

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2997 SCOMM 133: HOUSE SPECIAL COMMITTEE ON OIL & GAS 2003-04

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 277
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Pipeline Utilities Regulation BRU Resource Development
Component Oil and Gas Development
Sponsor Dahlstrom
Requester House Oil and Gas Component No. 439

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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						
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CHANGE IN REVENUES ()	**	**	**	**	**	**
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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 (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

** Negative revenue impacts may be significant. See Analysis.

Over the long term, HB 277 will probably result in a significant negative fiscal impact to the state. It is impossible to accurately predict how deep this loss will be. Primarily, one can point to effects of the bill on the value of the state's royalty oil and gas resources, both direct and indirect.

Continued on next page.

Prepared by: Mark D. Myers Phone 269-8800
Division Oil and Gas Date/Time 4/22/2003
Approved by: Tom Irwin, Commissioner Date 4/22/2003
Agency Natural Resources

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. HB 277

ANALYSIS CONTINUATION

In general, higher tariffs for pipeline transportation have a direct negative effect on the state's royalty interests. Over the long term the bill could result in higher tariffs in a number of ways.

* Section 7 creates incentives for pipeline carriers to file excessive rates. If the rate is eventually determined to be unjust and unreasonable, no refunds will be made from the pipeline to the shipper (including the state).

* Section 3 removes the RCA's ability to consider revenues collected on interstate transportation when evaluating intrastate rates, for a pipeline serving both interstate and intrastate markets. This could reduce the RCA's ability to set appropriate intrastate rates.

* Section 5 would determine that rates that conform to a settlement agreement between the state and a pipeline would be conclusively considered just and reasonable. Commercially, sophisticated shippers who are not party to the settlement would not be able to protest rates in the future. This removes the possibility that rates set according to a settlement could ever receive a "mid-course" adjustment, if terms of the settlement agreement eventually failed to reflect just and reasonable levels.

* Section 6 addresses interest rates that are paid on refunds, if the RCA determines that filed tariffs are not appropriate. First, if the difference between a filed and temporary tariff is placed in escrow, then interest on the refunds need not be paid. Second, for funds not placed in escrow, the rate of interest would be changed from 10.5% to the Federal Reserve discount rate plus 3%. For the foreseeable future, this floating rate seems likely to be significantly below 10.5%. Under such conditions pipelines may have incentive to file excessive tariffs. If eventually found to be excessive, the lower rate of return paid on refunds would hurt the state.

Higher tariffs can also indirectly reduce state royalties. Excessive tariffs can substantially reduce the economics of investments in oil and gas development for explorers who do not own a share of the pipeline. This can reduce the amount of exploration and development activity in the state, with consequences for royalty values. Reduced competition in exploration and development could also reduce lease bonus bids on state leases.

SCOMM

133:10

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 279
 (H) Publish Date: 4/22/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Alaska Natural Gas BRU Administration and Support
Development Authority Component Commissioner's Office
 Sponsor Rules Committee
 Requester Governor Component No. 123

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	87.0					
Travel	13.0					
Contractual	50.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	150.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	150.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	150.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: ☐

POSITIONS

Full-time	1					
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would expand the scope of work for the Alaska Natural Gas Development Authority to allow the voter-approved authority to consider a natural gas pipeline to the Lower 48, in addition to considering a pipeline to Prince William Sound for the export of liquefied natural gas. This legislation also would require the new Authority to produce a work plan by Jan. 1, 2004.

The General Fund budget request for FY2004 would cover the salary of one staff person (Range 23 executive director), travel for the director and the board of directors, and contractual expenses for the Authority to complete its work assignment in six months.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division: Department of Revenue Date/Time 4/21/03 2:45 PM
 Approved by: Bill Corbus, Commissioner Date 4/21/2003
 Agency: Department of Revenue

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 279
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
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April 17, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would amend the Alaska Natural Gas Development Authority Act (Act) (AS 41.41). This bill would amend the Act to expand the scope of projects that the Alaska Natural Gas Development Authority (authority) may consider. Under current law, the authority is required to develop a project plan within one year for a gas transmission pipeline running from the North Slope to tidewater at a point on Prince William Sound. There may, however, be other projects that are economically viable to bring Alaska gas to market, including a gas transmission line from the North Slope to the Canadian border along the route of the Alaska Highway. The State of Alaska's approach to considering these potential projects should be consistent. The authority is, therefore, an appropriate vehicle to consider and plan for all economically viable projects that run from the North Slope by a route that parallels the Trans Alaska Pipeline System or the Alaska Highway.

Section 1 of the bill includes legislative findings and intent that it is in the best interests of the State of Alaska to expand the purpose of the authority to include in its planning and operation any economically viable gas pipeline project from the North Slope by a route that parallels the Trans Alaska Pipeline System or the Alaska Highway.

Section 2 of the bill would broaden the concept of what an essential government function is under the Act to beyond the acquisition and delivery of North Slope gas to tidewater.

Sections 3 and 4 of the bill clarify that the authority may acquire federal, state, or local permits as property of the authority under standards set out in AS 41.41.450, but the authority is not required to make any acquisition of property.

The Honorable Pete Kott

April 17, 2003

Page 2

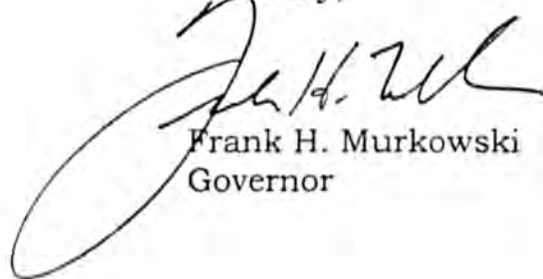
Section 5 of the bill would expand the definition of "project" to include any project that follows a route that parallels the Trans Alaska Pipeline System or the Alaska Highway.

Section 6 of the bill would replace the timeframe for production of a development plan for a gas pipeline project with a specific date for production of a work plan, which must include detailed budgeting and scheduling information. Requiring the authority to produce a detailed work plan by January 1, 2004 will facilitate delivery of a comprehensive development plan.

I believe that these amendments will enhance the State of Alaska's ability to promote the most viable project or projects to successfully bring Alaska's vast gas reserves to market.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frank H. Murkowski", is written over the printed name and title.

Frank H. Murkowski
Governor

SCOMM

133:11

Representative
HUGH "BUD" FATE
Chair-Resources Committee
Energy Council
119 N. Cushman St. Suite 207
Fairbanks, Alaska 99701
(907) 452-6084
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Alaska State Legislature



While in Session
State Capitol, Room 128
Juneau, Alaska 99801-1182
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1 866-465-4976

House District 7

House of Representatives

Sponsor Statement HB 290

"An Act relating to voting on matters before the Alaska Oil and Gas Conservation Commission and to appeals from decisions of the commission; and providing for an effective date."

HB 290 is proposed to remedy two potential sources of confusion and redundancy in existing statute (AS 31.05). The changes deal with conflicts of interest and with appeals from Commission decisions. In both cases there are newer statutes that better reflect the legislature's judgment and intent in these matters.

For Commission decision appeals to Superior Court, the changes drop outmoded procedural language that was enacted prior to statehood. This clarifies that the uniform appeal procedures of the Judiciary Statute (AS 22.10.020(d)) and the Court Rules apply to appeals from Commission decisions, just as they apply to appeals from most other state agencies. The bill would retain the current requirement in AS 31.05 that, before going to court, a person appealing a Commission decision must give the Commission an opportunity to address the complaints.

As for the issue of Commissioners voting when there is a conflict of interest, HB 290 would delete the one-sentence provision that was passed in 1978 when the Commission was created. Conflicts of interest are addressed in detail in the Executive Branch Ethics Act of 1986 (AS 39.52), and the older provision is now unnecessary and potentially confusing.

These changes to the Alaska Oil and Gas Conservation Commission statute will bring a clearer understanding of the rules that apply by ensuring that later improvements in the law are given full effect. Unfortunately, when the improvements were enacted the earlier statute language was not deleted. HB 290 will make this correction.

HOUSE BILL NO. 290

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE FATE

Introduced: 4/30/03

Referred: House Special Committee on Oil and Gas, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to voting on matters before the Alaska Oil and Gas Conservation
2 Commission and to appeals from decisions of the commission; and providing for an
3 effective date."

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

5 * **Section 1.** AS 31.05.080(b) is repealed and reenacted to read:

6 (b) A party to the rehearing proceeding who is dissatisfied with the disposition
7 of the application for rehearing may appeal from the decision as to the disposition to
8 the superior court. The questions reviewed on appeal are limited to the questions
9 presented to the commission by the application for rehearing.

10 * **Sec. 2.** AS 31.05.025(b), 31.05.080(c), and 31.05.080(d) are repealed.

11 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

Sec. 31.05.080. Rehearings and appeals.

(b) A party to the rehearing proceeding, dissatisfied with the disposition of the application for rehearing, may appeal from it to the superior court in the judicial district in which any property affected by the decision of the commission is located, by filing a petition for the review of the action of the commission within 20 days after the entry of the order following rehearing or after the refusal of rehearing as the case may be. The petition shall state briefly the nature of the proceedings before the commission and shall set out the order or decision of the commission complained of and the grounds of invalidity of it upon which the applicant will rely. However, the questions reviewed on appeal shall be only questions presented to the commission by the application for rehearing. Notice of appeal shall be served upon the adverse parties and the commission in the manner provided for the service of summons in civil proceedings. The trial upon appeal shall be without a jury, and the transcript of proceedings before the commission, including the evidence taken in hearings by the commission, shall be received in evidence by the court in whole or in part upon offer by either party, subject to legal objections to evidence, in the same manner as if the evidence was originally offered in the superior court. The commission's action complained of is prima facie valid and the burden is upon the party seeking review to establish the invalidity of the action of the commission. The court shall determine the issues of fact and of law and shall, upon a preponderance of the evidence introduced before the court, which may include evidence in addition to the transcript of proceedings before the commission, and the applicable law, enter its order either affirming or vacating the order of the commission. Appeals may be taken from the judgment or decision of the superior court in the same manner as provided for appeals from any other final judgment entered by a superior court.

(c) The pendency of proceedings to review does not of itself stay or suspend operation of the order or decision being reviewed, but during the pendency of the proceedings, the superior court may, upon its own motion or upon proper application of a party, stay or suspend, in whole or in part, operation of the order or decision pending review, on the terms the court considers just and proper and in accordance with the rules of civil procedure. The court, as a condition to staying or suspension of operation of an order or decision, may require that one or more parties secure, in the form and amount as the court considers just and proper, one or more other parties against loss or damage due to the staying or suspension of the commission's order or decision, if the action of the commission is affirmed.

(d) The rules of practice and procedure in civil cases govern the proceedings for review and appeal to the extent they are consistent with this chapter.

Sec. 31.05.025. Conflict of interest.

(a) Members and employees of the commission, except clerical and secretarial staff, are subject to AS 39.50.

(b) A member of the commission is disqualified from voting upon any matter before the commission in which the member has a conflict of interest.

EXPLANATION OF AOGCC VOTING AND APPEALS BILL

The proposed bill remedies two potential sources of confusion and redundancy in the Alaska Oil and Gas Conservation Act, AS 31.05. One concerns how conflicts of interests are dealt with, and the other concerns how appeals from Commission decisions are handled. In both instances, there are other, more recent statutes that better reflect the legislature's judgment and policy on these subjects. The bill would repeal provisions in AS 31.05 that are inconsistent with those more recent statutes.

I. Appeals

First, the bill makes clear that appeals to the superior court from decisions of the Commission are subject to the uniform procedures established in the judiciary statute, AS 22.10.020(d), and the Rules of Appellate Procedure, rather than the outmoded procedures that were established before statehood for the territorial version of the Commission.

The bill would amend AS 31.05.080(b) and would repeal AS 31.05.080(c) and (d). AS 31.05.080 was enacted in 1955 as part of the original Alaska Oil and Gas Conservation Act ("Conservation Act") and has never been substantively changed since that time. Existing AS 31.05.080(b) details how appeals of the agency's decisions are to be handled, including the taking of evidence in court in addition to evidence that was introduced before the agency and the determination by the court of both factual and legal issues based upon a preponderance of the evidence.

Those provisions, however, conflict with and were superseded by the uniform provisions for administrative appeals that the state legislature enacted in what is now AS 22.10.020(d) and the procedures adopted by the Alaska Supreme Court in Part VI of the Rules of Appellate Procedure. AS 22.10.020(d) provides that appeals from agency decisions "shall be on the record

unless the superior court, in its discretion, grants a trial de novo, in whole or in part." Review "on the record," which would involve appropriate deference to the Commission's fact-finding, is particularly suitable for an agency like the Commission that deals with highly technical issues and a majority of whose members are required by the legislature to possess specialized expertise. The Rules of Appellate Procedure also differ from the territorial statute regarding time limits, venue, service of papers, filing requirements, and the need for a cost bond.

Although the published version of the Alaska Statutes contains a revisor's note that "[t]he procedures for appeal set out in this section have been superseded by the rules of court," the continued presence of superseded procedures in AS 31.05.080 causes confusion and has resulted in repeated and time-consuming disputes in court over which procedures to follow. (For example, in one appeal that is currently before the superior court, litigation over this procedural issue interrupted the appeals process for six months, including a petition for review in the Alaska Supreme Court.) It is in the public interest, therefore, to clear up the confusion.

Section 1 of the bill would repeal most of the language of existing AS 31.05.080(b), leaving the subjects addressed by the repealed language to be governed by the applicable provisions of the Rules of Appellate Procedure and AS 22.10.020(d). Two subjects of AS 31.05.080(b) would be retained in the reenacted subsec. (b): a brief statement of the right of an aggrieved party to appeal to superior court, and a requirement to exhaust administrative remedies before resorting to court.

Section 2 of the bill would repeal AS 31.05.080(c) and (d). Existing subsec. (c) deals with stays of Commission decisions during appeal. Because stays are similarly addressed under the Rules of Appellate Procedure, there is no need to maintain a separate statutory provision. Existing subsec. (d) merely provides that appeals from Commission decisions are governed by

the rules of practice and procedure in civil cases to the extent that those rules are consistent with the Conservation Act. Because sec. 1 of the bill would have the effect of clarifying that the court rules apply to such appeals, the language of AS 31.05.080(d) is unnecessary.

II. Voting with a Conflict of Interest

AS 31.05.025(b), which was enacted when the Commission was created in 1978, provides:

A member of the commission is disqualified from voting upon any matter before the commission in which the member has a conflict of interest.

This broad statement is not further defined in the statute, and it would probably be construed in light of the common law on conflicts of interest.

In 1986, however, the legislature comprehensively addressed conflicts of interest and other governmental ethics issues when it enacted the Executive Branch Ethics Act, AS 39.52. In that Act the legislature adopted a number of ethical rules for public officers, who include members of the Alaska Oil and Gas Conservation Commission. Those rules vary to some extent from the common law on conflicts of interest, and in fact the Executive Branch Ethics Act expressly states that it supersedes the common law on conflicts of interest. AS 39.52.910(b).

This creates a confusing situation, in which a general conflict-of-interest rule based on the common law continues to co-exist in the statutes with a comprehensive ethics code that varies from the common law. This situation can make it complicated for Commission members to determine when they might or might not be disqualified from official action and complicated for the Department of Law to provide advice. The bill, therefore, would repeal AS 31.05.025(b), so that Commission members would be able to

look to a single, uniform, and detailed set of ethical guidelines in the form of the Executive Branch Ethics Act.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 290
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title Relating to voting on matters before BRU Oil & Gas Conservation Com.
the AOGCC Component Oil & Gas Conservation Com.
Sponsor Rep. Fate
Requester (H) O&G Component No. 2010

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	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	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact on the Department of Administration.

Prepared by: Dan Seamount Phone 907-279-1433
Division: Alaska Oil and Gas Conservation Commission Date/Time 5/7/03 1:57 PM
Approved by: Mike Miller, Commissioner Date 5/7/2003
Agency: Department of Administration

SCOMM

133:12

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 19, 2004

FURTHER REFERRALS: Resources
Finance

Date of Committee Action:

The HOUSE SPECIAL COMMITTEE ON OIL AND GAS considered:

SSHB 364

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 364

NATURAL GAS LEASES ON THE KENAI PENINSULA

"An Act establishing a moratorium on the issuance of state shallow natural gas leases in the vicinity of Kachemak Bay, and precluding the commissioner of natural resources from reissuing or otherwise extending leases within the moratorium area if the leases fail to produce gas in paying quantities within the terms of the lease or if there is a breach of a term or condition of the lease; and providing for an effective date."

Recommends it be replaced with [

] HCS or [

✓ CS for

SSHB364

OFG

For Senate Bills with new title: [] Technical Title [] New Title: HCR

☐ Same Title ☒ New Title

[] attach amendments

☐ add new referral to _____ Committee

[] Letter of Intent Committee

*List of
Abbrev
for
Depts.:*
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

[illegible][illegible]

Signing with recommendations		Printed Last Name	DP	DNP	NR	AM
~~John~~		HOLM				✓
Nancy Rokeby		ROKEBY				✓
Pam Bertell		Bertell	✓			
Harry Crawford		CRAWFORD	✓			
Reese McCon		McCon			✓	
Chair: Vic Rohring		Rohring				X

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB364SS-DNR-O&G-03-08
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Natural Gas Leases on the Kenai Peninsula RDU Resource Development
 Component Oil and Gas Development
 Sponsor Rep. Seaton
 Requester House Oil and Gas 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						
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CHANGE IN REVENUES ()	(**Indeterminate)
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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)

****HB 364 would impose a moratorium on shallow natural gas leasing around the Homer area. This bill would foreclose future income from shallow natural gas application fees, rentals, and royalties in the Homer area.**

Prepared by: Mark D. Myers Phone 269-8800
 Division Oil and Gas Date/Time 3/8/04
 Approved by: Thomas Irwin, Commissioner Date 3/8/04
 Agency Natural Resources

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 364
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE SEATON

Introduced: 2/19/04

Referred: House Special Committee on Oil and Gas, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing a moratorium on the issuance of state shallow natural gas leases in
2 the vicinity of Kachemak Bay, and precluding the commissioner of natural resources
3 from reissuing or otherwise extending leases within the moratorium area if the leases fail
4 to produce gas in paying quantities within the terms of the lease or if there is a breach of
5 a term or condition of the lease; and providing for an effective date."

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

7 * **Section 1. LEGISLATIVE FINDINGS.** The legislature finds that

8 (1) the land and water within the Kenai Peninsula Borough east of Cook Inlet
9 and south of the north boundary of Township 5 North, Seward Meridian,

10 (A) is immediately adjacent to the Cook Inlet Areawide Lease Sale and
11 the associated conventional gas projects;

12 (B) follows the same geologic trend supporting conventional gas
13 projects within the Cook Inlet Areawide Lease Sale;

1 (C) demonstrates geology, geography, economics, and demographics
 2 consistent with the area and communities found in the Cook Inlet Areawide Lease
 3 Sale; and

4 (D) is inconsistent with the rural and isolated communities described in
 5 the intent of the shallow natural gas program;

6 (2) it is in the best interest of the state to lease mineral rights through a public
 7 process, with administrative oversight and management, preparation of a best interest finding,
 8 and a competitive bid process; and

9 (3) issuance of shallow natural gas leases with specific limitations on depths in
 10 areas where conventional natural gas reserves may be present creates management problems
 11 that may preclude the full unitization and conservation of the resources.

12 * Sec. 2. AS 38.05.177(a) is amended to read:

13 (a) The provisions of this section

14 (1) apply to gas, whether methane associated with and derived from
 15 coal deposits or otherwise, from a field if a part of the field is within 3,000 feet of the
 16 surface; and

17 (2) do not apply to authorize lease of

18 (A) land

19 (i) that is subject to an oil and gas exploration license or
 20 lease issued under AS 38.05.131 - 38.05.134; or

21 (ii) that is leased under AS 38.05.180;

22 (B) the land (i) that is proposed to be subject to an oil and gas
 23 exploration license or lease issued under AS 38.05.131 - 38.05.134; or (ii) that
 24 is described in and part of a proposed oil and gas leasing program prepared
 25 under AS 38.05.180(b); however, the commissioner may waive the limitations
 26 of this subparagraph;

27 (C) the land that is held under a coal lease entered into under
 28 AS 38.05.150, unless the applicant for a shallow natural gas lease is also the
 29 lessee under AS 38.05.150 of that land; [OR]

30 (D) the valid existing selections of the Alaska Mental Health
 31 Trust Authority made for the purpose of reconstituting the mental health trust

1 established under the Alaska Mental Health Enabling Act, P.L. 84-830, 70
 2 Stat. 709 (1956), that become subject to management under AS 38.05.801, or
 3 of land that has been designated by law for or is subject to designation for
 4 conveyance to the Alaska Mental Health Trust Authority; however, after
 5 consultation with the Alaska Mental Health Trust Authority, the commissioner
 6 may waive the limitations of this subparagraph; or

7 (E) land and water within the Kenai Peninsula Borough
 8 east of Cook Inlet and south of the north boundary of Township 5 South,
 9 Seward Meridian.

10 * Sec. 3. The uncoded law of the State of Alaska is amended by adding a new section to
 11 read:

12 APPLICATION OF SECTION 2 TO LAND CURRENTLY LEASED IN THE
 13 VICINITY OF KACHEMAK BAY FOR SHALLOW NATURAL GAS EXPLORATION
 14 AND DEVELOPMENT. The provisions of AS 38.05.177(a)(2)(E), added by sec. 2 of this
 15 Act, apply to prohibit the issuance or reissuance of a lease under AS 38.05.177 entered into
 16 before the effective date of this Act if the lease terminates because of the failure to extend the
 17 lease under AS 38.05.177(d) or if the lease terminates by the operation of AS 38.05.177(h).

18 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

23-LS1464\Q
Chenoweth
3/4/04

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 364()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE SEATON

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting the issuance of state shallow natural gas leases in the vicinity of
2 Kachemak Bay, modifying the authority to extend certain shallow natural gas leases,
3 and precluding the director of the division of lands from reissuing or otherwise
4 extending shallow natural gas leases within the Kachemak Bay area if the leases fail to
5 produce gas in paying quantities within the terms of the lease or if there is a breach of a
6 term or condition of the lease; and providing for an effective date."

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

8 * **Section 1.** AS 38.05.177(a) is amended to read:

9 (a) The provisions of this section

10 (1) apply to gas, whether methane associated with and derived from
11 coal deposits or otherwise, from a field if a part of the field is within 3,000 feet of the
12 surface; and

13 (2) do not apply to authorize lease of

1 (A) land

2 (i) that is subject to an oil and gas exploration license or
3 lease issued under AS 38.05.131 - 38.05.134; or

4 (ii) that is leased under AS 38.05.180;

5 (B) the land (i) that is proposed to be subject to an oil and gas
6 exploration license or lease issued under AS 38.05.131 - 38.05.134; or (ii) that
7 is described in and part of a proposed oil and gas leasing program prepared
8 under AS 38.05.180(b); however, the commissioner may waive the limitations
9 of this subparagraph;

10 (C) the land that is held under a coal lease entered into under
11 AS 38.05.150, unless the applicant for a shallow natural gas lease is also the
12 lessee under AS 38.05.150 of that land; [OR]

13 (D) the valid existing selections of the Alaska Mental Health
14 Trust Authority made for the purpose of reconstituting the mental health trust
15 established under the Alaska Mental Health Enabling Act, P.L. 84-830, 70
16 Stat. 709 (1956), that become subject to management under AS 38.05.801, or
17 of land that has been designated by law for or is subject to designation for
18 conveyance to the Alaska Mental Health Trust Authority; however, after
19 consultation with the Alaska Mental Health Trust Authority, the commissioner
20 may waive the limitations of this subparagraph; or

21 (E) land and water within the Kenai Peninsula Borough
22 east of Cook Inlet and south of the north boundary of Township 5 South,
23 Seward Meridian.

24 * Sec. 2. AS 38.05.177(d) is amended to read:

25 (d) A lease

26 (1) shall be automatically extended if and for so long thereafter as gas
27 is produced in paying quantities from the lease and the lessee continues to meet all
28 requirements of the lease; a [. A] lease issued under this section covering land on
29 which there is a well capable of producing gas in paying quantities does not expire
30 because the lessee fails to produce gas unless the lessee is allowed reasonable time to
31 place the well on a producing status; if [. IF] drilling has commenced on the

1 expiration date of the primary term of the lease and is continued with reasonable
2 diligence, including such operations as redrilling, sidetracking, or other means
3 necessary to reach the originally proposed bottom hole location, the lease is extended
4 for one year and for so long thereafter as gas is produced in paying quantities; a [A]
5 gas lease issued under this section that is subject to termination by reason of cessation
6 of production does not terminate if, within 90 days after production ceases or a longer
7 period determined at the discretion of the director, reworking or drilling operations are
8 commenced on the land under lease and are thereafter conducted with reasonable
9 diligence during the period of nonproduction;

10 (2) issued under (c) of this section before January 1, 2004, may be
11 extended at the discretion of the director; a lease may be extended under this
12 paragraph [IN ADDITION,] upon application by the lessee; [,] the director may
13 once extend the [A] lease [ISSUED UNDER (c) OF THIS SECTION] for a period of
14 not more than three years; in exercising discretion to extend a lease under this
15 paragraph, in addition to the terms and conditions of (1) of this subsection under
16 which a lease may be extended, the director may not extend the lease unless the
17 director also considers

18 (A) the extent of the shallow natural gas exploration
19 activity already conducted on the lease and on adjacent areas;

20 (B) the likely prospect that further shallow natural gas
21 exploration activity will lead to shallow natural gas development and
22 production; and

23 (C) whether extension of the lease's primary term could
24 expedite the eventual production of shallow natural gas from the lease.

25 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 APPLICATION OF SECTION 1 TO LAND CURRENTLY LEASED IN THE
28 VICINITY OF KACHEMAK BAY FOR SHALLOW NATURAL GAS EXPLORATION
29 AND DEVELOPMENT. The provisions of AS 38.05.177(a)(2)(E), added by sec. 1 of this
30 Act, apply to prohibit the issuance or reissuance of a lease under AS 38.05.177 entered into
31 before the effective date of this Act if the lease terminates because of the failure to extend the

- 1 lease under AS 38.05.177(d), as modified by sec. 2 of this Act, or if the lease terminates by
2 the operation of AS 38.05.177(h).
3 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

Chair
FISHERIES

Vice-Chair
EDUCATION

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
STATE AFFAIRS



REPRESENTATIVE PAUL SEATON
House District 35

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345 W. Sterling Highway
Suite 102B
Homer, Alaska 99603
Phone 907-235-2921
Fax 907-235-4008

SSHB 364

"An Act prohibiting the issuance of state shallow natural gas leases in the vicinity of Kachemak Bay, modifying the authority to extend certain shallow natural gas leases, and precluding the director of the division of lands from reissuing or otherwise extending shallow natural gas leases within the Kachemak Bay area if the leases fail to produce gas in paying quantities within the terms of the lease or if there is a breach of a term or condition of the lease; and providing for an effective date."

Sponsor Statement

The Sponsor Substitute for HB 364 (SSHB 364) accomplishes three goals. First, it establishes a moratorium on future shallow natural gas leases (as defined by AS 38.05.177) in the Homer area. Second, it precludes the Commissioner of the Department of Natural Resources (DNR) from reissuing the current shallow natural gas leases in the Homer area if the leases do not produce gas in paying quantities within the terms of the lease (three years) or if there is a breach of contract. Third, SSHB 364 gives the Director of the Oil and Gas Division of DNR criteria to judge the merits of using his/her discretion to extend shallow natural gas leases. The Director would now have to consider the likelihood that extension of the lease would "expedite or lead to shallow natural gas development." This bill would in no way complicate future gas leasing in the Homer area through the Area Wide Lease Sale process, or some other leasing program.

The shallow natural gas leases recently let in the Homer area have created two major problems. First, the public is very concerned about the streamlined process under which these leases were let. The current shallow natural gas program provides for over-the-counter type leases; lacking a best-interest-finding, effective public notice, and regulatory provisions, and also decreasing fees and royalties paid to the state, this program has left local residents critical of the gas development in general.



Second, the gas formation underneath Homer follows the same geologic trend currently supporting the conventional natural gas industry on the Kenai Peninsula. To Homer's immediate north, conventional gas projects are underway in Ninilchik and on the North Fork Road. The industry incentives offered under the shallow natural gas lease program are not necessary to coerce the natural gas industry to the region. Homer was left out of the Cook Inlet Area Wide Lease Sale Program, and thus made available for leases under the Shallow Natural Gas Program, because of a political decision made by a previous administration. There is no geologic or economic reason that the gas in the Homer area should be developed differently than the rest of the Kenai Peninsula.

I ask for your support for this extremely important legislation.

ALASKA STATE LEGISLATURE

Chair
FISHERIES

Vice-Chair
EDUCATION

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
STATE AFFAIRS



REPRESENTATIVE PAUL SEATON
House District 35

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Phone 907-235-2921
Fax 907-235-4008

SPONSOR SUBSTITUTE HOUSE BILL 364

"An Act prohibiting the issuance of state shallow natural gas leases in the vicinity of Kachemak Bay, modifying the authority to extend certain shallow natural gas leases, and precluding the director of the division of lands from reissuing or otherwise extending shallow natural gas leases within the Kachemak Bay area if the leases fail to produce gas in paying quantities within the terms of the lease or if there is a breach of a term or condition of the lease; and providing for an effective date."

Sectional Analysis

Section 1 amends AS 38.05.177(a) to exclude "land and water within the Kenai Peninsula Borough east of Cook Inlet and south of the north boundary of Township 5 South, Seward Meridian" from shallow natural gas leasing.

Section 2 amends AS 38.05.177(d) to give the Director of the DNR Division of Oil and Gas discretionary guidelines in making the decision to extend shallow natural gas leases that have not yet produced gas. The Director would now be required to consider the likelihood that extension of the lease will "expedite or lead to shallow natural gas development."

Section 3 amends the uncodified law of the State of Alaska to prohibit the issuance or reissuance of a shallow natural gas lease entered into before the effective date of this Act in the area described in Section 1 of this act, if the lease terminates because of failure to produce under AS 38.05.177(d), as modified by Section 2 of this act, or if part of the lease is relinquished or illegally transferred under AS 38.05.177(h).

Section 4 gives this act an immediate effective date.



(7)

FURTHER REFERRALS: Resources
Finance

Date of Committee Action: April 1, 2004

SSHB 364

NATURAL GAS LEASES ON THE KENAI PENINSULA

Recommends it be replaced with [] HCS or [☒] CS for SSHD 364 (065)
For Senate Bills with new title: [] Technical Title [] New Title: HCR _____ [] Same Title [☒] New Title

- ☐ attach amendments
☐ add new referral to _____ Committee
☐ Letter of Intent _____ Committee

*List of
Abbrev
for
Depts.:*
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

[illegible][illegible]

Signing with recommendations		Printed Last Name	DP	DNP	NR	AM
~~John~~		HOLIM				✓
Nam Rokely		ROK913526				✓
Pam Hertel		Kerthule	✓			
Mary Crawford		CRAWFORD	✓			
Rose McQuinn		McQuinn			✓	
Chair: <i>Via Bohring</i>		Bohring				X
Chair:						

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB364SS-DNR-O&G-03-08
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Natural Gas Leases on the Kenai Peninsula RDU: Resource Development
Component: Oil and Gas Development
Sponsor: Rep. Seaton
Requester: House Oil and Gas 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 ()	(**Indeterminate)
-------------------------------	--------------------------

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)

****HB 364 would impose a moratorium on shallow natural gas leasing around the Homer area. This bill would foreclose future income from shallow natural gas application fees, rentals, and royalties in the Homer area.**

Prepared by: Mark D. Myers Phone: 269-8800
Division: Oil and Gas Date/Time: 3/8/04
Approved by: Thomas Irwin, Commissioner Date: 3/8/04
Agency: Natural Resources



Alaska State Legislature

Please enter into the record by testimony to the (H) O + G
COMMITTEE NAME
committee on HB 364, dated 3/9/04
BILL / SUBJECT TODAY'S DATE

I didn't have my thoughts organized when I testified previously today, so I would just like to add a few words:

I'm personally opposed to developing of CBRM because of ~~the~~ how it can affect the ^{drinking} water (Homer's City reservoir is in the lease), as well as ~~to~~ the land, but I understand why the State might want to encourage development. In that case, please ~~to~~ don't use the 1% of Alaska that is privately owned. That includes my 2.1 acres of land where I have a house.

My concern with HB 364 is that the leases in this area will ^{still} be extended if there's a remote possibility that Unocal or Lapp are even thinking of developing. If it's under the discretion of one person vulnerable to pressure from the governor or industry, I don't have a lot of faith in this system. Thank you.

Signed: Emily Ward Emily Ward
TESTIFIER
self
REPRESENTING
PO Box 2672 Homer
ADDRESS
235-9136
PHONE NO.

Faxed 3/9/04

Introduced by:	Martin, Moss
Date:	12/16/03
Action:	Adopted
Vote:	6 Yes, 3 No
Action:	Notice of Reconsideration given by Mr. Superman
Action:	Notice of Reconsideration Failed
Vote:	4 Yes, 5 No

**KENAI PENINSULA BOROUGH
RESOLUTION 2003-129**

**A RESOLUTION REQUESTING AMENDMENT OF ALASKA STATUTES 31.05.125
AND 38.05.177(O), WHICH AUTHORIZE THE DEPARTMENT OF NATURAL
RESOURCES COMMISSIONER TO WAIVE COMPLIANCE WITH LOCAL LAWS
FOR SHALLOW NATURAL GAS LEASES IN LIMITED CASES, REQUESTING
ADDITIONAL PUBLIC NOTICE REQUIREMENTS, AND REQUESTING THAT THE
STATE BUY BACK SOUTH PENINSULA SHALLOW GAS LEASES**

WHEREAS, in House Bill 69, effective June 7, 2003, the state legislature amended numerous provisions in state law to encourage the development of shallow natural gas resources; and

WHEREAS, in House Bill 394, effective October 9, 1996, the state legislature also amended numerous statutes to authorize shallow natural gas leasing from sources within 3,000 feet of the surface and including related provisions; and

WHEREAS, while the development of natural resources in Alaska is an important element of Alaska's economy, the recognition of property rights and local authority to regulate uses of property for protection of property rights is similarly important; and

WHEREAS, Sections 4 and 6 of HB 69 enact AS 31.05.125 and 38.05.177(o), which delegate to the Commissioner of the Department of Natural Resources ("DNR") the authority to waive local requirements relating to compliance with local laws upon a demonstration of an overriding state interest; and

WHEREAS, the local planning authority, including planning commissions, councils and assemblies, are best able to understand and implement the needs of the local community respecting land uses; and

WHEREAS, it is in the state's best interest to develop its natural resources utilizing partnerships between the state, mineral lessees, surface owners and the public to ensure public understanding and involvement, as supported by Governor Murkowski in his November 12, 2003 address to the Alaska Municipal League; and

WHEREAS, HB 394 enacted AS 38.055.177 governing shallow gas leases, but only requires notice of the lease application be published in a newspaper of general circulation and not in additional local media if available; and

WHEREAS, requiring publication in the local media will significantly improve notice to members of local communities with local media; and

WHEREAS, the Homer community was not given adequate notice of the proposed shallow gas leases, and was not sufficiently made aware of the impact of HB 394 on the process used for issuing shallow gas leases; and

WHEREAS, because processing a lease application may take more than one year it is appropriate to require additional public notice as circumstances may have changed within the intervening year; and

WHEREAS, at a public meeting held November 10, 2003 in Homer, many residents encouraged the state to buy back the South Peninsula Shallow Gas Leases, and Governor Murkowski preliminarily indicated that he may consider this option after further analysis, if it is feasible and desired by the people, recognizing that any buy back would require legislative approval;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. For all of the above reasons, the Kenai Peninsula Borough Assembly respectfully requests Governor Frank Murkowski and the Alaska State Legislature buy back the South Peninsula Shallow Gas Leases particularly within the Homer Bridge Creek Watershed and other environmentally sensitive areas in the Homer area.

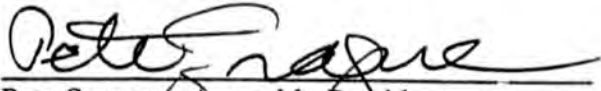
SECTION 2. The Kenai Peninsula Borough urges the Alaska State legislature to significantly amend Alaska Statutes 31.05.15 and 38.05.177(o), to eliminate the ability of the state to waive local land use regulations without advance public notice and hearings, and to require the adoption of clear and high standards that must be met before any local laws may be waived by the DNR Commissioner to accommodate shallow gas leasing.

SECTION 3. That Alaska Statute 38.05.177(c) be amended to require notice of a lease application be published by local news media if available, as well as in a newspaper of general circulation, and to require additional such publication if more than one year elapses between submission of the lease application and final action on the application by the director.

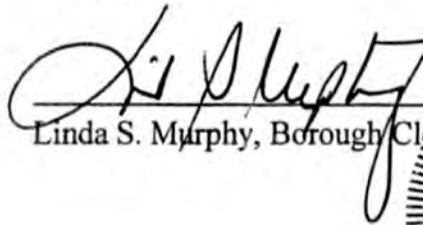
SECTION 4. That copies of this resolution shall be provided to Governor Frank Murkowski, Representatives Vic Kohring, Carl Morgan, Mike Hawker, Kelly Wolf, Mike Chenault, and Paul Seaton, and Senators Georgianna Lincoln, Con Bunde, Thomas Wagoner, and Gary Stevens.

SECTION 5. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH
DAY OF DECEMBER, 2003.


Pete Sprague, Assembly President

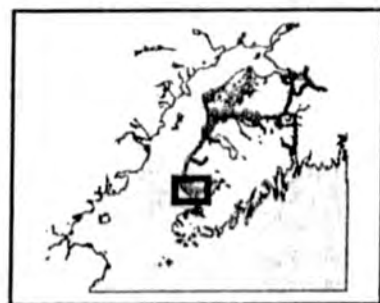
ATTEST:


Linda S. Murphy, Borough Clerk



Anchor Point

GRIDS ARE EXISTING
LEASE AREAS.



Location of detail



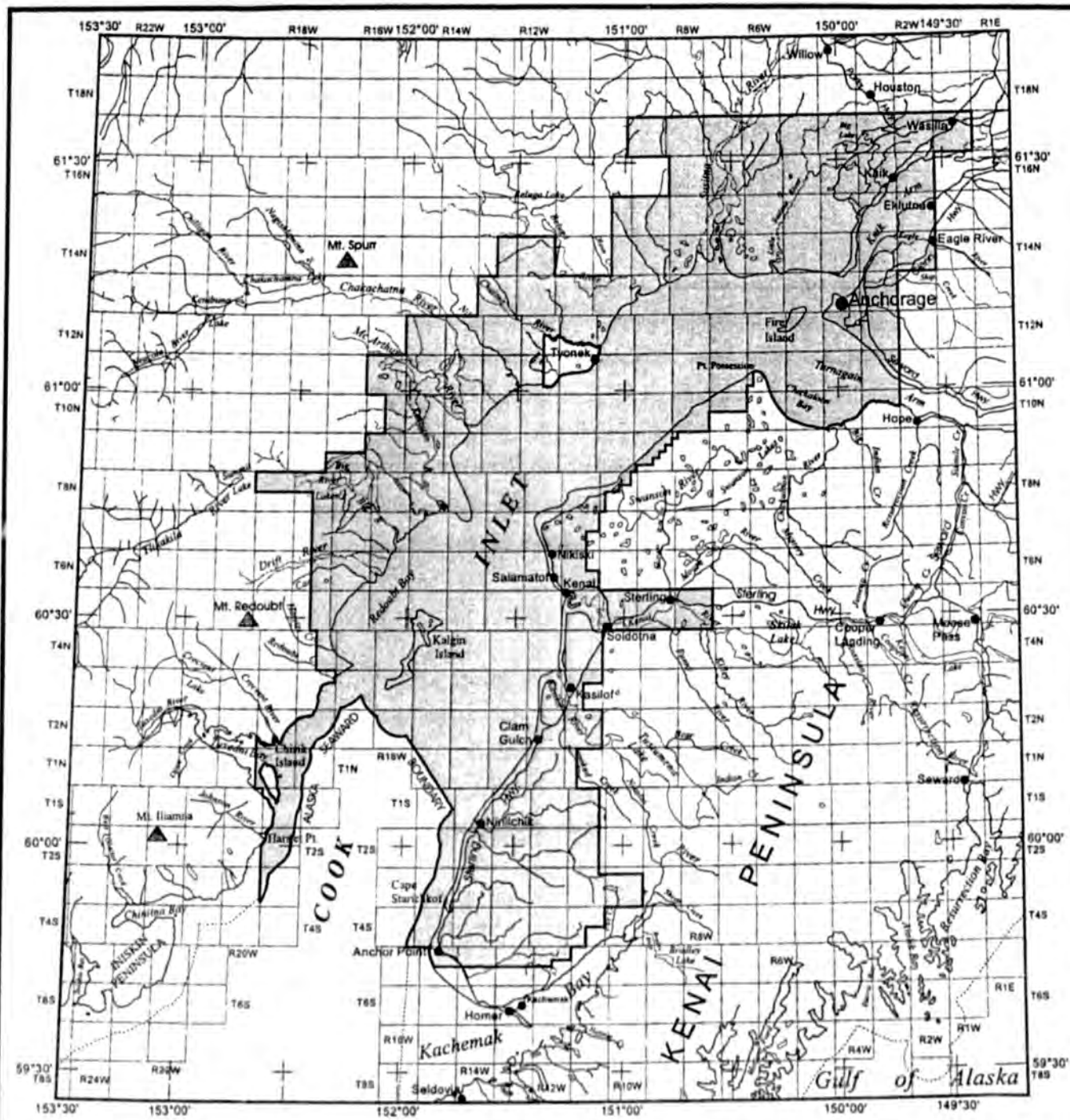
3 1.5 0 3 Miles

Legend

COAL BED METHANE LEASE BOUNDARIES

Kachemak Bay

Homer

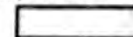


STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS

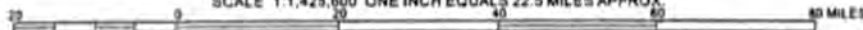
COOK INLET AREAWIDE



Proposed Sale Area



SCALE 1:1,425,600 ONE INCH EQUALS 22.5 MILES APPROX.



ADOPTED HOUSE OIL & GAS 3/9/04

AMENDMENT 1

NOTE: This language is similar, but not exactly the same as the Sec. 2 in 1Q

SPONSOR SUBSTITUTE HB 364 AH

Page 3, line 10; Insert new Section 3; renumber sections accordingly.

*Sec. 3. AS 38.05.177(d) is amended to read:

(d) A lease

(1) shall be automatically extended if and for so long thereafter as gas is produced in paying quantities from the lease and the lessee continues to meet all requirements of the lease; a [. A] lease issued under this section covering land on which there is a well capable of producing gas in paying quantities does not expire because the lessee fails to produce gas unless the lessee is allowed reasonable time to place the well on a producing status; if [. IF] drilling has commenced on the expiration date of the primary term of the lease and is continued with reasonable diligence, including such operations as redrilling, sidetracking, or other means necessary to reach the originally proposed bottom hole location, the lease is extended for one year and for so long thereafter as gas is produced in paying quantities; a [. A] gas lease issued under this section that is subject to termination by reason of cessation of production does not terminate if, within 90 days after production ceases or a longer period determined at the discretion of the director, reworking or drilling operations are commenced on the land under lease and are thereafter conducted with reasonable diligence during the period of nonproduction;

(2) issued under (c) of this section before January 1, 2004, may be extended at the discretion of the director; a lease may be extended under this paragraph [. IN ADDITION,] upon application by the lessee; [.] the director may once extend the [A] lease [ISSUED UNDER (c) OF THIS SECTION] for a period of not more than three years; in exercising discretion to extend a lease under this paragraph, the director may not extend the lease unless the director considers

(A) the extent of the shallow natural gas exploration activity already conducted on the lease and on adjacent areas;

(B) the probability that further shallow natural gas exploration activity will occur on the lease and will lead to shallow natural gas development and production; and

(C) whether extension of the lease's primary term will accelerate the eventual production of shallow natural gas from the lease.

SCOMM

133:13

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 16, 2004

SUBJECT: CSHB 395(O&G) and CSHB 420(O&G), measures relating to shallow natural gas leasing and the regulation of shallow natural gas operations -- sectional analyses (Work Order No. 23-LS1314V)

TO: Representative Vic Kohring, Chair
House Special Oil and Gas Committee

FROM: Jack Chenoweth
Assistant Revisor of Statutes

Eric Musser has requested preparation of a sectional analysis for each of the above-captioned bills. The text of the two committee substitutes provided to your committee is identical.

Changes to the section authorizing shallow natural gas leasing (AS 38.05.177) --

Bill section 5 amends AS 38.05.177(c) relating to requirements of notice. The first insertion (page 4, lines 14 - 18) modifies the minimal public notice requirements when a lease application has been received. The second (page 4, lines 19 and 20) acknowledges that the director of the division of land should actually consider public comment that may be received. The substitution of "may" for "shall" at page 4, line 22, alters the scope of the director's authority to act, changing it from an act that is mandatory if the standard is met to one as to which the director may exercise discretion. Finally, at page 4, lines 25 - 30, the director is barred from issuing the lease unless the director follows up with public notice of intent to award, the minimum requirements of which are spelled out.

Bill section 6 amends AS 38.05.177(f) to add a series of additional requirements that must be inserted in a shallow natural gas lease, to include (in paragraph (2)) a requirement that the lessee conduct certain water well tests; (in paragraph (3)) required setbacks applicable to compressor stations that are appropriate to the lease; (in paragraph (4)) appropriate noise mitigation measures; and (in paragraph (5)) surface restoration requirements, if the surface is disturbed by exploration or development operations.

Bill section 8: This bill section amends AS 38.05.177(k). In instances in which an owner and a lessee cannot reach agreement for the latter's entry on to property to explore for and develop shallow natural gas and the lessee seeks to post a bond to permit entry, the first amendment (page 7, lines 16 - 24) adds a further requirement that the lessee demonstrate "that access and entry upon the land of the owner is reasonably necessary or convenient" to secure the lessee's rights, and the second amendment (page 7, lines 25 -

27) requires the lessee to provide 30 days' advance notice of initial entry on to an owner's property.

Bill section 9 adds three new subsections.

The language of subsection (p) expands upon the procedures currently applicable to securing protection against damages insofar as those procedures relate to shallow natural gas exploration and development activities:

-- Under paragraph (1), if the owner and lessee come to an agreement as to the lessee's entry, the terms of the agreement are to incorporate the requirements spelled out in AS 38.05.177(f), amended earlier in the bill.

-- Under paragraph (2), if the parties can't agree and the lessee seeks determination of the amount of a surety bond in order to proceed, in conjunction with the director's determination, the owner may provide comments about the appropriate location of improvements to be made on the owner's property.

Subsection (q) adds material to protect private water well sources through reimbursement for costs of correcting contamination or alteration of a water well or digging a new well. The source of the reimbursement is an exaction described below, with the sums received accounted for and separately held. To secure payment of a claim, there are two conditions that must be met. The owner must maintain the record of the tests initiated by the lessee to measure well water purity and flow. Thereafter, if the lessee initiates operations on the owner's property or adjacent property within 1500 feet of the owner's well and the owner suffers damage or injury to the well based on "activities [that] appear to be probable hydrologic consequences of the lessee's activities on the lease," the owner may file a claim with the commissioner of natural resources to recover against the damages or injuries. The subsection authorizes the commissioner to remit amounts to the lessee that were paid by the lessee if no claim is filed against the lessee for activities while operations are active or during the five year period following the shallow natural gas well's closure.

Subsection (r) supplies a definition for "owner" for relevant subsections in which the term is used.

Changes relating to shallow natural gas activity oversight by the Alaska Oil and Gas Conservation Commission --

Bill section 1: The addition to AS 31.05.030(e) by this bill section adds to the authority of the Alaska Oil and Gas Conservation Commission the ability to regulate hydraulic fracturing associated with exploration for and recovery of shallow natural gas to assure that reinjected water does not contaminate supplies of potable water or water for agricultural purposes.

Bill section 2: In conjunction with shallow natural gas exploration and recovery, this section adds a new provision directing the Alaska Oil and Gas Conservation Commission to initiate a public forum process to resolve informally of public health, safety, welfare, and environmental complaints. The provision sets out the minimal procedural requirements for informal resolution of complaints. The committee added language (page 2, lines 23 and 24) requiring the informal resolution of complaints within 60 days of the filing of the complaints. If informal resolution of a complaint is unsuccessful, the commission may schedule and act on petition concerning the complaint under procedures in place for commission review of matters subject to its jurisdiction.

Standardized references --

Bill section 7: The amendment language standardizes reference to allowable depths from which shallow natural gas may be recovered, setting a presumptive maximum of 3,000 feet but allowing the commissioner of natural resources to exercise discretion to allow recovery at depths of not more than 4,000 feet. Recovery at greater depths requires treatment of the operation under conventional oil and gas lease requirements.

Bill sections 3, 4, 5 (language added at page 5, lines 3 and 4), **12, 13, and 14:** The amendments made in each of these sections are conforming changes that reflect the change described in the paragraph above. They eliminate, in the respective definitions of or references to "shallow natural gas," the reference to recovery of natural gas from a depth of up to 4,000 feet and replace it with a reference to 3,000 feet, subject to the commissioner's discretion to allow recovery from a greater depth under AS 38.05.177(j), as described above.

Other matters --

Bill section 10: This new bill section imposes an exaction against producers of one cent per thousand cubic feet of produced shallow natural gas removed from a lease, not including production of state royalty gas. The maximum amount authorized for collection is \$250,000. If the balance in the account to which the exaction is deposited exceeds \$250,000, levy and collection of the exaction is suspended. Thereafter, if claims paid out under AS 38.05.177(q), added in bill section 9, reduce the account balance to less than \$250,000, levy and collection of the exaction begins again until the account balance is restored to \$250,000. The exaction is subject to standard enforcement and collection procedures under AS 43.

Bill section 11: The amendment shown is a conforming change necessitated by renumbering of provisions in bill section 1.

Bill section 15 gives the measure a July 1, 2004, effective date.



ALASKA STATE LEGISLATURE

REPRESENTATIVE JOHN HARRIS

STATE CAPITOL 505 JUNEAU, ALASKA 99801-1182 (907)465-4859

House Bill 395 Sponsor Statement

HB 395 was designed to resolve concerns many Alaskans have with coal bed methane development in the areas of property rights, water quality assurance, and local involvement of residents.

Many concerns have been raised recently by residents of the Mat-Su Borough and Homer area through a series of public forums. All sponsors worked diligently, listening to public input from numerous community hearings, while drafting this legislation. It is the responsibility of the State to find a balance, where possible, between the rights of property owners and responsible resource development.

This bill requires that:

- 1) Public comment and other routes of access be considered prior to executing a lease.
- 2) The integrity of the affected water supply is protected.
- 3) Public notice be given prior to the award of a lease.
- 4) Monthly fees are paid to the owner per wellhead/compressor.
- 5) The owner's surface property be restored in the event of damage.
- 6) Noise from field operation is mitigated.

Finally, language is proposed to close current regulatory loopholes allowing the operators to extract natural gas deeper than the 3,000 foot definition of shallow natural gas. This clarification is necessary to provide Alaskans the guarantee that conventional natural gas resources will not be extracted without going through the competitive bid process.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB395-DNR-O&G-02-04-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title: Shallow Natural Gas RDU: Resource Development
 Component: Oil and Gas Development
 Sponsor: Harris, Gatto, Stoltze, Seaton
 Requester: House Oil and Gas 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	9.4	9.4	9.4	9.4	9.4	9.4
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	9.4	9.4	9.4	9.4	9.4	9.4

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	**(Indeterminate Amount)**
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	9.4	9.4	9.4	9.4	9.4	9.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	9.4	9.4	9.4	9.4	9.4	9.4

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)

HB 395 would make a number of changes to the state's shallow natural gas leasing program including additional public notice requirements; required surface use fees; setbacks, noise mitigation, and reclamation requirements; and a special provision for damages.

Under Section 4 of the bill, additional public notification beyond that already carried out by DNR would be required. Specifically, this would require DNR to publish notice in papers of general circulation in the affected area two additional times beyond what is currently done when giving notice of a shallow natural gas application and calling for public comments. In addition, the bill would require DNR to publish notice of intent to award the lease at least three times in at least two papers of general circulation in the area of the proposed action at intervals of not less than five days between publications.

Prepared by: Mark D. Myers Phone: 269-8800
 Division: Oil and Gas Date/Time: 2/4/04
 Approved by: Thomas Irwin, Commissioner Date: 2/4/04
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB395-DNR-O&G-02-04-04

ANALYSIS CONTINUATION

Total number of additional publications of notice: 5 x 2 papers.

The Anchorage Daily News has general circulation in all areas of the state. The cost for a legal notice is \$404 per day (weekday).
 $5 \times \$404 = \$2020$

Publication cost in a local paper is estimated at \$225 (Frontiersman was used as an estimate) per day. $5 \times \$225 = \$1125$

Combined total: \$3145

Last year, DNR processed three groups of applications in calendar year 2003 (DNR tries to group applications to cut down on noticing costs). $3 \times \$3145 = \$9435$

** Indeterminate Negative Amount: The wording in Section 9 may make the state liable for any damages that may occur to the surface owners property. If this is the case, it is impossible at this time to determine the negative fiscal impact to the state.

HB 395 Sectional Analysis

Section 1: The addition to AS 31.05.030(e) by this section adds to the authority of the Alaska Oil and Gas Conservation Commission the ability to regulate hydraulic fracturing associated with exploration for and recovery of shallow natural gas to assure that reinjected water does not contaminate supplies of drinking water or water for agricultural purposes.

Section 2: In conjunction with shallow natural gas exploration and recovery, this section adds a new provision directing the Alaska Oil and Gas Conservation Commission to initiate a public forum process to informally resolve issues of public health, safety, welfare, and environmental complaints.

The provision sets out the minimal procedural requirements for a resolution of complaints. If the resolution of a complaint is unsuccessful, the commission may schedule and act on petition concerning the complaint under procedures in place for commission review of matters subject to its jurisdiction.

Sections 3 & 9: The amendments made in each of these sections eliminate, in the respective definitions of "shallow natural gas", the reference to recovery of natural gas from a depth of up to 4,000 feet and replace it with a reference to 3,000 feet. The amendment standardizes references to depth of recovery.

Section 4: Amends AS 38.05.177(c). The first insertion (page 3, lines 10 – 14) modifies the minimal public notice requirements when a lease application has been received. The second (page 3, lines 15 – 16) acknowledges that the director of the division of land should consider public comment that may be received. The substitution of "may" for "shall" at line 17 alters the scope of the director's authority to act, changing it from an act that is mandatory if the standard is met to one where the director may exercise discretion.

Finally at page 3, lines 21 – 26, the director is barred from issuing the lease unless the director *follows up* with public notice of intent to award.

Section 5: Amends AS 38.05.177(f) to add a series of additional requirements that must be inserted in a shallow natural gas lease, to include (in paragraph (2)) required payments of fees by a lessee to an owner; (3) setbacks applicable to compressor stations that are appropriate to the lease; (4) appropriate noise mitigation measures; and (5) surface restoration requirements, if the surface is disturbed by exploration or development operations.

Section 6: Adds language to clarify that gas recoverable from a depth of more than 3,000 feet may occur only under a conventional lease issued under AS 38.05.180.

Section 7: In instances in which an owner and a lessee cannot reach agreement for the latter's entry on to property to explore for and develop shallow natural gas and the lessee

seeks to post a bond to permit entry, the amendment (page 6, lines 9 – 17) adds a further requirement that the lessee demonstrate “that access and entry upon the land of the owner is reasonable, necessary or convenient” to secure the lessee’s rights.

Section 8: Adds two new subsections.

The language of subsection (p) expands upon the procedures currently applicable to securing protection against damages insofar as those procedures relate to shallow natural gas exploration and development activities:

Under subparagraph (1)(A), if the owner and lessee come to an agreement as to the lessee’s entry, the terms of the agreement are to incorporate the requirements spelled out in AS 38.05.177(f), amended earlier in this bill.

Under (1)(B), if the parties can’t agree and the lessee seeks determination of the amount of a surety bond in order to proceed, in conjunction with the director’s determination, the owner may provide comments about the appropriate location of improvements to be made on the owner’s property.

Under subparagraph (2)(A), if the owner and lessee come to an agreement as to the lessee’s entry, the terms of the agreement should make provision for damages in the event of injury to the owner’s water sources.

Under (2)(B), if the parties can’t agree and the lessee seeks determination of the amount of a surety bond in order to proceed, in conjunction with the director’s determination, the terms of the agreement should make provision for damages in the event of injury to the owner’s water sources, as the director determines, but may not be less than \$25,000.

Subsection (q) supplies a definition for “owner” for relevant subsections in which the term is used.

Sections 10 & 11: AS 31.05.125 and AS 38.05.177(n), added in 2003, authorized the commissioner of natural resources to approve a waiver of local planning authority approval and requirements relating to compliance with local ordinances and regulations if the Department of Natural Resources clearly demonstrates an overriding state interest. These provisions are proposed for repeal. In the same 2003 vehicle that added these provisions, language adding section 7 to the bill’s legislative findings was inserted. The amendment made in bill section 10 reverses that addition.

SCOMM

133:14

T

FURTHER REFERRALS: Resources

Date of Committee Action: Feb. 19'04

HB 417

AK NATURAL GAS DEV. AUTHORITY INITIATIVE

"An Act amending the definition of 'project' in the Act establishing the Alaska Natural Gas Development Authority; and providing for an effective date."

Recommends it be replaced with [] HCS or [] CS for _____(_____)

For Senate Bills with new title: ☐ *Technical Title* ☐ *New Title: HCR*_____ ☐ *Same Title* ☐ *New Title*

[] attach amendments

☐ add new referral to _____ Committee

[] Letter of Intent _____ Committee

*List of
Abbrev
for
Depts.:*
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

[illegible][illegible]

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
HEINZE Harry Crawford	HEINZE CRAWFORD				✓ X
~~No~~ Poles Heal McQuire	POKEBERG McQuire	✓			
Chair: 	HOLM				✓
Chair:					

REPRESENTATIVE
MIKE CHENAULT

Interim:
145 Main St. Loop, Second Floor
Kenai, Alaska 99611
(907) 283-7223
Fax: (907) 283-3075

STATE OF ALASKA



HOUSE OF REPRESENTATIVES

Official Business

Session:
Capitol Building, Room 432
Juneau, Alaska 99801-1182
(907) 465-3779
Toll Free: (800) 469-3779
Fax: (907) 465-2833

House Bill 417

An Act Amending the definition of project in the Act establishing the Alaska Natural Gas Development Authority

House Bill 417 amends the definition of project to include all options for a terminus of the Alaska Natural Gas Pipeline. This specifically identifies Cook Inlet as a possibility for a terminus.

Revised 02/10/04

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

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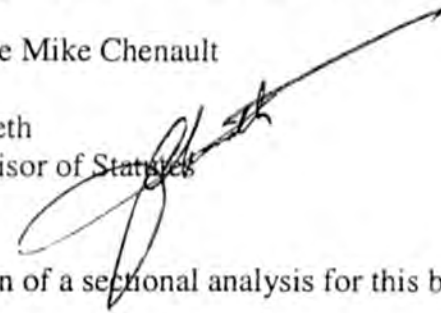
MEMORANDUM

February 3, 2004

SUBJECT: House Bill 417, amending the definition of "project" in the Act establishing the Alaska Natural Gas Development Authority -- sectional analysis (Work Order No. 23-LS1494\A)

TO: Representative Mike Chenault

FROM: Jack Chenoweth
Assistant Revisor of Statistics



Chris Koski has asked for preparation of a sectional analysis for this bill.

The 2002 initiative that establishes the Alaska Natural Gas Development Authority and defines its powers and duties directs the Authority to evaluate and develop a North Slope natural gas pipeline project. The initiative supplies a definition of the term "project" to include delivery of the gas to a point on tidewater on Prince William Sound. **Bill section 1** amends that definition to add the alternative of delivery to tidewater at a point on Cook Inlet.

Bill section 2 gives the measure an immediate effective date.

JBC:med
04-129.med

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 417
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Natural Gas Dev Auth Initiative RDU AK Natural Gas Dev Authority
 Component AK Natural Gas Dev Authority
 Sponsor Representative Chenault
 Requester House Oil & Gas Committee Component No. 2708

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	****	****	****	****	****	****
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CHANGE IN REVENUES ()						
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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 would change the responsibility of the Alaska Natural Gas Development Authority from reviewing the economic viability of a gas pipeline from Prudhoe Bay to Valdez and a spur from Glennallen to the Southcentral gas distribution grid to including the review of the economic viability of a gas line to tidewater at a point on Cook Inlet.

Since the Alaska Natural Gas Development Authority is already reviewing the economic viability of a spur to the Southcentral gas distribution grid, it is uncertain if additional funds will be necessary to expand that review to include to tidewater at a point on Cook Inlet.

Prepared by: Steve Porter, Deputy Commissioner Phone (907) 465-2365
 Division Department of Revenue Date/Time 2/15/04 8:18 PM
 Approved by: Steve Porter, Deputy Commissioner Date 2/15/2004
 Agency Department of Revenue

SCOMM

133:15

ALASKA STATE LEGISLATURE

Rep. Vic Kohring, Chair
Rep. Cheryll Heinze
Rep. Jim Holm
Rep. Lesil McGuire
Rep. Norman Rokeberg
Rep. Harry Crawford
Rep. Beth Kerttula



Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-2283
Fax (907) 465-3818
Ben_Grenn@legis.state.ak.us

HOUSE SPECIAL COMMITTEE ON OIL & GAS

SPONSOR STATEMENT

HB 420

An Act relating to recovery of shallow natural gas; and providing for an effective date

House Bill 420 is offered to add water protections for property owners affected by shallow natural gas drilling activity. There are two primary elements to the legislation. First, it requires 30 days advance notice to the property owner before drilling can occur. Second, it establishes a fund to pay for a replacement well if drilling depletes a well located within 1500 feet.

The property owner will have immediate recourse to obtain a new well, if it's reasonably proven the driller is at fault.

A fee of one cent per 20 million cubic feet a day of gas produced is paid into a "water well restoration fund" run by the Department of Natural Resources. Money paid into the fund would not exceed \$250,000.00 per driller. If a well replacement is paid from the fund and the balance falls below the cap, fee collections would again commence until the fund once more reaches the cap.

A full refund of contributions paid by the driller to the fund is provided 60 months after drilling is completed and land reclamation has taken place.

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Deliveries to: 129 6th St., Rm. 329

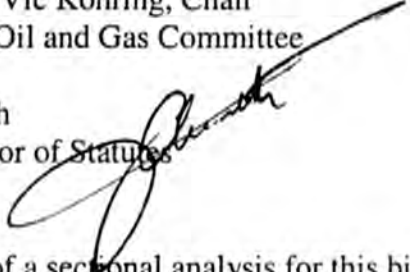
MEMORANDUM

February 2, 2004

SUBJECT: House Bill 420, relating to the recovery of shallow natural gas -- sectional analysis (Work Order No. 23-LS1561\H)

TO: Representative Vic Kohring, Chair
House Special Oil and Gas Committee

FROM: Jack Chenoweth
Assistant Revisor of Statutes



Ben Grenn has asked for preparation of a sectional analysis for this bill.

The amendment to bill section 1 and the additional material offered in bill section 2 amend the section (AS 38.05.177) authorizing shallow natural gas leasing.

Bill section 1 adds a requirement that a lessee provide written advance notice of entry to the owner at least 30 days before the lessee's actual initial entry on the owner's property.

Bill section 2:

-- The material added by subsection (p) protects private water well sources through reimbursement for costs of correcting contamination or alteration of a water well or digging a new well. The source of the reimbursement is an exaction described below, with the sums received accounted for and separately held. To secure payment of a claim, there are two conditions that must be met. Once an owner has written notice of initial entry (as provided above), within 30 days the owner must arrange for tests of well water purity and flow and must maintain the record of those tests. Thereafter, if the lessee initiates operations on the owner's property or adjacent property within 1500 feet of the owner's well and the owner suffers damage or injury to the well based on "activities [that] appear to be probable hydrologic consequences of the lessee's activities on the lease," the owner may file a claim with the commissioner of natural resources to recover against the damages or injuries. The subsection authorizes the commissioner to remit amounts to the lessee that were paid by the lessee if no claim is filed against the lessee for activities while operations are active or during the five year period following the shallow natural gas well's closure.

-- Subsection (q) provides a definition of the term "owner" (to distinguish it from "owner" as applied to the lessee where it appears in the reference to "owner or operator" in AS 38.05.177(j)).

Representative Vic Kohring
February 2, 2004
Page 2

Bill section 3: This new bill section imposes an exaction against producers of one cent per 20,000,000 cubic feet of produced shallow natural gas removed from a lease. The maximum amount authorized for collection is \$250,000. If the balance in the account to which the exaction is deposited exceeds \$250,000, levy and collection of the exaction is suspended. Thereafter, if claims paid out under AS 38.05.177(p), added in bill section 2, reduce the account balance to less than \$250,000, levy and collection of the exaction begins again until the account balance is restored to at least \$250,000. The exaction is subject to standard enforcement and collection procedures under AS 43.

Bill section 4 gives the measure a July 1, 2004, effective date.

JBC:mdr
04-034.mdr

SCOMM

133:16

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 4, 2004

FURTHER REFERRALS: Resources
Finance

Date of Committee Action: April 1, 2004

The HOUSE SPECIAL COMMITTEE ON OIL AND GAS considered:

HB 531

HOUSE BILL NO. 531

CONVENTIONAL & NONCONVENTIONAL GAS LEASES

"An Act relating to natural gas exploration and development and to nonconventional gas, and amending the section under which shallow natural gas leases may be issued; and providing for an effective date."

Recommends it be replaced with ☐ HCS or ☒ CS for AD 531 096
For Senate Bills with new title: ☐ Technical Title ☐ New Title: HCR ☒ Same Title ☐ New Title

- ☐ attach amendments
☐ add new referral to _____ Committee
☐ Letter of Intent _____ Committee

*List of
Abbrev
for
Depts.:*
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

[illegible][illegible]

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
~~John Bertle~~	Holm				✓
~~Rep McGuire~~	Bertle				✓
~~Van Polak~~	McGuire				✓
~~Hurry Crawford~~	Take Gary				✓
~~Cheryl Heinze~~	CRAWFORD				✓
	HEINZE				✓
Chair: Vic Lohring	Kohring				X
Chair:					

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB531-DNR-O&G-03-12-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Conventional & Non-conventional Gas Leasing RDU Resource Development
 Component Oil and Gas Development
 Sponsor House Resources
 Requester House Oil and Gas 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						
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CHANGE IN REVENUES (1004 GF) +	**Indeterminate Positive Amount**					
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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 eliminate the current over-the-counter shallow natural gas program. HB 531 would create a new gas only option under the competitive leasing and exploration licensing programs.

****Indeterminate positive fiscal note:** Moving from an over-the-counter program to a competitive program will result in increased revenue to the state. The commissioner will be able to set minimum rentals and bonus bid amounts based on technical analysis of the potential resources and economics of the lease or license area. While a best interest finding process will cost more up front, that cost will be more than offset by the gains in going to a competitive process. Also, having a best interest finding process at the leasing stage will facilitate a more efficient progression to exploration and development and provide the state with royalties and other revenues from development sooner.

Prepared by: Mark D. Myers Phone 269-8800
 Division Oil and Gas Date/Time 3/11/04
 Approved by: Thomas Irwin, Commissioner Date 3/12/04
 Agency Natural Resources

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
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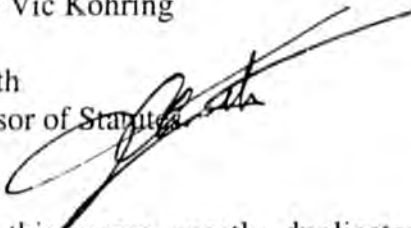
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 15, 2004

SUBJECT: House draft CS that duplicates version "S" of CSSB 312() --
notes to accompany the draft (Work Order No. 23-LS1818\D)

TO: Representative Vic Kohring

FROM: Jack Chenoweth
Assistant Revisor of Statutes 

The measure that is enclosed with this memo exactly duplicates the "S" version of CSSB 312() except that, at page 44, lines 29 and 31, following "effective date of amendments of" and "effective date of the repeal of" I have deleted "that section" and replaced those words with "those subsections". AS 38.05.177 is not entirely amended or repealed; only selected subsections of that section are amended or repealed. The change corrects our error.

JBC:med
04-292.med

Enclosure

23-LS1818\D
Chenoweth
3/12/04

CS FOR HOUSE BILL NO. 531()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act relating to natural gas exploration and development and to nonconventional gas, and amending the section under which shallow natural gas leases may be issued; and providing for an effective date."

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

*** Section 1.** AS 14.40.365(a) is amended to read:

(a) The University of Alaska may select and is entitled to receive the conveyance of not less than 250,000 and not more than 260,000 acres of land conveyed to the state under sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339). The Board of Regents of the University of Alaska shall periodically submit a list of selections to the commissioner of natural resources and, if the list of selections contains land within the boundaries of a municipality, the Board of Regents of the University of Alaska shall submit the list to the municipality. The Board of Regents and the commissioner of natural resources shall periodically and jointly submit to the legislature, within 30 days of the beginning of a regular legislative session, a list of the

1 selections of land proposed to be conveyed by the state to the University of Alaska
2 under this section. If the list submitted to the legislature contains land within the
3 boundaries of a municipality, the Board of Regents and the commissioner of natural
4 resources shall provide a copy of the list to the municipality. Each list must contain
5 not more than 25 percent of the total acres of land to which the university is entitled
6 after subtracting previous conveyances under this section, but not less than 25,000
7 acres or the remaining entitlement under this section, whichever is less. A list of
8 selections submitted shall be considered approved for conveyance to the University of
9 Alaska unless the legislature acts to disapprove the list during the legislative session
10 during which the list was submitted. If the amount of land to be conveyed exceeds the
11 balance due the university under this section, the university shall set out the land to be
12 conveyed in priority order. Land may not be selected if, on the date of its selection by
13 the university, it

14 (1) is identified in AS 16.20, AS 41.15.300 - 41.15.330, or AS 41.21 or
15 has been reserved by law from the public domain;

16 (2) is located within a municipality unless the land is vacant,
17 unappropriated, unreserved land; if land included on the list of selections is selected
18 by the municipality with remaining selection rights under AS 29.65 within 120 days of
19 receiving the Board of Regents' list of selections under this subsection, the university
20 may not select the land unless a binding agreement between the university and the
21 municipality is negotiated to allow the selection; if the municipal selection is
22 disapproved, in whole or in part, the university may select the land, or any available
23 portion of the land, and that selection will relate back to the date of the Board of
24 Regents' list of selections under this subsection and shall have priority over all other
25 selections or claims made subsequent to that notice; in this paragraph, "vacant,
26 unappropriated, unreserved land" has the meaning given in AS 29.65.130;

27 (3) is land

28 (A) included in a five-year proposed [OIL AND GAS] leasing
29 program under AS 38.05.180(b); or

30 (B) leased under, or for which a lease application is pending
31 under, AS 38.05.180(d) or 38.05.150;

(4) is subject to

(A) an oil, gas, or coal lease, or coal prospecting permit;

(B) a mining claim, offshore prospecting permit, a prospecting site, an upland mining lease, or a mining leasehold location;

(5) is necessary to carry out the purpose of an interagency land management agreement; or

(6) is subject to conveyance under a land exchange or land settlement agreement.

* Sec. 2. AS 14.40.365(e) is amended to read:

(e) The list of selections of land submitted to the legislature may not include a land selection made by the University of Alaska under this section if the commissioner of natural resources determines in writing that the proposed selection

(1) includes land that the commissioner, in consultation with the commissioner of fish and game, determines has demonstrated value to the public as a habitat area that is especially critical to the perpetuation of fish or wildlife;

(2) includes land for which, at the time of its selection under this section, a municipality has made a selection under AS 29.65 unless the land selection is, at a later date, rejected by the commissioner of natural resources or relinquished by the municipality;

(3) includes land that the commissioner reasonably believes may be selected by a newly formed municipality under AS 29.65.030, but the commissioner may not withhold selection under this paragraph for more than three years after the municipality's incorporation;

(4) includes land within the boundaries of a municipality, the municipality has a remaining entitlement under AS 29.65, and the municipality selects the land under AS 29.65 within 120 days after receipt by the municipality of the Board of Regents' list of selections under (a) of this section;

(5) includes land that, at the time of its selection under this section,

(A) is subject to an [OIL AND GAS] exploration license issued under AS 38.05.131 - 38.05.134; or

(B) the commissioner reasonably believes will be made part of

1 an [OIL AND GAS] exploration license issued under AS 38.05.131 -
2 38.05.134; the commissioner may not refuse to convey title to land to the
3 University of Alaska under this subparagraph for more than two years after its
4 first selection by the University of Alaska; or

5 (6) includes land the commissioner of natural resources reasonably
6 believes would not be in the best interests of the state to convey outside of state
7 ownership.

8 * Sec. 3. AS 19.40.200(b) is amended to read:

9 (b) The prohibition on disposal of state land under (a) of this section does not
10 apply to a disposal

11 (1) to a licensed public utility or a licensed common carrier under
12 AS 38.05.810(e);

13 (2) for the reauthorization of leases that were in effect on January 1,
14 1994, for nonresidential purposes within the following development nodes:

15 (A) Coldfoot:

16 Township 28 North, Range 12 West, Fairbanks Meridian

17 Sections 3 - 4

18 Sections 9 - 10

19 Sections 15 - 16

20 Sections 20 - 22

21 (B) Yukon River Crossing:

22 Township 12 North, Range 10 West, Fairbanks Meridian

23 Sections 6 - 7

24 Township 12 North, Range 11 West, Fairbanks Meridian

25 Sections 1 - 2

26 Section 12

27 Township 13 North, Range 10 West, Fairbanks Meridian

28 Sections 29 - 32

29 Township 13 North, Range 11 West, Fairbanks Meridian

30 Section 22

31 Sections 25 - 27

Sections 34 - 36

(3) for nonresidential development within the following development

nodes:

(A) Deadhorse:

Township 10 North, Range 14 East, Umiat Meridian

Township 10 North, Range 15 East, Umiat Meridian

Section 8

Sections 17 - 20

Section 30

(B) Coldfoot:

Township 28 North, Range 12 West, Fairbanks Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

Sections 20 - 22

Township 29 North, Range 12 West, Fairbanks Meridian

Sections 23 - 27

Sections 34 - 35

(C) Franklin Bluffs:

Township 4 North, Range 14 East, Umiat Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

(D) Happy Valley:

Township 3 South, Range 14 East, Umiat Meridian

Sections 19 - 20

Sections 29 - 30

(E) Yukon River Crossing:

Township 12 North, Range 10 West, Fairbanks Meridian

Sections 6 - 7

Township 12 North, Range 11 West, Fairbanks Meridian

Sections 1 - 2

Section 12

Township 13 North, Range 10 West, Fairbanks Meridian

Sections 29 - 32

Township 13 North, Range 11 West, Fairbanks Meridian

Section 22

Sections 25 - 27

Sections 34 - 36; or

(4) necessary for

(A) an oil and gas lease or gas only lease under AS 38.05.180;

(B) exploration, development, production, or transportation of oil and gas north of 68 degrees north latitude; or

(C) a state lease or materials sale for

(i) exploration, development, production, or transportation of oil or [AND] gas;

(ii) reconstruction or maintenance of state highways; or

(iii) construction or maintenance of airports.

* Sec. 4. AS 31.05.030(j) is amended to read:

(j) For the purposes of AS 46.04.030(b), the commission shall determine whether a nonconventional gas well [DRILLED FOR SHALLOW NATURAL GAS] may penetrate a formation capable of flowing oil and, if so, whether the volume of oil encountered will be of such quantities that an oil discharge prevention and contingency plan will be required.

* Sec. 5. AS 31.05.060(c) is amended to read:

(c) Notwithstanding the requirements of (a) and (b) of this section that relate to fixing a date for a hearing and causing notice of the hearing to be given, for an action under this chapter that involves the exploration for or development of nonconventional [SHALLOW NATURAL] gas and that has application to a single well or a single field, upon the request of a lessee or operator, the commission may, where operations might be unduly delayed, approve a variance from the commission's regulations that apply to the well or field without providing notice and opportunity to

1 be heard. In the exercise of its authority to issue the variance,

2 (1) the commission may approve the variance if

3 (A) the approval provides at least an equally effective means of
4 accomplishing the requirement set out in the commission's regulation; or

5 (B) the commission determines that the request is more
6 appropriate to the proposed operation than compliance with the requirement of
7 the regulation; and

8 (2) the terms of the approval of the variance may include exempting
9 the lessee or operator from a requirement of a regulation if the commission determines
10 that the requirement is not necessary or not suited to the well or field taking into
11 consideration

12 (A) the nature of the operation involved;

13 (B) the characteristics of the well or field for which the
14 variance is sought; and

15 (C) the reasonably anticipated risks of the exemption from the
16 requirement to human safety and the environment.

17 * Sec. 6. AS 31.05.170 is amended by adding a new paragraph to read:

18 (16) "nonconventional gas" has the meaning given in AS 38.05.965.

19 * Sec. 7. AS 36.30.850(b)(25) is amended to read:

20 (25) acquisition of confidential seismic survey data necessary for pre-
21 sale oil and gas lease or gas only lease analyses under AS 38.05.180;

22 * Sec. 8. AS 36.30.850(b)(33) is amended to read:

23 (33) contracts between the Department of Natural Resources and
24 contractors qualified to evaluate hydrocarbon development, production, transportation,
25 and economics, to assist the commissioner of natural resources in evaluating
26 applications for [OIL AND GAS] royalty increases or decreases or other [OIL AND
27 GAS] royalty adjustments, and evaluating the related financial and technical data,
28 entered into under AS 38.05.180(j);

29 * Sec. 9. AS 38.04.065(i) is amended to read:

30 (i) An oil and gas lease sale or gas only lease sale is not subject to this
31 section. Oil and gas lease sales and gas only lease sales are subject to the planning

1 process established under AS 38.05.180.

2 * Sec. 10. AS 38.05.035(e) is amended to read:

3 (e) Upon a written finding that the interests of the state will be best served, the
4 director may, with the consent of the commissioner, approve contracts for the sale,
5 lease, or other disposal of available land, resources, property, or interests in them. In
6 approving a contract under this subsection, the director need only prepare a single
7 written finding. In addition to the conditions and limitations imposed by law, the
8 director may impose additional conditions or limitations in the contracts as the director
9 determines, with the consent of the commissioner, will best serve the interests of the
10 state. The preparation and issuance of the written finding by the director are subject to
11 the following:

12 (1) with the consent of the commissioner and subject to the director's
13 discretion, for a specific proposed disposal of available land, resources, or property, or
14 of an interest in them, the director, in the written finding,

15 (A) shall establish the scope of the administrative review on
16 which the director's determination is based, and the scope of the written
17 finding supporting that determination; the scope of the administrative review
18 and finding may address only reasonably foreseeable, significant effects of the
19 uses proposed to be authorized by the disposal;

20 (B) may limit the scope of an administrative review and finding
21 for a proposed disposal to

22 (i) applicable statutes and regulations;

23 (ii) the facts pertaining to the land, resources, or
24 property, or interest in them, that the director finds are material to the
25 determination and that are known to the director or knowledge of which
26 is made available to the director during the administrative review; and

27 (iii) issues that, based on the statutes and regulations
28 referred to in (i) of this subparagraph, on the facts as described in (ii) of
29 this subparagraph, and on the nature of the uses sought to be authorized
30 by the disposal, the director finds are material to the determination of
31 whether the proposed disposal will best serve the interests of the state;

1 and

2 (C) may, if the project for which the proposed disposal is
3 sought is a multiphased development, limit the scope of an administrative
4 review and finding for the proposed disposal to the applicable statutes and
5 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
6 pertain solely to the disposal phase of the project when

7 (i) the only uses to be authorized by the proposed
8 disposal are part of that phase;

9 (ii) the disposal is a [AN OIL AND GAS] disposal of
10 oil and gas, or of gas only, and, before the next phase of the project
11 may proceed, public notice and the opportunity to comment are
12 provided under regulations adopted by the department unless the
13 project is subject to a consistency review under AS 46.40 and public
14 notice and the opportunity to comment are provided under
15 AS 46.40.096(c);

16 (iii) the department's approval is required before the
17 next phase of the project may proceed; and

18 (iv) the department describes its reasons for a decision
19 to phase;

20 (2) the director shall discuss in the written finding prepared and issued
21 under this subsection the reasons that each of the following was not material to the
22 director's determination that the interests of the state will be best served:

23 (A) facts pertaining to the land, resources, or property, or an
24 interest in them other than those that the director finds material under (1)(B)(ii)
25 of this subsection; and

26 (B) issues based on the statutes and regulations referred to in
27 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
28 subsection;

29 (3) a written finding for an oil and gas lease sale or gas only lease sale
30 under AS 38.05.180 is subject to (g) of this section;

31 (4) a contract for the sale, lease, or other disposal of available land or

1 an interest in land is not legally binding on the state until the commissioner approves
2 the contract, but if the appraised value is not greater than \$50,000 in the case of the
3 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or
4 interest in land, the director may execute the contract without the approval of the
5 commissioner;

6 (5) public notice requirements relating to the sale, lease, or other
7 disposal of available land or an interest in land for oil and gas, or for gas only,
8 proposed to be scheduled in the five-year oil and gas leasing program under
9 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

10 (A) before a public hearing, if held, or in any case not less than
11 180 days before the sale, lease, or other disposal of available land or an interest
12 in land, the director shall make available to the public a preliminary written
13 finding that states the scope of the review established under (1)(A) of this
14 subsection and includes the applicable statutes and regulations, the material
15 facts and issues in accordance with (1)(B) of this subsection, and information
16 required by (g) of this section, upon which the determination that the sale,
17 lease, or other disposal will serve the best interests of the state will be based;
18 the director shall provide opportunity for public comment on the preliminary
19 written finding for a period of not less than 60 days;

20 (B) after the public comment period for the preliminary written
21 finding and not less than 90 days before the sale, lease, or other disposal of
22 available land or an interest in land for oil and gas or for gas only, the director
23 shall make available to the public a final written finding that states the scope of
24 the review established under (1)(A) of this subsection and includes the
25 applicable statutes and regulations, the material facts and issues in accordance
26 with (1) of this subsection, and information required by (g) of this section,
27 upon which the determination that the sale, lease, or other disposal will serve
28 the best interests of the state is based;

29 (6) before a public hearing, if held, or in any case not less than 21 days
30 before the sale, lease, or other disposal of available land, property, resources, or
31 interests in them other than a sale, lease, or other disposal of available land or an

1 interest in land for oil and gas or for gas only under (5) of this subsection, the director
2 shall make available to the public a written finding that, in accordance with (1) of this
3 subsection, sets out the material facts and applicable statutes and regulations and any
4 other information required by statute or regulation to be considered upon which the
5 determination that the sale, lease, or other disposal will best serve the interests of the
6 state was based; however, a written finding is not required before the approval of

7 (A) a contract for a negotiated sale authorized under
8 AS 38.05.115;

9 (B) a lease of land for a shore fishery site under AS 38.05.082;

10 (C) a permit or other authorization revocable by the
11 commissioner;

12 (D) a mineral claim located under AS 38.05.195;

13 (E) a mineral lease issued under AS 38.05.205;

14 (F) an exempt oil and gas lease sale or gas only lease sale
15 under AS 38.05.180(d) of acreage subject to a best interest finding issued
16 within the previous 10 years or a reoffer oil and gas lease sale or gas only
17 lease sale under AS 38.05.180(w) of acreage subject to a best interest finding
18 issued within the previous 10 years, unless the commissioner determines that
19 substantial new information has become available that justifies a supplement to
20 the most recent best interest finding for the exempt oil and gas lease sale or
21 gas only lease sale acreage and for the reoffer oil and gas lease sale or gas
22 only lease sale acreage; however, for each oil and gas lease sale or gas only
23 lease sale described in this subparagraph, the director shall call for comments
24 from the public; the director's call for public comments must provide
25 opportunity for public comment for a period of not less than 30 days; if the
26 director determines that a supplement to the most recent best interest finding
27 for the acreage is required under this subparagraph,

28 (i) the director shall issue the supplement to the best
29 interest finding not later than 90 days before the sale;

30 (ii) not later than 45 days before the sale, the director
31 shall issue a notice describing the interests to be offered, the location

1 and time of the sale, and the terms and conditions of the sale; and

2 (iii) the supplement has the status of a final written best
3 interest finding for purposes of (i) and (l) of this section;

4 (G) [A SHALLOW GAS LEASE AUTHORIZED UNDER
5 AS 38.05.177 IN AN AREA FOR WHICH LEASING IS AUTHORIZED
6 UNDER AS 38.05.177;

7 (H)] a surface use lease under AS 38.05.255;

8 (H) [(I)] a permit, right-of-way, or easement under
9 AS 38.05.850;

10 (7) the director shall include in

11 (A) a preliminary written finding, if required, a summary of
12 agency and public comments, if any, obtained as a result of contacts with other
13 agencies concerning a proposed disposal or as a result of informal efforts
14 undertaken by the department to solicit public response to a proposed disposal,
15 and the department's preliminary responses to those comments; and

16 (B) the final written finding a summary of agency and public
17 comments received and the department's responses to those comments.

18 * Sec. 11. AS 38.05.035(g) is amended to read:

19 (g) Notwithstanding (e)(1)(A) and (B) of this section, when the director
20 prepares a written finding required under (e) of this section for an oil and gas lease
21 sale or a gas only lease sale scheduled under AS 38.05.180, the director shall consider
22 and discuss

23 (1) in a preliminary or final written finding facts that are known to the
24 director at the time of preparation of the finding and that are

25 (A) material to issues that were raised during the period
26 allowed for receipt of public comment, whether or not material to a matter set
27 out in (B) of this paragraph, and within the scope of the administrative review
28 established by the director under (e)(1) of this section; or

29 (B) material to the following matters:

30 (i) property descriptions and locations;

31 (ii) the petroleum potential of the sale area, in general

terms;

(iii) fish and wildlife species and their habitats in the area;

(iv) the current and projected uses in the area, including uses and value of fish and wildlife;

(v) the governmental powers to regulate the [OIL AND GAS] exploration, development, production, and transportation of oil and gas or of gas only;

(vi) the reasonably foreseeable cumulative effects of [OIL AND GAS] exploration, development, production, and transportation for oil and gas or for gas only on the sale area, including effects on subsistence uses, fish and wildlife habitat and populations and their uses, and historic and cultural resources;

(vii) lease stipulations and mitigation measures, including any measures to prevent and mitigate releases of oil and hazardous substances, to be included in the leases, and a discussion of the protections offered by these measures;

(viii) the method or methods most likely to be used to transport oil or gas from the lease sale area, and the advantages, disadvantages, and relative risks of each;

(ix) the reasonably foreseeable fiscal effects of the lease sale and the subsequent activity on the state and affected municipalities and communities, including the explicit and implicit subsidies associated with the lease sale, if any;

(x) the reasonably foreseeable effects of [OIL AND GAS] exploration, development, production, and transportation involving oil and gas or gas only on municipalities and communities within or adjacent to the lease sale area; and

(xi) the bidding method or methods adopted by the commissioner under AS 38.05.180; and

(2) the basis for the director's preliminary or final finding, as

1 applicable, that, on balance, leasing the area would be in the state's best interest.

2 * Sec. 12. AS 38.05.036(a) is amended to read:

3 (a) The department may conduct audits regarding royalty and net profits under
4 oil and gas contracts, agreements, or leases under this chapter and regarding costs
5 related to [OIL AND GAS] exploration licenses entered into under AS 38.05.131 -
6 38.05.134 and exploration incentive credits under this chapter or under AS 41.09. For
7 purposes of audit under this section,

8 (1) the department may examine the books, papers, records, or
9 memoranda of a person regarding matters related to the audit; and

10 (2) the records and premises where a business is conducted shall be
11 open at all reasonable times for inspection by the department.

12 * Sec. 13. AS 38.05.127(e) is amended to read:

13 (e) The establishment of easements or rights-of-way for oil and gas, gas only,
14 and mineral leases under (a) of this section need not be made until the leases are ready
15 to be developed.

16 * Sec. 14. AS 38.05.131(a) is amended to read:

17 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
18 provisions of AS 38.05.005 - 38.05.037, 38.05.140(f), 38.05.180, 38.05.182 -
19 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of [OIL AND GAS]
20 exploration licenses and leases for oil and gas, or for gas only, as appropriate,
21 under AS 38.05.132 - 38.05.134.

22 * Sec. 15. AS 38.05.132(a) is amended to read:

23 (a) To encourage exploration for oil and gas on state land, the commissioner
24 may issue [OIL AND GAS] exploration licenses. The commissioner may limit the
25 exploration licenses under AS 38.05.132 - 38.05.134 to exploration for and
26 recovery of gas only.

27 * Sec. 16. AS 38.05.132(b) is amended to read:

28 (b) An [OIL AND GAS] exploration license issued under this section gives
29 the licensee

30 (1) the exclusive right to explore, for a term not to exceed 10 years,
31 [FOR DEPOSITS OF OIL AND GAS] on unleased state land described in the

1 exploration license for deposits of oil and gas, or for deposits of gas only, as
2 appropriate, unless the exploration license is terminated under (d)(1) of this section
3 or the land is earlier relinquished, removed, or deleted under (d)(2) of this section; and

4 (2) unless the exploration license is terminated under (d)(1) of this
5 section, the option to convert the exploration license for all or part of the state land,
6 except the land that is deleted or removed from the land described in the exploration
7 license under (d)(2) of this section, into an oil and gas lease, or a gas lease only, as
8 appropriate, upon fulfillment of the work commitments contained in the exploration
9 license.

10 * Sec. 17. AS 38.05.132(c) is amended to read:

11 (c) An exploration license awarded under this section

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

14 (2) may cover, subject to the maximum acreage limitation on
15 exploration licenses by one licensee under AS 38.05.131(e), an area of not less than
16 10,000 acres and not more than 500,000 acres, that must be reasonably compact and
17 contiguous;

18 (3) must be conditioned upon an obligation to perform a specified
19 work commitment, in total for the term of the license, expressed in dollars of direct
20 exploration expenditures; the specified work commitment

21 (A) may include a provision that adjusts the total amount of
22 work commitment, expressed in dollars of direct exploration expenditures, to
23 account for inflation;

24 (B) must include a requirement that the licensee complete at
25 least 25 percent of the licensee's total specified work commitment by the fourth
26 anniversary of the effective date of the issuance of the [OIL AND GAS]
27 exploration license;

28 (4) must be conditioned upon the posting of a bond or other security
29 acceptable to the commissioner, in favor of the state and subject to the following
30 requirements:

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

1 (B) the annual bond or other security shall be calculated as the
2 entire work commitment expressed in dollars, less the cumulative direct
3 exploration expenditures of the licensee as of the last day of the most recent
4 project year, divided by the number of years remaining in the term of the
5 exploration license;

6 (5) is subject to an annual review and revocation if the commissioner
7 determines that the licensee has failed to provide or maintain in effect the bond or
8 other security required by (4) of this subsection;

9 (6) must be conditioned upon the licensee's payment to the state of a
10 nonrefundable [OIL AND GAS] exploration license fee of \$1 for each acre of land or
11 fraction of each acre that is subject to the exploration license; and

12 (7) must be conditioned upon an agreement that exploration
13 expenditures are subject to audit by the commissioner.

14 * Sec. 18. AS 38.05.132(f) is amended to read:

15 (f) In this section,

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

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

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

1 commitment;

2 (2) "work commitment" includes the drilling of one or more
3 exploration wells or the gathering of data from activities described in (1) of this
4 subsection, or both.

5 * **Sec. 19.** AS 38.05.133(a) is amended to read:

6 (a) The procedures in this section apply to the issuance of an [OIL AND GAS]
7 exploration license under AS 38.05.132.

8 * **Sec. 20.** AS 38.05.133(f) is amended to read:

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

22 * **Sec. 21.** AS 38.05.133(h) is amended to read:

23 (h) If competing proposals are submitted, and the commissioner's finding
24 under (f) of this section concludes that an [OIL AND GAS] exploration license should
25 be issued, the commissioner shall issue a request for competitive sealed bids, under
26 procedures adopted by the commissioner by regulation, to determine which
27 prospective licensee should be issued the exploration license. The finding provided to
28 the prospective licensees and the public under (f) of this section must contain notice
29 that (1) the commissioner intends to request competitive sealed bids, (2) a prospective
30 licensee who intends to participate in the bidding must notify the commissioner in
31 writing by the date specified in the notice, and (3) a prospective licensee's notice of

1 intent to participate in the bidding constitutes acceptance of issuance of the
2 exploration license, as limited or conditioned by the terms contained in the finding and
3 by the exploration license to be issued and the form of lease to be used that have been
4 attached to that finding, if the prospective licensee is the successful bidder. The
5 successful bidder is the prospective licensee who submits the highest bid in terms of
6 the minimum work commitment dollar amount.

7 * **Sec. 22.** AS 38.05.134 is amended to read:

8 **Sec. 38.05.134. Conversion to lease.** If the licensee requests and the
9 commissioner determines that the work commitment obligation set out in an [OIL
10 AND GAS] exploration license issued under AS 38.05.132 has been met, the
11 commissioner shall convert to one or more [OIL AND GAS] leases all or part, as the
12 licensee may indicate, of the area described in the exploration license that remains
13 after the relinquishments, removals, or deletions required by AS 38.05.132(d)(2). A
14 lease issued under this section

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

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

17 (3) must be conditioned upon a royalty in amount or value of not less
18 than 12.5 percent of production, except that

19 (A) the lessee who, proceeding under AS 38.05.131 -
20 38.05.134, under a lease issued in the Cook Inlet sedimentary basin who is the
21 first to file with the commissioner a nonconfidential sworn statement claiming
22 to be the first to have drilled a well discovering oil or gas in a previously
23 undiscovered oil or gas pool and who is certified by the commissioner within
24 one year of completion of that discovery well to have drilled a well in that pool
25 that is capable of producing in paying quantities shall pay a royalty of five
26 percent on all production of oil or gas from that pool attributable to that lease
27 for a period of 10 years following the date of discovery of that pool, and
28 thereafter the royalty payable on all production of oil or gas from the pool
29 attributable to that lease shall be determined and payable as specified in the
30 lease; the payment of the five percent royalty under this paragraph is
31 authorized only to a holder of a lease who meets the requirements of

AS 38.05.180(f)(4); and

(B) for nonconventional gas that is not produced in direct competition with gas on which a royalty at a rate of at least 12.5 percent is payable, if the licensee requests, the commissioner may negotiate with the licensee and set a royalty rate for the gas of at least 6.25 percent; for purposes of this subparagraph, "nonconventional gas" has the meaning given in AS 38.05.965;

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

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

* **Sec. 23.** AS 38.05.140(a) is amended to read:

(a) A person may not take or hold coal leases or permits during the life of coal leases on state land exceeding an aggregate of 92,160 acres, except that a person may apply for coal leases or permits for acreage in addition to 92,160 acres, not exceeding a total of 5,120 additional acres of state land. The additional area applied for shall be in multiples of 40 acres, and the application shall contain a statement that the granting of a lease for additional land is necessary for the person to carry on business economically and is in the public interest. On the filing of the application, [EXCEPT AS PROVIDED BY AS 38.05.177(a)(2)(C),] the coal deposits in the land covered by the application shall be temporarily set aside and withdrawn from all other forms of disposal provided under AS 38.05.135 - 38.05.181.

* **Sec. 24.** AS 38.05.140(f) is amended to read:

(f) The submerged and shoreland lying north of 57 degrees, 30 minutes, North [NORTH] latitude and east of 159 degrees, 49 minutes, West [WEST] longitude within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve. Within the Bristol Bay Fisheries Reserve, a [NO] surface entry permit to develop an oil or gas lease or an [OIL AND GAS] exploration license under AS 38.05.131 - 38.05.134 may not be issued on state owned or controlled land until the legislature by