SCOMM

28:6

Oil Tax Bills

Ninth Legislature

1975-6

Introduced: 2/4/75
Referred: Commerce and Finance

BY MALONE

THE HOUSE

(C) HOUSE BILL NO. 116

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

An Act entitled: "An Act relating to oil and gas development."

BE ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

Section 1. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.297. INSPECTION PERMITTED. (a) The department may, as a condition of granting a permit or lease provided for in secs. 135 - 165 of this chapter, require the applicant to

(1) allow full observation and inspection by a person employed by the department of all oil or gas exploration efforts, drilling or production facilities;

(2) allow a person employed by the department to be present during exploration, drilling or production efforts, and make adequate provisions for the board, lodging and transportation of that person;

(3) in the case of a vessel or other facility engaged in offshore oil or gas exploration, drilling or production, allow a person employed by the department to live on the vessel or facility;

(4) reimburse the state, on a regular basis, for all costs incurred in the administration of this section, including the costs of inspection;

(5) post a surety bond or other guarantee of payment;

(6) observe other conditions the department considers necessary to safeguard the public health, safety and general welfare.

(b) The department shall promulgate regulations to carry out the purpose of this section, including but not limited to

(1) the specific duties of the inspector;

(C)

Introduced: 3/13/75
Referred: Resources

BY COWPER,BOWMAN,BRADLEY,BRADNER,
BROWN,COTTEN,DUNCAN,GARDINER,
GRUENING,KELLEY,MCKINNON,MALONE,
MILLER,NAUGHTON,PARKER,SMITH,PARR,
SULLIVAN AND OSTROSKI

IN THE HOUSE

HOUSE BILL NO. 297

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas exploration, production and pipeline transportation property tax; and providing for an effective date."

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

* Section 1. AS 43.56.010(a) is amended to read:

(a) An annual tax of 20 mills is levied each tax year beginning January 1, 1974, on the full and true value of taxable property taxable under this chapter, except as provided in sec. 15 of this chapter.

* Sec. 2. AS 43.56 is amended by adding a new section to read:

Sec. 43.56.015. OIL AND GAS IN PLACE. (a) An annual tax of 20 mills is levied automatically at such time as the state's general fund cash balance is less than $200,000,000, on the full and true value of (1) oil and gas leases within the state under which there are proven reserves; and (2) ownership interests in proven oil and gas reserves in place within the state. The tax due for the calendar year of the original levy is the full amount which is due for the year reduced pro rata by the number of days from January 1 to the date of the original levy. In years subsequent to the original levy the tax is levied each year beginning January 1.

(b) Oil and gas leases and ownership interests in proven oil or gas reserves are exempt from taxation under (a) of this section for a period of five years from (1) the date of the original lease of all or part of the property described in the lease or ownership interest being taxed, or (2) the date of the first completion, suspension, or abandon-

ment of a discovery well in a field or pool which in whole or in part underlies or comprises the lease or ownership interest, whichever occurs first.

(c) Producing oil or gas leases or ownership interests in proven oil or gas reserves upon which a gross production tax under ch. 55 of this title has been paid in an amount equal to or greater than the tax due under (a) of this section are exempt from taxes under (a) of this section for the same taxable year for which the gross production taxes are due.

(d) Producing oil or gas leases or ownership interests in proven oil or gas reserves upon which a gross production tax under ch. 55 of this title has been paid in an amount which is less than the amount due under (a) of this section as to the same leases or interests shall reduce the tax due under (a) of this section as to the leases or interests by the gross production tax actually paid in the assessment year after subtraction of any credit allowable under (e) of this section.

(e) The tax paid under (a) of this section may be credited against the gross production tax due under ch. 55 of this title as to the same leases or properties; however, the credit used in any one tax year may not exceed 50 per cent of the gross production tax due for that year.

* Sec. 3. AS 43.56.060 is amended by adding new subsections to read:

(h) The department shall assess property for the tax levied under sec. 15 of this chapter within 60 days of the effective date of this Act on the basis of information presently available to the department.

(i) The full and true value of property taxable under sec. 15 of this chapter is the estimated price which the property would bring in an open market and under the prevailing market conditions in a sale between a willing buyer and a willing seller both conversant with the property and with prevailing general price levels. In determining this value the

assessor shall take into account the discounted value of the expected future net income from the production of proven reserves under the property.

• Sec. 4. AS 43.56.100 is amended by adding a new subsection to read:

(c) The department shall send to every owner of taxable property named in the assessment roll a notice of the assessment made under sec. 60(h) of this chapter within 75 days of the effective date of this Act.

• Sec. 5. AS 43.56.120 is amended by adding a new subsection to read:

(c) If an owner appeals a ruling of the department made under an appeal of an assessment of property made for purposes of the tax levied under sec. 15 of this chapter, the owner, by filing a notice of appeal to the board, agrees to furnish the state with all its records and research information relating to the property which is the subject of the appeal, including but not limited to (1) well logs; (2) records of well testing and completion; and (3) geological and geophysical information including seismic data. The information contained in the records and research information shall be kept confidential by the board unless litigation is instituted after a decision by the board.

• Sec. 6. AS 43.56.150(c) is amended to read:

(c) The <u>taxes</u> [TAX] levied under <u>secs.</u> [SEC.] 10(a) <u>and 15</u> of this chapter, interest and penalties collected with respect to <u>these levies</u> [THIS LEVY] shall be deposited in the general fund, <u>except that two per cent of the taxes collected under sec. 15 of this chapter shall be deposited into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act, P.L. 92 - 203</u>.

• Sec. 7. AS 43.56.160 is amended to read:

Sec. 43.56.160. INTEREST AND PENALTY. When the tax levied by sec. 10(a) <u>or sec. 15</u> of this chapter becomes delinquent, a penalty of 10 per cent shall be added. Interest on the delinquent taxes, exclusive of

penalty, shall be assessed at a rate of eight per cent a year.

* Sec. 8. AS 43.56.170 is amended to read:

Sec. 43.56.170. LIEN FOR TAX. The taxes [TAX] levied under secs. [SEC.] 10(a) and 15 of this chapter and the interest and penalty provided in sec. 160 of this chapter are first and paramount liens on the property subject to tax under this chapter.

* Sec. 9. AS 43.56.180 is amended to read:

Sec. 43.56.180. REMEDY. The remedy of distraint of property set out in AS 43.20.270 applies to the taxes [TAX] levied by secs. [SEC.] 10(a) and 15 of this chapter. However, only property subject to [THE] tax may be distrained.

* Sec. 10. AS 43.56.210(6) is amended to read:

(6) "taxable property" means property described in sec. 15 of this chapter or real and tangible personal property used or committed by contract or other agreement for use within this state primarily in the exploration for, production of, or pipeline transportation of gas or unrefined oil (except for property used solely for the retail distribution or liquefication of natural gas), or in the operation or maintenance of facilities used in the exploration for, production of, or pipeline transportation of gas or unrefined oil, including machinery, appliances, supplies, equipment, drilling rigs, wells (whether producing or not), gathering lines and transmission lines, pumping stations, compressor stations, power plants, topping plants, processing units, roads, tank farms, tanker terminals, docks and other port facilities, air strips and communication equipment and facilities, maintenance equipment and facilities, and maintenance camps and other related facilities; "taxable property" does not include permanent residences, office buildings requiring substantial local government services, or gas pipeline systems operated as utilities and regulated by the Alaska Public

Utilities Commission;

* Sec. 11. AS 43.56.210 is amended by adding a new paragraph to read:

(8) "proven reserves" means the volume of oil or gas in a known deposit which geological and engineering information indicate to be reasonably expected to be produced under current economic and technological knowledge.

* Sec. 12. This Act takes effect immediately in accordance with AS 01.10.-070(c).

* Sec. 13. This Act terminates January 1, 1982.

Introduced: 4/17/75
Referred: Resources and Finance

BY COWPER, BOWMAN, BRADLEY, BRADNER, BROWN, COTTEN, DUNCAN, GARDINER, GRUENING, KELLEY, MCKINNON, MALONE, MILLER, NAUGHTON, PARKER, SMITH, PARR, SULLIVAN AND OSTROSKY

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

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

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

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

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

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

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

(3) all other interests in the proven reserves of a lease or property during the five year period beginning with the earlier of:

(A) the date of the original lease, concession, contract or any other agreement that is made for the oil and gas development

of a part or all of the land subject to that lease or property, or

(B) the date of the first completion, suspension, or abandonment of a discovery well in a field or pool which in whole or in part underlies or comprises the lease or ownership interest;

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

(5) any and all interests conveyed pursuant to the Alaska Native Claims Settlement Act (P.L. 92-203; 43 U.S.C. 1620), including the interests of lessees of all or part of such interests.

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

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

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

Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare

annually the assessment roll for taxation under this chapter. The roll shall contain:

(1) a description of all taxable property;

(2) the assessed value of all taxable property; and

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

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

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

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

(c) Within 30 days after the decision by the department after a hearing, either the department or a person aggrieved by the decision may appeal to the superior court for a trial de novo. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

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

Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department shall include property omitted from the assessment roll on a supplemental roll, using the procedures set out in this chapter for the original roll.

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

(b) An employee or agent of the department may enter any premise necessary for the investigation during reasonable hours and may examine property and appropriate records. The owner of taxable property upon request shall furnish to the employee or agent of the department reasonable assistance required for the investigation. If refused entry or assistance the superior court may, after reasonable notice to the owner, order the owner to allow the entry or to furnish the assistance.

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

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

(b) The operator of a lease or property shall submit returns on the form prescribed by the department and shall make payment of the tax levied under this chapter, on behalf of itself and all other persons holding an interest or right in that lease or property. With the written

approval of the department, a non-operator of the lease or property may submit returns or make payment of the tax levied under this chapter, on behalf of himself and such other persons as the department may approve. All returns shall be filed on or before February 1 of each year.

(c) The tax levied under this chapter is payable to the department on or before June 30 of each year or in installments at the times and under the conditions the department may by regulation require. This provision applies even though the assessment is under appeal.

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

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

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

Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally

determined by the department and required by this chapter, unless it is shown that the failure is due to a reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered the penalty shall be collected in the same manner as the original tax. The department shall describe by regulation circumstances which constitute reasonable cause for purposes of this section.

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

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

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

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

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

Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT. (a) An early development incentive credit, calculated in accordance with this section, shall be applied to the tax payable under ch. 55 of this title as provided in AS 43.55.018. The early development incentive credit for a lease or property is zero until changed as provided in this section.

(b) The early development incentive credit for a lease or property shall be increased each calendar year by the amount of net tax paid

under this chapter.

(c) The early development incentive credit for a lease or property shall be reduced each month by the amount of tax credit allowed in that month under AS 43.55.018 for that lease or property.

Sec. 43.58.190. DEFINITIONS. In this chapter:

(1) "department" means the Department of Revenue;

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

(3) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

(4) "net tax paid under this chapter" means the amount of tax payable under sec. 10 of this chapter, less the credit allowed under sec. 30 of this chapter without regard to interest or penalty;

(5) "oil" means crude petroleum oil and other hydrocarbons regardless of gravity which, when recovered, are recovered at the well-head in liquid form, and the liquid hydrocarbons known as distillate or condensate that are recovered by separation from gas other than at a gas processing plant;

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

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

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

Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount not less than two per cent of the tax shall be paid by the state from oil and gas royalty payments into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 USC 1601 et seq.) until all payments paid into the fund equals $500,000,000.

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

(b) <u>Except as provided in ch. 58 of this title, the</u> [THE] tax imposed by this chapter is in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) [deleted]

(2) producing oil or gas leases;

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

(4) [deleted]

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

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

Sec. 43.55.018. CREDIT AGAINST TAX. (a) There shall be allowed as a credit against the taxes levied under this chapter for a lease or property the early development incentive credit accrued for that lease or property under AS 43.58.180. In no event may the credit allowed for

a lease or property exceed 50 per cent of the taxes levied under this chapter for that lease or property.

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

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

(8) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

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

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes which result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax the combined levy of which would result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their

boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

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

(c) If the total value of assessed property of a municipality taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the average per capita assessed full and true value of property in the state (to be determined by the department and reported to each municipality by January 15 of each year) multiplied by the number of residents of the taxing municipality, the department shall designate the portion of the tax base against which the local tax may be applied. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under ch. 58 of this title.

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

Original sponsor: Cowper, Bowman, Bradley, et al

Offered: 4/24/75
Referred: Finance

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

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

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

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

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

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

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

(3) all other interests in the proven reserves of a lease or property during the five year period beginning with the earlier of:

(A) the date of the original lease, concession, contract or any other agreement that is made for the oil and gas development

of a part or all of the land subject to that lease or property, or

(B) the date of the first completion, suspension, or abandonment of a discovery well in a field or pool which in whole or in part underlies or comprises the lease or ownership interest;

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

(5) any and all interests acquired by an Alaska Native regional corporation under the Alaska Native Claims Settlement Act (P.L. 92-203; 43 U.S.C. 1620).

(b) If any provision of this section or the application of any provision of this section or circumstance is held invalid, the remainder of this Act is void.

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

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

(b) The full and true value of taxable property under this chapter is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing values. In determining this value, the department shall consider all factors which may be known by the department to affect the value of the proven reserves of the lease or property, including but not

limited to the present value of the expected discounted future net income from the lease or property.

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

(1) a description of all taxable property;

(2) the assessed value of all taxable property; and

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

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

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

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

(c) Within 30 days after the decision by the department after a hearing, either the department or a person aggrieved by the decision may appeal to the superior court for a trial de novo. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

Sec. 43.58.080. CERTIFICATION. On or before June 15 of each year,

the department shall certify the final assessment roll and mail to the operator or other person filing a return and paying tax on the taxable property a statement of the amount of tax due.

Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department shall include property omitted from the assessment roll on a supplemental roll, using the procedures set out in this chapter for the original roll.

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

(b) An employee or agent of the department may enter any premise necessary for the investigation during reasonable hours and may examine property and appropriate records. The owner of taxable property upon request shall furnish to the employee or agent of the department reasonable assistance required for the investigation. If refused entry or assistance the superior court may, after reasonable notice to the owner, order the owner to allow the entry or to furnish the assistance.

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

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

(b) The operator of a lease or property shall submit returns on

the form prescribed by the department and shall make payment of the tax levied under this chapter, on behalf of itself and all other persons holding an interest or right in that lease or property. With the written approval of the department, a non-operator of the lease or property may submit returns or make payment of the tax levied under this chapter, on behalf of himself and such other persons as the department may approve. All returns shall be filed on or before February 1 of each year.

(c) The tax levied under this chapter is payable to the department on or before June 30 of each year or in installments at the times and under the conditions the department may by regulation require. This provision applies even though the assessment is under appeal.

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

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

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

Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to

the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to a reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered the penalty shall be collected in the same manner as the original tax. The department shall describe by regulation circumstances which constitute reasonable cause for purposes of this section.

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

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

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

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

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

Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT. (a) An early development incentive credit, calculated in accordance with this section, shall be applied to the tax payable under ch. 55 of this title as provided in AS 43.55.018. The early development incentive credit for a lease or property is zero until changed as provided in this

section.

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

(c) The early development incentive credit for a lease or property shall be reduced each month by the amount of tax credit allowed in that month under AS 43.55.018 for that lease or property.

Sec. 43.58.190. DEFINITIONS. In this chapter:

(1) "department" means the Department of Revenue;

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

(3) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

(4) "net tax paid under this chapter" means the amount of tax payable under sec. 10 of this chapter, less the credit allowed under sec. 30 of this chapter without regard to interest or penalty;

(5) "oil" means crude petroleum oil and other hydrocarbons regardless of gravity which, when recovered, are recovered at the well-

head in liquid form, and the liquid hydrocarbons known as distillate or condensate that are recovered by separation from gas other than at a gas processing plant;

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

(7) "proven reserves" means the volumes of oil and gas in a known deposit which geological and engineering information indicate to be recoverable if it is economically feasible to market it in the future; "proven reserves" does not include oil and gas which is not economically feasible to market in the future under reasonably foreseeable conditions;

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

Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable an amount not less than two per cent of the tax shall be paid by the state from oil and gas royalty payments into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 USC 1601 et seq.) until all payments paid into the fund equals $500,000,000.

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

(b) <u>Except as provided in ch. 58 of this title, the</u> [THE] tax imposed by this chapter is in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) [deleted]

(2) producing oil or gas leases;

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

(4) [deleted]

(5) the value of intangible drilling and exploration expenses

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

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

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

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

(8) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

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

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes which result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value in the state multiplied by the number of residents of the

taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax the combined levy of which would result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

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

(c) If the total value of assessed property of a municipality taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the average per capita assessed full and true value of property in the state (to be determined by the department and reported to each municipality by January 15 of each year) multiplied by the number of residents of the taxing municipality, the department shall designate the portion of the tax base against which the local tax may be applied. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under ch. 58 of this title.

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

Original sponsor: Cowper, Bowman, Bradley, et al

Offered: 4/25/75
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

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

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

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

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

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

(2) any interest exempted from taxation by the Alaska Native Claims Settlement Act (P.L. 92-203; 43 U.S.C. sec. 1620) or acquired under that Act by an Alaska Native regional or village corporation;

(3) all other interests in the proven reserves of a lease or property during the five year period beginning with the earlier of:

(A) the date of the original lease, concession, contract or any other agreement that is made for the oil and gas development of a part or all of the land subject to that lease or property, or

(B) the date of the first completion, suspension, or abandonment of a discovery well in a field or pool which in whole or in part underlies or comprises the lease or ownership interest;

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

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

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

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

Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare annually the assessment roll for taxation under this chapter. The roll

shall contain:

(1) a description of all taxable property;

(2) the assessed value of all taxable property; and

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

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

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

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

(c) Within 30 days after the decision by the department after a hearing, either the department or a person aggrieved by the decision may appeal to the superior court for a trial de novo. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

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

Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department

shall include property omitted from the assessment roll on a supplemental roll, using the procedures set out in this chapter for the original roll.

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

(b) An employee or agent of the department may enter any premise necessary for the investigation during reasonable hours and may examine property and appropriate records. The owner of taxable property upon request shall furnish to the employee or agent of the department reasonable assistance required for the investigation. If refused entry or assistance the superior court may, after reasonable notice to the owner, order the owner to allow the entry or to furnish the assistance.

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

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

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

submit returns or make payment of the tax levied under this chapter, on behalf of himself and such other persons as the department may approve. All returns shall be filed on or before February 1 of each year.

(c) The tax levied under this chapter is payable to the department on or before June 30 of each year or in installments at the times and under the conditions the department may by regulation require. This provision applies even though the assessment is under appeal.

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

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

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

Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is

shown that the failure is due to a reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered the penalty shall be collected in the same manner as the original tax. The department shall describe by regulation circumstances which constitute reasonable cause for purposes of this section.

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

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

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

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

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

Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT. (a) An early development incentive credit, calculated in accordance with this section, shall be applied to the tax payable under ch. 55 of this title as provided in AS 43.55.018. The early development incentive credit for a lease or property is zero until changed as provided in this section.

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

(c) The early development incentive credit for a lease or property shall be reduced each month by the amount of tax credit allowed in that month under AS 43.55.018 for that lease or property.

Sec. 43.58.190. DEFINITIONS. In this chapter:

(1) "department" means the Department of Revenue;

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

(3) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

(4) "net tax paid under this chapter" means the amount of tax payable under sec. 10 of this chapter, less the credit allowed under sec. 30 of this chapter without regard to interest or penalty;

(5) "oil" means crude petroleum and other hydrocarbons regardless of gravity which, when recovered, are recovered at the well-head in liquid form, and the liquid hydrocarbons known as distillate or condensate that are recovered by separation from gas other than at a gas processing plant;

(6) "operator" means the person conducting the exploration,

development or production operation for a lease or property;

(7) "proven reserves" means the volumes of oil and gas in a known deposit which geological and engineering information indicate to be recoverable if it is economically feasible to market it in the future; "proven reserves" does not include oil and gas which is not economically feasible to market in the future under reasonably foreseeable conditions;

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

Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses and rentals into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) until all payments paid into the fund equ[illegible]500,000,000.

Sec. 43.58.210. SEVERABILITY. If any provision of this Act, or the applicability of it, is held invalid, the remainder of this Act shall not be affected.

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

(b) Except as provided in ch. 58 of this title, the [THE] tax imposed by this chapter is in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) [deleted]

(2) producing oil or gas leases;

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

(4) [deleted]

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

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

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

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

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

(8) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

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

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes which result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value in the state multiplied by the number of residents of the

taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax the combined levy of which would result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

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

(c) If the total value of assessed property of a municipality taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the average per capita assessed full and true value of property in the state (to be determined by the department and reported to each municipality by January 15 of each year) multiplied by the number of residents of the taxing municipality, the department shall designate the portion of the tax base against which the local tax may be applied. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under ch. 58 of this title.

* Sec. 7. This Act takes effect immediately in accordance with

AS 01.10.070(c).

Original sponsor: Cowper, Bowman, Bradley, et al

Offered: 5/6/75
For Calendar 5/7/75

IN THE HOUSE BY THE RULES COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

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

(b) The rate of levy for the tax year beginning January 1, 1976 is 20 mills.

(c) The legislature shall annually determine by law the rate of the levy for the succeeding year.

(d) The rate of levy may not exceed 20 mills.

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

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

(2) any interest in proven reserves during the five-year period beginning with the date of the first completion, suspension, or abandonment of a discovery well in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property;

(3) any interest in proven reserves until the earlier of either of the following occurs:

(A) the issuance, upon application, of a permit for construction of a facility to transport oil or gas from any well or wells in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property to market; or

(B) the commencement of construction of a facility to transport oil or gas from any well or wells in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property to market;

(4) any interest in proven reserves as to which the issuance of a permit for, or the commencement of construction of a facility to transport oil or gas from any well or wells in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property, or the use of those facilities, is enjoined, either temporarily or permanently, by an order, judgment, decree, determination or award of a federal, state or local court or administrative or regulatory agency.

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

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

(b) The full and true value of taxable property under this chapter is the estimated price which the property would bring in an open market

and under the then prevailing market conditicns in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing values. In determining this value, the department shall consider all factors which may be known by the department to affect the value of the proven reserves of the lease or property, including but not limited to the present value of the expected discounted future net income from the lease or property.

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

(1) a description of all taxable property;

(2) the assessed value of all taxable property; and

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

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

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

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

(c) Within 30 days after the decision by the department after a

hearing, either the department or a person aggrieved by the decision may appeal to the superior court for a trial de novo. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

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

Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department shall include property omitted from the assessment roll on a supplemental roll, using the procedures set out in this chapter for the original roll.

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

(b) An employee or agent of the department may enter any premise necessary for the investigation during reasonable hours and may examine property and appropriate records. The owner of taxable property upon request shall furnish to the employee or agent of the department reasonable assistance required for the investigation. If refused entry or assistance the superior court may, after reasonable notice to the owner, order the owner to allow the entry or to furnish the assistance.

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

Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of

a lease or property is primarily liable for payment of the tax levied by this chapter. All other persons owning or otherwise holding an interest or right in that lease or property are secondarily liable for payment of the tax levied by this chapter.

(b) The operator of a lease or property shall submit returns on the form prescribed by the department and shall make payment of the tax levied under this chapter, on behalf of itself and all other persons holding an interest or right in that lease or property. With the written approval of the department, a nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter, on behalf of himself and such other persons as the department may approve. All returns shall be filed on or before February 1 of each year.

(c) The tax levied under this chapter is payable to the department on or before June 30 of each year or in installments at the times and under the conditions the department may by regulation require. This provision applies even though the assessment is under appeal.

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

(e) An operator or other person making payment of the tax levied under this chapter on behalf of one or more other persons owning or otherwise holding an interest in a lease or property may withhold a proportionate share of the payment from any proceeds or other benefits from the lease or property owed to any person on whose behalf the payment is made. Unless otherwise specifically provided by written contract or agreement, the person so withholding a proportionate share of

the tax levied under this chapter incurs no liability to those from whom it is withheld by virtue of having made the withholding.

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

Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to a reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered the penalty shall be collected in the same manner as the original tax. The department shall describe by regulation circumstances which constitute reasonable cause for purposes of this section.

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

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

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

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

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

Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT. (a) An early development incentive credit, calculated in accordance with this section, shall be applied to the tax payable under ch. 55 of this title as provided in AS 43.55.018. The early development incentive credit for a lease or property is zero until changed as provided in this section.

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

(c) The early development incentive credit for a lease or property shall be reduced each month by the amount of tax credit allowed in that month under AS 43.55.018 for that lease or property.

Sec. 43.58.190. DEFINITIONS. In this chapter:

(1) "department" means the Department of Revenue;

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

(3) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

(D) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest or any other interest in an agreement for unitization or pooling under the

provisions of sec. 614(b)(3) of the Internal Revenue Code of 1954 as defined on the effective date of this paragraph;

(4) "net tax paid under this chapter" means the amount of tax payable under sec. 10 of this chapter, less the credit allowed under sec. 30 of this chapter without regard to interest or penalty;

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

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

(7) "proven reserves" means the volumes of oil and gas in a known deposit which geological and engineering information indicate to be recoverable if it is economically feasible to market it in the future under reasonably foreseeable conditions;

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

Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses and rentals into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) until all payments paid into the fund equal $500,000,000.

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

(b) Except as provided in ch. 58 of this title, the [THE] tax imposed by this chapter is in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a munici-

pality may impose a tax upon

(1) [deleted]

(2) producing oil or gas leases;

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

(4) [deleted]

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

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

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

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

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

(8) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

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

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes which result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax the combined levy of which would result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. <u>For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.</u>

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

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

January 15 of each year) multiplied by the number of residents of the taxing municipality, the department shall designate the portion of the tax base against which the local tax may be applied. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under ch. 58 of this title.

* Sec. 7. Except as provided in this section, if a provision of this Act for any reason is invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the remainder of this Act or any of the other provisions of this Act. However, if AS 43.58.020(2), (3) or (4), or any of those paragraphs, should be for any reason held invalid or unenforceable, this Act shall be void in its entirety and of no effect whatsoever.

* Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Original sponsor: Cowper, Bowman, Bradley, et al

Offered: 5/15/75
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

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

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

(c) The rate of levy may not exceed 20 mills.

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

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

(2) any interest in proven reserves during the five-year period beginning with the date of the first completion, suspension, or abandonment, whichever occurs first, of a discovery well in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property;

(3) any interest in proven reserves until the earlier of either of the following occurs:

(A) the issuance, upon application, of a permit for

construction of a facility to transport oil or gas from any well or wells in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property to market; or

(B) the commencement of construction of a facility to transport oil or gas from any well or wells in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property to market;

(4) any interest in proven reserves as to which the issuance of a permit for, or the commencement of construction of a facility to transport oil or gas from any well or wells in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property, or the use of those facilities, is enjoined, either temporarily or permanently, by an order, judgment, decree, determination or award of a federal, state or local court or administrative or regulatory agency.

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

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

(b) The full and true value of taxable property under this chapter is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a

willing seller and a willing buyer both conversant with the property and with prevailing values. In determining this value, the department shall consider all factors which may be known by the department to affect the value of the proven reserves of the lease or property, including but not limited to the present value of the expected discounted future net income from the lease or property.

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

(1) a description of all taxable property;

(2) the assessed value of all taxable property; and

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

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

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

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

(c) Within 30 days after the decision by the department after a hearing, either the department or a person aggrieved by the decision may

appeal to the superior court. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

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

Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department shall include property omitted from the assessment roll on a supplemental roll, using the procedures set out in this chapter for the original roll.

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

(b) An employee or agent of the department may enter any premise necessary for the investigation during reasonable hours and may examine property and appropriate records. The owner of taxable property upon request shall furnish to the employee or agent of the department reasonable assistance required for the investigation. If refused entry or assistance the superior court may, after reasonable notice to the owner, order the owner to allow the entry or to furnish the assistance.

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

Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of a lease or property is primarily liable for payment of the tax levied by this chapter. All other persons owning or otherwise holding an interest

or right in that lease or property are secondarily liable for payment of the tax levied by this chapter.

(b) The operator of a lease or property shall submit returns on the form prescribed by the department and shall make payment of the tax levied under this chapter, on behalf of itself and all other persons holding an interest or right in that lease or property. With the written approval of the department, a nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter, on behalf of himself and such other persons as the department may approve. All returns shall be filed on or before February 1 of each year.

(c) The tax levied under this chapter is payable to the department on or before June 30 of each year or in installments at the times and under the conditions the department may by regulation require. This provision applies even though the assessment is under appeal.

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

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

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

Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to a reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered the penalty shall be collected in the same manner as the original tax. The department shall describe by regulation circumstances which constitute reasonable cause for purposes of this section.

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

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

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

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

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

Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT. (a) An early development incentive credit, calculated in accordance with this section, shall be applied to the tax payable under ch. 55 of this title as provided in AS 43.55.018. The early development incentive credit for a lease or property is zero until changed as provided in this section.

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

(c) The early development incentive credit for a lease or property shall be reduced each month by the amount of tax credit allowed in that month under AS 43.55.018 for that lease or property.

Sec. 43.58.190. DEFINITIONS. In this chapter:

(1) "department" means the Department of Revenue;

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

(3) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

(4) "net tax paid under this chapter" means the amount of tax payable under sec. 10 of this chapter, less the credit allowed under sec. 30 of this chapter without regard to interest or penalty;

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

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

(7) "proven reserves" means the volumes of oil and gas in a known deposit which geological and engineering information indicate to be recoverable if it is economically feasible to market it in the future under reasonably foreseeable conditions;

(8) "taxable property" means any interest in or the right to produce or recover the proven reserves of a lease or property.

Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses and rentals into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) until all payments paid into the fund equal $500,000,000.

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

(b) <u>Except as provided in ch. 58 of this title, the</u> [THE] tax imposed by this chapter is in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) [deleted]

(2) producing oil or gas leases;

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

(4) [deleted]

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

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

Sec. 43.55.018. CREDIT AGAINST TAX. There shall be allowed as a credit against the taxes levied under this chapter for a lease or property the early development incentive credit accrued for that lease or property under AS 43.58.180. The credit shall be allowed on a monthly basis but in no event may the credit exceed 50 per cent of the taxes levied each month under this chapter for that lease or property. The credit shall be allowed until the entire early development incentive credit for the lease or property has been exhausted.

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

(8) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

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

(b) No municipality, or combination of municipalities occupying

the same geographical area, in whole or in part, may levy taxes which will result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax the combined levy of which would result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. <u>For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.</u>

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

(c) If the total value of assessed property of a municipality taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the average per capita assessed full and true value of property in the state (to be determined by the department and reported to each municipality by January 15 of each year) multiplied by the number of residents of the

taxing municipality, the department shall designate the portion of the tax base against which the local tax may be applied. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under ch. 58 of this title.

* Sec. 7. Except as provided in this section, if a provision of this Act for any reason is invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the remainder of this Act or any of the other provisions of this Act. However, if AS 43.58.020(2), (3) or (4), or any of those paragraphs, should be for any reason held invalid or unenforceable, this Act shall be void in its entirety and of no effect whatsoever.

* Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Original sponsor: Cowper, Bowman, Bradley, et al

Offered: 5/15/75
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297 am S

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

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

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

(c) The rate of levy may not exceed 20 mills.

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

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

(2) any interest in proven reserves during the five-year period beginning with the date of the first completion, suspension, or abandonment, whichever occurs first, of a discovery well in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property;

(3) any interest in proven reserves until the earlier of either of the following occurs:

(A) the issuance, upon application, of a permit for

construction of a facility to transport oil or gas from any well or wells in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property to market; or

(B) the commencement of construction of a facility to transport oil or gas from any well or wells in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property to market;

(4) any interest in proven reserves as to which the issuance of a permit for, or the commencement of construction of a facility to transport oil or gas from any well or wells in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property, or the use of those facilities, is enjoined, either temporarily or permanently, by an order, judgment, decree, determination or award of a federal, state or local court or administrative or regulatory agency.

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

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

(b) The full and true value of taxable property under this chapter is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a

willing seller and a willing buyer both conversant with the property and with prevailing values. In determining this value, the department shall consider all factors which may be known by the department to affect the value of the proven reserves of the lease or property, including but not limited to the present value of the expected discounted future net income from the lease or property.

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

(1) a description of all taxable property;

(2) the assessed value of all taxable property; and

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

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

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

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

(c) Within 30 days after the decision by the department after a hearing, either the department or a person aggrieved by the decision may

appeal to the superior court. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

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

Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department shall include property omitted from the assessment roll on a supplemental roll, using the procedures set out in this chapter for the original roll.

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

(b) An employee or agent of the department may enter any premise necessary for the investigation during reasonable hours and may examine property and appropriate records. The owner of taxable property upon request shall furnish to the employee or agent of the department reasonable assistance required for the investigation. If refused entry or assistance the superior court may, after reasonable notice to the owner, order the owner to allow the entry or to furnish the assistance.

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

Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of a lease or property is primarily liable for payment of the tax levied by this chapter. All other persons owning or otherwise holding an interest

or right in that lease or property are secondarily liable for payment of the tax levied by this chapter.

(b) The operator of a lease or property shall submit returns on the form prescribed by the department and shall make payment of the tax levied under this chapter, on behalf of itself and all other persons holding an interest or right in that lease or property. With the written approval of the department, a nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter, on behalf of himself and such other persons as the department may approve. All returns shall be filed on or before February 1 of each year.

(c) The tax levied under this chapter is payable to the department on or before June 30 of each year or in installments at the times and under the conditions the department may by regulation require. This provision applies even though the assessment is under appeal.

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

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

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

Sec. 43.58.115. PAYMENTS IN LIEU OF TAX. The operator may each year, at its option, in lieu of paying the tax provided for in this chapter, make an advance payment of royalties due to the state under the lease or property to which the tax pertains in the same manner, amount and at the same time as the tax, penalty and interest otherwise payable under this chapter. This election shall be effective for all purposes of law and of the lease or property upon (1) the filing with the commissioner of revenue and the commissioner of natural resources, on or before February 1 of each year, a written notice of election by or on behalf of the operator to pay that amount as advance payment of royalties and (2) payment to the commissioner of revenue of that amount. AS 38.05.182 and 38.05.183 and AS 38.06 shall not be applicable to this advance payment of royalties. If the operator elects this option, the advance payment of royalties in lieu of the tax shall be allowed as a credit against future royalty payments due from the lease or property. In no event may the credit against royalty payments under the lease or property allowed in any year exceed the amount of the credit allowed under AS 43.55.018 for the lease or property. As a condition of this election by the operator, the state, its assigns or designees shall have the right to purchase at the time of production, upon six months prior written notice to the operator by the commissioner of natural resources, and at the field market price or value at the well as determined under the terms of the lease or property, any part or all of the royalty oil or gas represented by the advance payment of royalties. Any such purchase by the state shall be made after the commissioner of natural resources determines, with the prior written

approval of the Alaska Royalty Oil and Gas Development Advisory Board, that the best interest of the state requires the purchase, and AS 38.05.182 and 38.05.183 and AS 38.06 shall be applicable to any oil and gas purchased in this manner by the state.

Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to a reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered the penalty shall be collected in the same manner as the original tax. The department shall describe by regulation circumstances which constitute reasonable cause for purposes of this section.

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

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

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

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

Sec. 43.58.170. TERMINATION OF TAX. The tax imposed by this

chapter shall terminate on December 31, 1977.

Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT. (a) An early development incentive credit, calculated in accordance with this section, shall be applied to the tax payable under ch. 55 of this title as provided in AS 43.55.018. The early development incentive credit for a lease or property is zero until changed as provided in this section.

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

(c) The early development incentive credit for a lease or property shall be reduced each month by the amount of tax credit allowed in that month under AS 43.55.018 for that lease or property.

Sec. 43.58.190. DEFINITIONS. In this chapter:

(1) "department" means the Department of Revenue;

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

(3) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

(D) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest or any other interest in an agreement for unitization or pooling under the provisions of sec. 614(b)(3) of the Internal Revenue Code of

1954 as defined on the effective date of this paragraph;

(4) "net tax paid under this chapter" means the amount of tax payable under sec. 10 of this chapter, less the credit allowed under sec. 30 of this chapter without regard to interest or penalty;

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

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

(7) "proven reserves" means the volumes of oil and gas in a known deposit which geological and engineering information indicate to be recoverable if it is economically feasible to market it in the future under reasonably foreseeable conditions;

(8) "taxable property" means any interest in or the right to produce or recover the proven reserves of a lease or property.

Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses and rentals into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) until all payments paid into the fund equal $500,000,000.

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

(b) <u>Except as provided in ch. 58 of this title, the</u> [THE] tax imposed by this chapter is in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) [deleted]

(2) producing oil or gas leases;

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

(4) [deleted]

(5) the value of intangible drilling and exploration expenses

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

Sec. 43.55.018. CREDIT AGAINST TAX. There shall be allowed as a credit against the taxes levied under this chapter for a lease or property the early development incentive credit accrued for that lease or property under AS 43.58.180. The credit shall be allowed on a monthly basis but in no event may the credit exceed 50 per cent of the taxes levied each month under this chapter for that lease or property. The credit shall be allowed until the entire early development incentive credit for the lease or property has been exhausted.

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

(8) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

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

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes which will result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax the combined levy of which would result in tax revenues from all sources exceeding either (1) $1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. <u>For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.</u>

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

(c) If the total value of assessed property of a municipality taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the average per capita assessed full and true value of property in the

state (to be determined by the department and reported to each municipality by January 15 of each year) multiplied by the number of residents of the taxing municipality, the department shall designate the portion of the tax base against which the local tax may be applied. <u>For purposes of this subsection the av rage per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under ch. 58 of this title.</u>

* Sec. 7. Except as provided in this section, if a provision of this Act for any reason is invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the remainder of this Act or any of the other provisions of this Act. However, if AS 43.58.020(2), (3) or (4), or any of those paragraphs, should be for any reason held invalid or unenforceable, this Act shall be void in its entirety and of no effect whatsoever.

* Sec. 8. This Act takes effect immediately in accordance with AS 01.10.070(c).

Original sponsor: Cowper, Bowman, Bradley, et al

Offered: 5/31/75

IN THE HOUSE BY THE FREE CONFERENCE COMMITTEE

FREE CONFERENCE CS FOR SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 297

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

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

(b) The rate of levy for the tax year beginning January 1, 1976 is 20 mills.

(c) The legislature shall annually determine by law the rate of the levy for the succeeding year.

(d) The rate of levy may not exceed 20 mills.

Sec. 43.58.020. EXEMPTIONS. The following property that would otherwise be taxable property shall be exempt from taxation under this chapter:

(1) any property of the United States or the state;

(2) any property for the period of five years beginning on the date of the completion, suspension, or abandonment, whichever occurs first, of a discovery well in an oil or gas field or pool which in whole or in part underlies or comprises the lease or property;

(3) any property until any of the following occurs:

(A) the securing by the owner or operator of or by a

person who has purchased or has the right to purchase all or any part of the production from a property, individually or with others, of permits, licenses, certificates or other approvals from federal and state agencies and rights-of-way, easements, leases or other rights in land which in the aggregate are reasonably necessary to commence construction of an initial transmission facility to transport oil or gas that may be produced from that property; or

(B) the commencement by the owner or operator of or by a person who has purchased or has the right to purchase all or any part of the production from a property, individually or with others, of construction of an initial transmission facility to transport oil or gas that may be produced from that property; or

(C) the determination by the department that a transmission facility exists that is capable of transporting oil or gas that may be produced from that property;

(4) any property with respect to which on January 1 the commencement of construction of an initial transmission facility to transport oil or gas that may be produced from that property is enjoined, either temporarily or permanently, by an order, judgment, decree, determination or award of a federal, state or local court or administrative or regulatory agency; however, the exemption stated in this paragraph operates only while the injunction is in effect and becomes inoperative if the department makes the determination stated in (3)(C) of this section.

Sec. 43.58.030. CREDIT AGAINST TAX. There shall be allowed, as a credit against the tax levied under this chapter for a lease or property, the amount of oil and gas properties production taxes paid under ch. 55 of this title for that lease or property for the 12 months

before the tax payment date under this chapter. The credit may not exceed the amount of tax due under this chapter. For purposes of this section, the credit shall be calculated without regard to the allowance of any credit under AS 43.55.018 against the taxes levied by ch. 55 of this title.

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

(b) The full and true value of taxable property under this chapter is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing values. In determining this value, the department shall consider all factors which may be known by the department to affect the value of taxable property, including but not limited to the discounted present value of the expected future net income from the taxable property.

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

(1) a description of all taxable property;

(2) the assessed value of all taxable property; and

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

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

Sec. 43.58.070. APPEAL. (a) A person aggrieved by the action of the department in making an assessment may appeal that action and obtain a hearing upon its validity before the department by filing written objections to the assessment not later than 20 days after the effective date of the assessment notice.

(b) The procedures for conduct of the hearing and preliminary activities to it shall be in accordance with AS 44.62.350, 44.62.430, 44.62.450 - 44.62.460, 44.62.480, 44.62.500 - 44.62.550, 44.62.590, and 44.62.610 - 44.62.640. The term "respondent" used in those sections of AS 44.62 (Administrative Procedure Act) shall be considered, for the purposes of this section, to include the person aggrieved by action of the department. The department shall provide by regulation for notices of hearing under this section to interested persons. At the hearing the appellant bears the burden of proof. In the absence of this proof the assessment is to be upheld by the department. If the department, after hearing, determines that a correction of the assessment is warranted, the department shall correct the assessment and the assessment roll.

(c) Within 30 days after the decision by the department following the hearing, a person aggrieved by that decision may appeal to the superior court. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

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

Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department shall include property omitted from the assessment roll on a supplemental roll, using the procedures set out in this chapter for the

original roll.

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

(b) An employee or agent of the department may enter any premises necessary for the investigation during reasonable hours and may examine property and other appropriate records. The owner of taxable property, upon request, shall furnish to the employee or agent of the department reasonable assistance required for the investigation. If an employee or agent of the department seeking to enter any premises necessary for an investigation under this section or to obtain reasonable assistance required for an investigation under this section is refused such entry or assistance, the superior court may, after reasonable notice to and hearing of the owner, order the owner to allow the entry or to furnish the assistance.

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

Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) A return of taxable property shall be submitted on or before February 1 on the form prescribed by the department based on property values existing on January 1 of each year, except as otherwise provided in this chapter,

(1) by a person who is the owner of the property, or who controls that property as agent, or on account of any other person;

(2) by a guardian or other person who has charge of taxable

property belonging to a minor or other person;

(3) by the trustee of a trust estate holding taxable property in trust for the benefit of another person;

(4) by the executor or administrator of a deceased person's estate which includes taxable property;

(5) by the receiver of a corporation who has its assets in his hands.

(b) The person required to submit the return specified under (a) of this section is primarily liable for payment of the tax levied by this chapter. The persons or estates specified in (a)(2) - (5) of this section in whose behalf the tax levied by this chapter is to be paid are secondarily liable for payment of the tax. With the written approval of the department, an operator or nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter on behalf of himself and such other persons as the department may approve.

(c) The tax levied under this chapter is payable to the department on or before June 30 of each year or in installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this subsection even though the assessment is under appeal or the validity, enforceability or application of this chapter or any provision of this chapter is challenged before the department or in the courts.

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

(e) Any person making payment of the tax levied under this chapter

on behalf of one or more other persons owning or otherwise holding an interest in a taxable property may withhold a proportionate share of the payment from any proceeds or other benefits from the taxable property owed to any person on whose behalf the payment is made. Unless otherwise specifically provided by written contract or agreement, the person so withholding a proportionate share of the tax levied under this chapter incurs no liability to those from whom it is withheld by virtue of having made the withholding.

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

Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to a reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered, the penalty shall be collected in the same manner as the original tax. The department shall describe by regulation circumstances which constitute reasonable cause for purposes of this section.

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

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

tax under this chapter.

Sec. 43.58.150. REMEDY. The remedy of distraint of property set out in AS 43.20.270 applies to the tax, penalty and interest levied by this chapter.

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

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

Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT. (a) An early development incentive credit, calculated in accordance with this section, shall be applied to the tax payable under ch. 55 of this title as provided in AS 43.55.018. The early development incentive credit for a lease or property is zero until changed as provided in this section.

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

(c) The early development incentive credit for a lease or property shall be reduced each month by the amount of tax credit allowed in that month under AS 43.55.018 for that lease or property.

Sec. 43.58.190. DEFINITIONS. In this chapter:

(1) "department" means the Department of Revenue;

(2) "discovery well" means a well the discovery of which is the basis, either of itself or in conjunction with other information, for a determination by the department that a field or pool, as these terms are defined in AS 31.05.170(4) and (9), exists and that at least a portion of it has been defined or determined to be productive of oil or gas in commercial quantities by actual drilling operation. The de-

partment, in determining whether a well is a discovery well, shall first consult with the Department of Natural Resources;

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

(4) "initial transmission facility" means the first means or system for transporting oil or gas that may be produced from a lease or property, either by itself or as a part of or in connection with any other means or system for sale or use off the lease or property including, but not limited to, transmission pipelines, common or private carriers, trucks and barges, although not including gathering lines and other personal property and equipment utilized by the owner or operator in developing the lease or property;

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

(A) a mineral interest,

(B) a leasehold interest,

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

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

(6) "oil" means crude petroleum and other hydrocarbons regardless of gravity which, when recovered, are recovered at the wellhead in liquid form, and the liquid hydrocarbons known as distillate or condensate that are recovered by separation from gas other than at a gas

processing plant;

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

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

(9) "taxable property" means any lease or property having proven reserves;

(10) "net tax paid under this chapter" means the amount of tax payable under sec. 10 of this chapter, less the credit allowed under sec. 30 of this chapter without regard to interest or penalty.

Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses and rentals into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) until all payments paid into the fund equal $500,000,000.

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

(b) <u>Except as provided in this chapter and in ch. 58 of this title, the</u> [THE] tax imposed by this chapter is in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) [deleted]

(2) producing oil or gas leases;

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

(4) [deleted]

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

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

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

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

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

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

(A) a mineral interest,

(B) a leasehold interest,

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

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

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

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes (1) which will result in tax revenues from all sources exceeding [EITHER (1)] $1,000 a year for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the

average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax (1) the combined levy of which would result in tax revenues from all sources exceeding [EITHER (1)] $1,000 a year for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

* Sec. 6. AS 29.53.045(c) is amended to read:

(c) A municipality may levy and collect a tax on the full and true value of that portion of taxable property taxable under AS 43.56 as assessed by the Department of Revenue which value, when combined with the value of property otherwise taxable by the municipality, does not exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value

of taxable property under AS 43.58.

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

(c) If the total value of assessed property of a municipality taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the average per capita assessed full and true value of property in the state (to be determined by the department and reported to each municipality by January 15 of each year) multiplied by the number of residents of the taxing municipality, the department shall designate the portion of the tax base against which the local tax may be applied. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under ch. 58 of this title.

* Sec. 8. Except as provided in this section, if a provision of this Act for any reason is invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the remainder of this Act or any of the other provisions of this Act. However, if AS 43.58.020(2), (3) or (4), or any of those paragraphs, should be for any reason held invalid or unenforceable, this Act shall be void in its entirety and of no effect whatsoever.

* Sec. 9. AS 43.58.030, 43.58.180, and AS 43.55.018 are included in this Act so as to avoid double taxation of the same interest in oil and gas and as an incentive for the early production of oil and gas discovered in the state. The legislature believes that the inclusion of these sections granting tax credits does not in any manner change the intent, validity or enforceability of the basic ad valorem tax imposed by the Act. If the inclusion of these sections results in a judicial decision that the ad valorem tax imposed by AS 43.58.010 is invalid, these sections shall be void and of no effect whatsoever and the Act shall be read as if these sections had never been included.

* Sec. 10. This Act takes effect immediately in accordance with AS 01.10.070(c).

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Introduced: 2/4/76
Referred: Resources and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL SUB-COMMITTEE ON TAXATION AND REVENUE

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 638

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act concerning the oil and gas properties production tax; and providing for an effective date."

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

Section 1. AS 43.55.010(a) is amended to read:

(a) There is levied upon the producer of oil or gas a tax based upon a per cent of the gross value <u>at the point of production</u> [AT THE WELL] of all oil or gas <u>produced</u> [REMOVED OR SOLD] from each lease or property in the state, less the value of any part the ownership or right to which is exempt from taxation. The tax is determined according to the following schedules, and any part which is exempt from taxation is deducted from the tax levied on a pro rata basis as to each production level tax bracket:

(1) oil: based upon the <u>total production from each lease or property</u> [AVERAGE DAILY PRODUCTION FOR EACH WELL] for the calendar month in barrels, the tax is

(A) five per cent on the first 300 barrels <u>of average daily per well production</u>;

(B) six per cent on the next 700 barrels <u>of average daily per well production</u>;

(C) eight per cent on <u>the next</u> [ALL PRODUCTION IN EXCESS OF] 1,000 barrels <u>of average daily per well production</u>;

<u>(D) eleven per cent on the next 1,000 barrels of average daily per well production;</u>

<u>(E) fourteen and one-half per cent on all production in</u>

excess of 3,000 barrels of average daily per well production;

(2) gas: the tax is four per cent of the gross value at the point of production of the gas and liquid products produced each month.

* Sec. 2. AS 43.55.015(a) is amended to read:

(a) There is levied upon the producer of oil a tax on each barrel of oil produced [REMOVED OR SOLD] from each lease or property in the state less any part the ownership or right to which is exempt from taxation. The tax is based upon the total production from each lease or property [AVERAGE DAILY PRODUCTION FOR EACH WELL] for the calendar month in barrels determined according to the following schedule and any part which is exempt from taxation is deducted from the tax levied on a pro rata basis as to each production level bracket:

(1) $.1965 [$.16875] on each of the first 300 barrels of average daily per well production;

(2) $.2358 [$.2025] on each of the next 700 barrels of average daily per well production;

(3) $.3144 [$.2700] on each of the next [BARREL OF PRODUCTION IN EXCESS OF] 1,000 barrels of average daily per well production;

(4) $.4323 on each of the next 1,000 barrels of average daily per well production;

(5) $.56985 on each barrel of production in excess of 3,000 barrels of average daily per well production.

* Sec. 3. AS 43.55.015(c) is amended to read:

(c) The tax rates set out in this section will be increased or decreased by a percentage equal to the percentage of change in the Wholesale Price Index for crude petroleum published by the Bureau of Labor Statistics, of the United States Department of Labor. The year 1967 is the base year of 100 for computing the tax rates. Changes in tax rates will be computed based on changes from the December, 1973

Wholesale Price Index published in January, 1974 [IN THE WHOLESALE PRICE INDEX OCCURRING AFTER JANUARY 1, 1974, AND WILL NOT INCLUDE CHANGES IN THE WHOLESALE PRICE INDEX PRIOR TO JANUARY 1, 1974]. The department shall post the changes in the tax rates at least semi-annually and shall notify every person producing oil within the state of the changes.

* Sec. 4. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th day [LAST DAY] of each calendar month on oil or gas produced [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 5. AS 43.55.020(e) is repealed and re-enacted to read:

(e) Gas produced, except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of this chapter, as gas produced from a lease or property. Gas flared under a permit granted by the Department of Natural Resources under AS 31.05.170(11)(H) shall be considered as gas produced, except that it shall pay a severance tax equal to five times the severance tax in effect for that period in which the gas was flared.

* Sec. 6. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil or gas was produced [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned by the department;

* Sec. 7. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas produced [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 8. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas produced [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 9. AS 43.55.140 is amended by adding new paragraphs to read:

(12) "gross value at the point of production" means:

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

(B) for gas recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured after separation from the oil; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and

for transporting the gas to the plant from the premises upon which the oil production operation is conducted; and

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

(13) "oil production operation" means the operation by which oil is recovered from a lease or property and rendered into oil of pipeline quality, and includes any gathering done before the oil is finally rendered into oil of pipeline quality;

(14) "pipeline quality" means good and marketable condition;

(15) "average daily per well production" means the amount calculated by dividing the total number of barrels of oil produced from each lease or property during the calendar month by the total number of wells produced on the lease or property any time during the calendar month and dividing that amount by the total number of days in the calendar month.

* Sec. 10. AS 43.55.140(10) and (11) are repealed.

* Sec. 11. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Introduced: 2/17/76
Referred: Resources and Finance

BY COWPER,BRADLEY,BROWN,DUNCAN,
GARDINER,GRUENING,KELLEY,MCKINNON
MALONE,MILLER,NAUGHTON,PARKER,
PARR AND SWANSON

IN THE HOUSE 2d SS

HOUSE BILL NO. 803

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing for an oil production income tax; and providing for an effective date."

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

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

CHAPTER 59. OIL PRODUCTION INCOME TAX.

Sec. 43.59.010. TAX IMPOSED. There is imposed for each taxable year upon an oil producer deriving income from oil production in the state a tax consisting of a normal tax equal to 10 per cent of the amount computed under sec. 20 of this chapter and a surtax equal to 40 per cent of the amount computed under sec. 30 of this chapter.

Sec. 43.59.020. COMPUTATION OF NORMAL TAX BASE. Normal tax under this chapter is imposed on that portion of the value of the oil at the point of first sale or its value at the refinery, whichever is less, which exceeds the sum of the following allowable costs by an amount not greater than 25 per cent:

(1) exploration costs, including bonus payments, as computed under sec. 40 of this chapter;

(2) field development costs and production costs as computed under sec. 50 of this chapter;

(3) cost of transport of the oil from the field in which it was produced to the refinery or the point of first sale, whichever is less;

(3) severance taxes imposed under chs. 55 and 57 of this title;

(4) general administrative costs of an amount equal to 25

cents per barrel.

Sec. 43.59.030. COMPUTATION OF SURTAX BASE. Surtax under this chapter is imposed on the amount by which the value of the oil at the point of first sale, or the refinery to which it is delivered, whichever is less, exceeds 125 per cent of the allowable costs set out in sec. 20(a) - (e) of this chapter.

Sec. 43.59.040. EXPLORATION COST DEDUCTIONS. (a) Exploration costs shall be limited to:

(1) costs attributable to oil of geophysical and geological investigations for the purpose of finding oil and gas, providing the investigations are carried out on land subject to this tax at the time of the investigation;

(2) costs attributable to oil of acquiring interests in oil and gas on lands subject to this tax;

(3) costs attributable to oil of exploration and exploratory drilling for oil and gas on lands subject to this tax.

(b) No costs paid for services or any portion of services used or provided outside Alaska, salaries or wages not subject to the withholding of state income tax under AS 43.20.170, or payments for materials or supplies not consumed or physically located in Alaska may be deducted as an exploration cost.

(c) No costs incurred before the effective date of this Act may be deducted as an exploration cost.

(d) No more than 20 per cent of the exploration costs incurred in any year may be deductible in that year, or in any succeeding year.

(e) Exploration costs may be carried forward for purposes of computing deductions a maximum of 10 years.

(f) The percentage of exploration costs allocable to oil shall be equal to the percentage of the total wellhead value of oil and gas

production accounted for by oil in the year preceeding that in which the exploration costs are incurred.

Sec. 43.59.050. FIELD DEVELOPMENT AND PRODUCTION COST DEDUCTIONS. (a) Field development and production costs are deductible only in computing the tax due on oil produced from the field in which they were incurred.

(b) Field development and production cost deductions are limited to the costs of goods and services used and useful in Alaska in the development or production of the field; no deduction for administrative, engineering or design costs incurred outside Alaska may be allowed.

(c) Production costs are limited to those costs which would not be incurred if production were to cease, and are deductible only against income from oil produced in the year in which the costs were incurred.

(d) Development costs shall be deducted over the life of the field or the useful life of the facility to which they are attributable, whichever is less, in accordance with depreciation shcedules approved by the department.

(e) No development costs incurred before January 1, 1970 are deductible.

(f) Interest paid on funds used during and in the construction of facilities used and useful in the production or development of a field shall be capitalized and deducted over the life of the field in accordance with depreciation schedules approved by the department.

(g) The percentage of development and production cost allocable to oil shall be equal to the percentage of the total wellhead value of oil and gas produced from the field accounted for by oil in the year preceeding that in which the deduction is taken.

Sec. 43.59.060. ROYALTY OIL. The tax imposed by this chapter is upon the total production of all oil removed or sold from each lease or

property, less any part the ownership or right to which is exempt from taxation. In making settlement with a royalty owner the producer may deduct the amount of the tax paid on royalty oil, or may deduct royalty oil equivalent in value, at the time the tax becomes due, to the amount of tax paid.

Sec. 43.59.070. PAYMENT OF TAX. (a) The oil production income tax shall be paid annually. The tax is due on April 15 on oil or gas removed or sold from each lease or property during the 12 months before the preceding January.

(b) Every person engaged in producing oil and gas from properties subject to this tax shall file annually by February 1 of each year, with the department, a statement showing the value of oil as specified in sec. 20 of this chapter and claimed deductions for each well or field owned, worked or operated by that person during the previous year.

(c) The statement shall be on forms prescribed by or acceptable to the department, under oath, and shall include, in addition to other information required by regulation

(1) the name and address of the operator of the well or field, together with a list in duplicate of the names and addresses of any persons owning or claiming a royalty interest in the production of the well or field or the proceeds from the sale of it, and the amount paid or delivered in kind as royalty to each of these persons during the period covered by the statement;

(2) the description and location of the well or field;

(3) the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the well or field during the period covered by the statement;

(4) the value of production at the point of first sale or at the refinery, whichever is greater; and

(5) the claimed deductions as allowed under sec. 20 of this chapter and department regulations.

Sec. 43.59.080. VALUE MAY BE DETERMINED BY DEPARTMENT. The department may determine the value of the oil at the point of first sale or at the refinery when

(1) the seller and purchaser are affiliated persons;

(2) the sale and purchase of the production is not an arm's length transaction or is not representative of competitive market value; or

(3) there is no free market at the refinery for oil of similar kind and quality.

Sec. 43.59.090. ADMINISTRATION OF TAX. The tax imposed under this chapter shall be administered in the manner provided in AS 43.55.040, 43.55.050, 43.55.070, 43.55.090, and 43.55.110.

Sec. 43.59.100. NONPAYMENT OF TAX. The provisions for civil penalty, interest and remedy established in AS 43.58.120, 43.58.130, and 43.58.150 apply to this chapter.

Sec. 43.59.110. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.59.120. DEPOSIT OF REVENUE. (a) The department shall deposit the money collected under this chapter in the general fund.

(b) Sixty per cent of the money deposited in the general fund under this chapter shall be placed in a special "permanent fund account" in the general fund.

Sec. 43.59.130. PRIVATE LAND INCENTIVE EXEMPTION. Oil produced from nongovernmentally owned mineral fee interests is exempt from the payment of taxes under this chapter.

Sec. 43.59.140. PAYMENT TO ALASKA NATIVE FUND. When the tax

levied under this chapter is payable an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses and rentals into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) until all payments paid into the fund equal $500,000,000.

Sec. 43.59.150. DEFINITIONS. In this chapter "department" means the Department of Revenue.

* Sec. 2. This Act takes effect January 1, 1977.

Introduced: 3/17/76
Referred: Resources and Finance

BY COWPER,BRADLEY,BROWN,DUNCAN,
GARDINER,GRUENING,KELLEY,MCKINNON,
MALONE,MILLER,NAUGHTON,PARKER,
PARR AND SWANSON

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 803

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing for an oil production income tax; and providing for an effective date."

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

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

CHAPTER 59. OIL PRODUCTION INCOME TAX.

Sec. 43.59.010. TAX IMPOSED. There is imposed for each taxable year upon an oil producer deriving income from oil production in the state a tax consisting of a normal tax equal to 10 per cent of the amount computed under sec. 20 of this chapter and a surtax equal to 40 per cent of the amount computed under sec. 30 of this chapter.

Sec. 43.59.020. COMPUTATION OF NORMAL TAX BASE. Normal tax under this chapter is imposed on that portion of the value of the oil at the point of first sale or its value at the refinery, whichever is less, which exceeds the sum of the following allowable costs, but is less than 125 per cent of the sum:

(1) exploration costs attributable to oil, including bonus payments, as computed under sec. 40 of this chapter;

(2) those field development costs and variable production costs that are attributable to oil, as computed under secs. 50 and 60 of this chapter;

(3) cost of transport of the oil from the field in which it was produced to the refinery or the point of first sale, whichever is the base for the value determination for the computation of the tax;

(4) severance taxes imposed under chs. 55 and 57 of this

title;

(5) general administrative costs of an amount equal to 25 cents per barrel.

Sec. 43.59.030. COMPUTATION OF SURTAX BASE. Surtax under this chapter is imposed on the amount by which the value of the oil at the point of first sale, or the refinery to which it is delivered, whichever is less, exceeds 125 per cent of the allowable costs set out in sec. 20(1) - (5) of this chapter.

Sec. 43.59.040. EXPLORATION COST DEDUCTIONS. (a) Exploration cost deductions shall be limited to

(1) the cost attributable to oil of geophysical and geological investigations incurred for the purpose of finding oil and gas, if the investigations are carried out on government land in the state;

(2) that part of the payments for the right to extract oil and gas from government land in Alaska that is attributable to oil;

(3) the cost attributable to oil of drilling for oil and gas on government land in Alaska.

(b) The percentage of total costs and payments that is attributable to oil shall be equal to the percentage accounted for by oil in the total value at the wellhead of oil and gas produced in the state during the calendar year preceding that in which the cost is incurred or the payment made, i.e.,

$$C_o = C_{o+g} \cdot WV_o/WV_{o+g}, \text{ where}$$

C_o = an oil producer's deductible costs and payments attributable to oil during a given calendar year;

C_{o+g} = the total costs incurred and payments made by the taxpayer in that year in exploring for oil and gas on government land;

WV_o = the wellhead value of all oil produced in the state during the preceding year;

WV_{o+g} = the wellhead value of all oil and gas produced in the state during the preceding year.

(c) No costs paid for services or any portion of services used or provided outside Alaska, salaries or wages not subject to the withholding of state income tax under AS 43.20.170, or payments for materials or supplies not physically located or consumed in Alaska may be deducted as an exploration cost.

(d) No costs incurred more than three years before the effective date of this Act may be deducted as an exploration cost.

(e) No more than 20 per cent of the exploration costs incurred in any calendar year may be deductible for that calendar year, or for any succeeding calendar year.

(f) Exploration costs may be carried forward for purposes of computing deductions a maximum of 10 years, and may be allocated among fields at the election of the producer.

Sec. 43.59.050. FIELD DEVELOPMENT COST DEDUCTIONS. (a) For the purpose of computing development cost deductions, all field development costs shall be capitalized and depreciated over the life of the field or the useful life of the facility to which they are attributable, whichever is less, in accordance with regulations promulgated by the department. Each year the depreciation chargeable to oil shall be determined by multiplying the total depreciation chargeable to the field for that year by the fraction of the value of the field's production accounted for by oil during that year.

(b) Field development costs shall be limited to the costs of goods and services used in Alaska and useful in the production of the field other than variable production costs as defined in sec. 60 of this chapter; administrative, engineering, or design costs incurred outside Alaska may not be allowed in calculating the deductions or the depreci-

tion basis.

(c) No development cost incurred before January 1, 1970 shall be included in calculating allowable deductions, and in the case of facilities in operation before the effective date of this Act, the carrying forward of depreciation accruing before the effective date of this Act shall not be permitted.

(d) Interest not to exceed nine per cent per annum on funds used during and in the construction of facilities used and useful in the production of a field may be capitalized.

Sec. 43.59.060. VARIABLE PRODUCTION COST DEDUCTIONS. (a) Deductible production costs are limited to those costs allocable to oil which would not be incurred if production were to cease, and may be carried forward only under the conditions specified in sec. 80 of this chapter.

(b) Production costs allocable to oil shall be determined each year by multiplying aggregate production costs in the field for oil and gas by the fraction of the value of the field's production accounted for by oil.

Sec. 43.59.070. TRANSPORTATION COST DEDUCTIONS. When the commissioner of revenue determines that transportation tariffs or charges may not accurately represent the true costs and that transportation charges are being paid to an entity affiliated with an oil producer taxpayer, he may, after promulgation of regulations governing the determination by him of the fair transportation costs, and public hearing, make a determination of the deductible transportation cost for the purposes of computing the taxes due under this chapter. No producer affected by this determination shall be allowed transportation cost deductions in excess of the amounts determined by the commissioner to be fair and deductible.

Sec. 43.59.080. LOSS CARRY FORWARD. Development and production cost deductions may be carried forward only to the extent that they

exceed the total value of the oil at the point of value determination for this tax, less transportation costs from the field; they may be carried beyond any succeeding year only if no tax was due in that year.

Sec. 43.59.090. ROYALTY OIL. The tax imposed by this chapter is upon the value of the total production of all oil removed or sold from each lease or property, less any part the ownership or right to which is exempt from taxation. In making settlement with a royalty owner the producer may deduct the amount of the tax paid on royalty oil, or may deduct royalty oil equivalent in value to the amount of tax paid, at the time the tax becomes due.

Sec. 43.59.100. PAYMENT OF TAX. (a) The oil production income tax shall be paid annually. The tax is due on April 15 on oil or gas removed or sold from each lease or property during the preceding calendar year.

(b) Every producer whose income is subject to the tax imposed by this chapter shall file annually by February 1 of each year, with the department, a statement showing the value of oil as specified in sec. 20 of this chapter, and shall under the penalty of perjury furnish all the information the Department of Revenue prescribes on a form supplied by the department.

Sec. 43.59.110. VALUE MAY BE DETERMINED BY DEPARTMENT. The department may, under regulations promulgated in advance, determine the fair market value of the oil at the point of first sale or at the refinery when

(1) the seller and purchaser are affiliated persons;

(2) the sale and purchase of the production is not an arm's length transaction or is not representative of competitive market value; or

(3) there is no competitive market at the refinery for oil of

similar kind and quality.

Sec. 43.59.120. ADMINISTRATION OF TAX. AS 43.55.040, 43.55.050, 43.55.070, 43.55.090, and 43.55.110 apply with respect to this chapter.

Sec. 43.59.130. NONPAYMENT OF TAX. The provisions for civil penalty, interest and remedy established in AS 43.58.120, 43.58.130, and 43.58.150 apply to this chapter.

Sec. 43.59.140. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.59.150. DEPOSIT OF REVENUE. (a) The department shall deposit the money collected under this chapter in the general fund.

(b) Sixty per cent of the money deposited in the general fund under this chapter shall be placed in a special "permanent fund account" in the general fund.

Sec. 43.59.160. PRIVATE LAND INCENTIVE EXEMPTION. The provisions of this chapter are not applicable to oil produced from nongovernmentally owned mineral fee interests.

Sec. 43.59.170. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses and rentals into the Alaska Native fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688; 43 U.S.C. 1601 et seq.) until all payments made into the fund equal $500,000,000.

Sec. 43.59.180. DEFINITIONS. In this chapter "department" means the Department of Revenue, and oil and gas are as defined in AS 43.55.-140.

* Sec. 2. This Act takes effect January 1, 1977.

Introduced: 4/7/76
Referred: Resources and Finance

BY COWPER,BRADLEY,BROWN,DUNCAN,
GARDINER,GRUENING,KELLEY,MCKINNON,
MALONE,MILLER,NAUGHTON,PARKER,
PARR AND SWANSON

IN THE HOUSE

2d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 803

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing for an oil production income tax; and providing for an effective date."

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

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

CHAPTER 59. OIL PRODUCTION INCOME TAX.

Sec. 43.59.010. TAX IMPOSED. There is imposed for each taxable year upon an oil producer deriving income from oil production in the state a tax equal to 9.4 per cent of the net income computed in accordance with sec. 20 of this chapter.

Sec. 43.59.020. COMPUTATION OF TAX BASE. The tax under this chapter is imposed on that portion of the value of the oil at the point of first sale or its value at the refinery, whichever is less, which exceeds the sum of the following allowable costs:

(1) exploration costs attributable to oil, including bonus payments, as computed under sec. 30 of this chapter;

(2) those field development costs and variable production costs that are attributable to oil, as computed under secs. 40 and 50 of this chapter;

(3) cost of transport of the oil from the field in which it was produced to the refinery or the point of first sale, whichever is the base for the value determination for the computation of the tax;

(4) payments of the oil and gas properties production tax made according to ch. 55 of this title during the taxable year, after allowance for the credit accrued for the lease or property under

AS 43.58.180;

(5) general administrative costs of an amount equal to 25 cents per barrel.

Sec. 43.59.030. EXPLORATION COST DEDUCTIONS. (a) Exploration cost deductions shall be limited to

(1) the cost attributable to oil of geophysical and geological investigations incurred for the purpose of finding oil and gas in Alaska;

(2) that part of the payments for the right to extract oil and gas in Alaska that is attributable to oil;

(3) the cost attributable to oil of drilling for oil and gas in Alaska.

(b) The percentage of total costs and payments that is attributable to oil shall be equal to the percentage accounted for by oil in the total value at the wellhead of oil and gas produced in the state during the calendar year preceding that in which the cost is incurred or the payment made, i.e.,

$$C_o = C_{o+g} \cdot WV_o/WV_{o+g}, \text{ where}$$

C_o = an oil producer's deductible costs and payments attributable to oil during a given calendar year;

C_{o+g} = the total costs incurred and payments made by the taxpayer in that year in exploring for oil and gas in Alaska;

WV_o = the wellhead value of all oil produced in the state during the preceding year;

WV_{o+g} = the wellhead value of all oil and gas produced in the state during the preceding year.

(c) No costs paid for services or any portion of services used or provided outside Alaska, salaries or wages not subject to the withholding of state income tax under AS 43.20.170, or payments for materials or

supplies not physically located or consumed in Alaska may be deducted as an exploration cost.

(d) No costs incurred more than three years before the effective date of this Act may be deducted as an exploration cost.

(e) No more than 20 per cent of the exploration costs incurred in any calendar year may be deductible for that calendar year, or for any succeeding calendar year.

(f) Exploration costs may be carried forward for purposes of computing deductions a maximum of 10 years, and may be allocated among fields at the election of the producer.

Sec. 43.59.040. FIELD DEVELOPMENT COST DEDUCTIONS. (a) For the purpose of computing development cost deductions, all field development costs shall be capitalized and depreciated over the life of the field or the useful life of the facility to which they are attributable, whichever is less, in accordance with regulations promulgated by the department. Each year the depreciation chargeable to oil shall be determined by multiplying the total depreciation chargeable to the field for that year by the fraction of the value of the field's production accounted for by oil during that year.

(b) Field development costs shall be limited to the costs of goods and services used in Alaska and useful in the production of the field other than variable production costs as defined in sec. 50 of this chapter; administrative, engineering, or design costs incurred outside Alaska may not be allowed in calculating the deductions or the depreciation basis.

(c) No development cost incurred before January 1, 1970 shall be included in calculating allowable deductions, and in the case of facilities in operation before the effective date of this Act, the carrying forward of depreciation accruing before the effective date of this Act

shall not be permitted.

(d) Interest not to exceed nine per cent per annum on funds used during and in the construction of facilities used and useful in the production of a field may be capitalized.

Sec. 43.59.050. VARIABLE PRODUCTION COST DEDUCTIONS. (a) Deductible production costs are limited to those costs allocable to oil which would not be incurred if production were to cease, and may be carried forward only under the conditions specified in sec. 70 of this chapter.

(b) Production costs allocable to oil shall be determined each year by multiplying aggregate production costs in the field for oil and gas by the fraction of the value of the field's production accounted for by oil.

Sec. 43.59.060. TRANSPORTATION COST DEDUCTIONS. When the commissioner of revenue determines that transportation tariffs or charges may not accurately represent the true costs and that transportation charges are being paid to an entity affiliated with an oil producer taxpayer, he may, after promulgation of regulations governing the determination by him of the fair transportation costs, and public hearing, make a determination of the deductible transportation cost for the purposes of computing the taxes due under this chapter. No producer affected by this determination shall be allowed transportation cost deductions in excess of the amounts determined by the commissioner to be fair and deductible.

Sec. 43.59.070. LOSS CARRY FORWARD. Development and production cost deductions may be carried forward only to the extent that they exceed the total value of the oil at the point of value determination for this tax, less transportation costs from the field; they may be carried beyond any succeeding year only if no tax was due in that year.

Sec. 43.59.080. ROYALTY OIL. The tax imposed by this chapter is upon the value of the total production of all oil removed or sold from

each lease or property, less any part the ownership or right to which is exempt from taxation. In making settlement with a royalty owner the producer may deduct the amount of the tax paid on royalty oil, or may deduct royalty oil equivalent in value to the amount of tax paid, at the time the tax becomes due.

Sec. 43.59.090. PAYMENT OF TAX. (a) The oil production income tax shall be paid annually. The tax is due on April 15 on oil or gas removed or sold from each lease or property during the preceding calendar year.

(b) Every producer whose income is subject to the tax imposed by this chapter shall file annually by February 1 of each year, with the department, a statement showing the value of oil as specified in sec. 20 of this chapter, and shall under the penalty of perjury furnish all the information the Department of Revenue prescribes on a form supplied by the department.

(c) The tax payable under this chapter shall be allowed as a credit against the tax due under ch. 20 of this title.

Sec. 43.59.100. VALUE MAY BE DETERMINED BY DEPARTMENT. The department may, under regulations promulgated in advance, determine the fair market value of the oil at the point of first sale or at the refinery when

(1) the seller and purchaser are affiliated persons;

(2) the sale and purchase of the production is not an arm's length transaction or is not representative of competitive market value; or

(3) there is no competitive market at the refinery for oil of similar kind and quality.

Sec. 43.59.110. ADMINISTRATION OF TAX. AS 43.55.040, 43.55.050, 43.55.070, 43.55.090, and 43.55.110 apply with respect to this chapter.

Sec. 43.59.120. NONPAYMENT OF TAX. The provisions for civil penalty, interest and remedy established in AS 43.58.120, 43.58.130, and 43.58.150 apply to this chapter.

Sec. 43.59.130. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.59.140. DEPOSIT OF REVENUE. (a) The department shall deposit the money collected under this chapter in the general fund.

(b) Sixty per cent of the money deposited in the general fund under this chapter shall be placed in a special "permanent fund account" in the general fund.

Sec. 43.59.150. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses and rentals into the Alaska Native fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688; 43 U.S.C. 1601 et seq.) until all payments made into the fund equal $500,000,000.

Sec. 43.59.160. DEFINITIONS. In this chapter "department" means the Department of Revenue, and oil and gas are as defined in AS 43.55.-140.

* Sec. 2. This Act takes effect January 1, 1977.

Introduced: 2/6/76
Referred: Resources and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL SUB-COMMITTEE ON TAXATION AND REVENUE

IN THE HOUSE

HOUSE BILL NO. 699

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to assessment and taxation of oil and gas properties net proceeds tax; and providing for an effective date."

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

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

CHAPTER 22. OIL AND GAS PROPERTIES NET PROCEEDS TAX.

Sec. 43.22.010. PURPOSE. The purposes of the oil and gas properties net proceeds tax are to provide efficient administration and collection of an ad valorem tax based on the income to the property of oil and gas, and to provide a rate of taxation on the income to the property of oil and gas equal to the corporate state income tax rates provided in AS 43.20.011.

Sec. 43.22.020. STATEMENT OF YIELD. (a) Every person engaged in producing oil and gas and every recipient of royalty payments in connection with oil and gas production shall file annually, on or before February 1, with the department a statement showing the gross value of production and claimed net proceeds from each well or field owned or operated by the person during the previous calendar year.

(b) The statement shall be on forms prescribed by or acceptable to the department, and shall be under oath, and shall include, in addition to other information required,

(1) the name and address of the operator of the well or field, together with a list in duplicate of the names and addresses of any persons owning or claiming a royalty interest in the production of the

well or the proceeds derived from the sale of it, and the amount paid or delivered in kind as royalty to each of these persons during the period covered by the statement;

(2) the description and location of the well or field;

(3) the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the well during the period covered by the statement;

(4) the gross value in dollars of the production; and

(5) the claimed deductions from the gross value in the detail set out in sec. 30 of this chapter.

(c) Each recipient of royalty payments as described in (b)(1) of this section shall annually file with the department a list showing each of the lessees responsible for taxes due in connection with the wells or fields included in the statement filed under (a) and (b) of this section.

Sec. 43.22.030. NET PROCEEDS: HOW COMPUTED. (a) The department shall, from the statement and from all obtainable data, evidence and reports, compute the gross value of production and net proceeds.

(b) The net proceeds shall be ascertained and determined by subtracting from the gross value the following deductions for costs incurred during the year, and none other:

(1) royalties paid or due the United States or the state;

(2) royalties paid or due, other than to the United States or the state, by a lessee or sublessee of a well, or by both, shall constitute a deductible item; but the royalties so deducted by the lessee or sublessee constitutes part of the gross yield of the well for the purpose of determining the net proceeds upon which a tax shall be levied against the person to which the royalty has been paid;

(3) the actual costs of transporting the product of the well to the FOB point;

(4) the actual cost of maintenance and repairs of

(A) well machinery, equipment, apparatus and facilities;

(B) transportation facilities and equipment;

(5) depreciation of the original capitalized cost of the machinery, equipment, apparatus and facilities;

(6) all taxes paid or due to the state under chs. 55, 56, and 57 of this title;

(7) money expended for necessary labor and supplies needed and used in the well operations and developments;

(8) money expended for fire insurance and workmen's compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.

(c) The deductions mentioned in (b) of this section shall not include any expenditures for the salary of a person not actually engaged in

(1) the operation of a well or of transportation facilities or equipment or superintending the management of them; or

(2) office clerical or engineering work in the state necessary or proper in connection with these operations.

Sec. 43.22.040. DEDUCTION OF DRILLING COSTS AND CAPITAL EXPENDITURES. (a) The department, in computing the deductions allowable for the costs of drilling wells completed during the period and for other capital expenditures, shall allow 10 per cent of the cost each year for a period of 10 years; in the event of abandonment before the cost is recovered, any remaining depreciation may be written off in the year of abandonment.

(b) Exploration costs, including exploratory drilling costs incur-

red in the state, shall be capitalized. The department, in computing the allowable amortization of the exploration costs, shall allow up to seven per cent of the exploration costs per year. The department shall issue regulations appropriate to implement and administer this section.

Sec. 43.22.050. AD VALOREM TAX LEVIED. (a) There is levied and shall be collected by the department an ad valorem tax based on the assessed value of production which is severed and sold from each well or field. The tax is levied at the rate provided in AS 43.20.011(e) on the net proceeds from the production which is severed and sold from each well or field.

(b) The tax imposed under this chapter is in lieu of the tax imposed under ch. 20 of this title on the income from oil production taxed under this chapter.

Sec. 43.22.060. VALUE MAY BE DETERMINED BY DEPARTMENT. The department may determine the value of production severed from a well when (1) the operator and purchaser are affiliated persons; (2) the sale and purchase of the production is not an arm's length transaction; or (3) the production is severed and removed from a production unit, and a value as defined in this chapter is not established for this production. The value determined by the department shall be commensurate with the actual price received for production of like quality, character, and use which is severed in the same field or area and shall not be computed at a lesser amount than the actual value received for the state's royalty oil or gas received for production of like quality, character and use which are severed in the same field or area.

Sec. 43.22.070. CERTIFICATES OF AMOUNT OF NET PROCEEDS. (a) When the department determines the net proceeds of a well or field, it shall prepare its certificate of the net proceeds and taxes due on them in duplicate and shall file one copy in the department and send the second

copy by certified mail to

(1) a person who is the owner of the property, or who controls that property as agent, or on account of any other person;

(2) a guardian or other person who has charge of taxable property belonging to a minor or other person;

(3) the trustee of a trust estate holding taxable property in trust for the benefit of another person;

(4) the executor or administrator of a deceased person's estate which includes taxable property;

(5) the receiver of a corporation who has its assets in his hands.

(b) Upon the filing of the copy of the certificate and mailing of the second copy, the assessment shall be considered to be made in the amount fixed by the certificate and taxes on that amount shall be immediately due and payable.

Sec. 43.22.080. APPEALS. (a) A person aggrieved by the action of the department in making an assessment may appeal that action and obtain a hearing upon its validity before the department by filing written objections to the assessment not later than 20 days after the effective date of the assessment notice.

(b) The procedures for conduct of the hearing and preliminary activities to it shall be in accordance with AS 44.62.350, 44.62.430, 44.62.450 - 640, 44.62.480, 44.62.500 - 550, 44.62.590, and 44.62.610 - 640. The term "respondent" used in those sections of AS 44.62 (Administrative Procedure Act) shall be considered, for the purposes of this section, to include the person aggrieved by action of the department. The department shall provide by regulation for notices of hearing under this section to interested persons. At the hearing the appellant bears the burden of proof. In the absence of this proof the assessment is to

be upheld by the department. If the department, after hearing, determines that a correction of the assessment is warranted, the department shall correct the assessment.

(c) Within 30 days after the decision by the department following the hearing, a person aggrieved by that decision may appeal to the superior court. The superior court shall grant priority on its docket for the appeals over all civil cases then pending.

Sec. 43.22.090. RETURNS AND PAYMENT OF TAX. (a) A return of the taxes due and payable, fixed by the certificate of the net proceeds shall be submitted on or before the 60th day after the filing of the certificate on the form prescribed by the department. The return shall be submitted by those persons listed in sec. 70 of this chapter.

(b) The person required to submit the return specified under (a) of this section is primarily liable for payment of the tax levied by this chapter. The persons or estates specified in sec. 70(a)(2) - (5) of this chapter in whose behalf the tax levied by this chapter is to be paid are secondarily liable for payment of the tax. With the written approval of the department, an operator or nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter on behalf of himself and other persons the department may approve.

(c) The tax levied under this chapter is payable to the department on or before the 60th day after the filing of the certificate or in estimated installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this subsection even though the assessment is under appeal or the validity, enforceability or application of this chapter or provision of this chapter is challenged before the department or in the courts.

(d) A person making payment of the tax levied under this chapter

on behalf of one or more other persons owning or otherwise holding an interest in a taxable property may withhold a proportionate share of the payment from the proceeds or other benefits from the taxable property owed to any person on whose behalf the payment is made. Unless otherwise specifically provided by written contract or agreement, the person so withholding a proportionate share of the tax levied under this chapter incurs no liability to those from whom it is withheld by virtue of having made the withholding.

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

Sec. 43.22.100. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered, the penalty shall be collected in the same manner as the original tax. The department shall describe by regulations circumstances which constitute reasonable cause for purposes of this section.

Sec. 43.22.110. INTEREST. When the tax levied in this chapter becomes delinquent, it bears interest at the rate of eight per cent a year.

Sec. 43.22.120. LIEN. The tax, penalty and interest payable under this chapter are first and paramount liens on the property subject to

tax under this chapter.

Sec. 43.22.130. REMEDY. The remedy of distraint of property set out in AS 43.20.270 applies to the tax, penalty and interest levied by this chapter.

Sec. 43.22.140. BURDEN OF PROOF. In a suit arising concerning the assessment and taxation of the proceeds of wells or fields, the burden of proof shall be upon the person owning or operating the well or field and every recipient of royalty payments in connection with them.

Sec. 43.22.150. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.22.160. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses, and rentals into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92203, 85 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the fund equal $500,000,000.

Sec. 43.22.170. DEFINITIONS. In this chapter

(1) "department" means the Department of Revenue;

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

(3) "gross value" means FOB price at Alaska border or other convenient point or as determined by the department;

(4) "oil" means crude petroleum and other hydrocarbons regardless of gravity which, when recovered, are recovered at the wellhead in liquid form, and the liquid hydrocarbons known as distillate or condensate that are recovered by separation from gas other than at a processing plant.

* Sec. 2. This Act takes effect January 1, 1977.

Introduced: 2/9/76
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL SUB-COMMITTEE ON TAXATION AND REVENUE

HOUSE BILL NO. 703

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to assessment and taxation of oil and gas properties excess value surtax; and providing for an effective date."

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

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

CHAPTER 23. OIL AND GAS PROPERTIES EXCESS VALUE SURTAX.

Sec. 43.23.010. PURPOSE. The purpose of the excess value surtax is to tax the excess value not needed to implement long-term exploration and development and to provide an alternative to promote short-term investments in the oil and gas industry.

Sec. 43.23.020. STATEMENT OF YIELD. (a) Every person engaged in producing oil and gas shall file annually by February 1 of each year, with the department a statement showing the gross value and claimed net proceeds from each well or field owned, worked or operated by that person during the previous year.

(b) The statement shall be on forms prescribed by or acceptable to the department, under oath, and shall include, in addition to other information required

(1) the name and address of the operator of the well or field, together with a list in duplicate of the names and addresses of any persons owning or claiming a royalty interest in the production of the well or field or the proceeds from the sale of it, and the amount paid or delivered in kind as royalty to each of these persons during the period covered by the statement;

(2) the description and location of the well or field;

(3) the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the well or field during the period covered by the statement;

(4) the gross value in dollars of production; and

(5) the claimed deductions from the gross value in the detail set out in sec. 30 of this chapter.

Sec. 43.23.030. COMPUTATION OF NET PROCEEDS. (a) The department shall, from the statement and from all obtainable data, evidence and reports, compute the gross value of production and net proceeds.

(b) The net proceeds shall be ascertained and determined by subtracting from the gross value the following deductions for cost incurred during the year, and none other:

(1) royalties paid or due the United States or the state;

(2) royalties paid or due, other than to the United States or the state, by a lessee or sublessee of a well, or by both, shall constitute a deductible item; but the royalties so deducted by the lessee or sublessee constitutes part of the gross yield of the well for the purpose of determining the net proceeds upon which a tax shall be levied against the person to which the royalty has been paid;

(3) the actual costs of transporting the product of the well to the FOB point;

(4) the actual cost of maintenance and repairs of

(A) well machinery, equipment, apparatus and facilities;

(B) transportation facilities and equipment;

(5) depreciation of the original capitalized cost of the machinery, equipment, apparatus and facilities;

(6) all taxes paid or due to the state under chs. 55, 56, and 57 of this title;

(7) money expended for necessary labor and supplies needed and used in the well operations and developments;

(8) money expended for fire insurance and workmen's compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.

(c) The deductions mentioned in (b) of this section shall not include any expenditures for the salary of a person not actually engaged in

(1) the operation of a well or of transportation facilities or equipment or superintending the management of them; or

(2) office clerical or engineering work in the state necessary or proper in connection with these operations.

Sec. 43.23.040. DEDUCTION OF DRILLING COSTS AND CAPITAL EXPENDITURES. (a) The department, in computing the deductions allowable for the costs of drilling wells completed during the period and for other capital expenditures, shall allow 10 per cent of the cost each year for a period of 10 years; in the event of abandonment before the cost is recovered, any remaining depreciation may be written off in the year of abandonment.

(b) Exploration costs, including exploratory drilling costs incurred in the state, shall be capitalized. The department, in computing the allowable amortization of the exploration costs, shall allow up to seven per cent of the exploration costs per year. The department shall issue regulations appropriate to implement and administer this section.

Sec. 43.23.050. EXCESS VALUE SURTAX. There is levied upon the producer of oil and gas or any royalty interest not exempt from taxation a surtax at the rate of 41 per cent upon the excess value of the production as determined under sec. 60 of this chapter.

Sec. 43.23.060. COMPUTATION OF EXCESS VALUE. (a) For each year the department shall, from the statement and from all obtainable data, evidence and reports, compute the excess value by well or field, according to either (b) or (c) of this section. A well or field not subject to the excess value tax may not be aggregated with a well or field subject to the tax.

(b) Excess value is determined by subtracting the long-term net value from the net proceeds of the well or field as computed under sec. 30 of this chapter. Long-term net value is determined by subtracting the per barrel costs of the well or field from the long-term index price; however, severance taxes and royalties are deductible costs only in the amount that would have been due on the long-term index price. The long-term index price is the price for a barrel of oil or its energy equivalent of $7 per barrel FOB in the west coast markets or the amount determined by the department, taking into consideration the prevailing transport charges from the FOB point, chosen by the department, to the west coast markets; however, in no event may the amount determined by the department exceed the equivalent of $7 per barrel FOB in the west coast markets plus the increase in the national wholesale price index since the tax went into effect.

(c) If the long-term net value as calculated for a specific well or field is less than $1 per barrel of oil or of gas equivalent, the long-term net value will be considered to be $1 times the number of barrels of oil or of gas equivalent produced from the well or field during the tax reporting period.

(d) The producer shall also pay the surtax on the excess of royalties actually paid over royalties which would be paid based on the long-term index price. In making settlement with the royalty owner the producer may deduct the amount of surtax paid on royalty oil or deduct

royalty oil equivalent in value (at the time the surtax becomes due) to the amount of the surtax paid.

Sec. 43.23.070. CREDIT AGAINST INCOME TAX. The tax paid under this chapter by a producer on his own behalf shall be in lieu of the tax imposed under ch. 20 of this title. The tax paid by a producer on behalf of a royalty owner shall be allowed as a credit by the royalty owner against the tax imposed under ch. 20 of this title on income attributable to that royalty interest. The credit may not exceed the amount of tax imposed under ch. 20 of this title attributable to that income, and may not be carried over.

Sec. 43.23.080. CERTIFICATES OF AMOUNT OF EXCESS VALUE. (a) When the department determines the excess value of production from a well or field, the department shall prepare its certificate of the excess value in duplicate and shall file one copy of it with the department and send the second copy by certified mail to:

(1) a person who is the owner of the property, or who controls that property as agent, or on account of any other person;

(2) a guardian or other person who has charge of taxable property belonging to a minor or other person;

(3) the trustee of a trust estate holding taxable property in trust for the benefit of another person;

(4) the executor or administrator of a deceased person's estate which includes taxable property;

(5) the receiver of a corporation who has its assets in his hands.

(b) Upon the filing of the copy of the certificate with the department, the assessment shall be considered to be made in the amount fixed by the certificate and taxes on that amount at the rate established in sec. 50 of this chapter shall be immediately due and payable.

(c) The department shall determine annually the long-term index price.

Sec. 43.22.090. APPEALS. (a) A person aggrieved by the action of the department in making an assessment may appeal that action and obtain a hearing upon its validity before the department by filing written objections to the assessment not later than 20 days after the effective date of the assessment notice.

(b) The procedures for conduct of the hearing and preliminary activities to it shall be in accordance with AS 44.62.350, 44.62.430, 44.62.450 - 44.62.640, 44.62.480, 44.62.500 - 44.62.550, 44.62.590, and 44.62.610 - 44.62.640. The term "respondent" used in those sections of AS 44.62 (Administrative Procedure Act) shall be considered, for the purposes of this section, to include the person aggrieved by action of the department. The department shall provide by regulation for notices of hearing under this section to interested persons. At the hearing the appellant bears the burden of proof. In the absence of this proof the assessment is to be upheld by the department. If the department, after hearing, determines that a correction of the assessment is warranted, the department shall correct the assessment.

(c) Within 30 days after the decision by the department following the hearing, a person aggrieved by that decision may appeal to the superior court. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

Sec. 43.22.100. RETURNS AND PAYMENT OF TAX. (a) A return of the taxes due and payable, fixed by the certificate of the net proceeds shall be submitted on or before the 60th day after the filing of the certificate on the form prescribed by the department. The return shall be submitted by those persons listed in sec. 80 of this chapter.

(b) The person required to submit the return specified under (a)

of this section is primarily liable for payment of the tax levied by this chapter. The persons or estates specified in sec. 80(a)(2) - (5) of this chapter in whose behalf the tax levied by this chapter is to be paid are secondarily liable for payment of the tax. With the written approval of the department, an operator or nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter on behalf of himself and other persons the department may approve.

(c) The tax levied under this chapter is payable to the department on or before the 60th day after the filing of the certificate or in estimated installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this subsection even though the assessment is under appeal or the validity, enforceability or application of this chapter or provision of this chapter is challenged before the department or in the courts.

(d) A person making payment of the tax levied under this chapter on behalf of one or more other persons owning or otherwise holding an interest in a taxable property may withhold a proportionate share of the payment from the proceeds or other benefits from the taxable property owed to any person on whose behalf the payment is made. Unless otherwise specifically provided by written contract or agreement, the person so withholding a proportionate share of the tax levied under this chapter incurs no liability to those from whom it is withheld by virtue of having made the withholding.

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

Sec. 43.23.110. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which

the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered, the penalty shall be collected in the same manner as the original tax. The department shall describe by regulations circumstances which constitute reasonable cause for purposes of this section.

Sec. 43.23.120. INTEREST. When the tax levied in this chapter becomes delinquent, it bears interest at the rate of eight per cent a year.

Sec. 43.23.130. LIEN. The tax, penalty and interest payable under this chapter are first and paramount liens on the property subject to tax under this chapter.

Sec. 43.23.140. REMEDY. The remedy of distraint of property set out in AS 43.20.270 applies to the tax, penalty and interest levied by this chapter.

Sec. 43.23.150. BURDEN OF PROOF. In a suit arising that concerns the assessment and taxation of the proceeds of a well or field, the burden of proof shall be upon the person owning or operating the well or field and every recipient of royalty payments in connection with that well or field.

Sec. 43.23.160. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.23.170. DEFINITIONS. In this chapter

(1) "department" means the Department of Revenue;

(2) "energy equivalent" means the quantity of gas or other energy source needed to produce the same BTU (British Thermal Unit) level as a barrel of oil;

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

(4) "gross value" means FOB price at Alaska border or other convenient point or as determined by the department;

(5) "oil" means crude petroleum and other hydrocarbons regardless of gravity which, when recovered, are recovered at the well-head in liquid form, and the liquid hydrocarbons known as distillate or condensate that are recovered by separation from gas other than at a processing plant;

(6) "assessed value" means the value against which tax rates are applied;

(7) "producer" means any person removing or selling oil or gas from a lease or property in the state.

Sec. 43.23.180. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses, and rentals into the Alaska Native fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the fund equal $500,000,000.

Sec. 2. This Act takes effect on January 1, 1977.

Introduced: 2/6/76
Referred: Resources and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL SUB-COMMITTEE ON TAXATION AND REVENUE

IN THE SENATE

SENATE BILL NO. 620

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to assessment and taxation of oil and gas properties net proceeds tax; and providing for an effective date."

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

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

CHAPTER 22. OIL AND GAS PROPERTIES NET PROCEEDS TAX.

Sec. 43.22.010. PURPOSE. The purposes of the oil and gas properties net proceeds tax are to provide efficient administration and collection of an ad valorem tax based on the income to the property of oil and gas, and to provide a rate of taxation on the income to the property of oil and gas equal to the corporate state income tax rates provided in AS 43.20.011.

Sec. 43.22.020. STATEMENT OF YIELD. (a) Every person engaged in producing oil and gas and every recipient of royalty payments in connection with oil and gas production shall file annually, on or before February 1, with the department a statement showing the gross value of production and claimed net proceeds from each well or field owned or operated by the person during the previous calendar year.

(b) The statement shall be on forms prescribed by or acceptable to the department, and shall be under oath, and shall include, in addition to other information required,

(1) the name and address of the operator of the well or field, together with a list in duplicate of the names and addresses of any persons owning or claiming a royalty interest in the production of the

well or the proceeds derived from the sale of it, and the amount paid or delivered in kind as royalty to each of these persons during the period covered by the statement;

(2) the description and location of the well or field;

(3) the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the well during the period covered by the statement;

(4) the gross value in dollars of the production; and

(5) the claimed deductions from the gross value in the detail set out in sec. 30 of this chapter.

(c) Each recipient of royalty payments as described in (b)(1) of this section shall annually file with the department a list showing each of the lessees responsible for taxes due in connection with the wells or fields included in the statement filed under (a) and (b) of this section.

Sec. 43.22.030. NET PROCEEDS: HOW COMPUTED. (a) The department shall, from the statement and from all obtainable data, evidence and reports, compute the gross value of production and net proceeds.

(b) The net proceeds shall be ascertained and determined by subtracting from the gross value the following deductions for costs incurred during the year, and none other:

(1) royalties paid or due the United States or the state;

(2) royalties paid or due, other than to the United States or the state, by a lessee or sublessee of a well, or by both, shall constitute a deductible item; but the royalties so deducted by the lessee or sublessee constitutes part of the gross yield of the well for the purpose of determining the net proceeds upon which a tax shall be levied against the person to which the royalty has been paid;

(3) the actual costs of transporting the product of the well to the FOB point;

(4) the actual cost of maintenance and repairs of

(A) well machinery, equipment, apparatus and facilities;

(B) transportation facilities and equipment;

(5) depreciation of the original capitalized cost of the machinery, equipment, apparatus and facilities;

(6) all taxes paid or due to the state under chs. 55, 56, and 57 of this title;

(7) money expended for necessary labor and supplies needed and used in the well operations and developments;

(8) money expended for fire insurance and workmen's compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.

(c) The deductions mentioned in (b) of this section shall not include any expenditures for the salary of a person not actually engaged in

(1) the operation of a well or of transportation facilities or equipment or superintending the management of them; or

(2) office clerical or engineering work in the state necessary or proper in connection with these operations.

Sec. 43.22.040. DEDUCTION OF DRILLING COSTS AND CAPITAL EXPENDITURES. (a) The department, in computing the deductions allowable for the costs of drilling wells completed during the period and for other capital expenditures, shall allow 10 per cent of the cost each year for a period of 10 years; in the event of abandonment before the cost is recovered, any remaining depreciation may be written off in the year of abandonment.

(b) Exploration costs, including exploratory drilling costs incur-

red in the state, shall be capitalized. The department, in computing the allowable amortization of the exploration costs, shall allow up to seven per cent of the exploration costs per year. The department shall issue regulations appropriate to implement and administer this section.

Sec. 43.22.050. AD VALOREM TAX LEVIED. (a) There is levied and shall be collected by the department an ad valorem tax based on the assessed value of production which is severed and sold from each well or field. The tax is levied at the rate provided in AS 43.20.011(e) on the net proceeds from the production which is severed and sold from each well or field.

(b) The tax imposed under this chapter is in lieu of the tax imposed under ch of this title on the income from oil production taxed under thi napter.

Sec. 43.2 60. VALUE MAY BE DETERMINED BY DEPARTMENT. The department may de ermine the value of production severed from a well when (1) the operator and purchaser are affiliated persons; (2) the sale and purchase of the production is not an arm's length transaction; or (3) the production is severed and removed from a production unit, and a value as defined in this chapter is not established for this production. The value determined by the department shall be commensurate with the actual price received for production of like quality, character, and use which is severed in the same field or area and shall not be computed at a lesser amount than the actual value received for the state's royalty oil or gas received for production of like quality, character and use which are severed in the same field or area.

Sec. 43.22.070. CERTIFICATES OF AMOUNT OF NET PROCEEDS. (a) When the department determines the net proceeds of a well or field, it shall prepare its certificate of the net proceeds and taxes due on them in duplicate and shall file one copy in the department and send the second

copy by certified mail to

(1) a person who is the owner of the property, or who controls that property as agent, or on account of any other person;

(2) a guardian or other person who has charge of taxable property belonging to a minor or other person;

(3) the trustee of a trust estate holding taxable property in trust for the benefit of another person;

(4) the executor or administrator of a deceased person's estate which includes taxable property;

(5) the receiver of a corporation who has its assets in his hands.

(b) Upon the filing of the copy of the certificate and mailing of the second copy, the assessment shall be considered to be made in the amount fixed by the certificate and taxes on that amount shall be immediately due and payable.

Sec. 43.22.080. APPEALS. (a) A person aggrieved by the action of the department in making an assessment may appeal that action and obtain a hearing upon its validity before the department by filing written objections to the assessment not later than 20 days after the effective date of the assessment notice.

(b) The procedures for conduct of the hearing and preliminary activities to it shall be in accordance with AS 44.62.350, 44.62.430, 44.62.450 - 640, 44.62.480, 44.62.500 - 550, 44.62.590, and 44.62.610 - 640. The term "respondent" used in those sections of AS 44.62 (Administrative Procedure Act) shall be considered, for the purposes of this section, to include the person aggrieved by action of the department. The department shall provide by regulation for notices of hearing under this section to interested persons. At the hearing the appellant bears the burden of proof. In the absence of this proof the assessment is to

be upheld by the department. If the department, after hearing, determines that a correction of the assessment is warranted, the department shall correct the assessment.

(c) Within 30 days after the decision by the department following the hearing, a person aggrieved by that decision may appeal to the superior court. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

Sec. 43.22.090. RETURNS AND PAYMENT OF TAX. (a) A return of the taxes due and payable, fixed by the certificate of the net proceeds shall be submitted on or before the 60th day after the filing of the certificate on the form prescribed by the department. The return shall be submitted by those persons listed in sec. 70 of this chapter.

(b) The person required to submit the return specified under (a) of this section is primarily liable for payment of the tax levied by this chapter. The persons or estates specified in sec. 70(a)(2) - (5) of this chapter in whose behalf the tax levied by this chapter is to be paid are secondarily liable for payment of the tax. With the written approval of the department, an operator or nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter on behalf of himself and other persons the department may approve.

(c) The tax levied under this chapter is payable to the department on or before the 60th day after the filing of the certificate or in estimated installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this subsection even though the assessment is under appeal or the validity, enforceability or application of this chapter or provision of this chapter is challenged before the department or in the courts.

(d) A person making payment of the tax levied under this chapter

on behalf of one or more other persons owning or otherwise holding an interest in a taxable property may withhold a proportionate share of the payment from the proceeds or other benefits from the taxable property owed to any person on whose behalf the payment is made. Unless otherwise specifically provided by written contract or agreement, the person so withholding a proportionate share of the tax levied under this chapter incurs no liability to those from whom it is withheld by virtue of having made the withholding.

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

Sec. 43.22.100. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered, the penalty shall be collected in the same manner as the original tax. The department shall describe by regulations circumstances which constitute reasonable cause for purposes of this section.

Sec. 43.22.110. INTEREST. When the tax levied in this chapter becomes delinquent, it bears interest at the rate of eight per cent a year.

Sec. 43.22.120. LIEN. The tax, penalty and interest payable under this chapter are first and paramount liens on the property subject to

tax under this chapter.

Sec. 43.22.130. REMEDY. The remedy of distraint of property set out in AS 43.20.270 applies to the tax, penalty and interest levied by this chapter.

Sec. 43.22.140. BURDEN OF PROOF. In a suit arising concerning the assessment and taxation of the proceeds of wells or fields, the burden of proof shall be upon the person owning or operating the well or field and every recipient of royalty payments in connection with them.

Sec. 43.22.150. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.22.160. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses, and rentals into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92203, 85 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the fund equal $500,000,000.

Sec. 43.22.170. DEFINITIONS. In this chapter

(1) "department" means the Department of Revenue;

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

(3) "gross value" means FOB price at Alaska border or other convenient point or as determined by the department;

(4) "oil" means crude petroleum and other hydrocarbons regardless of gravity which, when recovered, are recovered at the wellhead in liquid form, and the liquid hydrocarbons known as distillate or condensate that are recovered by separation from gas other than at a processing plant.

* Sec. 2. This Act takes effect January 1, 1977.

Introduced: 5/5/76
Referred: Resources and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL SUB-COMMITTEE ON TAXATION AND REVENUE

IN THE SENATE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 620

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to assessment and taxation of oil and gas properties net proceeds tax; and providing for an effective date."

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

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

CHAPTER 22. OIL AND GAS PROPERTIES NET PROCEEDS TAX.

Sec. 43.22.010. PURPOSE. The purposes of the oil and gas properties net proceeds tax are to provide efficient administration and collection of an ad valorem tax based on the income to the property of oil and gas, and to provide a rate of taxation on the income to the property of oil and gas equal to the corporate state income tax rates provided in AS 43.20.011.

Sec. 43.22.020. STATEMENT OF YIELD. (a) Every person engaged in producing oil and gas and every recipient of royalty payments in connection with oil and gas production shall file annually, on or before February 1, with the department a statement showing the gross value of production and claimed net proceeds from each well or field owned or operated by the person during the previous calendar year.

(b) The statement shall be on forms prescribed by or acceptable to the department, and shall be under oath, and shall include, in addition to other information required,

(1) the name and address of the operator of the well or field, together with a list in duplicate of the names and addresses of any persons owning or claiming a royalty interest in the production of

the well or the proceeds derived from the sale of it, and the amount paid or delivered in kind as royalty to each of these persons during the period covered by the statement;

(2) the description and location of the well or field;

(3) the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the well during the period covered by the statement;

(4) the gross value in dollars of the production at the wellhead or other point chosen by the department; and

(5) the claimed deductions from the gross value in the detail set out in sec. 30 of this chapter.

(c) Each recipient of royalty payments as described in (b)(1) of this section shall annually file with the department a list showing each of the lessees responsible for taxes due in connection with the wells or fields included in the statement filed under (a) and (b) of this section.

Sec. 43.22.030. NET PROCEEDS: HOW COMPUTED. (a) The department shall, from the statement and from all obtainable data, evidence and reports, compute the gross value of production and net proceeds.

(b) The net proceeds shall be ascertained and determined by subtracting from the gross value the following deductions for costs incurred during the year, and none other:

(1) royalties paid or due the United States or the state;

(2) royalties paid or due, other than to the United States or the state, by a lessee or sublessee of a well or field, or by both, shall constitute a deductible item; but the royalties so deducted by the lessee or sublessee constitutes part of the gross yield of the well or field for the purpose of determining the net proceeds upon which a tax shall be levied against the person to which the royalty has been paid;

(3) the costs of transporting the product beyond the area of

the well or field to the point of gross valuation, if the gross valuation point chosen by the department is beyond the area of the well or field;

(4) operating costs incurred in the state as determined under regulations of the department; operating costs shall include

(A) well machinery, equipment, apparatus and facilities;

(B) transportation facilities and equipment;

(C) money expended for necessary labor and supplies needed and used in the well or field operations and developments;

(D) money expended for fire insurance and workmen's compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees;

(E) office clerical or engineering work in the state necessary or proper in connection with these operations;

(5) the deductions mentioned in this subsection shall not include the salary of a person not subject to the withholding of state income tax under AS 43.20.170 or not actually engaged in

(A) the operation of a well or field or of transportation facilities or equipment or superintending the management of them; or

(B) office clerical or engineering work in the state necessary or proper in connection with these operations;

(6) in lieu of the deduction of expenses incurred outside the state, an indirect expense allowance equal to five per cent of expenses reported under sec. 30(4) of this chapter shall be allowed;

(7) all taxes paid or due to the state under chs. 55, 56, and 57 of this title;

(8) recovery of capital and exploration investments.

Sec. 43.22.040. RECOVERY OF CAPITAL AND EXPLORATION EXPENSES. (a) The department shall issue regulations required to determine deductions for the depreciation and recovery of investments related to an operating well or field.

(b) Geological and geophysical costs, bonus payments, dry hole costs, and unrecovered costs after lease abandonments which are incurred in areas of the state in which the producer does not hold a currently valid lease, contractual agreement, or other economic interest may be charged against the net proceeds of currently operating wells or fields in which the taxpayer has an interest. However,

(1) costs under this subsection may be carried forward for no more than 10 years from the year in which the cost is declared;

(2) a cost reported under this subsection may not be charged at a rate of more than 20 per cent of the cost in any one year; and

(3) costs may not be reported as expenses under this section if they have previously been charged against state income taxes either directly as reported to the department or indirectly through an apportionment formula.

Sec. 43.22.050. AD VALOREM TAX LEVIED. (a) There is levied and shall be collected by the department an ad valorem tax based on the assessed value of production which is severed and sold from each well or field. The tax is levied at the rate provided in AS 43.20.011(e) on the net proceeds from the production which is severed and sold from each well or field.

(b) The tax imposed under this chapter shall be allowed as a credit against the tax imposed under ch. 20 of this title on the income from oil production taxed under this chapter.

Sec. 43.22.060. VALUE MAY BE DETERMINED BY DEPARTMENT. The department may determine the value of production severed from a well or

field when (1) the operator and purchaser are affiliated persons; (2) the sale and purchase of the production is not an arm's length transaction; or (3) the production is severed and removed from a production unit, and a value as defined in this chapter is not established for this production. The value determined by the department shall be commensurate with the actual price received for production of like quality, character, and use which is severed in the same well or field or area and shall not be computed at a lesser amount than the actual value received for the state's royalty oil or gas received for production of like quality, character and use which are severed in the same well or field or area.

Sec. 43.22.070. CERTIFICATES OF AMOUNT OF NET PROCEEDS. (a) When the department determines the net proceeds of a well or field, it shall prepare its certificate of the net proceeds and taxes due on them in duplicate and shall file one copy in the department and send the second copy by certified mail to

(1) a person who is the owner of the property, or who controls that property as agent, or on account of any other person;

(2) a guardian or other person who has charge of taxable property belonging to a minor or other person;

(3) the trustee of a trust estate holding taxable property in trust for the benefit of another person;

(4) the executor or administrator of a deceased person's estate which includes taxable property;

(5) the receiver of a corporation who has its assets in his hands.

(b) Upon the filing of the copy of the certificate and mailing of the second copy, the assessment shall be considered to be made in the amount fixed by the certificate and taxes on that amount shall be im-

mediately due and payable.

Sec. 43.22.080. APPEALS. (a) A person aggrieved by the action of the department in making an assessment may appeal that action and obtain a hearing upon its validity before the department by filing written objections to the assessment not later than 20 days after the effective date of the assessment notice.

(b) The procedures for conduct of the hearing and preliminary activities to it shall be in accordance with AS 44.62.350, 44.62.430, 44.62.450 - 640, 44.62.480, 44.62.500 - 550, 44.62.590, and 44.62.610 - 640. The term "respondent" used in those sections of AS 44.62 (Administrative Procedure Act) shall be considered, for the purposes of this section, to include the person aggrieved by action of the department. The department shall provide by regulation for notices of hearing under this section to interested persons. At the hearing the appellant bears the burden of proof. In the absence of this proof the assessment is to be upheld by the department. If the department, after hearing, determines that a correction of the assessment is warranted, the department shall correct the assessment.

(c) Within 30 days after the decision by the department following the hearing, a person aggrieved by that decision may appeal to the superior court. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

Sec. 43.22.090. RETURNS AND PAYMENT OF TAX. (a) A return of the taxes due and payable, fixed by the certificate of the net proceeds shall be submitted on or before the 60th day after the filing of the certificate on the form prescribed by the department. The return shall be submitted by those persons listed in sec. 70 of this chapter.

(b) The person required to submit the return specified under (a) of this section is primarily liable for payment of the tax levied by

this chapter. The persons or estates specified in sec. 70(a)(2) - (5) of this chapter in whose behalf the tax levied by this chapter is to be paid are secondarily liable for payment of the tax. With the written approval of the department, an operator or nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter on behalf of himself and other persons the department may approve.

(c) The tax levied under this chapter is payable to the department on or before the 60th day after the filing of the certificate or in estimated installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this subsection even though the assessment is under appeal or the validity, enforceability or application of this chapter or provision of this chapter is challenged before the department or in the courts.

(d) A person making payment of the tax levied under this chapter on behalf of one or more other persons owning or otherwise holding an interest in a taxable property may withhold a proportionate share of the payment from the proceeds or other benefits from the taxable property owed to any person on whose behalf the payment is made. Unless otherwise specifically provided by written contract or agreement, the person so withholding a proportionate share of the tax levied under this chapter incurs no liability to those from whom it is withheld by virtue of having made the withholding.

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

Sec. 43.22.100. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax,

or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered, the penalty shall be collected in the same manner as the original tax. The department shall describe by regulations circumstances which constitute reasonable cause for purposes of this section.

Sec. 43.22.110. INTEREST. When the tax levied in this chapter becomes delinquent, it bears interest at the rate of eight per cent a year.

Sec. 43.22.120. LIEN. The tax, penalty and interest payable under this chapter are first and paramount liens on the property subject to tax under this chapter.

Sec. 43.22.130. REMEDY. The remedy of distraint of property set out in AS 43.20.270 applies to the tax, penalty and interest levied by this chapter.

Sec. 43.22.140. BURDEN OF PROOF. In a suit arising concerning the assessment and taxation of the proceeds of wells or fields, the burden of proof shall be upon the person owning or operating the well or field and every recipient of royalty payments in connection with them.

Sec. 43.22.150. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.22.160. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses, and rentals into the Alaska Native Fund established

by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the fund equal $500,000,000.

Sec. 43.22.170. DEFINITIONS. In this chapter

(1) "department" means the Department of Revenue;

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

(3) "gross value" means the price as determined by the department at the wellhead or other point chosen by the department;

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

(5) "well or field" means any well, field, lease, pool, or property.

* Sec. 2. This Act takes effect January 1, 1977.

Introduced: 2/9/76
Referred: Resources and
Finance

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL SUB-
COMMITTEE ON TAXATION AND REVENUE

IN THE SENATE

SENATE BILL NO. 621

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to assessment and taxation of oil and gas properties excess value surtax; and providing for an effective date."

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

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

CHAPTER 23. OIL AND GAS PROPERTIES EXCESS VALUE SURTAX.

Sec. 43.23.010. PURPOSE. The purpose of the excess value surtax is to tax the excess value not needed to implement long-term exploration and development and to provide an alternative to promote short-term investments in the oil and gas industry.

Sec. 43.23.020. STATEMENT OF YIELD. (a) Every person engaged in producing oil and gas shall file annually by February 1 of each year, with the department a statement showing the gross value and claimed net proceeds from each well or field owned, worked or operated by that person during the previous year.

(b) The statement shall be on forms prescribed by or acceptable to the department, under oath, and shall include, in addition to other information required

(1) the name and address of the operator of the well or field, together with a list in duplicate of the names and addresses of any persons owning or claiming a royalty interest in the production of the well or field or the proceeds from the sale of it, and the amount paid or delivered in kind as royalty to each of these persons during the period covered by the statement;

(2) the description and location of the well or field;

(3) the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the well or field during the period covered by the statement;

(4) the gross value in dollars of production; and

(5) the claimed deductions from the gross value in the detail set out in sec. 30 of this chapter.

Sec. 43.23.030. COMPUTATION OF NET PROCEEDS. (a) The department shall, from the statement and from all obtainable data, evidence and reports, compute the gross value of production and net proceeds.

(b) The net proceeds shall be ascertained and determined by subtracting from the gross value the following deductions for cost incurred during the year, and none other:

(1) royalties paid or due the United States or the state;

(2) royalties paid or due, other than to the United States or the state, by a lessee or sublessee of a well, or by both, shall constitute a deductible item; but the royalties so deducted by the lessee or sublessee constitutes part of the gross yield of the well for the purpose of determining the net proceeds upon which a tax shall be levied against the person to which the royalty has been paid;

(3) the actual costs of transporting the product of the well to the FOB point;

(4) the actual cost of maintenance and repairs of

(A) well machinery, equipment, apparatus and facilities;

(B) transportation facilities and equipment;

(5) depreciation of the original capitalized cost of the machinery, equipment, apparatus and facilities;

(6) all taxes paid or due to the state under chs. 55, 56, and 57 of this title;

(7) money expended for necessary labor and supplies needed and used in the well operations and developments;

(8) money expended for fire insurance and workmen's compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.

(c) The deductions mentioned in (b) of this section shall not include any expenditures for the salary of a person not actually engaged in

(1) the operation of a well or of transportation facilities or equipment or superintending the management of them; or

(2) office clerical or engineering work in the state necessary or proper in connection with these operations.

Sec. 43.23.040. DEDUCTION OF DRILLING COSTS AND CAPITAL EXPENDITURES. (a) The department, in computing the deductions allowable for the costs of drilling wells completed during the period and for other capital expenditures, shall allow 10 per cent of the cost each year for a period of 10 years; in the event of abandonment before the cost is recovered, any remaining depreciation may be written off in the year of abandonment.

(b) Exploration costs, including exploratory drilling costs incurred in the state, shall be capitalized. The department, in computing the allowable amortization of the exploration costs, shall allow up to seven per cent of the exploration costs per year. The department shall issue regulations appropriate to implement and administer this section.

Sec. 43.23.050. EXCESS VALUE SURTAX. There is levied upon the producer of oil and gas or any royalty interest not exempt from taxation, a surtax at the rate of 41 per cent upon the excess value of the production as determined under sec. 60 of this chapter.

Sec. 43.23.060. COMPUTATION OF EXCESS VALUE. (a) For each year the department shall, from the statement and from all obtainable data, evidence and reports, compute the excess value by well or field, according to either (b) or (c) of this section. A well or field not subject to the excess value tax may not be aggregated with a well or field subject to the tax.

(b) Excess value is determined by subtracting the long-term net value from the net proceeds of the well or field as computed under sec. 30 of this chapter. Long-term net value is determined by subtracting the per barrel costs of the well or field from the long-term index price; however, severance taxes and royalties are deductible costs only in the amount that would have been due on the long-term index price. The long-term index price is the price for a barrel of oil or its energy equivalent of $7 per barrel FOB in the west coast markets or the amount determined by the department, taking into consideration the prevailing transport charges from the FOB point, chosen by the department, to the west coast markets; however, in no event may the amount determined by the department exceed the equivalent of $7 per barrel FOB in the west coast markets plus the increase in the national wholesale price index since the tax went into effect.

(c) If the long-term net value as calculated for a specific well or field is less than $1 per barrel of oil or of gas equivalent, the long-term net value will be considered to be $1 times the number of barrels of oil or of gas equivalent produced from the well or field during the tax reporting period.

(d) The producer shall also pay the surtax on the excess of royalties actually paid over royalties which would be paid based on the long-term index price. In making settlement with the royalty owner the producer may deduct the amount of surtax paid on royalty oil or deduct

royalty oil equivalent in value (at the time the surtax becomes due) to the amount of the surtax paid.

Sec. 43.23.070. CREDIT AGAINST INCOME TAX. The tax paid under this chapter by a producer on his own behalf shall be in lieu of the tax imposed under ch. 20 of this title. The tax paid by a producer on behalf of a royalty owner shall be allowed as a credit by the royalty owner against the tax imposed under ch. 20 of this title on income attributable to that royalty interest. The credit may not exceed the amount of tax imposed under ch. 20 of this title attributable to that income, and may not be carried over.

Sec. 43.23.080. CERTIFICATES OF AMOUNT OF EXCESS VALUE. (a) When the department determines the excess value of production from a well or field, the department shall prepare its certificate of the excess value in duplicate and shall file one copy of it with the department and send the second copy by certified mail to:

(1) a person who is the owner of the property, or who controls that property as agent, or on account of any other person;

(2) a guardian or other person who has charge of taxable property belonging to a minor or other person;

(3) the trustee of a trust estate holding taxable property in trust for the benefit of another person;

(4) the executor or administrator of a deceased person's estate which includes taxable property;

(5) the receiver of a corporation who has its assets in his hands.

(b) Upon the filing of the copy of the certificate with the department, the assessment shall be considered to be made in the amount fixed by the certificate and taxes on that amount at the rate established in sec. 50 of this chapter shall be immediately due and payable.

(c) The department shall determine annually the long-term index price.

Sec. 43.22.090. APPEALS. (a) A person aggrieved by the action of the department in making an assessment may appeal that action and obtain a hearing upon its validity before the department by filing written objections to the assessment not later than 20 days after the effective date of the assessment notice.

(b) The procedures for conduct of the hearing and preliminary activities to it shall be in accordance with AS 44.62.350, 44.62.430, 44.62.450 - 44.62.640, 44.62.480, 44.62.500 - 44.62.550, 44.62.590, and 44.62.610 - 44.62.640. The term "respondent" used in those sections of AS 44.62 (Administrative Procedure Act) shall be considered, for the purposes of this section, to include the person aggrieved by action of the department. The department shall provide by regulation for notices of hearing under this section to interested persons. At the hearing the appellant bears the burden of proof. In the absence of this proof the assessment is to be upheld by the department. If the department, after hearing, determines that a correction of the assessment is warranted, the department shall correct the assessment.

(c) Within 30 days after the decision by the department following the hearing, a person aggrieved by that decision may appeal to the superior court. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

Sec. 43.22.100. RETURNS AND PAYMENT OF TAX. (a) A return of the taxes due and payable, fixed by the certificate of the net proceeds shall be submitted on or before the 60th day after the filing of the certificate on the form prescribed by the department. The return shall be submitted by those persons listed in sec. 80 of this chapter.

(b) The person required to submit the return specified under (a)

of this section is primarily liable for payment of the tax levied by this chapter. The persons or estates specified in sec. 80(a)(2) - (5) of this chapter in whose behalf the tax levied by this chapter is to be paid are secondarily liable for payment of the tax. With the written approval of the department, an operator or nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter on behalf of himself and other persons the department may approve.

(c) The tax levied under this chapter is payable to the department on or before the 60th day after the filing of the certificate or in estimated installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this subsection even though the assessment is under appeal or the validity, enforceability or application of this chapter or provision of this chapter is challenged before the department or in the courts.

(d) A person making payment of the tax levied under this chapter on behalf of one or more other persons owning or otherwise holding an interest in a taxable property may withhold a proportionate share of the payment from the proceeds or other benefits from the taxable property owed to any person on whose behalf the payment is made. Unless otherwise specifically provided by written contract or agreement, the person so withholding a proportionate share of the tax levied under this chapter incurs no liability to those from whom it is withheld by virtue of having made the withholding.

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

Sec. 43.23.110. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which

the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered, the penalty shall be collected in the same manner as the original tax. The department shall describe by regulations circumstances which constitute reasonable cause for purposes of this section.

Sec. 43.23.120. INTEREST. When the tax levied in this chapter becomes delinquent, it bears interest at the rate of eight per cent a year.

Sec. 43.23.130. LIEN. The tax, penalty and interest payable under this chapter are first and paramount liens on the property subject to tax under this chapter.

Sec. 43.23.140. REMEDY. The remedy of distraint of property set out in AS 43.20.270 applies to the tax, penalty and interest levied by this chapter.

Sec. 43.23.150. BURDEN OF PROOF. In a suit arising that concerns the assessment and taxation of the proceeds of a well or field, the burden of proof shall be upon the person owning or operating the well or field and every recipient of royalty payments in connection with that well or field.

Sec. 43.23.160. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.23.170. DEFINITIONS. In this chapter

(1) "department" means the Department of Revenue;

(2) "energy equivalent" means the quantity of gas or other energy source needed to produce the same BTU (British Thermal Unit) level as a barrel of oil;

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

(4) "gross value" means FOB price at Alaska border or other convenient point or as determined by the department;

(5) "oil" means crude petroleum and other hydrocarbons regardless of gravity which, when recovered, are recovered at the well-head in liquid form, and the liquid hydrocarbons known as distillate or condensate that are recovered by separation from gas other than at a processing plant;

(6) "assessed value" means the value against which tax rates are applied;

(7) "producer" means any person removing or selling oil or gas from a lease or property in the state.

Sec. 43.23.180. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses, and rentals into the Alaska Native fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the fund equal $500,000,000.

* Sec. 2. This Act takes effect on January 1, 1977.

Introduced: 4/15/76
Referred: Resources and Finance

IN THE SENATE

BY THE SPECIAL COMMITTEE ON TAXATION AND REVENUE

SENATE BILL NO. 747

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to assessment and taxation of oil and gas properties excess value surtax; and providing for an effective date."

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

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

CHAPTER 23. OIL AND GAS PROPERTIES EXCESS VALUE SURTAX.

Sec. 43.23.010. PURPOSE. The purpose of the excess value surtax is to tax, after the multiple recovery of investment, the excess value not needed to implement long-term exploration and development and to provide an alternative to promote short-term investments in the oil and gas industry.

Sec. 43.23.020. STATEMENT OF YIELD. (a) Every person engaged in producing oil and gas shall file annually by February 1 of each year, with the department a statement showing the gross value and claimed net proceeds from each well or field owned, worked or operated by that person during the previous year.

(b) The statement shall be on forms prescribed by or acceptable to the department, under oath, and shall include, in addition to other information required

(1) the name and address of the operator of the well or field, together with a list in duplicate of the names and addresses of any persons owning or claiming a royalty interest in the production of the well or field or the proceeds from the sale of it, and the amount paid or delivered in kind as royalty to each of these persons during the period covered by the statement;

(2) the description and location of the well or field;

(3) the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the well or field during the period covered by the statement;

(4) the gross value in dollars of production at the wellhead or other point chosen by the department; and

(5) the claimed deductions from the gross value in the detail set out in sec. 30 of this chapter.

Sec. 43.23.030. COMPUTATION OF NET PROCEEDS. (a) The department shall, from the statement and from all obtainable data, evidence and reports, compute the gross value of production and net proceeds.

(b) The net proceeds shall be ascertained and determined by subtracting from the gross value the following deductions for cost incurred during the year, and none other:

(1) royalties paid or due the United States or the state;

(2) royalties paid or due, other than to the United States or the state, by a lessee or sublessee of a well, or by both, shall constitute a deductible item; but the royalties so deducted by the lessee or sublessee constitutes part of the gross yield of the well for the purpose of determining the net proceeds upon which a tax shall be levied against the person to which the royalty has been paid;

(3) the actual costs, if any, of transporting the product of the well to the FOB point chosen by the department for gross valuation;

(4) the actual cost of maintenance and repairs of

(A) well machinery, equipment, apparatus and facilities;

(B) transportation facilities and equipment;

(5) all taxes paid or due to the state under chs. 55, 56, 57 and 22 of this title;

(6) money expended for necessary labor and supplies needed

and used in the well operations and developments;

(7) money expended for fire insurance and workmen's compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.

(8) indirect expense allowance equal to five per cent of expense reported under (4), (6) and (7) of this subsection and AS 43.22.-030(5).

(c) The deductions mentioned in (b) of this section shall not include any expenditures for the salary of a person not actually engaged in

(1) the operation of a well or of transportation facilities or equipment or superintending the management of them; or

(2) office clerical or engineering work in the state necessary or proper in connection with these operations.

Sec. 43.23.040. DEDUCTION OF DRILLING COSTS AND CALCULATION OF CAPITAL EXPENDITURES. (a) Exploration costs, including exploratory drilling costs, incurred in the state, may be charged at the election of the exploring interest

(1) as an operating expense over a five-year period against net proceeds or royalties of currently operating fields in which the explorer has an interest, or

(2) as a capital expense to be used in the capital base for the calculation of excess value of production from a well or field developed as a direct result of the exploration.

(b) the cumulative capital investment for purposes of this chapter shall include exploration costs under option (a)(2) of this section, capitalized expenditures before the beginning of commercial production as determined by the department, and any additional capital investments

made during the life of the well or field.

Sec. 43.23.050. EXCESS VALUE SURTAX. (a) There is levied upon the producer of oil and gas or royalty interest not exempt from taxation a surtax at the rate of 33 1/3 per cent upon the excess value of the production as determined under sec. 60 of this chapter.

(b) In no event may the annual excess value surtax exceed 80 per cent of the difference between the annual net proceeds as calculated under sec. 30 of this chapter minus 25 per cent of the cumulative capital investment calculated under sec. 40 of this chapter. Should 25 per cent of the cumulative capital investment calculated under sec. 40 of this chapter equal or exceed the net proceeds as calculated under sec. 30 of this chapter, there is no excess value surtax liability.

Sec. 43.23.060. COMPUTATION OF EXCESS VALUE. (a) For each year the department shall, from the statement and from all obtainable data, evidence and reports, compute the excess value by well or field, according to provisions under (b) and (c) of this section.

(b) Excess value equals the amount by which the cumulative net proceeds as reported under sec. 30 of this chapter exceed 2.5 times the cumulative capital investment calculated under sec. 40 of this chapter. The annual excess value equals the annual addition to the amount by which the cumulative net proceeds under sec. 30 of this chapter exceed 2.5 times the cumulative capital investment under sec. 40 of this chapter.

(c) Over the life of a field, the producer may subtract the net proceeds from up to 70 million barrels of oil or gas energy equivalent from the excess value. In no year may the producer exempt the net proceeds of more than 7 million barrels of oil. The net proceeds of the exempted oil or gas shall equal the fraction whose numerator is the total number of barrels of oil or gas equivalent exempted for the year and denominator is the total number of barrels of oil or gas equivalent

produced from the field during the year times the annual net proceeds for the well or field as determined under sec. 30 of this chapter. The department shall adopt regulations for the allocation of this exemption among subdivisions of a field such as well, lease, pool or property.

Sec. 43.23.070. CREDIT AGAINST INCOME TAX. The tax paid under this chapter by a producer on his own behalf or on behalf of another participation interest shall be allowed as a credit against the tax imposed under ch. 20 of this title. The tax paid by a producer on behalf of a royalty owner shall be allowed as a credit by the royalty owner against the tax imposed under ch. 20 of this title on income attributable to that royalty interest. The credit may not exceed the amount of tax imposed under ch. 20 of this title attributable to that income, and may not be carried over.

Sec. 43.23.080. CERTIFICATES OF AMOUNT OF EXCESS VALUE. (a) When the department determines the excess value of production from a well or field, the department shall prepare its certificate of the excess value in duplicate and shall file one copy of it with the department and send the second copy by certified mail to:

(1) a person who is the owner of the property, or who controls that property as agent, or on account of any other person;

(2) a guardian or other person who has charge of taxable property belonging to a minor or other person;

(3) the trustee of a trust estate holding taxable property in trust for the benefit of another person;

(4) the executor or administrator of a deceased person's estate which includes taxable property;

(5) the receiver of a corporation who has its assets in his hands.

(b) Upon the filing of the copy of the certificate with the

department, the assessment shall be considered to be made in the amount fixed by the certificate and taxes on that amount at the rate established in sec. 50 of this chapter shall be immediately due and payable.

(c) The department shall determine annually the long-term index price.

Sec. 43.22.090. APPEALS. (a) A person aggrieved by the action of the department in making an assessment may appeal that action and obtain a hearing upon its validity before the department by filing written objections to the assessment not later than 20 days after the effective date of the assessment notice.

(b) The procedures for conduct of the hearing and preliminary activities to it shall be in accordance with AS 44.62.350, 44.62.430, 44.62.450 - 44.62.640, 44.62.480, 44.62.500 - 44.62.550, 44.62.590, and 44.62.610 - 44.62.640. The term "respondent" used in those sections of AS 44.62 (Administrative Procedure Act) shall be considered, for the purposes of this section, to include the person aggrieved by action of the department. The department shall provide by regulation for notices of hearing under this section to interested persons. At the hearing the appellant bears the burden of proof. In the absence of this proof the assessment is to be upheld by the department. If the department, after hearing, determines that a correction of the assessment is warranted, the department shall correct the assessment.

(c) Within 30 days after the decision by the department following the hearing, a person aggrieved by that decision may appeal to the superior court. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

Sec. 43.22.100. RETURNS AND PAYMENT OF TAX. (a) A return of the taxes due and payable, fixed by the certificate of the net proceeds shall be submitted on or before the 60th day after the filing of the

certificate on the form prescribed by the department. The return shall be submitted by those persons listed in sec. 80 of this chapter.

(b) The person required to submit the return specified under (a) of this section is primarily liable for payment of the tax levied by this chapter. The persons or estates specified in sec. 80(a)(2) - (5) of this chapter in whose behalf the tax levied by this chapter is to be paid are secondarily liable for payment of the tax. With the written approval of the department, an operator or nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter on behalf of himself and other persons the department may approve.

(c) The tax levied under this chapter is payable to the department on or before the 60th day after the filing of the certificate or in estimated installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this subsection even though the assessment is under appeal or the validity, enforceability or application of this chapter or provision of this chapter is challenged before the department or in the courts.

(d) A person making payment of the tax levied under this chapter on behalf of one or more other persons owning or otherwise holding an interest in a taxable property may withhold a proportionate share of the payment from the proceeds or other benefits from the taxable property owed to any person on whose behalf the payment is made. Unless otherwise specifically provided by written contract or agreement, the person so withholding a proportionate share of the tax levied under this chapter incurs no liability to those from whom it is withheld by virtue of having made the withholding.

(e) By written notice the department may require a person filing a return to submit additional information to the department no later than

30 days after the notice.

Sec. 43.23.110. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered, the penalty shall be collected in the same manner as the original tax. The department shall describe by regulations circumstances which constitute reasonable cause for purposes of this section.

Sec. 43.23.120. INTEREST. When the tax levied in this chapter becomes delinquent, it bears interest at the rate of eight per cent a year.

Sec. 43.23.130. LIEN. The tax, penalty and interest payable under this chapter are first and paramount liens on the property subject to tax under this chapter.

Sec. 43.23.140. REMEDY. The remedy of distraint of property set out in AS 43.20.270 applies to the tax, penalty and interest levied by this chapter.

Sec. 43.23.150. BURDEN OF PROOF. In a suit arising that concerns the assessment and taxation of the proceeds of a well or field, the burden of proof shall be upon the person owning or operating the well or field and every recipient of royalty payments in connection with that well or field.

Sec. 43.23.160. REGULATIONS. The department may adopt regulations

in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.23.170. DEFINITIONS. In this chapter

(1) "department" means the Department of Revenue;

(2) "energy equivalent" means the quantity of gas or other energy source needed to produce the same BTU (British Thermal Unit) level as a barrel of oil;

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

(4) "gross value" means FOB price at Alaska border or other convenient point or as determined by the department;

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

(6) "assessed value" means the value against which tax rates are applied;

(7) "producer" means any person removing or selling oil or gas from a lease or property in the state;

(8) "cumulative capital investment" does not include short-term capital investments such as vehicles or replacement parts; the depreciation or expensing of them shall be considered part of the operating and maintenance expenses of the well or field;

(9) "well" or "field" means any well, field, lease, pool, or property.

Sec. 43.23.180. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas

royalties, bonuses, and rentals into the Alaska Native fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the fund equal $500,000,000.

Sec. 2. This Act takes effect on January 1, 1977.

Introduced: 5/7/76
Referred: Resources and Finance

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

SENATE BILL NO. 755

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas reserves ad valorem tax."

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

* Section 1. AS 43.58.010(b) is amended to read:

(b) The rate of levy for the tax year beginning

(1) January 1, 1976 is 20 mills;

(2) January 1, 1977 is 21 mills.

* Sec. 2. AS 43.58.010(d) is amended to read:

(d) The rate of levy may not exceed 30 [20] mills.

Introduced: 1/31/77
Referred: Resources and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Subcommittee on Oil and Gas Leasing and Taxing Policies)

IN THE HOUSE

HOUSE BILL NO. 144

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act concerning the oil and gas properties production tax; and providing for an effective date."

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

* Section 1. AS 43.55.010(a) is amended to read:

(a) There is levied upon the producer of oil or gas a tax based upon a per cent of the gross value <u>at the point of production</u> [AT THE WELL] of all oil or gas <u>produced</u> [REMOVED OR SOLD] from each lease or property in the state, less the value of any part the ownership or right to which is exempt from taxation. The tax is determined according to the following schedules, and any part which is exempt from taxation is deducted from the tax levied on a pro rata basis as to each production level tax bracket:

(1) oil: based upon the <u>total production from each lease or property</u> [AVERAGE DAILY PRODUCTION FOR EACH WELL] for the calendar month in barrels, the tax is

(A) <u>zero</u> [FIVE] per cent on the first <u>100</u> [300] barrels <u>of average daily per well production</u>;

(B) <u>four</u> [SIX] per cent on the next <u>200</u> [700] barrels <u>of average daily per well production</u>;

(C) <u>six</u> [EIGHT] per cent on <u>the next 700</u> [ALL PRODUCTION IN EXCESS OF 1,000] barrels <u>of average daily per well production</u>;

<u>(D) nine per cent on the next 500 barrels of average daily per well production;</u>

<u>(E) eleven per cent on the next 2,000 barrels of average</u>

daily per well production:

(F) fourteen per cent on all production in excess of 3,500 barrels of average daily per well production;

(2) gas: the tax is four per cent of the gross value at the point of production of the gas and liquid products produced each month.

* Sec. 2. AS 43.55.015(a) is amended to read:

(a) There is levied upon the producer of oil a tax on each barrel of oil produced [REMOVED OR SOLD] from each lease or property in the state less any part the ownership or right to which is exempt from taxation. The tax is based upon the total production from each lease or property [AVERAGE DAILY PRODUCTION FOR EACH WELL] for the calendar month in barrels determined according to the following schedule and any part which is exempt from taxation is deducted from the tax levied on a pro rata basis as to each production level bracket:

(1) $.0000 [$.16875] on each of the first 100 [300] barrels of average daily per well production;

(2) $.1350 [$.2025] on each of the next 200 [700] barrels of average daily per well production;

(3) $.2025 [$.2700] on each of the next 700 [BARREL OF PRODUCTION IN EXCESS OF 1,000] barrels of average daily per well production;

(4) $.3038 on each of the next 500 barrels of average daily per well production;

(5) $.3713 on each of the next 2,000 barrels of average daily per well production;

(6) $.4725 on each barrel of production in excess of 3,500 barrels of average daily per well production.

* Sec. 3. AS 43.55.015(c) is amended to read:

(c) The tax rates set out in this section will be increased or decreased by a percentage equal to the percentage of change in the

Wholesale Price Index for crude petroleum published by the Bureau of Labor Statistics, of the United States Department of Labor. The year 1967 is the base year of 100 for computing the tax rates. Changes in tax rates will be computed based on changes <u>from the December, 1973 Wholesale Price Index published in January, 1974</u> [IN THE WHOLESALE PRICE INDEX OCCURRING AFTER JANUARY 1, 1974 AND WILL NOT INCLUDE CHANGES IN THE WHOLESALE PRICE INDEX PRIOR TO JANUARY 1, 1974]. The department shall post the changes in the tax rates at least semi-annually and shall notify every person producing oil within the state of the changes.

* Sec. 4. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the <u>20th day</u> [LAST DAY] of each calendar month on oil or gas <u>produced</u> [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 5. AS 43.55.020(e) is repealed and re-enacted to read:

(e) Gas produced, except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of this chapter, as gas produced from a lease or property. Gas flared under a permit granted by the Department of Natural Resources under AS 31.05.170(11)(H) shall be considered as gas produced, except that it shall pay a severance tax equal to five times the severance tax in effect for that period in which the gas was flared.

* Sec. 6. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil or gas was <u>produced</u> [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned by the department;

* Sec. 7. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas produced [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 8. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas produced [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 9. AS 43.55.140 is amended by adding new paragraphs to read:

(12) "gross value at the point of production" means:

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

(B) for gas recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured after separation from the oil; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold

in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the premises upon which the oil production operation is conducted; and

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

(13) "oil production operation" means the operation by which oil is recovered from a lease or property and rendered into oil of pipeline quality, and includes any gathering done before the oil is finally rendered into oil of pipeline quality;

(14) "pipeline quality" means good and marketable condition;

(15) "average daily per well production" means the amount calculated by dividing the total number of barrels of oil produced from each lease or property during the calendar month by the total number of wells produced on the lease or property any time during the calendar month and dividing that amount by the total number of days in the

calendar month.

* Sec. 10. AS 43.55.140(10) and (11) are repealed.

* Sec. 11. This Act takes effect July 1, 1977.

Introduced: 1/31/77
Referred: Resources and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Subcommittee on Oil and Gas Leasing and Taxing Policies)

IN THE HOUSE

HOUSE BILL NO. 145

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska net income tax; and providing for an effective date."

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

* Section 1. LESIGLATIVE FINDINGS AND INTENT. The legislature finds and declares that the method of apportioning income for tax purposes under the "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-State Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the extent of the business activities in this state of multi-state corporations engaged in the production and pipeline transportation of crude oil and natural gas in Alaska. The legislature therefore intends that the provisions of section 18 of article IV of the Multi-State Tax Compact (AS 43.19) which allow separate accounting of income shall be adopted for the determination of corporate income tax liability on income derived from the production and pipeline transportation of oil and gas and related activities. The legislature further intends that separate accounting shall result in the assessment of tax against multi-state corporations so that the tax paid by these corporations will be commensurate with the tax that would be paid by corporations owning and operating only the Alaskan assets of these multi-state corporations.

* Sec. 2. AS 43.20.011 is amended by adding a new subsection to read:

(f) For purposes of determining taxable income under (e) of this section that part of income of any corporation derived in Alaska from oil or natural gas production or the transportation of crude oil or natural gas by pipeline, including income from royalties on oil and gas

production, shall, notwithstanding sec. 65 of this chapter, be determined by separate accounting in accordance with section 18 of article IV of the Multi-State Compact (AS 43.19.010) and secs. 12 - 14 of this chapter.

* Sec. 3. AS 43.20 is amended by adding new sections to read:

Sec. 43.20.012. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION INCOME. (a) The determination of taxable income attributable to oil and natural gas production, as required under secs. 11(e) and (f) of this chapter, shall be based on a separate accounting of costs and revenues associated with the production.

(b) Gross revenue from oil and gas production shall be the wellhead value as established for purposes of the oil and gas properties production tax, in accordance with the provisions of ch. 55 of this title.

(c) Deductions from gross revenue for the purposes of determining taxable production income shall include:

(1) royalties actually paid whether in kind or in value;

(2) severance taxes actually paid;

(3) property taxes actually paid by the corporation taxpayer on the producing property and the facilities directly associated with it, including facilities for the gathering, treating and preparing of the oil or gas for shipment;

(4) the costs incurred by the corporation taxpayer in operating the oil or gas field, including the costs of gathering, treating and preparing the oil or gas for shipment, but net of any payments received for those services;

(5) depreciation on investments which are associated with the production, gathering, treating and preparing for shipment of the oil or gas, and which are located in or adjacent to the site of production, in-

cluding depreciation on capitalized interest, lease acquisition payments and property taxes paid before the commencement of production on the leasehold, facilities or investment associated with it;

(6) interest expense not capitalized and capitalizable, to the extent that it does not exceed a portion of total interest paid by the corporation, its subsidiaries and affiliates, determined by multiplying total interest paid by a fraction, the numerator of which is the book value of the corporation's fixed assets in and associated with the field, and the denominator of which is the book value of all fixed assets held by the corporation, its subsidiaries and affiliates;

(7) expenses incurred after December 31, 1976 of unsuccessful exploration efforts for oil and gas in Alaska, including the acquisition costs of properties abandoned, dry hole costs, and the costs of geologic and geophysical exploration on or related to those properties.

(d) The department shall establish regulations covering the calculation of depreciation costs, the allocation of interest costs, the definition of facilities associated with the production, gathering, treating and preparing for shipment of oil and gas, and other matters necessary to implement this section.

Sec. 43.20.013. DETERMINATION OF CRUDE OIL AND NATURAL GAS PIPELINE TRANSPORTATION INCOME. (a) Except as provided in (b) and (c) of this section, annual taxable income from the pipeline transportation of crude oil in Alaska in interstate commerce in facilities devoted wholly to interstate commerce shall be eight per cent of the valuation of the pipeline facility as determined by or in accordance with principles established by the Interstate Commerce Commission (ICC).

(b) If no ICC valuation has been made of an interstate oil pipeline facility or if the oil pipeline facilities are engaged wholly or partially in intrastate commerce, net income shall be determined in

accordance with regulations established by the Alaska Pipeline Commission under AS 42.06.041. A tax return reporting this income shall be accompanied by a certification from the Alaska Pipeline Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established in regulations adopted by the commission, or, if the income is not, in the opinion of the commission, reported in accordance with its regulations, then a statement to that effect, identifying the deficiencies in the report and, if possible, providing a reporting of the true and correct income.

(c) A corporation operating an oil pipeline facility engaged solely in interstate commerce may elect to have the taxable income from that facility determined in accordance with (b) of this section, rather than (a) of this section if it complies with all applicable regulations and orders of the Alaska Pipeline Commission concerning accounting methods and reports, and properly files all reports or other information required by Alaska Pipeline Commission regulations.

(d) A corporation's taxable income from the transportation of natural gas shall be determined for interstate natural gas pipelines in conformance with the reporting procedures established by the Federal Power Commission, and for intrastate pipelines in conformance with procedures established by the Alaska Public Utilities Commission. A tax return reporting income from the intrastate transportation of natural gas by pipeline shall be accompanied by a certification from the Alaska Public Utilities Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established in regulations adopted by the commission, or, if the income is not, in the opinion of the commission, reported in accordance with its regulations, then a statement to that

effect, identifying the deficiencies in the report and, if possible, providing a reporting of the true and correct income.

(e) The certifications of the Alaska Pipeline Commission and the Alaska Public Utilities Commission submitted in accordance with this section shall not prejudice any future action by the respective commission nor shall it prevent the respective commission from submitting a revised certification within three years of the due date of the tax return in support of which it was originally filed.

(f) Nothing in this section or in sec. 12 of this chapter shall limit a corporate taxpayer's right to appeal or the taxpayer remedies provided under ch. 5 of this title.

Sec. 43.20.014. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION. Taxable income from activities other than oil or natural gas production or pipeline transportation shall be determined by subtracting the income as determined under secs. 12 and 13 of this chapter from the corporation's consolidated net income and applying the allocation formula required under the provisions of sec. 65 of this chapter, except that the property factor and the payroll factor shall be calculated without reference to payroll or property related to production or pipeline transportation activity the income from which is taxable in accordance with secs. 12 and 13 of this chapter.

Sec. 43.20.015. PUBLIC REPORTING. Notwithstanding the provisions of AS 43.05.230, the commissioner of revenue shall compile and transmit to the legislature an annual consolidated report of state revenues and taxation policies under this chapter. This report shall include total Alaska income tax paid by firms and individuals covered under this chapter, itemized deductions by category and the tax cost of these deductions. For purposes of this section, "tax cost" means the amount of

revenue which the state would have collected had not a specific deduction been allowed. Also included in the report shall be a summary of each corporate tax return filed which shows income from the production of oil or natural gas, showing the total amount of oil and gas produced by or for each taxpayer, the taxable income of the corporation from production as reported in accordance with sec. 12 of this chapter, from pipeline transportation as reported in accordance with sec. 13 of this chapter, from other income allocated to the state under sec. 14 of this chapter, and the tax due.

* Sec. 4. AS 43.20.330 is amended by adding new subsections to read:

(f) Any person who improperly influences, or attempts to improperly influence, by means of payment or offer of payment or other valuable consideration, any state official in his determination of values and apportionments under this chapter shall be guilty of bribery and punishable under AS 11.30.040.

(g) Any person who knowingly and wilfully makes false statements or representations, or who knowingly allows false statements or representations to be made on his behalf in the case of corporations, with a purpose of avoiding the corporate tax imposed under this chapter is guilty of wilful tax avoidance and is punishable upon conviction by a fine of three times the amount of the tax that would have been unpaid had the false statement been undetected, and by imprisonment for not less than 10 days nor more than one year.

* Sec. 5. AS 42.06.140 is amended by adding a new paragraph to read:

(11) shall provide all reasonable assistance to the Department of Revenue in determining the net income from oil pipeline facilities.

* Sec. 6. AS 42.06 is amended by adding a new section to read:

Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

(a) Upon request of a pipeline carrier the commission shall review the accounts of that carrier and provide a certification to the Department of Revenue either stating that to the best of the commission's knowledge and belief the report of net pipeline income submitted by the carrier under AS 43.20.013 is in accordance with the commission's regulations governing the accounting of income, or that it is not so in accordance, in which case the commission shall identify the deficiencies in the report and, if possible, provide a reporting of the true and correct income.

(b) The commission shall provide the certification of compliance or deficiency in reporting within 45 days of the date on which the pipeline carrier requests it, but all certifications remain subject to amendment by the commission for a period of three years after the due date of the tax return which they accompany.

(c) The commission may by regulation establish accounting procedures and definitions as may be necessary to define net income for tax purposes, but net income so defined shall coincide as nearly as possible with the net income definition used by the commission in establishing rates and measuring rate of return, and shall be derived before any deductions for income taxes accrued or paid.

* Sec. 7. AS 42.05.141 is amended to read:

Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The Alaska Public Utilities Commission [MAY]

(1) may regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by sec. 711 of this chapter and the powers of the commission shall be liberally construed to accomplish its stated purposes;

(2) may investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and

facilities of a public utility and hold hearings on them;

(3) may make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility;

(4) may prescribe the system of accounts and regulate the service and safety of operations of a public utility;

(5) may require a public utility to file reports and other information and data;

(6) may appear personally or by counsel and represent the interests and welfare of the state in all matters and proceedings involving a public utility pending before an officer, department, board, commission or court of the state or of another state or the United States and to intervene in, protest, resist, or advocate the granting, denial or modification of any petition, application, complaint or other proceeding;

(7) may examine witnesses and offer evidence in any proceeding affecting the state and initiate or participate in judicial proceedings to the extent necessary to protect and promote the interests of the state;

(8) shall provide all reasonable assistance to the Department of Revenue in determining the net income from natural gas pipeline facilities.

* Sec. 8. AS 42.05 is amended by adding a new section to read:

Sec. AS 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE. (a) Upon request of a pipeline carrier the commission shall review the accounts of that carrier and provide a certification to the Department of Revenue either stating that to the best of the commission's knowledge and belief the report of net pipeline income submitted by the carrier under AS 43.20.013 is in accordance with the commission's regu-

lations governing the accounting of income, or that it is not so in accordance, in which case the commission shall identify the deficiencies in the report and, if possible, provide a reporting of the true and correct income.

(b) The commission shall provide the certification of compliance or deficiency in reporting within 45 days of the date on which the pipeline carrier requests it, but all certifications remain subject to amendment by the commission for a period of three years after the due date of the tax return which they accompany.

(c) The commission may by regulation establish accounting procedures and definitions as may be necessary to define net income for tax purposes, but net income so defined shall coincide as nearly as possible with the net income definition used by the commission in establishing rates and measuring rate of return, and shall be derived before any deductions for income taxes accrued or paid.

* Sec. 9. This Act relates only to income earned or received after December 31, 1976.

* Sec. 10. This Act takes effect January 1, 1978.

Introduced: 3/9/77
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 321

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas properties production tax; and providing for an effective date."

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

* Section 1. AS 43.55 is amended by adding new sections to read:

Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of taxable oil produced from the lease or property.

(c) The cents-per-barrel amount equals $.75 per barrel of taxable oil produced from the lease or property, as adjusted by sec. 12 of this chapter.

(d) When the cents-per-barrel amount calculated under (c) of this section is greater than the percentage-of-value amount calculated under (b) of this section, an amount not less than $.05 for each

barrel of taxable oil produced shall be paid by the state out of its royalties from the oil whenever payment by the state is required under the revenue sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) into the Alaska Native Fund, until all amounts paid in the fund equal $500,000,000.

Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or decreased by a percentage equal to the percentage of change in the Gross National Product Deflator published by Bureau of Economic Analysis of the United States Department of Commerce. Changes in tax rates will be computed based on changes in the Gross National Product Deflator from that of the First Quarter 1977 Gross National Product Deflator. The department shall post the changes in the tax rates periodically and shall notify every person producing oil within the state of the changes.

(b) The cents-per-barrel amount set out in sec. 11(c) of this chapter as adjusted by (a) of this section applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by $.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by $.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit factor for oil production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(b) Before February 15 of each year or within six months after commencement of production for a lease or property, the department shall notify the taxpayer of the monthly production rate at the economic limit for each lease or property within the state for that year. The monthly production rate at the economic limit for a lease or property is presumed to be 100 barrels times the number of well-days for the lease or property during December of the preceding year, unless the taxpayer at a formal hearing under AS 43.05.240 provides clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (d) of this section into the average monthly direct operating cost determined under (c) of this section.

(c) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include drilling supplies, fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(d) The value at the point of production of oil produced from

the lease or property shall be determined on the basis of the acquisition cost C.I.F. at West Coast refineries for imported oil of like quality, minus the reasonable cost of transportation between the point of production of the oil from the lease or property and those West Coast refineries.

(e) Before February 15 of each year or within six months after commencement of production for a lease or property the department shall notify the producer of gas of the monthly production rate at the economic limit for each lease or property within the state for that year. The monthly production rate at the economic limit for a lease or property shall be determined at a formal hearing under AS 43.05.240 and must be established by clear and convincing evidence presented by the taxpayer at that hearing. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (g) of this section into the average monthly direct operating cost determined under (f) of this section.

(f) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include drilling supplies, fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, monies paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the

lease or property.

(g) The value at the point of production of gas produced from the lease or property shall be determined on the basis of the highest price paid for gas of like quality and pressure in the same field or some other field within 100 miles in the state.

(h) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to sec. 11 of this chapter, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under sec. 11 of this chapter, when two or more economically independent oil or gas production operations are being conducted on it.

(i) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production.

Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production

of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals $.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by sec. 12 of this chapter.

Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products.

* Sec. 2. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the <u>20th</u> [LAST] day of each calendar month on oil or gas <u>produced</u> [REMOVED OR SOLD] from each lease or property during the

preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 3. AS 43.55.020(e) is amended to read:

(e) Gas produced and used, except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of this chapter and in the amount used, as gas produced [REMOVED OR SOLD] from a lease or property. Gas flared under a permit granted by the Department of Natural Resources under AS 31.05.170(11)(H) is considered as gas produced, except that it is subject to a tax equal to twice the tax computed under sec. 16 of this chapter as adjusted by sec. 12 of this chapter per thousand cubic feet of gas for the month in which the gas was flared.

* Sec. 4. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil or gas was produced [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned to the department;

* Sec. 5. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas produced [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 6. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas produced [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

(12) "gross value at the point of production" means:

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank

gauge, or other method approved by the commissioner) in a condition of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

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

(C) for gas not recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured or the value of the gas at the point of sale, if any, on the premises of the lease or property from which the gas is recovered, whichever is the higher value; for gas run

through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the point where it was accurately metered or measured;

(13) "oil production operation" means the operation by which oil is recovered from a lease or property and rendered into oil of pipeline quality, and includes any gathering done before the oil is finally rendered into oil or pipeline quality;

(14) "pipeline quality" means good and merchantable condition;

(15) "well days" means the number of days in which a well is operating during a month.

* Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10), and (11,) are repealed.

* Sec. 9. This Act takes effect July 1, 1977 and applies to production during the month of July 1977 and succeeding months.

Introduced: 3/9/77
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 322

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing an oil and gas corporate franchise tax; and providing for an effective date."

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

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

CHAPTER 21. OIL AND GAS CORPORATE FRANCHISE TAX.

Sec. 43.21.010. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that Alaska has large deposits of non-renewable resources of oil and gas which belong to the citizens of the state. Therefore, it is incumbent upon the state to provide an equitable taxing system to be applied to corporations engaged in the extraction, transportation, and refining of this wealth from the state. In addition, it is important that the tax system be designed to return to the state tax revenues measured by the income generated by these resources and activities. Accordingly, the taxing formula must fairly reflect the business activities in the state by those corporations extracting, transporting, and refining these non-renewable resources.

(b) The legislature finds that, as a general rule, the three-factor formula set out in AS 43.19.010, Article IV, fairly measures the income producing activity of corporations doing business both within and without the state. With regard, however, to the extraction, transportation, and refining of oil and gas, the legislature finds that the uniform formula does not fully reflect corporate income-producing activity in the state. The legislature finds that the

income from the extraction, transportation, and refining of oil and gas should be allocated and apportioned by a separate state formula just as financial institutions and public utilities are under the provisions of AS 43.19.010, Article IV.

(c) Although the legislature is mindful of the importance and the advantages of uniformity which the formula in AS 43.19.010, Article IV, represents, the legislature also recognizes its responsibility to provide an apportionment formula which fairly represents a taxpayer's business activity in the state. Accordingly, the legislature has struck a balance between the uniform formula in AS 43.19.010, Article IV, and a direct measure of oil and gas extracted in the state by the substitution of a factor based upon units of extraction, which will more fairly indicate the taxpayer's income attributable to its business activity in the state.

(d) The legislature is concerned about the possibility of a corporation's income not being attributable to any specific state, as when property, payroll, and extraction are present in a location where the corporation is not subject to state taxation. In such cases, some portion of the income of the corporation would escape taxation by all states even though a state may have been impacted by that corporation's business activity and has given services and protection for which it is entitled to ask for compensation. The legislature finds that the apportionment formula in AS 43.19.010, Article IV, is deficient in this respect for corporations engaged in the extraction, transportation, and refining of oil and gas. Specifically, the legislature finds that income generated from activities taking place on the Outer Continental Shelf should not escape state taxation entirely but should be taxed by the state which has made contributions of services and protection to those corporations as a result of those activities taking place off

its shores. The legislature finds that the state is currently adversely impacted by activities occurring on the Outer Continental Shelf off of the state's shores. The state has given and will continue to give those corporations engaged in those activities hospital services, educational services, police protection, regulatory protection, and access to its courts, as well as many other services and protections. Accordingly, the legislature finds that it is entitled to ask for compensation for these services and protections. The return which the state asks is the inclusion of property, payroll, and extraction units not occurring within any state but which are directly serviced from a base of operations in the state.

Sec. 43.21.020. PRIVILEGE TAX IMPOSED. A tax is hereby imposed for each tax year on the privilege of engaging in business, exercising a corporate franchise, doing business in corporate form, employing capital, labor, or property, or maintaining an office, place of business, or base of operations in Alaska of every corporation which has ordinary gross receipts during the tax year in excess of $250,000,000 (or which is a member of a unitary business with combined ordinary gross receipts in excess of $250,000,000), more than 50 per cent of which is derived from production, transportation, refining, manufacturing, processing, distribution, or retail sale of oil or gas or products derived from oil or gas. The tax imposed by this chapter is measured by the net income of the corporation and is determined at the rate imposed under AS 43.20.011(e). The tax imposed under this chapter is in place of the tax imposed under AS 43.20.

Sec. 43.21.030. "NET INCOME" DEFINED. (a) Net income for the purposes of this chapter is the higher of taxable income (as the term is used in AS 43.20.011(e)) or the net income determined and certified by an independent certified public accountant for the purposes of a

report to shareholders covering its earnings and profits for the taxable year without regard to any taxes on, or measured by, net income.

(b) The department shall provide by regulation for the determination of net income in circumstances where the income statement determined and certified to shareholders does not truly reflect the corporation's net income. Those circumstances include but are not limited to situations in which a qualified or disclaimed opinion is given by an independent accountant on the corporation's net income, the net income report does not meet standards promulgated by the Securities and Exchange Commission, a change in accounting method, or the income statement is not prepared in accordance with generally accepted accounting principles.

Sec. 43.21.040. "ORDINARY GROSS RECEIPTS" DEFINED. The term "ordinary gross receipts" means total gross receipts, except that there shall be excluded:

(1) all gains and losses from the sale or other disposition of capital assets, and

(2) all gains and losses from the sale or other disposition of property of a character described in sec. 1231(b) of the Internal Revenue Code (determined without regard to holding period).

Sec. 43.21.050. APPORTIONMENT OF NET INCOME. (a) A corporation subject to this tax which is taxable both inside and outside the state shall apportion its entire unitary business net income to Alaska by a fraction the numerator of which is the property factor plus the payroll factor plus the extraction factor and the denominator of which is three. Under regulations adopted by the department, the property factor and the payroll factor shall be determined in accordance with Article IV of AS 43.19.010 and with AS 43.20.071, except as otherwise

provided in this section.

(b) Compensation earned by employees who are not employed in any state in which the corporation is taxable shall be included in the numerator of the payroll factor if the employees are directly supplied from a base of operations maintained in the state.

(c) The value of oil or gas production facilities or other properties which are not located in any state in which the corporation is taxable shall be included in the numerator of the property factor if the property is serviced or supplied from a base of operations maintained in the state or if that property relies on onshore facilities for storage of the oil and gas produced.

(d) The extraction factor is a fraction the numerator of which is the net amount of oil and gas energy units produced in Alaska expressed in terms of their equivalents in British Thermal Units and the denominator of which is the total net amount of oil and gas energy units produced everywhere. Oil and gas energy units which are not extracted in a state in which the corporation is taxable shall be included in the numerator of the extraction factor if the extraction is performed by facilities which are serviced or supplied from a base of operations in the state or if those facilities rely on onshore facilities for storage of the oil and gas produced.

(e) If the denominator of any factor of the apportionment formula set out in this section is zero or is so insignificant that its inclusion will result in a distortion of income, the department may exclude that factor or include one or more additional factors which will fairly represent the taxpayer's business activity in the state.

Sec. 43.21.060. RETURNS AND PAYMENT OF TAXES. (a) A corporation subject to tax under this chapter shall make and file a return with the department at the same time as it files a return under the provisions

of the Internal Revenue Code. The return must set out

(1) the amount of tax due under this chapter, and

(2) other information which the department requires for the purpose of carrying out the provisions of this chapter.

(b) The return must either be on oath or contain a written declaration that it is made under penalty of perjury, and the department shall prescribe forms accordingly.

(c) The total amount of tax imposed by this chapter is due and payable to the department at the same time and in the same manner as the tax payable to the United States Internal Revenue Service.

(d) A taxpayer shall furnish to the department a true and correct copy of the tax return which he has filed with the United States Internal Revenue Service.

(e) The department may credit or refund overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties collected without authority, and taxes that are found unjustly assessed or excessive in amount, or otherwise wrongfully collected. The department shall set limitations, specify the manner in which claims or credits or refunds are made and give notice of allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid out of the general fund on a warrant issued under a voucher approved by the department.

(f) Every taxpayer shall notify the department in writing of any alteration in, or modification of, his federal income tax return and of a recomputation of tax or determination of deficiency (whether with or without assessment). A full statement of the facts must accompany this notice. The notice must be filed within 60 days after the final determination of the modification, recomputation, or deficiency, and the taxpayer shall pay the additional tax or penalty under this chapter.

For purposes of this section, a determination is final at the time that an amended return is filed or a notice of deficiency or an assessment is mailed to the taxpayer by the Internal Revenue Service, except that in no event is there a final determination for purposes of this section until the taxpayer has exhausted his rights of appeal under federal law.

(g) Every taxpayer shall notify the department in writing of any recomputation or restatement of a prior year's net income. A full statement of the facts must accompany this notice. The notice must be filed within 60 days after the recomputation or restatement of a prior year's net income.

(h) In the case of additional tax due by reason of a modification, recomputation, or determination of deficiency in a taxpayer's federal income tax return, or by reason of a recomputation or restatement of a prior year's net income, the period of limitation on assessment commences from the date that the notice required in (f) or (g) of this section is filed, and, if no notice is filed, the tax may be assessed at any time.

Sec. 43.21.070. REVIEW AND ASSESSMENT. (a) As soon as practicable after a return is filed, the department shall examine it and determine the correct amount of the tax. If an error is disclosed by the examination, the department shall notify the taxpayer of the deficiency.

(b) If a taxpayer fails to file a return in the time required by law, or makes an erroneous or fraudulent return, the department shall proceed to assess the tax and make a return from information which it obtains. A return made and subscribed by the department is prima facie sufficient for all legal purposes.

Sec. 43.21.080. REGULATIONS. The department may adopt regulations

in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.21.090. PENALTIES. (a) A person who wilfully attempts to evade the tax imposed by this title is, in addition to other penalties provided by this title, guilty of a felony and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than five years, or both.

(b) A person required under this title to collect, account for, and pay over the tax imposed by this title who wilfully fails to collect or truthfully account for and pay over the tax is, in addition to other penalties provided by this title, guilty of a felony and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than five years, or both.

(c) A person required under this title to pay a tax, make a return, keep records, or supply information, who wilfully fails to pay the tax or estimated tax, make the return, keep the records, or supply the information, is, in addition to other penalties provided by this title, guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

(d) A person who wilfully makes and subscribes a return, statement, or other document required under this title which contains or is verified by a written declaration that it is made under the penalties of perjury which he does not believe to be true and correct as to every material matter is, in addition to other penalties provided by this title, guilty of a felony and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than three years, or both.

(e) A person who wilfully and knowingly aids or assists in, or

procures, or counsels the preparation or presentation in connection with any matter arising under this title of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter is guilty of a felony whether or not the falsity or fraud is with the knowledge or consent of the person required to present the return, affidavit, claim, or document, and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than three years, or both.

(f) A person who wilfully delivers or discloses to the commissioner or the department under this chapter any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned for not more than one year, or both.

(g) In this section, "person" includes, but is not limited to, an officer or employee of a corporation who as officer or employee is under a duty to perform the act in respect to which the violation occurs.

Sec. 43.21.900. DEFINITIONS. In this chapter, unless the context requires otherwise

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

(2) "department" means the Department of Revenue;

(3) "net amount of oil and gas energy units produced" means gross production less any portion of the production which represents a royalty interest, overriding royalty interest, production payment, or any other interest in a lease concession, joint venture, or other agreement for oil or gas production belonging to a third party;

(4) "unitary business" means a corporation or group of corporations having at least 50 per cent common ownership, direct or indirect, or a group of corporations in which there is common control either direct or indirect as evidenced by any arrangement, contract, or agreement.

* Sec. 2. AS 43.55.010(d) is amended to read:

(d) The tax imposed by this chapter is not in place of the tax imposed by ch. 57 or ch. 21 of this title or income taxes or taxes upon the retail sale of oil or gas products.

* Sec. 3. If any of the provisions of this Act relating to the incorporation into the apportionment formula of payroll, property, or extraction arising out of activities conducted on the Outer Continental Shelf, or if any other provisions of this Act are held to be invalid or unenforceable, it is the intent of the legislature that the invalidity or unenforceability does not affect the remainder of this Act.

* Sec. 4. This act takes effect January 1, 1978.

Original sponsor: Rules Committee
by request of the Governor

Offered: 5/10/77
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 322

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing an oil and gas corporate franchise tax; and providing for an effective date."

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

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

CHAPTER 21. OIL AND GAS CORPORATE FRANCHISE TAX.

Sec. 43.21.010. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that Alaska has large deposits of nonrenewable resources of oil and gas which belong to the citizens of the state. Therefore, it is incumbent upon the state to provide an equitable taxing system to be applied to corporations engaged in the extraction, transportation, and refining of this wealth from the state. In addition, it is important that the tax system be designed to return to the state tax revenues measured by the income generated by these resources and activities. Accordingly, the taxing formula must fairly reflect the business activities in the state by those corporations extracting, transporting, and refining these nonrenewable resources.

(b) The legislature finds that, as a general rule, the three-factor formula set out in AS 43.19.010, Article IV, fairly measures the income-producing activity of corporations doing business both in and outside the state. With regard, however, to the extraction, transportation, and refining of oil and gas, the legislature finds that the uniform formula does not fully reflect corporate income-producing activity in the state. The legislature finds that the income from the extrac-

tion, transportation, and refining of oil and gas should be allocated and apportioned by a separate state formula just as financial institutions and public utilities are under the provisions of AS 43.19.010, Article IV.

(c) Although the legislature is mindful of the importance and the advantages of uniformity which the formula in AS 43.19.010, Article IV, represents, the legislature also recognizes its responsibility to provide an apportionment formula which fairly represents a taxpayer's business activity in the state. Accordingly, the legislature has struck a balance between the uniform formula in AS 43.19.010, Article IV, and a direct measure of oil and gas extracted in the state by the substitution of a factor based upon units of extraction, which will more fairly indicate the taxpayer's income attributable to its business activity in the state.

(d) The legislature is concerned about the possibility of a corporation's income not being attributable to any specific state, as when property, payroll, and extraction are present in a location where the corporation is not subject to state taxation. In such cases, some portion of the income of the corporation would escape taxation by all states even though a state may have been impacted by that corporation's business activity and has given services and protection for which it is entitled to ask for compensation. The legislature finds that the apportionment formula in AS 43.19.010, Article IV, is deficient in this respect for corporations engaged in the extraction, transportation, and refining of oil and gas. Specifically, the legislature finds that income generated from activities taking place on the outer continental shelf should not escape state taxation entirely but should be taxed by the state which has made contributions of services and protection to those corporations as a result of those activities taking place off

its shores. The legislature finds that the state is currently adversely impacted by activities occurring on the outer continental shelf off the state's shores. The state has given and will continue to give those corporations engaged in those activities hospital services, educational services, police protection, regulatory protection, and access to its courts, as well as many other services and protections. Accordingly, the legislature finds that it is entitled to ask for compensation for these services and protections. The return which the state asks is the inclusion of property, payroll, and extraction units not occurring in any state but which are directly serviced from a base of operations in the state.

Sec. 43.21.020. PRIVILEGE TAX IMPOSED. A tax is hereby imposed for each tax year on the privilege of engaging in business, exercising a corporate franchise, doing business in corporate form, employing capital, labor, or property, or maintaining an office, place of business, or base of operations in Alaska of every corporation which has ordinary gross receipts during the tax year in excess of $250,000,000 (or which is a member of a unitary business with combined ordinary gross receipts in excess of $250,000,000), more than 50 per cent of which is derived from production, transportation, refining, manufacturing, processing, distribution, or retail sale of oil or gas or products derived from oil or gas. The tax imposed by this chapter is measured by the net income of the corporation and is determined at the rate imposed under AS 43.20.011(e). The tax imposed under this chapter is in place of the tax imposed under AS 43.20.

Sec. 43.21.030. "NET INCOME" DEFINED. (a) Net income for the purposes of this chapter is the higher of taxable income (as the term is used in AS 43.20.011(e)) or the net income determined and certified by an independent certified public accountant for the purposes of a

report to shareholders covering its earnings and profits for the taxable year calculated using historical cost accounting without regard to any taxes on, or measured by, net income.

(b) The department shall provide by regulation for the determination of net income in circumstances where the income statement determined and certified to shareholders does not truly reflect the corporation's net income. Those circumstances include but are not limited to situations in which a qualified or disclaimed opinion is given by an independent accountant on the corporation's net income, the net income report does not meet standards promulgated by the Securities and Exchange Commission, a change in accounting method, or the income statement is not prepared in accordance with generally accepted accounting principles.

Sec. 43.21.040. "ORDINARY GROSS RECEIPTS" DEFINED. The term "ordinary gross receipts" means total gross receipts, except that there shall be excluded:

(1) all gains and losses from the sale or other disposition of capital assets, and

(2) all gains and losses from the sale or other disposition of property of a character described in sec. 1231(b) of the Internal Revenue Code (determined without regard to holding period).

Sec. 43.21.050. APPORTIONMENT OF NET INCOME. (a) A corporation subject to this tax which is taxable both in and outside the state shall apportion its entire unitary business net income to Alaska by a fraction the numerator of which is the property factor plus the payroll factor plus the extraction factor and the denominator of which is three. Under regulations adopted by the department, the property factor and the payroll factor shall be determined in accordance with Article IV of AS 43.19.010 and with AS 43.20.071, except as otherwise

provided in this section.

(b) Compensation earned by employees who are not employed in any state in which the corporation is taxable shall be included in the numerator of the payroll factor if the employees are directly supplied from a base of operations maintained in the state.

(c) The value of oil or gas production facilities or other properties which are not located in any state in which the corporation is taxable shall be included in the numerator of the property factor if the property is serviced or supplied from a base of operations maintained in the state or if that property relies on onshore facilities for storage of the oil and gas produced.

(d) The extraction factor is a fraction the numerator of which is the net amount of oil and gas energy units produced in Alaska expressed in terms of their equivalents in British Thermal Units and the denominator of which is the total net amount of oil and gas energy units produced everywhere. Oil and gas energy units which are not extracted in a state in which the corporation is taxable shall be included in the numerator of the extraction factor if the extraction is performed by facilities which are serviced or supplied from a base of operations in the state or if those facilities rely on onshore facilities for storage of the oil and gas produced.

(e) If the denominator of any factor of the apportionment formula set out in this section is zero or is so insignificant that its inclusion will result in a distortion of income, the department may exclude that factor or include one or more additional factors which will fairly represent the taxpayer's business activity in the state.

Sec. 43.21.060. RETURNS AND PAYMENT OF TAXES. (a) A corporation subject to tax under this chapter shall make and file a return with the department at the same time as it files a return under the provisions

of the Internal Revenue Code. The return must set out

(1) the amount of tax due under this chapter, and

(2) other information which the department requires for the purpose of carrying out the provisions of this chapter.

(b) The return must either be on oath or contain a written declaration that it is made under penalty of perjury, and the department shall prescribe forms accordingly.

(c) The total amount of tax imposed by this chapter is due and payable to the department at the same time and in the same manner as the tax payable to the United States Internal Revenue Service.

(d) A taxpayer shall furnish to the department a true and correct copy of the tax return which he has filed with the United States Internal Revenue Service.

(e) The department may credit or refund overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties collected without authority, and taxes that are found unjustly assessed or excessive in amount, or otherwise wrongfully collected. The department shall set limitations, specify the manner in which claims or credits or refunds are made and give notice of allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid out of the general fund on a warrant issued under a voucher approved by the department.

(f) Every taxpayer shall notify the department in writing of any alteration in, or modification of, his federal income tax return and of a recomputation of tax or determination of deficiency (whether with or without assessment). A full statement of the facts must accompany this notice. The notice must be filed within 60 days after the final determination of the modification, recomputation, or deficiency, and the taxpayer shall pay the additional tax or penalty under this chapter.

For purposes of this section, a determination is final at the time that an amended return is filed or a notice of deficiency or an assessment is mailed to the taxpayer by the Internal Revenue Service, except that in no event is there a final determination for purposes of this section until the taxpayer has exhausted his rights of appeal under federal law.

(g) Every taxpayer shall notify the department in writing of any recomputation or restatement of a prior year's net income. A full statement of the facts must accompany this notice. The notice must be filed within 60 days after the recomputation or restatement of a prior year's net income.

(h) In the case of additional tax due by reason of a modification, recomputation, or determination of deficiency in a taxpayer's federal income tax return, or by reason of a recomputation or restatement of a prior year's net income, the period of limitation on assessment commences from the date that the notice required in (f) or (g) of thi. section is filed, and, if no notice is filed, the tax may be assessed at any time.

(i) The tax imposed by this chapter is payable on the due date set out in this section even though the assessment is under appeal or the validity, enforceability or application of this chapter or any provision of this chapter is challenged before the department or in the courts.

Sec. 43.21.065. PETITIONS FOR RELIEF. (a) If a corporation taxable under this chapter can establish that it is actually being taxed on more than 100 per cent of its net income by the states in which it does business, it may petition the department for relief. To establish that it is being taxed on more than 100 per cent of its net income the corporation shall provide the department with copies of the

tax returns and supporting documents filed in the other states in which it does business.

(b) Upon a showing under this section by a corporation, the commissioner shall negotiate with the tax administrators in the other states in which the corporation does business to arbitrate the total tax liability of the corporation. The efforts shall include the use of the arbitration procedures set out in AS 43.19.010, Article IX.

(c) If the efforts of arbitration set out in (b) of this section are not successful in providing tax relief to the taxpayer, the department may then modify the apportionment formula by excluding one or more apportionment factors or including one or more additional factors which will provide tax relief to the taxpayer and still accurately represent the taxpayer's business activity in the state.

(d) The department shall provide an annual report to the legislature of the total tax relief given under this section.

Sec. 43.21.070. REVIEW AND ASSESSMENT. (a) As soon as practicable after a return is filed, the department shall examine it and determine the correct amount of the tax. If an error is disclosed by the examination, the department shall notify the taxpayer of the deficiency.

(b) If a taxpayer fails to file a return in the time required by law, or makes an erroneous or fraudulent return, the department shall proceed to assess the tax and make a return from information which it obtains. A return made and subscribed by the department is prima facie sufficient for all legal purposes.

Sec. 43.21.080. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.21.090. PENALTIES. (a) A person who wilfully attempts

to evade the tax imposed by this title is, in addition to other penalties provided by this title, guilty of a felony and, upon conviction, is punishable by a fine of not more than $5,000, or by imprisonment for not more than five years, or by both.

(b) A person required under this title to collect, account for, and pay over the tax imposed by this title who wilfully fails to collect or truthfully account for and pay over the tax is, in addition to other penalties provided by this title, guilty of a felony and, upon conviction, is punishable by a fine of not more than $5,000, or by imprisonment for not more than five years, or by both.

(c) A person required under this title to pay a tax, make a return, keep records, or supply information, who wilfully fails to pay the tax or estimated tax, make the return, keep the records, or supply the information, is, in addition to other penalties provided by this title, guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $5,000, or by imprisonment for not more than one year, or by both.

(d) A person who wilfully makes and subscribes a return, statement, or other document required under this title which contains or is verified by a written declaration that it is made under the penalties of perjury which he does not believe to be true and correct as to every material matter is, in addition to other penalties provided by this title, guilty of a felony and, upon conviction, is punishable by a fine of not more than $5,000, or by imprisonment for not more than three years, or by both.

(e) A person who wilfully and knowingly aids or assists in, or procures, or counsels the preparation or presentation in connection with any matter arising under this title of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material

matter is guilty of a felony whether or not the falsity or fraud is with the knowledge or consent of the person required to present the return, affidavit, claim, or document, and, upon conviction, is punishable by a fine of not more than $5,000, or by imprisonment for not more than three years, or by both.

(f) A person who wilfully delivers or discloses to the commissioner or the department under this chapter any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, upon conviction, is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both.

(g) In this section, "person" includes, but is not limited to, an officer or employee of a corporation who as officer or employee is under a duty to perform the act in respect to which the violation occurs.

Sec. 43.21.900. DEFINITIONS. In this chapter, unless the context requires otherwise,

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

(2) "department" means the Department of Revenue;

(3) "net amount of oil and gas energy units produced" means gross production less any portion of the production which represents a royalty interest, overriding royalty interest, production payment, or any other interest in a lease concession, joint venture, or other agreement for oil or gas production belonging to a third party;

(4) "unitary business" means a corporation or group of corporations having at least 50 per cent common ownership, direct or indirect, or a group of corporations in which there is common control

either direct or indirect as evidenced by any arrangement, contract, or agreement.

* Sec. 2. AS 43.55.010(d) is amended to read:

(d) The tax imposed by this chapter is not in place of the tax imposed by ch. 57 or ch. 21 of this title or income taxes or taxes upon the retail sale of oil or gas products.

* Sec. 3. If any of the provisions of this Act relating to the incorporation into the apportionment formula of payroll, property, or extraction arising out of activities conducted on the outer continental shelf, or if any other provisions of this Act are held to be invalid or unenforceable, it is the intent of the legislature that the invalidity or unenforceability does not affect the remainder of this Act.

* Sec. 4. This Act takes effect January 1, 1978.

Original sponsor: Rules Committee
by request of the Governor

Offered: 5/19/77
Referred: Finance

IN THE HOUSE BY THE RESOURCES COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 322

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska net income tax; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that the method of apportioning income for tax purposes under the "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-State Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the extent of the business activities in this state of multi-state corporations engaged in the production and pipeline transportation of crude oil and natural gas in Alaska. The legislature therefore intends that the provisions of section 18 of article IV of the Multi-State Tax Compact (AS 43.19) which allow separate accounting of income shall be adopted for the determination of corporate income tax liability on income derived from the production and pipeline transportation of oil and gas and related activities. The legislature further intends that separate accounting shall result in the assessment of tax against multi-state corporations so that the tax paid by these corporations will be commensurate with the tax that would be paid by corporations owning and operating only the Alaskan assets of these multi-state corporations.

* Sec. 2. AS 43.20.011 is amended by adding a new subsection to read:

(f) For purposes of determining taxable income under (e) of this section that part of income of any corporation derived in Alaska from oil or natural gas production or the transportation of crude oil or natural gas by pipeline, including income from royalties on oil and gas

production, shall, notwithstanding sec. 65 of this chapter, be determined by separate accounting under the authority of section 18 of article IV of the Multi-State Compact (AS 43.19.010) and in accordance with secs. 67 - 69 of this chapter.

* Sec. 3. AS 43.20 is amended by adding new sections to read:

Sec. 43.20.067. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION INCOME. (a) The determination of taxable income attributable to oil and natural gas production in Alaska, as required under sec. 11(f) of this chapter, shall be calculated using gross income and deductions from gross income as defined in this section.

(b) Gross income from oil and gas production in Alaska shall be the value of oil and gas produced as established for purposes of the oil and gas properties production tax, in accordance with the provisions of ch. 55 of this title.

(c) Deductions from gross income for the purposes of determining taxable production income shall include:

(1) royalties actually paid whether in kind or in value;

(2) severance taxes actually paid for which no prior deduction has been claimed for income tax purposes;

(3) property taxes actually paid by the corporation taxpayer on producing property and facilities directly associated with producing property, including facilities for the gathering, treating and preparing of the oil or gas for shipment, provided the payments are made after the date of initial production of the property with which they are associated;

(4) the direct costs incurred by the corporation taxpayer in operating oil or gas fields, including the costs of gathering, treating and preparing oil or gas for shipment, but net of any payments received for those services and not including indirect costs and overhead except as provided in (6) of this subsection;

(5) depreciation on investments which are associated with the production, gathering, treating and preparing for shipment of the oil or gas, and which are located in or adjacent to the site of production, including depreciation on interest capitalized at a rate not to exceed the average cost of borrowed capital to the corporation taxpayer during the year in which it is capitalized and also including the amortization of lease acquisition payments and property taxes paid for or on producing properties before the commencement of production on the leasehold, facilities or investment associated with it;

(6) interest expense not capitalized, to the extent that it does not exceed a portion of total interest paid by the corporation, its subsidiaries and affiliates, determined by multiplying total interest paid by a fraction, the numerator of which is the book value of the corporation's fixed assets in and associated with the producing properties in Alaska and the denominator of which is the book value of all fixed assets held by the corporation, its subsidiaries and affiliates;

(7) expenses incurred after December 31, 1976 of unsuccessful exploration efforts for oil and gas in Alaska, including the acquisition costs of properties abandoned, dry hole costs, and the costs of geologic and geophysical exploration on or related to those properties.

(d) The department shall establish regulations covering the calculation of depreciation costs, the allocation of interest costs, the definition of facilities associated with the production, gathering, treating and preparing for shipment of oil and gas, and other matters necessary to implement this section.

(e) Deductions from gross income under this section shall not include expenses previously deducted on a return filed under this chapter.

Sec. 43.20.068. DETERMINATION OF CRUDE OIL AND NATURAL GAS

PIPELINE TRANSPORTATION INCOME. (a) Taxable income attributable to the transportation of crude oil in interstate commerce in Alaska shall be the sum of the amount reported to the Interstate Commerce Commission under the category "net balance transferred from income" as specified as of January 1, 1977 in 49 CFR 10 Part 1204, account 700 and of federal income taxes paid as specified as of January 1, 1977 in 49 CFR 10 Part 1204, accounts 670 and 695, and of taxes actually paid under sec. 11(e) of this chapter. A tax return reporting that income shall be accompanied by a certification from the Alaska Pipeline Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established by the Interstate Commerce Commission, or, if in the opinion of the commission, the income is not reported in accordance with the regulations of the Interstate Commerce Commission, then a statement to that effect, identifying the deficiencies of the report and, if possible, providing a reporting of the true and correct income.

(b) Taxable income attributable to the transportation of natural gas in interstate commerce in Alaska shall be the sum of the amount reported to the Federal Power Commission under the category "balance transferred from income" as specified in 18 CFR 1, Part 201, account 433 and of federal income taxes paid as specified as of January 1, 1977 in 18 CFR 1, Part 201, accounts 409, 409.1, 409.2 and 409.3, and of taxes actually paid under sec. 11(e) of this chapter. A tax return reporting that income shall be accompanied by a certification from the Alaska Public Utilities Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established by the Federal Power Commission, or, if in the opinion of the commission, the income is not reported in accordance with the regulations of the Federal Power

Commission, then a statement to that effect, identifying the deficiencies of the report and, if possible, providing a reporting of the true and correct income.

(c) Taxable income attributable to the transportation of crude oil in Alaska of any corporation not under Interstate Commerce Commission jurisdiction, or of a corporation under the Interstate Commerce Commission but not reporting the operation of pipelines in Alaska separately from the operation of pipelines elsewhere, shall be an amount equal to that which would have been reported to the Interstate Commerce Commission under (a) of this section had the corporation been, in fact, under Interstate Commerce Commission jurisdiction for the taxable year and required to report on the operation of Alaska pipelines separately from the operation of pipelines elsewhere. A tax return reporting that income shall be accompanied by a certification from the Alaska Pipeline Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established by the Interstate Commerce Commission, or, if in the opinion of the commission, the income is not reported in accordance with the regulations of the Interstate Commerce Commission, then a statement to that effect, identifying the deficiencies of the report and, if possible, providing a reporting of the true and correct income.

(d) Taxable income attributable to the transportation of natural gas in Alaska by any corporation not under the jurisdiction of the Federal Power Commission, or of a corporation under Federal Power Commission jurisdiction but not reporting the operation of Alaska pipelines separately from the operation of pipelines elsewhere, shall be an amount equal to that which would have been reported to the Federal Power Commission under (b) of this section had the corporation been, in fact, under Federal Power Commission jurisdiction for the taxable year and required

to report on the operation of Alaska pipelines separately from the operation of pipelines elsewhere. A tax return reporting that income shall be accompanied by a certification from the Alaska Public Utility Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established by the Federal Power Commission, or, if in the opinion of the commission, the income is not reported in accordance with the regulations of the Federal Power Commission, then a statement to that effect, identifying the deficiencies of the report and, if possible, providing a reporting of the true and correct income.

(e) The certifications of the Alaska Pipeline Commission and the Alaska Public Utilities Commission submitted in accordance with this section do not prejudice any future action by the respective commission nor prevent the respective commission from submitting a revised certification within three years of the due date of the tax return in support of which it was originally filed.

(f) Nothing in this section or in sec. 67 of this chapter limits a corporate taxpayer's right to appeal or the taxpayer remedies provided under ch. 5 of this title.

Sec. 43.20.069. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION. Taxable income from activities other than oil or natural gas production or pipeline transportation shall be determined by subtracting the income as determined under secs. 67 and 68 of this chapter from the corporation's combined net income and applying the apportionment formula required under the provisions of sec. 65 of this chapter, except that both the numerator and the denominator of the property factor and the payroll factor shall be calculated without reference to payroll or property related to crude oil or natural gas production or pipeline

transportation activity in Alaska, and the sales factor shall not be used in the calculation.

Sec. 43.20.070. PUBLIC REPORTING. Notwithstanding the provisions of AS 43.05.230, the commissioner of revenue shall compile and transmit to the legislature an annual consolidated report of state revenues and taxation policies under this chapter. This report shall include total Alaska income tax paid by firms and individuals covered under this chapter and itemized deductions by category.

* Sec. 4. AS 43.20 is amended by adding a new section to read:

Sec. 43.20.075. BOOKS AND RECORDS. The department may provide by regulation the manner in which books and records must be kept and maintained for purposes of determining gross income and deductions from gross income under secs. 67 - 69 of this chapter.

* Sec. 5. AS 43.20.335 is amended by adding new subsections to read:

(k) Any person who improperly influences, or attempts to improperly influence, by means of payment or offer of payment or other valuable consideration, any state official in his determination of values and apportionments under this chapter is guilty of bribery and punishable under AS 11.30.040.

(l) Any person who knowingly and wilfully makes false statements or representations, or who knowingly allows false statements or representations to be made on his behalf in the case of corporations, with a purpose of avoiding the corporate tax imposed under this chapter is guilty of wilful tax avoidance and is punishable upon conviction by a fine of three times the amount of the tax that would have been unpaid had the false statement been undetected, and by imprisonment for not less than 10 days nor more than one year.

* Sec. 6. AS 42.06.140 is amended by adding a new paragraph to read:

(11) shall provide all reasonable assistance to the

Department of Revenue in determining the net income from oil pipeline facilities.

* Sec. 7. AS 42.06 is amended by adding a new section to read:

Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE. (a) Upon request of a pipeline carrier the commission shall review the accounts of that carrier and provide a certification to the Department of Revenue either stating that to the best of the commission's knowledge and belief the report of net pipeline income submitted by the carrier under AS 43.20.069 is in accordance with the commission's regulations governing the accounting of income, or that it is not so in accordance, in which case the commission shall identify the deficiencies in the report and, if possible, provide a reporting of the true and correct income.

(b) The commission shall provide the certification of compliance or deficiency in reporting within 45 days of the date on which the pipeline carrier requests it, but all certifications remain subject to amendment by the commission for a period of three years after the due date of the tax return which they accompany.

(c) The commission may by regulation establish accounting procedures and definitions as may be necessary to define net income for tax purposes, but net income so defined shall coincide as nearly as possible with the net income definition used by the commission in establishing rates and measuring rate of return, and shall be derived before any deductions for income taxes accrued or paid.

* Sec. 8. AS 42.05.141 is amended to read:

Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The Alaska Public Utilities Commission [MAY]

(1) <u>may</u> regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent

exempted by sec. 711 of this chapter and the powers of the commission shall be liberally construed to accomplish its stated purposes;

(2) may investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and facilities of a public utility and hold hearings on them;

(3) may make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility;

(4) may prescribe the system of accounts and regulate the service and safety of operations of a public utility;

(5) may require a public utility to file reports and other information and data;

(6) may appear personally or by counsel and represent the interests and welfare of the state in all matters and proceedings involving a public utility pending before an officer, department, board, commission or court of the state or of another state or the United States and to intervene in, protest, resist, or advocate the granting, denial or modification of any petition, application, complaint or other proceeding;

(7) may examine witnesses and offer evidence in any proceeding affecting the state and initiate or participate in judicial proceedings to the extent necessary to protect and promote the interests of the state;

(8) shall provide all reasonable assistance to the Department of Revenue in determining the net income from natural gas pipeline facilities.

* Sec. 9. AS 42.05 is amended by adding a new section to read:

Sec. 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE. (a) Upon request of a pipeline carrier the commission shall review the

accounts of that carrier and provide a certification to the Department of Revenue either stating that to the best of the commission's knowledge and belief the report of net pipeline income submitted by the carrier under AS 43.20.069 is in accordance with the commission's regulations governing the accounting of income, or that it is not so in accordance, in which case the commission shall identify the deficiencies in the report and, if possible, provide a reporting of the true and correct income.

(b) The commission shall provide the certification of compliance or deficiency in reporting within 45 days of the date on which the pipeline carrier requests it, but all certifications remain subject to amendment by the commission for a period of three years after the due date of the tax return which they accompany.

(c) The commission may by regulation establish accounting procedures and definitions as may be necessary to define net income for tax purposes, but net income so defined shall coincide as nearly as possible with the net income definition used by the commission in establishing rates and measuring rate of return, and shall be derived before any deductions for income taxes accrued or paid.

* Sec. 10. This Act relates only to income earned or received after December 31, 1976.

* Sec. 11. This Act takes effect January 1, 1978.

Original sponsor: Rules Committee by request of the Governor

Offered: 6/6/78
Referred: Rules

IN THE HOUSE BY THE RESOURCES COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 322 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing an oil and gas corporate income tax; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that the method of apportioning income for tax purposes under the "Uniform Division of Income for Tax Purposes" formula embodied in the Multistate Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the extent of the business activities in this state of multistate corporations engaged in the production and pipeline transportation of crude oil and natural gas in Alaska. The legislature therefore intends that, in accordance with the provisions of art. 18 of the Multistate Tax Compact (AS 43.19), the income tax of all corporations engaged in the production or pipeline transportation of oil or natural gas in or directly associated with this state shall be assessed by the tax administrator under this Act. The legislature further intends that the assessment of income tax against a multistate corporation engaged in the production or pipeline transportation of oil or natural gas shall be commensurate with the tax that would be assessed against a corporation owning and operating only those assets of the multistate corporation which are in or directly associated with this state.

* Sec. 2. AS 43.20.011(e) is amended to read:

(e) There is imposed for each taxable year upon the entire taxable income of every corporation derived from sources within the state a tax consisting of a normal tax equal to 5.4 per cent of taxable income, and a surtax which is equal to 4.0 per cent of taxable income. For purposes

of this chapter the surtax exemption for a taxable year follows secs. 1561 and 1563 of the Internal Revenue Code. The tax of a corporation engaged in the production or transportation of crude oil or natural gas shall be determined and paid in accordance with ch. 21 of this title.

* Sec. 3. AS 43 is amended by adding a new chapter to read:

CHAPTER 21. OIL AND GAS CORPORATE INCOME TAX.

Sec. 43.21.010. APPLICATION. This chapter applies to every corporation doing business in the state which derives income from the production of oil or gas from a lease or property in or directly associated with the state, or from the pipeline transportation of oil or gas in the state. The tax calculated under this chapter is measured by the total taxable income of the corporation as defined in secs. 20 - 40 of this chapter and is determined at the rates established under AS 43.20.011(e).

Sec. 43.21.020. DETERMINATION OF TAXABLE INCOME FROM OIL AND GAS PRODUCTION. (a) The taxable income of a corporation from the production of oil and gas from a lease or property in the state shall be the corporation's net income as calculated by the department in accordance with this section.

(b) Gross income of a corporation from oil and gas production shall be the gross value at the point of production of oil or gas produced from a lease or property in the state. The department shall by regulation determine a uniform method of establishing the gross value at the point of production. In making its determination the department may use the actual prices or values received for the oil or gas, the posted prices for the oil or gas in the same field, or the prevailing prices or values of oil or gas in the same field. In addition, in its determination of gross value at the point of production of oil or gas produced

from a lease or property, the department shall determine the reasonable costs of transportation from the point of sale to the point of production of the oil or gas. Transportation costs set by a tariff properly on file with the Alaska Pipeline Commission or other regulatory agency shall be considered prima facie reasonable, but if a tariff properly on file with a regulatory agency is subsequently amended, changed, or overturned retroactively, the reasonable costs of transportation shall be recomputed for that period using the newly determined tariff.

(c) Net income from oil and gas production shall be determined by the department by deducting from gross income the following:

(1) royalties paid in kind or in value;

(2) taxes imposed under AS 43.55 and AS 43.57 which are actually paid by the corporation on the production from a lease or property in the state;

(3) taxes imposed under AS 43.56 and AS 29.53 which are actually paid by the corporation on property used directly in the production of oil or gas from a lease or property in the state, including property used in production, gathering, treatment or preparation of the oil or gas for pipeline transportation, but only if those property tax payments were due and payable only after the date of commercial production from the lease or property with which the property was associated;

(4) the direct costs incurred by or for the corporation in operating the lease or property, including the direct costs of producing, gathering, treating or preparing the oil or gas for pipeline transportation, but net of any payments received for those activities and not including any indirect cost or overhead expense;

(5) depreciation (using the unit of production method or such other reasonable methods as the department may by regulation establish) on property used directly in the production, gathering, treatment or

preparation of the oil or gas for pipeline transportation including amortization of capitalized interest for investments in this property at a rate not to exceed the average cost of borrowed capital to the taxpayer during the year in which it is capitalized;

(6) the amortization of lease acquisition payments and taxes paid under AS 43.56 and AS 29.53 (including capitalized interest on both) for or on producing properties before the commencement of commercial production from the lease or property for which the property is being used;

(7) interest expense not capitalized of the corporation, to the extent that it does not exceed that portion of the total interest paid by the consolidated business of which the corporation is a part, determined by multiplying the total interest (reduced by intercompany transactions within the consolidated business) by a fraction, the numerator of which is the value of the corporation's real and tangible personal property used directly in the production of oil or gas from a lease or property in the state and the denominator of which is the value of all real and tangible personal property of the consolidated business;

(8) expenses incurred by the corporation after December 31, 1977 of unsuccessful exploration of oil or gas in the state including the acquisition costs of abandoned properties, dry hole costs and the costs of geologic and geophysical exploration related to those abandoned properties;

(9) general overhead or administrative expense incurred by the corporation attributable to the production of oil or gas from a lease or property in the state to the extent that it does not exceed the lesser of:

(A) that portion of the total general overhead or administrative expense incurred by the consolidated business of which

the corporation is a part, determined by multiplying the total general overhead or administrative expense by a fraction, the numerator of which is the value of the corporation's real and tangible personal property used directly in the production of oil or gas from a lease or property in the state and the denominator of which is the value of all real and tangible personal property of the consolidated business, or

(B) the sum of $0.12 for each barrel of oil and $0.02 for each thousand cubic feet of gas produced from a lease or property in the state.

(d) Deductions from gross income under this section shall not include expenses previously deducted on a return filed under AS 43.20.

(e) Where a corporation subject to this chapter shares the production or proceeds of the production from a lease or property through a working interest, royalty interest, overriding royalty interest, production payment, net profit interest, joint venture or other agreement, the department shall allocate the deductions from gross income between the corporation and the persons with whom it has such an agreement in accordance with the terms of the agreement.

Sec. 43.21.030. DETERMINATION OF INCOME FROM OIL AND GAS PIPELINE TRANSPORTATION. (a) Except as provided in (c) of this section, taxable income attributable to the transportation of oil in a pipeline engaged in interstate commerce in Alaska shall be determined by the department and shall be the amount reported or that would be required to be reported to the Federal Energy Regulatory Commission or its successors as net operating income, less those portions of interest and general administrative expense attributable to the pipeline transportation of oil in the state, except that taxable income shall also include taxes on or measured by income. The department shall establish regulations govern-

ing the determination of interest and general administrative expense attributable to pipeline transportation of oil in the state.

(b) Except as provided in (c) of this section, taxable income attributable to the transportation of natural gas in a pipeline engaged in interstate commerce in Alaska shall be determined by the department and shall be the amount reported or that would be required to be reported to the Federal Energy Regulatory Administration as net operating income less that portion of interest and general administrative expense attributable to pipeline transportation in the state, except that the taxable income shall also include taxes on or measured by income. The department shall establish regulations governing the determination of interest and general administrative expense attributable to pipeline transportation of natural gas in the state.

(c) Taxable income attributable to the transportation of oil or natural gas in Alaska of any corporation not under the Federal Energy Regulatory Commission jurisdiction, or of a corporation under the jurisdiction of the Federal Energy Regulatory Commission but not reporting the operation of pipelines in Alaska separately from the operation of pipelines elsewhere, shall be determined by the department and shall be based upon an amount equal to that which would have been reported to the Federal Energy Regulatory Commission under (a) of this section in the case of oil pipelines, or (b) of this section in the case of natural gas pipelines, had the corporation been, in fact, under Federal Energy Regulatory Commission jurisdiction for the taxable year and required to report on the operation of Alaska pipelines separately from the operation of pipelines elsewhere.

Sec. 43.21.040. DETERMINATION OF INCOME FROM ACTIVITIES OTHER THAN OIL AND GAS PRODUCTION OR PIPELINE TRANSPORTATION. (a) Taxable income of a corporation subject to this chapter from activities in this state

other than the production of oil or gas from a lease or property in the state or the pipeline transportation of oil or gas in the state shall be determined in accordance with the method established in art. IV of AS 43.19.010 and in AS 43.20.071, as modified by (b) - (e) of this section.

(b) The total taxable income of the consolidated business shall be the net income determined and certified by an independent certified public accountant for the purposes of a report to shareholders covering its earnings and profits for the taxable year (calculated without regard to any taxes on or measured by net income), less the taxable income of the corporation as determined under secs. 20 and 30 of this chapter.

(c) The numerator and denominator of the property factor, of the payroll factor and of the sales factor shall be calculated without reference to that portion of property, payroll or sales directly related to the production of oil or gas from a lease of property in the state or the pipeline transportation of oil or gas in the state.

(d) Compensation earned by employees of the consolidated business who are employed in the United States but not in any state shall be included in the numerator of the payroll factor if the employees are directly supplied from a base of operations maintained in this state.

(e) The value of oil or gas production facilities or other properties of the consolidated business which are located in the United States but not in any state shall be included in the numerator of the property factor if the property is serviced or supplied from a base of operations maintained in the state or if that property relies on onshore facilities in this state for storage of the oil or gas produced.

Sec. 43.21.050. ASSESSMENT OF INCOME AND TAX. (a) The department shall assess taxable income and the amount of tax payable on that taxable income.

(b) On or before August 15 of each year the department shall send

to every corporation taxable under this chapter a notice of assessment showing the amount of income taxable under this chapter for the previous year and the amount of tax payable on that taxable income.

(c) For purposes of this chapter the department may combine taxable incomes of corporations subject to tax under this chapter who are part of the same consolidated business.

Sec. 43.21.060. RETURNS. On or before April 15 of each year, a corporation subject to tax under this chapter shall submit a return in a form prescribed by the department setting out information required by the department to determine taxable income. For purposes of this chapter, the department may require corporations subject to tax under this chapter who are part of the same consolidated business to file a single return.

Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chapter is payable to the department on or before September 30 of each year or in installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this section even though the assessment is under appeal or the validity, enforceability or application of this chapter or any provision of this chapter is challenged before the department or in the courts.

Sec. 43.21.080. TRANSITIONAL RULES. The department shall provide by regulation transition rules for corporations subject to tax under AS 43.20 before the effective date of this Act to avoid double taxation of the same income or double deduction of the same expense of those corporations as a result of becoming subject to tax under this chapter.

Sec. 43.21.090. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.69) as appropriate to administer and enforce this chapter.

Sec. 43.21.100. PENALTIES. The penalties established in ch. 20 of

this title apply to this chapter.

Sec. 43.21.110. PUBLIC REPORTING. (a) The commissioner of revenue shall compile and transmit to the legislature an annual consolidated report of state revenues and taxation policies under this chapter. This report shall include total aggregate income tax paid by corporations covered under this chapter and aggregate income and deductions by category, so classified as to prevent the identification of particular returns or reports.

(b) The legislative auditor shall transmit to the legislature an annual report reviewing the actions of the department in administering this chapter.

Sec. 43.21.120. DEFINITIONS. Unless the context requires otherwise the definitions contained in AS 43.55.140 are applicable to this chapter. In addition, in this chapter

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

(2) "consolidated business" means a corporation or group of corporations having at least 50 per cent common ownership, direct or indirect, or a group of corporations in which there is common control either direct or indirect as evidenced by any arrangement, contract or agreement.

* Sec. 4. This Act applies to taxable income earned or received after December 31, 1977.

* Sec. 5. The Act takes effect immediately in accordance with AS 01.10.-070(c).

Introduced: 3/9/77
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 323

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas exploration, production, and pipeline and marine transportation property tax; and providing for an effective date."

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

* Section 1. AS 43.56.010(d) is amended to read:

CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION, AND PIPELINE AND MARINE TRANSPORTATION PROPERTY TAXES.

(d) A tax paid to a municipality under AS 29.53.045 on or before June 30 of the tax year shall be credited against the tax levied under (a) of this section for that tax year. If, however, a tax is not paid to a municipality until after June 30 of the taxable year, the department upon application shall refund to the taxpayer the amount of tax paid to the municipality under AS 29.53.045. The credit or refund of taxes paid to a municipality may not exceed the total amount of tax levied by the department upon the taxpayer for the tax year, under (a) of this section. Current property taxes which are collected by one or more municipalities under AS 29.53.055 or any other authority which exceed the limitations set out in AS 29.53.045 or AS 29.53.050 are not allowed as a credit against, or refund of, the tax levied under this section. The credit or refund is only allowed for taxes paid for the current tax year.

* Sec. 2. AS 43.56.060(a) is amended to read:

Sec. 43.56.060. ASSESSMENT. (a) The department shall assess property for the tax levied under sec. 10(b) of this chapter and AS

29.53.045 on property used or committed by contract or other agreement for use for the pipeline transportation of gas or unrefined oil, [OR] for the production of gas or unrefined oil, for refining of gas or unrefined oil, or for the processing, liquefaction, or manufacture of natural gas or oil products at its full and true value as of January 1 of the assessment year. The department shall assess property for the tax levied under sec. 10(b) of this chapter and AS 29.53.045 on property used or committed by contract or other agreement for use in the marine transportation of gas or unrefined oil during any portion of the previous calendar year at its full and true value as of January 1 of the previous calendar year as apportioned under sec. 65 of this chapter.

* Sec. 3. AS 43.56.060(e)(2) is amended to read:

(2) determined on each January 1 thereafter with due regard to the economic value of the property based on the estimated life of the proven reserves of gas or unrefined oil then technically, economically and legally deliverable into the transportation facility; [HOWEVER, IF THE PROVEN RESERVES OF GAS OR UNREFINED OIL THEN TECHNICALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INDICATE AN ECONOMIC LIFE MATERIALLY SHORTER THAN THE ESTIMATED PHYSICAL LIFE OF THE TRANSPORTATION FACILITY, THE FULL AND TRUE VALUE IS THE ACTUAL COST REDUCED BY AN ANNUAL ALLOWANCE FOR DEPRECIATION ON A STRAIGHT LINE BASIS OVER AN ECONOMIC LIFE BASED ON THE ACTUAL ELAPSED LIFE FROM THE COMMENCEMENT OF FULL OPERATION TO THE DATE OF ASSESSMENT PLUS THE ESTIMATED REMAINING LIFE OF THE PROVEN RESERVES OF GAS AND UNREFINED OIL THEN TECHNICALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INTO THE TRANSPORTATION FACILITY AS OF THE DATE OF THE ASSESSMENT;]

* Sec. 4. AS 43.56.060 is amended by adding new subsections to read:

(h) The full and true value of taxable property used or committed

by contract or other agreement for the refining of gas or unrefined oil or in the processing, liquefaction or manufacture of gas or oil products is determined on the basis of replacement cost less depreciation based on the useful life of the property.

(i) The full and true value of taxable property used or committed by contract or other agreement for the marine transportation of gas or unrefined oil is determined on the basis of replacement cost less depreciation based on the useful life of the property as apportioned under sec. 65 of this chapter.

* Sec. 5. AS 43.56 is amended by adding a new section to read:

Sec. AS 43.56.065. METHOD OF APPORTIONMENT. (a) The full and true value of the taxable marine transportation property shall be apportioned to this state by multiplying that value by the days-spent-in-port apportionment fraction. The numerator of the fraction is the number of days spent in ports within the state loading or unloading gas or unrefined oil, and the denominator of the fraction is the number of days spent in ports both within the state and outside the state loading or unloading gas or unrefined oil.

(b) For purposes of this section,

(1) "days spent in port" does not include periods when ships are tied up because of strikes or withheld from service for repairs, or because of seasonal reduction of service; days spent in a port shall be computed by dividing the total number of hours in that port by 24 and rounding to the nearest day;

(2) "port" includes a tanker terminal, dock, moorage, another vessel or any other facility, fixed or floating, from which gas or unrefined oil is loaded or unloaded.

* Sec. 6. AS 43.56.070 is amended by adding a new subsection to read:

(c) For purposes of this section, a return reporting marine

transportation values and days-spent-in-port information for the previous calendar year shall be submitted to the department on a date specified by regulation.

* Sec. 7. AS 43.56.210(6) is amended to read:

(6) "taxable property" means real and tangible personal property within this state used or committed by contract or other agreement for use [WITHIN THIS STATE] primarily in the exploration for, production of, [OR] pipeline transportation of, refining of, gas or unrefined oil, or in the processing, liquefaction or manufacture of natural gas or oil products, including [(EXCEPT FOR] property used [SOLELY] for the liquefaction [RETAIL DISTRIBUTION OR LIQUEFACTION] of natural gas [)], or in the operation or maintenance of facilities used in the exploration for, production of, [OR] pipeline transportation of, refining of, gas or unrefined oil, or in the processing, liquefaction or manufacture of natural gas or oil products, including machinery, appliances, supplies, equipment, drilling rigs, wells (whether producing or not), gathering lines and transmission lines, pumping stations, compressor stations, power plants, topping plants, processing units, refineries and refining equipment, gas processing plants and equipment, liquefied natural gas facilities, roads, tank farms, tanker terminals, docks and other port facilities, air strips and communication equipment and facilities, maintenance equipment and facilities, and maintenance camps and other related facilities; "taxable property" also means property used or committed by contract or other agreement for use primarily in the marine transportation of gas or unrefined oil including tankers, all classes of crude carriers, ships, barges or other marine vessels used in connection with the transportation of gas or unrefined oil; "taxable property" does not include permanent residences, office buildings requiring substantial local government services,

property used for retail distribution of gas, oil or oil products, or gas pipeline systems operated as utilities and regulated by the Alaska Public Utilities Commission;

* Sec. 8. AS 29.53.045(b) is amended to read:

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount of revenue from the total municipal property tax equivalent to $1,500 a year for each person residing within its boundaries. The commissioner of revenue shall adjust the limitation provided for in this section in accordance with changes in the Consumer Price Index for Anchorage, Alaska, published by the Bureau of Labor Statistics, United States Department of Labor. The adjusted limitation becomes effective on the January 1 following its adjustment and applies to taxes levied for that tax year. The Consumer Price Index for October 1976 is considered the initial Consumer Price Index. In making the adjustments under this section, the commissioner shall comply with the following procedure:

(1) after November 30 and before December 31 of each year the commissioner shall calculate the change in the October Consumer Price Index for the current year from the October Consumer Price Index for the previous year;

(2) the commissioner shall then

(A) compute the percentage increase or decrease for that period and

(B) adjust the most current limitation set out in this section by the same percentage increase or decrease, rounded to the nearest dollar;

(3) and report the adjusted limitation to each municipality

by January 15 of the following year.

* Sec. 9. AS 29.53.050(b) is amended to read:

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes (1) which will result in tax revenues from all sources exceeding $1,500 [$1,000] a year, as adjusted in accordance with (c) of this section, for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax (1) the combined levy of which would result in tax revenues from all sources exceeding $1,500 [$1,000] a year, as adjusted in accordance with (c) of this section, for each person residing within their boundaries or (2) upon value which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property

under AS 43.58.

* Sec. 10. AS 29.53.050 is amended by adding a new subsection to read:

(c) The commissioner of revenue shall adjust the $1,500 per person per year limitation provided for in (b) of this section in accordance with changes in the Consumer Price Index for Anchorage, Alaska, published by the Bureau of Labor Statistics, United States Department of Labor. The adjusted limitation becomes effective on the January 1 following its adjustment and applies to taxes levied for that tax year. The Consumer Price Index for October 1976 is considered the initial Consumer Price Index. In making the adjustments under this section, the commissioner shall comply with the following procedure:

(1) after November 30 and before December 31 of each year the commissioner shall calculate the change in the October Consumer Price Index for the current year from the October Consumer Price Index for the previous year;

(2) the commissioner shall then

(A) compute the percentage increase or decrease for that period and

(B) adjust the most current limitation set out in this section by the same percentage increase or decrease, rounded to the nearest dollar;

(3) and report the adjusted limitation to each municipality by January 15 of the following year.

* Sec. 11. If a provision of this Act relating to taxation of marine transportation property or any other provision of this Act is held invalid or unenforceable, it is the intent of the legislature that the invalidity or unenforceability of that provision does not affect the validity or enforceability of any other provision of this Act.

* Sec. 12. This Act is retroactive to January 1, 1977, except that

marine transportation property shall be assessed in accordance with AS 43.56.060(a) for the first time in 1978 under the assessment and collection procedures set out in AS 43.56 based upon its apportioned value during 1977.

* Sec. 13. This Act takes effect immediately in accordance with AS 01.10.070(c).

Original sponsor: Rules Committee by request of the Governor

Offered: 4/6/77
Referred: Finance

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 323

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas exploration, production, and pipeline and marine transportation property tax; and providing for an effective date."

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

* Section 1. AS 43.56.010(d) is amended to read:

(d) A tax paid to a municipality under AS 29.53.045 on or before June 30 of the tax year shall be credited against the tax levied under (a) of this section for that tax year. If, however, a tax is not paid to a municipality until after June 30 of the taxable year, the department upon application shall refund to the taxpayer the amount of tax paid to the municipality under AS 29.53.045. The credit or refund of taxes paid to a municipality may not exceed the total amount of tax levied by the department upon the taxpayer for the tax year, under (a) of this section. Current property taxes which are collected by one or more municipalities under AS 29.53.055 or any other authority which exceed the limitations set out in AS 29.53.045 or 29.53.050 are not allowed as a credit against, or refund of, the tax levied under this section. The credit or refund is only allowed for taxes paid for the current tax year.

* Sec. 2. AS 43.56.060(e)(2) is amended to read:

(2) determined on each January 1 thereafter with due regard to the economic value of the property based on the estimated life of the proven reserves of gas or unrefined oil then technically, economically and legally deliverable into the transportation facility; [HOWEVER, IF

THE PROVEN RESERVES OF GAS OR UNREFINED OIL THEN TECHNICALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INDICATE AN ECONOMIC LIFE MATERIALLY SHORTER THAN THE ESTIMATED PHYSICAL LIFE OF THE TRANSPORTATION FACILITY, THE FULL AND TRUE VALUE IS THE ACTUAL COST REDUCED BY AN ANNUAL ALLOWANCE FOR DEPRECIATION ON A STRAIGHT LINE BASIS OVER AN ECONOMIC LIFE BASED ON THE ACTUAL ELAPSED LIFE FROM THE COMMENCEMENT OF FULL OPERATION TO THE DATE OF ASSESSMENT PLUS THE ESTIMATED REMAINING LIFE OF THE PROVEN RESERVES OF GAS AND UNREFINED OIL THEN TECHNICALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INTO THE TRANSPORTATION FACILITY AS OF THE DATE OF THE ASSESSMENT;]

* Sec. 3. AS 43.56.210(6) is amended to read:

(6) "taxable property" means real and tangible personal property <u>within this state</u> used or committed by contract or other agreement for use [WITHIN THIS STATE] primarily in the exploration for, production of, or pipeline transportation of gas or unrefined oil (except for property used solely for the retail distribution or liquefaction of natural gas), or in the operation or maintenance of facilities used in the exploration for, production of, or pipeline transportation of gas or unrefined oil, including machinery, appliances, supplies, equipment, drilling rigs, wells (whether producing or not), gathering lines and transmission lines, pumping stations, compressor stations, power plants, topping plants, processing units, roads, tank farms, tanker terminals, docks and other port facilities, air strips and communication equipment and facilities, maintenance equipment and facilities, and maintenance camps and other related facilities; "taxable property" does not include permanent residences, office buildings requiring substantial local government services, or gas pipeline systems operated as utilities and regulated by the Alaska Public Utilities Commission;

* Sec. 4. AS 29.53.045(b) is amended to read:

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount of revenue from the total municipal property tax equivalent to $1,500 a year for each person residing within its boundaries. The commissioner of revenue shall adjust the limitation provided for in this section in accordance with changes in the Consumer Price Index for Anchorage, Alaska, published by the Bureau of Labor Statistics, United States Department of Labor. The adjusted limitation becomes effective on the January 1 following its adjustment and applies to taxes levied for that tax year. The Consumer Price Index for October 1976 is considered the initial Consumer Price Index. In making the adjustments under this section, the commissioner shall comply with the following procedure:

(1) after November 30 and before December 31 of each year the commissioner shall calculate the change in the October Consumer Price Index for the current year from the October Consumer Price Index for the previous year;

(2) the commissioner shall then

(A) compute the percentage increase or decrease for that period and

(B) adjust the most current limitation set out in this section by the same percentage increase or decrease, rounded to the nearest dollar;

(3) and report the adjusted limitation to each municipality by January 15 of the following year.

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

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

which will result in tax revenues from all sources exceeding $1,500 [$1,000] a year, as adjusted in accordance with (c) of this section, for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax (1) the combined levy of which would result in tax revenues from all sources exceeding $1,500 [$1,000] a year, as adjusted in accordance with (c) of this section, for each person residing within their boundaries or (2) upon value which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

* Sec. 6. AS 29.53.050 is amended by adding a new subsection to read:

(c) The commissioner of revenue shall adjust the $1,500 per person per year limitation provided for in (b) of this section in accordance with changes in the Consumer Price Index for Anchorage,

Alaska, published by the Bureau of Labor Statistics, United States Department of Labor. The adjusted limitation becomes effective on the January 1 following its adjustment and applies to taxes levied for that tax year. The Consumer Price Index for October 1976 is considered the initial Consumer Price Index. In making the adjustments under this section, the commissioner shall comply with the following procedure:

(1) after November 30 and before December 31 of each year the commissioner shall calculate the change in the October Consumer Price Index for the current year from the October Consumer Price Index for the previous year;

(2) the commissioner shall then

(A) compute the percentage increase or decrease for that period and

(B) adjust the most current limitation set out in this section by the same percentage increase or decrease, rounded to the nearest dollar;

(3) and report the adjusted limitation to each municipality by January 15 of the following year.

* Sec. 7. This Act is retroactive to January 1, 1977.

* Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Introduced: 3/9/77
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 328

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the oil and gas reserves ad valorem tax; and providing for an effective date."

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

* Section 1. AS 43.58.010(b) is amended to read:

(b) The rate of levy for the tax year beginning January 1, 1977 is 12 [20] mills. If, on October 1, 1977, the Trans-Alaska Pipeline is not transporting at least 600,000 barrels of daily average throughput of oil, then there is levied an additional tax of eight mills on the January 1 assessment which shall be due and payable on November 30, 1977.

* Sec. 2. AS 43.58.010 is amended by adding a new subsection to read:

(e) If, on December 15, 1977, the Trans-Alaska Pipeline is not transporting at least 1,200,000 barrels of daily average throughput of oil, a tax is levied for tax year 1978 at a rate determined for that year by the legislature.

* Sec. 3. AS 43.58.170 is amended to read:

Sec. 43.58.170. TERMINATION OF TAX. Except as provided in AS 43.58.010(e), the [THE] tax imposed by this chapter shall terminate on December 31, 1977.

* Sec. 4. This Act is retroactive to January 1, 1977.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10070(c).

Original sponsor: Rules Committee by request of the Governor

Offered: 4/5/77
Referred: Finance

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 328

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the oil and gas reserves ad valorem tax; and providing for an effective date."

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

* Section 1. AS 43.58.010(b) is amended to read:

(b) The rate of levy for the tax year beginning January 1, 1977 is 12 [20] mills. If, on October 1, 1977, the trans-Alaska pipeline is not transporting at least 600,000 barrels of daily average throughput of oil, then there is levied an additional tax of eight mills on the January 1 assessment which shall be due and payable on November 30, 1977.

* Sec. 2. This Act is retroactive to January 1, 1977.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Introduced: 5/28/77
Referred: Community & Regional Affairs and Finance

BY PARR, BRADLEY, BROWN, BUCCHOLDT, COTTEN, COWPER, ELIASON, GARDINER, GRUENING, McKINNON, MALONE, MEEKINS, MILLER, NAKAK, OSE, RUDD, SMITH, SNIDER AND SWANSON

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 219

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for permits and fees for the construction of shore-based support facilities for offshore oil and gas exploration, development and production; and providing for an effective date."

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

* Section 1. AS 41 is amended by adding a new chapter to read:

CHAPTER 45. SHORE FACILITIES FOR OFFSHORE RESOURCE EXTRACTION.

Sec. 41.45.010. LEGISLATIVE FINDINGS AND DECLARATION OF PURPOSE. (a) The legislature finds that activities associated with the exploration, development and recovery of natural resources from the territorial waters adjacent to the state and waters of the outer continental shelf require the construction of support facilities in onshore areas of the state contiguous to the projects; that the siting, planning, construction and operation of new or expanded onshore facilities and activities associated with the supply of offshore projects involve demands for public facilities and services which, initially, are beyond the capacity of local governments to provide; that early knowledge of the location and magnitude of anticipated shore-based support facilities will better allow municipalities and the state to plan the provision of public facilities and services before and during the period of construction and operation of the support facilities; that the planning and provision of public facilities and services in advance of construction of shore-based support facilities generates a temporary demand for additional revenues

to defray costs associated with extraordinary municipal expenditures; and that there is a need to provide a mechanism by which the state and local governments may receive information about projected onshore support activity as a basis for sound public planning decisions and to obtain financial support in order to partially defray the costs of planning and initiating provision of necessary public facilities and services.

(b) It is the purpose of this chapter to provide a mechanism by which to ensure that the location, construction and operation of support facilities for projects in all waters adjacent to the state will produce minimal adverse effects upon the people of the state and affected local governments by providing for the exchange of information between parties involved with offshore activity, and that the increase in demand for public services occurring as a result of shore-based facility development will be met by a contribution of revenue from the holders of offshore leases responsible for the increase in demand.

Sec. 41.45.020. SHORE FACILITIES CONSTRUCTION PERMIT. (a) No person engaged in exploration, development or production of oil or gas under terms of a lease from the United States, the state, or any party in the offshore waters adjacent to the state may construct, lease or in any other manner provide for shore facilities associated with exploration, development or production after the effective date of this Act without first applying for and securing from the department a shore facilities construction permit and paying the fee provided in sec. 30 of this chapter.

(b) An applicant for a permit under this section shall file an application with the department in a form which the department, by regulation, has prescribed. The application shall contain the following information:

(1) a description of the location and of the facility to be

built at the location;

(2) an estimate of the value of the facility upon its completion;

(3) a summary of any studies or reports which have been made examining the economic impact of the construction and operation of the facility on the municipality and the area within 10 miles of the municipality, including, but not limited to, the applicant's estimate of the number of persons to be employed in the construction and operation of the facility during each year of the five-year period commencing with the submission of the application;

(4) a statement explaining the need for the facility;

(5) a description of any reasonable alternate locations for the proposed facility, a statement of the comparative merits and detriments of each location identified, and a statement of why the primary proposed location is best suited for the facility;

(6) any additional information which the department, by regulation, may require in order to fairly evaluate

(A) conformance of the proposed facility to applicable state and local laws and regulations;

(B) the effects of the economic activity of the proposed facility on the municipality or the area within 10 miles of the municipality;

(C) the effects of the proposed facility on the public health, welfare, and safety;

(D) the capacity of the state and of any municipality to provide necessary public facilities and services;

(7) any additional information which the applicant considers relevant; and

(8) a resolution of approval of the governing body of a

municipality in which the proposed facility is to be located or of any municipality within 10 miles of the proposed facility.

(c) An application filed with the department shall be available for public inspection.

(d) An application shall be accompanied by proof of service of a copy of the application on the mayor of each municipality in which the facility is to be located, and any municipality within 10 miles of the proposed facility, both as primarily proposed and alternatively located.

Sec. 41.45.030. PERMIT FEE. (a) At the time of filing an application for a permit under sec. 20 of this chapter, the applicant shall pay a permit fee to the Department of Revenue.

(b) The fee payable under (a) of this section is based upon the one of the following two schedules which produces the greater revenue:

(1) valuation of the proposed facility upon completion, with payment of two per cent of the estimated value up to $5,000,000; plus one per cent of the estimated value over $5,000,000 and up to $20,000,000; plus one-half of one per cent of the estimated value over $20,000,000;

(2) the estimate of the maximum anticipated population increase within a municipality or within 10 miles of a municipality attributable to employment in construction or operation of the facility over the five-year period following submission of the application, multiplied by the per capita cost of state and local government in the year in which application is made for the permit.

(c) The applicant shall provide the department with the data which was used to calculate the permit fee.

Sec. 41.45.040. APPEAL OF FEE. (a) A municipality which is entitled to receive a portion of a shore facilities construction permit fee paid by an applicant under this chapter may appeal the determination

of the amount of the fee. The governing body of the municipality shall, within 30 days of receipt of written notice that an application has been submitted and a fee paid, file an appeal with the department setting out the reasons why it believes the fee paid has not been correctly computed.

(b) If a municipality appeals the determination of the fee paid under (a) of this section, the commissioner of the department shall, within 45 days after giving written notice to all parties, conduct a hearing on the matter. If, after the hearing, the commissioner determines that the fee payable by the applicant has been incorrectly computed, he shall provide the applicant a written statement describing the error in computation and indicating the amount of the fee due. The applicant shall pay the additional amount of the fee within 30 days of receipt of the decision of the commissioner.

(c) The department may not withhold a permit during the period of any appeal initiated under (b) of this section.

Sec. 41.45.050. AMENDMENT OF PERMIT. (a) A permit issued by the department under sec. 30 of this chapter may be amended. An application for an amended permit shall be submitted in the manner provided for new applications in sec. 20 of this chapter. If an amendment to an approved permit would result in a substantial change of an original permit, the amendment shall be treated as a new application and a supplemental permit fee shall be paid.

(b) If it appears to the commissioner or to officials of a municipality entitled to receive a portion of a shore facilities construction permit fee under this chapter that there will occur substantial change in the use of the facility from the activity described in the original application or an amended application for a permit, the commissioner may call for a public hearing on the question. The commissioner shall, within 45 days after giving written notice to all parties, conduct a

hearing on the matter. If, after the hearing, the commissioner determines that there has been substantial change in the use of the facility from the activity described in the original or amended application for a permit, he shall require the applicant to submit an application for an amended permit.

(c) An amended permit submitted by an applicant under an order of the commissioner entered under (b) of this section shall be accompanied by payment of the increment in the fee due, together with a penalty payment of 10 per cent of the total amount of permit fees due for the facility.

(d) For purposes of this section, a change in the use of a facility for which a permit has been issued is "substantial" if

(1) the applicant or the commissioner determines that the value of any changes or improvements in the facility would increase the estimated value of the facility determined under sec. 30(a)(1) of this chapter by more than 10 per cent; or

(2) the applicant or the commissioner determines that the actual population increase will exceed the estimate determined under sec. 30(a)(2) of this chapter by more than 10 per cent.

Sec. 41.45.060. ISSUANCE OF PERMIT. The department shall issue a permit within 30 days of receipt of a complete application. The department may refuse to issue a permit under this chapter only if it finds that

(1) a fee due and payable by the applicant on an original application or an amended application has not been promptly paid; or

(2) the application does not contain, or is not supported by written concurrence of the governing body of a municipality required by sec. 20(b)(8) of this chapter.

Sec. 41.45.070. REVOCATION OR SUSPENSION OF PERMIT. The depart-

ment may revoke or suspend a permit issued under the provisions of this chapter if, after notice and hearing to all parties, the commissioner determines that

(1) the facility does not conform, in location, construction or operation, to applicable municipal ordinance or regulation; or

(2) an additional fee is due and payable under sec. 40(b) of this chapter or an additional fee and penalty are due and payable under sec. 50(b) of this chapter, and the holder of the permit has failed to pay the additional fee, together with penalty due if any, within the time prescribed by law.

Sec. 41.45.080. DISPOSITION OF FEES AND PENALTIES. (a) The commissioner of the Department of Revenue shall deposit in the general fund the money collected under this chapter.

(b) There is established in the general fund the shore facilities assistance account. Ninety-five per cent of the fees and penalties received under this chapter, or as much of the amount as the legislature may annually appropriate, shall be placed in the account for the uses and purposes described in (c) and (d) of this section.

(c) The Department of Community and Regional Affairs shall administer the account established in (b) of this section. The department shall pay not less than 50 per cent of the amount of the fees and penalties paid by an applicant for a permit under this chapter for a facility located within a municipality or within 10 miles of a municipality from the account to a municipality or combination of municipalities. If two or more municipalities are entitled to receive an amount under this subsection, the municipalities may, among themselves, propose to the department the proportional amount to be paid to each, and the department shall make payment based upon the proposed allocation. The department shall transfer amounts withheld from a municipality for

transfer to state agencies providing public facilities or services within the municipality. An allocation between one or more municipalities and the state agencies under this subsection shall be based upon the relative responsibility of the municipality and the state for the provision of public facilities and services affected by onshore support services and activities and the fiscal needs of each.

(d) Fees and penalties paid by an applicant for a permit under this chapter for a facility located in a community or within 10 miles of a community of the unorganized borough are available for the benefit of the community. The department may

(1) transfer amounts to another state agency for use by the agency to benefit the community; or

(2) retain an amount for its use for the benefit of the community.

(e) Payments due a municipality under this section shall be transmitted by the department

(1) within 30 days of receipt of payment of the fee by the Department of Revenue, if payment is due to only one municipality;

(2) within 30 days of receipt of the allocation agreed to by the municipalities, if payment is due to more than one municipality.

Sec. 41.45.090. MONITORING OF FACILITIES. The department shall review and monitor the operation of all facilities for which a permit has been issued under this chapter for compliance with the provisions of this chapter and the provisions of the permit application.

Sec. 41.45.100. ADMINISTRATION. (a) Annually, the department shall compute and report, for use by applicants and permittees under this chapter

(1) standard multiplier factors relating the number of persons engaged in direct employment in a shore facility to the number of

persons indirectly employed and the number of dependents of all persons employed; and

(2) the per capita cost of state and local government service.

(b) The department shall, by regulation, require holders of permits issued under this chapter to furnish:

(1) information indicating the number of persons employed in a facility for which a permit is issued under this chapter;

(2) the estimate of the value of facilities for which a permit is issued under this chapter.

Sec. 41.45.110. LONG-RANGE DEVELOPMENT PLAN. (a) Any person contemplating the construction of a facility subject to issuance of a permit under this chapter in the state in the ensuing three years shall furnish annually to the department for its review a long-range plan for the construction and operation of facilities. The plan shall be submitted not later than September 1 of each year, and shall include the following information:

(1) the general location, size and type of all facilities to be owned and operated or leased whose construction is projected to commence during the ensuing three-year period;

(2) projections of the demand for public facilities and services required by the facility and explanation of the basis for those projections, and a description of the manner and extent to which the proposed facilities will meet project demand.

(b) A plan furnished under this section shall be made available to the governing body of any municipality or community affected by the activity described or summarized in the plan.

Sec. 41.45.120. FAILURE TO SUBMIT LONG-RANGE PLAN. If an applicant for a permit under secs. 10 - 100 of this chapter has failed to

provide the department with annual copies of a long-range plan as required by sec. 110 of this chapter, the permit fee due and payable by the applicant for permit shall be twice the amount authorized in sec. 30(b) of this chapter.

Sec. 41.45.130. JUDICIAL REVIEW. An applicant for a permit or a municipality or community aggrieved by a decision of the commissioner under this chapter may appeal the decision in the superior court.

Sec. 41.45.140. PENALTIES FOR VIOLATION OF PROVISIONS OF THIS CHAPTER. (a) A person who wilfully violates a provision of secs. 10 - 100 of this chapter or any regulation adopted by the department under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $10,000 for each violation. Each day of a continuing violation constitutes a separate offense.

(b) At the request of the commissioner, the attorney general shall enforce this chapter and institute legal actions to accomplish its enforcement.

Sec. 41.45.150. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of the Department of Community and Regional Affairs;

(2) "community" means a village located in the unorganized borough in which is located a school operated by an educational service area or the Bureau of Indian Affairs and any other village containing 25 or more permanent residents;

(3) "department" means the Department of Community and Regional Affairs;

(4) "municipality" means a home rule or general law borough or city of any class, a unified municipality established in accordance with the provisions of AS 29.68.240 - 29.68.440, or a municipality

established by consolidation or merger;

(5) "shore facility" means a facility which is an integral part of, or directly associated with, the exploration for, or extraction, production or transportation of, oil or gas from the waters adjacent to the state, and which is owned by, or committed by contract or other agreement to, persons exploring for or producing or transporting oil or gas from adjacent coastal waters; the term includes, but is not limited to,

(A) a wharf, dock or other port structure or facility used for the final transshipment of cargo destined for mobile or fixed offshore oil or gas drilling vessels or structures;

(B) warehouses, storage yards, tank farms, tanker terminals and pipelines associated with the facilities described in (A) of this paragraph for the storage of cargo destined for offshore drilling operations or for the storage of petroleum products from offshore drilling operations;

(C) offices, maintenance facilities, maintenance and construction camps and related facilities primarily required for administration or servicing of offshore drilling operations which are located in physical proximity to the facilities described in (A) and (B) of this paragraph.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Introduced: 3/14/78
Referred: Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 884

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making technical amendments relating to oil and gas taxes; and providing for an effective date."

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

* Section 1. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th day of each calendar month on oil or gas produced from each lease or property during the preceding month. [IF THE TAX IS NOT PAID BEFORE THE END OF THE MONTH IN WHICH IT BECOMES DUE, THE TAX BECOMES DELINQUENT.]

* Sec. 2. AS 43.55.150 is amended to read:

Sec. 43.55.150. DETERMINATION OF [GROSS] VALUE. (a) For the purposes of this chapter, [THE GROSS] value shall be calculated using the reasonable costs of transportation of the oil or gas. The reasonable costs of transportation shall be the actual costs, except <u>if any one of the following conditions exist:</u>

(1) when the parties to the transportation of oil or gas are affiliated;

(2) when the contract for the transportation of oil or gas is not an arm's length transaction or is not representative of the market value of that transportation; <u>or</u>

(3) when the method of transportation <u>or the choice of a particular person, entity, or facility, or vessel used for transportation</u> is not reasonable in view of existing <u>alternatives</u> [ALTERNATIVE METHODS OF TRANSPORTATION].

(b) If the department finds that the conditions in (a)(1), (2), or [AND] (3) of this section are present, the department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or other reasonable methods. Transportation costs fixed by tariff rates properly on file with the Alaska Pipeline Commission or other regulatory agency shall be considered prima facie reasonable.

* Sec. 3. AS 43.55.030(d) and 43.55.060 are repealed.

* Sec. 4. This Act is retroactive to January 1, 1977.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Original sponsor: Rules Committee by request of the Governor

Offered: 3/24/78
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 884

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making technical amendments relating to oil and gas taxes; and providing for an effective date."

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

* Section 1. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the last [20TH] day of each calendar month on oil or gas produced from each lease or property during the preceding month. [IF THE TAX IS NOT PAID BEFORE THE END OF THE MONTH IN WHICH IT BECOMES DUE, THE TAX BECOMES DELINQUENT.]

* Sec. 2. AS 43.55.150 is amended to read:

Sec. 43.55.150. DETERMINATION OF [GROSS] VALUE. (a) For the purposes of this chapter, [THE GROSS] value shall be calculated using the reasonable costs of transportation of the oil or gas. The reasonable costs of transportation shall be the actual costs, except when one of the following conditions exists:

(1) [WHEN] the parties to the transportation of oil or gas are affiliated;

(2) [WHEN] the contract for the transportation of oil or gas is not an arm's length transaction or is not representative of the market value of that transportation; or

(3) [WHEN] the method of transportation of oil or gas or the choice of a particular person, entity, or facility, or vessel used for transportation is not reasonable in view of existing alternatives [ALTERNATIVE METHODS OF TRANSPORTATION].

(b) If the department finds that the conditions in (a)(1), (2), or [AND] (3) of this section are present, the department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or other reasonable methods. Transportation costs fixed by tariff rates properly on file with the Alaska Pipeline Commission or other regulatory agency shall be considered prima facie reasonable.

* Sec. 3. AS 43.55.030(d) and 43.55.060 are repealed.

* Sec. 4. This Act is retroactive to January 1, 1977.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Introduced: 1/28/77
Referred: Resources and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Subcommittee on Oil and Gas Leasing and Taxing Policies)

IN THE SENATE

SENATE BILL NO. 103

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act concerning the oil and gas properties production tax; and providing for an effective date."

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

* Section 1. AS 43.55.010(a) is amended to read:

(a) There is levied upon the producer of oil or gas a tax based upon a per cent of the gross value <u>at the point of production</u> [AT THE WELL] of all oil or gas <u>produced</u> [REMOVED OR SOLD] from each lease or property in the state, less the value of any part the ownership or right to which is exempt from taxation. The tax is determined according to the following schedules, and any part which is exempt from taxation is deducted from the tax levied on a pro rata basis as to each production level tax bracket:

(1) oil: based upon the <u>total production from each lease or property</u> [AVERAGE DAILY PRODUCTION FOR EACH WELL] for the calendar month in barrels, the tax is

(A) <u>zero</u> [FIVE] per cent on the first <u>100</u> [300] barrels <u>of average daily per well production</u>;

(B) <u>four</u> [SIX] per cent on the next <u>200</u> [700] barrels <u>of average daily per well production</u>;

(C) <u>six</u> [EIGHT] per cent on <u>the next 700</u> [ALL PRODUCTION IN EXCESS OF 1,000] barrels <u>of average daily per well production</u>;

<u>(D) nine per cent on the next 500 barrels of average daily per well production;</u>

<u>(E) eleven per cent on the next 2,000 barrels of average</u>

daily per well production;

(F) fourteen per cent on all production in excess of 3,500 barrels of average daily per well production;

(2) gas: the tax is four per cent of the gross value at the point of production of the gas and liquid products produced each month.

* Sec. 2. AS 43.55.015(a) is amended to read:

(a) There is levied upon the producer of oil a tax on each barrel of oil produced [REMOVED OR SOLD] from each lease or property in the state less any part the ownership or right to which is exempt from taxation. The tax is based upon the total production from each lease or property [AVERAGE DAILY PRODUCTION FOR EACH WELL] for the calendar month in barrels determined according to the following schedule and any part which is exempt from taxation is deducted from the tax levied on a pro rata basis as to each production level bracket:

(1) $.0000 [$.16875] on each of the first 100 [300] barrels of average daily per well production;

(2) $.1350 [$.2025] on each of the next 200 [700] barrels of average daily per well production;

(3) $.2025 [$.2700] on each of the next 700 [BARREL OF PRODUCTION IN EXCESS OF 1,000] barrels of average daily per well production;

(4) $.3038 on each of the next 500 barrels of average daily per well production;

(5) $.3713 on each of the next 2,000 barrels of average daily per well production;

(6) $.4725 on each barrel of production in excess of 3,500 barrels of average daily per well production.

* Sec. 3. AS 43.55.015(c) is amended to read:

(c) The tax rates set out in this section will be increased or decreased by a percentage equal to the percentage of change in the

Wholesale Price Index for crude petroleum published by the Bureau of Labor Statistics, of the United States Department of Labor. The year 1967 is the base year of 100 for computing the tax rates. Changes in tax rates will be computed based on changes from the December, 1973 Wholesale Price Index published in January, 1974 [IN THE WHOLESALE PRICE INDEX OCCURRING AFTER JANUARY 1, 1974 AND WILL NOT INCLUDE CHANGES IN THE WHOLESALE PRICE INDEX PRIOR TO JANUARY 1, 1974]. The department shall post the changes in the tax rates at least semi-annually and shall notify every person producing oil within the state of the changes.

* Sec. 4. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th day [LAST DAY] of each calendar month on oil or gas produced [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 5. AS 43.55.020(e) is repealed and re-enacted to read:

(e) Gas produced, except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of this chapter, as gas produced from a lease or property. Gas flared under a permit granted by the Department of Natural Resources under AS 31.05.170(11)(H) shall be considered as gas produced, except that it shall pay a severance tax equal to five times the severance tax in effect for that period in which the gas was flared.

* Sec. 6. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil or gas was produced [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned by the department;

* Sec. 7. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas produced [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 8. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas produced [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 9. AS 43.55.140 is amended by adding new paragraphs to read:

(12) "gross value at the point of production" means:

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

(B) for gas recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured after separation from the oil; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold

in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the premises upon which the oil production operation is conducted; and

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

(13) "oil production operation" means the operation by which oil is recovered from a lease or property and rendered into oil of pipeline quality, and includes any gathering done before the oil is finally rendered into oil of pipeline quality;

(14) "pipeline quality" means good and marketable condition;

(15) "average daily per well production" means the amount calculated by dividing the total number of barrels of oil produced from each lease or property during the calendar month by the total number of wells produced on the lease or property any time during the calendar month and dividing that amount by the total number of days in the

calendar month.

* Sec. 10. AS 43.55.140(10) and (11) are repealed.

* Sec. 11. This Act takes effect July 1, 1977.

Original sponsor: Rules Committee by request of the Legislative Council (for the Subcommittee on Oil and Gas Leasing and Taxing Policies)

Offered: 4/20/77
Referred: Finance

IN THE SENATE BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 103

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act concerning the oil and gas properties production tax; and providing for an effective date."

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

* Section 1. AS 43.55 is amended by adding new sections to read:

Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 12.5 per cent of the gross value at the point of production of taxable oil produced from the lease or property.

(c) The cents-per-barrel amount equals $.65 per barrel of taxable oil produced from the lease or property, as adjusted by sec. 12 of this chapter.

(d) When the cents-per-barrel amount calculated under (c) of this section is greater than the percentage-of-value amount calculated under (b) of this section, an amount not less than $.05 for each barrel of

taxable oil produced shall be paid by the state out of its royalties from the oil whenever payment by the state is required under the revenue-sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) into the Alaska Native Fund, until all amounts paid in the fund equal $500,000,000.

Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. The cents-per-barrel amount set out in sec. 11(c) of this chapter applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by $.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by $.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit factor for oil production of a lease or property equals

(1-[PEL/TP]) exp ([300 X WD]/PEL)

Where: PEL = the production rate at the economic limit;

TP = total production during the month for which the tax is to be paid;

WD = the total number of well days in the month for which the tax is to be paid; and

Where "exp" indicates that the expression following it is an exponent.

(b) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(c) The monthly production rate at the economic limit for a lease

or property is presumed to be 100 barrels times the number of well days for the lease or property during the month for which the tax is to be paid, unless the taxpayer at a formal hearing under AS 43.05.240 provides clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (e) of this section into the average monthly direct operating cost determined under (d) of this section.

(d) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on the number of months operated during the preceding 12-month period. The direct operating costs include drilling supplies, fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(e) For the purposes of this chapter, the gross value of oil shall be calculated as provided in sec. 150 of this chapter, and the gross value of gas shall be calculated as provided in (h) of this section.

(f) Before February 15 of each year or within six months after commencement of production for a lease or property, the department shall notify the producer of gas of the monthly production rate at the economic

limit for each lease or property in the state for that year. The monthly production rate at the economic limit for a lease or property shall be determined at a formal hearing under AS 43.05.240 and must be established by clear and convincing evidence presented by the taxpayer at that hearing. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (h) of this section into the average monthly direct operating cost determined under (g) of this section.

(g) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on the number of months operated during the preceding 12-month period. The direct operating costs include drilling supplies, fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(h) The value at the point of production of gas produced from the lease or property shall be determined on the basis of the highest price paid for gas of like quality and pressure in the same field.

(i) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to sec. 11 of this chapter, when economically interdependent oil or gas production operations are

not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under sec. 11 of this chapter, when two or more economically independent oil or gas production operations are being conducted on it.

(j) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production.

Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals $.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by sec. 12 of this chapter.

Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided

in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products.

* Sec. 2. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th [LAST] day of each calendar month on oil or gas produced [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 3. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil or gas was produced [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned to the department;

* Sec. 4. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas produced [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 5. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas <u>produced</u> [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 6. AS 43.55.140 is amended by adding a new paragraph to read:

(12) "well days" means the number of days in which a well is operating during a month.

* Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are repealed.

* Sec. 8. This Act takes effect July 1, 1977 and applies to production during the month of July, 1977, and succeeding months.

Original sponsor: Rules Committee by request of the Legislative Council (for the Subcommittee on Oil and Gas Leasing and Taxing Policies)

Offered: 4/22/77
Referred: Rules

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 103 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act concerning the oil and gas properties production tax; and providing for an effective date."

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

* Section 1. AS 43.55 is amended by adding new sections to read:

Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 12.5 per cent of the gross value at the point of production of taxable oil produced from the lease or property.

(c) The cents-per-barrel amount equals $.65 per barrel of taxable oil produced from the lease or property, as adjusted by sec. 12 of this chapter.

(d) When the cents-per-barrel amount calculated under (c) of this section is greater than the percentage-of-value amount calculated under (b) of this section, an amount not less than $.05 for each barrel of

taxable oil produced shall be paid by the state out of its royalties from the oil whenever payment by the state is required under the revenue-sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) into the Alaska Native Fund, until all amounts paid in the fund equal $500,000,000.

Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. The cents-per-barrel amount set out in sec. 11(c) of this chapter applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by $.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by $.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit factor for oil production of a lease or property equals

$$(1-[PEL/TP]) \exp ([300 \times WD]/PEL)$$

Where: PEL = the production rate at the economic limit;

TP = total production during the month for which the tax is to be paid;

WD = the total number of well days in the month for which the tax is to be paid; and

Where "exp" indicates that the expression following it is an exponent.

(b) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(c) The monthly production rate at the economic limit for a lease

or property is presumed to be 100 barrels times the number of well days for the lease or property during the month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.420 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of oil production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (e) of this section into the average monthly direct operating cost determined under (d) of this section and shall be used for purposes of this section for all oil production during that calendar year from the lease or property.

(d) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on the number of months operated during the preceding 12-month period. The direct operating costs include production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(e) For the purposes of this chapter, the gross value of oil shall be calculated as provided in sec. 150 of this chapter, and the gross

value of gas shall be calculated as provided in (h) of this section.

(f) Before February 15 of each year or within six months after commencement of gas production for a lease or property, the department shall notify the producer of gas of the monthly production rate at the economic limit for each lease or property in the state for that year. The monthly production rate at the economic limit for a lease or property shall be determined at a formal hearing under AS 43.05.240 and must be established by clear and convincing evidence presented by the taxpayer at that hearing. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (h) of this section into the average monthly direct operating cost determined under (g) of this section.

(g) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on the number of months operated during the preceding 12-month period. The direct operating costs include drilling supplies, fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(h) The value at the point of production of gas produced from the lease or property shall be determined on the basis of the highest price paid for gas of like quality and pressure in the same field.

(i) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to sec. 11 of this chapter, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under sec. 11 of this chapter, when two or more economically independent oil or gas production operations are being conducted on it.

(j) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production.

Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals $.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by sec. 12 of this chapter.

Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products.

* Sec. 2. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th [LAST] day of each calendar month on oil or gas produced [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 3. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil or gas was produced [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned to the department;

* Sec. 4. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas <u>produced</u> [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 5. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas <u>produced</u> [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 6. AS 43.55.140 is amended by adding a new paragraph to read:

(12) "well days" means the number of days in which a well is operating during a month.

* Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are repealed.

* Sec. 8. This Act takes effect July 1, 1977 and applies to production during the month of July, 1977, and succeeding months.

Original sponsor: Rules Committee by request of the Legislative Council (for the Subcommittee on Oil and Gas Leasing and Taxing Policies)

Offered: 4/22/77
Referred: Rules

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 103 (Finance) am(failed S)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act concerning the oil and gas properties production tax; and providing for an effective date."

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

* Section 1. AS 43.55 is amended by adding new sections to read:

Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10.5 per cent of the gross value at the point of production of taxable oil produced from the lease or property.

(c) The cents-per-barrel amount equals $.55 per barrel of taxable oil produced from the lease or property for all oil defined as "lower tier oil" under the provisions of the Energy Policy and Conservation Act of 1975 (P.L. 94-163), as amended, and $.75 per barrel of all other taxable oil produced from the lease or property, both as adjusted by Sec. 12 of this chapter.

(d) When the cents-per-barrel amount calculated under (c) of this section is greater than the percentage-of-value amount calculated under (b) of this section, an amount not less than $.05 for each barrel of taxable oil produced shall be paid by the state out of its royalties from the oil whenever payment by the state is required under the revenue-sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) into the Alaska Native Fund, until all amounts paid in the fund equal $500,000,000.

Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. The cents-per-barrel amount set out in sec. 11(c) of this chapter applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by $.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by $.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit factor for oil production of a lease or property equals

(1-[PEL/TP]) exp ([300 X WD]/PEL)

Where: PEL = the production rate at the economic limit;

TP = total production during the month for which the tax is to be paid;

WD = the total number of well days in the month for which the tax is to be paid; and

Where "exp" indicates that the expression following it is an exponent.

(b) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at

the economic limit to the production during the month for which the tax is to be paid.

(c) The monthly production rate at the economic limit for a lease or property is presumed to be 100 barrels times the number of well days for the lease or property during the month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.420 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of oil production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (e) of this section into the average monthly direct operating cost determined under (d) of this section and shall be used for purposes of this section for all oil production during that calendar year from the lease or property.

(d) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on the number of months operated during the preceding 12-month period. The direct operating costs include production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production

operations of the lease or property.

(e) For the purposes of this chapter, the gross value of oil shall be calculated as provided in sec. 150 of this chapter, and the gross value of gas shall be calculated as provided in (h) of this section.

(f) Before February 15 of each year or within six months after commencement of gas production for a lease or property, the department shall notify the producer of gas of the monthly production rate at the economic limit for each lease or property in the state for that year. The monthly production rate at the economic limit for a lease or property shall be determined at a formal hearing under AS 43.05.240 and must be established by clear and convincing evidence presented by the taxpayer at that hearing. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (h) of this section into the average monthly direct operating cost determined under (g) of this section.

(g) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on the number of months operated during the preceding 12-month period. The direct operating costs include drilling supplies, fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(h) The value at the point of production of gas produced from the lease or property shall be determined on the basis of the highest price paid for gas of like quality and pressure in the same field.

(i) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to sec. 11 of this chapter, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under sec. 11 of this chapter, when two or more economically independent oil or gas production operations are being conducted on it.

(j) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production.

Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals $.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by sec. 12 of this chapter.

Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products.

* Sec. 2. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th [LAST] day of each calendar month on oil or gas produced [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 3. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil

or gas was produced [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned to the department;

* Sec. 4. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas produced [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 5. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas produced [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 6. AS 43.55.140 is amended by adding a new paragraph to read:

(12) "well days" means the number of days in which a well is operating during a month.

* Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are repealed.

* Sec. 8. This Act takes effect July 1, 1977 and applies to production during the month of July, 1977, and succeeding months.

Introduced: 3/2/77
Referred: Resources and Finance

IN THE SENATE BY HUBER, CROFT AND WILLIS

SENATE BILL NO. 202

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to assessment and taxation of oil and gas properties net proceeds tax; and providing for an effective date."

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

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

CHAPTER 22. OIL AND GAS PROPERTIES NET PROCEEDS TAX.

Sec. 43.22.010. PURPOSE. The purposes of the oil and gas properties net proceeds tax are to provide efficient administration and collection of an ad valorem tax based on the income to the property of oil and gas, and to provide a rate of taxation on the income to the property of oil and gas equal to the corporate state income tax rates provided in AS 43.20.011.

Sec. 43.22.020. STATEMENT OF YIELD. (a) Every person engaged in producing oil and gas and every recipient of royalty payments in connection with oil and gas production shall file annually, on or before February 1, with the department a statement showing the gross value of production and claimed net proceeds from each well or field owned or operated by the person during the previous calendar year.

(b) The statement shall be on forms prescribed by or acceptable to the department, and shall be under oath, and shall include, in addition to other information required,

(1) the name and address of the operator of the well or field, together with a list in duplicate of the names and addresses of any persons owning or claiming a royalty interest in the production of

the well or the proceeds derived from the sale of it, and the amount paid or delivered in kind as royalty to each of these persons during the period covered by the statement;

(2) the description and location of the well or field;

(3) the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the well during the period covered by the statement;

(4) the gross value in dollars of the production at the wellhead or other point chosen by the department; and

(5) the claimed deductions from the gross value in the detail set out in sec. 30 of this chapter.

(c) Each recipient of royalty payments as described in (b)(1) of this section shall annually file with the department a list showing each of the lessees responsible for taxes due in connection with the wells or fields included in the statement filed under (a) and (b) of this section.

Sec. 43.22.030. NET PROCEEDS: HOW COMPUTED. (a) The department shall, from the statement and from all obtainable data, evidence and reports, compute the gross value of production and net proceeds.

(b) The net proceeds shall be ascertained and determined by subtracting from the gross value the following deductions for costs incurred during the year, and none other:

(1) royalties paid or due the United States or the state;

(2) royalties paid or due, other than to the United States or the state, by a lessee or sublessee of a well or field, or by both, shall constitute a deductible item; but the royalties so deducted by the lessee or sublessee constitutes part of the gross yield of the well or field for the purpose of determining the net proceeds upon which a tax shall be levied against the person to which the royalty has been paid;

(3) the costs of transporting the product beyond the area of

the well or field to the point of gross valuation, if the gross valuation point chosen by the department is beyond the area of the well or field;

(4) operating costs incurred in the state as determined under regulations of the department; operating costs shall include

(A) well machinery, equipment, apparatus and facilities;

(B) transportation facilities and equipment;

(C) money expended for necessary labor and supplies needed and used in the well or field operations and developments;

(D) money expended for fire insurance and workmen's compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees;

(E) office clerical or engineering work in the state necessary or proper in connection with these operations;

(5) the deductions mentioned in this subsection shall not include the salary of a person not subject to the withholding of state income tax under AS 43.20.170 or not actually engaged in

(A) the operation of a well or field or of transportation facilities or equipment or supervising the management of them; or

(B) office clerical or engineering work in the state necessary or proper in connection with these operations;

(6) in lieu of the deduction of expenses incurred outside the state, an indirect expense allowance equal to five per cent of expenses reported under sec. 30(4) of this chapter shall be allowed;

(7) all taxes paid or due to the state under chs. 55, 56, and 57 of this title;

(8) recovery of capital and exploration investments.

Sec. 43.22.040. RECOVERY OF CAPITAL AND EXPLORATION EXPENSES. (a) The department shall issue regulations required to determine deductions for the depreciation and recovery of investments related to an operating well or field.

(b) Geological and geophysical costs, bonus payments, dry hole costs, and unrecovered costs after lease abandonments which are incurred in areas of the state in which the producer does not hold a currently valid lease, contractual agreement, or other economic interest may be charged against the net proceeds of currently operating wells or fields in which the taxpayer has an interest. However,

(1) costs under this subsection may be carried forward for no more than 10 years from the year in which the cost is declared;

(2) a cost reported under this subsection may not be charged at a rate of more than 20 per cent of the cost in any one year; and

(3) costs may not be reported as expenses under this section if they have previously been charged against state income taxes either directly as reported to the department or indirectly through an apportionment formula.

Sec. 43.22.050. AD VALOREM TAX LEVIED. (a) There is levied and shall be collected by the department an ad valorem tax based on the assessed value of production which is severed and sold from each well or field. The tax is levied at the rate provided in AS 43.20.011(e) on the net proceeds from the production which is severed and sold from each well or field.

(b) A taxpayer liable to taxation under this chapter is exempt from further taxation under ch. 20 of this title only to the extent of income earned from the production of oil in the state.

Sec. 43.22.060. VALUE MAY BE DETERMINED BY DEPARTMENT. The department may determine the value of production severed from a well or

field when (1) the operator and purchaser are affiliated persons; (2) the sale and purchase of the production is not an arm's length transaction; or (3) the production is severed and removed from a production unit, and a value as defined in this chapter is not established for this production. The value determined by the department shall be commensurate with the actual price received for production of like quality, character, and use which is severed in the same well or field or area and shall not be computed at a lesser amount than the actual value received for the state's royalty oil or gas received for production of like quality, character and use which are severed in the same well or field or area.

Sec. 43.22.070. CERTIFICATES OF AMOUNT OF NET PROCEEDS. (a) When the department determines the net proceeds of a well or field, it shall prepare its certificate of the net proceeds and taxes due on them in duplicate and shall [illegible] one copy in the department and send the second copy by certified mail

(1) a person who is the owner of the property, or who controls that property as agent, or on account of any other person;

(2) a guardian or other person who has charge of taxable property belonging to a minor or other person;

(3) the trustee of a trust estate holding taxable property in trust for the benefit of another person;

(4) the executor or administrator of a deceased person's estate which includes taxable property;

(5) the receiver of a corporation who has its assets in his hands.

(b) Upon the filing of the copy of the certificate and mailing of the second copy, the assessment shall be considered to be made in the amount fixed by the certificate and taxes on that amount shall be im-

mediately due and payable.

Sec. 43.22.080. APPEALS. (a) A person aggrieved by the action of the department in making an assessment may appeal that action and obtain a hearing upon its validity before the department by filing written objections to the assessment not later than 20 days after the effective date of the assessment notice.

(b) The procedures for conduct of the hearing and preliminary activities to it shall be in accordance with AS 44.62.350, 44.62.430, 44.62.450 - 640, 44.62.480, 44.62.500 - 550, 44.62.590, and 44.62.610 - 640. The term "respondent" used in those sections of AS 44.62 (Administrative Procedure Act) shall be considered, for the purposes of this section, to include the person aggrieved by action of the department. The department shall provide by regulation for notices of hearing under this section to interested persons. At the hearing the appellant bears the burden of proof. In the absence of this proof the assessment is to be upheld by the department. If the department, after hearing, determines that a correction of the assessment is warranted, the department shall correct the assessment.

(c) Within 30 days after the decision by the department following the hearing, a person aggrieved by that decision may appeal to the superior court. The superior court shall grant priority on its dockets for the appeals over all civil cases then pending.

Sec. 43.22.090. RETURNS AND PAYMENT OF TAX. (a) A return of the taxes due and payable, fixed by the certificate of the net proceeds shall be submitted on or before the 60th day after the filing of the certificate on the form prescribed by the department. The return shall be submitted by those persons listed in sec. 70 of this chapter.

(b) The person required to submit the return specified under (a) of this section is primarily liable for payment of the tax levied by

this chapter. The persons or estates specified in sec. 70(a)(2) - (5) of this chapter in whose behalf the tax levied by this chapter is to be paid are secondarily liable for payment of the tax. With the written approval of the department, an operator or nonoperator of the lease or property may submit returns or make payment of the tax levied under this chapter on behalf of himself and other persons the department may approve.

(c) The tax levied under this chapter is payable to the department on or before the 60th day after the filing of the certificate or in estimated installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this subsection even though the assessment is under appeal or the validity, enforceability or application of this chapter or provision of this chapter is challenged before the department or in the courts.

(d) A person making payment of the tax levied under this chapter on behalf of one or more other persons owning or otherwise holding an interest in a taxable property may withhold a proportionate share of the payment from the proceeds or other benefits from the taxable property owed to any person on whose behalf the payment is made. Unless otherwise specifically provided by written contract or agreement, the person so withholding a proportionate share of the tax levied under this chapter incurs no liability to those from whom it is withheld by virtue of having made the withholding.

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

Sec. 43.22.100. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax,

or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered, the penalty shall be collected in the same manner as the original tax. The department shall describe by regulations circumstances which constitute reasonable cause for purposes of this section.

Sec. 43.22.110. INTEREST. When the tax levied in this chapter becomes delinquent, it bears interest at the rate of eight per cent a year.

Sec. 43.22.120. LIEN. The tax, penalty and interest payable under this chapter are first and paramount liens on the property subject to tax under this chapter.

Sec. 43.22.130. REMEDY. The remedy of distraint of property set out in AS 43.20.270 applies to the tax, penalty and interest levied by this chapter.

Sec. 43.22.140. BURDEN OF PROOF. In a suit arising concerning the assessment and taxation of the proceeds of wells or fields, the burden of proof shall be upon the person owning or operating the well or field and every recipient of royalty payments in connection with them.

Sec. 43.22.150. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.22.160. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas

royalties, bonuses, and rentals into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the fund equal $500,000,000.

Sec. 43.22.170. DEFINITIONS. In this chapter

(1) "department" means the Department of Revenue;

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

(3) "gross value" means the price as determined by the department at the wellhead or other point chosen by the department;

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

(5) "well or field" means any well, field, lease, pool, or property.

* Sec. 2. This Act takes effect January 1, 1978.

Introduced: 3/11/77
Referred: Resources and Finance

IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

SENATE BILL NO. 236

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing an oil and gas corporate franchise tax; and providing for an effective date."

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

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

CHAPTER 21. OIL AND GAS CORPORATE FRANCHISE TAX.

Sec. 43.21.010. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that Alaska has large deposits of non-renewable resources of oil and gas which belong to the citizens of the state. Therefore, it is incumbent upon the state to provide an equitable taxing system to be applied to corporations engaged in the extraction, transportation, and refining of this wealth from the state. In addition, it is important that the tax system be designed to return to the state tax revenues measured by the income generated by these resources and activities. Accordingly, the taxing formula must fairly reflect the business activities in the state by those corporations extracting, transporting, and refining these non-renewable resources.

(b) The legislature finds that, as a general rule, the three-factor formula set out in AS 43.19.010, Article IV, fairly measures the income producing activity of corporations doing business both within and without the state. With regard, however, to the extraction, transportation, and refining of oil and gas, the legislature finds that the uniform formula does not fully reflect corporate income-producing activity in the state. The legislature finds that the

income from the extraction, transportation, and refining of oil and gas should be allocated and apportioned by a separate state formula just as financial institutions and public utilities are under the provisions of AS 43.19.010, Article IV.

(c) Although the legislature is mindful of the importance and the advantages of uniformity which the formula in AS 43.19.010, Article IV, represents, the legislature also recognizes its responsibility to provide an apportionment formula which fairly represents a taxpayer's business activity in the state. Accordingly, the legislature has struck a balance between the uniform formula in AS 43.19.010, Article IV, and a direct measure of oil and gas extracted in the state by the substitution of a factor based upon units of extraction, which will more fairly indicate the taxpayer's income attributable to its business activity in the state.

(d) The legislature is concerned about the possibility of a corporation's income not being attributable to any specific state, as when property, payroll, and extraction are present in a location where the corporation is not subject to state taxation. In such cases, some portion of the income of the corporation would escape taxation by all states even though a state may have been impacted by that corporation's business activity and has given services and protection for which it is entitled to ask for compensation. The legislature finds that the apportionment formula in AS 43.19.010, Article IV, is deficient in this respect for corporations engaged in the extraction, transportation, and refining of oil and gas. Specifically, the legislature finds that income generated from activities taking place on the Outer Continental Shelf should not escape state taxation entirely but should be taxed by the state which has made contributions of services and protection to those corporations as a result of those activities taking place off

its shores. The legislature finds that the state is currently adversely impacted by activities occurring on the Outer Continental Shelf off of the state's shores. The state has given and will continue to give those corporations engaged in those activities hospital services, educational services, police protection, regulatory protection, and access to its courts, as well as many other services and protections. Accordingly, the legislature finds that it is entitled to ask for compensation for these services and protections. The return which the state asks is the inclusion of property, payroll, and extraction units not occurring within any state but which are directly serviced from a base of operations in the state.

Sec. 43.21.020. PRIVILEGE TAX IMPOSED. A tax is hereby imposed for each tax year on the privilege of engaging in business, exercising a corporate franchise, doing business in corporate form, employing capital, labor, or property, or maintaining an office, place of business or base of operations in Alaska of every corporation which has ordinary gross receipts during the tax year in excess of $250,000,000 (or which is a member of a unitary business with combined ordinary gross receipts in excess of $250,000,000), more than 50 per cent of which is derived from production, transportation, refining, manufacturing, processing, distribution, or retail sale of oil or gas or products derived from oil or gas. The tax imposed by this chapter is measured by the net income of the corporation and is determined at the rate imposed under AS 43.20.011(e). The tax imposed under this chapter is in place of the tax imposed under AS 43.20.

Sec. 43.21.030. "NET INCOME" DEFINED. (a) Net income for the purposes of this chapter is the higher of taxable income (as the term is used in AS 43.20.011(e)) or the net income determined and certified by an independent certified public accountant for the purposes of a

report to shareholders covering its earnings and profits for the taxable year without regard to any taxes on, or measured by, net income.

(b) The department shall provide by regulation for the determination of net income in circumstances where the income statement determined and certified to shareholders does not truly reflect the corporation's net income. Those circumstances include but are not limited to situations in which a qualified or disclaimed opinion is given by an independent accountant on the corporation's net income, the net income report does not meet standards promulgated by the Securities and Exchange Commission, a change in accounting method, or the income statement is not prepared in accordance with generally accepted accounting principles.

Sec. 43.21.040. "ORDINARY GROSS RECEIPTS" DEFINED. The term "ordinary gross receipts" means total gross receipts, except that there shall be excluded:

(1) all gains and losses from the sale or other disposition of capital assets, and

(2) all gains and losses from the sale or other disposition of property of a character described in sec. 1231(b) of the Internal Revenue Code (determined without regard to holding period).

Sec. 43.21.050. APPORTIONMENT OF NET INCOME. (a) A corporation subject to this tax which is taxable both inside and outside the state shall apportion its entire unitary business net income to Alaska by a fraction the numerator of which is the property factor plus the payroll factor plus the extraction factor and the denominator of which is three. Under regulations adopted by the department, the property factor and the payroll factor shall be determined in accordance with Article IV of AS 43.19.010 and with AS 43.20.071, except as otherwise

provided in this section.

(b) Compensation earned by employees who are not employed in any state in which the corporation is taxable shall be included in the numerator of the payroll factor if the employees are directly supplied from a base of operations maintained in the state.

(c) The value of oil or gas production facilities or other properties which are not located in any state in which the corporation is taxable shall be included in the numerator of the property factor if the property is serviced or supplied from a base of operations maintained in the state or if that property relies on onshore facilities for storage of the oil and gas produced.

(d) The extraction factor is a fraction the numerator of which is the net amount of oil and gas energy units produced in Alaska expressed in terms of their equivalents in British Thermal Units and the denominator of which is the total net amount of oil and gas energy units produced everywhere. Oil and gas energy units which are not extracted in a state in which the corporation is taxable shall be included in the numerator of the extraction factor if the extraction is performed by facilities which are serviced or supplied from a base of operations in the state or if those facilities rely on onshore facilities for storage of the oil and gas produced.

(e) If the denominator of any factor of the apportionment formula set out in this section is zero or is so insignificant that its inclusion will result in a distortion of income, the department may exclude that factor or include one or more additional factors which will fairly represent the taxpayer's business activity in the state.

Sec. 43.21.060. RETURNS AND PAYMENT OF TAXES. (a) A corporation subject to tax under this chapter shall make and file a return with the department at the same time as it files a return under the provisions

of the Internal Revenue Code. The return must set out

(1) the amount of tax due under this chapter, and

(2) other information which the department requires for the purpose of carrying out the provisions of this chapter.

(b) The return must either be on oath or contain a written declaration that it is made under penalty of perjury, and the department shall prescribe forms accordingly.

(c) The total amount of tax imposed by this chapter is due and payable to the department at the same time and in the same manner as the tax payable to the United States Internal Revenue Service.

(d) A taxpayer shall furnish to the department a true and correct copy of the tax return which he has filed with the United States Internal Revenue Service.

(e) The department may credit or refund overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties collected without authority, and taxes that are found unjustly assessed or excessive in amount, or otherwise wrongfully collected. The department shall set limitations, specify the manner in which claims or credits or refunds are made and give notice of allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid out of the general fund on a warrant issued under a voucher approved by the department.

(f) Every taxpayer shall notify the department in writing of any alteration in, or modification of, his federal income tax return and of a recomputation of tax or determination of deficiency (whether with or without assessment). A full statement of the facts must accompany this notice. The notice must be filed within 60 days after the final determination of the modification, recomputation, or deficiency, and the taxpayer shall pay the additional tax or penalty under this chapter.

For purposes of this section, a determination is final at the time that an amended return is filed or a notice of deficiency or an assessment is mailed to the taxpayer by the Internal Revenue Service, except that in no event is there a final determination for purposes of this section until the taxpayer has exhausted his rights of appeal under federal law.

(g) Every taxpayer shall notify the department in writing of any recomputation or restatement of a prior year's net income. A full statement of the facts must accompany this notice. The notice must be filed within 60 days after the recomputation or restatement of a prior year's net income.

(h) In the case of additional tax due by reason of a modification, recomputation, or determination of deficiency in a taxpayer's federal income tax return, or by reason of a recomputation or restatement of a prior year's net income, the period of limitation on assessment commences from the date that the notice required in (f) or (g) of this section is filed, and, if no notice is filed, the tax may be assessed at any time.

Sec. 43.21.070. REVIEW AND ASSESSMENT. (a) As soon as practicable after a return is filed, the department shall examine it and determine the correct amount of the tax. If an error is disclosed by the examination, the department shall notify the taxpayer of the deficiency.

(b) If a taxpayer fails to file a return in the time required by law, or makes an erroneous or fraudulent return, the department shall proceed to assess the tax and make a return from information which it obtains. A return made and subscribed by the department is prima facie sufficient for all legal purposes.

Sec. 43.21.080. REGULATIONS. The department may adopt regulations

in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.21.090. PENALTIES. (a) A person who wilfully attempts to evade the tax imposed by this title is, in addition to other penalties provided by this title, guilty of a felony and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than five years, or both.

(b) A person required under this title to collect, account for, and pay over the tax imposed by this title who wilfully fails to collect or truthfully account for and pay over the tax is, in addition to other penalties provided by this title, guilty of a felony and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than five years, or both.

(c) A person required under this title to pay a tax, make a return, keep records, or supply information, who wilfully fails to pay the tax or estimated tax, make the return, keep the records, or supply the information, is, in addition to other penalties provided by this title, guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

(d) A person who wilfully makes and subscribes a return, statement, or other document required under this title which contains or is verified by a written declaration that it is made under the penalties of perjury which he does not believe to be true and correct as to every material matter is, in addition to other penalties provided by this title, guilty of a felony and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than three years, or both.

(e) A person who wilfully and knowingly aids or assists in, or

procures, or counsels the preparation or presentation in connection with any matter arising under this title of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter is guilty of a felony whether or not the falsity or fraud is with the knowledge or consent of the person required to present the return, affidavit, claim, or document, and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than three years, or both.

(f) A person who wilfully delivers or discloses to the commissioner or the department under this chapter any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned for not more than one year, or both.

(g) In this section, "person" includes, but is not limited to, an officer or employee of a corporation who as officer or employee is under a duty to perform the act in respect to which the violation occurs.

Sec. 43.21.900. DEFINITIONS. In this chapter, unless the context requires otherwise

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

(2) "department" means the Department of Revenue;

(3) "net amount of oil and gas energy units produced" means gross production less any portion of the production which represents a royalty interest, overriding royalty interest, production payment, or any other interest in a lease concession, joint venture, or other agreement for oil or gas production belonging to a third party;

(4) "unitary business" means a corporation or group of corporations having at least 50 per cent common ownership, direct or indirect, or a group of corporations in which there is common control either direct or indirect as evidenced by any arrangement, contract, or agreement.

* Sec. 2. AS 43.55.010(d) is amended to read:

(d) The tax imposed by this chapter is not in place of the tax imposed by ch. 57 or ch. 21 of this title or income taxes or taxes upon the retail sale of oil or gas products.

* Sec. 3. If any of the provisions of this Act relating to the incorporation into the apportionment formula of payroll, property, or extraction arising out of activities conducted on the Outer Continental Shelf, or if any other provisions of this Act are held to be invalid or unenforceable, it is the intent of the legislature that the invalidity or unenforceability does not affect the remainder of this Act.

* Sec. 4. This act takes effect January 1, 1978.

Introduced: 3/11/77
Referred: Resources and Finance

IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

SENATE BILL NO. 237

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas exploration, production, and pipeline and marine transportation property tax; and providing for an effective date."

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

* Section 1. AS 43.56.010(d) is amended to read:

CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION, AND PIPELINE AND MARINE TRANSPORTATION PROPERTY TAXES.

(d) A tax paid to a municipality under AS 29.53.045 on or before June 30 of the tax year shall be credited against the tax levied under (a) of this section for that tax year. If, however, a tax is not paid to a municipality until after June 30 of the taxable year, the department upon application shall refund to the taxpayer the amount of tax paid to the municipality under AS 29.53.045. The credit or refund of taxes paid to a municipality may not exceed the total amount of tax levied by the department upon the taxpayer for the tax year, under (a) of this section. Current property taxes which are collected by one or more municipalities under AS 29.53.055 or any other authority which exceed the limitations set out in AS 29.53.045 or AS 29.53.050 are not allowed as a credit against, or refund of, the tax levied under this section. The credit or refund is only allowed for taxes paid for the current tax year.

* Sec. 2. AS 43.56.060(a) is amended to read:

Sec. 43.56.060. ASSESSMENT. (a) The department shall assess property for the tax levied under sec. 10(b) of this chapter and AS

29.53.045 on property used or committed by contract or other agreement for use for the pipeline transportation of gas or unrefined oil, [OR] for the production of gas or unrefined oil, for refining of gas or unrefined oil, or for the processing, liquefaction, or manufacture of natural gas or oil products at its full and true value as of January 1 of the assessment year. The department shall assess property for the tax levied under sec. 10(b) of this chapter and AS 29.53.045 on property used or committed by contract or other agreement for use in the marine transportation of gas or unrefined oil during any portion of the previous calendar year at its full and true value as of January 1 of the previous calendar year as apportioned under sec. 65 of this chapter.

* Sec. 3. AS 43.56.060(e)(2) is amended to read:

(2) determined on each January 1 thereafter with due regard to the economic value of the property based on the estimated life of the proven reserves of gas or unrefined oil then technically, economically and legally deliverable into the transportation facility; [HOWEVER, IF THE PROVEN RESERVES OF GAS OR UNREFINED OIL THEN TECHNICALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INDICATE AN ECONOMIC LIFE MATERIALLY SHORTER THAN THE ESTIMATED PHYSICAL LIFE OF THE TRANSPORTATION FACILITY, THE FULL AND TRUE VALUE IS THE ACTUAL COST REDUCED BY AN ANNUAL ALLOWANCE FOR DEPRECIATION ON A STRAIGHT LINE BASIS OVER AN ECONOMIC LIFE BASED ON THE ACTUAL ELAPSED LIFE FROM THE COMMENCEMENT OF FULL OPERATION TO THE DATE OF ASSESSMENT PLUS THE ESTIMATED REMAINING LIFE OF THE PROVEN RESERVES OF GAS AND UNREFINED OIL THEN TECHNICALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INTO THE TRANSPORTATION FACILITY AS OF THE DATE OF THE ASSESSMENT;]

* Sec. 4. AS 43.56.060 is amended by adding new subsections to read:

(h) The full and true value of taxable property used or committed

by contract or other agreement for the refining of gas or unrefined oil or in the processing, liquefaction or manufacture of gas or oil products is determined on the basis of replacement cost less depreciation based on the useful life of the property.

(i) The full and true value of taxable property used or committed by contract or other agreement for the marine transportation of gas or unrefined oil is determined on the basis of replacement cost less depreciation based on the useful life of the property as apportioned under sec. 65 of this chapter.

* Sec. 5. AS 43.56 is amended by adding a new section to read:

Sec. AS 43.56.065. METHOD OF APPORTIONMENT. (a) The full and true value of the taxable marine transportation property shall be apportioned to this state by multiplying that value by the days-spent-in-port apportionment fraction. The numerator of the fraction is the number of days spent in ports within the state loading or unloading gas or unrefined oil, and the denominator of the fraction is the number of days spent in ports both within the state and outside the state loading or unloading gas or unrefined oil.

(b) For purposes of this section,

(1) "days spent in port" does not include periods when ships are tied up because of strikes or withheld from service for repairs, or because of seasonal reduction of service; days spent in a port shall be computed by dividing the total number of hours in that port by 24 and rounding to the nearest day;

(2) "port" includes a tanker terminal, dock, moorage, another vessel or any other facility, fixed or floating, from which gas or unrefined oil is loaded or unloaded.

* Sec. 6. AS 43.56.070 is amended by adding a new subsection to read:

(c) For purposes of this section, a return reporting marine

transportation values and days-spent-in-port information for the previous calendar year shall be submitted to the department on a date specified by regulation.

* Sec. 7. AS 43.56.210(6) is amended to read:

(6) "taxable property" means real and tangible personal property within this state used or committed by contract or other agreement for use [WITHIN THIS STATE] primarily in the exploration for, production of, [OR] pipeline transportation of, refining of, gas or unrefined oil, or in the processing, liquefaction or manufacture of natural gas or oil products, including [(EXCEPT FOR] property used [SOLELY] for the liquefaction [RETAIL DISTRIBUTION OR LIQUEFACTION] of natural gas [)], or in the operation or maintenance of facilities used in the exploration for, production of, [OR] pipeline transportation of, refining of, gas or unrefined oil, or in the processing, liquefaction or manufacture of natural gas or oil products, including machinery, appliances, supplies, equipment, drilling rigs, wells (whether producing or not), gathering lines and transmission lines, pumping stations, compressor stations, power plants, topping plants, processing units, refineries and refining equipment, gas processing plants and equipment, liquefied natural gas facilities, roads, tank farms, tanker terminals, docks and other port facilities, air strips and communication equipment and facilities, maintenance equipment and facilities, and maintenance camps and other related facilities; "taxable property" also means property used or committed by contract or other agreement for use primarily in the marine transportation of gas or unrefined oil including tankers, all classes of crude carriers, ships, barges or other marine vessels used in connection with the transportation of gas or unrefined oil; "taxable property" does not include permanent residences, office buildings requiring substantial local government services,

property used for retail distribution of gas, oil or oil products, or gas pipeline systems operated as utilities and regulated by the Alaska Public Utilities Commission;

* Sec. 8. AS 29.53.045(b) is amended to read:

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount of revenue from the total municipal property tax equivalent to $1,500 a year for each person residing within its boundaries. The commissioner of revenue shall adjust the limitation provided for in this section in accordance with changes in the Consumer Price Index for Anchorage, Alaska, published by the Bureau of Labor Statistics, United States Department of Labor. The adjusted limitation becomes effective on the January 1 following its adjustment and applies to taxes levied for that tax year. The Consumer Price Index for October 1976 is considered the initial Consumer Price Index. In making the adjustments under this section, the commissioner shall comply with the following procedure:

(1) after November 30 and before December 31 of each year the commissioner shall calculate the change in the October Consumer Price Index for the current year from the October Consumer Price Index for the previous year;

(2) the commissioner shall then

(A) compute the percentage increase or decrease for that period and

(B) adjust the most current limitation set out in this section by the same percentage increase or decrease, rounded to the nearest dollar;

(3) and report the adjusted limitation to each municipality

by January 15 of the following year.

* Sec. 9. AS 29.53.050(b) is amended to read:

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes (1) which will result in tax revenues from all sources exceeding $1,500 [$1,000] a year, as adjusted in accordance with (c) of this section, for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax (1) the combined levy of which would result in tax revenues from all sources exceeding $1,500 [$1,000] a year, as adjusted in accordance with (c) of this section, for each person residing within their boundaries or (2) upon value which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property

under AS 43.58.

* Sec. 10. AS 29.53.050 is amended by adding a new subsection to read:

(c) The commissioner of revenue shall adjust the $1,500 per person per year limitation provided for in (b) of this section in accordance with changes in the Consumer Price Index for Anchorage, Alaska, published by the Bureau of Labor Statistics, United States Department of Labor. The adjusted limitation becomes effective on the January 1 following its adjustment and applies to taxes levied for that tax year. The Consumer Price Index for October 1976 is considered the initial Consumer Price Index. In making the adjustments under this section, the commissioner shall comply with the following procedure:

(1) after November 30 and before December 31 of each year the commissioner shall calculate the change in the October Consumer Price Index for the current year from the October Consumer Price Index for the previous year;

(2) the commissioner shall then

(A) compute the percentage increase or decrease for that period and

(B) adjust the most current limitation set out in this section by the same percentage increase or decrease, rounded to the nearest dollar;

(3) and report the adjusted limitation to each municipality by January 15 of the following year.

* Sec. 11. If a provision of this Act relating to taxation of marine transportation property or any other provision of this Act is held invalid or unenforceable, it is the intent of the legislature that the invalidity or unenforceability of that provision does not affect the validity or enforceability of any other provision of this Act.

* Sec. 12. This Act is retroactive to January 1, 1977, except that

marine transportation property shall be assessed in accordance with AS 43.56.060(a) for the first time in 1978 under the assessment and collection procedures set out in AS 43.56 based upon its apportioned value during 1977.

* Sec. 13. This Act takes effect immediately in accordance with AS 01.10.070(c).

Introduced: 3/11/77
Referred: Resources and Finance

IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

SENATE BILL NO. 238

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas properties production tax; and providing for an effective date."

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

* Section 1. AS 43.55 is amended by adding new sections to read:

Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of taxable oil produced from the lease or property.

(c) The cents-per-barrel amount equals $.75 per barrel of taxable oil produced from the lease or property, as adjusted by sec. 12 of this chapter.

(d) When the cents-per-barrel amount calculated under (c) of this section is greater than the percentage-of-value amount calculated under (b) of this section, an amount not less than $.05 for each

barrel of taxable oil produced shall be paid by the state out of its royalties from the oil whenever payment by the state is required under the revenue sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) into the Alaska Native Fund, until all amounts paid in the fund equal $500,000,000.

Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or decreased by a percentage equal to the percentage of change in the Gross National Product Deflator published by Bureau of Economic Analysis of the United States Department of Commerce. Changes in tax rates will be computed based on changes in the Gross National Product Deflator from that of the First Quarter 1977 Gross National Product Deflator. The department shall post the changes in the tax rates periodically and shall notify every person producing oil within the state of the changes.

(b) The cents-per-barrel amount set out in sec. 11(c) of this chapter as adjusted by (a) of this section applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by $.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by $.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit factor for oil production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(b) Before February 15 of each year or within six months after commencement of production for a lease or property, the department shall notify the taxpayer of the monthly production rate at the economic limit for each lease or property within the state for that year. The monthly production rate at the economic limit for a lease or property is presumed to be 100 barrels times the number of well-days for the lease or property during December of the preceding year, unless the taxpayer at a formal hearing under AS 43.05.240 provides clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (d) of this section into the average monthly direct operating cost determined under (c) of this section.

(c) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include drilling supplies, fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(d) The value at the point of production of oil produced from

the lease or property shall be determined on the basis of the acquisition cost C.I.F. at West Coast refineries for imported oil of like quality, minus the reasonable cost of transportation between the point of production of the oil from the lease or property and those West Coast refineries.

(e) Before February 15 of each year or within six months after commencement of production for a lease or property the department shall notify the producer of gas of the monthly production rate at the economic limit for each lease or property within the state for that year. The monthly production rate at the economic limit for a lease or property shall be determined at a formal hearing under AS 43.05.240 and must be established by clear and convincing evidence presented by the taxpayer at that hearing. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (g) of this section into the average monthly direct operating cost determined under (f) of this section.

(f) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include drilling supplies, fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, monies paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the

lease or property.

(g) The value at the point of production of gas produced from the lease or property shall be determined on the basis of the highest price paid for gas of like quality and pressure in the same field or some other field within 100 miles in the state.

(h) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to sec. 11 of this chapter, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under sec. 11 of this chapter, when two or more economically independent oil or gas production operations are being conducted on it.

(i) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production.

Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production

of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals $.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by sec. 12 of this chapter.

Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products.

* Sec. 2. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the <u>20th</u> [LAST] day of each calendar month on oil or gas <u>produced</u> [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month

in which it becomes due, the tax becomes delinquent.

* Sec. 3. AS 43.55.020(e) is amended to read:

(e) Gas produced and used, except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of this chapter and in the amount used, as gas <u>produced</u> [REMOVED OR SOLD] from a lease or property. <u>Gas flared under a permit granted by the Department of Natural Resources under AS 31.05.170(11)(H) is considered as gas produced, except that it is subject to a tax equal to twice the tax computed under sec. 16 of this chapter as adjusted by sec. 12 of this chapter per thousand cubic feet of gas for the month in which the gas was flared.</u>

* Sec. 4. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil or gas was <u>produced</u> [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned to the department;

* Sec. 5. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas <u>produced</u> [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 6. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas <u>produced</u> [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

(12) "gross value at the point of production" means:

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition

of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

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

(C) for gas not recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured or the value of the gas at the point of sale, if any, on the premises of the lease or property from which the gas is recovered, whichever is the higher value; for gas run through a gas processing plant, the gross value at the point of

production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the point where it was accurately metered or measured;

(13) "oil production operation" means the operation by which oil is recovered from a lease or property and rendered into oil of pipeline quality, and includes any gathering done before the oil is finally rendered into oil or pipeline quality;

(14) "pipeline quality" means good and merchantable condition

(15) "well days" means the number of days in which a well is operating during a month.

* Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10), and (11,) are repealed.

* Sec. 9. This Act takes effect July 1, 1977 and applies to production during the month of July 1977 and succeeding months.

Original sponsor: Rules Committee by request of the Governor

Offered: 5/2/77
Referred: Finance

IN THE SENATE BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 238

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas properties production tax; and providing for an effective date."

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

* Section 1. AS 43.55 is amended by adding new sections to read:

Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 12.5 per cent of the gross value at the point of production of taxable oil produced from the lease or property.

(c) The cents-per-barrel amount equals $.65 per barrel of taxable oil produced from the lease or property, as adjusted by sec. 12 of this chapter.

(d) When the cents-per-barrel amount calculated under (c) of this section is greater than the percentage-of-value amount calculated under (b) of this section, an amount not less than $.05 for each barrel of

taxable oil produced shall be paid by the state out of its royalties from the oil whenever payment by the state is required under the revenue-sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) into the Alaska Native Fund, until all amounts paid in the fund equal $500,000,000.

Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or decreased by a percentage equal to the percentage of change in the Gross National Product Deflator published by the Bureau of Economic Analysis of the United States Department of Commerce, or 7.5 per cent per year, whichever is the lesser of the two. Changes in tax rates will be computed based on changes in the Gross National Product Deflator from that of the First Quarter 1977 Gross National Product Deflator. The department shall post the changes in the tax rates periodically and shall notify every person producing oil in the state of the changes.

(b) The cents-per-barrel amount set out in sec. 11(c) of this chapter applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by $.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by $.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit factor for oil production of a lease or property equals

$$(1-[PEL/TP]) \exp([300 \times WD]/PEL)$$

Where: PEL = the production rate at the economic limit;

TP = total production during the month for which the tax is to be paid;

WD = the total number of well days in the month for which the tax is to be paid; and

Where "exp" indicates that the expression following it is an exponent.

(b) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(c) The monthly production rate at the economic limit for a lease or property is presumed to be 100 barrels times the number of well days for the lease or property during the month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.420 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of oil production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (e) of this section into the average monthly direct operating cost determined under (d) of this section and shall be used for purposes of this section for all oil production during that calendar year from the lease or property.

(d) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on the number of months operated during the preceding 12-month period. The direct operating costs include production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of

well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(e) For the purposes of this chapter, the gross value of oil shall be calculated as provided in sec. 150 of this chapter, and the gross value of gas shall be calculated as provided in (h) of this section.

(f) Before February 15 of each year or within six months after commencement of gas production for a lease or property, the department shall notify the producer of gas of the monthly production rate at the economic limit for each lease or property in the state for that year. The monthly production rate at the economic limit for a lease or property shall be determined at a formal hearing under AS 43.05.240 and must be established by clear and convincing evidence presented by the taxpayer at that hearing. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (h) of this section into the average monthly direct operating cost determined under (g) of this section.

(g) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on the number of months operated during the preceding 12-month period. The direct operating costs include drilling supplies, fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance),

depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(h) The value at the point of production of gas produced from the lease or property shall be determined on the basis of the highest price paid for gas of like quality and pressure in the same field.

(i) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to sec. 11 of this chapter, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under sec. 11 of this chapter, when two or more economically independent oil or gas production operations are being conducted on it.

(j) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production.

Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied

by the economic limit factor determined for gas production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals $.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by sec. 12 of this chapter.

Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products.

* Sec. 2. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the <u>20th</u> [LAST] day of each calendar month on oil or

gas produced [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 3. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil or gas was produced [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned to the department;

* Sec. 4. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas produced [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 5. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas produced [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 6. AS 43.55.140 is amended by adding a new paragraph to read:

(12) "well days" means the number of days in which a well is operating during a month.

* Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are repealed.

* Sec. 8. This Act takes effect July 1, 1977 and applies to production during the month of July, 1977, and succeeding months.

Original sponsor: Rules Committee by request of the Governor

Offered: 5/2/77
Referred: Finance

IN THE SENATE BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 238 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas properties production tax; and providing for an effective date."

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

* Section 1. AS 43.55 is amended by adding new sections to read:

Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 11.5 per cent of the gross value at the point of production of taxable oil produced from the lease or property.

(c) The cents-per-barrel amount equals $.75 per barrel of taxable oil produced from the lease or property, as adjusted by sec. 12 of this chapter.

(d) When the cents-per-barrel amount calculated under (c) of this section is greater than the percentage-of-value amount calculated under (b) of this section, an amount not less than $.05 for each barrel of

taxable oil produced shall be paid by the state out of its royalties from the oil whenever payment by the state is required under the revenue-sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) into the Alaska Native Fund, until all amounts paid in the fund equal $500,000,000.

Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. The cents-per-barrel amount set out in sec. 11(c) of this chapter applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by $.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by $.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit factor for oil production of a lease or property equals

$$(1-[PEL/TP]) \exp([750 \times WD]/PEL)$$

Where: PEL = the production rate at the economic limit;

TP = total production during the month for which the tax is to be paid;

WD = the total number of well days in the month for which the tax is to be paid; and

Where "exp" indicates that the expression following it is an exponent.

(b) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(c) The monthly production rate at the economic limit for a lease or property is presumed to be 100 barrels times the number of well days

for the lease or property during the month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.420 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of oil production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (e) of this section into the average monthly direct operating cost determined under (d) of this section and shall be used for purposes of this section for all oil production during that calendar year from the lease or property.

(d) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on the number of months operated during the preceding 12-month period. The direct operating costs include production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(e) The value at the point of production of oil produced from the lease or property shall be determined on the basis of the acquisition cost C.I.F. at West Coast refineries for imported oil of like

quality, minus the reasonable cost of transportation between the point of production of the oil from the lease or property and those West Coast refineries.

(f) Before February 15 of each year or within six months after commencement of gas production for a lease or property, the department shall notify the producer of gas of the monthly production rate at the economic limit for each lease or property in the state for that year. The monthly production rate at the economic limit for a lease or property shall be determined at a formal hearing under AS 43.05.240 and must be established by clear and convincing evidence presented by the taxpayer at that hearing. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (h) of this section into the average monthly direct operating cost determined under (g) of this section.

(g) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on the number of months operated during the preceding 12-month period. The direct operating costs include drilling supplies, fuel, routine maintenance, and wages and benefits of employees working on the production operations. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(h) The value at the point of production of gas produced from the

lease or property shall be determined on the basis of the highest price paid for gas of like quality and pressure in the same field.

(i) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to sec. 11 of this chapter, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under sec. 11 of this chapter, when two or more economically independent oil or gas production operations are being conducted on it.

(j) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production.

Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross

value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals $.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by sec. 12 of this chapter.

Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products.

* Sec. 2. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the <u>20th</u> [LAST] day of each calendar month on oil or gas <u>produced</u> [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 3. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil or gas was <u>produced</u> [REMOVED OR SOLD], by name, legal description, lease

number or by accounting code numbers assigned to the department;

* Sec. 4. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas <u>produced</u> [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 5. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas <u>produced</u> [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 6. AS 43.55.140 is amended by adding a new paragraph to read:

(12) "well days" means the number of days in which a well is operating during a month.

* Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are repealed.

* Sec. 8. This Act takes effect July 1, 1977 and applies to production during the month of July, 1977, and succeeding months.

Original sponsor: Rules Committee by request of the Governor

Offered: 5/7/77
For Today's Calendar

IN THE SENATE BY THE FINANCE COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 238

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas properties production tax; and providing for an effective date."

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

* Section 1. AS 43.55 is amended by adding new sections to read:

Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 12.5 per cent of the gross value at the point of production of taxable oil produced from the lease or property.

(c) The cents-per-barrel amount equals $.9375 per barrel of taxable oil produced from the lease or property, as adjusted by sec. 12 of this chapter.

(d) When the cents-per-barrel amount calculated under (c) of this section is greater than the percentage-of-value amount calculated under (b) of this section, and payment by the state to the Alaska Native fund

out of the state's royalties on that oil is required under the revenue sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.), that payment shall be not less than $.05 for each taxable barrel of oil produced until all amounts paid in the fund equal $500,000,000.

Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or decreased by a percentage equal to the percentage of change in the Gross National Product Deflator published by Bureau of Economic Analysis of the United States Department of Commerce. Changes in tax rates will be computed based on changes in the Gross National Product Deflator from that of the First Quarter 1977 Gross National Product Deflator. The department shall post the changes in the tax rates periodically and shall notify every person producing oil within the state of the changes.

(b) The cents-per-barrel amount set out in sec. 11(c) of this chapter as adjusted by (a) of this section applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by $.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by $.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit factor for oil production of a lease or property equals

$$(1-[PEL/TP]) \exp([300 \times WD]/PEL)$$

where: PEL = the production rate at the economic limit;

TP = total production during the month for which the tax is to be paid;

WD = the total number of well days in the month for which

the tax is to be paid; and

where "exp" indicates that the expression following it is an exponent.

(b) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(c) The monthly production rate at the economic limit for a lease or property is presumed to be 300 barrels times the number of well days for the lease or property during the month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.240 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of oil production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (e) of this section into the average monthly direct operating cost determined under (d) of this section and shall be used for purposes of this section for all oil production during that calendar year from the lease or property.

(d) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of

well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(e) For the purpose of calculating the economic limit, the value at the point of production of oil produced from the lease or property shall be determined on the basis of the acquisition cost C.I.F. at West Coast refineries for imported oil of like quality, minus the reasonable cost of transportation between the point of production of the oil from the lease or property and those West Coast refineries.

(f) Before February 15 of each year or within six months after commencement of production for a lease or property the department shall notify the producer of gas of the monthly production rate at the economic limit for each lease or property within the state for that year. The monthly production rate at the economic limit for a lease or property shall be determined at a formal hearing under AS 43.05.240 and must be established by clear and convincing evidence presented by the taxpayer at that hearing. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (h) of this section into the average monthly direct operating cost determined under (g) of this section.

(g) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the

production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, monies paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(h) For the purpose of calculating the economic limit, the value at the point of production of gas produced from the lease or property shall be determined on the basis of the highest price paid for gas of like quality and pressure in the same field or some other field within 100 miles in the state.

(i) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to sec. 11 or sec. 16 of this chapter, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under sec. 11 or sec. 16 of this chapter, when two or more economically independent oil or gas production operations are being conducted on it.

(j) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement

of production is retroactive to the commencement of production.

Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals $.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by sec. 12 of this chapter.

Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil

or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products.

* Sec. 2. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th [LAST] day of each calendar month on oil or gas produced [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 3. AS 43.55.020(e) is amended to read:

(e) Gas produced in excess of that needed for safety purposes [AND USED], except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of this chapter and in the amount used, as gas produced [REMOVED OR SOLD] from a lease or property. Gas flared beyond the amount authorized for safety by the Department of Natural Resources under AS 31.05.170(11)(H) is considered as gas produced, except that it is subject to a penalty equal to the tax computed under sec. 16 of this chapter as adjusted by sec. 12 of this chapter per thousand cubic feet of gas for the month in which the gas was flared.

* Sec. 4. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil or gas was produced [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned by the department;

* Sec. 5. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas produced [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 6. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas <u>produced</u> [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

(12) "gross value at the point of production" means

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

(B) for gas recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured after separation from the oil; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a

reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the premises upon which the oil production operation is conducted; and

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

(13) "oil production operation" means the operation by which oil is recovered from a lease or property and rendered into oil of pipeline quality, and includes any gathering done before the oil is finally rendered into oil of pipeline quality;

(14) "pipeline quality" means good and merchantable condition;

(15) "well days" means the number of days in which a well is operating during a month.

* Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are repealed.

* Sec. 9. This Act takes effect July 1, 1977 and applies to production during the month of July 1977 and succeeding months.

Original sponsor: Rules Committee by request of the Governor

Offered: 5/23/77

IN THE SENATE BY THE FREE CONFERENCE COMMITTEE

FREE CONFERENCE CS FOR HOUSE CS FOR CS FOR SENATE BILL NO. 238

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to oil and gas taxation; and providing for an effective date."

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

* Section 1. AS 43.55 is amended by adding new sections to read:

Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 12.25 per cent of the gross value at the point of production of taxable oil produced from the lease or property.

(c) The cents-per-barrel amount equals $0.60 per barrel of taxable old crude oil produced from the lease or property, and $0.80 per barrel for all other taxable oil produced from the lease or property, both as adjusted by sec. 12 of this chapter.

(d) When the cents-per-barrel amount calculated under (c) of this section is greater than the percentage-of-value amount calculated under

(b) of this section, and payment by the state to the Alaska Native fund out of the state's royalties on that oil is required under the revenue sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.), that payment shall be not less than $.05 for each taxable barrel of oil produced until all amounts paid in the fund equal $500,000,000.

Sec. 43.55.012. ADJUSTMENT IN TAX RATES. (a) Before January 1 of each year the department shall review the prices received for crude oil or gas produced in Alaska, the value of that oil or gas, and the general level of prices in Alaska and the nation, and submit a written report of this review to the governor with the department's recommendations for changes in the amounts set out in sec. 11(c) and 16(c) of this chapter. The governor shall, within 30 days of receiving the department's report, submit the proposed changes to the amounts in sec. 11(c) and 16(c) of this chapter to the legislature.

(b) The cents-per-barrel amount set out in sec. 11(c) of this chapter as adjusted by (a) of this section applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by $.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by $.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit factor for old crude oil production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(b) The economic limit factor for oil production of a lease or property other than old crude oil equals:

(1-[PEL/TP]) exp ([460 X WD]/PEL)

where: PEL = the monthly production rate at the economic limit;

TP = total production during the month for which the tax is to be paid;

WD = the total number of well days in the month for which the tax is to be paid; and

where "exp" indicates that the expression following it is an exponent.

(c) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(d) The monthly production rate at the economic limit for a lease or property is presumed to be 300 barrels times the number of well days for the lease or property during the month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.240 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of oil production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (f) of this section into the average monthly direct operating cost determined under (e) of this section and shall be used for purposes of this section for all oil production during that calendar year from the lease or property.

(e) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty, production supplies, purchased fuel, routine

maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(f) For the purpose of calculating the economic limit, the value at the point of production of oil produced from the lease or property shall be determined on the basis of the acquisition cost C.I.F. at West Coast refineries for imported oil of like quality, minus the reasonable cost of transportation between the point of production of the oil from the lease or property and those West Coast refineries.

(g) Before February 15 of each year or within six months after commencement of production for a lease or property the department shall notify the producer of gas of the monthly production rate at the economic limit for each lease or property within the state for that year. The monthly production rate at the economic limit for a lease or property shall be determined at a formal hearing under AS 43.05.240 and must be established by clear and convincing evidence presented by the taxpayer at that hearing. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (i) of this section into the average monthly direct operating cost determined under (h) of this section.

(h) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, monies paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(i) For the purpose of calculating the economic limit, the value at the point of production of gas produced from the lease or property shall be determined on the basis of the highest price paid for gas of like quality and pressure in the same field.

(j) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to sec. 11 or sec. 16 of this chapter, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under sec. 11 or sec. 16 of this chapter, when two or more economically independent oil or gas production operations are being conducted on it, or when old crude oil is produced from the same lease or property as

other oil.

(k) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production.

Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under sec. 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals $.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by sec. 12 of this chapter.

Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products.

* Sec. 2. AS 43.55.020(a) is amended to read:

(a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th [LAST] day of each calendar month on oil or gas produced [REMOVED OR SOLD] from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

* Sec. 3. AS 43.55.020(e) is amended to read:

(e) Gas produced in excess of that needed for safety purposes [AND USED], except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of this chapter and in the amount used, as gas produced [REMOVED OR SOLD] from a lease or property. Gas flared beyond the amount authorized for safety by the Department of Natural Resources under AS 31.05.170(11)(H) is considered as gas produced, except that it is subject to a penalty equal to the tax computed under sec. 16 of this chapter as adjusted by sec. 12 of this chapter per thousand cubic feet of gas for the month in which the gas was flared.

* Sec. 4. AS 43.55.030(a)(1) is amended to read:

(1) a description of the lease or property from which the oil

or gas was produced [REMOVED OR SOLD], by name, legal description, lease number or by accounting code numbers assigned by the department;

* Sec. 5. AS 43.55.030(a)(3) is amended to read:

(3) the gross amount of oil or gas produced [REMOVED OR SOLD] from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

* Sec. 6. AS 43.55.030(a)(4) is amended to read:

(4) the total value of the oil or gas produced [REMOVED OR SOLD] from the lease or property owned by each producer for whom the tax is paid; and

* Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

(12) "gross value at the point of production" means

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

(B) for gas recovered from or in association with oil, the value of the gas at the point where it is accurately metered or

measured after separation from the oil; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the premises upon which the oil production operation is conducted; and

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

(13) "oil production operation" means the operation by which oil is recovered from a lease or property and rendered into oil of pipeline quality, and includes any gathering done before the oil is finally rendered into oil of pipeline quality;

(14) "pipeline quality" means good and merchantable condition;

(15) "well days" means the number of days in which a well is

operating during a month;

(16) "old crude oil" means crude oil production classified as "old crude oil" in 10 CFR Chapter II Part 212-72 on May 1, 1977, and which is also classified as "old crude oil" on the date of production.

* Sec. 8. AS 43.56.210(6) is amended to read:

(6) "taxable property" means real and tangible personal property used or committed by contract or other agreement for use within this state primarily in the exploration for, production of, or pipeline transportation of gas or unrefined oil (except for property used solely for the retail distribution or liquefaction of natural gas), or in the operation or maintenance of facilities used in the exploration for, production of, or pipeline transportation of gas or unrefined oil, including machinery, appliances, supplies, equipment, drilling rigs, wells (whether producing or not), gathering lines and transmission lines, pumping stations, compressor stations, power plants, topping plants, processing units, roads, tank farms, tanker terminals, docks and other port facilities, air strips and communication equipment and facilities, maintenance equipment and facilities, and maintenance camps and other related facilities; "taxable property" does not include permanent residences, office buildings requiring substantial local government services, or <u>oil and</u> gas pipeline systems <u>owned and</u> operated <u>by a certificated public utility</u> [AS UTILITIES AND] regulated by the Alaska Public Utilities Commission;

* Sec. 9. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are repealed.

* Sec. 10. (a) If a court of competent jurisdiction invalidates the differential economic limit factor computation under AS 43.55.013(a) and (b), the economic limit factor contained in (b) of that section shall be used for computation of the economic limit for all oil.

(b) If a court of competent jurisdiction invalidates the differential cents-per-barrel amounts set out in AS 43.55.011(c), then the cents-per-barrel amount under that section shall be $0.80 per barrel for all crude oil.

* Sec. 11. This Act applies to production during the month of July, 1977 and succeeding months.

* Sec. 12. This Act takes effect July 1, 1977.

Introduced: 1/31/77
Referred: Resources and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Subcommittee on Oil and Gas Leasing and Taxing Policies)

IN THE SENATE

SENATE BILL NO. 105

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska net income tax; and providing for an effective date."

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

* Section 1. LESIGLATIVE FINDINGS AND INTENT. The legislature finds and declares that the method of apportioning income for tax purposes under the "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-State Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the extent of the business activities in this state of multi-state corporations engaged in the production and pipeline transportation of crude oil and natural gas in Alaska. The legislature therefore intends that the provisions of section 18 of article IV of the Multi-State Tax Compact (AS 43.19) which allow separate accounting of income shall be adopted for the determination of corporate income tax liability on income derived from the production and pipeline transportation of oil and gas and related activities. The legislature further intends that separate accounting shall result in the assessment of tax against multi-state corporations so that the tax paid by these corporations will be commensurate with the tax that would be paid by corporations owning and operating only the Alaskan assets of these multi-state corporations.

* Sec. 2. AS 43.20.011 is amended by adding a new subsection to read:

(f) For purposes of determining taxable income under (e) of this section that part of income of any corporation derived in Alaska from oil or natural gas production or the transportation of crude oil or natural gas by pipeline, including income from royalties on oil and gas

production, shall, notwithstanding sec. 65 of this chapter, be determined by separate accounting in accordance with section 18 of article IV of the Multi-State Compact (AS 43.19.010) and secs. 12 - 14 of this chapter.

* Sec. 3. AS 43.20 is amended by adding new sections to read:

Sec. 43.20.012. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION INCOME. (a) The determination of taxable income attributable to oil and natural gas production, as required under secs. 11(e) and (f) of this chapter, shall be based on a separate accounting of costs and revenues associated with the production.

(b) Gross revenue from oil and gas production shall be the wellhead value as established for purposes of the oil and gas properties production tax, in accordance with the provisions of ch. 55 of this title.

(c) Deductions from gross revenue for the purposes of determining taxable production income shall include:

(1) royalties actually paid whether in kind or in value;

(2) severance taxes actually paid;

(3) property taxes actually paid by the corporation taxpayer on the producing property and the facilities directly associated with it, including facilities for the gathering, treating and preparing of the oil or gas for shipment;

(4) the costs incurred by the corporation taxpayer in operating the oil or gas field, including the costs of gathering, treating and preparing the oil or gas for shipment, but net of any payments received for those services;

(5) depreciation on investments which are associated with the production, gathering, treating and preparing for shipment of the oil or gas, and which are located in or adjacent to the site of production, in-

cluding depreciation on capitalized interest, lease acquisition payments and property taxes paid before the commencement of production on the leasehold, facilities or investment associated with it;

(6) interest expense not capitalized and capitalizable, to the extent that it does not exceed a portion of total interest paid by the corporation, its subsidiaries and affiliates, determined by multiplying total interest paid by a fraction, the numerator of which is the book value of the corporation's fixed assets in and associated with the field, and the denominator of which is the book value of all fixed assets held by the corporation, its subsidiaries and affiliates;

(7) expenses incurred after December 31, 1976 of unsuccessful exploration efforts for oil and gas in Alaska, including the acquisition costs of properties abandoned, dry hole costs, and the costs of geologic and geophysical exploration on or related to those properties.

(d) The department shall establish regulations covering the calculation of depreciation costs, the allocation of interest costs, the definition of facilities associated with the production, gathering, treating and preparing for shipment of oil and gas, and other matters necessary to implement this section.

Sec. 43.20.013. DETERMINATION OF CRUDE OIL AND NATURAL GAS PIPELINE TRANSPORTATION INCOME. (a) Except as provided in (b) and (c) of this section, annual taxable income from the pipeline transportation of crude oil in Alaska in interstate commerce in facilities devoted wholly to interstate commerce shall be eight per cent of the valuation of the pipeline facility as determined by or in accordance with principles established by the Interstate Commerce Commission (ICC).

(b) If no ICC valuation has been made of an interstate oil pipeline facility or if the oil pipeline facilities are engaged wholly or partially in intrastate commerce, net income shall be determined in

accordance with regulations established by the Alaska Pipeline Commission under AS 42.06.041. A tax return reporting this income shall be accompanied by a certification from the Alaska Pipeline Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established in regulations adopted by the commission, or, if the income is not, in the opinion of the commission, reported in accordance with its regulations, then a statement to that effect, identifying the deficiencies in the report and, if possible, providing a reporting of the true and correct income.

(c) A corporation operating an oil pipeline facility engaged solely in interstate commerce may elect to have the taxable income from that facility determined in accordance with (b) of this section, rather than (a) of this section if it complies with all applicable regulations and orders of the Alaska Pipeline Commission concerning accounting methods and reports, and properly files all reports or other information required by Alaska Pipeline Commission regulations.

(d) A corporation's taxable income from the transportation of natural gas shall be determined for interstate natural gas pipelines in conformance with the reporting procedures established by the Federal Power Commission, and for intrastate pipelines in conformance with procedures established by the Alaska Public Utilities Commission. A tax return reporting income from the intrastate transportation of natural gas by pipeline shall be accompanied by a certification from the Alaska Public Utilities Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established in regulations adopted by the commission, or, if the income is not, in the opinion of the commission, reported in accordance with its regulations, then a statement to that

effect, identifying the deficiencies in the report and, if possible, providing a reporting of the true and correct income.

(e) The certifications of the Alaska Pipeline Commission and the Alaska Public Utilities Commission submitted in accordance with this section shall not prejudice any future action by the respective commission nor shall it prevent the respective commission from submitting a revised certification within three years of the due date of the tax return in support of which it was originally filed.

(f) Nothing in this section or in sec. 12 of this chapter shall limit a corporate taxpayer's right to appeal or the taxpayer remedies provided under ch. 5 of this title.

Sec. 43.20.014. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION. Taxable income from activities other than oil or natural gas production or pipeline transportation shall be determined by subtracting the income as determined under secs. 12 and 13 of this chapter from the corporation's consolidated net income and applying the allocation formula required under the provisions of sec. 65 of this chapter, except that the property factor and the payroll factor shall be calculated without reference to payroll or property related to production or pipeline transportation activity the income from which is taxable in accordance with secs. 12 and 13 of this chapter.

Sec. 43.20.015. PUBLIC REPORTING. Notwithstanding the provisions of AS 43.05.230, the commissioner of revenue shall compile and transmit to the legislature an annual consolidated report of state revenues and taxation policies under this chapter. This report shall include total Alaska income tax paid by firms and individuals covered under this chapter, itemized deductions by category and the tax cost of these deductions. For purposes of this section, "tax cost" means the amount of

revenue which the state would have collected had not a specific deduction been allowed. Also included in the report shall be a summary of each corporate tax return filed which shows income from the production of oil or natural gas, showing the total amount of oil and gas produced by or for each taxpayer, the taxable income of the corporation from production as reported in accordance with sec. 12 of this chapter, from pipeline transportation as reported in accordance with sec. 13 of this chapter, from other income allocated to the state under sec. 14 of this chapter, and the tax due.

* Sec. 4. AS 43.20.330 is amended by adding new subsections to read:

(f) Any person who improperly influences, or attempts to improperly influence, by means of payment or offer of payment or other valuable consideration, any state official in his determination of values and apportionments under this chapter shall be guilty of bribery and punishable under AS 11.30.040.

(g) Any person who knowingly and wilfully makes false statements or representations, or who knowingly allows false statements or representations to be made on his behalf in the case of corporations, with a purpose of avoiding the corporate tax imposed under this chapter is guilty of wilful tax avoidance and is punishable upon conviction by a fine of three times the amount of the tax that would have been unpaid had the false statement been undetected, and by imprisonment for not less than 10 days nor more than one year.

* Sec. 5. AS 42.06.140 is amended by adding a new paragraph to read:

(11) shall provide all reasonable assistance to the Department of Revenue in determining the net income from oil pipeline facilities.

* Sec. 6. AS 42.06 is amended by adding a new section to read:

Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

(a) Upon request of a pipeline carrier the commission shall review the accounts of that carrier and provide a certification to the Department of Revenue either stating that to the best of the commission's knowledge and belief the report of net pipeline income submitted by the carrier under AS 43.20.013 is in accordance with the commission's regulations governing the accounting of income, or that it is not so in accordance, in which case the commission shall identify the deficiencies in the report and, if possible, provide a reporting of the true and correct income.

(b) The commission shall provide the certification of compliance or deficiency in reporting within 45 days of the date on which the pipeline carrier requests it, but all certifications remain subject to amendment by the commission for a period of three years after the due date of the tax return which they accompany.

(c) The commission may by regulation establish accounting procedures and definitions as may be necessary to define net income for tax purposes, but net income so defined shall coincide as nearly as possible with the net income definition used by the commission in establishing rates and measuring rate of return, and shall be derived before any deductions for income taxes accrued or paid.

* Sec. 7. AS 42.05.141 is amended to read:

Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The Alaska Public Utilities Commission [MAY]

(1) may regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by sec. 711 of this chapter and the powers of the commission shall be liberally construed to accomplish its stated purposes;

(2) may investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and

facilities of a public utility and hold hearings on them;

(3) may make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility;

(4) may prescribe the system of accounts and regulate the service and safety of operations of a public utility;

(5) may require a public utility to file reports and other information and data;

(6) may appear personally or by counsel and represent the interests and welfare of the state in all matters and proceedings involving a public utility pending before an officer, department, board, commission or court of the state or of another state or the United States and to intervene in, protest, resist, or advocate the granting, denial or modification of any petition, application, complaint or other proceeding;

(7) may examine witnesses and offer evidence in any proceeding affecting the state and initiate or participate in judicial proceedings to the extent necessary to protect and promote the interests of the state;

(8) shall provide all reasonable assistance to the Department of Revenue in determining the net income from natural gas pipeline facilities.

* Sec. 8. AS 42.05 is amended by adding a new section to read:

Sec. AS 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE. (a) Upon request of a pipeline carrier the commission shall review the accounts of that carrier and provide a certification to the Department of Revenue either stating that to the best of the commission's knowledge and belief the report of net pipeline income submitted by the carrier under AS 43.20.013 is in accordance with the commission's regu-

lations governing the accounting of income, or that it is not so in accordance, in which case the commission shall identify the deficiencies in the report and, if possible, provide a reporting of the true and correct income.

(b) The commission shall provide the certification of compliance or deficiency in reporting within 45 days of the date on which the pipeline carrier requests it, but all certifications remain subject to amendment by the commission for a period of three years after the due date of the tax return which they accompany.

(c) The commission may by regulation establish accounting procedures and definitions as may be necessary to define net income for tax purposes, but net income so defined shall coincide as nearly as possible with the net income definition used by the commission in establishing rates and measuring rate of return, and shall be derived before any deductions for income taxes accrued or paid.

* Sec. 9. This Act relates only to income earned or received after December 31, 1976.

* Sec. 10. This Act takes effect January 1, 1978.

Original sponsor: Rules Committee
by request of the Legislative Council
(for the Subcommittee on Oil and Gas
Leasing and Taxing Policies)

Offered: 4/27/77
Referred: Finance

IN THE SENATE BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 105

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska net income tax; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that the method of apportioning income for tax purposes under the "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-State Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the extent of the business activities in this state of multi-state corporations engaged in the production and pipeline transportation of crude oil and natural gas in Alaska. The legislature therefore intends that the provisions of section 18 of article IV of the Multi-State Tax Compact (AS 43.19) which allow separate accounting of income shall be adopted for the determination of corporate income tax liability on income derived from the production and pipeline transportation of oil and gas and related activities. The legislature further intends that separate accounting shall result in the assessment of tax against multi-state corporations so that the tax paid by these corporations will be commensurate with the tax that would be paid by corporations owning and operating only the Alaskan assets of these multi-state corporations.

* Sec. 2. AS 43.20.011 is amended by adding a new subsection to read:

(f) For purposes of determining taxable income under (e) of this section that part of income of any corporation derived in Alaska from oil or natural gas production or the transportation of crude oil or natural gas by pipeline, including income from royalties on oil and gas

production, shall, notwithstanding sec. 65 of this chapter, be determined by separate accounting under the authority of section 18 of article IV of the Multi-State Compact (AS 43.19.010) and in accordance with secs. 67 - 69 of this chapter.

* Sec. 3. AS 43.20 is amended by adding new sections to read:

Sec. 43.20.067. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION INCOME. (a) The determination of taxable income attributable to oil and natural gas production in Alaska, as required under sec. 11(f) of this chapter, shall be calculated using gross income and deductions from gross income as defined in this section.

(b) Gross income from oil and gas production in Alaska shall be the value of oil and gas produced as established for purposes of the oil and gas properties production tax, in accordance with the provisions of ch. 55 of this title.

(c) Deductions from gross income for the purposes of determining taxable production income shall include:

(1) royalties actually paid whether in kind or in value;

(2) severance taxes actually paid for which no prior deduction has been claimed for income tax purposes;

(3) property taxes actually paid by the corporation taxpayer on producing property and facilities directly associated with producing property, including facilities for the gathering, treating and preparing of the oil or gas for shipment, provided the payments are made after the date of initial production of the property with which they are associated;

(4) the direct costs incurred by the corporation taxpayer in operating oil or gas fields, including the costs of gathering, treating and preparing oil or gas for shipment, but net of any payments received for those services and not including indirect costs and overhead except as provided in (6) of this subsection;

(5) depreciation on investments which are associated with the production, gathering, treating and preparing for shipment of the oil or gas, and which are located in or adjacent to the site of production, including depreciation on interest capitalized at a rate not to exceed the average cost of borrowed capital to the corporation taxpayer during the year in which it is capitalized and also including the amortization of lease acquisition payments and property taxes paid for or on producing properties before the commencement of production on the leasehold, facilities or investment associated with it;

(6) interest expense not capitalized, to the extent that it does not exceed a portion of total interest paid by the corporation, its subsidiaries and affiliates, determined by multiplying total interest paid by a fraction, the numerator of which is the book value of the corporation's fixed assets in and associated with the producing properties in Alaska and the denominator of which is the book value of all fixed assets held by the corporation, its subsidiaries and affiliates;

(7) expenses incurred after December 31, 1976 of unsuccessful exploration efforts for oil and gas in Alaska, including the acquisition costs of properties abandoned, dry hole costs, and the costs of geologic and geophysical exploration on or related to those properties.

(d) The department shall establish regulations covering the calculation of depreciation costs, the allocation of interest costs, the definition of facilities associated with the production, gathering, treating and preparing for shipment of oil and gas, and other matters necessary to implement this section.

(e) Deductions from gross income under this section shall not include expenses previously deducted on a return filed under this chapter.

Sec. 43.20.068. DETERMINATION OF CRUDE OIL AND NATURAL GAS

PIPELINE TRANSPORTATION INCOME. (a) Taxable income attributable to the transportation of crude oil in interstate commerce in Alaska shall be the sum of the amount reported to the Interstate Commerce Commission under the category "net balance transferred from income" as specified as of January 1, 1977 in 49 CFR 10 Part 1204, account 700 and of federal income taxes paid as specified as of January 1, 1977 in 49 CFR 10 Part 1204, accounts 670 and 695, and of taxes actually paid under sec. 11(e) of this chapter. A tax return reporting that income shall be accompanied by a certification from the Alaska Pipeline Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established by the Interstate Commerce Commission, or, if in the opinion of the commission, the income is not reported in accordance with the regulations of the Interstate Commerce Commission, then a statement to that effect, identifying the deficiencies of the report and, if possible, providing a reporting of the true and correct income.

(b) Taxable income attributable to the transportation of natural gas in interstate commerce in Alaska shall be the sum of the amount reported to the Federal Power Commission under the category "balance transferred from income" as specified in 18 CFR 1, Part 201, account 433 and of federal income taxes paid as specified as of January 1, 1977 in 18 CFR 1, Part 201, accounts 409, 409.1, 409.2 and 409.3, and of taxes actually paid under sec. 11(e) of this chapter. A tax return reporting that income shall be accompanied by a certification from the Alaska Public Utilities Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established by the Federal Power Commission, or, if in the opinion of the commission, the income is not reported in accordance with the regulations of the Federal Power

Commission, then a statement to that effect, identifying the deficiencies of the report and, if possible, providing a reporting of the true and correct income.

(c) Taxable income attributable to the transportation of crude oil in Alaska of any corporation not under Interstate Commerce Commission jurisdiction, or of a corporation under the Interstate Commerce Commission but not reporting the operation of pipelines in Alaska separately from the operation of pipelines elsewhere, shall be an amount equal to that which would have been reported to the Interstate Commerce Commission under (a) of this section had the corporation been, in fact, under Interstate Commerce Commission jurisdiction for the taxable year and required to report on the operation of Alaska pipelines separately from the operation of pipelines elsewhere. A tax return reporting that income shall be accompanied by a certification from the Alaska Pipeline Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established by the Interstate Commerce Commission, or, if in the opinion of the commission, the income is not reported in accordance with the regulations of the Interstate Commerce Commission, then a statement to that effect, identifying the deficiencies of the report and, if possible, providing a reporting of the true and correct income.

(d) Taxable income attributable to the transportation of natural gas in Alaska by any corporation not under the jurisdiction of the Federal Power Commission, or of a corporation under Federal Power Commission jurisdiction but not reporting the operation of Alaska pipelines separately from the operation of pipelines elsewhere, shall be an amount equal to that which would have been reported to the Federal Power Commission under (b) of this section had the corporation been, in fact, under Federal Power Commission jurisdiction for the taxable year and required

to report on the operation of Alaska pipelines separately from the operation of pipelines elsewhere. A tax return reporting that income shall be accompanied by a certification from the Alaska Public Utility Commission to the effect that to the best of the commission's knowledge and belief the income calculation has been made in accordance with the principles established by the Federal Power Commission, or, if in the opinion of the commission, the income is not reported in accordance with the regulations of the Federal Power Commission, then a statement to that effect, identifying the deficiencies of the report and, if possible, providing a reporting of the true and correct income.

(e) The certifications of the Alaska Pipeline Commission and the Alaska Public Utilities Commission submitted in accordance with this section do not prejudice any future action by the respective commission nor prevent the respective commission from submitting a revised certification within three years of the due date of the tax return in support of which it was originally filed.

(f) Nothing in this section or in sec. 67 of this chapter limits a corporate taxpayer's right to appeal or the taxpayer remedies provided under ch. 5 of this title.

Sec. 43.20.069. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION. Taxable income from activities other than oil or natural gas production or pipeline transportation shall be determined by subtracting the income as determined under secs. 67 and 68 of this chapter from the corporation's combined net income and applying the apportionment formula required under the provisions of sec. 65 of this chapter, except that both the numerator and the denominator of the property factor and the payroll factor shall be calculated without reference to payroll or property related to crude oil or natural gas production or pipeline

transportation activity in Alaska, and the sales factor shall not be used in the calculation.

Sec. 43.20.070. PUBLIC REPORTING. Notwithstanding the provisions of AS 43.05.230, the commissioner of revenue shall compile and transmit to the legislature an annual consolidated report of state revenues and taxation policies under this chapter. This report shall include total Alaska income tax paid by firms and individuals covered under this chapter and itemized deductions by category.

* Sec. 4. AS 43.20 is amended by adding a new section to read:

Sec. 43.20.075. BOOKS AND RECORDS. The department may provide by regulation the manner in which books and records must be kept and maintained for purposes of determining gross income and deductions from gross income under secs. 67 - 69 of this chapter.

* Sec. 5. AS 43.20.335 is amended by adding new subsections to read:

(k) Any person who improperly influences, or attempts to improperly influence, by means of payment or offer of payment or other valuable consideration, any state official in his determination of values and apportionments under this chapter is guilty of bribery and punishable under AS 11.30.040.

(l) Any person who knowingly and wilfully makes false statements or representations, or who knowingly allows false statements or representations to be made on his behalf in the case of corporations, with a purpose of avoiding the corporate tax imposed under this chapter is guilty of wilful tax avoidance and is punishable upon conviction by a fine of three times the amount of the tax that would have been unpaid had the false statement been undetected, and by imprisonment for not less than 10 days nor more than one year.

* Sec. 6. AS 42.06.140 is amended by adding a new paragraph to read:

(11) shall provide all reasonable assistance to the

Department of Revenue in determining the net income from oil pipeline facilities.

* Sec. 7. AS 42.06 is amended by adding a new section to read:

Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE. (a) Upon request of a pipeline carrier the commission shall review the accounts of that carrier and provide a certification to the Department of Revenue either stating that to the best of the commission's knowledge and belief the report of net pipeline income submitted by the carrier under AS 43.20.069 is in accordance with the commission's regulations governing the accounting of income, or that it is not so in accordance, in which case the commission shall identify the deficiencies in the report and, if possible, provide a reporting of the true and correct income.

(b) The commission shall provide the certification of compliance or deficiency in reporting within 45 days of the date on which the pipeline carrier requests it, but all certifications remain subject to amendment by the commission for a period of three years after the due date of the tax return which they accompany.

(c) The commission may by regulation establish accounting procedures and definitions as may be necessary to define net income for tax purposes, but net income so defined shall coincide as nearly as possible with the net income definition used by the commission in establishing rates and measuring rate of return, and shall be derived before any deductions for income taxes accrued or paid.

* Sec. 8. AS 42.05.141 is amended to read:

Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The Alaska Public Utilities Commission [MAY]

(1) <u>may</u> regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent

exempted by sec. 711 of this chapter and the powers of the commission shall be liberally construed to accomplish its stated purposes;

(2) may investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and facilities of a public utility and hold hearings on them;

(3) may make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility;

(4) may prescribe the system of accounts and regulate the service and safety of operations of a public utility;

(5) may require a public utility to file reports and other information and data;

(6) may appear personally or by counsel and represent the interests and welfare of the state in all matters and proceedings involving a public utility pending before an officer, department, board, commission or court of the state or of another state or the United States and to intervene in, protest, resist, or advocate the granting, denial or modification of any petition, application, complaint or other proceeding;

(7) may examine witnesses and offer evidence in any proceeding affecting the state and initiate or participate in judicial proceedings to the extent necessary to protect and promote the interests of the state;

(8) shall provide all reasonable assistance to the Department of Revenue in determining the net income from natural gas pipeline facilities.

* Sec. 9. AS 42.05 is amended by adding a new section to read:

Sec. 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE. (a) Upon request of a pipeline carrier the commission shall review the

accounts of that carrier and provide a certification to the Department of Revenue either stating that to the best of the commission's knowledge and belief the report of net pipeline income submitted by the carrier under AS 43.20.069 is in accordance with the commission's regulations governing the accounting of income, or that it is not so in accordance, in which case the commission shall identify the deficiencies in the report and, if possible, provide a reporting of the true and correct income.

(b) The commission shall provide the certification of compliance or deficiency in reporting within 45 days of the date on which the pipeline carrier requests it, but all certifications remain subject to amendment by the commission for a period of three years after the due date of the tax return which they accompany.

(c) The commission may by regulation establish accounting procedures and definitions as may be necessary to define net income for tax purposes, but net income so defined shall coincide as nearly as possible with the net income definition used by the commission in establishing rates and measuring rate of return, and shall be derived before any deductions for income taxes accrued or paid.

* Sec. 10. This Act relates only to income earned or received after December 31, 1976.

* Sec. 11. This Act takes effect January 1, 1978.

LAWS OF ALASKA

1978

Source: SCS CSHB 322(Resources)

Chapter No. 110

AN ACT

Establishing an oil and gas corporate income tax; and providing for an effective date.

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

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that the method of apportioning income for tax purposes under the "Uniform Division of Income for Tax Purposes" formula embodied in the Multistate Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the extent of the business activities in this state of multistate corporations engaged in the production and pipeline transportation of crude oil and natural gas in Alaska. The legislature therefore intends that, in accordance with the provisions of art. IV, sec. 18 of the Multistate Tax Compact (AS 43.19), the income tax of all corporations engaged in the production or pipeline transportation of oil or natural gas in or directly associated with this state shall be assessed by the tax administrator under this Act. The legislature further intends that the assessment of income tax against a multistate corporation engaged in the production or pipeline transportation of oil or natural gas shall be commensurate with the tax that would be assessed against a corporation owning and operating only those assets of the multistate corporation which are in or directly associated with this state.

* Sec. 2. AS 43.20.011(e) amended to read:

(e) There is imposed for each taxable year upon the entire taxable income of every corporation derived from sources within the state a tax consisting of a normal tax equal to 5.4 per cent of taxable income, and a surtax which is equal to 4.0 per cent of taxable income. For purposes of this chapter the surtax exemption for a taxable year follows secs. 1561 and 1563 of the Internal Revenue Code. The tax of a corporation engaged in the production or transportation of crude oil or natural gas shall be determined and paid in accordance with ch. 21 of this title.

* Sec. 3. AS 43 is amended by adding a new chapter to read:

CHAPTER 21. OIL AND GAS CORPORATE INCOME TAX.

Sec. 43.21.010. APPLICATION. This chapter applies to every corporation doing business in the state which derives income from the production of oil or gas from a lease or property in or directly associated with the state, or from the pipeline transportation of oil or gas in the state. The tax calculated under this chapter is measured by the total taxable income of the corporation as defined in secs. 20 - 40 of this chapter and is determined at the rates established under AS 43.20.011(e).

Sec. 43.21.020. DETERMINATION OF TAXABLE INCOME FROM OIL AND GAS PRODUCTION. (a) The taxable income of a corporation from the production of oil and gas from a lease or property in the state shall be the corporation's net income as calculated by the department in accordance with this section.

(b) Gross income of a corporation from oil and gas production shall be the gross value at the point of production of oil or gas produced from a lease or property in the state. The department shall by regulation determine a uniform method of establishing the gross value at the point of production. In making its determination the department may use the actual prices or values received for the oil or gas, the posted prices for the oil or gas in the same field, or the prevailing prices or values of oil or gas in the same field. In addition, in its determination of gross value at the point of production of oil or gas produced from a lease or property, the department shall determine the reasonable costs of transportation from the point of sale to the point of production of the oil or gas. Transportation costs set by a tariff properly on file with the Alaska Pipeline Commission or other regulatory agency shall be considered prima facie reasonable, but if a tariff properly on file with a regulatory agency is subsequently amended, changed, or overturned retroactively, the reasonable costs of transportation shall be recomputed for that period using the newly determined tariff.

(c) Net income from oil and gas production shall be determined by the department by deducting from gross income the following:

(1) royalties paid in kind or in value;

(2) taxes imposed under AS 43.55 and AS 43.57 which are actually paid by the corporation on the production from a lease or property in the state;

(3) taxes imposed under AS 43.56 and AS 29.53 which are actually paid by the corporation on property used directly in the production of oil or gas from a lease or property in the state, including property used in production, gathering, treatment or preparation of the oil or gas for pipeline transportation, but only if those property tax payments were due and payable only after the date of commercial production from the lease or property with which the property was associated;

(4) the direct costs incurred by or for the corporation in operating the lease or property, including the direct costs of producing, gathering, treating or preparing the oil or gas for pipeline transportation, but net of any payments received for those activities and not including any indirect cost or overhead expense;

(5) depreciation (using the unit of production method or such other reasonable methods as the department may by regulation establish) on property used directly in the production, gathering, treatment or preparation of the oil or gas for pipeline transportation including amortization of capitalized interest for investments in this property at a rate not to exceed the average cost of borrowed capital to the taxpayer during the year in which it is capitalized;

(6) the amortization of lease acquisition payments and taxes paid under AS 43.56 and AS 29.53 (including capitalized interest on both) for or on producing properties before the commencement of commercial production from the lease or property for which the property is being used;

(7) interest expense not capitalized of the corporation, to the extent that it does not exceed that portion of the total interest paid by the consolidated business of which the corporation is a part, determined by multiplying the total interest (reduced by intercompany transactions within the consolidated business) by a fraction, the numerator of which is the value of the corporation's real and tangible personal property used directly in the production of oil or gas from a lease or property in the state and the denominator of which is the value of all real and tangible personal property of the consolidated business;

(8) expenses incurred by the corporation after December 31, 1977 of unsuccessful exploration of oil or gas in the state including the acquisition costs of abandoned properties, dry hole costs and the costs of geologic and geophysical exploration related to those abandoned properties;

(9) general overhead or administrative expense incurred by the corporation attributable to the production of oil or gas from a lease or property in the state to the extent that it does not exceed the lesser of:

(A) that portion of the total general overhead or administrative expense incurred by the consolidated business of which the corporation is a part, determined by multiplying the total general overhead or administrative expense by a fraction, the numerator of which is the value of the corporation's real and tangible personal property used directly in the production of oil or gas from a lease or property in the state and the denominator of which is the value of all real and tangible personal property of the consolidated business, or

(B) the sum of $0.12 for each barrel of oil and $0.02 for each thousand cubic feet of gas produced from a lease or property in the state.

(d) Deductions from gross income under this section shall not include expenses previously deducted on a return filed under AS 43.20.

(e) Where a corporation subject to this chapter shares the production or proceeds of the production from a lease or property through a working interest, royalty interest, overriding royalty interest, production payment, net profit interest, joint venture or other agreement, the department shall allocate the deductions from gross income between the corporation and the persons with whom it has such an agreement in accordance with the terms of the agreement.

Sec. 43.21.030. DETERMINATION OF INCOME FROM OIL AND GAS PIPELINE TRANSPORTATION. (a) Except as provided in (c) of this section, taxable income attributable to the transportation of oil in a pipeline engaged in interstate commerce in Alaska shall be determined by the department and shall be the amount reported or that would be required to be reported to the Federal Energy Regulatory Commission or its successors as net operating income, less those portions of interest and general administrative expense attributable to the pipeline transportation of oil in the state, except that taxable income shall also include taxes on or measured by income. The department shall establish regulations governing the determination of interest and general administrative expense attributable to pipeline transportation of oil in the state.

(b) Except as provided in (c) of this section, taxable income attributable to the transportation of natural gas in a pipeline engaged in interstate commerce in Alaska shall be determined by the department and shall be the amount reported or that would be required to be reported to the Federal Energy Regulatory Commission as net operating income less that portion of interest and general administrative expense attributable to pipeline transportation in the state, except that the taxable income shall also include taxes on or measured by income. The department shall establish regulations governing the determination of interest and general administrative expense attributable to pipeline transportation of natural gas in the state.

(c) Taxable income attributable to the transportation of oil or natural gas in Alaska of any corporation not under the Federal Energy Regulatory Commission jurisdiction, or of a corporation under the jurisdiction of the Federal Energy Regulatory Commission but not reporting the operation of pipelines in Alaska separately from the operation of pipelines elsewhere, shall be determined by the department and shall be based upon an amount equal to that which would have been reported to the Federal Energy Regulatory Commission under (a) of this section in the case of oil pipelines, or (b) of this section in the case of natural gas pipelines, had the corporation been, in fact, under Federal Energy Regulatory Commission jurisdiction for the taxable year and required to report on the operation of Alaska pipelines separately from the operation of pipelines elsewhere.

Sec. 43.21.040. DETERMINATION OF INCOME FROM ACTIVITIES OTHER THAN OIL AND GAS PRODUCTION OR PIPELINE TRANS-

PORTATION. (a) Taxable income of a corporation subject to this chapter from activities in this state other than the production of oil or gas from a lease or property in the state or the pipeline transportation of oil or gas in the state shall be determined in accordance with the method established in art. IV of AS 43.19.010 and in AS 43.20.071, as modified by (b) - (e) of this section.

(b) The total taxable income of the consolidated business shall be the net income determined and certified by an independent certified public accountant for the purposes of a report to shareholders covering its earnings and profits for the taxable year (calculated without regard to any taxes on or measured by net income), less the taxable income of the corporation as determined under secs. 20 and 30 of this chapter.

(c) The numerator and denominator of the property factor, of the payroll factor and of the sales factor shall be calculated without reference to that portion of property, payroll or sales directly related to the production of oil or gas from a lease of property in the state or the pipeline transportation of oil or gas in the state.

(d) Compensation earned by employees of the consolidated business who are employed in the United States but not in any state shall be included in the numerator of the payroll factor if the employees are directly supplied from a base of operations maintained in this state.

(e) The value of oil or gas production facilities or other properties of the consolidated business which are located in the United States but not in any state shall be included in the numerator of the property factor if the property is serviced or supplied from a base of operations maintained in the state or if that property relies on onshore facilities in this state for storage of the oil or gas produced.

Sec. 43.21.050. ASSESSMENT OF INCOME AND TAX. (a) The department shall assess taxable income and the amount of tax payable on that taxable income.

(b) On or before August 15 of each year the department shall send to every corporation taxable under this chapter a notice of assessment showing the amount of income taxable under this chapter for the previous year and the amount of tax payable on that taxable income.

(c) For purposes of this chapter the department may combine taxable incomes of corporations subject to tax under this chapter who are part of the same consolidated business.

Sec. 43.21.060. RETURNS. On or before April 15 of each year, a corporation subject to tax under this chapter shall submit a return in a form prescribed by the department setting out information required by the department to determine taxable income. For purposes of this chapter, the department may require corporations subject to tax under this chapter who are part of the same consolidated business to file a single return.

Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chapter is payable to the department on or before September 30 of each year or in installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this section even though the assessment is under appeal or the validity, enforceability or application of this chapter or any provision of this chapter is challenged before the department or in the courts.

Sec. 43.21.080. TRANSITIONAL RULES. The department shall provide by regulation transition rules for corporations subject to tax under ch. 20 of this title before the effective date of this Act to avoid double taxation of the same income or double deduction of the same expense of those corporations as a result of becoming subject to tax under this chapter.

Sec. 43.21.090. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.21.100. PENALTIES. The penalties established in ch. 20 of this title apply to this chapter.

Sec. 43.21.110. PUBLIC REPORTING. (a) The commissioner of revenue shall compile and transmit to the legislature an annual consolidated report of state revenues and taxation policies under this chapter. This report shall include total aggregate income tax paid by corporations covered under this chapter and aggregate income and deductions by category, so classified as to prevent the identification of particular returns or reports.

(b) The legislative auditor shall transmit to the legislature an annual report reviewing the actions of the department in administering this chapter.

Sec. 43.21.120. DEFINITIONS. Unless the context requires otherwise the definitions contained in AS 43.55.-140 are applicable to this chapter. In addition, in this chapter

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

(2) "consolidated business" means a corporation or group of corporations having at least 50 per cent common ownership, direct or indirect, or a group of corporations in which there is common control either direct or indirect as evidenced by any arrangement, contract or agreement.

* Sec. 4. This Act applies to taxable income earned or received after December 31, 1977.

* Sec. 5. The Act takes effect immediately in accordance with AS 01.10.070(c).

Approved by the Governor: July 8, 1978
Actual Effective Date: July 9, 1978

LAWS OF ALASKA

1978

Source
HCSSB 601

Chapter No.
111

AN ACT

Making special appropriations to the power project revolving fund and the Department of Revenue; and providing for an effective date.

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

* Section 1. The sum of ~~$6,000,000~~ $500,000 is appropriated from the general fund to the power project revolving fund (AS 44.56.170) to be used for loans for reconnaissance studies, design, modification, expansion and preconstruction engineering for water supply and hydroelectric projects.

* Sec. 2. The sum of ~~$10,600,000~~ $7,000,000 is appropriated from the general fund to the Department of Revenue for a loan to the municipality of Sitka for continuing design, federal licensing, and commencing construction of the Green Lake hydroelectric project; the terms and conditions of the loan are to be determined by the commissioner of revenue in consultation with the commissioner of transportation and public facilities.

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

Approved by the Governor: July 8, 1978
Actual Effective Date: July 9, 1978