

Original sponsor: Rules Committee by  
request of the Governor

Offered: 11/10/73

1 IN THE HOUSE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR SENATE CS FOR CS FOR HOUSE BILL NO. 1

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  
15 is 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 29.53.045  
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. No municipality may  
23 exempt from taxation property authorized to be taxed under this chapter.  
24 Exemptions shall be limited to those in AS 29.53.020 and 29.53.025 and  
25 sec. 20 of this chapter.

26 (c) If the total value of assessed property of a municipality  
27 taxing under AS 29.53.045(c) exceeds the product of 225 per cent of  
28 the average per capita assessed full and true value of property in  
29 the state (to be determined by the department and reported to each

1 municipality by January 15 of each year) multiplied by the number of  
2 residents of the taxing municipality, the department shall designate the  
3 portion of the tax base against which the local tax may be applied.

4 Sec. 43.56.020. EXEMPTIONS. (a) The following are exempt from  
5 local taxes levied or authorized under sec. 10(b) of this chapter.

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

8 (2) oil or gas leases or properties, whether producing or  
9 not;

10 (3) oil or gas in place;

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

12 (5) the value of intangible drilling expenses and exploration  
13 expenses;

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

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

20 (8) before the construction commencement date, property taxed  
21 under sec. 10(a) of this chapter which is committed by contract or other  
22 agreement for use in this state primarily in the operation or mainten-  
23 ance of facilities for pipeline transportation of gas or unrefined oil,  
24 or facilities for production of gas or unrefined oil to be transported  
25 by that pipeline.

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

29 Sec. 43.56.030. IN PLACE OF OTHER TAXES. Except for those taxes

1 imposed under ch. 55 and ch. 57 of this title, the taxes levied or  
2 authorized under sec. 10(b) of this chapter are in place of

3 (1) all other ad valorem taxes or other taxes imposed by  
4 a municipality on property subject to tax under this chapter or  
5 exempted from taxation by sec. 20 of this chapter, and

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

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

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

12 (C) taxes on the sale or use of services used in or  
13 associated with the property or in its erection, construction,  
14 maintenance or operation except for the sales tax on the first  
15 \$1,000 of each sale;

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

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

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

28 Sec. 43.56.050. PER DIEM AND EXPENSES. Members of the board  
29 shall receive per diem and expenses authorized by law for boards and

1 commissions.

2 Sec. 43.56.060. ASSESSMENT. (a) The department shall assess  
3 property for the tax levied under sec. 10(b) of this chapter and  
4 AS 29.53.045 on property used or committed by contract or other agree-  
5 ment for use for the pipeline transportation of gas or unrefined oil  
6 or for the production of gas or unrefined oil at its full and true  
7 value as of January 1 of the assessment year.

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

17 (c) The full and true value of taxable property used or committed  
18 by contract or other agreement for use in the exploration for gas or  
19 unrefined oil, or in the operation or maintenance of facilities for the  
20 exploration for gas or unrefined oil, is the estimated price which the  
21 property would bring in an open market and under the then prevailing  
22 market conditions in a sale between a willing seller and a willing  
23 buyer both conversant with the property and with prevailing general  
24 price levels.

25 (d) The full and true value of taxable property used or committed  
26 by contract or other agreement for the production of gas or unrefined  
27 oil or in the operation or maintenance of facilities for the production  
28 of gas or unrefined oil is:

29 (1) on the construction commencement date the actual cost

1 incurred or accrued with respect to the property as of the date of  
2 assessment;

3 (2) determined on each January 1 thereafter on the basis  
4 of replacement cost less depreciation based on the economic life of  
5 proven reserves.

6 (e) The full and true value of taxable property used or committed  
7 by contract or other agreement for pipeline transportation of gas or  
8 unrefined oil or in the operation or maintenance of facilities for  
9 the pipeline transportation of gas or unrefined oil is:

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

14 (2) determined on each January 1 thereafter with due regard  
15 to the economic value of the property based on the estimated life of  
16 the proven reserves of gas or unrefined oil then technically, economi-  
17 cally and legally deliverable into the transportation facility;  
18 however, if the proven reserves of gas or unrefined oil then techni-  
19 cally, economically and legally deliverable indicate an economic life  
20 materially shorter than the estimated physical life of the transporta-  
21 tion facility, the full and true value is the actual cost reduced by  
22 an annual allowance for depreciation on a straight line basis over  
23 an economic life based on the actual elapsed life from the commencement  
24 of full operation to the date of assessment plus the estimated remain-  
25 ing life of the proven reserves of gas and unrefined oil then techni-  
26 cally, economically and legally deliverable into the transportation  
27 facility as of the date of the assessment;

28 (3) on the assessment date next following inability to use  
29 or construct all or a substantial part of the facility for a period of

1 90 or more consecutive days because of natural disaster or legal pro-  
2 hibition, or other events beyond the control of a person having owner-  
3 ship or control of the property, adjusted to take into account any  
4 diminution in value.

5 (f) For purposes of this section, "actual cost" and "replacement  
6 cost" do not include interest capitalized before or during the period  
7 of construction nor the value of intangible drilling expenses. In  
8 the case of taxable property under construction, "actual cost" for  
9 purposes of this section means the costs incurred or accrued with  
10 respect to the property as of the date of assessment.

11 (g) The department may enter into agreements with a municipality  
12 for the cooperative or joint administration of the assessing authority  
13 conferred on the department by this section.

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

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

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

26 (b) An employee or agent of the department may enter any premise  
27 necessary for the investigation during reasonable hours and may examine  
28 property and appropriate records. The owner of the taxable property  
29 upon request shall furnish to the employee or agent of the department

1 reasonable assistance required for the investigation. If refused entry,  
2 the department may seek a court order to compel entry.

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

6 Sec. 43.56.090. ASSESSMENT ROLL. The department shall prepare  
7 annually the assessment roll for taxation under this chapter. The  
8 roll shall contain:

- 9 (1) a description of all taxable property;  
10 (2) the assessed value of all taxable property;  
11 (3) the names and addresses of persons owning property  
12 subject to assessment and taxation.

13 Sec. 43.56.100. ASSESSMENT NOTICE. (a) On or before March 1  
14 of each year, the department shall send to every owner of taxable  
15 property named in the assessment roll a notice of assessment, showing  
16 the assessed value of the property. Notice of assessment is effective  
17 on the date of mailing.

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

22 Sec. 43.56.110. APPEAL TO THE DEPARTMENT. (a) An owner of  
23 taxable property or a municipality receiving an assessment notice may  
24 object to the assessment by advising the department in writing of the  
25 objections to the assessment within 20 days of the effective date of  
26 the notice.

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

29 (c) Following an objection the department may adjust the assess-

1 ment and the assessment roll. An adjustment based on an objection  
2 from an owner of taxable property or a municipality shall be made  
3 within 30 days of the effective date of the notice of assessment.

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

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

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

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

13 (b) A majority of the board constitutes a quorum required to  
14 transact business.

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

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

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

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

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

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

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

3 Sec. 43.56.140. SUPPLEMENTARY ASSESSMENT ROLLS. The department  
4 shall include property omitted from the assessment roll on a supple-  
5 mentary roll, using the procedures set out in this chapter for the  
6 original roll.

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

10 (b) The department may provide for voluntary prepayment and for  
11 payment by installments.

12 (c) The tax levied under sec. 10(a) of this chapter, interest  
13 and penalties collected with respect to this levy shall be deposited  
14 in the general fund.

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

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

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

27 Sec. 43.56.190. PENALTIES. A person who knowingly fails to  
28 file a return when due or who makes a false statement in a return  
29 required under this chapter with intent to evade taxation is guilty of

1 a misdemeanor and upon conviction is punishable by a fine of not more  
2 than \$1,000 or by imprisonment for not more than six months, or by both,  
3 together with the costs of prosecution, notwithstanding the provisions  
4 of AS 12.80.030.

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

9 Sec. 43.56.210. DEFINITIONS. In this chapter

10 (1) "board" means State Assessment Review Board;

11 (2) "construction commencement date" means the earlier  
12 of April 1, 1974 or the date the following occur:

13 (A) there has been issued to the owner or his agent  
14 right-of-way permits, leases, and title and other rights in lands,  
15 and other approvals, permits, licenses and certificates, by  
16 federal, state and local agencies that a reasonable and prudent  
17 person would consider adequate to commence construction of the  
18 facilities in the expectation that all other approvals, permits,  
19 licenses and certificates necessary for the completion of  
20 facilities will be obtained;

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

25 (C) no order, judgment, decree, determination or  
26 award of a federal, state or local court or administrative or  
27 regulatory agency enjoining, either temporarily or permanently,  
28 the construction or the continuation of construction of the  
29 facilities is in effect;

- 1 (3) "department" means the Department of Revenue;
- 2 (4) "gas" includes all natural gas and all hydrocarbons  
3 produced at the wellhead not defined as oil;
- 4 (5) "intangible drilling expenses" means those expenses  
5 defined in sec. 263(c) of the United States Internal Revenue Code  
6 as defined on the effective date of this paragraph;
- 7 (6) "taxable property" means real and tangible personal  
8 property used or committed by contract or other agreement for use  
9 within this state primarily in the exploration for, production of,  
10 or pipeline transportation of gas or unrefined oil (except for  
11 property used solely for the retail distribution or liquefaction  
12 of natural gas), or in the operation or maintenance of facilities  
13 used in the exploration for, production of, or pipeline transportation  
14 of gas or unrefined oil, including machinery, appliances, supplies,  
15 equipment, drilling rigs, wells (whether producing or not), gathering  
16 lines and transmission lines, pumping stations, compressor stations,  
17 power plants, topping plants, processing units, roads, tank farms,  
18 tanker terminals, docks and other port facilities, air strips and  
19 communication equipment and facilities, maintenance equipment and  
20 facilities, and maintenance camps and other related facilities; "taxable  
21 property" does not include permanent residences, office buildings  
22 requiring substantial local government services, or gas pipeline systems  
23 operated as utilities and regulated by the Alaska Public Utilities  
24 Commission;
- 25 (7) "unrefined oil" includes crude petroleum oil and other  
26 hydrocarbons regardless of gravity which are produced at the wellhead  
27 in liquid form and the liquid hydrocarbons known as distillate or  
28 condensate recovered or extracted from gas other than gas produced in  
29 association with oil and commonly known as casinghead gas.

1 \* Sec. 2. AS 29.53.025(a) is amended to read:

2 (a) Municipalities may exclude or exempt or partially exempt  
3 residential property from taxation by ordinance ratified by the voters  
4 at a regular or special election. An exclusion or exemption authorized  
5 by this section may not exceed \$10,000 for any one residence.

6 \* Sec. 3. AS 29.53 is amended by adding a new section to read:

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

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

16 (c) A municipality may levy and collect a tax on the full and  
17 true value of that portion of taxable property taxable under AS 43.56  
18 as assessed by the Department of Revenue which, when combined with  
19 the value of property otherwise taxable by the municipality, does  
20 not exceed the product of 225 per cent of the average per capita  
21 assessed full and true value of property in the state multiplied by  
22 the number of residents of the taxing municipality.

23 (d) By February 1 of each assessment year a taxing municipality  
24 must inform the Department of Revenue which method of taxation the  
25 municipality will use.

26 (e) For purposes of this section, population shall be determined  
27 by the commissioner of community and regional affairs based on the  
28 latest statistics of the United States Bureau of the Census or on other  
29 reliable population data, and shall advise each municipality of its

1 population as so determined by January 15 of each year.

2 \* Sec. 4. AS 29.53.050 is amended by adding a new subsection to read:

3 (b) No municipality, or combination of municipalities occupying  
4 the same geographical area, in whole or in part, may levy taxes which  
5 will result in tax revenues from all sources exceeding either (1)  
6 \$1,000 a year for each person residing within their boundaries or (2)  
7 when combined with the value of property otherwise taxable by the  
8 municipality, the product of 225 per cent of the average per capita  
9 assessed full and true value of property in the state multiplied by the  
10 number of residents of the taxing municipality. If two or more muni-  
11 cipalities occupying the same geographical area, in whole or in part,  
12 attempt to levy a tax the combined levy of which would result in tax  
13 revenues from all sources exceeding either (1) \$1,000 a year for each  
14 person residing within their boundaries or (2) when combined with the  
15 value of property otherwise taxable by the municipality, the product of  
16 225 per cent of the average per capita assessed full and true value of  
17 property in the state multiplied by the number of residents of the  
18 taxing municipality, the commissioner of community and regional affairs  
19 shall apportion the lawful levy and equitably divide these revenues on  
20 the basis of need, services performed and other considerations in the  
21 public interest. For the purpose of this subsection, population shall  
22 be determined by the commissioner of community and regional affairs  
23 based on the latest statistics of the United States Bureau of the  
24 Census or on other reliable population data.

25 \* Sec. 5. AS 29.53.055 is amended to read:

26 Sec. 29.53.055. NO LIMITATION ON TAXES TO PAY BONDS. The  
27 limitations [LIMITATION] provided for in secs. 45 or [SEC.] 50 of  
28 this chapter do [DOES] not apply to taxes levied or pledged to pay  
29 or secure the payment of the principal and interest on bonds. Taxes

1 to pay or secure the payment of principal and interest on bonds may  
2 be levied without limitation as to rate or amount.

3 \* Sec. 6. This Act takes effect on January 1, 1974.  
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