

# LEGAL SERVICES

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## MEMORANDUM

February 24, 2020

**SUBJECT:** Sectional Summary for 19OGTX

**TO:** Senator Gary Stevens  
Attn: Katrina Matheny

**FROM:** Emily Nauman  
Deputy Director



You requested a summary of 19OGTX, an initiative related to the oil and gas production tax. As a preliminary matter, note that this sectional summary should not be considered an authoritative interpretation of the initiative and the initiative itself is the best statement of its contents. The initiative was not drafted by this office; the initiative may be subject to interpretations other than those presented in this summary.

Section 1 of the initiative gives the initiative a short title, the "Fair Share Act."

Section 2 of the initiative states that sections 3 and 4 of the initiative apply only to oil produced from fields, units, and nonunitized reservoirs north of 68 degrees north latitude that have produced more than 40,000 barrels of oil per day in the previous calendar year and more than 400,000,000 barrels of oil "cumulatively." The section also states that the production tax shall "be unchanged" by the initiative for "other oil production."

Section 3 of the initiative sets out an alternative gross minimum tax. The tax is, for the fields, units, and nonunitized reservoirs described in sec. 2 of the initiative, ten percent of the gross value at the point of production when the average price of a barrel of oil is less than \$50, plus an additional one percent for each \$5 increase in the price of a barrel of oil over \$50.<sup>1</sup> The total gross value tax under sec. 3 capped at 15 percent. The tax under sec. 3 is due "each calendar month." Section 3 also states, "no credits, carried forward lease expenditures, including operating losses, or other offsets may reduce the amount of tax below the amounts calculated in this section."

Section 4 of the initiative sets out an additional production tax. The additional production tax applies only to the fields, units, and nonunitized reservoirs described in sec. 2 of the initiative. The additional production tax applies when the price of a barrel of

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<sup>1</sup> The phrasing of the initiative is unclear, but I believe the intent is for the tax increases to start at 11 percent at \$50 per barrel of oil and increase in \$5 increments to 15 percent at \$70 per barrel of oil.

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oil is more than \$50. The additional production tax is the difference between the average monthly production tax value of a barrel of oil and \$50, multiplied by 15 percent. The additional production tax under sec. 4 "shall be paid for each month." Section 4 also states that the "per-taxable-barrel credit" (AS 43.55.024(i) and (j)) "shall not be used" against oil subject to the additional production tax.

Section 5 of the initiative states that each producer subject to tax under the initiative shall calculate the taxes separately for "oil and for gas," and for "each calendar month (annual lease expenditures shall be divided equally among the 12 months of the tax year)." Section 5 also states that the lease expenditures for each field, unit, and nonunitized reservoir, must be "calculated, deducted, and carried forward separately."

Section 6 of the initiative states that a producer, for each month, for each field, unit, or nonunitized reservoir shall pay the tax due under sec. 3 or sec. 4, whichever is greater.

Section 7 states that "all filings and supporting information" relating to "the calculation and payment of the taxes set forth in [secs.] 3 and 4" provided to the Department of Revenue "shall be a matter of public record."

Section 8 states that nothing in the initiative dedicates revenue, makes or repeals an appropriation, enacts local or special legislation, or requires the legislature to "perform[s] any unconstitutional act." Section 8 also states that "the revenues from the [initiative] could be used to fund essential government services, capital projects, the permanent fund, and permanent fund dividends."

Section 9 of the initiative is a severability clause that states that if any provision of the initiative is found to be invalid by a court, the remainder of the initiative should be "given effect to the fullest extent practicable."

If I may be of further assistance, please advise.

ELN:kwg

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