

Leg. Finance - House & Senate Finance Comte Files (1973-74) 8879

SB/HB 2 cont., SB/HB 3 322

# STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

## DEPARTMENT OF REVENUE

POUCH SA-JUNEAU 92301

### NARRATIVE ATTACHMENT TO FISCAL NOTE ON AD-VALOREM PROPERTY TAX MEASURE.

The ad-valorem tax bill which proposes a property tax on oil and gas property and equipment is an entirely new area of taxation for the State of Alaska. The magnitude of the project which would have to be assessed under this bill is without precedent in the history of the oil and gas industry and will require the best expertise in the field of oil and gas property assessment that can be obtained. It is probably not feasible for the State of Alaska to hire that expertise under the personnel classification system nor does it seem that it would be desirable since the expertise necessary to do the initial valuation and set up the program would not be required on that scale thereafter.

Accordingly, we propose that the administrative machinery for this tax be set up along two lines which would operate in parallel and would complement each other. The proposal that we have in mind would provide for the state to be able to use the best experts available in the field of oil and gas property valuation, yet would also allow the state to develop some in-house expertise for the ongoing administration of the program once the property had been fully developed and the initial assessment made. Our survey of other states which impose a property tax on oil and gas properties indicates that there are private firms available who have the necessary engineering and economic expertise and who do assist other states and their local subdivisions in the very technical aspects of valuing oil and gas properties. This is a widespread practice in Texas, Kansas, Louisiana and other oil and gas producing states.

We propose to utilize this expertise by hiring one of these firms on a contractual basis to:

1. Develop the initial assessment inventory and evaluation of the properties throughout the construction period of the pipeline and including all facilities in Prudhoe Bay and Valdez.
2. Formulate interpretative guidelines and regulations for proper administration of the Statute.
3. Develop systems and procedures for methods of reporting and collection of the tax.
4. Provide training to our resident staff in oil and gas property valuation techniques to enable them to administer the program on a permanent basis once the primary construction is completed.

Our best estimates of the entire cost of these services throughout the construction period is between six and seven hundred thousand dollars. On a comparable fee basis this is very low in relation to the total assessed valuation anticipated and the potential revenues yielded to the state from property tax.

We also propose the immediate hiring of personnel for the Division of Ad-Valorem Property Tax in the Department of Revenue and the support personnel for the assessment review board. The people hired for various assessment positions in this Division would work very closely with the contracted firm in developing the initial valuations, systems, procedures and regulations. At the time the pipeline is completed and operational these people would be well trained in oil and gas valuation techniques and would at that point be able to continue on their own the valuation of oil and gas property in the state. We have provided, however, that the private firm would be kept on a small fee basis for consultation should it become necessary in future years beyond the completion of the pipeline. This is advisable since certain very complex and highly technical problems may arise from time to time which would be beyond the expertise of the existing staff and would require consultation with specialists. These specialists, of course, are available with these private firms. This is also consistent with the methods followed by other states and local governments who do utilize these firms on a continuing basis. The fee we have calculated for this continuing service would be a modest \$50,000.00 a year. The attached fiscal note indicates that the total cost of administration, including the assessment review board and its support personnel, the people of our own division and the private firm under contract would be \$364,000.00 in fiscal year 1974. It will be necessary for us to request an appropriation in this amount for the current year as a part of the special session legislative package. In fiscal year 1975 which would be first year of construction this would go up to \$644,000.00 and reach a maximum of \$661,000.00 in 1976. Thereafter, as the consulting firm phased out its primary function the cost would drop to about \$550,000.00 in 1979 for the ongoing cost of administering the program. These costs are extremely modest in comparison to the anticipated revenue at that time. In fact, in 1979, the administrative cost would be less than one half of one percent of the total revenues received and we could expect that ratio to continue from that point on.

Our anticipated administrative expenses take into account the credit allowed under Section 43.56.010(b) of the proposed legislation, however, it must be pointed out that any special revenue sharing provisions which may evolve from the special or regular session may result in additional administrative cost. As these special impact revenue sharing programs have been the topic of discussion in the legislature for the past two sessions and are not as yet resolved, it is premature for us to anticipate the amount of administrative cost involved.

In addition, we have attached to the fiscal note a copy of our worksheets which provide a detailed breakdown of the object expenses for the new Ad-Valorem Property Tax Division within the Department of Revenue as well as the board created by the legislation. The Department of Revenue remains at the disposal of anyone who may desire additional information on these estimates.

PROPOSED PROPERTY TAX DIVISION  
BUDGET PROJECTIONS

				11/1 - 6/31/74	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979
<u>PERSONAL SERVICES</u>									
	<u>RANGE</u>								
I	Director	26		13194	26880	27888	28934	30019	31145
I	Secretary I	10		4212	8586	3908	9242	9589	9548
	3 Supervisors	22		30582	62316	64653	67077	65393	72202
	3 Appraiser II's	20		26388	53766	55782	57874	60044	62296
	3 Appraiser I's	18		22788	46422	48163	49969	51843	53787
	3 Clerk Typist III's	8		10908	22230	23064	23929	24826	25757
	2 Tax Examiner II's	12		9744	19896	20642	21416	22219	23053
	TOTAL SALARIES			117816	240096	249100	258441	268133	278188
	BENEFITS @ 16%			18851	38415	39856	41351	42901	44510
	TOTAL PERSONAL SERVICES			136667	278511	288956	299792	311034	322698
<p>Note: Personal Services for balance of FY 74 are assumed to start Jan. 1, 1974. Merit increases reflected each year.</p>									
<u>TRAVEL</u>									
	Conferences with other states and contracting firm.			6000	2000	2100	2200	2315	2430
	On-Site inspection of Property			20000	40000	42000	44100	46305	48620
	Administrative			1500	2500	2625	2756	2894	3039
	TOTAL TRAVEL			27500	44500	46725	49056	51514	54089

AGO 787878

PROPOSED PROPERTY TAX DIVISION  
BUDGET PROJECTIONS

	11/1 - 6/40/74	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979
<u>CONTRACTUAL</u>						
Postage	1200	2000	2100	2200	2315	2430
Telephone	700	12000	12600	13230	13892	14586
Printing	5000	5150	5513	5788	6078	6381
Rent	12600	22680	23814	25005	26255	27563
Professional Services (Initial Evaluation, Regs, Systems & Procedures & Staff Training would be contracted out during a 3 year construction period. Thereafter, they would be available for technical consultation.)	125000	225000	225000	150000	50000	55000
<b>TOTAL CONTRACTUAL</b>	<b>150800</b>	<b>266930</b>	<b>269027</b>	<b>195223</b>	<b>98540</b>	<b>105965</b>
COMMODITIES	3000	3150	3308	3473	3647	3829
EQUIPMENT All new in 1974, replacement thereafter	13680	2000	2100	2200	2315	2430
<b>TOTAL BUDGET</b>	<b>331647</b>	<b>595091</b>	<b>610116</b>	<b>550744</b>	<b>467050</b>	<b>489011</b>

AGO 787879

PROPOSED PROPERTY TAX ASSESSMENT REVIEW BOARD  
BUDGET PROJECTIONS

				11/1 - 6/30/74	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979
<u>PERSONAL SERVICES</u>									
	RANGE								
I	EXECUTIVE DIRECTOR	23		10974	22362	23201	24071	24973	25910
I	Secretary I	10		4212	8586	8908	9242	9589	9948
	TOTAL SALARIES			15186	30948	32109	33313	34562	35858
	Benefits @ 16%			2430	4952	5137	5330	5530	5737
	TOTAL PERSONAL SERVICES			17616	35900	37246	38643	40092	41595
	TRAVEL								
	Assessment Review Meeting - Exec. Dir., Sec. & 5 Members			7000	7350	7718	8103	8509	8934
	CONTRACTUAL SERVICES								
	Postage			300					
	Telephone			1000					
	Printing			1000					
	Rent			5000					
	TOTAL CONTRACTUAL			5300	5565	5843	6135	6442	6764
	COMMODITIES			200	400	420	441	463	486
	EQUIPMENT								
	First Year Only			2000					
	TOTAL BUDGET			32116	49215	51227	53322	55506	57779
	COMBINED BUDGETS								
	Division & Board			363763	644306	661343	604066	522556	546790

# STATE OF ALASKA

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION  
POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION  
POUCH WF — STATE CAPITOL

JUNEAU 99801

### MEMORANDUM

TO: Finance Committees  
Alaska State Legislature

DATE: October 22, 1973

FROM: V. Kent Dawson  
Fiscal Analyst  
Legislative Finance

SUBJ: Comments on SB 2  
and HB 2

The Department of Revenue's fiscal note for the proposed Assessment Board and Ad Valorem Tax Division calls for full six months funding of all 18 staff positions requested. The agency's plan is for the 18 member staff to first aid a consultant in the initial assessment, and then be involved in subsequent assessments and training in anticipation of the expected heavy workload of late FY 75 and on into FY 76 and FY 77.

For your review, an alternate approach has been prepared (Attachment A) which calls for heavy reliance on a consultant during FY 74 aided by a smaller initial-phase staff. In FY 75, as needs are better known (and with the advantage of the consultant's expert advice) full staffing could be developed. Later, after the staff has been hired and adequately trained, the consultant's services could be phased out. This one alternative as prepared suggests a \$245,000 FY 74 appropriation as opposed to the \$364,000 request of the agency.

VKD/af  
Attachment

AGO 787881-4

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

# STATE OF ALASKA

## THE LEGISLATURE

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POUCH W — ALASKA OFFICE BUILDING

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VKD/af  
Attachment

AGO 787881 +

ATTACHMENT A

ALTERNATE FY 74 BUDGET

(All Positions Budgeted for Six Months)

<u>LINE ITEMS</u>	<u>FY 74</u>
<u>Personal Services</u>	
--- <u>Assessment Board</u>	
Secretary I	\$ 4,212
--- <u>Ad Valorem Division</u>	
Director	\$ 13,194
Secretary I	4,212
Supervisor	10,194
Appraiser II	3,796
Appraiser I	7,596
Clerk Typist III	3,636
	SUBTOTAL.....\$ 51,840
	Benefits @ 16%..... 8,294
	TOTAL PERSONAL SERVICES\$ 60,134
--- <u>Travel</u>	\$ 25,000
--- <u>Contractual</u>	\$150,000
--- <u>Commodities</u>	\$ 2,200
--- <u>Equipment</u>	\$ 8,000
	TOTAL FY 74 BUDGET.....\$245,334

# STATE OF ALASKA

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

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POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION  
POUCH WF — STATE CAPITOL

JUNEAU 99801

### MEMORANDUM

TO: Finance Committees  
Alaska State Legislature

DATE: October 23, 1973

FROM: V. Kent Dawson  
Fiscal Analyst  
Legislative Finance

SUBJ: HB 2 and SB 2 Alternative  
#2 to FY-74 Funding

The introduction of a Committee Substitute to HB 2 adding a \$5,000,000 appropriation to be used for "extraordinary expenses" during FY 74 brings to life yet another means of financing the Assessment Board's FY 74 operation.

Because of the uncertainty of what will actually be needed during FY 74 by the Board and its staff, the sum actually appropriated to the Department of Revenue for the Assessment Board could be reduced even further than suggested in my memorandum of October 22. To forestall the possibility that the pipeline construction will get going exceptionally early, leaving the Assessment Board suddenly short of funds, the wording under Section 2 of the Committee Substitute could be changed to allow the Governor, with the approval of the Budget and Audit Committee, to make available additional funds necessary for the Assessment Board.

Attached please find a proposed tabulation of line item appropriations totalling \$144,000. As one can see, ample contractual funds would remain to assure the capability of immediate contracting with a consultant should that prove advantageous.

The benefit of a lower "guaranteed" appropriation to begin with, is that the Budget and Audit Committee, under Section 2, would have to approve further increases as need becomes better known.

HOUSE BILL 2 FISCAL NOTE  
FY 74 BUDGET ALTERNATIVE #2  
(All Positions Budgeted for Six Months)

PERSONAL SERVICES

Assessment Board

Secretary I \$ 4,212

Ad Valorem Division

Director \$ 13,194

Secretary I 4,212

Subtotal.....\$ 21,618

Benefits @ 16%..... 3,459

Total Personal Services...\$ 25,077

TRAVEL \$ 15,000

CONTRACTUAL SERVICES \$100,000

COMMODITIES \$ 1,000

EQUIPMENT \$ 3,000

Total FY 74 Budget.....\$144,077

## MEMORANDUM

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: V. Kent Dawson  
Fiscal Analyst  
Budget and Audit Committee

DATE : October 16, 1973

FROM: Byron I. Mallott *BIM*  
Commissioner

SUBJECT:

I have given consideration to the matter of establishment of the State Assessment Review Board and assignment of assessment responsibilities, relative to property used in the exploration, production, and transportation of oil and gas, to the Department of Revenue in light of the municipal assessment functions monitored and supported by this Department, and suggest that the apparent differences in scope and purpose of the assessment of the referenced property, as set forth in the package submitted for legislative action, warrant separate placement.

Levy and collection of ad valorem taxes in the manner proposed by the referenced legislation is principally intended to return revenue to the State and, as such, is within the purview of that executive department principally concerned with collection, custody, and management of State funds. As a major source of revenues for continuing State programs, I am certain that the Department of Revenue will give close attention to activity that attends petroleum production on transportation activity, developing a system of accounting and assessment that values the subject property in a uniform manner.

This Department's assessment program has been limited to monitoring the practices of Alaska's municipalities, preparation and revision of a handbook on cost appraisal and other guidelines for municipal assessing, computation and determination of the full and true value of real and personal property as an adjunct of the school district Foundation Program, and direct responsibility in approving rebates to municipal governments for the senior citizens' property tax exemption.

Assessment procedures supportive of uniform treatment of oil and gas production properties preliminary to levy of ad valorem taxes for State functions is not a matter such that responsibility for assuring return of revenues should be placed in an executive department with mandate to provide maximum assistance to political subdivisions.

If, however, the Legislature suggests amendment or deletion of that provision vesting assessment, levy and collection in the State, reserving the ad valorem tax power to municipal governments in which the subject property has a situs or resolving to shift the emphasis such that municipalities may be provided a greater share of revenues received, consideration

V. Kent Dawson

-2-

October 16, 1973

may properly be given to the participation of the Department of Community and Regional Affairs in review and supervision of the individual efforts of political subdivisions in determining property values. Should the Legislature alternatively provide that revenues received from an ad valorem tax levied on oil property by the State be shared in some manner with all local governments, consideration may also properly be given to the participation of this Department in the administration of that sharing to the extent that State local governmental policy and programs may be maximized by that participation.

AGO 787886

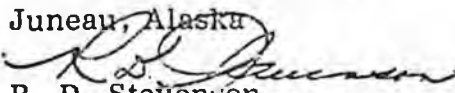
STATE  
of ALASKA

## MEMORANDUM

TO: Jay Hogan, Director  
Division of Legislative Finance  
State Capitol, Room 425  
Juneau, Alaska

DATE : October 18, 1973

FROM:

  
R. D. Stevenson  
Commissioner  
Department of RevenueSUBJECT: Fiscal Note Request  
Senate Bill 2 and  
House Bill 2

I am enclosing a fiscal note and proforma budget projection outlining the Department of Revenue's expenses in administering the 20 mill property tax.

Our administration plans call for establishing a new ad valorem tax division located in Anchorage staffed by the best available State assessment personnel. We plan to engage an out-of-state petroleum property assessment firm to assist with the initial assessment and train an in-house staff.

As further described in the accompanying statements, we estimate the expense in FY 74 to be approximately \$364,000. The highest cost foreseen is in FY 76 at \$660,000. This expenditure is formulated in an early stage of the planning and may change materially as experience is gained. However, we have contacted many other states and believe our estimates are entirely reasonable in light of their experience.

The next step to further planning and eventual operation of this ad valorem tax division would be to hire several key individuals qualified to assume leadership positions within the division itself. The complex nature of industrial property assessment, particularly petroleum property, requires specialized training and experience. Initially, we plan to review the qualifications of individuals now engaged in assessment work in Alaska.

RDS: agm  
Enclosures

cc: The Honorable Earl D. Hillstrand  
Chairman, House Finance Committee  
The Honorable Clifford J. Groh  
Chairman, Senate Finance Committee

FISCAL NOTE  
First Special Session - Eighth Legislature

I. REQUEST

Bill Identification: Senate Bill 2 and House Bill 2  
 Title: Special appropriation to administer oil & gas property tax.  
 Requested by: Legislative Finance Date: 10/11/73  
 Return Date Requested: As soon as possible.  
 Agency: Department of Revenue Program: \_\_\_\_\_

II. FISCAL DETAIL

Budget Request Unit(s) Affected: (1) Ad-Valorem Tax Division (New)

A. EXPENDITURES: (Thousands of dollars) With Statewide Assessment Review Board

OBJECT	FY 74	FY 75	FY 76	FY 77	FY 78	FY 79
100 PERSONAL SERVICES	154.2	314.4	326.3	338.4	351.1	364.3
200 TRAVEL	34.5	51.9	54.4	57.2	60.0	63.0
300 CONTRACTUAL	156.1	272.5	274.8	202.3	205.0	112.8
400 COMMODITIES	3.2	3.5	3.7	3.9	4.1	4.3
500 EQUIPMENT	15.7	2.0	2.1	2.2	2.3	2.4
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>363.7</b>	<b>644.3</b>	<b>661.3</b>	<b>604.0</b>	<b>522.5</b>	<b>546.8</b>

B. FUNDING: (Thousands of dollars)

GENERAL FUND	363.7	644.3	661.3	604.0	522.5	546.8
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	18 /	18 /	18 /	18 /	18 /	18 /
MAN MONTHS (P./T.)	108 /	216 /	216 /	216 /	216 /	216 /

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

SEE NARRATIVE NOTE ATTACHED.

IV. ATTACHMENTS

- (1) Detail of object codes for Ad-Valorem Tax Division.
- (2) Detail of object codes for Statewide Assessment Review Board.

V. DATE: October 18, 1973

PREPARED BY: *Frederick P. Boetsch*  
 Frederick P. Boetsch  
 Director, Audit Division  
 Department of Revenue

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

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DEPARTMENT OF REVENUE

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AGO 787891

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	TOTAL SALARIES			15186	30948	32109	33313	34562	35858
	Benefits @ 16%			2430	4952	5137	5330	5530	5737
	TOTAL PERSONAL SERVICES			17616	35900	37246	38643	40092	41595
	TRAVEL								
	Assessment Review Meeting - Exec. Dir., Sec. & 5 Members			7000	7350	7718	8103	8509	8934
	CONTRACTUAL SERVICES								
	Postage			300					
	Telephone			1000					
	Printing			1000					
	Rent			3000					
	TOTAL CONTRACTUAL			5300	5565	5843	6135	6442	6764
	COMMODITIES			200	400	420	441	463	486
	EQUIPMENT								
	First Year Only			2000					
	TOTAL BUDGET			32116	49215	51227	53322	55506	57779
	COMBINED BUDGETS								
	Division & Board			363763	644303	661343	604066	522556	546790

AGO 787893

STATE  
of ALASKA

# MEMORANDUM

TO:

Jay Hogan, Director  
Division of Legislative Finance  
State Capitol, Room 425  
Juneau, Alaska

DATE : October 18, 1973

FROM:

R. D. Stevenson  
Commissioner  
Department of Revenue

SUBJECT: Fiscal Note Request  
Senate Bill 2

I am enclosing a fiscal note and proforma budget projection outlining the Department of Revenue's expenses in administering the 20 mill property tax.

Our administration plans call for establishing a new ad valorem tax division located in Anchorage staffed by the best available State assessment personnel. We plan to engage an out-of-state petroleum property assessment firm to assist with the initial assessment and train an in-house staff.

As further described in the accompanying statements, we estimate the expense in FY 74 to be approximately \$364,000. The highest cost foreseen is in FY 76 at \$660,000. This expenditure is formulated in an early stage of the planning and may change materially as experience is gained. However, we have contacted many other states and believe our estimates are entirely reasonable in light of their experience.

The next step to further planning and eventual operation of this ad valorem tax division would be to hire several key individuals qualified to assume leadership positions within the division itself. The complex nature of industrial property assessment, particularly petroleum property, requires specialized training and experience. Initially, we plan to review the qualifications of individuals now engaged in assessment work in Alaska.

RDS: agm  
Enclosures

cc: The Honorable Earl D. Hillstrand  
Chairman, House Finance Committee  
The Honorable Clifford J. Groh  
Chairman, Senate Finance Committee

FISCAL NOTE  
First Special Session - Eighth Legislature

I. REQUEST

Bill Identification: Senate Bill 2  
 Title: Special appropriation to administer oil & gas property tax.  
 Requested by: Legislative Finance Date: 10/11/73  
 Return Date Requested: As soon as possible.  
 Agency: Department of Revenue Program: \_\_\_\_\_

II. FISCAL DETAIL

Budget Request Unit(s) Affected: (1) Ad-Valorem Tax Division (New)

A. EXPENDITURES: (Thousands of dollars) With Statewide Assessment Review Board

OBJECT	FY 74	FY 75	FY 76	FY 77	FY 78	FY 79
100 PERSONAL SERVICES	154.2	314.4	326.3	333.4	351.1	364.3
200 TRAVEL	34.5	51.9	54.4	57.2	60.0	63.0
300 CONTRACTUAL	156.1	272.5	274.8	202.3	205.0	112.8
400 COMMODITIES	3.2	3.5	3.7	3.9	4.1	4.3
500 EQUIPMENT	15.7	2.0	2.1	2.2	2.3	2.4
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>363.7</b>	<b>644.3</b>	<b>661.3</b>	<b>604.0</b>	<b>522.5</b>	<b>546.8</b>

B. FUNDING: (Thousands of dollars)

GENERAL FUND	363.7	644.3	661.3	604.0	522.5	546.8
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	18 /	18 /	18 /	18 /	18 /	18 /
MAN MONTHS (P./T.)	108 /	216 /	216 /	216 /	216 /	216 /

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

SEE NARRATIVE NOTE ATTACHED.

IV. ATTACHMENTS

- (1) Detail of object codes for Ad-Valorem Tax Division.
- (2) Detail of object codes for Statewide Assessment Review Board.

V. DATE: October 18, 1973 PREPARED BY: \_\_\_\_\_

Frederick P. Boetsch  
Director, Audit Division  
Department of Revenue

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

# STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

## DEPARTMENT OF REVENUE

POUCH SA-JUNEAU 99501

### NARRATIVE ATTACHMENT TO FISCAL NOTE ON AD-VALOREM PROPERTY TAX MEASURE.

The ad-valorem tax bill which proposes a property tax on oil and gas property and equipment is an entirely new area of taxation for the State of Alaska. The magnitude of the project which would have to be assessed under this bill is without precedent in the history of the oil and gas industry and will require the best expertise in the field of oil and gas property assessment that can be obtained. It is probably not feasible for the State of Alaska to hire that expertise under the personnel classification system nor does it seem that it would be desirable since the expertise necessary to do the initial valuation and set up the program would not be required on that scale thereafter.

Accordingly, we propose that the administrative machinery for this tax be set up along two lines which would operate in parallel and would complement each other. The proposal that we have in mind would provide for the state to be able to use the best experts available in the field of oil and gas property valuation, yet would also allow the state to develop some in-house expertise for the ongoing administration of the program once the property had been fully developed and the initial assessment made. Our survey of other states which impose a property tax on oil and gas properties indicates that there are private firms available who have the necessary engineering and economic expertise and who do assist other states and their local subdivisions in the very technical aspects of valuing oil and gas properties. This is a widespread practice in Texas, Kansas, Louisiana and other oil and gas producing states.

We propose to utilize this expertise by hiring one of these firms on a contractual basis to:

1. Develop the initial assessment inventory and evaluation of the properties throughout the construction period of the pipeline and including all facilities in Prudhoe Bay and Valdez.
2. Formulate interpretative guidelines and regulations for proper administration of the Statute.
3. Develop systems and procedures for methods of reporting and collection of the tax.
4. Provide training to our resident staff in oil and gas property valuation techniques to enable them to administer the program on a permanent basis once the primary construction is completed.

Our best estimates of the entire cost of these services throughout the construction period is between six and seven hundred thousand dollars. On a comparable fee basis this is very low in relation to the total assessed valuation anticipated and the potential revenues yielded to the state from property tax.

We also propose the immediate hiring of personnel for the Division of Ad-Valorem Property Tax in the Department of Revenue and the support personnel for the assessment review board. The people hired for various assessment positions in this Division would work very closely with the contracted firm in developing the initial valuations, systems, procedures and regulations. At the time the pipeline is completed and operational these people would be well trained in oil and gas valuation techniques and would at that point be able to continue on their own the valuation of oil and gas property in the state. We have provided, however, that the private firm would be kept on a small fee basis for consultation should it become necessary in future years beyond the completion of the pipeline. This is advisable since certain very complex and highly technical problems may arise from time to time which would be beyond the expertise of the existing staff and would require consultation with specialists. These specialists, of course, are available with these private firms. This is also consistent with the methods followed by other states and local governments who do utilize these firms on a continuing basis. The fee we have calculated for this continuing service would be a modest \$50,000.00 a year. The attached fiscal note indicates that the total cost of administration, including the assessment review board and its support personnel, the people of our own division and the private firm under contract would be \$364,000.00 in fiscal year 1974. It will be necessary for us to request an appropriation in this amount for the current year as a part of the special session legislative package. In fiscal year 1975 which would be first year of construction this would go up to \$644,000.00 and reach a maximum of \$661,000.00 in 1976. Thereafter, as the consulting firm phased out its primary function the cost would drop to about \$550,000.00 in 1979 for the ongoing cost of administering the program. These costs are extremely modest in comparison to the anticipated revenue at that time. In fact, in 1979, the administrative cost would be less than one half of one percent of the total revenues received and we could expect that ratio to continue from that point on.

Our anticipated administrative expenses take into account the credit allowed under Section 43.56.010(b) of the proposed legislation, however, it must be pointed out that any special revenue sharing provisions which may evolve from the special or regular session may result in additional administrative cost. As these special impact revenue sharing programs have been the topic of discussion in the legislature for the past two sessions and are not as yet resolved, it is premature for us to anticipate the amount of administrative cost involved.

In addition, we have attached to the fiscal note a copy of our worksheets which provide a detailed breakdown of the object expenses for the new Ad-Valorem Property Tax Division within the Department of Revenue as well as the board created by the legislation. The Department of Revenue remains at the disposal of anyone who may desire additional information on these estimates.

PROPOSED PROPERTY TAX DIVISION  
BUDGET PROJECTIONS

		11/1 - 6/31/74	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979	
<u>PERSONAL SERVICES</u>								
	<u>RANGE</u>							
I	Director	26	13194	26880	27888	28934	30019	31145
I	Secretary I	10	4212	8586	8908	9242	9589	9548
	3 Supervisors	22	30582	62316	64653	67077	69503	72202
	3 Appraiser II's	20	26388	53766	55782	57874	60044	62296
	3 Appraiser I's	18	22788	46422	48163	49969	51843	53787
	3 Clerk Typist III's	8	10908	22230	23064	23929	24826	25757
	2 Tax Examiner II's	12	9744	19896	20642	21416	22219	23053
TOTAL SALARIES			117816	240096	249100	258441	268133	278188
BENEFITS @ 16%			18851	38415	39856	41351	42901	44510
TOTAL PERSONAL SERVICES			136667	278511	288956	299792	311034	322698
Note: Personal Services for balance of FY 74 are assumed to start Jan. 1, 1974. Merit increases reflected each year.								
<u>TRAVEL</u>								
Conferences with other states and contracting firm.			6000	2000	2100	2200	2315	2430
On-Site inspection of Property			20000	40000	42000	44100	46305	48620
Administrative			1500	2500	2625	2756	2894	3039
TOTAL TRAVEL			27500	44500	46725	49056	51514	54089

PROPOSED PROPERTY TAX DIVISION  
BUDGET PROJECTIONS

	11/1 - 6/40/74	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979
<u>CONTRACTUAL</u>						
Postage	1200	2000	2100	2200	2315	2430
Telephone	7000	12000	12600	13230	13892	14586
Printing	5000	5150	5513	5788	6078	6381
Rent	12600	22680	23814	25005	26255	27568
Professional Services (Initial Evaluation, Regs, Systems & Procedures & Staff Training would be contracted out during a 3 year construction period. Thereafter, they would be available for technical consultation.)	25000	225000	225000	150000	50000	55000
<b>TOTAL CONTRACTUAL</b>	<b>150800</b>	<b>266930</b>	<b>269027</b>	<b>196223</b>	<b>98540</b>	<b>105965</b>
COMMODITIES	3000	3150	3308	3473	3647	3829
EQUIPMENT All new in 1974, replacement thereafter	13680	2000	2100	2200	2315	2430
<b>TOTAL BUDGET</b>	<b>331647</b>	<b>595091</b>	<b>610116</b>	<b>550744</b>	<b>467050</b>	<b>489011</b>

PROPOSED PROPERTY TAX ASSESSMENT REVIEW BOARD  
BUDGET PROJECTIONS

				11/1 - 6/30/74	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979
<u>PERSONAL SERVICES</u>									
	RANGE								
I	EXECUTIVE DIRECTOR	23		10974	22362	23201	24071	24973	25910
I	Secretary I	10		4212	8586	8908	9242	9589	9948
	TOTAL SALARIES			15186	30948	32109	33313	34562	35858
	Benefits @ 16%			2430	4952	5137	5330	5530	5737
	TOTAL PERSONAL SERVICES			17616	35900	37246	38643	40092	41595
	TRAVEL								
	Assessment Review Meeting - Exec. Dir., Sec. & 5 Members			7000	7350	7718	8103	8509	8934
	CONTRACTUAL SERVICES								
	Postage			300					
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	Rent			3000					
	TOTAL CONTRACTUAL			5300	5565	5843	6135	6442	6764
	COMMODITIES			200	400	420	441	463	486
	EQUIPMENT								
	First Year Only			2000					
	TOTAL BUDGET			32116	49215	51227	53322	55506	57779
	COMBINED BUDGETS								
	Division & Board			363763	644306	661343	604066	522556	546790

# STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION  
POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION  
POUCH WF — STATE CAPITOL

JUNEAU 99801

## MEMORANDUM

TO: Finance Committees  
Alaska State Legislature

DATE: October 23, 1973

FROM: V. Kent Dawson  
Fiscal Analyst  
Legislative Finance

SUBJ: HB 2 and SB 2 Alternative  
#2 to FY-74 Funding

The introduction of a Committee Substitute to HB 2 adding a \$5,000,000 appropriation to be used for "extraordinary expenses" during FY 74 brings to life yet another means of financing the Assessment Board's FY 74 operation.

Because of the uncertainty of what will actually be needed during FY 74 by the Board and its staff, the sum actually appropriated to the Department of Revenue for the Assessment Board could be reduced even further than suggested in my memorandum of October 22. To forestall the possibility that the pipeline construction will get going exceptionally early, leaving the Assessment Board suddenly short of funds, the wording under Section 2 of the Committee Substitute could be changed to allow the Governor, with the approval of the Budget and Audit Committee, to make available additional funds necessary for the Assessment Board.

Attached please find a proposed tabulation of line item appropriations totalling \$144,000. As one can see, ample contractual funds would remain to assure the capability of immediate contracting with a consultant should that prove advantageous.

The benefit of a lower "guaranteed" appropriation to begin with, is that the Budget and Audit Committee, under Section 2, would have to approve further increases as need becomes better known.

AGO 787901

HOUSE BILL 2 FISCAL NOTE

FY 74 BUDGET ALTERNATIVE #2

(All Positions Budgeted for Six Months)

PERSONAL SERVICES

Assessment Board

Secretary I \$ 4,212

Ad Valorem Division

Director \$ 13,194

Secretary I 4,212

Subtotal.....\$ 21,618

Benefits @ 16%..... 3,459

Total Personal Services...\$ 25,077

TRAVEL \$ 15,000

CONTRACTUAL SERVICES \$100,000

COMMODITIES \$ 1,000

EQUIPMENT \$ 3,000

Total FY 74 Budget.....\$144,077

M E M O R A N D U M

TO: Chairmen and Members  
Senate & House Finance Committees

DATE: November 15, 1973

FROM: V. Kent Dawson  
Fiscal Analyst  
Legislative Finance

SUBJ: Special Appropriation,  
House Bill 2

The \$364,000 appropriation to the Department of Revenue for implementation of the new ad valorem tax provides for six months' funding of 18 new positions. A total of \$156,000 was dedicated to contractual services which is to be used primarily for consultant services in both general operations build-up and in making the initial assessment. The consultant's work is expected to begin almost immediately.

In anticipation of an expected comprehensive pipeline impact package to be introduced by the Governor at the regular session in January, an initial (emergency) sum of \$5,000,000 was appropriated under Section 2 of the Act to the Department of Community and Regional Affairs "to assist cities, organized boroughs and the unorganized borough in meeting extraordinary expenses for public service" during FY 74.

The disbursement of the \$5,000,000 was, in the case of all versions of the bill considered, to be at the direction of the Governor subject to the approval of the Budget and Audit Committee. Three approaches to establishing guidelines for disbursement were considered:

HOUSE PASSED VERSION

This first version was passed with considerable discretion given to the Governor and the Budget and Audit Committee in determining a community's eligibility for the funds. The standards for disbursement of the funds were made known through House Resolution No 1. (Attached please find copies of both the Finance Committee Report on HB 2 and HR 1.)

SENATE PASSED VERSION

The Senate approach set out to establish a formula whereby either \$20 per capita per year would be available to a community for pipeline related impact on facilities or \$10 per capita per year for impact on costs of public services. Under this plan, a community would not be eligible for both the \$20 and the \$10 aid.


FINAL FREE CONFERENCE COMMITTEE VERSION

The Free Conference Committee essentially consolidated the language of the Senate version into one formula. Disbursements are not to exceed \$20 per capita, but (as with the Senate bill), upon showing of an emergency situation, expenditures in excess of the \$20 per capita limitation may be authorized by the Budget and Audit Committee. Special care was taken to avoid the use of any form of the word "inflation" as had appeared in the Senate bill.

MEMORANDUM

TO: Finance Committees  
Alaska State Legislature

DATE: October 22, 1973

FROM: V. Kent Dawson   
Fiscal Analyst  
Legislative Finance

SUBJ: Comments on SB 2  
and HB 2

The Department of Revenue's fiscal note for the proposed Assessment Board and Ad Valorem Tax Division calls for full six months funding of all 18 staff positions requested. The agency's plan is for the 18 member staff to first aid a consultant in the initial assessment, and then be involved in subsequent assessments and training in anticipation of the expected heavy workload of late FY 75 and on into FY 76 and FY 77.

For your review, an alternate approach has been prepared (Attachment A) which calls for heavy reliance on a consultant during FY 74 aided by a smaller initial-phase staff. In FY 75, as needs are better known (and with the advantage of the consultant's expert advice) full staffing could be developed. Later, after the staff has been hired and adequately trained, the consultant's services could be phased out. This one alternative as prepared suggests a \$245,000 FY 74 appropriation as opposed to the \$364,000 request of the agency.

VKD/af  
Attachment

# STATE OF ALASKA

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION  
POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION  
POUCH WF — STATE CAPITOL

JUNEAU 99801

### MEMORANDUM

TO: Finance Committees  
Alaska State Legislature

DATE: October 23, 1973

FROM: V. Kent Dawson  
Fiscal Analyst  
Legislative Finance

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Attached please find a proposed tabulation of line item appropriations totalling \$144,000. As one can see, ample contractual funds would remain to assure the capability of immediate contracting with a consultant should that prove advantageous.

The benefit of a lower "guaranteed" appropriation to begin with, is that the Budget and Audit Committee, under Section 2, would have to approve further increases as need becomes better known.

HOUSE BILL 2 FISCAL NOTE

FY 74 BUDGET ALTERNATIVE #2

(All Positions Budgeted for Six Months)

PERSONAL SERVICES

Assessment Board

Secretary I \$ 4,212

Ad Valorem Division

Director \$ 13,194

Secretary I 4,212

Subtotal.....\$ 21,618

Benefits @ 16%..... 3,459

Total Personal Services...\$ 25,077

TRAVEL \$ 15,000

CONTRACTUAL SERVICES \$100,000

COMMODITIES \$ 1,000

EQUIPMENT \$ 3,000

Total FY 74 Budget.....\$144,077

# STATE OF ALASKA

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU 99801

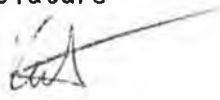
AUDIT DIVISION  
POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION  
POUCH WF — STATE CAPITOL

### MEMORANDUM

TO: Finance Committees  
Alaska State Legislature

DATE: October 22, 1973

FROM: V. Kent Dawson   
Fiscal Analyst  
Legislative Finance

SUBJ: Comments on SB 2  
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For your review, an alternate approach has been prepared (Attachment A) which calls for heavy reliance on a consultant during FY 74 aided by a smaller initial-phase staff. In FY 75, as needs are better known (and with the advantage of the consultant's expert advice) full staffing could be developed. Later, after the staff has been hired and adequately trained, the consultant's services could be phased out. This one alternative as prepared suggests a \$245,000 FY 74 appropriation as opposed to the \$364,000 request of the agency.

VKD/af  
Attachment

AGO 787908 +

ATTACHMENT A

ALTERNATE FY 74 BUDGET


(All Positions Budgeted for Six Months)

<u>LINE ITEMS</u>	<u>FY 74</u>
<u>Personal Services</u>	
--- <u>Assessment Board</u>	
Secretary I	\$ 4,212
--- <u>Ad Valorem Division</u>	
Director	\$ 13,194
Secretary I	4,212
Supervisor	10,194
Appraiser II	8,796
Appraiser I	7,596
Clerk Typist III	3,636
	SUBTOTAL.....\$ 51,840
	Benefits @ 16%..... 8,294
	TOTAL PERSONAL SERVICES\$ 60,134
--- <u>Travel</u>	\$ 25,000
--- <u>Contractual</u>	\$150,000
--- <u>Commodities</u>	\$ 2,200
--- <u>Equipment</u>	\$ 8,000
	TOTAL FY 74 BUDGET.....\$245,334

MEMORANDUM

TO: Finance Committees  
Alaska State Legislature

DATE: October 23, 1973

FROM: V. Kent Dawson   
Fiscal Analyst  
Legislative Finance

SUBJ: HB 2 and SB 2 Alternative  
#2 to FY-74 Funding

The introduction of a Committee Substitute to HB 2 adding a \$5,000,000 appropriation to be used for "extraordinary expenses" during FY 74 brings to life yet another means of financing the Assessment Board's FY 74 operation.

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Attached please find a proposed tabulation of line item appropriations totalling \$144,000. As one can see, ample contractual funds would remain to assure the capability of immediate contracting with a consultant should that prove advantageous.

The benefit of a lower "guaranteed" appropriation to begin with, is that the Budget and Audit Committee, under Section 2, would have to approve further increases as need becomes better known.

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 2

3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 EIGHTH LEGISLATURE - FIRST SPECIAL SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the  
7 Department of Revenue to administer taxes on property  
8 used in the exploration for, production of, or  
9 pipeline transportation of gas or unrefined oil; and  
10 providing for an effective date."

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

12 \* Section 1. The sum of \$364,000 is appropriated from the general fund  
13 to the Department of Revenue to administer taxes on property used in the  
14 exploration for, production of, or pipeline transportation of gas or  
15 unrefined oil for the fiscal year ending June 30, 1974.

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.

Original sponsor: Rules Committee  
by request of the Governor

Offered: 10/24/73

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 2

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SPECIAL SESSION

5 A BILL

6 For an Act entitled: "An Act making special appropriations to the Department  
7 of Revenue to administer taxes on property used in the  
8 exploration for, production of, or pipeline transporta-  
9 tion of gas or unrefined oil and for extraordinary  
10 public service expenditures; and providing for an  
11 effective date."

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

13 \* Section 1. The sum of \$364,000 is appropriated from the general fund  
14 to the Department of Revenue to administer taxes on property used in the  
15 exploration for, production of, or pipeline transportation of gas or unrefined  
16 oil for the fiscal year ending June 30, 1974.

17 \* Sec. 2. (a) The sum of \$5,000,000 is appropriated from the general fund  
18 to the Department of Revenue to assist cities, organized boroughs and the  
19 unorganized borough in meeting extraordinary expenses for public services for  
20 the fiscal year ending June 30, 1974.

21 (b) The sum appropriated under (a) of this section shall be disbursed  
22 at the direction of the governor subject to the approval of the Legislative  
23 Budget and Audit Committee.

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

26  
27  
28  
29

# STATE OF ALASKA

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION  
POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION  
POUCH WF — STATE CAPITOL

JUNE 4 99801

### MEMORANDUM

TO: Chairmen and Members  
Senate & House Finance Committees

DATE: November 15, 1973

FROM: V. Kent Dawson  
Fiscal Analyst  
Legislative Finance

SUBJ: Special Appropriation,  
House Bill 2

The \$364,000 appropriation to the Department of Revenue for implementation of the new ad valorem tax provides for six months' funding of 18 new positions. A total of \$156,000 was dedicated to contractual services which is to be used primarily for consultant services in both general operations build-up and in making the initial assessment. The consultant's work is expected to begin almost immediately.

In anticipation of an expected comprehensive pipeline impact package to be introduced by the Governor at the regular session in January, an initial (emergency) sum of \$5,000,000 was appropriated under Section 2 of the Act to the Department of Community and Regional Affairs "to assist cities, organized boroughs and the unorganized borough in meeting extraordinary expenses for public service" during FY 74.

The disbursement of the \$5,000,000 was, in the case of all versions of the bill considered, to be at the direction of the Governor subject to the approval of the Budget and Audit Committee. Three approaches to establishing guidelines for disbursement were considered:

#### HOUSE PASSED VERSION

This first version was passed with considerable discretion given to the Governor and the Budget and Audit Committee in determining a community's eligibility for the funds. The standards for disbursement of the funds were made known through House Resolution No 1.

SENATE PASSED VERSION

The Senate approach set out to establish a formula whereby either \$20 per capita per year would be available to a community for pipeline related impact on facilities or \$10 per capita per year for impact on costs of public services. Under this plan, a community would not be eligible for both the \$20 and the \$10 aid.

FINAL FREE CONFERENCE COMMITTEE VERSION

The Free Conference Committee essentially consolidated the language of the Senate version into one formula. Disbursements are not to exceed \$20 per capita, but (as with the Senate bill), upon showing of an emergency situation, expenditures in excess of the \$20 per capita limitation may be authorized by the Budget and Audit Committee. Special care was taken to avoid the use of any form of the word "inflation" as had appeared in the Senate bill.

# STATE OF ALASKA

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION  
POUCH IV — ALASKA OFFICE BUILDING

FINANCE DIVISION  
POUCH WF — STATE CAPITOL

JUNEAU 99807

### MEMORANDUM

TO: Finance Committees  
Alaska State Legislature

DATE: October 22, 1973

FROM: V. Kent Dawson  
Fiscal Analyst  
Legislative Finance

SUBJ: Comments on SB 2  
and HB 2

The Department of Revenue's fiscal note for the proposed Assessment Board and Ad Valorem Tax Division calls for full six months funding of all 18 staff positions requested. The agency's plan is for the 18 member staff to first aid a consultant in the initial assessment, and then be involved in subsequent assessments and training in anticipation of the expected heavy workload of late FY 75 and on into FY 76 and FY 77.

For your review, an alternate approach has been prepared (Attachment A) which calls for heavy reliance on a consultant during FY 74 aided by a smaller initial-phase staff. In FY 75, as needs are better known (and with the advantage of the consultant's expert advice) full staffing could be developed. Later, after the staff has been hired and adequately trained, the consultant's services could be phased out. This one alternative as prepared suggests a \$245,000 FY 74 appropriation as opposed to the \$364,000 request of the agency.

VKD/af  
Attachment

AGO 787915

ATTACHMENT A

ALTERNATE FY 74 BUDGET

(All Positions Budgeted for Six Months)

<u>LINE ITEMS</u>	<u>FY 74</u>
<u>Personal Services</u>	
--- <u>Assessment Board</u>	
Secretary I	\$ 4,212
--- <u>Ad Valorem Division</u>	
Director	\$ 13,194
Secretary I	4,212
Supervisor	10,194
Appraiser II	8,796
Appraiser I	7,596
Clerk Typist III	3,636
SUBTOTAL.....	\$ 51,840
Benefits @ 16%.....	8,294
TOTAL PERSONAL SERVICES	\$ 60,134
--- <u>Travel</u>	\$ 25,000
--- <u>Contractual</u>	\$150,000
--- <u>Commodities</u>	\$ 2,200
--- <u>Equipment</u>	\$ 8,000
TOTAL FY 74 BUDGET.....	\$245,334

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 2

3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 EIGHTH LEGISLATURE - FIRST SPECIAL SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the  
7 Department of Revenue to administer taxes on property  
8 used in the exploration for, production of, or  
9 pipeline transportation of gas or unrefined oil; and  
10 providing for an effective date."

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

12 \* Section 1. The sum of \$364,000 is appropriated from the general fund  
13 to the Department of Revenue to administer taxes on property used in the  
14 exploration for, production of, or pipeline transportation of gas or  
15 unrefined oil for the fiscal year ending June 30, 1974.

16 \* Sec. 2. This Act takes effect on the day after its passage and  
17 approval or on the day it comes 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 O. Smith  
Signature of Camera Operator

4/26/89  
Date

"An Act relating to leases of rights-of-way over state land for the transportation of oil, products or natural gas; and providing for an effective date."

# COMMITTEE REPORT

November 2, 1973

HOUSE

Mr. Speaker:

Date 11/7

The Committee on Finance has had CSB 3 (Finance) am

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 CSB 1 AND THAT

CS FOR CSB 2 DO PASS as amended

"and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>W. A. ...</u>	_____	_____
<u>...</u>	_____	_____
_____	_____	_____
_____	_____	_____

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: FINANCE COMMITTEE

To: HCS 66r CS HOUSE BILL No. \_\_\_\_\_

SENATE BILL No. 3

PAGE: 1

LINE: 6

Change the title to read "An Act relating to the use of state lands for pipeline purposes; and providing for an effective date."

Page 1, between lines 10 and 11, insert a new Section 1 to read: "Section 1. AS 38.35.010 is amended by adding a new subsection to read:

(b) The State of Alaska reserves unto itself all rights, powers, privileges and immunities not prescribed by federal interstate commerce laws and regulations in the right-of-way leasing of any state lands for pipeline construction, transmission, or operation within its boundaries."

Renumber all sections accordingly.

Page 14, line 21, after the word "hereinafter", insert the words "or notice".

COMMITTEE REPORT

SENATE

Mr. President:

Date 11/6/73

The Committee on FINANCE has had 80  
pieces of right-of-way over state land  
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 223 AND THAT

- CS FOR 383 DO PASS
- ( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

- ( ) reports it back WITHOUT RECOMMENDATION
- ( ) "other"

Members signing the majority report:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

W. D. Baker Do not Pass this version  
 Members NOT concurring in the Majority report: Pass Resources Sub.

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

Chairman

COMMITTEE REPORT

October 31, 1973 HOUSE

Mr. Speaker: Date \_\_\_\_\_

The Committee on FINANCE has had CSHR 3

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

COMMITTEE REPORT

Finance

HOUSE

Mr. Speaker:

Date Oct 31, 1973

The Committee on Judiciary has had 403

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 39483 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:

<u>Clem Tillion</u>	_____	_____
<u>Stepie Chance</u>	_____	_____
<u>Helena Boring</u>	_____	_____
<u>Joseph J. Orsini</u>	_____	_____

Members NOT concurring in the Majority report:

H. Malone recommends: DO PASS IF AMENDED

M. B... recommends: do not pass

Michael L. McVeigh recommends: no. Rec

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

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

Clem Tillion Chairman



# LAWS OF ALASKA

1973

Source

Chapter No.

FSS-FCCS HCS CSSB 3

3

## AN ACT

Relating to pipelines; and providing for an effective date.

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

\* Section 1. AS 38.35.010 is amended by adding a new subsection to read:

(b) The State of Alaska reserves unto itself all rights, powers, privileges and immunities not preempted by federal interstate commerce laws and regulations in the right-of-way leasing of any state lands for pipeline construction, transmission, or operation within its boundaries.

\* Sec. 2. AS 38.35.020 is amended to read:

Sec. 38.35.020. GRANT OF RIGHT-OF-WAY LEASE. (a) Rights-of-way on state land including rights-of-way over, under, along, across, or upon the right-of-way of a public road or highway or the right-of-way of a railroad or other public utility, or across, upon, over, or under a river or other body of water or land belonging to or administered by the state may be granted by noncompetitive lease by the commissioner for pipeline purposes for the transportation of oil, products or natural gas under those conditions prescribed by law or by administrative regulation. Except to the extent authorized by an oil and gas lease or unit agreement approved by the state, no person may engage in any construction or operation of any part of an oil, products, or natural gas pipeline, which in whole or in part is or is proposed to be on state land unless that person has obtained from the commissioner a right-of-way lease of the land under this chapter.

(b) The commissioner may by regulation exempt the construction or operation of field gathering lines or any

reasonable classification of them from the requirement of a right-of-way lease under this chapter.

\* Sec. 3. AS 38.35.030 is amended to read:

Sec. 38.35.030. ABANDONMENT, REDUCTION OR IMPAIRMENT OF SERVICE OF PIPELINE. No lessee may abandon any portion of a pipeline that is subject to a lease granted under this chapter, or operation or transportation, service, or sale by it, or reduce or impair service, except in accordance with the terms of the lease or sec. 40 of this chapter.

\* Sec. 4. AS 38.35.040 is amended to read:

Sec. 38.35.040. TEMPORARY OR EMERGENCY SERVICE OR TEMPORARY ABANDONMENT, REDUCTION OR IMPAIRMENT OF SERVICE BY LESSEE. The commissioner may, either upon a request made in the form he shall by regulation require, or upon his own motion without request, authorize or require temporary or emergency rendering of service or temporary or emergency abandonment, reduction or impairment of service by a pipeline of a lessee without compliance with secs. 50 - 100 of this chapter. Nothing in this section prevents a carrier from temporarily suspending operations in the event of an emergency which threatens public health or safety; however, notice shall be given the commissioner as soon as possible.

\* Sec. 5. AS 38.35.050 is repealed and re-enacted to read:

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

(a) A person or persons desiring to own a pipeline which is proposed to be located in whole or in part on state land, shall apply for a noncompetitive right-of-way lease of the state land.

(b) Applications under (a) of this section shall be made in a form and manner prescribed by regulation, and shall include any and all data, information, plans and exhibits which the commissioner determines are necessary to prepare the analysis required by sec. 80 of this chapter and to make a decision under sec. 100 of this chapter.

(c) Any amendment to an application filed under this section which constitutes a substantial change in the application is subject to all provisions of this chapter applying to an original application.

(d) All persons owning or planning to own an interest in a pipeline or proposed pipeline subject to a lease must join in the application under (a) of this section. Any person employed by the lessee in operating the pipeline is bound by the covenants of the lease applicable to functions within the scope of his employment as if he were an applicant under the lease and the state may enforce any breach of a covenant directly against an operator who is not in compliance with the covenant.

\* Sec. 6. AS 38.35.060 is repealed.

\* Sec. 7. AS 38.35.070 is amended to read:

Sec. 38.35.070. NOTICE OF APPLICATION. Upon receiving

an application under sec. 50 of this chapter, the commissioner shall

(1) cause notice of it to appear in a daily newspaper of general circulation published in the vicinity of the location of the proposed pipeline, the notice to include:

(A) a general description of the land involved;

(B) a summary of the substance of the application;

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

(3) furnish at cost copies of a notice or application to persons requesting them; and

(4) provide other publication and notice he considers reasonable and appropriate to inform the public of the application.

\* Sec. 8. AS 38.35.080 is amended to read:

Sec. 38.35.080. ANALYSIS AND PUBLIC HEARING. (a) The commissioner shall, within a reasonable time after receiving the application, prepare an analysis of the application or of the matter of which he was notified, including a proposal for action if feasible; a proposed lease and a general statement of his basis and purpose, if favorable action is proposed; or, when a proposal for action is not feasible before a hearing, a description of the subjects and issues involved.

(b) Upon completion of the analysis but not less than 30 days before the date set for hearing an application or a substantial amendment to an application, the commissioner shall publish notice, and make copies available as provided in sec. 70 of this chapter.

(c) The commissioner shall set all applications for public hearing as soon as practicable, if a public hearing on an application is requested by any person within 30 days of publication of notice under sec. 70(a) of this chapter or if the proposed action being considered involves a substantial public interest. The commissioner shall set the application for public hearing and publish notice of the time and place of the public hearing at least 30 days before the hearing.

(d) Except to the extent specified in sec. 190(b) of this chapter, the provisions of the Administrative Procedure Act (AS 44.62) do not apply to hearings held under this section.

\* Sec. 9. AS 38.35.100 is repealed and re-enacted to read:

Sec. 38.35.100. DECISION ON APPLICATION. (a) The commissioner shall promptly determine, on an application filed with him under sec. 50 of this chapter, whether the

applicant is fit, willing and able to perform the transportation or other acts proposed in a manner that will be required by the present or future public interest. In making a determination the commissioner shall consider whether or not

(1) the proposed use of the right-of-way will unreasonably conflict with existing uses of the land involving a superior public interest;

(2) the applicant has the technical and financial capability to protect state and private property interests;

(3) the applicant has the technical and financial capability to take action to the extent reasonably practical to

(A) prevent any significant adverse environmental impact, including but not limited to, erosion of the surface of the land and damage to fish and wildlife and their habitat;

(B) undertake any necessary restoration or revegetation; and

(C) protect the interests of individuals living in the general area of the right-of-way who rely on fish, wildlife and biotic resources of the area for subsistence purposes;

(4) the applicant has the financial capability to pay reasonably foreseeable damages for which he may become liable on claims arising from the construction, operation, maintenance or termination of the pipeline.

(b) If the commissioner makes these determinations favorably to the applicant, then he may grant the whole or part of the application. Otherwise, he shall deny the application. In order to grant the whole or part of the application the commissioner shall offer a lease to the applicant for its acceptance through signing of the lease and agreeing to comply with its terms, conditions, and obligations. Only upon proper acceptance of offered lease by the applicant within 30 days after its having been presented is the grant of the application consummated.

\* Sec. 10. AS 38.35.110 is amended to read:

Sec. 38.35.110. TERM OF LEASE. Each lease of state land for pipeline right-of-way purposes shall contain a provision that the lease shall run for a specified term of not greater than 30 years, and shall be renewable for additional periods of up to 10 years each, so long as the lessee is in commercial operation and is in full compliance with all state law, including but not limited to state law pertaining to regulation and taxation of the pipeline facility, and is in compliance with all terms of the lease. In making this determination he shall take into consideration the cost of the proposed pipeline, its useful life, and the probable financing requirement for the proposed pipeline.

\* Sec. 11. AS 38.35.120 is repealed and re-enacted to read:

Sec. 38.35.120. COVENANTS REQUIRED TO BE INCLUDED IN LEASE. (a) A noncompetitive lease of state land for a right-of-way for an oil or natural gas pipeline valued at \$1,000,000 or more may be granted only upon the condition that the lessee expressly covenants in the lease, in consideration of the rights acquired by it under the lease, that

(1) it assumes the status of and will perform all of its functions undertaken under the lease as a common carrier and will accept, convey, and transport without discrimination crude oil or natural gas, depending on the kind of pipeline involved, delivered to it for transportation from fields in the vicinity of the pipeline subject to the lease throughout its route both on state land obtained under the lease and on other land; however, a lessee who owns or operates a natural gas pipeline subject to regulation either (A) under the Natural Gas Act (15 U.S.C. 717 et. seq.) of the United States, or (B) by the state or political subdivisions with respect to rates and charges for the sale of natural gas, is, to the extent of that regulation, exempt from the common carrier requirement in this paragraph; it will accept, convey, and transport crude oil or natural gas without unjust or unreasonable discrimination in favor of one producer or person, including itself, as against another but will take the crude oil or natural gas, depending on the kind of pipeline involved, delivered or offered, without unreasonable discrimination, that the Alaska Pipeline Commission shall, after a full hearing with due notice to the interested parties and a proper finding of facts, determine to be reasonable in the performance of its duties as a common carrier;

(2) it will interchange crude oil or natural gas, depending on the kind of pipeline involved, with each like common carrier and provide connections and facilities for the interchange of crude oil or natural gas at every locality reached by both pipelines when the necessity exists, subject to rates and regulations made by the appropriate state or federal regulatory agency;

(3) it will maintain and preserve books, accounts, and records and will make those reports that the state may prescribe by regulation or law as necessary and appropriate for purposes of administration of this chapter;

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

(5) it will provide connections, as determined by the Alaska Pipeline Commission under AS 42.06.340, to facilities on the pipeline subject to the lease, both on state land and other land in the state, for the purpose of delivering crude oil or natural gas, depending on the kind of pipeline involved, to persons (including the state and its political subdivisions) contracting for the purchase at wholesale of crude oil or natural gas transported by the pipeline when required by the public interest;

(6) it shall, notwithstanding any other

provision, provide connections and interchange facilities at state expense at such places the state considers necessary if the state determines to take a portion of its royalty or taxes in oil or natural gas;

(7) it will construct and operate the pipeline in accordance with applicable state laws and lawful regulations and orders of the Alaska Pipeline Commission;

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

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

(B) promptly repair or remedy any damage to the leasehold;

(C) promptly compensate for any damage to or destruction of property for which the lessee is liable resulting from damage to or destruction of the leasehold or pipeline;

(9) it will not transfer, assign, or dispose of in any manner, directly or indirectly, or by transfer of control of the carrier corporation, its interest in a right-of-way lease, or any rights under the lease or any pipeline subject to the lease to any person other than another owner of the pipeline (including subsidiaries, parents and affiliates of the owners), except to the extent that the commissioner, after consideration of the protection of the public interest (including whether the proposed transferee is fit, willing and able to perform the transportation or other acts proposed in a manner that will reasonably protect the lives, property and general welfare of the people of Alaska), authorizes; the commissioner shall not unreasonably withhold his consent to the transfer, assignment or disposal;

(10) it will file with the commissioner a written appointment of a named permanent resident of the state to be its registered agent in the state and to receive service of notices, regulations, decisions and orders of the commissioner; if it fails to appoint an agent for service, service may be made by posting a copy in the office of the commissioner and filing a copy of it in the office of the lieutenant governor and by mailing a copy to the lessee's last known address;

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

(12) the granting of the right-of-way lease is subject to the express condition that the exercise of the rights and privileges granted under the lease will not unduly interfere with the management, administration, or disposal by the state of the land affected by the lease, and that the lessee agrees and consents to the occupancy and use by the state, its grantees, permittees, or other lessees of any part of the right-of-way not actually occupied or required by the pipeline for the full and safe utilization of the pipeline, for necessary operations

incident to land management, administration, or disposal;

(13) it will be liable to the state for damages or injury incurred by the state caused by the construction, operation or maintenance of the pipeline and it will indemnify the state for the liabilities or damages;

(14) it will procure and furnish liability and property damage insurance from a company licensed to do business in the state or furnish other security or undertaking upon the terms and conditions the commissioner considers necessary if the commissioner finds that the net assets of the lessee are insufficient to protect the public from damage for which the lessee may be liable arising out of the construction or operation of the pipeline.

(b) For a right-of-way lease granted under this chapter for an oil or natural gas pipeline valued at \$1,000,000 or more to be valid and of legal effect, it must contain the terms required to be inserted under the provisions of secs. 110 - 140 of this chapter. An oil or natural gas pipeline right-of-way lease granted under this chapter that does not contain the required terms is null and void and without legal effect and does not vest any interest in state land or any authority in the carrier granted the lease.

(c) The commissioner may insert in any right-of-way lease other reasonable provisions and conditions that he determines the public interest requires.

(d) The lease will also contain terms and conditions that are reasonably necessary to obligate the lessee, to the extent reasonably practicable, to

- (1) prevent conflicts with other existing uses of the land involving a superior public interest;
- (2) protect state and private property interests;
- (3) prevent any significant adverse environmental impact, including but not limited to the erosion of the surface of the land, and damage to fish and wildlife and their habitat;
- (4) restore and revegetate during the term and at termination of the lease; and
- (5) protect the interests of individuals living in the general area of the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.

(e) In the event the commissioner proposes to offer a lease or leases to two or more lessees for the same pipeline, the commissioner may include terms in the lease or leases which establish the limit of the obligations and liabilities of each lessee arising under this chapter or under the lease or leases.

(f) The commissioner may, at his discretion, include any or all of the terms set out in this section in leases

of state land for products pipeline right-of-way purposes.

- \* Sec. 12. AS 38.35.130 is amended to read:

Sec. 38.35.130. RIGHT-OF-WAY EASEMENTS OR LEASES ACQUIRED FROM OTHERS. (a) The lessee may, if the commissioner delegates the function to it, condemn, by declaration of taking, under AS 09.55.420 - 09.55.450, real property and acquire leases of or easements or rights-of-way on lands in the state required for right-of-way purposes for a pipeline subject to the lease on behalf of and as agent for the state in which title or interest in the land shall vest.

(b) The lease shall contain a covenant that the land, right-of-way, or easement acquired under this section is or will form part of the land leased to the lessee.

- \* Sec. 13. AS 38.35.140 is repealed and re-enacted to read:

Sec. 38.35.140. PAYMENT OF RENTAL AND COSTS. (a) The lease price for a right-of-way lease shall be the annual fair market rental of the state lands included in the right-of-way based on the appraised fair market value of the land. The lease price is payable annually in advance on or before the anniversary of the lease. The appraised fair market rental value shall be adjusted periodically under the provisions of AS 38.05.105. Rental may not be charged for any land acquired by the lessee under sec. 130(b) of this chapter and conveyed without cost to the state.

(b) The lessee shall reimburse the state for all reasonable costs incurred in monitoring the construction of the pipeline on the right-of-way.

- \* Sec. 14. AS 38.35.150 is repealed.

- \* Sec. 15. AS 38.35.160 is repealed.

- \* Sec. 16. AS 38.35.170 is repealed and re-enacted to read:

Sec. 38.35.170. FORFEITURE OF LEASE. Failure to begin construction of the pipeline facility within a reasonable time of the granting of a right-of-way lease under this chapter for reasons within the control of the lessee or failure of an owner of an interest in the granted right-of-way substantially to comply with the terms of the right-of-way shall be grounds for forfeiture of the right-of-way interest of the lessee or owner in an action brought by the commissioner in the superior court. Before the commencement of any action for forfeiture of an interest in a right-of-way under this section, the commissioner shall give the lessee or owner of the interest notice in writing of the alleged default and shall not commence the proceeding unless the lessee or owner of the interest has failed to initiate good faith efforts to cure the default within 60 days of the notice of the alleged default.

- \* Sec. 17. AS 38.35.180(c) is amended to read:

(c) Neither this section nor the state's obtaining an injunction or recovering penalties extinguishes any civil

cause of action arising out of a violation of this chapter or the provisions of a right-of-way lease.

\* Sec. 18. AS 38.35.190(b), (c) and (d) are repealed.

\* Sec. 19. AS 38.35.200 is repealed and re-enacted to read:

Sec. 38.35.200. JUDICIAL REVIEW OF DECISIONS OF COMMISSIONER ON APPLICATION. (a) An applicant or competing applicant or a person who has a direct financial interest affected by the lease who raises objections within 60 days of the publication of notice under sec. 70 of this chapter are the only persons with standing to seek judicial review of a decision of the commissioner under sec. 100 of this chapter.

(b) The only grounds for judicial review of a decision of the commissioner are

(1) failure to follow the procedures set out in this chapter; or

(2) abuse of discretion so capricious, arbitrary or confiscatory as to constitute a denial of due process.

\* Sec. 20. AS 38.35.210 is amended to read:

Sec. 38.35.210. DELEGATION OF COMMISSIONER'S AUTHORITY. The commissioner may delegate to an employee of the Department of Natural Resources or the Department of Law the authority granted under this chapter, except for the authority to execute leases.

\* Sec. 21. AS 38.35.220(d) is repealed.

\* Sec. 22. AS 38.35.230 is repealed and re-enacted to read:

Sec. 38.35.230. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of natural resources;

(2) "coordinate agencies" includes Department of Labor, Department of Highways, Department of Environmental Conservation, and the Alaska Pipeline Commission;

(3) "lease" means the instrument or extension of an instrument issued under this chapter granting a leasehold interest in state land for pipeline right-of-way purposes to a person and authorizing the construction or operation of, or transportation, service or sale by a pipeline for crude oil, natural gas, or products;

(4) "lessee" means a person or persons holding a valid lease issued by the commissioner;

(5) "natural gas" includes all hydrocarbons produced at the wellhead not defined as oil;

(6) "oil" includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons

known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas;

(7) "pipeline" or "pipeline facility" means all the facilities of a total system of pipe (whether owned or operated under a contract, agreement, or lease) used by a carrier for transportation of crude oil, natural gas, or products for delivery, for storage, or for further transportation, and including all pipe, pump or compressor stations, station equipment, tanks, valves, access roads, bridges, airfields, terminals and terminal facilities, including docks and tanker loading facilities, operations control center for both the upstream part of the pipeline and the terminal, tanker ballast treatment facilities, and fire protection system, communication system, and all other facilities used or necessary for an integral line of pipe, taken as a whole, to effectuate transportation, including an extension or enlargement of the line;

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

(9) "state land" means

(A) "state lands" as defined in AS 38.05.-365;

(B) public land of the United States selected by the state under sec. 6 of the Alaska Statehood Act of 1958 (PL 85-508; 72 Stat. 399), as amended, and real property of the United States transferred to the state under secs. 21, 35 and 45 of the Alaska Omnibus Act of 1959 (PL 86-70; 73 Stat. 141), as amended;

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

(10) "transportation" means the shipment or carriage by a pipeline of crude oil, natural gas, or products from an upstream terminus in one or more fields or points of production or supply of the minerals to a downstream terminus in one or more points for delivery of the minerals to a purchaser or consignee, for storage, or for further carriage or shipment, including shipment or carriage within the state that may be classified as interstate or foreign transportation to the extent that the transportation may constitutionally be subjected to the provisions of this chapter, as well as all services necessary to effectuate shipment or carriage, including, among other things, the receipt, storage, processing, handling, transfer in transit, forwarding, and delivery of the minerals.

\* Sec. 23. AS 38.35 is amended by adding new sections to

read:

Sec. 38.35.205. LEASE SAVINGS CLAUSE. A judicial finding that any term or condition of a right-of-way lease issued under this chapter is unlawful or invalid may not operate to invalidate the lease or any other term or condition of the lease.

Sec. 38.35.225. BINDING EFFECT OF COVENANTS. By entering into a lease under this chapter, the lessee is bound by all the covenants provided for in the lease to the full extent of the power of the state to impose those covenants under its authority as owner of the land to be leased or under its police or regulatory powers or otherwise; provided that the right of the lessee to challenge the power of the state to require such a covenant as owner of the land to be leased or under its police or regulatory powers or otherwise is preserved until such time as action to enforce the covenant is taken by the state.

\* Sec. 24. AS 09.55.240(a)(12) is amended to read:

(12) for the location of pipelines for gathering, transmitting, transporting, storing, or delivering natural or artificial gas or oil or any liquid or gaseous hydrocarbons, including, but not limited to, pumping stations, terminals, storage tanks, or reservoirs, and related installations.

\* Sec. 25. AS 38.05.020(c)(1) is amended to read:

(1) granting leases of state land for pipeline right-of-way purposes;

\* Sec. 26. AS 38.05.020(c)(2) is amended to read:

(2) leasing, purchasing, or otherwise acquiring (including condemning by declaration of taking), easements or other interests in land in this state for the purpose of utilizing or granting leases of the land, easements or interests for pipeline right-of-way purposes;

\* Sec. 27. AS 38.05.020(c)(4) is amended to read:

(4) investigating any matters concerning any lessee with a view to assuring compliance by it with its right-of-way lease, this chapter, and any other applicable state or federal law;

\* Sec. 28. AS 38.05.330 is amended to read:

Sec. 38.05.330. PERMITS. The director, without the prior approval of the commissioner, may issue permits, rights-of-way or easements on state land for secondary roads, trails, ditches, field gathering lines or transmission and distribution pipelines not subject to AS 38.35, telephone and transmission lines, log storage, oil well drilling sites and production facilities for the purposes of recovering minerals from adjacent lands under valid lease, and other similar uses or improvements, or for the limited personal use of timber or materials. The commissioner, upon recommendation of the director, shall

### Chapter 3

establish a reasonable rate or fee schedule to be charged for these uses. In the granting, suspension or revocation of a permit or easement of lands, the director shall give preference to that use of the land which will be of greatest economic benefit to the state and the development of its resources. However, first preference shall be granted to the upland owner for the use of a tract of tideland, or tideland and contiguous submerged land, which is seaward of the upland property of the upland owner and which is needed by the upland owner for any of the purposes for which the use may be granted.

\* Sec. 29. AS 42.06.310 is amended by adding a new subsection to read:

(c) Every common carrier shall, when ordered by the Alaska Pipeline Commission, extend or enlarge its pipeline or storage facilities provided the extension or enlargement shall be found to be reasonable and required in the public interest and that the expense involved will not impair the ability of the common carrier or public utility to perform its duty to the public.

\* Sec. 30. The commissioner of natural resources shall submit to the members of the Eighth Legislature not later than September 1, 1974 a full report covering all lands conveyed under provisions of AS 38.05.063 and 38.05.076. The report shall contain a description of all parcels conveyed under the Act including acreage (to include a detailed plat of each parcel), land classification, appraised value, lease or sale value, proposed land usage, and any other information the commissioner may feel necessary to an understanding of the particular disposal.

\* Sec. 31. AS 38.05.063 and 38.05.076 are repealed effective September 1, 1974.

\* Sec. 32. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

# STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION  
POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION  
POUCH WF — STATE CAPITOL

JUNEAU 99801

## MEMORANDUM

TO: Chairmen and Members  
Senate and House Finance

DATE: November 15, 1973

FROM: Robert L. Grogan *RLG*  
Fiscal Analyst  
Legislative Finance

SUBJ: Right-of-Way Leasing  
Substantive Changes  
from Existing Law--  
HB 3, HB 8

1. Addition of Sec. 38.35.250 binding effect of covenants. Provides lessee with the right to challenge the power of the state to require covenants.
2. Deletion of ownership option. All provisions for state purchase of a pipeline were removed.
3. Substitution of a purchase price provision, based on fair market value, in place of prior method based on a production formula (see attachment).
4. Addition of section relating to sale or lease of lands bill creates a repealer for the bill. The section also provides for reporting of the sale or lease transactions. Under the new section, the sale or lease of lands bill will be repealed effective September 1, 1974.

Right-of-Way Leasing

The existing law provides for a right-of-way lease based on the higher of two formulas--one relating to pipeline assets, and the other to net earnings of the pipeline. According to the joint stipulations in the oil companies' suit against the State, the asset formula,

"AS 38.35.140(a), would require a minimum aggregate payment by the TAPS owners to the State of approximately \$72,739,800 (or \$2,078,280 per year), if TAPS were constructed for a throughput capacity of 2,000,000 barrels per day. The minimum aggregate rental payment would be approximately \$67,900,000 (or \$1,940,000 per year) if TAPS were constructed for a throughput capacity of 1,200,000 barrels per day."

Expected revenues under the net earnings formula depend on the manner in which net earnings are calculated. The joint stipulations anticipated three possible variations:

"(1) 'Proposed regulations' multiplies both 'net earnings' and 'total assets' (as those terms are used in AS 38.35.140(a)(2)) by a term referred to as the Alaska Land Factor (ALF). The Alaska Land Factor is defined as the length of right-of-way over land in which the state has an ownership interest divided by the total length of the pipeline in the state. Such factor is 0.3181. This formula also provides that in determining 'net earnings', both the minimum rental under AS 38.35.140(a)(1) and the percentage rental under AS 38.35.140(a)(2) shall be deducted from gross revenues.

(2) 'Formula A' is identical to the formula described above except that the Alaska Land Factor is not used.

(3) 'Formula B' is identical to Formula A except that the percentage rental under AS 38.35.140(a)(2) is not deducted in calculating 'net earnings'."

Following these various approaches,

"the average annual aggregate amount of the rent payable to the state over the life of the pipeline by all TAPS owners will be approximately as follows, assuming different rates of return on Interstate Commerce Commission valuation of the pipeline property:

ICC RATE of RETURN	USING PROPOSED REGULATIONS	USING FORMULA A	USING FORMULA B
-----------------------	-------------------------------	--------------------	--------------------

If Pipeline is Constructed for  
1,200,000 bbl/day Throughput Capacity

2 per cent	\$ 6,700,000	\$ 20,500,000	\$ 39,300,000
4 per cent	16,300,000	52,400,000	103,500,000
5 per cent	23,500,000	75,900,000	150,800,000
7 per cent	40,500,000	129,300,000	258,600,000

If Pipeline is Constructed for  
1,200,000 bbl/day Throughput Capacity

2 per cent	\$ 7,100,000	\$ 21,500,000	\$ 41,700,000
4 per cent	17,200,000	55,400,000	109,500,000
5 per cent	24,900,000	80,300,000	159,600,000
7 per cent	42,900,000	127,000,000	274,100,000

Thus, in all the cases considered, under existing law, the net earnings formula would yield greater revenue and thus be in effect. There is some feeling that the 4% ICC rate of return is the one that oil companies would choose.

Governor Egan's proposal for right-of-way leasing would substitute a rental based on fair market value. According to the plaintiff's proposed stipulations of fact, the market value of State right-of-way (249 of the 789 miles) is between \$384,248 and \$467,612 assuming a value of \$87 - \$106 per acre. Thus, the revenue to be received under this approach can be expected to be rather small. A common practice in leasing by the Department of Natural Resources has been to charge an annual rental equivalent to 6% of the fair market value.

11/12/73

Original sponsor: Rules Committee by  
request of the Governor

1 IN THE SENATE BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE CS FOR CS FOR SENATE BILL NO. 3

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SPECIAL SESSION

5 A BILL

6 For an Act entitled: "An Act relating to pipelines; and providing for an  
7 effective date."

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

9 \* Section 1. AS 38.35.010 is amended by adding a new subsection to read.

10 (b) The State of Alaska reserves unto itself all rights, powers,  
11 privileges and immunities not preempted by federal interstate commerce  
12 laws and regulations in the right-of-way leasing of any state lands  
13 for pipeline construction, transmission, or operation within its  
14 boundaries.

15 \* Sec. 2. AS 38.35.020 is amended to read:

16 Sec. 38.35.020. GRANT OF RIGHT-OF-WAY LEASE. (a) Rights-of-way  
17 on state [STATE-OWNED] land including rights-of-way [RIGHT-OF-WAY ON,]  
18 over, under, along, across, or upon the right-of-way of a public  
19 road or highway or the right-of-way of a railroad or other public  
20 utility, or [ON,] across, upon, over, or under a river or other body  
21 of water or land belonging to or administered by the state may be  
22 granted by noncompetitive lease by the commissioner for pipeline  
23 purposes for the transportation of oil, products or natural gas under  
24 those conditions prescribed by law or [AND] by administrative regula-  
25 tion. Except to the extent authorized by an oil and gas lease or unit  
26 agreement approved by the state, no [NO] person may engage in any  
27 construction [,ACQUISITION] or operation of any [, OR TRANSPORTATION,  
28 SERVICE, OR SALE BY THE WHOLE OR A] part of an oil, products, or  
29 natural gas pipeline, which in whole or in part is or is proposed to

1 be on state [PUBLIC] land [,] unless that person [IS A CARRIER AND]  
2 has obtained from the commissioner a right-of-way lease of the land  
3 under this chapter [AS WELL AS A CERTIFICATE THAT THE CONSTRUCTION,  
4 ACQUISITION, OPERATION, TRANSPORTATION, SERVICE, OR SALE, IF SUBJECT  
5 TO THE LEASE, WILL BE IN ACCORDANCE WITH ITS TERMS].

6 (b) The commissioner may by regulation exempt the construction  
7 or operation of field gathering lines or any reasonable classification  
8 of them from the requirement of a right-of-way lease under this  
9 chapter.

10 \* Sec. 3. AS 38.35.030 is amended to read:

11 Sec. 38.35.030. ABANDONMENT, [OF OR] REDUCTION OR IMPAIRMENT OF  
12 SERVICE OF PIPELINE [BY LESSEE CARRIER]. No lessee [CARRIER] may  
13 abandon any portion of a pipeline that is [ON STATE PUBLIC LAND OR]  
14 subject to a [THE] lease granted under this chapter, or operation or  
15 transportation, service, or sale by it, or reduce or impair service,  
16 except in accordance with the terms of the lease or sec. 40 of this  
17 chapter [UNLESS THE CARRIER HAS FIRST APPLIED FOR AND THE COMMISSIONER  
18 HAS GRANTED A CERTIFICATE THAT THE ABANDONMENT, REDUCTION, OR IMPAIR-  
19 MENT IS IN ACCORDANCE WITH THE TERMS OF THE LEASE].

20 \* Sec. 4. AS 38.35.040 is amended to read:

21 Sec. 38.35.040. TEMPORARY OR EMERGENCY SERVICE OR TEMPORARY  
22 ABANDONMENT, REDUCTION OR IMPAIRMENT OF SERVICE BY LESSEE [CARRIER].  
23 The commissioner may, either upon a request made in the form he shall  
24 by regulation require, or upon his own motion without request, authorize  
25 or require temporary or emergency rendering of service or temporary  
26 or emergency abandonment, reduction or impairment of service by a  
27 pipeline of a lessee [CARRIER] without compliance with secs. 50 - 100  
28 of this chapter. Nothing in this section prevents a carrier from  
29 temporarily suspending operations in the event of an emergency which

1 threatens public health or safety; however, notice shall be given the  
2 commissioner as soon as possible.

3 \* Sec. 5. AS 38.35.050 is repealed and re-enacted to read:

4 Sec. 38.35.050. APPLICATIONS FOR RIGHT-OF-WAY LEASES. (a) A  
5 person or persons desiring to own a pipeline which is proposed to be  
6 located in whole or in part on state land, shall apply for a noncom-  
7 petitive right-of-way lease of the state land.

8 (b) Applications under (a) of this section shall be made in a  
9 form and manner prescribed by regulation, and shall include any and all  
10 data, information, plans and exhibits which the commissioner determines  
11 are necessary to prepare the analysis required by sec. 80 of this  
12 chapter and to make a decision under sec. 100 of this chapter.

13 (c) Any amendment to an application filed under this section which  
14 constitutes a substantial change in the application is subject to all  
15 provisions of this chapter applying to an original application.

16 (d) All persons owning or planning to own an interest in a pipe-  
17 line or proposed pipeline subject to a lease must join in the applica-  
18 tion under (a) of this section. Any person employed by the lessee in  
19 operating the pipeline is bound by the covenants of the lease applicable  
20 to functions within the scope of his employment as if he were an appli-  
21 cant under the lease and the state may enforce any breach of a covenant  
22 directly against an operator who is not in compliance with the covenant.

23 \* Sec. 6. AS 38.35.060 is repealed.

24 \* Sec. 7. AS 38.35.070 is amended to read:

25 Sec. 38.35.070. NOTICE OF APPLICATION. Upon receiving an applica-  
26 tion under sec. 50 [OR 60] of this chapter, the commissioner shall

27 (1) cause notice of it to appear in a [THE] daily newspaper  
28 of general circulation published in the vicinity of [NEAREST] the  
29 location of the proposed pipeline, the notice to include:

- 1                   (A) a general description of the land involved;  
2                   (B) a summary of the substance of the application;  
3           (2) file copies of the application with each coordinate  
4 agency; [AND]  
5           (3) furnish at cost copies of a notice or application to  
6 persons requesting them; and  
7           (4) provide other publication and notice he considers  
8 reasonable and appropriate to inform the public of the application.

9 \* Sec. 8. AS 38.35.080 is amended to read:

10           Sec. 38.35.080. ANALYSIS [OF APPLICATION] AND PUBLIC HEARING.

11           (a) The commissioner shall, within a reasonable time after receiving  
12 the application, prepare an analysis of the application or of the  
13 matter of which he was notified, including a proposal for action if  
14 feasible; a proposed lease [OR CERTIFICATE OR BOTH] and a general  
15 statement of his basis and purpose, if favorable action is proposed;  
16 or, when a proposal for action is not feasible before a hearing, a  
17 description of the subjects and issues involved.

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

22           (c) The commissioner shall set all applications for public  
23 hearing as soon as practicable, if a public hearing on an application  
24 is requested by any person within 30 days of publication of notice  
25 under sec. 70(a) of this chapter or if the proposed action being  
26 considered involves a substantial public interest. The commissioner  
27 shall set the application for public hearing and publish notice of  
28 the time and place of the public hearing at least 30 days before the  
29 hearing.

1           (d) Except to the extent specified in sec. 190(b) of this  
2           chapter, the provisions of the Administrative Procedure Act (AS 44.62)  
3           do not apply to hearings held under this section.

4 \* Sec. 9. AS 38.35.100 is repealed and re-enacted to read:

5           Sec. 38.35.100. DECISION ON APPLICATION. (a) The commissioner  
6           shall promptly determine, on an application filed with him under  
7           sec. 50 of this chapter whether the applicant is fit, willing and  
8           able to perform the transportation or other acts proposed in a manner  
9           that will be required by the present or future public interest. In  
10          making a determination the commissioner shall consider whether or not

11                   (1) the proposed use of the right-of-way will unreasonably  
12          conflict with existing uses of the land involving a superior public  
13          interest;

14                   (2) the applicant has the technical and financial capability  
15          to protect state and private property interests;

16                   (3) the applicant has the technical and financial capability  
17          to take action to the extent reasonably practical to

18                           (A) prevent any significant adverse environmental  
19          impact, including but not limited to, erosion of the surface of  
20          the land and damage to fish and wildlife and their habitat;

21                           (B) undertake any necessary restoration or revegeta-  
22          tion; and

23                           (C) protect the interests of individuals living in  
24          the general area of the right-of-way who rely on fish, wildlife  
25          and biotic resources of the area for subsistence purposes;

26                   (4) the applicant has the financial capability to pay  
27          reasonably foreseeable damages for which he may become liable on  
28          claims arising from the construction, operation, maintenance or  
29          termination of the pipeline.

1 (b) If the commissioner makes these determinations favorably to  
2 the applicant, then he may grant the whole or part of the application.  
3 Otherwise, he shall deny the application. In order to grant the whole  
4 or part of the application the commissioner shall offer a lease to  
5 the applicant for its acceptance through signing of the lease and  
6 agreeing to comply with its terms, conditions, and obligations. Only  
7 upon proper acceptance of offered lease by the applicant within 30  
8 days after its having been presented is the grant of the application  
9 consummated.

10 \* Sec. 10. AS 38.35.110 is amended to read:

11 Sec. 38.35.110. TERM OF LEASE. Each lease of state [PUBLIC]  
12 land for pipeline right-of-way purposes shall contain a provision that  
13 the lease shall run for a specified term of not greater than 30 [25]  
14 years, and shall be renewable for additional periods of up to 10 years  
15 each, so long as the lessee is in commercial operation and is in full  
16 compliance with all state law, including but not limited to state law  
17 pertaining to regulation and taxation of the pipeline facility, and  
18 is in compliance with all terms of the lease. In making this deter-  
19 mination he shall take into consideration the cost of the proposed  
20 pipeline, its useful life, and the probable financing requirement for  
21 the proposed pipeline.

22 \* Sec. 11. AS 38.35.120 is repealed and re-enacted to read:

23 Sec. 38.35.120. COVENANTS REQUIRED TO BE INCLUDED IN LEASE. (a)  
24 A noncompetitive lease of state land for a right-of-way for an oil  
25 or natural gas pipeline valued at \$1,000,000 or more may be granted  
26 only upon the condition that the lessee expressly covenants in the  
27 lease, in consideration of the rights acquired by it under the lease,  
28 that

29 (1) it assumes the status of and will perform all of its

1 functions undertaken under the lease as a common carrier and will  
2 accept, convey, and transport without discrimination crude oil or  
3 natural gas, depending on the kind of pipeline involved, delivered  
4 to it for transportation from fields in the vicinity of the pipeline  
5 subject to the lease throughout its route both on state land obtained  
6 under the lease and on other land; however, a lessee who owns or  
7 operates a natural gas pipeline subject to regulation either (A) under  
8 the Natural Gas Act (15 U.S.C. 717 et. seq.) of the United States, or  
9 (B) by the state or political subdivisions with respect to rates and  
10 charges for the sale of natural gas, is, to the extent of that regula-  
11 tion, exempt from the common carrier requirement in this paragraph;  
12 it will accept, convey, and transport crude oil or natural gas without  
13 unjust or unreasonable discrimination in favor of one producer or  
14 person, including itself, as against another but will take the crude  
15 oil or natural gas, depending on the kind of pipeline involved,  
16 delivered or offered, without unreasonable discrimination, that the  
17 Alaska Pipeline Commission shall, after a full hearing with due  
18 notice to the interested parties and a proper finding of facts, deter-  
19 mine to be reasonable in the performance of its duties as a common  
20 carrier;

21 (2) it will interchange crude oil or natural gas, depending  
22 upon the kind of pipeline involved, with each like common carrier and  
23 provide connections and facilities for the interchange of crude oil  
24 or natural gas at every locality reached by both pipelines when the  
25 necessity exists, subject to rates and regulations made by the appro-  
26 priate state or federal regulatory agency;

27 (3) it will maintain and preserve books, accounts, and  
28 records and will make those reports that the state may prescribe by  
29 regulation or law as necessary and appropriate for purposes of

1 administration of this chapter;

2 (4) it will accord at all reasonable times to the state  
3 and its authorized agents and auditors the right of access to its  
4 property and records, of inspection of its property, and of examination  
5 and copying of records;

6 (5) it will provide connections, as determined by the  
7 Alaska Pipeline Commission under AS 42.06.340, to facilities on the  
8 pipeline subject to the lease, both on state land and other land in  
9 the state, for the purpose of delivering crude oil or natural gas,  
10 depending upon the kind of pipeline involved, to persons (including  
11 the state and its political subdivisions) contracting for the purchase  
12 at wholesale of crude oil or natural gas transported by the pipeline  
13 when required by the public interest;

14 (6) it shall, notwithstanding any other provision, provide  
15 connections and interchange facilities at state expense at such places  
16 the state considers necessary if the state determines to take a portion  
17 of its royalty or taxes in oil or natural gas;

18 (7) it will construct and operate the pipeline in accordance  
19 with applicable state laws and lawful regulations and orders of the  
20 Alaska Pipeline Commission;

21 (8) it will, at its own expense, during the term of the  
22 lease

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

24 (B) promptly repair or remedy any damage to the lease-  
25 hold;

26 (C) promptly compensate for any damage to or destruction  
27 of property for which the lessee is liable resulting from damage  
28 to or destruction of the leasehold or pipeline;

29 (9) it will not transfer, assign, or dispose of in any

7 manner, directly or indirectly, or by transfer of control of the  
8 carrier corporation, its interest in a right-of-way lease, or any  
9 rights under the lease or any pipeline subject to the lease to any  
10 person other than another owner of the pipeline (including subsidi-  
11 aries, parents and affiliates of the owners), except to the extent  
12 that the commissioner, after consideration of the protection of the  
13 public interest (including whether the proposed transferee is fit,  
14 willing and able to perform the transportation or other acts proposed  
15 in a manner that will reasonably protect the lives, property and  
16 general welfare of the people of Alaska), authorizes; the commissioner  
17 shall not unreasonably withhold his consent to the transfer, assign-  
18 ment or disposal;

13 (10) it will file with the commissioner a written appointment  
14 of a named permanent resident of the state to be its registered agent  
15 in the state and to receive service of notices, regulations, decisions  
16 and orders of the commissioner; if it fails to appoint an agent for  
17 service, service may be made by posting a copy in the office of the  
18 commissioner and filing a copy of it in the office of the lieutenant  
19 governor and by mailing a copy to the lessee's last known address;

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

22 (12) the granting of the right-of-way lease is subject to  
23 the express condition that the exercise of the rights and privileges  
24 granted under the lease will not unduly interfere with the management,  
25 administration, or disposal by the state of the land affected by  
26 the lease, and that the lessee agrees and consents to the occupancy  
27 and use by the state, its grantees, permittees, or other lessees of  
28 any part of the right-of-way not actually occupied or required by the  
29 pipeline for the full and safe utilization of the pipeline, for neces-

sary operations incident to land management, administration, or disposal;

(13) it will be liable to the state for damages or injury incurred by the state caused by the construction, operation or maintenance of the pipeline and it will indemnify the state for the liabilities or damages;

(14) it will procure and furnish liability and property damage insurance from a company licensed to do business in the state or furnish other security or undertaking upon the terms and conditions the commissioner considers necessary if the commissioner finds that the net assets of the lessee are insufficient to protect the public from damage for which the lessee may be liable arising out of the construction or operation of the pipeline;

(b) For a right-of-way lease granted under this chapter for an oil or natural gas pipeline valued at \$1,000,000 or more to be valid and of legal effect, it must contain the terms required to be inserted under the provisions of secs. 110 - 140 of this chapter. An oil or natural gas pipeline right-of-way lease granted under this chapter that does not contain the required terms is null and void and without legal effect and does not vest any interest in state land or any authority in the carrier granted the lease.

(c) The commissioner may insert in any right-of-way lease other reasonable provisions and conditions that he determines the public interest requires.

(d) The lease will also contain terms and conditions that are reasonably necessary to obligate the lessee, to the extent reasonably practicable, to

(1) prevent conflicts with other existing uses of the land

1 involving a superior public interest;

2 (2) protect state and private property interests;

3 (3) prevent any significant adverse environmental impact,  
4 including but not limited to the erosion of the surface of the land,  
5 and damage to fish and wildlife and their habitat;

6 (4) restore and revegetate during the term and at termina-  
7 tion of the lease; and

8 (5) protect the interests of individuals living in the  
9 general area of the right-of-way who rely on the fish, wildlife, and  
10 biotic resources of the area for subsistence purposes.

11 (e) In the event the commissioner proposes to offer a lease or  
12 leases to two or more lessees for the same pipeline, the commissioner  
13 may include terms in the lease or leases which establish the limit  
14 of the obligations and liabilities of each lessee arising under this  
15 chapter or under the lease or leases.

16 (f) The commissioner may, at his discretion, include any or all  
17 of the terms set out in this section in leases of state land for  
18 products pipeline right-of-way purposes.

19 \* Sec. 12. AS 38.35.130 is amended to read:

20 Sec. 38.35.130. RIGHT-OF-WAY EASEMENTS OR LEASES ACQUIRED  
21 FROM OTHERS. (a) The lessee may [LEASE SHALL CONTAIN THE FURTHER  
22 EXPRESS AGREEMENT BY THE CARRIER THAT

23 (1) IT WILL, UPON A DETERMINATION BY THE COMMISSIONER AND  
24 UPON REASONABLE CONDITIONS AND AT A JUST PRICE, CONVEY TO THE STATE  
25 ANY RIGHTS-OF-WAY, RIGHT-OF-WAY PERMITS, EASEMENTS, OR LEASES PREVIOUSLY  
26 ACQUIRED OR TO BE ACQUIRED FOR RIGHT-OF-WAY PURPOSES FOR THE PIPELINE  
27 SUBJECT TO THE LEASE;

28 (2) THE STATE RESERVES TO ITSELF AND THE LESSEE GRANTS TO  
29 THE STATE THE SOLE RIGHT TO CONDEMN, BY DECLARATION OF TAKING, REAL

1 PROPERTY FOR RIGHT-OF-WAY PURPOSES AND TO ACQUIRE TO THE EXTENT  
2 FEDERALLY PERMISSIBLE LEASES OF OR EASEMENTS OR RIGHTS-OF-WAY ON  
3 PUBLIC LANDS BELONGING TO THE UNITED STATES IN THIS STATE, INCLUDING  
4 "WITHDRAWN PUBLIC LANDS" AS THAT TERM IS DEFINED IN SECS. 3(e), 17(c)  
5 ANL (d)(3), AND 22(1) OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT  
6 (PL 92-203; 85 STAT. 688; 43 U.S.C. 1601 ET SEQ.), REQUIRED FOR RIGHT-  
7 OF-WAY PURPOSES FOR THE PIPELINE SUBJECT TO THE LEASE;

8 (3) THE CARRIER WILL], if the commissioner delegates the  
9 function to it, condemn, by declaration of taking, under AS 09.55.420 -  
10 09.55.450, real property and acquire leases of or easements or rights-  
11 of-way on [PUBLIC] lands in the state [BELONGING TO THE UNITED STATES,  
12 INCLUDING "WITHDRAWN PUBLIC LANDS"] required for right-of-way purposes  
13 for a [THE] pipeline subject to the lease on behalf of and as agent  
14 for the state in which title to or interest in the land shall vest.

15 (b) The lease shall contain a covenant [REQUIRED BY THIS SECTION  
16 SHALL BE ACCOMPANIED BY A PROVISION] that the land, right-of-way,  
17 or easement acquired under this section is or will form part of the  
18 land leased to the lessee [CARRIER].

19 \* Sec. 13. AS 38.35.140 is repealed and re-enacted to read:

20 Sec. 38.35.140. PAYMENT OF RENTAL AND COSTS. (a) The lease  
21 price for a right-of-way lease shall be the annual fair market  
22 rental of the state lands included in the right-of-way based on the  
23 appraised fair market value of the land. The lease price is payable  
24 annually in advance on or before the anniversary of the lease. The  
25 appraised fair market rental value shall be adjusted periodically under  
26 the provisions of AS 38.05.105. Rental may not be charged for any  
27 land acquired by the lessee under sec. 130(b) of this chapter and  
28 conveyed without cost to the state.

29 (b) The lessee shall reimburse the state for all reasonable

costs incurred in monitoring the construction of the pipeline on the right-of-way.

\* Sec. 14. AS 38.35.150 is repealed.

\* Sec. 15. AS 38.35.160 is repealed.

\* Sec. 16. AS 38.35.170 is repealed and re-enacted to read:

Sec. 38.35.170. FORFEITURE OF LEASE. Failure to begin construction of the pipeline facility within a reasonable time of the granting of a right-of-way lease under this chapter for reasons within the control of the lessee or failure of an owner of an interest in the granted right-of-way substantially to comply with the terms of the right-of-way shall be grounds for forfeiture of the right-of-way interest of the lessee or owner in an action brought by the commissioner in the superior court. Before the commencement of any action for forfeiture of an interest in a right-of-way under this section, the commissioner shall give the lessee or owner of the interest notice in writing of the alleged default and shall not commence the proceeding unless the lessee or owner of the interest has failed to initiate good faith efforts to cure the default within 60 days of the notice of the alleged default.

\* Sec. 17. AS 38.35.180(c) is amended to read:

(c) Neither this section nor the state's obtaining an injunction or recovering penalties extinguishes any civil cause of action [OR CRIMINAL RESPONSIBILITY] arising out of a violation of this chapter or the provisions of [,] a right-of-way lease [, OR CERTIFICATE UNDER A LEASE. A PERSON OBTAINING A MONEY JUDGMENT IN AN ACTION ARISING OUT OF A VIOLATION IS ENTITLED TO A REASONABLE ATTORNEY FEE, FIXED BY THE COURT, TO BE TAXED AND COLLECTED AS COSTS OF THE SUIT].

\* Sec. 18. AS 38.35.190(b), (c) and (d) are repealed.

\* Sec. 19. AS 38.35.200 is repealed and re-enacted to read:

1           Sec. 38.35.200. JUDICIAL REVIEW OF DECISIONS OF COMMISSIONER ON  
2 APPLICATION. (a) An applicant or competing applicant or a person who  
3 has a direct financial interest affected by the lease who raises objec-  
4 tions within 60 days of the publication of notice under sec. 70 of this  
5 chapter are the only persons with standing to seek judicial review of  
6 a decision of the commissioner under sec. 100 of this chapter.

7           (b) The only grounds for judicial review of a decision of the  
8 commissioner are

9                   (1) failure to follow the procedures set out in this chapter;  
10 or

11                   (2) abuse of discretion so capricious, arbitrary or confisca-  
12 tory as to constitute a denial of due process.

13 \* Sec. 20. AS 38.35.210 is amended to read:

14           Sec. 38.35.210. DELEGATION OF COMMISSIONER'S AUTHORITY. The  
15 commissioner may delegate to an employee of the Department of Natural  
16 Resources or the Department of Law the authority granted under this  
17 chapter, except for the authority to execute leases [AND CERTIFICATES].

18 \* Sec. 21. AS 38.35.220(d) is repealed.

19 \* Sec. 22. AS 38.35.230 is repealed and re-enacted to read:

20           Sec. 38.35.230 DEFINITIONS. In this chapter:

21                   (1) "commissioner" means the commissioner of natural  
22 resources;

23                   (2) "coordinate agencies" includes Department of Labor,  
24 Department of Highways, Department of Environmental Conservation, and  
25 the Alaska Pipeline Commission;

26                   (3) "lease" means the instrument or extension of an instru-  
27 ment issued under this chapter granting a leasehold interest in state  
28 land for pipeline right-of-way purposes to a person and authorizing  
29 the construction or operation of, or transportation, service or sale

1 by a pipeline for crude oil, natural gas, or products;

2 (4) "lessee" means a person or persons holding a valid  
3 lease issued by the commissioner;

4 (5) "natural gas" includes all hydrocarbons produced at  
5 the wellhead not defined as oil;

6 (6) "oil" includes crude petroleum oil and other hydrocarbons  
7 regardless of gravity which are produced at the wellhead in liquid  
8 form and the liquid hydrocarbons known as distillate or condensate  
9 recovered or extracted from gas, other than gas produced in association  
10 with oil and commonly known as casinghead gas;

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

24 (8) "product" means refined crude oil, crude tops,  
25 topped crude, processed crude petroleum, residue from crude petroleum,  
26 cracking stock, uncracked fuel oil, fuel oil, treated crude oil,  
27 residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha,  
28 distillate, gasoline, kerosene, benzine, wash oil, waste oil,  
29 blended gasoline, lubricating oil, blends or mixtures of petroleum and