

SB

148

<TARGET><BILL>SB 148</BILL><SUBJECT>SB
148</SUBJECT><COMM>SCRA27</COMM></TARGET>

- Good afternoon. Welcome to today's C&RA hearing. With me here today is:
 - Senator Kookesh
 - Senator Menard
 - Senator Ellis
 - Please turn off all cell phones. This meeting is teleconferenced and recorded.
 - On today's agenda, we will consider
 - SB 148 – GAS PIPELINE PROPERTY TAX EXEMPTION
 - The following administration officials are available for comments and questions,
 - Steve Van Sant, the state Assessor
 - Jim Greeley – Petroleum Property Assessor
 - Joyce Lofgren – Economist w/ Dept. of Revenue
 - Sen. Wielechowski & his staff will present the bill.
-

Possible questions for SB 148

- Was this idea (the exemption of property taxes) discussed during the AGIA debate? If so, do we know why it wasn't included as a "facet" of AGIA?
- There are gas production inducements that became law with AGIA. (AS 43.90.300). If SB 148 becomes law, do these inducements still offer incentives for gas production and what are the fiscal impacts? Would the state be offering potential developers too much?
- TO Dept. of REVENUE: How does this affect municipalities? Do you have any analysis of this?

ALASKA STATE LEGISLATURE

Session

State Capitol, Rm. 101
Juneau, AK 99801
(907) 465-2435
Fax: (907) 465-6615

Interim

716 W. 4th Ave. Ste. 540
Anchorage, AK 99501
(907) 269-0120
Fax: (907) 269-0122

Senator_Bill_Wielechowski@legis.state.ak.us



Chair

State Affairs Committee

Co-chair

Joint Armed Services Committee

Vice Chair

Resources Committee
Judiciary Committee

Member

Administrative Regulation Review

SENATOR BILL WIELECHOWSKI

Sponsor Statement

SB 148: Waiving State Property Taxes on Natural Gas Pipeline during Construction

Alaskans have long sought to get Alaska's stranded North Slope natural gas reserves to market. Thirty-five trillion feet of natural gas have already been "proven," and experts say an additional 200 trillion feet could yet be discovered, enough to meet existing demand in the U.S. for eight years. Alaskans are also eager to access North Slope gas to meet their own needs as production in Cook Inlet declines and high oil prices in Interior and rural Alaska burdens families and businesses. A variety of proposals has emerged – from building a large diameter pipeline that would carry Alaska's gas to the Lower 48 to a smaller line designed primarily to meet Alaskans' needs. More recently, attention has focused on a medium-sized line that would transport gas to tidewater in Southcentral Alaska, where it could be liquefied and shipped to Asia.

The economic viability of each these proposals is currently being assessed, but experts note that all face significant challenges. The shale gas boom in the Lower 48 has significantly depressed domestic gas prices; the cost of transporting gas on an instate line could be enormous; and many nations are racing to meet Asia's growing needs for gas, creating an increasingly competitive marketplace. If Alaskans want to see a gas line built, the state may need to take additional action to ensure that a line is economically viable.

One such action, called for in SB 148, is waiving state property taxes until gas begins to flow down a line and generate revenue for its owners. While the state has many other fiscal options for assisting with a pipeline, waiving state property taxes during construction has several notable benefits. It is a modest investment, far less than the billions of dollars the state could invest if it were to cover or subsidize the cost of building a pipeline, finance construction overruns, or significantly reduce production taxes. It also provides assistance to pipeline owners during a critical period – when they are spending vast sums and generating no revenue. Waiving state property taxes also benefits those who will ship gas down the line by reducing the tariff and boosting the value of their gas. This could help attract customers, a critical element to moving a project forward. Finally, the state would ultimately benefit from any reduction in property taxes as it would receive greater production tax revenue as a result of higher netbacks for shippers.

This bill does not propose to waive property taxes collected by local governments in Alaska.

Please join me in supporting SB 148.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB 148
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) SB148-DCCED-DCRA-02-03-12 Dept. Affected DCCED
Title GAS PIPELINE PROPERTY TAX EXEMPTION Appropriation Community and Regional Affairs
Allocation Community and Regional Affairs
Sponsor Senators Wielechowski, Egan, Ellis, French, Davis...
Requester Senate Community & Regional Affairs OMB Component Number 2879

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Services	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Commodities	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required,
discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial Version

Prepared by Scott Ruby, Director
Division Community and Regional Affairs
Approved by JoEllen Hanrahan, Director Administrative Services
Commerce, Community, and Economic Development

Phone (907) 269-4569
Date/Time 2/3/2012 4:30pm
Date 2/3/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. SB 148

Analysis

This Bill provides an exemption from the state 20 mill property tax levied under AS 43.56.010(a) to a gas pipeline which is defined as a line that has a design capacity of 500,000,000 or more cubic feet per day.

This bill creates no fiscal impact upon the Department/Division.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB148
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) SB148-DNR-O&G-02-06-12 Dept. Affected Department of Natural Resources
Title Gas Pipeline Property Tax Exemption Appropriation Oil and Gas
Allocation Oil and Gas
Sponsor Wielechowski, Egan, Ellis, French, Davis, Kookesh
Requester Senate Community & Regional Affairs Committee OMB Component Number 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES	***	***	***	***	***	***	***
--------------------	-----	-----	-----	-----	-----	-----	-----

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, Initial Version

Prepared by William C. Barron, Director
Division Division of Oil and Gas
Approved by Daniel S. Sullivan, Commissioner
Department of Natural Resources

Phone 907-269-8800
Date/Time 2/6/12 3:00 PM
Date 2/6/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. SB148

Analysis

SB 148 exempts a large gas pipeline (over half a billion cubic feet per day) from paying property tax during construction and for the first year of operation. Currently, the gas pipeline would have to pay a 20 mil (two percent) tax on the value of the real and tangible property of a gas pipeline during construction and for the first year of operation.

The impact on royalties is positive indeterminate. All else equal, the property tax exemption would slightly improve the economics of a large gas line. The exact amount of savings from the property tax exemption would depend upon the cost of the project and the length of the construction period. As an example, in an open season filing with FERC, the Alaska Pipeline Project (APP) estimated that it would have to pay between \$186 and \$243 million total in property taxes during construction for the Alaska section of its project, and between \$9 and \$11 million during construction for the gas pipeline from Point Thomson to the Gas Treatment Plant (GTP). See Appendix C, Exhibit J, Alaska-Canada Rate Model at pgs. 2-3, 16-17. The lower cost of the pipelines would mean slightly lower tariffs, and, all else equal, slightly higher netback royalty values for gas.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version SB 148
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) SB148-DOR-TAX-02-07-12 Dept. Affected _____ Revenue _____
 Title Gas Pipeline Property Tax Appropriation Taxation and Treasury
 Allocation Tax Division
 Sponsor Sen's Wielechowski, Egan, Ellis, French, Davis, Kookesh
 Requester Senate Community and Regional Affairs OMB Component Number 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES

--	--	--	--	--	--	--	--

Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version.

Prepared by Joyce Lofgren, Economist & Jim Greeley, Petroleum Property Assessor
 Division Tax
 Approved by Jerry Burnett, Director Administrative Services
 Department of Revenue

Phone 269-1026
 Date/Time 2/7/12, 12pm
 Date 2/7/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. SB 148 _____

Analysis

Revenue from this project is not currently included in the state revenue forecast ; therefore, any exemptions would have no impact on current revenue expectations.

SB 148 would exempt a gas pipeline with a design capacity of 500,000,000 or more cubic feet of gas a day from the state's oil and gas exploration, production, and pipeline transportation property taxes until the pipeline generates revenue for its owners. "Or more" means that a larger design capacity pipeline such as the 4.5 Bcf per day pipeline under AGIA could qualify for the exemption. Property tax during construction of the 4.5 Bcf per day AGIA pipeline is estimated at \$1.1 billion (2010 dollars) by the Office of the Federal Coordinator, Alaska Natural Gas Transportation Projects.

In addition to pipeline capacity, the length, diameter and thickness of the pipeline and the maximum operating pressure must be specified in order to estimate capital costs from which property value can be assessed. Absent such specifications, this analysis uses the capital costs estimated for the base case pipeline in the Alaska Stand Alone Gas Pipeline (ASAP) study. The pipeline is scoped to bring 500 Mcf of gas per day from Prudhoe Bay to Southcentral with a lateral pipeline to the Fairbanks area. The case is scaled to conform with the Alaska Gasline Inducement Act (AGIA) which limits other projects receiving state support to 500 Mcf.

Assumptions:

Natural gas pipeline with capacity of 500 Mcf per day
Capital costs for the BASE CASE in the ASAP

	<u>\$ Billions (2011)</u>
Pipeline	\$5.68
Gas Conditioning Facility	1.84
TOTAL Project Capital Costs	\$7.52

Annual tax of 20 mills is levied each tax year
Construction ramp up is 50% in 2014 and 100% complete in 2015
State share 45%

Property Tax Estimate for 500,000,000 Gas Pipeline	
Million 2011\$	
Project Facility Capital Costs	\$7,520
Property Tax Rate	2% 20 mills
State Share	45%
Annual Property Tax to State	\$68
Construction Period	
2014	\$34
2015	\$68
TOTAL	\$102 Exemption during construction
Source: Capital costs per Alaska Stand Alone Gas Pipeline base case Tax assumptions per Petroleum Property Tax Department	

Results

Property tax on a natural gas pipeline with a scope as defined by the base case in the ASAP could result in roughly \$225 million during the construction phase. Exempting such a pipeline from the tax would result in \$102 million not being collected as revenue to the state. The share for municipalities would be \$124 million.

AMENDMENT

OFFERED IN THE SENATE
TO: SB 148

BY SENATOR WIELECHOWSKI

1 Page 3, following line 28:

2 Insert new bill sections to read:

3 **** Sec. 6.** AS 43.56.060(a) is amended to read:

4 (a) The department shall assess property for the tax levied under
5 AS 43.56.010(b) and AS 29.45.080 on property used or committed by contract or
6 other agreement for use for the pipeline transportation of gas or unrefined oil or for the
7 production of gas or unrefined oil, including property that is exempt under
8 AS 43.56.020(d) from the tax imposed under AS 43.56.010(a), at its full and true
9 value as of January 1 of the assessment year.

10 *** Sec. 7.** AS 43.56.070(a) is amended to read:

11 (a) The department may require by notice every person having ownership or
12 control of an interest in property taxable under this chapter or property that is
13 exempt under AS 43.56.020(d) from the tax imposed under AS 43.56.010(a) to
14 submit a return in the form prescribed by the department, based on property values
15 existing on January 1 of each year, except as otherwise provided in this chapter."

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WIELECHOWSKI

TO: SB 148

1 Page 1, line 1:

2 Delete "gas"

3 Insert "**certain gas**"

4

5 Page 3, line 20, following "day":

6 Insert "to market in the state south of 68 degrees North latitude for sale"

SB 148: Fact Sheet

- SB 148 would waive state property taxes for a natural gas pipeline designed to carry 500 million cubic feet of gas per day until gas begins to flow down the line.
- The purpose of this bill is to help move a project forward by improving project economics early on when major expenditures are being made and no revenue is being generated.
- SB 148 does not waive oil and gas property taxes collected by local governments, such as the North Slope Borough, Fairbanks North Star Borough, Kenai Peninsula Borough, or City of Valdez.
- State property taxes during construction are estimated at as much as \$600 million for a large diameter line.
- A study conducted by the nationally recognized consulting firm Black and Veatch estimated that the state could generate as much as \$66 billion in revenue over the life of a large diameter pipeline carrying gas from the North Slope to the Lower 48.
- These revenues would help pay for essential state services, such as public safety, roads and education, during a time when oil production is in decline.
- Construction of a pipeline – be it a large export line to Asia or the Lower 48 or a smaller in-state bullet line – would, however, have many additional benefits for Alaskans. These include:
 - Up to 10,000 high-paying jobs for Alaskans during peak construction, with in-state spending on wages, goods and services of up to \$6 billion
 - A long-lasting supply of affordable natural gas to ease the burden of high energy prices on Alaskan families, businesses and utilities
 - Improved economics for additional oil and gas exploration and development on Alaska's North Slope
 - Prolonged life for the Trans-Alaska Pipeline
- Congress has stepped up and provided a variety of incentives to facilitate construction of a pipeline to the Lower 48, including:
 - A federal loan guarantee of up to 21 billion (as of 2011), which will reduce the cost of borrowing

State fiscal options to help move Alaska gas

The goal of this paper is to ask: What could the state do to help the economics of a large-volume natural gas pipeline from the North Slope to out-of-state markets, combined with a smaller in-state line to serve Alaska's energy needs? And should the state do anything? We identify several fiscal options, but do not suggest these are the only ones that might help put a gas pipeline into Alaska's future.

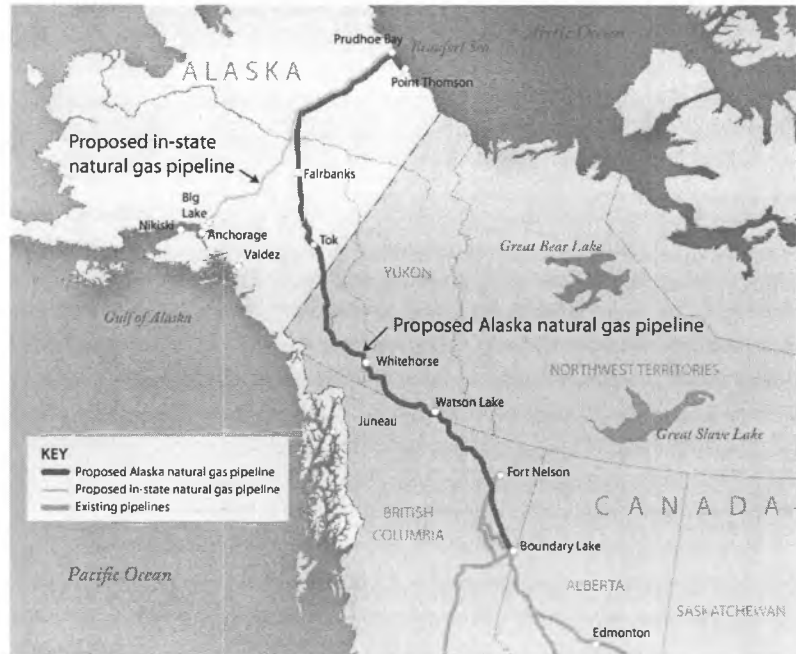
The rewards of state financial involvement with any Alaska gas delivery system could be large: Public revenue from selling the state's stranded gas resources, jobs for Alaskans, and long-lasting low natural gas prices for Alaska homeowners, businesses and utilities thanks to the economies of scale that will greatly reduce transportation costs to in-state markets.¹ Moreover, entry to the worldwide market for North Slope gas promises to improve oil and gas exploration economics and prolong the life of the trans-Alaska oil pipeline.

Certainly, stability of gas supply for Alaskans is essential for any project, especially one with state dollars invested. Southcentral residents and businesses worry that Cook Inlet production could fall short of meeting local needs in the years ahead, and Fairbanks would love to see affordable gas break the economic stranglehold that costly diesel has on its economy. Those concerns have prompted renewed interest in a smaller in-state line to meet local needs if a big pipeline is not going to happen.

While the Alaska Gasline Inducement Act (AGIA) of 2007, which is helping to partially fund development expenses for the larger pipeline to out-of-state markets, requires off-take points along the line for Alaska deliveries, it does not create or fund any mechanism to build and operate a spur line(s) for in-state distribution. The Alaska Gasline Development Corp. (AGDC), created by House Bill 369 in 2010 and partially funded for its initial project development costs, could fill that role if the Legislature and governor so choose.

There would be benefits to planning an out-of-state line and in-state spur to coincide with the same

ALASKA GAS PIPELINE PROJECTS



¹The July 2011 report by the Alaska Gasline Development Corp. analyzing an in-state pipeline estimated the gas treatment plant and pipeline tariff at \$5.63 per million Btu, assuming there are customers for 100 percent of the gas. Because of economies of scale, the tariff on the much larger TransCanada/ExxonMobil project, for example, would be less than half that amount to pipe gas to Fairbanks. The bigger project would require a spur line to serve Southcentral, so the tariff to move gas to Anchorage would be higher than the cost to the Fairbanks area, but likely still less than \$5.63.

in-service date. Construction and mobilization efforts could be coordinated, along with scheduling and labor needs. Perhaps more importantly, decisions on the two lines are linked politically and economically for the state.

But could coordinated state assistance get both a large gas line and an in-state delivery system built? A detailed examination of economics, markets and financing strategies would be useful if the state wants to seriously consider its options.

However, there are risks to state financial participation. This background paper identifies some of the risks associated with selected approaches the state could take to help move North Slope gas to Alaska consumers *and* key out-of-state markets, but it does not identify every risk or every potential reward. Markets create their own uncertainties. For example, companies spent almost \$10 billion in the past decade building or expanding liquefied natural gas import terminals at U.S. ports because they thought the nation was running short of gas. They guessed wrong.

Federal encouragements

If the state of Alaska decides to provide further assistance with a gas pipeline, it will find itself aligned with federal policy.

Congress, through passage of the Alaska Natural Gas Pipeline Act of 2004 and other legislation, committed the federal government to assist an Alaska gas line project. The 2004 legislation created the Office of Federal Coordinator to oversee federal agency permitting, and also set out an expedited schedule for the Federal Energy Regulatory Commission to prepare the project's environmental impact statement.

In addition, Congress has:

- Authorized a federal loan guarantee to cover much of the project debt (up to \$21 billion, as of 2011), which would reduce the cost of borrowing for construction, thereby reducing the debt service payments and pipeline tariff. A lower tariff means a higher "netback" value for the gas as it leaves the ground at North Slope fields, providing more revenue for the producers and the state.
- Provided for accelerated tax depreciation for the pipeline in Alaska, allowing the owners a faster

payback on their huge upfront construction cost. Based on current cost estimates for the more than 700 miles of pipe in Alaska, the tax break could reduce the pipeline tariff by an estimated 6 cents per thousand cubic feet (mcf).

- Granted a tax credit for the Prudhoe Bay gas treatment plant, projected by TransCanada/ExxonMobil to cost as much as \$12 billion. The credit could reduce the estimated tariff by 11 cents per mcf.

Assuming the accelerated depreciation and gas treatment plant tax credit reduce the tariff by 17 cents, and adding in the potential savings from a \$21 billion federal loan guarantee (estimated at 10 cents to 15 cents per mcf), the reduction in shipping costs from the federal incentives could total \$450 million to \$550 million a year (close to a 10 percent savings on shipping costs). The tax incentives and loan guarantee, however, are available only for a project that serves U.S. Lower 48 markets.

Alaska paradox: Robust finances, precarious economy

If Alaska wasn't so wealthy, the resources to invest in or assist with a gas line wouldn't be available, and this discussion would be of little more than academic interest.

No state in the union, and only a few sovereign nations, can boast the per-capita financial assets accumulated by Alaska. As of June 30, 2011, the state held \$55.5 billion (over \$78,000 for every resident) in the Alaska Permanent Fund, Constitutional Budget Reserve Fund and other savings accounts. If Alaska truly wants a gas line(s) to become a reality, it likely has the means to help make it so.

Living on the economic edge

A recent study by Scott Goldsmith of the University of Alaska Anchorage Institute of Social and Economic Research found that half of all Alaska jobs are due to a single industry — petroleum — either directly from that industry or through state outlays financed by petroleum royalties and taxes.² North Slope oil

²Scott Goldsmith, "Alaska's Petroleum Industry: Transformative, But is it Sustainable?" Presentation sponsored by Northrim Bank, Anchorage, April 2011.

production peaked at 2 million barrels per day in fiscal year 1988 and since then has declined every year but one. Between FY 2009 and 2010, output dropped 7 percent. There is little evidence to suggest the trend will soon reverse.

The state has been protected from the economic effects of this decline by rising oil prices, which as of Oct. 12 stood at \$110 per barrel for North Slope crude. However, many Alaskans remember that as recently as December 1998 Alaska oil briefly sold below \$9 per barrel. The unbalanced and precarious oil-dependent state of Alaska's economy lends urgency to the discussion of what the state might do to sustain the economy, monetize the stranded gas assets on the North Slope and help lower energy costs for a significant share of residents.

Finding the right balance

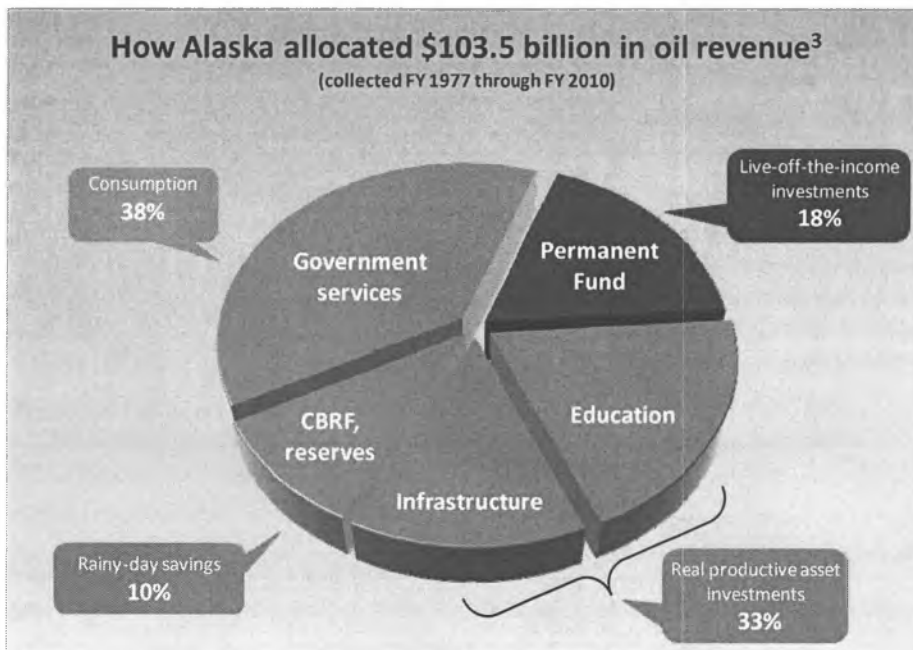
There are three distinct ways any individual or organization can use savings to help secure its economic future:

- **Live-off-the-income:** Put the savings in financial investments with the goal of eventually living wholly or partially off the earnings.
- **Rainy-day savings:** Place the money in safe, short-term investments to cover emergencies or budget shortfalls.
- **Invest in real productive assets:** Put the savings in non-financial investments that increase future productivity. For Alaska, these include transportation (roads, ports, harbors and airports), energy projects, other infrastructure, education and job training.

The first two kinds of investments usually go out of state. The third generates real assets in Alaska.

How to deploy the state's billions in financial assets has been a continuing issue for Alaskans. Since 1977, when North Slope crude first flowed down the trans-Alaska pipeline, the state has collected \$103.5 billion in oil revenue. About 62 percent has been saved or invested. But as the chart shows, only 33 percent

(\$34.5 billion) was invested in productive assets including infrastructure and education. Thirty-eight percent was neither saved nor invested; it has been consumed in the form of government services. Eighteen percent has been channeled into the Alaska Permanent Fund, where it supports the state's unique and hugely popular live-off-the-income program, the Permanent Fund dividend. And 10 percent has been allocated to three "rainy-day" accounts, including \$10.3 billion in the Constitutional Budget Reserve Fund.



³ This chart was prepared by Gregg Erickson based on published data from the Alaska Department of Revenue (DOR), Legislative Finance Division (LFD) and the Alaska Permanent Fund Corp. (APFC). Small discrepancies in additive subtotals are due to rounding.

DOR data shows the state received \$103.5 billion from oil. The infrastructure investment total (\$14.2 billion) is from LFD's historical general fund capital budget data series, plus an estimated \$3 billion appropriated to capitalize the Alaska Housing Finance Corp., Alaska Industrial Development and Export Authority and other smaller endowments. Permanent Fund investment income and other investment earnings on oil revenue are not included.

Education investment of \$20.4 billion was calculated as a percentage of total general fund operating spending as compiled by LFD to approximate spending through the Department of Education and University of Alaska.

Options for state fiscal assistance to a gas line

The options discussed here were chosen to illustrate broad categories of approaches the state could take to financially assist with a gas pipeline project(s). No development means no revenue and no public benefits for Alaska, so state financial assistance leading to a pipeline that otherwise wouldn't be built is a plus.

1. Provide direct subsidies

The direct-subsidy model familiar to Alaskans is the 2007 Alaska Gasline Inducement Act (AGIA). Under AGIA, the state established a list of "must-have" conditions for a pipeline developer. These included the licensee's acceptance of financing and rate-setting methodologies to produce lower tariffs, a commitment to expand pipeline capacity as needed, adoption of local-hire policies, the opportunity for in-state delivery of gas at reasonable costs, and acceptance of a timeline for submitting a project application to the Federal Energy Regulatory Commission (FERC).

In return, the state agreed to provide the AGIA licensee up to \$500 million to help offset the developer's initial design and permitting costs. The state awarded the license to TransCanada in 2008. As part of the deal, TransCanada agreed to submit a project application to FERC by October 2012. If FERC determines that the application is complete, federal law requires a decision by the commission late summer 2014.

By making the subsidy available early in the development process, when risks are highest and potential payouts are the most distant, the state's \$500 million provides a clear benefit to project economics. Another advantage is that the state knows from the outset the maximum size of its financial commitment.

This design and permitting subsidy, while moving the project ahead in the risky, early years when it lacks contracted customers, is only one piece of the puzzle to lock in a gas line. The AGIA subsidy will get you a building permit for the pipeline, but without customers and financing there will be no pipeline.

ExxonMobil in 2009 signed up as a partner on the project, and in 2010 TransCanada/ExxonMobil held an open season to solicit bids from potential customers. Though the developer received several bids, it has yet

to announce any signed shipping deals on a pipeline to move 4.5 billion cubic feet of gas per day into North America markets.

It appears the AGIA subsidy, by itself, is insufficient to make the gas line a reality. The project is high-centered, waiting for a push from the market and maybe the state to move it forward.

The state could build on the AGIA model by offering a substantial direct subsidy in return for further commitments by the licensee, including commitments to proceed to actual construction. But this could prove very costly to the state, in that it's likely any pipeline developer would require significant sums of state dollars to start ordering steel pipe for a project lacking enough shippers to pay the mortgage. And though a bold move, a direct state cash subsidy cannot change market economics or guarantee the state a positive return on its money.

2. Make equity investment

The state agency created and directed by the Legislature in 2010 to develop a plan for a smaller in-state gas line recommended in its July 2011 report that state ownership of the project would produce the lowest tariffs for moving gas down the line. The Alaska Gasline Development Corp. ran the numbers assuming the state would borrow 100 percent of the estimated \$7.5 billion needed for construction. The cost of borrowing money using the state's solid credit rating would be less than what a private owner would expect for a return on its equity investment in the project. Lower cost of capital means a lower tariff. The AGDC analysis calculated that state borrowing to pay the entire in-state pipeline project cost could drop the tariff at least 25 percent from the cost of private ownership — and maybe more if the Internal Revenue Service agreed to let the Alaska Railroad Corp. issue tax-exempt bonds for the project.

But there are risks to the state. Adding the gas line debt to the state's existing debt "would make Alaska's percentage of debt compared to gross domestic product three times any other state," the AGDC report said.⁴ State financing of the project "may result in a downgrade of the state's (credit) ratings, depending on the rating agencies' views of the risks and reliability" that pipeline revenues could cover the bond payments, the report added. A downgrade would boost the cost of

⁴ Alaska Gasline Development Corp., "Alaska Stand-Alone Gas Pipeline Project Plan," July 1, 2011, pages 4-10.

future borrowing not just for the state, but for school districts and municipalities, too. And borrowing so much money could hinder the state's ability to borrow for other needs in the years ahead, such as for schools or roads. AGDC in its report acknowledged those risks and said it would strive to convince rating agencies that the state could handle the debt.

Another risk would be if tariff revenues were insufficient to cover the pipeline debt payments and operating expenses. If that happened, the state would be liable to cover any shortfall.

The costs of such a potential subsidy are significant. If the state is ready to take such a \$7-billion-plus financing risk for the small pipeline, it is worth considering the potential of incurring the same size risk to assist a much larger line to serve out-of-state markets *and* the smaller spur line moving what is needed to meet Alaska's needs. The public benefits of marrying large-pipeline economies of scale and a spur pipeline supplying in-state needs would be gas delivered to Alaskans at the lowest cost while also producing much greater tax and royalty revenue. Under the state's existing tax and royalty structure, public revenues would be **seven times higher** under such a combination than from a stand-alone, smaller in-state gas line.

There also are questions with even partial state ownership of a gas line: Is it a conflict for the state to be both an owner and a regulator? Would politics interfere with pipeline business decisions? Worth asking and worthy of debate.

3. Defer or amend property taxes

The most straightforward of pipeline incentives, and one often discussed in the past, would be to defer or eliminate the substantial property taxes assessed on the project during construction. Property taxes are estimated at \$1.1 billion (2010 dollars) during the years of construction, before the pipeline generates any revenue. In addition, under the current property tax structure, construction cost overruns will add to the tax bill — adding up to more cash outflow for shippers.

Past proposals were designed to help project economics by eliminating the heavy front-end loading effect of the state's property tax structure. Because property taxes are paid through the pipeline tariff, any

State options

1. Provide direct subsidies
2. Make equity investment
3. Defer or amend property taxes
4. Defer production taxes
5. Modify rules on royalty switching
6. Add to federal loan guarantee
7. Finance construction overruns
8. Take share of shipping commitments

property tax relief will benefit shippers and boost the value of the gas. That's a plus for the project, which needs to attract shippers. Most property tax revenue goes to municipalities, however, so the state likely would need to consider providing offsetting aid to municipalities to cover their actual costs of public services during construction.⁵

In addition to considering tax deferrals during construction, the state could look for a solution to annual battles over what is the taxable value of the pipeline — battles that have consumed millions of dollars and decades of legal fights over the taxable value of the trans-Alaska oil pipeline. For example, rather than assessing the replacement cost or depreciated value of the gas line each year, the state could look at assessing property taxes on the basis of flow down the line. Less flow, less value, less in taxes; or, as long as the line stays full, the taxes stay full, too (perhaps with an inflation escalator). Under the current system, even if the line stays full it would drop in value over the years, knocking down municipal property tax revenues.

4. Defer production taxes

Besides taxing the actual pipeline's value, the state levies taxes on gas production. The state take from its current profits-based production tax on natural gas is expected to be lower than its tax revenue from oil — natural gas is less profitable per Btu than crude oil, after deducting transportation costs. But the

⁵ See Information Insights Inc., "Stranded Gas Development Act Municipal Impact Analysis." Prepared for the Alaska Department of Revenue, November 2004.

production tax on gas still would be significant for a 4.5 bcf/day pipeline (hundreds of millions of dollars a year, or even a billion-plus, depending on gas prices) and, in fact, would exceed the state's royalty take from gas production. The major North Slope producers, even if they do not own the pipeline, would provide the financing through the tariff they would pay for moving their gas down the line. Any deferral of production taxes during the early years of the project would allow the producers quicker recovery of their investment, thereby lessening their risk if gas prices are depressed at the outset of deliveries. Less risk makes a project more attractive to them. Similarly, back-end loading of tax rates would allow the companies to recover their investment in the early years, with the state waiting for its bigger payday in later years. If the state expects to be cash rich with oil dollars when the gas line starts flowing, Alaska may be in a good position to defer its gas production tax receipts until later.

5. Modify rules on royalty switching

Royalty rates and terms are set by contract when a company and the state sign an oil and gas lease. One term that producers have expressed concerns about is the state's ability to switch frequently and with short notice between taking its royalty share of production in kind (actual ownership of the gas) or in value (letting the producer sell the gas and send a check to the state). The producers believe that could create problems if pipeline capacity does not accompany the switch. They worry that they, as pipeline capacity holders, might not have gas to move when a switch occurs or, alternatively, that they could have state royalty gas to move but lack sufficient capacity rights to transport the gas. This is addressed, in part, in the Alaska Gasline Inducement Act, but may require further consideration to reduce the misalignment risk to producers, which could mean the state taking on some of the risk — trying to lessen the risk to investors to entice them to commit to the project.

6. Add to federal loan guarantee

Congress in 2004 authorized an \$18 billion loan guarantee for an out-of-state line. Indexed for inflation to 2011, that guarantee could backstop almost \$21 billion of debt.⁶ Back in 2004, the amount looked

adequate to cover the entire amount a pipeline owner would borrow for construction. That no longer is the case. The pipeline's estimated cost has escalated, and now the guarantee might cover just two-thirds of the debt.

An additional loan guarantee by the state could raise the total to cover the higher construction cost estimate. Whether that would make *the* difference, given the unfavorable gas market, is not clear. But it would further lessen the risk to investors and lower the pipeline tariff, making the project more attractive to shippers and the gas more valuable to the state.

7. Finance construction overruns

Cost-overrun financing by the state (such as a "soft-second" mortgage) is another option.

The risk of construction overruns on such a massive project is real, and the threat to project economics is just as real. The profit left for producers after paying transportation costs could be thin, especially in the early years. Adding the cost of construction overruns to the initial tariff would hurt, and that worries the companies that must sign 20-year binding contracts to ship gas down the line regardless of market conditions.

The problem of paying for potential overruns has hung over a North Slope gas line for decades. One option would be for the state to step in and offer financing to cover some or all of any overruns, structuring the debt to be repaid only after the first lenders are paid (much like a soft-second mortgage on a home gets repaid only after the homeowner pays off the first mortgage, thereby avoiding two payments at the same time). While such a financing plan would stretch out debt payments on the project, that may be preferable to crushing debt payments in the early years. The state could lend money directly for the construction costs, or guarantee the debt taken on by other lenders.

8. Take share of shipping commitments

Signing a firm transportation shipping commitment is another option for the state.

Open seasons, like the one held last year by TransCanada/ExxonMobil, are designed to elicit interest from potential gas shippers that would later commit to firm transportation shipping contracts.

⁶ Bill White, "Federal loan guarantee helps pipeline finances," Office of the Federal Coordinator, May 22, 2011. <http://www.arcticgas.gov/federal-loan-guarantee-helps-pipeline-finances>

Under the contracts, the shipper commits to pay the tariff regardless whether it ships the gas or can sell it downstream for enough to cover the tariff and other costs. The shipping contract is a key element in assuring lenders that their money will be paid back even if market conditions or gas supplies don't materialize as expected.

As a royalty owner of approximately one-eighth of North Slope gas, and as the recipient of production tax revenue, the state could consider taking its royalty gas in kind and also taking its production tax in kind (instead of a check from the producers) and signing shipping commitments equal to its share of the gas flow. This would clearly transfer risk (commodity price and project cost-overrun risk) from the producers to the state. How big a risk would the state be taking if it did that, and could such a commitment make a difference in getting a line built? The answers are unknown at this time, but it would boost the producers' expected rate of return by lowering their liability for having to cover all of the shipping costs. That could help tip the balance on a pipeline.

ALASKA PipelineProject

TransCanada ExxonMobil



Issues of risk

Given the longstanding concern over the state's unbalanced and unsustainable economy, why hasn't Alaska chosen to invest more of its oil revenue in long-term, productive assets to take up the slack when the state feels the pinch from declining oil? The question is important because the risks of shifting resources to infrastructure and the historical impediments to making such a shift are likely to come up as Alaskans consider whether to provide state assistance to a gas line.

Competition for state funds

A decision to assist a gas line will mean less money is available for other state spending. But many constituencies that depend on state funding worry that throttled-down state spending is imminent anyway, caused by declining oil production. Other big infrastructure projects also could compete with a gas line for state financial assistance. For example, supporters of state assistance for the proposed Kink Arm crossing want the state to guarantee funding that would enable private investors to meet bond payments even if toll revenues fall short of expectations.

Some recipients of state money are likely to view even a highly contingent, potential future commitment of state gas line assistance as a potential threat to their funding — the state has only so much cash and credit to go around.

Doubts about success

Is there any assurance that state assistance will achieve its intended result? Critics of the state's promise to provide assistance to TransCanada under AGIA say the project is uneconomic and assert that reimbursing TransCanada for the remainder of the state's \$500 million obligation won't be enough to get the project built. Why throw more money at the project when there is no hope, they say.

The honest answer is that no such assurance is possible. This concern can be allayed if the assistance is structured so that potential costs to the state come late in the project, after major risks are past. Unfortunately, state assistance is likely to have the greatest leverage on a project if it comes early, when risks are greatest.

Doubts about need

Underlying the doubts about success are doubts about need. The current abundance of shale gas in North American markets and the significant build-up of new liquefaction projects to serve the Asia-Pacific LNG market suggest that conditions in 2011 are not favorable for an immediate project commitment on a \$30 billion to \$50 billion capital investment. However, any number of plausible developments could quickly and substantially improve the economic prospects for a gas line project.

Doubts about the need for assistance can be allayed, however, if the state financial involvement — be it a loan, loan guarantee, equity investment or tax deferral

— includes contingent provisions to recapture the value of state assistance. The owners profit, the state profits, and everyone should try to live happily ever after.

Regional balance

State assistance, if successful in getting the project(s) built, would add a stream of natural gas revenue to the state treasury, improve the prospect for finding additional oil and gas resources, and likely prolong the life of the trans-Alaska oil pipeline. These outcomes benefit every state resident more or less equally, but other benefits, including reduced energy costs and construction employment, would be concentrated in areas along the pipeline route. Achieving political and popular consensus on state assistance may require inducements, such as investments for regions distant from the pipeline project.

Bill Egan, the state's first governor, proposed creation of a state ferry system principally to serve the Southeast Panhandle, but he was careful build support for this idea by linking it to a proposal for a smaller ferry system to serve Southcentral ports and, most importantly, for the state's first four-lane, limited-access freeways to reduce traffic congestion in Anchorage and Fairbanks.

Why is it important?

Alaska is in the envious position of having the cash and solid credit rating that other states — and the federal government — lack. Congress likely has done all it will do to help the gas line, and it's not surprising that even global oil and gas companies are hesitant about signing binding contracts that put them on the collective hook to pay \$150 billion or more to ship gas 10, 20, 30 years into the future when natural gas prices are unpredictable.

Accepting the premise that a large out-of-state natural gas pipeline and an in-state line would be good for Alaska, the question is: Can the state help make it happen and, if so, what could the state do to help?

The best answer would be state financial participation that tips the scale toward construction of a large gas line out of state along with an in-state delivery system to help meet Alaskans' energy needs for decades to come.

For more information, please visit our website: www.arcticgas.gov

Contact information:

Larry Persily, Federal Coordinator
(202) 478-9755
lpersily@arcticgas.gov

General Questions:

info@arcticgas.gov

Locations:

OFC Washington, DC
1717 H St. NW, Suite 801
Washington, DC 20006
(202) 478-9750

OFC Alaska
188 W. Northern Lights Blvd., Suite 600
Anchorage, AK 99503
(907) 271-5209

14.17 → FINANCING OF PUBLIC SCHOOLS
29.45 → MUNI TAX ON OIL; GAS PRODUCTION; PIPELINE PROPERTY
43.56 → OIL; GAS EXPLORATION/PRODUCTION/PIPELINE TRANSPORTATION PROPERTY TAXES

27-LS0990\M

SENATE BILL NO. 148

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY SENATORS WIELECHOWSKI, EGAN, ELLIS, FRENCH, DAVIS, AND KOOKESH

Introduced: 1/17/12
Referred: Community and Regional Affairs, Resources, Finance

NSB
① Neutral
② IMPACTED COMMUNITIES NOT NECESSARILY GETTING REVENUE
③ WHAT IS GAS? WHAT IS OIL? → MDA

40.90.300 AS/A

A BILL

FOR AN ACT ENTITLED

1 "An Act exempting a gas pipeline with a design capacity of 500,000,000 or more cubic
2 feet of gas a day from the state's oil and gas exploration, production, and pipeline
3 transportation property taxes until the pipeline generates revenue for its owners; and
4 relating to the determination of full and true value for the purpose of determining the
5 amount of required local contribution for public school funding."

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

7 * Section 1. AS 14.17.510(a) is amended to read:

8 (a) To determine the amount of required local contribution under
9 AS 14.17.410(b)(2) and to aid the department and the legislature in planning, the
10 Department of Commerce, Community, and Economic Development, in consultation
11 with the assessor for each district in a city or borough, shall determine the full and true
12 value of the taxable real and personal property in each district in a city or borough. If
13 there is no local assessor or current local assessment for a city or borough school

DETERMINATION OF FULL & TRUE VALUE BY OCCEN

LOCAL MATCH

Annex

1 district, then the Department of Commerce, Community, and Economic Development
 2 shall make the determination of full and true value guided by AS 29.45.110 and based
 3 on a determination of full and true value made by the state assessor at least every two
 4 years using the best information available, including on-site inspections made by the
 5 state assessor in each of those districts at least once every four years. For purposes of
 6 this subsection, the full and true value of taxable real and personal property in any area
 7 detached shall be excluded from the determination of the full and true value of the
 8 municipality from which the property was detached for the two years immediately
 9 preceding the effective date of the detachment. Also, in making the determination for a
 10 municipality that is a school district, or for a city that is within a borough school
 11 district, the assessed value of property taxable under AS 43.56 shall be excluded if a
 12 tax is not levied under AS 29.45.080 by the municipality that is the school district. The
 13 determination of full and true value shall be made by October 1 and sent by certified
 14 mail, return receipt requested, on or before that date to the president of the school
 15 board in each city or borough school district. Duplicate copies shall be sent to the
 16 commissioner. The governing body of a city or borough that is a school district may
 17 obtain judicial review of the determination. The superior court may modify the
 18 determination of the Department of Commerce, Community, and Economic
 19 Development only upon a finding of abuse of discretion or upon a finding that there is
 20 no substantial evidence to support the determination. In this subsection, "property
 21 taxable under AS 43.56" has the meaning given to "taxable property taxable
 22 under AS 43.56" in AS 29.45.080(e).

What About Annexation 29.06.055 (a)

???

23 * Sec. 2. AS 29.45.080(e) is amended to read:

24 (e) For purposes of this section,

25 (1) population shall be determined by the commissioner based on the
 26 latest statistics of the United States Bureau of the Census or on other reliable
 27 population data, and the commissioner shall advise each municipality of its population
 28 by January 15 of each year;

29 (2) "taxable property taxable under AS 43.56" includes real and
 30 tangible personal property used or committed by contract or other agreement for
 31 use in this state/primarily in the pipeline transportation of gas that is exempt

under AS 43.56.020(d)] from the tax imposed under AS 43.56.

* Sec. 3. AS 43.56.010(d) is amended to read:

(d) Except as provided in (e) of this section, a [A] tax paid to a municipality under AS 29.45.080 before July 1 [OR FORMER 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. Except as provided in (e) of this section, if [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 29.45.080 [OR FORMER 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.

Tax Levy

* Sec. 4. AS 43.56.010 is amended by adding a new subsection to read:

(e) Notwithstanding (d) of this section, a tax paid to a municipality under AS 29.45.080 on property that is exempt under AS 43.56.020(d) from the tax imposed under (a) of this section may not be credited against the tax levied under (a) of this section and may not be refunded to a taxpayer under (d) of this section.

MUNI'S STILL PAY TAXES

* Sec. 5. AS 43.56.020 is amended by adding new subsections to read:

(d) Real and tangible personal property used or committed by contract or other agreement for use in this state primarily in the pipeline transportation of gas in a pipeline with a design capacity of 500,000,000 or more cubic feet of gas a day is exempt from the tax imposed under AS 43.56.010(a) through December 31 of the year in which the first flow of gas in that pipeline generates revenue for the owners of that pipeline.

WHAT ABOUT FOR 741200 FROM 51000

(e) For property that is not used exclusively for or committed by contract or other agreement to the gas pipeline described in (d) of this section, the department shall determine that portion of the full and true value that

(1) is not exempt under (d) of this section; and

(2) is subject to tax under AS 43.56.010(a).

SHOULD WE REPEAL 43.56.020 (b)

David Scott

From: David Scott
Sent: Tuesday, February 28, 2012 7:46 AM
To: Kimberly Clark; Margaret Dowling; Grace Abbott; Beau Poppen-Abajian; Michelle Sydeman
Cc: Christopher Dickrell; Michelle Sydeman
Subject: SB 148
Attachments: CSSB 148 version I.PDF

Morning all:

Attached is a CS for SB 148. We will adopt & move this at today's C&RA hearing.

The changes are:

1. 10-year sunset.
2. Required that the pipeline must transport the gas "to market for sale" (page 4, line 27-28).
3. Made it clear that when the state assesses the pipeline transportation systems it would also assesses the .5 bcf line (page 5, line 7 & 8).

Let me know if you have any questions.

Also, I'll have a new sectional for you soon.

Thanks,

DAVE

David Scott
Chief of Staff
Office of Senator Olson
465-3877
david_scott@legis.state.ak.us

AS 14.17 is Financing of Public Schools

AS 29.45 is Municipal Property Taxes

AS 43.56 is Oil & Gas Exploration, Production, and Pipeline Transportation Property Taxes

Section 1 **14.17.510 (a) Determination of full and true value by DCCED**

is amended to define, for purposes of this section, that property taxable under 43.56 is defined in AS 29.45.080(e), which is a pipeline that transports gas with a capacity of .5 bcf gas a day to market for sale.

Section 2 **14.17.510 (a) Determination of full and true value by DCCED**

is the original 14.17.510 (a) that will again become law in 10 years (1/1/23).

Section 3 **29.45.080(e) Tax on oil & gas production and pipeline property**

is amended to define that property taxable under 43.56 includes the pipeline exempted in 43.56.020(d)

Section 4 **43.56.010(d) Levv of Tax**

is amended to add conforming language because of section 6

Section 5 **43.56.010(d) Levv of Tax**

is the original 43.56.010(d) that will again become law in 10 years (1/1/23)

Section 6 **43.56.010(e) Levv of Tax**

adds a new subsection to specify that there is no refund of state property tax for a municipal tax when the state is not collecting a tax on the same property.

Section 7 **43.56.020 Exemptions**

adds a pipeline that transports .5 bcf or more natural gas to market for sale to exemptions from 43.56.010 (20 mils).

Section 8 **43.56.060(a) Assessment**

adds .5 bcf pipeline to property the department shall assess

Section 9 **43.56.060(a) Assessment**

is the original 43.56.060(a) that will again become law in 10 years (1/1/23)

Section 10 **43.56.070(a) Returns**

is amended to require those who have ownership in .5bcf pipeline to file a return.

Section 11 **43.56.070(a) Returns**

is the original 43.56.070 that will again become law in 10 years (1/1/23)

Section 12

Repeals:

- 29.45.080(e)2 created in Section 3
- 43.56.010(e) created in Section 6
- 43.56.020(d) created in Section 7
- 43.56.020(e) created in Section 7

Section 13

Is the 10 year sunset

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

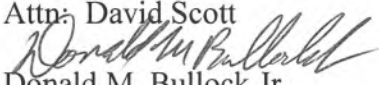
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 28, 2012

SUBJECT: Section 6 of CSSB 148(CRA), Draft Version "I"
(Work Order No. 27-LS0990\I)

TO: Senator Donald Olson
Attn: David Scott

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

You asked for an explanation of sec. 6 of the bill presently being considered by the Senate Community and Regional Affairs Committee.

This memo is obviously more than one sentence, but will provide you with a fuller explanation of the effect of sec. 6.

Section 6 reads as follows:

* **Sec. 6.** AS 43.56.010 is amended by adding a new subsection to read:

(e) Notwithstanding (d) of this section, a tax paid to a municipality under AS 29.45.080 on property that is exempt under AS 43.56.020(d) from the tax imposed under (a) of this section may not be credited against the tax levied under (a) of this section and may not be refunded to a taxpayer under (d) of this section.

The new subsection states that there is no refund for local taxes paid on property that the state is not taxing under AS 43.56.020(d), one of the new subsections added to AS 43.56.020 in sec. 7 of the bill.

The bill does not disturb municipal taxation of property in the state used primarily for the pipeline transportation of natural gas. The bill does, however, exempt certain natural gas pipelines from the state tax.

Section 6 simply states that there is no refund of state property tax for a municipal tax when the state is not collecting a tax on the same property.¹

If I may be of further assistance, please advise.

DMB:ljw
12-167.ljw

¹ Under current law, the state and a municipality may both tax property taxable under AS 43.56. The state tax is 20 mills. If a municipality imposes a 10 mill tax, a taxpayer still pays a total tax of 20 mills, however the state refunds or credits the taxpayer for the local tax paid. Effectively, the 20 mill tax is split between the municipality and the state because of the credit or refund provision.

SB 148: Moving a Natural Gas Pipeline Forward



February 9, 2012

Senator Wielechowski

**Senate Community and Regional Affairs
Committee**

In a Nutshell

2

SB 148 would waive state property taxes for a natural gas pipeline designed to carry at least 500 million cubic feet of gas per day until gas begins to flow down the line.

SB 148 Goal

3

To help move a project forward by improving project economics early on when major expenditures are being made, yet no revenue is being generated.

Of Note

4

SB 148 does not waive oil and gas property taxes collected by local governments, such as the North Slope Borough, Fairbanks North Star Borough, Kenai Peninsula Borough, Mat-Su Borough, or City of Valdez.

SB 148 Does Not Discriminate

5

It would provide property tax relief for an instate bullet line, a line designed to carry gas to an LNG facility at tidewater, or a large diameter line to the Lower 48 through Canada.

How Much Relief Would SB 148 Offer?

6

It depends, of course, on the size and cost of the pipeline. For a large diameter line to the Canadian border, waiving State property taxes during construction would save about **\$600 million**, under current cost estimates.

Higher Returns Ultimately

7

The roughly \$600 million saved would reduce total construction costs, leading to lower tariffs and higher returns for shippers and the state. During the AGIA debate, experts testified that a \$500 million state investment upfront would increase state revenues over 25 years by **\$1.2 billion.**

Why Give up Property Taxes?

8

1. The state stands to gain substantial revenue.

A 2008 study conducted by the nationally recognized consulting firm Black and Veatch estimated that the state could receive as much as **\$66 billion** in revenue over the life of a large diameter pipeline carrying gas from the North Slope to the Lower 48.

Why Give up Property Taxes?

9

A January 2012 draft EIS for the Alaska State Alone Pipeline estimates more modest state revenue for a bullet line (\$359-\$616 million a year).

Why Give up Property Taxes?

10

Of course, these revenues would help pay for essential state services, such as public safety, roads and education, during a time when oil production is in decline.

Why Give up Property Taxes?

11

2. Jobs for Alaskans

A recent report estimates that up to **10,000 high-paying jobs** for Alaskans would be created during construction of a large diameter line, with instate spending on wages, goods and services of up to \$6 billion.

Why Give up Property Taxes?

12

The recent Draft EIS for the ASAP project estimates that as many as 9,500 construction jobs could be created by that project between 2016 and 2019, with another 50-75 workers employed on an ongoing basis.

Why Give up Property Taxes?

13

3. Natural gas for Alaskans

All of the pipelines being considered would provide a long-term, stable supply of affordable natural gas to Alaskans in Interior and Southcentral Alaska, easing the burden of high energy prices on many Alaskan families, businesses and utilities.

Why Give up Property Taxes?

14

Additional strategies would have to be pursued for Alaskans outside of the Railbelt, who experience some of the highest energy prices in the state.

Why Give up Property Taxes?

15

4. Stimulate more O&G production

A pipeline will provide the impetus and improve the economics for additional oil and gas exploration and development on Alaska's North Slope.

Why Give up Property Taxes?

16

5. Extend the life of TAPS

More O&G exploration on the North Slope will help prolong the life of the Trans-Alaska Pipeline, which carried 2 million barrels a day at its peak in the late 80's and now carries just 625,000 barrels a day.

Congressional Incentives

17

Congress has stepped up and provided a variety of incentives to build a pipeline:

1. A federal loan guarantee of up to 21 billion (as of 2011), which will reduce the cost of borrowing, lower pipeline tariffs, increase returns to shippers, and provide more revenue to the state.

Congressional Incentives

18

2. Accelerated tax depreciation for the pipeline in Alaska, enabling owners to recoup construction costs more quickly.
3. A federal tax credit for construction of a gas treatment facility in Prudhoe Bay, projected to cost roughly \$12 billion by TC Alaska and ExxonMobil.

Options for State Incentives

19

With substantial savings and a AAA credit rating, Alaska could help in a variety of ways. Options include:

1. Direct subsidies
2. Equity investment
3. Lower or defer production taxes
4. State loan guarantee
5. Finance cost overruns

Pros and Cons

20

Each option, of course, has its advantages and disadvantages.

A few examples:

1. A **direct initial subsidy** (e.g., the \$500 million awarded to the AGIA licensee or initial funding for work on the ASAP line) can help to get a project permitted, but can't guarantee that it's built. The state risks getting no return on its investment.

Pros and Cons

- 2. Equity investment** in a line could decrease shipping tariffs, boost returns and lower consumer costs, since the state can borrow cash at a lower rate than a private company.

But a significant investment could affect the state's AAA credit rating and increase the cost of borrowing for future state and municipal projects. The state could also be liable for shortfalls, if tariff revenues are insufficient to cover debts payments and operating expenses. And it could be a conflict of interest for the state to both own and regulate a pipeline.

Pros and Cons

3. The state could **lower or defer production taxes**, which may be necessary to get a project off the ground. Deferring taxes during the early years of operation lessens the risk if gas prices are low initially. But the state's return on gas production is significantly lower than oil. Further reductions could substantially eat into the state's revenues.

Pros and Cons

4. The state could provide a **loan guarantee** to supplement the federal one, which only covers about 2/3 of cost of a line to the Lower 48. This would lessen risk to investors, lower the pipeline tariff and make the gas more valuable to the state and shippers. While this shows alignment and reduces risk, the state could be on the hook for an unknown amount.

Pros and Cons

24

5. The state could also **finance cost overruns**, which can be expected on a mega-project, especially in the Arctic. Risk of overruns discourages companies from making the significant shipping commitment needed to finance a line.

One downside to this option is the state could wait a long time to be repaid if its loan is 2nd to initial construction loans.

Disclaimer

25

There are many other pros and cons. These are listed simply to highlight the complexities associated with each option. The bill sponsor believes all of the options merit discussion.

Conclusion

26

Waiving state property taxes is a **modest, first step** the state can take to make a project more economic. It is relatively **straightforward** and **risk-free**, yet signals the state's willingness to participate in the project. It's one of many steps the state could ultimately take to encourage investment.

SB 148: Moving a Natural Gas Pipeline Forward



February 9, 2012

Senator Wielechowski

**Senate Community and Regional Affairs
Committee**

0.5 BCF or more

In a Nutshell

2

- 20 MIL? →
- OTHER TAXES
- MUNICIPALITIES (?) AFFECTED COMMUNITIES IN UNORLY. BORO

SB 148 would waive state property taxes for a natural gas pipeline designed to carry 500 million cubic of feet of gas per day until gas begins to flow down the line.

WHICH ONE?
 1. ASAP
 2. ASIA
 3. ???

WHAT ABOUT A TIME LIMIT FROM "BEGINNING OF PROJECT" (7 YEARS 10 YEARS)

SO THERE IS NO ABUSE

SB 148 Purpose

3

To help move a project forward by improving project economics early on when major expenditures are being made and no revenue is being generated.

Of Note

4

*Common with
UNOH, BPO?*

SB 148 does not waive oil and gas property taxes collected by local governments, such as the North Slope Borough, Fairbanks North Star Borough, Kenai Peninsula Borough, or City of Valdez.

SB 148 Does Not Discriminate

5

It would provide property tax relief for an instate bullet line, a line designed to carry gas to an LNG facility at tidewater, or a large diameter line to the Lower 48 through Canada.

How Much Relief Would SB 148 Offer?

6

It depends, of course, on the size and cost of the pipeline. For a large diameter line to the Canadian border, waiving State property taxes during construction would save about **\$600 million**, under current cost estimates.

WHERE DID YOU
GET THIS
NUMBER

Higher Returns Ultimately

7

The \$600 million saved would reduce total construction costs, leading to lower tariffs and higher returns for shippers and the state. During the AGIA debate, experts testified that a \$500 million state investment upfront would increase state revenues over 25 years by **\$1.2 billion.**

Why Give up Property Taxes?

8

1. The state stands to gain substantial revenue.

A 2008 study conducted by the nationally recognized consulting firm Black and Veatch estimated that the state could receive as much as **\$66 billion** in revenue over the life of a large diameter pipeline carrying gas from the North Slope to the Lower 48.

Why Give up Property Taxes?

9

A January 2012 draft EIS for the Alaska State Alone Pipeline estimates more modest state revenue for a bullet line (\$359-\$616 million a year).

Why Give up Property Taxes?

10

Of course, these revenues would help pay for essential state services, such as public safety, roads and education, during a time when oil production is in decline.

Why Give up Property Taxes?

11

2. Jobs for Alaskans

A recent report estimates that up to **10,000 high-paying jobs** for Alaskans would be created during construction of a large diameter line, with instate spending on wages, goods and services of up to \$6 billion.

Why Give up Property Taxes?

12

The recent Draft EIS for the ASAP project estimates that as many as 9,500 construction jobs could be created by that project between 2016 and 2019, with another 50-75 workers employed on an ongoing basis.

Why Give up Property Taxes?

13

3. Natural gas for Alaskans

All of the pipelines being considered would provide a long-term, stable supply of affordable natural gas to Alaskans in Interior and Southcentral Alaska, easing the burden of high energy prices on many Alaskan families, businesses and utilities.

Why Give up Property Taxes?

14

Clearly, additional strategies would have to be pursued for Alaskans outside of the Railbelt, who experience some of the highest energy prices in the state.

Why Give up Property Taxes?

15

4. Stimulate more O&G production

A pipeline will provide the impetus and improve the economics for additional oil and gas exploration and development on Alaska's North Slope.

Why Give up Property Taxes?

16

5. Extend the life of TAPS

More O&G exploration on the North Slope will help prolong the life of the Trans-Alaska Pipeline, which carried 2 million barrels a day at its peak in the late 80's and now carries just 625,000 barrels a day.

Congressional Incentives

17

Congress has stepped up and provided a variety of incentives to build a pipeline:

1. A federal loan guarantee of up to 21 billion (as of 2011), which will reduce the cost of borrowing, lower pipeline tariffs, increase returns to shippers, and provide more revenue to the state.

Congressional Incentives

18

2. Accelerated tax depreciation for the pipeline in Alaska, enabling owners to recoup construction costs more quickly.
3. A federal tax credit for construction of a gas treatment facility in Prudhoe Bay, projected to cost roughly \$12 billion by TC Alaska and ExxonMobil.

Options for State Incentives

19

With substantial savings and a AAA credit rating, Alaska may be in a position to help in other ways. Options include:

1. Direct subsidies → *For WHAT? UNECONOMIC BOUNTY line?*
2. Equity investment
3. Lower or defer production taxes
4. State loan guarantee
5. Finance cost overruns

Direct Subsidies

20

Example: The \$500 million provided to the AGIA licensee or the funds appropriated to the Alaska Gasline Development Corp.

Pros:

- Clear benefit to project economics, particularly before “customers” (who will ultimately finance the line with shipping commitments) have been identified. Moves a project forward during the risky design and permitting phase.
- Reduces tariffs, ^{BY WHAT FACTOR?} thereby increasing returns for shippers and the state
- State knows the size of its financial investment from the outset.

Direct Subsidies

21

DOES ANYBODY KNOW THE STATES' "DIRECT SUBSIDIES" ARE? TOTAL?

Cons:

- Subsidies early on may get a project permitted, but can't guarantee that it gets built.
- A direct cash subsidy may not change market economics.
- The state may never get a positive return on its money.

Equity Investment

22

Example: State investment of \$7.5 billion in an Alaska Stand Alone Pipeline as recommended in the July 2011 report by the AGDC.

Pros:

- Would decrease shipping tariffs, since the state can borrow cash at a lower rate than a private company, increasing returns for shippers and the state and potentially decreasing gas costs for consumers.
- Could make the difference between a proposed and an actual project.

most DANGEROUS

WASN'T IT
A RANGE?

Equity Investment

23

Cons:

- If state borrows substantial money to invest, it could jeopardize Alaska's solid credit rating, boosting the cost of borrowing for future state and municipal projects.
- State could be liable for shortfalls if tariff revenues are insufficient to cover pipeline debt payments and operating expenses.
- Could be a conflict of interest for the state to both own and regulate a pipeline.
- Politics could interfere with business decisions.

• WHAT IF THERE IS NO "ANCHOR TENANT"

~~BEST~~ BEST OPTION b/c

Lower or Defer Production Taxes

24

Pros:

IN WHAT? (GAS PRODUCTION TAXES)

- Reductions may be necessary to get a project off the ground, according to experts such as Pedro Van Meurs.
- Deferring production taxes during the early years of operation lessens the risk if gas prices are low initially.
- Deferring enables companies to recover capital in a shorter time, improving project financials.
- Alaska has reserves now and can more easily afford deferral of production taxes.

Lower or Defer Production Taxes

25

Cons:

- The return on gas production is already much lower than oil. Further reductions could eat substantially into the state's share of gas revenues.
- Delaying payments to the state diminishes the value of collections over time.

State Loan Guarantee

26

Provide a state supplement to the federal loan guarantee.


Pros:

- With cost increases, the federal loan guarantee would only cover about 2/3rds of the projected cost of a line to the Lower 48.
- The state could make up the difference, lessening the risk to investors, lowering the pipeline tariff, making the project more attractive to shippers, and making the gas more valuable to the state.
- Such a guarantee should be relatively risk-free as Firm Transportation Commitments will be signed by shippers.
- May help to maintain the federal loan guarantee, which some members of Congress would like to roll-back.

State Loan Guarantee

27

Cons:

- The state could be on the hook for an unknown amount, although the risk is small.
- Loan guarantees may not be the issue as much as other factors such as market , fiscal structure, etc. 

Finance construction overruns

28

Pros:

- Risk of cost overruns on an Arctic mega-project is high and the threat to project economics is real.
- Concern about cost over-runs can discourage companies from signing long-term shipping commitments needed to finance a pipeline.
- State commitment to finance overruns could ensure that tariffs for not rise for initial shippers.

Finance Construction Overruns

29

Cons:

- The loan size could be large, depending on the size of the cost over-run.
- If state were to be repaid after initial borrowers , the wait could be 20 years or more, reducing the value of the repayment.

The Bottom Line

30

Waiving state property taxes is a modest, first step the state can take to make a project more economic. It signals the state's willingness to participate in the project and may encourage investment. It's one of many steps the state could ultimately take.

Chapter 56. Oil and Gas Exploration, Production, and Pipeline Transportation Property Taxes.

Section

- 10. Levy of tax
- 18. Property tax education credit
- 20. Exemptions
- 30. In place of other taxes
- 40. State Assessment Review Board
- 50. Per diem and expenses
- 60. Assessment
- 70. Returns
- 80. Investigation
- 90. Assessment roll
- 100. Assessment notice

Section

- 110. Appeal to the department
- 120. Appeal to the board
- 130. Hearings of the board
- 135. Certification
- 140. Supplementary assessment rolls
- 150. Collection and deposit
- 160. Interest and penalty
- 180. Remedy
- 200. Regulations
- 210. Definitions

Administrative Code. — For oil and gas exploration, production and pipeline transportation property tax, see 15 AAC 56.

Collateral references. — 71 Am. Jur. 2d, State and Local Taxation, §§ 155-157.

84 C.J.S., Taxation, §§ 95-98, 398-400, 418, 494-500.

Constitutional exemption from taxation as subject to legislative regulation respecting conditions of its assertion. 4 ALR2d 744.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as interstate commerce as regards local taxation. 10 ALR2d 651.

Property destined for removal from state as subject to taxation therein. 11 ALR2d 938.

Power of legislature to remit, release, or compromise tax claim. 28 ALR2d 1425.

Validity of provision for exemption from taxation of property transferred to private parties for redevelopment purposes. 44 ALR2d 1446.

When right to refund of state or local taxes accrues within statute limiting time for applying for refund. 46 ALR2d 1350.

Legislative power to exempt from taxation property purposes, or uses additional to those specified in constitution. 61 ALR2d 1031.

Financial hardship or inability to pay taxes rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax. 66 ALR2d 550.

Expenses and taxes deductible by lessee in computing lessor's oil and gas royalty or other return. 73 ALR2d 1056.

Right of property taxpayer to recover back taxes voluntarily but mistakenly paid a second or successive time. 84 ALR2d 1133.

Transportation, freight, mailing, or handling charges billed separately to purchaser of goods as subject to sales or use taxes. 2 ALR4th 1124.

Sec. 43.56.010. Levy of tax. (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.

(b) A municipality may levy and collect a tax under AS 29.45.080 at the rate of taxation that applies to other property taxed by the municipality. The tax shall be levied at a rate no higher than the rate applicable to other property taxable by the municipality. A municipality may not exempt from taxation property authorized to be taxed under this chapter. Exemptions shall be limited to those in AS 29.45.030, 29.45.050, and AS 43.56.020.

(c) If the total value of assessed property of a municipality taxing under AS 29.45.080(c) exceeds the product of 225 percent 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.

(d) A tax paid to a municipality under AS 29.45.080 or former 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 29.45.080 or former 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. (§ 1 ch 1 FSSLA 1973; am § 7 ch 159 SLA 1975; am §§ 1, 2 ch 107 SLA 1976; am §§ 69 — 71 ch 74 SLA 1985)

Opinion of attorney general. — Municipal tax ordinance which established three differential tax zones but levied a higher mill rate in Tax Zone III, a zone consisting entirely of oil and gas property owned by Alyeska and assessed by the State of Alaska, Department of Revenue, under AS 43.56, violated the uniform rate provision of subsection (b). December 8, 1986 Op. Att'y Gen.

In the event that creation of a tax zone consisting entirely of oil and gas property was proper and was thereby taxed at a higher mill rate than other property in the city under AS 29.45.580 because it received different services than those generally provided in the

city, the municipality's collection of the higher tax from Alyeska in 1986 failed to meet the requirement of a rational relationship between the benefits conferred and the costs to the taxpayer in 1986. December 8, 1986 Op. Att'y Gen.

AS 43.56 property annexed to a municipality after the statutorily prescribed January 1 property assessment deadline, but before a municipality finalizes its tax roll, is taxable under AS 29.45.080 and the tax paid to the municipality will be a credit against that oil company's corporate state tax for that year under subsection (d) of this section. March 1, 1989 Op. Att'y Gen.

NOTES TO DECISIONS

Entitlement to state tax credit. See *North Slope Borough v. Sohio Petroleum Corp.*, 585 P.2d 534 (Alaska 1978).

Regulation denying credit held invalid. — An emergency regulation which denied a credit against the tax levied by the state under subsection (a) of this section for property taxes collected by municipalities in excess of the limitations set forth in former AS 29.53.045 and former 29.53.050(b) was invalid since subsection (d) of this section mandated that all taxes paid under former AS 29.53.045 were to be credited against the levy of subsection (a). *North Slope Borough v. Sohio Petroleum Corp.*, 585 P.2d 534 (Alaska 1978).

City's imposition of higher property tax mill rate on oil and gas invalid. — City's imposition of a higher property tax mill rate on oil and gas property than on other property in the city, for the purpose of paying the cost of providing oil spill prevention and response services, was invalid, because the tax violated subsection (b), which specifically prohibits a municipal tax rate higher than that which applies to "other property taxable by the municipality." *City of Valdez v. State, Dep't of Community & Regional Affairs*, 793 P.2d 532 (Alaska 1990).

Local property tax on ships held invalid. —

Valdez, Alaska ordinance imposed a personal property tax on the value of large ships, primarily oil tankers, traveling to or based in Valdez, which violated the Tonnage Clause, U.S. Const. art. I, § 10, cl. 3, because it taxed no other form of personal property, its amount depended upon a ship's capacity, and it raised revenue for general municipal services; the ship tax was not a permissible tax on "other oil-related property" under AS 29.45.080, AS 43.56.210, and this section, in that it was a purely municipal tax with no effective electorate-related check upon the city's vessel-taxing power. *Polar Tankers, Inc. v. City of Valdez*, — U.S. —, 129 S. Ct. 2277, 174 L. Ed. 2d 1 (2009).

225% valuation cap. — When the full and true value of property in a municipality exceeds the limit imposed by the AS 29.45.080(c) 225% valuation cap, the municipality may reduce the value of all taxable property on a pro-rata basis. The pro-rata method does not violate the requirement to assess non-oil-and-gas property at full and true value under AS 29.45.110 or exceed the exemptions authorized by this section, and the 225% limitation does not apply to taxes imposed to repay bonded indebtedness under AS 29.45.100. *Bullock v. State*, 19 P.3d 1209 (Alaska 2001).

Cited in *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166 (Alaska 1986).

Sec. 43.56.018. Property tax education credit. (a) [See *delayed amendment note.*] The owner of property taxable under this chapter is allowed a credit against the tax due under this chapter for cash contributions accepted

(1) for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association;

(2) for secondary school level vocational education courses, programs, and facilities by a school district in the state;

(3) for vocational education courses, programs, and facilities by a state-operated vocational technical education and training school; and

(4) for a facility by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association.

(b) [See *delayed amendment note.*] The amount of the credit is

(1) 50 percent of contributions of not more than \$100,000;

(2) 100 percent of the next \$200,000 of contributions; and

(3) 50 percent of the amount of contributions that exceed \$300,000.

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) [See delayed amendment note.] A contribution claimed as a credit under this section may not

(1) be the basis for a credit claimed under another provision of this title; and

(2) when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014, AS 43.55.019, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in the total amount of credits exceeding \$5,000,000; if the taxpayer is a member of an affiliated group, then the total amount of credits may not exceed \$5,000,000 for the affiliated group; in this paragraph, "affiliated group" has the meaning given in AS 43.20.073.

(e) [Effective January 1, 2011.] The credit under this section may not reduce a person's tax liability under this chapter to below zero for any tax year. An unused credit or portion of a credit not used under this section for a tax year may not be sold, traded, transferred, or applied in a subsequent tax year.

(f) In this section,

(1) "school district" has the meaning given in AS 14.03.126;

(2) "vocational education" has the meaning given in AS 43.20.014. (§ 5 ch 58 SLA 1987; am § 50 ch 21 SLA 1991; am §§ 6, 7, 12 ch 71 SLA 1991; am § 6 ch 21 SLA 1994; am § 19 ch 126 SLA 1994; am § 18 ch 81 SLA 1996; am §§ 5, 6 ch 86 SLA 2000; am §§ 13, 14 ch 46 SLA 2002; am § 4 ch 48 SLA 2008; am §§ 27, 29, 31, 33 ch 92 SLA 2010)

Delayed amendment of subsections (a), (b), and (d). — Until January 1, 2011, subsections (a), (b), and (d) of this section will read as follows: "(a) The owner of property taxable under this chapter is allowed a credit against the tax due under this chapter for cash contributions accepted

"(1) for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association;

"(2) for secondary school level vocational education courses and programs by a school district in the state; and

"(3) by a state-operated vocational technical education and training school.

"(b) The amount of the credit is

"(1) 50 percent of contributions of not more than \$100,000; and

"(2) 100 percent of the next \$100,000 of contributions.

"(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014, AS 43.55.019, AS 43.65.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000."

Under §§ 28, 30, 32, and 57, effective January 1, 2014, subsections (a), (b), and (d) of this section will read as follows: "(a) The owner of property taxable under this chapter is allowed a credit against the tax due under this chapter for cash contributions accepted

"(1) for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association;

"(2) for secondary school level vocational education courses and programs by a school district in the state; and

"(3) by a state-operated vocational technical education and training school.

"(b) The amount of the credit is

"(1) 50 percent of contributions of not more than \$100,000; and

"(2) 100 percent of the next \$100,000 of contributions.

"(d) A contribution claimed as a credit under this section may not

(1) be the basis for a credit claimed under another provision of this title; and

(2) when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014, AS 43.55.019, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in the total amount of credits exceeding \$150,000."

Under §§ 55 and 57, ch. 92, SLA 2010, subsection (e) of this section is repealed January 1, 2014.

Revisor's notes. — In 1991, to harmonize the amendments made by chs. 21 and 71, SLA 1991, the words "by an Alaska" were inserted before "university foundation" in (a) of this section.

In 2010, in (d)(2) of this section "AS 21.96.070, 21.96.075" was substituted for "AS 21.89.070, 21.89.075" to reflect the 2010 renumbering of AS 21.89.070 and 21.89.075. Subsection (e) was enacted as (f); relettered in 2010, at which time subsection (e) was relettered as subsection (f).

Effect of amendments. — The 2000 amendment, effective July 1, 2000, inserted a section reference in paragraph (d)(2); and, effective July 1, 2003, deleted that added reference.

The 2002 amendment, effective June 19, 2002, added section references in paragraph (d)(2).

The 2008 amendment, effective January 1, 2009, rewrote the section, which provided for oil or gas property education credits.

The 2010 amendment, effective January 1, 2011, in (a)(2), added “, and facilities” following “programs”, in (a)(3), added “for vocational education courses, programs, and facilities” preceding “by a state-operated vocational”, added (a)(4), and made related changes; in (b)(2), substituted “\$200,000” for “\$100,000”, added (b)(3), and made related changes; in (d)(1), substituted “be the basis for a credit claimed” for “be claimed as a

credit”, in (b)(2), added “contributions that are the basis for” following “when combined with”, substituted “result in the total amount of credits exceeding \$5,000,000; if the taxpayer is a member of an affiliated group, then the total amount of credits may not exceed \$5,000,000 for the affiliated group; in this paragraph, “affiliated group” has the meaning given in AS 43.20.073” for “exceed \$150,000”; added (f) (now (e)).

Sec. 43.56.019. Alaska veterans' memorial endowment fund contribution credit. [Repealed, § 25 ch 46 SLA 2002.]

Sec. 43.56.020. Exemptions. (a) The following are exempt from local taxes levied or authorized under AS 43.56.010(b):

- (1) property rights attached to or inherent in the right to explore for or produce oil or gas;
- (2) oil or gas leases or properties, whether producing or not;
- (3) oil or gas in place;
- (4) oil or gas produced or extracted in the state;
- (5) the value of intangible drilling expenses and exploration expenses;
- (6) an interest in property described in AS 43.55.017(a).

(b) There is exempt from state taxes levied or authorized under AS 43.56.010(a), before the construction commencement date, property that is committed by contract or other agreement for use in this state primarily for the production or pipeline transportation of gas or unrefined oil, or in the operation or maintenance of facilities for the production or pipeline transportation of gas or unrefined oil.

(c) In (a) (2) of this section, “properties” means mineral interests in oil and gas and working interests, royalty interests, and overriding royalty interests in oil and gas leases. (§ 1 ch 1 FSSLA 1973; am § 26 ch 208 SLA 1975; am § 119 ch 6 SLA 1984)

Opinions of attorney general. — A municipality may not levy a transportation tax on crude oil flowing through the Trans Alaska Pipeline (pipeline) while the

crude oil passes through the municipality. November 15, 1989 Op. Att’y Gen.

Sec. 43.56.030. In place of other taxes. Except for those taxes imposed under AS 43.55, the taxes levied or authorized under AS 43.56.010(b) are in place of

- (1) all other ad valorem taxes or other taxes imposed by a municipality on property subject to tax under this chapter or exempted from taxation by AS 43.56.020; and
- (2) all other taxes imposed by a municipality on or with respect to the property subject to tax under this chapter or exempted from taxation by AS 43.56.020, including, but not limited to,

(A) taxes on the retail sale or use of the property except for the retail sales tax on the first \$1,000 of each sale;

(B) taxes on the sale or use of gas or unrefined oil;

(C) taxes on the sale or use of services used in or associated with the property or in its maintenance or operation except for the sales tax on the first \$1,000 of each sale;

(D) taxes on or measured by gross or net income from the property, including income from the exploration for, production of, or pipeline transportation of gas or unrefined oil or property; and

(E) any license, excise, fee, charge or other tax on or pertaining to the property or services. (§ 1 ch 1 FSSLA 1973; am § 55 ch 127 SLA 1974; am § 5 ch 34 SLA 1999)

Effect of amendments. — The 1999 amendment, effective July 1, 1999, made a section reference sub-

stitution in the introductory language and made a minor stylistic change.

Secs. 14.17.230 — 14.17.240. Transition; repealer. [Repealed, § 2 ch 71 SLA 1972.]

Sec. 14.17.250. Definitions. [Repealed, § 39 ch 83 SLA 1998.]

Sec. 14.17.300. Public education fund. (a) The public education fund is established. The fund consists of appropriations for

(1) distribution to school districts, to the state boarding school, and for centralized correspondence study under this chapter; and

(2) transportation of pupils under AS 14.09.010.

(b) Money appropriated to the fund may be expended without further appropriation. Money appropriated to the fund does not lapse. The money in the fund may be expended only in aid of public schools and for centralized correspondence study programs under this chapter and for transportation of pupils under AS 14.09.010. Interest earned on money held in the fund before expenditure may be appropriated to the fund by the legislature. (§ 2 ch 83 SLA 1998; am § 1 ch 4 SLA 2005)

Cross references. — For statement of legislative intent regarding appropriation to this fund of a portion of proceeds obtained from the retrospective application of certain provisions of the 2007 amendments of the production tax on oil and gas (AS 43.55), as

authorized by ch. 74, SSSLA 2007, see § 1(c), ch. 1, SSSLA 2007.

Effect of amendments. — The 2005 amendment, effective April 2, 2005, rewrote this section.

Sec. 14.17.400. State aid for districts. (a) The state aid for which a school district is eligible in a fiscal year is equal to the amount for which a district qualifies under AS 14.17.410.

(b) If the amount appropriated to the public education fund for purposes of this chapter is insufficient to meet the amounts authorized under (a) of this section for a fiscal year, the department shall reduce pro rata each district's basic need by the necessary percentage as determined by the department. If the basic need of each district is reduced under this subsection, the department shall also reduce state funding for centralized correspondence study and the state boarding school by the same percentage. (§ 2 ch 83 SLA 1998; am § 2 ch 4 SLA 2005)

Effect of amendments. — The 2005 amendment, effective April 2, 2005, in the first sentence in subsection (b) substituted "amount appropriated to the pub-

lic education fund for purposes of this chapter" for "amount in the public school account."

Sec. 14.17.410. Public school funding. (a) A district is eligible for public school funding in an amount equal to the sum calculated under (b) and (c) of this section.

(b) Public school funding consists of state aid, a required local contribution, and eligible federal impact aid determined as follows:

(1) state aid equals basic need minus a required local contribution and 90 percent of eligible federal impact aid for that fiscal year; basic need equals the sum obtained under (D) of this paragraph, multiplied by the base student allocation set out in AS 14.17.470; district adjusted ADM is calculated as follows:

(A) the ADM of each school in the district is calculated by applying the school size factor to the student count as set out in AS 14.17.450;

(B) the number obtained under (A) of this paragraph is multiplied by the district cost factor described in AS 14.17.460;

(C) the ADMs of each school in a district, as adjusted according to (A) and (B) of this paragraph, are added; the sum is then multiplied by the special needs factor set out in AS 14.17.420(a)(1);

(D) the number obtained for intensive services under AS 14.17.420(a)(2) and the number obtained for correspondence study under AS 14.17.430 are added to the number obtained under (C) of this paragraph;

(E) notwithstanding (A) — (C) of this paragraph, if a school district's ADM adjusted for school size under (A) of this paragraph decreases by five percent or more from one fiscal year to the next fiscal year, the school district may use the last fiscal year before the decrease as a base fiscal year to offset the decrease, according to the following method:

(i) for the first fiscal year after the base fiscal year determined under this subparagraph, the school district's ADM adjusted for school size determined under (A) of this paragraph is calculated as the district's ADM adjusted for school size, plus 75 percent of the difference in the district's ADM adjusted for school size between the base fiscal year and the first fiscal year after the base fiscal year;

(ii) for the second fiscal year after the base fiscal year determined under this subparagraph, the school district's ADM adjusted for school size determined under (A) of this paragraph is calculated as the district's ADM adjusted for school size, plus 50 percent of the difference in the district's ADM adjusted for school size between the base fiscal year and the second fiscal year after the base fiscal year;

(iii) for the third fiscal year after the base fiscal year determined under this subparagraph, the school district's ADM adjusted for school size determined under (A) of this paragraph is calculated as the district's ADM adjusted for school size, plus 25 percent of the difference in the district's ADM adjusted for school size between the base fiscal year and the third fiscal year after the base fiscal year;

(F) the method established in (E) of this paragraph is available to a school district for the three fiscal years following the base fiscal year determined under (E) of this paragraph only if the district's ADM adjusted for school size determined under (A) of this paragraph for each fiscal year is less than the district's ADM adjusted for school size in the base fiscal year;

(G) the method established in (E) of this paragraph does not apply to a decrease in the district's ADM adjusted for school size resulting from a loss of enrollment that occurs as a result of a boundary change under AS 29;

(2) the required local contribution of a city or borough school district is the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110, not to exceed 45 percent of a district's basic need for the preceding fiscal year as determined under (1) of this subsection.

(c) In addition to the local contribution required under (b)(2) of this section, a city or borough school district in a fiscal year may make a local contribution of not more than the greater of

(1) the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110; or

(2) 23 percent of the district's basic need for the fiscal year under (b)(1) of this section.

(d) State aid may not be provided to a city or borough school district if the local contributions required under (b)(2) of this section have not been made.

(e) If a city or borough school district is established after July 1, 1998, for the first three fiscal years in which the city or borough school district operates schools, local contributions may be less than the amount that would otherwise be required under (b)(2) of this section, except that

(1) in the second fiscal year of operations, local contributions must be at least the greater of

(A) the local contributions, excluding federal impact aid, for the previous fiscal year; or

(B) the sum of 10 percent of the district's eligible federal impact aid for that year and the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the city or borough school district as of January 1 of the second

preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110; and

(2) in the third year of operation, local contributions must be at least the greater of

(A) the local contributions, excluding federal impact aid, for the previous fiscal year; or

(B) the sum of 10 percent of the district's eligible federal impact aid for that year and the equivalent of a three mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110.

(f) A school district is eligible for additional state aid in the amount by which the local contributions that would otherwise have been required under (b)(2) of this section exceed the district's actual local contributions under (e) of this section. (§ 2 ch 83 SLA 1998; am § 3 ch 9 SLA 2008)

Revisor's notes. — In 1999, "Department of Community and Economic Development" was substituted for "Department of Community and Regional Affairs" in subsections (b), (c), and (e) of this section in accordance with § 91(a)(2), ch. 58, SLA 1999. In 2004, "Department of Community and Economic Development" was changed to "Department of Commerce, Community, and Economic Development" in (b), (c),

and (e) of this section, in accordance with § 3, ch. 47, SLA 2004.

Effect of amendments. — The 2008 amendment, effective July 1, 2008, added subparagraphs (b)(1)(E) through (b)(1)(G).

Collateral references. — Validity of public school funding systems. 110 ALR5th 293.

Sec. 14.17.420. Special needs and intensive services funding. (a) As a component of public school funding, a district is eligible for special needs funding and may be eligible for intensive services funding as follows:

(1) special needs funding is available to a district to assist the district in providing special education, gifted and talented education, vocational education, and bilingual education services to its students; a special needs funding factor of 1.20 shall be applied as set out in AS 14.17.410(b)(1);

(2) in addition to the special needs funding for which a district is eligible under (1) of this subsection, a district is eligible for intensive services funding for each special education student who needs and receives intensive services and is enrolled on the last day of the count period; for each such student, intensive services funding is equal to the intensive student count multiplied by 13.

(b) If a district offers special education, gifted and talented education, vocational education, or bilingual education services, in order to receive funding under (a)(1) of this section, the district must file with the department a plan that indicates the services that will be provided to students who receive these services.

(c) In this section, "intensive services" has the meaning given by the department by regulation adopted under AS 14.30.180 — 14.30.350. (§ 2 ch 83 SLA 1998; am §§ 4 — 6 ch 9 SLA 2008)

Effect of amendments. — The 2008 amendment, effective July 1, 2008, substituted "nine" for "five" at the end of subsection (a); effective July 1, 2009,

substituted "11" for "nine" at the end of subsection (a) and effective July 1, 2010, substituted "13" for "11" at the end of subsection (a).

Sec. 14.17.430. State funding for correspondence study. Except as provided in AS 14.17.400(b), funding for the state centralized correspondence study program of a district correspondence program, including a district that offers a statewide correspondence study program, includes an allocation from the public education fund in an amount calculated by multiplying the ADM of the correspondence program by 80 percent. (§ 2 ch 83 SLA 1998; am § 3 ch 4 SLA 2005)

Effect of amendments. — The 2005 amendment, effective April 2, 2005, substituted "public education

fund" for "public school account" near the end of the section.

Opinions of attorney general. — A book may not be approved for use in publicly provided education if it advocates a partisan, sectarian, or denominational doctrine. To allow otherwise would permit a school

board to advocate partisan, sectarian, and denominational doctrines in a public classroom through textbooks. September 20, 2005 Op. Att’y Gen.

Sec. 14.17.440. State funding for state boarding schools. (a) Except as provided in AS 14.17.400(b), funding for state boarding schools established under AS 14.16.010 includes an allocation from the public education fund in an amount calculated by

(1) determining the ADM of state boarding schools by applying the school size factor to the student count as described in AS 14.17.450;

(2) multiplying the number obtained under (1) of this subsection by the special needs factor in AS 14.17.420(a)(1) and multiplying that product by the base student allocation; and

(3) multiplying the product determined under (2) of this subsection by the district cost factor that is applicable to calculation of the state aid for the adjacent school district under AS 14.17.460.

(b) State boarding schools are also eligible for intensive services funding under AS 14.17.420(a)(2). (§ 2 ch 83 SLA 1998; am § 4 ch 4 SLA 2005)

Effect of amendments. — The 2005 amendment, effective April 2, 2005, substituted “public education fund” for “public school account” in the introductory language of subsection (a).

Sec. 14.17.450. School size factor. (a) For purposes of calculating a school’s ADM to determine state aid, the ADM of each school in a district shall be computed by applying the following formula:

If the student count in a school is			The adjusted student count is				
At least		But less than	Base	Multiplier			The number of students in excess of
10	-	20	39.6				
20	-	30	39.6	+	(1.62	x	20)
30	-	75	55.8	+	(1.49	x	30)
75	-	150	122.85	+	(1.27	x	75)
150	-	250	218.1	+	(1.08	x	150)
250	-	400	326.1	+	(0.97	x	250)
400	-	750	471.6	+	(0.92	x	400)
750 or over			793.6	+	(0.84	x	750).

(b) If the ADM in a school is less than 10, those students shall be included in the ADM of the school in that district with the lowest ADM as determined by the most recent student count data for that district.

(c) Except as provided in (d) of this section, if the student count in a charter school is less than 150, the adjusted student count for the school shall be calculated by multiplying the student count by the student rate for a school that has a student count of 400.

(d) If a charter school has a student count of more than 120 but less than 150 for the current year and is in the first year of operation or had a student count of 150 or more in the previous year of operation,

(1) the adjusted student count for the school shall be calculated by multiplying the student count by 95 percent of the student rate for a school that has a student count of 150; and

(2) not later than February 15, the charter school shall submit for approval of the governing board of the district a plan for the following school year that includes a statement about whether the school will continue to operate if the student count remains the same that year and, if so, a projection of the funding anticipated from the state and

funding, a district is eligible to receive a quality school funding grant not to exceed the district's adjusted ADM multiplied by \$16. The department shall by regulation establish a grant process to implement this section.

(b) For purposes of the reduction required under AS 14.17.400(b), funding authorized under (a) of this section is treated the same as the state share of public school funding under AS 14.17.410. (§ 2 ch 83 SLA 1998)

Sec. 14.17.490. Public school funding adjustments. (a) Except as provided in (b) — (e) of this section, if, in fiscal year 1999, a city or borough school district or a regional educational attendance area would receive less public school funding under AS 14.17.410 than the district or area would have received as state aid, the district or area is, in each fiscal year, eligible to receive additional public school funding equal to the difference between the public school funding the district or area was eligible to receive under AS 14.17.410 in fiscal year 1999 and the state aid the district or area would have received in fiscal year 1999.

(b) A city or borough school district is not eligible for additional funding authorized under (a) of this section unless, during the fiscal year in which the district receives funding under (a) of this section, the district received a local contribution equal to at least the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110.

(c) For the purposes of the reduction required under AS 14.17.400(b), funding authorized under (a) of this section is treated the same as the state share of public school funding under AS 14.17.410.

(d) Beginning in fiscal year 2000, if a district receives more public school funding under AS 14.17.410 than the district received in the preceding fiscal year, any amount received by the district under this section shall be reduced. The amount of the reduction required under this subsection is equal to the amount of increase from the preceding fiscal year in public school funding multiplied by 40 percent. In this subsection, "public school funding" does not include funding under this section.

(e) Beginning in fiscal year 2000, in each fiscal year, the department shall compare each district's ADM with the district's ADM in fiscal year 1999. If the current fiscal year ADM is less than 95 percent of the district's ADM in fiscal year 1999, the department shall reduce the district's public school funding calculated under (a) of this section by a percentage equal to the percentage of decrease in the district's ADM.

(f) For purposes of this section, "state aid" means state aid distributed under the provisions of AS 14.17, as those provisions read on January 1, 1998, and additional district support appropriated by the legislature for fiscal year 1998. (§ 2 ch 83 SLA 1998)

Revisor's notes. — In 1999, "Department of Community and Economic Development" was substituted for "Department of Community and Regional Affairs" in (b) of this section in accordance with § 91(a)(2), ch. 58, SLA 1999. In 2004, "Department of Community

and Economic Development" was changed to "Department of Commerce, Community, and Economic Development" in (b) of this section, in accordance with § 3, ch. 47, SLA 2004.

Article 2. Preparation of Public School Funding Budget.

Section

500. Student count estimate
505. Fund balance in school operating fund
510. Determination of full and true value by Depart-

Section

ment of Commerce, Community, and Economic Development
520. Minimum expenditure for instruction

Collateral references. — 68 Am. Jur. 2d Schools, § 99 et seq. 78A C.J.S. Schools and School Districts, § 500 et seq.

Sec. 14.17.500. Student count estimate. (a) A district shall prepare and submit to the department by November 5 of each fiscal year, in the manner and on forms prescribed by the department, an estimate of its ADM and other student count data, including per school student count data, for the succeeding fiscal year upon which computations can be made to estimate the amount of state aid for which the district may be eligible under AS 14.17.400 in the succeeding fiscal year. In making its report, the district shall consider its ADM, other student count data, the pattern of growth or decline of the student population in preceding years, and other pertinent information available to the district.

(b) Part-time students shall be included in the student count data in accordance with regulations adopted by the department.

(c) When reporting a district's ADM, a part-time student who is a correspondence student may not be counted as more than one full-time equivalent student. (§ 2 ch 83 SLA 1998; am § 3 ch 120 SLA 1998)

Revisor's notes. — Subsection (c) was enacted as AS 14.17.080(b) by § 3, ch. 120, SLA 1998. Renumbered in 1998.

Sec. 14.17.505. Fund balance in school operating fund. (a) A district may not accumulate in a fiscal year an unreserved portion of its year-end fund balance in its school operating fund, as defined by department regulations, that is greater than 10 percent of its expenditures for that fiscal year.

(b) The department shall review each district's annual audit under AS 14.14.050 for the preceding fiscal year to ascertain its year-end operating fund balance. The amount by which the unreserved portion of that balance exceeds the amount permitted in (a) of this section shall be deducted from the state aid that would otherwise be paid to the district in the current fiscal year. (§ 2 ch 83 SLA 1998)

Sec. 14.17.510. Determination of full and true value by Department of Commerce, Community, and Economic Development. (a) To determine the amount of required local contribution under AS 14.17.410(b)(2) and to aid the department and the legislature in planning, the Department of Commerce, Community, and Economic Development, in consultation with the assessor for each district in a city or borough, shall determine the full and true value of the taxable real and personal property in each district in a city or borough. If there is no local assessor or current local assessment for a city or borough school district, then the Department of Commerce, Community, and Economic Development shall make the determination of full and true value guided by AS 29.45.110 and based on a determination of full and true value made by the state assessor at least every two years using the best information available, including on-site inspections made by the state assessor in each of those districts at least once every four years. For purposes of this subsection, the full and true value of taxable real and personal property in any area detached shall be excluded from the determination of the full and true value of the municipality from which the property was detached for the two years immediately preceding the effective date of the detachment. Also, in making the determination for a municipality that is a school district, or for a city that is within a borough school district, the assessed value of property taxable under AS 43.56 shall be excluded if a tax is not levied under AS 29.45.080 by the municipality that is the school district. The determination of full and true value shall be made by October 1 and sent by certified mail, return receipt requested, on or before that date to the president of the school board in each city or borough school district. Duplicate copies shall be sent to the

commissioner. The governing body of a city or borough that is a school district may obtain judicial review of the determination. The superior court may modify the determination of the Department of Commerce, Community, and Economic Development only upon a finding of abuse of discretion or upon a finding that there is no substantial evidence to support the determination.

(b) Motor vehicles subject to the motor vehicle registration tax under AS 28.10.431 shall be treated as taxable property under this section.

(c) Notwithstanding AS 14.17.410(b)(2) and the other provisions of this section, if the assessed value in a city or borough school district determined under (a) of this section increases from the base year, only 50 percent of the annual increase in assessed value may be included in determining the assessed value in a city or borough school district under (a) of this section. The limitation on the increase in assessed value in this subsection applies only to a determination of assessed value for purposes of calculating the required contribution of a city or borough school district under AS 14.17.410(b)(2) and 14.17.490(b). In this subsection, the base year is 1999. (§ 2 ch 83 SLA 1998; am § 3 ch 95 SLA 2001; am § 1 ch 5 SLA 2006)

Revisor's notes. — In 1999, "Department of Community and Economic Development" was substituted for "Department of Community and Regional Affairs" in (a) of this section in accordance with § 91(a)(2), ch. 58, SLA 1999. In 2004, "Department of Community and Economic Development" was changed to "Department of Commerce, Community, and Economic Development" in (a) of this section, in accordance with § 3, ch. 47, SLA 2004.

Effect of amendments. — The 2006 amendment, June 14, 2006, rewrote the second sentence of subsec-

tion (a), and inserted the third and fourth sentences.

Opinions of attorney general. — The 50 percent discount allowed in (c) of this section applies to an increase in a district's assessment on account of the annexation of additional territory. Therefore, the Department of Community and Economic Development should treat increases in the municipal tax base caused by annexation the same as it treats increases caused by appreciation. April 25, 2005 Op. Atty Gen.

Sec. 14.17.520. Minimum expenditure for instruction. (a) A district shall budget for and spend a minimum of 70 percent of its school operating expenditures in each fiscal year on the instructional component of the district budget.

(b) The commissioner shall reject a district budget that does not comply with (a) of this section and, unless a waiver has been granted by the board under (d) of this section, shall withhold payments of state aid from that district, beginning with the payment for the second full month after rejection and continuing until the school board of the district revises the district budget to comply with (a) of this section.

(c) The commissioner shall review the annual audit of each district for compliance with the expenditure requirements of (a) of this section. If the commissioner determines that a district does not meet those requirements, the commissioner shall advise the district of the determination, calculate the amount of the deficiency, and deduct that amount from state aid paid to the district for the current fiscal year. A deduction in state aid required under this subsection begins with the payment for the second full month after the determination, unless a waiver has been granted by the board under (d) of this section.

(d) A district that has been determined by the commissioner to be out of compliance with the requirements of this section may, within 20 days of the commissioner's determination, request a waiver by the board of the imposition by the commissioner of any reduction in state aid payments under (b) or (c) of this section. The request must be in writing and must include an analysis of the reasons and causes for the district's inability to comply with the requirements of this section. The board may grant the waiver if the board determines that the district's failure to meet the expenditure requirements of this section was due to circumstances beyond the control of the district. The request must also be submitted to the Legislative Budget and Audit Committee, which shall review the district's request and forward the committee's recommendations on it to the board.

(e) The commissioner shall submit an annual report on actions taken by the commissioner or the board under this section to the Legislative Budget and Audit Committee by April 15 of each year.

(f) In this section, "instructional component" includes expenditures for teachers and for pupil support services. (§ 2 ch 83 SLA 1998)

Article 3. Procedure for Payments of State Aid.

Section

600. Student count periods
610. Distribution of state aid

Cross references. — For provision concerning the withholding of funds, see AS 14.07.070.

Collateral references. — 78A C.J.S. Schools and School Districts, § 428 et seq.

Determination of school attendance, enrollment, or pupil population for purpose of apportionment of funds. 80 ALR2d 953.

Sec. 14.17.600. Student count periods. (a) Within two weeks after the end of the 20-school-day period ending the fourth Friday in October, each district shall transmit a report to the department that, under regulations adopted by the department, reports its ADM for that count period and other student count information that will aid the department in making a determination of its state aid under the public school funding program. For centralized correspondence study, the October report shall be based on the period from July 1 through the fourth Friday in October. The department may make necessary corrections in the report submitted and shall notify the district of changes made. The commissioner shall notify the governor of additional appropriations the commissioner estimates to be necessary to fully finance the public school funding program for the current fiscal year.

(b) Upon written request and for good cause shown, the commissioner may permit a district to use a 20-school-day count period other than the period set out in (a) of this section. However, a count period approved under this subsection must be 20 consecutive school days unless one or more alternate count periods are necessary to permit a district to implement flexible scheduling that meets the district's needs and goals without jeopardizing the state aid for which the district would ordinarily be eligible under this chapter. (§ 2 ch 83 SLA 1998; am § 6 ch 114 SLA 2003; am § 15 ch 41 SLA 2009)

Effect of amendments. — The 2003 amendment, effective July 1, 2003, in subsection (a) deleted "except that summer school students shall be counted as a proportionate fraction as determined by the department" from the end of the second sentence.

The 2009 amendment, effective June 21, 2009, substituted "count" for "counting" in the section heading and throughout the section.

Sec. 14.17.610. Distribution of state aid. (a) The department shall determine the state aid for each school district in a fiscal year on the basis of the district's student count data reported under AS 14.17.600. On or before the 15th day of each of the first nine months of each fiscal year, one-twelfth of each district's state aid shall be distributed on the basis of the data reported for the preceding fiscal year. On or before the 15th day of each of the last three months of each fiscal year, one-third of the balance of each district's state aid shall be distributed, after the balance has been recomputed on the basis of student count and other data reported for the current fiscal year.

(b) Distribution of state aid under (a) of this section shall be made as required under AS 14.17.410. If a district receives more state aid than it is entitled to receive under this chapter, the district shall immediately remit the amount of overpayment to the commissioner, to be returned to the public education fund. The department may make

application shall be made upon forms prescribed by the state assessor for the use of the local assessor, and must include information that may reasonably be required to determine the entitlement of the applicant. If the land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested. This subsection does not apply to a person with an interest in land that is classified by the state for agricultural use or that is restricted by the state for agricultural purposes.

(c) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 percent of gross income for the past three years was from farming.

(d) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the property tax revenues lost to it by the operation of this section.

(e) All land that is classified by the state for agricultural use or that is restricted by the state for agricultural purposes shall be assessed on the basis of full and true value based upon that restricted use.

(f) This section does not apply to land for which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the land. Failure to make the filing required in this subsection forfeits the exemption.

(g) In this section, "farm use" means the use of land for profit for raising and harvesting crops, for the feeding, breeding, and management of livestock, for dairying, or another agricultural use, or any combination of these. To be farm use land, the owner or lessee must be actively engaged in farming the land, and derive at least 10 percent of yearly gross income from the land. (§ 12 ch 74 SLA 1985; am §§ 1, 2 ch 117 SLA 2002)

Revisor's notes. — Subsection (e) was enacted as (f) and relettered in 2002, at which time (e) was relettered as (f). Subsection (f) was also formerly (c) and was relettered in 1992, at which time what had been (d) and (e) were relettered as (c) and (d), respectively. Subsection (g) was formerly the first two sen-

tences of subsection (f) and was redesignated as (g) in 2008.

Opinions of attorney general. — Commercial greenhouses should be considered a farm use of property for taxation purposes under this section. April 2, 1992 Op. Att'y Gen.

Sec. 29.45.062. Land subject to a conservation easement. (a) Land that is subject to a conservation easement created under AS 34.17.010 — 34.17.060 and used consistent with the conservation easement shall be assessed on the basis of full and true value for use subject to the conservation easement and may not be assessed as though it was not subject to the conservation easement. The assessor shall maintain records valuing the land for both full and true value and value subject to the conservation easement. The municipality may, by ordinance, require that if the land is sold, leased, or otherwise disposed of for uses incompatible with the conservation easement or if the conservation easement is conveyed to the owner of the property, the owner shall pay to the municipality an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding 10 years, as though the land had not been assessed subject to the conservation easement.

(b) To secure the assessment under this section, an owner of land subject to a conservation easement shall apply to the assessor before May 15 of each year in which the assessment is desired. The application must be made upon forms prescribed by the assessor and must include information that may reasonably be required to determine the entitlement of the applicant. (§ 3 ch 73 SLA 1989)

— In 2008, under § 5, ch. 116,
34.17.010 — 34.17.060" was substituted

AS 43.065. Assessment of private airports open for public use. (a) A municipality may provide by ordinance that airports located on private land and open for public use may be assessed at full and true value for airport use and not assessed or used for some other nonairport use. The assessor shall maintain records of the land at both full and true value and airport use value. If the land is sold, or otherwise disposed of for uses incompatible with airport use by the public owner converts the land to a use incompatible with airport use by the public, the owner shall be liable to pay an amount equal to the additional tax at the current mill levy with eight percent interest from the time of the incompatibility, as if the land had been assessed for airport use. Payment of the additional tax and interest shall be made to the municipality.

To secure the assessment under this section, the owner of the airport shall show that the airport is on private land, is open and available for public use, and is of benefit to the public or municipality. The owner shall apply to the assessor before May 15 of each year that the assessment is desired on forms to be prescribed by the municipality for use by the local assessor and shall include information reasonably required to determine the value of the applicant. If the land is leased for airport purposes, the applicant shall provide the assessor with a copy of the lease bearing the signature of both the lessee and the lessor for the period that the exemption is requested.

In this section, "airport" means an area of land or water that is used for the landing, takeoff, movement, or parking of aircraft, and the appurtenant areas that are used for airport buildings or other airport facilities or right-of-way, together with airport buildings and facilities at the location. (§ 1 ch 16 SLA 1987)

Sec. 29.45.070. Mobile homes. Mobile homes, trailers, house trailers, trailer coaches, and similar property used or intended to be used for residential, office, or commercial purposes and attached to the land or connected to water, gas, electric, or sewage facilities are classified as real property for tax purposes unless expressly classified as personal property by ordinance. This section does not apply to house trailers and mobile homes that are unoccupied and held for sale by persons engaged in the business of selling mobile homes. (§ 12 ch 74 SLA 1985)

Sec. 29.45.080. Tax on oil and gas production and pipeline property. (a) A municipality may levy and collect taxes on taxable property taxable under AS 43.56 only by using one of the methods set out in (b) or (c) of this section.

(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 in its boundaries.

(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 percent 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.

(d) By February 1 of each assessment year a taxing municipality shall inform the Department of Revenue which method of taxation the municipality will use.

(e) For purposes of this section, population shall be determined by the commissioner based on the latest statistics of the United States Bureau of the Census or on other reliable population data, and the commissioner shall advise each municipality of its population by January 15 of each year. (§ 12 ch 74 SLA 1985)

Opinions of attorney general. — The military population of the state should be included in the total population for purposes of applying the property tax methodology described in this section. 1978 Op. Att'y Gen. No. 21, decided under former, similar law.

Section 43.56 property annexed to a municipality

after the statutorily prescribed January 1, property assessment deadline, but before a municipality finalizes its tax roll, is taxable under this section and the tax paid to the municipality will be a credit against that oil company's corporate state tax for that year under AS 43.56.010(d). March 1, 1989 Op. Att'y Gen.

NOTES TO DECISIONS

225% valuation cap. — When the full and true value of property in a municipality exceeds the limit imposed by the subsection (c) 225% valuation cap, the municipality may reduce the value of all taxable property on a pro-rata basis. The pro-rata method does not violate the requirement to assess non-oil-and-gas property at full and true value under AS 29.45.110 or exceed the exemptions authorized by AS 43.56.010, and the 225% limitation does not apply to taxes imposed to repay bonded indebtedness under AS 29.45.100. *Bullock v. State*, 19 P.3d 1209 (Alaska 2001).

Local property tax on ships held invalid. — Valdez, Alaska ordinance imposed a personal property

tax on the value of large ships, primarily oil tankers, traveling to or based in Valdez, which violated the Tonnage Clause, U.S. Const. art. I, § 10, cl. 3, because it taxed no other form of personal property, its amount depended upon a ship's capacity, and it raised revenue for general municipal services; the ship tax was not a permissible tax on "other oil-related property" under AS 43.56.010, AS 43.56.210, and this section, in that it was a purely municipal tax with no effective electorate-related check upon the city's vessel-taxing power. *Polar Tankers, Inc. v. City of Valdez*, — U.S. —, 129 S. Ct. 2277, 174 L. Ed. 2d 1 (2009).

Cited in *City of Valdez v. State*, Dep't of Community & Regional Affairs, 793 P.2d 532 (Alaska 1990).

Sec. 29.45.090. Tax limitation. (a) A municipality may not, during a year, levy an ad valorem tax for any purpose in excess of three percent of the assessed value of property in the municipality. All property on which an ad valorem tax is levied shall be taxed at the same rate during the year.

(b) A municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may not levy taxes

(1) that will result in tax revenues from all sources exceeding \$1,500 a year for each person residing within the municipal boundaries; or

(2) upon value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of 225 percent 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.

(c) The commissioner shall apportion the lawful levy and equitably divide the tax revenues on the basis of need, services performed, and other considerations in the public interest 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 a year for each person residing within the municipal boundaries; or

(2) upon value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of 225 percent 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.

(d) For the purpose of (b) and (c) of this section, population shall be determined by the commissioner based on the latest statistics of the United States Bureau of the Census or on other reliable population data. (§ 12 ch 74 SLA 1985; am § 3 ch 40 SLA 1995)

NOTES TO DECISIONS

Paragraph (b)(1) does not apply to sales taxes. *Keane v. Local Boundary Comm'n*, 893 P.2d 1239 (Alaska 1995).

Promulgation of regulations. — Although the tax-limitation statutes do not require that the Department of Community and Regional Affairs promulgate regulations, the department should have promulgated its approach to 1983 tax-limitation population counts as an administrative regulation. *Matanuska-Susitna*

Borough v. Hammond, 726 P.2d 166 (Alaska 1986) (decided under former similar law).

Determination of "population". — The Department of Community and Regional Affairs' 1983 determinations of the "population" of municipalities for state revenue-sharing and tax-limitation purposes, including its method of counting remote site workers on the North Slope, were a rational exercise of its discretion. *Matanuska-Susitna Borough v. Hammond*,

726 P.2d 166 (Alaska 1986) (decided under former similar law).

Cited in *Bullock v. State*, 19 P.3d 1209 (Alaska 2001).

Sec. 29.45.100. No limitations on taxes to pay bonds. The limitations provided for in AS 29.45.080 — 29.45.090 do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount, regardless of whether the bonds are in default or in danger of default. (§ 12 ch 74 SLA 1985)

NOTES TO DECISIONS

Prohibition on people, acting through initiative. — Since a municipality, in its legislative capacity, is prohibited from enacting a limitation on taxes to pay bonds, then the people, acting through the initiative, in their legislative capacity, are similarly precluded. *Whitson v. Anchorage*, 608 P.2d 759 (Alaska 1980), decided under former similar law.

225% valuation cap. — When the full and true value of property in a municipality exceeds the limit imposed by the AS 29.45.080(c) 225% valuation cap,

the municipality may reduce the value of all taxable property on a pro-rata basis. The pro-rata method does not violate the requirement to assess non-oil-and-gas property at full and true value under AS 29.45.110 or exceed the exemptions authorized by AS 43.56.010, and the 225% limitation does not apply to taxes imposed to repay bonded indebtedness under this section. *Bullock v. State*, 19 P.3d 1209 (Alaska 2001).

Sec. 29.45.101. Limitation on taxation of fuel. A municipality may not levy or collect a property tax under AS 29.45.010 or 29.45.055 on refined fuel unless the fuel has been physically loaded, unloaded, or stored in the municipality. (§ 3 ch 117 SLA 2003)

Sec. 29.45.103. Taxation records. (a) Municipal records dealing with assessment, valuation, or taxation may be inspected by the state assessor or a designee.

(b) If a municipality's assessment and valuation has been done by a private contractor, records concerning the municipality's valuation and assessment shall be made available to the state assessor or a designee on request.

(c) Upon request, a record described in (a) or (b) of this section shall promptly be made available to the child support services agency created in AS 25.27.010 or the child support enforcement agency of another state. If the record is prepared or maintained in an electronic data base, it may be supplied by providing the requesting agency with a copy of the electronic records and a statement certifying its contents. The agency receiving information under this subsection may use the information only for child support purposes authorized under law. (§ 12 ch 74 SLA 1985; am § 141 ch 87 SLA 1997)

Revisor's notes. — In 2004, "child support enforcement agency created in AS 25.27.010" was changed to "child support services agency created in

AS 25.27.010" in (c) of this section in accordance with § 12(a), ch. 107, SLA 2004.

Sec. 29.45.105. Errors in taxation procedures. (a) If a municipality receives a notice from the state assessor that major errors have been found in its assessment, valuation, or taxation procedures, the municipality shall correct its procedures before the beginning of the next fiscal year or file an appeal under (b) of this section.

(b) A municipality may appeal a notice from the state assessor that it has made a major error in assessment, valuation, or taxation procedures by filing an appeal with the commissioner within 30 days after receipt of notice of error.

(c) The commissioner, after consulting with the Alaska Association of Assessing Officers, shall render a decision within 60 days after the receipt of a request under (b) of this section. If the commissioner determines that a major error has been made in assessment, valuation, or taxation procedures the commissioner shall notify the municipality of changes that must be made and the municipality shall correct its procedures before the beginning of the next fiscal year.