

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2285 SCOMM 94: SENATE SPECIAL COMMITTEE ON OIL & GAS, 1993-94

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 5, 1993

*The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill providing for monetary incentives in the form of certain credits to be applied against taxes and other obligations to the state for oil- and gas-related geophysical and exploratory activities performed by a qualified applicant. This bill should provide a valuable tool for the state to encourage oil and gas exploration in Alaska.

The bill amends AS 41 by adding a new chapter, 09. The bill would permit a qualified applicant to receive certain credits that could be used to offset taxes, royalties, or bonuses due the state, if the applicant performed certain defined exploratory work. The bill does not require that the exploratory work be done exclusively on state land, since development on other land also benefits the state in the form of additional jobs, increased economic activity, and development of infrastructure. The bill, though, allows a credit not to exceed 50 percent of the eligible direct costs of activities performed on state-owned land as opposed to 25 percent of those costs on other land, to encourage development on state land. The applicant would be able to assign the credit to any other entity, including banks and security holders. The commissioner of natural resources is authorized to grant up to a total of \$50 million for all incentive credits to applicants under this program, with no single project receiving more than \$5,000,000 in credits.

The Honorable Rick Halford

March 5, 1993

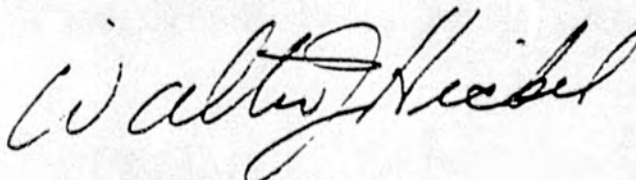
Page 2

The applicant also must submit to the commissioner copies of all data derived from the exploratory activity.

The commissioner may display, but not distribute or transfer, certain geophysical data to others to generate interest in development of state oil and gas reserves. The bill provides protection for confidential data submitted similar to that already existing in other state laws for oil and gas exploration information submitted to the state.

I urge your prompt and favorable consideration of this bill.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel". The signature is written in dark ink and is positioned above the printed name and title.

Walter J. Hickel
Governor

SCOMM

94:12

FISCAL NOTE**STATE OF ALASKA
1994 LEGISLATIVE SESSION****BILL NO. SB 169**

Revision Date:

Dept. Affected:

Revenue

Title:

Temporary exemption from Property Tax for a pre-built
transportation facility

BRU:

Revenue Operations

Component:

Oil and Gas Audit

Sponsor:

Sen. Donley

Requestor:

Senate Oil and Gas Committee

COMPONENT SERIAL NO.

115

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:	*	*	*	*	*	*
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FUNDING:

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) impact: \$

ANALYSIS: (Attach a separate page if necessary.)

* SEE ATTACHMENT (A)

Prepared by:

Clyde R. Benson

Division:

Oil and Gas Audit Division

Approved by Commissioner:

Darrel J. Rexwinkel

Agency:

Revenue

Phone: 277-1363 Ext. 251

Date: January 27, 1994

Date: January 27, 1994

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ATTACHMENT (A)

SB 169 Analysis
Page 2 of 2

SB 169 does not specify a particular transportation facility or the anticipated capital cost, however the wording of the bill dealing with net economic benefit to the state suggests a major construction project. We have assumed for the purpose of this analysis that the transportation facility being described is a large inch gas pipeline from Prudhoe Bay to an ice free port. The capital costs and construction period stated in the assumptions are for demonstration purposes only and do not attempt to estimate actual pipeline costs.

ASSUMPTIONS:

CAPITAL COST OF PIPELINE	\$12,000,000,000
PROPERTY TAX MORATORIUM	5 YRS
CONSTRUCTION PERIOD	3YRS (EQUAL EXPENDITURES EACH YEAR)

	ANNUAL VALUE	TAX RATE	STATE & MUNICIPAL TAX LOSS
YEAR 1	\$4,000,000,000	2 %	\$80,000,000
YEAR 2	\$8,000,000,000	2 %	\$160,000,000
YEAR 3	\$12,000,000,000	2 %	\$240,000,000
YEAR 4	\$12,000,000,000	2 %	\$240,000,000
YEAR 5	\$12,000,000,000	2 %	\$240,000,000
TOTAL TAX FORGIVENESS			\$960,000,000

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

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

MEMORANDUM

January 27, 1994

SUBJECT: Senate Bill 169 (Work Order No. 8-LS0801\A)

TO: Senator Loren Lemar, Chair
Senate Special Oil and Gas Committee
ATTN: Annette Kreitzer

FROM: Jack Chenoweth
Legislative Council

The state imposes a 20 mill tax on certain pipelines. AS 43.56. The statute authorizes taxation of a pipeline, generally, from its "construction commencement" date which, for purposes of this discussion, we take to be the date

there has been issued to the owner or an agent of the owner right-of-way permits, leases, and title and other rights in land, and other approvals, permits, licenses, and certificates, by federal, state and local agencies that a reasonable and prudent person would consider adequate to commence construction of the facilities in the expectation that all other approvals, permits, licenses, and certificates necessary for the completion of facilities will be obtained;

AS 43.56.210(2)(A). ^{1/} The statute conceives that the taxable pipeline property would become subject to taxation and taxed even before it was hooked up, end-to-end, and capable of transporting crude oil or natural gas.

Senate Bill 169 proposes to provide an early development exemption by delaying the imposition of the tax after the construction commencement date and exempting the otherwise taxable property from the property tax, if the taxpayer or prospective taxpayer can demonstrate each of the two elements of AS 43.56.025(a), set out in sec. 2 of the bill. The exemption provided by that delay may not exceed the earlier of the December 31 date following actual completion of the pipeline and its use for transporting the oil or gas, or the December 31 following the fifth anniversary date

^{1/} The definition of "construction commencement date" has some other contingent provisions but they are not relevant to this discussion.

Senator Loren Leman

January 27, 1994

Page 2

of the construction commencement date. In other words, the state will withhold its ability to tax the line for as long as five years (and some additional period to make it to December 31) so that the pipeline can be constructed in place without being subject to taxation.

Municipalities may subject the same pipeline property to property tax, subject to the limitation of levy set out in AS 43.56.010(b) - (d), and subject, further, to the exemption proposed by the early development exemption. In short, if the state provides an early development property tax exemption, the property is not to be subject to municipal property tax levy for the duration of the state-approved exemption.

JBC:lmb

94-026.lmb

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

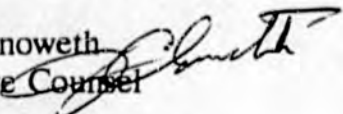
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 29, 1993

SUBJECT: Senate Bill 169, authorizing a moratorium on levy and collection of the pipeline property tax (Work Order No. 8-LS0801A)

TO: Senator Dave Donley

FROM: Jack Chenoweth
Legislative Counsel 

In summary the bill proposes to establish a moratorium on levy and collection of the state property tax on pipelines under certain conditions. Under AS 43.56.020(b), "property that is committed by contract or other agreement for use in this state primarily for the production or pipeline transportation of gas or unrefined oil, or in the operation or maintenance of facilities for the production or pipeline transportation of gas or unrefined oil" is exempt from the state tax levied under AS 43.56.010(a) before the project's construction commencement date. This bill would extend that exemption for a period of not more than five years during the period following the pipeline's construction commencement date under certain conditions.

The principal operative provision is the **bill's section 3**. If the taxpayer applies and qualifies for the exemption, the bill would extend the exemption for the benefit of the "pipeline transportation property" for a period until the close of the calendar year in which the pipeline begins to transport or until the close of the calendar year five years after the project's construction commencement date, whichever expires earlier. The bill section imposes an application requirement and directs the Department of Revenue to determine by regulation what information must be submitted to support the tax exemption application. Most significantly, the bill section limits the operation of the exemption or moratorium to pipelines of taxpayers who demonstrate that the provision of the exemption would hasten the construction commencement date and that the net increase in economic activity would more than offset loss of state and municipal revenue attributable to the tax exemption.

Bill section 1 provides a brief statement of purpose for the measure.

Bill section 2 adds to the list of mandatory municipal tax exemptions a cross-reference to the exemption for the development of pipeline property.

Senator Dave Donley

March 29, 1993

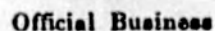
Page 2

Bill section 4 amends the definition of "construction commencement date" to delete an outdated reference and to make a change that conforms the language to the recommended style of drafting.

Bill section 5 gives the measure a January 1, 1994, effective date.

JBC:pl

93-248.plm



SENATE RESOURCES

DATE: 3/1/94

PLEASE PRINT!

NAME**ADDRESS** (MAILING) & (ZIP)**PHONE**

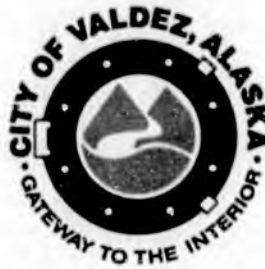
REPRESENTING

DO YOU WANT TO TESTIFY?

[illegible]

Subject of meeting:

SB 169 Tax Exemption: Certain Pipeline Property



February 9, 1994

FEB 14 1994

Senator Loren Leman, Chairman
Senate Special Committee on Oil and Gas
State Capitol
Juneau, Alaska 99801-1182

RE: SB 169

Dear Senator Leman:

The City of Valdez has been in contact with Annette Kreitzer of your staff regarding an upcoming hearing on SB 169, a bill sponsored by Senator Donley "authorizing an extension of the exemption from the levy and collection of the tax imposed on certain oil and gas pipeline transportation property during the period of pipeline construction."

At its regular meeting of February 7, 1994, the Valdez City Council unanimously adopted Resolution 94-19 establishing the City's position on this measure. I would summarize the feelings of the City Council of being sympathetic to the intent of Senator Donley of providing incentives to assist in the construction of major pipeline projects, like the Trans-Alaska Gas System (TAGS), but it is even more concerned with empowering the Department of Revenue to make exemptions on behalf of municipalities. This prospect is particularly frightening due to the fact that severe impacts caused by large construction projects primarily affect locally provided services and facilities.

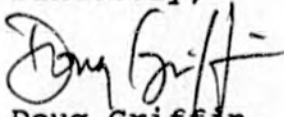
There may be amendments that could make this initiative more palatable. For example, the state could grant an exemption for portions of the pipeline located in the unorganized borough outside of cities and boroughs; let the State give away its taxing authority, but not that of organized local governments. However, the concept of allowing the State to have any additional authority over local taxing prerogatives is very troubling, particularly as State aid to municipalities is reduced. Taking away State aid is one thing, but taking away the ability to locally raise revenues to meet public health and safety needs is unconscionable. Should local taxpayers impacted by a pipeline project with a "net increase in economic activity in the State" have to see their taxes raised to meet the increased demand for services during the pipeline construction phase? That scenario is fundamentally unfair and unjust.

Senator Loren Leman, Chairman
February 9, 1994
Page 2

Our City Council has gone on record recently as being overwhelmingly supportive of the TAGS project. The City stays in close contact with Yukon Pacific regarding the status of the TAGS line, and no town is more excited about the progress this visionary concept has made in becoming a viable project of enormous benefit to this State and the nation as a whole. However, SB 169 is fundamentally flawed and vague in its application and, therefore, the City of Valdez opposes it.

Thank you for this opportunity to comment.

Sincerely,


Doug Griffin
City Manager

Enclosure

cc: Mayor John Harris
Valdez City Council
Governor Walter J. Hickel
Senator Georgianna Lincoln
Representative Harley Olberg
Commissioner Edgar Blatchford, Community and Regional Affairs
Commissioner Darrel J. Rexwinkel, Revenue
Kent Swisher, Executive Director, Alaska Municipal League

CITY OF VALDEZ, ALASKA

RESOLUTION NO. 94-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA
REGARDING SB 169 IN THE LEGISLATURE OF THE STATE OF ALASKA.

WHEREAS, Senator Dave Donley has introduced a bill, SB 169, in the Alaska Senate "authorizing an extension of the exemption from the levy and collection of the tax imposed on certain oil and gas pipeline transportation property during the period of pipeline construction;" and

WHEREAS, the City of Valdez has contacted the office of Senator Loren Leman, Chairman of the Senate Special Committee on Oil and Gas regarding SB 169 and have been informed that a public hearing will be scheduled soon on this bill; and

WHEREAS, staff for the Senate Special Committee on Oil and Gas have requested comments and a formal position from municipalities which could be most effected by this legislation; and

WHEREAS, Section 3 of the bill would allow the Department of Revenue to exempt oil and gas pipeline transportation property from taxation if the taxpayer demonstrates, to the satisfaction of the department, that tax exemption will permit the project to begin substantially sooner and that the "net increase in economic activity in the state attributable to an earlier construction commencement date for the pipeline... will be greater than the loss of revenue to the state and municipalities attributable to provision of the exemption;" and

WHEREAS, impacts on schools, roads, utilities, recreation services, solid waste collection and disposal, public safety, docks and ports, planning and land use, and government administration are primarily felt at the local municipal level; and

WHEREAS, impacts during the construction phase of a project are much more dramatic and, therefore, usually require increased expenditures for municipal services; and

WHEREAS, Senate Bill 169 places a great deal of authority and power within the Alaska Department of Revenue, without benefit of local input, to preempt normal municipal taxation prerogatives and could possibly erode the tax base necessary to effectively maintain public health and safety during a construction impact that could increase the population of Valdez by at least 100%; and

WHEREAS, without benefit of a clear understanding of what types of projects would qualify, how the Department of Revenue will measure increased economic activity and loss

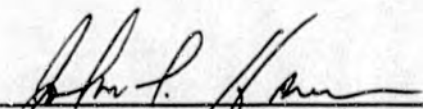
of revenue to the state and municipalities attributable to early construction of a pipeline, the City of Valdez has some major concerns with the intent and implications of SB 169 as presently drafted;

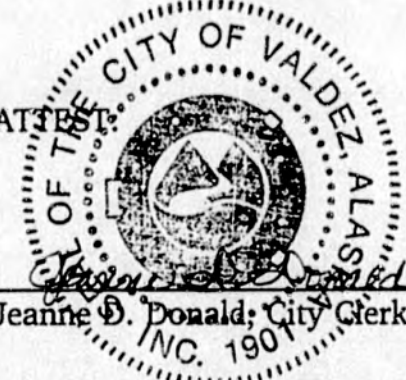
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, that:

While the City of Valdez is supportive of transportation projects that will deliver Alaska's abundant natural resources to market within established pipeline right-of-way corridors, the City of Valdez opposes SB 169 because it may hamper the ability of the city to tax and raise the revenue necessary to address demands attributable to construction impacts on city services.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this 7th day of February, 1994.

CITY OF VALDEZ, ALASKA


John L. Harris, Mayor

ATTEST:

Jeanne D. Donald, City Clerk

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H. G. Price Co.

Vice President Policy
Bob Gardner
ENGR Consulting & Engineering

Vice President Events
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STAFF

Walt Furnace
General Manager
Barbara Webb
Administrative Assistant
Peggy Willman
Communications Assistant

**THE ALLIANCE**

4220 'B' Street, Suite 200 / Anchorage, Alaska 99503-5911

Phone (907) 563-2228 Fax (907) 561-8870

DATE: February 1, 1994
TO: Senator Dave Donley
FROM: Walt Furnace
SUBJ: SB169

Dear Senator Donley:

The Board of Directors of the Alaska Support Industry Alliance is on record supporting legislation that will promote positive development of Alaska's resources. I have reviewed SB169 and herein submit this letter of support. The bill's intent of proposing a transportation property tax exemption for early oil and gas pipeline development is consistent with the policy position of the Alliance.

We appreciate the opportunity to comment on SB169 and wish you success in its passage.

Sincerely,

Walt Furnace
General Manager

cc: Sen. Loren Leman

Senator Dave Donley



SPONSOR STATEMENT

Senate Bill 169

**Oil and Gas Pipeline Transportation
Property Tax Exemption**

SB169 proposes a transportation property tax exemption for early oil and gas pipeline development. Currently companies are taxed on any oil and gas property at the time it is purchased or brought into Alaska. This bill gives companies a tax exemption until the property is actually used, as long as the project is of economic benefit to the state.

Today, if a company wants to build a pipeline, once it purchases pipe and other materials and equipment, and sets it in a storage yard, the company is taxed on these materials upon its purchase and arrival in the state. SB169 allows these materials to be purchased and stored and not taxed until the pipeline is in place.

The current tax structure is a disincentive for companies to begin their projects early and projects could be delayed or cancelled altogether. SB169 is a strong incentive for early pipeline development which could result in more jobs for Alaskans.

DD/mf

SCOMM

94:13

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO.

CS SB 239 (O&G)

Revision Date: _____
 Title: Financial Requirements: Noncrude
Oil Operations
 Sponsor: Senate Special Committee on Oil & Gas
 Requestor: Senate Special Committee on Oil & Gas

Department Affected: Environmental
Conservation
 BRU: Spill Prevention and Response
 Component: Industry Preparedness and Response

COMPONENT SERIAL NO.

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

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 Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	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 (FY94) cost: \$ _____

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact anticipated.

Prepared by: Bob Poe, Director
 Division: Information & Administrative Services

Phone: 465-5010
 Date: 2/22/94

Approved by Commissioner: [Signature]
 Agency: Department of Environmental Conservation

Date: 2/22/94

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**Alaska Department of Environmental Conservation
Position Paper on Direct Action Insurance and Financial Responsibility**

January 24, 1994

Purpose of the Legislation: To give ADEC the continuing authority to grant waivers to those oil facilities which can get insurance, but whose insurance does not allow the insurer to be directly sued in Alaska.

Background of the Legislation: Under state law, owners of facilities that are oil spill threats are required to submit proof of financial responsibility in the case of a spill. Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3) surety, (4) guarantee, (5) letter of credit approved by the department, or (6) other proof of financial responsibility provided by a group of insureds who have agreed to cover pollutions risks of members of the group under terms the department may prescribe.

The law further provides that insurers or others providing financial responsibility coverage must agree to be sued in a state court (i.e., direct action.) Prior to the Exxon Valdez, this insurance was widely available. But when a similar "direct action" requirement was included in national law, under the Oil Pollution Act of 1990, many of the world's insurance providers stopped issuing coverage for this insurance.

Two years ago, the Alaska Legislature gave ADEC the authority to waive the direct action requirement if the person submitting insurance as a form of financial responsibility signed a quarterly affidavit that the direct action coverage was not available.

A House Bill pending now (HB 384) would extend ADEC's authority to grant a waiver to direct action permanently. The companion Senate version, SB 239, would extend the waiver authority just two years.

ADEC's Position: The Department supports continuing this waiver provision, and making the waiver provision permanent. Without this provision, we may have to shut down facilities which provide fuel throughout Alaska. We are continuing to work with the insurance industry to make direct action coverage more readily available; there is a proposed product now under department review (with review also by the Department of Law) that would serve as a rider for insurance coverage that does not offer direct action. We believe the waiver provisions are strict enough (with a quarterly affidavit required and the Department's ability to deny waivers) that the provision may be made a permanent part of the law. Thus we support the House language as optimal.

DEC POSITION ON HB 428 AND SB 239 (1994)

Section 1: The Department does not object to language in the bills reducing financial responsibility amounts for onshore exploration and production facilities. DEC assumes the reduced financial responsibility amounts would be adjusted by regulation on or before June 30, 1994 to reflect changes in the Consumer Price Index as required under AS 46.04.045.

The Department notes that any reduction of these amounts would lower the likelihood that the total dollar amount of cleanup costs expended from the response fund, damages to State natural resources, and damages incurred by third-parties would be fully compensated if a spiller became bankrupt. In that event, some additional compensation may be available from bonds required by DNR or AOGCC. The present statutory amounts for financial responsibility were set by the Legislature in 1990.

The proposal will require additional effort beyond the scope of the existing financial responsibility program to collect, analyze, and verify the relevant field production information and to render a finding pertaining to the amount of financial responsibility that is required. In the past, daily production information has not been available to DEC, and the Department has not required it. The AOGCC has been providing us with monthly production summaries by oil pool, however this information does not readily correspond to the individual facility operators, of whom several may be withdrawing oil in differing amounts from the same unit or pool. In order to determine appropriate amounts of financial responsibility under the proposed tiered requirements, DEC would need daily facility production information from the Department of Revenue or AOGCC, and asks that the availability of that information be confirmed.

Section 2: The Department supports this permanent waiver provision, and believes the language is optimal.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO.

Senate Bill No. 239

Revision Date: _____
Title: Financial Requirements: Noncrude
Oil Operations
Sponsor: Senate Special Committee on Oil & Gas
Requestor: Senate Special Committee on Oil & Gas

Department Affected: Environmental
Conservation
BRU: Spill Prevention and Response
Component: Industry Preparedness and Response

COMPONENT SERIAL NO.

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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						
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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTA						
Other: 1052 Oil/Haz "470" Fund	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 (FY94) cost: \$ not applicable

POSITIONS:

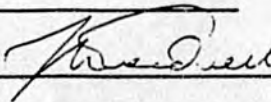
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact anticipated.

Prepared by: Robert Poe, Director 
Division: Information and Administrative Services

Phone: 465-5010
Date: 1/21/94

Approved by Commissioner: John Sandor, Commissioner 
Agency: Department of Environmental Conservation

Date: 1/21/94

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**Alaska Department of Environmental Conservation
Position Paper on Direct Action Insurance and Financial Responsibility**

January 24, 1994

Purpose of the Legislation: To give ADEC the continuing authority to grant waivers to those oil facilities which can get insurance, but whose insurance does not allow the insurer to be directly sued in Alaska.

Background of the Legislation: Under state law, owners of facilities that are oil spill threats are required to submit proof of financial responsibility in the case of a spill. Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3) surety, (4) guarantee, (5) letter of credit approved by the department, or (6) other proof of financial responsibility provided by a group of insureds who have agreed to cover pollutions risks of members of the group under terms the department may prescribe.

The law further provides that insurers or others providing financial responsibility coverage must agree to be sued in a state court (i.e., direct action.) Prior to the Exxon Valdez, this insurance was widely available. But when a similar "direct action" requirement was included in national law, under the Oil Pollution Act of 1990, many of the world's insurance providers stopped issuing coverage for this insurance.

Two years ago, the Alaska Legislature gave ADEC the authority to waive the direct action requirement if the person submitting insurance as a form of financial responsibility signed a quarterly affidavit that the direct action coverage was not available.

A House Bill pending now (HB 384) would extend ADEC's authority to grant a waiver to direct action permanently. The companion Senate version, SB 239, would extend the waiver authority just two years.

DEC's Position: The Department supports continuing this waiver provision, and making the waiver provision permanent. Without this provision, we may have to shut down facilities which provide fuel throughout Alaska. We are continuing to work with the insurance industry to make direct action coverage more readily available; there is a proposed product now under department review (with review also by the Department of Law) that would serve as a rider for insurance coverage that does not offer direct action. We believe the waiver provisions are strict enough (with a quarterly affidavit required and the Department's ability to deny waivers) that the provision may be made a permanent part of the law. Thus we support the House language as optimal.



LAWS OF ALASKA

1994

Source
CSSB 239(O&G)

Chapter No.
12

AN ACT

Relating to evidence of financial responsibility provided by persons who conduct oil operations; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to evidence of financial responsibility provided by persons who conduct oil
2 operations; and providing for an effective date.

3 _____
4 * Section 1. AS 46.04.040(b) is amended to read:

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

9 (1) a pipeline or an offshore exploration or production facility is
10 \$50,000,000 per incident;

11 (2) [PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]
12 an onshore production facility is

13 (A) \$20,000,000 per incident if the facility produces over
14 10,000 barrels per day of oil;

1 (B) \$10,000,000 per incident if the facility produces over
2 5,000 barrels per day but not more than 10,000 barrels per day of oil;

3 (C) \$5,000,000 per incident if the facility produces over
4 2,500 barrels per day but not more than 5,000 barrels per day of oil;

5 (D) \$1,000,000 per incident if the facility produces 2,500
6 barrels per day or less of oil;

7 (3) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]
8 an onshore exploration facility is \$1,000,000 [\$5,000,000] per incident.

9 * Sec. 2. Section 6, ch. 102, SLA 1992, is repealed.

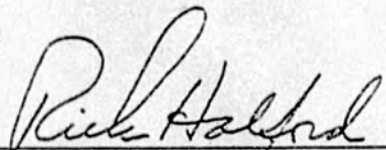
10 * Sec. 3. If this Act takes effect after June 1, 1994, sec. 2 of this Act is retroactive to
11 June 1, 1994.

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

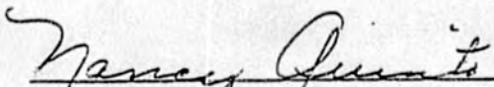
AUTHENTICATION

The following officers of the Legislature certify that the attached enrolled bill, CSSB 239(O&G), consisting of 2 pages, was passed in conformity with the requirements of the constitution and laws of the State of Alaska and the Uniform Rules of the Legislature.

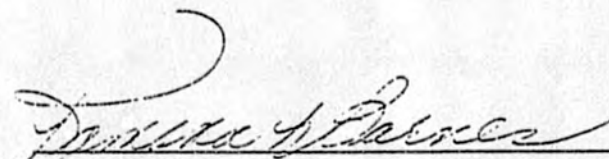
Passed by the Senate February 14, 1994


Rick Halford, President of the Senate

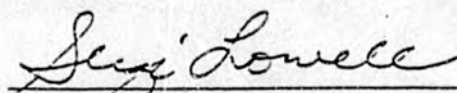
ATTEST:


Nancy Quinto, Secretary of the Senate

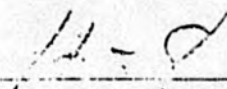
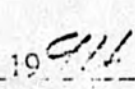
Passed by the House March 16, 1994

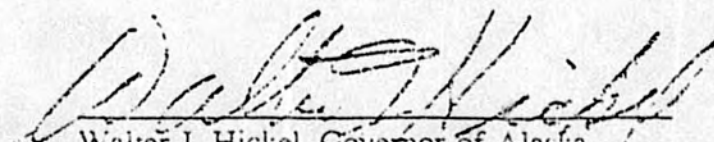

Ramona L. Barnes, Speaker of the House

ATTEST:


Suzi Lowell, Chief Clerk of the House

ACTION BY GOVERNOR

Approved by the Governor  19 


Walter J. Hickel, Governor of Alaska

Prepared by: Senate Oil and Gas Committee Staff
February 22, 1994

SECTIONAL ANALYSIS FOR:
CS SB 239(O&G)

"An Act relating to evidence of financial responsibility provided by persons who conduct oil operations; and providing for an effective date."

Section 1.

Subsection (b)(1) The OFFSHORE exploration or production financial responsibility requirement of \$50 million is UNAFFECTED by this amendment.

Subsection (b)(2) The amended language clarifies that financial responsibility should be greater for an onshore facility producing more than 10,000 barrels per day of oil, than for an onshore facility producing 2,500 barrels or less per day.

Subsection (b)(3) Limits the financial responsibility for an onshore exploration facility to \$1,000,000.

Section 2.

Chapter 102, SLA 1992 gives the Department of Environmental Conservation the authority to waive its requirement that financial responsibility instruments provide for a direct action and appointment of an agent for service of process. The direct action provision is NOT AVAILABLE in marine pollution insurance, and has not been available since about 1989.

Section 6 of Ch. 102, SLA 1992 repealed this temporary law effective June 1, 1994. Rather than grant another two-year exemption, the Committee Substitute repeals the repealer and allows DEC to grant waivers until direct action again becomes available.

Section 3.

Makes certain there is no gap between the effective date and the date of the repeal of the former temporary waiver.

Section 4.

Immediate effective date.

8-LS1408E -
Lauterbach
1/26/94

CS FOR SENATE BILL NO. 239(O&G)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

Offered:
Referred:

Sponsor(s): SENATE SPECIAL COMMITTEE ON OIL AND GAS

A BILL

FOR AN ACT ENTITLED

"An Act relating to evidence of financial responsibility provided by persons who
conduct oil operations; and providing for an effective date."

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

* Section 1. AS 46.04.040(b) is amended to read:

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

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

(2) [PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]
an onshore production facility is

(A) \$20,000,000 per incident if the facility produces over
10,000 barrels per day of oil:

1 (B) \$10,000,000 per incident if the facility produces over
2 5,000 barrels per day but not more than 10,000 barrels per day of oil;

3 (C) \$5,000,000 per incident if the facility produces over
4 2,500 barrels per day but not more than 5,000 barrels per day of oil;

5 (D) \$1,000,000 per incident if the facility produces 2,500
6 barrels per day or less of oil;

7 (3) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]

8 an onshore exploration facility is \$1,000,000 [\$5,000,000] per incident.

9 * Sec. 2. Section 6, ch. 102, SLA 1992, is repealed. >

10 * Sec. 3. If this Act takes effect after June 1, 1994, sec. 2 of this Act is retroactive to
11 June 1, 1994.

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

SB 239 (O&G)

By: Senator Bert Sharp

State Comparisons of Financial Responsibility for Onshore Exploration:

CALIFORNIA

\$1 million dollars requirement only within 30 miles of coastline. No requirement beyond 30 miles of coastline.

COLORADO

\$75 dollars permit fee per well. \$5,000 dollars per well for P & A (Plugging & Abandonment).

WASHINGTON

The state does not currently require onshore financial responsibility.

TEXAS

There is no financial responsibility required in Texas.

LOUISIANA

Louisiana is currently withholding oil spill regulations.

FLORIDA

No state drilling is allowed on state onshore lands in Florida.

WYOMING

There are no requirements beyond P & A (Plugging and Abandonment).

MONTANA

Montana has P & A (Plugging & Abandonment) requirements only.

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

State of Alaska

DIVISION OF OIL AND GAS

TO: Jerry Gallagher
Legislative Liaison

DATE: February 7, 1994

THRU: James E. Eason
Director

FILE NO: Legislation

TELEPHONE: 762-2580

FROM: Kristina M. O'Connor, CPL *Kris*
DNR Coordinator for Oil Spill
Plans & Regulations

SUBJECT: Bonding Information

In response to your request for information regarding oil and gas bonding requirements, I have excerpted the following from the Final Best Interest Determination for Oil and Gas Lease Sale 78 (Cook Inlet). I have also attached copies of the lease provision and pertinent regulations. In summary, the primary purpose of the DO&G bond is not oil spill cleanup but rehabilitation of abandoned sites, and the bond amounts do not cover the entire cost of rehabilitation.

Paragraph 23 of the lease contract and 11 AAC 83.160 require the oil and gas lessee to post a performance bond with the Division of Oil and Gas (DO&G) before operations can commence on an oil and gas lease. The minimum bond required is \$10,000. However, a bond of \$100,000 or greater is typically required by DO&G, depending on the type of activity. A statewide bond of \$500,000 is also acceptable. Under the lease terms, DO&G can also require a supplemental bond if it believes that the nature of the surface and its uses or the degree of risk justifies the increase. Alaska Oil and Gas Conservation Commission (AOGCC) also requires a lessee to post a separate bond of at least \$100,000 prior to any drilling activity. ADEC, in its Oil Discharge Contingency Plan permitting process, requires proof of financial assurance of \$50 million for a pipeline or offshore exploration or production facility, \$20 million for an onshore production facility, and \$5 million for an onshore exploration facility.

The bonds required by DO&G and AOGCC are not intended to provide full coverage for cleanup and rehabilitation expenses resulting from a catastrophic accident or very large-volume oil spill. That cost cannot be determined in advance of a specific event at a specific location. Regardless of the required bond amount, and the bond amounts required by other state agencies, the lessee is still fully liable for the cleanup and rehabilitation of all disturbed areas. The bond required by DO&G is used as a demonstration that the lessee is solvent and in good corporate standing. The bond monies could be used to provide for cleanup or rehabilitation of the lease area but probably would not be adequate for the most catastrophic situations which could be encountered. The lessee remains fully liable for its actions and those of its subcontractors.

Attachments

cc: Steve Schmitz. DO&G Permitting

CHAPTER 102

AN ACT RELATING TO EVIDENCE OF FINANCIAL RESPONSIBILITY PROVIDED BY PERSONS WHO CONDUCT OIL OPERATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

(CSSB 405(O&G))

Be it enacted by the Legislature of the State of Alaska:

Sec. 1. Permanent law. See Table of Disposition of Acts.

Sec. 2. TEMPORARY LAW APPLICABLE TO NONCRUDE OIL OPERATIONS. Notwithstanding AS 46.04.040, the Department of Environmental Conservation may, with respect to noncrude oil operations, approve proof of financial responsibility by a person, other than the applicant, who does not agree to be subject to a direct action in the state or to appoint an agent for service of process if the applicant

(1) provides proof of financial responsibility in the form and amounts otherwise required under AS 46.04.040;

(2) provides a sworn statement that

(A) is acceptable to the department;

(B) attests that the applicant has diligently attempted to obtain a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process;

(C) describes the steps the applicant has taken to obtain a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process;

(D) states that a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process is unavailable to the applicant;

(3) continues diligent efforts to obtain a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process and provides a sworn statement every six months that is acceptable to the department, containing the information required in (2) of this section.

Sec. 3. RATIFICATION OF PREVIOUS EXEMPTIONS GIVEN BY DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO NONCRUDE OIL OPERATIONS. Notwithstanding AS 46.04.040, the Department of Environmental Conservation may, with respect to noncrude oil operations, approve proof of financial responsibility by a person, other than the applicant, who does not agree to be subject to a direct action in the state or to appoint an agent for service of process if the applicant, before June 1, 1992,

(1) provides proof of financial responsibility in the form and amounts otherwise required under AS 46.04.040;

(2) attests in a statement to the department that the applicant has diligently attempted to obtain a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process and that this form of proof is unavailable to the applicant; and

(3) agrees to continue diligent efforts to obtain a form of proof of financial responsibility that would provide for a direct action and appointment of an agent for service of process.

Sec. 4. Section 3 of this Act is retroactive to June 1, 1991.

Sec. 5. If this Act takes effect after June 1, 1992, sec. 2 of this Act is retroactive to June 1, 1992.

Sec. 6. Section 2 of this Act is repealed June 1, 1994.

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

Approved: June 20, 1992
Effective June 21, 1992;
section 2 is retroactive to
June 1, 1992, section 3 is
retroactive to June 1, 1991

CHAPTER 111

AN ACT MAKING APPROPRIATIONS TO THE DEPARTMENT OF LAW FOR PAYMENT TO MUNICIPALITIES FOR LOSSES OF FISHERIES TAX REVENUE SUFFERED AS A RESULT OF THE EXXON VALDEZ OIL SPILL; AND PROVIDING FOR AN EFFECTIVE DATE.

(HCS CSSB 240(FIN) am H)

Be it enacted by the Legislature of the State of Alaska:

Section 1. PURPOSE. To provide relief to municipalities whose tax receipts were affected by reduction of payments of the fisheries business tax, it is the purpose of this Act to provide additional refunds payable to municipalities so that the municipalities are compensated for the decrease in the proceeds of the fisheries business tax during fiscal year 1990 caused by the Exxon Valdez oil discharge disaster.

SIGNED INTO LAW
6/20/92
EFFECTIVE
6/21/92

CS FOR SENATE BILL NO. 405 (O&G)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 4/15/92
Referred: Judiciary

Sponsor(s): SENATOR HOFFMAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to evidence of financial responsibility provided by persons who conduct
2 oil operations; and providing for an effective date."

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

4 * Section 1. AS 46.04.040(e) is amended to read:

5 (e) Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3)
6 surety, (4) guarantee, (5) letter of credit approved by the department, or (6) other proof of
7 financial responsibility approved by the department, including proof of financial responsibility
8 provided by a group of insureds who have agreed to cover pollution risks of members of the
9 group under terms the department may prescribe. An action brought under AS 46.03.758,
10 46.03.759, 46.03.760(a) or (e), 46.03.822, or as 46.04.030(g) may be brought in a state court
11 directly against the insurer, the group, or another person providing evidence of financial
12 responsibility; however, the liability under this section of a third-party insurer is limited to
13 the type of risk assumed and the amount of coverage specified in the proof of financial
14 responsibility furnished to and approved by the department. The applicant, and an insurer,

1 surety, guarantor, person furnishing an approved letter of credit, or other group or person
2 providing proof of financial responsibility approved by the department shall appoint an agent for
3 service of process in the state. For purposes of this subsection, an insurer, other than a group
4 of insureds whose agreement has been approved by the department, must either be authorized by
5 the Department of Commerce and Economic Development to sell insurance in the state or be an
6 unauthorized insurer listed by the Department of Commerce and Economic Development as not
7 disapproved for use in the state. In this subsection, "third-party insurer" means a third-party
8 insurer, surety, guarantor, person furnishing a letter of credit, or other group or person
9 providing proof of financial responsibility on behalf of an applicant under this section;
10 "third-party insurer" does not include the applicant.

11 * Sec. 2. TEMPORARY LAW APPLICABLE TO NONCRUDE OIL OPERATIONS.

12 Notwithstanding AS 46.04.040, the Department of Environmental Conservation may, with respect to
13 noncrude oil operations, approve proof of financial responsibility by a person, other than the applicant,
14 who does not agree to be subject to a direct action in the state or to appoint an agent for service of
15 process if the applicant

16 (1) provides proof of financial responsibility in the form and amounts otherwise required
17 under AS 46.04.040;

18 (2) provides a sworn statement that

19 (A) is acceptable to the department;

20 (B) attests that the applicant has diligently attempted to obtain a form of proof
21 of financial responsibility that would provide for a direct action and appointment of an agent for
22 service of process;

23 (C) describes the steps the applicant has taken to obtain a form of proof of
24 financial responsibility that would provide for a direct action and appointment of an agent for
25 service of process;

26 (D) states that a form of proof of financial responsibility that would provide for
27 a direct action and appointment of an agent for service of process is unavailable to the applicant;

28 (3) continues diligent efforts to obtain a form of proof of financial responsibility that
29 would provide for a direct action and appointment of an agent for service of process and provides a
30 sworn statement every six months that is acceptable to the department, containing the information
31 required in (2) of this section.

1 * Sec. 3. RATIFICATION OF PREVIOUS EXEMPTIONS GIVEN BY DEPARTMENT OF
2 ENVIRONMENTAL CONSERVATION TO NONCRUDE OIL OPERATIONS. Notwithstanding
3 AS 46.04.040, the Department of Environmental Conservation may, with respect to noncrude oil
4 operations, approve proof of financial responsibility by a person, other than the applicant, who does not
5 agree to be subject to a direct action in the state or to appoint an agent for service of process if the
6 applicant, before June 1, 1992,

7 (1) provides proof of financial responsibility in the form and amounts otherwise required
8 under AS 46.04.040;

9 (2) attests in a statement to the department that the applicant has diligently attempted to
10 obtain a form of proof of financial responsibility that would provide for a direct action and appointment
11 of an agent for service of process and that this form of proof is unavailable to the applicant; and

12 (3) agrees to continue diligent efforts to obtain a form of proof of financial responsibility
13 that would provide for a direct action and appointment of an agent for service of process.

14 * Sec. 4. Section 3 of this Act is retroactive to June 1, 1991.

15 * Sec. 5. If this Act takes effect after June 1, 1992, sec. 2 of this Act is retroactive to June 1, 1992.

16 * Sec. 6. Section 2 of this Act is repealed June 1, 1994.

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

Letter of intent to SB 405:

The Department of Environmental Conservation and the Legislative Research Agency shall research the possibility of group pooling for the purposes of meeting the state's financial responsibility requirements for oil spill pollution coverage for non-crude operators, and shall report back to the Legislature with their findings and recommendations by February 1, 1993.

in order to get out and
to ensure we have a
violation of the law
to life 12-1

the new engine is in
state a change in the
policy making process

information would be
we will be able to
need to be in a
the state of the

MARY KL EC
pres + left mag.
3/19/93

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/10/94

FURTHER: Judiciary

Date of 5-Day Notice: 1-19-94
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: 2-3-94

Senate Special Committee on Oil and Gas considered SB 239

"An Act relating to evidence of financial responsibility provided by persons who conduct noncrude oil operations; and providing for an effective date."

and recommends:

☒ replace with _____ CS SB239 (O+G)

☐ attaches amendment(s)

☐ adopts _____ Letter of Intent

☐ further referral to the _____

☐ do pass

☐ do not pass

☐ no recommendation

☐ individual recommendations

☐ same title
☒ new title
☐ technical
title change
(HB only)

Department	Date	Zero	Fiscal
DEC	1-21-94	☒	

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal

☐ Appropriation No Fiscal Note

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

DO PASS:

[Signature]
[Signature]

OTHER RECOMMENDATIONS:

Ed Adams - No Rec
Judith E. Salo No Rec

[Signature]
Chair: Signature and Recommendation

8-LS1408E -
Lauterbach
1/26/94

CS FOR SENATE BILL NO. 239(O&G)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

Offered:
Referred:

Sponsor(s): SENATE SPECIAL COMMITTEE ON OIL AND GAS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to evidence of financial responsibility provided by persons who
2 conduct oil operations; and providing for an effective date."

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

4 * Section 1. AS 46.04.040(b) is amended to read:

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

9 (1) a pipeline or an offshore exploration or production facility is
10 \$50,000,000 per incident;

11 (2) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]
12 an onshore production facility is

13 (A) \$20,000,000 per incident if the facility produces over
14 10,000 barrels per day of oil;

1 (B) \$10,000,000 per incident if the facility produces over
2 5,000 barrels per day but not more than 10,000 barrels per day of oil;

3 (C) \$5,000,000 per incident if the facility produces over
4 2,500 barrels per day but not more than 5,000 barrels per day of oil;

5 (D) \$1,000,000 per incident if the facility produces 2,500
6 barrels per day or less of oil;

7 (3) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR]
8 an onshore exploration facility is \$1,000,000 [\$5,000,000] per incident.

9 * Sec. 2. Section 6, ch. 102, SLA 1992, is repealed.

10 * Sec. 3. If this Act takes effect after June 1, 1994, sec. 2 of this Act is retroactive to
11 June 1, 1994.

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

Amendment #1

A BILL

FOR AN ACT ENTITLED

1 "An Act eliminating the temporary character of alternative procedures available
2 to persons who must show evidence of financial responsibility before conducting
3 noncrude oil operations; and providing for an effective date."

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

5 * **Section 1.** Section 6, ch. 102, SLA 1992, ~~is repealed.~~

6 * **Sec. 2.** If this Act takes effect after June 1, 1994, sec. 1 of this Act is retroactive to
7 June 1, 1994.

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

8-LS1408A
Lauterbach
12/7/93

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to evidence of financial responsibility provided by persons who
2 conduct noncrude oil operations; and providing for an effective date."

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

4 * Section 1. Section 6, ch. 102, SLA 1992, is amended to read:

5 Sec. 6. Section 2 of this Act is repealed June 1, 1996 [1994].

6 * Sec. 2. If this Act takes effect after June 1, 1994, sec. 1 of this Act is retroactive to
7 June 1, 1994.

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

WORK ORDER REQUEST FORM

W.O. [18] LS-1408

KEYWORDS: INSURANCE ASSIGNED: Lauterbach

LIABILITY

OIL/GAS

REQUEST FOR: New Bill TAKEN BY: Chenoweth

SUBJECT: Oil/Gas Financial Responsibility

REQUESTED FOR: SC SO&G BY: Annette Kreitzer PHONE: -

DELIVER TO: Sen. Leman

INSTRUCTIONS: Extend sec. 2, ch. 102, SLA 1992 (relating to exemption for non-crude operators from proof of financial responsibility) for another two years, until 6/1/96.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED []
AUTHORIZED TO CONFER WITH _____

RETURN _____
_____ TO REQUESTOR

APPROVED: X DIRECTOR, LEGAL SERVICES

REVIEWED _____

IN 12/03/93 DUE _____

TYPED: Draft _____ Date _____

Final _____ Date _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS to TYPING/PROOFING

Request for DRAFT



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

Senate Special Committee on Oil & Gas

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

MEMORANDUM

TO: Legislative Affairs Agency
Division of Legal Services
Jack Chenoweth, Attorney — *Terri Lawlerbach*
FAX: 465-2029 7 pages

FROM: Annette Kreitzer, Staff (258-8189)
Senator Loren Leman, Chairman
Senate Special Committee on Oil and Gas

DATE: December 3, 1993

RE: AS 46.04.040(e)

Chapter 102 Temporary and Special Acts (Effective 6/21/92), allowed a two-year exemption for non-crude operators from proof of financial responsibility that would provide for a direct action and appointment of an agent for service (CSSB 405(O&G)).

Please draft legislation that would continue this exemption through June 1, 1996.

**CROWLEY MARINE SERVICES, INC.**

January 24, 1994

House Special Committee on Gas & Oil
Senate Special Committee on Gas & Oil

Subject: Direct access insurance for noncrude operators

Crowley Marine Services, Inc. ("Crowley") is a major tug and barge transporter of noncrude petroleum products in the State of Alaska. Crowley transports and delivers approximately 100 million gallons of bulk petroleum products annually to the Western Alaska region. Deliveries are performed to approximately 125 coastal and river communities. These communities are spread across some 4,000 miles of coastlines and rivers stretching from Kodiak Island to Barter Island. Virtually all of these villages are dependent on seasonal deliveries of fuel for their existence.

Our company has asked its insurance brokers to investigate the availability of direct access insurance. Direct access insurance is currently not available with the limits and extent of coverage provided by the P&I insurance in place for the Crowley fleet. Crowley presently has one billion dollars per occurrence P&I insurance coverage for pollution liability. Any limited direct access insurance would be in addition to our P&I insurance and a significant business cost with questionable benefit.

We ask that you enact SB 239 and HB 384 repealing the temporary nature of ADEC's authority to approve applications for Certification of Financial Responsibility (COFR) for noncrude operators. The temporary law which permits ADEC to approve COFR without direct access should be permanently adopted. We believe that the uncertainty of continued operations in Alaska by having to ask the legislature to reenact ACEC's authority to approve Crowley's COFR will be eliminated by this legislation.

I thank you for your interest and action in eliminating this confusing and unnecessary work.

Sincerely,

Charles F. Nalen
Vice President Environmental Affairs



A Division of Western Pioneer, Inc.

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Fax: (907) 276-3741

DILLINGHAM
Post Office Box 1209
Dillingham, Alaska 99576
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Fax: (907) 842-2697

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Pouch 716
Dutch Harbor, Alaska 99692
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YAKUTAT
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Yakutat, Alaska 99689
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January 24, 1994

House Special Committee on Oil & Gas
Senate Special Committee on Oil & Gas

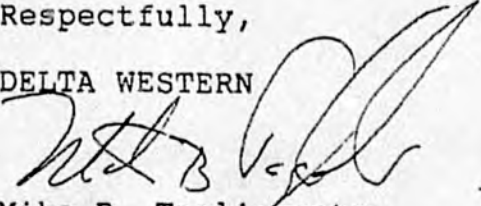
Subject: Direct access insurance for noncrude operators

Delta Western is one of the largest fuel distributors in the State of Alaska specializing in bulk fuels, Chevron lubricants and petroleum transportation services. We operate ten bulk fuel facilities and provide marine transportation throughout Southeast Alaska, Cook Inlet, the Alaska Peninsula, the Aleutian Chain, Bristol Bay and in the Kuskokwim and Yukon Rivers. Delta Western has been unsuccessful in its endeavors to obtain direct access insurance as a means of certifying financial responsibility. We have had no indication at this time that such insurance will be available to us in a form we can afford.

In the absence of any indications that such insurance is or soon will be available, the temporary law which permits ADEC to approve Certification of Financial Responsibility (COFR) without direct access should be permanently adopted. I encourage you to enact SB 239 and HB 384 thereby repealing the temporary nature of ADEC's authority to approve applications for COFR for noncrude operators. This action would assure that we could continue to operate without continually having to ask the legislature to reenact ADEC's authority to approve our COFR. I appreciate your attention and interest in eliminating this extra and unnecessary work.

Respectfully,

DELTA WESTERN


Mike B. Tagliavento
General Manager
Marketing/Operations

PETRO MARINE SERVICES

Petroleum Marketing to the Marine Industry

January 20, 1994

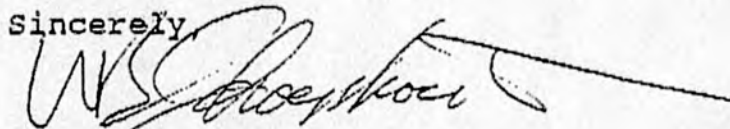
House Special Committee on Oil & Gas
Senate Special Committee on Oil & Gas

Subject: Direct access insurance for noncrude operators

Petro Marine Services is the largest Alaskan owned fuel distributor and specializes in marketing bulk fuel and packaged petroleum products to the marine industry. We operate seven bulk marine terminals and several harbor fuel facilities in Alaska. We have been trying unsuccessfully to obtain direct access insurance as a means of certifying financial responsibility. At this time we do not have any indication that such insurance is available to us in a form we can afford.

In the absence of any indications that such insurance is or soon will be available, the temporary law which permits ADEC to approve Certification of Financial Responsibility (COFR) without direct access should be permanently adopted. I encourage you to enact SB 239 and HB 384 thereby repealing the temporary nature of ADEC's authority to approve applications for COFR for noncrude operators. This action would assure that we could continue to operate without continually having to ask the legislature to reenact ADEC's authority to approve our COFR. I appreciate your attention and interest in eliminating this extra and unnecessary work.

Sincerely,



W. B. Schoephoester
Manager, Planning & Projects

SENATE SPECIAL COMMITTEE ON OIL & GAS
March 25, 1993
5:12 p.m.

MEMBERS PRESENT

Senator Loren Leman, Chairman
Senator Judith Salo

MEMBERS ABSENT

Senator Rick Halford
Senator Bert Sharp
Senator Al Adams

COMMITTEE CALENDAR

Group Insurance Pooling

WITNESS REGISTER

Larry Eppenbach
Legislative Research Agency
130 Seward St. Suite 218
Juneau, Alaska 99801-2196

POSITION STATEMENT: Commented on Group Insurance Pooling.

Ray Gillespie
Association of Refined Fuel Distributors
9478 Riverbend Court
Juneau, Alaska 99801

POSITION STATEMENT: Commented on Direct Action Insurance.

James Cantor, Assistant Attorney General
Department of Law
1031 W. 4th, Suite 200
Anchorage, Alaska 99501-1994

POSITION STATEMENT: Commented on Direct Action Insurance.

ACTION NARRATIVE

TAPE 93-11, SIDE A
Number 001

SENATOR LEMAN called the Special Committee on Oil and Gas meeting to order at 5:12 p.m. and announced they would discuss group insurance pooling.

LARRY EPPENBACH, Legislative Research, said his report grew out of SB 405 from last year which was remedial in nature. It solved the open ended liability insurance companies faced with uncertain coverage amounts that could have exceeded their

Senate Oil & Gas

-1-

March 25, 1993

policies. SB 405 limited the policy amounts.

The Section of SB 405 addressed to non-crude operators waived a requirement for non-crude operators to pay for financial responsibility with insurance with a direct action clause.

The major findings in this report say that state or private pooling isn't likely to create a competitive insurance product, because there are not that many non-crude operators. There are about 72 in the state and 9 of those are exempt (because they're part of the federal government), 29 are quite large and self insure or are guaranteed by others. Thirty one of them purchase insurance. Six of those have insurance that successfully contains a direct action clause. The other 25 have been granted waivers by the DEC.

The most attractive alternative is for a private insurance product to be developed that would have a direct action clause. There are two ways that could occur, MR. EPPENBACH said. One, the clause could be directly in the insurance, and two, an umbrella policy could be written that provided direct action in addition to other insurance the operator might possess. Therefore, the package of the two might meet all the requirements.

Number 177

SENATOR LEMAN asked if the direct action clause would be secondary to the other insurance. MR. EPPENBACH answered almost certainly.

MR. CANTOR said some private entities are working to put together a package with Lloyd's of London that will solve Alaska's problems.

MR. EPPENBACH commented that it looked a lot like private insurance would be solving the insurance problem in the very immediate future and the delay suggested in the report was not unreasonable.

Number 244

RAY GILLESPIE, representing three refined product distributors, said direct action insurance has been consistently unavailable since the Exxon-Valdez incident. He said right now the companies have an indemnification policy underwritten by Lloyd's of London, which says if there is a judgement rendered against the company, they will come in and pay the judgement. Lloyd's of London has never agreed to be sued in any court in the United States.

MR. GILLESPIE said that the direct action requirement for

companies like the ones he represents is superfluous, because they have strong ties in Alaska and have assets large enough to cover any spill. He noted that California, Florida, Washington, and Virginia have dropped their direct action requirement. These states have in law a requirement for a bond. The bond is waived if the company meets certain conditions - that is substantial assets and a history of connections with the state.

Number 323

SENATOR SALO asked what our history was on lawsuits over direct action issues. MR. GILLESPIE said there had been maybe one at the most.

SENATOR SALO said she understood that Lloyd's of London was having financial difficulties and asked if that would affect their ability to write insurance for direct action.

MR. CANTOR explained that one part of Lloyd's was in trouble and possibly the Exxon Valdez incident was making it difficult to purchase this type of insurance.

Number 355

SENATOR LEMAN asked why other states were dropping the direct action provision. MR. CANTOR said that the realities of the insurance market have caused the other states to change their financial responsibility requirements.

SENATOR LEMAN thanked everyone for their participation and adjourned the meeting at 5:40 p.m.

SCOMM

94:14

SENATE COMMITTEE REPORT

DATE: 2/9/94

FURTHER: Resources
Judiciary

DATE TURNED INTO OFFICE: 3-1-94

Senate Special Committee on Oil and Gas considered

HOUSE BILL NO. 384

"An Act eliminating the temporary character of alternative procedures available to persons who must show evidence of financial responsibility before conducting noncrude oil operations; and providing for an effective date."

and recommends:

- ☐ replace with _____ CS _____ (_____)
 or ☐ adopt previous _____ CS _____ (_____)
 ☐ attaches amendment(s)

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

☐ adopts _____ Letter of Intent

☐ further referral to the _____

☐ do pass

☐ do not pass

☐ no recommendation

☒ Individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
D&C	1-26-94	/	

☐ Appropriation No Fiscal Note

DO PASS:

Barth
Judith E. Salo

OTHER RECOMMENDATIONS:

John D. Leman do pass
Chair: Signature and Recommendation



Official Business

Alaska State Legislature

12

State Capitol
Juneau, AK 99801-1182

MEMORANDUM

TO: Representative Ramona L. Barnes
Speaker of the House

FROM: Douglas A. Wooliver
Staff Attorney

SUBJECT: Sectional Analysis of HB ~~348~~ 384

DATE: January 31, 1994

The following is a brief analysis of HB 384; "An act eliminating the temporary character of alternative procedures available to persons who must show evidence of financial responsibility before conducting noncrude oil operations; and providing for an effective date.

Section 1 of this bill repeals section 6, ch. 102 SLA 1992. That section repeals section 2 of chapter 102 SLA 1992. Section 2 is entitled "Temporary law applicable to noncrude oil operations" and provides for a temporary alternative to the requirement that a noncrude oil operation have a third party liable to the state to cover pollution risks. Such an alternative is available to a person who can show another form of financial responsibility and regular proof that they have tried without success to obtain third party liability.

This bill removes the temporary nature of the above alternative so that it remains available.

Section 2 provides for a retroactive application of this bill to June 1, 1994 if it becomes law after that date.

Section 3 provides for an immediate effective date.

Sectional Analysis

Chapter 101

- 1 (16) AS 21.69.600, 21.69.620, and 21.69.630
 2 (17) AS 21.78
 3 (18) AS 21.89.010
 4 (19) AS 21.89.060
 5 (20) AS 21.90
 6 * Sec. 4. AS 21.42.385 is repealed.
 7 * Sec. 5. Sections 3 and 4 of this Act take effect July 1, 1998.
 8 * Sec. 6. Except as provided in sec. 5 of this Act, this Act takes effect July 1, 1993.

1992 SLA CH. 102

HCS CSSB 404(L&C)

-4-

Chapter 102

AN ACT

1 Relating to evidence of financial responsibility provided by persons who conduct oil operations; and
 2 providing for an effective date.

3
 4 * Section 1. AS 46.04.040(e) is amended to read:

5 (e) Financial responsibility may be demonstrated by (1) self insurance, (2) insurance, (3)
 6 surety, (4) guarantee, (5) letter of credit approved by the department, or (6) other proof of
 7 financial responsibility approved by the department, including proof of financial responsibility
 8 provided by a group of insureds who have agreed to cover pollution risks of members of the
 9 group under terms the department may prescribe. An action brought under AS 46.03.758,
 10 46.03.759, 46.03.760(a) or (c), 46.03.822, or AS 46.04.040(g) may be brought in a state court
 11 directly against the insurer, the group, or another person providing evidence of financial
 12 responsibility; however, the liability under this section of a third-party insurer is limited to
 13 the type of risk assumed and the amount of coverage specified in the proof of financial
 14 responsibility furnished to and approved by the department. The applicant, and an insurer,

46.04.040(e)

1

CSSB 405(O&G)

Chapter 102

1 surety, guarantor, person furnishing an approved letter of credit, or other group or person
 2 providing proof of financial responsibility approved by the department shall appoint an agent for
 3 service of process in the state. For purposes of this subsection, an insurer, other than a group
 4 of insurers whose agreement has been approved by the department, must either be authorized by
 5 the Department of Commerce and Economic Development to sell insurance in the state or be an
 6 unauthorized insurer listed by the Department of Commerce and Economic Development as not
 7 disapproved for use in the state. In this subsection, "third-party insurer" means a third-party
 8 insurer, surety, guarantor, person furnishing a letter of credit, or other group or person
 9 providing proof of financial responsibility on behalf of an applicant under this section.
 10 "third-party insurer" does not include the applicant.

11 * Sec. 2. TEMPORARY LAW APPLICABLE TO NONCRUDE OIL OPERATIONS.

12 Notwithstanding AS 46.01.010, the Department of Environmental Conservation may, with respect to
 13 noncrude oil operations, approve proof of financial responsibility by a person, other than the applicant,
 14 who does not agree to be subject to a direct action in the state or to appoint an agent for service of
 15 process if the applicant

16 (1) provides proof of financial responsibility in the form and amounts otherwise required
 17 under AS 46.01.010,

18 (2) provides a sworn statement that

19 (A) is acceptable to the department;

20 (B) attests that the applicant has diligently attempted to obtain a form of proof
 21 of financial responsibility that would provide for a direct action and appointment of an agent for
 22 service of process;

23 (C) describes the steps the applicant has taken to obtain a form of proof of
 24 financial responsibility that would provide for a direct action and appointment of an agent for
 25 service of process;

26 (D) states that a form of proof of financial responsibility that would provide for
 27 a direct action and appointment of an agent for service of process is unavailable to the applicant;

28 (E) continues diligent efforts to obtain a form of proof of financial responsibility that
 29 would provide for a direct action and appointment of an agent for service of process and provides a
 30 sworn statement every six months that is acceptable to the department, containing the information
 31 required in (2) of this section.

CSSR 405(1)&(2)

Chapter 102

1 * Sec. 3. RATIFICATION OF PREVIOUS EXEMPTIONS GIVEN BY DEPARTMENT OF
 2 ENVIRONMENTAL CONSERVATION TO NONCRUDE OIL OPERATIONS. Notwithstanding
 3 AS 46.01.010, the Department of Environmental Conservation may, with respect to noncrude oil
 4 operations, approve proof of financial responsibility by a person, other than the applicant, who does not
 5 agree to be subject to a direct action in the state or to appoint an agent for service of process if the
 6 applicant, before June 1, 1992,

7 (1) provides proof of financial responsibility in the form and amounts otherwise required
 8 under AS 46.01.010,

9 (2) attests in a statement to the department that the applicant has diligently attempted to
 10 obtain a form of proof of financial responsibility that would provide for a direct action and appointment
 11 of an agent for service of process and that this form of proof is unavailable to the applicant, and

12 (3) agrees to continue diligent efforts to obtain a form of proof of financial responsibility
 13 that would provide for a direct action and appointment of an agent for service of process.

14 * Sec. 4. Section 3 of this Act is retroactive to June 1, 1991.

15 * Sec. 5. If this Act takes effect after June 1, 1992, sec. 2 of this Act is retroactive to June 1, 1992.

16 * Sec. 6. Section 2 of this Act is repealed June 1, 1994.

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

Eff. 6/21/92
 § 2 is retroactive to 6/1/91
 § 3 is retroactive to 6/1/91

CSSR 405(1)&(2)

AN ACT

1 Relating to oil discharge prevention and contingency plans and financial responsibility
2 requirements for oil operations; and providing for an effective date.

3
4
5
6 * Section 1. FINDINGS. The legislature finds that

7 (1) whereas crude oil companies have indicated their intention and ability to be in
8 compliance with the June 1, 1991, applicability date of ch. 191, SLA 1990, including the new oil spill
9 response planning standards and new financial responsibility requirements, the entities involved in the
10 transportation and storage of noncrude oil are finding it difficult, if not impossible, to meet those
11 requirements by June 1, 1991, due to unforeseen developments;

12 (2) these developments include the fact that the London insurance markets, historically
13 the source of pollution liability insurance underwriting, are steadfastly refusing to offer policies that meet
14 the new financial responsibility requirements imposed by ch. 191, SLA 1990; most notably, they have
15 refused to issue certificates of financial responsibility or make themselves available for direct legal action
16 in Alaska courts;

17 (3) while larger companies involved in the transportation and storage of crude oil have
18 the financial ability to meet the new financial responsibility requirements through self-insurance, surety,
19 bonding, or letters of credit, most noncrude transporters and facility operators do not have the financial
20 resources to make use of these avenues to satisfy the requirements;

21 (4) additionally, a study mandated by ch. 191, SLA 1990, designed to identify appropriate

1 spill response times, specify personnel levels and equipment requirements, and identify specific locations
2 for oil discharge response equipment depots for noncrude oil tankers and barges will not be completed
3 until at least one month after June 1, 1991; this study's findings could have a significant effect on
4 emergency spill response planning by both transporters and the state;

5 (5) taken together, the uncertainties posed by these developments create a strong
6 possibility that many noncrude transporters and facility operators will find it necessary to either operate
7 illegally or cease operations in the state after June 1, 1991, which would in turn pose serious problems
8 for the residents of communities dependent on delivery and storage of noncrude oil products for fuel and
9 electrical generation;

10 (6) a one-year delay to June 1, 1992, in the applicability date for compliance with the
11 requirements of ch. 191, S.L.A. 1990, for noncrude transporters and facility operators will allow thorough
12 consideration of the study described in (4) of this section and implementation of its findings into
13 emergency response planning; will permit noncrude transporters and operators to explore other options
14 to meet the statute's financial responsibility requirements, including the possibility of developing an
15 insurance pool to replace the coverage no longer being offered by the traditional insurance markets; and
16 will provide adequate time for the Department of Environmental Conservation to develop its
17 implementing regulations for contingency planning.

18 * Sec. 2. Section 32, ch. 191, S.L.A. 1990, is amended to read:

19 Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec.
20 10 of this Act, do not apply to oil discharge prevention and contingency plans for crude oil
21 operations until June 1, 1991. On and after June 1, 1991, a contingency plan for a crude oil
22 operation must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless
23 of whether the contingency plan is due for renewal under AS 46.04.040(d), as amended by sec.
24 9 of this Act

25 (b) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply
26 to persons required to show proof of financial responsibility for crude oil operations until
27 June 1, 1991. On and after June 1, 1991, proof of financial responsibility for a crude oil
28 operation must comply with AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless
29 of whether acceptance of proof of financial responsibility has expired under AS 46.04.040(f), as
30 amended by sec. 16 of this Act

1 * Sec. 3. Section 32, ch. 191, S.L.A. 1990, is amended by adding new subsections to read:

2 (c) AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, do not apply to oil discharge
3 prevention and contingency plans for noncrude oil operations until June 1, 1992. On and after June 1,
4 1992, a contingency plan for a noncrude oil operation must comply with AS 46.04.030(k) - (m), enacted
5 by sec. 10 of this Act, regardless of whether the contingency plan is due for renewal under
6 AS 46.04.040(d), as amended by sec. 9 of this Act

7 (d) The amendments to AS 46.04.040 made by secs. 11 - 13 of this Act do not apply to persons
8 required to show proof of financial responsibility for noncrude oil operations until June 1, 1992. On and
9 after June 1, 1992, proof of financial responsibility for a noncrude oil operation must comply with
10 AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of
11 financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act

12 * Sec. 4. INTERIM OPERATION. (a) A person with a crude oil discharge prevention and
13 contingency plan that is approved under AS 46.04.030 who submits plan amendments to the department
14 to show compliance with the requirements of ch. 191, S.L.A. 1990, may continue to operate if the
15 department determines and notifies the person in writing that the contingency plan, as amended,
16 substantially complies with the requirements of ch. 191, S.L.A. 1990. The department's notification of
17 substantial compliance for the interim contingency plan will allow the operator to continue operation
18 regardless of whether the department has completed any notice process otherwise required by the Alaska
19 Coastal Management Program for the interim operation.

20 (b) The authority to operate under this section is valid only until the earliest of the following
21 dates:

22 (1) the date the department takes action on the amended plan under AS 46.04.040 by
23 approving it, disapproving it, or approving it with terms or conditions attached; notwithstanding
24 AS 46.04.030(p), the department's action on the amended plan need not occur within 65 days of
25 submission of the amendments;

26 (2) the date the department revokes the plan under AS 46.04.030;

27 (3) the date the plan's previous approval lapses or expires for failure to be renewed; or

28 (4) February 1, 1992.

29 (c) In this section, "department" means the Department of Environmental Conservation

30 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c)

HOUSE BILL NO. 384

"An Act eliminating the temporary character of alternative procedures available to persons who must show evidence of financial responsibility before conducting noncrude oil operations; and providing for an effective date."

HB 384 FINANCIAL REQMTS: NONCRUDE OIL OPERATIONS

"An Act eliminating the temporary character of alternative procedures available to persons who must show evidence of financial responsibility before conducting noncrude oil operations; and providing for an effective date."

SPONSOR(S): REPRESENTATIVE(S) FOSTER, Hoffman, Green

HB 384 Bill History

Jrn-Date	Page	Action
01/18/94	2098	(H) READ THE FIRST TIME - REFERRAL(S)
01/18/94	2098	(H) OIL & GAS, RESOURCES
01/26/94	2151	(H) O&G RPT 6DP
01/26/94	2152	(H) DP: G. DAVIS, OLBERG, KOTT, SANDERS,
01/26/94	2152	(H) DP: SITTON, GREEN
01/26/94	2152	(H) -ZERO FISCAL NOTE (DEC) 1/26/94
01/26/94	2160	(H) COSPONSOR(S): GREEN
01/31/94	2201	(H) RES RPT 5DP
01/31/94	2201	(H) DP: CARNEY, GREEN, FINKELSTEIN, BUNDE
01/31/94	2201	(H) DP: HUDSON
01/31/94	2202	(H) PREVIOUS ZERO FN (DEC) 1/26/94
01/31/94	2202	(H) REFERRED TO RULES

HB 384 - HOUSE O&G Committee Minutes
January 24, 1994

Number 014

LARRY LaBOLLE, AIDE TO REP. RICHARD FOSTER, PRIME SPONSOR of HB 384, testified on his behalf. He referred to a sponsor statement which is on file. He stated the purpose of the bill is to remove the sunset clause from the existing legislation.

Number 030

BILL SCHOEPHOESTER (via Anchorage) stated that he also represents the Association of Refined Oil Product Distributors; an association of the three major line holders that transport the line haul for the refined petroleum products in the state of Alaska. He stated that it made a lot of sense to repeal the temporary nature of the authorization the Department of Environmental Conservation (DEC) has to approve financial responsibility without direct access. He stated HB 384 made good sense to him and he would like to see it pass, because if the direct access situation is ever corrected, it would not require any action to change, because the DEC would not have to exercise it's authority. He also stated that he has been struggling with obtaining direct access insurance and has not had

any success.

Number 054

CHAIRMAN GREEN asked if there was anyone from the DEC who might wish to answer questions or make a statement regarding the fact that there is still an insurance problem.

Number 057

MICHAEL CONWAY, DIRECTOR OF THE DEC'S DIVISION OF SPILL PREVENTION & RESPONSE, stated that the DEC supports continuing the waiver provision and making the waiver provision permanent. Without the provision, the DEC may have to shut down facilities which provide fuel throughout Alaska. The DEC is continuing to work with the insurance industry to make direct action coverage more readily available. He stated that there is a proposed product now under review by DEC and the Department of Law, that would serve as a rider for insurance coverage that does not offer direct action. He stated the DEC believes that the waiver provisions are strict enough (with a quarterly affidavit required and the department's ability to deny waivers) that the provision may be made a permanent part of the law. He said the DEC supports the House language as optimal.

Number 069

CHAIRMAN GREEN asked Mr. Conway if HB 384 was passed out and became law, and if in a few years some insurance company or companies come forth and provide coverage, would the Division of Spill Prevention & Response be the primary office to bring that to the attention of the legislature?

MR. CONWAY stated that it would be very easy for the DEC to notify the legislature. The provision gives the DEC the flexibility to be able to move with whatever the industry is doing, but the DEC could provide the legislature with status reports at any time.

CHAIRMAN GREEN asked for the wish of the Committee.

Number 084

REPRESENTATIVE GARY DAVIS moved that the Committee pass out HB 384 with individual recommendations.

REPRESENTATIVE KOTT seconded the motion. There were no objections. CHAIRMAN GREEN adjourned the meeting at 5:13 p.m.

ACTION NARRATIVE

TAPE 94-7, SIDE A
Number 000

The House Resources Committee was called to order by Vice Chairman Bill Hudson at 8:20 a.m. Members present at the call to order were Representatives Hudson, Bunde, Carney, and Green. Members absent were Representatives Williams, Davies, James, Finkelstein and Mulder.

HB 384 - FINANCIAL REQMTS: NONCRUDE OIL OPERATIONS

Number 011

REPRESENTATIVE RICHARD FOSTER, PRIME SPONSOR, HB 384 told committee members he was appreciative that they were hearing HB 384 which was before the Oil and Gas Committee the previous week. He asked his chief of staff to come forward and give background information on HB 384.

LARRY LaBOLLE, CHIEF OF STAFF, REPRESENTATIVE RICHARD FOSTER'S OFFICE, stated HB 384 is simple and straightforward. It eliminates the sunset clause in the current statute which requires direct action insurance for noncrude operators. He said after the current legislation became law, noncrude operators could not get \$150 million direct action insurance. Direct action means the insurer is sued, not the perpetrator of the action.

MR. LaBOLLE said the insurance companies for several reasons were unwilling to write the type of insurance policy required. He mentioned the Department of Natural Resources (DNR) did get waivers on the requirement before the legislation allowed it. He said at that time, Senator Lyman Hoffman asked for the current exemption which sunsets on July 1, 1994.

MR. LaBOLLE told committee members that HB 384 removes the sunset provision from the statute. He stated there was testimony at the Oil and Gas Committee meeting from operators who cannot get the insurance, and added that DNR also testified at the meeting saying the department was in support of HB 384, since operators still would be required to show financial responsibility.

Number 036

(VICE CHAIRMAN HUDSON noted for the record that REPRESENTATIVE FINKELSTEIN had joined the meeting at 8:25 p.m. and a QUORUM was not present).

REPRESENTATIVE CON BUNDE asked if HB 384 speaks only to direct action insurance and not insurance at another level which operators have.

MR. LaBOLLE responded HB 384 speaks only to the direct action insurance requirement and still does not provide any type of waiver from DNR oversight.

VICE CHAIRMAN HUDSON asked if there still is a federal requirement for insurance.

Number 050

MR. LaBOLLE replied the requirement for insurance still exists on the federal level, but the problem is not the requirement for insurance, the problem lies in the requirement for direct access.

VICE CHAIRMAN HUDSON recalled when the current statute was enacted, there was a lot of concern about whether or not the insurance industry would be able to provide the type of insurance required, and whether or not small operators would be able to afford it if it were available.

REPRESENTATIVE JOE GREEN made a motion to MOVE HB 384 from committee with INDIVIDUAL RECOMMENDATIONS.

VICE CHAIRMAN HUDSON asked if there were any objections. Hearing none, the MOTION PASSED.

ANNOUNCEMENTS

VICE CHAIRMAN HUDSON advised the committee they would meet on Wednesday, February 2 at 8:00 a.m. for a briefing on the federal wetlands policy in Alaska. He said the presentation will be given by Alvin Ewing of the United States Environmental Protection Agency. Paul Rusanowski of the Governor's Office, Division of Governmental Coordination, will give a briefing on the administration's perspective on wetlands policy and federal activity in this area.

REPRESENTATIVE GREEN asked if there will be any representatives from the Corps of Engineers at the meeting.

MARY McDOWELL, HOUSE RESOURCES COMMITTEE AIDE, REPRESENTATIVE BILL WILLIAMS, responded the Corps of Engineers declined the invitation. She met with Paul Rusanowski earlier and he planned to ask them again.

ADJOURNMENT

There being no further business to come before the House Resources Committee, Vice Chairman Hudson adjourned the meeting at 8:30 a.m.

Alaska House of Representatives

Richard Foster
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Nome, Alaska 99762-1630
907-443-5036
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During Session
State Capitol
Juneau, Alaska 99801-1182
907-465-3789
Fax 907-465-3242

HB 384 FINANCIAL RESPONSIBILITY OF NON CRUDE OPERATORS

Background Paper

History: On March 24, 1989 the *Exxon Valdez* ran aground on Bligh Reef in Prince William Sound, causing the largest crude oil spill in the United States history. As a result, the Alaska Legislature and the United States Congress significantly strengthened oil spill prevention and cleanup standards. One bill, HB 567, passed in 1990, made three major changes in state oil spill protection. It 1) established new response planning standards; 2) imposed new financial responsibility requirements for contingency plan holders; and 3) allowed the Department of Environmental Conservation to give credits for incorporating prevention measures into contingency plans. These major changes were to have gone into effect on and after June 1, 1991.

Although HB 567 was passed as a result of the *Exxon Valdez* oil spill and was aimed at the crude oil industry, non crude carriers and facilities were also subject to the changes. Regulations implementing these changes have been drafted by the Department of Environmental Conservation, and are still being viewed by the Department of Law.

Problem: Smaller fuel distributors, barge lines that transport refined petroleum products, and rural electric utilities that must maintain fuel stores have found it all but impossible to meet the new financial responsibility requirements imposed by HB 567. Although these non crude operators *are* able to purchase the required amounts of pollution insurance, underwriters in both the domestic and overseas markets steadfastly refuse to include the "direct action" clause in these policies that Alaska law requires.

Alaska's direct action requirements have been in effect since 1981. The provision allows an action to be brought in state court directly against the insurer, rather than going first to the responsible party. Ambiguities about whether insurers are limited to the face amount of the policy, plus the greatly increased amounts of coverage required since the *Exxon Valdez* spill, have combined to produce the current unavailability of direct action coverage.

When it became clear by early 1991 that insurers would not provide direct action coverage, Senator Lyman Hoffman introduced legislation to delay the effective date of HB 567's financial responsibility requirements for non crude operations. The hope was that over the year's time, either the insurance markets would overcome their objections to provide direct action, or that perhaps a risk pool could be developed to provide such coverage. The Legislature unanimously approved Senator Hoffman's bill.

To date, there has been no change in the insurance markets position on direct action coverage, and development of an insurance pool so far has proved unfeasible. With the June 1, 1994 date of the financial responsibility requirements approaching, and the unavailability of direct action coverage just as complete as it was in 1991, non crude operators once again face the prospect of either operating out of compliance with Alaska law or ceasing operations. The large crude oil operators do not face this problem, because they have sufficient assets and working capital to either self-insure or comply with the law through other means, such as surety bonds or letters of credit.

Solution: This act repeals Section 6 which is the Sunset clause repealing Section 2 TEMPORARY LAW APPLICABLE TO NON CRUDE OIL OPERATIONS.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. House Bill No. 384

Revision Date:	Dept. Affected: <u>Environmental Conservation</u>
Title: <u>Financial Requirements: Noncrude Oil Operations</u>	BRU: <u>Soil Prevention and Response</u>
Sponsor: <u>Representative Foster</u>	Component: <u>Industry Preparedness and Response</u>
Requestor: <u>House Oil & Gas</u>	COMPONENT SERIAL NO. _____

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other: 1052 Oil/Haz "470" Fund	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 (FY95) cost: \$ not applicable

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact anticipated.

Prepared by: Robert Poe, Director
Division: Information and Administrative Services

Approved by: John Sander, Commissioner
Agency: Environmental Conservation

Phone: 465-5010
Date: 1/20/94

Date: 1/20/94

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94:15

Alaska State Legislature

House of Representatives

Official Business



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3718

House Majority Leader

SPONSOR STATEMENT

HOUSE CONCURRENT RESOLUTION 19

Presented to Senate Special Committee on Oil & Gas

It is a pleasure to bring before this committee an opportunity for the members of the Legislature to reaffirm our positive support of a win-win situation -- encouraging the sale of the State's North Slope royalty gas.

The sale of this gas would add several hundred million dollars to the State's annual revenues and provide a tremendous job and economic stimulus consistent with the construction and operation of a multi-billion dollar transportation link.

As a representative from the Kenai Peninsula area, where Alaska's (and America's only) gas export to Japan has been going on for almost 25 years in the form of Liquified Natural Gas (LNG), it is a particular pleasure for me to be encouraging the expansion of that trade.

Over the last few years, we've watched the rapidly expanding economies of our trading partners in the Asian-Pacific area reach the point where their need for energy and Alaskan gas has almost become a crisis. Just as Alaska has been a major energy provider to the US for decades, we are now in a position to help balance the energy, trade, and environmental imperatives of the Pacific Rim.

I know that we are all pleased that so many different companies are working to bring North Slope gas to market and that the state of Alaska, as a one-eighth owner of the gas, can join in offering its gas for sale.

This resolution encourages the negotiation of specific terms and conditions for royalty gas sales that then, as provided for in statute, are subject to future legislative review and approval.

The State's enthusiastic involvement as a gas owner and seller is an important reassurance to the consuming countries, and the legislature's support through this resolution is a very meaningful part of making this long-term complex multi-billion-dollar project happen.

FISCAL NOTE

No. 1Bill Version: HCR 19(H) Publish Date: 4/22/93STATE OF ALASKA
1993 LEGISLATIVE SESSIONRevision Date: _____
Title: Relating to the sale of state royalty on OilDepartment Affected: Legislative Affairs Agency
BRU: Salaries and AllowancesSponsor: Representative Phillips
Requestor: Representative GreenComponent: AllCOMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Pamela A. Stoops, Director
Division: Administrative ServicesPhone: 465-3850
Date: 4/22/93Approved By: Warren W. Endicott, Executive Director
Agency: Legislative Affairs AgencyDate: 4/22/93

COMMITTEE COPY: Finance, Legislative Sponsor, Re

HCR 19: FISCAL NOTE (LAA)

SENATE COMMITTEE REPORT

DATE: 4/26/93

FURTHER: JUDICIARY

DATE TURNED INTO OFFICE: 4-27-93

Senate Special Committee on Oil and Gas considered

HCR 19

Relating to the sale of state royalty gas.

0 rpts it back a file

and recommends:

[] replace with _____ CS _____
 or [] adopt previous _____ CS _____
 [] attaches amendment(s)

[] same title
 [] new title
 [] technical title change (HB only)

[] adopts _____ Letter of Intent

[] further referral to the _____

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

PITP

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
LAA	4-22-93	Ø	

[] Appropriation No Fiscal Note

DO PASS.

J. E. Salo

OTHER RECOMMENDATIONS:

Best Map - No Rec.

Greg A. Herman DO pass

Chair: Signature and Recommendation

HOUSE CONCURRENT RESOLUTION NO. 19
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES PHILLIPS, Barnes, *Merand*

Introduced: 4/15/93

Referred: House Special Committee on Oil and Gas

A RESOLUTION

1 Relating to the sale of state royalty gas.

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

3 WHEREAS the state owns land located on the North Slope that contains vast proven
4 reserves of oil and natural gas and that has the potential for discovery of additional reserves
5 of oil and natural gas; and

6 WHEREAS the legislature has the constitutional obligation to provide for the use,
7 development, and conservation of all natural resources belonging to the state for the maximum
8 benefit of its people; and

9 WHEREAS in furtherance of that obligation, the legislature has provided for the
10 issuance of oil and gas leases to develop the North Slope oil and gas reserves; and

11 WHEREAS the state's oil and gas leasing statutes require that the state receive a
12 minimum royalty share of 12.5 percent of all oil and gas production from the leases; and

13 WHEREAS all citizens of the state have received tremendous additional benefits from
14 the sale of oil produced from North Slope leases, including permanent fund payments,
15 royalties, economic stimuli, substantial employment, and a tax base, which have benefited all
16 people of the state; and

17 WHEREAS, although the state would receive tremendous additional benefits from the

1 production and sale of North Slope gas, the North Slope lessees have neither sold nor entered
2 into contracts to sell North Slope gas; and

3 **WHEREAS** under its North Slope leases, the state has a right to take its 12.5 percent
4 royalty share in-kind and sell that share on its own behalf; and

5 **WHEREAS** by entering into long-term contracts with potential purchasers for the
6 future sale of the state's royalty gas, the state would aid in the development of a gas
7 transportation system and the production and sale of North Slope gas reserves, thereby
8 benefiting all the people of the state; and

9 **WHEREAS** the export of North Slope gas to Pacific Rim countries would reduce our
10 nation's trade deficit with those countries; and

11 **WHEREAS** the export of natural gas would aid the national economy by stimulating
12 economic growth and employment, and contributing additional revenue to the federal
13 government;

14 **BE IT RESOLVED** that the Alaska State Legislature supports and endorses the
15 governor's efforts to sell worldwide, under long-term contracts, the majority of the gas to
16 which the state is entitled as its royalty share from North Slope leases.

Current Status: (S) RLS

	Jrn-Date	Jrn-Page	Action
1	04/15/93	1256	(H) READ THE FIRST TIME - REFERRAL(S)
2	04/15/93	1256	(H) OIL AND GAS
3	04/22/93	1429	(H) O&G RPT 5DP
4	04/22/93	1429	(H) DP: KOTT, GREEN, OLBERG, G.DAVIS, SANDERS
5	04/22/93	1430	(H) -ZERO FISCAL NOTE (LAA) 4/22/93
6	04/23/93	1478	(H) RULES TO CALENDAR 4/23/93
7	04/23/93	1478	(H) READ THE SECOND TIME
8	04/23/93	1479	(H) PASSED Y37 N3 HCR 19
9	04/23/93	1479	(H) Navarre NOTICE OF RECONSIDERATION
10	04/23/93	1481	(H) COSPONSOR(S): MENARD
11	04/24/93	1496	(H) RECON TAKEN UP - IN THIRD READING
12	04/24/93	1497	(H) PASSED ON RECONSIDERATION Y38 N- A2
13	04/24/93	1512	(H) TRANSMITTED TO (S)
14	04/26/93	1755	(S) READ THE FIRST TIME - REFERRAL(S)
15	04/26/93	1755	(S) O&G, JUDICIARY
16	04/27/93	1838	(S) O&G RPT 2DP 1NR
17	04/27/93	1838	(S) PREVIOUS H ZERO FN (LAA)
18	05/09/93	2259	(S) JUD REFERRAL WAIVED

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	SUBJ	EXIT	MENU	TEXT	PRINT	BWD	FWD	CMT/JRNL	FIRST	LAST	QUIT

4AÜ ä-ë29 LINE 22 COL 14

HCR 19

Bill/Resolution Floor Action

Page 3 of 3

Current Status: (S) RLS

	Jrn-Date	Jrn-Page	Action
1	05/09/93	2259	(S) REFERRED TO RULES

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	SUBJ	EXIT	MENU	TEXT	PRINT	BWD	FWD	CMT/JRNL	FIRST	LAST	QUIT

4AÜ ä-ë29 LINE 22 COL 14