

HOUSE / SENATE FINANCE COMMITTEE MINUTES - 1967-1982 2550

Further discussion followed.

A recess was called at 5:05 to allow the staff to make necessary changes in the 200% @ 20 mills concept.

AFTER RECESS  
October 23, 1973  
5:15 p.m.

Mr. Haugen called the meeting back to order.

Mr. Freeman moved for the following language in HB 1, under LEVY OF TAX (b) "political subdivisions may levy a tax on the full and true value of taxable property taxable under this chapter at a rate not to exceed that which produces an amount of revenue equivalent to \$1,000 per person within its boundaries. A tax levied by a political subdivision under this subsection shall be in lieu of that amount of the tax levied under (a) of this section." and asked unanimous consent. Mr. Ferguson objected.

Mr. Saylor moved to table the motion, and asked unanimous consent. No objection, so ordered.

Mr. Saylor moved for the adoption of the following language in HB 1, under LEVY OF TAX (b) "Organized boroughs and organized cities in the unorganized borough authorized to tax under Title 29 may levy and collect a tax on the full and true value of taxable property taxable under this chapter at a rate not to exceed that which produces an amount of revenue equivalent to \$1,000 per person within its boundaries. A tax levied by a municipality under this subsection shall be credited against the tax at the same millage rate using the same assessment methods applicable to other property taxable by the political subdivision. Exemptions shall be limited to those set out in AS 29.53.020 and .025 and Sec. 20 of this chapter."

Following discussion, Mr. Saylor withdrew his motion.

Mr. Warwick moved that municipalities replace political subdivisions in subsection (b) of HB 1, and asked unanimous consent. Mr. Ferguson objected. The question was called for:

Yeas: (7) Haugen, Warwick, Saylor,  
Freeman, Barber, Specking,  
Ose  
Nays: (1) Ferguson  
Absent: (1) Hillstrand

Mr. Ferguson moved for the adoption of the following amendment: Delete Sec. 43.56.020, Page 1 Line 22 through Page 2, Line 13, and Sec. 3, AS 29.53.025(a) is repealed.

Following discussion, Mr. Ferguson moved to divide his motion into two parts: No objection, so ordered.

Mr. Ferguson then moved to delete Sec. 43.56.020, Page 1, Line 22 through Page 2, Line 13. The question was called for, and the vote was as follows:

Yeas:	(2)	Ferguson, Specking
Nays:	(6)	Haugen, Saylor, Freeman, Barber, Warwick, Ose
Absent:	(1)	Hillstrand

And so, the motion failed.

Mr. Ferguson then moved for the repeal of Sec. #3, AS 29.53.025 (a). The question was called for, and the vote was as follows:

Yeas:	(2)	Ferguson, Specking
Nays:	(6)	Haugen, Saylor, Freeman, Ose, Barber, Warwick
Absent;	(1)	Hillstrand

And so, the motion failed.

Mr. Saylor then moved for the repeal of AS 29.53.025(a). Mr. Saylor then withdrew his motion following a brief discussion.

Mr. Warwick then moved that subsection (b) from HB 9 be incorporated into HB 1. Mr. Barber objected. Mr. Saylor called for the question. Mr. Warwick withdrew his motion.

Mr. Saylor then moved to insert the following language "in lieu of severance tax" on Page 2, exemption #5. Mr. Warwick objected. The question was called for, and the vote was as follows:

Yeas:	(2)	Saylor, Haugen
Nays:	(6)	Warwick, Ose, Specking, Freeman, Barber, Ferguson
Absent:	(1)	Hillstrand

And so, the motion failed.

Mr. Haugen then informed the Committee members that the Attorney General, John Havelock, would meet with the staff at 8:00 p.m. in order to draw up the proposed Committee Substitute.

ADJOURN He then adjourned the meeting at 7:05 p.m.

\* PROPERTY EXEMPTED  
BY COMMUNITIES IN ALASKA

Property Exempted

<u>Political Subdivision</u>	<u>Description</u>	<u>Amount</u>
City & Borough of Juneau	Boats & Vessels, Vehicles	6,295,025
City & Borough of Sitka	Boats & Vessels	2,902,000
Fairbanks N. Star Borough	All Personal Property (Except Mobile Homes)	101,624,615
Haines Borough	Boats & Vessels	496,000
Ketchikan Gateway Borough	Boats & Vessels	4,087,000
North Slope Borough	Owner occupied Single Family Homes	841,050
Cordova	All Personal Property (Except Mobile Homes)	6,317,910
* Hoonah	All Exempt	950,000
* Galena	All Exempt	550,000
* Hydaburg	All Exempt	309,000
* Kake	All Exempt	577,500
* Klawock	All Exempt	261,700
Craig	Boats & Vessels	444,000
* St. Marys	All Exempt	98,300
Pelican	Boats & Vessels	337,000
Skagway	Aircraft, Boats, Vessels	251,500
Valdez	Personal Property, Boats & Vessels	34,183,570
Petersburg	Boats & Vessels	2,425,000
Nome	Vehicles	796,500
Wrangell	Vehicles	1,809,065
Yakutat	All Personal Property	385,080

\* Figures supplied by the State Assessor

Sec. 43.56.010 . . . . .

(b) Political subdivisions may levy a tax on the taxable property taxable under this chapter not to exceed 200% of the per capita assessed valuation for the state. A tax levied by a political subdivision under this subsection shall be credited against the tax levied under (a) of this section.

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EXEMPTIONS - Add a new definition (6) on page 10:

(6) "Properties" as used in Exemptions (2) means mineral interests in oil and gas and working interests, royalty interests, and over-riding <sup>royalty</sup> interests in oil and gas leases.

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\*Sec. 2 TRANSITIONAL PROVISIONS

(a) During FY 74 and 75 political subdivisions having a population of not more than 5,000 persons may levy a tax on the taxable property taxable under this chapter <sup>and</sup> located within their boundaries not to exceed 250% of the per capita assessed valuation for the state.

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\*Sec. 3 AS 29.53.025 (a) is repealed.

HOUSE FINANCE COMMITTEE MEETING  
October 24, 1973  
8:15 A.M.

PRESENT: All members of the Finance Committee. Several interested observers.

HB 1 Chairman Hillstrand called the meeting to order and stated that last night they had left with the proposition in mind to find a method of modifying the proposed ad valorem measure according to the discussions held. He asked Mr. Hogan to explain what they had come up with.

Mr. Hogan said there were a couple of things he wanted to go over first. He reminded them that when the Governor introduced the bill, in his letter of transmittal he had stated the measure was based on previously deliberated legislation. In other words, he placed a disclaimer on any method of devising how it would go. That position is still in effect. Mr. Hogan had worked with Mr. Condon, Assistant Attorney General, on the bill, and he had asked that it be made clear that the Governor is not supporting any way to do it. Basically, Mr. Condon feels the method they came up with is workable and will do what they want it to do.

Mr. Hogan said that the revised copy of HB 1 which he had given them included all of the changes they had agreed to except for the change in Sec. 43.56.010(b) which is the key to the rest of the bill. He said it was Mr. Condon's feeling that if they separated the types of taxation so that one taxing operation occurs entirely under the municipality and the other under the State, they would find the inequity taken out of the situation. It was his suggestion to make it essentially a State tax bill with very few regulations to the municipalities.

Thus, the bulk of the bill deals with the State's ability to assess and only two or three paragraphs deal with municipalities. This way, the municipalities are free to start taxing now within the thousand dollar per capita limitation using whatever assessment it likes without regard to what the State is doing.

This could be done mainly by deleting subsection (b) on line 17, page 1 and substituting: (b) Municipalities may levy and collect a tax on the full and true value of taxable property taxable under this chapter at a rate not to exceed that which produces an amount of revenue equivalent to \$1,000 per person residing within its boundaries. A tax

levied by a municipality under this subsection shall be credited against that amount of the tax levied under (a) of this section and shall be levied at the same millage rate, using the same assessment methods, applicable to other property taxable by the municipality. Exemptions shall be limited to those set out in AS 29.53.020 and 025 and Section 20 of this chapter.

Mr. Hogan went on to say that on Page 2, lines 18, 21, and 26, municipalities should be substituted where it says political subdivisions, and on Page 3, line 18, they should delete "and 10(b)".

On Page 7, line 1, he thought it would be advisable for (b) to read "The municipality shall also send to a department".

Mr. Warwick moved and asked unanimous consent that on page 10, line 22, they delete "or solely for the liquification of natural gas". Mr. Specking objected, and amended the motion to delete only "or solely for the liquification". The question was called on the amended motion. There was no objection, it was so ordered.

Mr. Hogan said there was no need for what had originally been Section 2 on page 11.

There was some confusion as to what had been decided on Section 3 on page 11. Mr. Warwick moved that Sec. 3 AS 29.53.025(a) be placed in the bill as it read. He then read that section.

There was some discussion on the motion. The question was called, and the motion carried 6:3.

Mr. Warwick was concerned the bill was going to preclude various municipalities from taxing properties before the Act goes into effect. He said that on page 2, exemptions 7 and 8 do not allow this property to be taxed before the construction commencement date. He asked Mr. Delahy to explain.

Mr. Delahy said these exemptions applied to taxes levied or authorized under this Chapter. Subsection (b) of Sec. 43.56.010, as changed, authorizes responsibility to levy on the property taxable under this Chapter which would seem to bring it within this exemption. He didn't believe this was the intent.

Mr. Warwick moved they adopt the following amendment on page 2, line 4: after "property", add "taxed under Section

10(a) of this chapter" and on line 8 after "property" add "taxed under Section 10(a) of this chapter.

Mr. Hillstrand objected. He said one of the things he had been impressed by that the oil companies were saying was that whatever deal had been arranged would be off if there were substantive changes. He asked whether this would be in the nature of a substantive change.

Mr. Warwick didn't believe it was. If this wasn't put in, the municipalities could tax up until the first of the year so there would be a period of maybe a month to a year where the property wouldnt be taxed as it is right now.

Motion

The question was called. The motion carried 6:3, and the amendment was adopted.

Mr. Saylor was concerned that there were going to be several assessors trying to set various assessments on the same types of properties. He thought it would be much better form if the State Assessor would be responsible to do the assessing on properties described in this chapter and the communities would be responsible for collecting taxes.

Mr. Hillstrand said legal complications could stem from the fact that there was no uniformity of taxing like property.

Mr. Hogan said another approach might be to exclude all mention of personal property from the definition and just include real property.

Mr. Saylor said he would like to make a motion on the concept whereby the State would assess those pieces of real property that are attached to the soil excluding pieces of equipment and the local subdivisions could be the assessors of the other property.

Mr. Hillstrand said that if the majority of the Committee was in favor of that concept, they would recess and let Mr. Saylor, Mr. Warwick, Mr. Hogan, and Mr. Wright work on the wording of the motion. The majority of the Committee was in favor.

RECESS

Meeting recessed at 9:30 A.M.

AFTER RECESS  
10:05 A.M.

Chairman Hillstrand called the meeting back to order.

Mr. Saylor said that after discussing the concept during recess, he wished to withdraw his motion. There was no objection.

Mr. Warwick moved the following amendment: page 2, line 21, delete "all other" and insert "the following"; line 24, delete "including, but not limited to"; line 25, delete subsection (A); page 3, line 1, delete subsection (C); after subsection (E) add a new subsection to read "taxes on the use of the property". There was some discussion of the motion. The question was called, and the motion failed 5:4.

Mr. Saylor moved that on page 1, line 17, subsection (b) be amended in the first sentence to read "Notwithstanding AS 29.53.030 municipalities may levy and collect a tax on the full and true value of taxable property taxable under this chapter at a rate as valued by the assessment board set out in this chapter not to exceed that which..."

The question was called, and the motion carried.

RECESS Meeting recessed at 10:45 A.M.

AFTER RECESS

2:10 P.M.

PRESENT All members of the Finance Committee. Several interested observers.

CSHB 1 Chairman Hillstrand called the meeting back to order and stated they would continue discussion of the Committee Substitute for House Bill 1.

Mr. Warwick moved and asked unanimous consent that on page 1, subsection (b) after "\$1,000 per person" they add the words "per year". There was no objection, it was so ordered.

Mr. Specking moved that on page 4, line 19 they change "actual" to "replacement" and on the same line, delete "units of production" and substitute "economic life of proven reserve".

Mr. Freeman objected.

Mr. Specking said it would give a better value for depreciation purposes. Also they would be picking up the value now instead of later on when the oil comes from the well.

The question was called, and the motion carried.

Mr. Saylor moved they report Committee Substitute for House Bill 1 out as presently amended with a "Do Pass" recommendation. The motion carried 7:2.

It was decided that a narrative would be included with the bill explaining the changes they had made.

CSHB 2 Chairman Hillstrand said they would go on to discuss COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2 (Special appropriation to the Department of Revenue to administer taxes on property used in the exploration for, production of, or pipeline transportation of gas or unrefined oil).

Mr. Fred Boetsch, Director of the Audit Division for the Department of Revenue, was present to testify. He distributed a Fiscal Note Request on the bill.

Mr. Boetsch thought the fiscal note stated the justification for the appropriation request for the remainder of the current fiscal year. It also outlines the proposal the Department of Revenue has come up with for administering the ad

valorem tax. Basically, they plan to hire staff and a consulting firm skilled in the valuation of oil and gas properties. They think it is the proper approach to get one of these firms to help to set up the staff and train them. After that they would remain available only for assistance in certain technical areas where it is necessary to have their expertise.

Mr. Hillstrand asked whether the fiscal note related to the Committee Substitute. Mr. Boetsch said that the first time he had seen the committee substitute was a few minutes earlier, but it was just for the addition of Sec. 2 which provides for an appropriation of \$5 million. He didn't anticipate that would impose any particular burden on the Department of Revenue, although he couldn't speak for the Department of Community and Regional Affairs.

Mr. Hillstrand asked Mr. Kent Dawson, Fiscal Analyst for Legislative Finance, for his evaluation.

Mr. Dawson said it was very important for the Agency to have enough money and at the same time the Legislature wants to make sure funds are spent properly and not too much appropriated so that the receiving agency will be tempted to move funds elsewhere. He said they were working with an unknown because they don't know when construction will begin. The Department of Revenue is basing projections on January 1. With the introduction of the Committee Substitute, another possibility comes up whereby they could appropriate now a relatively small amount to get going so the Department of Revenue could go out and hire consultants now. The wording could be changed so that part of the \$5 million could be released to the Dept. of Revenue with the approval of the Governor and the Budget & Audit Committee. The advantage will be they will know when the money is needed. \$144,000 is what they could appropriate right now. Then after better information of what is needed comes out, they could go to the Governor and Budget and Audit and get some of the \$5 million if they need it.

It seemed to be the consensus of the majority of the Committee that they'd like to have the State administration have enough money to start off right in the assessment procedure. They also decided they'd like to have a Committee Report that would express their intent that the \$5 million be used to meet pipeline impact needs of the municipality.

Mr. Haugen moved that send out Committee Substitute for HB 2 with a "Do Pass" recommendation. The motion carried 6:3.

The Committee decided to send along a Letter of Intent which would show that the Finance Committee established this fund to accomodate impact to communities because of pipeline construction as determined by the Governor and approved by Legislative Budget and Audit.

RECESS Meeting recessed at 3:25 P.M.

AFTER RECESS  
4:00 P.M.

CSHB 1 Chairman Hillstrand called the meeting back to order and stated that they had another matter to consider on HB 1.

Mr. Saylor moved that on page 1, line 24 after "at" they add "at a rate no higher than" and after "the" they delete the word "same"; and on line 25 and 26 they delete "applicable to other property taxable by the municipality." and insert "as set out in Sec. 060 of this chapter." There was no objection, it was so ordered.

The Committee then reviewed the written narrative for the Committee Report on the Committee Substitute for HB 1. They made some changes and asked that it be typed up for signature so that it could be attached to the bill.

ADJOURN Meeting adjourned at 4:30 P.M.

HOUSE FINANCE COMMITTEE  
October 25, 1973  
2:55 P.M.

PRESENT All members of the Finance Committee except Mr. Haugen.

CSHB 1 Chairman Hillstrand called the meeting to order and stated that the purpose was to anticipate amendments to the bill and prepare themselves to respond to them. They had before them four amendments which Mr. Fink had sent up for their review.

Mr. Warwick suggested they address themselves to the one on page 5, line 22 which would delete subsection (3) as it seemed to be the simplest.

Mr. Warwick said that they had taken out the last part of the subsection so that what was left didn't make any sense.

It was decided that they should talk with Mr. Condon or Mr. Burrell to see if it would be a substantive change if they dropped the subsection.

Mr. Burrell arrived at that time and stated that the provision was requested by the industry primarily to cover (other than natural disasters) the fact that after construction started and during the period when they were being assessed, there might be another law suit. He said there were so many grounds for law suits that the possibility of an antitrust suit or a private suit was great and an injunction might be granted. The industry feels they may start the pipeline and still be enjoined.

Mr. Burrell went on to say that the deletion they had already made took the sense out of the subsection. What it was supposed to say was that if they shut down for 90 days then they would have a fourth taken off of the tax.

There was much discussion of the pros and cons of the deletion.

Mr. Hillstrand asked whether in Mr. Burrell's opinion, the deletion would be considered by the Governor's office as a departure in substance from their agreement with the industry. Mr. Burrell believed it would be.

Mr. Burrell thought the language which had been deleted already should be reinstated. He said what it was trying to do was to say if the value of the pipeline, if shut down,

went down then this should be taken into account for taxing purposes.

On the question of whether to delete the subsection or include it, four were in favor of deleting and four were in favor of reinstating the original language.

RECESS Meeting recessed at 4:00 P.M.

HOUSE FINANCE COMMITTEE  
October 26, 1973  
8:25 A.M.

PRESENT All members except Mr. Saylor. Mr. Rob Lewmy representing Phillips Petroleum was also present.

CSHB 1 Chairman Hillstrand called the meeting to order for the purpose of considering amendments to CSHB 1.

Mr. Freeman moved and asked unanimous consent that they adopt the following amendment:

Page 3, line 3 - After "property" insert "except for the sales tax on the first \$1,000 of each sale" and delete all material in parenthesis and the parenthesis.

Page 3, line 10 - Between the word "operation" and the semi-colon insert "(except for the sales tax on the first \$1,000 of each sale)."

Mr. Warwick objected for the purpose of passing out copies of the language.

Mr. Freeman asked Mr. Warwick if this was the same language they had in Fairbanks in regard to the present sales tax. Mr. Warwick said that it was, and that they took care of some of the problems administratively.

Mr. Hillstrand asked whether this was applicable throughout the State or just in the Fairbanks area. Mr. Warwick said that Fairbanks has a \$1,000 limitation and Kenai has a \$500 one. He was not sure of the limitations in other places.

Mr. Warwick removed his objection. Mr. Hillstrand objected because of the illustration that they buy property in Anchorage because they don't have to pay 3-5% sales tax.

Mr. Warwick told him that one of the reasons they put the \$1,000 limitation on it was because they only tax the first \$1,000 of each sale. 5% of \$1,000 is \$50, and he thought it a reasonable limitation.

The thought occurred to Mr. Barber that they may use more than one invoice to make a \$10,000 purchase for example. Mr. Warwick said that was the sort of thing that would have to be handled administratively.

Mr. Hillstrand removed his objection. The question was

called. There was no objection, it was so ordered.

Mr. Freeman moved the following amendment: page 5, line 26 - After the word "property" insert ", adjusted to take into account any diminution in value".

Mr. Ferguson objected.

Mr. Freeman said that as he understood it, it was the thought on the part of some of the members that having this language in was an overkill, but something the industry thought important. He didn't think it was that necessary personally, because in the case of natural disasters they could have access to the courts which would take care of their problems. However, if it is a "big deal" with the oil industry, he has no objection to having the language back in.

Mr. Hillstrand noted they had had testimony from Mr. Burrell saying that it was a substantial change as far as the industry was concerned.

Mr. Ferguson removed his objection.

The question was called, and the motion carried with no objection.

Mr. Hillstrand moved they adopt the following amendment:

Page 11, line 8 - After "facilities" before the semi-colon add ": "taxable property" does not include permanent residences or office buildings requiring substantial local government services."

There was no objection, it was so ordered.

Mr. Warwick said there was one more matter that hadn't been resolved in regard to the liquification plant. He moved that on page 10, line 28 they add the words "or solely for the liquification".

Mr. Hillstrand objected.

Mr. Warwick said that initially it had been voted out because they felt the liquification plant was directly involved in the transportation of natural gas. There was a relationship between the liquification plant and the transportation of the gas.

Mr. Barber said he opposed the action because the other immediate large industries located because of the pipeline come under this bill. He said the proposed El Paso Plant contemplates \$200 million, and if they are going to leave items of property of that magnitude out of this bill, they

would be defeating some of the main purposes of the bill. He realized that by their action liquification plants are defined more definitely than refineries, etc., but he believed that if they explain in their narrative why they are doing it, it would cover the other ancillaries to the pipeline operation whether gas or oil.

Mr. Specking failed to see how they could differentiate between liquification and other forms of petroleum processing.

Mr. Barber said that another reason for his opposition was that historically in Alaska there has been a great deal of competition between boroughs and cities fighting for location of various industries in their area. He thought this competition could be removed by thoughh the bill and thus the plans will be based in the best location for it without regard to the special benefits certain boroughs or cities could give.

Mr. Specking said that this didn't go along with his concept of the whole economic process.

The question was called. The motion failed 5:3.

Mr. Hillstrand noted they had a rider to one of their amendments that he was not familiar with. He wondered whether it would show any of the local governments or municipalities to disadvantage. He asked how they should rebut that.

Mr. Warwick wasn't sure it needed a rebuttal. However, he thought they could point out that although it would effect the communities involved, it would allow them a sufficient amount of revenue to run their operations.

Mr. Ferguson still thought there was a problem with the bonding capabilities of the local governments with respect to the \$1,000 per capita.

Mr. Hillstrand pointed out they could tell them that all of their amendments provided that on non-related matters they are not limited. Also they do still share in revenue sharing provision policies and the impact for which they are unable to cope with, through factual proof, they can share in that as well.

RECESS Meeting recessed at 9:45 A.M.

HOUSE FINANCE COMMITTEE

October 27, 1973

9:15 a.m.

PRESENT A quorum was present. Staff members J. H. Hogan, Milt Barker, Kent Dawson, Rich Guthrie, Bob Grogan. Representatives Degnan, Laktonen. Mr. Herb Lehfeldt, City Manager, Valdez, Mr. Robert Walker, representing Exxon Corporation, and Mr. Robert Underwood, Supervisor, State and Local Taxes, Atlantic Richfield Company.

CSHB 4 Chairman Hillstrand called the meeting to order at 9:15 a.m. The purpose of the meeting was consideration of CSHB 4 (An act relating to the oil and gas properties production tax) and HB 5 (An act levying an oil and gas regulation and conservation tax).

Mr. Homer Burrell, Director, Division of Oil and Gas, and Mr. O. K. Gilbreth, Reservoir Engineer, Division of Oil and Gas, were in Anchorage and unable to present testimony on these bills.

Mr. Hogan explained to the Committee that the Committee Substitute for HB 4 does away with lease averaging which would, in the original bill, result in a reduction of revenues. The CS returns to the current language of the statutes, which computes the tax upon the average daily production for each well for the calendar month in barrels. The original bill based the tax on total production from each lease or property.

Mr. Hogan stated that the Governor's concern over the original bill was that wells in Cook Inlet all produce from platforms. Only the platforms are metered, not the wells; therefore, in order to assign production on a daily basis, the wells must be tested to prove their producing ability; production is then allocated on a daily basis to all wells--according to their ability to produce.

Mr. Hillstrand asked if the production tax varied between the CS and the original bill. Mr. Hogan said that it did not.

Mr. Robert Underwood, Supervisor of State and Local Taxes for the Atlantic Richfield Company, stated that this CS does away with the original proposal which provided for lease averaging, and reverts back to per-well tax calculation and provides for a higher tax.

Mr. Hillstrand then asked Mr. Underwood if the changes proposed strayed from the original oil package of legislation which was agreed upon by the Administration and the oil industry. Mr. Underwood replied that, in his opinion, the changes found in CSHB 4, were not large and would not have an effect on the original agreement, but that future changes "here and there" could possibly have such an effect.

Mr. Underwood stated that CSHB 4 will result in the severance tax being approximately 6% higher than in the Governor's original proposed bill. Mr. Underwood stated that the 6% would effect Cook Inlet, while the North Slope per-wellhead-value will have a 30% increase.

Mr. Walker stated that when the price of the production at the wellhead falls below a certain price, then "the cents per barrel comes into play". As long as wellhead value is above the floor, the percentage schedule is used, the net effect being 8% of wellhead value. Mr. Walker said that severance tax is paid in accordance with these two schedules, whichever is the most.

Mr. Underwood explained to the Committee that wellhead value is the remainder after transportation has been subtracted from the market cost. Mr. Barber then asked if the delivery point of the oil was an option of the oil companies. Mr. Underwood said that it seems the market will be on the West Coast, but that some conditions could occur to make it attractive to the East Coast as well. Mr. Barber then asked if there was a possibility of shipping oil to Europe. Mr. Underwood stated that he believed the industry made it clear to Congress that the oil would not be shipped abroad. Mr. Barber pointed out that if transportation determines the wellhead value, and one delivery point is further away than another delivery point, then the wellhead value will be less. Mr. Underwood said that the delivery point is not so much an option of the oil companies as it is the market demand. Mr. Barber pointed out that the oil companies will go where the price is the greatest.

Mr. Freeman stated that the less amount of transportation would mean a greater wellhead value; and wouldn't it then be feasible to have refineries in Alaska and move the finished product rather than the crude oil.

Mr. Hillstrand asked Mr. Underwood and Mr. Walker if they could provide the Committee with a worksheet reflecting the various costs going into the determination of wellhead price, as a basis for various taxes, levies, royalties, etc., that the State can expect to receive for a barrel of oil of various gravities. Mr. Walker stated that it was difficult to provide such information in terms of tariffs or transportation costs. Mr. Hillstrand then said that he wanted factors rather than the actual figures. He then said that the pipeline originally had been tabulated at a cost of \$700 million and will now cost from \$3.5 to \$4 billion. He pointed out that although the end result of cost is different, the factors in determining the cost are not. Mr. Walker told the Committee that the primary factors in general are: 1) the pipeline tariff; 2) terminal handling charges; 3) tanker tariffs. Mr. Walker explained that these factors are subtracted from the market value, which results in the determination of wellhead value.

Mr. Walker then stated that the factors used to determine tariffs on the pipeline were extremely involved and will be governed by the Interstate Commerce Commission.

Mr. Haugen stated that he wished to hear proponents of the cents per barrel schedule as well.

Mr. Warwick then asked Mr. Underwood if Alaska is currently on the cents per barrel schedule now. Mr. Underwood said no, but it is, at present, on the law books. He explained that Cook Inlet wellhead value is now above the floor, and therefore, the percentage basis is used.

Mr. Warwick then referred to a table provided by Mr. Burrell, Director of the Division of Oil and Gas, which was entitled "Crude Oil Price and Average Daily Well Production, State of Alaska". Mr. Warwick pointed out the discrepancy found between Granite Point's API Gravity of 38.5 and Wellhead Price of \$2.39 and Trading Bay's API Gravity of 29.0 and Wellhead Price of \$3.09. Mr. Underwood stated that many kinds of pricing situations existed at one time or another, but he thought some of this imbalance has disappeared as time has gone by. Mr. Underwood said that his company, Atlantic Richfield, owns 20% of the oil production in the Kenai Borough, and their average price last month was \$3.65. He added that his company also owns an interest in Granite Point, and he had serious doubts as to whether they were paying taxes on \$2.39. Mr. Underwood then stated that he could not justify the discrepancies in the prices, but that the Attorney General was currently looking into the difference in prices.

In reply to Mr. Hillstrand, Mr. Underwood stated that the anticipated wellhead value, while determined by the three very broad (previously mentioned) factors, can be summed up in just one factor, that being transportation charge from the wellhead to the point of sale.

Mr. Hillstrand stated that 1970 testimony had shown that the West Coast had a 500,000 barrels per day need. He then said that instead of shipping the oil to a California delivery point, such as Los Angeles, the oil can be shipped to Japan as (for example) payment of pipeline materials. He then asked Mr. Underwood what effect the shipping of oil to Japan would have on the income of the State. Mr. Underwood stated that it could result in a higher wellhead value. Mr. Underwood then said he doubted that Congress would give the pipeline permit to Alaska if they knew the oil was going outside the United States. Mr. Hillstrand stated that much has happened since 1970, but he asked Mr. Underwood what the State would do with the balance of its oil. He explained that Alaska will produce 2.5 million barrels per day, and that the West Coast will need only 500,000 of that amount. Mr. Walker replied that due to the testimony he heard from other industry people speaking before various Special Session committees, he understood that by the time Prudhoe Bay and the Transalaska Pipeline

are capable of producing and transporting 2 million barrels per day, there will be a market on the West Coast for all of the oil. Oil that would normally come in to the West Coast from other places would be delivered to (for example) the Texas Gulf Coast.

In reply to Mr. Freeman, Mr. Underwood stated that the term "gross value" is synonymous with wellhead value in terms of severance and production taxes. Mr. Freeman pointed out that if points of delivery are different, the gross value will be changed continuously. Mr. Underwood replied that he was not sure what the price would be, but that it will be a West Coast price and will be determined so it is fairly stable.

Mr. Underwood claimed that Committee Substitute for HB 4 amounted to a 30% increase in severance tax. Mr. Warwick countered that the Governor's bill, as originally introduced, would have increased cents-per-barrel severance taxes slightly but would have offset this with a provision that allowed "averaging" of well production. He contended that with the price of oil projected to increase over the next several years (therefore ruling out the probability of operating on a cents-per-barrel floor), the net effect of the "proposed increase in taxation" would be not the 30% but the 8% (plus or minus) increase estimated to result from the disallowance of well production averaging. Mr. Warwick further commented that production averaging is not in the law now and thus, change from the existing law is nil.

Mr. Freeman then stated that CSHB 4 consists of the following: 1) gross value tax percentage based on wellhead value; 2) floor based on cents per barrel.

HB 5 The Committee then considered HOUSE BILL 5 (An act levying an oil and gas regulation and conservation tax).

Mr. Warwick asked Mr. Underwood if other states have a conservation tax, or would the severance tax cover it. Mr. Underwood replied that most states do have a conservation tax. Mr. Underwood added that usually the taxes are generally dedicated.

Mr. Underwood and Mr. Walker both stated that they held no position on HB 5.

RECESS With unanimous approval, the Committee recessed at 10:45 a.m.

HOUSE FINANCE COMMITTEE

October 29, 1973

8:30 A.M.

PRESENT Mr. Barber, Mr. Freeman, Mr. Haugen, Mr. Warwick, Mr. Specking  
and Mr. Hillstrand were present.

HB 5 Chairman Hillstrand called the meeting to order and asked  
that a form be sent to the floor leader requesting they be  
excused from roll call because of the fact that they were in  
room 421 working on HOUSE BILL NO. 5 (An Act levying an oil  
and gas regulation and conservation tax).

EXECUTIVE The Committee went into Executive Session at 8:35 A.M.  
SESSION

HOUSE FINANCE COMMITTEE  
October 30, 1973  
8:15 a.m.

PRESENT

All members with the exception of Mr. Hillstrand. Staff members J. H. Hogan, Milt Barker, Kent Dawson. Mr. Tom Fink, Speaker of the House of Representatives; Representative McVeigh; Mr. John Havelock, Attorney General; Mr. Larry Eppenbach, Department of Revenue; Mr. Herb Lehfeldt, Valdez City Manager; Mr. Tim Bradner, Lobbyist, British Petroleum; Mr. Homer Burrell, Director, Division of Oil and Gas.

HB 4

The meeting was called to order at 8:15 a.m. The purpose of the meeting was consideration of Mr. Fink's proposed Committee Substitute for HB 4 (relating to oil and gas properties production tax).

Mr. Fink referred to copies of his proposal and various revenue and production tables submitted by Mr. Burrell and Mr. Eppenbach. (see Pages 99 through 110 of the minutes).

Mr. Fink stated that the theory behind his proposal was that Alaska can collect as much money on its oil as do Texas, California, and Louisiana. He said that Texas collects 16 and 2/3 in royalties, has a 4.6% severance tax, and 3% ad valorem tax for oil in the ground; Louisiana collects 16 and 2/3 in royalties; California collects 16 and 2/3 in royalties for the first hundred barrels, and 50% over 500 hundred barrels. California has no severance tax, but does have a conservation tax. Mr. Fink stated that Alaska should not collect anything less than 20 to 25%. Mr. Fink then said that the theory behind the Administration's Committee Substitute for HB 4 was that they are charging what they feel the state needs for revenue. Mr. Fink said he felt that Alaska should charge the same price other states charge, but should not charge as much as do foreign countries.

Mr. Fink referred to the escalation clause in his proposal which states that whenever the price for the same gravity of oil in Long Beach, California exceeds 40¢, then the table is adjusted upward.

Mr. Fink stated that the Governor's bill does away with lease averaging. He told the Committee that his proposal advocates averaging and results in approximately 31¢ per barrel, which is higher than the Governor's Committee Substitute.

Mr. Fink then pointed out discrepancies in prices reflected on the table entitled "Crude Oil Price and Average Daily Well Production, State of Alaska". He stated that for the same gravity of oil, they are paying 50% more in one field than in Granite Point. Mr. Fink said that he saw no basis for the same gravity of oil having a different wellhead value anywhere in Cook Inlet.

Mr. Fink then stated that another difference between his proposal and the Governor's bill was that Mr. Fink had deleted payment of \$.05, for each barrel of oil, out of royalties as required under the revenue-sharing provisions of the Alaska Native Claims Settlement Act in the Alaska Native Fund. Mr. Ferguson asked Mr. Fink how those payments would be made if Mr. Fink's proposal deleted that clause. Mr. Fink stated that payment would be made through the General Fund as required by federal law.

Mr. Fink said that he used the Administration's original concept of averaging because it is easier to measure the oil; there is no point in measuring every well.

Mr. Fink then said that in 1967 the oil and gas severance tax was 1%; he said the argument then was "don't raise the tax until Cook Inlet is developed." Mr. Fink said the present argument is "don't raise the tax until the North Slope is developed." Mr. Fink said this could go on until the last field is developed,

Mr. Barber asked if there was any great divergence between Mr. Fink's proposal and the Governor's bill with regard to the measuring of oil production. Mr. Fink stated that the Governor's original bill and Mr. Fink's bill advocate lease averaging. The Governor, however, found that the averaging amounts to an 8% reduction in money; therefore, the Governor devised a Committee Substitute to take out the averaging. Mr. Fink's proposal increases the cents-per-barrel and makes it easier for the state and oil industry to measure oil production.

Mr. Fink explained that an attempt to escalate the cents-per-barrel has been made over the years; the Long Beach California price is the reference point used in this bill. Mr. Fink said that whatever one thinks is a good average price, escalation should be taken advantage of. In response to Mr. Warwick, Mr. Fink replied that if the Long Beach price falls, it won't effect Alaska's formula because the bill provides an escalation clause only, not a de-escalation clause.

Mr. Barber noted that Mr. Fink's Committee Substitute provided for wells which cannot meet requirements of 100 barrels per day.

Mr. Barber asked how many wells on a platform provide 100 barrels per day. Mr. Fink said that he didn't think there were any. Mr. Burrell stated that there are very few wells producing that amount, but it would not have any marked effect on this proposed legislation. Mr. Burrell said that the good wells on a platform "carry" the bad wells, and the bad wells are left operating; if those wells are in need of repair, however, they will probably be discontinued.

Mr. Freeman then asked Mr. Havelock if he had had time to study Mr. Fink's proposal. Mr. Havelock stated that he had. Mr. Freeman then asked if Mr. Havelock had found any fault with the figures and facts as presented in Mr. Fink's proposal. Mr. Havelock stated that the one over-riding problem is the measuring against out-of-state (Long Beach, California) prices, because this results in making the Alaska statute unconstitutional. Mr. Havelock said that there was nothing wrong with Mr. Fink's proposal as far as figures were concerned.

Mr. Burrell then stated that the wellhead price found in his letter to Mr. Fink is only a tax price. The discrepancy pointed out previously by Mr. Fink with regard to Granite Point and another site is based on exorbitant transportation cost.

Mr. Havelock stated that the State can avoid the problem of making the statute unconstitutional by going back to the wellhead price. Mr. Freeman then asked if the cents-per-barrel rate set in this bill is considered a contract; does this preclude the Legislature from changing it next year? Mr. Havelock stated that the state's taxing power cannot be contracted away. He suggested that the Legislature should come back and figure the tax that should be levied after looking at real prices rather than projected figures.

Mr. Fink stated that the 10% Long Beach concept is unconstitutional, it would not render the rest of the bill ineffective due to the severability clause. Mr. Havelock said that was correct, but he would prefer to see everything straightened out now, and not have the bill hinging on a severability clause. Mr. Fink stated that the escalation clause was necessary; Alaska needs a method for automatic escalation. Mr. Fink said that the oil industry wants this package to go through, and it is important to try to get one through that provides for escalation.

Mr. Havelock stated that he was not criticizing the escalation clause; he stated that it was unconstitutional to impose a tax on interstate commerce.

Mr. Warwick suggested using Tesoro prices, which would not be an out-of-state reference point for pricing. Mr. Fink agreed.

Mr. Haugen commented that he thought it was about time to make up their minds on what they think the oil fields are worth.

Mr. Havelock noted that the Governor's initial bill was designed so that there would not be a substantial tax increase in Cook Inlet. However, by moving away from the unit or lease, there has in effect been an \$800,000 to \$1,000,000 of increased taxes to Cook Inlet.

Mr. Burrell asked to comment on the economic aspects of the bill. He ~~pointed out some of the~~ differences between Mr. Fink's bill and the Governor's Committee Substitute. He especially spoke in regard to Definitions 8 and 9 on page 4 of the Governor's CS. He said they were trying to get the point of instance of taxation and royalty at the same place because if they don't, they will have two different production lines. Therefore, they need the definitions for 8 and 9.

Mr. Burrell then passed out copies of the regulations which they promulgated to administer this tax law on a per well basis. (See page 98 of the minutes.)

They went on to discuss some of the definitions and their necessity. Mr. Warwick wondered whether they hadn't defined "property" as something different in HB 1. He noticed that it didn't say anything about unitification. Mr. Burrell said there was no reason why they couldn't use the definition out of HB 1 although he did think it would be better to cover units also.

Mr. Warwick asked about "API Gravity" and "Gravity". Mr. Burrell said that API Gravity was the standard definition and while the other definition of gravity would suffice, the API definition was the better one.

Mr. Burrell suggested they go back to the definitions used in the Governor's bill where relevant.

Mr. Hogan asked whether the definition of "produced" and "production" on page 4 would mean that if gas, in particular, or oil were used on the lease, it would be taxed and a royalty payment extracted. Mr. Burrell said no.

Mr. Hogan said the only reason for keeping taxing payments separate from royalty would be if the Committee wanted to tax the oil that was used on the lease. Mr. Burrell agreed.

Mr. Specking asked what kind of volume they were talking about. Mr. Burrell said it was mostly very little, just for power and fuel.

Motion

Mr. Ferguson moved and asked unanimous consent that they take Representative Fink's bill as a Committee Substitute.

Mr. Freeman objected. He asked whether this meant they would use his bill as a basis and work it over into a new form. Mr. Ferguson said that was right.

Mr. Freeman removed his objection.

The question was called. There was no objection, it was so ordered.

RECESS

Meeting recessed at 9:55 A.M.

ARTICLE 5. OIL AND GAS  
PROPERTIES PRODUCTION TAX

15 AAC 05.660. NUMBER OF OIL WELLS. The flow stream of oil from each separate pool completion shall be deemed production from one well, except that where flow streams are commingled in the well bore the commingled stream shall be deemed production from one well unless production from each pool is separately measured in accordance with sec. 670 of this subchapter. (Eff. 1/2/71, Reg. 36)

Authority: AS 43.55.010

15 AAC 05.670. DAILY PER WELL OIL PRODUCTION. (a) Daily per well oil production shall be the total oil production per calendar month from each well divided by the number of days in the month either measured or allocated on the basis of well tests.

(b) Allocated daily per well oil production shall be substantiated by measurement of each well's production rate. Such measurements may be taken at any time, but are required to be taken on each oil well once during the first six months and once during the last six months of each calendar year with not less than 120 days elapsing between such required measurements. Required measurement shall be taken over a period of representative indication of the well's ability to produce, and the results of each required measurement and any measurement substantiating a change in allocated daily per well oil production shall be sworn to and provided the Division of Oil and Gas of the Department of Natural Resources within 30 days upon forms prescribed by the Division of Oil and Gas.

(c) Each operator shall endeavor to schedule required measurements of the production rate of each well in a field adequately in advance so as to enable representatives of the Division of Oil and Gas to witness the taking of measurements, and at least three days' advance notice to the Division of Oil and Gas is required.

(d) The Division of Oil and Gas may require additional measurements to substantiate each well's production rate at any reasonable time. (Eff. 1/2/71, Reg. 36)

Authority: AS 43.55.040

15 AAC 05.680. LEASE IDENTIFICATION NUMBER. The Department of Revenue may require the person paying the tax to include an identification number on the statement filed. (Eff. 1/2/71, Reg. 36)

Authority: AS 43.55.130

15 AAC 05.690. SALES PRODUCTION RATIO. The tax payable shall be determined by multiplying the tax levied by AS 43.55.010 or AS 43.55.015, whichever is the higher, by a fraction the numerator of which is the number of barrels of oil removed or sold from each lease or property during the month, and the denominator of which is the number of barrels of oil produced from that lease or property during the month. (Eff. 11/9/72, Reg. 44)

Authority: AS 43.55.010

AS 43.55.015

15 AAC 05.700. DEFINITIONS. Unless the context otherwise requires the words used in these regulations shall have the same meaning as set forth in Alaska Statute 31.05.170 and 11 AAC 22.570. (Eff. 1/2/71, Reg. 36)

Authority: AS 43.55.110

*2nd draft*

Original Sponsor: Rules Committee by  
Request of the Governor

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IN THE HOUSE

CS FOR HOUSE BILL NO. 4

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTH LEGISLATURE - FIRST SPECIAL SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas properties  
production tax; and providing for an effective date."

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

\* Section 1. AS 43.55.010(a) is repealed and re-enacted to read:

(a) There is levied upon every person producing oil or gas a tax on  
each barrel of oil produced within the state and on the gross value at  
the well of all gas produced within the state, both less any part or  
value of any part the ownership or right to which is exempt from  
taxation. The tax is upon the whole production, including what is  
commonly known as the royalty interest, and is levied according to the  
following schedules:

(1) Oil -- based upon the average daily per well production  
and the average gravity of the oil sold from each lease or property  
for the calendar month in barrels, the tax on each barrel of oil  
produced is:

GRAVITY	PRODUCTION RATE		
	1000 BPD OR LESS	1001-2000 BPD	2001 BPD OR MORE
20°9 and below	.211	.282	.352
21.0° - 23.9°	.218	.291	.364
24.0° - 26.9°	.226	.301	.376
27.0° - 29.9°	.233	.310	.388
30.0° - 32.9°	.240	.320	.400
33.0° - 35.9°	.247	.330	.412
36.0° - 38.9°	.254	.339	.424

1	39.0° - 41.9°	.262	.349	.436
2	42.0° and above	.269	.358	.448

3 (2) Oil -- for wells tested and found incapable of producing  
4 more than 100 barrels in average daily production, the tax shall be  
5 one-half the amount shown in (1) of this subsection for production  
6 of 1,000 BPD or less.

7 (3) Oil -- if 10% of the average price for California Long  
8 Beach crude oil 30.0° - 30.9° gravity exceeds \$.40, the tax for oil  
9 of 30.0° - 32.9° gravity from wells producing 2001 BPD or more as  
10 shown in (1) of this section shall be increased to a cents per barrel  
11 equivalent to 10% of the average price for California Long Beach  
12 crude oil 30.0° - 30.9° gravity. The cents per barrel taxes in the  
13 other production ranges shall be increased by the same percentage.  
14 The department shall adjust and post the tax rates accordingly at  
15 least semi-annually.

16 (4) Gas -- the tax rate shall be four per cent of the gross  
17 value of the gas and liquid products produced.

18 \* Section 2. AS 43.55.010(e) is repealed.

19 \* Section 3. AS 43.55.015 is repealed.

20 \* Section 4. AS 43.55.140 is amended by adding new paragraphs to read:

21 (6) "the ownership or right to which is exempt from taxation"  
22 means any ownership interest of the federal government or the state;

23 (7) "gravity" means the API gravity of oil measured at 60°F.  
24 and is determined by the following formula:

$$25 \text{ Specific Gravity} = \frac{141.5}{131.5 + \text{API Gravity}}$$

26  
27 (8) "average price for California Long Beach crude oil" means  
28 the price obtained by averaging the price per barrel of crude oil  
29 paid by the three largest purchasers of California Long Beach crude oil

1 of 30.0° - 30.9° gravity.

2 (9) "average daily per well production" means the amount  
3 calculated by dividing the total number of barrels of oil produced  
4 from each lease or property during the calendar month by the number  
5 of 24 hour days each well produced on the lease or property any time  
6 during the calendar month;

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or property in the state, less the value of any part the ownership or right to which is exempt from taxation. The tax is determined according to the following schedules, and any part which is exempt from taxation is deducted from the tax levied on a pro rata basis as to each production level tax bracket:

(1) oil: based upon the average daily production for each well for the calendar month in barrels, the tax is

- (A) three per cent on the first 300 barrels;
- (B) five per cent on the next 700 barrels;
- (C) six per cent on the next 1,500 barrels; and
- (D) eight per cent on all production in excess of 2,500 barrels;

(2) gas: the rate is four per cent of the gross value of the gas and liquid products produced.

(b) Payment of the tax is in lieu of all ad valorem taxes now or hereafter imposed by the state or any of its political subdivisions upon

- (1) property rights attached to or inherent in the right to produce oil or gas,
- (2) producing oil or gas leases,
- (3) [deleted]
- (4) oil and gas produced in the state upon which gross production taxes are paid, and
- (5) an investment in property described in this section.

(c) An interest in the land not described in this section shall be assessed and taxed as other property within the taxing district in which the property is located.

(d) The gross production tax is not in lieu of income taxes or excise taxes upon the retail sale of oil and gas products.

(e) If on a tax payment date the amount of tax due under (a)(1) of this section is less than the tax due under § 15 of this charter, the tax levied in § 15 of this chapter is payable and the tax levied in this section need not be paid. (§ 2 ch 7 ESLA 1955; am § 1 ch 110 SLA 1968; am § 1 ch 247 SLA 1970; am §§ 1-3 ch 101 SLA 1972; am § 49 ch 58 SLA 1973)

Effect of amendments.  
 The 1972 amendment, effective July 1, 1972, in subsection (a), substituted "the producer of" for "every person producing" in the first sentence, substituted "removed or sold from each lease or property" for "produced" in that sentence, rewrote the second sentence, deleted "per-well" preceding "production" in the introductory language of paragraph (1), and inserted "for each well" therein. The amendment also deleted item (3) in subsection (b) and added subsection (e).  
 The 1973 amendment substituted

"or any of its political subdivisions" for "cities, towns, school districts, and other local government units" in the introductory language in subsection (b), substituted "produce" for "producing" in paragraph (1) of that subsection, and deleted paragraph (3) of that subsection.  
 Legislative committee reports.  
 For report on ch. 101, SLA 1972 (FCCS HCS 98 168), see 1972 House Journal, p. 608. For report on ch. 53, SLA 1973 (CSHB 372), see 1973 House Journal, pp. 733, 885.

3.55.010

ownership terminated which is ex-pro rata

each well

barrels; of the gas

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due under 15 of this title and the SLA 1955; §§ 1-3 ch

"subdivisions" school districts, "unit units" in case in subsection "produce" for which (1) of that paragraph

reports. 1971, SLA 1972 re 1972 House report on ch. 53, 2), see 1973 3, 885.

§ 43.55.015

REVENUE AND TAXATION

§ 43.55.020

Sec. 43.55.015. Tax per barrel of oil. (a) There is levied upon the producer of oil a tax on each barrel of oil removed or sold from each lease or property in the state less any part the ownership or right to which is exempt from taxation. The tax is based upon the average daily production for each well for the calendar month in barrels determined according to the following schedule and any part which is exempt from taxation is deducted from the tax levied on a pro rata basis as to each production level bracket:

- (1) Before July 1, 1980,
  - (A) \$ .458 on the first 300 barrels;
  - (B) \$ .511 on the next 700 barrels;
  - (C) \$ .563 on the next 1,500 barrels;
  - (D) \$ .591 on all production in excess of 2,500 barrels;
- (2) On and after July 1, 1980,
  - (A) \$ .482 on the first 300 barrels;
  - (B) \$ .532 on the next 700 barrels;
  - (C) \$ .597 on the next 1,500 barrels;
  - (D) \$ .557 on all production in excess of 2,500 barrels.

(b) In computing the tax payable under this section the producers of oil may deduct from the amount owing the value of the royalty share paid or transferred by the producer in an amount up to one-eighth of the value of all the oil produced. For any lease where a state royalty of a lesser percentage is payable, the deduction allowed shall be adjusted to equal one-eighth of the value of the oil produced.

(c) The tax levied by this section shall be administered and paid in the same manner as the tax levied in § 10 of this chapter.

(d) If on any tax payment date the amount of tax due under (a) of this section is equal to or less than the tax due under § 10(a)(1) of this chapter, the tax levied in § 10(a)(1) of this chapter is payable and the tax levied in this section need not be paid.

(e) When the tax levied under (a) of this section is payable, state royalties of an amount equal to \$ .05 for each barrel of oil taxed shall be paid, pursuant to the revenue-sharing provisions of § 9 of the Alaska Native Claims Settlement Act (PL 92-203; 85 Stat. 688; 43 U.S.C. 1601 et seq.), into the Alaska Native Fund until all amounts paid into the fund equal \$500,000,000. (§ 4 ch 161 SLA 1972)

Effective date.—Section 18, ch. 101, SLA 1972 (FCCS HCSSB 16s), see 1972 House Journal, p. 263.

Legislative committee report.—See

Sec. 43.55.020. Payment of tax. (a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the last day of each calendar month on oil or gas removed or sold from each

# STATE OF ALASKA

WILLIAMA EGAN, GOVERNOR

## DEPARTMENT OF REVENUE

FOUCH SB-JUNEAU 93501

October 23, 1973

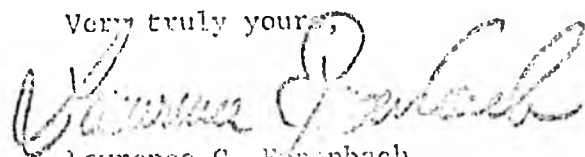
The Honorable Tom Fink  
Speaker of the House  
Alaska State Capitol  
Juneau, Alaska 99801

Dear Representative Fink:

Pursuant to your request of October 21, 1973, I am sending you the attached revenue estimates comparing production tax revenue under existing rates, the Governor's proposed rates, and the cents per barrel rates you have proposed in the draft of CSHB 4.

These projections were completed by hand as our computer program is not capable of accepting the wide variance in rates.

Very truly yours,



Lawrence C. Eppembach  
Deputy Commissioner, Treasury

LCE:ge  
Enclosure  
cc: Governor Egan

10/23/73

Production Tax Revenue  
(millions of dollars)

Most Likely Case

	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
Current	11	10	10	10	58	118	141	158	174	187
Proposed*	12	11	11	10	65	131	142	158	175	187
Fink Measure**	14	17	16	16	148	274	309	335	362	392

Assumptions:

- a. Most likely case price increases 25¢ per barrel per year.
- b. Cook Inlet production from McArthur River at 1,000-2,000 barrels per day with other at 0-1,000 barrels per day. Average gravity 35°.
- c. North Slope production, Prudhoe at 1.7 million barrels per day from greater than 2,000 barrels per day wells with other production from 1,000-2,000 barrels per day wells. Prudhoe gravity 27° other at 23°.

\* Without unit averaging

\*\* With unit averaging

T. Pink - Second Draft

COOK INLET

NORTH SLOPE

Gravity	%	¢ per bbl.	Total	Gravity	¢ per bbl.
29.0	7.4	.233	1.7242	27.0	.388
31.7	3.0	.24	.72		
34.5	55.1	.412	22.7012		
35.0	13.7	.247	3.3839		
36.0	11.6	.31	3.596		
38.5	6.0	.254	1.524		
42.0	<u>2.9</u>	.269	<u>.7801</u>		
	99.7		34.4294		
100 $\left[ \frac{34.4294}{100} = \text{Average } .344292 \right.$					.388
Minus 8% factor <u>.0275433</u>					<u>.03104</u>
Net Average .3167487					.35696

Statewide Average

200,000 Cook Inlet  $\left. \begin{array}{l} \\ \end{array} \right\} .3533044$   
 2,000,000 North Slope

# STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER --- POUCH # --- JUNEAU 99801

Division of Oil and Gas  
3001 Porcupine Drive  
Anchorage, Alaska 99501

October 18, 1973

Honorable Tom Fink  
Speaker, Alaska House of Representatives  
Pouch V  
Juneau, Alaska 99801

Dear Tom:

Your letter was received October 10, while we were finalizing data, charts and exhibits for the Administration's presentation today, hence the delayed reply.

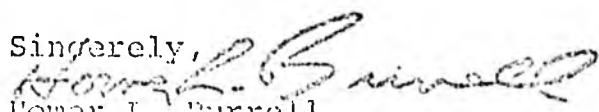
Attached are three tables, the first of which is entitled "Crude Oil Price and Average Daily Well Production, State of Alaska." This should answer your question No. 1 and the first part of No. 3, except that we overlooked calculating the percentages of each Cook Inlet gravity. This can easily be done by your staff.

The second table, unlabelled, shows October 1972 and October 1973 posted prices for Prudhoe Bay gravity oil at the well in the Long Beach Oil Field. It also shows the prices for the weighted average Cook Inlet oil, for the same two months, based upon the average price paid the State by Tesoro. This should answer your question No. 2, except that we have no information as to the value of these crudes at Seattle.

The third table, entitled "Calculations . . ." shows a sample calculation for a 10,000 B/D Prudhoe Bay well producing 27.0° API gravity oil, as assumed to arrive at the 25¢ per barrel average tax.

Please let us know if we can provide any further information. Again, we apologize for the delay in getting this material to you.

Sincerely,

  
Homer L. Burrell  
Director

Crude Oil Price and Average Daily  
Well Production  
State of Alaska

Field	Gross Prod. (Bbls) *	Working Interest (Bbls)	Wellhead Price 9-1-73 * (S)	Wellhead Value (S)	No. Wells	Bbls/Well/day August	API Gravity
Gr. Pt.							
Amoco	218790	191441	2.394	458310	16	441	38.5
Mobil	191881	182287	3.727	670384	9	688	42.0
McArthur R.	3545231	3102077	3.562	11049598	52	2199	34.5
M.G.S.							
Amoco 17595	124240	108717	3.380	367463	9	445	36.0
Amoco SHGS	168107	147094	3.645	536158	6	904	38.5
Holl Co.	626493	543181	3.807	2085925	20	1010	36.0
Swanson R.	885235	774581	3.80	2943408	30	732	35.0
Trading Bay							
ARCO-Taxaco	194774	170427	3.432	584905	13	483	31.7
Union Oil	476614	452783	3.095	1491364	28	549	29.0
Total - Cook Inlet Area	6431373	5677588	3.542	20107515	192	1081	35***
Prudhoe Bay**	65072	56938	2.394	136310	1	2099	27.0
State Total	6496445	5734526	3.530	20243825	193	1086	

Production is for August - latest available. Price is for September representing latest charge. Weighted average therefore will vary slightly from September actual figures.

\*\* Other pools at Prudhoe Bay have a gravity of 23° API

\*\*\* Weighted average

Prudhoe Bay  
 Posted Price/Bbl. Oil at Well  
 for Long Beach, California  
 27° - 27.9° Gravity

---

\$/Bbl.

Cook Inlet  
 Based on Average  
 Tesoro Price/Bbl., Equivalent  
 Average 35° Gravity

---

\$/Bbl.

October, 1972

3.19

3.27

October, 1973

3.79

4.13

October, 1974

\*

\*

\* We estimate crude prices will escalate from 15¢ to 35¢ /bbl./yr. and our best guess is 25¢/bbl./yr.

Calculation To Determine  
Effective "Cents Per Barrel" Tax  
For 10,000 B/D Well Under Proposed Legislation

$$\text{Daily Tax} = (300 \times \$0.10125 + 700 \times 0.16875 + 1500 \times 0.2025 + 7500 \times 0.27) \times 0.875$$

$$\text{Daily Tax} = (30.375 + 118.125 + 303.75 + 2025.00) \times 0.875$$

$$\text{Daily Tax} = 2477.25 \times 0.875$$

$$\text{Daily Tax} = \$2167$$

$$\text{Effective Tax/Net W.I. Bbl.} = \frac{\$2167}{10,000 \times 0.875} = \$0.2477$$

AFTER RECESS  
10:00 A.M.

PRESENT

Vice Chairman Haugen called the meeting back to order and said they would continue discussion of HB 4.

HB 4

Mr. Eppenbach asked to make a few technical comments. He said the table on the bottom of Mr. Fink's bill provides for gravity adjustment of about 1% in rate for each classification. In other words, there is 1% per degree of gravity or 3% for each classification. It is not consistent with market value and present refinery prices.

Mr. Freeman asked him what he was suggesting. Mr. Eppenbach said if he was forced to propose something, he would say to review any table of rates to see if they are reasonable considering present day value changes. He thought they should realign the chart to get in present value differentials. He said he was not proposing an increase or decrease in taxes, just equity to the State.

Mr. Eppenbach went on to say he did not support the measure. He said it was a 6-8-10 percent of the value tax. The fact of the matter is that we have a 12.5% royalty and based on that, 6-8-10% becomes obsolete the instant we have a price increase. The overall revenue impact with these rates implied shows a 50% increase in Cook Inlet and a 100% tax increase on the North Slope.

Mr. Freeman asked whether he found fault with Mr. Fink's idea of comparing what other states do. He asked if he found fault with Mr. Fink's figures and method.

Mr. Eppenbach replied that Mr. Fink's figures were on the margin a little wrong.

Mr. Ferguson said he was looking at the severance tax. He thought this provision they were working on now was a better means of providing funds for the State before FY 79. He said he'd like to see the committee knock out definition (8) and put in language that would take care of the Tesoro provision. He wanted the Committee to go through the bill in a working committee and then have the administration come in to talk about it.

Mr. Warwick thought Mr. Ferguson was right.

Mr. Burrell said that Mr. Fink was totally disregarding transportation by trying to equate Alaska with other places.

Mr. Freeman called attention to page 1, line 29 where it refers to political subdivisions and asked that it be defined. He also thought the definition of property ought to be clarified. Mr. Freeman noted that Mr. Burrell suggested they include definitions 6, 7, 8, and 9.

Mr. Barber asked Mr. Eppenbach what he thought was more appropriate or proper with respect to a true expression of the relative price of oil in view of the market price.

Mr. Eppenbach said they could adjust the rates to provide for value differentials as they exist in the market price today. He said that one of the problems if they reflect market values would be the effect on the tax rate in Cook Inlet. It would go up. He said any gravity differential should reflect the value shown in the U.S. Postings of Crude Oil.

Mr. Freeman asked Mr. Eppenbach to prepare in narrative form some figures for their review.

The Committee asked that the staff prepare a new draft for them to work with. They asked that new rate schedules be computed with 2% increments.

Motion

Mr. Ferguson moved they include the provision for the 5 cents per barrel in the draft. The question was called and there was no objection. It was so ordered.

HR 1

Mr. Freeman asked that HOUSE RESOLUTION NO. 1 (Relating to intent of House regarding HB 2) be brought up for discussion.

Motion

Mr. Ferguson moved and asked unanimous consent that they move out HR 1. There was no objection, it was so ordered.

HB 5

Mr. Freeman asked that HOUSE BILL NO. 5 (levying a regulation and conservation tax on oil and gas) be brought up for discussion.

There was some discussion of the bill. It was the consensus of the majority of the Committee that if they needed a conservation tax they could amend the package at a later time. They thought they were hitting the oil companies hard enough without it.

Mr. Barber asked Mr. Burrell the reason for the legislation. Mr. Burrell replied it was just another tax. He said it was actually based on the severance tax that came down from the Governor's office. If they had kept to that proposal, the industry was willing to accept this additional tax.

Mr. Eppenbach noted there would be no administrative problems in collecting this tax.

Motion

Mr. Warwick moved they pass HB 5 out of Committee with a "Do Not Pass" recommendation. The motion carried 6:2.

RECESS

Meeting recessed at 11:00 A.M.

AFTER RECESS  
October 30, 1973  
3:40 p.m.

PRESENT All members with the exception of Mr. Hillstrand. Staff members J. H. Hogan, Milt Barker. Mr. John Greely of the press.

HB 4 Vice-Chairman Haugen called the meeting to order at 3:05 p.m. The purpose of the meeting was consideration of a proposed House Finance Committee Substitute for HB 4 (relating to oil and gas properties production tax). (See page 116 of minutes)

Mr. Hogan briefly ran through the proposed CS and explained several of the changes to the Committee. Mr. Hogan said that Section 1 consisted of the language as proposed by Mr. Fink. He then pointed out the two graphs listed on a separate sheet (see Page 115 of minutes). Mr. Hogan stated that these rates may seem too high to the Senate, and the Senate may prefer the graduated break system, rather than the hard-line breaking categories. Mr. Hogan stated that the section of definitions is comprised of the language used in the Governor's bill, although definition #12 is different in that it is composed of Mr. Fink's weighted average rather than the float average.

Mr. Warwick stated that the severability clause should be inserted into this proposal. Mr. Hogan said that the clause is not really necessary because it is written in the Alaska statutes. Mr. Haugen then asked the other committee members if they had any objection to the insertion of the severability clause. There was no objection.

Discussion followed regarding the possible depletion of oil production on the North Slope. Mr. Saylor expressed his concern that the North Slope may follow the 10% per year decline in oil production of Cook Inlet. Mr. Warwick stated that the North Slope oil production will be depleted "as the Conservation Committee deems appropriate". Mr. Warwick stated that when they realize the maximum total production, they will slow it down.

Mr. Ferguson stated that he wished to study this proposal further.

RECESS A recess was called at 3:20.

GRAVITY	3%	6%	8%	10%
	PRODUCTION RATE			
	100 BPD or less	101-1000 BPD	1001-2000 BPD	2001 BPD or more
20.9° and below	.091	.182	.243	.304
21.0° - 23.9°	.098	.197	.262	.328
24.0° - 26.9°	.106	.211	.282	.352
27.0° - 29.9°	.113	.226	.301	.376
30.0° - 32.9°	.120	.240	.320	.400
33.0° - 35.9°	.127	.254	.339	.424
36.0° - 38.9°	.134	.269	.358	.448
39.0° - 41.9°	.142	.283	.378	.472
42.0° and above	.149	.298	.397	.496

GRAVITY	4%	8%	10%	12%
	PRODUCTION RATE			
	100 BPD or less	101-1000 BPD	1001-2000 BPD	2001 BPD or more
20.9° and below	.122	.243	.304	.365
21.0° - 23.9°	.131	.262	.328	.394
24.0° - 26.9°	.141	.282	.352	.422
27.0° - 29.9°	.151	.301	.376	.451
30.0° - 32.9°	.160	.320	.400	.480
33.0° - 35.9°	.170	.339	.424	.509
36.0° - 38.9°	.179	.358	.448	.538
39.0° - 41.9°	.189	.378	.472	.566
42.0° and above	.199	.397	.496	.595

IN THE HOUSE

BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 4

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTH LEGISLATURE - FIRST SPECIAL SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas properties production tax; and providing for an effective date."

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

\*Section 1. AS 43.55.010 (a) is repealed and re-enacted to read:

(a) There is levied upon every person producing oil or gas a tax on each barrel of oil produced within the state and on the gross value at the well of all gas produced within the state, both less any part or value of any part the ownership or right to which is exempt from taxation. The tax is upon the whole production, including what is commonly known as the royalty interest, and is levied according to the following schedules:

(1) Oil -- based upon the average daily per well production and the average gravity of the oil sold from each lease or property for the calendar month in barrels, the tax on each barrel of oil produced is:

GRAVITY	PRODUCTION RATE			
	100 BPD OR LESS	101-1000 BPD	1001-2000 BPD	2001 BPD OR MORE
20°9 and below				
21.0° - 23.9°				
24.0° - 26.9°				
27.0° - 29.9°				
30.0° - 32.9°				
33.0° - 35.9°				
36.0° - 38.9°				
39.0° - 41.9°				
42.0° and above				

(2) Oil -- if (10% - 12%) of the highest price paid for State of Alaska royalty crude oil 30.0 - 30.9 gravity exceeds \$., the tax for oil of 30.0 - 32.9 gravity from wells producing 2001 BPD or more as shown in (1) of this section shall be increased to a cents per barrel equivalent to (10% - 12%) of the highest price paid for State of Alaska royalty crude oil 30.0 - 30.9 gravity. The cents per barrel taxes in the other production ranges shall be increased by the same percentage. The department shall adjust and post the tax rates accordingly at least semi-annually.

(3) Gas -- the tax rate shall be four per cent of the gross value of the gas and liquid products produced.

\*Sec. 2 AS 43.55.010 (b), (c) and (d) are amended to read:

(b) The [PAYMENT OF THE] tax imposed by this chapter is in place [LIEU] of all [AD VALOREM] taxes now [OR HEREAFTER] imposed by the state or any of its municipalities [POLITICAL SUBDIVISIONS] upon, and neither the state nor a municipality may impose a tax upon

(1) property rights attached to or inherent in the right to explore for or produce oil or gas; [,]

(2) [PRODUCING] oil or gas leases or properties, whether producing or not; [,]

(3) oil or gas in place;

(4) oil or [AND] gas produced or extracted in the state;  
[UPON WHICH GROSS PRODUCTION TAXES ARE PAID, AND]

(5) an interest [INVESTMENT] in property described in this subsection; or [SECTION]

(6) the value of intangible drilling and development expenses and exploration expenses.

(c) An interest in the land not described in (b) of this section may [SHALL] be assessed and taxed under other provisions of state law [AS OTHER PROPERTY WITHIN THE TAXING DISTRICT IN WHICH THE PROPERTY IS LOCATED].

(d) The [GROSS PRODUCTION] tax imposed by this chapter is not in place [LIEU] of the tax imposed by AS 43.57 or income taxes or [EXCISE] taxes upon the retail sale of oil or [AND] gas products.

\* Sec. 3. AS 43.55.010 (e) is repealed.

\* Sec. 4. AS 43.55.015 is repealed.

\* Sec. 5. AS 43.55 is amended by adding a new section to read:

Sec. 43.55.016 NATIVE CLAIMS PAYMENTS.

When the tax levied under Sec. 10 of this chapter is payable, an amount not less than \$ .05 for each barrel of oil produced shall be paid by the state out of its royalties from the oil, whenever payment by the state is required under the revenue-sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (PL 92-203; 85 Stat. 688, 43 U.S.C. 1601 et seq.), into the Alaska Native Fund until all amounts paid in the fund equal \$500,000,000.

\* Sec. 6. AS 43.55.140 is amended by adding new paragraphs to read:

(6) "intangible drilling and development expenses" means those expenses defined in sec. 263 (c) of the United States Internal Revenue Code as defined on the effective date of this paragraph;

(7) "the ownership or right to which is exempt from taxation" means any ownership interest of the federal government or the state;

(8) "produce" means to remove or sell oil or gas from a lease or property in the state;

(9) "production" means the volume or quantity of oil or gas removed or sold from a lease or property in the state;

(10) "gravity" means the API gravity of oil measured at 60° F. and is determined by the following formula:

$$\text{API Gravity} = \frac{141.5}{\text{Specific Gravity}} - 131.5$$

(11) "lease or property" means a lease or property including mineral interests in oil and gas and working interests, royalty interests and overriding royalty interests in oil and gas leases and unitization or pooling agreements under the provisions of Section 614(b)(3) of the Internal Revenue Code of 1954 as defined upon the effective date of this paragraph.

(12) "average daily per well production" means the amount calculated by dividing the total number of barrels of oil produced from each lease or property during the calendar month by the number of 24 hour days each well produced on the lease or property any time during the calendar month;

\*Sec. 4. This Act takes effect January 1, 1974

AFTER RECESS  
 October 30, 1973  
 3:40 p.m.

Vice-Chairman Haugen called the meeting back to order.

The purpose of the meeting was further consideration on the proposed House Finance Committee Substitute for HB 4 (relating to oil and gas properties production tax).

Mr. Freeman informed the Committee that he had spoken with the Governor in regard to this bill. Mr. Freeman said the Governor had said that he had made an agreement with the oil companies that he would send down a bill which would recommend the amounts (tax on oil production) that he had worked out with the oil industry during negotiations; but the Governor would not prevent either the legislature or finance committees from changing those amounts.

Following general discussion, Representative Saylor moved that the committee insert the following graph in Section 1 of Finance CS for HB 4:

GRAVITY	6%	8%	10%
	PRODUCTION RATE		
	100 BPD	101-1000 BPD	1001 BPD
20.9° and below	.182	.243	.304
21.0° - 23.9°	.197	.262	.328
24.0° - 26.9°	.211	.282	.352
27.0° - 29.9°	.226	.301	.376
30.0° - 32.9°	.240	.320	.400
33.0° - 35.9°	.254	.339	.424
36.0° - 38.9°	.269	.358	.448
39.0° - 41.9°	.283	.378	.472
42.0° and above	.298	.397	.496

Mr. Ferguson objected for the purpose of discussion. He stated that he preferred the second graph (refer back to Page 115 of minutes). Mr. Ferguson also stated that he could not vote for this bill if the exemptions section remained in the bill. He stated that he had previously voted against the ad valorem tax bill (House Bill 1) because of the insertion of the exemptions.

The question was called for: those in favor of the motion were Representatives Saylor, Haugen, Freeman, Warwick, Ose, Barber, and Specking; against was Mr. Ferguson; and so the motion carried, 7:1.

Mr. Ferguson then moved that the committee delete Section b on Page 2, EXEMPTIONS section. He stated that this section is covered in HB 1; he would like to support HB 4 (Finance CS), except for this section. Mr. Ferguson then asked if his motion would change the intent of CSHB 4. Mr. Hogan stated that #5 in section b could effect the bill because it refers back to another item in the subsection. Mr. Ferguson said he could amend his motion to have #5 kept in the bill. It was decided by the Committee to vote on Mr. Ferguson's original motion first.

General discussion followed regarding the deletion of the exemptions section. Mr. Warwick explained that they are not "repealing" the section, just deleting it; this would have no effect on existing statutes. Mr. Freeman then stated that if this language is in HB 1, it should also remain in this bill.

Mr. Ferguson renewed his motion for the deletion of the exemptions section (b) on page 2 in its entirety. The question was called for: those in favor of the motion were Representatives Ferguson, Warwick, Specking; opposed were Representatives Ose, Barber, Haugen, Saylor, and Freeman; and so the motion failed, 5:3.

Mr. Warwick then moved that a severability clause be inserted at the end of the bill, which will state, in effect, that if any portion of this bill is found unconstitutional, it does not effect the rest of the bill. Mr. Warwick asked unanimous consent. There being no objection, it was so ordered.

Mr. Ferguson moved that the Finance Committee Substitute for HB 4 be reported out of Committee with individual recommendations. The motion failed, 7:1.

Another motion was then made to report out Finance Committee Substitute for HB 4 with a do pass recommendation: those in favor of the motion were Representatives Haugen, Specking, Saylor, Freeman, Warwick, Ose and Barber; Mr. Ferguson opposed the motion. And so, HB 4 was reported from Committee with the Finance Committee Substitute, 7:1.

All members signed the Majority Report "do pass" with the exception of Mr. Ferguson who signed "do not pass, unless amended".

ADJOURN Mr. Haugen announced that the Finance Committee would adjourn until a call of the Chair.

HOUSE FINANCE COMMITTEE

November 1, 1973

10:55 P.M.

PRESENT All members except Mr. Hillstrand and Mr. Saylor. Mr. Will Condon, Assistant Attorney General--General Civil Section, was also present.

HB 3 Vice Chairman Haugen called the meeting to order and said that HOUSE BILL NO. 3 (Relating to leases of rights-of-way over state land for the transportation of oil, products or natural gas) would be under discussion. Mr. Will Condon was asked to testify on the bill.

Mr. Condon went through the bill section by section. He said that AS 38.35.010 of the Statute remained the same. Sec. .020 is amended as Section 1 of the Governor's bill. It does three things, first it simply clarifies the language. On lines 22 and 23 some words are taken out because they thought it would read more clearly and still cover all of the people involved in the construction and operation of the pipeline. On lines 23 through 29, they deleted the requirement that the leasee get a certificate from the consumer anytime they want to do something. A new section (b) was added saying the requirements of a right of way lease don't apply to field gathering lines. One purpose for this amendment was that they didn't want to go through a lengthy procedural hearing just to give permits for field gathering lines. Under existing law, there is a procedure which will require hearings and take time. Another reason they would like them excluded is that it appears that anybody that is going to have a right-of-way lease is going to have to be a common carrier. They don't want gathering lines to necessarily be common carriers because they don't want to have to pay the proportionate cost of field gathering lines in royalty and production tax calculations. He added they weren't sure they would have to pay that as there is a law suit going on right now which will probably take another nine months to resolve.

Mr. Specking asked why there was no definition of what a field gathering line was. Mr. Condon replied they didn't define it in the bill because they were caught up in negotiations with the oil companies, and they said any definition set might effect the outcome of the litigation in the Cook Inlet case. He said that the Commissioner could define what it is.

Mr. Condon said Sec. .030 and .040 deal with abandonment of facilities and services and temporary and emergency services. He said there are some legal problems with respect to these. By "abandonment" they basically mean the abandonment of premises.

The abandonment of services portion is an attempt to have veto power over change in economic services. There are legal problems with this and that is the reason they propose deleting .030 through .040. They didn't think it essential to protecting their interests.

Mr. Warwick noted they would be going into that when they went over the Judiciary Committee Substitute.

Mr. Condon went on to say that Section .050 through .100 dealt with how to apply and what the Commissioner does when he gets the application and how he decides when to issue. The only legal problem involved was the requirement that the Commissioner decide that a public hearing is necessary. He stated that Sec. .100 was more in line whether the State's interests in property, health, safety, welfare, and people were adequately protected and whether the "guy" has the capability to build what he says he will.

Mr. Warwick noted they had repealed the public hearing requirement. Mr. Condon said what they had actually done was make it optional.

Section 8 of the Governor's bill, they repealed AS 38.35.110 and re-enacted it. Presently there is a 25 year term of lease. They amended it to allow the Commissioner to set the term in light of financing problems the leasee was presented with. In some cases it would be shorter than 25 years. Some of the companies claim they need longer than 25 years to enable them to get the type of financing they want. They are looking at 27 to 30 years.

Section .120 contains all covenants to be included in the lease. The Governor's bill proposes deleting subsection (1) which parallels Section .020 in the beginning. It also proposes deleting subsection (2) which makes it a contractual obligation to complete the line. The oil companies wanted this out because if it became more economical to take out the oil some other way they didn't want to be stuck with the obligation of completing the line.

Mr. Condon said that subsection (3) is the common carrier provision and the Governor's bill proposes to let the Commissioner decide when he wanted to make the petroleum pipeline into a common carrier.

Mr. Warwick asked the advantages of leaving it optional. Mr. Condon said first of all this applied to product lines as well as other oil lines. He felt there wouldn't be many situations where they'd want to make product lines into common carriers. He said they could make any crude oil line common carriers, but the question was whether they were going to give the Commissioner that much flexibility and then trust him. He stated it was purely a policy problem that would have no effect on regulations.

Mr. Condon said they had excluded natural gas carriers from becoming common carriers. Since gas pipelines are subject to the Natural Gas Act, they didn't think they could make them common carriers, so they were avoiding the possibility of future conflict.

Subsection (4) on pages 6 and 7 deals with common purchasers. That is deleted because it is part of the litigation and it has been put into the separate common purchaser bill.

Subsection 5 talks about what common carriers or purchasers have to do, and it was deleted because the common carrier obligation was moved into subsection 3 and the purchaser was moved into the proposed common purchaser bill.

Subsection 6 deals with exchange and facilities for interchange. They had deleted this because they thought the problem of getting the oil into the lines ought to be handled in subsection (3) and the off flow ought to be handled in subsection (10).

Subsection 7 deals with the option to purchase and to some extent the use of the option to purchase has been raised, but it is more a question of policy rather than law suit. Some judgment has to be made as to whether or not it effects TAPS consortium and whether it creates financing problems. The Governor doesn't think it is a good idea as far as the 20% purchase, and that is why it was taken out. The (7) in the Governor's bill says the companies have to come and talk to them if they are going to sell some portion of the pipeline outside TAPS participants.

The amendments to subsections (8) and (9) read reference into the provisions in the Alaska Pipeline Commission Act. Mr. Condon didn't think what they had done to (8) was in any way limiting.

Mr. Condon said that (9) did limit access to property.

Subsection (10) is the off flow provision changed to make it possible for off flowing to take place in or out of municipalities. Now, it only applies to all State land. They have just made it so it could take place anywhere on the pipeline. He said they wanted to make it clear that the people who took oil off paid for the cost and were responsible for the liability associated with it. In other states, he said, they leave it open.

Subsection (11) deals with whether or not they should create different standards of care and liability through the contract. Otherwise, it would be imposed through law. He said it was a policy question clearly not involved in litigation.

Subsection (12) deals with transfer of the line or disposal of interest. It is the same as section .160. It isn't needed in both, so they deleted it.

Subsection (13) remains the same except it allows you to mail a copy if the person who is the leasee can't be found.

Subsection (14) remains the same.

Subsection (15) is supposed to protect the State in case the State should get sued. The only situation Mr. Condon could see where it might happen is one where the Inspector associated with the State's assessment and monitoring effort would get into some trouble which would lead to the State getting sued.

Subsection (16) concerning liability and property insurance is different from, but designed to protect the same thing as section .150. It makes the insurance optional instead of mandatory. He said they believed it in the State's interests when they had a company with more than enough money to pay for damages not to make them have insurance. However, if the company doesn't initially have the assets necessary or if the company does initially, but its financial situation deteriorates, then it is better to require insurance.

Subsection (16)(b) was inserted to protect what they thought were other property and policy power interests in the State of Alaska, and (16)(c) was proposed to allow the Commissioner to apportion liability desired for the situation where they have people with big interests and people with small interests. The big interests don't want to be 100% liable for it when they own 3% or 4%. If they make everybody 100% liable, it is impossible to get financing. (16)(d) is a catch all provision which allows the Commissioner to insert any other conditions or provisions necessary to protect lives, property, and welfare. They moved the catch all provision in Section .150 to this section, and changed it.

Mr. Condon said Section .130 was designed to get other interests to transfer their rights to the State to allow the State to own the whole right-of-way. The Governor's bill proposes to delete this and changed it to allow the Commissioner to delegate the power of condemnation. He could then delegate it to a pipeline company if he wanted to, as long as when they condemned land, they left the title to the land in the State.

Mr. Condon said there was legal controversy over whether we could get them to give us more land to rent back to them.

Section .150, the insurance provision was moved to Section .120.

The bond provision was removed. According to the oil companies, it would be very expensive to have to post bonds at the beginning of a project. Mr. Condon said they had already dealt with the transfer obligation under .160. He told them considerably more could be done with that.

Section .170 is a combination of old .170 and old .200 which together dealt with forfeiture. This gives the companies more protection.

In Section .180 concerning injunctions, they reworded (a) and dropped (b) and (c) because they didn't think they meant anything.

Section .190 deals with the Administrative Procedure Act. They left (a) alone. They recommend dropping (b), but it is not really necessary. It gives rise to some third party rights. Third party intervenors contesting a right-of-way lease could force the Commissioner to get information. The situation is not likely to arise, but they were concerned about getting the Commissioner tied up in procedural knots when he was trying to get things going.

that

Mr. Condon said (c) dealt with the proposal/they have legislative approval of right-of-way leases. The administration recommends the Commissioner have discretion to decide whether he wants to approve a right-of-way lease. Even if the legislature is going to review the leases, the administration didn't think it ought to be done through the mechanism of regulation review.

Subsection (d) is the Hearing Officer provision. It requires the Commissioner to act as a Hearing Officer and not talk to any of the parties involved. The administration didn't think that was appropriate to the right-of-way leases because they want the Commissioner to talk to these people and not act as a judge.

Section .200 is now combined with .170.

Section .220(d) was tacked on at the end of the 1972 session. Mr. Condon said they propose a new Section .225 dealing with judicial review of decisions of Commissioners on applications. He said this was just the administration's recommendation. It really depended on the legislature as to how much review they wanted the courts to have over the Commissioner's decisions.

Section .230 contains definitions which they thought were necessary to make the Act read well.

\*Sec. 19. AS 09.55.240(a)(12) puts the law back the way it was before the 1970 Right-of-Way Leasing Act.

\*Sec.'s 20, 21, 22, and 23 are just general powers of the Commissioner.

They included field gathering lines in \*Sec. 24 because the permit section of the Alaska Land Act makes it clear they should be included. Before the Right-of-Way Leasing Act they were included, and the administration would like to see it continued.

Mr. Warwick asked Mr. Condon to summarize the areas under litigation. Mr. Condon replied those were: the certificate of public convenience and necessity requirement; the rental formula; the common purchaser provision; the requirements for control of extension and abandonment of services; and the option to purchase.

RECESS Meeting recessed at 12:00 noon.

AFTER RECESS  
November 1, 1973  
4:05 p.m.

PRESENT Representative Haugen called the meeting to order. All members were present with the exception of Mr. Hillstrand. Staff members in attendance were Mr. J. H. Hogan, and Mr. Robert Grogan. Also present was Representative Hugh Malone.

CSSB 4 The purpose of the meeting was consideration of Committee  
(fin)am Substitute for Senate Bill 4 (Finance) Amended (relating to the oil and gas properties production tax).

Mr. Warwick moved that the Committee report out CSSB 4 (Fin) Amended with the House Committee Substitute as a replacement, and that the House Committee Substitute do pass. The motion carried, 7 to 1, Mr. Ferguson with the dissenting vote.

Mr. Hogan then informed the Committee that two changes had been made in the House Committee Substitute since the Committee had reviewed it last. He stated that the two changes consisted of the following: 1) On page 2, paragraph 2, the cost-of-living escalation clause was rewritten to correct a deficiency in the language. The House bill contained imprecise language relating to certain gravities of oil. The wording in this committee substitute attempts to make it clear that should the price increase occur in a gravity of oil produced for and sold by the State of Alaska, the price for all production ranges will escalate; 2) On page 3, line 25; The House bill contained a reference to "24 hour days each well produced..." It has since come to the committee's attention that records are not kept showing the number of hours any given well produces. It was suggested that (24 hour) be struck, leaving only the word "days" which could then be defined by administrative regulation.

Mr. Warwick then amended his motion to include the above two changes in the House Committee Substitute, and asked unanimous consent. There being no objection, it was so ordered, and House Committee Substitute for CSSB 4 (Fin) Amended was reported from committee.

Mr. Haugen informed the Committee of an 8:30 a.m. meeting the following day to consider CSHB 3 (lease of rights-of-way over state land for transportation of oil, products or natural gas). Mr. Haugen requested that the staff notify Mr. Will Condon, Office of the Attorney General, and Mr. Larry Eppenbach, Department of Revenue, and have them attend the meeting. Mr. Hugh Malone, who had expressed interest in CSHB 3, was also notified of the meeting.

ADJOURN

The meeting adjourned at 4:25 p.m.

HOUSE FINANCE COMMITTEE

November 2, 1973

8:30 A.M.

PRESENT

All members except Mr. Saylor, Mr. Hillstrand, and Mr. Ferguson. Representative Malone was present representing the House Judiciary Committee. Mr. Will Condon, Assistant Attorney General, and Mr. Larry Eppenbach, Deputy Commissioner of Treasury, were also present.

HCS CSSB 4

Vice Chairman Haugen called the meeting to order and called the Committee's attention to the completed draft of the Finance Committee Substitute for Committee Substitute for SENATE BILL NO. 4 (Relating to the oil and gas properties production tax) which they had worked on the day before. The Committee found the bill to include everything which they had recommended, and the Committee Report was sent to the floor of the House.

CSHB 3

Mr. Haugen stated that the next item on the agenda was the Judiciary Committee Substitute for HOUSE BILL NO. 3 (Relating to the leases of rights-of-way over state land for the transportation of oil, products or natural gas). Mr. Haugen noted that HB 3 was the key to the arrangement where they could clean up the differences between the oil companies and the administration. It was his feeling that anything different from what the Governor's Office and the Oil Companies had agreed to would be a substantive change.

Mr. Warwick asked Mr. Condon to relate the differences in the CS to the Governor's bill. He wanted to know how it was going to relate to getting the pipeline going.

Mr. Condon stated in \*Sec. 2, section .030 the Judiciary Committee had just put back in all that the Governor's bill had deleted. He said there were no legal problems at all. It wouldn't create any problems with respect to the present litigation. It regards the abandonment, reduction or impairment of services by the lessee. The Commissioner's veto power is based on an economic situation and might create legal problems just to the extent that a notice is required to the Commissioner. Then he can go ahead and enforce other covenants in the lease. The Judiciary Committee wanted something relating to this. Mr. Condon said there was no problem with the way it was handled.

In Mr. Condon's judgement, section .040 creates a remote problem. That is that if they do require temporary or emergency services there is a chance it wouldn't necessarily be in conflict with federal regulatory agencies, but there are still legal problems because its in conflict with some kind of consti-

tutional statute. But, it is so remote that Mr. Condon didn't see major problems with it.

Mr. Condon said all of the sections dealing with application notices, decisions and so on had changes which represent a different way of arrangement in terms which the Judiciary Committee thought were an improvement. They are the kind of changes which would not get them involved in a law suit of any kind.

Mr. Condon said he had no objection to changes made on page 7, paragraph 3. The effect is to leave open to the Commissioner's discretion what he is going to require in enforcing the common carriers covenants. It also leaves it unclear as to who is going to bear the cost. Part of the reason is that the provision of "flanging up" is left open in other states.

Section 7 on pages 8 and 9 is changed a good deal and does two things. There is a 5% option to purchase which is different than the 20% in the bill as it now exists. The extent this would interfere with TAPS financing, he didn't know. He said Lipton and Levy had recommended some kind of option be mentioned. In addition, there is the right of first refusal which is in the second half of the new language. He didn't know whether this particular language created any kind of financing problems for owner companies, however whatever kind of option to purchase, the administration would like to see the State retain the flexibility to retain any part of the line it wanted to.

Mr. Condon said that if they had a situation where the TAPS consortium came apart and the State wanted to see the project move ahead this would require coming back and changing the 5%. The administration doesn't see any reason to tie themselves down to 5% rights of first refusal at this time.

On Section 8, page 8, there were no legal problems. He said that the administration, however, had thought it desirable to reference it into the Pipeline Commission Act so that there would be one set of records required.

Section 9 also references to the Pipeline Commission Act. He didn't think the coordination was so necessary there because it referred to access to records instead of maintenance of.

Section 10 was changed in much the same way as paragraph 3 as far as allocation of costs go. It is left open. It doesn't create legal problems and is a result of a recommendation by Lipton and Levy.

Section 11 is changed in a way he thought wouldn't create legal problems. It was a different policy emphasis. The administration's proposed draft was simply to require the degree of care

and kinds of certification required in other state law. It was a contract remedy to the State to force compensation for damage for which the company might be liable. The Judiciary Committee makes the company liable without fault for any damage except acts of war.

[Mr. Saylor arrived.]

Mr. Condon went on to Section .160, page 14, line 23-26 where it talks about not being able to transfer until the Commissioner approves it. This could create legal problems. The administration recommends substitution of words for those to avoid possible legal problems. He said he would make this language available. It was to the effect that the Commissioner would be able to perform acts that will reasonably protect lives, property and general welfare of the people of Alaska.

Mr. Condon said they wondered whether the proposed transferee would be able to perform acts that will reasonably protect lives, property and general welfare of the people of Alaska. There had to be economic justification in the Commissioner's view for a person to go into business. They are either interested in whether he is going to perform responsibly and protect those interests that are clearly supposed to be protected or they are interested in whether or not there is justification for him going into interstate business. The justification of the law suit is in regard to whether or not the Commissioner can have veto power over a person's decision to go into state business and then have veto power over his economic decisions.

Mr. Specking was concerned about the words "convenience and necessity". Mr. Condon understood what he meant and added that he didn't think using the words "public interest" should alarm the oil companies. He didn't know what kind of effect leaving it as it was would involve the litigation.

Mr. Barber asked whether a change of verbage would tend to facilitate the decision of the court with respect to what is in litigation now. Mr. Condon said yes, if they changed it to what he had suggested, it was clear to him they would have to dismiss the suit.

Mr. Freeman asked whether the Judiciary Committee Substitute was an improvement over the original bill. Mr. Condon thought it was, and the only area of change they recommended was to substitute the administration's language in .160.

One other area he was somewhat concerned about was the definition of (8) "subject to the lease". He didn't know the legal effect inclusion of this "subject to the lease" had. He had no objection to leaving it in, but had no legal opinion.

Mr. Malone was asked to testify on the Judiciary Committee Substitute. He said that on page 2, section 2, .030, the Committee felt it was to the State's interests to obtain notice of the abandonment. He didn't see why the State couldn't require certification of abandonment at least so far as it effected interstate transportation on that line. He said it had been brought out by the EXON attorney there wouldn't be legal problems with that. He didn't know what problem there would be if certification applied only to interstate service.

Mr. Condon said from the administration's point of view, they were going to have a certificate of public convenience and necessity power. Rather than get tied up in certificates to the extent that it would create some problems, they didn't see the need for it. He was sure they could write some kind of provision that said a person had to comply with regulations of the Pipeline Commission, if they wanted to.

Mr. Malone said the Judiciary Committee wanted to require notification to the Commissioner in the event of emergency, abandonment or reduction of services. (section .040)

Mr. Condon said it created a remote legal problem in that they can't require temporary emergency service that is inconsistent with federal law. He said it didn't effect their law suit now and that it might not be anything worth worrying about in the future.

Mr. Malone said that in Section .070 regarding notice of application there had been one significant change. The feeling was that public hearings are of some benefit and probably should be held.

Mr. Malone said the Judiciary Committee had tried to extend the authority of the administration in certain areas. He referred them to page 7, section .120, subsection (3). First of all, they had made the common carrier regulation mandatory. They felt that particularly in the case of TAPS it should be a common carrier by law. He said there was one question he wanted to raise and that was in the language on line 11 where it says the common carrier covenant doesn't apply to pipelines subject to regulations of the Natural Gas Act.

Mr. Condon said that was certainly not involved with the present law suit. He said they didn't think they could require a carrier subject to the National Gas Act to become a common carrier.

Mr. Malone went on to pages 8 and 9, subsection (7). The Committee had inserted language for purchase that the members of

the consortium had agreed to between themselves. They inserted a formula to come up with definite cost figures. This would protect the State by saying this amount and no more.

Mr. Malone said the Judiciary Committee felt that 5% was probably sufficient to provide the type of interest they wanted. By exercise of this option, they could provide undivided interest in the pipeline and operate it to the benefit of the State. There is no real reason to limit to 5% on the right of refusal. The option to buy is important.

Mr. Malone stated that in the original bill, they had set the terms of purchase at the discretion of the lessee. This meant they could set any price they wanted and the only thing the State could do if it was too high was turn down the deal. The language the Judiciary Committee put in was provided by Mr. Kilgore of Levy and Lipton Associates. The language was not his "best" recommendation.

Mr. Condon noted that the language came right out of the TAPS Agreement.

Mr. Warwick noted it said there didn't have to be a willing seller, the State would buy it if it wanted to.

Mr. Malone said they had no authority to condemn. There is a question as to whether the State has the right to condemn an interest in the pipeline. If they condemn it, they have to pay market value, but it is not clear under existing law whether they have the right. The Judiciary Committee felt it better to make it a specific part of the lease itself rather than statutory.

Mr. Malone commented that first refusal applied only to sales to other owners of the pipeline. It was the feeling of the Judiciary Committee that transfers between the owners themselves didn't necessarily give the State the right to buy in. However, they put in a provision for notification in case of transfer of interests.

He went on to page 10, lines 12-13. The Judiciary Committee wanted to make sure a person could flange up. He noted that "persons" on line 12 didn't include municipal corporations. He thought they should include them.

Mr. Malone said that subsection (11) on page 10 imposed strict liability on the pipeline operator except for acts of war. They felt there should be strict liability as far as compensation goes for every pipeline in the State.

Mr. Malone pointed out that subsection (17) on page 11 provided for additional lines within the right-of-way.

Mr. Malone referred them to lines 2 through 6 on page 14 where it says "The appraised fair market value of the land leased for right-of-way shall be determined without regard to any enhancement in value attributable solely to the construction of pipeline facilities on the land or the use of the land for pipeline purposes." He said the House Resources Committee had stricken them from the bill. He thought they were right. He felt they should determine the highest and best use as with any property. He felt the language made it impossible to assess at fair market value.

Mr. Condon said he didn't know what appraised fair market value of the land was. He said if the pipeline went through it would raise the value of the land around it. He pointed out the administration was not advocating a position of whatever the market would bear.

Mr. Malone said that on lines 22-23 on the same page he didn't think the parenthesis around "including subsidiaries, parents and affiliates of the owners" should remain in the bill. He thought it might effect the State's interests.

He said that on lines 24 and 25 the Judiciary Committee has language "after consideration of the public interest, convenience, and necessity" which implies some type of regulation. Presently the law limits what the Commissioner can consider.

Mr. Malone went on to page 16, lines 1-5. This was Judiciary language and they wanted it in the bill.

Regarding Section .230, definitions, Mr. Malone said the main difference between the Committee's approach to definitions and the administration's approach was the administration felt all definitions weren't necessary. The major difference is in (5) "pipeline" or "pipeline facility". The Committee felt it better to define it as a matter of law.

Mr. Malone said that Section 20 in the Committee Substitute was the same as Section 19 in the Governor's bill. They referenced this into Section 21 because they have to give the Commissioner the right to purchase.

Meeting recessed at 10:35 A.M.

AFTER RECESS  
11:00 A.M.

Vice Chairman Haugen called the meeting back to order.

Mr. Warwick was interested in hearing Mr. Eppenbach's comments as to the financial aspects of HB 3 and also his comments on the sheets which Legislative Finance had prepared regarding right-of-way leasing. (See page 136 of the Minutes.)

Mr. Eppenbach said the administration's bill and the Committee Substitute provided for compensation on the basis of fair market value. It was difficult to see what revenue the formula would have provided. He said they were forecasting \$2 million the first year of operation and \$40-\$50 million in operation years. They took the assumption that the pipeline was going to run at 7% return and they are using the current regulations in terms of the rental formula. They are arbitrary forecasts. He added that in his personal experience with the Right-of-Way bill, it was not the intention that it be a revenue raising measure.

Mr. Condon said it was their judgment that the pipeline companies have economic incentive into the situation to go pretty close to the rate of return I.C.C. allows, unless they can convince I.C.C. that it is too high. They are thinking on the average the return value will be around \$40 million a year. This is keyed into profits before taxes rather than profits after taxes.

Mr. Warwick said I.C.C. lets them earn 7% on assets. He asked if they restricted their deductions--whether they deducted all State taxes. Mr. Condon replied just on pipeline operation.

Mr. Condon pointed out that the parent corporation pays taxes on a consolidated basis. He said the severance tax is deductible as far as the consolidated tax return the company files.

Mr. Warwick asked if there were any figures in regard to income tax. Mr. Eppenbach said that for the first year the pipeline will not generate taxable income given all credits allowed. In the second year they predict in the area of \$25 million. The following years they expect a trending up to over \$30 million.

The State has the right to tax income generated by the corporation on the basis of a three variable formula: number of persons employed, assets employed and annual sales.

Mr. Eppenbach said they were working to develop the State's rights for taxation. He said they couldn't control regulations underway in the federal courts and they don't know what Congress might enact.

RECESS Meeting recessed at 11:55 A.M.

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

2 per cent	\$ 6,700,000	\$20,300,000	\$ 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  
2,000,000 bb/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 new 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.

HOUSE FINANCE COMMITTEE

November 3, 1973

8:40 a.m.

PRESENT

All members of the Committee with the exception of Mr. Hillstrand. Mr. Will Condon, Assistant Attorney General, General Civil Section. Representatives Fritz, Gardiner, Malone. Mr. Robert Walker, Exxon Corporation, and Mr. Tim Bradner, British Petroleum lobbyist.

Vice Chairman Haugen called the meeting to order.

CSHB 3

Representative Warwick moved that the Committee consider the Judiciary Committee Substitute for House Bill 3 (relating to leases of rights-of-way over state land for the transportation of oil, products or natural gas). Mr. Freeman objected.

Mr. Freeman asked Mr. Warwick for the reasoning behind consideration of CSHB 3 rather than the original HB 3. Mr. Warwick stated that Mr. Condon had informed the Committee the preceding day that the Committee Substitute is the "better bill" except for two or three provisions. Mr. Warwick said that CSHB 3 is more profitable from the state's point of view. The two particular provisions that need study are the purchase option and the public interest convenience and necessity provisions.

Mr. Freeman removed his objection. There being no objection to Mr. Warwick's motion to consider CSHB 3 at this time, it was so ordered.

Mr. Warwick then referred to Page 3, Line 24 of CSHB 3 (see bill file). Mr. Warwick stated that he felt it was not necessary to have public hearings on every application for right-of-way leases. Mr. Barber recommended that the word "shall" be replaced with the word "may" in Line 18 which would produce the following language: "...the commissioner may cause notice of it to appear..., the notice to include...the time and place of public hearing to be held on the application;" Mr. Condon pointed out that everything is put together in the bill as if there were going to be a hearing and therefore, if the above change is made, all of Sections 38.35.070 and .080 must be restructured (Sec. 4 of CSHB 3).

Mr. Condon then referred to Sec. 3 of the bill, AS 38.35.040 (Temporary emergency service or abandonment, reduction or impairment of service by lessee). He stated that he would like to correct his comments made yesterday with regard to the disclaimer portion of this section. Mr. Condon said he had not read the end of the section as closely as he should have, and now felt that the disclaimer did not take care of

the legal problem. Mr. Condon stated that once the requirements are imposed, it is possible that it won't violate federal law, but this may take away their right to say the state cannot impose it. Mr. Condon told the Committee that a better disclaimer can and should be written. Mr. Specking and Mr. Warwick asked Mr. Condon to prepare a newly worded disclaimer and present it to the Committee. Mr. Condon assured the members that he would do so.

Mr. Warwick then moved and asked unanimous consent for the adoption of the following changes under Sec. 6 (Notice of Application) of CSHB 3:

Page 3, Line 23: after the the word "application;", insert the word "and".

Page 3, Line 24: before the word "the", insert the words "if warranted".

Page 4, Line 17: change the word "shall" to "may"

There being no objection, it was so ordered.

Mr. Saylor then moved for the adoption of the following changes in CSHB 3 under Sec.10 of the bill:

Page 9, Line 8: between the words "of" and "to", delete the parenthesis; insert parenthesis between the words "person" and "other".

Page 9, Lines 14 through 16: delete "but the state may not acquire more than a total undivided interest of five per cent in the entire length of the pipeline within the state"

Mr. Warwick then referred to the purchase option and asked Mr. Saylor if he wished to leave the 5% amount in. Mr. Saylor answered yes. Mr. Warwick then objected to Mr. Saylor's motion.

Mr. Warwick stated that there may be validity to the way the purchase option is spelled out, but the language is from the TAPS agreement and assumes that there will be a willing buyer and seller, which may not be the case. Mr. Warwick stated that he proposed to give the state first refusal and spell out the terms as in the Governor's (HB 3) bill.

Mr. Warwick then asked Mr. Condon if there would be a problem with leaving the terms in the bill and having them apply to the state's first refusal.

Mr. Condon replied that "things must be tied down" in terms of first refusal, but terms concerning calculation of the purchase price are not necessary to tie down. Mr. Warwick pointed out that the terms in CSHB 3 take in accumulated interest, depreciation, etc. He then said that these terms seem very attractive. Mr. Barber stated that it is to the interest of the state to have the terms attractive, but the objection of the oil companies is predicated on the fact that it is an economical issue rather than a legal issue. Mr. Barber said that the oil companies are concerned that this might have an effect on their floating the necessary finances. Mr. Condon said that was correct.

Mr. Saylor renewed his motion (see Page 139 of minutes).

Mr. Warwick said he wished to amend the motion and have all of subsection 7 in CSHB 3 deleted and replaced by the Governor's language as found in HB 3 (Sec. 9 subsection 7, Page 7). Mr. Barber objected.

Mr. Barber then asked Mr. Condon if the new verbage proposed by Mr. Warwick's motion would be more beneficial to the state than the verbage written in CSHB 3. Mr. Condon stated that because this is a decision based on economics, he felt he could not make a judgement. Mr. Barber then stated that the Committee should leave the language as it is.

Discussion followed regarding a change from the 5% purchase option to the 20% as seen in the original bill. Mr. Condon stated that the Governor does not want an option to purchase.

The question was called for on Mr. Warwick's motion to amend Mr. Saylor's motion--see above: Those in favor of the amended motion were Representatives Saylor, Haugen, Freeman, Ose, Warwick and Barber; opposed were Representatives Ferguson and Specking; and the motion carried 6 to 2.

The question was called for on Mr. Saylor's motion (see Page 139 of minutes). Those in favor of the motion were Representatives Haugen, Saylor, Warwick, Freeman, Ose; opposed were Representatives Specking, Ferguson, and Barber. And the motion failed, 5 to 3.

Mr. Warwick moved for the insertion of the words "or municipal corporations" on Page 10, Line 12 after the word "persons". There being no objection, it was so ordered.

Mr. Warwick then moved and asked unanimous consent that the Committee delete the words "subject to the lease" from Page 10, Line 9, Page 14, Line 18, and its definition on Page 17, Line 22. Mr. Condon stated that it is possible to delete "subject to the lease" on Page 10; on Page 14 to be correct, you must say "a

pipeline crossing lands subject to a lease" or a "pipeline which is subject to an Alaska right-of-way lease". Mr. Condon said you could delete "subject to the lease" on Page 17, where its definition is given.

RECESS

The Committee then recessed due to a call of the House at 9:30 a.m.

AFTER RECESS  
November 3, 1973  
2:10 p.m.

PRESENT

The meeting was called to order. All members were present with the exception of Mr. Hillstrand. Also present were Josh Wright, J. H. Hogan, M. Barker. Representatives M. Miller, Malone, and Gardiner were also in attendance as were Mr. Homer Burrell, Director, Division of Oil and Gas, Department of Natural Resources, and Mr. Tim Bradner, Lobbyist for British Petroleum.

CSHB 3

Mr. Saylor referred to Page 15 of CSHB 3, Line 29, and stated that Mr. Condon suggested that the words "under Sec. 100 of this chapter" be inserted between the word "commissioner" and the period at the end of the sentence. Mr. Saylor then said that "under Sec. 100 of this chapter" should also be inserted on Page 16, Line 2, after the word "commissioner".

Mr. Saylor moved and asked unanimous consent that "under Sec. 100 of this chapter" be inserted in CSHB 3 as mentioned above. Mr. Condon explained to the Committee that the only concern in the provision (Judicial Review of Decisions of Commissioner on Application) is the initial granting of the lease, and not other decisions the commissioner might make.

Mr. Saylor renewed his motion, asking unanimous consent. There being no objection, it was so ordered.

Mr. Condon then referred to Page 2, Sec. 3 of CSHB 3, Temporary or Emergency Service or Abandonment, Reduction or Impairment of Service by Lessee: Mr. Condon stated that the following language should be inserted on Line 28 after the word "possible.", and will replace the end of Line 28 and all of Line 29:

"This section does not impose any obligation upon the lessee which could not constitutionally be imposed by a direct exercise of state regulation or any obligation"

The above language would precede the remainder of the sentence "inconsistent with federal or other state law or with regulations or rulings of a federal regulatory agency or the Alaska Pipeline Commission", and the three remaining words of that sentence ("it is inapplicable") will be deleted.

Mr. Condon stated that the effect of this change is that the lessee is not bound to do something which goes beyond what the state can do anyway. Mr. Condon said this gives the Commissioner possibility to order it to the extent that the federal constitution will so permit.

Mr. Condon then said that he did not know if there would be any effect on people in agreement going into a joint venture with reallocation of ownership.

Mr. Warwick asked if this would cause less problems than mandatory option. Mr. Condon said it would, yes. Mr. Warwick pointed out that the state has last refusal according to the Governor's bill, rather than first refusal. Mr. Condon said that the main consideration with that language was the concern expressed by the TAPS owners, by their finance people and bond holders when they go to finance a project, at which time they will enter into some kind of agreement with their bankers. Mr. Condon said that the state with first refusal option would interfere with those rights, and the administration felt that they wanted to prevent interference with those arrangements if they could. Mr. Condon then said that he did not know enough about what effects that language would have on the arrangements between the owner companies, and therefore he would not be particularly concerned about the language suggested here if it excluded transfers of interest.

Mr. Warwick then asked Mr. Tim Bradner, Lobbyist for British Petroleum, if he had any comments to make regarding this issue. Mr. Bradner told the Committee that he did not know enough about the TAPS agreement to comment, but that an attempt was made to cause as little interference as possible in organizing and financing. Mr. Warwick informed Mr. Bradner that this bill would be in Committee a while longer, and if he cared to provide any input to the Committee, he could do so at any time.

Mr. Specking then moved and asked unanimous consent that the language as written by Mr. Condon be inserted on Page 2, Lines 28 and 29 (see bottom of page 14 for exact wording).

There being no objection, it was so ordered.

Mr. Condon then told the Committee that he recommended a change on Page 14, Between the word "consideration" on Line 24 and the word "by" on Line 25, delete the current language and insert the following language:

"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,"

Mr. Saylor moved and asked unanimous consent that the language suggested by Mr. Condon be adopted by the Committee and inserted on Page 14, Lines 24 and 25. Mr. Warwick objected.

Mr. Warwick then asked Mr. Condon if the wording of the proposed insertion was standardized. Mr. Condon stated that it is impossible to make this provision absolute. In an operation of this size, you must make required all steps the state feels are reasonable, because you cannot totally prevent lives being lost.

Mr. Saylor pointed out that this language also appeared on Page 4, Line 25, under Sec. 38.35.100 "Decision on Application".

Mr. Warwick then asked Representative Gardiner why, in this Committee Substitute, this language appeared under "Decision on Application" but not under "Transfer of Right-of-way Lease or Pipeline". Mr. Gardiner stated that it originally applied to both sections, but the amendment failed.

Mr. Warwick then removed his objection to Mr. Saylor's motion. There being no objection, it was so ordered, and the insertion made.

RECESS

A brief recess was called in order that the staff might prepare a mark-up copy of CSHB 3 encompassing all amendments made during this meeting.

AFTER RECESS  
November 3, 1973  
3:30 p.m.

CSHB 3 The meeting was called back to order. Copies of the mark-up CSHB 3 were distributed (see bill file) to the Committee members. Mr. Hogan briefly ran through all changes made by the Committee.

Mr. Warwick then moved for the adoption of the following language which will be inserted on Page 8, Line 23; "on the same terms offered any other potential purchaser". Mr. Warwick stated that the insertion of this language under subsection 7 (Sec. 38.35.120 Covenants to be Included in Lease), will provide for a first refusal option. Mr. Freeman objected.

Mr. Specking pointed out that the insertion of this language will merely put the state on an equal basis with the others, and not necessarily provide a first refusal.

Mr. Warwick then amended his motion to include the words "a first" on Page 8, Line 21 after the word "state" (requires deletion of the word "an").

Mr. Warwick then asked Mr. Condon his opinion of the insertion of the above. Mr. Condon stated that he could not comment on this. Mr. Saylor said the Governor gave the Office of the Attorney General direction in the drafting of this legislation. He then asked Mr. Condon to tell the Committee what those

directions were. Mr. Condon replied that the Administration had wanted the opportunity for the oil companies to negotiate with the state for any interest they had to sell if it did not interfere with their agreement to reallocate ownership in terms of the TAPS agreement or in terms of contract obligation among company owners or their financing people. Mr. Saylor's remarked that Mr. Warwick's motion to insert this language would thus infringe on those transfer rights. Mr. Condon said it might, but that he does not "know that".

Mr. Saylor's stated that if Mr. Warwick's motion is adopted, then, for example, an oil company which wanted to transfer 1,000 shares of stock in the pipeline to one of its subsidiary companies could not, unless they offered it to the state first. Mr. Warwick said that would not be undesirable.

Mr. Burrell, Director of the Division of Oil and Gas, then stated that the TAPS agreement has a contract provision which says the oil companies must offer any interest to each other. Mr. Burrell added that he did not know what the effect of this language would be on that contract provision. Mr. Saylor's then asked if the TAPS agreement says anything about mergers outside the seven companies. Mr. Burrell replied that to his knowledge, it did not.

Mr. Warwick then said that his motion would not have an adverse effect on the oil companies' financing. Mr. Specking disagreed and stated that the state does not have that much credibility in the bond market.

Mr. Warwick renewed his motion which consisted of the following (Page 8 of the markup copy): on Line 21, delete the word "an" and in its place, insert the words "a first"; on Line 22, after the word "it", delete the rest of subsection 7 and insert in its place the following words: "at the same terms offered any other potential purchaser". Mr. Barber objected; he then asked Mr. Condon if Mr. Warwick's motion is clear or litigation. Mr. Condon stated that he did not know.

Mr. Barber removed his objection. The question was called for: those in favor of the motion were Representatives Saylor's, Ose, and Haugen; opposed were Representatives Freeman, Barber, Warwick, Ferguson, and Specking; and so, the motion failed 5 to 3.

Mr. Warwick then pointed out that on page 10, Line 9, the words "subject to the lease" had not been removed as the Committee had previously requested. Mr. Hogan replied that the words would be deleted.

Following discussion with regard to Page 14, Line 2, Mr. Warwick stated that the Committee had previously discussed removing this language. Mr. Specking said he agreed that the present language "takes out the ingredients of the art of assessment" as Mr. Malone had previously stated.

Mr. Specking then moved for the deletion of the language. Mr. Barber objected and asked Mr. Condon if this comes under litigation. Mr. Condon stated that the deletion won't make any difference; he said the right-of-way price is in litigation but the appraisor will not say this will hold things up. Mr. Malone then stated that the fair market value is what the appraisal will be, and will not hold up value of the land.

Mr. Specking renewed his motion and asked unanimous consent. Mr. Freeman objected. The question was called for: opposed were Freeman, Barber, Ose and Haugen; in favor were Warwick, Specking, Saylor and Ferguson; and the motion failed 4 to 4.

Mr. Warwick then asked Mr. Condon what the attitude of the administration would be towards putting in an expiration clause in Senate Bill 8 (relating to the lease or sale of state lands for pipeline purposes). Mr. Condon said he would provide the Committee with the information after thinking over this proposal.

Mr. Haugen informed the Committee that the meeting would reconvene on Monday, November 5, at 9:00 a.m. Mr. Condon was asked to attend.

There being no further discussion, the meeting adjourned at 4:10 p.m.

HOUSE FINANCE COMMITTEE

November 5, 1973

9:00 A.M.

PRESENT All members except Mr. Hillstrand and Mr. Ferguson. Mr. Will Condon, Assistant Attorney General and Mr. Tim Bradner, Lobbyist for British Petroleum, were also present.

Vice Chairman Haugen called the meeting to order and stated they would continue discussion on the Committee Substitute for HOUSE BILL NO. 3 (Relating to leases of rights-of-way over state land for the transportation of oil, products or natural gas).

They began with paragraph 7, page 8. Mr. Condon said that by insisting in our Right-of-Way lease that we have right of first refusal, he thinks they will have to renegotiate our agreement, so it creates a tiny problem.

Mr. Bradner suggested they put in a grandfather clause to prevent them from having to renegotiate. That way they would have the right of first refusal beyond the time of the temporary agreement.

Mr. Warwick asked whether all of the agreements among the owners and the people who finance were matters of public record. Mr. Condon said they'd been made public because of the law suit.

Mr. Condon said this particular pipeline will be an undivided interest ownership pipeline. Seven companies will be doing business in the same pipeline. They are going to set their own tariffs, but because all are going to become carriers, they are going to be pretty much the same. If the State utilizes its option, it will become the 8th owner. The State wouldn't know any more about the other seven than they knew before. However the State would have access to all of the things that ALYESKA is doing and they are going to account for about 10% of the cost that goes into anybody's tariff. They are more of a "janitorial" service. He said that if the Pipeline Commission does its job they will be more likely to get the information they want than if they buy into the pipeline.

Mr. Condon said there were two other reasons they might buy. The first would be to get in and have some kind of a competitive effect by charging lower tariffs, but he said they couldn't go too low or they would be carrying everybody else's oil and not have room for much of their own. The second reason they might want to own part of it would be as a good investment.

Mr. Warwick noted that another reason might be that in the future they might find it beneficial for some reason they are not now aware of.

Mr. Warwick moved and asked unanimous consent that on page 8, line 21, subsection (7) they adopt the following language:

"(7) it will afford the state a first opportunity to negotiate for the purchase of any interest in the pipeline offered for sale by it on the same terms offered any other potential purchaser, provided that this obligation will not interfere or supersede contract rights or obligations existing among the proposed owners of the pipeline at the time the right-of-way lease is granted."

There was no objection, it was so ordered.

Mr. Condon said the Attorney General's office would just as soon see the sentence on page 14 regarding appraised fair market value taken out.

Mr. Warwick moved that on page 14, line 2, they delete the sentence beginning "The appraised fair market value" and ending "for pipeline purposes" on line 6. There was no objection, it was so ordered.

Mr. Condon said that as the bill existed right then, he thought it did the job it was supposed to do. It just needed a repealer and reporting provision.

RECESS Meeting recessed at 9:50 A.M.

HOUSE FINANCE COMMITTEE

November 9, 1973

10:25 a.m.

PRESENT

All members of the Committee with the exception of Mr. Ferguson. Staff members J. H. Hogan, Milt Barker. Also present were Mr. Harold Strandberg, Mr. Mike Whitehead, and Mr. Joe LaRocca of the press.

CSHB 3

Chairman Hillstrand called the meeting to order and stated that although Committee Substitute for House Bill 3 (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) was not before the Committee for formal consideration at this time, consideration is being given simply to determine the advisability of making changes which will accompany CSHB 3 when presented to the floor. Mr. Hillstrand stated that these will be termed Finance Committee amendments to CSHB 3.

Mr. Warwick then stated that several legislators would like to see the House Finance Committee incorporate into the bill Section 1 of CSSB 3 (Finance) am. The section would be inserted into the bill as a new Section 1, and would read as follows:

"\*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."

Mr. Warwick then moved and asked unanimous consent for the adoption of the above amendment as part of the House Finance Committee amended version. There being no objection, it was so ordered.

Mr. Warwick then referred to Page 15, Line 27 of the bill (the Judiciary CSHB 3) and stated that he wished to insert the words "or notice" after the word "hearing". Mr. Warwick explained that because the House Finance Committee had previously changed the bill so that a hearing would not have to be held on every application for a right-of-way lease, this section must also conform. He then moved and asked unanimous consent for the insertion of "or notice" on Page 15, Line 27 of CSHB 3.

Mr. Hillstrand objected and stated that he needed an illustration of what a notice would be. He said it might be possible

for anyone to raise an objection if this language were to be inserted. Mr. Hillstrand then read from AS 38.35.225: "An applicant or competing applicant or a person who raises objections within 30 days after decision following the hearing ...are the only persons with standing to seek judicial review of a decision of the commissioner." Mr. Hillstrand stated that his concern was over the possibility of a person objecting who was not involved except as an observer; he might voice an objection over anything, as opposed to a legitimate objection posed by an actual participant.

Mr. Warwick pointed out that it was necessary for those applicants who did not have to have a public hearing to be able to have judicial review of a decision of the commissioner.

Mr. Barber stated that you could include sec.030 in the language. Reference to sec. 080 is not sufficient. Mr. Barber said that you not only have an application for right-of-way but also for abandonment which are seemingly identical and should be subject for judicial review. He said that Mr. Warwick's amendment qualified the application for a pipeline, but that it ignored the identical treatment of abandonment. Mr. Warwick countered that abandonment is covered in sec. 080. Further Committee discussion followed.

Mr. Warwick then renewed his motion for the insertion of the words "or notice" on Page 15, Line 27, and asked unanimous consent. There being no objection, it was so ordered.

Mr. Warwick then referred to Page 8, subsection (7). He said he had been contacted regarding this language and it was suggested that a time limit be incorporated into this section. Mr. Warwick explained that when you buy an option, you buy it for a certain amount of time. Mr. Warwick said he did not know what that amount of time should be. The state, once it is afforded the opportunity to negotiate for purchase, should have to exercise the option within a certain number of days. Mr. Saylor stated that he did not know what kind of time limit could be set. Mr. Warwick reiterated that he was not sure what the time limit should be either, but that if the state is allowed to "string this on and on" it would impose a restriction on anyone wishing to sell. Mr. Warwick then said he did not have strong feelings on this issue.

Mr. Hillstrand said that as he read this subsection, it is an open option that can be exercised by the state any time. Mr. Hillstrand said he would automatically react unfavorably to an amendment to this which might decrease the flexibility to the state.

Mr. Hillstrand adjourned the meeting at 10:55 a.m.

AFTER RECESS  
3:35 P.M.

PRESENT All members of the Committee were present.

CS SB 3 Chairman Hillstrand called the meeting back to order and stated that their Finance Committee Substitute for CS SB 3 am plus the two amendments which they had approved unanimously that morning was before them for consideration.

Mr. Ferguson moved that they send out House Committee Substitute for Senate Bill 3 with individual recommendations including the support for the two amendments as Finance Committee amendments.

Mr. Warwick objected for the purposes of discussion. He questioned the title of the bill. He didn't think it was any better than it had been. There was some discussion of this.

Mr. Warwick moved to amend Mr. Ferguson's motion to include an amendment to the Title of the bill so that it would read "An Act relating to the use of state lands for pipeline purposes; and providing for an effective date." and asked unanimous consent. There was no objection, it was so ordered.

The question was called on the main motion. There was no objection, it was so ordered. The bill went out of Committee with 6 "Do Pass" recommendations, 2 "No recommendations" and 1 "Do Not Pass".

SUBCOM-  
MITTEE  
ASSIGN-  
MENTS

Chairman Hillstrand stated that one of the things concerning him was work sessions for next year. He had decided that the subcommittees do not work to the advantage of the legislation considered, so he was going to change assignments for the up-coming session. He said one of the things they were going to be confronted with during the next session was the pay increase for the State Employees. He wanted to treat that bill as Number One Priority. He appointed Subcommittees which were charged with the responsibility of conducting workshops throughout the State. They were as follows:

Mr. Warwick - Fairbanks  
Mr. Saylor - Anchorage  
Mr. Ferguson - Bush  
To Be Announced - Southeast

He instructed that these workshops be conducted between now and the next session.

Meeting recessed at 4:00 P.M.