

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES,

1993-1994

1156

20

The proposed change is troubling from a philosophical standpoint as well as the more obvious financial one. As enacted in 1984, ARCA provided that railroad land was exempt from local property taxes just as other state land. As one balancing factor, the Legislature also authorized the corporation to lease its land to the state and its political subdivisions for less than fair market value. Acting as a good corporate citizen, the corporation has utilized this authority for local benefit by adopting (and applying) its Public Entity Lease Policy. This Board Rule specifies procedures to obtain such leases, and to issue nominal fee permits such as the Anchorage Coastal Trail. Indeed, ARRC has a considerable number of leases and permits to municipalities at little or no charge. Revoking the municipal tax exemption upsets this delicate balance and calls into question the railroad's financial ability to continue offering leases and permits to public entities at nominal cost.

Finally, it must be noted that municipalities already have the power to tax leasehold interests in ARRC property, as well as the buildings and other improvements owned by the lessees. Municipalities have a variety of techniques for assessing the value of such interests, some of which fail to recognize the full value of an exclusive right to possess ARRC property for up to 35 years. There is, therefore, an existing mechanism for increasing municipal revenues without making such a fundamental change to ARCA.

B. Restriction on Equity Participation in Non-transportation Activities. As originally enacted, ARCA envisioned a quasi-public corporation with broad powers to act in a manner similar to private business corporations and, equally important, to react quickly to market forces. Controls were built into the statutory scheme by requiring legislative approval for certain actions that were deemed to be of paramount public concern (AS 42.40.285) and by requiring an oversight report before the corporation could undertake significant expansion or reduction of services (AS 42.40.280). A further control mechanism was imposed by requiring Board of Directors' approval of certain actions (AS 42.40.120(c)), with the Board composed of political appointees and government officials presumably sensitive to public policy concerns.

CSSB 148 deleted the earlier bill's language which limited the exercise of all of ARRC's corporate powers to "the purpose of providing railroad and railroad related transportation services in the state." Instead, it requires the corporation to seek legislative approval before obtaining an equity position in a nontransportation activity. This is a more focused approach, and specifically targets the type of activity most recently found objectionable by some legislators and members of the public (i.e. hotel investment). While preferable to the earlier language, it will still raise interpretive difficulties. For example, some

legislators and legislative staff have already suggested contradictory applications of the bill's language to a current ARRC market opportunity, the potential landfill at Broad Pass, south of Nenana. Not only is this a good example of interpretive issues, but it also illustrates the necessity for prompt action in certain cases. It is unlikely that legislative approval could be obtained in the time frame dictated by "break-up" in Alaska. It is virtually impossible to foresee every possible market-driven opportunity that may be argued to fall within the restriction.

ARRC continues to believe that this limiting language is unnecessary. The corporation's Board of Directors will be considering very similar restrictions in a Board Rule proposed for its April 15, 1993 meeting. Under ARCA, Board Rules are analogous to state agency administrative regulations, and are adopted (and amended or revoked) with public notice and opportunity to comment. AS 42.40.180-.190. The Legislature should therefore feel assured that once adopted, such a Board Rule would not be changed without public scrutiny.

This section of CSSB 148 creates a cumbersome legislative approval process that will by definition inject political pressures and delay into the pursuit of a market opportunity. We believe this unduly hampers ARRC in pursuing its mission of self-sufficiency, as well as being unnecessary in light of the proposed Board Rule. ARRC recommends that this section be deleted from the bill.

C. \$10 Million Debt Limit. The bill requires legislative approval for the corporation to incur debt exceeding a total of \$10 million on an annual basis, or \$50 million cumulatively. Acquisition and maintenance of rolling stock, locomotives, construction and maintenance equipment, track structure and other railroad-related physical plant are excluded.

This section in CSSB 148 is much less onerous than the \$1 million debt limit that appeared in the original bill. A concern remains, however, as to the effect over time. Inflation and expanded operations could make the annual and cumulative limits unreasonable in light of cash flow and force ARRC continually to seek legislative approval or request an amendment to the statute.

Additionally, this provision could still impede ARRC's reaction in the event of an emergency, particularly if it should occur in a year with other substantial non-exempted debt incurred. ARRC is self-insured for up to \$10 million for property damage, and for \$5 million in general liability. A catastrophic event such as a fire or earthquake could create an immediate need to borrow in excess of the \$10 million limit. An environmental accident could have the same effect and ARRC's ability to mitigate the damage could be seriously delayed by the

necessity for legislative approval. For example, the Dunbar derailment near Fairbanks in May, 1990, cost ARRC approximately \$6 million. ARRC's lines of credit are available to be tapped in such events, but permanent arrangements must be made quickly to meet the corporation's ongoing risk management commitments and operational needs. As Dunbar illustrates, this scenario can easily arise outside the legislative session.

To the extent legislators are concerned that substantial corporate expenditures may be made without public oversight, it is important to note that ARRC's Board is accountable for such expenses in at least two very public processes. First, the corporate budget is considered and adopted at an annual public work session and Board meeting. Specific capital expenditures are discussed in detail at the work session, nevertheless, specific Board approval is required during the course of the year for such expenditures in excess of \$500,000. Approval can only occur at open Board meetings, notice of which is published in local newspapers.

Secondly, an unbudgeted capital expenditure of more than \$100,000 requires specific Board approval, which again can only occur at an open Board meeting. We therefore submit that adequate fiscal control exists under ARCA without the need for this legislation.

D. Conflict of Interest Law. CSSB 148 would subject ARRC's Board of Directors and chief executive officer ("CEO") to the state conflict of interest statute, AS 39.50, requiring them to file annual conflict of interest statements with the Alaska Public Offices Commission. These statements must include, among other things, all sources of income in excess of \$100, all business interests, and all creditors for over \$500. ARCA already requires a conflict of interest disclosure mechanism which has been created by adoption of Board Rule 14.² This disclosure requirement extends to individuals far beyond those required by AS 39.50, to directors and all non-union railroad employees. This is the case even though those same employees are not "state employees" (AS 42.40 710) and would not otherwise be subject to such a requirement. ARRC's disclosure statements for Board members, the CEO and vice presidents are public records and accessible to any legislator or member of the public.

We note that CSSB 148 removed the requirement that ARRC's vice presidents file APOC statements, and appreciate the committee's sensitivity to the concerns ARRC expressed. However,

²ARRC Board Rules that affect the public are analogous to state agency regulations and must, under AS 42.40.180-.205, be adopted with public notice and opportunity for public comment.

no compelling reason has been given for treating ARRC's CEO differently from the executive director of the Alaska Housing Finance Corporation or the president of the state university system, neither of whom appear to be required to file such disclosure statements. With the level and extent of disclosure already provided, ARRC believes that this section of CSSB 148 is unnecessary and redundant to provisions already contained in ARCA.

E. Exclusion of CEO from Serving as Board Chair or Vice-chair. ARRC does not oppose this provision of CSSB 148. For informational purposes, we have attached an outline of the composition of the current board of directors, describing the characteristics of the seat filled by each incumbent.

F. Open Meetings Act. CSSB 148 deletes the previous bill's language making ARRC subject to the state Open Meetings Act ("OMA"). It does, however, require the Board to provide for teleconferencing by members during legislative session. This appears to be a substantial departure from the OMA itself, which does not impose mandatory teleconferencing on other state entities. We must in good faith question the necessity of singling out a particular entity in this manner, and recommend that this section of CSSB 148 be deleted.

III. Summary.

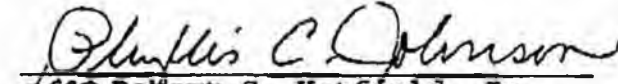
This bill presents a radical departure from a legislative philosophy that has withstood the test of over eight years of operation without seeking a legislative subsidy. The state's own analysts projected a continuing deficit for the railroad for at least 4-5 years after transfer, and legislative appropriations were fully expected to be necessary. However, the 12th and 13th Legislatures took great care in drafting ARCA, working for four years in a very public forum to create a corporation with the latitude and flexibility to respond to market conditions, subject to certain public oversight. Their foresight has borne fruit over the years. ARRC has never sought a legislative appropriation. Indeed, it has produced a profit in every year but one since transfer. One can hardly find a better example of prudently directed state investment.

This track record makes CSSB 148 particularly troubling with its restrictions on ARRC's ability to respond to market opportunities. Several of its proposals create a potentially significant impediment to ARRC's continued operations, at least on the same self-sufficient level as before. If this bill is enacted as proposed, ARRC will be forced to reconsider certain aspects of its operations that are not currently profitable. This could lead to elimination or state subsidy of marginal local

passenger services (e.g., Hurricane Turn, Whittier Shuttle). Interpreted strictly, it is clear that this legislation could render the railroad unprofitable, and relegate ARRC to seeking appropriations on an annual basis. The corporation could also be forced to increase revenues, either by raising rates or lowering some to attract increased overall volume.

In addition to the financial implications for both ARRC and the state, this legislation raises future interpretive issues that no amount of current drafting skill can completely eliminate. It is simply impossible to foresee every avenue of business opportunity that might someday present itself to ARRC and be argued to fall within the restrictions imposed by this bill. The corporation has demonstrated its awareness of legislative and public concerns with its commitment to adopt a Board Rule on the subject of investment in nontransportation activities. Adoption of such a rule should render this bill unnecessary.

Dated: 4-7-93


for Robert S. Hatfield, Jr.
President & CEO
Alaska Railroad Corporation

SB

149

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/22/93

FURTHER:

DATE TURNED INTO OFFICE: 3-23-93

The Finance Committee considered SENATE BILL NO. 149

"An Act revising the laws governing financial institutions and relating to trust companies, the Alaska Small Loans Act, and the Premium Financing Act; amending Alaska Rule of Criminal Procedure 17 and Alaska Rule of Civil Procedure 45(b); and providing for an effective date."

and recommends:

- replace with CS SB 149 (FINANCE)
- or adopt previous CS _____
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DC&ED	3/19/93	0	

Appropriation No Fiscal Note

DO PASS.

Gene Tack

Tim Kelly

Tim Kelly

OTHER RECOMMENDATIONS:

Steve Klein No Rec

Ben Whang - No Rec

1. Do Pass
 Co-Chair Signature/Recommendation

2. Do Pass
 Co-Chair Signature/Recommendation

FISCAL NOTE

No. 1

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill Version: SB 149

(S) Publish Date: 3-22-93

Revision Date: _____
 Title: Laws Governing Financial Institutions and
relating to Trust Companies, Small Loan Companies
 Sponsor: Senate Labor and Commerce Committee
 Requestor: Senate Labor and Commerce Committee

Department Affected: Commerce and Economic Development
 BRU: Banking, Securities, and Corporations
 Component: _____
 COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY 93) impact: _____

ANALYSIS: (Attach a separate page if necessary.)
 Has no fiscal impact on program.

Prepared by: Willis F. Kirkpatrick
 Division: Banking, Securities, and Corporations

Phone: 465-2521
 Date: March 19, 1993

Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Date: March 19, 1993

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adopted 3-22-93

SENATE FINANCE
COMMITTEE

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Eannister
3/22/93

Amendment Number: ①
Bill Number: SB 149
Sponsor: Kelly Date: 3/22
Logged In By: Bm

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 149

BY SENATOR KELLY

Page 58, following line 9:

Insert new bill sections to read:

"* Sec. 91. AS 06.45.020(c) is amended to read:

(c) At the time of presenting the articles of incorporation to the commissioner, the incorporators shall also submit proposed bylaws to the commissioner for approval. Except to the extent the articles of incorporation provide the structure and designate the offices, the bylaws shall provide the organizational structure of the credit union and specifically designate those offices that will be held by the executive or managing officers of the credit union. Copies of the original bylaws of the credit union and any amendments of the bylaws shall be filed with the commissioner.

* Sec. 92. AS 06.45.090(a) is amended to read:

(a) The business affairs of a credit union are managed by (1) a board of not less than five directors; (2) a credit committee of not less than three members; and (3) a supervisory committee of not less than three members or more than five members. The members of the board of directors [AND THE MEMBERS OF THE CREDIT COMMITTEE] shall be elected at the annual members meeting by and from the members. The supervisory committee shall be appointed by the board of directors, and a vacancy in the supervisory committee shall be filled by the board of directors. One of the members of the supervisory committee may be a member of the board of directors, other than the treasurer. The credit committee consists of an uneven number of three or more members appointed by the board of directors for the terms established by the bylaws. Members of the board of directors and of the credit and supervisory committees hold office for terms as the bylaws may provide.

* Sec. 93. AS 06.45.110(a) is amended to read:

(a) At its first meeting after the annual meeting of the members, the board of directors shall elect from its membership [A PRESIDENT, ONE OR MORE VICE-PRESIDENTS, A SECRETARY, AND A TREASURER, WHO ARE] the executive officers of the credit union.

* Sec. 94. AS 06.45.110 is amended by adding a new subsection to read:

(f) The board of directors shall appoint a president to act as chief executive officer of the credit union and to be actively in charge of the operations of the credit union.

* Sec. 95. AS 06.45.120(b) is amended to read:

(b) The board of directors shall

- (1) act upon applications for membership;
- (2) require an officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character to be determined by the board of directors in compliance with regulations adopted by the commissioner and authorize the payment of the premium by the credit union;
- (3) fill vacancies in the board of directors [AND IN THE CREDIT COMMITTEE] until successors elected at the next annual meeting have qualified;
- (4) have charge of investments other than loans to members; the board of directors may designate a committee of not less than two to act as an investment committee that [WHICH] has charge of making investments under rules and procedures established by the board of directors;
- (5) determine the maximum number of shares and share certificates and the classes of shares and share certificates that may be held;
- (6) subject to the limitations of this chapter, determine the interest rates on loans, the security, and the maximum amount that may be loaned or provided in lines of credit;
- (7) subject to regulations adopted by the commissioner, authorize an interest refund to members of record at the close of business on the last day of any dividend period in proportion to the interest paid by the members during the dividend period; and
- (8) provide for compensation of officers and employees.

* Sec. 96. AS 06.45.140(c) is amended to read:

(c) The credit committee may delegate to a loan officer the power to approve loans and lines of credit. [ONLY ONE MEMBER OF THE CREDIT COMMITTEE MAY BE APPOINTED AS LOAN OFFICER.] A loan officer shall furnish to the credit committee a record of each approved or unapproved application within seven days of the filing of the application."

Re-number the following bill sections accordingly.

Page 59, line 24:

Delete "91 and 92"

Insert "97 and 98"

Law Office of Jeff Bush
Senate Building
175 S. Franklin St., Ste. 318
Juneau, AK 99801
(907)463-4150
Fax: 463-4122

See Analysis

March 9, 1993

Robin Taylor
Chair
Senate Judiciary Committee
Alaska State Senate
Capitol Building
Juneau, AK 99801

Re: SB 149; Recodification of the Alaska Banking Code

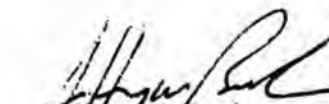
Dear Senator Taylor:

I am the attorney that was hired by the Division of Banking, Securities and Corporations to draft the recodification of the Alaska Banking Code. This bill was recently introduced by the Senate Labor & Commerce Committee, as SB 149, and referred to the Judiciary Committee. The purpose of this letter is to provide the committee with some back-up materials and to request that you consider scheduling a hearing on this important piece of legislation. This recodification project and the current bill, are strongly supported not only by the Administration, but also by the Alaska financial institutions.

Enclosed for your reference is a sectional analysis of the bill. Also enclosed is a draft set of regulations, which would be adopted by the department once the new code is enacted.

If you have any questions about the bill, the sectional analysis, or the draft regulations, please feel free to contact me or Willis Kirkpatrick (465-2521). Thank you for your consideration of this request.

Sincerely,


Jeffrey W. Bush
Attorney

Senator Taylor, March 9, 1993, page 2

enclosures: Sectional Analysis
Draft regulations

cc: Willis Kirkpatrick, Director
Division of Banking, Securities and Corporations

SENATE BILL 149
RECODIFICATION OF THE ALASKA BANKING CODE
SECTIONAL ANALYSIS

Section 1. Technical change. Alaska no longer issues a "charter," so references to that term are eliminated throughout the statutes.

Section 2. Technical change.

Section 3. This is current AS 06.05.025 and 06.05.040, mostly with minor technical changes. Recognizing that examiners should not be precluded from merely investing in banks, we have changed the provisions to allow an examiner to own up to 5% of the voting stock of another institution; this will allow simple investments but will not permit an examiner to have a controlling ownership interest in a bank.

Since the department examines all financial institutions, not just banks, the provisions relating to exams have been moved to AS 06.01, the chapter that applies to all financial institutions.

Section 4. Changed to bring the section up to date, given that the list of federal agencies in the current statute is inaccurate. The change will make the statute apply regardless of what changes occur in the future to the names of the federal agencies.

Also, at the banks' request, "corresponding" was removed in (2) to allow the department to equalize competition between financial institutions regardless of what they are called.

Section 5. Current AS 06.05.060(a) and (b). Only change is to clarify that this section applies only to records relating to financial institutions, not all records of DCED.

Section 6. (a) - (d). New cease and desist provisions, to more accurately set out the procedure used by the department; existing law has been confusing. These new subsections are generally taken from the FDIC Act (12 USC 1818(b)(1)) and the Alaska Securities Act (AS 45.55.200(a)), both of which have proven track records. (d) will permit the department to issue temporary orders before a hearing, to ensure preservation of the status quo (like a TRO).

(d) Current (b), amended to make it clear that public hearings need not be held in cease and desist proceedings.

(e) Current (c) & part of (d), without substantive change; the rest of (d) has been moved to Section 8 of the bill.

(f) Current (e).

(g) Defines "unsafe or unsound practice."

Section 7. This section consolidates all penalty provisions from AS 06 relating to financial institutions. Existing penalty provisions, scattered throughout the code, are repealed in this bill.

(a). The criminal sentences on individuals are generally kept

the same as in current law. However, this will raise the potential corporate sentences from the current \$20,000 (\$1000 for trust companies) to \$200,000, under AS 12.55.035(c)(B). This subsection supersedes current AS 06.05.065(e), 06.05.090(c), 06.05.210(b), 06.05.235(d), 06.05.520, AS 06.20.320(b), and AS 06.25.320.

(b). Supersedes current AS 06.40.160(b).

(c). This is consistent with current AS 06.05.380(c), 06.05.500, and AS 06.25.060; current AS 06.05.510 seems to make it only a misdemeanor for the same violations, but a single consistent penalty is more appropriate in all these cases. Supersedes current AS 06.05.380(c), 06.05.500, 06.05.510, AS 06.25.060, 06.25.070, and AS 06.45.320.

(d). Penalizes receiving a deposit after being notified by the state or federal regulators that the institution is insolvent. Under the Credit Union Act, this is currently a Class A felony (AS 06.45.330). The general criminal law makes defrauding creditors a misdemeanor for up to \$500, a Class C felony for \$500 to \$25,000, and a Class B felony for more than \$25,000 (AS 11.46.730(c)). We have decided to go with the Class C felony for these cases. Supersedes AS 06.05.490 and AS 06.45.330.

(e) and (f). For intentional violations of the code or the department's orders; taken from Securities Act, AS 45.55.200(b). Note that (e) also applies to people who cause others to violate the code or department orders. A person assessed an administrative penalty would have a right to a hearing under AS 06.01.030. The differential rates for institutions as opposed to individuals is common in other states. See FL and OR below. For point of reference, here is a summary of what some other states allow for administrative fines:

IN allows up to \$15,000 per violation (sec. 28-11-4-9).

GA allows \$1000 per day per violation, until corrected (sec. 7-1-91).

OR allows \$2500 per violation for individuals, \$50,000 for institutions (sec. 708.980).

FL allows \$10,000 per day if the violation is due to recklessness; and \$50,000 per day for individuals and \$500,000 per day for institutions if the violation is intentional (sec. 655.041).

By the way, the FDIC penalties are also very high -- \$25,000 per day for reckless actions, up to \$1 million per day for intentional violations (12 CFR 308.116).

(g). For non-intentional violations, taken from AS 45.55.200(c); also applies to those who cause others to commit a violation.

(h). Supersedes AS 06.01.010(c) and AS 06.05.505. These figures seem consistent with those used in other states. However, for late call reports the FDIC uses a sliding scale based on the size of the institution and whether the conduct is repetitious, charging from \$100 to \$2000 per day (12 CFR 308.132).

(i). Current AS 06.05.065(e).

Section 8. This is part of current AS 06.01.030(d), which is moved

because it did not belong as part of the section on departmental orders.

Section 9. This section lists most of the department's powers with respect to banks. To the extent the list refers to powers contained elsewhere in the code, the reference here is unnecessary, but it does offer a relatively comprehensive laundry list. In addition, (b)(13) and (14) give the department essentially unlimited authority to issue orders to get compliance with the code.

Current AS 06.05.005(3) has been repealed; neither the department nor the banks could determine what it meant or what was its purpose. Some current sections have been repealed elsewhere and included in this section. They are

(a)(2). AS 06.05.070 is repealed, and here it simply states that the department will provide for bank records retention through regulations.

(b)(1). Current AS 06.05.030, although we have removed the authority of the department to relieve a bank from the examination fee; this seemed appropriate given that fees for specific exams have been replaced with an assessment system. See AS 06.01.010(d).

(b)(6). Current AS 06.05.005(2).

(b)(7). Includes current AS 06.05.015. In (J), we have added authority to require loan loss reserves for loans classified as "doubtful." We also eliminated reference to "FDIC" exams and substituted "federal" exams, to include the Federal Reserve Bank.

Section 10. Amended to make the reporting requirements as to signatures consistent with FDIC requirements, so that the same reports can be used by the banks for both state and federal agencies.

Section 11. Here and in Section 12 of the bill, references to state "charter" have been removed as obsolete. Also, we removed reference to "lending" institutions to make the terminology consistent with that used in the rest of the code.

Section 12. Adds an exemption for mortgage loans existing at the time of hire. This section will no longer disqualify a person from working as a bank examiner if the person has a home mortgage loan with a state bank.

Section 13. Amended to clarify that all actions of the department under this chapter, not just the adoption of regulations, are designed to promote a sound banking system.

Section 14. These changes are primarily stylistic, to clarify the section's meaning.

Section 15. Amended to provide that the notice of charges for new accounts need only be provided where accounts are opened; for example, there is no reason to require this at a bank's automated

teller machine (ATM).

We will also clarify in regulation that "clearly post" can include using pamphlets or brochures, provided they are easily accessible and there is some notice or sign indicating their location.

Section 16. The phrase in current statute, "the extent necessary to meet the needs of customers," might be interpreted either to mean "to meet existing orders" or "to meet anticipated demands." This change, proposed by the banks, clarifies the meaning.

Section 17. The repealed language is all contained in other subsections -- the three day maximum closure is now contained in (e); the branch bank variance is now in (f). See Section 19, below. The reduction of necessary prior notice of a holiday closure, from 15 to 7 days, was done at the request of Northrim Bank.

Section 18. Many stylistic changes. We changed the notice requirement to be before closure, if possible, and otherwise as soon as possible after closure. Also, we removed the requirement that the Comptroller of the Currency be notified of these closures -- that is a matter that should be left to the comptroller and federal regulation. Finally, at the suggestion of First Bank, we clarified the final sentence in the subsection.

Section 19. (d). This is new, to cover the Key Bank "neighborhood day" situation.

(e). Currently in (a). The three day maximum closure applies not only to holidays, but also to board declared closures, but it does not apply to branch banks operating under a department approved different schedule.

(f). Currently the last sentence in (a).

Sections 20 & 21. At the request of the banks, we have changed this statute to clarify that bank records need not be released pursuant to subpoena. Given that subpoenas can be obtained routinely from the court clerk without judicial review, to permit release of the info in response to a subpoena would amount to an elimination of any customer confidentiality, and has resulted in a huge burden on the banks.

Section 22. This is new, also at the request of the banks. The current cost of responding to information requests is very high, and it is reasonable to provide the banks with reimbursement for these costs.

Section 23. First, the subsection is modified to apply to all banks -- the distinction of "commercial" banks is meaningless in Alaska law, and there was no reason for the exception for members of the federal reserve system. Second, the subsection has also been changed to provide that reserve requirements will be set by

regulation be based on the bank's liquidity needs (rather than as a means of protecting against capital impairment). There has been confusion in the past over the purpose of the reserve requirements. It should be noted that the Comptroller sets reserve requirements in federal law, but those requirements are not based on a bank's liquidity needs, but rather as a method to manipulate the supply of money in the U.S. Finally, we have changed "reserves" to "reserve fund" to avoid confusion with loan loss reserves.

Section 24. This change will give the department more discretion in regulating problem banks. If a bank falls below the reserve requirements, it will not automatically be prohibited from making loans or paying dividends -- that will be up to the department.

Section 25. This adopts the general lending limits used by the Office of the Comptroller of the Currency (OCC). The definition of "fully secured" will be put in regulation, probably requiring collateral equal to 100% of loan balance. The list of transactions not included in these calculations is generally taken from current subsection (b), with an addition in (3) of loans collateralized with assigned deposit accounts. This list is generally more liberal than OCC regulations, except for the requirement that cannery products and products in transit be insured to be exempt. The definition of "products in transit" in (4) is taken directly from current regulation and is not a change in current law.

Section 26. Amended to make loans unconditionally guaranteed by the state, such as AIDEA, also not count toward the loans to one borrower limitations.

Section 27. Expands the prohibition for bank loans to include loans collateralized by stock of any of the bank's holding companies, unless the stock is publicly traded, and to unsecured loans used to purchase stock of either the bank or its holding companies. Adds an exception to this rule for situations of bank acquisitions or mergers, with department approval.

Section 28. (g). New provision allowing the department to adopt regulations defining when a loan made in the name of one person or entity will be attributed to another for purposes of calculating the lending limits in this section. This is taken from the recommendations of Montana's advisory committee that reviewed that state's banking code.

Section 29. (a). Combines existing (a), (c), and (d). Specific loan-to-value (LTV) and term restrictions have been eliminated and replaced with a requirement that real estate loans be made consistent with sound bank policies. Also, the section's application is expanded to apply to all loans where the primary security for the loan is real estate, not just those on improved real estate; thus, current (e) and (f) were eliminated along with AS 06.05.206 and AS 06.05.211. Existing (g) has been eliminated as

obsolete.

(b). From current subsection (b); changed to apply to all junior liens, not just seconds.

Section 30. Several changes are proposed to this subsection. First, we clarify that all normal lending restrictions apply to loans to directors, officers and bank employees, in addition to the specific limitations of this section. Second, directors are added to those subject to this section. Third, the threshold for application of the section is raised to \$100,000 in the aggregate, and up to \$250,000 for personal primary residences of directors, officers and employees. We have also repealed the final sentence, since loans are defined in AS 06.05.540 to include overdrafts, making this sentence unnecessary.

There has been some confusion in the past whether a bank's board of directors could act through a committee for the approval of these loans. AS 10.06.468, incorporated under this act, would allow this, except for loans to directors which would still require full board approval.

Section 31. This subsection has been amended to remove specific LTV and term restrictions, and make these loans generally subject to the same restrictions as all real estate loans under AS 06.05.207.

Section 32. Changed to make this merely a prohibition; penalties are provided in AS 06.01.035 for all violations of the code, including this section.

Section 33. This section has been confusing and somewhat controversial in the past. We have rewritten it to make sense. The standard adopted here - knowingly or with gross negligence - is strongly supported by the banks, because they feel that a simple negligence standard might discourage people from becoming bank directors.

Section 34. This section probably could be repealed, since federal law arguably preempts the state law. (We have repealed AS 06.05.220 for this reason.) However, for clarity, this section is left in. The reference to AS 06.05.220 has been changed to refer directly to the applicable federal statute.

Section 35. The section currently is incorrect in its reference to "real estate," since it actually applies to both real and personal property, so this has been fixed. Also, the section has been broadened in several respects, to allow a bank to hold

1) property used for promotional purposes, such as a boat; of course, any asset so held will have to be used exclusively for bank purposes;

2) a building in which bank offices are located, even if only a portion of the building is used for the bank (this is already being done by several Alaska banks, arguably in violation of present law); and

3) real estate for future expansion, subject to prior department approval.

As for the reference to bank building corporations, these are now covered under the section relating to subsidiaries, AS 06.05.272.

Section 36. Conforming amendment only.

Section 37. Conforming amendment, since provisions relating to out-of-state bank holding companies (BHC's) have been moved to new AS 06.05.570.

Section 38. We have added a permitting system for all bank holding companies that wish to purchase a bank or bank holding company doing business in Alaska.

Section 39. Conforming amendment.

Section 40. New subsection, taken from current 3 AAC 02.910(b). This provides for an exemption to the normal rules applicable to BHC's, and it is more appropriate for the exemption to be in statute, rather than regulation.

Section 41. Technical changes to make it clearly consistent with AS 06.05.205.

Section 42. Technical changes to make the language consistent with AS 06.05.230.

Section 43. There are several proposed changes to this section. The amendments add an exemption from borrowing limits for repurchase agreements; raise borrowing limits without necessary department approval from 100% of capital and 50% of surplus to 15% of assets -- this will be an approximately 50% increase in the limit for most banks (this new standard, 15% of assets, is currently used in the Mutual Savings Bank Act, AS 06.15.180(2)); remove a redundancy regarding borrowings approved by the department; and finally, the adjective "unimpaired" is meaningless and confusing, and is therefore removed.

Section 44. In (2), the change clarifies that when a bank pledges property for a mortgage, the pledged property must be the subject of the purchase transaction. Also adds a new paragraph (3), as suggested by several banks, to permit a bank to pledge assets to a federal reserve bank or a federal home loan bank. This language was taken from WY, sec. 13-3-203. (However, such borrowings will still be subject to limitations of AS 06.05.255.)

Section 45. This is current AS 06.05.485. The second sentence was added to clarify that this section does not prohibit a bank from issuing warranty deeds.

Section 46. This bill repeals the list of specific permissible bank investments in statute. These specific investments, as well as others that may be appropriate, will now be set out in the regulations. This is important, because new investment opportunities seem to come up frequently, and requiring the department to get legislation passed each time has proven burdensome and unpredictable.

Section 47. (a). Adds a provision to permit banks to have subsidiaries, in most cases subject to department approval. The department intends to approve limited underwriting activities, probably on a case-by-case basis. "Subsidiary" is defined in AS 06.05.540 to be corporation more than 50% owned by the bank.

(b). Sets a limit on the amount a bank may invest in subsidiaries, and clarifies that a bank may not use its lending authority to avoid the investment limits.

(c). Makes it clear that subsidiaries are subject to examination.

Section 48. Clarifies that these are alternative requirements.

Section 49. (a). Makes the Alaska Corporations Code applicable to banks.

(b). Sections of the Corporations Code that are inapplicable to banks are as follows:

AS 10.06.010(4-8). General corporate powers, specifically limited here and elsewhere for banks.

AS 10.06.105(a). Requires a corporation to have "inc.," ltd." etc. in its name.

AS 10.06.325, 10.06.385 - 10.06.388, & 10.06.420(i). Deal with redemption of shares; This revised banking code sets up specific provisions for stock redemption in AS 06.05.320.

AS 10.06.356. Permits shares to be held by nominees. This is inconsistent with the philosophy behind AS 06.05.450, that all shareholders and the department have a right to know all shareholders of a bank.

AS 10.06.358 - 10.06.360. Dividends; covered by AS 06.05.440 - 06.05.445.

AS 10.06.370. Specifically applies only to regulated investment companies.

AS 10.06.430. Provides that the "books and records of account" of a corporation must be available for inspection by shareholders. To avoid anyone misinterpreting the code to allow a shareholder to see a bank examination, this was excluded.

AS 10.06.453. Provides that the number of directors may be one or more, and if not designated, three. Current banking code (AS 06.05.435) requires at least five directors, and we have retained that in this recodification.

AS 10.06.460(b). Restricts reasons a director may be removed. We have provided for removal of bank directors by the department.

AS 10.06.481. Loans to directors, officers and employees; already covered in AS 06.05.210.

AS 10.06.522 - 10.06.526. Reorganization of corporations in bankruptcy; this is covered for banks under liquidation provisions.

Article 8 (AS 10.06.530 - 10.06.582). Organic change (mergers, etc). These are covered under AS 06.05.462.

Article 9 (AS 10.06.605 - 10.06.678). Dissolution; covered under the liquidation article.

Article 10 (AS 10.06.705 - 10.06.788). Foreign corporations; covered under new article on interstate and international banking.

Article 11 (AS 10.06.805 - 10.06.868). Biennial reports and corporate tax. Banks pay an assessment under AS 06.01.010 and are subject to annual examination and frequent reporting requirements.

AS 10.06.863. Appeal of foreign corporation to Superior Court for revocation of certificate of authority; all appeal processes for banks will be handled under AS 06.01.

AS 10.06.865 & 10.06.915. Appeal to commissioner for refusal or cancellation of certificate of authority; all appeal processes for banks will be handled under AS 06.01.

AS 10.06.960. Applies only to native corps.

AS 10.06.990(30) & (36). Definitions for "paid in capital" and "retained earnings"; we have provided definitions for all aspects of a bank's capital accounts in AS 06.05.540.

Section 50. (a). Raises minimum capital requirements to \$2 million for banks in Anchorage and Fairbanks, \$1 million for other communities (to allow possible formation of small community banks). However, this clarifies that these are absolute minimums, and that the actual requirements will be set in each case by the department. (At present, all Alaska banks have capital amounts far greater than these minimums.)

(b). To the extent this may be interpreted as inconsistent with AS 06.05.320, we have amended that section to allow stock redemptions if approved by the department. Otherwise, technical amendments only.

(c). Technical amendments only.

Section 51. Present AS 06.05.310 provides for an assessment of shareholders procedure that the department may purportedly order when a bank's capital is impaired. Since this process is essentially unenforceable and, in our experience, unreasonable, this assessment procedure is repealed here and replaced with a simple process for the department to order a bank to increase capital, in whatever manner the bank chooses. This new section is taken from Indiana (sec. 28-13-4-7).

Section 52. Changed to permit bank stock redemptions with departmental approval.

Section 53. Changed to require prior department approval before any significant change in bank ownership or before a change in bank control.

Section 54. Clarified to ensure that all stock sales are subject to

this requirement, not just those at the corporate formation stage.
[Note to Revisor: Please amend section title accordingly.]

Section 55. Present AS 06.05.345 is split; new AS 06.05.344 deals with the application for approval process, while AS 06.05.345 retains the provisions relating to articles of incorporation.

(a). Current AS 06.05.345(c). Clarifies that prior approval of director for bank plan is required before articles of incorporation will be issued. Also eliminates requirement for triplicate filing of articles (also changed in (h)).

(b). Current AS 06.05.345(d). The amount that an applicant must submit to the department has been doubled to \$2000; this will afford the department a bit more protection, assuring a better chance of repayment of its costs. Current amounts charged have been in statute at least since 1978 and need raising. By way of comparison, OR charges a non-refundable \$2500 (sec. 707.070).

(c). Current AS 06.05.345(e).

(d). Current AS 06.05.345(f).

(e). Current AS 06.05.345(g).

(f). Current AS 06.05.345(h). Change to (4) is designed to clarify that the capital requirements are those set by the department. Otherwise, one technical change, and one other change to not duplicate the Corporations Code.

(g). Current AS 06.05.345(i).

(h). Current AS 06.05.345(j).

Section 56. Changed to incorporate the Corporations Code, and then eliminates requirements already covered by that code. Also, (2) is clarified to make sure that no-par stock is not allowed, and (3) is clarified to allow articles to say "5 to 25" directors, instead of giving a specific number.

Section 57. Allows amendment of articles by a majority of shareholders, or more -- this is consistent with the Corporations Code, AS 10.06.504 - 10.06.508. As for filing amendments to articles, these will be done in the manner provided in the Corporations Code.

Section 58. Amended to clarify that certificate of incorporation comes first, certificate of authority later. Incorporation allows a bank corporation to set up a facility and get subscriptions paid in, but not to do any banking business. AS 06.05.395 has been merged with this subsection.

Section 59. (b)(1). This is the same as AS 06.05.380(b); the latter has been repealed. Also, the department does not require a bank to carry a specific amount for undivided profits, so that has been removed.

Current (b)(4). This is repealed because we will no longer be requiring FDIC insurance in all cases. See Section 61.

Section 60. Current AS 06.05.480.

Section 61. Changed to make FDIC insurance optional, at the department's discretion. This is primarily designed to allow for the formation of small community banks, and to allow other banks to use alternative insurance if it becomes available. [Note to Revisor: Please correct title to this section.]

Section 62. Conforming amendment.

Section 63. (a). Most of the requirements of this section that are deleted are covered in the Corporations Code, particularly AS 10.06.223.

(b). Provides that the executive offices of the bank must be designated in the articles or bylaws, and a current copy of the bylaws must be kept on file with the department. We are eliminating any definition of executive or managing officers from the code.

Section 64. These are almost all technical changes, except for (f)(3), which is eliminated because we are eliminating the requirement for FDIC insurance. As for (a), the amounts have been raised for processing an application -- see comments to new AS 06.05.344 in section 55 of the bill. The definition for "mobile facility branch bank" is taken from 3 AAC 02.910(a)(5).

Section 65. ATM's will no longer be subject to general branching laws; there is no reason that the lengthy application process for a branch should apply to a bank's opening of an ATM.

(a). Permits banks to set up wholly-owned ATM's in bank offices without department approval; these machines may be exclusively for use of the bank's customers.

(b). Permits a bank to establish a wholly-owned ATM outside the bank with prior approval of the department; these machines must be made available to other banks.

(c). Simplified application process for ATM's that are off bank premises, generally taken from Arkansas sec. 23-32-1304.

(d). Permits bank to invest in an ATM corporation (like Options). These operations will not be directly regulated by the department, although the investments themselves will still be subject to safety and soundness considerations upon examination.

Section 66. Repealed language will permit staggered terms for bank directors like that provided in the Corporations Code, AS 10.06.455.

Section 67. Added language will allow the qualifying minimum amount of stock that a director must own to be jointly held, and will allow the department to approve other situations when a director need not meet the minimum ownership requirements, such as where the bank is wholly owned by a bank holding company.

Section 68. (f). From current AS 06.05.437(b).

(g). New, to give department authority to remove or object to

certain persons as directors. Taken generally from FL and GA.

Section 69. (a). Repealed language is covered by AS 10.06.483(b). Second sentence is amended to allow the board to pick the best possible person for CEO of the bank, even if that person is not on the board; if the bank chooses a non-board member as CEO, that person becomes an ex officio member of the board, to make sure he/she is kept aware of what the board is thinking and doing.

(b). We moved the requirement to report changes in directors to the previous section, which deals specifically with directors.

Section 70. Although the department cannot actually order that an employee of a bank be fired -- that is the sole responsibility of the board -- this subsection will allow the department to essentially recommend an employee's removal, if necessary; if the board refuses, the directors risk personal liability should damages occur thereafter due to the fault of the employee. This change was recommended by the Conference of State Bank Supervisors (CSBS).

Section 71. Minor change to clarify that board meetings are held for many purposes, not just to investigate the affairs of the bank.

Section 72. (e). Allows teleconference board meetings; taken from the Corporations Code, AS 10.06.475(a).

(f). Present AS 06.05.238.

Section 73. Clarifies that dividend distributions are subject to possible restrictions under AS 06.05.307(c).

Section 74. Generally just technical changes; clarifies that requirements of this section are in addition to those in AS 06.05.442.

Section 75. Changed to allow a bank, with department approval, to carry a negative balance in the undivided profits (U.P.) account, and prohibits dividends until this negative U.P. account balance is replaced and the surplus account is fully restored.

Section 76. This section has been combined with AS 06.05.443.

(a). Currently the first part of sec. 443.

(b) (1). Current sec. 443(1) and (2); there was no reason for a one-year provision for judgments, so this was eliminated. This is consistent with departmental powers in AS 06.05.005(b)(8)(K).

(2). Current sec. 445(1); the reference to "debt" is changed to make it clear that this refers to money owed to the bank, not by the bank.

(3). Current sec. 445(2).

(4). Current sec. 443(3).

(5). Current sec. 445(3); under this proposal, stock may also be carried at market value, rather than par.

(6). Current sec. 443(4).

Section 77. Modernized to allow for the maintenance of this record of shareholders in a form other than a book. Also, clarifies that inspection of the record is available for the department, while shareholders will have access to a list of current shareholders. Before each annual meeting, the bank will also need to comply with AS 10.06.413, which requires preparation of a list of shareholders, including names, addresses and numbers of shares owned.

Section 78 - 80. Technical amendments only.

Section 81. AS 06.05.466 currently set out a procedure for dissolution of a bank before issuing a certificate of authority. The proposed revisions to this section retain the same grounds for dissolution in these situations, but permit such a dissolution to be effected as with any other corporation under the Corporations Code.

Section 82. (a). This is generally taken from current AS 06.05.470(a), although it has been expanded to clarify that the department may close and take possession of a bank for violations of the banking laws or orders of the department.

(b) - (c). This clarifies the process for bank takeovers by the department. Under the Supreme Court's decision in Hoffman v. State, ___ P.2d ___, No. 3845 (Alaska May 29, 1992), an opportunity for hearing must be provided to interested parties before a bank may be liquidated by state or federal authorities. Since, as a general rule, it is in the best interest of the public and depositors to minimize the time a bank is closed when it is being liquidated/transferred, the procedure set out in these subsections provides for hearing at the time the department first identifies the bank's problems and confronts the board with them.

(d). This is present AS 06.05.470(d); however, we have reduced the time allowed to request a hearing to two days, to expedite the process and enhance the chances that the bank will be reopened.

Section 83. Repealed language is now contained in sec. 468(c).

Section 84. Clarifies that transfers in anticipation of department takeover for whatever reason, not just due to insolvency, are voidable. New language is taken from current AS 06.05.495, which is repealed.

Section 85.

AS 06.05.471. This section is essentially just a recodification of current AS 06.05.470(f), (j) and (k).

AS 06.05.472. Recodification of current sec. 470(1) - (n). In (a)(1) and (2), the values were raised from \$10,000 to \$100,000, because the FDIC has complained that the lower amount requires frequent, unnecessary court appearances. In (a)(3), also at the request of the FDIC, the provision was changed to allow a receiver to make partial distributions before a final accounting is prepared.

AS 06.05.473. Existing sec. 470(j) - (y), generally with only technical amendments.

(c). Present sec. 470(p) and 465(f), but modified to allow the department to turn over unclaimed property and safe deposit box contents to the Department of Revenue under the Unclaimed Property Act at the conclusion of the liquidation, rather than having to hold the property for five years.

(g). Clarifies that secured claims based on pledged assets under sec. 260 fall behind the general depositor preference.

AS 06.05.474. Current sec. 470(z).

Section 86. Many of these definitions are taken from the existing code. Ones that have been changed, or are new, are

(1). Taken from 3 AAC 910(a)(1).

(3). Changed to make the definition primarily focus on accepting deposits (the first part of the definition was generally taken from OR and ID); the rest of the section was updated to remove archaic language.

(4). Changed to take out internal references to "branch" that make the existing definition circuitous, and exempts ATM's from the definition.

(5). All aspects of a bank's capital are defined in this section, to remove the ambiguities that exist in current law. This definition of "capital" is generally taken from IN.

(6). From 3 AAC 02.910(a)(9).

(10). From current AS 06.05.235(h)(1).

(12). From AS 06.01.050(3).

(14). From OR, sec. 711.305 and AS 06.05.305(a).

(15). Loosely adapted from OR, sec. 711.405; (A) and (C) are the two traditional definitions for insolvency - see Annot. 81 ALR 1160.

(16). Defines "international bank" as a bank that is from outside the United States.

(17). Defines "interstate bank" to include any bank chartered in a state other than Alaska and national banks operating outside Alaska.

(18). From IN, sec. 28-1-13-1.2, with some modifications; note that it includes guarantees, overdrafts, letters of credit and loan commitments.

(19). From WY, sec. 13-1-101(a)(xii).

(20). Current AS 06.05.235(h)(2), amended to exclude international bank holding companies from the requirement that they be registered with the federal government.

(21). Current AS 06.05.235(h)(3).

(22). Changed to remove the reference to charters, which no longer exist in Alaska.

(24). In conjunction with new AS 06.05.272, proposed in this bill, this will allow banks to operate subsidiaries that are not directly in the banking business. This definition is taken from the Alaska Corporations Code and is the same as that used by the FDIC.

(25). Current law does not define the essential elements of

capital, which has caused some confusion in the past. This bill simplifies the terminology and makes it consistent throughout, and then all terms used are defined here.

(27). Defines when a bank will be deemed to be in trouble.

Section 87.

The new article on interstate and international banking is loosely inspired by NY, IL and GA law. However, we have tried to think of what is specifically needed and desired in Alaska.

AS 06.05.550. (a). Authorizes international and insured non-Alaska banks to branch by purchasing existing Alaska institutions. "Interstate," "international," and "recently formed" banks are defined in AS 06.05.540. Note the FDIC requirement for non-Alaska US banks; OR has a similar requirement. For international banks, there is provided an in-state asset requirement -- see next section. Much of this is taken from IL and NY.

(b). Authorizes international banks, but not interstate banks, to de novo branch.

(c). Guarantees that interstate and international bank branches enjoy the same rights as other Alaska financial institutions; taken from NY.

AS 06.05.555. Application process for interstate and international banks. These provisions are generally taken from AS 06.05.399, the department's procedure for branch bank applications. Thus, these applications would be handled in the same general manner as other branch applications.

(d). Requires reciprocity for banks from other states, but not for international banks (taken from NY).

AS 06.05.560. (a) and (b). Requires an international bank operating a branch in Alaska to maintain assets in this state sufficient to cover all depositors. This section is taken from OR sec. 713.025.

(c). Provides that if the department takes over one of these branches, the in-state assets will be liquidated under the general liquidation statutes; inspired by IL law.

AS 06.05.565. (a). Essentially same as current AS 06.05.367, which is repealed.

(b). Requires branch to meet general reserve requirements applicable to state banks under AS 06.05.700, but allows appropriate assets held for purposes of the minimum asset requirements of preceding section to be applied to this requirement as well.

(c). Provides that these branches will be subject to normal assessments for exams, but the assessment will be based on the branch's deposits, rather than its assets (since it is impossible to determine how much of the assets of a multi-state or multi-national bank are attributable to the Alaska branch).

(d). Provides that the parent interstate or international bank may be examined to protect Alaska's interests, in much the same manner as an out-of-state BHC can be examined.

AS 06.05.570. This is presently part of AS 06.05.235.

(a). Currently sec. 235(e). We have added a permitting system

for all bank holding companies that wish to purchase a bank or bank holding company doing business in Alaska.

(b). Currently sec. 235(f).

(c). Taken from 3 AAC 02.910(b).

Section 88. This amends the exemption from the small loan act for pawnbrokers from \$200 to \$500. The current figure dates back at least to 1981, and inflation makes a higher limit now appropriate.

Section 89. This has been changed to clarify that the provisions of the banking code apply to trust companies engaged in the business of banking.

Section 90. Technical amendment.

Sections 91 and 92. Makes the Corporation Code applicable to banks.

Section 93. Conforming amendment.

Section 94. Clarifies that the Consumer Protection Act, while exempting transactions regulated under AS 06.05, applies to all other bank transactions, and in particular those between banks and their customers.

Section 95. Technical amendment.

Section 96. Repealers:

AS 06.01.010(c). Now covered by AS 06.01.035(h).

AS 06.05.015. Included in new AS 06.05.005(b)(7).

AS 06.05.020. (a). All covered elsewhere in the code.

(b). The first sentence is already covered by AS 06.01.030 (in this bill, subsection (f)). The rest duplicates common law, except for the last sentence, which is a labor law issue and should not be in the code.

AS 06.05.025. All provisions relating to examinations are now in AS 06.01. This section is contained in AS 06.01.015.

AS 06.05.030. Moved to AS 06.05.005(b)(1); see notes to that provision.

AS 06.05.035. Already covered by AS 06.01.010.

AS 06.05.040. Moved to AS 06.01.015(a).

AS 06.05.055. Some of the information ((1) and (2)) is already essentially done, through the governor's legislative requests, and the rest either is unnecessary for legislators or is public information. This is an expensive annual exercise for the division (estimate is 30 person-days) that is unnecessary.

AS 06.05.060. (a) and (b). Moved to AS 06.01.025, to apply to all financial institutions.

(c). Already covered in AS 09.25.110.

AS 06.05.065. (d) and (e). Included in comprehensive penalties section, AS 06.01.035.

(f). Definition no longer used in the code.

AS 06.05.070. Most of this section is obsolete. We have

repealed it and simply provided in AS 06.05.005 that the department will adopt regulations for records retention (which it has already done in current 3 AAC 02.010).

AS 06.05.080. Already established in Alaska case law.

AS 06.05.085. Already covered by Alaska case law.

AS 06.05.090(c). This is included in comprehensive penalties section, AS 06.01.035.

AS 06.05.130. This section is essentially superseded in substance by the UCC, AS 45.04.406.

AS 06.05.175(c). This is already covered; any violation of the code is subject to discipline and/or enforcement action under AS 06.01.

AS 06.05.185. The sections relating to trust companies (AS 06.05.185 - 06.05.195) are obsolete and are therefore repealed. These provisions are already covered in the trust company act, specifically AS 06.25.085.

AS 06.05.190. See note to previous section

AS 06.05.195. See note to repeal of AS 06.05.185.

AS 06.05.200(b) and (c). These are procedural matters that will be put in regulations. Also, the permissible list of deposits will be expanded to include deposits held by the Federal Reserve Bank and the Federal Home Loan Bank, to make the regulations consistent with current practice.

AS 06.05.205. (a). By regulation adopted under AS 06.05.438(c), a requirement will be inserted that when lending reports are made to the board, all loans over a specified amount (higher than \$25,000 - probably \$100,000) will be specifically identified.

(e). Already covered under sound lending practices.

(f). Obsolete.

AS 06.05.206. All special statutory restrictions on real estate loans are repealed in this draft of the code, except those still remaining in AS 06.05.207. Leasehold and development loans are now covered by that section.

AS 06.05.208. This section is covered by AS 45.10.120(c).

AS 06.05.210(b). This is repealed and the substance moved to the comprehensive penalties section, AS 06.01.035.

AS 06.05.220. Already covered by federal law.

AS 06.05.232. The code has been drafted to provide that only a bank's subsidiary can enter into these types of leases. Thus, the section is repealed here, and a broad authority to enter into leases is included in new AS 06.05.272.

AS 06.05.235. (c). Already covered in powers of the department to adopt regulations.

(d). Covered by comprehensive penalties section.

(e) and (f). We have split this section in half, moving the provisions relating to out-of-state bank holding companies to new AS 06.05.521, in the article on interstate banking.

(h). Definitions have been moved to the general definitions section, AS 06.05.540.

AS 06.05.239. This section belongs with the provisions relating to meetings of the board. Thus, it has been moved to AS

06.05.438(f).

AS 06.05.255(c). This subsection was ambiguous and unnecessary.

AS 06.05.260(b). This subsection was probably unenforceable, definitely unclear and ambiguous, and arguably inconsistent with the state's depositor preference.

AS 06.05.270(b). Specific permissible investments for banks have been repealed and will now be set out in regulations. See comments to bill section 46.

AS 06.05.275. (a). Deleted as unnecessary and obvious.

(c). Deleted as unnecessary. For clarity, if desired, we will put it into regulation.

AS 06.05.280(a) and (b). These are sufficiently handled by market forces, and they are unnecessary.

AS 06.05.300. Covered by AS 10.06.010.

AS 06.05.307. (d). Already covered by AS 06.05.205(b).

(e). Repealed as obsolete.

AS 06.05.325. Covered by the Corporations Code.

AS 06.05.330. Covered by AS 10.06.205. However, the Corporation Code provides that there can be only one incorporator, and this will now be allowed for banks as well.

AS 06.05.345. (b). Covered by the Corporations Code.

(c) - (j). Moved to new AS 06.05.344.

(k). Beginning of corporate existence is already covered in the Corporations Code.

AS 06.05.360. Foreign banks are permitted to engage in banking under new article 9.

AS 06.05.367. Most of this section is incorporated into new AS 06.05.565. Paragraph (2) is removed because we are no longer going to require FDIC insurance.

AS 06.05.380. (a) and (b). are the same as 350(b)(1).

(c). This is included in the comprehensive penalties section.

AS 06.05.390. Covered, with minor variations, by AS 10.06.490.

AS 06.05.395. Substance moved to and incorporated in AS 06.05.350(a).

AS 06.05.430. Covered by AS 10.06.405 and 10.06.415.

AS 06.05.435. (b). Covered by AS 10.06.223.

(e). Covered by AS 10.06.465.

AS 06.05.443. Combined with AS 06.05.445.

AS 06.05.465. Voluntary liquidations will now be covered under the same procedure as involuntary ones, i.e. under the control of the department. See AS 06.05.468(a) in Section 82 of the bill. Of course, if a bank wishes to voluntarily dissolve and there is no reason for the department to get significantly involved, the department can appoint the existing board as receiver.

AS 06.05.470. This section has been split up to make it more manageable. The substance of this section remains essentially unchanged.

(a). Substance moved to sec. 468(a).

(d). Now sec. 468(d).

(f). Now sec. 471(a).

(j) and (k). Now sec. 471(b) and (c).

(l) - (n). Now sec. 472.
(o) - (y). Now sec. 473.
(z). Now sec. 474.
AS 06.05.480. Moved to sec. 350(d).
AS 06.05.485. Moved to new sec. 262.
AS 06.05.490. Included in comprehensive penalties section, AS
06.01.035.
AS 06.05.495. Duplicative; same as sec. 470(g)(2).
AS 06.05.500 - 06.05.520. Covered by comprehensive penalties
section.
AS 06.05.525. Covered by AS 06.01.030.
AS 06.05.530. Obsolete.
AS 06.20.320(b). Covered by new comprehensive penalties
section, AS 06.01.035.
AS 06.25.060. Covered by comprehensive penalties section.
AS 06.25.070. Also covered by comprehensive penalties section.
AS 06.25.320. Also covered by comprehensive penalties section.
AS 06.30. Repeals state Savings Association Act.
AS 06.40.160(b). Covered by comprehensive penalties section.
AS 06.45.320. Covered by comprehensive penalties section.
AS 06.45.330. Also covered by comprehensive penalties section.

Section 97. Transitional provisions.

(a) Makes sure that the new Corporations Code applies to all banks.

(b) Requires existing banks to amend their articles to conform to the new code at the next regular annual meeting, and then file the amended articles with the department.

Section 98. Notes possible Court Rule change.

Section 99. Effective date 1/1/94.

FISCAL NOTE

3/26/93

RLS

BILL NO. CSSB 149 (Fin)

Rec'd by the bill #10

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: Laws Governing Financial Institutions and relating
to Trust Companies, Small Loan Companies
 Sponsor: Senate Labor and Commerce Committee
 Requestor: _____

Department Affected: Commerce and Economic Development
 BRU: Banking, Securities and Corporations
 Component: _____
 COMPONENT SERIAL NO. 1233

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GFMHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY 93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)
 Has no fiscal impact on program.

Prepared by: Willis F. Kirkpatrick *Willis*
 Division: Banking, Securities and Corporations

Phone: 465-2521
 Date: _____

Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Date: 3/23/93

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Summary of Senate Bill 149
Recodification of Alaska Banking Code

REVISIONS AND EXPANSIONS OF BANK POWERS

1. Creates an entirely new article on interstate and international banking, to allow foreign and other US banks to enter the Alaska marketplace. Section 87, beginning on page 52.

A. Either an interstate (a US bank headquartered outside Alaska) or international bank can purchase an Alaska state or national bank. Proposed AS 06.05.550(a), page 52.

B. An international bank may establish a new branch in Alaska; an interstate bank cannot, but rather must purchase an existing Alaska bank or branch. Proposed AS 06.05.550(b), page 52.

C. For an interstate bank, reciprocity with the bank's home state will be required. Proposed AS 06.05.555(d)(1), pages 53-54. This will hopefully open up the availability of other state markets for our banks.

D. Also for an interstate bank, FDIC insurance will be required. Proposed AS 06.05.550(a). An international bank, instead, will have to maintain assets in the state at least equal to 100% of its Alaska deposits. Proposed AS 06.05.560, pages 54-55.

E. Any branches of interstate or international banks will be subject to examination by the department, which also is authorized to examine the home office of the bank to the extent necessary to protect Alaska depositors. Proposed AS 06.05.565(c) and (d), pages 55-56.

2. Provides for banks to have subsidiaries. Proposed AS 06.05.272, section 47, page 24. The new code specifically authorizes subsidiaries engaged in real estate ownership, development and leasing; insurance; and securities brokerage. Other activities for subsidiaries are subject to department approval, and the plan, as set out in the draft regulations (see draft 3 AAC 02.200, at page 28), is to analyze other activities on a case-by-case basis for now.

3. Revamps the bank lending statutes.

A. Adopts general lending limits, i.e. the amount a bank can loan to any one person or entity, that are similar to those used by the Comptroller of the Currency (OCC); these limits have applied in Alaska for several years anyway by regulation adopted under AS 06.01.020, the "wildcard" statute. Proposed AS 06.05.205(b), section 25, page 14. Thus, if adopted, the statutes will be brought into conformity with current practice.

B. Provides that the department may adopt regulations (see draft 3 AAC 02.125(b) and (c), at page 19) to determine when a loan to one person will be attributed to another, for purposes of calculating the lending limits of AS 06.05.205(b). Proposed AS 06.05.205(g), section 28, page 15.

SB 149 Summary, page 2

C. Eliminates all loan-to-value and term restrictions for real estate lending, requiring instead that lending comply with sound bank policies, subject to examination. Proposed AS 06.05.207, section 29, page 15.

D. At the request of the banks, the new code proposes a change to AS 06.05.215 to provide personal liability for directors or officers for loans made in violation of law or bank policies only when gross negligence is proven. Section 33, page 17.

REVISIONS TO DEPARTMENT'S REGULATION OF BANKS**1. Changes the capital and reserve requirements for banks.**

A. With respect to reserve requirements, the new code provides that these will be set by regulation. Proposed AS 06.05.200(a), section 23, page 13. Current law provides for reserves of 20% of demand deposits and 8% of time and savings deposits. The draft regulations propose a new figure of 15% of all deposits. See draft 3 AAC 02.110(a), at page 15. Although this figure is arguably higher than the old numbers, the department also proposes greatly expanding the list of assets that can be considered for reserve purposes. Draft 3 AAC 02.110(b), at page 15. According to department calculations, the new proposal will not significantly raise or lower current requirements; the department's intention is to simply try to find a single figure, for ease of calculation, that approximates current requirements.

B. With respect to capital requirements, the new code raises minimum capital requirements to \$1 million in general, and \$2 million for banks in Anchorage and Fairbanks. Proposed AS 06.05.305, section 50, page 25. These are minimums — the department will set the actual requirements in each case. At present, the smallest Alaska state bank has \$7.9 million in capital.

2. Makes the Alaska Corporations Code, AS 10.06, generally applicable to banks. Proposed AS 06.05.301, section 49, page 25. This will eliminate the essentially duplicative statutory scheme with respect to bank formation, corporate actions, and filing requirements.

3. Sets up a permitting system for bank holding companies. Proposed AS 06.05.235(b), section 38, page 19, and AS 06.05.570(a), section 87, page 56.

4. Makes FDIC insurance optional, although only with a waiver from the department. Proposed AS 06.05.355(a), section 61, page 32. If waived, presumably there will need to be some alternative protection for depositors, like the asset requirements for international banks (see, e.g., proposed AS 06.05.560, section 87, pages 54-55).

5. Repeals Alaska's Savings Association Act, AS 06.30. Section 96, page 59. At present, there are no existing state S&L's, and if formed, a new one would be subject to duplicative state and federal regulation. Therefore, it would be better to repeal this authorization, and if an organization wishes to form a savings bank, it can do so either under a federal charter, or under the state Mutual Savings Bank Act, AS 06.15.

SB 149 Summary, page 3

CHANGES TO THE DEPARTMENT'S ENFORCEMENT POWERS

1. The bill consolidates all penalty provisions of Title 06 into one section. Proposed AS 06.01.035, section 7, pages 5-7. The new code also grants the department the authority to assess administrative penalties for violations of the code, regulations or department orders. Proposed AS 06.05.035(e)-(g). See the sectional analysis, page 2, for a description of what other states and the FDIC do in this area.
2. Revises sections relating to bank liquidations. Proposed AS 06.05.466-474, sections 81-85, pages 40-47. During the 1980's when several banks closed, the department discovered that its liquidation statutes were generally pretty good, but needed a few changes. In particular, the Supreme Court held in Hoffman v. State that although the constitution might not require a hearing before the department takes possession of a bank, the statutes do. The changes proposed will clarify that this hearing may be closed to the public (proposed AS 06.01.030(e), section 6, page 4); in fact, it is the department's intention to hold a closed hearing with the board in these cases at a board meeting called by the department.
3. Provides that the department may remove a director from a bank's board under certain, enumerated conditions, generally where the director's actions are threatening the soundness of the bank. Proposed AS 06.05.435(g), section 68, page 36. Also, provides that the department can recommend that a board fire an officer or employee, and if the board refuses, it risks liability for negligent or intentional actions of that employee that cause losses. Proposed AS 06.05.437(c), section 70, page 37.

**DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT**

DIVISION OF BANKING, SECURITIES AND CORPORATIONS

WALTER J. HICKEL, GOVERNOR

P.O. BOX 110807
JUNEAU, ALASKA 99811-0807
Banking & Securities (907) 465-2521
Corporation Section (907) 465-2530

ANCHORAGE
Corporation Information (907) 563-2161

March 17, 1993

The Honorable Tim Kelly
Alaska State Senate
State Capitol
Juneau, AK 99801-1182

Dear Senator Kelly:

Re: Senate Bill 149
The Need for a New Alaska Banking Code

The current Alaska Banking Code (AS 06.05) is critically obsolete. The existing code was taken from Oregon law at the time of Alaska statehood, and has had only minor revisions since then. The Division of Banking, Securities and Corporations (division) has for the past few years been working to identify areas where changes in the code are needed. These changes fall into three basic categories:

- I. obsolescence concerning today's financial institution marketplace;
- II. obsolescence in addressing problems or failing banks; and
- III. the need for a banking law that could provide additional economic development opportunities.

Section I, The Marketplace

Since statehood, there have been vast changes in the financial institution marketplace. Interest on deposits is no longer regulated; new competition such as brokerage firms now offer interest on deposits, which also has checking privileges. Credit card issuers have now grown to include a telephone company and an automobile manufacturer. The amended Alaska Banking Code provides more flexibility to change through regulation.

Other amendments address additional banking powers like international banking and international branching, including interstate branching; provisions for bank subsidiaries; and revamps existing lending statutes along with reserves and capital requirements.

Existing law gives the department authority to promulgate regulations in conflict with statutes to provide competitive parity with nationally-chartered banks. The amendments of the banking code bring those prior parity regulations into statutory conformance.

Number II, Problem and Failing Institutions

The current Alaska Banking Code is completely out-of-step, when addressing failing financial institutions. One of the most obvious provisions is the

assessment of stockholders in situations of "impairment of capital " the assessment of shareholders to increase capital of a bank is virtually a 1930's action in a unit-bank system, where banks are closely held in a small community setting. The amendments to the banking code provide a series of administrative action that provide due process for addressing unsafe and unsound conditions. Under due process, the department is given the authority to address violations of the Alaska Banking Code which could if not corrected, carry civil money penalties.

The amendments also provide for methods of bank closure with FDIC as receiver which would allow meaningful action and preserve due process. This corrects a problem area pointed out by the Alaska Supreme Court in Hoffman v. State.

Section III, Improve Economic Development Opportunities

The current Alaska Banking Code is very restrictive as to what banks can do or invest in. The revised code increases the powers banks will have, especially in subsidiary powers. Investments will be by regulation, rather than a statutory investment menu. The subsidiary provisions will give financial institutions an opportunity to broaden their earning centers, and increase service activities within the community.

The amended banking code could increase potential development by allowing international banks to establish branches in Alaska. This provision alone has been targeted by the department as a need for economic development. Far Eastern financial institutions could establish an operating branch in Alaska, which would be in a beneficial time zone by being equal distance to many money-center markets worldwide. These international offices could also provide capital to develop Alaska resources. This resource development by international branches could be in the form of assisting the bank's customers in processing needed resources from Alaska.

The new code also provides for interstate branching. Alaska is following the State of New York's lead, on the subject of interstate branching. Preemption by Congress would have a detrimental economic impact on the State of Alaska. The amended code provides for the proper vehicle to protect from undue concentrations and some orderly control in instances where there would be interstate branching into Alaska. Through meaningful regulation, interstate branching may then provide some additional available capital to Alaska markets, very much like that of interstate banking brought in 1981.

Sincerely,



Willis F. Kirkpatrick
Director

WFK/lvs9098t
031693b

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

Frank

DATE: 3/5/93

FURTHER: FINANCE

Date of 5-Day Notice: 03/11/93
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 03/19/93

JUDICIARY Committee considered SB 149

"An Act revising the laws governing financial institutions and relating to trust companies, the Alaska Small Loans Act, and the Premium Financing Act; amending Alaska Rule of Criminal Procedure 17 and Alaska Rule of Civil Procedure 45(b); and providing for an effective date."

and recommends:

+ reports it back as follows

replace with _____ CS _____

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

φ FR

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
DCED		0	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

George Helms for the

Suzanne R. Gittle No Rec

1 *Richard L. Taylor* *Do Pass*
 Chair: Signature and Recommendation

SB

150

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/15/93

FURTHER:

DATE TURNED INTO OFFICE: 4-28-93

The Finance Committee considered **SENATE BILL NO. 150**

"An Act providing for oil and gas exploration licenses, and oil and gas leases, in certain areas of the state; and providing for an effective date."

and recommends:

replace with CS 5B 150 (FINANCE)
 or adopt previous CS ()
 attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts Letter of Intent

further referral to the

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
<i>DNR</i>	<i>4-14-93</i>	<i>0</i>	
<i>DNR</i>	<i>4-23-93</i>		<i>51.0</i>

Add 4-29-93

PREVIOUS FISCAL NOTES

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
<i>DOR</i>	<i>3-2-93</i>	<i>0</i>	

Appropriation No Fiscal Note

DO PASS.

OTHER RECOMMENDATIONS:

Tom Kelly - No Rec
Steve King - No Rec
Scott Sharp - No Rec
J. Vintola DO NOT pass

1. *Tom Koance 10/2/93*
 Co-Chair: Signature/Recommendation

2. *[Signature]* No Rec
 Co-Chair: Signature/Recommendation

FISCAL NOTE

Replaces 4/14/93 note.

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSSB150 (FIN)

Revision Date 23-Apr-93 Department Affected: Natural Resources

Title: "An Act providing for oil and gas exploration licenses and leases in certain areas of the state" BRU: Resource Development

Sponsor: Senate Rules for the Governor Components: Oil & Gas Development

Requestor: Senate Oil & Gas Committee Component Serial No. 439

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	51.0	51.0	51.0	51.0	51.0	51.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CI.AIMS						
MISCELLANEOUS						
TOTAL OPERATING	51.0	51.0	51.0	51.0	51.0	51.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE fund source:	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts		
1003 GF Match		
1004 GF	51.0	51.0
1005 GF/Program Receipts		
	51.0	51.0
	0	0
	0	0
	0	0

*DNR has new for from Raza
Did not follow w/bill.*

*4-29-93
Billy subsequently instructed that this fiscal note be sent down to accompany the bill. kb*

Estimate of current year (FY93) impact: \$ NO FISCAL IMPACT ANTICIPATED

(Attach a separate page if necessary)

indicated on the Division of Oil and Gas being funded to the full level of the Governor's budget. The committee took a \$51.0 reduction to the Division, which now needs to request restoration of fiscal note in order to carry out the responsibilities of this legislation.

Raza - did get it OK'd but did not go w/bill

_____, Director Phone: 762-2547
_____, Resource Development Date: 23-Apr-93

Approved by Commissioner Glenn A. Olds Date: 23-Apr-93
Agency: Department of Natural Resources

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FISCAL NOTE

No. 1

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill Version: SB 150
BI (S) Publish Date: 3-5-93

Revision Date: _____ Dept. Affected: Revenue
Title: Oil & Gas Exploration Licenses and Leases BRU: Revenue Operations
Sponsor: Governor Component: Oil & Gas Audit Division
Requestor: Governor COMPONENT SERIAL NO. 115

Expenditures/Revenues: (Thousands of Dollars)

	FY94	FY95	FY96	FY97	FY98	FY99
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0.00

ANALYSIS: (Attach a separate page if necessary)

Changes in CS SB 150 (OIG) have no fiscal impact. This fiscal note is appropriate.
4-13-93 date JK Comte Aide (initial)

Prepared by: Rod R. Mourant Phone: 465-2300
Division: Commissioner's Office Date: 3/2/93
Approved by Commissioner: Darrel J. Rexwinkel Date: 3/2/93
Agency: _____

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FISCAL NOTE

STATE OF ALASKA 1993 LEGISLATIVE SESSION

BILL NO. CSSB150

Revision Date Original Department Affected: Natural Resources
 Title: "An Act providing for oil and gas exploration licenses and leases in certain areas of the state" BRU: Resource Development
 Components: Oil & Gas Development
 Sponsor: Senate Rules for the Governor
 Requestor: Senate Oil & Gas Committee Component Serial No. 439

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE fund source:	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year (FY93) impact: \$ No fiscal impact anticipated

ANALYSIS: (Attach a separate page if necessary)
 The zero fiscal note is predicated on the Division of Oil & Gas being funded to the full level of the Governor's budget request. The Division of Oil & Gas will be the primary administrators of this program and need to be fully staffed to accomplish this task.

Prepared by: Jim Eason, Director Phone: 762-2547
 Division: Oil & Gas Development Date: 14-Apr-93
 Approved by Commissioner: Glenn A. Olds Date: 14-Apr-93
 Agency: Department of Natural Resources

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4-28-93
Amended
See
p. 11
Amend:
Called Senate
4:15 pm 4-28-93
for final map

8-GS1012Q
Chenoweth
4/27/93

CS FOR SENATE BILL NO. 150 *Fin*

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the exploration and production of oil and gas and related
2 hydrocarbons, to oil and gas exploration licenses and to oil and gas leases in
3 certain areas of the state, and to the proof of financial responsibility required
4 for the operation of facilities for the production of crude oil and associated
5 hydrocarbons and facilities for exploration for oil and gas and related
6 hydrocarbons; and extending the period in which a sale on the five-year oil and
7 gas lease sale schedule may be delayed; and providing for an effective date."

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

9 * Section 1. AS 38 is amended by adding new sections to read:

10 ARTICLE 5A. OIL AND GAS EXPLORATION LICENSES; LEASES.

11 Sec. 38.05.131. APPLICABILITY; DETERMINATION; REGULATIONS. (a)

12 Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the provisions of
13 AS 38.05.005 - 38.05.040, 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 -

1 38.05.990 apply to the issuance of oil and gas exploration licenses and leases under
2 AS 38.05.132 - 38.05.134.

3 (b) The provisions of AS 38.05.131 - 38.05.134 do not apply to land

4 (1) north of the Umiat baseline; and

5 (2) in the vicinity of Cook Inlet that is within the area bounded by

6 (A) the north boundary of Township 17 North, Seward
7 Meridian;

8 (B) the Seward Meridian;

9 (C) the south boundary of Township 7 South, Seward Meridian;

10 and

11 (D) the west boundary of Range 19 West, Seward Meridian.

12 (c) The commissioner shall make preliminary written determinations of the
13 state land that may be subject to the provisions of AS 38.05.132. The determinations
14 shall be given public notice using the methods described in AS 38.05.945(b). After
15 completion of the comment period and evaluation of the comments received, the
16 commissioner shall issue a written determination of the state land that is subject to the
17 provisions of AS 38.05.132.

18 (d) The commissioner may adopt regulations necessary to implement
19 AS 38.05.131 - 38.05.134.

20 Sec. 38.05.132. OIL AND GAS EXPLORATION LICENSE. (a) To
21 encourage exploration for oil and gas on state land, the commissioner may issue oil
22 and gas exploration licenses

23 (1) for unleased state land for which insufficient or undocumented
24 geological and geophysical information exists concerning the oil and gas potential of
25 that land; or

26 (2) for state land that was subject to a competitive lease sale under
27 AS 38.05.180 but for which an oil and gas lease has not been issued.

28 (b) An oil and gas exploration license issued under this section gives the
29 licensee

30 (1) the exclusive right to explore, for a term not to exceed 10 years, for
31 deposits of oil and gas on unleased state land described in the exploration license

1 unless the land is earlier relinquished, removed, or deleted under (d) of this section;
2 and

3 (2) the option to convert the exploration license for all or part of the
4 state land, except the land that is deleted or removed from the land described in the
5 exploration license under (d) of this section, into an oil and gas lease upon fulfillment
6 of the work commitments contained in the exploration license.

7 (c) An exploration license awarded under this section

8 (1) is not subject to the acreage limitations imposed by AS 38.05.140(c)
9 or 38.05.180(m);

10 (2) may cover an area of not more than 500,000 acres, that must be
11 reasonably compact and contiguous;

12 (3) must be conditioned upon an obligation to perform a specified work
13 commitment, in total and for each year of the term of the license, expressed in dollars
14 of direct exploration expenditures; for purposes of this paragraph,

15 (A) "direct exploration expenditure" means cash expenses
16 undertaken in performance of a specified work commitment under the
17 provisions of AS 38.05.131 - 38.05.134 and necessarily incurred by the licensee
18 in the permitting, mobilization, conducting, demobilization, and evaluation of
19 geophysical and geological surveys, including seismic, magnetic, and gravity
20 surveys or the drilling, logging, coring, testing, and evaluation of oil and gas
21 wells; the term

22 (i) includes direct labor costs, including the cost of
23 benefits, for employees directly associated with the work commitment
24 programs, the cost of renting or leasing equipment from parties not
25 affiliated with the licensee, the reasonable costs of maintaining and
26 operating equipment, payments to consultants and independent
27 contractors not affiliated with the licensee, and costs of materials and
28 supplies;

29 (ii) does not include noncash expenses such as
30 depreciation and reserves, interest or other costs of borrowed funds,
31 return on investment, overhead, insurance or bond premiums, or any

1 other expense that is unreasonable or that the licensee has not incurred
2 to satisfy the licensee's work commitment;

3 (B) "work commitment" includes the drilling of one or more
4 exploration wells or the gathering of geophysical data, or both;

5 (4) must be conditioned upon an obligation to perform an annual work
6 commitment;

7 (5) is subject to an annual review and revocation if the commissioner
8 determines that the licensee has failed to

9 (A) perform the previous year's annual work commitment; or

10 (B) , provide or maintain in effect the bond or other security
11 required by (6) of this subsection;

12 (6) must be conditioned upon the posting of a bond or other security
13 acceptable to the commissioner in favor of the state and subject to the following
14 requirements:

15 (A) the bond or other security must be renewed annually;

16 (B) the bond or other security must be in the amount of 10
17 percent of the licensee's annual work commitment;

18 (7) must be conditioned upon payment to the commissioner of a
19 nonrefundable oil and gas exploration license fee of not more than \$1 for each acre of
20 land that is subject to the exploration license; and

21 (8) must be conditioned upon an agreement that exploration
22 expenditures are subject to audit by the commissioner.

23 (d) The area within an exploration license awarded under this section may be
24 relinquished, removed, or deleted from the license. Relinquishment, removal, or
25 deletion of an area from the state land described in the exploration license terminates
26 the licensee's rights under AS 38.05.131 - 38.05.134 in the area that is relinquished,
27 removed, or deleted. A relinquishment, removal, or deletion of a portion of the area
28 described in the exploration license must be in areas that are reasonably compact and
29 contiguous. The areas relinquished from the state land described in the exploration
30 license shall be areas identified by the licensee but, if the licensee fails to identify
31 sufficient area, the commissioner may identify any additional acreage required to be

1 removed or deleted from the area under license to meet the requirements of this
2 subsection. Within the area described in the exploration license issued under (a) - (c)
3 of this section,

4 (1) 25 percent must be relinquished, removed, or deleted not later than
5 the fourth anniversary of the effective date of the issuance of the exploration license;

6 (2) an additional 10 percent must be removed or deleted on each of the
7 succeeding anniversaries of the effective date of the issuance of the exploration license.

8 (e) If, immediately before the beginning of the period for annual renewal of
9 the bond or other security under (c)(5)(A) of this section, the licensee fails to provide
10 or maintain in effect the bond or other security required by (c) of this section for the
11 period covered by the annual renewal and the commissioner revokes the exploration
12 license, the bond or other security then in effect for the licensee's obligations under
13 the exploration license is forfeited to the state.

14 Sec. 38.05.133. LICENSE PROCEDURES. (a) The procedures in this section
15 apply to the issuance of an oil and gas exploration license under AS 38.05.132.

16 (b) The licensing process is initiated by the commissioner preparing, or a
17 prospective licensee submitting to the commissioner, a proposal that identifies a
18 specific area to be subject to the exploration license, proposes specific minimum work
19 commitments, and states the minimum qualifications for a licensee as established by
20 regulations adopted by the commissioner. A prospective licensee may initiate a
21 proposal only in response to a call for proposals by the commissioner or during a
22 period specified in regulations adopted by the commissioner. The regulations must
23 provide for at least one period for that purpose during each calendar year.

24 (c) If the commissioner initiates the licensing process under (b) of this section,
25 the commissioner shall publish notice of the commissioner's proposal in order to solicit
26 comments and competing proposals.

27 (d) Within 30 days after receipt of a proposal from a prospective licensee
28 under (b) of this section, the commissioner shall either reject it in a written decision
29 or give public notice of the intent to evaluate the acceptability of the proposal. The
30 commissioner shall solicit comments on a proposal for which public notice is given
31 under this subsection, and shall request competing proposals.

1 (e) The commissioner may make a written request to a prospective licensee for
2 additional information on the prospective licensee's proposal. The commissioner shall
3 keep confidential information described in AS 38.05.035(a)(9) that is voluntarily
4 provided.

5 (f) After considering proposals not rejected under (d) of this section and public
6 comment on those proposals, the commissioner shall issue a written finding addressing
7 all matters set out in AS 38.05.035(e) and (g), except for AS 38.05.035(g)(1)(K). If
8 the finding concludes that the state's best interests would be served by issuing an oil
9 and gas exploration license, the finding must (1) describe the limitations, stipulations,
10 conditions, or changes from the initiating proposal or competing proposals that are
11 required to make the issuance of the exploration license conform to the best interests
12 of the state, and (2) if only one proposal was submitted, identify the prospective
13 licensee whom the commissioner finds should be issued the exploration license. The
14 commissioner shall attach to the finding a copy of the exploration license to be issued
15 and the form of lease that will be used for any portion of the exploration license area
16 subsequently converted to an oil and gas lease under AS 38.05.134. The commissioner
17 shall promptly provide a copy of the finding and required attachments to all
18 prospective licensees whose proposals were considered before the commissioner's
19 issuance of the finding.

20 (g) If only one prospective licensee submits a proposal and the finding under
21 (f) of this section concludes that an exploration license should be issued to that
22 prospective licensee, the prospective licensee has 30 days after issuance of the finding
23 within which to accept or reject the issuance of the exploration license, as limited or
24 conditioned by the terms contained in the finding. The exploration license to be issued
25 and the form of lease that will be used must be attached to that finding. The
26 prospective licensee must accept or reject the issuance of the exploration license in
27 writing.

28 (h) If competing proposals are submitted, and the commissioner's finding
29 under (f) of this section concludes that an oil and gas exploration license should be
30 issued, the commissioner shall issue a request for competitive sealed bids, under
31 procedures adopted by the commissioner by regulation, to determine which prospective

1 licensee should be issued the exploration license. The finding provided to the
2 prospective licensees under (f) of this section must contain notice that (1) the
3 commissioner intends to request competitive sealed bids, (2) a prospective licensee
4 who intends to participate in the bidding must notify the commissioner in writing by
5 the date specified in the notice, and (3) a prospective licensee's notice of intent to
6 participate in the bidding constitutes acceptance of issuance of the exploration license,
7 as limited or conditioned by the terms contained in the finding and by the exploration
8 license to be issued and the form of lease to be used that have been attached to that
9 finding, if the prospective licensee is the successful bidder. The successful bidder is
10 the prospective licensee who submits the highest bid in terms of the minimum work
11 commitment dollar amount.

12 Sec. 38.05.134. CONVERSION TO LEASE. If the licensee requests and the
13 commissioner determines that the work commitment obligation set out in an oil and
14 gas exploration license issued under AS 38.05.132 has been met, the commissioner
15 shall convert to one or more oil and gas leases all or part, as the licensee may indicate,
16 of the area described in the exploration license that remains after the relinquishments,
17 removals, or deletions required by AS 38.05.132(d). A lease issued under this section

18 (1) is subject to the acreage limitations imposed by AS 38.05.140(c);

19 (2) is subject to AS 38.05.180(j) - (m), (o) - (u), and (x) - (z);

20 (3) must be conditioned upon a royalty in amount or value of not less
21 than 12.5 percent of production;

22 (4) must include an annual rent of \$3 per acre or fraction of an acre
23 initially paid to the state at inception of the lease and payable annually after that until
24 the income to the state from royalty under that lease exceeds the rental income to the
25 state under that lease for that year; and

26 (5) is subject to other conditions and obligations that are specified in
27 the lease.

28 * Sec. 2. AS 38.05.135(a) is amended to read:

29 (a) Except as otherwise provided, valuable mineral deposits in land belonging
30 to the state shall be open to exploration, development, and the extraction of minerals.
31 All land, together with tide, submerged, or shoreland, to which the state holds title to

1 or to which the state may become entitled, may be obtained by permit or lease for the
2 purpose of exploration, development, and the extraction of minerals. Except as
3 specifically limited by AS 38.05.131 - 38.05.181 [AS 38.05.135 - 38.05.181], land may
4 be withheld from lease application on a first-come, first-served basis, and offered only
5 on a competitive bid basis when determined by the commissioner to be in the best
6 interests of the state. In unproven areas the commissioner may offer additional
7 incentives, including a reduction of royalty to a minimum of five percent in the case
8 of oil and gas, and other terms in and granting permit or lease for exploration and
9 development whenever it appears to be in the best interests of the state to do so.

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

11 (c) Except as provided in (d) and (w) of this section, an oil and gas lease sale
12 may not be held unless it was included in the proposed leasing programs submitted to
13 the legislature during the two calendar years preceding the year in which the sale is
14 held. [A LEASE SALE SHALL BE HELD DURING THE CALENDAR QUARTER
15 FOR WHICH IT IS SCHEDULED IN THE PROPOSED OIL AND GAS LEASING
16 PROGRAM BUT MAY BE DELAYED BY THE COMMISSIONER FOR NOT
17 MORE THAN 90 DAYS AFTER THE LAST DAY OF THE CALENDAR
18 QUARTER FOR WHICH IT WAS SCHEDULED IF THE COMMISSIONER
19 DETERMINES THAT A DELAY IS IN THE BEST INTEREST OF THE STATE.
20 A LEASE SALE WHICH IS NOT HELD DURING THE CALENDAR QUARTER
21 FOR WHICH IT WAS SCHEDULED IN THE OIL AND GAS LEASING
22 PROGRAM, OR IN THE FOLLOWING 90-DAY PERIOD AUTHORIZED BY THIS
23 SUBSECTION, MAY BE HELD ONLY IF RESCHEDULED AS PROVIDED IN (b)
24 OF THIS SECTION.] A lease sale may not be held before the date it is scheduled in
25 the proposed oil and gas leasing program.

26 * Sec. 4. AS 38.05.180(d) is amended to read:

27 (d) The commissioner may issue oil and gas leases in an area that has not been
28 included in a leasing program submitted, in accordance with (b) of this section, to the
29 legislature if the land to be leased

30 (1) [THE LAND TO BE LEASED] was previously subject to a valid
31 state or federal oil and gas lease; [OR]

1 (2) [THE LAND TO BE LEASED] is contiguous to land already under
2 state, federal or private lease and the commissioner makes a written finding, after
3 hearing, that leasing of the land would result in a substantial probability of early
4 evaluation and development of the land to be leased; [OR]

5 (3) [THE LAND TO BE LEASED] is adjacent to land owned or
6 controlled by another party on which a discovery of commercial quantities of oil or
7 gas has been made, and the commissioner finds, after hearing, that there is a
8 reasonable probability that the land to be leased contains oil or gas in communication
9 with the oil or gas discovered on the land of the other party; [OR]

10 (4) [THE LAND TO BE LEASED] is adjacent to land included in the
11 federal five-year Outer Continental Shelf leasing program under 43 U.S.C. 1344, and
12 the commissioner makes a written finding, after hearing, that coordinated or
13 simultaneous leasing with the federal government is in the public interest; or

14 (5) is the subject of an oil and gas exploration license issued under
15 AS 38.05.131 - 38.05.134.

16 * Sec. 5. AS 38.05.180(f) is amended to read:

17 (f) Except as provided by AS 38.05.131 - 38.05.134, the [THE]
18 commissioner may issue oil and gas leases on state land to the highest responsible
19 qualified bidder determined by competitive bidding under regulations adopted by the
20 commissioner. Bidding may be by sealed bid or according to any other bidding
21 procedure the commissioner determines is in the best interests of the state. Whenever,
22 under any of the leasing methods listed in this subsection, a royalty share is reserved
23 to the state, it shall be delivered in pipeline quality and free of all lease or unit
24 expenses, including but not limited to separation, cleaning, dehydration, gathering, salt
25 water disposal, and preparation for transportation off the lease or unit area. Following
26 a pre-sale analysis, the commissioner may choose at least one of the following leasing
27 methods:

28 (1) a cash bonus bid with a fixed royalty share reserved to the state of
29 not less than 12.5 [12 1/2] percent in amount or value of the production removed or
30 sold from the lease;

31 (2) a cash bonus bid with a fixed royalty share reserved to the state of

1 not less than 12.5 [12 1/2] percent in amount or value of the production removed or
2 sold from the lease and a fixed share of the net profit derived from the lease of not
3 less than 30 percent reserved to the state;

4 (3) a fixed cash bonus with a royalty share reserved to the state as the
5 bid variable but no less than 12.5 [12 1/2] percent in amount or value of the
6 production removed or sold from the lease;

7 (4) a fixed cash bonus with the share of the net profit derived from the
8 lease reserved to the state as the bid variable;

9 (5) a fixed cash bonus with a fixed royalty share reserved to the state
10 of not less than 12.5 [12 1/2] percent in amount or value of the production removed
11 or sold from the lease with the share of the net profit derived from the lease reserved
12 to the state as the bid variable;

13 (6) a cash bonus bid with a fixed royalty share reserved to the state
14 based on a sliding scale according to the volume of production or other factor but in
15 no event less than 12.5 [12 1/2] percent in amount or value of the production removed
16 or sold from the lease;

17 (7) a fixed cash bonus with a royalty share reserved to the state based
18 on a sliding scale according to the volume of production or other factor as the bid
19 variable but not less than 12.5 [12 1/2] percent in amount or value of the production
20 removed or sold from the lease.

21 * Sec. 6. AS 38.05.945(a) is amended to read:

22 (a) This section establishes the requirements for notice given by the department
23 for the following actions:

24 (1) classification or reclassification of state land under AS 38.05.300
25 and the closing of land to mineral leasing or entry under AS 38.05.185;

26 (2) zoning of land under applicable law;

27 (3) a decision under AS 38.05.035(e) or 38.05.132 - 38.05.134
28 regarding the sale, lease, or disposal of an interest in state land or resources;

29 (4) a competitive disposal of an interest in state land or resources after
30 final decision under AS 38.05.035(e);

31 (5) a public hearing under AS 38.05.856(b);

1 (6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c)
2 concerning sites for aquatic farms and related hatcheries.

3 * Sec. 7. AS 46.04.040(b) is amended to read:

4 (b) A person may not cause or permit the operation of a pipeline or an
5 exploration or production facility in the state unless the person has furnished to the
6 department, and the department has approved, proof of financial ability to respond in
7 damages. Proof of financial responsibility required

8 (1) for a pipeline or an offshore exploration or production facility is
9 \$50,000,000 per incident; for purposes of this paragraph, an "offshore exploration
10 or production facility" means an exploration or production facility that is located

11 (A) between the line of mean low water and seaward

12 (i) to a distance of three geographical miles; or

13 (ii) to a distance of more than three geographical
14 miles if the greater distance is validly claimed by or within the
15 enforcement jurisdiction of the state; or

16 (B) in or on nontidal waters of the state that are navigable
17 under the laws of the United States up to ordinary high water mark, as
18 modified by accretion, erosion, or reliction;

19 (2) [PROOF OF FINANCIAL RESPONSIBILITY REQUIRED] for
20 a [AN ONSHORE] production facility other than an offshore production facility
21 described in (1) of this subsection is

22 (A) \$1,000,000 per incident for an operator that produces
23 an average of not more than 75,000 barrels of crude oil per month from
24 the oil field;

25 (B) \$5,000,000 per incident for an operator that produces an
26 average of more than 75,000 barrels of crude oil but not more than
27 150,000 barrels of crude oil per month from the oil field;

28 (C) \$10,000,000 per incident for an operator that produces
29 an average of more than 150,000 barrels of crude oil but not more than
30 300,000 barrels of crude oil per month from an oil field; and

31 (D) \$20,000,000 per incident for an operator that produces

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1 an average of more than 300,000 barrels of crude oil per month from an
2 oil field; and

3 (3) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED] for
4 an [ONSHORE] exploration facility; other than an offshore exploration facility
5 described in (1) of this subsection is \$1,000,000 [\$5,000,000] per incident.

6 * Sec. 8. AS 46.04.040 is amended by adding a new subsection to read:

7 (n) For purposes of determining proof of financial responsibility under (b)(2)
8 of this section,

9 (1) the person submitting proof of financial ability to respond in
10 damages shall report the monthly production for each field during the previous 12
11 months;

12 (2) the department shall base its consideration and decision of the
13 submission on

14 (A) the production facility's average monthly production during
15 the 12 months preceding the date of the submission; or

16 (B) the anticipated monthly production as determined by the
17 production facility's maximum engineered design capacity, if the submission
18 relates to a production facility for which the information required by (A) of this
19 paragraph is not available.

20 * Sec. 9. ADDITIONAL EXCLUDED AREA. In addition to the area designated in
21 AS 38.05.131(b), added by sec. 1 of this Act, the provisions of AS 38.05.131 - 38.05.134,
22 added by sec. 1 of this Act, do not apply to land within proposed Competitive Oil and Gas
23 Lease Sales 57, 77, 80, 87, and 88, as the area to be offered in each of those proposed
24 competitive oil and gas lease sales was delineated in the Five-Year Oil and Gas Leasing
25 Program prepared by the Department of Natural Resources and dated January 1993. However,
26 the exclusion of the land in any one of those lease sales that is required by this section ceases
27 on the date the land described in the lease sale is first offered for competitive oil and gas
28 leasing under AS 38.05.180, and that land is thereafter subject to the provisions of
29 AS 38.05.131 - 38.05.134, added by sec. 1 of this Act.

30 * Sec. 10. REGULATIONS. The commissioner of natural resources may proceed to adopt
31 regulations necessary to implement AS 38.05.131 - 38.05.134, added by sec. 1 of this Act.

- 1 The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
- 2 effective date of secs. 1 - 9 of this Act.
- 3 * **Sec. 11.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).

4/24

Kathy:

My notes show that we had a Fin. CS drawn up for SB 150 (before it went into the Kelly subcommittee) that incorporated the first 5 amendments submitted. Since, we've received amendments 6, 7 and 8...which have NOT been incorporated. Are we together?

Also, there's a new fiscal note from DCED...\$51.0.

Billy

Compared notes w/ Billy

Amend. #6 Adopted

Amend. #7 Failed

Amend #8 Not yet acted upon.

Draft CS (Fin) contains Amends. #1 thru #5.

4-21-93
BS.
Withdrawn
BS moved
again
pending

4-21-93 pm
Adopted

4/27/93
Copy to Mof
for possible
incorp. in a
new draft
CS (Fin.)

AMENDMENT

SB 150 (Fin)

Introduced By: Senator Bert Sharp

Page 11, delete lines 11 thru 20

Insert new language.

(A) \$1,000,000 per incident for an operator that produces an average of not more than 75,000 barrels of crude oil per month from an oil field;

(B) \$5,000,000 per incident for an operator that produces an average of more than 75,000 barrels of crude oil but not more than 150,000 barrels of crude oil per month from an oil field;

(C) \$10,000,000 per incident for an operator that produces an average of more than 150,000 barrels of crude oil but not more than 300,000 barrels of crude oil per month from an oil field;

(D) \$20,000,000 per incident for an operator that produces an average of more than 300,000 barrels of crude oil per month from an oil field;

(E) the operator of an onshore production facility shall report its total monthly production for each field during the previous twelve months to the department with each application;

(F) proof of financial responsibility for an onshore production facility shall be based on the average monthly production during the ~~previous~~ ^{twelve} months prior to the date of application, or the anticipated monthly production as determined by the facility's maximum engineered design capacity.

4-21-93
SR
tailed
1-4

SENATE FINANCE
COMMITTEE
Amendment Number: 6
Bill Number: SB 150
Sponsor: _____ Date: 4/21/93
Logged In By: Per

7

Failed

Amendment

B, Rizer

CSSB 150 (FIN)

Page 11, Lines 11-12 : delete all material

Page 11, Lines 13-14 : delete " more than
2500 barrels of crude oil but ~~not more than~~

~~not more than~~

Page 11, Line 22 : delete "\$1,000,000 [\$5,000,000]

insert "\$5,000,000"

Failed 3-4

Kertulis, Rizer
Kelly in support

SENATE FINANCE
COMMITTEE

Amendment Number: ①
Bill Number: SB 150
Sponsor: Rizer Date: 4/2/93
Logged In By: ①

4/24 Pending

4/27/93

This Amend.
included in

Mal's version
Q. Sep. 11.

A M E N D M E N T NO.

8

TO: CSSB 150(FIN)

BY:

Page 11, between lines 22 and 23: insert the following new section to read:

* Sec. 8. AS 44.04.040 is amended by adding a new subsection to read:

(n) In AS 44.04.040(b),

(1) "offshore exploration or production facility" means an exploration or production facility situated

(i) between the line of mean low water and seaward to a distance of three geographical miles or further if validly claimed by or within the enforcement jurisdiction of the state; or

(ii) in or on nontidal waters of the state that are navigable under the laws of the United States up to ordinary high water mark as modified by accretion, erosion, or reliction; and

(2) "onshore exploration or production facility" means an exploration or production facility situated on land in the state that is not covered by tidal or navigable nontidal waters of the state.

renumber remaining sections accordingly.

SENATE FINANCE
COMMITTEE

Amendment Number: 8

Bill Number: SB 150

Sponsor: _____ Date: 4/23/93

Logged In By: Brr

From Bent Sharp

4-21-93
35 moved
Adopted

4-19-93

8-GS1012D
Chenoweth
4/19/93

This draft CS(FIN)
incorporates Amends.
#1 thru 5 that
were adopted
4-18-93.
#6 passed (pm)

CS FOR SENATE BILL NO. 150(FIN)

LEGISLATURE OF THE STATE OF ALASKA

TEENTH LEGISLATURE - FIRST SESSION

E COMMITTEE

referred:

Sponsor(s) SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to oil and gas exploration licenses and to oil and gas leases
2 in certain areas of the state; relating to the proof of financial responsibility
3 required for operation of onshore facilities for the production of crude oil and
4 associated hydrocarbons and for exploration for oil and gas and related
5 hydrocarbons; and extending the period in which a sale on the five-year oil and
6 gas lease sale schedule may be delayed; and providing for an effective date."

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

8 * Section 1. AS 38 is amended by adding new sections to read:

9 ARTICLE 5A. OIL AND GAS EXPLORATION LICENSES; LEASES.

10 Sec. 38.05.131. APPLICABILITY; DETERMINATION; REGULATIONS. (a)
11 Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the provisions of
12 AS 38.05.005 - 38.05.040, 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 -
13 38.05.990 apply to the issuance of oil and gas exploration licenses and leases under

1 AS 38.05.132 - 38.05.134.

2 (b) The provisions of AS 38.05.131 - 38.05.134 do not apply to land

3 (1) north of the Umiat baseline; and

4 (2) in the vicinity of Cook Inlet that is within the area bounded by

5 (A) the north boundary of Township 17 North, Seward
6 Meridian;

7 (B) the Seward Meridian;

8 (C) the south boundary of Township 7 South, Seward Meridian;

9 and

10 (D) the west boundary of Range 19 West, Seward Meridian.

11 (c) The commissioner shall make preliminary written determinations of the
12 state land that may be subject to the provisions of AS 38.05.132. The determinations
13 shall be given public notice using the methods described in AS 38.05.945(b). After
14 completion of the comment period and evaluation of the comments received, the
15 commissioner shall issue a written determination of the state land that is subject to the
16 provisions of AS 38.05.132.

17 (d) The commissioner may adopt regulations necessary to implement
18 AS 38.05.131 - 38.05.134.

19 Sec. 38.05.132. OIL AND GAS EXPLORATION LICENSE. (a) To
20 encourage exploration for oil and gas on state land, the commissioner may issue oil
21 and gas exploration licenses

22 (1) for unleased state land for which insufficient or undocumented
23 geological and geophysical information exists concerning the oil and gas potential of
24 that land; or

25 (2) for state land that was subject to a competitive lease sale under
26 AS 38.05.180 but for which an oil and gas lease has not been issued.

27 (b) An oil and gas exploration license issued under this section gives the
28 licensee

29 (1) the exclusive right to explore, for a term not to exceed 10 years, for
30 deposits of oil and gas on unleased state land described in the exploration license
31 unless the land is earlier relinquished, removed, or deleted under (d) of this section;

1 and

2 (2) the option to convert the exploration license for all or part of the
3 state land, except the land that is deleted or removed from the land described in the
4 exploration license under (d) of this section, into an oil and gas lease upon fulfillment
5 of the work commitments contained in the exploration license.

6 (c) An exploration license awarded under this section

7 (1) is not subject to the acreage limitations imposed by AS 38.05.140(c)
8 or 38.05.180(m);

9 (2) may cover an area of not more than 500,000 acres, that must be
10 reasonably compact and contiguous;

11 (3) must be conditioned upon an obligation to perform a specified work
12 commitment, in total and for each year of the term of the license, expressed in dollars
13 of direct exploration expenditures; for purposes of this paragraph,

14 (A) "direct exploration expenditure" means cash expenses
15 undertaken in performance of a specified work commitment under the
16 provisions of AS 38.05.131 - 38.05.134 and necessarily incurred by the licensee
17 in the permitting, mobilization, conducting, demobilization, and evaluation of
18 geophysical and geological surveys, including seismic, magnetic, and gravity
19 surveys or the drilling, logging, coring, testing, and evaluation of oil and gas
20 wells; the term

21 (i) includes direct labor costs, including the cost of
22 benefits, for employees directly associated with the work commitment
23 programs, the cost of renting or leasing equipment from parties not
24 affiliated with the licensee, the reasonable costs of maintaining and
25 operating equipment, payments to consultants and independent
26 contractors not affiliated with the licensee, and costs of materials and
27 supplies;

28 (ii) does not include noncash expenses such as
29 depreciation and reserves, interest or other costs of borrowed funds,
30 return on investment, overhead, insurance or bond premiums, or any
31 other expense that is unreasonable or that the licensee has not incurred

- 1 to satisfy the licensee's work commitment;
- 2 (B) "work commitment" includes the drilling of one or more
- 3 exploration wells or the gathering of geophysical data, or both;
- 4 (4) must be conditioned upon an obligation to perform an annual work
- 5 commitment;
- 6 (5) is subject to an annual review and revocation if the commissioner
- 7 determines that the licensee has failed to
- 8 (A) perform the previous year's annual work commitment; or
- 9 (B) provide or maintain in effect the bond or other security
- 10 required by (6) of this subsection;
- 11 (6) must be conditioned upon the posting of a bond or other security
- 12 acceptable to the commissioner in favor of the state and subject to the following
- 13 requirements:
- 14 (A) the bond or other security must be renewed annually;
- 15 (B) the bond or other security must be in the amount of 10
- 16 percent of the licensee's annual work commitment;
- 17 (7) must be conditioned upon payment to the commissioner of a
- 18 nonrefundable oil and gas exploration license fee of not more than \$1 for each acre of
- 19 land that is subject to the exploration license; and
- 20 (8) must be conditioned upon an agreement that exploration
- 21 expenditures are subject to audit by the commissioner.
- 22 (d) The area within an exploration license awarded under this section may be
- 23 relinquished, removed, or deleted from the license. Relinquishment, removal, or
- 24 deletion of an area from the state land described in the exploration license terminates
- 25 the licensee's rights under AS 38.05.131 - 38.05.134 in the area that is relinquished,
- 26 removed, or deleted. A relinquishment, removal, or deletion of a portion of the area
- 27 described in the exploration license must be in areas that are reasonably compact and
- 28 contiguous. The areas relinquished from the state land described in the exploration
- 29 license shall be areas identified by the licensee but, if the licensee fails to identify
- 30 sufficient area, the commissioner may identify any additional acreage required to be
- 31 removed or deleted from the area under license to meet the requirements of this

1 subsection. Within the area described in the exploration license issued under (a) - (c)
2 of this section,

3 (1) 25 percent must be relinquished, removed, or deleted not later than
4 the fourth anniversary of the effective date of the issuance of the exploration license;

5 (2) an additional 10 percent must be removed or deleted on each of the
6 succeeding anniversaries of the effective date of the issuance of the exploration license.

7 (e) If, immediately before the beginning of the period for annual renewal of
8 the bond or other security under (c)(5)(A) of this section, the licensee fails to provide
9 or maintain in effect the bond or other security required by (c) of this section for the
10 period covered by the annual renewal and the commissioner revokes the exploration
11 license, the bond or other security then in effect for the licensee's obligations under
12 the exploration license is forfeited to the state.

13 Sec. 38.05.133. LICENSE PROCEDURES. (a) The procedures in this section
14 apply to the issuance of an oil and gas exploration license under AS 38.05.132.

15 (b) The licensing process is initiated by the commissioner preparing, or a
16 prospective licensee submitting to the commissioner, a proposal that identifies a
17 specific area to be subject to the exploration license, proposes specific minimum work
18 commitments, and states the minimum qualifications for a licensee as established by
19 regulations adopted by the commissioner. A prospective licensee may initiate a
20 proposal only in response to a call for proposals by the commissioner or during a
21 period specified in regulations adopted by the commissioner. The regulations must
22 provide for at least one period for that purpose during each calendar year.

23 (c) If the commissioner initiates the licensing process under (b) of this section,
24 the commissioner shall publish notice of the commissioner's proposal in order to solicit
25 comments and competing proposals.

26 (d) Within 30 days after receipt of a proposal from a prospective licensee
27 under (b) of this section, the commissioner shall either reject it in a written decision
28 or give public notice of the intent to evaluate the acceptability of the proposal. The
29 commissioner shall solicit comments on a proposal for which public notice is given
30 under this subsection, and shall request competing proposals.

31 (e) The commissioner may make a written request to a prospective licensee for

1 additional information on the prospective licensee's proposal. The commissioner shall
2 keep confidential information described in AS 38.05.035(a)(9) that is voluntarily
3 provided.

4 (f) After considering proposals not rejected under (d) of this section and public
5 comment on those proposals, the commissioner shall issue a written finding addressing
6 all matters set out in AS 38.05.035(e) and (g), except for AS 38.05.035(g)(1)(K). If
7 the finding concludes that the state's best interests would be served by issuing an oil
8 and gas exploration license, the finding must (1) describe the limitations, stipulations,
9 conditions, or changes from the initiating proposal or competing proposals that are
10 required to make the issuance of the exploration license conform to the best interests
11 of the state, and (2) if only one proposal was submitted, identify the prospective
12 licensee whom the commissioner finds should be issued the exploration license. The
13 commissioner shall attach to the finding a copy of the exploration license to be issued
14 and the form of lease that will be used for any portion of the exploration license area
15 subsequently converted to an oil and gas lease under AS 38.05.134. The commissioner
16 shall promptly provide a copy of the finding and required attachments to all
17 prospective licensees whose proposals were considered before the commissioner's
18 issuance of the finding.

19 (g) If only one prospective licensee submits a proposal and the finding under
20 (f) of this section concludes that an exploration license should be issued to that
21 prospective licensee, the prospective licensee has 30 days after issuance of the finding
22 within which to accept or reject the issuance of the exploration license, as limited or
23 conditioned by the terms contained in the finding. The exploration license to be issued
24 and the form of lease that will be used must be attached to that finding. The
25 prospective licensee must accept or reject the issuance of the exploration license in
26 writing.

27 (h) If competing proposals are submitted, and the commissioner's finding
28 under (f) of this section concludes that an oil and gas exploration license should be
29 issued, the commissioner shall issue a request for competitive sealed bids, under
30 procedures adopted by the commissioner by regulation, to determine which prospective
31 licensee should be issued the exploration license. The finding provided to the

1 prospective licensees under (f) of this section must contain notice that (1) the
2 commissioner intends to request competitive sealed bids, (2) a prospective licensee
3 who intends to participate in the bidding must notify the commissioner in writing by
4 the date specified in the notice, and (3) a prospective licensee's notice of intent to
5 participate in the bidding constitutes acceptance of issuance of the exploration license,
6 as limited or conditioned by the terms contained in the finding and by the exploration
7 license to be issued and the form of lease to be used that have been attached to that
8 finding, if the prospective licensee is the successful bidder. The successful bidder is
9 the prospective licensee who submits the highest bid in terms of the minimum work
10 commitment dollar amount.

11 Sec. 38.05.134. **CONVERSION TO LEASE.** If the licensee requests and the
12 commissioner determines that the work commitment obligation set out in an oil and
13 gas exploration license issued under AS 38.05.132 has been met, the commissioner
14 shall convert to one or more oil and gas leases all or part, as the licensee may indicate,
15 of the area described in the exploration license that remains after the relinquishments,
16 removals, or deletions required by AS 38.05.132(d). A lease issued under this section

17 (1) is subject to the acreage limitations imposed by AS 38.05.140(c);

18 (2) is subject to AS 38.05.180(j) - (m), (o) - (u), and (x) - (z);

19 (3) must be conditioned upon a royalty in amount or value of not less
20 than 12.5 percent of production;

21 (4) must include an annual rent of \$3 per acre or fraction of an acre
22 initially paid to the state at inception of the lease and payable annually after that until
23 the income to the state from royalty under that lease exceeds the rental income to the
24 state under that lease for that year; and

25 (5) is subject to other conditions and obligations that are specified in
26 the lease.

27 * **Sec. 2.** AS 38.05.135(a) is amended to read:

28 (a) Except as otherwise provided, valuable mineral deposits in land belonging
29 to the state shall be open to exploration, development, and the extraction of minerals.
30 All land, together with tide, submerged, or shoreland, to which the state holds title to
31 or to which the state may become entitled, may be obtained by permit or lease for the

1 purpose of exploration, development, and the extraction of minerals. Except as
2 specifically limited by AS 38.05.131 - 38.05.181 [AS 38.05.135 - 38.05.181], land may
3 be withheld from lease application on a first-come, first-served basis, and offered only
4 on a competitive bid basis when determined by the commissioner to be in the best
5 interests of the state. In unproven areas the commissioner may offer additional
6 incentives, including a reduction of royalty to a minimum of five percent in the case
7 of oil and gas, and other terms in and granting permit or lease for exploration and
8 development whenever it appears to be in the best interests of the state to do so.

9 * **Sec. 3.** AS 38.05.180(c) is amended to read:

10 (c) Except as provided in (d) and (w) of this section, an oil and gas lease sale
11 may not be held unless it was included in the proposed leasing programs submitted to
12 the legislature during the two calendar years preceding the year in which the sale is
13 held. [A LEASE SALE SHALL BE HELD DURING THE CALENDAR QUARTER
14 FOR WHICH IT IS SCHEDULED IN THE PROPOSED OIL AND GAS LEASING
15 PROGRAM BUT MAY BE DELAYED BY THE COMMISSIONER FOR NOT
16 MORE THAN 90 DAYS AFTER THE LAST DAY OF THE CALENDAR
17 QUARTER FOR WHICH IT WAS SCHEDULED IF THE COMMISSIONER
18 DETERMINES THAT A DELAY IS IN THE BEST INTEREST OF THE STATE.
19 A LEASE SALE WHICH IS NOT HELD DURING THE CALENDAR QUARTER
20 FOR WHICH IT WAS SCHEDULED IN THE OIL AND GAS LEASING
21 PROGRAM, OR IN THE FOLLOWING 90-DAY PERIOD AUTHORIZED BY THIS
22 SUBSECTION, MAY BE HELD ONLY IF RESCHEDULED AS PROVIDED IN (b)
23 OF THIS SECTION.] A lease sale may not be held before the date it is scheduled in
24 the proposed oil and gas leasing program.

25 * **Sec. 4.** AS 38.05.180(d) is amended to read:

26 (d) The commissioner may issue oil and gas leases in an area that has not been
27 included in a leasing program submitted, in accordance with (b) of this section, to the
28 legislature if the land to be leased

29 (1) [THE LAND TO BE LEASED] was previously subject to a valid
30 state or federal oil and gas lease; [OR]

31 (2) [THE LAND TO BE LEASED] is contiguous to land already under

1 state, federal or private lease and the commissioner makes a written finding, after
2 hearing, that leasing of the land would result in a substantial probability of early
3 evaluation and development of the land to be leased; [OR]

4 (3) [THE LAND TO BE LEASED] is adjacent to land owned or
5 controlled by another party on which a discovery of commercial quantities of oil or
6 gas has been made, and the commissioner finds, after hearing, that there is a
7 reasonable probability that the land to be leased contains oil or gas in communication
8 with the oil or gas discovered on the land of the other party; [OR]

9 (4) [THE LAND TO BE LEASED] is adjacent to land included in the
10 federal five-year Outer Continental Shelf leasing program under 43 U.S.C. 1344, and
11 the commissioner makes a written finding, after hearing, that coordinated or
12 simultaneous leasing with the federal government is in the public interest; or

13 (5) is the subject of an oil and gas exploration license issued under
14 AS 38.05.131 - 38.05.134.

15 * Sec. 5. AS 38.05.180(f) is amended to read:

16 (f) Except as provided by AS 38.05.131 - 38.05.134, the [THE]
17 commissioner may issue oil and gas leases on state land to the highest responsible
18 qualified bidder determined by competitive bidding under regulations adopted by the
19 commissioner. Bidding may be by sealed bid or according to any other bidding
20 procedure the commissioner determines is in the best interests of the state. Whenever,
21 under any of the leasing methods listed in this subsection, a royalty share is reserved
22 to the state, it shall be delivered in pipeline quality and free of all lease or unit
23 expenses, including but not limited to separation, cleaning, dehydration, gathering, salt
24 water disposal, and preparation for transportation off the lease or unit area. Following
25 a pre-sale analysis, the commissioner may choose at least one of the following leasing
26 methods:

27 (1) a cash bonus bid with a fixed royalty share reserved to the state of
28 not less than 12.5 [12 1/2] percent in amount or value of the production removed or
29 sold from the lease;

30 (2) a cash bonus bid with a fixed royalty share reserved to the state of
31 not less than 12.5 [12 1/2] percent in amount or value of the production removed or

1 sold from the lease and a fixed share of the net profit derived from the lease of not
2 less than 30 percent reserved to the state;

3 (3) a fixed cash bonus with a royalty share reserved to the state as the
4 bid variable but no less than 12.5 [12 1/2] percent in amount or value of the
5 production removed or sold from the lease;

6 (4) a fixed cash bonus with the share of the net profit derived from the
7 lease reserved to the state as the bid variable;

8 (5) a fixed cash bonus with a fixed royalty share reserved to the state
9 of not less than 12.5 [12 1/2] percent in amount or value of the production removed
10 or sold from the lease with the share of the net profit derived from the lease reserved
11 to the state as the bid variable;

12 (6) a cash bonus bid with a fixed royalty share reserved to the state
13 based on a sliding scale according to the volume of production or other factor but in
14 no event less than 12.5 [12 1/2] percent in amount or value of the production removed
15 or sold from the lease;

16 (7) a fixed cash bonus with a royalty share reserved to the state based
17 on a sliding scale according to the volume of production or other factor as the bid
18 variable but not less than 12.5 [12 1/2] percent in amount or value of the production
19 removed or sold from the lease.

20 * Sec. 6. AS 38.05.945(a) is amended to read:

21 (a) This section establishes the requirements for notice given by the department
22 for the following actions:

23 (1) classification or reclassification of state land under AS 38.05.300
24 and the closing of land to mineral leasing or entry under AS 38.05.185;

25 (2) zoning of land under applicable law;

26 (3) a decision under AS 38.05.035(e) or 38.05.132 - 38.05.134
27 regarding the sale, lease, or disposal of an interest in state land or resources;

28 (4) a competitive disposal of an interest in state land or resources after
29 final decision under AS 38.05.035(e);

30 (5) a public hearing under AS 38.05.856(b);

31 (6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c)

1 concerning sites for aquatic farms and related hatcheries.

2 * Sec. 7. AS 46.04.040(b) is amended to read:

3 (b) A person may not cause or permit the operation of a pipeline or an
4 exploration or production facility in the state unless the person has furnished to the
5 department, and the department has approved, proof of financial ability to respond in
6 damages. Proof of financial responsibility required

7 (1) for a pipeline or an offshore exploration or production facility is
8 \$50,000,000 per incident;

9 (2) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED] for
10 an onshore production facility is

11 (A) \$1,000,000 per incident for a facility that produces not
12 more than 2,500 barrels of crude oil per day;

13 (B) \$5,000,000 per incident for a facility that produces more
14 than 2,500 barrels of crude oil but not more than 5,000 barrels of crude
15 oil per day;

16 (C) \$10,000,000 per incident for a facility that produces
17 more than 5,000 barrels of crude oil but not more than 10,000 barrels of
18 crude oil per day; and

19 (D) \$20,000,000 per incident for a facility that produces more
20 than 10,000 barrels of crude oil per day; and

21 (3) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED] for
22 an onshore exploration facility is \$1,000,000 [~~\$5,000,000~~] per incident.

23 * Sec. 8. ADDITIONAL EXCLUDED AREA. In addition to the area designated in
24 AS 38.05.131(b), added by sec. 1 of this Act, the provisions of AS 38.05.131 - 38.05.134,
25 added by sec. 1 of this Act, do not apply to land within proposed Competitive Oil and Gas
26 Lease Sales 57, 77, 80, 87, and 88, as the area to be offered in each of those proposed
27 competitive oil and gas lease sales was delineated in the Five-Year Oil and Gas Leasing
28 Program prepared by the Department of Natural Resources and dated January 1993. However,
29 the exclusion of the land in any one of those lease sales that is required by this section ceases
30 on the date the land described in the lease sale is first offered for competitive oil and gas
31 leasing under AS 38.05.180, and that land is thereafter subject to the provisions of

1 AS 38.05.131 - 38.05.134, added by sec. 1 of this Act.

2 * **Sec. 9. REGULATIONS.** The commissioner of natural resources may proceed to adopt
3 regulations necessary to implement AS 38.05.131 - 38.05.134, added by sec. 1 of this Act.
4 The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
5 effective date of secs. 1 - 8 of this Act.

6 * **Sec. 10.** Section 9 of this Act takes effect immediately under AS 01.10.070(c).

4-19-93

Billy -

May I have a draft
CS prepared for SB150
incorporating the five
amendments adopted at
Sunday's meeting?

Kathy
2018

YLO.
Billy

Requested draft
CS (Fin) this date.

4-18-93
BS med
JK object
Adopted
Amend #1
+ H4
H-1

Proposed Amendment for CSSB 150 (O&G)

April 18, 1993

AS 38.05.180(c) is amended to read:

(c) Except as provided in (d) and (w) of this section, an oil and gas lease sale may not be held unless it was included in the proposed leasing programs submitted to the legislature during the two calendar years preceding the year in which the sale is held. [A LEASE SALE SHALL BE HELD DURING THE CALENDAR QUARTER FOR WHICH IT WAS SCHEDULED IN THE PROPOSED OIL AND GAS LEASING PROGRAM BUT MAY BE DELAYED BY THE COMMISSIONER FOR NOT MORE THAN 90 DAYS AFTER THE LAST DAY OF THE CALENDAR QUARTER FOR WHICH IT WAS SCHEDULED IF THE COMMISSIONER DETERMINES THAT A DELAY IS IN THE BEST INTEREST OF THE STATE. A LEASE SALE WHICH IS NOT HELD DURING THE CALENDAR QUARTER FOR WHICH IT WAS SCHEDULED IN THE OIL AND GAS LEASING PROGRAM, OR IN THE FOLLOWING 90 DAY PERIOD AUTHORIZED BY THIS SUBSECTION, MAY BE HELD ONLY IF RESCHEDULED AS PROVIDED IN (b) OF THIS SECTION.] A lease sale may not be held before the date in which it is scheduled in the proposed oil and gas leasing program.

SENATE FINANCE
COMMITTEE (1)
Amendment Number: _____
Bill Number: SB 150
Sponsor: _____ Date: 9/17/93
Logged In By: (Bm)

4-18-93
B5
Attach
to Amend
#1
Adopted
H-1

SENATE FINANCE
COMMITTEE
Amendment Number: (4)
Bill Number: SB 150
Sponsor: _____ Date: 4/18/93
Logged In By: (Signature)

AMENDMENT No. 4

CSSB 150 (Oil & Gas)

Introduced By: Senator Bert Sharp

Title Change:

Page 1, line 4 Insert:

"and to extend the period in which a sale on the five year oil and gas
lease sale schedule may be delayed;

ATT -
OMi.
ent N
-ir.
-
By: -

4-18-93
BS moved
Adopted

APR 14 '93 10:35 LEG. AFFAIRS - ANCHORAGE

AMENDMENT

adopted

OFFERED IN THE SENATE:
FOR: CSSB150(O&G)

BY: LEMAN

Page 3, Line 11:

after commitment INSERT: "in total and for each year of the license".

SENATE FINANCE
COMMITTEE
Amendment Number: (2)
Bill Number: SB150
Sponsor: _____ Date: 4/18/93
Logged In By: (Bm)

4-18-93
BS
mould
Adopted

8-GS1012U.2
Chenoweth
4/15/93

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 150(O&G)

BY SENATOR SHARP

Page 7, line 12:
Delete "minimum"

SENATE FINANCE
COMMITTEE
Amendment Number: 3
Bill Number: SB 150
Sponsor: _____ Date: 9/16/93
Logged In By: RM

4-18-93
BS moved
Adopted

SENATE FINANCE
COMMITTEE
Amendment Number: (5)
Bill Number: SB 150
Sponsor: _____ Date: 4/18/93
Logged In By: Rm

AMENDMENT No. 5

CSSB 150 (Oil & Gas)

Introduced By: Senator Bert Sharp

Page 5, line 4 Delete:

"of the remaining land"

FISCAL NOTE

No. 2

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill Number: SB 150

(S) Publish Date: 3-5-93

Revision Date Original Department Affected: Natural Resources
 Title: "An Act providing for oil and gas exploration licenses and leases in certain areas of the state" BRU: Resource Development
 Components: Oil & Gas Development
 Sponsor: Senate Rules for the Governor
 Requestor: _____ Component Serial No. 439

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE fund source:	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year (FY93) Impact: \$ No fiscal impact anticipated

ANALYSIS: (Attach a separate page if necessary)
 The zero fiscal note is predicated on the Division of Oil & Gas being funded to the full level of the Governor's budget request. The Division of Oil & Gas will be the primary administrators of this program and need to be fully staffed to accomplish this task.

Prepared by: Jim Eason, Director Phone: 762-2547
 Division: Oil & Gas Development Date: 2-Mar-93
 Approved by Commissioner: Glenn A. Olds Date: 2-Mar-93
 Agency: Department of Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR
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Changes in CS SB 150 (orig) have no fiscal impact. This fiscal note is appropriate.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 27, 1993

SUBJECT: Wording of Amendment to CSSB 150()

TO: Senator Tim Kelly
Attn: Max Gifford

FROM: David R. Dierdorff 
Revisor of Statutes

The CS you requested is enclosed. The use of the term "operator" in AS 46.04.-040(b)(2)(A) - (D) is confusing. It is a term that is not defined, and it doesn't make much sense in the substantive context. The amount of security would seem to hinge more on the production capacity of the facility than on the operator's total production from the field. I am not conversant with industry practice, but this would not seem to work where a facility was "operated" by a contractor that did not produce any oil from a field. I realize this may be far-fetched, but I have to look at laws from the perspective of a disinterested reader who is trying to understand all of the implications of the language chosen.

DRD:lmb
93-137.lmb

Enclosure