

Leg. Finance - Finance Comte Files (1971-72) 8879  
HB 769 cont., 770, 771, 771am, 782

1 receive an annual salary equal to that of a superior court judge, to be  
2 paid in 12 equal monthly installments.

3 Sec. 42.06.101. PRINCIPAL OFFICE; SEAL. (a) The commission  
4 shall establish a principal office and branch offices necessary to  
5 discharge its business. For the convenience of the public or of parties  
6 to a proceeding the commission may hold meetings, hearings or other  
7 proceedings at other locations.

8 (b) The commission shall have an official seal.

9 Sec. 42.06.111. LEGAL COUNSEL. (a) The attorney general is legal  
10 counsel for the commission. He shall advise the commission in legal  
11 matters arising in the discharge of its duties and represent the com-  
12 mission in actions to which it is a party. If, in the opinion of the  
13 commission, the public interest is not adequately represented by counsel  
14 in a proceeding, the attorney general, upon request of the commission,  
15 shall represent the public interest.

16 (b) The commission may employ temporary legal counsel from time  
17 to time in proceedings before the commission in which the attorney  
18 general is representing the public interest or a party before the com-  
19 mission.

20 Sec. 42.06.121. EMPLOYMENT OF COMMISSION PERSONNEL. (a) The  
21 commission may employ an executive director who shall have had at least  
22 five years of experience in oil or gas transportation, law, accounting  
23 or an allied field. The commission may employ engineers, hearing  
24 officers, experts, clerks, accountants, and other agents and assistants  
25 it considers necessary. The commission shall make maximum possible use  
26 of employees and experts available in departments of state government.  
27 The executive director shall be in the partially exempt service under  
28 AS 39.25, and all other employees and agents of the commission, other  
29 than legal counsel, are in the classified service under AS 39.25.

1 (b) In addition to its staff of regular employees, the commission  
2 may contract for and engage the services of consultants and experts the  
3 commission considers necessary.

4 Sec. 42.06.131. RESTRICTIONS ON MEMBERS AND EMPLOYEES. No member  
5 of the commission or an employee of the commission may have an official  
6 connection with, or hold stock or securities in, or have a pecuniary  
7 interest in any company engaged in oil or gas production or engaged  
8 in the transportation of oil or gas. No member or employee may act  
9 upon a matter in which his relationship with any person creates a  
10 conflict of interest.

11 Sec. 42.06.135. DIVISION OF JURISDICTION. The commission has  
12 jurisdiction over pipeline carriers to carry out the purposes of this  
13 chapter except

14 (1) when the Alaska Public Utilities Commission has juris-  
15 diction over the oil or gas transportation facilities as provided in  
16 AS 42.05 because the carrier is selling oil or gas or both for resale  
17 for ultimate consumption, the commission's jurisdiction shall not over-  
18 rule the specific areas of jurisdiction of the Alaska Public Utilities  
19 Commission;

20 (2) an oil or gas transportation facility regulated under  
21 the Interstate Commerce Act of 1906, as amended, 34 Stat. 485, or the  
22 Natural Gas Act of 1938, as amended, 52 Stat. 821, shall be regulated  
23 by the commission with respect to the activities of the facility which  
24 are not regulated under the Interstate Commerce Act of 1906 or the  
25 Natural Gas Act of 1938 only to the extent not preempted by those Acts;

26 (3) when the Interstate Commerce Act of 1906 or the Natural  
27 Gas Act of 1938 applies, the commission shall have jurisdiction under  
28 secs. 291 - 531 of this chapter only to the extent that exercise of its  
29 power is not inconsistent with federal law;

1 (4) the commission shall regulate state owned or operated  
2 oil or gas transportation facilities to the extent permitted in the  
3 covenant between bond purchasers and the state or agency of the state  
4 which owns or operates the oil or gas transportation facility; the  
5 covenant is a valid and enforceable contract which may not be overruled  
6 by the commission.

7 ARTICLE 2. POWERS AND DUTIES OF THE COMMISSION.

8 Sec. 42.06.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The  
9 Alaska Oil and Gas Transportation Commission shall

10 (1) regulate every oil or gas transportation facility engaged  
11 or proposing to engage in business in the state;

12 (2) require permits for the construction, enlargement in  
13 size or operating capacity, extension, operation or abandonment of any  
14 oil or gas transportation facility, subject to necessary and reasonable  
15 terms, conditions and limitations;

16 (3) investigate, upon complaint or upon its own motion, the  
17 rates, classifications, rules, regulations, practices, services and  
18 facilities of an oil or gas transportation facility and hold hearings  
19 on them;

20 (4) make or require just, fair and reasonable rates, classi-  
21 fications, regulations, practices, services and facilities for an oil  
22 or gas transportation facility;

23 (5) prescribe the system of accounts and regulate the service  
24 and safety of operations of an oil or gas transportation facility;

25 (6) require an oil or gas transportation facility to file  
26 reports and other information and data to the extent the commission  
27 considers the information relevant or considers that it may lead to the  
28 discovery of relevant information;

29 (7) appear personally or by counsel and represent the

1 interest and welfare of the state in all matters and proceedings  
2 involving an oil or gas transportation facility pending before an  
3 officer, department, board, commission or court of the state or of  
4 another state or the United States and to intervene in, protest, resist,  
5 or advocate the granting, denial or modification of any petition,  
6 application, complaint or other proceeding;

7 (8) examine witnesses and offer evidence in any proceeding  
8 affecting the state and initiate or participate in judicial proceedings  
9 to the extent necessary to protect and promote the interests of the  
10 state;

11 (9) investigate upon complaint or its own motion, rates,  
12 prices, services, or practices of pipeline carriers under this chapter  
13 and performance of obligations under leases issued under the Right-of-  
14 Way Leasing Act of 1972 (AS 38.35).

15 Sec. 42.06.143. POWERS AND DUTIES WITH RESPECT TO FEDERALLY  
16 REGULATED CARRIERS. Sec. 141 of this chapter applies to oil and gas  
17 transportation facilities regulated under the Interstate Commerce Act  
18 of 1906, or the Natural Gas Act of 1938, only to the extent not pre-  
19 empted under those federal Acts.

20 Sec. 42.06.151. ADMINISTRATIVE AUTHORITY OF COMMISSION; REGULA-  
21 TIONS AND HEARING PROCEDURES. (a) The commission may adopt regulations  
22 not inconsistent with the law, necessary or proper to exercise its  
23 powers and to perform its duties under this chapter.

24 (b) The commission shall adopt regulations governing practice and  
25 procedure, consistent with due process of law, including the conduct  
26 of formal and informal investigations, prehearing conferences, hearings  
27 and proceedings, and the handling of procedural motions by a single  
28 commissioner. Technical rules of evidence need not apply to investiga-  
29 tions, prehearing conferences, hearings and proceedings before the

1 commission. The commission shall provide for representation by out-  
2 of-state attorneys substantially in accordance with Civil Rule 81.

3 (c) The commission, a commissioner or an employee authorized by  
4 the commission may administer oaths, certify to all official acts, and  
5 issue subpoenas, subpoenas duces tecum and other process to compel the  
6 attendance of witnesses and the production of testimony, records, papers,  
7 accounts and documents in any inquiry, investigation, hearing or pro-  
8 ceeding before the commission in the state. Each commissioner is  
9 authorized to issue orders on procedural motions. The commission may  
10 petition a court of this state to enforce its subpoenas, subpoenas duces  
11 tecum and other process.

12 Sec. 42.06.161. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. (a)  
13 The administrative adjudication procedures of the Administrative Proce-  
14 dure Act (AS 44.62) do not apply to adjudicatory proceedings of the  
15 commission except that final administrative determinations by the com-  
16 mission are subject to judicial review under that Act as provided in  
17 sec. 551(a) of this chapter.

18 (b) The Administrative Procedure Act applies to regulations  
19 adopted by the commission.

20 Sec. 42.06.171. FORMAL HEARINGS. A formal hearing which the  
21 commission has power to hold may be held by or before two or more com-  
22 missioners designated for the purpose by the commission. The testimony  
23 and evidence in a formal hearing may be taken by the commissioners to  
24 whom the hearing has been assigned. A commissioner who has not heard  
25 the testimony, including the argument, may not participate in making a  
26 decision of the commission. In determining the place of a hearing the  
27 commission shall give preference to holding the hearing at a place most  
28 convenient for those interested in the subject of the hearing.

29 Sec. 42.06.181. FINAL ORDERS OF THE COMMISSION. No final order

1 of the commission compelling affirmative action, denying a right or  
2 privilege, or granting a right or privilege over protest of the oil  
3 or gas transportation facility or any party of record may be entered  
4 without giving the interested party reasonable notice and an opportunity  
5 to be heard.

6 Sec. 42.06.191. FORMAT OF ORDERS. Formal orders of the commission  
7 shall be based upon the facts of record. An order entered pursuant to  
8 a hearing shall state the commission's findings, the basis of its  
9 findings and conclusions, together with its decision. These orders  
10 shall be entered of record and a copy of them shall be served on all  
11 parties of record in the proceeding.

12 Sec. 42.06.201. PUBLICATION OF REPORTS, ORDERS, DECISIONS AND  
13 REGULATIONS. All reports, orders, decisions and regulations of the  
14 commission shall be in writing. The commission shall apprise all  
15 affected operators of oil or gas transportation facilities and inter-  
16 ested parties of these reports, orders, decisions, and regulations as  
17 they are issued and adopted, and, when appropriate to do so, shall  
18 publish them in a manner that will reasonably inform the public or the  
19 affected consumers of the services of any oil or gas transportation  
20 facility. The commission may set charges for costs of printing or  
21 reproducing and furnishing copies of its reports, orders, decisions and  
22 regulations. The publication requirement, as it pertains to regulations,  
23 does not supersede the requirements of the Administrative Procedure Act  
24 (AS 44.62).

25 Sec. 42.06.211. ANNUAL REPORT. The commission shall publish an  
26 annual report reviewing its work and submit it to the legislature by  
27 February 15 of each year. The report shall contain information and  
28 data which bear a significant relationship to the development and regu-  
29 lation of oil or gas transportation facilities in the state and include

1 an outline of the commission's program for the development and regula-  
2 tion of oil or gas transportation facilities in the forthcoming year.

3 ARTICLE 3. CERTIFICATE OF CONVENIENCE  
4 AND NECESSITY.

5 Sec. 42.06.221. CERTIFICATES REQUIRED. (a) No oil or gas trans-  
6 portation facility may operate and receive compensation for providing  
7 transportation service after January 1, 1973 without first having  
8 obtained from the commission under this chapter a certificate of con-  
9 venience and necessity declaring that efficient production and marketing  
10 of oil or gas requires or will require the service and the service can  
11 be provided without an undue adverse effect on the public health or  
12 welfare. A certificate shall describe the nature and extent of the  
13 authority granted in it, including, as appropriate for the services  
14 involved, a description of the authorized area and scope of operation  
15 of the oil or gas transportation facility.

16 (b) In an area where the commission determines that two or more  
17 oil or gas transportation facilities are competing or are planning to  
18 compete to offer identical oil or gas transportation service and this  
19 competition is not in the public interest, the commission shall take  
20 appropriate action to eliminate or not allow the competition and  
21 undesirable duplication of facilities.

22 (c) The commission may attach to certificates of convenience and  
23 necessity terms and conditions and require issuance of securities it  
24 considers necessary for the protection of the environment and for the  
25 best interest of the oil or gas transportation facility and the general  
26 public.

27 (d) The commission may employ professional consultants to assist  
28 it in administering the provisions of this section and may apportion  
29 the expenses relating to this administration among the competing oil or

1 gas transportation facilities involved.

2 (e) The requirement for a certificate shall not operate to impose  
3 state regulation which has been preempted under the Interstate Commerce  
4 Act of 1906 or the Natural Gas Act of 1938. When federal law has  
5 preempted state regulation the commission must accept the findings made  
6 under the federal scheme of regulation.

7 Sec. 42.06.231. APPLICATION; ENVIRONMENTAL STATEMENT. An applica-  
8 tion for a certificate of convenience and necessity shall be in writing  
9 and shall be in the form and contain the information required by the  
10 commission by regulation. The application shall include a statement  
11 of the environmental impact of the proposed transportation facility  
12 in sufficient detail to enable assessment of the long-term social costs  
13 of possible environmental degradation resulting from the proposed  
14 facility. A statement of a facility's environmental impact meeting the  
15 requirements of the National Environmental Policy Act of 1969, 83 Stat.  
16 853, may be submitted with the application in satisfaction of the  
17 impact statement requirements of this section.

18 Sec. 42.06.233. PUBLIC HEARINGS. At least 30 days before issuing  
19 a certificate of convenience and necessity, the commission shall hold  
20 a public hearing on the application. Copies of the completed application  
21 including the environmental impact statement shall be made available  
22 to the public at least 10 days before the public hearing date. A  
23 transcript of the public hearing shall be included in the permanent  
24 record of agency action on that application, and copies of the public  
25 hearing transcripts shall be available to the public.

26 Sec. 42.06.235. INSURANCE OR DEPOSIT OF SECURITY. (a) In granting  
27 a certificate of convenience and necessity the commission shall require  
28 the oil or gas transportation facility to either procure and file  
29 liability and property damage insurance from a company licensed to write

1 insurance in the state or deposit security for the limits of liability  
2 upon the terms and conditions the commission determines necessary for  
3 the reasonable protection of the public against damage and injury for  
4 which the owner or operator of the oil or gas transportation facility  
5 may be liable by reason of the operation of an oil or gas transportation  
6 facility.

7 (b) In fixing the amount of insurance or security, the commission  
8 shall give consideration to the character and amount of traffic, the  
9 number of persons affected and the degree of danger which the proposed  
10 operation involves.

11 Sec. 42.06.241. CONDITIONS OF ISSUANCE. No certificate of con-  
12 venience and necessity may be issued unless the commission finds that  
13 the applicant is fit, willing and able to provide the oil or gas  
14 transportation services applied for and that the services are required  
15 for the efficient production and marketing of oil or gas. The commis-  
16 sion may issue a certificate of convenience and necessity granting an  
17 application in whole or in part and attach to the grant of it the terms  
18 and conditions it considers necessary to protect and promote the public  
19 interest including the condition that the applicant may or shall serve  
20 an area or provide a necessary service not contemplated by the applicant  
21 or the condition that the service will begin or end at a prescribed  
22 point. The commission may, for good cause, deny an application with  
23 or without prejudice.

24 Sec. 42.06.261. DISCONTINUANCE, SUSPENSION OR ABANDONMENT OF  
25 CERTIFICATED SERVICE. (a) Except as otherwise provided in this section,  
26 no oil or gas transportation facility may discontinue or abandon a  
27 service for which a certificate has been issued by the commission unless  
28 upon the application of the oil or gas transportation facility and if,  
29 after notice and opportunity for hearing, the commission finds that the

1 continued service is not required by convenience and necessity or for  
2 the efficient production or marketing of oil or gas. Any interested  
3 person may file with the commission a protest or memorandum of opposi-  
4 tion to or in support of discontinuance or abandonment. The commission  
5 may authorize temporary suspension of a service or of part of a service.

6 (b) Upon complaint or upon its own motion, the commission may  
7 reinvestigate a previously authorized discontinuance, abandonment or  
8 suspension of a service of an operating oil or gas transportation  
9 facility. If, after providing notice and an opportunity for a hearing,  
10 the commission finds that the efficient removal and marketing of oil  
11 or gas requires the service to be resumed, it may order the operator or  
12 owner of the oil or gas transportation facility to again provide the  
13 service.

14 Sec. 42.06.271. MODIFICATION, SUSPENSION OR REVOCATION OF CERTIFI-  
15 CATES. Upon complaint or upon its own motion the commission, after  
16 notice and opportunity for hearing and for good cause shown, may amend,  
17 modify, suspend, or revoke a certificate of convenience and necessity,  
18 in whole or in part. Good cause for amendment, modification, suspension  
19 or revocation of a certificate includes

- 20 (1) the requirements of public convenience and necessity;
- 21 (2) the requirements of efficient production and marketing  
22 of oil and gas;
- 23 (3) misrepresentation of a material fact in obtaining the  
24 certificate;
- 25 (4) unauthorized discontinuance or abandonment of all or part  
26 of the oil or gas transportation facility service;
- 27 (5) wilful failure to comply with the provisions of this  
28 chapter or the rules, regulations or orders of the commission; or
- 29 (6) wilful failure to comply with a term, condition or

1 limitation of the certificate.

2 Sec. 42.06.281. TRANSFER OF CERTIFICATE. A certificate of  
3 convenience and necessity may not be sold or leased, rented, transferred  
4 or inherited without the prior approval of the commission.

5 ARTICLE 4. SERVICES AND FACILITIES.

6 Sec. 42.06.291. STANDARDS OF SERVICE AND FACILITIES. (a) Each  
7 oil or gas transportation facility shall furnish and maintain adequate,  
8 efficient and safe service and facilities. This service shall be  
9 reasonably continuous and without unreasonable interruption or delay.

10 (b) If the commission, upon its own motion or upon complaint,  
11 after providing reasonable notice and opportunity for hearing, finds  
12 that the service or facilities of an oil or gas transportation facility  
13 are unreasonable, unsafe, inadequate, insufficient, or unreasonably  
14 discriminatory, or otherwise in violation of this chapter, the commis-  
15 sion shall prescribe by regulation or order, the reasonable, safe,  
16 adequate, sufficient service or facilities to be observed, furnished,  
17 enforced, or employed, including all repairs, changes, alterations,  
18 extensions, substitutions, or improvements in facilities that are  
19 reasonably necessary and proper for the safety, accommodation, and  
20 convenience of the public and the users.

21 (c) The commission shall promulgate regulations designed to ensure  
22 safe operation of pipelines. For natural gas pipelines regulated under  
23 the Natural Gas Act of 1938, the regulations issued under this sub-  
24 section shall be consistent with the Natural Gas Pipeline Safety Act of  
25 1968, 82 Stat. 720.

26 Sec. 42.06.301. DISCRIMINATION IN SERVICE. No oil or gas trans-  
27 portation facility may, as to service, make or grant an unreasonable  
28 preference or advantage to any person or subject any person to an  
29 unreasonable prejudice or disadvantage. No oil or gas transportation

1 facility which is owned by more than one owner may require that users  
2 make separate requests of each separate owner in order to obtain a  
3 reasonable share of the service provided by the oil or gas transporta-  
4 tion facility.

5 Sec. 42.06.311. POWER OF COMMISSION TO ALLOCATE USAGE. If the  
6 commission, upon its own motion or upon complaint, after providing  
7 reasonable notice and opportunity for hearing, finds that an oil or gas  
8 transportation facility is making or granting an unreasonable preference  
9 or advantage to any person or subjecting any person to an unreasonable  
10 prejudice or discrimination, the commission may prescribe rules to end  
11 the discrimination or the commission may itself manage the allocation  
12 of the service until it determines the discrimination can be avoided  
13 by appropriate rules or agreements. The commission shall be compensated  
14 by the oil or gas transportation facility for its reasonable costs  
15 during the time it manages the allocation of services.

16 Sec. 42.06.321. FAILURE TO AGREE UPON JOINT USE OR INTERCONNECTION.  
17 When there is failure to agree upon the joint use or interconnection of  
18 oil or gas transportation facilities or the conditions or compensation  
19 for joint use or interconnections, any interested person may apply to  
20 the commission for an order requiring the interconnection. If, after  
21 investigation and opportunity for hearing, the commission finds that  
22 public convenience and necessity require the joint use or connection,  
23 and that the use or connection will not result in substantial injury  
24 to the oil or gas transportation facility or its customers, or in  
25 substantial detriment to the services furnished by the oil or gas trans-  
26 portation facility, or in the creation of safety hazards, it shall

27 (1) order that the use be permitted;

28 (2) prescribe reasonable conditions and compensation for the

29 joint use;

- 1 (3) order the interconnection to be made;  
2 (4) determine the time and manner of the interconnection;  
3 (5) determine the apportionment of costs and responsibility  
4 for operation and maintenance of the interconnection.

5 ARTICLE 5. RATES AND RATE SCHEDULES.

6 Sec. 42.06.361. TARIFFS, CONTRACTS, FILING AND PUBLIC INSPECTION.

7 (a) Under such regulations as the commission shall prescribe, every  
8 intrastate oil or gas transportation facility shall file with the  
9 commission, within the time and in the form designated by the commission,  
10 all rates, tariffs, charges, classifications, rules, regulations, terms,  
11 and conditions pertaining to service provided under the certificate,  
12 and shall maintain copies on file at its principal business office and  
13 at places designated by the commission, available to, and subject to  
14 inspection by, the general public on demand.

15 (b) The commission may reject the filing of all or part of a  
16 tariff which does not comply with the form or filing regulations of  
17 the commission or which is not consistent with this chapter or the  
18 regulations of the commission. A tariff or provision so rejected is  
19 void.

20 Sec. 42.06.371. ADHERENCE TO TARIFFS. The terms and conditions  
21 under which an intrastate oil or gas transportation facility offers  
22 its services and facilities to the public shall be governed strictly  
23 by the provisions of its current tariffs. If more than one tariff rate  
24 or charge can reasonably be applied for billing purposes the one most  
25 advantageous to the person billed shall be used.

26 Sec. 42.06.381. RATES TO BE JUST AND REASONABLE. (a) All rates  
27 demanded or received by an intrastate oil or gas transportation facility,  
28 or by any two or more intrastate oil or gas transportation facilities  
29 jointly for a service furnished or to be furnished shall be just and

1 reasonable. In determining just and reasonable rates the commission  
2 shall permit the transportation facility to recover the costs of  
3 efficient operation and to earn a reasonable return on the capital  
4 invested to provide the service.

5 (b) Additional regulations and rules governing determination of  
6 a reasonable tariff shall be published by the commission.

7 Sec. 42.06.391. DISCRIMINATION IN RATES. (a) No intrastate oil  
8 or gas transportation facility may, as to rates, grant an unreasonable  
9 preference or advantage to any customer served under the certificate,  
10 or subject the customer to an unreasonable prejudice or disadvantage  
11 or maintain an unreasonable difference as to rates, either as between  
12 localities served or between classes of service provided under the  
13 certificate.

14 (b) No intrastate oil or gas transportation facility may directly  
15 or indirectly refund, rebate or remit in any manner, or by any device,  
16 any portion of the rates and charges or charge, for service provided  
17 under the certificate, nor demand or receive a greater or lesser compen-  
18 sation for its services, than is specified in its effective tariff,  
19 nor extend to any customer served under the certificate any form of  
20 contract, agreement, inducement, privilege or facility, or apply any  
21 rule, regulation or condition of service except those extended or  
22 applied to all customers under like circumstances.

23 Sec. 42.06.421. SUSPENSION OF TARIFF FILING. (a) When a tariff  
24 filing is made containing a new or revised rate, classification, rule,  
25 regulation, practice or condition of service the commission may, either  
26 upon written complaint or upon its own motion, after reasonable notice,  
27 conduct a hearing to determine the reasonableness and propriety of the  
28 filing. Pending such a hearing the commission may, by order stating  
29 the reasons for its action, suspend the operation of the tariff filing

1 for an initial period not longer than six months beyond the time when  
2 it would otherwise go into effect.

3 (b) An order suspending a tariff filing may be vacated if, after  
4 investigation, the commission finds that it is in all respects proper.  
5 Otherwise the commission shall hold a hearing on the suspended filing  
6 and issue its order, before the end of the suspension period, granting,  
7 denying or modifying the suspended tariff in whole or in part.

8 (c) When an intrastate oil or gas transportation facility proposes  
9 to increase rates, the commission may by order require the interested  
10 facility to place in escrow in a financial institution approved by the  
11 commission and keep accurate account of all amounts received by reason  
12 of the increase, specifying by whom and in whose behalf the amounts are  
13 paid. Upon completion of the hearing and decision the commission may by  
14 order require the oil or gas transportation facility to refund to the  
15 persons in whose behalf the amounts were paid, that portion of the  
16 increased rates which was found to be unreasonable or unlawful. No  
17 funds shall be released from escrow without the commission's prior  
18 written consent and the escrow agent shall be so instructed by the oil  
19 or gas transportation facility, in writing, with a copy to the commis-  
20 sion. The oil or gas transportation facility may, at its expense,  
21 substitute a bond in lieu of the escrow requirement.

22 (d) One who initiates a change in existing tariffs bears the  
23 burden of proving the reasonableness of the change.

24 Sec. 42.06.431. POWER OF COMMISSION TO FIX RATES. When the com-  
25 mission, after an investigation and hearing, finds that a rate, classi-  
26 fication, rule, regulation, practice, or contract affecting the rate,  
27 is unjust, unreasonable, unduly discriminatory or preferential, the  
28 commission shall determine a just and reasonable rate, classification,  
29 rule, regulation, practice, or contract to be observed or allowed and

1 shall, to the extent of the commission's jurisdiction, establish it by  
2 order. The state or a political subdivision of the state may covenant  
3 with bond purchasers regarding rates of a publicly owned or operated  
4 oil or gas transportation facility, and the covenant is valid and  
5 enforceable and is considered to be a contract with the holders of the  
6 bonds.

7 Sec. 42.06.441. VALUATION OF PROPERTY OF AN OIL OR GAS TRANSPOR-  
8 TATION FACILITY. The commission may, after providing reasonable notice  
9 and opportunity to be heard, ascertain and set the fair value of the  
10 whole or any part of the property of an oil or gas transportation  
11 facility, insofar as it is material to the exercise of the jurisdiction  
12 of the commission. The commission may make revaluations from time to  
13 time and ascertain the fair value of all new construction, extensions,  
14 and additions to the property of a certificated oil or gas transportation  
15 facility.

16 ARTICLE 6. ACCOUNTS, RECORDS AND REPORTS.

17 Sec. 42.06.451. SYSTEM OF ACCOUNTS AND REPORTS. (a) The commis-  
18 sion may classify oil or gas transportation facilities under its juris-  
19 diction and prescribe a uniform system of accounts for each class and  
20 the manner in which the accounts and supporting records shall be kept.  
21 The commission may determine a system of accounts which best represents  
22 and clearly reveals the operations of the facility. The commission may  
23 require the owner or operator of an undivided interest in an oil or  
24 gas transportation facility to maintain accounts showing clearly the  
25 revenue and costs pertaining only to that facility and consolidating  
26 the revenue and costs of each individual undivided interest.

27 (b) Accounts shall be maintained on a calendar year basis unless  
28 specifically authorized by the commission to maintain its accounts on  
29 a fiscal year basis. Within 90 days after the close of its authorized

1 annual accounting period, or additional time granted upon a showing of  
2 good cause, each oil or gas transportation facility shall file with the  
3 commission a verified annual report of its operations during the period  
4 reported, on forms prescribed by the commission.

5 Sec. 42.06.461. CONTINUING PROPERTY RECORDS. The commission may  
6 require an oil or gas transportation facility to establish, provide,  
7 and maintain as a part of its system of accounts, continuing property  
8 records segregated by the year of placement in service, showing the  
9 current location of the property units by definite reference to the  
10 specific land parcels upon which the units are located or stored. The  
11 commission may require an oil or gas transportation facility to keep  
12 accounts and records in a manner which shows, currently, the original  
13 cost of the property, and the related reserve for depreciation. Each  
14 oil or gas transportation facility with annual revenue exceeding  
15 \$100,000 shall keep continuing property records.

16 Sec. 42.06.471. DEPRECIATION RATES. To provide for the loss in  
17 service value of its property, not restored by current maintenance,  
18 every oil or gas transportation facility shall charge adequate depreci-  
19 ation expense for each major class of facility property used. From  
20 time to time the commission shall determine the proper and adequate  
21 rates of depreciation for each major class of property of an oil or gas  
22 transportation facility.

23 Sec. 42.06.481. SUBSIDIARY BUSINESS ACCOUNTS. An oil or gas  
24 transportation facility engaged, directly or indirectly, in another  
25 business, including another oil or gas transportation facility business,  
26 or a subsidiary business, shall keep separate accounts relating to that  
27 business. Except as the commission provides, no property, expense or  
28 revenue used in or derived from the other business may be considered  
29 in establishing the rates and charges of the facility.

1           Sec. 42.06.491. RECORDS AND ACCOUNTS TO BE KEPT IN STATE. An  
2 oil or gas transportation facility shall keep the original books,  
3 accounts, papers and records, or certified copies, required by the  
4 commission in an office in this state and may not remove them from the  
5 state, except upon the terms and conditions that may be prescribed by  
6 the commission.

7           Sec. 42.06.501. INSPECTION OF BOOKS AND RECORDS BY COMMISSION.  
8 Subject to AS 31.05.035(c), the commission shall at all reasonable times  
9 have access to, and may designate any of its employees, agents or con-  
10 sultants to inspect and examine, the accounts, records, books, maps,  
11 inventories, appraisals, valuations, or other reports and documents,  
12 kept by an oil or gas transportation facility or its affiliated inter-  
13 ests, or prepared or kept for it by others, which relate to any con-  
14 tract or transaction between them. The commission may require an oil  
15 or gas transportation facility or its affiliated interest to file with  
16 the commission, copies of any or all of these accounts, records, books,  
17 maps, inventories, appraisals, valuations, or other reports and docu-  
18 ments.

19           ARTICLE 7. FINANCIAL AND MANAGEMENT REGULATION.

20           Sec. 42.06.511. UNREASONABLE MANAGEMENT PRACTICES. (a) The  
21 commission may investigate the management of an oil or gas transporta-  
22 tion facility for the purpose of determining inefficient or unreasonable  
23 practices which adversely affect the cost or quality of service pro-  
24 vided by the oil or gas transportation facility.

25           (b) When inefficient or unreasonable practices are found to exist,  
26 the commission may, after providing reasonable notice and opportunity  
27 for hearing, take appropriate action to insure that neither the direct  
28 nor the indirect costs of the practices are borne by the public.

29           (c) In a rate proceeding the oil or gas transportation facility

1 has the burden of proving that any written or unwritten contract or  
2 arrangement it may have with any of its affiliated interests for the  
3 furnishing of any services or for the purchase, sale, lease or exchange  
4 of any property is necessary and consistent with the public interest  
5 and that the payment made for it, or consideration given, is reasonably  
6 based, in part, upon the submission of satisfactory proof as to the  
7 cost to the affiliated interest of furnishing the service or property  
8 and, in part, upon the estimated cost the oil or gas transportation  
9 facility would have incurred if it furnished the service or property  
10 with its own personnel and capital.

11 ARTICLE 8. JUDICIAL REVIEW, PENALTIES AND ENFORCEMENT.

12 Sec. 42.06.531. DESIGNATION OF SERVICE AGENTS. Each oil or gas  
13 transportation facility shall file with the commission a written  
14 appointment of a named permanent resident of the state as its registered  
15 agent in the state. The agent so appointed is the person upon whom  
16 service of all notices, regulations, decisions and orders of the  
17 commission may be made. The appointment shall specify an address in  
18 Alaska of the appointed agent. The address may be changed at any  
19 time by filing a new Alaska address with the commission. If an oil or  
20 gas transportation facility fails to appoint an agent for service,  
21 service of a notice, regulation, decision or order of the commission  
22 authorized by this chapter may be made by posting it in an office of  
23 the commission and filing a copy of it in the office of the lieutenant  
24 governor.

25 Sec. 42.06.541. EFFECT OF REGULATIONS. Regulations adopted and  
26 issued by the commission in accordance with this chapter have the  
27 effect of law.

28 Sec. 42.06.551. REVIEW AND ENFORCEMENT. (a) All final orders  
29 of the commission are subject to judicial review in accordance with

1 AS 44.62.560 - 44.62.570.

2 (b) If an appeal is not taken from a final order of the commis-  
3 sion, the commission may apply to the superior court for enforcement of  
4 this chapter, the regulations adopted under it and the orders of the  
5 commission. The court shall enforce the order by injunction or other  
6 process.

7 Sec. 42.06.556. CRIMINAL PENALTIES. (a) A person who wilfully  
8 violates a provision of this chapter, or a regulation or order of the  
9 commission adopted under this chapter is subject to a penalty of not  
10 more than \$10,000 for each act of violation and for each day the  
11 violation continues, unless the penalty for violation is otherwise  
12 provided for and made exclusive in this chapter.

13 (b) If a person, for the purpose of evading this chapter, or a  
14 regulation or order of the commission adopted under this chapter,  
15 wilfully makes a false entry in a record, account or memorandum  
16 required by this chapter, or by a regulation or order, or wilfully  
17 omits, or causes to be omitted, from the record, account or memorandum,  
18 full, true and correct entries as required by this chapter, or by a  
19 regulation or order, or removes from the state or destroys, mutilates,  
20 alters or falsifies a record, account or memorandum, the person is  
21 guilty of a misdemeanor, and upon conviction is punishable by a fine  
22 of not more than \$5,000, or by imprisonment in jail for not more than  
23 six months, or by both.

24 (c) A person who knowingly aids or abets another person in the  
25 violation of a provision of this chapter, or a regulation or order of  
26 the commission adopted under this chapter, is subject to the same  
27 penalty as that prescribed by this chapter for the violation by the  
28 other person.

29 (d) The penalties provided in this section are recoverable in an

1 action filed by the attorney general in the name and on behalf of the  
2 commission in the superior court in the judicial district in which the  
3 defendant resides or in which any defendant resides, if there is more  
4 than one defendant, or in the superior court of the judicial district  
5 in which the violation occurs. The payment of a penalty does not  
6 relieve a person on whom the penalty is imposed from liability to any  
7 other person for damages arising out of the violation.

8 Sec. 42.06.561. INJUNCTIVE AND MONETARY SANCTIONS. (a) The  
9 full amount of damages determined by a civil action may be compromised  
10 by the commission. In determining the amount of the penalty, or the  
11 amount agreed upon in compromise, the appropriateness of the penalty  
12 to the size of the business of the person charged, the gravity of the  
13 violation, and the good faith of the person charged in attempting to  
14 achieve compliance, after notification of a violation, shall be con-  
15 sidered. The amount of the penalty, when finally determined, or the  
16 amount agreed upon in compromise, may be deducted from any sums owing  
17 by the state to the person charged or may be recovered in a civil action  
18 in the state courts.

19 (b) A person may be enjoined by the superior court from committing  
20 a violation mentioned in this section.

21 Sec. 42.06.571. CIVIL PENALTIES. (a) In addition to all other  
22 penalties and remedies provided by law, every person subject to the  
23 provisions of this chapter, together with their officers, managers,  
24 agents or employees that either violates or procures, aids, or abets  
25 the violation of any provision of this chapter, or of an order, rule,  
26 regulation or written requirement of the commission is subject to a  
27 maximum penalty of \$500 for each violation.

28 (b) No penalty may be assessed unless the commission first issues  
29 an order to show cause why the penalty should not be levied. The order

1 shall describe the violation with reasonable particularity and designate  
2 the maximum penalty which may be assessed for the violation. The  
3 order shall be served on the alleged violator named in the order. The  
4 order shall state a time and place for the hearing.

5 (c) After a hearing the commission shall enter its findings of  
6 fact and final order which shall state when the penalties, if any, are  
7 payable.

8 Sec. 42.06.581. EACH VIOLATION A SEPARATE OFFENSE. Each violation  
9 of a provision of this chapter or of an order, decision, regulation  
10 or written requirement of the commission is a separate and distinct  
11 offense and in case of a continuing violation each day the violation  
12 continues constitutes a separate offense.

13 Sec. 42.06.601. ACTIONS TO RECOVER PENALTIES; DISPOSITION. (a)  
14 Actions to recover penalties under this chapter shall be brought by the  
15 attorney general in a court of competent jurisdiction.

16 (b) All penalties recovered under the provisions of this chapter  
17 shall be paid to the commission and deposited by it in the general fund  
18 of the state.

19 Sec. 42.06.611. PENALTIES CUMULATIVE. (a) All penalties imposed  
20 under this chapter are cumulative and an action for the recovery of a  
21 civil penalty is not a bar to any criminal prosecution; a criminal  
22 prosecution is not a bar to an action for the recovery of a civil  
23 penalty.

24 (b) Neither a criminal prosecution nor an action to recover a  
25 civil penalty is a bar to an enforcement proceeding to require compli-  
26 ance, or to any other remedy provided by this chapter.

27 Sec. 42.06.621. JOINDER OF ACTIONS. Under the applicable court  
28 rules, appeals from orders of the commission, applications for enforce-  
29 ment of commission orders and actions for recovery of a penalty may be

1 action filed by the attorney general in the name and on behalf of the  
2 commission in the superior court in the judicial district in which the  
3 defendant resides or in which any defendant resides, if there is more  
4 than one defendant, or in the superior court of the judicial district  
5 in which the violation occurs. The payment of a penalty does not  
6 relieve a person on whom the penalty is imposed from liability to any  
7 other person for damages arising out of the violation.

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9 full amount of damages determined by a civil action may be compromised  
10 by the commission. In determining the amount of the penalty, or the  
11 amount agreed upon in compromise, the appropriateness of the penalty  
12 to the size of the business of the person charged, the gravity of the  
13 violation, and the good faith of the person charged in attempting to  
14 achieve compliance, after notification of a violation, shall be con-  
15 sidered. The amount of the penalty, when finally determined, or the  
16 amount agreed upon in compromise, may be deducted from any sums owing  
17 by the state to the person charged or may be recovered in a civil action  
18 in the state courts.

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20 a violation mentioned in this section.

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22 penalties and remedies provided by law, every person subject to the  
23 provisions of this chapter, together with their officers, managers,  
24 agents or employees that either violates or procures, aids, or abets  
25 the violation of any provision of this chapter, or of an order, rule,  
26 regulation or written requirement of the commission is subject to a  
27 maximum penalty of \$500 for each violation.

28 (b) No penalty may be assessed unless the commission first issues  
29 an order to show cause why the penalty should not be levied. The order

1 joined. The court may in the interests of justice separate the actions.

2 ARTICLE 9. MISCELLANEOUS PROVISIONS.

3 Sec. 42.06.631. EMINENT DOMAIN. An oil or gas transportation  
4 facility may exercise the power of eminent domain for facility uses  
5 except that eminent domain shall not apply to state land. An oil or  
6 gas transportation facility must first request approval of the Depart-  
7 ment of Natural Resources before exercising the power of eminent  
8 domain and, if the state wishes to take the land and lease it to the  
9 facility under the provisions of AS 38.35, the state has a prior right  
10 to purchase the property. The state has 120 days after receiving the  
11 request or notice of the actual purchase by an oil or gas transporta-  
12 tion facility in which to exercise its prior right to purchase the  
13 property and in the event the oil or gas transportation facility has  
14 already purchased the property the state may acquire it by paying the  
15 fair value of the property on the date of notification to the state of  
16 the oil company's intention to purchase or the date of purchase of the  
17 property by the oil or gas transportation facility, whichever is later.  
18 This payment shall be to the owner of the property at the time the  
19 state chooses to exercise its right to purchase. This section does not  
20 authorize the use of a declaration of taking, nor does it authorize  
21 the avoidance of any requirements set by the state for the leasing of  
22 rights-of-way over state land, nor does it restrict the right of the  
23 state to acquire an interest in rights-of-way as provided in AS 38.35.-  
24 150.

25 Sec. 42.06.641. REGULATION BY MUNICIPALITY. The commission's  
26 jurisdiction and authority extend to an oil or gas transportation  
27 facility operating in a city or borough, whether home rule or other-  
28 wise. If a conflict between a certificate, order, decision or regula-  
29 tion of the commission and a charter, permit, franchise, ordinance,

1 adversely affect the interest of that person and if no public interest  
2 would be served by release of the information.

3 Sec. 42.06.691. CLASSIFICATION. The commission may by regulation  
4 provide for the classification of oil or gas transportation facilities  
5 based upon differences in annual revenue, assets, nature of ownership  
6 and other appropriate distinctions and as between these classifications,  
7 by regulation, provide for different reporting, accounting and other  
8 regulatory requirements.

9 ARTICLE 10. GENERAL PROVISIONS.

10 Sec. 42.06.701. DEFINITIONS. In this chapter

11 (1) "commission" means the Alaska Oil and Gas Transportation  
12 Commission;

13 (2) "intrastate oil and gas transportation facility" means  
14 an oil or gas transportation facility or part of an oil or gas trans-  
15 portation facility not regulated as to fair and reasonable tariffs under  
16 the Interstate Commerce Act of 1906 or the Natural Gas Act of 1938;

17 (3) "oil or gas transportation facility" includes every  
18 corporation (whether public, cooperative, or otherwise), company,  
19 individual, or a sociation of individuals, their lessees, trustees, or  
20 receivers appointed by a court, that owns, operates, manages or controls  
21 a pipeline or system for transporting oil, gas or petroleum product;

22 (4) "tariff" means a rate, charge, toll, rule or regulation  
23 of an oil or gas transportation facility relating to services furnished  
24 by the facility to the general public or other users for compensation.

25 Sec. 42.06.721. SHORT TITLE. This chapter may be cited as the  
26 Alaska Oil and Gas Transportation Commission Act.

27 \* Sec. 2. This Act takes effect on the day after its passage and approval  
28 or on the day it becomes law without approval.

29

HOUSE JOURNAL

FINANCE COMMITTEE REPORT

ON

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO 168

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 598

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 769

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 770

The Finance Committee has reported out this "package" relating to the taxation of oil and gas and the regulation of oil and gas pipeline transportation. It is the position of this committee that the simplest and clearest combination of revenue and regulatory measures is, in the long run, in the best interest of both the state and the industry. This package has been designed with this in mind, to accomplish the following objectives:

- (1) HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 168 incorporates the Governor's approach on cents per barrel taxation of oil. Basically the cents per barrel tax creates a \$2.50 per barrel floor on oil value within the currently existing severance tax framework. Should the value of North Slope oil fall below \$2.50 a barrel, the cents per barrel rates will come into play and guarantee certain minimum revenues based upon the well's ability to produce. The substitute also incorporates language making the payment of severance tax due monthly as opposed to quarterly.
- (2) COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 598 complements the revised severance tax by levying a 20 mill ad valorem tax on "tank farms, tanker terminals, gathering and transmission lines, and related oil or gas storage and transport facilities . . ." Reimbursement of local government for impact of oil and gas development is accomplished in two ways:
  - (a) Local governments may levy a tax not to exceed 20 mills on not more than 10 per cent of the value of the taxable property; and
  - (b) Units of local government may request reimbursement through the appropriations process to offset the costs of oil and gas development within their boundaries. Rather than create new administrative machinery, the bill simply establishes an assessment review board consisting of the commissioners of administration, commerce, natural resources, revenue and the attorney general.


HOUSE JOURNAL

- (3) COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 769 simply adds to the general powers of the Alaska Public Utilities Commission the authority to regulate oil or gas transportation facilities when such regulation is not in conflict with the Interstate Commerce Act of 1906 or the Natural Gas Act of 1938.
- (4) COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 770 gives the Director of the Division of Lands the authority to grant a right-of-way for oil and gas pipelines subject to APUC regulation. The act spells out the following conditions for a right-of-way lease:

The lessee shall

- (a) be a common carrier and a common purchaser of oil and gas;
- (b) transport products without unjust or unreasonable discrimination;
- (c) exchange products;
- (d) provide connections and inter-connections where economically feasible;
- (e) provide fire, liability and property insurance; and
- (f) submit security or bond against faithful completion of operations.

The Commissioner of Natural Resources is authorized to negotiate the right-of-way lease and to establish a reasonable rate or fee.



George Hohman  
Chairman



# RECORDS



# CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith  
Signature of Camera Operator

4/4/89  
Date

Original sponsor: Rules Committee by request  
of the Governor and the Joint  
Pipeline Impact Committee

Offered: 4/29/72  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 770

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to lease of rights-of-way over state  
7 land for the transportation of oil and gas within the  
8 state; and providing for an effective date."

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

10 # Section 1. AS 38.05 is amended by adding a new section to read:

11 Sec. 38.05.333. RIGHT-OF-WAY LEASES. The director shall include  
12 the following conditions in a right-of-way lease for oil and gas pipe-  
13 lines which are subject to the Alaska Public Utilities Commission:

14 (1) the lessee assumes the status of and will perform all of  
15 its functions undertaken under the lease as a common carrier and will  
16 accept, convey, and transport all crude oil or natural gas, depending  
17 on the kind of pipeline involved, delivered to it for transportation  
18 from fields in the vicinity of the pipeline subject to the lease  
19 throughout its route both on state public land obtained under the lease  
20 and on other land; however, the common carrier provision of this  
21 section shall not apply to a natural gas pipeline operated by a  
22 person subject to regulation under the Natural Gas Act of the United  
23 States (52 Stat. 821, 68 Stat. 36);

24 (2) the lessee assumes the status of and shall be a common  
25 purchaser of crude oil and natural gas, depending upon the kind of  
26 pipeline involved, that is produced from fields in the vicinity of  
27 the pipeline subject to the lease and shall purchase crude oil or  
28 natural gas that is offered it;

29 (3) the lessee will accept, convey and transport or purchase

1 crude oil or natural gas without unjust or unreasonable discrimination  
2 in favor of one producer or person, including itself, as against another  
3 in the same field, and without unjust or unreasonable discrimination  
4 as between fields in the state but will take the crude oil or natural  
5 gas, depending on the kind of pipeline involved, delivered or offered  
6 in the proportion that the commission shall, after a full hearing with  
7 due notice to the interested parties and a proper finding of facts,  
8 determine to be reasonable;

9 (4) the lessee will exchange crude oil or natural gas,  
10 depending upon the kind of pipeline involved, with each like common  
11 carrier and provide connections and facilities for the interchange of  
12 crude oil or natural gas at every locality reached by both pipelines  
13 when the necessity exists, subject to rates and regulations made by  
14 the appropriate state or federal regulatory agency;

15 (5) the lessee will maintain and preserve books, accounts,  
16 records, papers, and correspondence and other records and will make  
17 those reports that the state may prescribe by regulation or law as  
18 necessary and appropriate for purposes of administration of this chapter;

19 (6) the lessee will accord at all reasonable times to the  
20 state and its authorized agents and auditors the right of access to its  
21 property and records, of inspection of its property, and of examination  
22 and copying of records;

23 (7) the lessee will provide, where economically feasible and  
24 consistent with the primary function of the line, connections and  
25 facilities on the pipeline subject to the lease, both on state land and  
26 other land in the state, for the purpose of delivering crude oil or  
27 natural gas, depending upon the kind of pipeline involved, to persons  
28 desiring to purchase who are located in municipalities in the vicinity  
29 of the pipeline;

1 (8) the lessee will, at its own expense, during the term of  
2 the lease

3 (A) maintain the leasehold and pipeline in good repair;

4 (B) exercise the highest degree of care in using the  
5 leasehold and operating the pipeline to prevent a pipeline  
6 incident;

7 (C) promptly repair or remedy any damage to or destruc-  
8 tion of the leasehold or pipeline;

9 (D) promptly remedy any damage to or destruction of  
10 property resulting from damage to or destruction of the leasehold  
11 or pipeline;

12 (9) the lessee will not transfer, assign, or dispose of in  
13 any manner, directly or indirectly, or by transfer of control of the  
14 carrier corporation, its interest in a right-of-way lease, or any  
15 rights under the lease, or any pipeline subject to the lease, except  
16 as authorized by the commissioner, upon application by the carrier;  
17 the commissioner shall not unreasonably withhold his consent to the  
18 transfer, assignment or disposal;

19 (10) the lessee will file with the commissioner a written  
20 appointment of a named permanent resident of the state to be its  
21 registered agent in the state and to receive service of notices, regu-  
22 lations, decisions and orders of the commissioner; if it fails to  
23 appoint an agent for service, service may be made by posting a copy  
24 in the office of the commissioner and filing a copy of it in the office  
25 of the lieutenant governor;

26 (11) the applicable law of this state will be used in resolving  
27 questions of interpretation of the lease;

28 (12) the lessee agrees that the commissioner may insert in  
29 any right-of-way lease other reasonable provisions and conditions that

1 he determines the public interest, convenience and necessity requires;  
2 provided, however, that these other reasonable provisions and conditions  
3 shall relate to the primary function of the lease and the land involved;

4 (13) the lessee will procure and file liability and property  
5 damage insurance from a company licensed to write insurance in the  
6 state or deposit security for the limits of liability upon the terms  
7 and conditions the commissioner determines necessary for the protection  
8 of the public against damage and injury for which the lessee carrier  
9 may be liable by reason of the operation of the pipeline;

10 (14) the lessee will submit a security or bond in a reasonable  
11 amount conditioned for the construction and completion of the facility  
12 together with the payment of rent, taxes, assessments and other obliga-  
13 tions under the lease until the construction and completion of the  
14 facility, after which the bond shall be cancelled or the securities  
15 returned; the agreement as to the securities and the bond shall provide  
16 that if the carrier fails to construct the facility specified in the  
17 project description, a reasonable amount of the securities or bond  
18 shall be held payable to the state as damages for failure to construct  
19 and complete the facility;

20 (15) the lessee will agree to a reasonable rate or fee  
21 schedule to be charged for the right-of-way lease; the rate or fee may  
22 be established by the commissioner upon recommendation of the director.

23 \* Sec. 2. Leases negotiated under sec. 333 of this chapter shall not be  
24 construed to in any way fall under the competitive bid requirements of  
25 secs. 70 - 105 of this chapter.

26 \* Sec. 3. This Act takes effect on the day after its passage and approval  
27 or on the day it becomes law without approval.  
28  
29

"An Act relating to lease of rights-of-way over state land for the transportation of oil and gas within the state; and providing for an effective date."

### Committee Report

HOUSE OF REPRESENTATIVES

1/10/77

*4/10/77*

\_\_\_\_\_  
Date

Mr. Speaker

The Committee on FINANCE has had SB 770

under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for SB 115 and that CS for SB 115 do pass
- (and) recommends it be referred to the \_\_\_\_\_ committee
- reports it back without recommendation
- (other) \_\_\_\_\_

MEMBERS SIGNING THE MAJORITY REPORT:

*W. C. ...* \_\_\_\_\_  
*W. C. ...* \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

\_\_\_\_\_ recommends :  
 \_\_\_\_\_ recommends :  
 \_\_\_\_\_ recommends :  
 \_\_\_\_\_ recommends :  
 \_\_\_\_\_ recommends :

\_\_\_\_\_  
CHAIRMAN

Introduced: 3/30/72  
Referred: Resources and  
Finance

BY THE RULES COMMITTEE BY RE-  
QUEST OF THE GOVERNOR AND THE  
JOINT PIPELINE IMPACT COMMITTEE

1 IN THE HOUSE

2 HOUSE BILL NO. 770

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to lease of rights-of-way over state  
7 land for the transportation of oil and gas within the  
8 state; and providing for an effective date,"

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

10 \* Section 1. AS 38 is amended by adding a new chapter to read:

11 CHAPTER 35. RIGHT-OF-WAY LEASING ACT OF 1972.

12 Sec. 38.35.010. LEGISLATIVE DECLARATION OF POLICY. The natural  
13 resources of this state in crude oil and natural gas and in its land  
14 for transportation of these resources and their products by pipeline  
15 toward markets both in and out of the state are capable of making a  
16 significant contribution to the general welfare of the people of this  
17 state. It is the policy of this state that the development, use, and  
18 control of a pipeline transportation system be directed to make the  
19 maximum contribution to the development of the human resources of this  
20 state, the increase in the standard of living for all of its residents,  
21 the advancement of existing and potential sectors of its economy, the  
22 strengthening of free competition in its private enterprise system, and  
23 the careful protection of its incomparable natural environment.

24 Sec. 38.35.020. GRANT OF RIGHT-OF-WAY LEASE. Rights-of-way on  
25 state owned lands including right-of-way on, over, under, along,  
26 across, or upon the right-of-way of a public road or highway or the  
27 right-of-way of a railroad or other public utility, or on, across,  
28 upon, over, or under a river or other body of water or land belonging  
29 to or administered by the state may be granted by lease by the commissioner

1 for pipeline purposes for the transportation of oil, products or natural  
2 gas under those conditions prescribed by law and by administrative  
3 regulations. No person shall engage in any construction, acquisition  
4 or operation of, or transportation, service, or sale by the whole or  
5 a part of an oil, products, or natural gas pipeline, which in whole or  
6 in part is or is proposed to be on state public land, unless that  
7 person is a carrier and has obtained from the commissioner a right-of-  
8 way lease of the land under this chapter as well as a certificate  
9 that the construction, acquisition, operation, transportation, service,  
10 or sale, if subject to the lease, will be in accordance with its terms.

11 Sec. 38.35.030. ABANDONMENT OF OR REDUCTION OR IMPAIRMENT OF  
12 SERVICE OF PIPELINE BY LESSEE CARRIER. No lessee carrier may abandon  
13 any portion of a pipeline that is on state public land or subject  
14 to the lease, or operation or transportation, service, or sale by it,  
15 or reduce or impair service, unless the carrier has first applied for  
16 and the commissioner has granted a certificate that the abandonment,  
17 reduction, or impairment is in accordance with the terms of the lease.

18 Sec. 38.35.040. TEMPORARY OR EMERGENCY SERVICE OR TEMPORARY  
19 ABANDONMENT, REDUCTION OR IMPAIRMENT OF SERVICE BY LESSEE CARRIER. The  
20 commissioner may, either upon a request made in the form he shall by  
21 regulation require, or upon his own motion without request, authorize  
22 or require temporary or emergency rendering of service or temporary  
23 or emergency abandonment, reduction or impairment of service by a pipe-  
24 line of a lessee carrier without compliance with secs. 50 - 140 of this  
25 chapter. Nothing in this section shall prevent a carrier from temporar-  
26 ily suspending operations in the event of an emergency which threatens  
27 public health or safety, provided, however, that notice shall be given  
28 the commissioner as soon as possible.

29 Sec. 38.35.050. APPLICATIONS FOR RIGHT-OF-WAY LEASES AND

1 CERTIFICATES. (a) A carrier desiring to engage in construction,  
2 acquisition or operation of, or transportation, service, or sale by the  
3 whole or a part of a pipeline, which in whole or part is or is proposed  
4 to be on state public land may apply for a right-of-way lease of this  
5 land and, as applicable, a certificate that the construction, acquisi-  
6 tion, operation, transportation, service, or sale is in accordance with  
7 the lease. A lessee carrier desiring to engage, on other than state pub-  
8 lic land, in construction, acquisition, or operation of, or transporta-  
9 tion, service, or sale by a pipeline subject to the lease may apply for  
10 a certificate that the act or acts will be in accordance with that lease.

11 (b) All carriers or lessee carriers owning or planning to own an  
12 interest in a pipeline or proposed pipeline subject to a lease, and  
13 every corporation or association employed or to be employed to operate  
14 the pipeline, must join in the application under (a) of this section.

15 (c) A carrier other than one described in (a) or (b) of this  
16 section may join in an application under (a) or (b) of this section if  
17 the commissioner approves the joinder.

18 (d) Applications under (a), (b), or (c) of this section shall be  
19 made in a form and manner prescribed by regulation.

20 (e) An amendment to an application filed under this section or  
21 sec. 60 of this chapter, other than to correct a typographical, compu-  
22 tational, or similar error, is subject to the regulations applying to  
23 an original application.

24 Sec. 38.35.060. APPLICATION FOR CERTIFICATE TO ABANDON OR DIMINISH  
25 SERVICE. A lessee carrier desiring to abandon or diminish operation of  
26 or transportation, service, or sales by all or a portion of a pipeline  
27 subject to its lease, shall apply, in the form and manner prescribed  
28 by regulation, for a certificate that the abandonment or diminution  
29 will be in accordance with the lease.

1           Sec. 38.35.070. NOTICE OF APPLICATION. Upon receiving an applica-  
2 tion under sec. 50 or 60 of this chapter, the commissioner shall

3           (1) cause notice of it to appear in the daily newspaper of  
4 general circulation published nearest the location of the proposed  
5 pipeline;

6           (2) file copies of the application with each coordinate  
7 agency; and

8           (3) furnish at cost copies of a notice or application to  
9 persons requesting them.

10          Sec. 38.35.080. ANALYSIS OF APPLICATION. (a) The commissioner  
11 shall, within a reasonable time after receiving the application, and  
12 after investigation and consultation with coordinate agencies, prepare  
13 an analysis of the application, including a proposal for action if  
14 feasible; a proposed lease or certificate or both and a general state-  
15 ment of his basis and purpose, if favorable action is proposed; or,  
16 when a proposal for action is not feasible prior to hearing, a descrip-  
17 tion of the subjects and issues involved.

18          (b) Upon completion of the analysis but not less than 30 days be-  
19 fore the date set for hearing an application or a substantial amendment  
20 to an application, the commissioner shall publish notice, mail copies to  
21 coordinate agencies, and make copies available as provided in sec. 70  
22 of this chapter.

23          Sec. 38.35.090. MULTIPLE APPLICATIONS FOR SAME LEASE. When the com-  
24 missioner receives within a 30-day period two or more applications re-  
25 lating to the same or substantially the same subject matter, he shall  
26 consider the applications upon a comparative basis. The commissioner  
27 may extend the time within which a carrier may submit an application for  
28 consideration upon a comparative basis with a previously filed applica-  
29 tion.

1           Sec. 38.35.100. SETTING OF PUBLIC HEARING. The commissioner shall  
2 set each application for public hearing as soon as practicable and give  
3 due notice of the hearing to coordinate agencies, interested persons,  
4 and other members of the public.

5           Sec. 38.35.110. CONDUCT OF PUBLIC HEARINGS. After giving notice  
6 required, the commissioner shall give the applicant, coordinate agencies,  
7 and other interested persons an opportunity to participate in the public  
8 hearing on the application through submission of written data, views, or  
9 arguments as well as presentation of testimony and oral arguments.

10          Sec. 38.35.120. DECISIONS UPON APPLICATIONS. (a) The commissioner  
11 shall determine, on an application filed with him under sec. 50 of this  
12 chapter for a right-of-way lease of state public land or for a certifi-  
13 cate under a lease, whether the applicant is fit, willing, and able to  
14 perform the transportation or other acts proposed and to conform to the  
15 provisions of the proposed right-of-way lease or certificate, and of  
16 this chapter, and whether the proposed construction, acquisition, or  
17 operation of or transportation, service, or sale by the pipeline is or  
18 will be required by the present or future public interest and necessity.  
19 If the commissioner makes these determinations favorably to the appli-  
20 cant, then he may grant the whole or part of the application. Other-  
21 wise, he shall deny the application. In order to grant the whole or  
22 part of the application the commissioner shall offer a lease or certifi-  
23 cate to the applicant for its acceptance through signing of the lease or  
24 certificate and agreeing to comply with its terms, conditions, and obli-  
25 gations and with this chapter. Only upon proper acceptance of offered  
26 lease or certificate by the applicant within 30 days after its having  
27 been presented is the grant of the application consummated.

28          (b) The commissioner, on application by a lessee carrier for a  
29 certificate to abandon or diminish operation of, or transportation,

1 service, or sale by any portion of a pipeline that is subject to its  
2 lease, shall determine whether the proposed abandonment or diminution  
3 is or will be consistent with the present or future public interest,  
4 convenience, and necessity. If the commissioner makes this determina-  
5 tion favorably to the applicant, he may grant the whole or a part of  
6 the application. Otherwise, he shall deny the application.

7 (c) For a right-of-way lease granted under this chapter for an oil  
8 or natural gas pipeline valued at \$10,000 or more to be valid and of  
9 legal effect, it must contain the terms required to be inserted under  
10 the provisions of secs. 130 - 170 of this chapter. An oil or natural  
11 gas pipeline right-of-way lease granted under this chapter that does  
12 not contain the required terms is null and void and without legal effect  
13 and does not vest any interest in state public land or any authority  
14 in the carrier granted the lease.

15 (d) The commissioner may, at his discretion, include the terms  
16 set out in secs. 130 - 170 of this chapter in leases of state public  
17 land for products pipeline right-of-way purposes.

18 Sec. 38.35.130. TERM OF LEASE. Each lease of state public land  
19 for pipeline right-of-way purposes shall contain a provision that the  
20 lease shall run for a specified term not greater than 10 years, and shall  
21 be renewable for an additional period of up to 10 years, so long as  
22 the lessee is in full compliance with all state law, including but not  
23 limited to state law pertaining to regulation and taxation of the pipe-  
24 line facility, and is in compliance with all terms of the lease.

25 Sec. 38.35.140. COVENANTS REQUIRED TO BE INCLUDED IN LEASE. A  
26 lease of state public land for a right-of-way for an oil or natural gas  
27 pipeline valued at \$10,000 or more may be granted only upon the condition  
28 that the lessee carrier expressly covenants in the lease, in consideration  
29

1 of the rights acquired by it under the lease, that:

2 (1) it will obtain a certificate of compliance with the terms  
3 and conditions of the lease before undertaking any construction,  
4 acquisition or operation of or transportation, service or sale by the  
5 whole or any part of a pipeline on state public land, including the  
6 portions of the pipeline not on state public land;

7 (2) it will undertake and complete or regularly perform  
8 within or during the time period and in accordance with the project  
9 description contained in the lease or certificate, throughout the  
10 entire route of the pipeline in the state, both on state public land  
11 obtained under the lease and on other land, any construction or acqui-  
12 sition or other act required to be performed in conjunction with the  
13 lease, or operation of, or transportation, service, or sale by the  
14 pipeline in good faith and in accordance with the lease and certificates,  
15 this chapter, and any other applicable state or federal law;

16 (3) it assumes the status of and will perform all of its  
17 functions undertaken under the lease as a common carrier and will  
18 accept, convey, and transport all crude oil or natural gas, depending  
19 on the kind of pipeline involved, delivered to it for transportation  
20 from fields in the vicinity of the pipeline subject to the lease  
21 throughout its route both on state public land obtained under the lease  
22 and on other land; however, the common carrier provision of this section  
23 shall not apply to a natural gas pipeline operated by a person subject  
24 to regulation under the Natural Gas Act of the United States (52 Stat.  
25 821, 68 Stat. 36);

26 (4) it assumes the status of and shall be a common purchaser  
27 of crude oil and natural gas, depending upon the kind of pipeline  
28 involved, that is produced from fields in the vicinity of the pipeline  
29 subject to the lease and shall purchase crude oil or natural gas that

1 is offered it;

2 (5) it will accept, convey, and transport or purchase  
3 crude oil or natural gas without unjust or unreasonable discrimination  
4 in favor of one producer or person, including itself, as against another  
5 in the same field, and without unjust or unreasonable discrimination  
6 as between fields in the state but will take the crude oil or natural  
7 gas, depending on the kind of pipeline involved, delivered or offered  
8 in the proportion that the commission shall, after a full hearing with  
9 due notice to the interested parties and a proper finding of facts,  
10 determine to be reasonable;

11 (6) it will exchange crude oil or natural gas, depending upon  
12 the kind of pipeline involved, with each like common carrier and pro-  
13 vide connections and facilities for the interchange of crude oil or  
14 natural gas at every locality reached by both pipelines when the neces-  
15 sity exists, subject to rates and regulations made by the appropriate  
16 state or federal regulatory agency;

17 (7) the lessee grants to the state the right to purchase,  
18 upon reasonable notice, an undivided interest in the entire length  
19 within the state of the pipeline, not to exceed the percentage owned  
20 by the state and the United States of the production of crude oil or  
21 natural gas in the field or fields served by the pipeline, the percentage  
22 to be calculated at the time the state enters into the lease agreement  
23 by adding the royalty interests owned by the state and the United States  
24 in the field or fields to the average expected effective rate of oil and  
25 gas production tax as estimated by the director of the division of oil  
26 and gas of the Department of Natural Resources; the oil and gas produc-  
27 tion tax schedule in effect at the time the lease is executed shall be  
28 used in calculating the average expected effective tax rate; the purchase  
29 price shall be at a reasonable figure set out in the lease or according

1 to a reasonable formula set out in the lease at the time of the lease's  
2 execution; purchase of this interest may, at the option of the state,  
3 be made in stages;

4 (8) it will maintain and preserve books, accounts, records,  
5 papers, and correspondence and other records and will make those reports  
6 that the state may prescribe by regulation or law as necessary and ap-  
7 propriate for purposes of administration of this chapter;

8 (9) it will accord at all reasonable times to the state and  
9 its authorized agents and auditors the right of access to its property  
10 and records, of inspection of its property, and of examination and  
11 copying of records;

12 (10) it will provide, where economically feasible and consis-  
13 tent with the primary function of the line, connections and facilities  
14 on the pipeline subject to the lease, both on state land and other land  
15 in the state, for the purpose of delivering crude oil or natural gas, de-  
16 pending upon the kind of pipeline involved, to persons desiring to purchase  
17 who are located in municipalities in the vicinity of the pipeline;

18 (11) it will, at its own expense, during the term of the lease

19 (A) maintain the leasehold and pipeline in good repair;

20 (B) exercise the highest degree of care in using the  
21 leasehold and operating the pipeline to prevent a pipeline incident;

22 (C) promptly repair or remedy any damage to or destruc-  
23 tion of the leasehold or pipeline;

24 (D) promptly remedy any damage to or destruction of  
25 property resulting from damage to or destruction of the leasehold  
26 or pipeline;

27 (12) it will not transfer, assign, or dispose of in any manner,  
28 directly or indirectly, or by transfer of control of the carrier corpora-  
29 tion, its interest in a right-of-way lease, or any rights under the

1 lease, or any pipeline subject to the lease, except as authorized by  
2 the commissioner, upon application by the carrier; the commissioner shall  
3 not unreasonably withhold his consent to the transfer, assignment or  
4 disposal;

5 (13) it will file with the commissioner a written appoint-  
6 ment of a named permanent resident of the state to be its registered  
7 agent in the state and to receive service of notices, regulations,  
8 decisions and orders of the commissioner, if it fails to appoint an  
9 agent for service, service may be made by posting a copy in the office  
10 of the commissioner and filing a copy of it in the office of the  
11 lieutenant governor;

12 (14) the applicable law of this state will be used in re-  
13 solving questions of interpretation of the lease.

14 Sec. 38.35.150. RIGHT-OF-WAY EASEMENTS OR LEASES ACQUIRED FROM  
15 OTHERS. (a) The lease shall contain the further express agreement  
16 by the carrier that

17 (1) it will, on reasonable conditions and at a just price,  
18 convey to the state any rights-of-way, right-of-way permits, easements,  
19 or leases previously acquired or to be acquired for right-of-way pur-  
20 poses for the pipeline subject to the lease;

21 (2) the state reserves to itself and the lessee grants to  
22 the state the sole right to condemn, by declaration of taking real  
23 property for right-of-way purposes and to acquire to the extent federally  
24 permissible leases of or easements or rights-of-way on public lands  
25 belonging to the United States in this state, including "withdrawn  
26 public lands" as that term is defined in secs. 3(k) and 16(b) of  
27 the Alaska Native Claims Act of 1971 (85 Stat. 688), required for  
28 right-of-way purposes for the pipeline subject to the lease;

29 (3) the carrier will, if the commissioner delegates the

1 function to it, condemn, by declaration of taking, real property  
2 and acquire leases of or easements or rights-of-way on public lands  
3 in this state belonging to the United States, including "withdrawn  
4 public lands" required for right-of-way purposes for the pipeline  
5 subject to the lease on behalf of and as agent for the board in whom  
6 title to or interest in the land shall vest.

7 (b) The lease covenant required by this section shall be accom-  
8 panied by a provision that the land, right-of-way, or easement acquired  
9 under this section is or will form part of the lands leased to the  
10 lessee carrier.

11 Sec. 38.35.160. PAYMENT OF PERCENTAGE RENTAL. (a) The carrier  
12 shall agree in the lease, as a condition for obtaining the lease of  
13 state public land for pipeline right-of-way, that it will pay  
14 annually to the state as rent for the premises demised not less than  
15 the larger of the two amounts calculated by the following formulas:

16 (1)  $.04C \frac{As}{At} \left( \frac{.1}{1-(1.1)^{-n}} \right)$  where:

17 (A) C = the total cost of that portion of the pipeline  
18 facility located within the state less the value to the state  
19 of facilities, such as roads and airports, which will be available  
20 to and used by the general public for purposes not related to  
21 pipeline operations;

22 (B) As = the length of the pipeline on right-of-way  
23 within the state in which the state has an ownership or permit  
24 interest;

25 (C) At = the total length of the pipeline within the  
26 state; and

27 (D) n = the pipeline facility's expected useful life in  
28 years;

29 (E) the amount of the total facility cost and the

1 useful life of the facility shall be determined by the commis-  
2 sioner; this calculation shall be made but once unless capital  
3 expenditures in any year exceed depreciation charges in that year,  
4 in which case the excess shall be added to C and the annual  
5 rental recalculated;

6 (2) four per cent of that portion of annual net earnings  
7 less than two per cent of total assets; 25 per cent of that portion  
8 of annual net earnings between two per cent and four per cent of total  
9 assets; and 50 per cent of that portion of annual net earnings greater  
10 than four per cent of total assets; net earnings shall be determined  
11 before deduction of income taxes but after deduction of the amounts  
12 calculated in the formula provided in (a)(1) of this section; the  
13 depreciation schedules, the determination of total assets, and other  
14 accounting rules that are to be applied in calculating net earnings  
15 shall be specified in the right-of-way lease.

16 (b) The lease shall provide for payment of the annual rental  
17 either on monthly, quarterly, biannual, or annual basis and  
18 shall provide that any installment of rent not paid when due shall  
19 bear interest at the rate of 10 per cent per year.

20 (c) The lease may provide for payment of a reasonable percen-  
21 tage rental in excess of the minimum provided for in (a) of this  
22 section.

23 (d) When the commissioner determines that the costs of adminis-  
24 tration involved in calculating the rental payments due under the  
25 formula in (a)(2) of this section are likely to exceed the benefits  
26 accruing to the state from them, he may, after public notice of this  
27 determination as provided in sec. 70 of this chapter and compliance  
28 with the other provisions of this chapter, issue a right-of-way lease  
29 without the covenant to pay rental under (a)(2) of this section.

1 (e) Each lease of state public land for pipeline right-of-way  
2 shall provide that all money and other sums which shall become due to  
3 the state by reason of any provision of the lease is and shall always  
4 be a valid and first lien upon the buildings and improvements on the  
5 demised property, and upon all of the interests of the lessee carrier  
6 in the lease and in the property of the carrier transported by the  
7 pipeline subject to the lease and paramount to any mortgage which the  
8 carrier may execute on them, or any lien caused by the carrier.

9 Sec. 38.35.170. ADDITIONAL PROVISIONS OF LEASE. (a) The commis-  
10 sioner may insert in any right-of-way lease other reasonable provisions  
11 and conditions that he determines the public interest, convenience and  
12 necessity requires; provided, however, that these other reasonable  
13 provisions and conditions shall relate to the primary function of the  
14 lease and the land involved.

15 (b) The commissioner shall require the lessee carrier to procure  
16 and file liability and property damage insurance from a company licensed  
17 to write insurance in the state or deposit security for the limits of  
18 liability upon the terms and conditions the commissioner determines  
19 necessary for the protection of the public against damage and injury  
20 for which the lessee carrier may be liable by reason of the operation  
21 of the pipeline.

22 (c) The commissioner shall require the lessee carrier to submit  
23 a security or bond in a reasonable amount conditioned for the construc-  
24 tion and completion of the facility together with the payment of rent,  
25 taxes, assessments and other obligations under the lease until the  
26 construction and completion of the facility, after which the bond shall  
27 be cancelled or the securities returned. The agreement as to the  
28 securities and the bond shall provide that if the carrier fails to  
29 construct the facility specified in the project description, a

1 reasonable amount of the securities or bond shall be held payable to  
2 the state as damages for failure to construct and complete the  
3 facility.

4 Sec. 38.35.180. TRANSFER OF RIGHT-OF-WAY LEASE, CERTIFICATES,  
5 OR PIPELINE. No lessee carrier may transfer, assign, or dispose of in  
6 any manner its right-of-way lease, or any rights under the lease, or  
7 any pipeline subject to the lease, whether on state public land or  
8 other land in the state, either voluntarily or involuntarily, directly  
9 or indirectly, or by transfer of control of any corporation holding the  
10 lease or certificate or owning the pipeline, to any person, except to  
11 the extent that the commissioner, after consideration of the public  
12 interest, convenience, and necessity, by order authorizes the transfer.  
13 The commissioner shall not unreasonably withhold this authorization.  
14 The application shall be disposed of as if the proposed transferee or  
15 assignee were making application under secs. 50 - 120 of this chapter.

16 Sec. 38.35.190. FORFEITURE OF LEASE. A determination, after due  
17 notice and an adequate hearing, that the carrier has failed to comply  
18 with the provisions of this chapter or the provisions of the lease  
19 agreement shall be grounds for the forfeiture of the grant of the  
20 right-of-way lease, as well as grounds for the remedies provided in  
21 sec. 200 of this chapter. The commissioner may not forfeit a right-of-  
22 way lease until 60 days has elapsed after giving notice of intent  
23 to cancel or until judicial review of the commissioner's proposed  
24 action has commenced, whichever occurs earlier. The commissioner may  
25 insert in each lease of state public land for pipeline right-of-way  
26 additional reasonable provisions regarding default that he considers  
27 necessary and desirable.

28 Sec. 38.35.200. SUITS TO ENJOIN OR RECOVER DAMAGES FOR DEFAULTS.  
29 (a) When in the judgment of the commissioner a person has violated

1 or is about to violate a provision of this chapter or an obligation,  
2 condition, or provision of a right-of-way lease, the attorney general,  
3 on advice of the commissioner, shall seek a prohibition or mandatory  
4 injunction from the superior court to remedy the violation.

5 (b) A penalty imposed by the provisions of a right-of-way lease  
6 issued under this chapter may be enforced in the superior court by  
7 proceedings in personam against the lessee carrier, or, in the case  
8 of a lien, by proceedings in rem against any of the lessee carrier's  
9 property.

10 (c) Neither this section nor the state's obtaining an injunction  
11 or recovering penalties extinguishes any civil cause of action or  
12 criminal responsibility arising out of a violation of this chapter, a  
13 right-of-way lease, or certificate under a lease. A person obtaining  
14 a money judgment in an action arising out of a violation is entitled  
15 to a reasonable attorney fee, fixed by the court, to be taxed and  
16 collected as costs of the suit.

17 Sec. 38.35.210. APPLICATION OF THE ADMINISTRATIVE PROCEDURE ACT.

18 (a) AS 44.62.010 - 44.62.320, 44.62.640 and 44.62.650 apply to regu-  
19 lations adopted by the commissioner under the authority of this chapter.

20 (b) AS 44.62.430 - 44.62.440 and 44.62.590 apply to actions of  
21 the commissioner under this chapter.

22 (c) AS 44.62.320 applies to right-of-way leases provided the  
23 legislature acts within 30 days after the board submits the lease for  
24 review to the legislature. In computing the 30-day period, days in  
25 which either house is not in session because of adjournment for three  
26 or more days are excluded.

27 (d) AS 44.62.630 applies to all functions and decisions of the  
28 commissioner.

29 Sec. 38.35.220. JUDICIAL REVIEW OF ACTION TO CANCEL LEASE. A

1 lessee carrier complaining of proposed action to be taken by the  
2 commissioner under sec, 190 of this chapter may have the commissioner's  
3 action reviewed by filing a petition for review in the superior court  
4 within 60 days after notice of the proposed action.

5 Sec. 38.35.230. DELEGATION OF COMMISSIONER'S AUTHORITY. The  
6 commissioner may delegate to an employee of the Department of Natural  
7 Resources or the Department of Law the authority granted under this  
8 chapter, except for the authority to execute leases and certificates.

9 Sec. 38.35.240. CONTINUED OPERATION OF EXISTING CARRIER. (a)  
10 Existing easements or rights-of-way for pipelines on state public land  
11 existing on the effective date of this chapter are unaffected by the  
12 provisions of this chapter.

13 (b) If the existing right-of-way is revocable or for a term of  
14 years, then upon revocation or expiration this chapter applies.

15 (c) Applications for pipeline permits which have been filed with  
16 the division of lands before the effective date of this chapter shall  
17 be considered as filed under this chapter but this does not otherwise  
18 restrict the authority of the commissioner in acting on these applica-  
19 tions under this chapter.

20 (d) An applicant or competing applicant or a person who raises  
21 objections within 60 days of the filing of an application for a right-  
22 of-way are the only persons having standing to contest the commissioner's  
23 decisions in court.

24 Sec, 38.35.250. DEFINITIONS. In this chapter, unless the context  
25 otherwise requires,

26 (1) "association" means

27 (A) a trust or partnership, whether created or operated  
28 for profit or not for profit, or

29 (B) a group or organization of two or more individuals

1           having a joint or common economic interest or jointly or commonly  
2           promoting their individual economic interests, whether or not the  
3           group or organization was created or is operated for profit or  
4           not for profit;

5           (2) "carrier" means a person who undertakes, whether directly  
6           or indirectly or by a lease or any other arrangement, to engage in  
7           operation of or transportation, service, or sale by pipeline for  
8           crude oil, natural gas, or products;

9           (3) "certificate" means the instrument of authorization  
10          required by this chapter of a carrier before it can engage in construc-  
11          tion, acquisition, or operation of or transportation, service, or sale  
12          by a pipeline on state public land or on other land subject to a lease;

13          (4) "commission" means the Alaska Oil and Gas Transportation  
14          Commission;

15          (5) "commissioner" means the commissioner of natural  
16          resources;

17          (6) "coordinate agencies" includes the Department of Labor,  
18          Department of Highways, Department of Environmental Conservation, and  
19          the Alaska Oil and Gas Transportation Commission;

20          (7) "corporation" includes a nonprofit corporation, joint-  
21          stock company, and professional association, but shall not include a  
22          municipality;

23          (8) "crude oil" or "oil" means crude petroleum oil in its  
24          natural state as produced and crude petroleum oil from which only the  
25          basic sediment and water and/or solution gas have been removed;

26          (9) "lease" means the instrument or extension of an instru-  
27          ment issued under this chapter granting a leasehold interest in state  
28          public land for pipeline right-of-way purposes to a carrier and  
29          authorizing upon issuance of certificates the construction, acquisition,

1 or operation of, or transportation, service or sale by a pipeline for  
2 crude oil, natural gas, or products;

3 (10) "lessee carrier" means a carrier holding a valid lease  
4 and certificates thereunder issued by the commissioner;

5 (11) "municipality" includes all classes of organized boroughs  
6 and cities whether home rule or otherwise;

7 (12) "natural gas" or "gas" means natural gas, including  
8 bradenhead gas, casinghead gas, and gas produced from an oil or gas  
9 well, or any mixture of natural and artificial gas;

10 (13) "pipeline" or "pipeline facility" means all the facili-  
11 ties of a total system of pipe (whether owned or operated under a  
12 contract, agreement, or lease) used by a carrier for transportation of  
13 crude oil, natural gas, or products for delivery, for storage, or for  
14 further transportation, and including all pipe, pump or compressor  
15 stations, station equipment, tanks, valves, access roads, bridges,  
16 airfields, terminal and terminal facilities, including docks and tanker  
17 loading facilities, operations control center for both the upstream  
18 part of the pipeline and the terminal, tanker ballast treatment facili-  
19 ties, and fire protection system, communication system, and all other  
20 facilities used or necessary for an integral line of pipe, taken as a  
21 whole, to effectuate transportation, including an extension or enlarge-  
22 ment of the line;

23 (14) "pipeline incident" means any occurrence, including  
24 an extraordinary pipeline occurrence, within the state causing, within  
25 or outside the state, bodily injury, sickness, disease, or death, or  
26 loss of or damage to property, or loss of use of property, or damage  
27 to the natural environment, arising out of or resulting from the toxic,  
28 explosive, or other hazardous properties of a pipeline operation or of  
29 the crude oil, natural gas, or products carried by the pipeline;

1 (15) "product" means refined crude oil, crude tops, topped  
2 crude, processed crude petroleum, residue from crude petroleum, cracking  
3 stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas  
4 oil, casinghead gasoline, natural gas gasoline, naphtha, distillate,  
5 gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline,  
6 lubricating oil, blends or mixtures of petroleum and any liquid pro-  
7 ducts or by-product derived from crude petroleum oil or natural gas;

8 (16) "public land of the United States" means the land owned  
9 by the United States as defined in Title 43, secs. 2, 931a, and 931c,  
10 USC, as amended, and Title 30, sec. 185, USC, as amended;

11 (17) "right-of-way" means the land covered by a lease;

12 (18) "state public land" means

13 (A) "state lands" as defined in AS 38.05.365;

14 (B) public land of the United States selected by the  
15 state under sec. 6 of the Alaska Statehood Act of 1958, 72 Stat.  
16 399, as amended, and real property of the United States transferred  
17 to the state under secs. 21, 35 and 45 of the Alaska Omnibus Act  
18 of 1959, 73 Stat. 141, as amended;

19 (C) any interest owned by the state in land;

20 (19) "subject to the lease" means, in the context of a refer-  
21 ence to a pipeline, or the construction, acquisition, or operation of,  
22 or transportation, service, or sale by it, that the pipeline or the  
23 performance of the above acts relative to it are specified in the lease  
24 or certificate issued by the commissioner as being subjected to the  
25 jurisdiction or coverage of that lease, certificates, this chapter,  
26 and any other applicable state or federal law;

27 (20) "transportation" means the shipment or carriage by a  
28 pipeline of crude oil, natural gas, or products from an upstream ter-  
29 minus in one or more fields or points of production or supply of the

1 minerals to a downstream terminus in one or more points for delivery  
2 of the minerals to a purchaser or consignee, for storage, or for  
3 further carriage or shipment, including shipment or carriage within the  
4 state that may be classified as interstate or foreign transportation  
5 to the extent that the transportation may constitutionally be subjected  
6 to the provisions of this chapter, as well as all services necessary  
7 to effectuate shipment or carriage including, among other things, the  
8 receipt, storage, processing, handling, transfer in transit, forwarding,  
9 and delivery of the minerals.

10 Sec. 38.35.260. SHORT TITLE. This chapter may be cited as the  
11 Alaska Right-of-Way Leasing Act of 1972.

12 \* Sec. 2. AS 09.55.240(a)(12) is amended to read:

13 (12) subject to the requirements of the Alaska Right-of-Way  
14 Lease Act of 1972 (AS 38.35), for the location of pipelines for  
15 gathering, transmitting, transporting, storing, or delivering natural  
16 or artificial gas or oil or any liquid or gaseous hydrocarbons, in-  
17 cluding, but not limited to, pumping stations, terminals, storage  
18 tanks, or reservoirs, and related installations.

19 \* Sec. 3. AS 38.05.020 is amended by adding a new subsection to read:

20 (c) The commissioner shall have all powers necessary and proper  
21 to implement the policy and powers of the Alaska Right-of-Way Lease  
22 Act of 1972, AS 38.35, including but not limited to:

23 (1) granting leases of state public land and issuing  
24 certificates for pipeline right-of-way purposes;

25 (2) leasing, purchasing or acquiring easements on private  
26 or federal land in this state for the purpose of utilizing or granting  
27 leases of the land or easements for pipeline right-of-way purposes;

28 (3) purchasing interests in pipelines in accordance with  
29 options included in right-of-way leases as provided in AS 38.35.140(7)

1 \* Sec. 4. AS 38.05.330 is amended to read:

2           Sec. 38.05.330. PERMITS. The director, without the prior ap-  
3           proval of the commissioner, may issue permits, rights-of-way or ease-  
4           ments on state lands for secondary roads, trails, ditches, [PIPELINES,]  
5           telephone and transmission lines, log storage, oil well drilling sites  
6           and production facilities for the purposes of recovering minerals  
7           from adjacent lands under valid lease, and other similar uses or im-  
8           provements, or for the limited personal use of timber or materials.  
9           The commissioner, upon recommendation of the director, shall establish  
10          a reasonable rate or fee schedule to be charged for these uses. In  
11          the granting, suspension or revocation of a permit or easement of lands,  
12          the director shall give preference to that use of the land which  
13          will be of greatest economic benefit to the state and the development  
14          of its resources. However, first preference shall be granted to the  
15          upland owner for the use of a tract of tideland, or tideland and  
16          contiguous submerged land, which is seaward of the upland property of  
17          the upland owner and which is needed by the upland owner for any of  
18          the purposes for which the use may be granted.

19 \* Sec. 5. This Act takes effect on the day after its passage and approval  
20 or on the day it becomes law without approval,  
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HOUSE JOURNAL

FINANCE COMMITTEE REPORT

ON

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO 168

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 598

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 769

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 770

The Finance Committee has reported out this "package" relating to the taxation of oil and gas and the regulation of oil and gas pipeline transportation. It is the position of this committee that the simplest and clearest combination of revenue and regulatory measures is, in the long run, in the best interest of both the state and the industry. This package has been designed with this in mind, to accomplish the following objectives:

- (1) HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 168 incorporates the Governor's approach on cents per barrel taxation of oil. Basically the cents per barrel tax creates a \$2.50 per barrel floor on oil value within the currently existing severance tax framework. Should the value of North Slope oil fall below \$2.50 a barrel, the cents per barrel rates will come into play and guarantee certain minimum revenues based upon the well's ability to produce. The substitute also incorporates language making the payment of severance tax due monthly as opposed to quarterly.
- (2) COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 598 complements the revised severance tax by levying a 20 mill ad valorem tax on "tank farms, tanker terminals, gathering and transmission lines, and related oil or gas storage and transport facilities . . ."  
Reimbursement of local government for impact of oil and gas development is accomplished in two ways:
  - (a) Local governments may levy a tax not to exceed 20 mills on not more than 10 per cent of the value of the taxable property; and
  - (b) Units of local government may request reimbursement through the appropriations process to offset the costs of oil and gas development within their boundaries. Rather than create new administrative machinery, the bill simply establishes an assessment review board consisting of the commissioners of administration, commerce, natural resources, revenue and the attorney general.


HOUSE JOURNAL

- (3) COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 769 simply adds to the general powers of the Alaska Public Utilities Commission the authority to regulate oil or gas transportation facilities when such regulation is not in conflict with the Interstate Commerce Act of 1906 or the Natural Gas Act of 1938.
- (4) COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 770 gives the Director of the Division of Lands the authority to grant a right-of-way for oil and gas pipelines subject to APUC regulation. The act spells out the following conditions for a right-of-way lease:

The lessee shall

- (a) be a common carrier and a common purchaser of oil and gas;
- (b) transport products without unjust or unreasonable discrimination;
- (c) exchange products;
- (d) provide connections and inter-connections where economically feasible;
- (e) provide fire, liability and property insurance; and
- (f) submit security or bond against faithful completion of operations.

The Commissioner of Natural Resources is authorized to negotiate the right-of-way lease and to establish a reasonable rate or fee.

  
George Hohman  
Chairman

(four)

The Legislature of the State of Alaska  
 . FISCAL NOTE  
 Second Session - Seventh State Legislature

I. REQUEST

Bill Identification: HB 770 "An Act relating to lease of right-  
 Title: of ways over state land for the transportation of...  
 Requested by: Legislative Finance Date: APRIL 19, 1972  
 Return Date Requested: APRIL 28, 1972  
 Agency: DEPT. OF NATURAL RESOURCES Program: \_\_\_\_\_

II. FISCAL DETAIL

Budget Request Unit(s) Affected: IV, B, Land & Water Management

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 72	FY 73	FY 74	FY 75	FY 76	FY 77
100 PERSONAL SERVICES		82.9	95.4	109.7	126.1	145.1
200 TRAVEL		5.2	6.0	6.9	7.9	9.1
300 CONTRACTUAL		25.5	29.3	33.7	38.8	44.6
400 COMMODITIES		1.5	1.7	1.9	2.2	2.5
500 EQUIPMENT		6.0	6.9	7.9	9.1	10.5
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
900		6.0	6.9	7.9	9.1	10.5
TOTAL		127.1	146.1	168.1	193.3	222.3

B. FUNDING: (Thousands of dollars)

GENERAL FUND		127.1	146.1	168.1	193.3	222.3
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	5 /	5 /	5 /	5 /	5 /
MAN MONTHS (P./T.)	/	60 /	60 /	60 /	60 /	60 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See Reverse Please

IV. ATTACHMENTS

V. DATE: April 26, 1972 PREPARED BY: F.J. Keenan

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

FY 1973 BASE FIGURES

PERSONAL SERVICES

ANCHORAGE OFFICE

22	Pipeline Supervisor	\$	23,854
20	Assistant Supervisor		20,583
9	Clerk Steno III		9,154

FAIRBANKS OFFICE

18	District Pipeline Supervisor	\$	19,839
8	Clerk Steno II		9,505

-----  
\$82,935

TRAVEL

ANCHORAGE OFFICE

Travel	\$	1,200
Per Diem		1,800

FAIRBANKS OFFICE

Travel	\$	1,000
Per Diem		1,200

-----  
\$ 5,200

CONTRACTUAL SERVICES

Communications	\$	600
		400
Printing		1,500
Advertising		10,000
Rent		-0-
		1,000
Air Charter		5,000
Professional Fees		7,000

-----  
\$25,500

COMMODITIES

Office Supplies	\$	600
Field Supplies		300
		150

-----  
\$ 1,450

EQUIPMENT

Office Furniture	\$	1,200
		800
Special Equipment		4,000

-----  
\$ 6,000

INTERAGENCY CHARGES

Highway Department	\$	6,000
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\$ 6,000

TOTAL \$ 127,085



# RECORDS



# CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James D. Smith  
Signature of Camera Operator

4/4/89  
Date

**Committee Report**

H O U S E   O F   R E P R E S E N T A T I V E S

\_\_\_\_\_ Date

Mr. Speaker

The Committee on FINANCE has had 118 under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for \_\_\_\_\_ and that CS for \_\_\_\_\_ do pass
- (and) recommends it be referred to the \_\_\_\_\_ committee
- reports it back without recommendation
- (other) \_\_\_\_\_

MEMBERS SIGNING THE MAJORITY REPORT:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ CHAIRMAN

A M E N D M E N T

Offered in the HOUSE

By 1951

To: \_\_\_\_\_ HOUSE BILL NO. 77

\_\_\_\_\_ SENATE BILL NO. \_\_\_\_\_

AMENDMENT: Page \_\_\_\_\_ Line \_\_\_\_\_

Introduced: 3/30/72  
Referred: Rules

1 IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST  
OF THE LEGISLATIVE COUNCIL

2

HOUSE BILL NO. 771

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act appropriating to the University of Alaska;  
7 and providing for an effective date."

8

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

9

\* Section 1. The sum of \$1,950,000 is appropriated from the general fund  
10 to the University of Alaska to implement the Memorandum of Understanding  
11 between the Board of Regents of the University of Alaska and the Board  
12 of Trustees of Alaska Methodist University, March 11, 1972, for the convey-  
13 ance by the Board of Trustees of Alaska Methodist University of certain  
14 parcels of real property in Anchorage to the Board of Regents of the Uni-  
15 versity of Alaska, to be paid as follows:

16

(1) \$975,000, for the fiscal year ending June 30, 1972, on the  
17 effective date of this Act; and

18

(2) \$975,000, for the fiscal year ending June 30, 1973, on  
19 July 1, 1973.

20

\* Sec. 2. This Act takes effect on the day after its passage and approval  
21 or on the day it becomes law without approval.

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# RECORDS



# CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James D. Smith  
Signature of Camera Operator

4/4/89  
Date

# Committee Report

S E N A T E

Ref: 4/3/72

4-18-72

Date

Mr. President:

The Committee on Finance has had SB 771 am  
(U of A - (Memorandum Understanding))  
under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for \_\_\_\_\_ and that  
CS for \_\_\_\_\_ do pass
- (and) recommends it be referred to the \_\_\_\_\_  
committee
- reports it back without recommendation
- (other) \_\_\_\_\_

MEMBERS SIGNING THE MAJORITY REPORT:

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MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

Breck Kay recommends: NO REC.  
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\_\_\_\_\_ recommends:

\_\_\_\_\_  
CHAIRMAN

LB 545799P

RCA ALASKA TELEPHONE SYSTEMS, INC.  
E. 24-5000

JUNEAU, ALASKA 99801 1972 APR 7 PM 5 32

TELETYPE UNIT APR 7 70 1211Z 020017 UNCLAS  
W. NEALAN CO ALASKA 22 WSCOME 200 QTC NE WASHINGTON DC 15 14-70  
532P EST

SENATOR JOHN BURTON ALASKA STATE SENATE

BOUCH W. JUNEAU (77) ALASKA

INTERIOR DEPARTMENT INFORMS RE SOLICITORS OFFICE HAS FOUND  
NO LEGAL RESTRICTION TO AVALANCHES.

TER STEVEN WES.

13003031717

TELEPHONE NO. 6-5312  
TELETYPE UNIT 6-2660  
TIME 6:35p  
BY J. J. Old

TO: Senate Finance Committee

FROM: Rich Guthrie

SUBJ: HB 771 am

HB 771 am and SSSB 357 both request \$1,950,000 for the purchase of land from AMU. Fiscal back-up for both bills is contained in the SB 357 files.

cc: SB 357 file

Introduced: 3/30/72  
Referred: Rules

1 IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST  
OF THE LEGISLATIVE COUNCIL

2 HOUSE BILL NO. 771

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act appropriating to the University of Alaska;  
7 and providing for an effective date."

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

9 \* Section 1. The sum of \$1,950,000 is appropriated from the general fund  
10 to the University of Alaska to implement the Memorandum of Understanding  
11 between the Board of Regents of the University of Alaska and the Board  
12 of Trustees of Alaska Methodist University, March 11, 1972, for the convey-  
13 ance by the Board of Trustees of Alaska Methodist University of certain  
14 parcels of real property in Anchorage to the Board of Regents of the Uni-  
15 versity of Alaska, to be paid as follows:

16 (1) \$975,000, for the fiscal year ending June 30, 1972, on the  
17 effective date of this Act; and

18 (2) \$975,000, for the fiscal year ending June 30, 1973, on  
19 July 1, 1973.

20 \* Sec. 2. This Act takes effect on the day after its passage and approval  
21 or on the day it becomes law without approval.

Introduced: 3/30/72  
Referred: Rules

1 IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST  
OF THE LEGISLATIVE COUNCIL

2 HOUSE BILL NO. 771

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act appropriating to the University of Alaska;  
7 and providing for an effective date."

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

9 \* Section 1. The sum of \$1,950,000 is appropriated from the general fund  
10 to the University of Alaska to implement the Memorandum of Understanding  
11 between the Board of Regents of the University of Alaska and the Board  
12 of Trustees of Alaska Methodist University, March 11, 1972, for the convey-  
13 ance by the Board of Trustees of Alaska Methodist University of certain  
14 parcels of real property in Anchorage to the Board of Regents of the Uni-  
15 versity of Alaska.

16 \* Sec. 2. This Act takes effect on the day after its passage and  
17 approval or on the day it becomes law without approval.  
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M E M O R A N D U M

TO: Legislative Finance Committees      DATE: March 24, 1972  
FROM: Rich Guthrie                      SUBJ: AMU Land Sale,  
Fiscal Analyst                              Tuition Equali-  
   zation

The attached materials have been developed by AMU at the request of the House and Senate Finance Committees. The information is as follows:

1. Cash Flow Projections, 1971-72.
2. Major Budget Revisions, November 1970 through February 1972.
3. Proposed Utilization of Land Sale Proceeds, March 1972 through August 1972.
4. Proposed Budget, 1972-73.
5. AMU Statements of Position: Land Sale, Tuition Grants.

Attachments  
RG/ds



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James D. Smith  
Signature of Camera Operator

4/4/89  
Date

"An Act relating to the Alaska business license tax on national banks and state banks, trust companies and savings and loan associations; and providing for an effective date."

### Committee Report

HOUSE OF REPRESENTATIVES

5/2/73

\_\_\_\_\_ Date

Mr. Speaker

The Committee on FINANCE has had HS 782

under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for \_\_\_\_\_ and that  
CS for \_\_\_\_\_ do pass
- (and) recommends it be referred to the \_\_\_\_\_  
committee
- reports it back without recommendation
- (other) \_\_\_\_\_

MEMBERS SIGNING THE MAJORITY REPORT:

\_\_\_\_\_

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MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

\_\_\_\_\_ recommends: Do Pass

\_\_\_\_\_ recommends: do not pass

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ CHAIRMAN

Introduced: 4/6/72  
Referred: Commerce and  
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST

2 HOUSE BILL NO. 782

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska business license tax  
7 on national banks and state banks, trust companies  
8 and savings and loan associations; and providing for  
9 an effective date."

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

11 \* Section 1. AS 43.70.030(b) is amended to read:

12 (b) The license fee for each national bank and state bank, trust  
13 company and savings and loan association is six [TWO] per cent of  
14 its net income. Net income means the taxable income of each such  
15 taxpayer before net operating loss deduction and special deductions,  
16 computed as required under the Internal Revenue Code of the United  
17 States and includes all other income including income from federal,  
18 state or municipal obligation. Each of these taxpayers shall submit  
19 a copy of the income tax return which it files with the United States  
20 Collector of Internal Revenue and shall notify the commissioner of  
21 revenue in writing of any alteration or modification of the federal  
22 income tax return and of a recomputation of tax or determination of  
23 deficiency. The taxpayer who files his federal return on a fiscal  
24 year basis shall in addition submit a statement setting out all  
25 information which would be required and reported in a federal income  
26 tax return prepared for the calendar year. This statement shall be  
27 in the same form as a federal income tax return and the net income  
28 shall be computed as required under the Internal Revenue Code. The  
29 statement shall be submitted to the commissioner of revenue before

1       the sixteenth day of April after the close of the calendar year.

2       \* Sec. 2. This Act is retroactive to January 1, 1972.

3       \* Sec. 3. This Act takes effect on the day after its passage and approval  
4 or on the day it becomes law without approval.

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Alaska State Legislature  
Senate

JUNEAU ALASKA

TO: Mr. George Hohman, Chairman  
House Finance Committee

FROM: Rich Guthrie  
Senate Fiscal Analyst

SUBJECT: Fiscal Note Request

DATE: 6/11/72

The following House bills are now in the Senate Finance Committee for consideration:

<u>Bill No.</u>	<u>Title</u>
-----------------	--------------

HB 782

The Senate Finance Committee would appreciate receiving eight copies of the fiscal note and other pertinent materials that will assist them as they consider these bills.

112222

The Legislature of the State of Alaska  
FISCAL NOTE  
Second Session - Seventh State Legislature

I. REQUEST

Bill Identification: HB 782 "An Act Relating to the Alaska Business  
 Title: License Tax On National Banks, Etc."  
 Requested by: Legislative Finance Date: May 4, 1972  
 Return Date Requested: As soon as possible  
 Agency: \_\_\_\_\_ Program: \_\_\_\_\_

II. FISCAL DETAIL

Budget Request Unit(s) Affected: \_\_\_\_\_

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 72	FY 73	FY 74	FY 75	FY 76	FY 77
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0					

B. FUNDING: (Thousands of dollars)

GENERAL FUND	0					
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	0 /	/	/	/	/	/
MAN MONTHS (P./T.)	0 /	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached letter dated May 5, 1972 from L. P. Carroll, Chief, Miscellaneous Tax Section, Department of Revenue concerning additional revenues to be derived and comparison of other states bank tax rates and past history.

IV. ATTACHMENTS

- 1) Tables of States Taxing Banks
- 2) Graph of State Rates comparable to Alaska.

V. DATE: May 6, 1972

PREPARED BY: L.P. Carroll

L. P. Carroll  
Chief, Miscellaneous Tax Section  
Department of Revenue

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

WILLIAM A. EGAN, GOVERNOR

POUCH SA — JUNEAU 99801

May 5, 1972

Legislative Finance  
Room 407  
Capitol Building

Re: Fiscal Note Request

In response to your request for research on Hours Bill 782, raising the tax on banks and other financial institutions from 2% to 6% of net income, the following is submitted for transmitting as may be required.

Effect on Treasury:

Estimate of Net State Taxable Income of Banks	11,000,000	12,000,000	14,000,000	16,000,000	18,000,000
Tax at Present Rate of 2%	220,000	240,000	280,000	320,000	360,000
Tax at Proposed Rate of 6%	660,000	720,000	840,000	960,000	1,080,000
Net Increase to General Fund	440,000	480,000	560,000	640,000	720,000

Problems of Administration: None

General Comments: Attachments 1 and 2 support the following conclusions.

(Attachment 1) 1. Of the 50 states, 28 states use an excise or income tax structure with an average rate of 6.91%. 22 states utilize a method other than excise/income.

(Attachment 2) 2. Of these 28 states, 18 are franchise excise tax systems, 16 of which include interest of U.S. and municipal bond interest in the measure of net taxable income (including Alaska) and have an average tax rate of 7.8%. I attach a graph illustrating the tax rate of these 16 states. You will note a high of 13.7% in Minnesota to a low of 2% in Alaska.

May 5, 1972

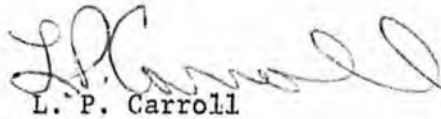
In summary, Alaska's present bank tax system is the method used by most excise/franchise tax states. However, the 2% tax we impose is well below any other state or indeed the average of all other states.

Historical Note:

The tax on banks was established in 1950 at 2% of taxable income. At that time individuals and all other corporations were paying 10% of the then effective federal income tax rates.

Since that time individual tax has risen to 16% of the 1963 federal tax rate and corporate taxes have risen to 18% of the 1963 federal tax rates. Alaska banks continue to pay the rate imposed in 1950 at 2%, which may well account for the evident lag behind the bank taxes now imposed by our sister states.

Sincerely,



L. P. Carroll  
Chief, Miscellaneous Tax Section  
Department of Revenue

LPC:kf