

Original sponsor: Rules Committee by  
request of the Governor

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Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 1 *Finance*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SPECIAL SESSION

5 A BILL

6 For an Act entitled: "An Act providing for taxes on property used in the  
7 exploration for, production of, or pipeline trans-  
8 portation of gas or unrefined oil; and providing for  
9 an effective date."

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

11 \* Section 1. AS 43 is amended by adding a new chapter to read:

12 CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION AND  
13 PIPELINE TRANSPORTATION PROPERTY TAXES.

14 Sec. 43.56.010. LEVY OF TAX. (a) An annual tax of 20 mills is  
15 levied each tax year beginning January 1, 1974, on the full and true  
16 value of taxable property taxable under this chapter.

17 (b) A municipality may levy and collect a tax under AS 29.53.015  
18 at the rate of taxation that applies to other property taxed by the  
19 municipality. A tax collected by a municipality as authorized by  
20 AS 29.53.045 shall be credited against the tax levied under (a) of this  
21 section and shall be levied at a rate no higher than the rate applicable  
22 to other property taxable by the municipality. Exemptions shall be  
23 limited to those in AS 29.53.020 and 29.53.025 and sec. 20 of this  
24 chapter.

25 (c) For purposes of AS 29.53.045, population shall be determined  
26 by the commissioner of community and regional affairs based on the latest  
27 statistics of the United States Bureau of the Census or on other  
28 reliable population data.

29 (d) If the total value of assessed property of a municipality

1 taxing under AS 29.53.045(c) exceeds the product of 250 per cent of  
2 the average per capita assessed full and true value of property in  
3 the state multiplied by the number of residents of the taxing munici-  
4 pality, the department shall designate the portion of the tax base  
5 against which the local tax may be applied.

6 Sec. 43.56.020. EXEMPTIONS. (a) The following are exempt from  
7 the taxes levied or authorized under this chapter:

8 (1) property rights attached to or inherent in the right  
9 to explore for or produce oil or gas;

10 (2) oil or gas leases or properties, whether producing or  
11 not;

12 (3) oil or gas in place;

13 (4) oil or gas produced or extracted in the state;

14 (5) the value of intangible drilling expenses and exploration  
15 expenses;

16 (6) an interest in property described in AS 43.55.010(b);

17 (7) before the construction commencement date, property  
18 taxed under sec. 10(a) of this chapter which is committed by contract  
19 or other agreement for use in this state primarily for pipeline trans-  
20 portation of gas or unrefined oil or for the production of gas or  
21 unrefined oil to be transported by that pipeline.

22 (b) In (a)(2) of this section, "properties" means mineral inter-  
23 ests in oil and gas and working interests, royalty interest, and over-  
24 riding royalty interests in oil and gas leases.

25 Sec. 43.56.030. IN PLACE OF OTHER TAXES. Except for those taxes  
26 imposed under ch. 55 of this title and ch. 57 of this title, and  
27 except for special assessments levied under AS 29.63, the taxes levied  
28 or authorized under this chapter are in place of

29 (1) all other ad valorem taxes or other taxes imposed by

1 the state or a municipality on property subject to tax under this  
2 chapter or exempted from taxation by sec. 20 of this chapter, and

3 (2) all other taxes imposed by a municipality on or with  
4 respect to the property subject to tax under this chapter or exempted  
5 from taxation by sec. 20 of this chapter, including, but not limited to,

6 (A) taxes on the retail sale or use of the property  
7 except for the retail sales tax on the first \$1,000 of each sale;

8 (B) taxes on the sale or use of gas or unrefined oil;

9 (C) taxes on the sale or use of services used in or  
10 associated with the property or in its erection, construction,  
11 maintenance or operation except for the sales tax on the first  
12 \$1,000 of each sale;

13 (D) taxes on or measured by gross or net income from  
14 the property, including income from the exploration for, production  
15 of, or pipeline transportation of gas or unrefined oil or property;  
16 and

17 (E) any license, excise, fee, charge or other tax on  
18 or pertaining to the property or services.

19 Sec. 43.56.040. STATE ASSESSMENT REVIEW BOARD. The State  
20 Assessment Review Board is created within the Department of Revenue.  
21 The board consists of five persons appointed by the governor to serve  
22 at his pleasure, each of whom must be knowledgeable of assessment  
23 procedures. Each board member is subject to confirmation by a majority  
24 of the members of the legislature in joint session.

25 Sec. 43.56.050. PER DIEM AND EXPENSES. Members of the board  
26 shall receive per diem and expenses authorized by law for boards and  
27 commissions.

28 Sec. 43.56.060. ASSESSMENT. (a) The department shall assess  
29 property for the tax levied under sec. 10(b) of this chapter and

1 AS 29.53.045 on property used or committed by contract or other agree-  
2 ment for use for the pipeline transportation of gas or unrefined oil  
3 or for the production of gas or unrefined oil at its full and true  
4 value as of January 1 of the assessment year.

5 (b) The department shall assess property for the taxes levied  
6 under sec. 10(a) of this chapter at its full and true value as of  
7 January 1 of the assessment year except that in the case of taxable  
8 property used or committed by contract or other agreement for the  
9 pipeline transportation of gas or unrefined oil or for the production  
10 of gas or unrefined oil to be transported by that pipeline, the first  
11 assessment date shall be the construction commencement date. If the  
12 construction commencement date is used as the assessment date, the tax  
13 payable shall be prorated on the basis of the assessment year remaining.

14 (c) The full and true value of taxable property used or committed  
15 by contract or other agreement for the production of gas or unrefined  
16 oil is:

17 (1) on the construction commencement date the actual cost  
18 incurred or accrued with respect to the property as of the date of  
19 assessment;

20 (2) determined on each January 1 thereafter on the basis  
21 of replacement cost less depreciation based on the economic life of  
22 proven reserves.

23 (d) The full and true value of taxable property used or committed  
24 by contract or other agreement for pipeline transportation of gas or  
25 unrefined oil is:

26 (1) on the construction commencement date and until  
27 January 1 following the date the pipeline begins to transport gas or  
28 unrefined oil, the actual cost incurred or accrued with respect to the  
29 property as of the date of assessment;

1 (2) determined on each January 1 thereafter with due regard  
2 to the economic value of the property based on the estimated life of  
3 the proven reserves of gas or unrefined oil then technically, economi-  
4 cally and legally deliverable into the transportation facility; however,  
5 if the proven reserves of gas or unrefined oil then technically,  
6 economically and legally deliverable indicate an economic life materially  
7 shorter than the estimated physical life of the transportation facility,  
8 the full and true value is the actual cost reduced by an annual allow-  
9 ance for depreciation on a straight line basis over an economic life  
10 based on the actual elapsed life from the commencement of full opera-  
11 tion to the date of assessment plus the estimated remaining life of  
12 the proven reserves of gas and unrefined oil then technically, economi-  
13 cally and legally deliverable into the transportation facility as of  
14 the date of the assessment; and

15 (3) on the assessment date next following inability to use  
16 or construct all or a substantial part of the facility for a period of  
17 90 or more consecutive days because of natural disaster or legal pro-  
18 hibition, or other events beyond the control of a person having owner-  
19 ship or control of the property, adjusted to take into account any  
20 diminution in value.

21 (e) For purposes of this section, "actual cost" and "replacement  
22 cost" do not include interest capitalized before or during the period  
23 of construction nor the value of intangible drilling expenses. In  
24 the case of taxable property under construction, "actual cost" for  
25 purposes of this section means the costs incurred or accrued with  
26 respect to the property as of the date of assessment.

27 (f) The department may enter into agreements with a municipality  
28 for the cooperative or joint administration of the assessing authority  
29 conferred on the department by this section.

1           Sec. 43.56.070. RETURNS. (a) The department may require by  
2 notice every person having ownership or control of an interest in  
3 property taxable under this chapter to submit a return in the form  
4 prescribed by the department, based on property values existing on  
5 January 1 of each year, except as otherwise provided in this chapter.

6           (b) The department by written notice may require a person to  
7 provide additional information within 30 days of the notice.

8           Sec. 43.56.080. INVESTIGATION. (a) The department may make an  
9 investigation of property on which a return has been filed or of  
10 taxable property upon which no return has been filed. In either case,  
11 the department may make its own valuation of the taxable property,  
12 which is prima facie evidence of full and true value.

13           (b) An employee or agent of the department may enter any premise  
14 necessary for the investigation during reasonable hours and may examine  
15 property and appropriate records. The owner of the taxable property  
16 upon request shall furnish to the employee or agent of the department  
17 reasonable assistance required for the investigation. If refused entry,  
18 the department may seek a court order to compel entry.

19           (c) For the purpose of the investigation the owner of the taxable  
20 property or his representative may be required to present himself for  
21 examination under oath by the department.

22           Sec. 43.56.090. ASSESSMENT ROLL. The department shall prepare  
23 annually the assessment roll for taxation under this chapter. The  
24 roll shall contain:

- 25                   (1) a description of all taxable property;  
26                   (2) the assessed value of all taxable property;  
27                   (3) the names and addresses of persons owning property  
28 subject to assessment and taxation.

29           Sec. 43.56.100. ASSESSMENT NOTICE. (a) On or before March 1

1 of each year, the department shall send to every owner of taxable  
2 property named in the assessment roll a notice of assessment, showing  
3 the assessed value of the property. Notice of assessment is effective  
4 on the date of mailing.

5 (b) The department shall send to a municipality a copy of the  
6 notice of assessment on any taxable property which is assessed under  
7 the provisions of this chapter and which is located in the municipality  
8 and on which a tax is authorized under sec. 10(b) of this chapter.

9 Sec. 43.56.110. APPEAL TO THE DEPARTMENT. (a) An owner of  
10 taxable property or a municipality receiving an assessment notice may  
11 object to the assessment by advising the department in writing of the  
12 objections to the assessment within 20 days of the effective date of  
13 the notice.

14 (b) The department shall provide by regulation for notices of  
15 appeals to interested persons and municipalities.

16 (c) Following an objection the department may adjust the assess-  
17 ment and the assessment roll. An adjustment based on an objection  
18 from an owner of taxable property or a municipality shall be made  
19 within 30 days of the effective date of the notice of assessment.

20 Sec. 43.56.120. APPEAL TO THE STATE ASSESSMENT REVIEW BOARD.

21 (a) After a ruling by the department on an appeal made under sec. 110  
22 of this chapter, the owner or a municipality may further appeal to the  
23 board. The appeal must be filed in writing within 50 days of the  
24 effective date of the notice of assessment.

25 (b) The board shall provide by regulation for notices of appeals  
26 to interested persons and municipalities.

27 Sec. 43.56.130. HEARINGS OF STATE ASSESSMENT REVIEW BOARD. (a)  
28 The board shall hear appeals filed under sec. 120(a) of this chapter.

29 (b) A majority of the board constitutes a quorum required to

1 transact business.

2 (c) The board shall provide by regulation for notices of hearings  
3 to interested persons and municipalities.

4 (d) If an appellant fails to appear at the hearing, the board  
5 may proceed with the hearing in his absence.

6 (e) The appellant bears the burden of proof at the hearing.

7 (f) The only grounds for adjustment of assessed value is proof of  
8 unequal, excessive or improper valuation or valuation not determined in  
9 accordance with the standards set out in this chapter, based on  
10 facts stated in a written appeal timely filed or proved at the hearing.

11 (g) The board shall certify its determinations to the department  
12 within seven days of the hearing.

13 (h) The department shall enter the changes and certify the final  
14 assessment roll on or before June 1 of each year and by July 1 shall  
15 mail to the owner of taxable property or his authorized agent a  
16 statement of the amount of tax due.

17 (i) An owner or municipality may appeal to the superior court  
18 for, and is entitled to, trial de novo of the board's action.

19 Sec. 43.56.140. SUPPLEMENTARY ASSESSMENT ROLLS. The department  
20 shall include property omitted from the assessment roll on a supple-  
21 mentary roll, using the procedures set out in this chapter for the  
22 original roll.

23 Sec. 43.56.150. COLLECTION AND DEPOSIT. (a) The tax levied by  
24 sec. 10(a) of this chapter is payable to the department on or before  
25 September 30 of the taxable year.

26 (b) The department may provide for voluntary prepayment and for  
27 payment by installments.

28 (c) The tax levied under sec. 10(a) of this chapter, interest  
29 and penalties collected with respect to this levy shall be deposited

1 in the general fund.

2 Sec. 43.56.160. INTEREST AND PENALTY. When the tax levied by  
3 sec. 10(a) of this chapter becomes delinquent, a penalty of 10 per cent  
4 shall be added. Interest on the delinquent taxes, exclusive of penalty,  
5 shall be assessed at a rate of eight per cent a year.

6 Sec. 43.56.170. LIEN FOR TAX. The tax levied under sec. 10(a)  
7 of this chapter and the interest and penalty provided in sec. 160 of  
8 this chapter are first and paramount liens on the property subject to  
9 tax under this chapter.

10 Sec. 43.56.180. REMEDY. The remedy of distraint of property  
11 set out in AS 43.20.270 applies to the tax levied by sec. 10(a) of  
12 this chapter. However, only property subject to the tax may be dis-  
13 trained.

14 Sec. 43.56.190. PENALTIES. A person who knowingly fails to  
15 file a return when due or who makes a false statement in a return  
16 required under this chapter with intent to evade taxation is guilty of  
17 a misdemeanor and upon conviction is punishable by a fine of not more  
18 than \$1,000 or by imprisonment for not more than six months, or by both,  
19 together with the costs of prosecution, notwithstanding the provisions  
20 of AS 12.80.030.

21 Sec. 43.56.200. REGULATIONS. The board and the department may  
22 adopt regulations in accordance with the Administrative Procedure Act  
23 (AS 44.62) as appropriate to carry out their respective duties under  
24 this chapter.

25 Sec. 43.56.210. DEFINITIONS. In this chapter

26 (1) "board" means State Assessment Review Board;  
27 (2) "construction commencement date" means the earlier  
28 of April 1, 1974 or the date the following occur:

29 (A) there has been issued to the owner or his agent

1 right-of-way permits, leases, and title and other rights in lands,  
2 and other approvals, permits, licenses and certificates, by  
3 federal, state and local agencies that a reasonable and prudent  
4 person would consider adequate to commence construction of the  
5 facilities in the expectation that all other approvals, permits,  
6 licenses and certificates necessary for the completion of  
7 facilities will be obtained;

8 (B) all approvals, permits, licenses and certificates  
9 are in full force and effect, unrevoked and without any modifi-  
10 cation, which might jeopardize the completion or continued  
11 construction of the facilities; and

12 (C) no order, judgment, decree, determination or  
13 award of a federal, state or local court or administrative or  
14 regulatory agency enjoining, either temporarily or permanently,  
15 the construction or the continuation of construction of the  
16 facilities is in effect;

17 (3) "department" means the Department of Revenue;

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

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

23 (6) "taxable property" means real and tangible personal  
24 property used or committed by contract or other agreement for use  
25 within this state primarily in the production of or pipeline  
26 transportation of gas or unrefined oil (except for property used  
27 solely for the retail distribution or liquification of natural gas),  
28 including machinery, appliances, equipment, wells (whether producing  
29 or not), gathering lines and transmission lines, pumping stations,

1 compressor stations, power plants, topping plants, processing units,  
2 roads, tank farms, tanker terminals, docks and other port facilities,  
3 air strips, and communication equipment and facilities; "taxable  
4 property" does not include permanent residences, office buildings  
5 requiring substantial local government services, or gas pipeline systems  
6 operated as utilities and regulated by the Alaska Public Utilities  
7 Commission;

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

13 \* Sec. 2. AS 29.53 is amended by adding a new section to read:

14 Sec. 29.53.045. TAX ON OIL AND GAS PRODUCTION AND PIPELINE  
15 PROPERTY. (a) A municipality may levy and collect taxes on taxable  
16 property taxable under AS 43.56 only by using one of the methods set  
17 out in (b) or (c) of this section.

18 (b) A municipality may levy and collect a tax on the full and  
19 true value of taxable property taxable under AS 43.56 as valued by  
20 the Department of Revenue at a rate not to exceed that which produces  
21 an amount of revenue from the total municipal property tax equivalent  
22 to \$1,000 a year for each person residing within its boundaries.

23 (c) A municipality may levy and collect a tax on the full and  
24 true value of that portion of taxable property taxable under AS 43.56  
25 as assessed by the Department of Revenue which, when combined with  
26 the value of property otherwise taxable by the municipality, does  
27 not exceed the product of 250 per cent of the average per capita  
28 assessed full and true value of property in the state multiplied by  
29 the number of residents of the taxing municipality.

1 (d) By January 1 of each assessment year a taxing municipality  
2 must inform the Department of Revenue which method of taxation the  
3 municipality will use.

4 \* Sec. 3. AS 29.53.055 is amended to read:

5 Sec. 29.53.055. NO LIMITATION ON TAXES TO PAY BONDS. The  
6 limitations [LIMITATION] provided for in sec. 45 or 50 of this  
7 chapter do [DOES] not apply to taxes levied or pledged to pay or  
8 secure the payment of the principal and interest on bonds. Taxes  
9 to pay or secure the payment of principal and interest on bonds may  
10 be levied without limitation as to rate or amount.

11 \* Sec. 4. This Act takes effect on December 31, 1973.  
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