

HCR

11

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

NO. _____
BILL VERSION: HCR 11
PUBLISH DATE: _____

Revision Date: _____
Title: Urging the Attorney General of the State of Alaska to use every appropriate resource and due...
Sponsor: Representative Phillips
Requestor: House Judiciary

Department Affected: Legislative Affairs Agency
BRU: All
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact to the Legislature.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
 Division: Administrative Services Date: 2/27/97

Approved By: Pamela A. Varni, Executive Director *Pamela Varni*
 Agency: Legislative Affairs Agency Date: 2/27/97

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov. , & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 119

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Small claims actions BRU: Trial Courts
 Component: _____
 Sponsor: _____
 Requestor: _____ COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	37.3	37.3	37.3	37.3	37.3	37.3
TRAVEL	4.0					
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	41.3	37.3	37.3	37.3	37.3	37.3

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	41.3	37.3	37.3	37.3	37.3	37.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	41.3	37.3	37.3	37.3	37.3	37.3

Estimate of any current year (FY 97) cost: None

Positions

Full-Time	1.0	1.0	1.0	1.0	1.0	1.0
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel
 Agency: Alaska Court System
 Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System

Phone: 264-8228
 Date: 02/14/97
 Date: 02/14/97

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Alaska Court System
Fiscal Analysis
HB 119

HB 119 substantially increases the limit for small claims jurisdiction. Currently, small claims procedures can be elected in cases claiming \$5,000 or less; this limit was enacted in 1986. HB 119 reflects an increase in this limit to \$10,000. According to federal figures, the consumer price index has increased approximately 35 percent since 1986; when adjusted to 1996 dollars, the \$5,000 limit should thus be approximately \$6,850.

Contrary to popular belief, cases proceeding under small claims rules are more expensive for the court system to handle than are small cases subject to formal rules. Small claims procedures exist to lessen the burden on private citizens, not to lessen the burden on the courts. Small claims cases require a substantially larger per-case commitment of clerical resources, because court clerks are required to provide procedural assistance to litigants who are proceeding without the benefit of an attorney. A large percentage of small claims cases result in a trial, however brief; very few cases under \$10,000 proceeding under formal rules would result in a trial. Moreover, unlike small claims litigants, most litigants subject to formal rules will consult an attorney before filing a case, and thus the court system never sees many cases which are settled or otherwise disposed of by the lawyer prior to filing.

At court locations where there is a superior court or district court judge, the caseload shift (of claims in the \$5,000 to \$10,000 range, from district court to small claims court) will have a measurable but not severe impact on court resources. The primary impact will be an increased trial rate, some new cases, and increased clerical workload. However, at court locations served only by a magistrate, the impact will be more substantial.

More than half the magistrates employed by the court system are not attorneys. The 100 percent increase in jurisdictional limit will substantially increase the complexity of the small claims caseload. This fiscal note reflects increased costs for magistrate training and increased costs for clerical time.

Alaska Court System

Fiscal Analysis

HB 119

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk II, range 10A, PFT, 12 months, Anchorage/Statewide	\$25,260	\$12,063	\$37,323

Travel (one-time costs)

Extend annual magistrate training conference by one day to accommodate session on small claims actions.

4,000

Estimated Total Cost

\$41,323

House Judiciary Committee

Jack Griffin / HCR 11

269-5268

Northstar Litig.

465 4135

2/25 Mike Heatwold
will drop off

House Judiciary Committee

① // Complaint

② // Editorial
From Daily News

HB 53

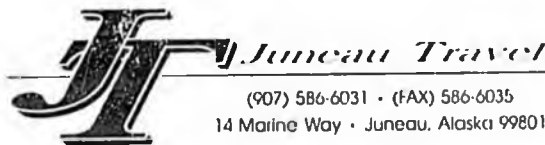
Corrections

Admin

Gen services
lease/purch

DOT

Revenue



LISA:

FOR HCR 11

COMMITTEE

PROJECT -

CALL w/

QUESTIONS

MIKE H.

X3721



Alaska State Legislature

Please enter into the record my testimony to the HJUD
 committee name
 committee on HCR 11 , dated 2-26-97
 bill/subject

This special non-competitive give away of the Northstar royalty provision is another lump in the present legislature's give-away program of Alaska's publicly owned resources for the real purpose of increasing industries' profits at the expense of the public's long-term benefits. Even after the industry enters into and are successful in the open, competitive bidding process, they come back and demand self-interest benefit changes in their contracts and commitments. That is an example of industries' talking out of both sides of their mouths, when on one side they refuse any more restrictive, needed regulations, and on the other they readily demand the lowering of their contractual commitment, including their constant refusal to voluntarily pay their royalty debt.

This resolution, and the voluntary change of industries bidded contractual liabilities, are just examples of the numerous pending bills intending to lower responsibility to environmental protection, resource conservation and the public trust rights as owners of Alaska's common property resources. The 1997 legislature's attitude flies in the face of HCR 11's first statement, "Whereas a majority of Alaskans support safe and responsible oil development in the state..." I challenge the sponsors to add the following statement, "As proof of this responsibility, we offer the examination of the content of the following pending legislation: HB 28, HB 29, HB 4, HB 23, HB 51, HB 58, HB 31, HB 60, HB 68, HB 109 and HB 128." End of challenge.

The extractors' continuing demand for a more favorable financial climate shows their self-interest attitude by extending it to the lobbying for a reduction in the state budget for the funding of educational support, including a reduced commitment for extra curricular activities, such as sports, music, crafts, social activities, and school lunches, and further cuts in meeting health care needs of the young and elderly. Shame on the greed of the present legislature, who reflect their commitment to the power and intrusion of these multi-international corporations to the detriment of the true owners of these public resources.

Signed: Dale Bondurant
 Testifier
Self PHONE 262-0818
 Representing (Optional)

Alaska State Legislature



State Capitol
Juneau, AK 99801-1182
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Speaker of the House of Representatives

SPONSOR STATEMENT REPRESENTATIVE GAIL PHILLIPS HCR 11

On February 13th of this year, British Petroleum announced they would immediately stop fabrication work on their Northstar oil field development project. The company indicated the reason for the work stoppage was their concern with a lawsuit challenging revisions to the Northstar lease terms ratified by the Alaska Legislature and signed by the Governor last year.

HCR 11 asks the Attorney General of the State of Alaska to use every appropriate resource and due diligence to defend the state's interests in this case. HCR 11 also respectfully requests the Superior Court to expedite consideration of the pending legislation so that work on the project can resume as quickly as possible.

In 1996 the legislature authorized the Commissioner of Natural Resources to revise the Northstar unit oil and gas leases. At the time there was a strong commitment to Alaska-hire, Alaska-build, and Alaska-buy in the development of the field.

Following the revised lease agreement, construction of modules for the Northstar project began in Anchorage. Several Alaskan construction and oil services companies made preparations for the increased work load. People were hired. Plans were put into place.

The lawsuit has directly resulted in many Alaskans losing their jobs. In the interest of all Alaskans, this case must be resolved quickly.

Our resolution simply asks the Courts to act as expeditiously as possible on this hearing in order to put Alaskan families back to work.

FINAL
FORM

CS FOR HOUSE CONCURRENT RESOLUTION NO. 11(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE PHILLIPS

A RESOLUTION

1 **Urging the Attorney General of the State of Alaska to use every appropriate**
2 **resource and due diligence to defend the state's interests in the civil action filed**
3 **against the state challenging the 1996 revisions of the Northstar unit leases, and**
4 **respectfully requesting the Superior Court of the State of Alaska to give**
5 **expeditious consideration to the matter.**

6 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 **WHEREAS** a majority of Alaskans support safe and responsible oil development in
8 the state and the jobs it creates for Alaskans; and

9 **WHEREAS** development of other oil fields in Alaska has resulted in thousands of jobs
10 throughout this state and the United States; and

11 **WHEREAS** Prudhoe Bay production is declining by approximately 10 percent a year;
12 and

13 **WHEREAS** Alaskans recognize that oil production from the North Slope is declining
14 and new development is needed to create new jobs in the state and to bring additional revenue
15 to the state; and

1 **WHEREAS**, the commissioner of natural resources negotiated revisions to existing
2 Northstar unit leases between the state and BP Exploration (Alaska), Inc.; the lease revisions
3 have the effect of expediting the development of the Northstar field and ensure oil production
4 under a new payment system; and

5 **WHEREAS**, last year, the legislature overwhelmingly approved legislation, ch. 139,
6 SLA 1996, authorizing the commissioner of natural resources to revise the Northstar unit oil
7 and gas leases; and

8 **WHEREAS** the legislature and British Petroleum, the lessee's parent company, have
9 acknowledged the importance of a strong commitment to Alaska-hire, Alaska-build, and
10 Alaska-buy in the development of the Northstar field; and

11 **WHEREAS** British Petroleum, honoring its voluntary commitments, has already hired
12 many residents and companies holding state business licenses; and

13 **WHEREAS** a civil action was recently filed in the superior court challenging the 1996
14 revisions of the Northstar unit leases; and

15 **WHEREAS**, in response to dislocations arising from the filing of the court challenge,
16 the Attorney General has publicly commented that the state has asked the court to expedite
17 consideration and resolution of the litigation; and

18 **WHEREAS** the legislature recognizes the grave effects this challenge to the revisions
19 of the Northstar leases are having on the development of the Northstar field;

20 **BE IT RESOLVED** that the Alaska State Legislature urges the Attorney General of
21 the State of Alaska to use every appropriate resource and due diligence to defend the state's
22 interests in this civil action challenging the 1996 amendment of the Northstar unit leases; and
23 be it

24 **FURTHER RESOLVED** that the legislature respectfully requests the Superior Court
25 in which this litigation is filed and scheduled for hearing to expedite consideration of the
26 pending litigation.

**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

STAMP: FILED
BY: DEPT. OF JUSTICE

1 LEUTWYLER, BRION & ASSOCIATES
2 631 K Street
3 Anchorage, AK 99501
4 Telephone: (907) 272-5325
5 Facsimile: (907) 272-5317
6
7 Attorneys for Plaintiff Clyde Baxley and The Republican Moderate Party

9 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

11 THIRD JUDICIAL DISTRICT AT ANCHORAGE

14 CLYDE BAXLEY, individually, and)
15 on behalf of the citizens of the State of)
16 Alaska, and THE REPUBLICAN)
17 MODERATE PARTY, a political group,)
18 on behalf of the citizens of the State of)
19 Alaska.)
20)
21 Plaintiffs,)
22)
23 vs.)
24)
25 STATE OF ALASKA and JOHN SHIVELY,)
26 Commissioner, Department of Natural)
27 Resources,)
28)
29 Defendant.)
30 _____)

Case No. 3AN-97- 708

31 Complaint for Declaratory Judgment

32 COME NOW Plaintiffs Clyde Baxley, individually, and upon behalf of the
33 citizens of the State of Alaska, and The Republican Moderate Party, a political
34 group, upon behalf of the citizens of the State of Alaska, by and through counsel
35 of record Leutwyler, Brion & Associates, and, pursuant to AS 22.010.020 (g), for
36 their causes of action against the Defendant State of Alaska, allege as follows:

37

JURISDICTION AND VENUE

38 1. Plaintiff Clyde Baxley is a citizen and resident of the Third Judicial District of
39 the State of Alaska and is subject to the jurisdiction of this court, and venue is
40 proper.

41 2. Plaintiff The Republican Moderate Party is a non-profit Alaska corporation and
42 an Alaskan political group as defined by AS 15.60.010 (19), composed of
43 Alaska citizens and residents, and is subject to the jurisdiction of this court,
44 and venue is proper.

45 3. Both Plaintiffs are public interest litigants, and bring this action upon behalf of
46 themselves and other citizens of the State of Alaska, for the common good of
47 the State of Alaska.

48 4. Defendant State of Alaska (hereinafter "State") is a government unit/entity duly
49 organized under the Constitution and laws of the United States of America and
50 the State of Alaska and is subject to the jurisdiction of this court.

51 5. Defendant John Shively is Commissioner of the Department of Natural
52 Resources of the State of Alaska, and is subject to the jurisdiction of this court.

53

STANDING

54 6. The government action being challenged in this Complaint for Declaratory
55 Judgment is a matter of significant public concern.

56 7. There are no other plaintiffs more directly affected by the challenged
57 government action who have brought suit to challenge it.

58 8. There are no other plaintiffs more directly affected by the challenged
59 government action who are more likely than the instant plaintiffs to bring suit
60 to challenge it.

61 9. Plaintiffs Clyde Baxley and The Republican Moderate Party are capable of
62 competently advocating the positions being asserted by the Plaintiffs in this
63 action.

64 10. Plaintiff Clyde Baxley has standing in this suit based on his status as a
65 taxpayer-citizen in good standing in the State of Alaska.

66 11. Plaintiff The Republican Moderate Party has standing in this suit based on its
67 status as an Alaskan political group composed of tax-paying Alaskan citizens
68 and residents.

69 FIRST CAUSE OF ACTION

70
71 VIOLATION OF ARTICLE VIII, SEC. 17 OF THE ALASKA
72 CONSTITUTION (UNIFORM APPLICATION CLAUSE)
73

74 12. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

75 13. Defendant State of Alaska originally entered into a net profit leasing
76 arrangement on the Northstar tracts with Amerada-Hess, a corporation,
77 whereby the successful bidder and the State would share the net profits from
78 the development of the lease. This arrangement is set out in House Bill No.
79 548, and is hereinafter referred to as the "original Northstar lease."

- 80 14. The State was aware that the successful bidder (Amerada-Hess) sold its
81 interest in the original Northstar lease to BP Exploration Inc. (hereinafter
82 "BP").
- 83 15. The State was approached by BP to renegotiate the original Northstar lease.
- 84 16. The State, through the Commissioner of Natural Resources, (hereinafter
85 "Commissioner.") agreed in a privately negotiated arrangement to amend the
86 original Northstar lease, substituting a sur-royalty based on market price with a
87 cap.
- 88 17. Other changes in the original Northstar lease were negotiated between BP and
89 the Commissioner.
- 90 18. The legislature ratified the negotiated arrangement between BP and the
91 Commissioner without modification.
- 92 19. The final negotiated arrangement between BP and the Commissioner in regard
93 to the Northstar lease is set out in the amendments to House Bill 548, and is
94 hereinafter referred to as the "modified Northstar lease."
- 95 20. This arrangement was not offered by the State to other bidders on the original
96 Northstar lease, nor to other oil and gas leaseholders in Alaska.
- 97 21. The modified Northstar lease makes no effort or attempt to treat equally all
98 persons similarly situated so that the net profit share leases other than those
99 held by BP may be considered.
- 100 22. Revised HB 548 violates the Uniform Application Clause of the Alaska

101 Constitution in that only the Northstar unit leases held by BP are addressed and
102 that it demonstrates a privileged status for BP in the use of natural resources
103 subject to the disposition of the State

104 SECOND CAUSE OF ACTION

105
106 VIOLATION OF ARTICLE VIII, SEC. 10 OF THE ALASKA
107 CONSTITUTION (PUBLIC NOTICE)
108

- 109 23. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.
- 110 24. The State did not provide legal or actual notice to any other net profit bidder
111 that it was proposing the option of a sur-royalty substitute for net profit lease
112 holders.
- 113 25. The modified Northstar lease was a result of a privately negotiated
114 arrangement between BP and the State.
- 115 26. The State did not offer a similar arrangement to others.
- 116 27. Neither was the public notified, until it was finalized, of the arrangement
117 between BP and the State.
- 118 28. This lack of notice by the State to other net profit lease holders and to the
119 public at large is in violation of Article VIII, Sec. 10 of the Alaska Constitution
120 which requires public notice of any disposal or lease of state lands or interests
121 therein.

122

THIRD CAUSE OF ACTION

123

VIOLATION OF ARTICLE IV, SEC. 2 OF THE
ALASKA AND UNITED STATES CONSTITUTIONS
(PRIVILEGES AND IMMUNITIES CLAUSE)

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125

126

127

29. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

128

30. The modified Northstar lease contains local hire provisions mandating that BP

129

voluntarily agree to hire residents of Alaska and to fabricate certain materials

130

in Alaska.

131

31. In entering into the modified Northstar lease, the State of Alaska is favoring

132

residents over non-residents in regard to the development of the Northstar

133

leases.

134

32. The local hire provisions contained in the modified Northstar lease interfere

135

with the rights of non-residents to earn a living.

136

33. The local hire provisions contained in the modified Northstar lease were

137

imposed upon BP by the State of Alaska and constitute impermissible state

138

action.

139

34. The local hire provisions contained in the modified Northstar lease

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discriminate against non-residents in violation of the Privileges and Immunities

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Clause, as well as the Equal Protection Clause and the Commerce Clause of

142

both the United States and Alaska Constitutions.

143

35. The local hire provisions contained in the modified Northstar lease are not

144

severable since the legislative record provides that a substantial motivation for

145 the State in changing the lease terms is the fact that the Northstar project will
146 create jobs and opportunities for Alaskans. Moreover, the legislature directed
147 the Commissioner of Natural Resources to refrain from amending the leases
148 until all the representations made by BP and the State were in substantial
149 compliance.

150 36. Since the local hire provisions are both unconstitutional and unseverable from
151 the remainder of the legislation, the entire modified Northstar lease is invalid.

152 FOURTH CAUSE OF ACTION

153
154 VIOLATION OF THE RULE AGAINST MATERIAL AMENDMENTS

155
156 37. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

157 38. The changes ultimately made to the original Northstar lease were substantial.

158 39. These changes could reasonably have been foreseen at the time of formation of
159 the original lease.

160 40. The net profit share was the sole variable in the lease sale and a material term
161 since it could influence the judgment or decision on the award of the contract
162 and gave BP a substantial advantage over other potential bidders.

163 41. The changes made to the net profit share violated competitive bidding statutes
164 and law which prohibit material amendments to competitively bid contracts.

165

HB0548
SCS CSHB 548(FIN) AM S

SENATE CS FOR CS FOR HOUSE BILL NO. 548(FIN) am S
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 5/6/96
Offered: 5/6/96

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act authorizing the amendment of Northstar Unit oil and gas leases between the State of Alaska and BP Exploration (Alaska) Inc.; and providing for an effective date."

BE IT ENACTED BY THE STATE OF ALASKA:

- * **Section 1. LEGISLATIVE FINDINGS AND INTENT.** (a) The legislature finds that
- (1) the production of oil and gas from state land is a matter of statewide interest and effect because it is an important source of revenue to the state and job opportunities for the people of the state;
 - (2) BP Exploration (Alaska) Inc. holds state oil and gas leases in the Northstar Unit that include net profit share provisions;
 - (3) unless the net profit share provisions of the Northstar Unit leases are amended, production of oil and gas from the unit is highly unlikely to begin before the year 2002, if at all;
 - (4) because of the development account provisions of the net profit share leases, the later that these leases are developed, the less "net profits" the state receives;
 - (5) if the net profit share provisions of the Northstar Unit leases are amended, full production of oil and gas from the unit may begin as early as the year 1999;
 - (6) amending the net profit share provisions of the Northstar Unit leases to provide for a supplemental royalty will maximize the economic benefits of oil and gas production to the people of the state by encouraging timely production from the unit;
 - (7) the development of the Northstar Unit will provide additional revenue to the state;
 - (8) the timely development of the unit may result in increased state revenue in future lease sales; and
 - (9) the timely development of the unit may result in technological breakthroughs and other cost savings that may make other development opportunities in Alaska economically feasible.
- (b) With respect to the effect of the effort to secure earlier development of the leases on employment opportunities for state residents and on the state's economy, the legislature finds that
- (1) paragraph 41 of the 1980 lease and paragraph 31 of the 1983 lease are to be amended; under each of the proposed amendments,
 - (A) the lessee, BP Exploration (Alaska) Inc., undertakes
 - (i) to use its best efforts to advertise for, recruit, and employ qualified residents of the state;
 - (ii) to contract with existing licensed Alaska firms to fabricate the

modules to develop the Northstar Unit leases within the state and, in contracting with those firms, to encourage its contractors to employ and, when necessary, train existing state residents;

(iii) to enter into contracts with Alaska-licensed vendors, contractors, and suppliers for the provision of supplies and services; and

(B) several state agencies with responsibility for improving the employment opportunities of state residents, including training, commit to efforts to supplement and support the lessee's undertakings;

(2) the lessee, BP Exploration (Alaska) Inc., has made significant investments in the state, is ranked as one of the state's largest private sector employers, and regularly enters into contracts to obtain support services; consequently, the lessee's fulfillment of the undertakings described in (1) of this subsection should materially contribute to existing resident workforce employment opportunities and to the state's economic stability;

(3) a good faith effort by the lessee, BP Exploration (Alaska) Inc., and the state agencies to fulfill the undertakings described in (1) of this subsection should ensure that, under the amended leases, benefits will accrue directly and immediately to the people of the state; and

(4) the mutual commitments made by the parties to the lease in these amendments to secure to state residents and businesses the advantages and benefits of both expanded resident hire opportunities and additional work by in-state businesses are in the best interests of the people of the state and are considerations of paramount importance to the legislature in its decision to conditionally approve the proposed amendments of the Northstar Unit leases.

*** Sec. 2. LEGISLATIVE INTENT REGARDING MEANING OF SPECIFIC RESIDENT EMPLOYMENT REQUIREMENTS.** (a) The legislature wishes to set out its intent regarding meaning of certain words and phrases used in the "First Amendment to the Northstar Unit Leases between the State of Alaska and BP Exploration (Alaska) Inc. ('Northstar Amendment')" that is approved by this Act. Specifically, the legislature wishes to set out its intent regarding the interpretation of the reporting obligations set out in Paragraph 41 of the 1980 Leases titled "Employment of Alaskan Residents" and Paragraph 31 of the 1983 Lease titled "Employment of Alaskan Residents" in the Northstar Amendment, collectively the "Employment Paragraphs." The legislature intends that the Alaska residents and contractors discussed in the Employment Paragraphs are truly Alaskan and that Alaska residents throughout the state be given an opportunity to obtain employment on the Northstar project.

(b) The legislature believes that

(1) the findings made by the legislature in AS 36.10.005(a)(1) - (8) and (11) - (18), (c), and (d), regarding an employment preference for Alaska residents on state construction projects are equally applicable to the Northstar Amendment; and

(2) the state has a compelling interest in reducing the level of unemployment among its residents.

(c) The legislature intends, for purposes of accounting and reporting under the Employment Paragraphs, that

(1) the phrases "Alaska resident," "residents of Alaska," and "resident personnel" mean an individual who is physically present in the state with the intent to remain in the state indefinitely and has a home in the state;

(2) an individual demonstrates that intent by maintaining a residence in the state;

(3) the individual possesses a resident fishing, trapping, or hunting license or receives a permanent fund dividend; and

(4) the hiring entity may also require that the individual state under oath that the individual is not claiming residency outside of the state or obtaining benefits under a claim of residency outside of the state.

(d) The legislature intends that for purposes of accounting and reporting under the Employment Paragraphs,

(1) the word "available" means Alaska residents who are located anywhere in the state, not just in the area of the state where the work is to be performed; and

(2) the word "qualified" means an individual who either currently possesses the requisite education, training, skills, or experience to perform the work necessary for a particular position or is capable of performing such skills after completing one of the job training programs contemplated in the Employment Paragraphs.

(e) The legislature understands that nonresidents will be hired only if there are no available and qualified Alaska residents to perform the work. For purposes of accounting and reporting under the Employment Paragraphs, the legislature intends that the requirement to "advertise for available positions locally" includes advertising in newspapers and other publications located throughout the state, including rural areas, not just in the location where the work is to be performed.

(f) The legislature further intends that the requirement to "use Alaska job service organizations" includes those offices maintained by the Department of Labor whose functions are to aid the unemployed in finding employment and any job service organization located throughout the state, not just the location where the work is to be performed.

(g) The legislature intends that, for purposes of accounting and reporting under the Employment Paragraphs, the phrases "Alaska Contractors" and "Alaska firms" mean a firm or contractor that

(1) has held an Alaska business license for one year before performing any work in connection with the Northstar leases;

(2) has maintained for one year a place of business within the state that deals in the supplies, services or construction of the nature required for the project before performing any work in connection with the Northstar leases; and

(3) is

(A) a sole proprietorship and the proprietor is an Alaska resident;

(B) a partnership and more than 50 percent of the partners are Alaska residents;

(C) a corporation that has been incorporated in the state or is authorized to do business in the state, or

(D) is a joint venture composed entirely of ventures that qualify under this paragraph.

(h) For purposes of Employment Paragraphs, the legislature intends that the lessee's reporting obligations comply with the reporting requirements of 8 AAC 30.062 and shall include information regarding the number of nonresidents hired within the past year, and the number of Alaska contractors and non-Alaska contractors hired within the past year.

* **Sec. 3. AMENDMENT OF LEASES AUTHORIZED.** (a) The State of Alaska and BP Exploration (Alaska) Inc. are parties to the following leases in the Northstar Unit:

(1) ADL 312798, effective February 1, 1980;

(2) ADL 312799, effective February 1, 1980;

(3) ADL 312808, effective February 1, 1980;

(4) ADL 312809, effective February 1, 1980; and

(5) ADL 355001, effective August 1, 1983.

(b) The commissioner of natural resources may amend the Northstar Unit leases described in (a) of this section to the extent set out in the "First Amendment to the Northstar Unit Leases Between the State of Alaska and BP Exploration (Alaska) Inc.", dated March 22, 1996, if the amendment includes a provision as follows:

(1) Paragraph 41 of each of the leases described in (a)(1) - (4) of this section is replaced in its entirety as follows:

"41. **EMPLOYMENT OF ALASKAN RESIDENTS.** Lessee shall comply with all valid federal, State and local laws in hiring Alaska residents and contractors and shall not discriminate against Alaska residents or contractors. Within the constraints of law, lessee shall employ Alaska residents and contractors to the extent they are available and qualified. Subject to the foregoing:

Lessee voluntarily agrees to adopt a program to hire residents of Alaska.

Lessee shall advertise for available positions locally and use Alaska job service organizations to notify the Alaskan public. For work in connection with this lease, lessee shall use best efforts to contract with Alaska firms and fabricate modules in Alaska, whenever feasible. Lessee shall encourage its contractors to employ and train, when necessary, residents of Alaska. In determining feasibility, lessee shall consider commercial, health, safety, and environmental conditions and requirements to ensure maintenance of lessee's operational standards. Lessee shall submit annually to the director, division of oil and gas, for transmission to the Department of Labor, a report that details the specific measures lessee and its contractors and subcontractors have taken or are planning to take to recruit qualified Alaska residents for available jobs, describes on-the-job training opportunities, and describes lessee's efforts to hire Alaska firms for work in connection to this lease. Lessee shall furnish the Department of Labor a quarterly report regarding the employment of Alaska residents on the leased area in compliance with regulations by the Commissioner of Labor. The report must also include statistical data concerning the number of resident personnel hired within the past year for this lease";

(2) Paragraph 31 of the lease described in (a)(5) of this section is replaced in its entirety as follows:

"31. EMPLOYMENT OF ALASKAN RESIDENTS. Lessee shall comply with all valid federal, State and local laws in hiring Alaska residents and contractors and shall not discriminate against Alaska residents or contractors. Within the constraints of law, lessee shall employ Alaska residents and contractors to the extent they are available and qualified. Subject to the foregoing:

Lessee voluntarily agrees to adopt a program to hire residents of Alaska. Lessee shall advertise for available positions locally and use Alaska job service organizations to notify the Alaskan public. For work in connection with this lease, lessee shall use best efforts to contract with Alaska firms and fabricate modules in Alaska, whenever feasible. Lessee shall encourage its contractors to employ and train, when necessary, residents of Alaska. In determining feasibility, lessee shall consider commercial, health, safety, and environmental conditions and requirements to ensure maintenance of lessee's operational standards. Lessee shall submit annually to the director, division of oil and gas, for transmission to the Department of Labor, a report that details the specific measures lessee and its contractors and subcontractors have taken or are planning to take to recruit qualified Alaska residents for available jobs, describes on-the-job training opportunities, and describes lessee's efforts to hire Alaska firms for work in connection to this lease. Lessee shall furnish the Department of Labor a quarterly report regarding the employment of Alaska residents on the leased area in compliance with regulations by the Commissioner of Labor. The report must also include statistical data concerning the number of resident personnel hired within the past year for this lease"; and

(3) These amendments take effect when and if an Act(s) substantially similar to the act, attached as Exhibit D and incorporated by reference, takes effect. This amendment is dated for reference purposes as of March 22, 1996.

* **Sec. 4. REPORTING PROVISIONS.** (a) The lessee, BP Exploration (Alaska) Inc., shall file with the commissioner of labor at least every six months the reports that the commissioner of labor determines are necessary to evaluate the lessee's efforts described under sec. 3(b) of this Act. The commissioner shall submit copies of these reports to the legislature. (b) The commissioner of labor shall also prepare and present to the legislature annually a comprehensive report by company on resident hire in the oil fields of the North Slope of Alaska, which shall indicate residency of employees by borough, unorganized borough, or economic region, and which shall compare the lessee's effort on voluntary resident hire to the comparable data for other North Slope oil field projects.

* **Sec. 5. AUDITING AND REPORTING.** Four years after the effective date of this Act, the Legislative Budget and Audit Committee shall undertake an audit of the lessee's compliance with its obligations under the "First Amendment to the Northstar Unit Leases between the State of Alaska

and BP Exploration (Alaska) Inc." and make a report of its findings to the president of the senate and the speaker of the house of representatives.

* **Sec. 6. SEVERABILITY.** Under AS 01.10.030, the provisions of this Act are severable.

* **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).

NORTHSTAR DELAY

DON'T BLAME THE PENDING LAWSUIT; THE DEAL WAS RISKY FROM THE START

By Daily News editorial staff

The vilification in some quarters of those who have sued to block BP's Northstar oil field deal is way premature and possibly unwarranted.

The harm wrought by BP's shutdown of its Anchorage-based manufacturing work for the Northstar project -- workers being sent home without paychecks; local firms losing business -- is regrettable.

But it could be that the two plaintiffs, Clyde Baxley and the Republican Moderate Party, are doing a public service by putting the deal to a legal test. Time will tell. If the deal can't withstand legal scrutiny, it shouldn't be consummated.

Surely we want to follow the law, even if it means financial hardships or delays in the dollars that will flow whenever the field comes into production.

Those screaming the loudest about the lawsuit are understandably those who stand the most to gain from the project. But Alaskans ought to stop and think about what's really going on here.

The lawsuit can't have taken a sophisticated company like BP by surprise. It's a fact of life that controversial decisions involving public resources go under a legal microscope. The arguments made in the lawsuit were aired long before BP's deal with the state was concluded.

In fact, BP's initial response was that it would continue taking the steps needed to bring the Northstar field into production without delay.

BP now says that it expects the lawsuit to fail but that prudent business practices dictate halting module construction until the legal questions are settled.

If BP truly is confident the Northstar deal will survive legal scrutiny, then its shutdown looks suspiciously like politically inspired posturing. Either that, or BP realizes the lawsuit raises some potentially valid legal questions.

Whatever the case, it's in everybody's interest to have the legal uncertainty cleared away as quickly as possible. If the deal is legal, let development go ahead with all deliberate speed. If the deal broke state rules, let's start over and ensure Northstar's oil comes to market as quickly as the law allows.

But the architects of this Northstar deal can't say they hadn't been warned.

Indeed, this new delay calls into question the rationale for the special deal BP got. Remember, BP freely admitted it did not need state concessions to develop Northstar. BP agreed from the start that Northstar was not a marginal field. BP simply refused to do business on the terms embodied in the state leases it acquired after buying the field from Amerada Hess Corp. and Shell Oil.

When BP took that hard-line stand, critics said the state should instead take back the leases and re-bid them. BP and its defenders said doing so would create a legal mess, delay

development and jeopardize local jobs.

Well, guess what: Alaska did what BP wanted and we've got a legal mess, development is delayed and local jobs are jeopardized.

It's easy to understand why BP -- or any firm -- would rather not risk hundreds of millions of dollars until legal uncertainties are conclusively resolved. But those uncertainties are inherent in the unprecedented deal BP demanded.

As the action shifts to court, it's encouraging to hear that BP has not totally suspended the project. Engineering work and government permit applications will continue.

Meanwhile, Alaskans on both sides of the Northstar dispute are left hoping the court system will do everything in its power to ensure a speedy resolution of the case.

JUD Committee
re HCR 11

B-2 Wednesday, February 26, 1997 ★

Anchorage Daily News

Knowles asks judge to toss suit over Northstar

By STAN JONES
Daily News reporter

Gov. Tony Knowles is asking a judge to throw out a lawsuit that seeks to overturn a deal he cut with British Petroleum to change lease terms at the company's Northstar oil field.

The state argued in court papers filed Tuesday that the people behind the lawsuit — former Democratic legislative candidate Clyde Baxley and a group called the Republican Moderate Party — don't have legal standing to sue over the Northstar bill, which passed the Legislature last spring.

"The people who filed this suit

are not directly affected by the Northstar legislation," Attorney General Bruce Botelho said in a written statement Tuesday. "Under Alaska law, citizen-taxpayers lack standing to bring an action if their rights are not directly affected."

Jody Brion, a lawyer for Baxley and the Republican Moderates, dismissed Knowles' move as a "procedural dodge."

"If this whole deal with BP is constitutional and everything is legitimate, why are they afraid to have the case judged on its merits?" Brion said.

When Brion and his law partner filed the suit, they said Baxley and

the Republican Moderates were going to court "for the common good of the state of Alaska."

"If there is an illegal act of government that effects revenue, then a citizen does and should have standing to challenge unconstitutional acts by the representatives who purport to represent them," Brion said Tuesday. "The public-policy implications of accepting the state's arguments are just absurd. It insulates government from accountability to the citizens."

In the Northstar bill, Knowles and the legislators agreed to give up the state's 89 percent profit share at Northstar, a 145-million barrel off-

shore field near Prudhoe Bay. In return, BP Exploration (Alaska) Inc. agreed to give the state more of the field's oil and made nonbinding promises to hire Alaska residents and companies to work there. The state estimated at the time it would lose \$9 million in revenue because of the lease changes. It has since revised its estimate to a \$7 million gain.

Baxley and the Republican Moderates sued in January to overturn the law, claiming it was unconstitutional or illegal on several counts, including the local-hire provisions.

Earlier this month, BP ordered a shutdown to work in the Port of An-

chorage area on facilities being fabricated for shipment to the Northstar field, though other Northstar-related work will continue. The oil company said it didn't want to continue with the fabrication work, which was costing up to \$500,000 a day, with the lawsuit hanging over the project.

In Tuesday's statement, Knowles asserted, as he has before, that he's confident the state will win the case on substance.

"Frivolous lawsuits such as this are in no one's interest," Knowles said. "I'm hoping the courts agree and dismiss this case so we can get back to work."

FEB-27-97 THU 2:58

P. 04

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: February 26, 1997
To: Jack Chenoweth, Legislative Legal
From: Lisa Kirsch, House Judiciary Committee
Re: Amendment to HCR 11

Please amend working draft 0-LS0615\B as follows:

p.2, line 16 Delete "would ask" and insert "has asked" after "the state"

We passed this out of committee with this amendment, so please send this amendment in final form.

Thanks for your help.

0-LS0615B
Chenoweth
2/26/97

CS FOR HOUSE CONCURRENT RESOLUTION NO. 11() ^{JUP}

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE PHILLIPS

A RESOLUTION

1 Urging the Attorney General of the State of Alaska to use every appropriate
2 resource and due diligence to defend the state's interests in the civil action filed
3 against the state challenging the 1996 revision of the Northstar unit leases, and
4 respectfully requesting the Superior Court of the State of Alaska to give
5 expeditious consideration to the matter.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 WHEREAS a majority of Alaskans support safe and responsible oil development in
8 the state and the jobs it creates for Alaskans; and

9 WHEREAS development of other oil fields in Alaska has resulted in thousands of jobs
10 throughout this state and the United States; and

11 WHEREAS Prudhoe Bay production is declining by approximately 10 percent a year;
12 and

13 WHEREAS Alaskans recognize that oil production from the North Slope is declining
14 and new development is needed to create new jobs in the state and to bring additional revenue
15 to the state; and

1 **WHEREAS**, the commissioner of natural resources negotiated revisions to existing
 2 Northstar unit leases between the state and BP Exploration (Alaska), Inc.; the lease revisions
 3 have the effect of expediting the development of the Northstar field and ensure oil production
 4 under a new payment system; and

5 **WHEREAS**, last year, the legislature overwhelmingly approved legislation, ch. 139,
 6 SLA 1996, authorizing the commissioner of natural resources to revise the Northstar unit oil
 7 and gas leases; and

8 **WHEREAS** the legislature and British Petroleum, the lessee's parent company, have
 9 acknowledged the importance of a strong commitment to Alaska-hire, Alaska-build, and
 10 Alaska-buy in the development of the Northstar field; and

11 **WHEREAS** British Petroleum, honoring its voluntary commitments, has already hired
 12 many residents and companies holding state business licenses; and

13 **WHEREAS** a civil action was recently filed in the superior court challenging the 1996
 14 revisions of the Northstar unit leases; and

15 **WHEREAS**, in response to dislocations arising from the filing of the court challenge,
 16 the Attorney General has publicly commented that the state ^{has asked} would-ask the court to expedite
 17 consideration and resolution of the litigation; and

18 **WHEREAS** the legislature recognizes the grave effects this challenge to the revisions
 19 of the Northstar leases are having on the development of the Northstar field;

20 **BE IT RESOLVED** that the Alaska State Legislature urges the Attorney General of
 21 the State of Alaska to use every appropriate resource and due diligence to defend the state's
 22 interests in this civil action challenging the 1996 amendment of the Northstar unit leases; and
 23 be it

24 **FURTHER RESOLVED** that the legislature respectfully requests the Superior Court
 25 in which this litigation is filed and scheduled for hearing to expedite consideration of the
 26 pending litigation.

← added

delete this ??

HCR
11

THIS SUMMARIZES
THE CLAIMS
IN THE
NORTHSTAR
CASE

CAUSES OF ACTION IN THE CIVIL ACTION AGAINST THE STATE

*Other net profit
leases can be
requested -
only is in the
Erdocott unit*

1) **Uniform Application Clause (Page 4 line 100 - Page 5 lines 101-103)** - Revised HB 548 violates the Uniform Application Clause of the Alaska Constitution in that only the Northstar unit leases held by BP are addressed and that it demonstrates a privileged status for BP in the use of natural resources subject to the disposition of the State.

*There was
ample
public
notice -
ad nauseum*

2) **Public Notice (Page 5 lines 118-121)** - This lack of notice by the State to other net profit lease holders and to the public at large is in violation of Article 7, Section 10 of the Alaska Constitution which requires public notice of any disposal or lease of state lands or interests therein.

3) **Privileges and Immunities Clause (Page 7 lines 150-151)** - Since the local hire provisions are both unconstitutional and unseverable from the remainder of the legislation, the entire modified Northstar lease is invalid.

?
4) **Violation of the Rule against Material Amendments (Page 7 lines 163-164)** - The changes made to the net profit share violated competitive bidding statutes and law which prohibit material amendments to competitively bid contracts.

MEMORANDUM

Date: February 26, 1997

To: Joe Green

From: Lisa Kirsch

Re: TODAY'S HEARING OF HCR 11

*(Northstar
oil/gas leases)*

Gail Phillips will be here at 1 p.m. to make her sponsor statement. I will put this HCR first on the agenda. We have a work draft (see attached) for the necessary amendments that counsel for the State on the Northstar case requested (see attached copy of yesterday's memo, if you haven't already read it.)

Mike Heatwold asked if you would be so kind as to move to adopt the work draft so that version is before the committee.

Gail may also suggest that the committee delete the paragraph on page two, lines 15-17, apparently for similar reasons.

MEMORANDUM

Date: February 25, 1997

To: Joe Green

From: Lisa Kirsch

Re: HCR 11

As you are no doubt aware, this litigation stemmed from last year's HB 548 which allowed for the amendment of certain oil and gas leases between Alaska and BP.

The plaintiffs, as the "Republican Moderate Party," claim to be public interest litigants. If they pass the test for a public interest litigant, the plaintiffs would be exempt from paying the defendant's attorney fees if they lose, and would be entitled to **full, reasonable fees** if they win the case. Under Civil Rule 82, the prevailing party is usually entitled to a **percentage** of their fees from the opposing party, but **not actual fees**. The one exception would be an award of actual fees when you can show bad faith conduct--a standard rarely met).

The one thought I had when reading this HCR was that it seems to ask the court to treat this HCR as a motion for expedited consideration. I talked to the AAGs litigating this case about whether the legislature can make such a motion. The AAGs said that this HCR could backfire because the plaintiffs could argue that it is an effort by the legislature to direct the court to make a particular ruling. The AAGs said the court might resist such a directive as well which could prejudice the State's case.

In particular, the AAGs would like to delete the last line of the HCR because it seems to direct the court to rule in the State's favor. The other problematic section is the one referring to BP's commitment to local hire. A mandatory local hire provision is unconstitutional (both privileges and immunities and commerce clause under US Constitution). Instead they suggest we amend to insert "voluntary" in front of the word "commitments" (line 11, p.2) and delete "to fulfill its obligations" (p.2, line 12) since the State is arguing that the local hire provision is voluntary only and **not** an obligation.

OLD MEMO

These AAGs cannot testify regarding pending litigation. They would need Bruce's okay to make an exception and he is in D.C. I told Mike Heatwold about these problems and he was going to run the proposed amendments by Gail.

Self Laundry re: HCR 11

Commitment a vol commitment
Commit BP to make
If oblig - then legis.

before

Alaska hire - inherently

▷ priv & minorities ▷ US Const
commerce clause

so long as voluntary OK