

1 IN THE HOUSE

BY GRUENBERG

2

HOUSE BILL NO. 471

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act authorizing state royalty waivers for certain  
7 oil and gas leases and authorizing state oil and gas  
8 properties production tax waivers for certain leases  
9 and property."

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

11 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that

12 (1) since 1985, world oil prices have dropped precipitously;

13 (2) the sharp decline in world oil prices has had a dramatic  
14 effect on new oil and gas exploration and development in the state; in  
15 1987, three exploratory wells were drilled in the state, as compared to 22  
16 in 1985;

17 (3) future oil and gas development in the state depends on the  
18 productivity of smaller fields in the state; many smaller fields lie in  
19 remote offshore areas of the state, and face severe and unique constraints,  
20 including long distances from pipelines and supply systems, sea ice, sea-  
21 sonal drilling restrictions, and high construction and operation costs;  
22 under current economic conditions, these fields will not recoup the costs  
23 of development, and, therefore, will not be developed without encouragement  
24 from the state; and

25 (4) because of the long lead time necessary to bring remote  
26 fields into commercial production, and because of the severity of the  
27 state's current economic difficulties, it is in the public interest to  
28 encourage the immediate development of these fields.

29 \* Sec. 2. AS 38.05.180(j) is amended to read:

1 (j) To prolong the economic life of an oil and gas field, the  
2 commissioner shall adopt regulations for all bidding methods to allow  
3 reduction of royalty on leases within the field to compensate for  
4 increasing costs in the later stages of production decline. Except as  
5 provided in (cc) of this section, the [THE] commissioner may not grant  
6 a reduction of royalty until two years' initial production from the  
7 field has occurred and each lessee requesting the reduction has made a  
8 clear showing that the revenue from all hydrocarbons produced from the  
9 field is insufficient to produce a reasonable rate of return with  
10 respect to that lessee's total investment in the field.

11 \* Sec. 3. AS 38.05.180 is amended by adding new subsections to read:

12 (cc) Upon application by the lessee of a lease covered by this  
13 section, the commissioner shall temporarily waive the royalty require-  
14 ment of the lease, if the lessee demonstrates that

15 (1) the lease was issued before January 1, 1986;  
16 (2) commercial production from the lease has not yet begun;  
17 (3) projected production revenue from the lease would be  
18 insufficient to permit recovery of projected initial development costs  
19 within 10 years of the beginning of commercial production or within a  
20 shorter period that is commercially reasonable under the circum-  
21 stances; and

22 (4) exploration of the lease has delineated oil reserves.

23 (dd) An application under (cc) of this section must be filed  
24 with the commissioner by July 1, 1994. The lessee must pay the cost  
25 of processing the application.

26 (ee) A royalty waiver made under (cc) of this section expires  
27 December 31, 1999, or when the commissioner certifies that sufficient  
28 production revenue has been received to recover initial development  
29 costs, whichever date is earlier. If the lease is a net profit share

1 lease, certification under this subsection may not precede the first  
2 credit balance in the lessee's development account.

3 (ff) The commissioner may attach the following conditions to a  
4 royalty waiver made under (cc) of this section:

5 (1) if the lease is not a net profit share lease, that the  
6 state receive a net profit share when initial development costs have  
7 been recovered;

8 (2) that the lessee, lessee's subcontractors and lessee's  
9 affiliates purchase state products where possible and employ residents  
10 of the state for activities on or directly supporting development of  
11 and production from the lease; the condition imposed under this para-  
12 graph shall be developed by the commissioner on a case-by-case basis  
13 after consultation with the commissioner of labor, and after consider-  
14 ing the economy and employment patterns of the affected area and the  
15 degree to which nonresidents may cause unemployment or underemployment  
16 among qualified and available state residents without the condition;

17 (3) if the lessee or an affiliate of the lessee intends to  
18 construct a pipeline to transport oil or gas from the point of produc-  
19 tion, that the lessee's or affiliate's interest in the pipeline will  
20 be conveyed to the state when the initial development costs of the  
21 lease have been recovered; the commissioner may further require that  
22 the lessee or affiliate

23 (A) operate the pipeline as a common carrier;

24 (B) finance construction of the pipeline in a manner  
25 that will allow subsequent conveyance of the pipeline interest to  
26 the state free of a debt obligation to the state; and

27 (C) purchase state products where possible and employ  
28 residents of the state for activities on or directly supporting  
29 development and use of the pipeline; the condition imposed under

1           this subparagraph shall be developed by the commissioner on a  
2           case-by-case basis after consultation with the commissioner of  
3           labor, and after considering the economy and employment patterns  
4           of the affected area and the degree to which nonresidents may  
5           cause unemployment or underemployment among qualified and avail-  
6           able state residents without the condition; and

7           (4) that the lessee meet certain reasonable reporting  
8           requirements for the purpose of certifying recovery of initial devel-  
9           opment costs under (ee) of this section.

10           (gg) If a lessee files an application under AS 43.55.035 within  
11           60 days before or after filing an application under (cc) of this  
12           section, the commissioner and the commissioner of revenue shall hear  
13           and decide the applications jointly if possible.

14           (hh) A person aggrieved by a decision of the commissioner under  
15           (cc) of this section may appeal the decision by filing a notice of  
16           appeal with the superior court under AS 44.62.560 within 30 days of  
17           the decision.

18           (ii) In (cc) - (ii) of this section

19           (1) "initial development costs" include all expenses that  
20           accrue from issuance of the lease to the beginning of commercial  
21           production in support or as a result of lease development, plus inter-  
22           est from the date of accrual on the expenses at a rate that equals,  
23           for net profit share leases, the rate of interest allowed on the  
24           lessee's development account, if the rate is not less than the pre-  
25           vailing prime rate plus two percent, and, for all other leases, the  
26           prevailing commercial rate for projects of like risk and magnitude, if  
27           the rate is not less than the prevailing prime rate plus two percent;  
28           if the lease is a net profit share lease, "initial development costs"  
29           includes an expenditure that is includable as a debit in the lessee's

1 development account;

2 (2) "projected production revenue" means revenue de-  
3 termined on the basis of the Department of Revenue's current 50 per-  
4 cent case price projections at the point of production, after deduct-  
5 ing

6 (A) projected direct operating costs;

7 (B) projected taxes under 26 U.S.C. 4986 - 4998 (Wind-  
8 fall Profit Tax on Domestic Crude Oil);

9 (C) projected subsequent development costs on an  
10 accrual basis;

11 (D) the projected royalty that would be due under the  
12 lease in the absence of a waiver under (cc) of this section; and

13 (E) the projected tax that would be due under  
14 AS 43.55, in the absence of a tax waiver under AS 43.55.035;

15 (3) "projected subsequent development costs" means all  
16 development costs that accrue after the beginning of commercial pro-  
17 duction.

18 \* Sec. 4. AS 43.55.011(a) is amended to read:

19 (a) Unless the tax is waived under AS 43.55.035, there [THERE]  
20 is levied upon the producer of oil a tax for all oil produced from  
21 each lease or property in the state, less any oil the ownership or  
22 right to which is exempt from taxation. The tax is equal to either  
23 the percentage-of-value amount calculated under (b) of this section or  
24 the cents-per-barrel amount calculated under (c) of this section,  
25 whichever is greater, multiplied by the economic limit factor de-  
26 termined for the oil production of the lease or property under AS  
27 43.55.013. If the amounts calculated under (b) and (c) of this sec-  
28 tion are equal, the amount calculated under (b) of this section shall  
29 be treated as if it were the greater for purposes of this section.

1 \* Sec. 5. AS 43.55.016(a) is amended to read:

2           Sec. 43.55.016. GAS PRODUCTION TAX. (a) Unless the tax is  
3 waived under AS 43.55.035, there [THERE] is levied upon the producer  
4 of gas a tax for all gas produced from each lease or property in the  
5 state, less any gas the ownership or right to which is exempt from  
6 taxation. The tax is equal to either the percentage-of-value amount  
7 calculated under (b) of this section or the cents-per-barrel amount  
8 calculated under (c) of this section, whichever is greater, multiplied  
9 by the economic limit factor determined for gas production of the  
10 lease or property under AS 43.55.013. If the amounts calculated under  
11 (b) and (c) of this section are equal, the amount calculated under (b)  
12 of this section shall be treated as if it were the greater for pur-  
13 poses of this section.

14 \* Sec. 6. AS 43.55 is amended by adding a new section to read:

15           Sec. 43.55.035. TEMPORARY TAX WAIVER. (a) Upon application by  
16 an oil or gas producer covered by this chapter, the commissioner shall  
17 temporarily waive the tax under this chapter for a lease or property  
18 if the applicant demonstrates that

19                   (1) the lease or property was conveyed by, or derived in  
20 the chain of title from, a lease issued by the commissioner of natural  
21 resources under AS 38.05.180 before January 1, 1986;

22                   (2) commercial production from the lease or property has  
23 not yet begun;

24                   (3) projected production revenue from the lease or property  
25 would be insufficient to permit recovery of projected initial develop-  
26 ment costs within 10 years of the beginning of commercial production  
27 or within a shorter period that is commercially reasonable under the  
28 circumstances; and

29                   (4) the commissioner of natural resources has certified

1 that exploration of the lease has delineated oil reserves.

2 (b) An application under (a) of this section must be filed with  
3 the commissioner by July 1, 1994. The applicant must pay the cost of  
4 processing the application.

5 (c) A tax waiver made under (a) of this section expires Decem-  
6 ber 31, 1999, or when the commissioner certifies that sufficient  
7 production revenue has been received to recover initial development  
8 costs, whichever date is earlier. If the lease is a net profit share  
9 lease, certification under this subsection may not precede the first  
10 credit balance in the producer's development account.

11 (d) The commissioner may attach the following conditions to a  
12 tax waiver made under (a) of this section:

13 (1) if the lease or property is not a net profit share  
14 lease, that the state receive a net profit share when initial develop-  
15 ment costs have been recovered;

16 (2) that the producer, the producer's subcontractors, and  
17 the producer's affiliates purchase state products where possible and  
18 employ residents of the state for activities on or directly supporting  
19 development and production from the lease or property; the condition  
20 imposed under this paragraph shall be developed by the commissioner on  
21 a case-by-case basis after consultation with the commissioner of  
22 labor, and after considering the economy and employment patterns of  
23 the affected area and the degree to which nonresidents may cause  
24 unemployment or underemployment among qualified and available state  
25 residents without the condition;

26 (3) if the producer or an affiliate of the producer intends  
27 to construct a pipeline to transport oil or gas from the point of  
28 production, that the producer or producer's interest in the pipeline  
29 will be conveyed to the state when the initial development costs from

1 the lease or property have been recovered; the commissioner may fur-  
2 ther require that the producer or affiliate

3 (A) operate the pipeline as a common carrier;

4 (B) finance construction of the pipeline in a manner  
5 that will allow subsequent conveyance of the pipeline interest to  
6 the state free of debt obligation to the state; and

7 (C) purchase state products where possible and employ  
8 residents of the state for activities on or directly supporting  
9 development of and use of the pipeline; the condition imposed  
10 under this subparagraph shall be developed by the commissioner on  
11 a case-by-case basis after consultation with the commissioner of  
12 labor, and after considering the economy and employment patterns  
13 of the affected area, and the degree to which nonresidents may  
14 cause unemployment or underemployment among qualified and avail-  
15 able state residents without the condition; and

16 (4) that the lessee meet certain reasonable reporting  
17 requirements for the purpose of certifying recovery of initial devel-  
18 opment costs under (c) of this section.

19 (e) If an applicant files an application under AS 38.05.180(cc)  
20 within 60 days before or after filing an application under (a) of this  
21 section, the commissioner and the commissioner of natural resources  
22 shall hear and decide the applications jointly if possible.

23 (f) A person aggrieved by a decision of the commissioner under  
24 (a) of this section may appeal the decision by filing a notice of  
25 appeal with the superior court under AS 44.62.560 within 30 days of  
26 the decision.

27 (g) In this section

28 (1) "commissioner" means the commissioner of revenue;

29 (2) "initial development costs" includes all expenses that

1 accrue from issuance of the lease or property to the beginning of  
2 commercial production in support or as a result of lease or property  
3 development, plus interest from the date of accrual on the expenses at  
4 a rate that equals, for net profit share leases, the rate of interest  
5 allowed on the producer's development account if the rate is not less  
6 than the prevailing prime rate plus two percent, and, for all other  
7 leases or properties, the then-prevailing commercial rate for projects  
8 of like risk and magnitude if the rate is not less than the prevailing  
9 prime rate plus two percent; if the lease or property is a net profit  
10 share lease, "initial development costs" includes an expenditure that  
11 is includable as a debit in the lessee's development account;

12 (3) "projected production revenue" means revenue determined  
13 on the basis of the department's current 50 percent case price projec-  
14 tions at the point of production, after deducting

15 (A) projected direct operating costs;

16 (B) projected taxes under 26 U.S.C. 4986 - 4998 (Wind-  
17 fall Profit Tax on Domestic Crude Oil);

18 (C) projected subsequent development costs on an  
19 accrual basis;

20 (D) the projected royalty that would be due on the  
21 lease or property in the absence of a waiver under  
22 AS 38.05.180(cc); and

23 (E) the projected tax that would be due under this  
24 chapter in the absence of a tax waiver under this section;

25 (4) "projected subsequent development costs" means all  
26 development costs that accrue after the beginning of commercial pro-  
27 duction.