

LEG. FINANCE - BILLS 1985 - 1986 2336  
HB 102 - CSHB 103 2338



Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 102 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Resources Corporation;  
7 and providing for an effective date."

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

9 \* Section 1. AS 37.12.071 is amended to read:

10 Sec. 37.12.071. ADDITIONAL POWERS. Notwithstanding other pro-  
11 visions of law governing disposal of state property, the board may, at  
12 either public or private sale, dispose of the assets of the corpora-  
13 tion as required in AS 37.12.075. Disposal shall be made in a manner  
14 that serves the best interests of the state, and may include amortiza-  
15 tion of payments over a period of 25 years or less, but may not be by  
16 lease. In addition, the corporation may spend money to protect the  
17 assets of the corporation.

18 \* Sec. 2. AS 37.12.075 is amended by adding a new subsection to read:

19 (b) In divesting the corporation of equity investments, the  
20 board may convert the equity investment of the corporation in a par-  
21 ticular enterprise to debt, if the governing board of the enterprise  
22 approves the conversion. The debt created by the conversion may  
23 include amortization of payments over a period of 25 years or less,  
24 and becomes part of the outstanding loan portfolio of the corporation.

25 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
26 10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date \_\_\_\_\_

REQUEST

Bill/Resolution No: CSHB 102 (FIN)  
 Title: Relating to Alaska Resources Corporation  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Department of Revenue  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

|                        | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|------------------------|-------|-------|-------|-------|-------|-------|
| <b>OPERATING</b>       |       |       |       |       |       |       |
| 100 PERSONAL SERVICES  | -     | -     | -     | -     | -     | -     |
| 200 TRAVEL             | -     | -     | -     | -     | -     | -     |
| 300 CONTRACTUAL        | -     | -     | -     | -     | -     | -     |
| 400 SUPPLIES           | -     | -     | -     | -     | -     | -     |
| 500 EQUIPMENT          | -     | -     | -     | -     | -     | -     |
| 600 LANDS & STRUCTURES | -     | -     | -     | -     | -     | -     |
| 700 GRANTS, CLAIMS     | -     | -     | -     | -     | -     | -     |
| 800 MISCELLANEOUS      | -     | -     | -     | -     | -     | -     |
| <b>TOTAL OPERATING</b> | -     | -     | -     | -     | -     | -     |
| <b>CAPITAL</b>         | -     | -     | -     | -     | -     | -     |
| <b>REVENUE</b>         | -     | -     | -     | -     | -     | -     |

FUNDING: (Thousands of Dollars)

|               |   |   |   |   |   |   |
|---------------|---|---|---|---|---|---|
| GENERAL FUND  | - | - | - | - | - | - |
| FEDERAL FUNDS | - | - | - | - | - | - |
| OTHER         | - | - | - | - | - | - |
| <b>TOTAL</b>  | - | - | - | - | - | - |

POSITIONS:

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| FULL-TIME | - | - | - | - | - | - |
| PART-TIME | - | - | - | - | - | - |
| TEMPORARY | - | - | - | - | - | - |

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB

Division: Treasury

Approved by Commissioner: [Signature]

Agency: Department of Revenue

Phone: 465-2350

Date: January 7, 1985

Date: 1/7/85

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

HOUSE JOURNAL

House Finance Committee  
Letter of Intent  
for  
Committee Substitute for House Bill 102 (Finance)

In adopting CS House Bill 102 (Finance), "An Act relating to the Alaska Resources Corporation; and providing for an effective date," it is the intent of the legislature that the assets of the Alaska Resources Corporation (ARC) be fully liquidated by July 1, 1989.

While the authority granted in CS HB 102 (Finance), allows credit terms of sale for ARC assets to extend beyond 1989, it is the intent of the legislature that this authority be used only when there is a compelling economic reason to allow terms of sale other than cash payment, and then only to the extent that any credit granted is collateralized. No terms of sale should require state management effort beyond that needed for any other high-quality note receivable.

 2.25-85

Al Adams, Chair  
House Finance Committee

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Al Adams, Chair  
House Finance Committee

2/20/85

LETTER OF INTENT FOR HOUSE BILL 102

In adopting House Bill 102, "An Act relating to the Alaska Resources Corporation; and providing for an effective date," it is the intent of the legislature that the assets of the Alaska Resources Corporation (ARC) be fully liquidated by July 1, 1989.

While the authority granted in HB 102 allows credit terms of sale for ARC assets to extend beyond 1989, it is the intent of the legislature that this authority be used only when there is a compelling economic reason to allow terms of sale other than cash payment, and then only to the extent that any credit granted is collateralized. No terms of sale should require state management effort beyond that needed for any other high-quality note receivable.

## Chapter 11. Renewable Resources Funds.

[Repealed, § 16 ch 161 SLA 1984.]

## Chapter 12. Alaska Resources Corporation.

| Section                                   | Section                           |
|---|-----------------------------------|
| 10. Alaska Resources Corporation created  | 55. Compensation of board members |
| 15. Purpose                               | 60. [Repealed]                    |
| 22. Development capital fund              | 70. Powers                        |
| 23. Deposit of money                      | 71. Additional powers             |
| 30. Composition of the board of directors | 75. Duties                        |
| 35. [Repealed]                            | 80. [Repealed]                    |
| 45. [Repealed]                            | 85. [Repealed]                    |
| 50. Quorum and transaction of business    | 125. Definitions                  |

**Revisor's notes.** — Sections 17 and 18, ch. 161, SLA 1984, provides for the repeal of this chapter on July 1, 1989 and the attendant transfer of the administration of the then outstanding loan portfolio to the Department of Revenue.

**Cross references.** — For legislative findings and purpose in connection with the 1984 amendment and the July 1, 1989 repeal of this chapter, see § 1, ch. 161, SLA 1984 in the Temporary and Special Acts.

**Sec. 37.12.010. Alaska Resources Corporation created** [Repealed effective July 1, 1989]. There is created the Alaska Resources Corporation to carry out the purposes of this chapter. The corporation is a public corporation of the state and an instrumentality of the state within the Department of Revenue, but has a legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential function of the state. (§ 3 ch 179 SLA 1978; am § 1 ch 142 SLA 1982; am § 2 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

**Effect of amendments.** — The 1984 amendment, effective July 7, 1984, substituted "Department of Revenue" for "Department of Commerce and Economic Development" in the second sentence.

**Sec. 37.12.015. Purpose** [Repealed effective July 1, 1989]. The purpose of the corporation is to effect an orderly wind-up of its affairs. (§ 3 ch 179 SLA 1978; am § 2 ch 142 SLA 1982; am § 3 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

**Effect of amendments.** — The 1984 amendment, effective July 7, 1984, rewrote this section.

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§ 3 ch 161 SLA

**Sec. 37.12.022. Development capital fund [Repealed effective July 1, 1989].** The development capital fund is established in the corporation, consisting of money appropriated to the corporation. The development capital fund shall be used to pay for liabilities of the corporation that might arise during the wind-up of its affairs. (§ 3 ch 142 SLA 1982; am § 4 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

**Effect of amendments.** — The 1984 amendment, effective July 7, 1984, deleted "or assets" following "money," "or transferred" following "appropriated," and "and payments of principal and interest on

loans and equity investments made by the corporation" from the end, all in the first sentence; rewrote the second sentence; and deleted the former third sentence.

**Sec. 37.12.023. Deposit of money [Repealed effective July 1, 1989].** Repayments of principal and payments of interest and other income from loans of the corporation, dividends received from capital stock investments, and money received from the sale of equity investments or other assets of the corporation must be deposited in the general fund. (§ 5 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

**Effective dates.** — Section 19, ch. 161, July 7, 1984, in accordance with AS SLA 1984, makes this section effective 01.10.070(c).

**Sec. 37.12.030. Composition and term of board of directors [Repealed effective July 1, 1989].** The board consists of the commissioner of revenue, who shall serve as chairman, and the commissioners of two other principal executive departments designated by the governor. The term of office of these board members continues until the corporation is dissolved. (§ 3 ch 179 SLA 1978; am § 5 ch 142 SLA 1982; am § 6 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

**Effect of amendments.** — The 1984 amendment, effective July 7, 1984, rewrote this section.

**Sec. 37.12.035. Term of office. [Repealed, § 16 ch 161 SLA 1984.]**

**Sec. 37.12.045. Qualifications of board members. [Repealed, § 16 ch 161 SLA 1984.]**

**Sec. 37.12.050. Quorum and transaction of business [Repealed effective July 1, 1989].** (a) Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

(b) The board may meet and transact business by electronic media if (1) public notice of the time and locations where the meeting will be held by electronic media has been given in the same manner as if the meeting were held in a single location; (2) participants and members of the public in attendance can hear and have the same right to partici-

pate in the meeting as if the meeting were conducted in person; and (3) copies of pertinent reference materials, statutes, regulations, and audio-visual materials are reasonably available to participants and to the public. A meeting by electronic media as provided in this subsection has the same legal effect as a meeting in person. (§ 3 ch 179 SLA 1978; am § 7 ch 142 SLA 1982; am § 7 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

**Effect of amendments.** — The 1984 amendment, effective July 7, 1984, substituted "Three members" for "Two members" at the beginning of subsection (a).

**Sec. 37.12.055. Compensation of board members [Repealed effective July 1, 1989].** Members of the board are entitled to per diem and travel expenses authorized by law for state boards and commissions under AS 39.20.180. (§ 3 ch 179 SLA 1978; am § 8 ch 142 SLA 1982; am § 8 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

**Effect of amendments.** — The 1984 amendment, effective July 7, 1984, deleted "receive \$200 for each day spent on official business of the corporation, and" following "Members of the board"

**Sec. 37.12.060. Executive director; staff. [Repealed, § 16 ch 161 SLA 1984.]**

**Sec. 37.12.070. Powers [Repealed effective July 1, 1989].** In carrying out the corporate powers of the corporation, the board may

- (1) adopt, alter, and use a corporate seal;
- (2) prescribe, adopt, amend, and repeal bylaws;
- (3) sue and be sued in the name of the corporation;
- (4) enter into any agreements necessary to the exercise of its powers and functions;
- (5), (6) *[Repealed, § 16 ch 161 SLA 1984.]*
- (7) appear in behalf of the corporation before boards, commissions, departments, or other agencies of municipal, state, or federal government;
- (8) acquire, hold, use, lease, sell, or otherwise dispose of property of any kind, real, personal, or mixed, or any interest in it;
- (9) hold, as a means of securing the providing of financial assistance, patents, copyrights, trademarks, royalties, or any other evidences of protection or exclusivity issued under the laws of the United States or any state or nation;
- (10) prepare, publish, and distribute technical studies, reports, bulletins and other materials it considers appropriate;
- (11) *[Repealed, § 16 ch 161 SLA 1984.]*
- (12) *[Repealed, § 33 ch 142 SLA 1982.]*
- (13) adopt regulations governing the exercise of its corporate powers;

§ 37.12.070

§ 37.12.071

PUBLIC FINANCE

§ 37.12.125

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r § 18 ch 161

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(14) [Repealed, § 33 ch 142 SLA 1982.]

(15) do all acts and things necessary or desirable to carry out the purposes of the corporation;

(16) [Repealed, § 8 ch 56 SLA 1979.](§ 3 ch 179 SLA 1978; am §§ 2, 8 ch 56 SLA 1979; am E.O. No. 48, § 2 (1981); am §§ 11, 33 ch 142 SLA 1982; am § 16 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

Effect of amendments. — The 1984 amendment, effective July 7, 1984, repealed paragraphs (5), (6), and (11).

**Sec. 37.12.071. Additional powers [Repealed effective July 1, 1989].** Notwithstanding other provisions of law governing disposal of state property, the board may, at either public or private sale, dispose of the assets of the corporation as required in AS 37.12.075. In addition, the corporation may spend money to protect the assets of the corporation. (§ 9 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

Effective dates. — Section 19, ch. 161, July 7, 1984, in accordance with AS SLA 1984, makes this section effective 01.10.070(c).

**Sec. 37.12.075. Duties [Repealed effective July 1, 1989].** In carrying out the purposes of this chapter the board shall

(1) contract with the Department of Revenue to manage the assets of the corporation;

(2) divest the corporation of all equity investments by July 1, 1989; and

(3) divest the corporation of all other remaining assets, with the exception of the outstanding loan portfolio, by July 1, 1989. (§ 3 ch 179 SLA 1978; am § 12 ch 142 SLA 1982; am § 10 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

Effect of amendments. — The 1984 amendment, effective July 7, 1984, rewrote this section.

**Sec. 37.12.080. Financial assistance. [Repealed, § 16 ch 161 SLA 1984.]**

**Sec. 37.12.085. Eligibility for financial assistance. [Repealed, § 16 ch 161 SLA 1984.]**

**Sec. 37.12.125. Definitions [Repealed effective July 1, 1989].** In this chapter, unless the context otherwise requires,

(1) [Repealed, § 16 ch 161 SLA 1984.]

(2) "board" means the Board of Directors of the Alaska Resources Corporation;

(3) "corporation" means the Alaska Resources Corporation;

(4)—(7) [Repealed. § 16 ch 161 SLA 1984.] (§ 3 ch 179 SLA 1978; am §§ 23 — 28 ch 142 SLA 1982; am § 16 ch 161 SLA 1984; r § 18 ch 161 SLA 1984)

Effect of amendments. — The 1984 amendment, effective July 7, 1984, repealed paragraphs (1), (4)—(7).

## Chapter 15. State Bonding Act.

### Article

1. General Obligation Bonds (§ 37.15.012)
3. International Airports Revenue Bonds (§ 37.15.415)
4. Toll Facilities Revenue Bonds (§§ 37.15.610 — 37.15.760)

### Article 1. General Obligation Bonds.

#### Section

12. Continuing debt service appropriation

**Sec. 37.15.012. Continuing debt service appropriation.** The amounts required annually to pay the principal, interest, and redemption premium on all issued and outstanding general obligation bonds of the state are appropriated each fiscal year from the general fund to the state bond committee to make all required payments of principal, interest, and redemption premium. (§ 1 ch 100 SLA 1981; am § 1 ch 156 SLA 1984)

Effect of amendments. — The 1984 amendment, effective July 6, 1984, substituted "each fiscal" for "on July 1 of each."

### Article 3. International Airports Revenue Bonds.

#### Section

415. Continuing revenue bond debt service appropriation

**Sec. 37.15.415. Continuing revenue bond debt service appropriation.** The amounts required annually to pay the principal, interest, and redemption premium on all issued and outstanding international airports revenue bonds of the state are appropriated each fiscal year from the international airports revenue fund to the state bond committee to make all required payments of principal, interest, and redemption premium. (§ 2 ch 156 SLA 1984)

Effective dates. — Section 5, ch. 156, SLA 1984 makes this section effective July 6, 1984, in accordance with AS 01.10.070(c).

HB102

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF REVENUE**

TREASURY DIVISION

ELEVENTH FLOOR  
STATE OFFICE BUILDING  
POUCH SB  
JUNEAU, ALASKA 99811  
PHONE:

January 29, 1985

The Honorable John Sund  
Chairman  
House Special Committee on Loans  
Pouch V  
Juneau, AK 99811

Dear Mr. Sund:

Ch. 161, SLA 1984 directs the Alaska Resources Corporation (ARC) to divest all its assets, except its loan portfolio, by July 1, 1989. ARC's assets to be divested include equity in various corporations and assets acquired in foreclosure of ARC loans. Several of the enterprises in which ARC has invested are in bankruptcy proceedings. Several of the foreclosed properties are not currently operating as businesses and their prospect of doing so is uncertain.

Under these circumstances, bank or other outside financing for a potential buyer to purchase ARC equity or foreclosed properties may not be available or available on reasonable terms. The only means of financing the purchase may be for ARC to take a promissory note for all or part of the purchase price. In some cases, the only interested buyer of ARC equity may be the corporation in which ARC has invested. In this case, conversion of equity to debt is tantamount to taking a note on sale.

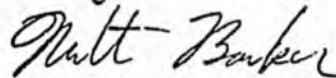
HB 102 would authorize ARC to take a note on sale or enter into an installment sale contract as well as to convert equity to debt. This is a necessary tool which will be used only when a cash buyout for ARC cannot be negotiated.

The ARC board of directors has endorsed this legislation.

Hon. John Sund  
January 29, 1985  
Page 2

Enclosed is a summary of ARC's various investments. Detailed information on credit status of investments is not provided because of confidentiality requirements.

Sincerely yours,

A handwritten signature in cursive script that reads "Milt Barker".

Milt Barker  
Deputy Commissioner of Treasury

BM/gb

Enclosure

cc: The Honorable Mary A. Nordale

TABLE

Alaska Resources Corporation  
Business Investments as of 6-30-84

|  | <u>Original<br/>Debt</u>          | <u>Current<br/>ARC Equity</u> | <u>Percent ARC<br/>Ownership</u> | <u>Total ARC<br/>Debt &amp; Equity</u> |
|--|-----------------------------------|-------------------------------|----------------------------------|--|
| ACT 1 (Alaska Fish)  | \$ 125,000                        | \$ 125,000                    | 13%                              | \$ 250,000                             |
| Alaska Timber Corp.  | 1,500,000                         |                               |                                  | 1,500,000                              |
| Alyeska Candy Kitchen  | 37,600                            |                               |                                  | 37,600                                 |
| American Eagle Seafoods-   | 200,000                           |                               |                                  | 200,000                                |
| Anchor Renewable Farms-  | 120,404                           |                               |                                  | 120,404                                |
| Anchorage Tank & Welding-  | 370,000                           |                               |                                  | 370,000                                |
| Arctic Frost Seafoods-   | 19,200                            |                               |                                  | 19,200                                 |
| Ball Brothers  | 4,169,095                         | 500,000                       | 40                               | 4,669,095                              |
| Clark, Inc.  | 395,000                           | 25,000                        | 1                                | 420,000                                |
| ✓ Icicle Seafoods, Inc.  | 2,300,000                         | 2,222,622                     | 39                               | 4,522,622                              |
| Kachemak Seafoods  | 256,092                           |                               |                                  | 256,092                                |
| Kokechik, Inc.   | 300,000                           | 490                           | 49                               | 300,490                                |
| Pacific Forest Products-   | 6,765,065                         |                               |                                  | 6,765,065                              |
| Rice Fur Farm  | 115,000                           |                               |                                  | 115,000                                |
| ✓ Salamatof Seafoods   | 3,065,350                         | 976,264                       | 35                               | 4,041,614                              |
| Sayles Marine  | 156,126                           |                               |                                  | 156,126                                |
| Seaward Shipyard   | 590,000                           | 150,000                       | 22                               | 740,000                                |
| Smaragd Partners   | 490,000                           |                               |                                  | 490,000                                |
| Steik Enterprises-   | 55,000                            |                               |                                  | 55,000                                 |
| Sterling Seafoods  | 125,000                           | 100,000                       | 49                               | 225,000                                |
| Trinity Resources  |                                   | 206,100                       | 32                               | 206,100                                |
| Wyman  | <u>1,000,000</u>                  |                               |                                  | <u>1,000,000</u>                       |
| TOTAL INVESTMENTS  | <u>\$21,380,444</u> <sup>1/</sup> | <u>\$4,305,476</u>            |                                  | <u>\$25,685,919</u>                    |
| Assets acquired through foreclosure less<br>valuation allowance of \$7,653,647 |                                   |                               |                                  | 4,362,364                              |
| Less allowance for doubtful collections  | (13,298,256)                      |                               |                                  | (13,298,256)                           |
| Less valuation allowance   |                                   | (2,032,754)                   |                                  | (2,032,754)                            |
| TOTAL BUSINESS INVESTMENT ASSETS   | \$ 8,082,188                      | \$2,272,722                   |                                  | \$14,717,273                           |

Investment Status: 12 loans delinquent - \$3,174,422; 6 companies bankrupt - \$17,520,774.

<sup>1/</sup> Total is debt outstanding and does not equal total Original Debt.

Offered: 2/6/85  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HOUSE SPECIAL  
COMMITTEE ON LOANS

2

CS FOR HOUSE BILL NO. 102 (Loans)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Alaska Resources Corporation;

7

and providing for an effective date."

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(b) In divesting the corporation of equity investments, the board may convert the equity investment of the corporation in a particular enterprise to debt, if the governing board of the enterprise approves the conversion. The debt created by the conversion is part of the outstanding loan portfolio of the corporation.

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\* Sec. 3. This Act takes effect immediately in accordance with AS 01.-

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10.070(c).

Offered: 2/6/85  
Referred: Finance

Original sponsor: Rules/Governor

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COMMITTEE ON LOANS

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10.070(c).

**COMMITTEE REPORT**  
**SENATE**

FURTHER:

5/7/85

Date \_\_\_\_\_

Mr. President

The Committee on FINANCE considered CSHB 102(Fin)

Alaska Resources Corporation; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

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\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

COMMITTEE REPORT  
SENATE

3/4/85

FURTHER:

FINANCE

Date 6 May 1985

Mr. President

The Committee on LABOR & COMMERCE considered CSHB 102(Fin)  
Alaska Resources Corporation; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CSHB 102  
 new title  
 same title and recommends Adoption of House letter of Intent
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

William Jones  
Blue Ray No Note

Fred J. Zwart

Chairman

Do Pass

Chairman recommendation

Offered: 5/7/85  
Referred: Finance

Original sponsor: Rules/Governor

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 102 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Resources Corporation;  
7 and providing for an effective date."

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

9 \* Section 1. AS 37.12.071 is amended to read:

10 Sec. 37.12.071. ADDITIONAL POWERS. Notwithstanding other pro-  
11 visions of law governing disposal of state property, the board may, at  
12 either public or private sale, dispose of the assets of the corpora-  
13 tion as required in AS 37.12.075. Disposal shall be made in a manner  
14 that serves the best interests of the state, and may include amortiza-  
15 tion of payments over a period of 25 years or less, but may not be by  
16 lease. In addition, the corporation may spend money to protect the  
17 assets of the corporation.

18 \* Sec. 2. AS 37.12.075 is amended by adding new subsections to read:

19 (b) In divesting the corporation of equity investments, the  
20 board may convert the equity investment of the corporation in a par-  
21 ticular enterprise to debt, if the governing board of the enterprise  
22 approves the conversion. The debt created by the conversion may  
23 include amortization of payments over a period of 25 years or less,  
24 and becomes part of the outstanding loan portfolio of the corporation.

25 (c) If the board proposes to dispose of an interest in real  
26 property to a private party at less than 50 percent of its appraised  
27 value, the board shall notify the municipalities in which the real  
28 property of the proposed disposal is located. A municipality may ac-  
29 quire the interest in the real property for the same value as the  
S

1 proposed disposal to the private party if, within 30 days of receiving  
2 the notice, the municipality elects to acquire the interest in the  
3 real property.

4 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
5 10.070(c).  
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Offered: 2/25/85  
Referred: Rules

*Bonnie*

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 102 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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24 and becomes part of the outstanding loan portfolio of the corporation.

25 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
26 10.070(c).

*ac*

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date \_\_\_\_\_

REQUEST

Bill/Resolution No: CS HB 102 (Fin)  
Title: Relating to Alaska Resources Corporation  
Sponsor: Governor  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Department of Revenue  
Program Category Affected: \_\_\_\_\_  
BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

|                        | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|------------------------|-------|-------|-------|-------|-------|-------|
| <b>OPERATING</b>       |       |       |       |       |       |       |
| 100 PERSONAL SERVICES  | -     | -     | -     | -     | -     | -     |
| 200 TRAVEL             | -     | -     | -     | -     | -     | -     |
| 300 CONTRACTUAL        | -     | -     | -     | -     | -     | -     |
| 400 SUPPLIES           | -     | -     | -     | -     | -     | -     |
| 500 EQUIPMENT          | -     | -     | -     | -     | -     | -     |
| 600 LANDS & STRUCTURES | -     | -     | -     | -     | -     | -     |
| 700 GRANTS, CLAIMS     | -     | -     | -     | -     | -     | -     |
| 800 MISCELLANEOUS      | -     | -     | -     | -     | -     | -     |
| <b>TOTAL OPERATING</b> | -     | -     | -     | -     | -     | -     |
| <b>CAPITAL</b>         | -     | -     | -     | -     | -     | -     |
| <b>REVENUE</b>         | -     | -     | -     | -     | -     | -     |

FUNDING: (Thousands of Dollars)

|               |   |   |   |   |   |   |
|---------------|---|---|---|---|---|---|
| GENERAL FUND  | - | - | - | - | - | - |
| FEDERAL FUNDS | - | - | - | - | - | - |
| OTHER         | - | - | - | - | - | - |
| <b>TOTAL</b>  | - | - | - | - | - | - |

POSITIONS:

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| FULL-TIME | - | - | - | - | - | - |
| PART-TIME | - | - | - | - | - | - |
| TEMPORARY | - | - | - | - | - | - |

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker *MB*  
Division: Treasury

Phone: 465-2350  
Date: January 7, 1985

Approved by Commissioner: *Henry G. Sturdak*  
Agency: Department of Revenue

Date: 1/7/85

Distribution (by Agency preparing fiscal note):

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

HOUSE JOURNAL

House Finance Committee  
Letter of Intent  
for  
Committee Substitute for House Bill 102 (Finance)

In adopting CS House Bill 102 (Finance), "An Act relating to the Alaska Resources Corporation; and providing for an effective date," it is the intent of the legislature that the assets of the Alaska Resources Corporation (ARC) be fully liquidated by July 1, 1989.

While the authority granted in CS HB 102 (Finance), allows credit terms of sale for ARC assets to extend beyond 1989, it is the intent of the legislature that this authority be used only when there is a compelling economic reason to allow terms of sale other than cash payment, and then only to the extent that any credit granted is collateralized. No terms of sale should require state management effort beyond that needed for any other high-quality note receivable.

*Al Adams 2.25-85*

Al Adams, Chair  
House Finance Committee

Adopted by House 3/1/85

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

HB 102

January 23, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the divestiture of assets and equity investments of the Alaska Resources Corporation (ARC).

Section 1 of the bill permits the board to dispose of assets, including those acquired through default or foreclosure, in any manner that serves the best interests of the state, including extended payments over time.

Section 2 of the bill permits the board to convert its equity investments into debt, which will then be treated in the same manner as the corporation's current outstanding loan portfolio.

This bill is necessary to permit the ARC board the flexibility necessary to wind up the corporation's affairs by 1989, in accordance with ch. 161, SLA 1984.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

ALASKA STATE LEGISLATURE

14th... Legislature FIRST... Session

HOUSE ... BILL ... NO. 102 ...  
By RULES COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act relating to the Alaska Resources Corporation; and providing for an effective date."

CSHB 102 (Fin) BY FINANCE

Offered: 2/25/85  
Referred: Rules

TITLE: Same

Ak. Resources Corp.

Introduced in the House 1/23 ..., 19. 85

HISTORY IN THE HOUSE

|         |   |
|---------|---|
| 19 85   | Read first time and referred to Committee on  |
| Jan. 23 | SPEC. LOANS AND FINANCE   |
| Feb 6   | Reported back with recommendation that<br><i>Roane - CS (Roane) 420 p.m.<br/>1 no rec - 20 Finance</i>                |
| Feb 25  | <i>Finance - CS (Fin) 720 p.m.<br/>2 no rec. 20 Rules</i>   |
| Feb 27  | Read second time and<br><i>CS (Fin) adopted today</i>   |
| Feb 27  | Read third time and   |
| Mar 1   | <i>Reconsideration taken up<br/>failed to refer to 2d for<br/>specific amendments<br/>Reconsideration adopted w/c</i> |
| Feb 27  | <b>PASS</b> Effective Date<br>Yeas 31 Yeas<br>Nays 7 Nays <i>same</i><br>Absent 1 Absent<br>Excused 1 Excused         |
| Feb 27  | <i>Roll</i> Reconsideration<br><i>Reconsideration adopted w/c</i>   |
| Mar 1   | <b>PASS</b> Effective Date<br>Yeas 29 Yeas<br>Nays 7 Nays <i>same</i><br>Absent 0 Absent<br>Excused 4 Excused         |
| 2/23    | Reported correctly engrossed  |
| 1       | Signed by Speaker   |
| 1       | Sent to Senate  |
|         | <i>Harold Pastern</i>   |
|         | CHIEF CLERK OF THE HOUSE  |

HISTORY IN THE SENATE

|       |   |
|-------|---|
| 19 85 | Read first time and referred to Committee on  |
| 3 4   | <i>L &amp; C Fin</i>  |
| 5 7   | Reported back with <i>L &amp; C</i> recommendation that <i>replied</i><br><i>W/S/S, adopt Senate intent,<br/>I do pass, 2 no rec, to fin.</i> |
|       | Read second time and  |
|       | Read third time and   |
|       | <b>PASS</b> Effective Date<br>Yeas Yeas<br>Nays Nays<br>Absent Absent<br>Excused Excused  |
|       | Reconsideration   |
|       | <b>PASS</b> Effective Date<br>Yeas Yeas<br>Nays Nays<br>Absent Absent<br>Excused Excused  |
|       | Reported correctly engrossed  |
|       | Signed by President   |
|       | Returned to House   |
|       | SECRETARY OF THE SENATE   |

HISTORY IN THE HOUSE

|    |   |
|----|---|
| 19 | Received from Senate  |
|    | Concurred in Senate amendment thus adopting: VOTE                 |
|    | Failed to concur in Senate amendment; asked Senate to recede VOTE |
|    | Senate receded from amendment VOTE                                |
|    | Senate failed to recede from amendment VOTE                       |
|    | CC appointed by House   |
|    | CC appointed by Senate  |
|    | CC adopted by House VOTE  |
|    | CC adopted by Senate VOTE   |
|    | To enrolling  |
|    | Reported correctly enrolled                                       |
|    | Sent to Governor  |
|    | ..... by Governor   |
|    | Filed with Lt. Governor   |
|    | Chapter No. ....  |

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date \_\_\_\_\_

REQUEST

Bill/Resolution No: CS HB 102 (Fin)  
 Title: Relating to Alaska Resources  
 Corporation \_\_\_\_\_  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Department of Revenue  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

|                        | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|------------------------|-------|-------|-------|-------|-------|-------|
| <u>OPERATING</u>       |       |       |       |       |       |       |
| 100 PERSONAL SERVICES  | -     | -     | -     | -     | -     | -     |
| 200 TRAVEL             | -     | -     | -     | -     | -     | -     |
| 300 CONTRACTUAL        | -     | -     | -     | -     | -     | -     |
| 400 SUPPLIES           | -     | -     | -     | -     | -     | -     |
| 500 EQUIPMENT          | -     | -     | -     | -     | -     | -     |
| 600 LANDS & STRUCTURES | -     | -     | -     | -     | -     | -     |
| 700 GRANTS, CLAIMS     | -     | -     | -     | -     | -     | -     |
| 800 MISCELLANEOUS      | -     | -     | -     | -     | -     | -     |
| <u>TOTAL OPERATING</u> | -     | -     | -     | -     | -     | -     |
| <u>CAPITAL</u>         | -     | -     | -     | -     | -     | -     |
| <u>REVENUE</u>         | -     | -     | -     | -     | -     | -     |

FUNDING: (Thousands of Dollars)

|               |   |   |   |   |   |   |
|---------------|---|---|---|---|---|---|
| GENERAL FUND  | - | - | - | - | - | - |
| FEDERAL FUNDS | - | - | - | - | - | - |
| OTHER         | - | - | - | - | - | - |
| <u>TOTAL</u>  | - | - | - | - | - | - |

POSITIONS:

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| FULL-TIME | - | - | - | - | - | - |
| PART-TIME | - | - | - | - | - | - |
| TEMPORARY | - | - | - | - | - | - |

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB  
 Division: Treasury

Phone: 465-2350  
 Date: January 7, 1985

Approved by Commissioner: Henry G. Stenseth  
 Agency: Department of Revenue

Date: 1/7/85

Distribution (by Agency preparing fiscal note):

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

HOUSE JOURNAL

House Finance Committee  
Letter of Intent  
for  
Committee Substitute for House Bill 102 (Finance)

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 2.25-85

Al Adams, Chair  
House Finance Committee

Adopted by House 3/1/85

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 23, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
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Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield  
Governor

Offered: 5/7/85  
Referred: Finance

Original sponsor: Rules/Governor

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 102 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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26 property to a private party at less than 50 percent of its appraised  
27 value, the board shall notify the municipalities in which the real  
28 property of the proposed disposal is located. A municipality may ac-  
29 quire the interest in the real property for the same value as the

1        proposed disposal to the private party if, within 30 days of receiving  
2        the notice, the municipality elects to acquire the interest in the  
3        real property.

4        \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
5        10.070(c).

Offered: 2/25/85  
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE  
2 CS FOR HOUSE BILL NO. 102 (Finance)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
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24 and becomes part of the outstanding loan portfolio of the corporation.  
25 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
26 10.070(c).



060  
HB 103

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: OS HB 103 (FIN)  
Title: An Act relating to royalty

FISCAL DETAIL

Agency Affected: Natural Resources  
Program Category Affected: NRMEC

Sponsor: \_\_\_\_\_  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Minerals and Energy Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

|                        | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|------------------------|-------|-------|-------|-------|-------|-------|
| <b>OPERATING</b>       |       |       |       |       |       |       |
| 100 PERSONAL SERVICES  |       |       |       |       |       |       |
| 200 TRAVEL             |       |       |       |       |       |       |
| 300 CONTRACTUAL        |       |       |       |       |       |       |
| 400 SUPPLIES           |       |       |       |       |       |       |
| 500 EQUIPMENT          |       |       |       |       |       |       |
| 600 LAND & STRUCTURES  |       |       |       |       |       |       |
| 700 GRANTS, CLAIMS     |       |       |       |       |       |       |
| 800 MISCELLANEOUS      |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | 0     | 0     | 0     | 0     | 0     | 0     |

|                |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|
| <b>CAPITAL</b> |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|

|                |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|
| <b>REVENUE</b> |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

|               |  |  |  |  |  |  |
|---------------|--|--|--|--|--|--|
| GENERAL FUND  |  |  |  |  |  |  |
| FEDERAL FUNDS |  |  |  |  |  |  |
| OTHER         |  |  |  |  |  |  |
| <b>TOTAL</b>  |  |  |  |  |  |  |

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

ANALYSIS: Attach a separate page if necessary

No fiscal impact.

Prepared By: Kay Brown  
Division: Oil and Gas

Phone: 265-4241  
Date: December 7, 1984

Approved by Commissioner: Walter D. Amundson, Deputy  
Agency: Natural Resources

Date: December 10, 1984

Distribution (by Agency preparing fiscal note):

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

7/1/84

*Moer*

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE  
 2 CS FOR HOUSE BILL NO. 103 (Finance)  
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 4 FOURTEENTH LEGISLATURE - FIRST SESSION  
 5 A BILL

6 For an Act entitled: "An Act relating to prerequisites for the disposal of  
 7 royalty oil and gas; and providing for an effective  
 8 date."

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

10 \* Section 1. AS 38.05.183 is amended by adding a new subsection to  
 11 read:

12 (g) AS 38.05.035(e) does not apply to a sale, exchange, or other  
 13 disposal of oil or gas under this section.

14 \* Sec. 2. AS 38.06.055(c) is amended to read:

15 (c) A sale, exchange, or other disposition of oil or gas [MADE]  
 16 under (b)(1) of this section may not be continued after the end of one  
 17 year or renewed with the same party [TO PROVIDE RELIEF FOR MARKET OR  
 18 STORAGE CONDITIONS] without the prior approval of the legislature  
 19 under (a) of this section. This subsection does not apply to a se-  
 20 quential competitively bid sale of oil or gas made with the same party  
 21 under (b)(1) of this section.

22 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
 23 10.070(c).

KEY  
— additions to this  
[ ] deletions from old

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 103 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

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11 read:

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13 disposal of oil or gas under this section.

14 \* Sec. 2. AS 38.06.055(c) is amended to read:

15 (c) A sale, exchange, or other disposition of oil or gas <sup>[other than by competitive bid]</sup> [MADE]  
16 under (b)(1) of this section may not be continued after the end of one  
17 year or renewed with the same party [TO PROVIDE RELIEF FOR MARKET OR  
18 STORAGE CONDITIONS] without the prior approval of the legislature  
19 under (a) of this section. This subsection does not apply to a se-  
20 quential competitively bid sale of oil or gas made with the same party  
21 under (b)(1) of this section.

22 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
23 10.070(c).

REMARKS

by

KAY BROWN, DIRECTOR, DIVISION OF OIL & GAS

on

CS HB 103 (Oil and Gas)

to

HOUSE RESOURCES COMMITTEE

February 25, 1985

Thank you Mr. Chairman. For the record, I'm Kay Brown, Director of the Division of Oil and Gas for the Alaska Department of Natural Resources. I appreciate the opportunity to address the committee on CS HB 103.

This bill makes two technical changes to the royalty oil and gas disposal statute.

SECTION 1 of the bill would remove royalty oil and gas disposals from the procedures that govern all disposals of interest in state land or resources under AS 38. It is unclear whether AS 38.05.035(e) applies to royalty oil and gas sales. Royalty oil and gas sales have detailed finding and notice requirements under AS 38.05.182, 183 and AS 38.06. Although we believe that .035 is not presently applicable to royalty oil and gas sales, the possibility that it does apply would cast a cloud over sales that had to be entered into because of an emergency situation. Further, elimination of the .035 requirement streamlines the procedural requirements by removing conflicting timelines for disposal.

SECTION 2 of the bill would allow continuing competitive royalty oil sales

for terms of less than one year to be conducted without legislative approval of those sales. AS 38.06.055(a) provides that the legislature will approve all royalty oil and gas sales. Subsection (b) of that section sets out several exceptions for short-term and small volume sales which do not require legislative approval. Subsection (b)(1) makes an exception for sales of one year or less to relieve storage or market conditions, and this is the section under which we held the competitive sale in December 1984. Subsection (c), which is the section being amended in CS HB 103, goes on to say that a sale made under (b)(1) may not be continued after the end of one year or renewed with the same party without the prior approval of the legislature under (a) of the statute.

The Department of Law has advised us that there is a serious question as to whether a party who gained royalty oil under one competitive sale could re-bid in a subsequent royalty oil sale if the combination of the two sales would lead to that particular buyer receiving oil for more than a one-year period.

We see no reason why a company which bids and wins in one competitive sale should not be able to bid again the next year and again win the right to receive oil if it bids the highest price.

To await legislative approval under a competitive bid situation for contracts of one year or less would defeat the entire purpose of that type of short-term competitive sale.

Although it has been the consistent position of this and previous

administrations that the requirement of legislative approval is unconstitutional, administrations have always, as a matter of comity, respected the legislature's desire to be consulted in long-term or negotiated royalty oil contracts. Further, the presence of the statute, whether constitutional or not, could cast a cloud on any subsequent competitive sale.

Mr. Chairman, while we have not yet made a firm decision on whether continuing competitive sales would be beneficial to the state, we would like to have that option available for consideration at the same time we are considering the new proposals for in-state use.

That concludes my remarks Mr. Chairman. Thank you very much for your time.

1585K

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

BILL SHEFFIELD, GOVERNOR

POUCH 7-034  
ANCHORAGE, ALASKA 99510

### DIVISION OF OIL AND GAS

March 5, 1985

The Honorable Al Adams, Chairman  
House Finance Committee  
Alaska State House of Representatives  
Juneau, AK 99811

Dear Representative Adams:

CSHB 103 (Oil and Gas), which relates to prerequisites for disposal of royalty oil and gas, is scheduled for a hearing tomorrow in your committee.

At the House Resources Committee hearing on February 25, 1985, the question was raised as to whether the proposed amendment in Section 2 of the bill would allow a competitive bid sale of one year or less to be continued or renewed beyond one year without legislative approval and without going to competitive bid.

While the language could possibly be interpreted to allow that outcome, I am informed by the Attorney General's Office that the case law on competitive bidding would preclude it, since a competitively-bid contract cannot be materially amended after it is awarded.

Nevertheless, we believe the bill could be improved and an unintended construction could be prevented by adoption of the following language for Section 2 of the bill (substitute beginning on line 14):

\*Sec. 2. AS 38.06.055(c) is amended to read:

(c) A sale, exchange, or other disposition of oil or gas [MADE] under (b)(1) of this section may not be continued after the end of one year or renewed with the same party [TO PROVIDE RELIEF FOR MARKET OR STORAGE CONDITIONS] without the prior approval of the legislature under (a) of this section. This subsection does not apply to contracts awarded to the same party in sequential competitive sales of oil or gas under (b)(1) of this section.

Thank you for your consideration.

Sincerely,

  
Kay Brown  
Director

cc: House Finance Committee Members  
Commissioner Esther C. Wunnicke

CSHB 103  
ANALYSIS  
REPRESENTATIVE MARCO A. PIGNALBERI

SECTION 1

- AS 38.05.183 (a) Oil and gas royalties shall be by competitive bid.
- (c) If oil and gas royalty sale is by other than competitive bid, then Commissioner shall make public, written justification.
- (e) If oil and gas royalty sale is other than competitive bid, Commissioner shall award to buyer who proposes maximum benefits to state.

HB103 would add new section, (g), as follows:

- (g) AS 38.05.035(e) does not apply to a sale of oil and gas under this section.

AS 38.05.035(a) Director may approve contracts for sale of land and resources with consent of Commissioner.

Analysis: This is a housekeeping amendment. It is not clear that 38.05.035(e) applies to royalty oil and gas. Its thrust is definitely land sales. In order to eliminate confusion, this section specifically excludes oil & gas.

\*\*\*\*\*

SECTION 2

- AS 38.06.055 (a) Requires legislative approval for royalty oil and gas contracts by enactment of legislation.
- (b) Exceptions to legislative approval
- (1) if sale is less than one year to relieve storage or market conditions
- (2) "small amounts"
- AS 38.06.055 (c) Present language says contracts that are exempt from legislative approval because they're for less than one year to relieve storage or market conditions, may not be continued or renewed beyond one year.

The proposed AS 38.06.055 (c) would allow a competitive bid sale that is less than one year to be continued or renewed without legislative approval. But it would not allow a negotiated sale to be renewed without legislative approval.

Analysis: Summarily, the protection of the public interest afforded by legislative review and approval is replaced by competitive bid procedures. However, the proposed change in AS 38.06.055 (c) does not limit the frequency or duration of renewals and continuances that may be made without the legislature's approval.

Conclusion: This amendment may have the effect of circumventing the legislature by transitioning all short-term, "market conditions" contracts to long-term contracts. I believe this flaw is serious, especially in light of DNR's position that legislative approval is an unconstitutional burden.

In addition, I suggest you delete the phrase beginning on line 17 and ending on line 18 that says [to provide relief for market or storage conditions].

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES**

**DIVISION OF OIL AND GAS**

POUCH 7-034  
ANCHORAGE, ALASKA 99510

March 4, 1985

The Honorable Marco Pignalberi  
Alaska State House of Representatives  
Pouch V  
Juneau, AK 99811

Dear Representative Pignalberi:

This letter responds to your request for information on the procedural requirements for royalty oil and gas sales. Specifically, you asked that I further address the time savings that would accrue and the deadline conflicts that would be averted by the passage of CSHB 103 (Oil and Gas).

Under Section 1 of the bill, AS 38.05.035(e) would not apply to a sale of royalty oil or gas under AS 38.05.183. Therefore, AS 38.05.945 would not apply either since it requires notice of actions under AS 38.05.035(e).

The attached chart shows the major actions presently required to sell royalty oil, the timing of those actions, and the statutory, regulatory or contractual basis for the actions. The requirements differ for the four broad categories of royalty sales: (1) long-term competitive; (2) short-term competitive; (3) long-term negotiated; and (4) short-term negotiated. Each short-term sale is assumed to fall within AS 38.06.055(b)(1) as a sale of one year or less to relieve storage or market conditions.

As the chart shows, even if AS 38.05.035(e) and AS 38.05.945 were eliminated from the process, other provisions would require written findings and notice to the public.

Our biggest concern relates to sales necessary to relieve an emergency storage situation. If the state were suddenly to find itself without a buyer for already nominated in-kind royalty oil, a new sale would have to be arranged immediately. In that event, it might not be possible to wait the roughly 60 days necessary to accomplish a short-term non-competitive sale under the present procedures.

The Honorable Marco Pignalberi  
Page 2  
March 4, 1985

It is not the Department's intention to reduce the level of public participation prior to royalty sales. If the bill passes, it is our intention to continue using a "preliminary" and "final" format for notice and findings except in emergency situations where time does not permit, and we would revise the regulations to incorporate this change.

If you have other questions please let me know.

Sincerely,



Kay Brown  
Director

Attachment as stated

cc: Representative Davis  
Representative Shultz  
Representative Adams  
Representative Martin  
Commissioner Esther C. Wunnicke  
Assistant Attorney General Steve Porter

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MAJOR ACTIONS REQUIRED TO SELL ROYALTY OIL

| Minimum Time Required                                    | Action   | Authority (Mandatory or Discretionary) |              | Long Competitive | Short Competitive | Long Non-competitive | Short Non-Competitive |
|--|--|--|--------------|------------------|-------------------|----------------------|-----------------------|
| 1 - 6 months   | Issue solicitation for proposals   | AS 38.05.182-.183                      | D            |                  |                   | X                    | X                     |
|  | Select buyer   |  | M            |                  |                   | X                    | X(D)                  |
|  | Negotiate terms of contract  |  |              |                  |                   | X                    | X(D)                  |
|  | Draft required findings:   |  | M            | X                | X                 | X                    | X                     |
|  | o The oil is surplus to in-state needs                                   | AS 38.05.183(d)                        | M/<br>export | X                | X                 | X                    | X                     |
|  | o Competitive bidding is waived  | AS 38.05.183(a), (c)                   | M            |                  |                   | X                    | X                     |
|  | o The sale is in the best interest of the state                          | AS 38.05.182(a)<br>AS 38.05.035(e)     | M            | X                | X                 | X                    | X                     |
| o The proposal offers maximum benefits to state citizens | AS 38.05.183(e)  | M                                      |              |                  | X                 | X                    |                       |
| Day 1  | Publish Preliminary Notice of Intent to Make Findings under AS 38.05.035 | AS 38.05.945(a) (3)                    | M            | X                | X                 | X                    | X                     |
|  | Issue solicitation for backup contracts                                  | AS 38.05.183                           | D            |                  | (back-up)         |                      | X                     |
|  | Notify Royalty Board of intent to waive competitive bidding              | AS 38.06.050(c)<br>AS 38.05.183(c)     | M            |                  | (back-up)         | X                    | X                     |

| Minimum Time Required | Action  | Authority (Mandatory or Discretionary)                   |   | Long Competitive | Short Competitive | Long Non-competitive | Short Non-Competitive |
|-----------------------|---|--|---|------------------|-------------------|----------------------|-----------------------|
|                       | Preliminary findings & contracts are available to public & mailed to Royalty Board; notice to mailing list                        | AS 38.05.183(c),(d);<br>AS 38.05.035(e);<br>AS 38.05.945 | M | X                | X                 | X                    | X                     |
| Day 14                | Deadline for submission of backup contract proposals  |  | D |                  | (back-up)         |                      | X                     |
| Day 18                | Notice of Royalty Board public hearing  | 3 AAC 56.051   | M | X                | X(D)              | X                    | X(D)                  |
| Day 30                | Comments due on preliminary findings  |  | M | X                | X                 | X                    | X                     |
| Day 32                | Royalty Board public hearing  | AS 38.06.050(a)  | M | X                | X(D)              | X                    | X(D)                  |
| Day 37                | Comments from Royalty Board & public are incorporated into final findings; findings made public; Final Notice of Competitive Sale | AS 38.05.945(a)(4),<br>AS 38.05.035(e)                   | M | X                | X                 | X                    | X                     |
| Day 38                | Backup purchasers selected and notified   |  | D |                  | (back-up)         |                      | X                     |
| Day 53                | Backup contracts executed and returned to DNR   |  | D |                  | (back-up)         |                      | X                     |
| Day 58                | Execute contracts; mail to Royalty Board  | 3 AAC 56.220(a)  | M |                  | (back-up)         | X                    | X                     |
| Day 60                | Nominate oil  | Unit agreement/ leases;<br>AS 38.05.182                  |   |                  | X                 |                      | X                     |

| Minimum Time Required | Action  | Authority (Mandatory or Discretionary) |              | Long Competitive | Short Competitive | Long Non-competitive | Short Non-Competitive |
|-----------------------|---|--|--------------|------------------|-------------------|----------------------|-----------------------|
| Day 60                | Publish Notice of Royalty Board public hearing                    | 3 AAC 36.051                           |              |                  |                   | X                    |                       |
| Day 75                | Royalty Board public hearing; Royalty Board signs resolution      | AS 38.06.050                           | M            |                  |                   | X                    |                       |
| Day 81                | Applications received for qualification to bid                    | 11 AAC 03.160; Invitation              | D            | X                | X                 |                      |                       |
| Day 88*               | Introduction of bill in Legislature approving sale of royalty oil | AS 38.06.050-055                       | M            |                  |                   | X                    |                       |
| Day 88                | Supply-Demand report to Legislature                               | AS 38.05.183(d)                        | M/<br>export | X                | X                 | X                    | X                     |
| Day 100               | Commissioner determines which applicants are eligible to bid      | 11 AAC 03.160; Invitation              | D            | X                | X                 |                      |                       |
| Day 125               | Competitive sale  | AS 38.05.183(a)                        |              | X                | X                 |                      |                       |
| Day 127               | Deadline to request conference with Commissioner                  | 11 AAC 03.230; Invitation to bid       | M            | X                | X                 |                      |                       |
| Day 132               | Competitive sale award notice issued                              | 11 AAC 03.220                          | M            | X                | X                 |                      |                       |
| Day 140               | Deadline to return executed contracts                             | Invitation                             | M            | X                | X                 |                      |                       |
| Day 141               | Royalty Board public hearing; Royalty Board signs resolution      | AS 38.06.050(a)                        | M            | X                |                   |                      |                       |

| Minimum<br>Time<br>Required | Action  | Authority (Man-<br>datory or<br>Discretionary) |   | Long<br>Com-<br>pet-<br>itive | Short<br>Com-<br>pet-<br>itive | Long<br>Non-<br>com-<br>pet-<br>itive | Short<br>Non-Com-<br>petitive |
|-----------------------------|---|--|---|-------------------------------|--------------------------------|---------------------------------------|-------------------------------|
| Day 171                     | Introduction of bill<br>in Legislature approv-<br>ing sale of royalty oil | AS 38.06.050-055                               | M | X                             |                                |                                       |                               |
| Day 208                     | Legislature approves<br>contract  | AS 38.06.055                                   | M | X                             |                                | X                                     |                               |
| Day 215                     | Nominate in-kind oil  | Unit agreement/<br>leases;<br>AS 38.05.182     |   | X                             |                                | X                                     |                               |
| Day 240                     | Date of first delivery  |  |   |                               | X                              |                                       | X                             |
| Day 395                     | Date of first delivery  |  |   | X                             |                                | X                                     |                               |

\* Assumed to be Day 1 of the Legislative session.

March 4, 1985  
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best interests determination described in 11 AAC 03.010(d). (Eff. 12/12/80, Reg. 76)

Authority: AS 38.05.020  
AS 38.05.183  
AS 38.06.070

**11 AAC 03.070. REJECTION OF PROPOSALS.** (a) If the commissioner has either (1) solicited proposals for the noncompetitive sale of royalty oil, gas, or gas liquids, (2) issued a written determination to dispose of royalty oil, gas, or gas liquids by a method other than by competitive bid, or (3) issued written procedures for the noncompetitive disposal of royalty oil, gas, or gas liquids as described in 11 AAC 03.050, and the commissioner proposes to reject any proposal or application received as a result of the solicitation, determination, or written procedures, the commissioner will notify the Alaska Royalty Oil and Gas Development Advisory Board in writing before rejecting the proposal or application.

(b) The notification required by (a) of this section will consist of a list of the names of the prospective buyers whose proposals are rejected along with their proposals and any correspondence received from the prospective buyers.

(c) The commissioner will, in his or her discretion, reject unsolicited or uninvited proposals for the noncompetitive disposal of royalty oil, gas, or gas liquids without notifying the Alaska Royalty Oil and Gas Development Advisory Board. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.06.050

**11 AAC 03.080. STORAGE CONDITIONS.** The commissioner disposes of royalty oil, gas, or gas liquids to relieve storage conditions when

(1) the royalty oil, gas, or gas liquids have either been noticed for a taking in-kind or are being taken in-kind or are being taken in-kind by the state; and

(2) the disposition planned for the oil, gas, or gas liquids at the time of the notice to take the oil, gas, or gas liquids in-kind can no longer be effectuated for any reason, or the disposition is

no longer in the best interests of the state. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.183  
AS 38.06.055

**11 AAC 03.090. MARKET CONDITIONS.** The commissioner disposes of royalty oil, gas, or gas liquids to relieve market conditions when

(1) in a noncompetitive disposition of royalty oil, gas, or gas liquids the price to be received under the noncompetitive disposition is higher than the amount being received by the state, either in-value or in-kind, at the time of the disposition and the commissioner estimates that the sale price will be higher than the in-value amount throughout the term of the contract for disposition;

(2) in a disposition by competitive bid the commissioner determines, at the time of issuance of the invitation to bid, that there is a substantial probability that the state will receive more than the in-value price as a result of the disposition by competitive bid;

(3) the royalty oil, gas, or gas liquids disposed of will be used to meet in-state needs for crude oil, gas, or gas liquids or petroleum products and the sale price of that royalty oil, gas, or gas liquids is at least equal to the in-value amount which would have been received by the state during the same period; or

(4) there is or will be an emergency in-state need for crude oil, gas, or gas liquids or petroleum products, which could be alleviated by the sale of the royalty oil, gas, or gas liquids. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.183  
AS 38.06.055

**11 AAC 03.091. PROVISIONS APPLICABLE TO ROYALTY CONTRACTS.** (a) Within 10 days after receiving written notice from a royalty purchaser of its intent to renegotiate price, as provided for by the terms of that purchaser's state royalty contract, or within 10 days after giving a royalty purchaser written notice of the state's intent to renegotiate price, as provided for by the terms of that purchaser's state royalty contract,

or before the adoption of any material amendment to a royalty contract which appreciably reduces the consideration received by the state, the commissioner will publish notice of the intent to renegotiate price or amend the contract in a newspaper of general statewide circulation. In addition, the commissioner will, in his or her discretion, publish notice by radio, television, or other electronic media. The notice will include

(1) a summary of information pertinent to the royalty contract, including quantity, current price, and termination date;

(2) a statement indicating where copies of the contract may be obtained; and

(3) a statement that any person may file written comments on the notice with the commissioner within 30 days after publication of the notice.

(b) In establishing or renegotiating the price of a royalty contract, the commissioner will obtain a price at least equal to the price that would have been received had the oil, gas, or gas liquids been taken in-value, plus field costs incurred by the royalty share, unless the commissioner determines that a lower price for the royalty gas would best serve the state's interests.

(c) The commissioner will submit to the legislature for approval any material amendment to a royalty contract which appreciably reduces the consideration received by the state. (Eff. 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.182  
AS 38.05.183

**11 AAC 03.100. DISPOSITION BY COMPETITIVE BID.** (a) A disposition of royalty oil, gas, or gas liquids by competitive bid will, in the commissioner's discretion, be made without a written determination by the commissioner that the disposition of royalty oil, gas, or gas liquids by competitive bidding is in the best interests of the state.

(b) A disposition of royalty oil, gas or gas liquids by competitive bid will, in the commissioner's discretion, be made by the commissioner without notice to the Alaska Roy-

alty Oil and Gas Development Advisory Board; however, the commissioner will follow the procedures set out in 11 AAC 03.210 and 11 AAC 03.240. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.183

**11 AAC 03.110. SEALED BIDS.** A disposition of royalty oil, gas, or gas liquids by competitive bid will be by sealed bid. The bids must be addressed to the commissioner and must be delivered in the manner, to the place, and by the date and time specified in the invitation to bid. Bids will be opened in public at the date, time, and place specified in the invitation to bid, unless the commissioner designates a later time for opening. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.183

**11 AAC 03.120. INVITATION TO BID.** A disposition of royalty oil, gas, or gas liquids by competitive bid will be initiated by the commissioner by issuance of an invitation to bid. The invitation to bid will specify the quantity of oil, gas, or gas liquids to be sold, the term of disposition, the point of delivery, and any other terms and conditions of the disposition considered necessary by the commissioner. The commissioner will, in his or her discretion, include a form contract in the invitation rather than specifying terms and conditions. The invitation will specify qualifications of bidders and, if a determination of the qualification of a bidder by the commissioner is required, an explanation of the procedure for qualification. If priorities among bidders are to be assigned, the invitation will include an explanation of the procedure for obtaining a priority designation. The invitation will specify where, when, and how bids may be submitted to the commissioner and will specify the bond or other security which must accompany the bid. The invitation will specify the date, time, and place of bid opening, and the procedures under which the royalty oil will be awarded and contracts for disposition executed. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.183

**11 AAC 03.130. SECURITY.** The commissioner may require that security, which in his

State of Alaska  
Department of Natural Resources  
Supplemental Findings  
Competitive Royalty Oil Sale  
(Prudhoe Bay and Kuparuk River Units)  
November 28, 1984

Supplemental Findings  
Competitive Royalty Oil Sale  
(Pruchoe Bay and Kuparuk River Units)

AS 38.05.183(a) states that oil and gas taken in-kind as the state's royalty share of production may not be sold or otherwise disposed of for export from the state until the Commissioner of Natural Resources determines that the royalty in-kind oil or gas is surplus to the present and projected intrastate domestic and industrial needs for oil and gas. I find that the 90,000 bpd scheduled for competitive sale on December 11, 1984 is surplus to present and projected intrastate domestic and industrial needs for oil.

AS 38.05.183 also requires the Commissioner to submit an annual report to the state legislature "showing the immediate and long-term domestic and industrial needs of the state for oil and gas and an analysis of how these needs are to be met." The Department of Natural Resources, Division of Oil & Gas (the Department) complies with that requirement by preparing a document, published each January, entitled Historical and Projected Oil and Gas Consumption (also called the Supply/Demand study). The January 1984 Supply/Demand study concluded, as it has in previous years, that in-state supplies of both oil and gas far exceeded the immediate and long-term domestic and industrial needs of the state for oil and gas.

Due to the absence of any new information concerning the immediate and long-term domestic and industrial needs of the state for oil and gas, the Department again concluded, both in the Preliminary Findings and Determination to Negotiate Backup Royalty Oil Contract(s) and Conduct a Competitive Royalty Oil Sale (July 12, 1984) and the Final Findings and Determination to Conduct a Competitive Royalty Oil Sale for In-kind Oil from the Pruchoe Bay and Kuparuk River Units (October 10, 1984), that the 90,000 bpd of state royalty oil to be sold competitively on December 11, 1984 is surplus to in-state needs. Consequently, upon the publication of the Preliminary Finding and execution of contracts with backup purchasers, the state gave a six-month notice to the North Slope producers of its intent to take 90,000 bpd of royalty oil in-kind (as provided by procedures in the Pruchoe Bay and Kuparuk River Unit Agreements).

The Department's conclusion was and is based in part on the interpretation of AS 38.05.183 stated in each Supply/Demand study since 1982. In that year, the study first gave specific definitions to certain phrases in that statute. Since 1982, the first chapter of every Supply/Demand study has contained a list of possible definitions for some of the imprecise clauses of AS 38.05.183, such as "how these needs are to be met". The Supply/Demand study definition of that phrase specifies the Department's long-standing position that the state's present and projected intrastate domestic and industrial needs for oil and gas may be met from a variety of sources, including state royalty oil. See 1984 Supply/Demand study page 1.7.

The intent of the statute should not be regarded as complete state self-sufficiency in refined products from state royalty oil. Rather, the Department believes the legislature was aiming at ensuring adequate overall oil and gas supplies for the state. The 1984 Supply/Demand study states that, "Under reasonable assumptions about recoverable reserves and Alaskan consumption, the current inventory of both oil and gas is more than sufficient to meet the presently identifiable needs of Alaskans for the next 15 years." Presently, the Department of Revenue's most recent crude oil price forecasts remain conservative due to the continued surplus in world supplies. While unfavorable from a revenue standpoint, that surplus will likely translate into dampened crude oil prices for Alaska consumers and industrial users. Only if the cost of imported products were significantly above the cost of products which could be refined in Alaska (e.g. when oil is not available to local refiners at the market price), or if Alaska users were suffering from an absolute shortfall in petroleum products, would the Department not consider the royalty oil to be sold at the competitive sale as "surplus" to present and projected in-state needs. Neither of these was found to be the case.

The Department's view of the purpose of AS 38.05.183 stems first from the atmosphere of absolute shortage, particularly in motor fuels, which prevailed at the time the statute was written. The statute was adopted in 1974, when the worldwide oil crisis and the imposition of federal oil contract controls raised the spectre of product shortages in Alaska despite North Slope crude oil production. The Department's view stems second from the apparent paradox of continued imports into regions such as Southeast Alaska, where the landed cost of such imports from Puget Sound undercuts the cost of delivered refined products to Southeast from Railbelt refiners. Under the most constrained interpretation of the statute, the Department would be obliged to promote in-state refining with royalty oil for the sake of absolute self-sufficiency, even when this resulted in higher prices for Alaskans. Clearly, this was not the intent of the statute. Intrastate needs for oil and gas are presently being met from a variety of sources, including state royalty oil. As charged, the 1984 Supply/Demand study identifies those sources and discusses how in-state needs are to be met, given the total supply of hydrocarbons within the state. In terms of total present and projected demand vs. total present and projected supply, intrastate refined product needs can be met with ease by the unprecedented production of crude oil from the North Slope, which is available to any purchaser willing to meet the market clearing price for that oil. For these reasons, the Department determined in the 1984 Supply/Demand study that the state enjoys a surplus of hydrocarbons relative to present and foreseeable demand.

Even if AS 38.05.183(d) were interpreted to require all intrastate needs to be satisfied by royalty oil before export could occur, I would find that the competitive sale amounts are surplus to present and projected intrastate domestic and on industrial needs for two reasons. First, persons who have a demand for oil as a result of current in-state processing or supply activities are granted priority rights to purchase royalty oil at the competitive sale. Second, during the term of the competitive sale contracts, royalty oil will remain in-value and will be available for disposition in-state.

The Department has provided for satisfaction of demand for royalty oil on the part of in-state refiners and in-state suppliers by giving them priority rights to purchase oil at the competitive sale. A priority will be offered to bidders which have sold an average of at least 5,000 bpd of refined petroleum products to distributors or consumers within the State of Alaska during the twelve-month period beginning June 1, 1983 and ending May 31, 1984, and which possess the ability to process crude oil into refined petroleum products at a processing facility owned by the bidder. Priority status will enable the in-state supplier to meet the highest winning bid in each of the three categories of royalty oil to be competitively sold. That right extends to the number of lots remaining in each category after the first round award of lot(s) to the highest winning bidder(s) in each category and priority bidders who have been posted as apparent high bidders. Consequently, in the first round of awards, priority bidders enjoy the possibility of receiving oil at the lowest price posted in each category. In addition, in-state suppliers are reasonably assured of receiving the desired volume of oil in the second round of awards, provided they are willing to meet the competitively established price. 11 AC 03.250(5) states that:

"present or projected intrastate domestic and industrial needs" means in-state domestic and industrial demand at a competitive market price for the royalty oil, gas, or gas liquids. "Competitive market price" includes, but is not limited to, a price established by competitive bid.

Thus, in-state refiners and suppliers will have the first right to royalty crude at a competitive market price so that their supply is assured.

At the present time the state leaves approximately 104,735 bpd of royalty oil in-value with the North Slope lessees. The lessees export this oil from Alaska and tender the reported netback sale proceeds to the state. During the first six months of the term of the competitive sale contracts, April 1985 to September 1985, approximately 26,013 bpd of royalty oil will remain in-value. During the following six months of the term, October 1985 to March 1986, approximately 41,013 bpd of royalty oil will remain in-value. These amounts will remain available for disposition in-state if the Department finds the disposition(s) to be in the State's best interest. (If a contract currently being negotiated with Golden Valley Electric Association is approved, future amounts available for disposition would be reduced by 5,000 bpd.)

Several parties have recently expressed an interest in purchasing royalty oil from the State. Our conclusion that the competitive sale amounts are surplus to present and projected needs was drawn with the knowledge that all in-state refiners do not have 100% of their projected capacity supplied by state royalty oil. For example, as mentioned in the Preliminary Finding, the Department has conducted negotiations for the sale of royalty oil to MAPCO Inc. to fuel a proposed refinery expansion. The successful outcome of those negotiations is not, however, regarded by the Department as prerequisite to the possible export of the state's royalty oil in the planned competitive sale. First, MAPCO representatives indicated to the Department that the proposed refinery expansion may not be built, throwing the question of MAPCO's projected needs into doubt. Second, if MAPCO had a projected demand for royalty oil at a competitive price, it could have availed itself of its

opportunity to purchase oil at the competitive sale, as a priority bidder. Since it is a current in-state refiner, MAPCO would have been entitled to all the priority rights discussed above. Third, by virtue of its proximity to the Trans Alaska Pipeline (TAPS), MAPCO has unique opportunities to supply its refinery with North Slope oil. MAPCO currently receives 35,000 bpd of royalty oil directly from the State. MAPCO also receives 5,000 bpd of royalty oil through its agreement with another state royalty oil purchaser - the Golden Valley Electric Association. In addition, about 60% of the oil run through the MAPCO refinery is, with a minor quality penalty, reinjected into TAPS to re-emerge as whole oil at Valdez. That oil, which is the property of MAPCO, may be exchanged for more oil from the North Slope and again withdrawn from TAPS at Fairbanks. One of the several advantages that MAPCO enjoys with its state royalty oil contract, relative to other in-state refiners, is this absence of any state control over the return oil. MAPCO could also purchase oil directly from the North Slope lessees to satisfy any demand not met through the purchase and exchange of royalty oil. Finally, MAPCO's location on TAPS allows it to enter into "in-transit stop" arrangements in which MAPCO "borrows" oil from other TAPS shippers. The borrowed oil is processed in MAPCO's refinery with the full amount returned to the original shipper at Valdez through a combination of return oil and quality bank payments. This in-transit stop arrangement remains feasible so long as MAPCO's current contract which does not expire until 2003, remains in effect. The Department believes that any failure by MAPCO to secure oil through these possible sources of supply indicates that MAPCO's demand may exist only so long as it believes the State is willing to supply it with oil at a price below competitive prices. As explained above, 11 AAC 03.250(5) provides that projected needs means in-state demand at a competitive price.

Since the Department made its most recent finding of ample in-state hydrocarbon supplies, published in the Final Finding of October 10, 1984, several Alaskan parties in addition to MAPCO have expressed interest in purchasing royalty oil. Chevron has requested further volumes of royalty oil to meet a possible increase in "throughput" at its 18,000 bpd Nikiski Refinery. Chevron owns and exports 12,000 bpd of North Slope production in addition to the 18,000 bpd of royalty oil which it processes at Nikiski. New parties also propose to create additional new refineries in Alaska. Because these proposals were not known to the Department at the time of the most recent determination of an in-state hydrocarbon surplus, the state has decided to reduce the one-year term of those lots offered in the Kuparuk River oil category (category A) to six months. This will enable the state to have an additional 15,000 bpd of royalty oil available in the fall of 1985 for those who offer to purchase state royalty oil at terms which lead the Department to find that the disposition(s) would be in the state's best interest.

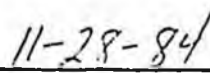
As stated, the impressive quantities of oil available within the state, which are the highest in the nation on a per-capita basis, diminish the likelihood of an actual "need" by these groups in the sense of supply availability. However, given the very recent nature of the new proposals received, the Department will further review their merits, as well as supply alternatives in addition to royalty oil. It has been the Division's experience that the term "need" is perceived differently by prospective in-state royalty oil

purchasers. Rather than the physical unavailability of oil due to world shortages or the unwillingness of North Slope producers to sell ANS crude at the market clearing price, prospective in-state royalty oil purchasers often view their feedstock needs in terms of the royalty oil price and terms they require for economic viability. While the Department recognizes that there are a host of oil-related economic activities which can be made viable should the state choose to undercut the market clearing price of Alaska North Slope oil for specific parties, this is not seen as the definition of "need" in AS 38.05.183, nor is it clearly in the State's best interest to do so.

Given the short-term nature of the proposed competitive sale, the consideration extended to in-state refiners and suppliers through the priority bidding system, the lack of demonstrated current need on the part of other potential in-state purchasers, and the amounts of oil remaining in-value available for disposition, I find pursuant to AS 38.05.183 that the royalty oil to be disposed of at the competitive sale is surplus to present and projected intrastate domestic and industrial needs.



Kay Brown, Director  
Division of Oil & Gas  
Department of Natural Resources



Cate

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 23, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to royalty oil. The bill would (1) clarify and streamline procedural requirements for royalty oil and gas sales by expressly providing that the best-interest finding set out in AS 38.05.035(e) does not apply to those sales; and (2) enable the Department of Natural Resources to establish a regular program of short-term competitive royalty oil sales.

It is unclear whether AS 38.05.035(e) applies to royalty oil and gas sales. Royalty oil and gas sales have detailed finding and notice requirements set out in AS 38.05.182, 38.05.183, and AS 38.06, and are expressly committed to commissioner actions. AS 38.05.035(e), on the other hand, is essentially duplicative of those other processes and concerns actions taken by the director of the division of lands. Although we believe that the provisions of AS 38.05.035(e) are not presently applicable to oil and gas sales, such confusion does cast a cloud over royalty oil sales (particularly those that are entered into because of an emergency situation). The amendment in sec. 1 of the bill resolves the issue.

The second change, in sec. 2 of the bill, would allow competitive royalty oil sales for terms of less than one year to be conducted without legislative approval of those sales. To await legislative approval under a competitive bid situation for contracts of one year or less would defeat the entire purpose of that type of short-term competitive sales. Under the present statutory scheme, however, there is a serious question as to whether a party who gained royalty oil under one competitive sale could re-bid in a subsequent royalty oil sale if the combination of the two sales would lead to that particular buyer receiving oil for more than a one year period. Although it has been the

consistent position of this and previous administrations that the requirement of legislative approval is unconstitutional, administrations have always, as a matter of comity, respected the legislature's desire to be consulted in long-term or negotiated royalty oil contracts. Further, the presence of the statute, whether or not constitutional, would cast a cloud on any sale. Thus we believe that a clarification to allow short-term competitive royalty oil sales would be in the best interests of all.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

Offered: 2/15/85  
Referred: Resources and  
Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE  
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BY THE HOUSE SPECIAL COMMITTEE  
ON OIL AND GAS

CS FOR HOUSE BILL NO. 103 (Oil & Gas)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to prerequisites for the disposal of  
royalty oil and gas; and providing for an effective  
date."

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

\* Section 1. AS 38.05.183 is amended by adding a new subsection to  
read:

(g) AS 38.05.035(e) does not apply to a sale, exchange, or other  
disposal of oil or gas under this section.

\* Sec. 2. AS 38.06.055(c) is amended to read:

(c) A sale, exchange, or other disposition of oil or gas, other  
than by competitive bid, made under (b)(1) of this section may not be  
continued after the end of one year or renewed with the same party to  
provide relief for market or storage conditions without the prior  
approval of the legislature under (a) of this section.

\* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
10.070(c).

Introduced: 1/23/85  
Referred: House Special Committee on  
Oil & Gas, Resources and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

HOUSE BILL NO. 103

2

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

9 \* Section 1. AS 38.05.183 is amended by adding a new subsection to  
10 read:

11 (g) AS 38.05.035(e) does not apply to a sale, exchange, or other  
12 disposal of oil or gas under this section.

13 \* Sec. 2. AS 38.06.055(c) is amended to read:

14 (c) A sale, exchange, or other disposition of oil or gas, other  
15 than by competitive bid, made under (b)(1) of this section may not be  
16 continued after the end of one year or renewed with the same party to  
17 provide relief for market or storage conditions without the prior  
18 approval of the legislature under (a) of this section.

19 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
20 10.070(c).

**COMMITTEE REPORT**  
**SENATE**

FURTHER:

4/2/85

Date 5/7/85

Mr. President

The Committee on FINANCE considered CSHB 103(Fin)  
prerequisites for the disposal of royalty oil and gas; and.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT" [ ] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

**MEMBERS SIGNING**  
**DO PASS**

[Signature]  
\_\_\_\_\_  
[Signature]  
\_\_\_\_\_  
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**MEMBERS HAVING**  
**OTHER RECOMMENDATIONS**

S/ Kerttula No Rec  
\_\_\_\_\_  
S/ P. Fischer No Rec  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Chairman

[Signature]  
Chairman recommendation

C O R R E C T I O N

Discard CS HB 103 (FIN)  
and retain this corrected version.

Offered: 3/8/85  
For Today's Calendar

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE  
2 CS FOR HOUSE BILL NO. 103 (Finance)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to prerequisites for the disposal of  
7 royalty oil and gas; and providing for an effective  
8 date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. AS 38.05.183 is amended by adding a new subsection to  
11 read:  
12 (g) AS 38.05.035(e) does not apply to a sale, exchange, or other  
13 disposal of oil or gas under this section.  
14 \* Sec. 2. AS 38.06.055(c) is amended to read:  
15 (c) A sale, exchange, or other disposition of oil or gas [MADE]  
16 under (b)(1) of this section may not be continued after the end of one  
17 year or renewed with the same party [TO PROVIDE RELIEF FOR MARKET OR  
18 STORAGE CONDITIONS] without the prior approval of the legislature  
19 under (a) of this section. This subsection does not apply to a se-  
20 quential competitively bid sale of oil or gas made with the same party  
21 under (b)(1) of this section.  
22 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
23 10.070(c).

10

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 103  
Title: An Act relating to royalty

**FISCAL DETAIL**

Agency Affected: Natural Resources  
Program Category Affected: NRMEC

Sponsor: \_\_\_\_\_  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Minerals and Energy Management

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

|                        | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|------------------------|-------|-------|-------|-------|-------|-------|
| <b>OPERATING</b>       |       |       |       |       |       |       |
| 100 PERSONAL SERVICES  |       |       |       |       |       |       |
| 200 TRAVEL             |       |       |       |       |       |       |
| 300 CONTRACTUAL        |       |       |       |       |       |       |
| 400 SUPPLIES           |       |       |       |       |       |       |
| 500 EQUIPMENT          |       |       |       |       |       |       |
| 600 LAND & STRUCTURES  |       |       |       |       |       |       |
| 700 GRANTS, CLAIMS     |       |       |       |       |       |       |
| 800 MISCELLANEOUS      |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | 0     | 0     | 0     | 0     | 0     | 0     |
| <b>CAPITAL</b>         |       |       |       |       |       |       |
| <b>REVENUE</b>         |       |       |       |       |       |       |

**FUNDING: (Thousands of Dollars)**

|               |  |  |  |  |  |  |
|---------------|--|--|--|--|--|--|
| GENERAL FUND  |  |  |  |  |  |  |
| FEDERAL FUNDS |  |  |  |  |  |  |
| OTHER         |  |  |  |  |  |  |
| <b>TOTAL</b>  |  |  |  |  |  |  |

**POSITIONS:**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

**ANALYSIS:** Attach a separate page if necessary

No fiscal impact.

Prepared By: Kay Brown Phone: 265-4241  
Division: Oil and Gas Date: December 7, 1984

Approved by Commissioner: Minnie D. Amundson, Deputy Date: December 10, 1984  
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

7/1/84

5/7/85  
5FC-85  
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Withdwn

Proposed amendment to AS 38.05.180 (1):

(1) Subject to the provisions of AS 31.05.005-31.05.170, the commissioner may, at his discretion, enter into an agreement whereby, with the consent of the lessee, the state's royalty share of oil and gas production may be stored or retained in storage by the lessee, or the commissioner may enter into an agreement with one or more of the affected field lease holders to trade current royalty production from a field for a like amount, kind, and quality of future production, (ON THE CONDITION THAT THE STATE RECEIVES BACK ITS STORED OR TRADED ROYALTY SHARE DURING THE FIRST HALF OF THE ESTIMATED FIELD LIFE OR (NO LATER THAN 15 YEARS AFTER START OF PRODUCTION) WHICHEVER IS SOONER) if the commissioner makes a written finding that the state will receive back its stored or traded royalty share before the end of the estimated field life, considering engineering constraints and other relevant factors.

5/7/85  
SFC-85  
P. Fischer  
~~\_\_\_\_\_~~ #1  
Withdraw

PROPOSED AMENDMENT TO CS FOR HOUSE BILL 103 (FINANCE)

On page 1, line 22, add the following section and renumber all remaining sections:

\* Section 2. AS 38.05.810(a) is amended to read:

(a) The lease, sale, or other disposal of state land or resources may be made to a state or federal agency or political subdivision, or the lease, sale, or disposal of coal deposits suitable for mining or of royalty natural gas may be made to a utility regulated by the Alaska Public Utility Commission or a utility owned and operated by a government agency or nonprofit cooperative association organized to participate under the Federal Rural Electrification Act for the purpose of generating electric power and energy or the production of process steam, or both, for less than the appraised value as determined by the director and approved the commissioner to be fair and proper and in the best interests of the public, with due consideration given to the nature of the public services or function rendered by the agency, subdivision, or utility making application, and of the terms of the grant under which the land was acquired by the state.

REMARKS

by

KAY BROWN, DIRECTOR, DIVISION OF OIL & GAS

on

CS HB 103 (Oil and Gas)

to

HOUSE RESOURCES COMMITTEE

February 25, 1985

Thank you Mr. Chairman. For the record, I'm Kay Brown, Director of the Division of Oil and Gas for the Alaska Department of Natural Resources. I appreciate the opportunity to address the committee on CS HB 103.

-This bill makes two technical changes to the royalty oil and gas disposal statute.

SECTION 1 of the bill would remove royalty oil and gas disposals from the procedures that govern all disposals of interest in state land or resources under AS 38. It is unclear whether AS 38.05.035(e) applies to royalty oil and gas sales. Royalty oil and gas sales have detailed finding and notice requirements under AS 38.05.182, 183 and AS 38.06. Although we believe that .035 is not presently applicable to royalty oil and gas sales, the possibility that it does apply would cast a cloud over sales that had to be entered into because of an emergency situation. Further, elimination of the .035 requirement streamlines the procedural requirements by removing conflicting timelines for disposal.

SECTION 2 of the bill would allow continuing competitive royalty oil sales

for terms of less than one year to be conducted without legislative approval of those sales. AS 38.06.055(a) provides that the legislature will approve all royalty oil and gas sales. Subsection (b) of that section sets out several exceptions for short-term and small volume sales which do not require legislative approval. Subsection (b)(1) makes an exception for sales of one year or less to relieve storage or market conditions, and this is the section under which we held the competitive sale in December 1984. Subsection (c), which is the section being amended in CS HB 103, goes on to say that a sale made under (b)(1) may not be continued after the end of one year or renewed with the same party without the prior approval of the legislature under (a) of the statute.

The Department of Law has advised us that there is a serious question as to whether a party who gained royalty oil under one competitive sale could re-bid in a subsequent royalty oil sale if the combination of the two sales would lead to that particular buyer receiving oil for more than a one-year period.

We see no reason why a company which bids and wins in one competitive sale should not be able to bid again the next year and again win the right to receive oil if it bids the highest price.

To await legislative approval under a competitive bid situation for contracts of one year or less would defeat the entire purpose of that type of short-term competitive sale.

Although it has been the consistent position of this and previous

administrations that the requirement of legislative approval is unconstitutional, administrations have always, as a matter of comity, respected the legislature's desire to be consulted in long-term or negotiated royalty oil contracts. Further, the presence of the statute, whether constitutional or not, could cast a cloud on any subsequent competitive sale.

Mr. Chairman, while we have not yet made a firm decision on whether continuing competitive sales would be beneficial to the state, we would like to have that option available for consideration at the same time we are considering the new proposals for in-state use.

That concludes my remarks Mr. Chairman. Thank you very much for your time.

1585K

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES**

**DIVISION OF OIL AND GAS**

POUCH 7-034  
ANCHORAGE, ALASKA 99510

March 5, 1985

The Honorable Al Adams, Chairman  
House Finance Committee  
Alaska State House of Representatives  
Juneau, AK 99811

Dear Representative Adams:

CSHB 103 (Oil and Gas), which relates to prerequisites for disposal of royalty oil and gas, is scheduled for a hearing tomorrow in your committee.

At the House Resources Committee hearing on February 25, 1985, the question was raised as to whether the proposed amendment in Section 2 of the bill would allow a competitive bid sale of one year or less to be continued or renewed beyond one year without legislative approval and without going to competitive bid.

While the language could possibly be interpreted to allow that outcome, I am informed by the Attorney General's Office that the case law on competitive bidding would preclude it, since a competitively-bid contract cannot be materially amended after it is awarded.

Nevertheless, we believe the bill could be improved and an unintended construction could be prevented by adoption of the following language for Section 2 of the bill (substitute beginning on line 14):

\*Sec. 2. AS 38.06.055(c) is amended to read:

(c) A sale, exchange, or other disposition of oil or gas [MADE] under (b)(1) of this section may not be continued after the end of one year or renewed with the same party [TO PROVIDE RELIEF FOR MARKET OR STORAGE CONDITIONS] without the prior approval of the legislature under (a) of this section. This subsection does not apply to contracts awarded to the same party in sequential competitive sales of oil or gas under (b)(1) of this section.

Thank you for your consideration.

Sincerely,

  
Kay Brown  
Director

cc: House Finance Committee Members  
Commissioner Esther C. Wunnicke

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES**

**DIVISION OF OIL AND GAS**

POUCH 7-034  
ANCHORAGE, ALASKA 99510

March 4, 1985

The Honorable Marco Pignalberi  
Alaska State House of Representatives  
Pouch V  
Juneau, AK 99811

Dear Representative Pignalberi:

This letter responds to your request for information on the procedural requirements for royalty oil and gas sales. Specifically, you asked that I further address the time savings that would accrue and the deadline conflicts that would be averted by the passage of CSHB 103 (Oil and Gas).

Under Section 1 of the bill, AS 38.05.035(e) would not apply to a sale of royalty oil or gas under AS 38.05.183. Therefore, AS 38.05.945 would not apply either since it requires notice of actions under AS 38.05.035(e).

The attached chart shows the major actions presently required to sell royalty oil, the timing of those actions, and the statutory, regulatory or contractual basis for the actions. The requirements differ for the four broad categories of royalty sales: (1) long-term competitive; (2) short-term competitive; (3) long-term negotiated; and (4) short-term negotiated. Each short-term sale is assumed to fall within AS 38.06.055(b)(1) as a sale of one year or less to relieve storage or market conditions.

As the chart shows, even if AS 38.05.035(e) and AS 38.05.945 were eliminated from the process, other provisions would require written findings and notice to the public.

Our biggest concern relates to sales necessary to relieve an emergency storage situation. If the state were suddenly to find itself without a buyer for already nominated in-kind royalty oil, a new sale would have to be arranged immediately. In that event, it might not be possible to wait the roughly 60 days necessary to accomplish a short-term non-competitive sale under the present procedures.

The Honorable Marco Pignalberi  
Page 2  
March 4, 1985

It is not the Department's intention to reduce the level of public participation prior to royalty sales. If the bill passes, it is our intention to continue using a "preliminary" and "final" format for notice and findings except in emergency situations where time does not permit, and we would revise the regulations to incorporate this change.

If you have other questions please let me know.

Sincerely,



Kay Brown  
Director

Attachment as stated

cc: Representative Davis  
Representative Shultz  
Representative Adams  
Representative Martin  
Commissioner Esther C. Wunnicke  
Assistant Attorney General Steve Porter

1600K

MAJOR ACTIONS REQUIRED TO SELL ROYALTY OIL

| Minimum Time Required                                    | Action   | Authority (Mandatory or Discretionary) |              | Long Competitive | Short Competitive | Long Non-competitive | Short Non-Competitive |
|--|--|--|--------------|------------------|-------------------|----------------------|-----------------------|
| 1 - 6 months   | Issue solicitation for proposals   | AS 38.05.182-.183                      | D            |                  |                   | X                    | X                     |
|  | Select buyer   |  | M            |                  |                   | X                    | X(D)                  |
|  | Negotiate terms of contract  |  |              |                  |                   | X                    | X(D)                  |
|  | Draft required findings:   |  | M            | X                | X                 | X                    | X                     |
|  | o The oil is surplus to in-state needs                                   | AS 38.05.183(d)                        | M/<br>export | X                | X                 | X                    | X                     |
|  | o Competitive bidding is waived  | AS 38.05.183(a), (c)                   | M            |                  |                   | X                    | X                     |
|  | o The sale is in the best interest of the state                          | AS 38.05.182(a)<br>AS 38.05.035(e)     | M            | X                | X                 | X                    | X                     |
| o The proposal offers maximum benefits to state citizens | AS 38.05.183(e)  | M                                      |              |                  | X                 | X                    |                       |
| Day 1  | Publish Preliminary Notice of Intent to Make Findings under AS 38.05.035 | AS 38.05.945(a) (3)                    | M            | X                | X                 | X                    | X                     |
|  | Issue solicitation for backup contracts                                  | AS 38.05.183                           | D            |                  | (back-up)         |                      | X                     |
|  | Notify Royalty Board of intent to waive competitive bidding              | AS 38.06.050(c)<br>AS 38.05.183(c)     | M            |                  | (back-up)         | X                    | X                     |

| Minimum Time Required | Action  | Authority (Mandatory or Discretionary)                   |   | Long Competitive | Short Competitive | Long Non-competitive | Short Non-Competitive |
|-----------------------|---|--|---|------------------|-------------------|----------------------|-----------------------|
|                       | Preliminary findings & contracts are available to public & mailed to Royalty Board; notice to mailing list                        | AS 38.05.183(c),(d);<br>AS 38.05.035(e);<br>AS 38.05.945 | M | X                | X                 | X                    | X                     |
| Day 14                | Deadline for submission of backup contract proposals  |  | D |                  | (back-up)         |                      | X                     |
| Day 18                | Notice of Royalty Board public hearing  | 3 AAC 56.051   | M | X                | X(D)              | X                    | X(D)                  |
| Day 30                | Comments due on preliminary findings  |  | M | X                | X                 | X                    | X                     |
| Day 32                | Royalty Board public hearing  | AS 38.06.050(a)  | M | X                | X(D)              | X                    | X(D)                  |
| Day 37                | Comments from Royalty Board & public are incorporated into final findings; findings made public; Final Notice of Competitive Sale | AS 38.05.945(a)(4),<br>AS 38.05.035(e)                   | M | X                | X                 | X                    | X                     |
| Day 38                | Backup purchasers selected and notified   |  | D |                  | (back-up)         |                      | X                     |
| Day 53                | Backup contracts executed and returned to DNR   |  | D |                  | (back-up)         |                      | X                     |
| Day 58                | Execute contracts; mail to Royalty Board  | 3 AAC 56.220(a)  | M |                  | (back-up)         | X                    | X                     |
| Day 60                | Nominate oil  | Unit agreement/ leases;<br>AS 38.05.182                  |   |                  | X                 |                      | X                     |

| Minimum Time Required | Action  | Authority (Mandatory or Discretionary) |              | Long Competitive | Short Competitive | Long Non-competitive | Short Non-Competitive |
|-----------------------|---|--|--------------|------------------|-------------------|----------------------|-----------------------|
| Day 60                | Publish Notice of Royalty Board public hearing                    | 3 AAC 36.051                           |              |                  |                   | X                    |                       |
| Day 75                | Royalty Board public hearing; Royalty Board signs resolution      | AS 38.06.050                           | M            |                  |                   | X                    |                       |
| Day 81                | Applications received for qualification to bid                    | 11 AAC 03.160; Invitation              | D            | X                | X                 |                      |                       |
| Day 88*               | Introduction of bill in Legislature approving sale of royalty oil | AS 38.06.050-055                       | M            |                  |                   | X                    |                       |
| Day 88                | Supply-Demand report to Legislature                               | AS 38.05.183(d)                        | M/<br>export | X                | X                 | X                    | X                     |
| Day 100               | Commissioner determines which applicants are eligible to bid      | 11 AAC 03.160; Invitation              | D            | X                | X                 |                      |                       |
| Day 125               | Competitive sale  | AS 38.05.183(a)                        |              | X                | X                 |                      |                       |
| Day 127               | Deadline to request conference with Commissioner                  | 11 AAC 03.230; Invitation to bid       | M            | X                | X                 |                      |                       |
| Day 132               | Competitive sale award notice issued                              | 11 AAC 03.220                          | M            | X                | X                 |                      |                       |
| Day 140               | Deadline to return executed contracts                             | Invitation                             | M            | X                | X                 |                      |                       |
| Day 141               | Royalty Board public hearing; Royalty Board signs resolution      | AS 38.06.050(a)                        | M            | X                |                   |                      |                       |

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| Minimum Time Required | Action  | Authority (Mandatory or Discretionary)  |   | Long Competitive | Short Competitive | Long Non-competitive | Short Non-Competitive |
|-----------------------|---|---|---|------------------|-------------------|----------------------|-----------------------|
| Day 171               | Introduction of bill in Legislature approving sale of royalty oil | AS 38.06.050-055                        | M | X                |                   |                      |                       |
| Day 208               | Legislature approves contract                                     | AS 38.06.055                            | M | X                |                   | X                    |                       |
| Day 215               | Nominate in-kind oil  | Unit agreement/ leases;<br>AS 38.05.182 |   | X                |                   | X                    |                       |
| Day 240               | Date of first delivery  |   |   |                  | X                 |                      | X                     |
| Day 395               | Date of first delivery  |   |   | X                |                   | X                    |                       |

\* Assumed to be Day 1 of the Legislative session.

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best interests determination described in 11 AAC 03.010(d). (Eff. 12/12/80, Reg. 76)

Authority: AS 38.05.020  
AS 38.05.183  
AS 38.06.070

**11 AAC 03.070. REJECTION OF PROPOSALS.** (a) If the commissioner has either (1) solicited proposals for the noncompetitive sale of royalty oil, gas, or gas liquids, (2) issued a written determination to dispose of royalty oil, gas, or gas liquids by a method other than by competitive bid, or (3) issued written procedures for the noncompetitive disposal of royalty oil, gas, or gas liquids as described in 11 AAC 03.050, and the commissioner proposes to reject any proposal or application received as a result of the solicitation, determination, or written procedures, the commissioner will notify the Alaska Royalty Oil and Gas Development Advisory Board in writing before rejecting the proposal or application.

(b) The notification required by (a) of this section will consist of a list of the names of the prospective buyers whose proposals are rejected along with their proposals and any correspondence received from the prospective buyers.

(c) The commissioner will, in his or her discretion, reject unsolicited or uninvited proposals for the noncompetitive disposal of royalty oil, gas, or gas liquids without notifying the Alaska Royalty Oil and Gas Development Advisory Board. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.06.050

**11 AAC 03.080. STORAGE CONDITIONS.** The commissioner disposes of royalty oil, gas, or gas liquids to relieve storage conditions when

(1) the royalty oil, gas, or gas liquids have either been noticed for a taking in-kind or are being taken in-kind or are being taken in-kind by the state; and

(2) the disposition planned for the oil, gas, or gas liquids at the time of the notice to take the oil, gas, or gas liquids in-kind can no longer be effectuated for any reason, or the disposition is

no longer in the best interests of the state. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.183  
AS 38.06.055

**11 AAC 03.090. MARKET CONDITIONS.** The commissioner disposes of royalty oil, gas, or gas liquids to relieve market conditions when

(1) in a noncompetitive disposition of royalty oil, gas, or gas liquids the price to be received under the noncompetitive disposition is higher than the amount being received by the state, either in-value or in-kind, at the time of the disposition and the commissioner estimates that the sale price will be higher than the in-value amount throughout the term of the contract for disposition;

(2) in a disposition by competitive bid the commissioner determines, at the time of issuance of the invitation to bid, that there is a substantial probability that the state will receive more than the in-value price as a result of the disposition by competitive bid;

(3) the royalty oil, gas, or gas liquids disposed of will be used to meet in-state needs for crude oil, gas, or gas liquids or petroleum products and the sale price of that royalty oil, gas, or gas liquids is at least equal to the in-value amount which would have been received by the state during the same period; or

(4) there is or will be an emergency in-state need for crude oil, gas, or gas liquids or petroleum products, which could be alleviated by the sale of the royalty oil, gas, or gas liquids. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.183  
AS 38.06.055

**11 AAC 03.091. PROVISIONS APPLICABLE TO ROYALTY CONTRACTS.** (a) Within 10 days after receiving written notice from a royalty purchaser of its intent to renegotiate price, as provided for by the terms of that purchaser's state royalty contract, or within 10 days after giving a royalty purchaser written notice of the state's intent to renegotiate price, as provided for by the terms of that purchaser's state royalty contract,

or before the adoption of any material amendment to a royalty contract which appreciably reduces the consideration received by the state, the commissioner will publish notice of the intent to renegotiate price or amend the contract in a newspaper of general statewide circulation. In addition, the commissioner will, in his or her discretion, publish notice by radio, television, or other electronic media. The notice will include

(1) a summary of information pertinent to the royalty contract, including quantity, current price, and termination date;

(2) a statement indicating where copies of the contract may be obtained; and

(3) a statement that any person may file written comments on the notice with the commissioner within 30 days after publication of the notice.

(b) In establishing or renegotiating the price of a royalty contract, the commissioner will obtain a price at least equal to the price that would have been received had the oil, gas, or gas liquids been taken in-value, plus field costs incurred by the royalty share, unless the commissioner determines that a lower price for the royalty gas would best serve the state's interests.

(c) The commissioner will submit to the legislature for approval any material amendment to a royalty contract which appreciably reduces the consideration received by the state. (Eff. 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.182  
AS 38.05.183

**11 AAC 03.100. DISPOSITION BY COMPETITIVE BID.** (a) A disposition of royalty oil, gas, or gas liquids by competitive bid will, in the commissioner's discretion, be made without a written determination by the commissioner that the disposition of royalty oil, gas, or gas liquids by competitive bidding is in the best interests of the state.

(b) A disposition of royalty oil, gas or gas liquids by competitive bid will, in the commissioner's discretion, be made by the commissioner without notice to the Alaska Roy-

alty Oil and Gas Development Advisory Board; however, the commissioner will follow the procedures set out in 11 AAC 03.210 and 11 AAC 03.240. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.183

**11 AAC 03.110. SEALED BIDS.** A disposition of royalty oil, gas, or gas liquids by competitive bid will be by sealed bid. The bids must be addressed to the commissioner and must be delivered in the manner, to the place, and by the date and time specified in the invitation to bid. Bids will be opened in public at the date, time, and place specified in the invitation to bid, unless the commissioner designates a later time for opening. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.183

**11 AAC 03.120. INVITATION TO BID.** A disposition of royalty oil, gas, or gas liquids by competitive bid will be initiated by the commissioner by issuance of an invitation to bid. The invitation to bid will specify the quantity of oil, gas, or gas liquids to be sold, the term of disposition, the point of delivery, and any other terms and conditions of the disposition considered necessary by the commissioner. The commissioner will, in his or her discretion, include a form contract in the invitation rather than specifying terms and conditions. The invitation will specify qualifications of bidders and, if a determination of the qualification of a bidder by the commissioner is required, an explanation of the procedure for qualification. If priorities among bidders are to be assigned, the invitation will include an explanation of the procedure for obtaining a priority designation. The invitation will specify where, when, and how bids may be submitted to the commissioner and will specify the bond or other security which must accompany the bid. The invitation will specify the date, time, and place of bid opening, and the procedures under which the royalty oil will be awarded and contracts for disposition executed. (Eff. 12/12/80, Reg. 76; am 8/8/84, Reg. 91)

Authority: AS 38.05.020  
AS 38.05.183

**11 AAC 03.130. SECURITY.** The commissioner may require that security, which in his

DNR 3/18/85

BACKGROUND INFORMATION ON CS HB 103 (FINANCE)  
AN ACT RELATING TO PREREQUISITES FOR DISPOSAL OF ROYALTY OIL & GAS

Section 1 of the bill addresses a problem related to emergency sales of royalty oil and gas.

Under present law and procedures, and assuming the requirements of AS 38.05.035(e) apply to royalty oil and gas sales, it takes at least 60 days to make a sale. If the state were suddenly to find itself without a buyer for already nominated in-kind royalty oil, a new sale would have to be arranged immediately; it may not be possible to wait 60 days. It is not clear that AS 38.05.035(e) applies; the bill makes clear that it does not. Other statutes (AS 38.05.182-.183 and AS 38.06) require a detailed process for royalty sales. For additional background, see attached letter to Rep. Pignalberi.

Section 2 of the bill is needed to allow the Department of Natural Resources to conduct additional short-term competitive royalty oil sales without legislative approval of those sales.

~~AS~~ 38.06.055(a) provides that the legislature will approve all royalty oil and gas sales. Subsection (b) of that section sets out several exceptions for short-term and small volume sales which do not require legislative approval. Subsection (b)(1) makes an exception for sales of one year or less to relieve storage or market conditions, and this is the section under which we held the competitive sale in December 1984. Subsection (c), which is the section being amended in CS HB 103, goes on to say that a sale made under (b)(1) may not be continued after the end of one year or renewed with the same party without the prior approval of the legislature under (a) of the statute.

The Department of Law has advised us that there is a serious question as to whether a party who gained royalty oil under one competitive sale could re-bid in a subsequent competitive royalty oil sale if the combination of the two sales would lead to that particular buyer receiving oil for more than a one-year period.

We see no reason why a company which bids and wins in one competitive sale should not be able to bid again the next year and again win the right to receive oil if it bids the highest price.

To await legislative approval for a competitive bid contract of one year or less would defeat the entire purpose of that type of short-term competitive sale.

The bill was amended in the House Finance Committee at the Department's request. See attached letter to Rep. Adams for additional background.

Attachments as stated

1621K

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES**

**DIVISION OF OIL AND GAS**

POUCH 7034  
ANCHORAGE, ALASKA 99510

March 5, 1985

The Honorable Al Adams, Chairman  
House Finance Committee  
Alaska State House of Representatives  
Juneau, AK 99811

Dear Representative Adams:

CSHB 103 (Oil and Gas), which relates to prerequisites for disposal of royalty oil and gas, is scheduled for a hearing tomorrow in your committee.

At the House Resources Committee hearing on February 25, 1985, the question was raised as to whether the proposed amendment in Section 2 of the bill would allow a competitive bid sale of one year or less to be continued or renewed beyond one year without legislative approval and without going to competitive bid.

While the language could possibly be interpreted to allow that outcome, I am informed by the Attorney General's Office that the case law on competitive bidding would preclude it, since a competitively-bid contract cannot be materially amended after it is awarded.


Nevertheless, we believe the bill could be improved and an unintended construction could be prevented by adoption of the following language for Section 2 of the bill (substitute beginning on line 14):

\*Sec. 2. AS 38.06.055(c) is amended to read:

(c) A sale, exchange, or other disposition of oil or gas [MADE] under (b)(1) of this section may not be continued after the end of one year or renewed with the same party [TO PROVIDE RELIEF FOR MARKET OR STORAGE CONDITIONS] without the prior approval of the legislature under (a) of this section. This subsection does not apply to contracts awarded to the same party in sequential competitive sales of oil or gas under (b)(1) of this section.

Thank you for your consideration.

Sincerely,

  
Kay Brown  
Director

cc: House Finance Committee Members  
Commissioner Esther C. Wunnicke