

**SENATE CS FOR CS FOR HOUSE BILL NO. 596 (FINANCE) am S****IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - FIRST SPECIAL SESSION****BY THE SENATE FINANCE COMMITTEE****Amended: 5/15/92****Offered: 5/15/92****Sponsor(s): HOUSE FINANCE COMMITTEE BY REQUEST****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the powers, duties, and operations of certain state agencies, including  
2 those of the Alaska Science and Technology Foundation, fees and charges collected by  
3 agencies, the disposal or leasing of state land or interests in state land, the management  
4 of public recreational land and the management of state parks and recreation areas, vehicle  
5 registration, state procurements, the employment assistance and training program fund,  
6 contracts relating to prisoners, and the recording of public documents; and providing for  
7 an effective date."

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

9 \* **Section 1.** AS 08.01.065(c) is repealed and reenacted to read:

10 (c) The department shall establish fee levels under (a) of this section so that the total  
11 amount of fees collected for an occupation approximately equals the actual regulatory costs for  
12 the occupation. The department shall annually review each fee level to determine whether the  
13 regulatory costs of each occupation are approximately equal to fee collections related to that

1 occupation. If the review indicates that an occupation's fee collections and regulatory costs are  
2 not approximately equal, the department shall calculate fee adjustments and adopt regulations  
3 under (a) of this section to implement the adjustments. In January of each year, the department  
4 shall report on all fee levels and revisions for the previous year under this subsection to the office  
5 of management and budget. If a board regulates an occupation covered by this chapter, the  
6 department shall consider the board's recommendations concerning the occupation's fee levels  
7 and regulatory costs before revising fee schedules to comply with this subsection. In this  
8 subsection, "regulatory costs" means costs of the department that are attributable to regulation  
9 of an occupation plus

- 10 (1) all expenses of the board that regulates the occupation if the board regulates  
11 only one occupation;
- 12 (2) the expenses of a board that are attributable to the occupation if the board  
13 regulates more than one occupation.

14 \* Sec. 2. AS 16.05.340(a) is amended to read:

- 15 (a) Fees for licenses and tags are as follows:
  - 16 (1) Resident sport fishing license . . . . . \$ 15 [10]  
17 However, the fee is 25 cents for a resident who is blind.
  - 18 (2) Resident hunting license . . . . . 25 [12]
  - 19 (3) Resident hunting and trapping license . . . . . 40 [22]
  - 20 (4) Resident trapping license . . . . . 15 [10]
  - 21 (5) Resident hunting and sport fishing license . . . . . 40 [22]
  - 22 (6) Resident hunting, trapping, and sport fishing license . . . . . 55 [32];
    - 23 (A) however, the fee is \$5 for an applicant who
      - 24 (i) is receiving or has received assistance during the preceding six  
25 months under any state or federal welfare program to aid the indigent, or
      - 26 (ii) has an annual family gross income of less than \$8,200 for the  
27 year preceding application;
    - 28 (B) a person paying \$5 for a resident hunting, trapping, and sport fishing  
29 license must provide proof of eligibility under this paragraph when requested by the  
30 departments.
  - 31 (7) Nonresident special sport fishing license - valid for the period inscribed on

1 the license

2 (A) For 14-day license ..... \$ 30

3 (B) For three-day license ..... 15

4 (C) For one-day license ..... 10

5 (8) Nonresident sport fishing license ..... 50

6 (9) Nonresident hunting license ..... 85

7 (10) Nonresident hunting and sport fishing license ..... 135

8 A nonresident may not take a big game animal without previously purchasing a numbered,  
 9 nontransferable, appropriate tag, issued under (15) of this subsection. The tag must be affixed  
 10 to the animal immediately upon capture and must remain affixed until the animal is prepared for  
 11 storage, consumed, or exported. A tag issued but not used for an animal may be used to satisfy  
 12 the tagging requirement for an animal of any other species for which the tag fee is of equal or  
 13 less value.

14 (11) Nonresident hunting and trapping license ..... \$250

15 (12) Fur dealers

16 (A) Resident fur dealer biennial license ..... 150

17 (B) Nonresident fur dealer biennial license ..... 500

18 (13) Taxidermists

19 (A) Resident taxidermy biennial license ..... 200

20 (B) Nonresident taxidermy biennial license ..... 500

21 (14) Aquatic farming triennial license ..... 400

22 (15) Nonresident big game tags

23 (A) Bear, black, each ..... 225

24 (B) Bear, brown or grizzly, each ..... 500

25 (C) Bison, each ..... 450

26 (D) Caribou, each ..... 325

27 (E) Deer, each ..... 150

28 (F) Elk, each ..... 300

29 (G) Goat, each ..... 300

30 (H) Moose, each ..... 400

31 (I) Sheep, each ..... 425

- 1 (J) Wolf, each ..... 175
- 2 (K) Wolverine, each ..... 175
- 3 (L) Musk oxen, each ..... 1,100

4 (16) Resident big game tags

- 5 (A) Bear, brown or grizzly, each ..... \$25

6 The Board of Game may, by regulation effective for not more than one year, eliminate the  
7 resident brown or grizzly bear tag and fee for all or a portion of a game management unit.

- 8 (B) Musk oxen, each ..... 500

9 However, the Board of Game may by regulation reduce or eliminate the fee for a resident big  
10 game tag for musk oxen for an open season.

11 (17) Waterfowl conservation tag ..... 5

12 (A) A person may not engage in waterfowl hunting without having the  
13 current year's waterfowl tag in the person's actual possession, unless that person

- 14 (i) qualifies for a \$5 license fee under (6) of this subsection;
- 15 (ii) is a resident under the age of 16;
- 16 (iii) is 60 years of age or older and is a resident;
- 17 (iv) is a disabled veteran eligible for a free license under

18 AS 16.05.341.

19 (B) The Board of Game shall by regulation exempt the requirement of a  
20 waterfowl conservation tag for waterfowl hunting in areas of the state not likely to benefit  
21 from programs described in AS 16.05.130(b)(2) - (4).

22 (18) Game farming

- 23 (A) Game mammal or game reptile farming biennial license ... \$250
- 24 (B) Game bird farming biennial license ..... 50

25 (19) Nonresident small game hunting license ..... 20

26 (20) Nonresident alien hunting license ..... 300

27 A nonresident alien may not take a big game animal without previously purchasing a numbered,  
28 nontransferable, appropriate tag, issued under (21) of this subsection. The tag must be affixed  
29 to the animal immediately upon capture and must remain affixed until the animal is prepared for  
30 storage, consumed, or exported. A tag issued but not used for an animal may be used to satisfy  
31 the tagging requirement for an animal of any other species for which the tag fee is of equal or

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less value.

(21) Nonresident alien big game tags

- (A) Bear, black, each ..... \$300
- (B) Bear, brown or grizzly, each ..... 650
- (C) Bison, each ..... 650
- (D) Caribou, each ..... 425
- (E) Deer, each ..... 200
- (F) Elk, each ..... 400
- (G) Goat, each ..... 400
- (H) Moose, each ..... 500
- (I) Musk oxen, each ..... 1,500
- (J) Sheep, each ..... 550
- (K) Wolf, each ..... 250
- (L) Wolverine, each ..... 250

(22) Chitina personal use salmon dip net fishing permit ..... 10

(23) Resident king salmon tag ..... 10

A resident may not engage in sport fishing for king salmon without having the current year's king salmon tag in the resident's actual possession, unless that person

- (A) qualifies for a 25 cent license fee under (1) of this subsection;
- (B) is under the age of 16;
- (C) is 60 years of age or older and has been a resident of the state for at least one year;
- (D) is a disabled veteran eligible for a free license under AS 16.05.341;

or

(E) qualifies for a \$5 license fee under (6) of this subsection.

(24) Nonresident king salmon tag ..... \$20

A nonresident may not engage in sport fishing for king salmon without having the current year's king salmon tag in the person's actual possession.

\* Sec. 3. AS 18.31.200 is amended by adding a new subsection to read:

- (g) The Department of Labor shall adopt by regulation a fee schedule for
  - (1) review, approval, and certification of asbestos training certification programs

1 and plans under this section; and

2 (2) certification of a person employed to abate an asbestos health hazard.

3 \* Sec. 4. AS 28.10.161(b) is amended to read:

4 (b) Every [AFTER JANUARY 1, 1979, EVERY] passenger vehicle registration plate,  
5 except as specifically provided in AS 28.10.181, shall have displayed upon it

6 (1) the Alaska flag;

7 (2) the traditional colors of yellow-gold and blue;

8 (3) the slogan "The Last Frontier";

9 (4) the registration number assigned to the vehicle for which it is issued;

10 (5) the name of this state, which may be abbreviated; and

11 (6) the registration year number or expiration date for which time it is validated;

12 the registration year number or expiration date may be part of the license plate or contained on  
13 a suitable sticker or tab device issued by the department; however, only one sticker or tab  
14 device may be issued for each pair of plates and the sticker or tab device must be affixed  
15 to the rear plate.

16 \* Sec. 5. AS 33.30.031(a) is amended to read:

17 (a) The commissioner shall determine the availability of state correctional facilities  
18 suitable for the detention and confinement of persons held under authority of state law or under  
19 agreement entered into under (e) of this section. If the commissioner determines that suitable  
20 state correctional facilities are not available, the commissioner may enter into an agreement with  
21 a public or private agency to provide necessary facilities. Correctional facilities provided through  
22 agreement with a public agency for the detention and confinement of persons held under  
23 authority of state law may be in this state or in another state. Correctional facilities provided  
24 through agreement with a private agency must be located in this state unless the commissioner  
25 finds in writing that (1) there is no other reasonable alternative for detention in the state;  
26 and (2) the agreement is necessary because of health or security considerations involving  
27 a particular prisoner or class of prisoners, or because an emergency of prisoner  
28 overcrowding is eminent. The commissioner may not enter into an agreement with an agency  
29 unable to provide a degree of custody, care, and discipline similar to that required by the laws  
30 of this state.

31 \* Sec. 6. AS 33.30.231 is amended by adding a new subsection to read:

1 (d) Notwithstanding (a) of this section, the department may contract under AS 36.30 for  
2 telephone services for use by a prisoner.

3 \* Sec. 7. AS 36.30.100(b) is amended to read:

4 (b) Competitive sealed bidding is not required

5 (1) when the commissioner determines in writing that food, clothing, or medical  
6 supplies, or supplies [MATERIALS] for use in laboratory or medical studies may be purchased  
7 otherwise to the best advantage of the state;

8 (2) [WHEN RATES ARE FIXED BY LAW OR ORDINANCE;

9 (3)] for the purchase of products or services manufactured or provided by an  
10 employment program; or

11 (3) [(4)] for the purchase of products or services provided by the correctional  
12 industries program established under AS 33.32 [;

13 (5) FOR PROFESSIONAL SERVICES; OR

14 (6) FOR CONCESSIONS OPERATED ON STATE PROPERTY].

15 \* Sec. 8. AS 36.30.320(a) is amended to read:

16 (a) A procurement for supplies, services, or construction that does not exceed an  
17 aggregate dollar amount of \$25,000 [\$10,000] may be made in accordance with regulations  
18 adopted by the commissioner for small procurements.

19 \* Sec. 9. AS 36.30.850(b) is amended by adding new paragraphs to read:

20 (23) disposals of supplies acquired through foreclosure of loans issued under  
21 AS 03.10;

22 (24) purchases of curatorial and conservation services to maintain, preserve, and  
23 interpret

24 (A) objects of art; and

25 (B) items having cultural, historical, or archaeological significance to the  
26 state;

27 (25) acquisition of confidential seismic survey data necessary for pre-sale oil and  
28 gas lease analyses under AS 38.05.180;

29 (26) contracts for village public safety officers;

30 (27) purchases of supplies and services to support the operations of the Alaska  
31 state troopers or the division of fish and wildlife protection if the procurement officer for the

1 Department of Public Safety makes a written determination that publicity of the purchases would  
2 jeopardize the safety of personnel or the success of a covert operation;

3 (28) expenditures when rates are set by law or ordinance;

4 (29) construction of new vessels by the Department of Transportation and Public  
5 Facilities for the Alaska marine highway system.

6 \* Sec. 10. AS 37.10.050 is amended by adding new subsections to read:

7 (d) Each state agency shall annually review fees and charges collected by the agency.

8 By October 1, each state agency shall submit a report to the office of management and budget  
9 regarding existing fee levels set by the agency by regulation and adjustments made to fee levels  
10 by the agency during the previous fiscal year, and recommended adjustments in fees set by  
11 statute that the agency collects. Each year by December 15, the office of management and  
12 budget shall submit a report to the Legislative Budget and Audit Committee summarizing the  
13 reports and recommendations and the extent to which the fee adjustments have been incorporated  
14 in the governor's budget. Within 30 days after the convening of each regular session of the  
15 legislature, the committee shall report to the legislature the status of fee regulations and make  
16 recommendations for changes in regulations or statutes as appropriate.

17 (e) In this section, "agency" means a board, commission, or agency in the legislative,  
18 judicial, or executive branch, but does not include the University of Alaska or a public  
19 corporation.

20 \* Sec. 11. AS 37.17.030(b) is amended to read:

21 (b) In addition to endowment income, the foundation may receive individual,  
22 foundation, or corporate gifts, grants, or bequests. By their terms these may be restricted  
23 to a particular purpose [AND OTHER AID]. The foundation may accumulate income, gifts,  
24 grants, and bequests [OTHER AID] from any one year and distribute them in a later year.

25 \* Sec. 12. AS 37.17.030(c) is amended to read:

26 (c) The administrative expenses of the foundation are subject to AS 37.07 and shall be  
27 paid from the income of the endowment. The legislature may appropriate income of the  
28 endowment for payment of the administrative expenses of the Alaska Aerospace  
29 Development Corporation established under AS 14.40.821 and the agricultural and forestry  
30 experiment station research centers of the University of Alaska.

31 \* Sec. 13. AS 37.17.030(d) is amended to read:

1 (d) Except for payments under (c) of this section, the [THE] board of directors shall  
2 distribute the income of the endowment through competitive grants under this chapter. The board  
3 may disburse money that is received by the foundation for special or general purposes.

4 \* Sec. 14. AS 38.05.075(a) is amended to read:

5 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.079, 38.05.082,  
6 38.05.083, 38.05.087, 38.05.102, 38.05.810, [AS 38.05.087] and this section, leasing shall be  
7 made at public auction to the highest qualified bidder as determined by the commissioner. In  
8 the public notice of a lease to be offered at public auction, the commissioner shall specify  
9 a minimum acceptable bid and the lease compensation method. The lease compensation  
10 method shall be designed to maximize the return on the lease to the state and shall be a  
11 form of compensation set out in AS 38.05.073(m). An aggrieved bidder may appeal to the  
12 commissioner within five days for a review of the determination. The leasing shall be conducted  
13 by the commissioner and the successful bidder shall deposit at the auction the first year's rental  
14 or other lease compensation as specified by the commissioner, or that portion of it that the  
15 commissioner requires in accordance with the bid. The commissioner shall require, under  
16 AS 38.05.860, qualified bidders to deposit a sum equal to any survey or appraisal costs  
17 reasonably incurred by another qualified bidder acting in accordance with the regulations of the  
18 commissioner or incurred by the department under AS 38.04.045 and AS 38.05.840. If a  
19 bidder making a deposit of survey or appraisal costs is determined by the commissioner to be the  
20 highest qualified bidder under this subsection, the deposit shall be paid to the unsuccessful bidder  
21 who incurred those costs or to the department if the department incurred the costs. [ANY  
22 SURVEY OR APPRAISAL COSTS REASONABLY INCURRED BY A QUALIFIED BIDDER  
23 UNDER THE REGULATIONS OF THE COMMISSIONER OR DEPOSITED UNDER THIS  
24 SUBSECTION MUST BE CREDITED UNDER THE FIRST AND THEN SUBSEQUENT  
25 YEARS' RENTALS.] All costs for survey and appraisal shall be approved in advance in writing  
26 by the commissioner. The commissioner shall immediately issue a receipt containing a description  
27 of the land or interest leased, the price bid, and the terms of the lease [, AND THE AMOUNT  
28 OF ANY CREDIT FOR SURVEY AND APPRAISAL COSTS] to the successful qualified  
29 bidder. If the receipt is not accepted in writing by the bidder under this subsection, the  
30 commissioner may offer the land for lease again under this subsection. A lease, on a form  
31 approved by the attorney general, shall be signed by the successful bidder and by the

1 commissioner within the period specified in the auction notice [30 DAYS AFTER THE  
2 AUCTION].

3 \* Sec. 15. AS 38.05.075(f) is amended to read:

4 (f) If, after completion of the procedures required by (e) of this section, the  
5 commissioner determines that there is only one qualified bidder, the [THE] commissioner  
6 may issue a lease without competitive bidding at the approved, appraised market value of the  
7 land determined under AS 38.05.840 or by another form of lease compensation specified by  
8 the commissioner from among those set out in AS 38.05.073(m) and designed to maximize  
9 the return on the lease to the state [IF, AFTER COMPLETION OF THE PROCEDURES  
10 REQUIRED BY (E) OF THIS SECTION, THE COMMISSIONER DETERMINES THAT  
11 THERE IS ONLY ONE QUALIFIED BIDDER]. The commissioner may establish terms and  
12 conditions for entry to the land pending survey and appraisal of the land. The commissioner  
13 shall issue the lease as soon as is practicable following the survey and appraisal of the land  
14 subject to the provisions of AS 38.05.035(e).

15 \* Sec. 16. AS 38.05.085(c) is amended to read:

16 (c) The lessee shall make advance payments of the annual rent or other form of lease  
17 compensation specified by the commissioner or that portion of it [AS] the [DIRECTOR, WITH  
18 THE APPROVAL OF THE] commissioner [,] may require.

19 \* Sec. 17. AS 38.05.105(a) is amended to read:

20 (a) Each lease shall stipulate that [AT THE CONCLUSION OF THE INITIAL 25-YEAR  
21 PERIOD OF THE LEASE AND] at five-year intervals as specified in the lease [OF 10 YEARS  
22 THEREAFTER] the annual rent payment or other form of lease compensation specified by the  
23 commissioner is subject to adjustment. Changes [CHARGES] or adjustments shall be based  
24 primarily on changes in the lease's [AN ADJUSTED] fair market value. However, if the  
25 commissioner [DIRECTOR] determines that single-family residential development is the best  
26 use of the land, the reappraisal period may be lengthened or the readjustment waived in  
27 accordance with regulations adopted by the department. Before a waiver of rent adjustment is  
28 issued, the land shall have a current reappraisal. A waiver is valid only if single-family  
29 residential development actually occurs. The regulations adopted under this section shall ensure  
30 that the state receives a fair return from the land.

31 \* Sec. 18. AS 38.05.860(a) is amended to read:

1           (a) The ~~commissioner~~ [DIRECTOR] may require an applicant seeking the sale, lease,  
2 or other disposal of land or an interest in land, other than under an oil and gas or mineral lease,  
3 to deposit an amount covering the estimated cost of an appraisal, survey, and other costs  
4 necessary to offer the land or interest in land, including advertising. All deposited funds not  
5 expended shall be refunded to the applicant. If the land or interest in land is awarded [SOLD  
6 OR LEASED] to a person other than the applicant making the deposit, the person [PARTY]  
7 awarded the land shall pay the total actual cost incurred by the department in making the  
8 disposal [OF APPRAISING AND SURVEYING THE LAND, TOGETHER WITH THE TOTAL  
9 ACTUAL COST OF ADVERTISING], and the deposit shall be returned to the original applicant.  
10 In lieu of requiring the deposit under this subsection, the commissioner may enter into an  
11 agreement with an applicant seeking land or an interest in land requiring the applicant to  
12 reimburse the department for costs incurred in the disposal if the applicant is awarded the  
13 land or interest in land.

14 \* Sec. 19. AS 41.21.020(a) is amended to read:

15           (a) The department shall

16                   (1) develop a continuing plan for the conservation and maximum use in the public  
17 interest of the scenic, historic, archaeological, scientific, biological, and recreational resources of  
18 the state;

19                   (2) plan for and develop a system of state parks and recreational facilities, to be  
20 established as the legislature authorizes and directs;

21                   (3) acquire by gift, purchase, or transfer from state or federal agencies, or from  
22 individuals, corporations, partnerships or associations, land necessary, suitable and proper for  
23 roadside, picnic, recreational, or park purposes;

24                   (4) [CONTROL,] develop, manage, and maintain state parks and recreational  
25 areas;

26                   (5) provide for the acquisition, care, management [CONTROL], supervision,  
27 improvement, development, extension, and maintenance of public recreational land, and make  
28 necessary arrangements, contracts, or commitments for the improvement and development of land  
29 acquired under AS 41.21.010 - 41.21.040; contracting for improvement and development under  
30 this paragraph is governed by AS 36.30 (State Procurement Code);

31                   (6) adopt, in accordance with this section and the Administrative Procedure Act

1 (AS 44.62), regulations governing the use and designating incompatible uses within the  
2 boundaries of state park and recreational areas to protect the property and to preserve the peace;  
3 (7) cooperate with the United States and its agencies and local subdivisions of the  
4 state to secure the effective supervision, improvement, development, extension, and maintenance  
5 of state parks, state monuments, state historical areas, and state recreational areas, and secure  
6 agreements or contracts for the purpose of AS 41.21.010 - 41.21.040;  
7 (8) encourage the organization of state public park and recreational activities in  
8 the local political subdivisions of the state;  
9 (9) provide for consulting service designed to develop local park and recreation  
10 facilities and programs;  
11 (10) provide clearinghouse services for other state agencies concerned with park  
12 and recreation matters;  
13 (11) perform other duties as are prescribed by executive order or by law;  
14 (12) maintain memorials to Alaska veterans located in state parks; and  
15 (13) adopt, in accordance with the Administrative Procedure Act (AS 44.62),  
16 regulations governing the use of the Chena River State Recreation Area and designating  
17 incompatible uses within the boundaries of the Chena River State Recreation Area in accordance  
18 with AS 41.21.490.

19 \* Sec. 20. AS 42.05 is amended by adding a new section to read:

20 Sec. 42.05.253. PUBLIC UTILITY REGULATORY COST CHARGE. (a) A regulated  
21 public utility operating in the state shall pay to the commission an annual regulatory cost charge  
22 in an amount not to exceed .61 percent of gross revenue derived from operations in the state, as  
23 modified under (c) of this section if appropriate. An exempt utility shall pay the actual cost of  
24 services provided to it by the commission.

25 (b) The commission shall by regulation establish a method to determine annually the  
26 amount of the regulatory cost charge for a public utility. If the amount the commission expects  
27 to collect under (a) of this section and under AS 42.06.285(a) exceeds the authorized budget of  
28 the commission, the commission shall, by order, reduce the percentages set out in (a) of this  
29 section so that the total amount of the fees collected approximately equals the authorized budget  
30 of the commission for the fiscal year.

31 (c) In determining the amount of the regulatory cost charge imposed under (a) of this

1 section,

2 (1) a utility selling utility services at wholesale shall modify its gross revenue by  
3 deducting payments it receives for wholesale sales;

4 (2) a local exchange telephone utility shall modify its gross revenue by deducting  
5 payments received from other carriers for settlements or access charges.

6 (d) The commission shall calculate the total regulatory cost charges to be levied against  
7 all regulated electric utilities under this section. The commission shall allocate the total amount  
8 among the regulated electric utilities by using an equal charge per kilowatt hour sold at retail.

9 (e) The commission shall administer the charge imposed under this section. The  
10 Department of Revenue shall collect and enforce the charge imposed under this section.

11 (f) The commission shall allow a public utility to recover all payments made to the  
12 commission under this section. The commission may not require a public utility to file a rate  
13 case in order to be eligible to recover the regulatory cost charge.

14 (g) The commission may adopt regulations under AS 44.62 (Administrative Procedure  
15 Act) necessary to administer this section, including requirements and procedures for reporting  
16 information and making quarterly payments. The Department of Revenue may adopt regulations  
17 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed  
18 information, and for collecting required payments.

19 (h) In this section,

20 (1) "exempt utility" means a public utility that is certificated by the commission  
21 under AS 42.05.221 - 42.05.281 but, in accordance with AS 42.05.711, is exempt from other  
22 regulatory requirements of this chapter;

23 (2) "gross revenue" means the total operating revenue from intrastate services, as  
24 shown in a utility's annual report required by the commission by regulation;

25 (3) "regulated utility" means a public utility that is certificated by the commission  
26 under AS 42.05.221 - 42.05.281 and that is subject to the other regulatory requirements of this  
27 chapter;

28 (4) "wholesale sales" means sales to another utility for resale under circumstances  
29 that make revenue from the resale subject to the regulatory cost charge imposed under this  
30 section.

31 \* Sec. 21. AS 42.05.651(a) is amended to read:

1           (a) During [AFTER COMPLETION OF] a hearing or investigation held under this  
2 chapter, the commission may [SHALL] allocate the costs of the hearing or investigation among  
3 the parties, including the commission, as is just under the circumstances. In allocating costs, the  
4 commission shall consider the regulatory cost charge paid by a utility under AS 42.05.253  
5 and may consider the results, ability to pay, evidence of good faith, other relevant factors, and  
6 mitigating circumstances. Notwithstanding an intervening party's ability to pay, if the  
7 commission determines that an intervening party has conducted its intervention in a  
8 frivolous manner, the commission shall allocate all costs associated with the intervention to  
9 that party. The costs allocated may include the costs of any time devoted to the investigation  
10 or hearing by hired consultants, whether or not the consultants appear as witnesses or  
11 participants. The costs allocated may also include any out-of-pocket expenses incurred by the  
12 commission in the particular proceeding. The commission shall provide an opportunity for any  
13 person objecting to an allocation to be heard before the allocation becomes final.

14 \* Sec. 22. AS 42.05.651(a) is amended to read:

15           (a) After completion of [DURING] a hearing or investigation held under this chapter,  
16 the commission shall [MAY] allocate the costs of the hearing or investigation among the parties,  
17 including the commission, as is just under the circumstances. In allocating costs, the commission  
18 [SHALL CONSIDER THE REGULATORY COST CHARGE PAID BY A UTILITY UNDER  
19 AS 42.05.253 AND] may consider the results, ability to pay, evidence of good faith, other  
20 relevant factors and mitigating circumstances. Notwithstanding an intervening party's ability to  
21 pay, if the commission determines that an intervening party has conducted its intervention in a  
22 frivolous manner, the commission shall allocate all costs associated with the intervention to that  
23 party. The costs allocated may include the costs of any time devoted to the investigation or  
24 hearing by hired consultants, whether or not the consultants appear as witnesses or participants.  
25 The costs allocated may also include any out-of-pocket expenses incurred by the commission in  
26 the particular proceeding. The commission shall provide an opportunity for any person objecting  
27 to an allocation to be heard before the allocation becomes final.

28 \* Sec. 23. AS 42.05.661 is amended to read:

29           Sec. 42.05.661. APPLICATION FEES. With each application relating to a certificate  
30 the applicant shall pay the commission a fee set by the commission by regulation that [OF \$50  
31 WHICH] shall be deposited in the general fund of the state.

1 \* **Sec. 24.** AS 42.06 is amended by adding a new section to read:

2           **Sec. 42.06.285. PIPELINE CARRIER REGULATORY COST CHARGE.** (a) A pipeline  
3 carrier operating in the state shall pay to the commission an annual regulatory cost charge in an  
4 amount not to exceed .61 percent of gross revenue derived from operations in the state. A  
5 regulatory cost charge may not be assessed on pipeline carrier operations unless the operations  
6 are within the jurisdiction of the commission.

7           (b) The commission shall by regulation establish a method to determine annually the  
8 amount of the regulatory cost charge. If the amount the commission expects to collect under (a)  
9 of this section and under AS 42.05.253(a) exceeds the authorized budget of the commission, the  
10 commission shall, by order, reduce the percentage set out in (a) of this section so that the total  
11 amount of the fees collected approximately equals the authorized budget of the commission for  
12 the fiscal year.

13           (c) The commission shall administer the charge imposed under this section. The  
14 Department of Revenue shall collect and enforce the charge imposed under this section.

15           (d) The commission may adopt regulations under AS 44.62 (Administrative Procedure  
16 Act) necessary to administer this section, including requirements and procedures for reporting  
17 information and making quarterly payments. The Department of Revenue may adopt regulations  
18 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed  
19 information, and for collecting required payments.

20           (e) In this section, "gross revenue" means the total intrastate operating revenue as shown  
21 in a pipeline carrier's annual report required by the commission by regulation.

22 \* **Sec. 25.** AS 42.06.610(a) is amended to read:

23           (a) During a proceeding held under this chapter, the commission may [SHALL] allocate  
24 the cost of the proceeding among the parties, including the commission, as is just under the  
25 circumstances. In allocating costs, the commission shall consider the regulatory cost charge  
26 paid directly or indirectly under AS 42.06.285. The costs allocated may include the costs of  
27 any time devoted to investigations or hearings by hired consultants, whether or not the  
28 consultants appear as witnesses or participants. The commission shall provide an opportunity for  
29 any person objecting to an allocation to be heard before the allocation becomes final.

30 \* **Sec. 26.** AS 42.06.610(a) is amended to read:

31           (a) During a proceeding held under this chapter, the commission shall [MAY] allocate

1 the cost of the proceeding among the parties, including the commission, as is just under the  
2 circumstances. [IN ALLOCATING COSTS, THE COMMISSION SHALL CONSIDER THE  
3 REGULATORY COST CHARGE PAID DIRECTLY OR INDIRECTLY UNDER AS 42.06.285.]  
4 The costs allocated may include the costs of any time devoted to investigations or hearings by  
5 hired consultants, whether or not the consultants appear as witnesses or participants. The  
6 commission shall provide an opportunity for any person objecting to an allocation to be heard  
7 before the allocation becomes final.

8 \* Sec. 27. AS 44.21.310(b) is amended to read:

9 (b) The department may

10 (1) coordinate its functions with local, regional, state, and federal officials, private  
11 groups and individuals, and with officials of other countries, provinces, and states;

12 (2) enter into contracts and subcontracts on behalf of the state to carry out the  
13 provisions of AS 44.21.305 - AS 44.21.330;

14 (3) act for the state in the initiation, investigation, and evaluation of, or  
15 participation in, programs related to the purposes of the department that [WHICH] involve more  
16 than one government or governmental unit;

17 (4) on behalf of the state, apply for, accept, and expend gifts or grants made to  
18 the state if the gifts or grants are for the purposes of furthering the objectives of the department;  
19 [AND]

20 (5) hold public hearings to obtain information for the purpose of carrying out the  
21 provisions of AS 44.21.305 - 44.21.330; and

22 (6) provide telecommunication services to commercial entities for television  
23 broadcast and charge for those services.

24 \* Sec. 28. AS 44.21.410(a) is amended to read:

25 (a) The office of public advocacy shall

26 (1) perform the duties of the public guardian under AS 13.26.360 - 13.26.410;

27 (2) provide visitors and experts in guardianship proceedings under AS 13.26.131;

28 (3) provide guardian ad litem services to children in child protection actions under  
29 AS 47.17.030(e) and to wards and respondents in guardianship proceedings who will suffer  
30 financial hardship or become dependent upon a government agency or a private person or agency  
31 if the services are not provided at state expense under AS 13.26.112;

1 (4) provide legal representation in guardianship proceedings to respondents who  
2 are financially unable to employ attorneys under AS 13.26.106(b), to indigent parties in cases  
3 involving child custody in which the opposing party is represented by counsel provided by a  
4 public agency, to indigent parents or guardians of a minor respondent in a commitment  
5 proceeding concerning the minor under AS 47.30.775;

6 (5) provide legal representation and guardian ad litem services under  
7 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on Juveniles); in  
8 cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination  
9 of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to  
10 remove the disabilities of a minor under AS 09.55.590; in children's proceedings under  
11 AS 47.10.050(a); and in cases involving indigent persons who are entitled to representation under  
12 AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict  
13 of interests;

14 (6) develop and coordinate a program to recruit, select, train, assign, and supervise  
15 volunteer guardians ad litem from local communities to aid in delivering services in cases in  
16 which the office of public advocacy is appointed as guardian ad litem;

17 (7) provide guardian ad litem services in proceedings under AS 12.45.046;

18 (8) establish a fee schedule and collect fees for services provided by the office,  
19 except as provided in AS 18.85.120 or when imposition or collection of a fee is not in the  
20 public interest as defined under regulations adopted by the commissioner of administration.

21 \* Sec. 29. AS 44.37.025(c) is amended to read:

22 (c) The department, with the concurrence of the administrative director of courts, may  
23 appoint judicial employees to perform services in connection with recording, providing access  
24 to, and copying documents in locations where the department has not otherwise designated a  
25 public office [NO EMPLOYEES AVAILABLE] to perform those functions.

26 \* Sec. 30. AS 46.15.020(b) is amended to read:

27 (b) The commissioner shall

28 (1) adopt procedural and substantive regulations to carry out the provisions of this  
29 chapter, taking into consideration the responsibilities of the Department of Environmental  
30 Conservation under AS 46.03 and the Department of Fish and Game under AS 16;

31 (2) keep a public record of all applications for permits and certificates and other

1 documents filed in the commissioner's office; and shall record all permits and certificates and  
2 amendments and orders affecting them and shall index them in accordance with the source of the  
3 water and the name of the applicant or appropriator;

4 (3) cooperate with, assist, advise, and coordinate plans with the federal, state, and  
5 local agencies in matters relating to the appropriation, use, conservation, quality, disposal, or  
6 control of waters and activities related thereto;

7 (4) prescribe fees or service charges for any public service rendered;

8 (5) before February 1 of each year, submit a report to the legislature  
9 describing the activities of the commissioner under AS 46.15.035 and 46.15.037; the report  
10 must include

11 (A) information on the number of applications and appropriations for  
12 the removal of water from one hydrological unit to another that were requested and  
13 that were granted and on the amounts of water involved;

14 (B) information on the number and location of sales of water  
15 conducted by the commissioner and on the volume of water sold;

16 (C) recommendations of the commissioner for changes in state water  
17 law; and

18 (D) a description of state revenue and expenses related to activities  
19 under AS 46.15.035 and 46.15.037.

20 \* Sec. 31. AS 46.15 is amended by adding new sections to read:

21 Sec. 46.15.035. APPROPRIATION OR REMOVAL OF WATER OUT OF  
22 HYDROLOGIC UNITS TO OTHER HYDROLOGIC UNITS; WATER CONSERVATION FEE;  
23 RESERVATION OF WATER FOR FISH. (a) Water may not be removed from the hydrologic  
24 unit from which it was appropriated to another hydrologic unit, inside or outside the state,  
25 without being returned to the hydrologic unit from which it was appropriated nor may water be  
26 appropriated for removal from the hydrologic unit from which the appropriation is sought to  
27 another hydrologic unit, inside or outside the state, without the water being returned to the  
28 hydrologic unit from which it is to be appropriated, unless the commissioner

29 (1) finds that the water to be removed or appropriated for removal is surplus to  
30 needs within the hydrologic unit from which the water is to be removed or appropriated for  
31 removal, including fishing, mining, timber, oil and gas, agriculture, domestic water supply, and

1 other needs as determined by the commissioner;

2 (2) finds that the application for removal or appropriation for removal meets the  
3 requirements of AS 46.15.080; and

4 (3) assesses a water conservation fee under (b) of this section.

5 (b) The commissioner shall establish, by regulation, a water conservation fee for a use  
6 of water in which the water is removed from the hydrologic unit from which it was appropriated  
7 to another hydrologic unit inside or outside the state, without the water being returned to the  
8 hydrologic unit from which it was appropriated. The fee established under this subsection shall  
9 be graduated to encourage the conservation of water.

10 (c) Except as provided in AS 46.15.090, and in addition to the requirements of (a) of this  
11 section, the commissioner may approve an application for removal or permit an appropriation for  
12 removal under (a) of this section of water from a lake, river, or stream that is used by fish for  
13 spawning, incubation, rearing, or migration, or ground water that significantly influences the  
14 volume of water in a lake, river, or stream that is used by fish for spawning, incubation, rearing,  
15 or migration, only if the commissioner reserves a volume of water in the lake or an instream flow  
16 in the river or stream for the use of fish and to maintain habitat for fish. The commissioner may  
17 adjust the volume of water reserved under this subsection if the commissioner, after public notice  
18 and opportunity to comment and with the concurrence of the commissioner of fish and game,  
19 finds that the best interests of the state are served by the adjustment. A reservation under this  
20 subsection

21 (1) of a volume of water or an instream flow for the use of fish and to maintain  
22 habitat for fish that is reserved under this section is withdrawn from appropriation;

23 (2) for fish from a lake, river, or stream, identified under AS 16.05.870 or  
24 identified in a Department of Fish and Game regional guide as being used by fish for spawning,  
25 incubation, rearing, or migration on or before the effective date of this section, has a priority date  
26 as of the effective date of this section;

27 (3) of water does not apply to an application for removal or appropriation for  
28 removal under AS 46.15.040 for nonconsumptive uses of water or for single family domestic use;

29 (4) is not subject to AS 46.15.145;

30 (5) of water does not apply to appropriations of ground water of 5,000 gallons  
31 or less a day unless the commissioner, in consultation with the Department of Fish and Game,

1 determines that the appropriation may adversely affect fish habitat in a lake, river, or stream; the  
2 commissioner shall consider multiple appropriations of water for a single related use as a single  
3 appropriation for the purposes of this subsection.

4 (d) With respect to rivers and streams described in (c) of this section, the instream flow  
5 reservation shall be limited to the portion of the stream, including tributaries to the stream, at and  
6 downstream of the point of diversion or withdrawal. With respect to lakes described in (c) of  
7 this section, the reservation shall be limited to the lake from which the diversion or withdrawal  
8 is made, and the outlet and tributaries to the outlet flowing downstream.

9 (e) In this section,

10 (1) "fish" means a species of anadromous or freshwater fish that may be taken  
11 under regulations of the Board of Fisheries;

12 (2) "hydrologic unit" means a hydrologic subregion established by the United  
13 States Department of the Interior, Geological Survey, on the "Hydrologic Unit Map-1987, State  
14 of Alaska."

15 Sec. 46.15.037. SALE OF WATER BY THE STATE. (a) The commissioner may  
16 provide for the sale of water by the state if

17 (1) the water has first been appropriated to the state in accordance with the  
18 requirements of this chapter; and

19 (2) the commissioner determines that

20 (A) the water is surplus to needs within the hydrologic unit from which  
21 it was appropriated, including fishing, mining, timber, oil and gas, agriculture, domestic  
22 water supply, and other needs as determined by the commissioner;

23 (B) the proposed sale of the water meets the requirements of  
24 AS 46.15.080; and

25 (C) the sale price of the water is based upon the fair market value of the  
26 water.

27 (b) A purchaser of water from the state under this section shall acquire only those  
28 contractual rights to the water set out in sale documents prepared by the commissioner except  
29 that a sale of water by the state does not constitute an appropriation of water under this chapter  
30 to the purchaser.

31 (c) If water to be sold by the state under (a) of this section, is to be removed from the

1 hydrologic unit from which it was appropriated to another hydrologic unit, inside or outside the  
2 state, without being returned to the hydrologic unit from which it was appropriated, the  
3 commissioner may not sell the water unless the sale meets the requirements of (a)(2) of this  
4 section, a water conservation fee is assessed under AS 46.15.035, and, if the water to be sold is  
5 from a lake, river, or stream that is used by fish for spawning, incubation, rearing, or migration,  
6 or ground water that significantly influences the volume of water in a lake, river, or stream that  
7 is used by fish for spawning, incubation, rearing, or migration, the commissioner reserves a  
8 volume of water in the lake or an instream flow in the river or stream for the use of fish and to  
9 maintain habitat for fish. The commissioner may adjust the volume of water reserved under this  
10 subsection if the commissioner, after public notice and opportunity to comment and with the  
11 concurrence of the commissioner of fish and game, finds that the best interests of the state are  
12 served by the adjustment. A reservation under this subsection

13 (1) of a volume of water or an instream flow for the use of fish and to maintain  
14 habitat for fish that is reserved under this section is withdrawn from appropriation;

15 (2) for fish from a lake, river, or stream, identified under AS 16.05.870 or  
16 identified in a Department of Fish and Game regional guide as being used by fish for spawning,  
17 incubation, rearing, or migration on or before the effective date of this section, has a priority date  
18 as of the effective date of this section;

19 (3) is not subject to AS 46.15.145;

20 (4) of water does not apply to appropriations under this section of ground water  
21 of 5,000 gallons or less a day unless the commissioner, in consultation with the Department of  
22 Fish and Game, determines that the appropriation may adversely affect fish habitat in a lake,  
23 river, or stream; the commissioner shall consider multiple appropriations of water for a single  
24 related use as a single appropriation for the purposes of this subsection.

25 (d) With respect to rivers and streams described in (c) of this section, the instream flow  
26 reservation shall be limited to the portion of the stream, including tributaries to the stream, at and  
27 downstream of the point of diversion or withdrawal. With respect to lakes described in (c) of  
28 this section, the reservation shall be limited to the lake from which the diversion or withdrawal  
29 is made, and the outlet and tributaries to the outlet flowing downstream.

30 (e) In this section,

31 (1) "fish" means a species of anadromous or freshwater fish that may be taken

1 under regulations of the Board of Fisheries;

2 (2) "hydrologic unit" has the meaning given in AS 46.15.035(e).

3 (f) The commissioner may not provide for the sale of salt water under this section.

4 \* Sec. 32. AS 46.15.133 is amended to read:

5 Sec. 46.15.133. NOTICES; OBJECTIONS. (a) If the commissioner proposes a sale  
6 of water or receives [UPON RECEIPT OF] an application for appropriation or removal, the  
7 commissioner shall prepare a notice containing the location and extent of the proposed sale,  
8 appropriation, or removal, the name and address of the applicant, if applicable, and other  
9 information the commissioner considers pertinent. The notice shall state that within 15 days of  
10 publication or service of notice, persons may file with the director written objections, stating the  
11 name and address of the objector, and any facts tending to show that rights of the objector or the  
12 public interest would be adversely affected by the proposed sale, appropriation, or removal.

13 (b) The commissioner shall publish the notice [AT THE APPLICANT'S EXPENSE] in  
14 one issue of a newspaper of general distribution in the area of the state in which the water is to  
15 be appropriated, removed, or sold. The commissioner shall also have notice served personally  
16 or by certified mail upon an appropriator of water or applicant for or holder of a permit who,  
17 according to the records of the division of lands, may be affected by the proposed sale,  
18 appropriation, or removal and may serve notice upon any governmental agency, political  
19 subdivision, or person; notice shall also be served upon the Department of Fish and Game and  
20 the Department of Environmental Conservation. An applicant for an appropriation or removal  
21 shall pay the commissioner's costs in providing publication and notice under this subsection.  
22 The commissioner may require as a condition of a sale of water under AS 46.15.037, that  
23 a purchaser of water reimburse the department for the costs associated with providing  
24 notice of the proposed sale.

25 (c) Within 15 days of publication or service of notice, an interested person may file an  
26 objection. The commissioner may hold hearings upon giving due notice and shall grant, deny,  
27 or condition the proposed sale or application for appropriation or removal in whole or in part  
28 within 30 days of receipt of the last objection or, if the commissioner elects to hold hearings,  
29 within 180 days of receipt of the last objection. Notice of the order or decision shall be served  
30 personally or mailed to any person who has filed an objection.

31 (d) If no objection is filed, the commissioner may proceed to make a determination upon

1       the application for appropriation or removal or the proposal for sale.

2               (e) A person aggrieved by the action of the commissioner or by the failure of the  
3 commissioner to grant, deny, or condition a proposed sale or an application for appropriation  
4 or removal in accordance with (c) of this section may appeal to the superior court.

5               (f) The commissioner may, by regulation, designate types of appropriations that are  
6 exempt from this section and provide simplified procedures for ruling on the applications. The  
7 commissioner may not exempt under this subsection appropriations for removal under  
8 AS 46.15.035, appropriations by the state for sale or sales by the state under AS 46.15.037,  
9 or removals of water under AS 46.15.035 and 46.15.037.

10   \* Sec. 33. Section 3, ch. 95, SLA 1989, is amended to read:

11               Sec. 3. EMPLOYMENT ASSISTANCE AND TRAINING PROGRAM FUND  
12 [ACCOUNT]. The employment assistance and training program fund [ACCOUNT] is  
13 established in the department. Deposits into the fund are not general fund program receipts  
14 [GENERAL FUND. THE COMMISSIONER OF ADMINISTRATION SHALL SEPARATELY  
15 ACCOUNT FOR MONEY COLLECTED UNDER SEC. 4 OF THIS ACT THAT THE  
16 DEPARTMENT DEPOSITED IN THE GENERAL FUND]. The annual estimated balance in  
17 the fund [ACCOUNT] may be appropriated by the legislature to the department to implement  
18 this Act. If the entire estimated balance is not used to implement this Act during a fiscal  
19 year, the [THE] legislature may make appropriations from the employment assistance and  
20 training fund [APPROPRIATE THE LAPSING BALANCE OF THE ACCOUNT] to the  
21 unemployment compensation fund established in AS 23.20.130.

22   \* Sec. 34. MATERIAL SITES USED FOR TIMBER OPERATIONS. Material sites used for timber  
23 operations are subject to regulation under AS 41.17. AS 27.19 does not apply to material sites used for  
24 timber operations.

25   \* Sec. 35. Sections 34 of this Act is repealed July 1, 1994.

26   \* Sec. 36. AS 42.05.253, enacted by sec. 20 of this Act, and AS 42.06.285, enacted by sec. 24 of this  
27 Act, are repealed December 31, 1994.

28   \* Sec. 37. AS 33.30.031(b), AS 38.05.085(a), 38.05.085(b), 38.05.085(g), and 38.05.105(b) are  
29 repealed.

30   \* Sec. 38. Sections 22 and 26 of this Act take effect December 31, 1994.

31   \* Sec. 39. AS 16.05.340(a), as amended by sec. 2 of this Act, takes effect January 1, 1993.

1 • Sec. 40. Except as provided in secs. 38 and 39 of this Act, this Act takes effect July 1, 1992.