; the plan of development shall be consistent with

- (A) growth of the private sector of the economy;
- (B) environmental standards required by law; and
- (C) public fiscal stability;

(2) hold public hearings on proposed sales, exchanges, or other disposals of royalty oil or gas to determine whether the proposals comply with AS 38.06.070;

(3) examine proposed sales, exchanges or other disposal of, and recommend to the legislature that it approve or disapprove a proposed sale, exchange or other disposal of

(A) the oil or gas that is obtained by the state as royalty under AS 38.05.182; or

(B) the rights to receive future oil or gas production under state leases; and

(4) recommend to the commissioner of natural resources the conditions relating to the sale, delivery, transportation, refining or processing of oil or gas which he may include in the offer and sale of oil or gas obtained by the state as royalty under AS 38.05.182.

(b) The board may

(1) direct the commissioner of natural resources to solicit development plans or bids consistent with the criteria set out in AS 38.06.070 for

(A) the sale, exchange or other disposal of oil or gas obtained by the state as royalty under AS 38.05.182; or

(B) the sale, exchange or other disposal of all or a portion of the rights to receive future oil or gas production under a state lease;

(2) employ an executive director, and contract for the services of professionals, persons with knowledge of economics and other disciplines, and persons with technical skills who may be necessary to assist the board in the exercise of its powers and duties; and

(3) adopt regulations under the Administrative Procedure Act (AS 44.62.010 — 44.62.650) that are necessary for the exercise of its powers and duties. (§ 2 ch 9 SSSLA 1974; am § 4 ch 112 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Sec. 38.06.050. Board review and recommendation required. (a) If legislative approval is required by AS 38.06.055, a sale, exchange, encumbrance, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas may not be made by the commissioner of natural resources under AS 38.05.183 without prior review of the proposed sale, exchange, encumbrance or other disposition by the board. A written recommendation of the board on the proposed sale, exchange, encumbrance or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas shall be submitted to the legislature at the time a resolution approving the proposed sale, exchange, encumbrance or other disposition is introduced in the legislature.

(b) Bids or applications for the purchase of royalty oil or gas may be rejected by the commissioner of natural resources if prior written notice of the proposed disapproval is given to the board.

(c) Competitive bidding in a sale, exchange or other disposition described in (a) of this section may not be waived by the commissioner of natural resources under AS 38.05.183 unless prior written notice of proposed waiver is given to the board.

(d) (Repealed). (§ 2 ch 9 SSSLA 1974; am § 5 ch 112 SLA 1980)

Effect of amendments. — The 1980 amendment, in subsection (a), substituted "If legislative approval is required by AS 38.06.055, a" for "No" at the beginning of the subsection, inserted "not" preceding "be made by" near the middle of the first sentence, deleted "the" following "AS 38.05.183 without" near the middle of the first sentence, substituted "review of the proposed sale, exchange, encumbrance or other disposition by" for "written approval of" in the first sentence, and added the second sentence; in subsection (b), deleted "not" following "oil or gas may," substituted "if" for "without the" preceding

"prior written," and substituted "notice of the proposed disapproval is given to" for "approval of"; in subsection (c), substituted "unless" for "without the" preceding "prior written," and substituted "notice of proposed waiver is given to" for "approval of"; and deleted former subsection (d), which read: "The board may require conditions relating to the sale, delivery, transportation, or refining or processing within the state to be included by the commissioner of natural resources in the offer of and sale by competitive bidding of oil or gas obtained by the state as royalty under AS 38.05.182."

NOTES TO DECISIONS

Stated in *McKinnon v. Alpetco Co.*,
Sup. Ct. Op. No. 2413 (File No. 5546), 633
P.2d 281 (1981).

Sec. 38.06.055. Legislative approval. (a) In addition to the recommendation by the board required under AS 38.06.050, the commissioner of natural resources may not enter into a sale, exchange, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas under AS 38.05.183 without the

prior approval of the legislature. The legislature may approve a sale, exchange, or other disposition of oil or gas or of the rights or of a waiver of the rights to receive future production of royalty oil or gas only by enacting legislation.

(b) The provisions of (a) of this section do not apply to

(1) the sale, exchange, or other disposition of oil or gas for one year or less if the sale, exchange, or other disposition is entered into to relieve storage or market conditions;

(2) contracts for the sale of state-owned royalty gas or oil that specify the sale and delivery of not more than

(A) 400 barrels of crude oil per day;

(B) 460 barrels of natural gas liquids per day; and

(C) 2,400 Mcf of natural gas per day.

(c) A sale, exchange, or other disposition of oil or gas made under (b)(1) of this section may not be continued after the end of one year or renewed with the same party to provide relief for market or storage conditions without the prior approval of the legislature under (a) of this section. (§ 2 ch 9 SSSLA 1974; am § 2 ch 146 SLA 1977; am § 1 ch 131 SLA 1978; am § 6 ch 112 SLA 1980)

Effect of amendments. — The 1978 amendment substituted "storage or market conditions" for "a shortage of storage capacity" at the end of the first sentence of subsection (a), added the second sentence of that subsection, and deleted "Until July 1, 1975" from the beginning of subsection (b).

The 1980 amendment rewrote the section.

Opinions of attorney general. — The legislature may not conditionally approve a contract since such conditional acceptance is in law a rejection of the offer and the contract would have to be returned for renegotiation. February 23, 1977, Op. Att'y Gen.

NOTES TO DECISIONS

Quoted in *McKinnon v. Alpetco Co.*, Sup. Ct. Op. No. 2413 (File No. 5546), 633 P.2d 251 (1981).

Sec. 38.06.060. Confidentiality.

Opinions of attorney general. — The chairman of the Alaska Royalty Oil and Gas Development Advisory Board may accurately represent to various private companies that documents they provide to the board may be held confidential and will not be subject to public disclosure, pro-

vided that the board determines that they should remain confidential, and in addition, the commissioner may advise the companies that documents which the board determines will not be kept confidential will be returned to them. September 26, 1977, Op. Att'y Gen.

Sec. 38.06.070. Criteria. (a) In the exercise of its powers under AS 38.06.040(1) — (2) and 38.06.050 the board shall consider

(1) the revenue needs and projected fiscal condition of the state;

(2) the existence and extent of present and projected local and regional needs for oil and gas products and by-products, the effect of state or federal commodity allocation requirements which might be applicable to those products and by-products, and the priorities among competing needs;

(3) the desirability of localized capital investment, increased payroll, secondary development and other possible effects of the sale, exchange or other disposition of oil and gas or both;

(4) the projected social impacts of the transaction;

(5) the projected additional costs and responsibilities which could be imposed upon the state and affected political subdivisions by development related to the transaction;

(6) the existence of specific local or regional labor or consumption markets or both which should be met by the transaction;

(7) the projected positive and negative environmental effects related to the transaction; and

(8) the projected effects of the proposed transaction upon existing private commercial enterprise and patterns of investments.

(b) When it is economically feasible and in the public interest, the board may recommend to the commissioner of natural resources, as a condition of the sale of oil or gas obtained by the state as royalty, that

(1) the oil or gas be refined or processed in the state;

(2) the purchaser be a refiner who supplies products to the Alaska market with price or supply benefits to state citizens; or

(3) the purchaser construct a processing or refining facility in the state.

(c) The board shall make a full report to the legislature on each criterion specified in (a) or (b) of this section for any disposition of royalty oil or gas which requires legislative approval. The board's report shall be submitted for legislative review at the time of resolution for legislative approval of a proposed disposition of royalty oil or gas is introduced in the legislature. (§ 2 ch 9 SSSLA 1974; am § 2 ch 131 SLA 1978; am § 7 ch 112 SLA 1980)

Effect of amendments. — The 1978 amendment added subsection (c).

The 1980 amendment rewrote subsection (b).

NOTES TO DECISIONS

Quoted in *McKinnon v. Alpetco Co.*,
Sup. Ct. Op. No. 2413 (File No. 5546), 633
P.2d 281 (1981).

REMARKS BY KAY BROWN, DIRECTOR
Division of Oil and Gas
Department of Natural Resources

on
Proposed CS for HB 600 (Resources)
March 13, 1984

Mr. Chairmen, members of the Committee - For the record I'm Kay Brown, director of the Division of Oil and Gas, Department of Natural Resources. Thank you for this opportunity to address the proposed Resources Committee Substitute for House Bill 600, which revises the royalty disposition statutes.

I'd like to address in more detail the general concepts Commissioner Wunnicke has outlined. Most of my comments today are focused on the changes proposed in the CS, but, as Commissioner Wunnicke mentioned, there are a number of other changes we would like to see if a comprehensive rewrite of these statutes is undertaken.

We believe the statutes could be improved by consolidating and clarifying procedural requirements for royalty sales. As written, the proposed CS does not accomplish this goal. Generally, I believe we could rely on the general Title 38 disposition procedures in AS 38.05.035 and .345, which apply to all disposals of interest in State land or resources, and that many of the separate procedural requirements in AS 38.05.182, .183 and AS 38.06 could be consolidated, or eliminated. Alternatively, royalty dispositions could be exempted from .035 and .345. Whichever approach is preferred, these conflicting and overlapping procedural requirements should be reconciled.

The statute should clearly state when competitive bidding is or is not required. The proposed CS addresses the determination to sell royalty resources by competitive bid or negotiated sale in several places. For clarity, the exemptions from competitive bidding should be consolidated into a single section. We believe it is appropriate and desirable to allow negotiated sales in at least four circumstances:

1. royalty oil sales to in-state refiners with no other sources of crude available at the prevailing West Coast price;

2. royalty oil sales to foreign countries, should these be permitted by federal law;
3. sales of royalty resources other than royalty oil; and
4. emergencies.

It should be noted that several subsections of AS 38.05.183 apply to royalty sales of coal, geothermal, phosphates, oil shale, sodium, sulphur, potassium, placer gold and hardrock minerals, as well as oil and gas. The change proposed in Section 1, subsection (a) of the proposed CS, read in conjunction with the other proposals in the CS, apparently would require competitive bidding in all cases for royalty resources other than oil and gas.

We think it is preferable to leave more flexibility for royalties other than oil and gas as it is difficult to foresee at this time what situations might arise in the future that would affect the marketing and sale of non-oil and gas royalty resources.

With respect to restructuring the royalty board, as a policy matter we oppose the board having decision-making authority and we recommend that it remain an advisory board. I understand that the Department of Law has some comments to offer on this point, and Bob Maynard will be discussing this in his testimony.

I'd now like to provide some brief section-by-section comments:

The changes proposed in Section 1 of the proposed CS are generally an improvement over the existing statute, if the competitive bidding v. negotiated sale criteria are clarified as I have discussed.

In subsection (e) beginning at page 2, line 21, we suggest that you drop the fifth item, which references the royalty board criteria in AS 38.06.070(a).

In Section 3 subsection (a) of the proposed CS, the new expertise required of public board members - oil and gas marketing experience - seems to conflict with the existing criteria in subsection (b).

The new subsection (a) in Section 4 of the bill has a structural problem in item (3).

The price change proposed in subsections (b) and (c) of Section 4 seem to be in conflict. The provision in subsection (c)(1) needs to be clarified as to whether it

applies both to negotiated and competitive sales, since if it does apply to both, then (b) apparently would not be applicable. As a policy matter, we think it is workable and appropriate to establish a floor for both competitive and negotiated sales, as long as the floor is flexible enough to accommodate changing circumstances over time. We believe the contract price provision is more properly placed in AS 38.05.183.

With respect to Subsection (c)(2) relating to the hiring of Alaska residents, as you are probably aware court challenges continue on the constitutionality of local hire provisions. Bob Maynard will be addressing this issue in his testimony. Is Subsection (c)(2) intended to apply to competitive sales? We don't think that it is workable to require companies exporting oil out of the State to hire Alaskans if there is no work in Alaska associated with the sale. As you know, however, we have included local hire provisions in negotiated sales to in-State refiners, and we will continue to do so to the extent legally possible.

Subsection (c)(4) relating to a preference for in-state refiners seems appropriate as a policy but inappropriate and unworkable as a contract term, particularly if it applies to competitive sales, and should be dropped from this section.

Subsection (c)(5) should be revised to provide that material amendments which reduce the State's price or other consideration will be subject to legislative review, rather than all material amendments. This provision as written could discourage the Commissioner from seeking a higher price in contracts with price reopeners, since the status quo or current price would be the only circumstance not requiring legislative approval.

Throughout the proposed CS, it should be clearly stated when a royalty contract is subject to board approval and legislative review. As now written, the proposed CS is confusing on this point.

Section 5, subsection (b), as now written conflicts with AS 38.05.183(b), which gives the commissioner of DNR the authority to reject bids. We think this function is more appropriate for the commissioner than the board.

Section 5, subsection (c), as revised in the CS conflicts with AS 38.05.183(a). Competitive bidding should be waived by the commissioner, with prior written notice to the board.

With regard to the emergency marketing provisions of Section 5 of the CS (p. 6, line 7), we recommend that in an emergency the commissioner be given the authority to dispose of royalty oil or gas for up to six months without board or legislative approval, since 6 months is the time required to

revert to in-value taking under the terms of state leases and unit agreements. It should be noted that under the proposed CS as written, the emergency marketing provisions in Section 5 of the bill seem to conflict with the existing exemptions in AS 30.06.055(b), which under the proposed CS become exemptions from board, rather than legislative, approval. In other words, if you leave in the proposed changes in Section 6 of the bill, the emergency marketing provisions of Section 5 are unnecessary.

Generally, we like the changes proposed in Sections 6 and 7 of the CS.

In Section 10 of the CS, we agree that AS 38.05.182(b) should be repealed. Do you really intend to repeal .183(b), as this section is retained in Section 1 of the bill?

Thank you for the opportunity to comment. I would be happy to work with you on specific language to implement these suggestions.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: March 20, '84

REQUEST

Bill/Resolution No.: HB#600
Title: Relating to royalty oil

Sponsor: Cowdery
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Dept. of Commerce
Program Category Affected: _____
Royalty Oil & Gas Development Advisory Board
BRU, Program or Subprogram(s) Affected: _____
Royalty Oil & Gas Development Advisory Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		10.0				
300 CONTRACTUAL		50.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		60.0				

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Merrill Sikorski Phone: 465-4455
Division: Joint Oil & Gas Committee Date: 3/20/84

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

AGO 786808 +

ALALYSIS

FISCAL NOTE: HB#600

Travel assumes 10 meetings at \$1,000.00 each, and is variable depending on the need for the board to meet.

Contractual allows for the board to contract for special analysis when and if needed, and to cover such expenses as phone calls, postage, secretarial services etc. when needed.

Figures were derived from expenditures of the Royalty Oil and Gas Development Advisory Board thus far in 1984, and past budgets of the board.



Official Business

Alaska State Legislature
House Resources Committee

SIGN-IN

MAR. 13, 1984

HB 600
ROYALTY OIL

NAME

ADDRESS

PHONE

REPRESENTING

NAME	ADDRESS	PHONE	REPRESENTING
Esther Wunniche Gay Brown	Pouch M Juneau	465-2400	DNR
Bob Maynard	Pouch K	3600	Law

AGD 786810

3.03 Busst Lar's Lisk Slutz, Rings
Goll, Uehl.

HB 594

005 - Jack Fuller - loss up to 4900 reindeer to
~~Seward~~ caribou - New migrations to
Seward Pen.

029 Liska - how will 30K solve problem -
↳ Migration habits, so herders can track own
heads & not lose

060 Bussell - buffalo? - enough problems, don't
need buffalo.

067 Shultz, moved, asked v/c indiv. rec. no obj.

072 - HB 624 -

078 Larson - CS adds ED Clause, background
on problem -

110 Ned Farquar - DNR supports bill -

114 Larson moved adopt CS, v/c no obj.

118 Larson moved, asked v/c CS HB 624 out

133 Esther Wernicke -

165 Suggested changes to proposal.

Kay Brown

200 - Rep. Goll, wants section-by-section objections so
he knows what dept supports or doesn't

202 - Kay Brown - discussed departments
positions.

(2)

Kay Brown (cont)

- 373 Cowdery - 6 mos. notice - emergency -
- Disposition of oil to revert to in-value
taking - 30 days - what if Board disapproves
- 416 Rep. Cowdery asked for hard copy of Kay
Brown's remarks.
- 420 Ringstad - Other than Oil & Gas
A KB.
- 440 Liska - Saying board shouldn't have input -
- In emerg. comm's makes decision to get
back to in-value -
- 494 Bush - What constitutes Emergency & why would
board not okay?
- long term purchaser defaults - we arrange best
disposal to new purchaser - until revert to in-value
- 592 - Bob Maynard - AG
Other problems besides KB's examples
Related 1981 incident - Can shut down pipeline
if state ~~sees~~ does something wrong
- 690 Bush - What provisions in contract to ~~financial~~
with situation - ^ Mayn. - in final analysis
contract just paper
- 735 Cowdery - financial penalties in contract -
x Mayn. - bonds, 3rd party guarantees - situation
precarious - Companies up against wall.
- 744 Cowdery - Now other industry people solve -
- In mkt day to day, able to dispose of oil efficiently.

744
Tape chg.

(3)

- 790 Busb - what's wrong w/ nego. secondary position
in event of fault - a Maynard in theory probably
nothing.
- 807 Maynard add'l comments
- advisory ~~bd~~ bd legislators can't serve on EXEC
- 2 senators, 2 reps - Law - Supreme Ct - Unconst.
- Local hire -
- 830- Cowd - make bd. legislative
Δ either making law or executing law
can't delegate law-making power to 4 people
- 864 Cowd - legis agency rather than exec.
a function, rather than title.
- 875 Ringstad - old problem - who negotiates
Δ Somewhat.
- 890 Bussell - Definitions by Supreme Ct over
where admin/legis begin and end -
how do you resolve conflict. Δ Defining
rules are legis., then administering something
else -
- 944 Maynard - local hire - "Boston Case"
"Camden case." tightened up
1- problem local hire will solve
2- showing that non-ves cause problem
3- can't have gen'l ripple effect - closely tied
- 1001 Busb - Could legis members sit in non-voting,
advisory capacity - Δ don't think problem,
but conditioning is backdooring.

(4)

Bosb

1034 - Legis. members would draw public scrutiny
discussion ensued.

1093 Merrill Sikorski

3 choices - 1 - give to admin branch
2 - status quo
3 - something better -

232 Ringstad - will continue to work out bugs.

239 - Adjourn 425