

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

2739

- 1 energy efficiency, and alternative energy facilities and equipment; relating to the bulk fuel
- 2 revolving loan fund; relating to the Alaska Energy Authority's liability for the provision of
- 3 technical assistance to rural utilities; relating to the Alaska Energy Authority's investment of
- 4 the power development fund; and repealing the electrical service extension fund.

SB337



FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the powers of the Alaska Energy Authority (AEA) to make grants and loans and enter into contracts, relating to the bulk fuel revolving loan fund, relating to the AEA's potential liability for the provision of technical assistance to rural utilities, relating to the AEA's investment of the power development fund, and repealing the electrical service extension fund.

Section 1 of the bill would amend AS 42.45.010, establishing the power project fund, to add authorization for the AEA to make loans from the fund for waste energy, energy conservation, energy efficiency, and alternative energy facilities and equipment. Similarly, section 9 of the bill would amend the general powers of the AEA to authorize it to improve, equip, operate, maintain, and enter into contracts for the construction, financing, operation, and maintenance of: bulk fuel, waste energy, energy conservation, energy efficiency, and alternative energy facilities and equipment. The Denali Commission and other federal agencies have provided substantial funding for such projects, and the Legislature has authorized the AEA's receipt and expenditure of the federal money.

Section 11 of the bill would repeal AS 42.45.060, which establishes a loan committee to review and approve loans from the power project fund and the rural electrification revolving loan fund. Upon repeal of the loan committee statute, the credit department of the Alaska Industrial Development and Export Authority, which manages the AEA's loan programs, will continue to review applications for loans from those funds in accordance with the applicable regulations. Section 2 of the bill would continue the requirement in present AS 42.45.060(g) for legislative approval of loans for projects in which the cumulative state monetary involvement, through loans, grants, and bonds, is at least \$5,000,000 and loans of more than \$5,000,000. Sections 1, 3, 4, and 6 contain conforming amendments to reflect the repeal of AS 42.45.060.

The Honorable Gene Therriault
February 13, 2004
Page 2

Sections 5 and 7 of the bill would amend AS 42.45.250, which governs loans from the bulk fuel revolving loan fund, to authorize loans from the fund to "persons," defined with reference to AS 01.10.060 to include corporations, cooperatives, joint ventures, and governmental entities, that generate power or supply the public with fuel used in communities with populations of less than 2,000 people, as well as loans to the communities themselves. Presently, the statute authorizes loans to "private individuals" and to the communities. The Department of Law recently interpreted the term "private individuals" to include only natural persons. Section 12 of the bill makes the amendments retroactive to June 1, 1984, to encompass active loans from the fund to such entities.

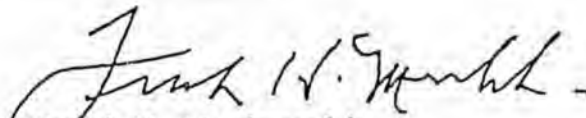
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Section 10 of the bill would amend AS 44.83.386, relating to investment of the power development fund, to provide that the AEA, rather than the Department of Revenue, shall invest the fund. The AEA, with the concurrence of the Department of Revenue, has been investing the fund since 1993. AEA would continue to remit all fund earnings to the general fund.

Section 11 of the bill, in addition to repealing AS 42.45.060 as discussed above, repeals AS 42.45.200 (the electrical service extension fund, which is inactive), and repeals AS 42.45.250(1)(1) to remove an unnecessary definition of a term that is not used in the statute.

I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



March 26, 2004

Dear

On March 24, 2004 the Alaska Energy Authority sent notice to Bulk Fuel Revolving Loan Program participants, advising them that corporations and co-operatives are not currently eligible to apply. This notice is the result of an interpretive ruling by the Alaska Attorney General that excludes certain entity structures, such as corporations and village co-operatives.

I have attached a list of fuel customers who are known to have used this program as their dominant source of fuel financing in the last twelve months, but who, under the current ruling, would be ineligible to apply for this loan. Without this source of financing, many village consumers and retailers of petroleum will not be able to purchase the fuel that they need. Most have not begun to explore traditional bank loan options, and even if and when they do, it is probably too late to secure a loan in time for their spring barge orders.

HB485 and SB337 address this issue by expanding the list of eligible entities to include corporations and co-operatives. Yukon Fuel Company supports this legislation, and believes it is imperative that it passes during the current legislative session.

Without broadening the regulations to allow these types of organizations to borrow money through the Bulk Fuel Revolving Loan Program, it is Yukon's opinion that the State of Alaska would receive numerous requests for emergency funding to purchase fuel next fall and winter, much of which would need to be flown in at significantly higher prices.

Thank you for your continued support of rural-Alaskan issues. You are welcome to contact me anytime to discuss this or other issues in our market area.

Sincerely,

Shaen Tarter
Vice President
Yukon Fuel Company
Toll Free 800-478-5509
Fax 907 777 5550

7941 Sandlewood Place, Suite 100
Anchorage, Alaska 99507

<u>Name</u>	<u>Still available for BFRLF?</u>	<u>Eligible for other Funding?</u>
Aklachak Native Community	MAYBE	NO
Aklachak Native Community -Electric Co	NO	NO
Alakanuk Native Corporation	NO	NO
Askinuk Corporation	NO	NO
Anvik Tribal Council	MAYBE	NO
Azachorak Fuel Company	NO	NO
Brevig Muilt Store	NO	NO
Chevak Native Corporation	NO	NO
Holy Cross Oil	NO	NO
Dinegal Fuel Company	NO	NO
Egegik Trading Company	NO	NO
Deloyges, Inc. (Anvik)	NO	NO
Kaitag Cooperative Ltd.	NO	NO
Kotzebue Electric Assn	NO	NO
Kotlik Yupik Enterprises	NO	NO
Koyuk Native Corporation	NO	NO
Kwethluk, Inc .	NO	NO
Twin Clides Fuel	NO	NO
Maserculiq, Inc.	NO	NO
McGrath Light & Power	NO	NO
Morgan Fuel Service	NO	NO
Nelson Lagoon Fuel Coop	NO	NO
Nome Joint Utility System	NO	NO
Oscarville Native Corporation	NO	NO
Kako Retreat	NO	NO
Pilot Station Native Corporation	NO	NO
Russian Mission Native Corporation	NO	NO
Shaktoolik Native Corporation	NO	NO
Stevens Village Energy Systems	NO	NO
Swan Lake Corporation	NO	NO
Teller Native Corporation	NO	NO
Tidemark Corporation	NO	NO
Togiak Natives Limited	MAYBE	NO
Unalakleet Valley Electric Cooperative	NO	NO
Unalakleet Valley Electric Cooperative	NO	NO
Zho Tse Corporation	NO	NO
Ekwok Natives Ltd	NO	NO
Stuyahok Ltd.	NO	NO



RECEIVED

MAR 18 2004

SB 337

3/22/04

March 16, 2004

The Honorable Lyda Green, Co-Chair
The Honorable Gary Wilken, Co-Chair
Senate Finance Committee
Alaska State Legislature
State Capitol, MS 3100
Juneau, Alaska 99801-1182

RE: SB 337 Energy Programs and Funds

Dear Senator Green and Senator Wilken:

On February 16, 2004, SB 337 was introduced by the Governor through the Senate Rules Committee and, pending referral from the Senate Labor and Commerce Committee, will be referred to your committee. We respectfully request that you schedule this legislation for a hearing.

SB 337 relates to the powers of the Alaska Energy Authority (AEA) and proposes to amend statutory provisions of two AEA loan programs. Specifically, the legislation proposes the following changes to AEA's programs:

1. The Power Project Fund provides loans to local utilities, local governments or independent power producers for the development or upgrade of electric power facilities, including conservation, bulk fuel storage, waste energy conservation, and potable water supply projects. SB 337 proposes to amend this program by expanding the definition of power project to include energy efficiency projects. Under the current statutory definition of eligible projects, AEA has denied loan applications for worthwhile projects such as lighting retrofits that could reduce energy use in rural communities.

In addition, SB 337 proposes to repeal the loan committee that approves loans from this fund. AEA will utilize the same credit approval process that the Alaska Industrial Development and Export Authority has successfully utilized for its credit programs, including an appeal process to the board of directors. Although repeal of the loan committee will provide some savings to AEA, there is no fiscal impact since the committee met infrequently and via teleconference when necessary. There should be savings within the State administration since the Governor's Office will not be required to appoint loan committee members if SB 337 passes.

2. The Bulk Fuel Revolving Loan Fund provides short-term loans to assist small rural communities in purchasing annual bulk fuel supplies. SB 337 authorizes loans from the fund to other entities such as corporations, cooperatives, and joint ventures. The Department of Law recently interpreted the current statutory eligible borrowers to be only

The Honorable Lyda Green, Co-Chair
The Honorable Gary Wilken, Co-Chair
March 16, 2004
Page 2

communities and natural persons i.e., "private individuals." This change will not expand the definition of eligible borrower beyond the long-standing practice that included other entities such as corporations.

3. With the concurrence of the Department of Revenue, the Power Development Fund has been invested by AEA since 1993. SB 337 proposes to affirm this long-standing arrangement by providing AEA the statutory authority to invest the fund. AEA continues to remit all earnings of the fund to the general fund.
4. The general powers of AEA are proposed to be amended by clarifying that AEA has the authority to manage various projects by issuing grants and entering contracts. By acting as an agent for rural communities, AEA manages power projects, bulk fuel projects and alternative energy projects. The legislature has authorized AEA to manage these projects through the appropriation process by providing AEA authority to receive and expend federal funds from entities such as the Denali Commission and the US Department of Energy.
5. SB 337 clarifies that AEA's statutory mandate to provide technical assistance may not be used as an independent basis for tort liability against AEA. AEA would continue to be liable for negligence if it fails to use reasonable care in providing the technical assistance.
6. SB 337 proposes to repeal the inactive Electrical Service Extension Fund.

We respectfully request you to schedule SB 337 for hearing in Senate Finance, pending referral from the Senate Labor and Commerce Committee, and we urge favorable action on this bill. The related zero-fiscal notes are enclosed. We are ready to meet with you and other members of the committee to provide any other information you may require. Thank you for considering our request.

Sincerely,



Ron Miller
Executive Director

RWM:bj
H:\2004 Legislation and Budget FY05\AEA Legislation\Request for hearing Green Wilken sb337.doc

Enclosures

SB

337

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/31/04

REPORTED OUT

APR 15 2004

SENATE FINANCE
COMMITTEE

SENATE BILL NO. 337

FURTHER:

DATE TURNED
IN TO OFFICE: 4/15/04

Finance Committee considered

SB 337 ENERGY PROGRAMS & FUNDS

"An Act relating to the powers of the Alaska Energy Authority to make grants and loans and enter into contracts; relating to the bulk fuel revolving loan fund; relating to the Alaska Energy Authority's liability for the provision of technical assistance to rural utilities; relating to the Alaska Energy Authority's investment of the power development fund; repealing the electrical service extension fund; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS SB 337 (LPC)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOIC	12/10/03			✓	1
DCED	2/3/04			✓	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

APR 15 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 337
(S) Publish Date: 2/16/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DOR
Title: Powers of Alaska Energy Authority RDU: 509
Component: Treasury Management
Sponsor: _____ Component No.: 121
Requester: Governor

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation pertains to the powers of the Alaska Energy Authority.

This bill will no fiscal impact on operating expenses of the Department of Revenue.

Prepared by: Landa Baily Phone: 465-2365
Division: Commissioner's Office Date/Time: 12/18/03 2:22 PM
Approved by: Steve Porter Date: 12/18/2003
Agency: Commissioner's Office

FISCAL NOTE

REPORT DUE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

APR 15 2004

SENATE FINANCE
COMMITTEE

Fiscal Note Number: 2
Bill Version: SB 337
(S) Publish Date: 2/16/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title: AEA Amendments RDU: Rural Energy (412)
Component: Rural Energy Operations
Sponsor: Rules
Requester: By Request of the Governor Component No.: 1935

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill affects various statutory provisions and specifically:

Amends the Power Project Fund (PPF) program by 1) authorizing loans for waste energy, energy conservation, energy efficiency and alternative energy facilities and equipment and 2) repealing the loan committee.

Amends the bulk fuel revolving loan fund program by 1) changing the definition of eligible entities from "private individuals" to "persons" that would include corporations, cooperatives, joint ventures and governmental entities that generate power or supply the public with fuel in eligible communities and 2) repeals an unnecessary definition.

Prepared by: Ron Miller, Executive Director Phone (907) 269-3000
Division: AID/EA/AEA Date/Time 2/3/04 4:12 PM
Approved by: Edgar Blatchford, Commissioner Date 2/3/2004
Agency: Department of Community & Economic Development

FISCAL NOTE #2

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 337

ANALYSIS CONTINUATION

Specifies that the statutory mandate to provide technical assistance to rural utilities may not be used as an independent basis for tort liability against AEA.

Clarifies AEA's authority to enter into contracts for financing, operating, maintaining and constructing bulk fuel storage facilities and to make grants and loans for such projects.

Provides that AEA may invest the power development fund rather than the Department of Revenue.

Repeals the Electrical Service Extension Fund.

The Alaska Energy Authority does not anticipate additional operating expenses to result from passage of this bill.

RECEIVED

MAR 18 2004

Handwritten initials: M, J, P

March 16, 2004

The Honorable Lyda Gree, Co-Chair
The Honorable Gary Wilken, Co-Chair
Senate Finance Committee
Alaska State Legislature
State Capitol, MS 3100
Juneau, Alaska 99801-1182

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We respectfully request you to schedule SB 337 for hearing in Senate Finance, pending referral from the Senate Labor and Commerce Committee, and we urge favorable action on this bill. The related zero-fiscal notes are enclosed. We are ready to meet with you and other members of the committee to provide any other information you may require. Thank you for considering our request.

Sincerely,



Ron Miller
Executive Director

RWM:bjl
H:\2004 Legislation and Budget FY05\AEA Legislation\request for hearing Green Wilken sb337.doc

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Sincerely,

Shaen Tarter
Vice President
Yukon Fuel Company
Toll Free 800-478-5509
Fax 907 777 5550

7941 Sandilewood Place, Suite 100
Anchorage, Alaska 99507

<u>Name</u>	<u>Still eligible for APRLE?</u>	<u>Eligible for other Funding?</u>
Akiachak Native Community	MAYBE	NO
Akiachak Native Community - Electric Co	NO	NO
Atakanuk Native Corporation	NO	NO
Askinuk Corporation	NO	NO
Anvik Tribal Council	MAYBE	NO
Azachorek Fuel Company	NO	NO
Bravig Mull Store	NO	NO
Chevak Native Corporation	NO	NO
Holy Cross Oil	NO	NO
Dinogal Fuel Company	NO	NO
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Teller Native Corporation	NO	NO
Tidemark Corporation	NO	NO
Togiak Natives Limited	MAYBE	NO
Unalakleet Valley Electric Cooperative	NO	NO
Unalakleet Valley Electric Cooperative	NO	NO
Zho Tso Corporation	NO	NO
Ekwok Natives Ltd	NO	NO
Stuyahok Ltd.	NO	NO

SB337



FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 2004

The Honorable Gene Therriault
President of the Senate
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State Capitol, Room 111
Juneau, AK 99801-1182

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The Honorable Gene Therriault
February 13, 2004
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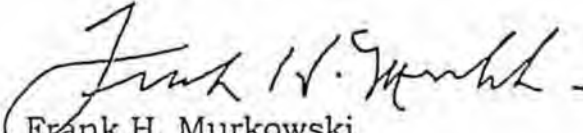
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Section 11 of the bill, in addition to repealing AS 42.45.060 as discussed above, repeals AS 42.45.200 (the electrical service extension fund, which is inactive), and repeals AS 42.45.250(1)(1) to remove an unnecessary definition of a term that is not used in the statute.

I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/16/04

FURTHER: Finance

Date of 5-Day Notice: 3/4/04
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/30/04

Labor and Commerce Committee considered SENATE BILL NO. 337

SB 337 ENERGY PROGRAMS & FUNDS

"An Act relating to the powers of the Alaska Energy Authority to make grants and loans and enter into contracts; relating to the bulk fuel revolving loan fund; relating to the Alaska Energy Authority's liability for the provision of technical assistance to rural utilities; relating to the Alaska Energy Authority's investment of the power development fund; repealing the electrical service extension fund; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 337 (LEP)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOR	12/18/03			✓	#1
DCED	2/3/04			✓	#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		Do PASS	Do NOT PASS	No REC	AMEND
Sec. 12	<i>Ralph DeBruin</i>	✓			
Davis	<i>Bettye Davis</i>			X	
French	<i>[Signature]</i>			X	
G. Skovs	<i>[Signature]</i>	X			
CHAIR:	<i>[Signature]</i>	✓			

SB

339

SFIN

FILE

SB 339

was referred to the
Senate Finance
Committee

No hearing was held
on this bill

SB

341

SFIN

FILE

SB 341

was referred to the
Senate Finance
Committee

No hearing was held
on this bill

SB

346

SFIN

FILE

SB 346

was referred to the
Senate Finance
Committee

No hearing was held
on this bill

SB

347

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/8/04

REPORTED OUT

MAR 09 2004

SENATE FINANCE
COMMITTEE

SENATE BILL NO. 347

FURTHER:

DATE TURNED
IN TO OFFICE: 3/9/04

Finance Committee considered

SB 347 GULF OF ALASKA GROUND FISH MORATORIUM

"An Act relating to moratoria on entry of new participants or vessels into a commercial fishery; relating to the establishment of a moratorium on entry of new vessels into state groundfish fisheries in the Gulf of Alaska and adjacent state marine water; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS SB 347 (RES.)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

Same Title

New Title

House Bill:

Same Title

Technical Title Change

New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
<u>F + G</u>	<u>3/5/04</u>	<u>40.8</u>			<u>1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>			<input checked="" type="checkbox"/>	
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			

MAR 09 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 347(RES)
(S) Publish Date: 3/8/04

Revision Date/Time (Note if correction): 3/5/04 5:00 PM Dept. Affected: Fish and Game
Title: An Act relating to the moratoria on entry of new RDU: Comm. Fish Entry Commission
participants or vessels into commercial fishery Component: Commercial Fisheries Entry
Sponsor: Senator Ben Stevens Commission
Requester: Senator Ben Stevens by request Component No. 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	8.0	5.0	5.0	5.0	0.0	0.0
Contractual	32.8	3.0	3.0	3.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	40.8	8.0	8.0	8.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	136.0	136.0	136.0	136.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1156 Receipt Supported Services	40.8	8.0	8.0	8.0	0.0	0.0
TOTAL	40.8	8.0	8.0	8.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Implementation of the groundfish moratorium established by SB347 will require modification to CFEC's licensing system. For the first year only, programmer contractual costs are estimated at \$28.8. Additional costs for new forms, postage, long distance charges, and records archive retrievals, travel for adjudicatory hearings, groundfish management and planning meetings and research and preparation of proposals required under 16.43.908(k) are estimated to be \$12.0 for the first year and \$8.0 yearly through FY2008.

Revenue projections assume that the number of annual moratorium vessel permit renewals will equal the average number of vessels that participated in 1998-2003.

Prepared by: Shirley Penrose, Administrative Officer
Division: Commercial Fisheries Entry Commission
Approved by: Mary McDowell, Commissioner
Agency: Commercial Fisheries Entry Commission

Phone 907-790-6960
Date/Time 3/5/04 5:00 PM
Date 3/5/2004

Alaska State Legislature



SENATOR
BEN STEVENS
716 WEST 4TH AVENUE
ANCHORAGE, AK
99501-2133
(907) 269-0200
FAX (907) 269-0204

Session:
STATE CAPITOL,
JUNEAU, AK
99801-1182
(907) 465-4993
FAX (907) 465-3872

Senate District N

SPONSOR STATEMENT

Senate Bill 347

"An Act relating to moratoria on entry of new participants or vessels into a commercial fishery; relating to vessel permits for, and the establishment of a moratorium on entry of new vessels into, state Gulf of Alaska groundfish fisheries; and providing for an effective date."

Senate Bill 347 addresses two issues regarding fisheries moratoria. One section of the bill amends AS 16.43.225 to allow the statute to be utilized. Because of its current inadequacies, the law has never been used to place a moratorium on a fishery. All of the moratoria implemented to date have required special legislation. The second issue addressed in the bill is the immediate need to place a moratorium on the Gulf of Alaska groundfish fisheries.

Over the past 12 years, some members of the Gulf of Alaska (GOA) groundfish fishing industry have sought to rationalize the groundfish fishery. Participants want to create incentives that slow the competitive race for fish. The belief is that this will result in a more economically stable fishery that can better respond to changing economic and environmental concerns.

The North Pacific Fishery Management Council (NPFMC) has taken several steps toward rationalization over the past 12 years. The Council formed the first of three committees to address GOA rationalization in the groundfish fishery in 2000. The Council is developing several alternative approaches for new management policies to rationalize GOA groundfish fisheries resulting from four years of Council meetings and input from eight public hearings held throughout Alaska and Seattle during the summer and fall of 2002.

Rationalizing federal fisheries in the GOA could affect State of Alaska fishery management. In October 2003, the Board of Fisheries convened a committee of stakeholders with state, National Marine Fisheries Service, Board of Fisheries, Department of Law, and Council staff. It is called the GOA Groundfish Rationalization Task Force. Their mission is to pursue approaches to provide harvest opportunities under GOA rationalization in state waters that does not conflict with state law.

In February 2004, the Board of Fisheries voted 7-0: (1) to recommend pursuing legislative authority for a moratorium on all new entrants into the groundfish fisheries, excluding jig gear; (2) to recommend maintaining current state groundfish management, or alternatively, allocate a range of harvests for state management based on historic harvest patterns in state waters; and (3) direct the GOA Task Force to continue to explore ways to control harvests within state waters that meet the goals of GOA rationalization and restrictions under state law.

Senate Bill 347 will assist the Department of Fish and Game and the Commercial Fisheries Entry Commission in meeting the objectives outlined by the Board of Fisheries for the development of state water groundfish fisheries in the Gulf of Alaska.

Alaska State Legislature

SENATOR
BEN STEVENS
716 WEST 4TH AVENUE
ANCHORAGE, AK
99501-2133
(907) 269-0200
FAX (907) 269-0204



Session:
STATE CAPITOL
JUNEAU, AK
99801-1182
(907) 465-4993
FAX (907) 465-3872

Senate District N

Introduction to Information in Committee Packet on SB 347

Senate Bill 347 is a two-part bill. One part (Sections 2-8) amends the existing provisions in the limited entry statutes authorizing CFEC to administratively establish a temporary moratorium on entrants of new participants into a fishery.

The other part of the bill (Sections 1 and 9) statutorily establishes a moratorium in the Gulf of Alaska state waters groundfish fisheries.

The sectional goes through the bill in order. Please note that Sections 1 and 9 pertain specifically to the Gulf of Alaska groundfish moratoria. Sections 2 – 8 amend existing provisions in the limited entry statutes relating to the establishment of moratoriums.

Other information in this bill packet is divided into two sets. One explains the revisions to the current moratorium statute, and the other explains the portion of the bill establishing moratoria in the groundfish fisheries.

The need to amend the current fisheries moratorium law
Sections 2-8 of SB 347

This legislation will advance the goals of developing and protecting Alaska jobs and streamlining government and resource management by providing a tool that can be utilized, where appropriate, to avoid the risk of:

- Harm to fishery resources
- Economic distress among fishermen
- Over-capitalization
- Closure of fisheries
- A stampede of speculators (permit seekers)
- Having to go directly to permanent limitation, perhaps prematurely, if it remains the only available option.

AS 16.43.225 is the section of the Limited Entry Act authorizing CFEC to establish a moratorium on new entrants into a fishery. A moratorium is intended to provide a temporary halt in growth of a fishery during which the state and the fishing industry have an opportunity to assess the situation and explore options before deciding on permanent action.

However, the criteria and process mandated under the current statute have been so unusable that all of the moratoria implemented to date have required special legislation. In fact, the steps currently required are so cumbersome that undertaking a moratorium under the current statute could be counter-productive and could actually generate the damaging rush into a fishery that a moratorium is intended to prevent. Amendments are needed to correct the flaws in this section of law and make it available as a useful tool for fisheries management.

As fishermen diversify into new species, new fisheries are developing and, in some cases, expanding quickly. If participation levels in a given fishery are growing too rapidly, but it is not clear that imposition of limited entry is appropriate or timely, it is important to have the ability to expeditiously establish a moratorium to contain growth while analysis is done to determine what is needed to ensure the health of the fishery for the longer term. This would include assessment of whether permanent limitation of the fishery is warranted, and if so, how a limitation should be structured to be most fair, best conserve the resource, and provide for the orderly development of the fishery.

Because the current moratorium statute is inadequate, several times in recent years fishermen have had to seek passage of special legislation to statutorily enact moratoria in specific fisheries. In such cases, the lack of a workable means of quickly, administratively implementing a moratorium could have disastrous results for the fishery.

To date, 67 of Alaska's fisheries have been placed under limited entry. Over 130 permitted fisheries remain open access. Many of these will be suited to remaining unlimited in the years to come. Others will be suited to limitation under the Limited Entry Act. Still others, particularly if they experience dramatic rapid growth, may be best served by a timely moratorium, protecting the fishery while long-term solutions are explored. The latter approach will only be a realistic and workable option if AS 16.43.225 is appropriately amended.

General Moratorium Law
Comparing Main Provisions of under Current Law with
Amended Provisions under CS3B 347(RES)

Provision	Current Law	SB 347
<p>Steps and entities required to initiate process of establishing a moratorium</p>	<p><u>16.43.225(b)</u> Commissioner of ADF&G makes findings that a moratorium would meet criteria under 16.05.050(a)(19) and must request approval from Board of Fisheries to petition CFEC for moratorium.</p> <p>Board considers request and findings at its next regular or special meeting that follows receipt of the request and that allows time for 15 days' public notice of board's intention to consider the petition. (AS 16.05.251(g))</p> <p>If Board votes to approve Commissioner's request, Commissioner may then petition CFEC for moratorium.</p> <p>CFEC may then propose a moratorium if it finds a moratorium is warranted under criteria in 16.43.225</p>	<p><u>Bill section 2 -- 16.43.225(a)</u> CFEC may propose moratorium if it finds a moratorium would meet criteria under 16.43.225 (<i>this would be done after consultation with ADF&G</i>)</p>
<p>Purpose of moratorium/conditions under which moratorium may be established</p>	<p>Listed in current 16.43.225 (a) and 225(b), and 16.05.050(a)(19)</p>	<p><u>Bill section 2</u> Listed in new 225 (a)</p>
<p>Entities for which a moratorium in new entrants may be established</p>	<p><u>225(e)</u> Persons</p>	<p><u>Bill sections 2 & 6</u> Persons, vessels, or both (225 (a)) <i>(Moratorium on entry of additional vessels may be essential to controlling growth of fishery during moratorium.</i> <u>Note:</u> <i>This does not provide authority for vessel-based permanent limitation)</i></p>

<p>Additional provisions/direction:</p>	<p>Current law silent on these issues, so authority and latitude is left unclear or dependent upon "general authorities" provisions of statutes.</p>	<p><u>Bill section 7</u> <u>225 (b) (c) & (f)</u> For fisheries involving more than one resource, gear type or area, CFEC may spell out which of those are authorized under a given moratorium permit. <i>(Critical tool to be able to deal effectively with complex fisheries with multiple species, gears, and areas involved).</i></p> <p><u>225(g)</u> CFEC may adopt fishing capacity restrictions for moratorium permits <i>(to avoid significant expansion of fleet's fishing power during moratorium. Could be critical in fisheries with wide range of vessel sizes)</i></p> <p><u>225 (i)</u> CFEC shall charge annual fees for moratorium permits that reasonably reflect economic return in the fishery <i>(CFEC general authorities do not contain vessel permit fee authority - need explicit authority for vessel moratoria.)</i></p> <p><u>225 (e)(2)</u> If moratorium established on vessels, moratorium permits are issued to owner, (as of qualification date) of qualifying vessel.</p>
<p>Question of whether participation during moratorium may count toward any future use privilege</p>	<p><u>16.43.260(f)</u> Participation during moratorium may not be counted.</p>	<p><u>Bill section 7 --225(k)</u> Participation during moratorium may not be counted, unless otherwise provided by law or regulation.</p>

Number of Unique Vessels - All Areas

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Halibut						2,774	3,247	3,777	3,925	3,642	4,206	4,409	3,452	3,393	3,450	2,057	1,962	1,925	1,601	1,613
Sablefish						371	606	868	888	768	822	887	1,123	915	1,139	517	503	504	449	433

Number of days in the fishery

Halibut Area 2C	10	7	5	5	3	4	3.5	3	4	3	2	2	5	3	3	245	245	245	245	245
Halibut Area 3A	20	13	11	7	5	5	4	3	4	4	3	2	4	2	3	245	245	245	245	245
Halibut Area 3B	20	16	18	10	6	7	5	3.5	4	4.25	2	2	4	2	3	245	245	245	245	245

Alaska State Legislature

SENATOR
BEN STEVENS
716 WEST 4TH AVENUE
ANCHORAGE, AK
99501-2133
(907) 269-0200
FAX (907) 269-0204



Session:
STATE CAPITOL
JUNEAU, AK
99801-1182
(907) 465-4993
FAX (907) 465-3872

Senate District N

Sectional Analysis CSSB347 (RES)

“An Act relating to moratoria on entry of new participants or vessels into a commercial fishery; relating to vessel permits for, and the establishment of a moratorium on entry of new vessels into, state Gulf of Alaska groundfish fisheries; and providing for an effective date.”

Section 1. Findings and Purpose for the establishment of a moratorium on entry of new vessels into state Gulf of Alaska groundfish fisheries. [Section 9 in the bill.]

Amending Existing CFEC Moratorium Provisions

Section 2. Sets forth purposes for which CFEC may establish a moratorium in a fishery.

Section 3. Establishes that a moratorium may be for one or more fisheries or one or more species, gear types, or areas.

Section 4. Existing law allows for establishment of a moratorium of up to four years. This section adds ability to administratively extend up to another two years if necessary to achieve the purposes of the moratorium.

Section 5. Current law directs CFEC, during moratorium, to analyze whether the fishery should be limited under the existing limited entry program. This section expands that assignment, directing CFEC to evaluate a broader array of post-moratorium options for managing entry into the fishery in order to seek the best possible long-term solution for the fishery.

Section 6. Makes clear that moratorium eligibility criteria are to include an entrance qualification date established by the commission.

Authorizes establishment of a moratorium on persons, vessels, or both, and criteria for qualifying for those permits. Current law only provides for a moratorium on entry of new persons. This section is adding ability to also suspend entry of additional vessels or of both vessels and persons.

In some fisheries multiple hired skippers run the same vessels over the course of a year. A person-only moratorium could result in many more moratorium permits than a vessel-based moratorium, thus allowing substantial expansion of fleets during moratorium. Capping the number of vessels to avoid additional capitalization during moratorium could be a more effective tool in such fisheries.

(NOTE: This does NOT authorize a permanent vessel-based limitation following the moratorium. Such authority would require approval of subsequent legislation.)

Section 7.

Adds new subsections providing more detailed direction to CFEC than is provided in existing statute about structure, implementation, and ongoing handling of moratorium and moratorium permits.

(f) If moratoria are established for a fishery that involves multiple species, gear types, or areas, the commission may limit by restrictions and eligibility those species, gear types, or areas that are authorized under a vessel interim-use or interim-use moratorium permit.

(g), (h), (i), and (j) pertain specifically to when a vessel-based moratorium is used. **(These provisions are consistent with general provisions in CFEC law, but because the general provisions pertain to "person-based" permits, they cannot be relied upon to cover vessel permits.)**

(g) Authorizes CFEC to attach capacity restrictions to interim-use vessel permits to prevent upgrading to larger vessels and resulting expansion of fishing power during moratorium.

(h) Makes clear that permits can be modified or revoked by legislative action without compensation, and that they are not "property," may not be transferred, leased, attached, encumbered, etc. A vessel interim-use permit does not alter the requirement for the operator of the vessel to hold a valid interim-use permit from CFEC or for the vessel to have a commercial fishing vessel license from CFEC.

(i) Directs CFEC to charge fees for initial issuance and annual renewal of moratorium vessel permits. Annual fees are to reflect rates of economic return (fees for more lucrative fisheries are higher than for less lucrative) and those fees may not exceed \$1000.

(j) Authorizes CFEC to provide for substitution of another vessel if the vessel is sunk, destroyed, or damaged beyond use and is unable to operate in the fishery for which the permit is issued.

(k) Participation in the fishery during the moratorium may not be used to establish eligibility for a use privilege issued after the moratorium unless otherwise provided by a subsequently adopted law or CFEC regulation.

Intended to discourage "speculative" fishing effort during moratorium.

(l) Makes general provisions of CFEC law pertaining to person-based interim-use permits apply to person-based moratorium permits, unless those general provisions conflict with the provisions of section 16.43.225.

(m) Makes explicit that nothing in this section limits the powers of the Board of Fisheries or the Department of Fish Game.

(n) Under cited current laws, fishing history is generally releasable only to the skipper under whose interim-use permit fish was landed, even if the vessel used was owned by someone else. In a person-based moratorium or limited entry program, the applicant would be the skipper. However, under a vessel-based program, the vessel owner needs to access the fishing history data about landings made from the subject vessel in order to establish eligibility of the vessel for a vessel permit. Therefore, this section provides vessel owners access to that information if necessary to apply for a vessel permit.

Section 8. If a fishery that was under moratorium is subsequently limited under the traditional limited entry program, CFEC is authorized to establish a qualification date for eligibility for a limited entry permit that may or may not include time during the moratorium. Depending on the attributes of the particular fishery and participation patterns, there may be compelling reasons for including or not including any or all of the moratorium time in the eligibility period for a subsequently enacted limitation.

Gulf of Alaska Moratorium

Section 9. (a) This subsection adds a section to AS 16.43 directing the Commercial Fisheries Entry Commission (CFEC) to issue annual vessel permits for each individual fishery by management area and gear type beginning January 1, 2005. Vessel owners are required to apply for these permits.

Vessels instead of persons were chosen for limitation so as to define a smaller pool of participants to achieve the goal of controlling growth during development of a Gulf groundfish rationalization program in state waters.

The jig fishery was exempted from the bill in order to provide for entry level access to Gulf groundfish fisheries.

The Gulf of Alaska is defined as the marine state waters adjacent to the Gulf of Alaska that is west of the latitude of Cape Suckling (the Eastern border of Prince William Sound) to the westward extent of state water of the Aleutian Islands for the purpose of these moratoria.

- (b) Specifies that a vessel use permit is a use privilege rather than a property right, and that the use privilege can be modified or revoked by the Legislature without compensation.
- (c) Stipulates that on and after January 1, 2005 (except as in (m)), a vessel may not take Gulf groundfish without a vessel permit as described in (a). This stipulation is limited to trawl, longline, and pot gear; it exempts any other gear that may be permitted under Board of Fisheries regulations.
- (d) This section describes the qualifying years for the moratorium. It requires that a documented landing of Gulf groundfish with specified gear in specific areas be made between January 1, 1998, and the effective date of this bill for issuance of a vessel permit during the moratorium.

The Board of Fisheries first authorized a state water Pacific cod fishery—the state's primary groundfish fishery—in 1997, and it wasn't until 1998 that state residents took full advantage of the new fisheries; hence, 1998, was selected as the first qualifying year in order to maximize the benefits to Alaska's residents.

- (e) Participation of a person or a vessel in a Gulf groundfish fishery during the period of the moratorium may not be used to establish eligibility for a use privilege issued after the period of the moratorium.

This section is intended as a disincentive for an increased "race for fish" during the moratorium.

- (f) CFEC regulations may supercede subsections (d) –(e) if enacted by subsequent legislation authorizing such regulations.

- (g) If a vessel qualifying for a vessel permit is sunk, destroyed, or sufficiently damaged, CFEC may reissue the permit to another vessel owned by the same party. In this situation, the overall length of the new vessel may not exceed the overall length of the replaced vessel by more than 10%.
- (h) If ownership of a vessel changes hands, CFEC may reissue the Vessel Permit to the new owner.
- (i) Provides for a possible future situation in which the Board of Fisheries may adopt a vessel size restriction. This subsection would allow transfer of a vessel permit to a shorter vessel that falls within the size restriction as long as the owner of the vessel permit owns it.
- (j) Establishes annual fees by calendar year for vessel permits based on gear type: \$500 each for non-pelagic or pelagic trawl, \$250 for each pot or longline fishery.
- (k) Directs CFEC, ADF&G, and the Board of Fisheries to analyze appropriate management alternatives in the Gulf groundfish fisheries and submit such proposals as may be developed to the Legislature as appropriate to implement the recommendations.
- (l) Authorizes CFEC to adopt regulations as necessary to implement the moratorium.
- (m) Exempts vessels participating in the described fisheries in this section.
- (n) Provides definitions.

Sections 10-11. Voids the repeal of 16.43.911-- which is currently to take effect July 1, 2004 -- in order to retain the ability of vessel owners to obtain fishing history information that would otherwise not be available to them if access to that information is necessary to establish eligibility for a moratorium vessel permit.

Section 12. Repeals 16.05.050(a)(19) that under current moratorium law authorizes the Commissioner of the Department of Fish and Game, if authorized by the Board of Fisheries, to petition CFEC to establish a moratorium in a fishery. *(A step that would no longer be required for initiating a moratorium under SB 347.)*

Repeals 16.05.251(g) that authorizes the Board of Fisheries to approve or disapprove a request from the Commissioner of the Department of Fish and Game to petition CFEC to establish a fishery moratorium. *(A step that would no longer be required for initiating a moratorium under SB 347.)*

Repeals 16.43.227, which authorized a moratorium in the Southeast Alaska Dungeness crab fishery. *(This is "clean up" of existing law since that moratorium has expired.)*

Repeals 16.43.228, which established a moratorium in the Southeast Alaska dive fisheries. *(This is "clean up" of existing law since that moratorium has expired.)*

Section 13. Ensures that sections 10 and 11 will be effective even if this bill is not passed and signed into law in time to beat the July 1, 2004, repeal of 16.43.911 -- thus, it would "reinstate" section 16.43.911 if its repeal has taken effect prior to the effective date of this bill.

Section 14. Establishes an immediate effective date.

Changes to CS for SB 347 – Version S

Page 2, line 16 adds: “west of Cape Suckling”

Reason: Eastern Gulf removed from bill.

Page 2, line 21 adds: “west of Cape Suckling”

Reason: Eastern Gulf removed from bill.

Page 7, Section 9 deletes: “(1) Eastern Gulf of Alaska groundfish non-pelagic trawl fishery; (2) Eastern Gulf of Alaska groundfish pelagic trawl fishery; (3) Eastern Gulf of Alaska groundfish longline fishery; (4) Eastern Gulf of Alaska groundfish pot fishery;”

Reason: Southeast does not have large numbers of aggregated groundfish. The industry in Southeast believes it is not necessary to impose a moratorium in this area.

Page 9, lines 27-28, changes fee structure: “(1) \$500 for each pelagic trawl fishery or non-pelagic trawl fishery; (2) \$250 for each pot or longline fishery;”

Reason: After a review of the rough estimates of earnings, these fees were found to be more reasonable.

Page 9, lines 30-31, adds: “and the Board of Fisheries,”

Reason: To ensure full cooperation between the Department of Fish, the Board of Fisheries, and the Commercial Fisheries Entry Commission in the development of appropriate alternatives for management of Gulf of Alaska groundfish fisheries.

[NOTE: This section requires the submission of proposals to the legislature for legislation or constitutional amendments necessary to implement the recommendations of the commission. This will ensure adequate legislative review and approval.]

Page 10, lines 6-9, deleted: “northern Southeast Inside sablefish fishery, the Southern Southeast Inside sablefish fishery . . . or the demersal shelf rockfish fisheries.”

Reason: These are Eastern Gulf fisheries and the Eastern Gulf has been removed from the bill.

Page 10, (n), deletes: “(3) ‘Eastern Gulf of Alaska’ means the marine waters of the Eastern Gulf of Alaska groundfish fishery registration area, as defined by the Board of Fisheries;”

Reason: The Eastern Gulf has been removed from the bill.

Provided by Sen. Ben Stevens

Page 10, line 18, deletes: "north and west of Dixon Entrance"
adds: "west of the latitude of Cape Suckling"

Reason: The Eastern Gulf has been removed from the bill. This redefines the Eastern boundary.

Number of Unique Vessels - All Areas

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Halibut						2,774	3,247	3,777	3,925	3,642	4,206	4,409	3,452	3,393	3,450	2,057	1,962	1,925	1,601	1,613
Sablefish						371	606	868	888	768	822	887	1,123	915	1,139	517	503	504	449	433

Number of days in the fishery

Halibut Area 2C	10	7	5	5	3	4	3.5	3	4	3	2	2	5	1	3	245	245	245	245	245
Halibut Area 3A	20	13	11	7	5	5	4	3	4	4	3	2	4	2	3	245	245	245	245	245
Halibut Area 3B	20	16	18	10	6	7	5	3.5	4	4.25	2	2	4	2	3	245	245	245	245	245

Provided by Sinead B. Stevens

Petersburg Vessel Owners Association

PO Box 232

Petersburg, Alaska 99833

Phone: (907) 772-9323 Fax: (907) 772-4495

March 3, 2004

Senator Ogan, Chair
Senate Resources Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Senator Ogan and Committee Members,

Thank you for the opportunity to provide comments as you consider SB 347. Petersburg Vessel Owners Association is a group of commercial fishermen who participate in the fisheries that would be affected by the moratorium under Section 9 of this bill. The specific concern that I would like to address today is the inclusion of Eastern Gulf of Alaska groundfish fisheries in this moratorium. The North Pacific Council decided early on in the discussion of Gulf of Alaska rationalization that the Eastern Gulf of Alaska would not be included in the program because the groundfish fisheries in our region are not in need of limitation or rationalization.

We do not have an excess of participants; we do not have derby-style fisheries, and we do not feel that rationalization in the rest of the gulf will result in problems in our area. For whatever reason, we do not, at this time, have large aggregations of pacific cod or the other groundfish species that would make directed fisheries on these species economically viable on a large scale. Therefore we don't foresee the eastern gulf being a viable alternative to those who might be displaced by a rationalization program in the rest of the gulf.

For this reason, we believe that this moratorium presents an unnecessary barrier to entry into these groundfish fisheries. If, at some future time, effort does expand in the eastern gulf and we find our fisheries in need of limitation, we should be able to avail ourselves of the CFEC moratorium process that is laid out in sections two through eight of this bill.

We can support this bill for the portion of the gulf that is subject to the federal rationalization program. However, we would ask you to consider removing fisheries one through four under section nine of this bill. Thank you for your consideration of these comments.

Sincerely,



Cora Crome
Director

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/16/04

FURTHER:

Date of 5-Day Notice: 2/26/04
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3-8-04

Resources Committee considered SENATE BILL NO. 347

SB 347 GULF OF ALASKA GROUND FISH MORATORIUM

"An Act relating to moratoria on entry of new participants or vessels into a commercial fishery; relating to the establishment of a moratorium on entry of new vessels into state groundfish fisheries in the Gulf of Alaska and adjacent state marine water; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 347 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
F&G	3/5/04	✓			1

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Wagoner</i> <i>Lincoln</i> <i>B. Stevens</i> <i>Elton</i> <i>Ogawa</i> <i>Thomas H. Wagoner</i>	✓			
<i>Deborah A. Lincoln</i>			✓	
<i>Ben Stevens</i>	✓			
<i>Elton</i>	✓			
CHAIR: <i>Scott E. ...</i>			✓	

SENATE FINANCE COMMITTEE

SIGN-IN

SB 347-GULF OF ALASKA GROUND FISH MORATORIUM

NAME: Sue Aspelund Subject/Bill No: SB 347
Co./Dept./Title: Spec. Asst. / NDFEG Phone: 465.6139
Address: PO BOX 26526, Unu Zip: 99802-5526

Do you wish to testify? Yes No Respond To Questions

NAME: Mary McDowell Subject/Bill No: SB 347
Co./Dept./Title: Commercial Fisheries Entry Commission Phone: 790-6936
Address: Juneau Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SB

348

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT
First Committee of Referral

DATE: 2/16/04

FURTHER:

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

153 26 2004

DATE TURNED
 IN TO OFFICE: 2/27/04

Finance Committee considered

SENATE BILL NO. 348

SB 348 ROYALTY OIL CONTRACT SALE APPROVAL

"An Act approving the sale of royalty oil by the State of Alaska to Flint Hills Resources Alaska, LLC, and Flint Hills Resources, LLC; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 348 (FIN)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
DNR	2/24/04		✓		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	X			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	N			

FEB 26 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB348CSFIN-DNR-O&G-02
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Royalty Oil Contract Sale Approval RDU Resource Development
Component Oil and Gas Development
Sponsor Therriault
Requester Senate Finance Component No. 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (1004 GF)	7,035.0	7,665.0	7,665.0	7,665.0	7,665.0	7,665.0
-------------------------------------	----------------	----------------	----------------	----------------	----------------	----------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would provide legislative approval of a royalty oil contract between the state and Flint Hills Resources Alaska for the sale of Alaska North Slope royalty oil.

The contract price for royalty oil sold to Flint Hills Resources Alaska will be approximately \$0.30 per barrel more than the state will receive for royalty oil taken by the lessees in-value. The contract allows Flint Hills to purchase up to 77,000 barrels per day.

The contract price goes into effect as soon as the Governor signs the passed legislation. Assuming passage by March 31, an additional \$2.1 million in revenues would be received in FY04.

Prepared by: Kevin Banks, Petroleum Market Analyst Phone 269-8781
Division Oil and Gas Date/Time 2/26/04
Approved by: Thomas Irwin, Commissioner Date 2/26/04
Agency Natural Resources

ADOPTED

WORK DRAFT

WORK DRAFT

WORK DRAFT

23-LS1772\D
Chenoweth
2/25/04

CS FOR SENATE BILL NO. 348()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act approving and ratifying the sale of royalty oil by the State of Alaska to Flint
2 Hills Resources Alaska, LLC, and Flint Hills Resources, LLC; and providing for an
3 effective date."

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

5 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 ROYALTY OIL SALE CONTRACT WITH FLINT HILLS RESOURCES
8 APPROVED AND RATIFIED. The legislature approves and ratifies the agreement dated
9 February 25, 2004, for the sale and purchase of state royalty oil between the State of Alaska
10 and Flint Hills Resources Alaska, LLC, and Flint Hills Resources, LLC.

11 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB348-DNR-O&G-02-23-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Royalty Oil Contract Sale Approval RDU Resource Development
 Component Oil and Gas Development
 Sponsor Therriault
 Requester Senate Finance Component No. 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	7,665.0	7,665.0	7,665.0	7,665.0	7,665.0	7,665.0
-------------------------------	----------------	----------------	----------------	----------------	----------------	----------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would provide legislative approval of a royalty oil contract between the state and Flint Hills Resources Alaska for the sale of Alaska North Slope royalty oil.

The contract price for royalty oil sold to Flint Hills Resources Alaska will be approximately \$0.30 per barrel more than the state will receive for royalty oil taken by the lessees in-value. The contract allows Flint Hills to purchase up to 77,000 barrels per day.

Prepared by: Kevin Banks, Petroleum Market Analyst Phone 269-8781
 Division Oil and Gas Date/Time 2/23/04
 Approved by: Thomas Irwin, Commissioner Date 2/23/04
 Agency Natural Resources

Sale of North Slope Royalty In-Kind Oil to Flint Hills Resources

Division of Oil and Gas



Alaska Department of
Natural
Resources

Background

- Sale of Williams' assets to Flint Hills
- Williams bought State's royalty oil
- Now, Flint Hills needs contract to purchase State royalty oil for use in North Pole refinery
- RIK v RIV—what is it?

Provided by Kevin Banks, DNR

Background, cont.

- DNR negotiated contract with Flint Hills
- State relied on internal expertise and outside experts in evaluating contract terms
- Royalty Board recommended contract for approval
- Legislative approval comes by enacting legislation (AS38.06.055)

Proposed Contract Provisions

- Quantity
- Price
- Term
- Special Commitments
- State Benefits

Quantity

- FHR may purchase between 24,000 and 77,000 barrels per day.
 - ◆ Equals nearly all of FHR's requirements.
 - ◆ Initial quantity is 56,000 to 77,000 barrels per day to accommodate FHR's seasonal demand.
 - ◆ Once every 12 months, FHR may request a change in quantity.
 - ◆ State will sell no more than 85 percent of North Slope royalty production.
 - ◆ Minimum quantity = 24,000 barrels per day.

1/16/2014

Price

- Price
 - ◆ State will get a premium of \$0.30 per barrel above the price of Royalty in-Value ("RIV").
 - ◆ State will receive additional annual revenue ranging from \$2.6 million and \$8.4 million per year, depending on volumes.

1/16/2014

Price

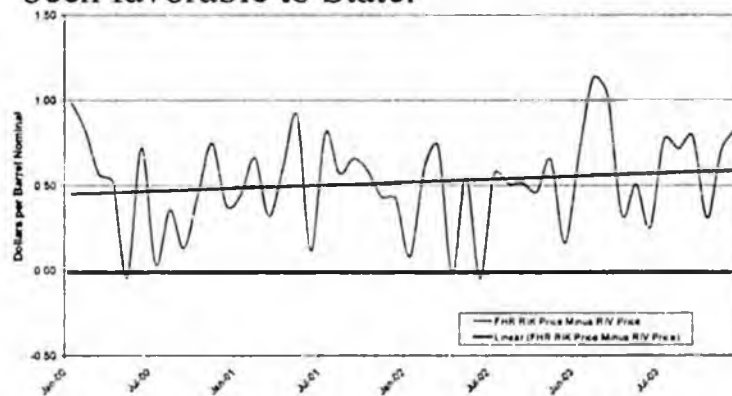
■ Example Calculation of FHR RIK Price

	ANS Spot Price
-	\$1.55
-	Interstate TAPS Tariff
±	PSVR Ref. Stream - IPA/Lib. Stream
-	<u>Line Loss</u>
=	FHR Price
-	<u>Royalty Field Cost Payment to Lessees</u>
=	RIK Value

Lrb 2/04

Price

- Looking back in time demonstrates that the proposed RIK contract price would have been favorable to State.



Lrb 2/04

Special Commitments/State Benefits

- Equipment Installation for Clean Fuels Processing
- Anchorage Tank Removal and Tank Farm Evaluation
- Shipment by Rail
- Fairbanks International Airport
- Wholesale Gasoline Rack Price Parity

3/8/2004

State Benefits

- Local Hire
 - ◆ Clean fuels project expected to be \$100 million
 - ◆ 100 to 200 direct construction jobs+twice that number for indirect and induced employment.
 - ◆ North Pole refinery currently employs 150 FTE
 - ◆ Annual payroll estimated \$8-\$12 million

State Benefits

- Projected environmental effects.
 - ◆ Clean Fuels project will provide potentially lower priced, low sulfur diesel and gasoline instead of importing such fuels into Alaska.
 - ◆ FHR will complete Anchorage tank farm improvements.
 - ◆ FHR has indicated that its is improving its environmental record and “is now and industry leader in cutting pollution.”

Feb 2004

State Benefits

- Projected effects on existing patterns of investment.
 - ◆ FHR committed to shipments by rail.
 - ◆ Fairbanks International Airport Marketing and Improvements Study.
 - ◆ The refinery and its employees generate between \$3 and \$4 million per year in property taxes.

Feb 2004

State Benefits

- Present and projected local and regional needs for oil and gas products.
 - ◆ Alaska's refineries supply nearly all of the in-state consumption of jet fuel.
 - ◆ In-state jet fuel demand is increasing at 4 percent per year.
 - ◆ The North Pole refinery supplies 56 percent of the state's jet fuel consumption.
 - ◆ Total in-state demand for gasoline = 16,000 barrels per day.

krb 2/04

Summary of State Benefits

- More state revenue than leaving oil for sale in kind with producers.
- Positive special commitments
 - ◆ Jobs/Local hire
 - ◆ Community commitments
 - ◆ In-state fuel refining
 - ◆ Alaska Railroad

Best Interest Finding and Determination

For the Sale of

Alaska North Slope Royalty Oil

To

Flint Hills Resources Alaska, LLC



Alaska Department of
**NATURAL
RESOURCES**
DIVISION OF OIL & GAS

550 West 7th Avenue, Suite 800
Anchorage, Alaska 99501-3510

February 12, 2004

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Executive Summary

The Department of Natural Resources has negotiated a proposed ten-year contract to sell the State's North Slope royalty oil to Flint Hills Resources Alaska, LLC (FHR). FHR is negotiating the purchase of the assets of Williams Alaska Petroleum, Inc. including its refinery at North Pole, Alaska. This document summarizes the terms of the State's royalty oil sale contract and describes the criteria and considerations underlying the determination that this sale of royalty oil in-kind (RIK) is in the State's best interest.

UNDER THE PROPOSED CONTRACT FLINT HILLS RESOURCES WILL BE OBLIGATED TO MEET THE FOLLOWING TERMS:

• Price

FHR will pay a price calculated using the following formula:

$$\text{ANS Spot Price} - \$1.55 - \text{Tariff Allowance} + \text{Quality Bank Adjustment} - \text{Line Loss}$$

DNR forecasts the future additional royalty revenues under the proposed contract to be \$0.30 per barrel or approximately \$2.6 million to \$8.4 million per year.

• Special Commitments

As additional consideration for the RIK purchase, FHR agrees to:

1. Invest approximately \$100 million to install clean fuels processing equipment and facilities in the North Pole Refinery and/or elsewhere in Alaska.
2. Fulfill and enhance the previous commitments made by Williams Alaska Petroleum Inc. to the Government Hill Community Council in Anchorage to address concerns about gasoline storage tanks near Government Hill and undertake additional projects to improve the Anchorage Tank Farm facility.
3. Continue to ship refined products to Anchorage via the Alaska Railroad.
4. Study the use and viability of the hydrant fueling system at the Fairbanks International Airport (FIA), concentrate on promoting FIA to cargo carriers, evaluate and possibly upgrade FIA fuel distribution facilities, and charge a jet fuel customer in Fairbanks the same or lower price as FHR charges that same customer in Anchorage.
5. Maintain the wholesale truck rack prices for gasoline in Fairbanks at a price not to exceed the wholesale truck rack prices for gasoline in Anchorage.

• In-State Processing

FHR will make all commercially reasonable efforts to insure that the royalty oil it purchases under this contract will be processed at the North Pole Refinery or exchanged for oil that will be processed at the North Pole refinery. FHR's substantial investments, both in purchase of the North Pole refinery and in its contractual agreement to invest in Clean Fuels facility upgrades, further ensure the continued long-term prospects for in-state refining of State royalty oil.

- **Local Hire**

FHR agrees to employ Alaska residents and Alaska companies.

IN RETURN FOR THESE PROVISIONS THE STATE WILL PROVIDE:

- **Quantity**

The State agrees to sell to FHR ANS royalty oil within the range of 24,500 to 77,0000 barrels per day, or nearly FHR's total refinery requirements, for the ten-year contract term. The State may limit the amount of oil sold to not more than 85 percent of the State's total North Slope royalty oil.

- **Term**

The term of the contract is ten years.

I. Introduction

The commissioner of the Department of Natural Resources (DNR), on behalf of the State of Alaska, has negotiated a long-term contract to sell the State's North Slope royalty oil to Flint Hills Resources Alaska, LLC (FHR) and Flint Hills Resources, Inc. (as guarantor), both of which are subsidiaries of Koch Industries, Inc. FHR has executed a contract for the purchase of the assets of Williams Alaska Petroleum Inc. (Williams) including Williams' North Pole refinery. FHR's contract with Williams is contingent on FHR's successful negotiation of a ten-year contract for purchase of State North Slope royalty oil to provide feedstock for the refinery.

The State proposes this sale of RIK oil to relieve market conditions for crude oil to meet in-state needs. The negotiations that have resulted in the attached proposed contract have been carried out under the procedures for a non-competitive disposition of royalty oil set out in 11 AAC 03.024. Under the terms of this contract the sale price for the royalty oil will exceed the amount the State would have received by taking its royalty oil in-value.

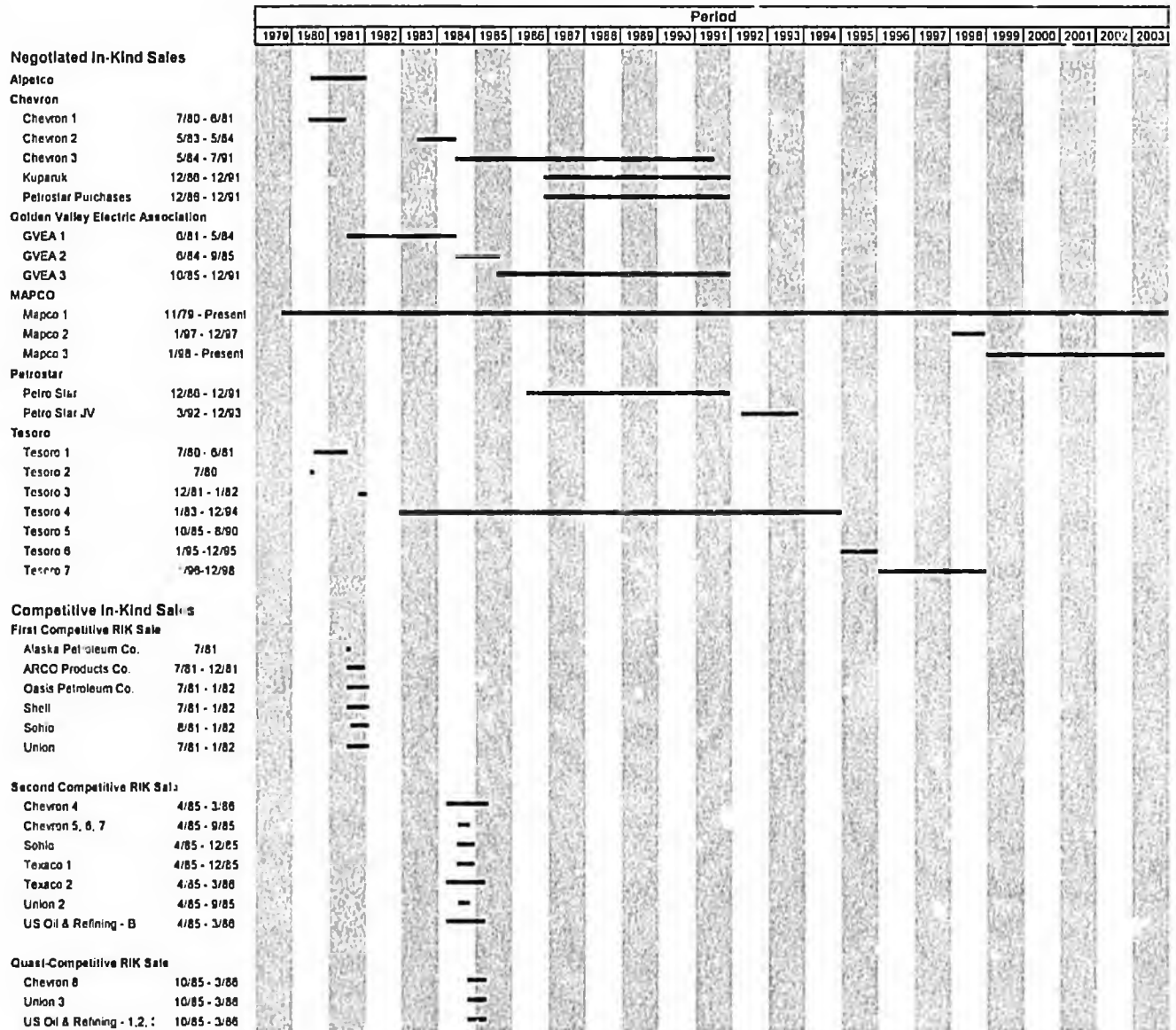
From an in-depth consideration of the potential economic, environmental, and social impacts, and the various requirements for sale of the State's royalty oil, with a focus on the criteria specified under the terms of AS 38.05.183(a) and (e) and AS 38.06.070(a), the commissioner finds that a negotiated long-term contract for the sale of the State's royalty oil to FHR is in the State's best interest.

II. Background

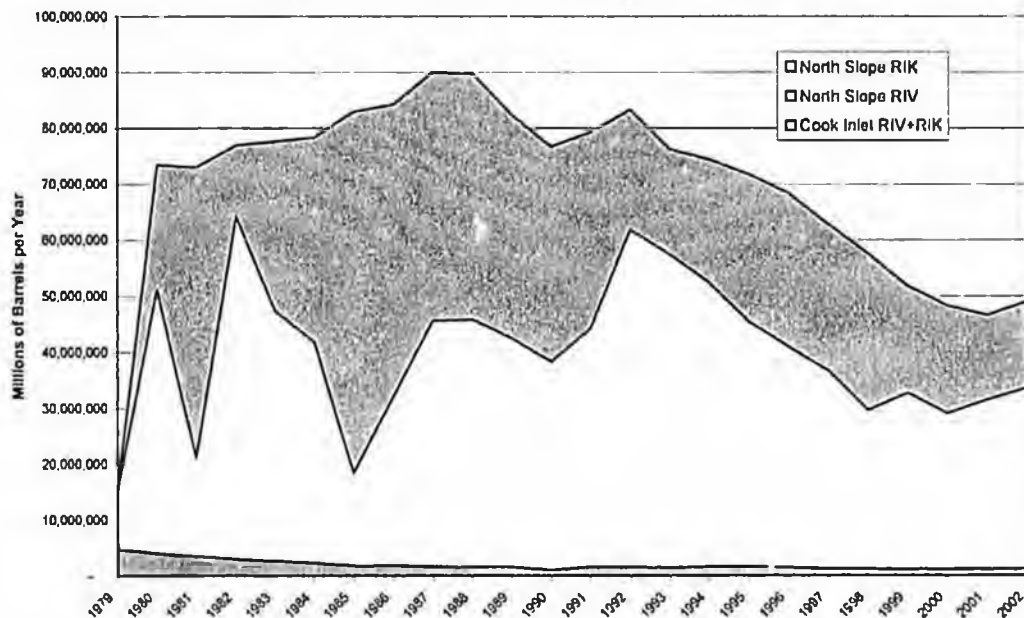
The State of Alaska owns the mineral estate, including oil and gas, under State-owned lands. It has entered into lease agreements with third parties who explore for, develop, and produce oil and gas from these lands. The State receives a royalty share of 12.5 to as much as 33-1/3 percent of the oil and gas produced from these leased lands, which it may take either "in-kind" (RIK) or "in-value" (RIV). When the State takes its royalty as RIV, the lessees who produce the oil market the State's share along with their own production and pay the State the value of its royalty share. When the State takes its royalty share of the oil as RIK, it assumes ownership of the oil, and the commissioner disposes of it through sale procedures designated either "competitive" or "non-competitive" under AS 38.05.183.

Over the years the State has sold nearly half of its royalty oil to in-state refineries, and occasionally has auctioned its royalty oil to customers in the Lower 48. Figure 1 summarizes the many North Slope RIK contracts since 1979 and Figure 2 illustrates the average annual volumes of royalty oil committed to these contracts during this period.

**Figure 1: Major North Slope Royalty in-Kind Sales Contracts
1979-2003**



**Figure 2: Composition of Total North Slope Royalty Dispositions
1979-2003
Royalty in-Kind (RIK) and Royalty in-Value (RIV)**



A. The Current Royalty In-Kind Contracts with Williams

When the Prudhoe Bay field began production, the State entered a 25-year contract to sell North Slope royalty oil to Earth Resources, Inc. who later built the refinery at North Pole, Alaska. The 25-year Earth Resources royalty oil contract supplied the North Pole refinery with an average of 35,000 barrels of royalty oil per day and was eventually assigned to Mapco Alaska, Inc. In 1997, the State and Mapco Alaska, Inc. negotiated a one-year contract for approximately 13,000 barrels per day to augment the supply of royalty oil delivered under the 25-year contract. In 1998, the State and Mapco “extended” this one-year contract by negotiating a new five-year contract that was subsequently approved by the Legislature. This five-year contract provided an average of 22,800 barrels per day in addition to the 35,000 barrels per day delivered under the old 25-year contract. Later in 1998 Mapco sold its Alaskan assets and assigned both the 25-year contract and the 5-year contract to Williams. Under these contracts, the State was obliged to deliver only royalty oil produced from the Prudhoe Bay Unit. These two contracts expired on December 31, 2003.

Following the expiration of the 1978 and 1998 RIK contracts on December 31, 2003, the State has continued to supply the North Pole refinery with royalty oil for feedstock under a short-term contract between the State and Williams that will expire on March 31, 2004.¹ The State has

¹ See Alaska Department of Natural Resources. October 1, 2003. “Best Interest Finding and Determination for the Sale of Alaska North Slope Oil” for a copy of this short-term contract.

executed a second short-term RIK contract with Williams to provide the refinery with an uninterrupted supply of royalty oil through September 30, 2004² to enable the continued operation of the refinery while the Department of Natural Resources and FHR conclude their negotiations on the proposed RIK contract that is the subject of this Finding and Determination. The two short-term RIK contracts are required to accommodate the nomination procedures required under the State leases, unit agreements, and the royalty settlement agreements between the State and the North Slope producers. The leases and agreements require the State to nominate the monthly quantity of royalty oil it elects to take in-kind 90 to 180 days before the production month for which the RIK nomination is made. The State must therefore execute its RIK sale contracts three to six months in advance of the month of first delivery in order to limit State nominations to quantities that are the contractual obligation of the ultimate RIK purchaser. Thus, the State's second short-term contract with Williams for deliveries to the North Pole refinery beginning April 1, 2004, was required to be executed prior to January 1, 2004.

The short-term contracts obligate Williams to take RIK oil that the State will nominate before the conclusion of Williams' refinery sale to FHR and the execution of the State's proposed RIK contract with FHR. The proposed RIK contract with FHR can not become effective until DNR (1) publishes the commissioner's findings on whether the contract serves the best interests of the State; (2) convenes the Alaska Royalty Oil and Gas Development Board ("Royalty Board") to review the contract (11 AAC 03.020); and (3) receives approval for execution of the multi-year contract from the Legislature. After the sale of the refinery is completed and provided that the State's long-term RIK contract with FHR receives all required approvals, FHR will take over the operation of the North Pole refinery and the RIK oil nominated under the short-term Williams' contracts will be assigned to FHR. FHR will pay for the RIK oil assigned to it under the terms (including price) set forth in the proposed long-term RIK contract.

B. RIK Oil Sale Procedure

Before executing a contract for the disposition of royalty oil in-kind, the commissioner must find that the disposition is in the best interests of the State. The commissioner establishes the terms, conditions, and methods of disposition of the State's royalty oil that is taken in-kind. The oil may be sold under "competitive" or "non-competitive" procedures. RIK oil may be sold under the "non-competitive" procedures, if the commissioner determines that the best interest of the State will be served by a non-competitive sale. (AS 38.05.183(a)). In making this determination, the commissioner must consider the criteria listed in AS 38.05.183(e) and AS 38.06.070(a). The RIK contract must be awarded to the prospective buyer whose proposal offers maximum benefits to the citizens of the State.

In March of 2003, Williams met with staff at the Division of Oil and Gas and requested a new five-year RIK contract to fully supply the North Pole refinery feedstock requirements following expiration of the 1978 and 1998 RIK contracts. Williams informed the State that it was actively seeking to sell its Alaska assets and intended to assign the proposed RIK contract to the purchaser of the North Pole refinery. In early July 2003, FHR met with the Governor and his staff and indicated that it intended to buy the Williams' North Pole refinery and that a long-term

² See Alaska Department of Natural Resources. December 29, 2003. "Best Interest Finding and Determination for the Sale of Alaska North Slope Oil" for a copy of this second short-term contract.

contract with the State would make it possible for FHR to upgrade the properties it would acquire. The Governor called a meeting for July 29, 2003, and invited all potential in-state purchasers of North Slope RIK to discuss what terms each company might offer the State.

As a result of these meetings, and after consideration of all the criteria of AS 38.05.183(e) and AS 38.06.070(a), the commissioner determined that FHR was the prospective buyer whose proposal offered the maximum benefits to the citizens of the State, and agreed to negotiate an RIK contract directly with FHR. Individual findings on each of the statutory criteria are set out in Sections IV and V, below.

The commissioner determined that the sale of RIK oil to FHR would relieve market conditions by providing crude oil required for the continued operation of the North Pole refinery. In addition, the State would benefit from a sale price throughout the term of the long-term contract that would be higher than the volume-weighted average of the reported netback prices applicable to royalty oil taken in-value for the same period. The commissioner concluded, on balance, that entering into a long-term RIK sale contract with FHR, on the terms and conditions as included in the attached proposed contract, is in the best interests of the State.

This Best Interest Finding and Determination and a copy of the proposed RIK contract are available from the State by contacting:

Division of Oil and Gas
Attn: Kevin Banks
550 W. 7th Ave, Suite 800
Anchorage, Alaska 99501
Phone: (907) 269-8781
E-mail: krb@dnr.state.ak.us

and will also be published on the Division of Oil and Gas website at:

<http://www.dog.dnr.state.ak.us/oil/>

A copy of the proposed RIK oil sale contract is attached as an appendix to this Best Interest Finding and Determination.

III. Discussion Contract Provisions

The proposed contract represents an evolution of RIK contract terms of the most recent (1998) State RIK contract with Williams as modified through negotiations between the State and FHR. The 1998 RIK contract with Williams is the latest in a 25 year history of long-term contracts between the State and the in-state refineries. This section is a summary of the essential terms of the proposed contract.

A. Price (Section 2.3 and Appendix 2)

The price per barrel of the royalty oil sold to FHR is set each month and is defined by the equation:

$$\text{ANS Spot Price} - \$1.55 - \text{Tariff Allowance} + \text{Quality Bank Adjustment} - \text{Line Loss}$$

Each of the elements of this equation are explained below:

1. ANS Spot Price

The ANS Spot Price is a monthly average of the daily average prices reported by three industry trade publications: Platt's Oilgram Price Report, Telerate online data reporting service, and Reuters online data reporting service. The ANS Spot Price represents the market value for North Slope oil sold on the U.S. West Coast. Judging by the prevalence of its use among the many buyers and sellers of North Slope oil, the use of the ANS Spot Price as defined in the proposed RIK contract is a credible and reliable measure of the ANS market. The Alaska Department of Revenue has adopted a similar definition for use in its calculation of Prevailing Value for production tax purposes.

The FHR contract contemplates the possibility that one or more of these reporting services may fail to publish a market price for North Slope oil or that the ANS Spot Price may no longer accurately represent the price for North Slope oil in the U.S. West Coast. In the first case, the ANS Spot Price will be calculated by using data from the remaining reporting services. In the second case, FHR and the State will attempt to arrive at a mutually agreeable alternative source of data to determine the ANS Spot Price.

2. \$1.55 per Barrel Deduction

Unlike former long-term RIK contracts between the State and in-state refinery customers, the proposed FHR contract does not directly reference the RIV netback value in the price term. The flat \$1.55 per barrel deduction from the ANS Spot Price replaces the actual (adjustable) marine transportation cost factor included in former RIK contracts. This is a deduction that FHR makes to its price paid for RIK oil, and thus the smaller the deduction, the higher the price paid by FHR to the State.

The \$1.55 deduction provides a premium to the State compared to DNR data on the deduction for marine transportation costs for the last three years allowed in the royalty settlement agreements with the lessees to calculate the RIV netback. The RIV netback is subject to change as the lessees are audited and when a current marine transportation cost "reopener" with ExxonMobil is resolved.³ DNR's estimate of the deduction for marine transportation costs for

³ Each of the royalty settlement agreements with the North Slope lessees provides opportunities for the State or the lessee to renegotiate elements of the RIV netback formula. The State and ExxonMobil are currently disputing the calculation of ExxonMobil's destination value, marine transportation cost deduction, and the deduction for line losses.