

HOUSE BILL NO. 190

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES WHITAKER, Croft

Introduced: 3/16/01

Referred: House Special Committee on Oil and Gas, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act levying and collecting an ad valorem tax on North Slope natural gas in place;**
2 **and providing for an effective date."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that

7 (1) art. VIII, sec. 1, Constitution of the State of Alaska, provides that it is the
8 policy of the state to encourage the settlement of its land and the development of its resources
9 by making them available for maximum use consistent with the public interest;

10 (2) art. VIII, sec. 2, Constitution of the State of Alaska, requires the legislature
11 to provide for the utilization, development, and conservation of all natural resources
12 belonging to the state, including land and waters, for the maximum benefit of its people;

13 (3) the production and sale of oil and gas from state land is an important
14 source of revenue to the state and of job opportunities for all the people of the state;

1 (4) natural gas located on the North Slope is a valuable resource to the state
2 that has not been produced for sale in the market place, nor made available for in-state
3 utilization by the people of the state;

4 (5) the in-state utilization of North Slope natural gas will provide a more
5 economic and environmentally acceptable source of energy for the people of Alaska;

6 (6) the amount of natural gas located on the North Slope is substantial and, if
7 sold, will generate significant revenue to the state and opportunities and benefits to its people
8 for many years;

9 (7) in order to facilitate the commercialization of North Slope natural gas, it is
10 necessary to provide an incentive to ensure that the cost to North Slope producers not to
11 commercialize, delay commercialization, or inhibit commercialization of North Slope natural
12 gas is prohibitive; and

13 (8) a policy of noncommercialization, delaying commercialization, or
14 inhibiting commercialization, when commercialization is economically feasible, is contrary to
15 the spirit and intent of art. VIII, secs. 1 and 2, Constitution of the State of Alaska.

16 (b) The intent of this Act is to

17 (1) provide the people of the state the maximum benefit possible through
18 extraction of natural resources, as required by the Constitution of the State of Alaska;

19 (2) foster and promote the long-term economic growth and development of the
20 state;

21 (3) establish a means by which the state can facilitate the availability for in-
22 state consumption and utilization of North Slope natural gas by the people of Alaska;

23 (4) establish a means by which the state can facilitate the commercialization of
24 North Slope natural gas.

25 * **Sec. 2.** AS 43.58 is amended by adding new sections to read:

26 **Sec. 43.58.210. Ad valorem tax on certain proven gas reserves.** (a) An
27 annual tax is levied each calendar year on the full and true value of taxable property
28 under this chapter.

29 (b) The annual rate of levy is the greater of

30 (1) two cents per 1,000 cubic feet; or

31 (2) a millage rate that, when applied against the full and true value of

1 the taxable property described in AS 43.58.230 - 43.58.250, yields \$1,000,000,000
2 during the tax year.

3 **Sec. 43.58.220. Property subject to tax.** The provisions of this chapter apply
4 to natural gas in place from all state leases on the North Slope having proven gas
5 reserves.

6 **Sec. 43.58.230. Assessment; full and true value.** (a) The department shall
7 assess taxable property under this chapter to the owner of it at its full and true value as
8 of January 1 of each year.

9 (b) The full and true value of taxable property under this chapter is the
10 estimated price that the taxable property would bring in an open market and under the
11 then prevailing market conditions in a sale between a willing seller and a willing buyer
12 both conversant with the property and with prevailing values. In determining the full
13 and true value of taxable property, the department shall consider all factors that may
14 be known by the department to affect the value of taxable property, including the
15 discounted present value of the expected future net income from the taxable property.

16 **Sec. 43.58.240. Assessment roll.** The department shall prepare annually the
17 assessment roll for taxation under this chapter. The roll must contain

- 18 (1) a description of all taxable property;
19 (2) the assessed value of all taxable property; and
20 (3) the names and addresses of persons owning or otherwise holding
21 an interest in taxable property.

22 **Sec. 43.58.250. Assessment notice.** On or before April 15 of each year, the
23 department shall send to every owner of taxable property subject to levy and collection
24 of taxes under this chapter named in the assessment roll a notice of assessment
25 showing the assessed value of the property. The notice of assessment is effective on
26 the date of its mailing.

27 **Sec. 43.58.260. Appeal.** (a) A person aggrieved by the action of the
28 department in making an assessment may appeal that action and obtain a hearing upon
29 its validity before the department by filing written objections to the assessment not
30 later than 20 days after the effective date of the assessment notice.

31 (b) The procedures for conduct of the hearing and preliminary activities to it

1 shall be in accordance with AS 44.62.350, 44.62.430, 44.62.450, 44.62.460,
 2 44.62.480, 44.62.500 - 44.62.550, 44.62.590, and 44.62.610 - 44.62.640. For the
 3 purposes of this section, the term "respondent" used in those sections shall be
 4 considered to include the person aggrieved by action of the department. The
 5 department shall provide by regulation for notices of hearing under this section to
 6 interested persons. At the hearing, the appellant bears the burden of proof. In the
 7 absence of this proof, the assessment is to be upheld by the department. If the
 8 department, after hearing, determines that a correction of the assessment is warranted,
 9 the department shall correct the assessment and the assessment roll.

10 (c) Within 30 days after the decision by the department following the hearing,
 11 a person aggrieved by that decision may appeal to the superior court.

12 **Sec. 43.58.270. Certification.** On or before June 15 of each year, the
 13 department shall certify the final assessment roll and mail to the owner, operator, or
 14 other person filing a return and paying tax on the taxable property a statement of the
 15 amount of tax due.

16 **Sec. 43.58.280. Supplemental assessment rolls.** The department shall
 17 include property omitted from the assessment roll on a supplemental roll, using the
 18 procedures set out in AS 43.58.230 - 43.58.250 and 43.58.290 - 43.58.300 for the
 19 original roll.

20 **Sec. 43.58.290. Investigation.** (a) The department may make an
 21 investigation of property on which a return has been filed or on property for which a
 22 return has not been filed. In either case, the department shall make its own valuation
 23 of the taxable property, which is prima facie evidence of the property's full and true
 24 value.

25 (b) An employee or agent of the department may enter any premises necessary
 26 for the investigation during reasonable hours and may examine property and other
 27 appropriate records. The owner of taxable property, upon request, shall furnish to the
 28 employee or agent of the department reasonable assistance required for the
 29 investigation. If an employee or agent of the department seeking to enter any premises
 30 necessary for an investigation under this section or to obtain reasonable assistance
 31 required for an investigation under this section is refused entry or assistance, the

1 superior court may, after reasonable notice to and hearing of the owner, order the
2 owner to allow the entry or to furnish the assistance.

3 (c) For the purpose of the investigation of property, the owner, operator, or
4 other person filing a return and paying the tax on the taxable property or a
5 representative may be required to appear for examination under oath by the
6 department.

7 **Sec. 43.58.300. Returns and payment of tax.** (a) A return of taxable
8 property shall be submitted on or before February 1 on the form prescribed by the
9 department based on property values existing on January 1 of each calendar year,
10 except as otherwise provided in this chapter. The return shall be submitted by

11 (1) a person who is the owner of the property, or who controls that
12 property as agent, or on account of any other person;

13 (2) a guardian or other person who has charge of taxable property
14 belonging to a minor or other person;

15 (3) the trustee of a trust estate holding taxable property in trust for the
16 benefit of another person;

17 (4) the executor or administrator of a deceased person's estate that
18 includes taxable property;

19 (5) the receiver of a corporation who has its assets in hand.

20 (b) The person required to submit the return specified under (a)(1) of this
21 section is primarily liable for payment of the tax levied by this chapter. The persons
22 or estates specified in (a)(2) - (5) of this section in whose behalf the tax levied by this
23 chapter is to be paid are secondarily liable for payment of the tax. With the written
24 approval of the department, an operator or nonoperator of the lease or property may
25 submit returns or make payment of the tax levied under this chapter on behalf of the
26 operator or nonoperator and other persons as the department may approve.

27 (c) The tax levied under this chapter is payable to the department on or before
28 June 30 of each year or in installments at the times and under the conditions of the
29 department may by regulation require.

30 (d) With the prior written approval of the department, a person submitting
31 returns or making payments as required under this chapter for more than one taxable

1 property may regard the leases or properties as a single taxable property for purposes
2 of submitting those reports or making those payments.

3 (e) A person making payment of the tax levied under this chapter on behalf of
4 one or more other persons owning or otherwise holding an interest in a taxable
5 property may withhold a proportionate share of the payment from any proceeds or
6 other benefits from the taxable property owed to any person on whose behalf the
7 payment is made. Unless otherwise specifically provided by written contract or
8 agreement, the person so withholding a proportionate share of the tax levied under this
9 chapter incurs no liability to those from whom it is withheld by virtue of having made
10 the withholding.

11 (f) The department may, by written notice, require a person filing a return to
12 submit additional information to the department no later than 30 days after the notice.

13 **Sec. 43.58.310. Remedy.** The remedy of distraint on property set out in
14 AS 43.20.270 applies to the tax, penalty, and interest levied by this chapter.

15 **Sec. 43.58.320. Regulations.** The department may adopt regulations in
16 accordance with AS 44.62 (Administrative Procedure Act) as appropriate to
17 administer and enforce this chapter.

18 **Sec. 43.58.395. Definitions.** In this chapter,

19 (1) "gas" and "natural gas" have the meanings given to "gas" in
20 AS 43.55.900;

21 (2) "lease or property" means any right, title, or interest in or the right
22 to produce or recover gas, including

23 (A) a mineral interest;

24 (B) a leasehold interest;

25 (C) a working interest, a royalty interest, an overriding royalty
26 interest, production payment, net profit interest, or any other interest in a lease,
27 concession, joint venture, or other agreement for gas exploration, development,
28 or production;

29 (D) a working interest, a royalty interest, an overriding royalty
30 interest, production payment, net profit interest, or any other interest in an
31 agreement for unitization or pooling under provisions of 26 U.S.C. 614(b)(3)

1 (Internal Revenue Code);

2 (3) "North Slope" means the area of Alaska lying north of 68 degrees
3 North latitude;

4 (4) "operator" means the person conducting the exploration,
5 development, or production operation for a lease or property;

6 (5) "proven gas reserves" means the volume of gas in a known deposit
7 that geological and engineering information indicates is recoverable in the future
8 under prevailing economic conditions and technology.

9 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **CONDITIONAL EFFECT OF SECTION 2 OF THIS ACT.** Section 2 of this Act
12 takes effect under sec. 6 of this Act unless the commissioner of natural resources certifies, no
13 later than December 31, 2003, that not less than 500,000,000,000 cubic feet of North Slope
14 natural gas, as that term is defined in AS 43.58.395, added by sec. 2 of this Act, is annually
15 committed by contract for sale and timely delivery as commercially marketable gas for a
16 contract term of at least 20 years.

17 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **CONDITIONAL EFFECT OF SECTION 2 OF THIS ACT.** Section 2 of this Act
20 takes effect under sec. 7 of this Act

21 (1) if, under sec. 3 of this Act, the provisions of AS 43.58.210 - 43.58.395 did
22 not take effect; and

23 (2) unless the commissioner of natural resources certifies, no later than
24 December 31, 2007, that the cubic feet of North Slope natural gas, as that term is defined in
25 AS 43.58.395, added by sec. 2 of this Act, that has been committed by contract for sale and
26 timely delivery as commercially marketable gas as required by sec. 3 of this Act is deliverable
27 as provided by the appropriate terms of the contract.

28 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 **CONDITIONAL DELETION OF REFERENCES TO MATERIAL ENACTED BY**
31 **SECTION 2 OF THIS ACT.** If, before January 2, 2008, the provisions of AS 43.58.210 -

1 43.58.395 have not taken effect, the revisor of statutes shall delete from the Alaska Statutes
2 references to the following sections added by sec. 2 of this Act: AS 43.58.210, 43.58.220,
3 43.58.230, 43.58.240, 43.58.250, 43.58.260, 43.58.270, 43.58.280, 43.58.290, 43.58.300,
4 43.58.310, 43.58.320, and 43.58.395.

5 * **Sec. 6.** If, under sec. 3 of this Act, sec. 2 of this Act takes effect, it takes effect January 1,
6 2004.

7 * **Sec. 7.** If, under sec. 4 of this Act, sec. 2 of this Act takes effect, it takes effect January 1,
8 2008.