

HB

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# SENATE FINANCE COMMITTEE REPORT

DATE: 3/8/90

FURTHER:

DATE TURNED INTO OFFICE: 4/27/90

The Finance Committee considered

CSHB 128 (FINANCE)

"An Act relating to state oil and gas and geothermal leasing practices and adjustments of state royalties to encourage commercial production."

and recommended:

replace with S CS CSHB 128 (Finance)  same title  
 or adopt \_\_\_\_\_ CS \_\_\_\_\_  new title  
 attached amendment(s)  technical  
 \_\_\_\_\_ letter of intent adopted  title change  
(HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

fiscal note(s) \_\_\_\_\_ Dept/Date: \_\_\_\_\_

fiscal note(s) \_\_\_\_\_ Dept/Date: \_\_\_\_\_


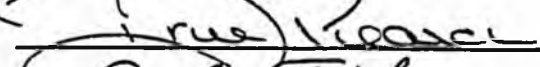
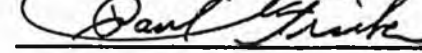
zero fiscal note(s) DNR 1/30/90

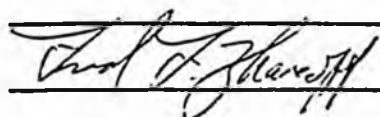
zero fiscal note(s) \_\_\_\_\_

appropriation-no fiscal note

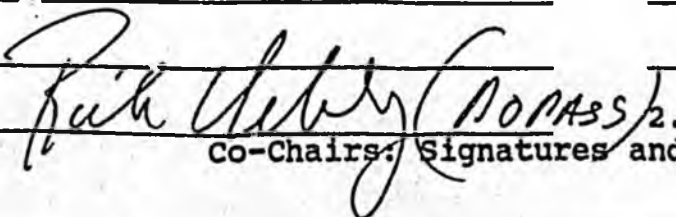
SIGNING DO PASS:

OTHER RECOMMENDATIONS:

 No Re-

1.

 (NO PASS) 2.

Co-Chairs: Signatures and Recommendations

FISCAL NOTE

REQUEST:

Revision Date: 30-Jan-90 Agency Affected: Natural Resources  
 Title: An Act relating to oil & gas & geothermal leasing practices. BRU: Petroleum Management  
 Sponsor: Brown, M. Davis, Gruenberg, Ellis Components: Petroleum Mgmt  
 Requestor: Senate Oil & Gas Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Changes in SCS CSHB 128 (Fin) have no fiscal impact. This fiscal note is appropriate. 4/27/90 *mmw*

Prepared by: Carol Wilson Phone: 465-2400  
 Division: Commissioner's Office Date: 30-Jan-90

Approved by Commissioner: Lennie Gorsuch Date: 30-Jan-90  
 Agency: Department of Natural Resources

Distribution (by preparer) :  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

Changes in SCS CSHB 128 (Res) have no fiscal impact. This fiscal note is appropriate.

Adopted

Original sponsor(s): REP. BROWN, M.Davis, Gruenberg, Ellis

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 128 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state oil and gas and geothermal  
7 leasing practices and adjustments of state royalties  
8 to encourage commercial production."

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

10 \* Section 1. AS 38.05.035(e) is amended to read:

11 (e) Upon a written finding that the interests of the state will  
12 be best served, the director may, with the consent of the commis-  
13 sioner, approve contracts for the sale, lease, or other disposal of  
14 available land, resources, property or interests in them, and, in  
15 addition to the conditions and limitations imposed by law, may impose  
16 additional conditions or limitations in the contracts as the director  
17 determines, with the consent of the commissioner, will best serve the  
18 interests of the state. A written finding for an oil and gas lease  
19 sale under AS 38.05.180 is subject to (g) of this section. A contract  
20 for the sale, lease, or other disposal of available land or an inter-  
21 est in land is not legally binding on the state until the commissioner  
22 approves the contract but if the appraised value is not greater than  
23 \$50,000 in the case of the sale of land or an interest in land, or  
24 \$5,000 in the case of the annual rental of land or interest in land,  
25 the director may execute the contract without the approval of the  
26 commissioner. Before a public hearing, if held, or in any case no  
27 less than 21 days before the sale, lease, or other disposal of avail-  
28 able land, property, resources, or interests in them, the director  
29 shall make available to the public a written finding that sets out the

1 facts and applicable law upon which the determination that the sale,  
2 lease, or other disposal will best serve the interests of the state  
3 was based. A written finding is not required before the approval of

4 (1) a contract for a negotiated sale authorized under  
5 AS 38.05.115;

6 (2) a lease of land for a shore fishery site under AS 38.-  
7 05.082;

8 (3) a permit or other authorization revocable by the com-  
9 missioner;

10 (4) a mineral claim located under AS 38.05.195;

11 (5) a mineral lease issued under AS 38.05.205; [OR]

12 (6) a production license issued under AS 38.05.207; [OR]

13 (7) an exempt oil and gas sale under AS 38.05.180(d) of  
14 acreage offered in a sale that was held within the previous five years  
15 if the sale was subject to [FOR WHICH] a written best interest find-  
16 ing, [HAS BEEN ISSUED FOR THE AREA OF THE SALE WITHIN THE 36 MONTHS  
17 BEFORE THE DATE OF THE SALE] unless the commissioner determines that  
18 new information has become available that justifies a revision of the  
19 best interest finding; or

20 (8) a lease sale under AS 38.05.180(w) of acreage offered  
21 in a sale that was held within the previous five years if the sale was  
22 subject to a best interest finding, unless the commissioner determines  
23 that new information has become available that justifies a revision of  
24 the best interest finding.

25 \* Sec. 2. AS 38.05.035 is amended by adding a new subsection to read:

26 (g) When the director prepares a written finding required under  
27 (e) of this section for an oil and gas lease sale scheduled under  
28 AS 38.05.180, the director shall consider and discuss in the finding

29 (1) facts that are known to the director at the time of

1 preparation of the finding and that are material to the following  
2 matters or to issues that were raised during the period allowed for  
3 receipt of public comment:

4 (A) property descriptions and locations;

5 (B) the petroleum potential of the sale area, in  
6 general terms;

7 (C) fish and wildlife species and their habitats in  
8 the area;

9 (D) the current and projected uses in the area, in-  
10 cluding uses and value of fish and wildlife;

11 (E) the governmental powers to regulate oil and gas  
12 exploration, development, production, and transportation;

13 (F) the reasonably foreseeable cumulative effects of  
14 oil and gas exploration, development, production, and transporta-  
15 tion on the sale area, including effects on subsistence uses,  
16 fish and wildlife habitat and populations and their uses, and  
17 historic and cultural resources;

18 (G) lease stipulations and mitigation measures, in-  
19 cluding any measures to prevent and mitigate releases of oil and  
20 hazardous substances, to be included in the leases, and a dis-  
21 cussion of the protections offered by these measures;

22 (H) the method or methods most likely to be used to  
23 transport oil or gas from the lease sale area, and the advan-  
24 tages, disadvantages, and relative risks of each;

25 (I) the reasonably foreseeable fiscal effects of the  
26 lease sale and the subsequent activity on the state and affected  
27 municipalities and communities, including the explicit and im-  
28 plicit subsidies associated with the lease sale, if any;

29 (J) the reasonably foreseeable effects of oil and gas

1 exploration, development, production, and transportation on  
2 municipalities and communities within or adjacent to the lease  
3 sale area; and

4 (K) the bidding method or methods adopted by the  
5 commissioner under AS 38.05.180;

6 (2) a summary of agency and public comments received and  
7 the department's responses to those comments; and

8 (3) the basis for the director's determination that, on  
9 balance, leasing the area would be in the state's best interest.

10 \* Sec. 3. AS 38.05.180(j) is amended to read:

11 (j) To prolong the economic life of an oil and gas field or to  
12 reestablish commercial production of shut-in oil or gas that would not  
13 otherwise be economically feasible, the commissioner shall adopt  
14 regulations [FOR ALL BIDDING METHODS] to allow reduction of royalty on  
15 leases [WITHIN THE FIELD TO COMPENSATE FOR INCREASING COSTS IN THE  
16 LATER STAGES OF PRODUCTION DECLINE]. The commissioner may not grant a  
17 reduction of royalty unless the [UNTIL TWO YEARS' INITIAL PRODUCTION  
18 FROM THE FIELD HAS OCCURRED AND EACH] lessee requesting the reduction  
19 makes [HAS MADE] a clear showing that the revenue from the lessee's  
20 share of all hydrocarbons produced from the field is and is likely to  
21 continue to be insufficient to produce a reasonable rate of return  
22 with respect to the [THAT] lessee's total investment in the field.  
23 The commissioner may condition a royalty reduction granted under this  
24 subsection in any way necessary to protect the state's interest,  
25 including restoration of the state's royalty share in the event of an  
26 increase in the price of oil or gas. Before approving a royalty  
27 reduction, the commissioner shall make a written finding that the  
28 state has obtained the maximum possible economic return that is com-  
29 patible with allowing a reasonable rate of economic return for the

1 lessee, and send copies of the finding to all members of the legisla-  
2 ture.

3 \* Sec. 4. AS 38.05.180(w) is amended to read:

4 (w) Notwithstanding any other provisions of this section, land  
5 which has been offered for lease within the previous five years and  
6 which received no bids at competitive sale or for which no bid was  
7 accepted may be, at the discretion of the commissioner, immediately  
8 offered for lease, under regulations adopted by the commissioner, upon  
9 terms appearing most advantageous to the state; however, noncompeti-  
10 tive leasing is prohibited. The commissioner shall establish a royalti-  
11 ty determined to be in the public interest but not less than 12 1/2  
12 percent. A lease must provide for payment to the state or rental but  
13 need not adhere to the rental schedule in (n) of this section nor to  
14 the 5,760-acres-per-lease limitation in (m) of this section. The  
15 lease term may not exceed 10 [FIVE] years, except as provided in (m)  
16 and (o) of this section.

17 \* Sec. 5. AS 38.05.945(c) is amended to read:

18 (c) Notice [EXCEPT FOR OIL AND GAS LEASING UNDER AS 38.05.180  
19 AND GEOTHERMAL LEASING UNDER AS 38.05.181, NOTICE] at least 30 days  
20 before action under (a) of this section shall also be given to the  
21 following:

22 (1) to a municipality if the land is within the boundaries  
23 of the municipality, to a coordinating body established by community  
24 councils in a municipality if the coordinating body or a community  
25 council within the area served by a coordinating body requests notice  
26 in writing; if there is no coordinating body within the municipality,  
27 notice shall be provided to each community council established by the  
28 charter or ordinance of the municipality if the land is located within  
29 the boundaries of the municipality and if the community council

1 requests notice in writing;

2 (2) to a regional corporation if the boundaries of the  
3 corporation as established by sec. 7(a) of the Alaska Native Claims  
4 Settlement Act encompass the land and the land is outside a municipal-  
5 ity;

6 (3) to a village corporation organized under sec. 8(a) of  
7 the Alaska Native Claims Settlement Act if the land is within 25 miles  
8 of the village for which the corporation was established and the land  
9 is located outside a municipality;

10 (4) to the postmaster of a permanent settlement of more  
11 than 25 persons located within 25 miles of the land if the land is  
12 located outside a municipality, with a request that the notice be  
13 posted in a conspicuous location;

14 (5) to a nonprofit community organization or a governing  
15 body that has requested notification in writing and provided a map of  
16 its boundaries, if the land is within the boundaries.

HB 128

# STATE OF ALASKA

**DEPARTMENT OF NATURAL RESOURCES**

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1798  
PHONE: (907) 465-2400

April 27, 1990

The Honorable John Binkley  
The Honorable Rick Uehling  
Co-chairmen  
Senate Finance Committee  
P.O. Box V  
Juneau, AK 99811

Subject: Senate CS for CS for House Bill 128

Dear Senator Binkley and Senator Uehling:

The Department of Natural Resources supports Senate CS for CS for House Bill 128 which is enclosed. The recent amendments to the CS for HB 128 reflect the results of several days of discussion and negotiation among interested members of the public, the Legislature, and the Departments of Law and Natural Resources regarding the issues which should be considered prospectively in determining whether it is in the state's best interest to conduct an oil and gas lease sale under the provisions of AS 38.05.035.

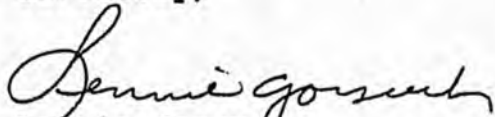
This set of amendments expressly identifies the subjects that DNR must discuss in an oil and gas best-interest finding by setting out the complete list of factors that must be addressed. The legislation is intended to preclude a court from determining the "important factors" that must be addressed before the executive decision is made concerning whether an oil and gas lease sale is in the best interest of the state. It is further intended to make clear that speculation concerning future activities that would be subject to independent permitting requirements is not necessary at the time of the lease sale decisions. By specifying that only "reasonably foreseeable cumulative effects" be discussed, it is intended that DNR need not speculate concerning the location and size of discoveries, the economic feasibility of ultimate development, the technological feasibility of production or transportation, future environmental or other laws that may apply at the time of any future development, or other such factors that cannot reasonably be foreseen at the time of leasing.

Senator Binkley and Senator Uehling -2-

April 27, 1990

These amendments are vital to the state's best interests, and I urge your prompt and favorable action on them.

Sincerely,

A handwritten signature in cursive script that reads "Lennie Gorsuch". The signature is written in dark ink and is positioned above the typed name.

Lennie Gorsuch  
Commissioner

Enclosure



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

DATE: April 27, 1990

TO: Senator John Binkley, Co-Chairperson  
Senator Rick Uehling, Co-Chairperson  
Senate Finance Committee

FROM: Representative Kay Brown

RE: SCS CS HB 128 (Proposed Finance)

You will find a new Section 2 in the proposed committee substitute that would establish guidelines for the Director of the Division of Oil and Gas to follow when making a "best interest" finding for future oil and gas lease sales. The proposed language has been developed with the assistance of the Department of Natural Resources, Division of Oil and Gas, and other interested parties.

It is necessary, in light of the recent Supreme Court decision on the Camden Bay lease sale, to clarify the facts and issues a Director must discuss and balance in determining whether it is in the best interest of the state to proceed or not to proceed with an oil and gas lease sale. Because the decision to lease is a key decision that transfers valuable property rights and ultimately may lead to development and production, the public needs to understand the careful analysis undertaken by the Director.

The public interest is served by establishing a list of matters and issues to be discussed by the Director and by allowing the public to express concerns and have those concerns weighed in the decision making process.

I urge you to adopt and move the proposed CS for HB 128 from committee. Thank you for your consideration.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

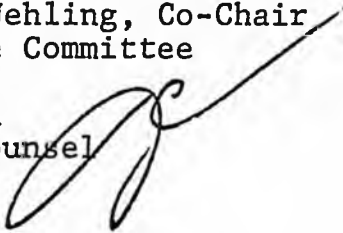
MEMORANDUM

April 26, 1990

SUBJECT: Draft SCS CSHB 128 ( )

TO: Senator Rick Uehling, Co-Chair  
Senate Finance Committee

FROM: Jack Chenoweth  
Legislative Counsel



Tally Johnson of Senator Pearce's staff asked me to provide your office an explanation of the differences between the draft SCS CSHB 128 ( ) and the version recently reported by the Senate Resources Committee.

Bill sections 3, 4, and 5 of the draft SCS CSHB 128 ( ) are exactly the same as bill sections 2, 3, and 4 of the Resources Committee version; there are no changes in this material.

Bill section 2 of this version (page 2, line 25 through page 4, line 9) is new material, not present in the earlier version. I was not privy to the deliberations that were conducted as regards that section. Rather, I was first asked to work from the language of a division of oil and gas draft. Then, following discussions among agency and interest group representatives, I was provided what was described as compromise language by Representative Kay Brown, asked to incorporate the changes substantially as offered into this CS, and did as I was requested. Representative Brown will have to provide other information concerning her efforts to find common agreement among the parties.

The underlined material on page 1, line 18 and 19 is also new in this version. It cross-references the changes noted in AS 38.05.180(g), added by bill section 2. In all other respects, bill section 1 of both versions is the same.

JBC:pl  
WKP4/082

Representative Kay Brown  
March 12, 1990

SECTIONAL ANALYSIS  
SCS CS HB 128 (Resources)  
Oil and Gas Leasing Practices and State Royalties

Section 1

Amends existing law regarding the requirement to prepare a new "best interest finding" in the case of "exempt" oil and gas lease sales under AS 38.05.180(d) and AS 38.05.180(w). The proposed change would allow the Department of Natural Resources to lease lands under these statutes without preparing a new "best interest finding" if a finding had been prepared within the previous five years, unless the Commissioner determines that new information has become available that justifies revision of the prior finding.

Section 2

Would give the Commissioner of the Department of Natural Resources authority to reduce royalties in order to reestablish shut-in oil and gas production that would otherwise not be economically feasible. Before granting a royalty reduction, the lessee would be required to make a clear showing that the shut-in resources would not be economical to produce without a royalty reduction. The Commissioner would have to find that the state was obtaining the maximum possible economic return compatible with a reasonable rate of return for the lessee. Further, the Commissioner would have to provide a written finding to all legislators before granting a royalty reduction.

Section 3

Amends AS 38.05.180(w) regarding the term of a lease that has been re-offered. Existing law stipulates that the term of a re-offered lease shall be limited to five years. The proposed change would increase the maximum term of a re-offered lease to ten years.

Section 4

Amends the Department of Natural Resources public notice requirements as they pertain to the leasing of hydrocarbon and geothermal resources. The proposed change would reestablish the requirement that the department provide broad public notice of leasing actions to potentially affected parties.