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Referred: State Affairs and
Finance

1 IN THE HOUSE

BY RANDOLPH, BEIRNE AND
BETTISWORTH

2 HOUSE BILL NO. 37

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act repealing all state taxes except the oil and
7 gas corporate income tax (AS 43.21); and providing for
8 an effective date."

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

10 * Section 1. The following laws are repealed:

- 11 (1) AS 10.25.540 - 10.25.570 (gross revenue tax on electric
12 and telephone cooperatives);
- 13 (2) AS 21.09.210(b) - (e), (g), and (h) (tax on persons
14 engaged in insurance business);
- 15 (3) AS 21.33.055 (unauthorized insurance premium tax);
- 16 (4) AS 21.33.061(c) - (f) (insurance premium tax);
- 17 (5) AS 21.33.230 - 21.33.240 (surplus lines insurance premium
18 tax);
- 19 (6) AS 21.66.110 (title insurance premium tax);
- 20 (7) AS 21.87.260 (hospital and medical service corporation
21 tax);
- 22 (8) AS 21.88.060 (medical indemnity corporation premium
23 tax);
- 24 (9) AS 43.20 (corporate income tax);
- 25 (10) AS 43.31 (Alaska estate tax);
- 26 (11) AS 43.35 (tax on coin-operated amusement and gaming
27 devices and on punchboards);
- 28 (12) AS 43.40 (tax on motor fuel, including the tax imposed on
29 motor fuel used in motor vehicles, aircraft, and watercraft);

- 1 (13) AS 43.50 (cigarette tax);
2 (14) AS 43.55 (oil and gas properties production tax);
3 (15) AS 43.56 (ad valorem tax on oil and gas exploration,
4 production and pipeline transportation property);
5 (16) AS 43.57 (oil and gas regulation and conservation tax);
6 (17) AS 43.58 (oil and gas reserves ad valorem tax);
7 (18) AS 43.60 (liquor tax);
8 (19) AS 43.65 (mining license tax);
9 (20) AS 43.70 (business license tax);
10 (21) AS 43.75 (fisheries tax).

11 * Sec. 2. AS 13.16.610(a)(1) is amended to read:

12 (1) "estate" means the gross estate of a decedent as deter-
13 mined for the purpose of federal estate tax [AND THE ESTATE TAX PAYABLE
14 TO THIS STATE];

15 * Sec. 3. AS 13.16.610(a)(5) is amended to read:

16 (5) "tax" means the federal estate tax [AND THE ADDITIONAL
17 INHERITANCE TAX IMPOSED BY AS 43.31] and interest and penalties imposed
18 in addition to the tax;

19 * Sec. 4. AS 16.10.296(3) is repealed and reenacted to read:

20 (3) "fish processor" means a person engaging or attempting
21 to engage in any of the following lines of business in connection with
22 the commercial fisheries of the state: shore-based cold storages and
23 other shore-based fish processing plants, freezer ships and other
24 floating cold storages;

25 * Sec. 5. AS 21.09.170(b) is amended to read:

26 (b) During the period of the suspension the insurer shall not
27 solicit or write any new business in this state, but shall file its
28 annual statement, pay fees and [,] licenses [AND TAXES] as required
29 under this title, and may service its outstanding business in force in

1 this state as if the certificate had continued in full force.

2 * Sec. 6. AS 21.09.220 is amended to read:

3 Sec. 21.09.220. COUNTER SIGNATURE BY RESIDENT AGENT--APPLICATION
4 OF TITLE. (a) A [NO] company, association, reciprocal exchange,
5 person or persons authorized to transact insurance or offer indemnity
6 contracts in this state excepting reciprocal mutuals organized under
7 the laws of this state and life insurance companies or life insurance
8 contracts and health and accident contracts and annuity contracts
9 written therein, may not make, write, place or cause to be made,
10 written or placed, a policy or contract of insurance or indemnity of
11 any kind or character, or a general or floating policy covering risks
12 on property located in the state, liability created by or accruing
13 under the laws of this state, or undertakings to be performed in this
14 state, except through their licensed resident insurance agents, who
15 shall countersign all policies, riders and endorsements or indemnity
16 contracts so issued and collect the premiums, or see to their collection
17 in due course, and who shall keep a record of the same. The record
18 shall contain the usual and customary information concerning the risk
19 undertaken, including the full premium paid or to be paid [, TO THE END
20 THAT THE STATE MAY RECEIVE THE TAXES REQUIRED BY LAW TO BE PAID ON
21 PREMIUMS COLLECTED FOR INSURANCE ON PROPERTY OR UNDERTAKINGS LOCATED IN
22 THIS STATE].

23 (b) An [NO] agent may not [SHALL] pay or forward a premium or
24 application for insurance or in any manner secure, help or aid in the
25 placing of insurance, or effect a contract of insurance or indemnity
26 upon property, liability or undertakings located in this state with an
27 insurer which is not authorized to transact its business in this state.
28 However [, EXCEPT THAT] if two or more insurers issue a single policy
29 of insurance, the policy may be countersigned on behalf of all insurers

1 appearing on it by a licensed agent, resident of the state, or any one
2 of the insurers. The practice of signing policies in blank is likewise
3 prohibited.

4 * Sec. 7. AS 21.33.011 is amended to read:

5 Sec. 21.33.011. PURPOSE. The purpose of AS 21.33.011 - 21.33.075
6 is to subject certain persons and insurers to the jurisdiction of the
7 director, of proceedings before the director, and of the courts of this
8 state in suits by or on behalf of the state and insureds or benefici-
9 aries under insurance contracts. The legislature declares that it is a
10 subject of concern that many residents of this state hold policies of
11 insurance issued by persons and insurers not authorized to do insurance
12 business in this state, thus presenting to these residents the often
13 insuperable obstacle of asserting their legal rights under these poli-
14 cies in forums foreign to them under laws and rules of practice with
15 which they are not familiar. The legislature declares that it is also
16 concerned with the protection of residents of this state against acts
17 by persons and insurers not authorized to do an insurance business in
18 this state by the maintenance of fair and honest insurance markets, [BY
19 PROTECTING THE PREMIUM TAX REVENUES OF THIS STATE,] by protecting
20 authorized persons and insurers, which are subject to strict regula-
21 tion, from unfair competition by unauthorized persons and insurers and
22 by protecting against the evasion of the insurance regulatory laws of
23 this state. In furtherance of this interest, the legislature, in
24 AS 21.33.011 - 21.33.075, provides methods for substituted service of
25 process upon these persons or insurers in any proceeding, suit or
26 action in any court and substitute service of any notice, order, plead-
27 ing or process upon these persons or insurers in any proceeding before
28 the director to enforce or effect full compliance with the insurance
29 and tax statutes of this state, and declares in so doing it exercises

1 its power to protect residents of this state and to define what consti-
2 tutes doing an insurance business in this state, and also exercises
3 powers and privileges available to this state by virtue of P.L. 79-15
4 (1945), (Chapter 20, 1st Sess., S. 340), 59 Stat. 33, as amended, which
5 declares that the business of insurance and every person engaged in the
6 business of insurance shall be subject to the laws of the several
7 states.

8 * Sec. 8. AS 21.33.041 is amended to read:

9 Sec. 21.33.041. VALIDITY OF INSURANCE CONTRACTS. Except for
10 lawfully procured surplus lines insurance and contracts of insurance
11 independently procured through negotiations occurring entirely outside
12 this state which are reported [AND ON WHICH PREMIUM TAX IS PAID] in
13 accordance with AS 21.33.061, a contract of insurance effective in this
14 state and entered into by an unauthorized insurer is unenforceable by
15 that [SUCH] insurer. If the unauthorized insurer fails to pay a claim
16 or loss within the provisions of the insurance contract, a person who
17 assisted or in any manner aided directly or indirectly in the procure-
18 ment of the insurance contract shall be liable to the insured for the
19 full amount under the provisions of the insurance contract.

20 * Sec. 9. AS 21.33.075(4) is amended to read:

21 (4) transactions involving contracts of insurance indepen-
22 dently procured through negotiations occurring entirely outside of this
23 state which are reported [AND ON WHICH PREMIUM TAX IS PAID] in accor-
24 dance with AS 21.33.061;

25 * Sec. 10. AS 21.33.250 is amended to read:

26 Sec. 21.33.250. PENALTY FOR FAILURE TO FILE OR REMIT. A surplus
27 line broker who fails to file the annual statement [OR PAY THE PREMIUM
28 TAX] before April 1 in the year due is liable to a fine of \$25 for each
29 day of delinquency beginning on April 1. The [TAX MAY BE COLLECTED BY

1 DISTRAINT, OR THE TAX AND] fine may be recovered by an action by the
2 department in a court. The department shall deposit the proceeds of
3 all fines collected in the general fund.

4 * Sec. 11. AS 21.33.260(1) is amended to read:

5 (1) if the broker fails to file the annual statement [OR PAY
6 THE PREMIUM TAX];

7 * Sec. 12. AS 21.33.290 is amended to read:

8 Sec. 21.33.290. ISSUANCE OF LICENSE AFTER REVOCATION OR SUS-
9 PENSION. The department may not issue a license to a surplus line
10 broker whose license has been suspended or revoked less than one year
11 before the application or until the fines [AND DELINQUENT TAXES] are
12 paid.

13 * Sec. 13. AS 21.88.095(b) is repealed and reenacted to read:

14 (b) If and while the company to which the assets and liabilities
15 of the corporation are transferred in the manner provided in (a) of
16 this section continues to write premiums in excess of the levels pro-
17 vided in AS 21.88.055, the obligation to repay to the loan fund loans
18 assumed by the company at the time of transfer of the assets and
19 liabilities of the corporation need not be shown as a liability on the
20 books of the corporation.

21 * Sec. 14. AS 23.15.390 is amended to read:

22 Sec. 23.15.390. FEES. The fee for filing an application for a
23 permit is \$10. All fees shall be deposited in the general fund. [IN
24 ADDITION TO PAYING THIS FEE, ALL PERSONS CONDUCTING EMPLOYMENT AGENCIES
25 MUST COMPLY WITH THE PROVISIONS OF THE ALASKA BUSINESS LICENSE ACT
26 (AS 43.70).]

27 * Sec. 15. AS 29.53.050(b) is amended to read:

28 (b) No municipality, or combination of municipalities occupying
29 the same geographical area, in whole or in part, may levy taxes (1)

1 which will result in tax revenues from all sources exceeding \$1,000 a
2 year for each person residing within their boundaries or (2) upon
3 values which, when combined with the value of property otherwise taxable
4 by the municipality, exceed the product of 225 percent of the average
5 per capita assessed full and true value of property in the state mul-
6 tiplied by the number of residents of the taxing municipality. If two
7 or more municipalities occupying the same geographical area, in whole
8 or in part, attempt to levy a tax (1) the combined levy of which would
9 result in tax revenues from all sources exceeding \$1,000 a year for
10 each person residing within their boundaries or (2) upon values which,
11 when combined with the value of property otherwise taxable by the
12 municipality, exceed the product of 225 percent of the average per
13 capita assessed full and true value of property in the state multiplied
14 by the number of residents of the taxing municipality, the commissioner
15 of community and regional affairs shall apportion the lawful levy and
16 equitably divide these revenues on the basis of need, services performed
17 and other considerations in the public interest. For the purpose of
18 this subsection, population shall be determined by the commissioner of
19 community and regional affairs based on the latest statistics of the
20 United States Bureau of the Census or on other reliable population
21 data. [FOR PURPOSES OF THIS SUBSECTION THE AVERAGE PER CAPITA ASSESSED
22 FULL AND TRUE VALUE OF PROPERTY IN THE STATE SHALL BE CALCULATED WITHOUT
23 REGARD TO THE ASSESSED VALUE OF TAXABLE PROPERTY UNDER AS 43.58.]

24 * Sec. 16. AS 34.35.485(a) is amended to read:

25 Sec. 34.35.485. ACKNOWLEDGMENT OF SATISFACTION. (a) When a
26 lien is satisfied by payment, an acknowledgment of satisfaction suitable
27 for recordation shall be delivered to all parties to the lien by the
28 lien claimant. The acknowledgment of satisfaction shall be delivered
29 immediately upon payment by tender of cash in satisfaction of the claim

1 or within 10 days after payment when satisfaction is obtained in some
2 other manner. [A CERTIFICATE OF DISCHARGE OF A LIEN FOR NONPAYMENT OF
3 A STATE TAX OR LICENSE FEE RECORDED UNDER AS 43.20.240 SHALL BE
4 DELIVERED WITHIN 15 DAYS AFTER TENDER OF CASH IN SATISFACTION OF THE
5 CLAIM OR WITHIN 30 DAYS WHEN SATISFACTION IS OBTAINED IN SOME OTHER
6 MANNER.] The acknowledgment shall identify all parties to the lien and
7 any property subject to the lien using the same name or description
8 contained in the claim of record, if a claim was made, and the book and
9 page of the official record containing the claim.

10 * Sec. 17. AS 34.60.110 is amended to read:

11 Sec. 34.60.110. NONTAXATION OF PAYMENTS. No payment received by
12 a displaced person under this chapter is income for the purposes of the
13 [STATE OR] federal income tax, personal or corporate. The payments are
14 not income or resources to a recipient of public assistance and the
15 payments may not be deducted from the amount of aid to which the re-
16 cipient would otherwise be entitled.

17 * Sec. 18. AS 38.05.180(i) is amended to read:

18 (i) The commissioner may provide for the establishment of an
19 exploration incentive credit system under which a lessee of state land
20 drilling an exploratory well on that land may earn credits based upon
21 the footage drilled and the region in which the well is situated. The
22 commissioner may also provide for credits to be earned by persons
23 performing geophysical work on state land, if that work is performed
24 during the two seasons immediately preceding an announced lease sale
25 and on land included within the sale area and the geophysical informa-
26 tion is made public following the sale. Credits may not exceed 50
27 percent of the cost of the drilling or geophysical work. Credits may
28 be used during a limited period established by the commissioner and may
29 be assigned during that period. Credits may be applied against [(1)]

1 oil and gas royalty and rental payments payable to the state [OR (2)
2 TAXES PAYABLE UNDER AS 43.55]. No credit may exceed 50 percent of the
3 payment toward which it is being applied. Amounts due the Alaska
4 permanent fund (AS 37.10.065) and the Alaska renewable resources
5 development fund (AS 37.11.020) shall be calculated before the applica-
6 tion of credits under this subsection.

7 * Sec. 19. AS 43.05.260(a) is amended to read:

8 Sec. 43.05.260. LIMITATION ON ASSESSMENT. (a) The [EXCEPT AS
9 PROVIDED IN AS 43.20.200(b), THE] amount of a tax imposed by this title
10 must be assessed within three years after the return was filed, whether
11 or not a return was filed on or after the date prescribed by law. If
12 the tax is not assessed before the expiration of the three-year period,
13 no proceedings may be instituted in court for the collection of the
14 tax.

15 * Sec. 20. AS 43.10.030 is amended to read:

16 Sec. 43.10.030. DISTRAINT ON PROPERTY EXTENDED TO ALL STATE
17 REVENUE STATUTES. The remedy of distraint on property [, SET OUT IN
18 AS 43.20.270,] applies to all state revenue statutes existing or here-
19 after enacted for the collection of taxes and license fees.

20 * Sec. 21. AS 43.18.100(b) is amended to read:

21 (b) The commissioner shall administer the program of reimbursement
22 authorized under this section and shall provide by regulation for the
23 filing of applications for reimbursement, the form of proof of costs
24 for which application for reimbursement is made, and other regulations
25 necessary to administer the program. The commissioner shall exclude
26 from the total school construction cost of the local district all state
27 and federal funds included in these costs except funds provided under
28 this section [AND AS 43.50.140]. In approving applications for reim-
29 bursement, the commissioner shall

1 [(1) OFFSET AGAINST THE AMOUNT OF REIMBURSEMENT AUTHORIZED
2 THE AMOUNT OF ANY FUNDS DISTRIBUTED TO THE BOROUGH OR CITY IN THE
3 SECOND PRECEDING FISCAL YEAR FROM THE SCHOOL FUND PROVIDED FOR IN
4 AS 43.50.140;

5 (2)] require the borough or city to provide, with its appli-
6 cation, a certified copy of the notice to taxpayers required by AS 43.-
7 18.030.

8 * Sec. 22. AS 43.21.010 is amended to read:

9 Sec. 43.21.010. APPLICATION. This chapter applies to every
10 corporation doing business in the state which derives income from the
11 production of oil or gas from a lease or property in the state, or from
12 the pipeline transportation of oil or gas in the state. The tax calcu-
13 lated under this chapter is measured by the total taxable income of the
14 corporation as defined in AS 43.21.020 - 43.21.040 and the tax rate
15 shall be 9.4 percent [IS DETERMINED AT THE RATES ESTABLISHED UNDER
16 AS 43.20.011(e)].

17 * Sec. 23. AS 43.21.020(c)(3) is amended to read:

18 (3) taxes imposed under [AS 43.56 AND] AS 29.53 which are
19 actually paid by the corporation on property used directly in the
20 production of oil or gas from a lease or property in the state, includ-
21 ing property used in production, gathering, treatment or preparation of
22 the oil or gas for pipeline transportation, but only if those property
23 tax payments were due and payable only after the date of commercial
24 production from the lease or property with which the property was
25 associated;

26 * Sec. 24. AS 43.21.020(c)(6) is amended to read:

27 (6) the amortization of lease acquisition payments and taxes
28 paid under [AS 43.56 AND] AS 29.53 (including capitalized interest on
29 both) for or on producing properties before the commencement of commer-

1 cial production from the lease or property for which the property is
2 being used;

3 * Sec. 25. AS 43.21.040(a) is amended to read:

4 (a) Taxable income of a corporation subject to this chapter from
5 activities in this state other than the production of oil or gas from a
6 lease or property in the state or the pipeline transportation of oil or
7 gas in the state shall be determined in accordance with the method
8 established in art. IV of AS 43.19.010 and the following [IN AS 43.20.-
9 071], as modified by (b) - (f) of this section:

10 (1) the numerator of the property factor is the sum of the
11 value for property in a fixed location, including buildings and land
12 used in the business, and intrastate equipment and personal property
13 determined according to the Multistate Tax Compact (AS 43.19), and the
14 value of interstate mobile property determined on a days-spent-in-ports
15 basis as provided in (4) of this subsection; the denominator of the
16 property factor is determined according to the Multistate Tax Compact
17 (AS 43.19);

18 (2) the numerator of the payroll factor is the sum of the
19 wages and salaries of employees assigned to fixed locations determined
20 according to the Multistate Tax Compact (AS 43.19) and the wages and
21 salaries of employees assigned to interstate mobile property determined
22 on a days-spent-in-ports basis as provided in (4) of this subsection;
23 the demoninator of the payroll factor is determined in accordance with
24 the Multistate Tax Compact (AS 43.19);

25 (3) the numerator of the sales factor is the sum of all
26 revenues from intrastate activities and revenues from interstate acti-
27 vities determined on a days-spent-in-ports basis as provided in (4) of
28 this subsection; the denominator is determined in accordance with the
29 Multistate Tax Compact (AS 43.19);

1 (4) the portions of the numerator of the property, payroll,
2 and sales factors which are directly related to interstate mobile pro-
3 perty operations are determined by a ratio which the number of days
4 spent in ports inside the state bears to the total number of days spent
5 in ports inside and outside the state; the term "days spent in ports"
6 does not include periods when ships are tied up because of strikes or
7 withheld from Alaska service for repairs, or because of seasonal reduc-
8 tion of service; days in port are computed by dividing the total number
9 of hours in all ports by 24.

10 * Sec. 26. AS 43.21.120 is repealed and reenacted to read:

11 Sec. 43.21.120. DEFINITIONS. In this chapter

12 (1) "barrel of oil" means 42 United States gallons of oil of
13 231 cubic inches a gallon computed at a temperature of 60 degrees
14 Fahrenheit;

15 (2) "base of operations" means the closest point on land to
16 the offshore oil or gas production operations from which goods, services
17 and supplies flow to those offshore oil or gas production operations;

18 (3) "consolidated business" means a corporation or group of
19 corporations having more than 50 percent common ownership direct or
20 indirect, or a group of corporations in which there is a common control
21 either direct or indirect as evidenced by any arrangement, contract or
22 agreement;

23 (4) "cubic foot of gas" means the volume of gas contained in
24 one cubic foot of space measured at a pressure base of 14.65 pounds per
25 square inch absolute and a temperature base of 60 degrees Fahrenheit;

26 (5) "department" means the Department of Revenue;

27 (6) "gas" means all natural, associated or casinghead gas,
28 all hydrocarbons produced at the wellhead not defined as oil, and all
29 liquid hydrocarbons extracted at a gas processing plant;

1 (7) "oil" means crude petroleum oil and other hydrocarbons
2 regardless of gravity which are produced at the wellhead in liquid form
3 and the liquid hydrocarbons known as distillate or condensate recovered
4 by separation from gas other than at a gas processing plant;

5 (8) "lease or property" means any right, title or interest
6 in or the right to produce or recover oil or gas including

7 (A) a mineral interest;

8 (B) a leasehold interest;

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

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

18 (9) "gross value at the point of production"

19 (A) for oil, the value of the oil at the point where it
20 is metered or measured (by automatic custody transfer meter, tank
21 gauge, or other method) in a condition of pipeline quality on the
22 premises of the lease or property from which it is recovered;
23 however, if the oil is not of pipeline quality when it is removed
24 from the premises of the lease or property from which it is re-
25 covered, or if the oil recovered from a lease or property is not
26 metered or measured (by automatic custody transfer meter, tank
27 gauge, or other method) on the premises of the lease or property
28 from which it is recovered, then the gross value at the point of
29 production is the value of that oil at the off-premises location

1 where the oil is first metered or measured (by automatic custody
2 transfer meter, tank gauge, or other method) in a condition of
3 pipeline quality;

4 (B) for gas recovered from or in association with oil,
5 the value of the gas at the point where it is accurately metered
6 or measured after separation from the oil; for gas run through a
7 gas processing plant, the gross value at the point of production
8 is the full consideration received by the producer for the gas if
9 sold in an arm's length transaction or, in the absence of an arm's
10 length transaction, is the sum of the value of the liquids ex-
11 tracted from the gas at the plant and the value of the residue
12 gas, less a reasonable allowance for processing the gas at the
13 plant and for transporting the gas to the plant from the premises
14 upon which the oil production operation is conducted; and

15 (C) for gas not recovered from or in association with
16 oil, the value of the gas at the point where it is accurately
17 metered or measured or the value of the gas at the point of sale,
18 if any, on the premises of the lease or property from which the
19 gas is recovered, whichever is the higher value; for gas run
20 through a gas processing plant, the gross value at the point of
21 production is the full consideration received by the producer for
22 the gas if sold in an arm's length transaction or, in the absence
23 of an arm's length transaction, is the sum of the value of the
24 liquids extracted from the gas at the plant and the value of the
25 residue gas, less a reasonable allowance for processing the gas at
26 the plant and for transporting the gas to the plant from the point
27 where it was accurately metered or measured;

28 (10) "oil production operation" means the operation by which
29 oil is recovered from a lease or proeprty and rendered into oil of

1 pipeline quality, and includes any gathering done before the oil is
2 finally rendered into oil of pipeline quality.

3 * Sec. 27. The following laws are repealed: AS 04.21.040(c); AS 06.20.-
4 030(c); AS 08.54.142(a)(3); AS 16.43.182, 16.43.360; AS 19.40.040; AS 21.-
5 33.230 - 21.33.240; AS 21.69.390(c); AS 21.87.260; AS 29.53.045; AS 43.05.-
6 085; AS 43.21.020(c)(2) and 43.21.020(d); and AS 44.62.330(a)(20).

7 * Sec. 28. This Act is retroactive to January 1, 1981, and applies to
8 tax years beginning after December 31, 1980.

9 * Sec. 29. This Act takes effect immediately in accordance with AS 01.10.-
10 070(c).

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