

# COMMITTEE REPORT

## HOUSE

FURTHER:

(11)

3/12/82

Date: 4-3-82

Mr. Speaker:

The Committee on FINANCE has had HB 37

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

under consideration and ~~(a majority of the committee)~~ ~~(the committee)~~ reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 37 (FIN)  same title  
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

David W. [Signature]

[Signature]

[Signature]

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**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

[Signature]

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[Signature]  
CHAIRMAN

Original sponsors: Randolph, Beirne and  
Bettisworth

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 37 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the motor fuel tax (AS 43.40); and  
7 providing for an effective date."

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

9 \* Section 1. AS 43.40.010 is amended by adding a new subsection to read:

10 (1) If a dealer has a reasonable belief at the time of sale or  
11 transfer that fuel that is sold or transferred is not to be used as  
12 motor fuel, the dealer need not collect the motor fuel tax. If the tax  
13 is not collected, the dealer shall obtain a certificate of use from the  
14 buyer or transferee stating that the fuel that has been or will be pur-  
15 chased or received is not intended for use as motor fuel. The Department  
16 of Revenue may not collect the motor fuel tax from a dealer for fuel for  
17 which a certificate of use has been properly obtained under this sub-  
18 section. The dealer shall retain a copy of each certificate of use  
19 obtained under this subsection for examination or audit on request by  
20 the Department of Revenue. The form of a certificate of use may be  
21 prescribed by regulation adopted by the Department of Revenue.

22 \* Sec. 2. AS 43.40.100(3) is amended to read:

23 (3) "user" means a person consuming or using motor fuel, who  
24 either

25 (A) purchases the fuel out of the state and ships it  
26 into the state for his own use within the state;

27 (B) [OR] manufactures the fuel in the state; or

28 (C) purchases or receives the fuel within the state that  
29 is not taxed at the time of purchase or receipt.

1 \* Sec. 3. The Department of Revenue may not collect the motor fuel tax  
2 from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of motor  
3 fuel that occurs before the effective date of this Act if the dealer did not  
4 collect the tax from a purchaser or transferee because of a reasonable belief  
5 that the fuel was not to be used as motor fuel, as that term is defined in  
6 AS 43.40.100(2).

7 \* Sec. 4. AS 43.40 is amended by adding a new section to read:

8 Sec. AS 43.40.015. SURTAX ON AVIATION FUEL. (a) There is levied  
9 a surtax on aviation fuel, in addition to the tax imposed in AS 43.40.-  
10 010, in the following amounts:

11 (1) one-half cent a gallon on all aviation gasoline sold or  
12 otherwise transferred in the state or consumed by a user; and

13 (2) one-fourth cent a gallon on all aviation fuel other than  
14 gasoline sold or otherwise transferred in the state or consumed by a  
15 user.

16 (b) The surtax levied under this section shall be deposited in the  
17 general fund. The legislature may annually appropriate an amount equal  
18 to the proceeds of the surtax levied in this section for aviation safety  
19 training programs.

20 \* Sec. 5. AS 43.40.015 added by sec. 4 of this Act terminates on July 1,  
21 1985.

22 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-  
23 070(c).

*INCORPORATE  
AMENDMENT*

Original sponsors: Randolph, Beirne and Bettisworth

Offered: 3/12/82  
Referred: Finance

1 IN THE HOUSE

*FINANCE*  
BY THE ~~STATE AFFAIRS~~ COMMITTEE  
*FINANCE*

2 CS FOR HOUSE BILL NO. 37 (~~State Affairs~~)

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4 TWELFTH LEGISLATURE - SECOND SESSION

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AMENDMENT HB 37

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- (1) One-half cent a gallon on all aviation gasoline sold or otherwise transferred in the state or consumed by a user; and
- (2) One-fourth cent a gallon on all aviation fuel other than gasoline sold or otherwise transferred in the state or consumed by a user.

(b) The surtax levied under this section shall be deposited in the general fund. The legislature may annually appropriate an amount equal to the proceeds of the surtax levied in this section for aviation safety training programs.

\*Sec. 2. This Act terminates on July 1, 1985. *to the extent of any sec. 2*

\*Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

AMENDMENT HB 37

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THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB37  
 Title An Act relating to the motor fuel tax  
 Requested by Randolph, Beirne, Bettisworth Date 3-8-82

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected Revenue Collections and Management  
 BRU, Program, Or Subprogram(s) Affected Audit Division  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		22.0	23.5	25.0	27.0	29.5
200 TRAVEL		1.6	1.8	2.0	2.2	2.4
300 CONTRACTUAL						
400 COMMODITIES		.5				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		24.1	25.3	27.0	29.2	31.9

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		24.1	25.3	27.0	29.2	31.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See attached memo to R. D. Stevenson dated 3-9-82.

*Robert R. Kessel*

IV. DATE March 9, 1982 PREPARED BY Robert R. Kessel  
 AGENCY Audit Division  
 Original: Legislative Finance PHONE 465-2320  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

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EXPENDITURES (Thousands of Dollars) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		(1.4)	(1.4)			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See attached copy of memo to R. D. Stevenson dated March 9, 1982.

*Robert R. Kessel*

IV. DATE March 9, 1982 PREPARED BY Robert R. Kessel  
 AGENCY Audit Division  
 Original: Legislative Finance PHONE 465-2320  
 cc: Budget and Management

Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

# MEMORANDUM

# State of Alaska

Department of Revenue

TO: R. D. Stevenson  
Special Assistant

DATE: March 9, 1982

FILE NO:

TELEPHONE NO:

FROM: Robert R. Kessel <sup>RR</sup>  
Director, Audit Division

SUBJECT: Work Draft -  
CSHB 37

The work draft would allow motor fuel dealers (distributors/jobbers) to buy a portion of their fuel tax free from the manufacturer/ supplier and would allow the distributor to sell that same portion to consumers tax free in those instances when such consumption is for exempt use. Exempt use includes a) fuel used for heating purposes and b) fuel used by exempt organizations such as the Federal Government, State agencies, charitable organizations, etc.

The distributors/jobbers must provide the manufacturer/supplier with a certificate of use for ex-tax purchases. The distributors/jobbers must obtain a certificate of use from every person purchasing fuel not intended for use as a motor fuel. The distributors/jobbers must retain the certificates for examination by the Department of Revenue.

The bill expands the term "user" (taxpayer) to include a person consuming or using diesel fuel who purchases or receives the fuel within the State that was not taxed at the time of purchase or receipt because it was sold as heating fuel.

Section 3 of the work draft provides, in essence, that all audit assessments against dealers for failure to collect the tax from a purchaser or transferee could not be collected by the Department of Revenue nor could further audits be conducted nor assessments made. This section is arguably unconstitutional. In addition, the State would lose about \$2.8 million because of abatement of current audit assessments and forfeiture of other audit efforts for prior years.

The work draft as written would apparently continue to require dealers and users to file motor fuel tax returns. The sponsors of this bill might not be aware of this requirement.

There would literally be thousands of certificates of use issued. The effort to audit under the certificate concept would require an additional revenue auditor.

Section 3 essentially punishes those 50% of the dealers who have conformed to the law and properly collected tax. The State of Alaska has a substantial amount of dollars impacted by the dealers' failure to collect when required.

RRK/gb

Asper

MAR 9 1992

Original sponsors: Randolph, Beirne and Bettisworth

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

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4 TWELFTH LEGISLATURE - SECOND SESSION

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16 collect the motor fuel tax from a dealer for fuel for which a certificate  
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STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 26, 1982

SUBJECT: Motor fuel tax  
(CSHB 37 (SA))

TO: Representative Ray H. Metcalfe

FROM: *(LHC)* Linn H. Asper  
Legislative Counsel

You have asked for an opinion on the constitutionality of \* Sec. 3 of CSHB 37 (SA), "An Act relating to the motor fuel tax" (AS 43.40). \* Sec. 3 prohibits the Department of Revenue from collecting the motor fuel tax on a sale of fuel that takes place before the effective date of the Act from a dealer who did not collect the tax on the sale of the motor fuel, as is required by AS 43.40.010, because of a reasonable belief that the fuel was not to be used as "motor fuel".

\* Sec. 3 was drafted to correct a situation described at a House State Affairs Committee meeting. Fuel sellers are being assessed large amounts in back taxes for failing to collect the motor fuel tax properly, under new interpretations of dealer duties by the Department of Revenue. The difficulty with the motor fuel tax law is that, by definition, fuel sold is only taxable "motor fuel" if it is used in a certain manner. Often it is difficult for the dealers to determine how their customers will use the fuel, and the Department of Revenue has given no guidance by regulation as to when the tax should or should not be collected. The dealers therefore developed patterns of practice in collecting the tax; patterns that were honored by the Department of Revenue until recently. Audits conducted in the last year have determined that many dealers failed to collect the motor fuel tax on fuel that the department now considers to be "motor fuel" under the tax act. \* Sec. 3 of CSHB 37 responds to claims by the dealers that it was unfair for them to be assessed motor fuel taxes when they only failed to collect the taxes because the Department of Revenue accepted their former collection practices.

March 26, 1982

\* Sec. 3 prohibits collection of the tax only in those instances where a dealer can demonstrate a reasonable belief that the fuel sold or otherwise transferred was not taxable "motor fuel" under the act. Thus, it provides relief for a very limited group of persons. As such it appears to be and is intended to be an equitable form of relief for persons whose conduct has been reasonable under the circumstances. Similar relief could be granted by the Department of Revenue if it decided to apply its new interpretation of the Motor Fuel Tax prospectively instead of retroactively, but such administrative relief is apparently not forthcoming.

Although the equities seem to be with the fuel dealers in this situation, it is possible that the retroactive tax relief can be challenged on constitutional grounds. This is so because the effect of \* Sec. 3 will be that some dealers and some consumers of fuel have paid the tax while others will be able to avoid payment. Those that have collected, or have paid the tax could challenge the tax relief section of the bill as a violation of the equal protection clause of the state and federal constitutions. In the time frame of your request for this memorandum, I have not been able to research this question fully to determine if an equal protection clause challenge would be successful or not. Instead I am simply noting that a challenge could be brought and to that extent there is a constitutional problem with the bill. The constitutional problem might be resolved by additional language in the bill that would shift the collection burden to the state for the back taxes. Then consumers would still be subject equally to the tax, but the Department would have to collect it, thus relieving the dealers from the burden of the new administrative standards for past sales.

LHA:ljb

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL  
JUNEAU, ALASKA 99811

March 25, 1982

Honorable David W. Cuddy  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Cuddy:

You have requested an opinion from this department concerning the constitutionality of § 3 of CSHB 37 which provides a retroactive tax exemption to dealers of motor fuel who failed to collect the tax based on a reasonable belief that the fuel was not to be used as motor fuel. There was also concern expressed at the March 25 subcommittee hearing on the need for a penalty provision which would provide the Department of Revenue with a remedy against the "user" of motor fuel who files a false certificate of use. These two issues will be addressed in turn.

AS 43.40.010(c) presently imposes a duty upon the dealer to collect the motor fuel tax. The dealer is absolutely liable for failure to collect the tax if the sale is not exempt. Section 3 of CSHB 37 could change the law to retroactively grant tax relief to the dealer based solely upon the dealer's "reasonable belief" that the sale was exempt, whether or not the sale was in fact exempt. The effect of this proposed change is that claims presently enforceable by the Department of Revenue would be forgiven because all dealers who now owe taxes could raise a new defense to payment which would retroactively absolve them from liability.<sup>1</sup>

It is the Department's view that this amendment may violate Article IX, section 6 of the Alaska Constitution. This section provides that appropriations of public money may be made only for a public purpose. While the Alaska Supreme Court has not specifically addressed the question of the

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<sup>1</sup> It should be noted that even under the present law, the Department of Revenue would certainly consider the dealer's belief as evidence of whether the sale is exempt. However, the law requires some objective evidence of exemption and not just the dealer's untested belief.

Honorable David W. Cuddy  
Alaska State Legislature  
March 26, 1982  
Page 2

validity of retroactive tax repeals, courts in other jurisdictions have held that as a general rule, retroactive repeals of validly imposed taxes constitute an appropriation of public money for essentially private benefit. City of Yakima v. Huza, 407 P.2d 815 (Wash. 1965); In re Skinners Estate, 303 P.2d 745 (Cal. 1956); In re Stanford's Estate 58 P. 465 (Cal. 1899). The prohibition applies not only to an actual refund of taxes, but to any legislation that would "in any way surrender, impair or limit rights that have become fixed." In re Skinner's Estate. The rationale of these decisions is that retroactive repeal which forgives unpaid taxes does not benefit the collective public to whom the money in the state treasury belongs, but benefits the private individuals who receive the funds.

The proposed language in § 3 of to CSHB 37 does not appear to be a release of tax liability for the benefit of the general population of Alaska. Rather, it is intended to benefit dealers who failed to collect the tax at the time of sale as required by AS 43.40.010(c). For these reasons, we would recommend that § 3 be deleted from the bill.


A question was also raised at the hearing as to whether the penalty contained in AS 43.40.020 and repealed by Section 3 Ch. 116 SLA 1977 should be reinstated to provide recourse against the user who files a false certificate. Representative Metcalfe has correctly pointed out that the general penalty provisions of AS 43.05.290 would apply to the user who files a certificate and ultimately uses the fuel in a manner that is not tax exempt. However, it may be helpful to clarify the obvious intent of AS 43.40.100(3)(c) by providing that in addition to penalties, the user who files a certificate of use for fuel that is in fact not exempt is also liable for the tax itself.

Honorable David W. Cuddy  
Alaska State Legislature  
March 26, 1982  
Page 3

If we can be of any further assistance to you or  
your subcommittee, please let me know.

Sincerely,

WILSON L. CONDON  
ATTORNEY GENERAL

By:   
Barbara Herman  
Assistant Attorney General

Original sponsors: Randolph, Beirne and  
Bettisworth

Offered: 3/12/82  
Referred: Finance

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 37 (State Affairs)

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Introduced: 2/4/81  
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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