SB

46

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: SB 46

BILL NAME: Disposal of state in kind royalty oil + gas.

SPONSOR(S): Moss

RELATED BILLS PENDING:

DATE INTRODUCED: 1-18-83

REFERRALS: Resources
Finance

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

OTHER INTERESTED SENATORS OR REPS. NOTIFIED:

AGENCY RESPONSE:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE SUBSTITUTES DRAFTED:

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K—STATE CAPITOL
JUNEAU, ALASKA 99811

June 5, 1981

The Honorables H. Pappy Moss
and Robert H. Bettisworth
House of Representatives
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Representatives Moss and Bettisworth:

You have asked for a review of HB 589, "An Act relating to the disposal of state in-kind royalty oil and gas," concerning possible constitutional problems. Although at this time we cannot unequivocably say that the proposed bill is either constitutional or unconstitutional, we can identify a number of areas upon which a serious constitutional challenge might be successfully based. You should also be aware that a novel legislative idea such as this one often carries with it additional potential problems because it gives the court an opportunity to make "new law" in the area. An example in a previous piece of proposed legislation, albeit by initiative, is the Beirne Homestead Initiative. That scheme was overturned on a basis which would have been difficult to predict solely upon a review of the state of the law up until that point; namely, that disposal of land was an "appropriation" under the Alaska Constitution. Thomas v. Bailey, 595 P2d 1 (Alaska 1979).

A similar concern exists with the scheme proposed by HB 589. For example, there are a number provisions in the natural resources article of the Alaska Constitution which create general principles of constitutional law applicable to disposal of natural resources. Chief among these are Article VIII, section 1:

> It is the policy of the state to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest;

Article VIII, section 2:

> The legislature shall provide for the utilization, development, and conservation of natural resources belonging to the state, including land and waters, for the maximum benefit of its people; and

Article VIII, section 17:

> Laws and regulations governing the use and disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

A court could use these general principles as a basis for striking down a particular piece of legislation if the court decides that such legislation does not provide for the maximum benefit to the people, or does not meet some other application of a general standard set forth in our constitution. And, it is ultimately the court which sets forth the particular constitutional standard to be applied to individual pieces of legislation.

Unfortunately, there has been little judicial interpretation or application of these natural resources sections. This would not, however, prevent someone from challenging legislation based upon those section, or the court from using those sections of the constitution as a means of analyzing particular legislation. For example, in the Superior Court case of State v. Amerada Hess (No. CA 77-847, Superior Court of the State of Alaska, First Judicial District at Juneau), the court relied upon one of these general sections as one basis for reaching its preliminary decision. After quoting Article VIII, section 2, of the Alaska Constitution, the Superior Court stated:

> However, pursuant to constitutional mandate, the state may not take royalty 'in-kind' unless, after said deductions, it will be in the best interests of the state to do so, which presumably means that it will be receiving an amount at least as great as it would if the royalty was taken "in-value." This is the only interpretation which would comport with the Constitutional requirement that the legislature develop the natural resources "for the maximum benefit of its people." This interpretation is now codified in AS 38.05.182.

Memorandum of Decision and Order, April 6, 1979. Although the Superior Court in that case found a constitutional bias in favor of selling royalty oil taken in-kin for at least the in-value price (which would presumably be outweighed if the best interest of the state would require otherwise), its decision was unpublished, and was never considered by the Alaska Supreme Court. Therefore, it is of little precedential value. Cf., Warwick v. State, 548 P2d 384 (Alaska 1976). The decision, however, does point out that a court may use the general natural resource sections of the Alaska Constitution as a basis for analyzing particular legislative schemes. Since there is little judicial precedent for determining how a court would perform that analysis, we may only point out that a novel scheme such as this one would be subject to such scrutiny.

In addition, there are a couple of other areas upon which a potentially successful constitutional challenge to the proposed legislation could be based. One such area is the absolute preference for selling oil to persons who would resell the oil instate (e.g., "royalty oil and gas . . . shall be given . . . to a person who contracts to process and distribute the oil or gas in the state . . "). The instate preference, or the instate processing requirement, is of doubtful constitutional validity under the United States Constitution. In Reeves v. Stake, __ U.S. __, 100 S. Ct. 2271 (1980), the United State Supreme Court indicated that such preference may violate the Commerce Clause of the United States Constitution. More recently, the United States District Court for the District of Alaska ruled that the instate processing requirement of Department of Natural Resources timber sales was unconstitutional. South-Central Timber Development, Inc. v. LeResche, Case No. A-80-3117 Civil (D.C. Alaska, January 9, 1981). This case is now on appeal. South-Central Timber Development, Inc. v. LeResche, 9th Cir., Case Nos. 81-3053, 81-3081.

At the very least, these cases put instate processing preference requirements in serious jeopardy. It should be noted, however, that similar, although possibly not as serious, problems exist under current law. See, AS 38.05.183(d).

Finally, Article IX, section 6 of the Alaska Constitution states:

> No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose. [emphasis added]

A transfer or appropriation that serves essentially private benefits violates the provision. See, City of Yakima v. Huza, 407 P2d 815 (Wash. 1965); In re Skinner's Estate, 303 P2d 745 (Cal. 1956); in re Stanford's Estate, 58 P2d 462 (Cal. 1899). Like a retroactive refund of validly imposed and collected taxes, the giving away of state royalty oil to benefit instate consumers of oil products could be seen as a violation of Article IX, section 6. See Formal Opinions of the Attorney General, September 22, 1980.

These are the primary constitutional objections which we would foresee could be raised in opposition to HB 589. We have not, obviously, had an opportunity to research each of these questions in any extensive detail. We have also not addressed possible nonconstitutional problems, such as violations of the antitrust laws (particularly the application of those laws to the requirement that subsequent purchasers restrict the price of products made from the royalty oil).

In conclusion, there is no presently existing decision which would clearly say that HB 589 is unconstitutional under either the Alaska Constitution or the United States Constitution. On the other hand particularly because of the unique nature of the proposed scheme, we believe that there are substantial grounds upon which a person could mount serious constitutional challenge to the provisions set forth in HB 589. And, as in any novel area of constitutional law, it is impracticable to predict the odds concerning the ultimate resolution of that litigation.

If you have any questions, please do not hesitate to call.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: [signature]
Robert M. Maynard
Assistant Attorney General

RMM:mr

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 11, 1981

Mr. Charles P. Rees
P.O. Box 60389
Fairbanks, Alaska 99706

Dear Chuck:

I have reviewed your "Alaskan Oil for Alaskans Now" policy paper and find it most provocative. However, before such a royalty sale could be undertaken, certain questions would have to be answered. For example, should we provide the oil refinery with some, say, 100 million dollars worth of free oil, I would want to see at least a major portion of that 100 million conveyed back to the public in the form of lower product cost. Your paper suggests that they could convey even more than 100 million back. I do not understand how this could possibly be true? Perhaps you'd elaborate.

At any rate, if a comparable savings could be passed on to the consumers, then it should be passed on in such a way as to benefit, as equitably as possible, all Alaskans.

I do not believe it best meets the equity to take royalty oil or any "revenues" which belong to all the citizens of the State, and provide benefits only to those who are able to avail themselves of the program through geographical location or that the amount of benefits should relate to the magnitude of usage.

To make such a program acceptable, perhaps we could assure that all Alaskans would have an option to buy the same amount of cut-rate products. For example, if it were possible to reduce the price of a barrel of gasoline or fuel oil to one-half its current cost through such a program, then the number of barrels available might be divided by the total number of Alaskans and each could be granted an option to purchase a like amount. Those who chose not to do so would, of course, have a negotiable instrument which others could purchase from them.

Unfortunately, experience to date does not indicate that the conveyance of lower cost royalty oil necessarily translates into a savings to Alaskan consumers. For example, the $7.00 per barrel oil now available for Tesoro's refinery has not been reflected into any significant price differential

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between their product costs and those of companies which must ship that royalty crude elsewhere and then the refined product back to the State. One would assume that those transportation charges could be deducted. Similarly, the oil refined at North Pole has not, to my knowledge, made products substantially less costly to the consumer in the Fairbanks area.

I'm enclosing a copy of a recently revised paper sent to all the mayors in relation to the last royalty oil sale pointing out some facts of life which I believe are most pertinent. At the time of that sale, I urged anyone desirous of refining royalty oil here in the State to present me with a proposal which would indicate that anything like a comparable benefits could be conveyed equitably to Alaskans as I had proposed be done with the royalty premium. No suggestions were even forthcoming. Therefore, until I see the particulars of some plan which better meets the equity test and provides a far more discernible benefit to Alaskan citizens than any seen to date, I must remain skeptical that the conveyance of lower cost royalty crude to in-state refineries will materially improve the lot of the average Alaskan consumer.

Many thanks for your interest.

Sincerely,

Jay S. Hammond
Governor

Enclosure

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

I appreciate your expression of interest in the bidding procedures for the competitive oil sales. Unfortunately, there appears to be a good deal of misinformation about the procedures and the sale. First, let me clear up some of your apprehension about preference for instate refiners. The bidding procedures do set up a priority system for qualified instate refiners <u>and</u> suppliers, giving them right of first refusal on the lowest priced lots offered at the sale. Chevron, Shell, Union and Tesoro lots all received priority designations for varying amounts of royalty oil; the amounts are based on amounts they actually process, or will process, in Alaska, or supply in refined products to Alaska.

A look at the existing refiners discloses some interesting facts. Alaska has three refineries -- Mapco-Alaska (formerly Earth Resources) at North Pole, Tesoro Petroleum and Chevron at Nikiski. Mapco-Alaska has an existing long-term contract with the State for up to 15 percent of Prudhoe Bay royalty oil. At current production levels, Mapco's royalty crude share is 28,125 barrels per day, and the company has nominated the full entitlement.

Tesoro Petroleum has a long-term contract for all the State's royalty share of Cook Inlet oil production, a one-year contract, which ends June 30, 1981, for about 4,600 barrels per day of Prudhoe Bay royalty crude, and another one-year contract, which runs from July 1, 1981 through June 30, 1982, for 4,963 barrels per day of Prudhoe Bay royalty crude. Tesoro can technically process only about 5,000 barrels per day of Prudhoe Bay oil at this time, so the royalty contract covers the full amount of high sulfur Prudhoe Bay crude the refinery can currently handle.

This spring Chevron converted to the use of 100 percent Prudhoe Bay crude as feedstock, and now processes about 12,000 barrels per day. It, too, has a short-term contract, which ends June 30, 1981, for 4,600 barrels per day of Prudhoe Bay royalty oil. In addition, Chevron owns about 12,000 barrels per day of North Slope crude and about 7,500 barrels per day of Cook Inlet crude. All three refineries process a total of approximately 100,000 barrels per day, of which 50,000 barrels are exported from the state either as unrefined or as residual oil for further refining outside, or for fuel for outside utilities.

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It appears then that additional short-term sales to these facilities would not automatically result in any meaningful price or supply relief to Alaskan residents. I am encouraged, however, that these instate refiners are examining the possibility of modifying their plants to increase their utilization of North Slope crude oil. Accordingly, in the coming year, the State of Alaska intends to consider means of making its royalty oil available to these companies on a longer-term basis than is practical at this time.

The breakdown of the 50,000 barrels per day of refined products is also interesting. About 10,000 barrels become gasoline and some 14,000 become heating fuels for Alaskan use. The major production, some 24,000 barrels, is for jet fuel used mainly for foreign and military aircraft. About 1,000 barrels are made into asphalt and other products. Thus, if we were to subsidize these refiners by providing crude oil for less than its market value, we could expect, at the most, return benefits of no more than 24 cents for every dollar of subsidies, and then those benefits would go only to those who consumed the refineries' particular petroleum product. The other 76 cents of benefits would go to the refiner or outside purchaser.

Alaska's Constitution, however, obligates us to maximize usage of our natural resources in the public interest, not that of the government's or the interest of one select group. It should be remembered that bid premiums are monies which the State would not have received at all if it were not for the competitive sale which requires that the royalty oil be sold for a price greater than the current in-value price.

By distributing the added value dollars directly and equitably to all Alaskans, we will inject millions of dollars into the collective private economy rather than into State coffers or corporate accounts. This money will flow directly into citizens' hands and thence into the private economy, not into more government or some subsidized industry.

I am happy to have had this occasion to present you with some more pieces of the picture.

Jay S. Hammond
Governor

AGO 787081

MEMORANDUM State of Alaska

TO: The Honorable Jay S. Hammond
Governor of Alaska

DATE: June 1, 1981

FILE NO:

TELEPHONE NO. 465-2400

FROM: Robert E. LeResche
Commissioner
Department of Natural Resources

SUBJECT: Analysis of Royalty Oil Proposal by Alaska Oil for Alaskans Now

In response to your request, attached is an analysis of the proposal for distribution of royalty oil advanced by Alaska Oil for Alaskans Now (a.k.a. "61 for 66").

AGO 787082

Analysis - Proposal for Royalty Oil Distribution by Alaska Oil for Alaskans Now

A group known as Alaska Oil for Alaskans Now has made public a proposal for distribution of Alaska's royalty oil, which is embodied (with some differences) in HB 589 (hereafter "Proposal").

In summary, the Proposal envisions that the State would contract with persons to refine and distribute royalty oil, passing on to consumers only the cost of processing and distribution after deduction of a "reasonable profit". The State would be responsible for insuring that prices charged consumers by distributors did not exceed the price authorized by the State in accordance with the above formula. Consumers operating only partially in the State would receive proportioned discounts; e.g., airlines would be credited with discounts only for fuel burned in Alaskan airspace. Contracts would be terminated by the State for violations of its regulations governing allowable costs, reasonable profits, pricing, and other provisions.

Although HB 589 authorizes distribution of royalty gas in the same fashion, the Proposal is primarily directed at royalty oil. The drafters contend that prices would be reduced for gasoline and heating fuel by 66¢/gallon, along with reduced rates from 2% to 35% for electricity and for truck, rail, and air transportation.

The Proposal also recommends a Termination Fund to cushion the effects of returning to world oil prices when the royalty oil runs out. The Fund would be constituted with the proceeds of price increases once US retail prices exceeded $10/gallon over the Alaskan price.

There are a number of very serious drawbacks to this concept which far outweigh the benefits described by the authors. These defects render the Proposal not only unworkable but contrary to the interests of the vast majority of Alaskans. There are no apparent practical modifications which could be made to the Proposal to eliminate these deficiencies. A summary of the principal problems is as follows:

1. Inequitable Distribution of Benefits

Under the Proposal, the State would be giving away the public's royalty oil exclusively to instate refineries on the condition that the consumer would pay only the cost of processing and distribution plus a "reasonable profit". This would be inherently unfair to those areas of Alaska (e.g., Southeast, Western Alaska) which presently import all of their refined fuel products from the lower 48. Even if the Proposal eventually allowed instate refineries to displace the existing suppliers of imported products, it would not be until substantial expansion and retrofitting of these refineries had been completed. Thus, some Alaskans would realize benefits immediately while others would go unrewarded for a number of years.

Moreover, even if all demand were met by products refined instate, the relative benefit received by each citizen would vary by several orders of magnitude, depending on fuel consumption. The resident of a Pioneer's Home, for example, would realize virtually no benefit compared to the owner of a poorly insulated six bedroom house with two large cars and assorted recreational vehicles. While conceptually many persons may favor the idea of reduced fuel costs, any consensus will vanish when the specifics of refining and distribution contracts are taken up. The complaints which would be visited on legislators and administrators would rival those accompanying institution of a new graduated income tax or gasoline rationing, reaching greater intensity after the system were established and the disparities noted. Remedial legislation would be demanded annually to rectify the inequities complained of.

2. Conservation/National Image

The prevailing factor stabilizing fuel costs at the present time is an international glut of oil supplies. While this can be partially attributed to Saudi Arabian pricing and production policies, the primary cause has been a dramatic decline in fuel consumption by the United States and other oil importers which exceeded all forecasts. Any reduction in fuel prices of more than 60¢ per gallon is bound to have some adverse effect on fuel conservation by creating an artificial demand. Furthermore, while one can argue about the amount of additional consumption which would be stimulated, Alaska would create the appearance of flaunting its oil wealth and undermining a national effort to encourage energy conservation and maximize strategic hydrocarbon reserves. This can only facilitate potential Federal schemes to capture and redistribute Alaska's oil revenues.

3. Creation of False Economy

The OPEC cartel has succeeded in making oil the most valuable commodity in the world. It also controls the price. That price in turn dictates the relative health of Western economies and the operating constraints of any business that is fuel dependent. While an artificial reduction in fuel prices may generate new fuel dependent businesses that otherwise would not be profitmaking, it cannot change the fact that the business is fuel dependent. Consequently, those new businesses exist solely because of a State oil giveaway. When the demand for subsidized royalty oil exceeds the supply, or the royalty oil supply inevitably declines, those businesses will experience a very high failure rate. Unless oil discoveries on State land in the next few years are sufficient to offset the demise of the Prudhoe Bay reservoir (a promise no geologist would make), that decline will begin in the next 10-15 years. One can imagine the chaos which would ensue in the Western economy if OPEC were to suddenly slash prices to $15 per barrel, stimulate a substantial increase in growth based on fuel consumption, and then begin cutting off production. Unless one is willing to assume a continuous volume of royalty oil for decades, implementing the Proposal would lead to a similar chain of events.

The Termination Fund contained in the Proposal purports to soften the effects of an eventual return to world oil prices when royalty oil runs out. However, contributions to the Fund do not even begin until the world price exceeds the subsidized Alaskan price by $10 per gallon. Expecting the Fund to "cushion" what would then be a 1000% price increase is like suggesting that Anchorage could have tolerated the Good Friday earthquake if it had been spread out over a couple of weeks.

Moreover, since fuel dependence is characteristic of many businesses in Alaska, the cumulative effect would be to create an economy which is not based on reality, and aggravated by the fact that its false premise would concern the world's most sought after commodity. Once created, it could not be neatly dismantled when subsidized royalty oil ultimately disappeared. Many businesses (especially so-called spinoff enterprises from direct recipients of subsidized oil) would not realize their dependence on continued royalty oil, particularly since the program carried a State endorsement. The inevitable crash would be severe; it would also coincide with a substantial decline in State revenues, leaving no source for assistance.

4. Reward for Inefficiency

The Proposal would penalize those businesses which have undertaken capital expenditures to improve long term fuel efficiency. For example, an airline which had upgraded its fleet to aircraft with improved fuel consumption would receive a smaller benefit than one which continued to fly antiquated, consumption-intensive planes. Encouraging fuel inefficiency is antithetical to the Proposal's objective of reducing the effects of fuel costs on consumers.

5. Administrative Cost/Government Intervention

While the authors seem to marvel at the sophistication of State contracting techniques, a contract merely sets out the rules and understandings between the parties; it cannot make duties perform under the contract any less complicated than they actually are. It would require a virtual army of bureaucrats in green eyeshades to monitor, audit, and enforce the type of contracts which the Proposal envisions.

In order to insure that cost savings subsidized by the State were actually passed on to consumers, the State would have to be intimately familiar with each refiner's production, amortization, debt service, taxation, labor, and transportation costs. The calculation would be complicated given that the proportion of operating costs attributable to different refined products varies consid[illegible]y. Presumably, the State would also pass judgment on operating procedures, debt packages, plant modifications, and other matters which affected consumer costs. Wholesale and retail distributors would require similar scrutiny, and owners of gas stations selling tires and equipment, repair services, and groceries could expect lengthy sessions with State inspectors to determine which operating expenses could be rolled into gasoline prices. The ultimate result would, of course, be government price fixing (specifically authorized by Section 7 of HB 589), a concept seldom greeted with enthusiasm in Alaska. This specifically includes a determination of "reasonable profit".

Monitoring consumer costs for transportation entities would also be complex, requiring auditors specializing in the procedures used by the Civil Aeronautics Board, the Interstate Commerce Commission, and other agencies with jurisdiction over rail, truck, and air commerce. It is difficult to imagine obtaining an accurate calculation of aviation fuel burned in Alaska airspace on interstate/international flights short of monitoring the fuel consumption and payload of each flight leaving the State.

Furthermore, the State will be responsible for keeping track of all subsidized fuel produced and distributed in the State to prevent unlawful resale in excess of the government authorized price (either through cash or in kind payments).

Therefore, regardless of the method of contracting used, execution of the Proposal would be logistically impractical, expensive, and lead to an unacceptable level of government involvement in private affairs. It would make refineries, in essence, public utilities.

6. Inequitable Availability

While the Proposal envisions contractual guarantees insuring that cost savings are passed on to consumers, there is nothing to prevent refiners and distributors from entering into contracts with consumers for assured supplies, or otherwise granting preferred customer status. Certainly, it would be to the advantage of any business to tie up supplies of subsidized royalty oil. When, however, the supply of subsidized oil failed to meet instate demand, any new business would have to obtain fuel at world prices, placing it at a substantial (and probably fatal) competitive disadvantage. The alternative would be government controls insuring that all consumers were treated with equality regarding both volume and price.

7. Effect on Existing Refineries

The Proposal might well attract new refineries to the State, but the circumstances under which they would arrive would be questionable at best. Given the provision for "reasonable profit" and the apparent first come, first served basis of contracting anticipated by the Proposal, those rewarded would be those first on line notwithstanding their relative emphasis on cost effectiveness, desirability of product slate, and percentage utilization per barrel. Existing refineries would be forced to either enter the race or risk being put out of business, modifying at least portions of their current plans for expansion for the sake of speed.

However, if the authors of the Proposal desire to maximize cost savings to the consumer, they would probably support a large, sophisticated refinery along the lines of that being designed by the Alaska Oil Company (formerly Alpetco), which could come on line sooner than a massive retrofit of existing refineries and would provide more than 90% utilization per barrel (as opposed to the current average 49% by existing refineries). This would likely insure the disappearance of the refinery at North Pole and the two at Nikiski.

8. Effect on Existing Businesses

It must be remembered that many current Alaska businesses have designed their operations and products based on the price of oil versus alternative fuels, or simply the price of oil itself. Were there a sudden and dramatic change in oil prices, the effects could be considerable. For example, the coal-fired powerplant at Healy might find it economic to convert to oil, leaving Usibelli Coal Mines with no domestic market. Automobile dealers who have ordered small, fuel efficient cars might find demand returning instead for larger models not in stock. Consequences of this nature would be common if a basic element of the economy is changed on short notice.

9. Reduction of State Revenues

The three refineries presently in Alaska average only 49% per barrel actually processed into refined products; the remainder is residual oil. A recent report by the House Research Agency estimates instate demand for refined products at somewhere between 57,000 and 89,000 b/d. Assuming 75,000 b/d of demand, it would require approximately 150,000 b/d of royalty crude given away to produce 75,000 b/d of refined product to meet instate demand (even assuming that the combined product slate would correspond to the demand for each product, which is highly unlikely). Giving this much royalty crude to refineries would not leave enough to bank the 25% of all royalties in the Permanent Fund, as required by the Alaska Constitution. However, producing anything less than current instate demand with subsidized royalty crude would create severe problems in equitable availability, described in Paragraph 6 above.

The revenue loss to the State would be extremely significant. Using the March, 1981, price of $25.90 per barrel, losses would be $3,886,000 per day and $1,418,408,000 annually. The losses are large because royalty revenues constitute about 35% of the State's income. Energy development projects, capital improvements projects, loan programs, the capital move, and/or contributions to the Permanent Fund would have to be scaled down or eliminated to offset the loss.

10. Elimination of Import Distribution Systems

The Proposal assumes that, within a relatively short period, all fuel products consumed in Alaska would emanate from instate refineries because of subsidized royalty oil. It also assumes that royalty oil supplies will, at some point, come to an end. If national oil supplies are short at that time and existing suppliers are squeezed out in the interim, reinstituting imports and the accompanying distribution system may be neither easy nor inexpensive. The House Research Agency Report on Petroleum Refining details the import distribution network that would be eliminated.

11. Reduced Interest in Alternative Energy

Alaska has exercised considerable leadership in the national effort to develop alternative energy sources. Programs are under way in the areas of geothermal energy, wind and tidal power, coal development, large and small scale hydroelectric projects, fiber and biomass utilization, and energy conservation. Many of these programs are State operated or supported (e.g., leasing and inventory programs, loans, grants, Energy Center, home energy conservation, etc.). The incentive for these programs as well as businesses which have already emerged to develop them would be severely dampened by the sudden availability of inexpensive hydrocarbon fuel, yet the ultimate need for them is inevitable.

SUMMARY

Ultimately, the Proposal is unacceptable because, aside from its impracticality, it is dissimilar in principle from other programs either implemented or under serious consideration involving using or distributing the State's wealth for the benefit of its citizens.

First, it represents a massive distribution of the State's finite capital assets rather than merely the proceeds from the investment of those assets (e.g., Permanent Fund dividends) or singular benefits from the sale thereof (royalty auction premium distribution).

Second, it constitutes a distribution which is inherently inequitable, for the reasons stated above. A distribution of this size must be fair given that the resource is owned equally by all Alaskans.

Third, it is not specifically directed at identifiable capital improvements projects or other programs calculated to augment shortcomings in the State's infrastructure. In particular, it does not resemble State programs to front-end the development of new industries (e.g., bottomfishing, agriculture) with the expectation that they eventually will become self-sufficient and pay their own way. Rather, it only subsidizes fuel dependence, and a business which owes its existence to such a subsidy has little chance to survive and become self-sufficient unless it can somehow eliminate its fuel dependence, an unlikely prospect.

Rebuttal to Le Resche - Analysis of Royalty Oil Proposal by "Alaska Oil for Alaskans Now"
Reference HB 589

The first few paragraphs summarize to some degree the proposal as written in HB 589. The fifth paragraph notes "serious drawbacks which far outweigh the benefits describ d by the author". It also indicates it is "contrary to the interests of the vast majority of Alaskans."

I disagree that it is contrary to the interests of a vast majority of Alaskans. How much is a majority - 200,000 or 300,000? Every Alaskan that eats, drives a car, rides the ferry, flys in an aircraft, rides a train, rides a bus, heats his home, uses any machinery that operates on fossil fuel will benefit. The statement that the vast majority will not benefit is hogwash. We are descriminating against a vast majority of Alaskans at this very moment. We have loan programs, health programs, welfare programs and many other programs we are spending millions on that certainly do not address the needs of a vast majority of Alaskans.

One group gets a lions share of a particular program not all Alaskans. Another group gets the lions share of another program and so on. The "Alaska Oil for Alaskans Now" proposal in HB 589 will give something to every Alaskan without it costing them a single cent in Federal income tax. All the other programs will sooner or later have an effect on a persons Federal income tax. If you don't take the money out of a persons pocket in the first place, the Feds can't tax you.

Page 2, first paragraph: This indicates the benefits will be inequitable. I have noted above some of my thoughts on this paragraph. They mention a person in the Pioneers Home would not have the relative benefit of a citizen who has a home and cars. I dispute that by pointing out that if the cost of fuel is lower, it won't cost as much to operate the home and the extra funds can be used to provide better living conditions for those in the homes.

Page 2, second paragraph: I think they are all wet by saying a decrease in the cost of fuel will cause waste. Who are we to say the folks will deliberately waste our energy? They are not asking for more energy - they just want us to cut the cost so they can afford to stay warm and eat at the same time.

LeResche says that by reducing our energy costs, "Alaska would create the appearance of flaunting its oil wealth and undermining a national effort to encourage energy conservation and maximize strategic hydrocarbon reserves." Hog wash. I might point out that business about strategic hydrocarbon reserves is a smoke screen too. Our newly nominated Commissioner of Resources, Mr. Katz, has just come out with the deal that we should put our oil in a hole somewhere in a Federal Oil Reserve. I say to heck with them. They get over 40% of the income from the Prudhoe oil field now. If they want to put in a reserve system, let them use their 40%.

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Page 2, third paragraph: This indicates we would create a false economy with our proposal. He says the result sometime in the future would cause chaos in the western world. He refers to the decline in royalty oil productions. I personally think this is incorrect anytime in our lifetime. By using some of our royalty oil now, we can defray some of the cost savings in developing our coal industry. This energy resource has barely been looked at.

He refers to the possibility that OPEC would reduce oil prices to fifteen dollars a barrel then raise them again. I feel our proposal would not be affected by this manuever.

Page 2, paragraph 4: Le Resche refers to rewards for inefficiency. It says that it would penalize those businesses that have undertaken capital expenditures to improve long range fuel efficiency. The fact these more efficient operations will al benefit by lower cost fuel is completely over looked by throwing i s at those businesses who haven't had sufficient funds to develop more energy efficient operations, mainly because of the present excessive cost of energy.

Page 2, paragraph 5: He refers to "a vertical army of bureaucrats in green eye shades to monitor audit and enforce the type of contracts the proposals envision." That could be true because every program that is in operation seems to encompass exactly the army he refers to. I think that the proposal is straight forward and could be operated within the present "Vertical army of bureaucrats with green eye shades" without adding any more green eye shades. This fact alone could create some savings.

He worries about follow-up by the State to see that the savings are properly passed on. He envisions more work to do this. I think we will have over 400,000 people doing this to make sure the prices are in line.

Page 2, paragraph 6: This states there will be inequitable availability. It is not the intent of the proposal to prevent any retailer from having access to the energy. If this is not clear, I'm sure it can be corrected if the Legislature will just get going on this proposal.

Page 2, paragraph 7: He indicates that this proposal could make the refinery at North Pole and Nikiski disappear. Hog wash. This is not what I hear. These refineries could be on line in a short time producing low cost energy.

He refers to a super refinery such as Alpetco being the best. Again, I would point out that the past efforts of the Resources Department to initiate this sort of thing is indicative of the type of bungling we have encountered that has delayed cheaper energy for Alaskans.

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Paragraph 8: He refers to the effect on existing businesses and uses the Usibelli Coal Mine as an example where a domestic market could be lost. Here again, I say hogwash. He is just grasping at straws when he says they would consider converting to oil for the generation of electricity. This is just another smoke screen.

Paragraph 9: This indicates a reduction in state revenues. He refers to a significant revenue loss to the state. Here again a smoke screen arises. Just who is the state? A bunch of bureaucrats or the people? There will be absolutely no loss to the state because the state is the people and they will receive the benefits of their revenue in a more direct manner without having to wait for bureaucrats to pass on some little bit of the states revenue at the bureaucrats convenience. He refers to losses of $3,886,000 per day. Again, I say there is no loss because the people will have a direct benefit.

Paragraph 10: This refers to elimination of import distribution systems. I don't see how we will eliminate any of the distribution system. The only difference I see is the use of the same distribution system filled with lower cost energy rather than the present higher cost energy.

Paragraph 11: This indicates a reduced interest in alternative energy. He states the "sudden availability of inexpensive hydrocarbon fuel" would eliminate the interest to continue the efforts to create renewable energy. I don't think this is so because inexpensive hydrocarbon fuel would provide lower costs in obtaining these renewable resources at an earlier date.

The summary states "the proposal is unacceptable"; "it is dissimilar in principal from other programs"; "under serious consideration". Now I have taken these statements out of context but they are the core of Mr. Le Resche's objections to HB 589 and "Alaska Oil for Alaskans Now" proposals. It seems to me that if the bureaucrats didn't think of it, then it must be no good.

To sum up myself, I will be the first to admit that proposal may have some rough edges, but when twenty thousand voices speak out, it is time the burearcracy should listen.

I congratulate those who have spent a lot of their time and sustinance to bring this proposal to the forefront. We must not be discouraged by the apparent lack of concern of those of the bureaucracy. Sooner or later they will have to listen. The roar of the voice of the people will drown out the bureaucrats voices of opposition.

must observe a dress code this year in order to be admitted to the Senate floor.

Meanwhile Linda Wild, aide to House Rules Chairman, Jack Fuller, D-Nome, said that chamber will require only that reporters supply their names and organizations before being admitted to the floor. On the Senate side, photographers will not be required to dress "decently" Faiks said, because they must work with heavy equipment.

The dress code will require men to wear shirts with collars, ties and slacks. Women must wear dresses. or blouses or sweaters with skirts. Slacks also will be allowed. "T-shirts, denims or blue jeans are not acceptable," Faiks said.

Reporters and photographers will be required to get special identification cards in order to be admitted to the Senate floor, Faiks said. The cards will cost reporters $5, and newspeople also must have I.D. pictures taken at the Department of Motor Vehicles.

Joe La Rocca, a press corps veteran who supplies news and commentary to several newspapers and broadcast organizations, said, "I object to that."

"So noted," replied Faiks.

La Rocca said he objected to the $5 fee as well as the specially issued identification cards as reporters have other forms of press ID available.

Moss Bill Resurrects Plan To Reduce Oil Costs

A plan to set aside a portion of state royalty oil for free distribution to Alaska refiners has been resurrected by an Interior legislator.

Newly elected Sen. Pappy Moss, D-Delta Junction, has refiled a bill (SB 46) to create a program that could lead to substantially cheaper oil products for Alaskans. However, similar proposals introduced last year by Moss (a member of the House then) and Sen. Don Bennett, R-Fairbanks, received only one hearing and died when the legislature adjourned.

The plan, authored and pushed last year by the Fairbanks-based group "Alaska Oil for Alaskans Now," could save Alaskans 66 cents a gallon off the current price of petroleum products sold in the state, according to proponents.

Under the plan, part of the state's royalty oil would be distributed free to in-state refineries. They would then process the oil into heating oil and for auto, boat and aviation fuel. The fuel products would then be sold to Alaskans at the cost of refining it, leading to substantial savings over current prices, the backers of the plan said.

State Offices to Change Hours

Gov. Bill Sheffield has ordered the state work day shifted one hour later in Southeast Alaska in an effort to make the capital more accessible to the rest of the state.

Sheffield's order took effect Jan. 10, when normal work hours in the Southeast became 9 a.m. to 5:30 p.m. Pacific time — 7 a.m. to 3:30 p.m. Alaska time — a change from an 8 a.m. to 4 p.m. work day.

Sheffield also ordered state telephone switchboards to be opened from 8 a.m. to 5:30 p.m. PST (6 a.m. to 3:30 p.m. AST).

This change is more convenient for the railbelt and western Alaska to do business with Juneau and vice versa, Sheffield told Commonwealth North in Anchorage. Because Southeast is two time zones away from Anchorage and Fairbanks, when state employees in Juneau leave work at 4:30 p.m., it is only 2:30 for most Alaskans. He said he knew this was a sacrifice for state employees in Southeast Alaska but they sincerely want to heal the wounds of the capital-move fight and they want to do their part to make the capital more accessible.

Access to state government, which is headquartered in Juneau, was the focus of the debate this fall over whether the capital should be moved at a cost of $2.8 million to Willow, 80 miles north of Anchorage. The change of work hours is just one of several moves the Sheffield administration is studying.

Other plans include expanded use of telephone conference calls — known as teleconferencing — and setting up a toll-free telephone number information service, said Lisa Rudd, commissioner of administration. There also has been discussion of changing time zones, she said.

...en-elect Rich Halford, R-Chugiak, wants to replace the Permanent Fund Dividend program with an "energy Dividend Fund" to help pay the capital costs of power projects and reduce monthly electric bills.

Halford has drafted a bill that would establish the fund and provide a means for forming electric service areas to tap it. The measure also would spell out how capital cost-savings resulting from the funding must be passed along to the consumer. The fund, half of Permanent Fund earnings, would this year contain about $150 million with substantial increases in future years as the Permanent Fund fattens from oil revenues.

The energy fund would pay only a part of a given project's capital cost, with the remainder coming from revenue bonds, Halford explained, adding that the fund's "stable revenue stream" would make it easier to issue bonds.

In a related development Gov. Bill Sheffield is examining the possibility of using permanent fund earnings to help finance the $5.1 billion Susitna Hydroelectric Project and it was said by the governor's press secretary, Pete Spivey, the governor wants more study on the idea.

Freeman Sued by Campaign Chief

Former State Rep. Oral Freeman of Ketchikan is being sued by the man who managed his brief and unsuccessful bid for the Democratic nomination for governor.

In a suit filed in Anchorage Superior Court, Bill Weimar alleges that Freeman owes him more than $3000 in salary and expenses.

According to court papers, Freeman hired Weimar last December to run the campaign. Freeman said he offered Weimar $2000 a month as long as his campaign funds lasted. But the financially strapped campaign collapsed June 1st because there wasn't enough money to continue.

Weimar's attorneys contend he should have been paid $14,000 but he got little more than half of that and he is also asking reimbursement for $16,8000 in expenses.

Judge Rejected by Voters Accepts Legislative Post

An Anchorage district court judge who was turned out of office by the voters in November has been hired as staff counsel for the House Judiciary Committee.

Joseph Brewer was one of two judges deemed not qualified by the Alaska Judiciary Council, which recommended he not be retained on the bench.

The Judiciary Committee controls the budget for the council, and acting director Buddy Troxell said he is concerned that Brewer might take advantage of his position to retaliate against the council. In an advertising campaign to retain his seat, Brewer questioned whether council expenditures to inform the public of judges ratings was another boondoggle.

Brewer said he had no ax to grind, that he was tired of controversy and he was going to be a work horse on laws people want.

Brewer had been a judge for 17 years.

Hammond Aide Considers Taking Murkowski Post

Jerry Reinwand, former Gov. Jay Hammond's top aide, might go to work for the state's junior senator, Frank Murkowski, to avoid the unemployment line.

Reinwand said he talked to Sen. Murkowski about a job in the nation's capital. Sen. Murkowski said he had talked with Reinwand about it but unfortunately, like so many Alaskans, Reinwand wants to establish his future in Alaska.

Murkowski said he is looking for someone to manage his Washington office. He added he and Reinwand had not reached any agreement and didn't think they would. Reinwand, who shuns the public limelight, said he is continuing discussions with Murkowski and with other people.

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Reappointment of Deputy

RELATING TO THE DISPOSAL OF STATE IN KIND ROYALTY OIL AND GAS.

SB 46 MOSS

Allows DNR to give royalty oil and gas taken in kind by the state to contractors who will process and distribute the oil or gas within the state. Only the costs of processing and distributing plus "a reasonable profit" can be charged the consumer. DNR is to adopt regulations for the implementation of this act.

(Basically the same as the Alaskans for Alaska Oil Now proposal.)

PETITION FOR THE PROMULGATION AND ENACTMENT OF REGULATIONS CONCERNING THE USE, REFINING, PROCESSING AND DISTRIBUTION OF "ROYALTY" OIL AND GAS AND THEIR PRODUCTS WHICH ARE ULTIMATELY USED AND CONSUMED WITHIN THE STATE OF ALASKA

TO THE HON. JAY HAMMOND, GOVERNOR OF THE STATE OF ALASKA:

THE UNDERSIGNED RESIDENT CITIZENS OF THE STATE OF ALASKA, In order to provide the Citizens of Alaska with less expensive fuel, automobile and aviation gasoline, diesel and jet fuel, fertilizer and other petroleum products, and thereby make the cost of living and transportation in Alaska more reasonable, and

In order to encourage the building of oil refineries, propane and butane liquification plants, petrochemical and fertilizer plants within Alaska, and to provide employment for Alaskans in said plants and in the distribution of the products so produced and refined, and

In order to provide the citizens of Alaska with an adequate supply of natural gas, heating oil, propane, butane, automobile and aviation gasoline, diesel and jet fuel, fertilizer and other petrochemical products at reasonable prices where said products are sold and consumed within Alaska,

Petition and demand that you promulgate and enact the following rules and regulations for the disposition and use of the "Royalty" gas and oil which belongs to the State of Alaska under any lease, agreement or law, as and when it is produced and available, from oil and gas produced in Alaska or it's territorial waters or navigable streams:

PROPOSED RULES AND REGULATIONS

1. The first and prior right to use the oil and/or gas produced and belonging to the State of Alaska known as "Royalty" oil or gas under any lease, agreement, rule, regulation or law from any land, or territorial waters, or navigable streams of said State, shall be to use said oil, gas, or their products, for in-state use as defined in these rules and regulations.

CLEM H. STEPHENSON
ATTORNEY AT LAW
210 NORTHWARD BLDG.
FAIRBANKS, ALASKA 99701

2. The State of Alaska shall agree to contract to furnish as and when produced and available free "Royalty" crude oil or natural gas to any:

   (a) oil refiner,

   (b) natural gas processor,

   (c) natural gas distributor, and/or

   (d) any petrochemical company using petrolium or natural gas as a raw material for the production of petrochemical products

   whose refinery, processing plants and equipment, distribution equipment and/or petrochemical plants and facilities necessary for the processing, refining, manufacture and distribution of said products to the ultimate user in Alaska are physically located in Alaska. Said refined, processed and distributed products are defined as any said petroleum product which is

   (a) produced, refined, processed and is ultimately used and consumed within the State of Alaska or

   (b) within it's air space, or

   (c) territorial waters, or

   (d) adjacent Federally designated Fishing Waters when used in Alaskan owned, registered and ported vessels manned by Alaskan residents,

   (e) upon it's streams and lakes.

   "Royalty" oil or gas, as used herein, means oil and/or gas said State receives as "Royalty" from oil or gas production as and when produced and available, sufficient to produce or furnish such refined or processed products to the ultimate customer users in said State, provided said saving resulting from use of said free "Royalty" oil or gas is passed directly on to the said ultimate user and consumer by a price reduction of said product comparable with the savings realized by receiving such free "Royalty"oil or gas.

3. Said agreement and contract with each said refiner, processor and distributor shall provide:

   (a) that said recipient of said "Royalty" crude oil or gas shall keep adequate and accurate records for all of the said "Royalty" oil and gas that is received by said recipient and the amount and product that is refined, processed, produced and sold from the same;

   (b) shall show the amount charged for and quantity sold and to whom sold and distributed;

(c) shall require each recipient to file monthly reports, signed and sworn to by the person processing the same and the highest official of said refinery, plant or retailer, to the effect that all the requirements of said contract are being met and complied with by such refiner, distributor and/or retailer;

(d) providing that upon failure of any such processor, refiner, distributor or retailer to comply with the material terms of such contract that the State can cancel such contract and cut off free "Royalty" oil or gas to such refiner, processor, distributor or retailer;

(f) providing that any such refiner, processor, distributor or retailer who fails to pass on to the ultimate consumer and user of said product the saving realized by the use of said free "Royalty" oil or gas or sells said products refined and produced from such "Royalty" oil or gas for consumption outside the State of Alaska as defined herein, shall be liable for treble damages in any suit brought for the recovery of improper profit, and that the officials signing and swearing to false reports concerning the use of such products shall be criminally liable for such perjury and providing further that no person, firm or corporation who has violated the terms of such agreement shall be permitted thereafter to refine, process, distribute or sell any such "Royalty" oil or gas product in Alaska thereafter.

DATED on this the 13th day of May, 1981