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Referred: Resources and  
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 276

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas reserves ad valorem  
7 tax and its relationship to other oil and gas taxation;  
8 and providing for an effective date."

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

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

11 CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

12 Sec. 43.58.010. AD VALOREM TAX. (a) An annual tax is levied  
13 each tax year beginning January 1, 1976, on the full and true value of  
14 taxable property under this chapter.

15 (b) The legislature shall annually determine by law the rate of  
16 the levy before April 1.

17 (c) If on April 1 the legislature has not determined the rate of  
18 levy, the rate of levy shall be zero for that year. The rate of levy  
19 may not exceed 20 mills.

20 Sec. 43.58.020. EXEMPTIONS. The following interests in the  
21 proven reserves of a lease or property shall be exempt from taxation  
22 under this chapter:

23 (1) any interest of the United States or the state;

24 (2) any interest exempted from taxation by sec. 21 of the  
25 Alaska Native Claims Settlement Act (P.L. 92-203; 43 U.S.C. sec.  
26 1620);

27 (3) all other interests in the proven reserves of a lease  
28 or property during a five-year period commencing with the date of the  
29 first lease, concession, joint venture, contract or any other agreement

1 that is made for the oil and gas development of a part or all of the  
2 land subject to that lease or property;

3 (4) taxable property under ch. 56 of this title.

4 Sec. 43.58.030. CREDIT AGAINST TAX. There shall be allowed, as  
5 a credit against the tax levied under this chapter for a lease or  
6 property, the amount of oil and gas properties production taxes paid  
7 under ch. 55 of this title for that lease or property for the  
8 12 months before the tax payment date under this chapter. The credit  
9 may not exceed the amount of tax due under this chapter. For purposes  
10 of this section, the credit shall be calculated without regard to the  
11 allowance of any credit under AS 43.55.018 against the taxes levied by  
12 ch. 55 of this title.

13 Sec. 43.58.040. ASSESSMENT. (a) The department shall assess  
14 taxable property under this chapter at its full and true value as of  
15 January 1 of each year.

16 (b) The full and true value of taxable property under this  
17 chapter is the estimated price which the property would bring in an  
18 open market and under the then prevailing market conditions in a sale  
19 between a willing seller and a willing buyer both conversant with the  
20 property and with general price levels. In determining this value,  
21 the department shall consider all factors which may be known by the  
22 department to affect the value of the proven reserves of the lease or  
23 property, including but not limited to the discounted present value of  
24 the expected future net income from the lease or property.

25 Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare  
26 annually the assessment roll for taxation under this chapter. The  
27 roll shall contain:

- 28 (1) a description of all taxable property;  
29 (2) the assessed value of all taxable property; and

1 (3) the names and addresses of persons owning or otherwise  
2 holding an interest in taxable property.

3 Sec. 43.58.060. ASSESSMENT NOTICE. On or before April 15 of  
4 each year, the department shall send to every owner of taxable property  
5 named in the assessment roll a notice of assessment showing the assessed  
6 value of the property. The notice of assessment is effective on the  
7 date of its mailing.

8 Sec. 43.58.070. APPEAL. (a) A person aggrieved by the action  
9 of the department in making an assessment may request a hearing not  
10 later than 20 days after the effective date of the assessment notice.

11 (b) At the hearing the department may subpoena witnesses and may  
12 administer oaths and make inquiries necessary to determine the correct-  
13 ness of the assessment. At the hearing the appellant bears the burden  
14 of proof, and in the absence of this proof the assessment will be  
15 upheld. If the department determines that a correction is warranted,  
16 the department shall correct the assessment and the assessment roll.

17 (c) Within 30 days after the decision by the department after a  
18 hearing, a person aggrieved by the decision may appeal to the superior  
19 court. If, after the appeal is heard, it appears that the assessment  
20 was correct, the court shall confirm the tax. If incorrect, the court  
21 shall determine the amount of tax and, if the person aggrieved is  
22 entitled to recover the tax or part of it, the court shall order the  
23 repayment.

24 Sec. 43.58.080. CERTIFICATION. On or before June 15 of each  
25 year, the department shall certify the final assessment roll and mail  
26 to the operator or other person filing a return and paying tax on the  
27 taxable property a statement of the amount of tax due.

28 Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department  
29 shall include property omitted from the assessment roll on a supple-

1 mental roll, using the procedures set out in this chapter for the  
2 original roll.

3 Sec. 43.58.100. INVESTIGATION. (a) The department may make an  
4 investigation of property on which a return has been filed or on  
5 property for which no return has been filed. In either case, the  
6 department may make its own valuation of the taxable property, which  
7 is prima facie evidence of full and true value.

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

14 (c) For the purpose of the investigation, the operator or other  
15 person filing a return and paying the tax on the taxable property or  
16 his representative may be required to present himself for examination  
17 under oath by the department.

18 Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator  
19 of a lease or property is primarily liable for payment of the tax  
20 levied by this chapter. All other persons owning or otherwise holding  
21 an interest or right in that lease or property are secondarily liable  
22 for payment of the tax levied by this chapter.

23 (b) The operator of a lease or property shall submit returns on  
24 the form prescribed by the department and shall make payment of the  
25 tax levied under this chapter, on behalf of itself and all other  
26 persons holding an interest or right in that lease or property. With  
27 the written approval of the department, a non-operator of the lease or  
28 property may submit returns or make payment of the tax levied under  
29 this chapter, on behalf of himself and such other persons as the

1 department may approve. All returns shall be filed on or before  
2 February 1 of each year.

3 (c) The tax levied under this chapter is payable to the depart-  
4 ment on or before June 30 of each year or in installments at the times  
5 and under the conditions the department may by regulation require.

6 (d) With the prior written approval of the department, a  
7 person submitting returns or making payments as required under this  
8 chapter for more than one lease or property may regard those leases or  
9 properties as a single lease or property for purposes of submitting  
10 those reports or making those payments.

11 (e) An operator or other person making payment of the tax levied  
12 under this chapter on behalf of one or more other persons owning or  
13 otherwise holding an interest in a lease or property may withhold a  
14 proportionate share of the payment from any proceeds or other benefits  
15 from the lease or property owed to any person on whose behalf the pay-  
16 ment is made. Unless otherwise specifically provided by written  
17 contract or agreement, the person so withholding a proportionate share  
18 of the tax levied under this chapter incurs no liability to those from  
19 whom it is withheld by virtue of having made the withholding.

20 (f) By written notice the department may require a person filing  
21 a return to submit additional information to the department no later  
22 than 30 days after the notice.

23 Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to  
24 the tax for each 30-day period or fraction of that period during which  
25 the taxpayer fails to file a return or pay the full amount of the tax,  
26 or a portion or a deficiency of the tax due and payable as finally  
27 determined by the department and required by this chapter, unless it  
28 is shown that the failure is due to a reasonable cause and not to  
29 willful neglect. The penalty may not exceed 25 per cent in the aggre-

1 gate. The penalty shall be collected at the same time, in the same  
2 manner and as a part of the original tax, but if the original tax is  
3 paid before the neglect is discovered the penalty shall be collected  
4 in the same manner as the original tax. The department shall describe  
5 by regulation circumstances which constitute reasonable cause for  
6 purposes of this section.

7 Sec. 43.58.130. INTEREST. When the tax levied in this chapter  
8 becomes delinquent it bears interest at the rate of eight per cent a  
9 year.

10 Sec. 43.58.140. LIEN. The tax, penalty and interest payable  
11 under this chapter are first and paramount liens on the property  
12 subject to tax under this chapter.

13 Sec. 43.58.150. REMEDY. The remedy of distraint of property set  
14 out in AS 43.20.270 applies to the tax levied by this chapter.

15 Sec. 43.58.160. REGULATIONS. The department may adopt regulations  
16 in accordance with the Administrative Procedure Act (AS 44.62) as  
17 appropriate to administer and enforce this chapter.

18 Sec. 43.58.170. TERMINATION OF TAX. The tax imposed by this  
19 chapter shall terminate on December 31, 1977.

20 Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT.  
21 (a) An early development incentive credit, calculated in accordance  
22 with this section, shall be applied to the tax payable under AS 43.55  
23 as provided in AS 43.55.018. The early development incentive credit  
24 for a lease or property is zero until changed as provided in this  
25 section.

26 (b) The early development incentive credit for a lease or property  
27 shall be increased each calendar year by the amount of net tax paid  
28 under this chapter.

29 (c) The early development incentive credit for a lease or property

1 shall be reduced each month by the amount of tax credit allowed in  
2 that month under AS 43.55.018 for that lease or property.

3 Sec. 43.58.190. DEFINITIONS. In this chapter:

4 (1) "department" means the department of revenue;

5 (2) "gas" means all hydrocarbon substances not defined as  
6 oil in this chapter;

7 (3) "lease or property" means

8 (A) a lease or other property that includes mineral  
9 rights in oil and gas,

10 (B) a leasehold interest in oil and gas,

11 (C) a working interest, royalty interest, overriding  
12 royalty interest, net profit interest or any other interest in a  
13 lease, concession, joint venture or other agreement for oil and  
14 gas exploration, development or production,

15 (D) a working interest, royalty interest, overriding  
16 royalty interest, net profit interest or any other interest in an  
17 agreement for unitization or pooling under the provisions of sec.  
18 614(b)(3) of the Internal Revenue Code of 1954 as defined on the  
19 effective date of this paragraph;

20 (4) "net tax paid under this chapter" means the amount of  
21 tax payable under sec. 10 of this chapter, less the credit allowed  
22 under sec. 30 of this chapter;

23 (5) "oil" means crude petroleum oil and other hydrocarbons  
24 regardless of gravity which, when recovered, are recovered at the  
25 wellhead in liquid form, and the liquid hydrocarbons known as distil-  
26 late or condensate that are recovered by separation from gas other  
27 than at a gas processing plant;

28 (6) "operator" means the person conducting the exploration,  
29 development or production operation for a lease or property;

1 (7) "proven reserves" means the volumes of oil and gas in  
2 a known deposit which geological and engineering information indicate  
3 to be recoverable in the future under prevailing economic conditions  
4 and technology;

5 (8) "taxable property" means any interest in the proven  
6 reserves of a lease or property.

7 \* Sec. 2. AS 43.55.010(b) is amended to read:

8 (b) Except as provided in AS 43.58, the [THE] tax imposed by  
9 this chapter is in place of all taxes now imposed by the state or any  
10 of its municipalities, and neither the state nor a municipality may  
11 impose a tax upon

12 (1) [deleted]

13 (2) producing oil or gas leases;

14 (3) oil or gas produced or extracted in the state;

15 (4) [deleted]

16 (5) the value of intangible drilling and exploration expenses.

17 \* Sec. 3. AS 43.55 is amended by adding a new section to read:

18 Sec. 43.55.018. CREDIT AGAINST TAX. (a) There shall be allowed  
19 as a credit against the taxes levied under this chapter for a lease or  
20 property the early development incentive credit accrued for that lease  
21 or property under AS 43.58.180. In no event may the credit allowed  
22 for a lease or property exceed 50 per cent of the taxes levied under  
23 this chapter for that lease or property.

24 (b) The credit shall be allowed on a monthly basis.

25 \* Sec. 4. AS 43.55.140(8) is repealed and re-enacted to read:

26 (8) "lease or property" means

27 (A) a lease or other property that includes mineral  
28 rights in oil and gas,

29 (B) a leasehold interest in oil and gas,

1 (C) a working interest, royalty interest, overriding  
2 royalty interest, net profit interest or any other interest in a  
3 lease, concession, joint venture or other agreement for oil and  
4 gas exploration, development or production,

5 (D) a working interest, royalty interest, overriding  
6 royalty interest, net profit interest or any other interest in an  
7 agreement for unitization or pooling under the provisions of sec.  
8 614(b)(3) of the Internal Revenue Code of 1954 as defined on the  
9 effective date of this paragraph;

10 \* Sec. 5. Sec. 29.53.050(b) is amended to read:

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

1 the commissioner of community and regional affairs based on the latest  
2 statistics of the United States Bureau of the Census or on other  
3 reliable population data. For purposes of this subsection the average  
4 per capita assessed full and true value of property in the state shall  
5 be calculated without regard to the assessed value of taxable property  
6 under AS 43.58.

7 \* Sec. 6. Sec. 43.56.010(c) is amended to read:

8 (c) If the total value of assessed property of a municipality  
9 taxing under AS 29.53.045(c) exceeds the product of 225 per cent of  
10 the average per capita assessed full and true value of property in the  
11 state (to be determined by the department and reported to each munici-  
12 pality by January 15 of each year) multiplied by the number of residents  
13 of the taxing municipality, the department shall designate the portion  
14 of the tax base against which the local tax may be applied. For pur-  
15 poses of this subsection the average per capita assessed full and true  
16 value of property in the state shall be calculated without regard to  
17 the assessed value of taxable property under AS 43.58.

18 \* Sec. 7. This Act takes effect on April 30, 1975.  
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