

LEG. FINANCE - BILLS 1977 - 1978

CASHB 321 cont, thru HB 322 702

1 out of the state's royalties on that oil is required under the revenue
2 sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act
3 (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.), that payment shall
4 be not less than \$.05 for each taxable barrel of oil produced until all
5 amounts paid in the fund equal \$500,000,000.

6 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set
7 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or
8 decreased by a percentage equal to the percentage of change in the Gross
9 National Product Deflator published by Bureau of Economic Analysis of
10 the United States Department of Commerce. Changes in tax rates will be
11 computed based on changes in the Gross National Product Deflator from
12 that of the First Quarter 1977 Gross National Product Deflator. The
13 department shall post the changes in the tax rates periodically and
14 shall notify every person producing oil within the state of the changes.

15 (b) The cents-per-barrel amount set out in sec. 11(c) of this
16 chapter as adjusted by (a) of this section applies to oil of 27 degrees
17 API gravity. For each degree of API gravity less than 27 degrees the
18 cents-per-barrel amount shall be reduced by \$.005 and for each degree of
19 API gravity greater than 27 degrees the cents-per-barrel amount shall be
20 increased by \$.005 except that oil above 40 degrees API gravity shall be
21 taxed as 40 degree oil. In applying the gravity adjustment under this
22 subsection, fractional degrees of API gravity shall be disregarded.

23 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit
24 factor for oil production of a lease or property equals

$$25 \quad (1 - [\text{PEL}/\text{TP}]) \exp ([300 \times \text{WD}]/\text{PEL})$$

26 where: PEL = the production rate at the economic limit;

27 TP = total production during the month for which the tax
28 is to be paid;

29 WD = the total number of well days in the month for which

1 the tax is to be paid; and
2 where "exp" indicates that the expression following it is an exponent.

3 (b) The economic limit factor for gas production of a lease or
4 property equals one minus the ratio of the monthly production rate at
5 the economic limit to the production during the month for which the tax
6 is to be paid.

7 (c) The monthly production rate at the economic limit for a lease
8 or property is presumed to be 300 barrels times the number of well days
9 for the lease or property during the month for which the tax is to be
10 paid. The taxpayer may rebut this presumption at a formal hearing under
11 AS 43.05.420 by providing clear and convincing evidence of a different
12 monthly production rate at the economic limit for the lease or property.
13 The hearing shall be held before February 15 of the year or within six
14 months after commencement of oil production for a lease or property.
15 The monthly production rate at the economic limit for the lease or pro-
16 perty based upon the clear and convincing evidence of the taxpayer shall
17 be calculated by dividing the value determined under (e) of this section
18 into the average monthly direct operating cost determined under (d) of
19 this section and shall be used for purposes of this section for all oil
20 production during that calendar year from the lease or property.

21 (d) The average monthly direct operating cost for oil production
22 operations of the lease or property shall be determined based on a
23 period of not less than four consecutive months. The direct operating
24 costs include only royalty, production supplies, purchased fuel, routine
25 maintenance, and wages and benefits of employees working on the produc-
26 tion operations. Additional direct operating costs not listed in this
27 section may be included only after their inclusion in a regulation
28 adopted by the department. The direct operating costs do not include
29 capital expenditures, tangible or intangible drilling expenses, costs of

1 well workovers, costs for replacement or repairs (other than routine
2 maintenance), depreciation or amortization, taxes, insurance, overhead,
3 money paid or set aside (or booked as being paid or set aside) to cover
4 the cost of terminating the oil production operations of the lease or
5 property, or any other cost not directly related to the oil production
6 operations of the lease or property.

7 (e) The value at the point of production of oil produced from the
8 lease or property shall be determined on the basis of the acquisition
9 cost C.I.F. at West Coast refineries for imported oil of like quality,
10 minus the reasonable cost of transportation between the point of pro-
11 duction of the oil from the lease or property and those West Coast
12 refineries.

13 (f) Before February 15 of each year or within six months after
14 commencement of production for a lease or property the department shall
15 notify the producer of gas of the monthly production rate at the eco-
16 nomic limit for each lease or property within the state for that year.
17 The monthly production rate at the economic limit for a lease or pro-
18 perty shall be determined at a formal hearing under AS 43.05.240 and
19 must be established by clear and convincing evidence presented by the
20 taxpayer at that hearing. The monthly production rate at the economic
21 limit for the lease or property based upon the clear and convincing
22 evidence of the taxpayer shall be calculated by dividing the value
23 determined under (h) of this section into the average monthly direct
24 operating cost determined under (g) of this section.

25 (g) The average monthly direct operating cost for gas production
26 operations of the lease or property shall be determined based on a
27 period of not less than four consecutive months. The direct operating
28 costs include royalty, production supplies, purchased fuel, routine
29 maintenance, and wages and benefits of employees working on the

1 production operations. The direct operating costs do not include
2 capital expenditures, tangible or intangible drilling expenses, costs of
3 well workovers, costs for replacement or repairs (other than routine
4 maintenance), depreciation or amortization, taxes, insurance, overhead,
5 monies paid or set aside (or booked as being paid or set aside) to cover
6 the cost of terminating the gas production operations of the lease or
7 property, or any other cost not directly related to the gas production
8 operations of the lease or property.

9 (h) The value at the point of production of gas produced from the
10 lease or property shall be determined on the basis of the highest price
11 paid for gas of like quality and pressure in the same field or some
12 other field within 100 miles in the state.

13 (i) The department may aggregate two or more leases or properties
14 (or portions of them), for purposes of determining economic limit
15 factors under this section and applying them to sec. 11 of this chapter,
16 when economically interdependent oil or gas production operations are
17 not confined to a single lease or property. The department may also
18 segregate a lease or property into two or more parts, for purposes of
19 determining economic limit factors under this section and applying them
20 under sec. 11 of this chapter, when two or more economically independent
21 oil or gas production operations are being conducted on it.

22 (j) A determination of the monthly production rate at the economic
23 limit for a lease or property is retroactive to January 1 of the current
24 year. For production of a lease or property commencing after January 1,
25 the determination of the monthly production rate at the economic limit
26 for that lease or property made within six months after the commencement
27 of production is retroactive to the commencement of production.

28 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the
29 producer of gas a tax for all gas produced from each lease or property

1 in the state, less any gas the ownership or right to which is exempt
2 from taxation. The tax is equal to either the percentage-of-value
3 amount calculated under (b) of this section or the cents-per-Mcf amount
4 calculated under (c) of this section, whichever is greater, multiplied
5 by the economic limit factor determined for gas production of the lease
6 or property under sec. 13 of this chapter. If the amounts calculated
7 under (b) and (c) of this section are equal, the amount calculated under
8 (b) of this section shall be treated as if it were the greater for
9 purposes of this section.

10 (b) The percentage-of-value amount equals 10 per cent of the gross
11 value at the point of production of the taxable gas produced from the
12 lease or property.

13 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet
14 of taxable gas produced from the lease or property as adjusted by sec.
15 12 of this chapter.

16 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided
17 in this chapter and in ch. 58 of this title, the taxes imposed by this
18 chapter are in place of all taxes now imposed by the state or any of its
19 municipalities, and neither the state nor a municipality may impose a
20 tax upon

- 21 (1) producing oil or gas leases;
22 (2) oil or gas produced or extracted in the state;
23 (3) the value of intangible drilling and exploration expen-
24 ses.

25 (b) The taxes imposed by this chapter are in place of all taxes
26 imposed by a municipality upon oil or gas in place or nonproducing oil
27 or gas leases or properties.

28 (c) The taxes imposed by this chapter are not in place of the tax
29 imposed by ch. 57 of this title or income taxes, franchise taxes or

1 taxes upon the retail sale of oil or gas products.

2 * Sec. 2. AS 43.55.020(a) is amended to read:

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

8 * Sec. 3. AS 43.55.020(e) is amended to read:

9 (e) Gas produced in excess of that needed for safety purposes
10 [AND USED], except gas used in the operation of a lease or property in
11 drilling for or producing oil or gas, or for repressuring, is considered,
12 for the purpose of this chapter and in the amount used, as gas produced
13 [REMOVED OR SOLD] from a lease or property. Gas flared beyond the
14 amount authorized for safety by the Department of Natural Resources
15 under AS 31.05.170(11)(H) is considered as gas produced, except that it
16 is subject to a penalty equal to twice the tax computed under sec. 16 of
17 this chapter as adjusted by sec. 12 of this chapter per thousand cubic
18 feet of gas for the month in which the gas was flared.

19 * Sec. 4. AS 43.55.030(a)(1) is amended to read:

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

23 * Sec. 5. AS 43.55.030(a)(3) is amended to read:

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

27 * Sec. 6. AS 43.55.030(a)(4) is amended to read:

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

1 is paid; and

2 * Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

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

4 (A) for oil, the value of the oil at the point where it
5 is metered or measured (by automatic custody transfer meter, tank
6 gauge, or other method approved by the commissioner) in a condition
7 of pipeline quality on the premises of the lease or property from
8 which it is recovered; however, if the oil is not of pipeline
9 quality when it is removed from the premises of the lease or pro-
10 perty from which it is recovered, or if the oil recovered from a
11 lease or property is not metered or measured (by automatic custody
12 transfer meter, tank gauge, or other method approved by the com-
13 missioner) on the premises of the lease or property from which it
14 is recovered, then the gross value at the point of production is
15 the value of that oil at the off-premises location where the oil is
16 first metered or measured (by automatic custody transfer meter,
17 tank gauge, or other method approved by the commissioner) in a
18 condition of pipeline quality;

19 (B) for gas recovered from or in association with oil,
20 the value of the gas at the point where it is accurately metered or
21 measured after separation from the oil; for gas run through a gas
22 processing plant, the gross value at the point of production is the
23 full consideration received by the producer for the gas if sold in
24 an arm's length transaction or, in the absence of an arm's length
25 transaction, is the sum of the value of the liquids extracted from
26 the gas at the plant and the value of the residue gas, less a
27 reasonable allowance for processing the gas at the plant and for
28 transporting the gas to the plant from the premises upon which the
29 oil production operation is conducted; and

1 (C) for gas not recovered from or in association with
2 oil, the value of the gas at the point where it is accurately
3 metered or measured or the value of the gas at the point of sale,
4 if any, on the premises of the lease or property from which the gas
5 is recovered, whichever is the higher value; for gas run through a
6 gas processing plant, the gross value at the point of production is
7 the full consideration received by the producer for the gas if sold
8 in an arm's length transaction or, in the absence of an arm's
9 length transaction, is the sum of the value of the liquids ex-
10 tracted from the gas at the plant and the value of the residue gas,
11 less a reasonable allowance for processing the gas at the plant and
12 for transporting the gas to the plant from the point where it was
13 accurately metered or measured;

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

18 (14) "pipeline quality" means good and merchantable condi-
19 tion;

20 (15) "well days" means the number of days in which a well is
21 operating during a month.

22 * Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-
23 pealed.

24 * Sec. 9. This Act takes effect July 1, 1977 and applies to production
25 during the month of July 1977 and succeeding months.

Original sponsor: Rules Committee by request
of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 321

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-
7 duction tax; and providing for an effective date."

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

9 * Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the
11 producer of oil a tax for all oil produced from each lease or property
12 in the state, less any oil the ownership or right to which is exempt
13 from taxation. The tax is equal to either the percentage-of-value
14 amount calculated under (b) of this section or the cents-per-barrel
15 amount calculated under (c) of this section, whichever is greater,
16 multiplied by the economic limit factor determined for the oil produc-
17 tion of the lease or property under sec. 13 of this chapter. If the
18 amounts calculated under (b) and (c) of this section are equal, the
19 amount calculated under (b) of this section shall be treated as if it
20 were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 12.5 per cent of the
22 gross value at the point of production of taxable oil produced from the
23 lease or property.

24 (c) The cents-per-barrel amount equals \$.9375 per barrel of tax-
25 able oil produced from the lease or property, as adjusted by sec. 12 of
26 this chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of this
28 section is greater than the percentage-of-value amount calculated under
29 (b) of this section, and payment by the state to the Alaska Native fund

1 out of the state's royalties on that oil is required under the revenue
2 sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act
3 (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.), that payment shall
4 be not less than \$.05 for each taxable barrel of oil produced until all
5 amounts paid in the fund equal \$500,000,000.

6 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set
7 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or
8 decreased by a percentage equal to the percentage of change in the Gross
9 National Product Deflator published by Bureau of Economic Analysis of
10 the United States Department of Commerce. Changes in tax rates will be
11 computed based on changes in the Gross National Product Deflator from
12 that of the First Quarter 1977 Gross National Product Deflator. The
13 department shall post the changes in the tax rates periodically and
14 shall notify every person producing oil within the state of the changes.

15 (b) The cents-per-barrel amount set out in sec. 11(c) of this
16 chapter as adjusted by (a) of this section applies to oil of 27 degrees
17 API gravity. For each degree of API gravity less than 27 degrees the
18 cents-per-barrel amount shall be reduced by \$.005 and for each degree of
19 API gravity greater than 27 degrees the cents-per-barrel amount shall be
20 increased by \$.005 except that oil above 40 degrees API gravity shall be
21 taxed as 40 degree oil. In applying the gravity adjustment under this
22 subsection, fractional degrees of API gravity shall be disregarded.

23 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit
24 factor for oil production of a lease or property equals

$$25 \quad (1 - [\text{PEL}/\text{TP}]) \exp ([300 \times \text{WD}]/\text{PEL})$$

26 where: PEL = the production rate at the economic limit;

27 TP = total production during the month for which the tax
28 is to be paid,

29 WD = the total number of well days in the month for which

1 the tax is to be paid; and
2 where "exp" indicates that the expression following it is an exponent.

3 (b) The economic limit factor for gas production of a lease or
4 property equals one minus the ratio of the monthly production rate at
5 the economic limit to the production during the month for which the tax
6 is to be paid.

7 (c) The monthly production rate at the economic limit for a lease
8 or property is presumed to be 300 barrels times the number of well days
9 for the lease or property during the month for which the tax is to be
10 paid. The taxpayer may rebut this presumption at a formal hearing under
11 AS 43.05.420 by providing clear and convincing evidence of a different
12 monthly production rate at the economic limit for the lease or property.
13 The hearing shall be held before February 15 of the year or within six
14 months after commencement of oil production for a lease or property.
15 The monthly production rate at the economic limit for the lease or pro-
16 perty based upon the clear and convincing evidence of the taxpayer shall
17 be calculated by dividing the value determined under (e) of this section
18 into the average monthly direct operating cost determined under (d) of
19 this section and shall be used for purposes of this section for all oil
20 production during that calendar year from the lease or property.

21 (d) The average monthly direct operating cost for oil production
22 operations of the lease or property shall be determined based on a
23 period of not less than four consecutive months. The direct operating
24 costs include only royalty, production supplies, purchased fuel, routine
25 maintenance, and wages and benefits of employees working on the produc-
26 tion operations. Additional direct operating costs not listed in this
27 section may be included only after their inclusion in a regulation
28 adopted by the department. The direct operating costs do not include
29 capital expenditures, tangible or intangible drilling expenses, costs of

1 well workovers, costs for replacement or repairs (other than routine
2 maintenance), depreciation or amortization, taxes, insurance, overhead,
3 money paid or set aside (or booked as being paid or set aside) to cover
4 the cost of terminating the oil production operations of the lease or
5 property, or any other cost not directly related to the oil production
6 operations of the lease or property.

7 (e) The value at the point of production of oil produced from the
8 lease or property shall be determined on the basis of the acquisition
9 cost C.I.F. at West Coast refineries for imported oil of like quality,
10 minus the reasonable cost of transportation between the point of pro-
11 duction of the oil from the lease or property and those West Coast
12 refineries.

13 (f) Before February 15 of each year or within six months after
14 commencement of production for a lease or property the department shall
15 notify the producer of gas of the monthly production rate at the eco-
16 nomic limit for each lease or property within the state for that year.
17 The monthly production rate at the economic limit for a lease or pro-
18 perty shall be determined at a formal hearing under AS 43.05.240 and
19 must be established by clear and convincing evidence presented by the
20 taxpayer at that hearing. The monthly production rate at the economic
21 limit for the lease or property based upon the clear and convincing
22 evidence of the taxpayer shall be calculated by dividing the value
23 determined under (h) of this section into the average monthly direct
24 operating cost determined under (g) of this section.

25 (g) The average monthly direct operating cost for gas production
26 operations of the lease or property shall be determined based on a
27 period of not less than four consecutive months. The direct operating
28 costs include royalty, production supplies, purchased fuel, routine
29 maintenance, and wages and benefits of employees working on the

1 production operations. The direct operating costs do not include
2 capital expenditures, tangible or intangible drilling expenses, costs of
3 well workovers, costs for replacement or repairs (other than routine
4 maintenance), depreciation or amortization, taxes, insurance, overhead,
5 monies paid or set aside (or booked as being paid or set aside) to cover
6 the cost of terminating the gas production operations of the lease or
7 property, or any other cost not directly related to the gas production
8 operations of the lease or property.

9 (h) The value at the point of production of gas produced from the
10 lease or property shall be determined on the basis of the highest price
11 paid for gas of like quality and pressure in the same field or some
12 other field within 100 miles in the state.

13 (i) The department may aggregate two or more leases or properties
14 (or portions of them), for purposes of determining economic limit
15 factors under this section and applying them to sec. 11 of this chapter,
16 when economically interdependent oil or gas production operations are
17 not confined to a single lease or property. The department may also
18 segregate a lease or property into two or more parts, for purposes of
19 determining economic limit factors under this section and applying them
20 under sec. 11 of this chapter, when two or more economically independent
21 oil or gas production operations are being conducted on it.

22 (j) A determination of the monthly production rate at the economic
23 limit for a lease or property is retroactive to January 1 of the current
24 year. For production of a lease or property commencing after January 1,
25 the determination of the monthly production rate at the economic limit
26 for that lease or property made within six months after the commencement
27 of production is retroactive to the commencement of production.

28 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the
29 producer of gas a tax for all gas produced from each lease or property

1 in the state, less any gas the ownership or right to which is exempt
2 from taxation. The tax is equal to either the percentage-of-value
3 amount calculated under (b) of this section or the cents-per-Mcf amount
4 calculated under (c) of this section, whichever is greater, multiplied
5 by the economic limit factor determined for gas production of the lease
6 or property under sec. 13 of this chapter. If the amounts calculated
7 under (b) and (c) of this section are equal, the amount calculated under
8 (b) of this section shall be treated as if it were the greater for
9 purposes of this section.

10 (b) The percentage-of-value amount equals 10 per cent of the gross
11 value at the point of production of the taxable gas produced from the
12 lease or property.

13 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet
14 of taxable gas produced from the lease or property as adjusted by sec.
15 12 of this chapter.

16 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided
17 in this chapter and in ch. 58 of this title, the taxes imposed by this
18 chapter are in place of all taxes now imposed by the state or any of its
19 municipalities, and neither the state nor a municipality may impose a
20 tax upon

- 21 (1) producing oil or gas leases;
- 22 (2) oil or gas produced or extracted in the state;
- 23 (3) the value of intangible drilling and exploration expen-
24 ses.

25 (b) The taxes imposed by this chapter are in place of all taxes
26 imposed by a municipality upon oil or gas in place or nonproducing oil
27 or gas leases or properties.

28 (c) The taxes imposed by this chapter are not in place of the tax
29 imposed by ch. 57 of this title or income taxes, franchise taxes or

1 taxes upon the retail sale of oil or gas products.

2 * Sec. 2. AS 43.55.020(a) is amended to read:

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

8 * Sec. 3. AS 43.55.020(e) is amended to read:

9 (e) Gas produced in excess of that needed for safety purposes
10 [AND USED], except gas used in the operation of a lease or property in
11 drilling for or producing oil or gas, or for repressuring, is considered,
12 for the purpose of this chapter and in the amount used, as gas produced
13 [REMOVED OR SOLD] from a lease or property. Gas flared beyond the
14 amount authorized for safety by the Department of Natural Resources
15 under AS 31.05.170(11)(H) is considered as gas produced, except that it
16 is subject to a penalty equal to twice the tax computed under sec. 16 of
17 this chapter as adjusted by sec. 12 of this chapter per thousand cubic
18 feet of gas for the month in which the gas was flared.

19 * Sec. 4. AS 43.55.030(a)(1) is amended to read:

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

23 * Sec. 5. AS 43.55.030(a)(3) is amended to read:

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

27 * Sec. 6. AS 43.55.030(a)(4) is amended to read:

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

1 is paid; and

2 * Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

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

4 (A) for oil, the value of the oil at the point where it
5 is metered or measured (by automatic custody transfer meter, tank
6 gauge, or other method approved by the commissioner) in a condition
7 of pipeline quality on the premises of the lease or property from
8 which it is recovered; however, if the oil is not of pipeline
9 quality when it is removed from the premises of the lease or pro-
10 perty from which it is recovered, or if the oil recovered from a
11 lease or property is not metered or measured (by automatic custody
12 transfer meter, tank gauge, or other method approved by the com-
13 missioner) on the premises of the lease or property from which it
14 is recovered, then the gross value at the point of production is
15 the value of that oil at the off-premises location where the oil is
16 first metered or measured (by automatic custody transfer meter,
17 tank gauge, or other method approved by the commissioner) in a
18 condition of pipeline quality;

19 (B) for gas recovered from or in association with oil,
20 the value of the gas at the point where it is accurately metered or
21 measured after separation from the oil; for gas run through a gas
22 processing plant, the gross value at the point of production is the
23 full consideration received by the producer for the gas if sold in
24 an arm's length transaction or, in the absence of an arm's length
25 transaction, is the sum of the value of the liquids extracted from
26 the gas at the plant and the value of the residue gas, less a
27 reasonable allowance for processing the gas at the plant and for
28 transporting the gas to the plant from the premises upon which the
29 oil production operation is conducted; and

1 (C) for gas not recovered from or in association with
2 oil, the value of the gas at the point where it is accurately
3 metered or measured or the value of the gas at the point of sale,
4 if any, on the premises of the lease or property from which the gas
5 is recovered, whichever is the higher value; for gas run through a
6 gas processing plant, the gross value at the point of production is
7 the full consideration received by the producer for the gas if sold
8 in an arm's length transaction or, in the absence of an arm's
9 length transaction, is the sum of the value of the liquids ex-
10 tracted from the gas at the plant and the value of the residue gas,
11 less a reasonable allowance for processing the gas at the plant and
12 for transporting the gas to the plant from the point where it was
13 accurately metered or measured;

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

18 (14) "pipeline quality" means good and merchantable condi-
19 tion;

20 (15) "well days" means the number of days in which a well is
21 operating during a month.

22 * Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-
23 pealed.

24 * Sec. 9. This Act takes effect July 1, 1977 and applies to production
25 during the month of July 1977 and succeeding months.

Original sponsor: Rules Committee by request
of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 321

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-
7 duction tax; and providing for an effective date."

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

9 * Section 1. AS 43.55 is amended by adding new sections to read:

0 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the
1 producer of oil a tax for all oil produced from each lease or property
2 in the state, less any oil the ownership or right to which is exempt
3 from taxation. The tax is equal to either the percentage-of-value
4 amount calculated under (b) of this section or the cents-per-barrel
5 amount calculated under (c) of this section, whichever is greater,
6 multiplied by the economic limit factor determined for the oil produc-
7 tion of the lease or property under sec. 13 of this chapter. If the
8 amounts calculated under (b) and (c) of this section are equal, the
9 amount calculated under (b) of this section shall be treated as if it
0 were the greater for purposes of this section.

1 (b) The percentage-of-value amount equals 12.5 per cent of the
2 gross value at the point of production of taxable oil produced from the
3 lease or property.

4 (c) The cents-per-barrel amount equals \$.9375 per barrel of tax-
5 able oil produced from the lease or property, as adjusted by sec. 12 of
6 this chapter.

7 (d) When the cents-per-barrel amount calculated under (c) of this
8 section is greater than the percentage-of-value amount calculated under
9 (b) of this section, and payment by the state to the Alaska Native fund
0

1 out of the state's royalties on that oil is required under the revenue
2 sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act
3 (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.), that payment shall
4 be not less than \$.05 for each taxable barrel of oil produced until all
5 amounts paid in the fund equal \$500,000,000.

6 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set
7 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or
8 decreased by a percentage equal to the percentage of change in the Gross
9 National Product Deflator published by Bureau of Economic Analysis of
10 the United States Department of Commerce. Changes in tax rates will be
11 computed based on changes in the Gross National Product Deflator from
12 that of the First Quarter 1977 Gross National Product Deflator. The
13 department shall post the changes in the tax rates periodically and
14 shall notify every person producing oil within the state of the changes.

15 (b) The cents-per-barrel amount set out in sec. 11(c) of this
16 chapter as adjusted by (a) of this section applies to oil of 27 degrees
17 API gravity. For each degree of API gravity less than 27 degrees the
18 cents-per-barrel amount shall be reduced by \$.005 and for each degree or
19 API gravity greater than 27 degrees the cents-per-barrel amount shall be
20 increased by \$.005 except that oil above 40 degrees API gravity shall be
21 taxed as 40 degree oil. In applying the gravity adjustment under this
22 subsection, fractional degrees of API gravity shall be disregarded.

23 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit
24 factor for oil production of a lease or property equals

$$(1 - [PEL/TP]) \exp ([3J0 \times WD]/PEL)$$

25 where: PEL = the production rate at the economic limit;

26 TP = total production during the month for which the tax
27 is to be paid;

28 WD = the total number of well days in the month for which
29

1 the tax is to be paid; and
2 where "exp" indicates that the expression following it is an exponent.

3 (b) The economic limit factor for gas production of a lease or
4 property equals one minus the ratio of the monthly production rate at
5 the economic limit to the production during the month for which the tax
6 is to be paid.

7 (c) The monthly production rate at the economic limit for a lease
8 or property is presumed to be 300 barrels times the number of well days
9 for the lease or property during the month for which the tax is to be
10 paid. The taxpayer may rebut this presumption at a formal hearing under
11 AS 43.05.420 by providing clear and convincing evidence of a different
12 monthly production rate at the economic limit for the lease or property.
13 The hearing shall be held before February 15 of the year or within six
14 months after commencement of oil production for a lease or property.
15 The monthly production rate at the economic limit for the lease or pro-
16 perty based upon the clear and convincing evidence of the taxpayer shall
17 be calculated by dividing the value determined under (e) of this section
18 into the average monthly direct operating cost determined under (d) of
19 this section and shall be used for purposes of this section for all oil
20 production during that calendar year from the lease or property.

21 (d) The average monthly direct operating cost for oil production
22 operations of the lease or property shall be determined based on a
23 period of not less than four consecutive months. The direct operating
24 costs include only royalty, production supplies, purchased fuel, routine
25 maintenance, and wages and benefits of employees working on the produc-
26 tion operations. Additional direct operating costs not listed in this
27 section may be included only after their inclusion in a regulation
28 adopted by the department. The direct operating costs do not include
29 capital expenditures, tangible or intangible drilling expenses, costs of

1 well workovers, costs for replacement or repairs (other than routine
2 maintenance), depreciation or amortization, taxes, insurance, overhead,
3 money paid or set aside (or booked as being paid or set aside) to cover
4 the cost of terminating the oil production operations of the lease or
5 property, or any other cost not directly related to the oil production
6 operations of the lease or property.

7 (e) The value at the point of production of oil produced from the
8 lease or property shall be determined on the basis of the acquisition
9 cost C.I.F. at West Coast refineries for imported oil of like quality,
10 minus the reasonable cost of transportation between the point of pro-
11 duction of the oil from the lease or property and those West Coast
12 refineries.

13 (f) Before February 15 of each year or within six months after
14 commencement of production for a lease or property the department shall
15 notify the producer of gas of the monthly production rate at the eco-
16 nomic limit for each lease or property within the state for that year.
17 The monthly production rate at the economic limit for a lease or pro-
18 perty shall be determined at a formal hearing under AS 43.05.240 and
19 must be established by clear and convincing evidence presented by the
20 taxpayer at that hearing. The monthly production rate at the economic
21 limit for the lease or property based upon the clear and convincing
22 evidence of the taxpayer shall be calculated by dividing the value
23 determined under (h) of this section into the average monthly direct
24 operating cost determined under (g) of this section.

25 (g) The average monthly direct operating cost for gas production
26 operations of the lease or property shall be determined based on a
27 period of not less than four consecutive months. The direct operating
28 costs include royalty, production supplies, purchased fuel, routine
29 maintenance, and wages and benefits of employees working on the

1 production operations. The direct operating costs do not include
2 capital expenditures, tangible or intangible drilling expenses, costs of
3 well workovers, costs for replacement or repairs (other than routine
4 maintenance), depreciation or amortization, taxes, insurance, overhead,
5 monies paid or set aside (or booked as being paid or set aside) to cover
6 the cost of terminating the gas production operations of the lease or
7 property, or any other cost not directly related to the gas production
8 operations of the lease or property.

9 (h) The value at the point of production of gas produced from the
10 lease or property shall be determined on the basis of the highest price
11 paid for gas of like quality and pressure in the same field or some
12 other field within 100 miles in the state.

13 (i) The department may aggregate two or more leases or properties
14 (or portions of them), for purposes of determining economic limit
15 factors under this section and applying them to sec. 11 of this chapter,
16 when economically interdependent oil or gas production operations are
17 not confined to a single lease or property. The department may also
18 segregate a lease or property into two or more parts, for purposes of
19 determining economic limit factors under this section and applying them
20 under sec. 11 of this chapter, when two or more economically independent
21 oil or gas production operations are being conducted on it.

22 (j) A determination of the monthly production rate at the economic
23 limit for a lease or property is retroactive to January 1 of the current
24 year. For production of a lease or property commencing after January 1,
25 the determination of the monthly production rate at the economic limit
26 for that lease or property made within six months after the commencement
27 of production is retroactive to the commencement of production.

28 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the
29 producer of gas a tax for all gas produced from each lease or property

1 in the state, less any gas the ownership or right to which is exempt
2 from taxation. The tax is equal to either the percentage-of-value
3 amount calculated under (b) of this section or the cents-per-Mcf amount
4 calculated under (c) of this section, whichever is greater, multiplied
5 by the economic limit factor determined for gas production of the lease
6 or property under sec. 13 of this chapter. If the amounts calculated
7 under (b) and (c) of this section are equal, the amount calculated under
8 (b) of this section shall be treated as if it were the greater for
9 purposes of this section.

10 (b) The percentage-of-value amount equals 10 per cent of the gross
11 value at the point of production of the taxable gas produced from the
12 lease or property.

13 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet
14 of taxable gas produced from the lease or property as adjusted by sec.
15 12 of this chapter.

16 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided
17 in this chapter and in ch. 58 of this title, the taxes imposed by this
18 chapter are in place of all taxes now imposed by the state or any of its
19 municipalities, and neither the state nor a municipality may impose a
20 tax upon

21 (1) producing oil or gas leases;
22 (2) oil or gas produced or extracted in the state;
23 (3) the value of intangible drilling and exploration expen-
24 ses.

25 (b) The taxes imposed by this chapter are in place of all taxes
26 imposed by a municipality upon oil or gas in place or nonproducing oil
27 or gas leases or properties.

28 (c) The taxes imposed by this chapter are not in place of the tax
29 imposed by ch. 57 of this title or income taxes, franchise taxes or

1 taxes upon the retail sale of oil or gas products.

2 * Sec. 2. AS 43.55.020(a) is amended to read:

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

8 * Sec. 3. AS 43.55.020(e) is amended to read:

9 (e) Gas produced in excess of that needed for safety purposes
10 [AND USED], except gas used in the operation of a lease or property in
11 drilling for or producing oil or gas, or for repressuring, is considered,
12 for the purpose of this chapter and in the amount used, as gas produced
13 [REMOVED OR SOLD] from a lease or property. Gas flared beyond the
14 amount authorized for safety by the Department of Natural Resources
15 under AS 31.05.170(11)(H) is considered as gas produced, except that it
16 is subject to a penalty equal to twice the tax computed under sec. 16 of
17 this chapter as adjusted by sec. 12 of this chapter per thousand cubic
18 feet of gas for the month in which the gas was flared.

19 * Sec. 4. AS 43.55.030(a)(1) is amended to read:

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

23 * Sec. 5. AS 43.55.030(a)(3) is amended to read:

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

27 * Sec. 6. AS 43.55.030(a)(4) is amended to read:

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

1 is paid; and

2 * Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

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

4 (A) for oil, the value of the oil at the point where it
5 is metered or measured (by automatic custody transfer meter, tank
6 gauge, or other method approved by the commissioner) in a condition
7 of pipeline quality on the premises of the lease or property from
8 which it is recovered; however, if the oil is not of pipeline
9 quality when it is removed from the premises of the lease or pro-
10 perty from which it is recovered, or if the oil recovered from a
11 lease or property is not metered or measured (by automatic custody
12 transfer meter, tank gauge, or other method approved by the com-
13 missioner) on the premises of the lease or property from which it
14 is recovered, then the gross value at the point of production is
15 the value of that oil at the off-premises location where the oil is
16 first metered or measured (by automatic custody transfer meter,
17 tank gauge, or other method approved by the commissioner) in a
18 condition of pipeline quality;

19 (B) for gas recovered from or in association with oil,
20 the value of the gas at the point where it is accurately metered or
21 measured after separation from the oil; for gas run through a gas
22 processing plant, the gross value at the point of production is the
23 full consideration received by the producer for the gas if sold in
24 an arm's length transaction or, in the absence of an arm's length
25 transaction, is the sum of the value of the liquids extracted from
26 the gas at the plant and the value of the residue gas, less a
27 reasonable allowance for processing the gas at the plant and for
28 transporting the gas to the plant from the premises upon which the
29 oil production operation is conducted; and

1 (C) for gas not recovered from or in association with
2 oil, the value of the gas at the point where it is accurately
3 metered or measured or the value of the gas at the point of sale,
4 if any, on the premises of the lease or property from which the gas
5 is recovered, whichever is the higher value; for gas run through a
6 gas processing plant, the gross value at the point of production is
7 the full consideration received by the producer for the gas if sold
8 in an arm's length transaction or, in the absence of an arm's
9 length transaction, is the sum of the value of the liquids ex-
10 tracted from the gas at the plant and the value of the residue gas,
11 less a reasonable allowance for processing the gas at the plant and
12 for transporting the gas to the plant from the point where it was
13 accurately metered or measured;

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

18 (14) "pipeline quality" means good and merchantable condi-
19 tion;

20 (15) "well days" means the number of days in which a well is
21 operating during a month.

22 * Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-
23 pealed.

24 * Sec. 9. This Act takes effect July 1, 1977 and applies to production
25 during the month of July 1977 and succeeding months.

148 521

March 8, 1977

The Honorable Hugh Malone
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to the oil and gas properties production tax.

As a result of a recent study of Alaska's oil and gas tax structure, the Department of Revenue has recommended several changes in the state's production or "severance" tax. This bill incorporates those specific recommendations.

Currently the state's oil production tax is calculated according to "stair stepped" rates depending upon the level of production for the lease or property. As currently structured the tax may have an adverse impact upon a particular property as it reaches its economic limit. The "stair step" approach may not alleviate this adverse effect since the economic limit may vary substantially from one part of the state to another. This is because it may be more costly to produce and transport the oil in the more remote areas of the state. Accordingly, the bill contains an economic limit mechanism which automatically scales the tax rate down as the production nears its economic limit. This will insure that the tax will not unduly inhibit oil production as it reaches its economic limit.

One of the immediate dangers which face the state's revenue picture is the potential for artificially depressed pricing of the state's North Slope oil. This could result from federal pricing decisions or excessive

tariff costs from the wellhead to the refinery. To insulate the state's petroleum revenues from these forces, the bill provides for a mechanism which would raise the cents-per-barrel floor to correspond to a mid-range market value for North Slope oil and tie that floor to an index which will let the floor keep pace with inflation.

One of the Department of Revenue's recommendations -- the oil and gas surtax -- which was designed to offset revenue losses due to depressed pricing of North Slope oil and which was to be imposed only on holders of state-owned leaseholds was deleted on the advice of this department because of the substantial legal problems involved.

The bill places the tax on gas at a parity with the tax on oil. Currently gas is taxed at only 4 percent while oil is taxed from 5 to 8 percent. The bill would tax both oil and gas at 10 percent. In addition, the bill sets a cents-per-Mcf floor for the gas tax similar to the cents-per-barrel floor for oil. This new floor for gas corresponds to the highest market price in the state, and it too is tied to an index to keep pace with inflation.

Sincerely,

Jay S. Hammond
Governor

Original sponsor: Rules Committee by request
of the Governor

Offered: 5/7/77
For Today's Calendar

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 238

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-
7 duction tax; and providing for an effective date."

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

9 * Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the
11 producer of oil a tax for all oil produced from each lease or property
12 in the state, less any oil the ownership or right to which is exempt
13 from taxation. The tax is equal to either the percentage-of-value
14 amount calculated under (b) of this section or the cents-per-barrel
15 amount calculated under (c) of this section, whichever is greater,
16 multiplied by the economic limit factor determined for the oil produc-
17 tion of the lease or property under sec. 13 of this chapter. If the
18 amounts calculated under (b) and (c) of this section are equal, the
19 amount calculated under (b) of this section shall be treated as if it
20 were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 12.5 per cent of the
22 gross value at the point of production of taxable oil produced from the
23 lease or property.

24 (c) The cents-per-barrel amount equals \$.9375 per barrel of tax-
25 able oil produced from the lease or property, as adjusted by sec. 12 of
26 this chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of this
28 section is greater than the percentage-of-value amount calculated under
29 (b) of this section, and payment by the state to the Alaska Native fund

1 out of the state's royalties on that oil is required under the revenue
2 sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act
3 (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.), that payment shall
4 be not less than \$.05 for each taxable barrel of oil produced until all
5 amounts paid in the fund equal \$500,000,000.

6 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set
7 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or
8 decreased by a percentage equal to the percentage of change in the Gross
9 National Product Deflator published by Bureau of Economic Analysis of
10 the United States Department of Commerce. Changes in tax rates will be
11 computed based on changes in the Gross National Product Deflator from
12 that of the First Quarter 1977 Gross National Product Deflator. The
13 department shall post the changes in the tax rates periodically and
14 shall notify every person producing oil within the state of the changes.

15 (b) The cents-per-barrel amount set out in sec. 11(c) of this
16 chapter as adjusted by (a) of this section applies to oil of 27 degrees
17 API gravity. For each degree of API gravity less than 27 degrees the
18 cents-per-barrel amount shall be reduced by \$.005 and for each degree of
19 API gravity greater than 27 degrees the cents-per-barrel amount shall be
20 increased by \$.005 except that oil above 40 degrees API gravity shall be
21 taxed as 40 degree oil. In applying the gravity adjustment under this
22 subsection, fractional degrees of API gravity shall be disregarded.

23 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit
24 factor for oil production of a lease or property equals

$$25 \quad (1 - [PEL/TP]) \exp ([300 \times WD]/PEL)$$

26 where: PEL = the production rate at the economic limit;

27 TP = total production during the month for which the tax
28 is to be paid;

29 WD = the total number of well days in the month for which

1 the tax is to be paid; and
2 where "exp" indicates that the expression following it is an exponent.

3 (b) The economic limit factor for gas production of a lease or
4 property equals one minus the ratio of the monthly production rate at
5 the economic limit to the production during the month for which the tax
6 is to be paid.

7 (c) The monthly production rate at the economic limit for a lease
8 or property is presumed to be 300 barrels times the number of well days
9 for the lease or property during the month for which the tax is to be
10 paid. The taxpayer may rebut this presumption at a formal hearing under
11 AS 43.05.240 by providing clear and convincing evidence of a different
12 monthly production rate at the economic limit for the lease or property.
13 The hearing shall be held before February 15 of the year or within six
14 months after commencement of oil production for a lease or property.
15 The monthly production rate at the economic limit for the lease or pro-
16 perty based upon the clear and convincing evidence of the taxpayer shall
17 be calculated by dividing the value determined under (e) of this section
18 into the average monthly direct operating cost determined under (d) of
19 this section and shall be used for purposes of this section for all oil
20 production during that calendar year from the lease or property.

21 (d) The average monthly direct operating cost for oil production
22 operations of the lease or property shall be determined based on a
23 period of not less than four consecutive months. The direct operating
24 costs include only royalty, production supplies, purchased fuel, routine
25 maintenance, and wages and benefits of employees working on the produc-
26 tion operations. Additional direct operating costs not listed in this
27 section may be included only after their inclusion in a regulation
28 adopted by the department. The direct operating costs do not include
29 capital expenditures, tangible or intangible drilling expenses, costs of

1 well workovers, costs for replacement or repairs (other than routine
2 maintenance), depreciation or amortization, taxes, insurance, overhead,
3 money paid or set aside (or booked as being paid or set aside) to cover
4 the cost of terminating the oil production operations of the lease or
5 property, or any other cost not directly related to the oil production
6 operations of the lease or property.

7 (e) For the purpose of calculating the economic limit, the value
8 at the point of production of oil produced from the lease or property
9 shall be determined on the basis of the acquisition cost C.I.F. at West
10 Coast refineries for imported oil of like quality, minus the reasonable
11 cost of transportation between the point of production of the oil from
12 the lease or property and those West Coast refineries.

13 (f) Before February 15 of each year or within six months after
14 commencement of production for a lease or property the department shall
15 notify the producer of gas of the monthly production rate at the eco-
16 nomic limit for each lease or property within the state for that year.
17 The monthly production rate at the economic limit for a lease or pro-
18 perty shall be determined at a formal hearing under AS 43.05.240 and
19 must be established by clear and convincing evidence presented by the
20 taxpayer at that hearing. The monthly production rate at the economic
21 limit for the lease or property based upon the clear and convincing
22 evidence of the taxpayer shall be calculated by dividing the value
23 determined under (h) of this section into the average monthly direct
24 operating cost determined under (g) of this section.

25 (g) The average monthly direct operating cost for gas production
26 operations of the lease or property shall be determined based on a
27 period of not less than four consecutive months. The direct operating
28 costs include only royalty, production supplies, purchased fuel, routine
29 maintenance, and wages and benefits of employees working on the

1 production operations. Additional direct operating costs not listed in
2 this section may be included only after their inclusion in a regulation
3 adopted by the department. The direct operating costs do not include
4 capital expenditures, tangible or intangible drilling expenses, costs of
5 well workovers, costs for replacement or repairs (other than routine
6 maintenance), depreciation or amortization, taxes, insurance, overhead,
7 monies paid or set aside (or booked as being paid or set aside) to cover
8 the cost of terminating the gas production operations of the lease or
9 property, or any other cost not directly related to the gas production
10 operations of the lease or property.

11 (h) For the purpose of calculating the economic limit, the value
12 at the point of production of gas produced from the lease or property
13 shall be determined on the basis of the highest price paid for gas of
14 like quality and pressure in the same field or some other field within
15 100 miles in the state.

16 (i) The department may aggregate two or more leases or properties
17 (or portions of them), for purposes of determining economic limit factors
18 under this section and applying them to sec. 11 or sec. 16 of this chap-
19 ter, when economically interdependent oil or gas production operations
20 are not confined to a single lease or property. The department may also
21 segregate a lease or property into two or more parts, for purposes of
22 determining economic limit factors under this section and applying them
23 under sec. 11 or sec. 16 of this chapter, when two or more economically
24 independent oil or gas production operations are being conducted on it.

25 (j) A determination of the monthly production rate at the economic
26 limit for a lease or property is retroactive to January 1 of the current
27 year. For production of a lease or property commencing after January 1,
28 the determination of the monthly production rate at the economic limit
29 for that lease or property made within six months after the commencement

1 of production is retroactive to the commencement of production.

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

13 (b) The percentage-of-value amount equals 10 per cent of the gross
14 value at the point of production of the taxable gas produced from the
15 lease or property.

16 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet
17 of taxable gas produced from the lease or property as adjusted by sec.
18 12 of this chapter.

19 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided
20 in this chapter and in ch. 58 of this title, the taxes imposed by this
21 chapter are in place of all taxes now imposed by the state or any of its
22 municipalities, and neither the state nor a municipality may impose a
23 tax upon

- 24 (1) producing oil or gas leases;
25 (2) oil or gas produced or extracted in the state;
26 (3) the value of intangible drilling and exploration expen-
27 ses.

28 (b) The taxes imposed by this chapter are in place of all taxes
29 imposed by a municipality upon oil or gas in place or nonproducing oil

1 or gas leases or properties.

2 (c) The taxes imposed by this chapter are not in place of the tax
3 imposed by ch. 57 of this title or income taxes, franchise taxes or
4 taxes upon the retail sale of oil or gas products.

5 * Sec. 2. AS 43.55.020(a) is amended to read:

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

11 * Sec. 3. AS 43.55.020(e) is amended to read:

12 (e) Gas produced in excess of that needed for safety purposes
13 [AND USED], except gas used in the operation of a lease or property in
14 drilling for or producing oil or gas, or for repressuring, is considered,
15 for the purpose of this chapter and in the amount used, as gas produced
16 [REMOVED OR SOLD] from a lease or property. Gas flared beyond the
17 amount authorized for safety by the Department of Natural Resources
18 under AS 31.05.170(11)(H) is considered as gas produced, except that it
19 is subject to a penalty equal to the tax computed under sec. 16 of this
20 chapter as adjusted by sec. 12 of this chapter per thousand cubic feet
21 of gas for the month in which the gas was flared.

22 * Sec. 4. AS 43.55.030(a)(1) is amended to read:

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

26 * Sec. 5. AS 43.55.030(a)(3) is amended to read:

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

1 * Sec. 6. AS 43.55.030(a)(4) is amended to read:

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

5 * Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

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

7 (A) for oil, the value of the oil at the point where it
8 is metered or measured (by automatic custody transfer meter, tank
9 gauge, or other method approved by the commissioner) in a condition
10 of pipeline quality on the premises of the lease or property from
11 which it is recovered; however, if the oil is not of pipeline
12 quality when it is removed from the premises of the lease or pro-
13 perty from which it is recovered, or if the oil recovered from a
14 lease or property is not metered or measured (by automatic custody
15 transfer meter, tank gauge, or other method approved by the com-
16 missioner) on the premises of the lease or property from which it
17 is recovered, then the gross value at the point of production is
18 the value of that oil at the off-premises location where the oil is
19 first metered or measured (by automatic custody transfer meter,
20 tank gauge, or other method approved by the commissioner) in a
21 condition of pipeline quality;

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

1 reasonable allowance for processing the gas at the plant and for
2 transporting the gas to the plant from the premises upon which the
3 oil production operation is conducted; and

4 (C) for gas not recovered from or in association with
5 oil, the value of the gas at the point where it is accurately
6 metered or measured or the value of the gas at the point of sale,
7 if any, on the premises of the lease or property from which the gas
8 is recovered, whichever is the higher value; for gas run through a
9 gas processing plant, the gross value at the point of production is
10 the full consideration received by the producer for the gas if sold
11 in an arm's length transaction or, in the absence of an arm's
12 length transaction, is the sum of the value of the liquids ex-
13 tracted from the gas at the plant and the value of the residue gas,
14 less a reasonable allowance for processing the gas at the plant and
15 for transporting the gas to the plant from the point where it was
16 accurately metered or measured;

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

21 (14) "pipeline quality" means good and merchantable condi-
22 tion;

23 (15) "well days" means the number of days in which a well is
24 operating during a month.

25 * Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-
26 pealed.

27 * Sec. 9. This Act takes effect July 1, 1977 and applies to production
28 during the month of July 1977 and succeeding months.

Introduced: 3/9/77
Referred: Resources and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 321

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-
7 duction tax; and providing for an effective date."

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

9 * Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon
11 the producer of oil a tax for all oil produced from each lease or
12 property in the state, less any oil the ownership or right to which is
13 exempt from taxation. The tax is equal to either the percentage-of-
14 value amount calculated under (b) of this section or the cents-per-
15 barrel amount calculated under (c) of this section, whichever is
16 greater, multiplied by the economic limit factor determined for the
17 oil production of the lease or property under sec. 13 of this chapter.
18 If the amounts calculated under (b) and (c) of this section are equal,
19 the amount calculated under (b) of this section shall be treated as if
20 it were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 10 per cent of the
22 gross value at the point of production of taxable oil produced from
23 the lease or property.

24 (c) The cents-per-barrel amount equals \$.75 per barrel of taxable
25 oil produced from the lease or property, as adjusted by sec. 12 of
26 this chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of
28 this section is greater than the percentage-of-value amount calculated
29 under (b) of this section, an amount not less than \$.05 for each

1 barrel of taxable oil produced shall be paid by the state out of its
2 royalties from the oil whenever payment by the state is required under
3 the revenue sharing provisions of sec. 9 of the Alaska Native Claims
4 Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.)
5 into the Alaska Native Fund, until all amounts paid in the fund equal
6 \$500,000,000.

7 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set
8 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or
9 decreased by a percentage equal to the percentage of change in the
10 Gross National Product Deflator published by Bureau of Economic Analysis
11 of the United States Department of Commerce. Changes in tax rates
12 will be computed based on changes in the Gross National Product Deflator
13 from that of the First Quarter 1977 Gross National Product Deflator.
14 The department shall post the changes in the tax rates periodically
15 and shall notify every person producing oil within the state of the
16 changes.

17 (b) The cents-per-barrel amount set out in sec. 11(c) of this
18 chapter as adjusted by (a) of this section applies to oil of 27
19 degrees API gravity. For each degree of API gravity less than 27
20 degrees the cents-per-barrel amount shall be reduced by \$.005 and for
21 each degree of API gravity greater than 27 degrees the cents-per-
22 barrel amount shall be increased by \$.005 except that oil above 40
23 degrees API gravity shall be taxed as 40 degree oil. In applying the
24 gravity adjustment under this subsection, fractional degrees of API
25 gravity shall be disregarded.

26 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit
27 factor for oil production of a lease or property equals one minus the
28 ratio of the monthly production rate at the economic limit to the
29 production during the month for which the tax is to be paid.

1 (b) Before February 15 of each year or within six months after
2 commencement of production for a lease or property, the department
3 shall notify the taxpayer of the monthly production rate at the
4 economic limit for each lease or property within the state for that
5 year. The monthly production rate at the economic limit for a lease
6 or property is presumed to be 100 barrels times the number of well-
7 days for the lease or property during December of the preceding year,
8 unless the taxpayer at a formal hearing under AS 43.05.240 provides
9 clear and convincing evidence of a different monthly production rate
10 at the economic limit for the lease or property. The monthly produc-
11 tion rate at the economic limit for the lease or property based upon
12 the clear and convincing evidence of the taxpayer shall be calculated
13 by dividing the value determined under (d) of this section into the
14 average monthly direct operating cost determined under (c) of this
15 section.

16 (c) The average monthly direct operating cost for oil production
17 operations of the lease or property shall be determined based on a
18 period of not less than four consecutive months. The direct operating
19 costs include drilling supplies, fuel, routine maintenance, and wages
20 and benefits of employees working on the production operations. The
21 direct operating costs do not include capital expenditures, tangible
22 or intangible drilling expenses, costs of well workovers, costs for
23 replacement or repairs (other than routine maintenance), depreciation
24 or amortization, taxes, insurance, overhead, money paid or set aside
25 (or booked as being paid or set aside) to cover the cost of terminating
26 the oil production operations of the lease or property, or any other
27 cost not directly related to the oil production operations of the
28 lease or property.

29 (d) The value at the point of production of oil produced from

1 the lease or property shall be determined on the basis of the acquisi-
2 tion cost C.I.F. at West Coast refineries for imported oil of like
3 quality, minus the reasonable cost of transportation between the point
4 of production of the oil from the lease or property and those West
5 Coast refineries.

6 (e) Before February 15 of each year or within six months after
7 commencement of production for a lease or property the department
8 shall notify the producer of gas of the monthly production rate at the
9 economic limit for each lease or property within the state for that
10 year. The monthly production rate at the economic limit for a lease
11 or property shall be determined at a formal hearing under AS 43.05.240
12 and must be established by clear and convincing evidence presented by
13 the taxpayer at that hearing. The monthly production rate at the
14 economic limit for the lease or property based upon the clear and
15 convincing evidence of the taxpayer shall be calculated by dividing
16 the value determined under (g) of this section into the average monthly
17 direct operating cost determined under (f) of this section.

18 (f) The average monthly direct operating cost for gas production
19 operations of the lease or property shall be determined based on a
20 period of not less than four consecutive months. The direct operating
21 costs include drilling supplies, fuel, routine maintenance, and wages
22 and benefits of employees working on the production operations. The
23 direct operating costs do not include capital expenditures, tangible
24 or intangible drilling expenses, costs of well workovers, costs for
25 replacement or repairs (other than routine maintenance), depreciation
26 or amortization, taxes, insurance, overhead, monies paid or set aside
27 (or booked as being paid or set aside) to cover the cost of terminating
28 the gas production operations of the lease or property, or any other
29 cost not directly related to the gas production operations of the

1 lease or property.

2 (g) The value at the point of production of gas produced from
3 the lease or property shall be determined on the basis of the highest
4 price paid for gas of like quality and pressure in the same field or
5 some other field within 100 miles in the state.

6 (h) The department may aggregate two or more leases or properties
7 (or portions of them), for purposes of determining economic limit
8 factors under this section and applying them to sec. 11 of this chapter
9 when economically interdependent oil or gas production operations are
10 not confined to a single lease or property. The department may also
11 segregate a lease or property into two or more parts, for purposes of
12 determining economic limit factors under this section and applying
13 them under sec. 11 of this chapter, when two or more economically
14 independent oil or gas production operations are being conducted on
15 it.

16 (i) A determination of the monthly production rate at the economic
17 limit for a lease or property is retroactive to January 1 of the
18 current year. For production of a lease or property commencing after
19 January 1, the determination of the monthly production rate at the
20 economic limit for that lease or property made within six months after
21 the commencement of production is retroactive to the commencement of
22 production.

23 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon
24 the producer of gas a tax for all gas produced from each lease or
25 property in the state, less any gas the ownership or right to which is
26 exempt from taxation. The tax is equal to either the percentage-of-
27 value amount calculated under (b) of this section or the cents-per-Mcf
28 amount calculated under (c) of this section, whichever is greater,
29 multiplied by the economic limit factor determined for gas production

1 of the lease or property under sec. 13 of this chapter. If the amounts
2 calculated under (b) and (c) of this section are equal, the amount
3 calculated under (b) of this section shall be treated as if it were
4 the greater for purposes of this section.

5 (b) The percentage-of-value amount equals 10 per cent of the
6 gross value at the point of production of the taxable gas produced
7 from the lease or property.

8 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic
9 feet of taxable gas produced from the lease or property as adjusted by
10 sec. 12 of this chapter.

11 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided
12 in this chapter and in ch. 58 of this title, the taxes imposed by this
13 chapter are in place of all taxes now imposed by the state or any of
14 its municipalities, and neither the state nor a municipality may
15 impose a tax upon

16 (1) producing oil or gas leases;
17 (2) oil or gas produced or extracted in the state;
18 (3) the value of intangible drilling and exploration
19 expenses.

20 (b) The taxes imposed by this chapter are in place of all taxes
21 imposed by a municipality upon oil or gas in place or nonproducing oil
22 or gas leases or properties.

23 (c) The taxes imposed by this chapter are not in place of the
24 tax imposed by ch. 57 of this title or income taxes, franchise taxes
25 or taxes upon the retail sale of oil or gas products.

26 * Sec. 2. AS 43.55.020(a) is amended to read:

27 (a) The gross production tax on oil or gas shall be paid monthly.
28 The tax is due on the 20th [LAST] day of each calendar month on oil or
29 gas produced [REMOVED OR SOLD] from each lease or property during the

1 preceding month. If the tax is not paid before the end of the month in
2 which it becomes due, the tax becomes delinquent.

3 * Sec. 3. AS 43.55.020(e) is amended to read:

4 (e) Gas produced and used, except gas used in the operation of a
5 lease or property in drilling for or producing oil or gas, or for
6 repressuring, is considered, for the purpose of this chapter and in
7 the amount used, as gas produced [REMOVED OR SOLD] from a lease or
8 property. Gas flared under a permit granted by the Department of
9 Natural Resources under AS 31.05.170(11)(H) is considered as gas
10 produced, except that it is subject to a tax equal to twice the tax
11 computed under sec. 16 of this chapter as adjusted by sec. 12 of this
12 chapter per thousand cubic feet of gas for the month in which the gas
13 was flared.

14 * Sec. 4. AS 43.55.030(a)(1) is amended to read:

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

18 * Sec. 5. AS 43.55.030(a)(3) is amended to read:

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

22 * Sec. 6. AS 43.55.030(a)(4) is amended to read:

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

26 * Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

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

28 (A) for oil, the value of the oil at the point where it
29 is metered or measured (by automatic custody transfer meter, tank

1 gauge, or other method approved by the commissioner) in a condition
2 of pipeline quality on the premises of the lease or property from
3 which it is recovered; however, if the oil is not of pipeline
4 quality when it is removed from the premises of the lease or
5 property from which it is recovered, or if the oil recovered from
6 a lease or property is not metered or measured (by automatic
7 custody transfer meter, tank gauge, or other method approved by
8 the commissioner) on the premises of the lease or property from
9 which it is recovered, then the gross value at the point of
10 production is the value of that oil at the off-premises location
11 where the oil is first metered or measured (by automatic custody
12 transfer meter, tank gauge, or other method approved by the
13 commissioner) in a condition of pipeline quality;

14 (B) for gas recovered from or in association with oil,
15 the value of the gas at the point where it is accurately metered
16 or measured after separation from the oil; for gas run through a
17 gas processing plant, the gross value at the point of production
18 is the full consideration received by the producer for the gas if
19 sold in an arm's length transaction or, in the absence of an
20 arm's length transaction, is the sum of the value of the liquids
21 extracted from the gas at the plant and the value of the residue
22 gas, less a reasonable allowance for processing the gas at the
23 plant and for transporting the gas to the plant from the premises
24 upon which the oil production operation is conducted; and

25 (C) for gas not recovered from or in association with
26 oil, the value of the gas at the point where it is accurately
27 metered or measured or the value of the gas at the point of sale,
28 if any, on the premises of the lease or property from which the
29 gas is recovered, whichever is the higher value; for gas run

1 through a gas processing plant, the gross value at the point of
2 production is the full consideration received by the producer for
3 the gas if sold in an arm's length transaction or, in the absence
4 of an arm's length transaction, is the sum of the value of the
5 liquids extracted from the gas at the plant and the value of the
6 residue gas, less a reasonable allowance for processing the gas
7 at the plant and for transporting the gas to the plant from the
8 point where it was accurately metered or measured;

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

13 (14) "pipeline quality" means good and merchantable con-
14 dition;

15 (15) "well days" means the number of days in which a well
16 is operating during a month.

17 * Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10), and (11,) are
18 repealed.

19 * Sec. 9. This Act takes effect July 1, 1977 and applies to production
20 during the month of July 1977 and succeeding months.
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MEMORANDUM

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811

TO: Representative Cowper, Chairman
House Finance Committee

DATE: April 21, 1977

FROM: Randolph Berry, Revisor of Statutes
SUBJECT: CS for HB 321

In reviewing CS for HB 321, I changed the language of AS 43.55.011 (d) (page 1, line 27) to describe more clearly the interpretation being followed by the Department of Revenue in complying with the original language of that provision as it currently appears in AS 43.55.015(e). If this change does not meet with your approval, please let me know.

*Draft (22 April) prepared for
Wayne & Means Subcommittee*

Original sponsor: Rules Committee by request
of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 321

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-
7 duction tax; and providing for an effective date."

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

9 * Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the
11 producer of oil a tax for all oil produced from each lease or property
12 in the state, less any oil the ownership or right to which is exempt
13 from taxation. The tax is equal to either the percentage-of-value
14 amount calculated under (b) of this section or the cents-per-barrel
15 amount calculated under (c) of this section, whichever is greater,
16 multiplied by the economic limit factor determined for the oil produc-
17 tion of the lease or property under sec. 13 of this chapter. If the
18 amounts calculated under (b) and (c) of this section are equal, the
19 amount calculated under (b) of this section shall be treated as if it
20 were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 12.5 per cent of the
22 gross value at the point of production of taxable oil produced from the
23 lease or property.

24 (c) The cents-per-barrel amount equals \$.94 per barrel of taxable
25 oil produced from the lease or property, as adjusted by sec. 12 of this
26 chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of this
28 section is greater than the percentage-of-value amount calculated under
29 (b) of this section, and payment by the state to the Alaska Native fund

1 out of the state's royalties on that oil is required under the revenue
2 sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act
3 (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.), that payment shall
4 be not less than \$.05 for each taxable barrel of oil produced until all
5 amounts paid in the fund equal \$500,000,000.

6 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set
7 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or
8 decreased by a percentage equal to the percentage of change in the Gross
9 National Product Deflator published by Bureau of Economic Analysis of
10 the United States Department of Commerce. Changes in tax rates will be
11 computed based on changes in the Gross National Product Deflator from
12 that of the First Quarter 1977 Gross National Product Deflator. The
13 department shall post the changes in the tax rates periodically and
14 shall notify every person producing oil within the state of the changes.

15 (b) The cents-per-barrel amount set out in sec. 11(c) of this
16 chapter as adjusted by (a) of this section applies to oil of 27 degrees
17 API gravity. For each degree of API gravity less than 27 degrees the
18 cents-per-barrel amount shall be reduced by \$.005 and for each degree of
19 API gravity greater than 27 degrees the cents-per-barrel amount shall be
20 increased by \$.005 except that oil above 40 degrees API gravity shall be
21 taxed as 40 degree oil. In applying the gravity adjustment under this
22 subsection, fractional degrees of API gravity shall be disregarded.

23 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit
24 factor for oil production of a lease or property equals

$$25 \quad (1 - [\text{PEL}/\text{TP}]) \exp ([300 \times \text{WD}]/\text{PEL})$$

26 where: PEL = the production rate at the economic limit;

27 TP = total production during the month for which the tax
28 is to be paid;

29 WD = the total number of well days in the month for which

1 the tax is to be paid; and
2 where "exp" indicates that the expression following it is an exponent.

3 (b) The economic limit factor for gas production of a lease or
4 property equals one minus the ratio of the monthly production rate at
5 the economic limit to the production during the month for which the tax
6 is to be paid.

7 (c) Before February 15 of each year or within six months after
8 commencement of production for a lease or property, the department shall
9 notify the taxpayer of the monthly production rate at the economic limit
10 for each lease or property within the state for that year. The monthly
11 production rate at the economic limit for a lease or property is pre-
12 sumed to be 300 barrels times the number of well-days for the lease or
13 property during December of the preceding year, unless the taxpayer at a
14 formal hearing under AS 43.05.240 provides clear and convincing evidence
15 of a different monthly production rate at the economic limit for the
16 lease or property. The monthly production rate at the economic limit
17 for the lease or property based upon the clear and convincing evidence
18 of the taxpayer shall be calculated by dividing the value determined
19 under (e) of this section into the average monthly direct operating cost
20 determined under (d) of this section.

21 (d) The average monthly direct operating cost for oil production
22 operations of the lease or property shall be determined based on a
23 period of not less than four consecutive months. The direct operating
24 costs include production supplies, purchased fuel, routine maintenance,
25 and wages and benefits of employees working on the production opera-
26 tions. The direct operating costs do not include capital expenditures,
27 tangible or intangible drilling expenses, costs of well workovers, costs
28 for replacement or repairs (other than routine maintenance), deprecia-
29 tion or amortization, taxes, insurance, overhead, money paid or set

1 aside (or booked as being paid or set aside) to cover the cost of ter-
2minating the oil production operations of the lease or property, or any
3 other cost not directly related to the oil production operations of the
4 lease or property.

5 (e) The value at the point of production of oil produced from the
6 lease or property shall be determined on the basis of the acquisition
7 cost C.I.F. at West Coast refineries for imported oil of like quality,
8 minus the reasonable cost of transportation between the point of pro-
9 duction of the oil from the lease or property and those West Coast
10 refineries.

11 (f) Before February 15 of each year or within six months after
12 commencement of production for a lease or property the department shall
13 notify the producer of gas of the monthly production rate at the eco-
14 nomic limit for each lease or property within the state for that year.
15 The monthly production rate at the economic limit for a lease or pro-
16 perty shall be determined at a formal hearing under AS 43.05.240 and
17 must be established by clear and convincing evidence presented by the
18 taxpayer at that hearing. The monthly production rate at the economic
19 limit for the lease or property based upon the clear and convincing
20 evidence of the taxpayer shall be calculated by dividing the value
21 determined under (h) of this section into the average monthly direct
22 operating cost determined under (g) of this section.

23 (g) The average monthly direct operating cost for gas production
24 operations of the lease or property shall be determined based on a
25 period of not less than four consecutive months. The direct operating
26 costs include drilling supplies, fuel, routine maintenance, and wages
27 and benefits of employees working on the production operations. The
28 direct operating costs do not include capital expenditures, tangible or
29 intangible drilling expenses, costs of well workovers, costs for re-

1 placement or repairs (other than routine maintenance), depreciation or
2 amortization, taxes, insurance, overhead, monies paid or set aside (or
3 booked as being paid or set aside) to cover the cost of terminating the
4 gas production operations of the lease or property, or any other cost
5 not directly related to the gas production operations of the lease or
6 property.

7 (h) The value at the point of production of gas produced from the
8 lease or property shall be determined on the basis of the highest price
9 paid for gas of like quality and pressure in the same field or some
10 other field within 100 miles in the state.

11 (i) The department may aggregate two or more leases or properties
12 (or portions of them), for purposes of determining economic limit
13 factors under this section and applying them to sec. 11 of this chapter,
14 when economically interdependent oil or gas production operations are
15 not confined to a single lease or property. The department may also
16 segregate a lease or property into two or more parts, for purposes of
17 determining economic limit factors under this section and applying them
18 under sec. 11 of this chapter, when two or more economically independent
19 oil or gas production operations are being conducted on it.

20 (j) A determination of the monthly production rate at the economic
21 limit for a lease or property is retroactive to January 1 of the current
22 year. For production of a lease or property commencing after January 1,
23 the determination of the monthly production rate at the economic limit
24 for that lease or property made within six months after the commencement
25 of production is retroactive to the commencement of production.

26 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the
27 producer of gas a tax for all gas produced from each lease or property
28 in the state, less any gas the ownership or right to which is exempt
29 from taxation. The tax is equal to either the percentage-of-value

1 amount calculated under (b) of this section or the cents-per-Mcf amount
2 calculated under (c) of this section, whichever is greater, multiplied
3 by the economic limit factor determined for gas production of the lease
4 or property under sec. 13 of this chapter. If the amounts calculated
5 under (b) and (c) of this section are equal, the amount calculated under
6 (b) of this section shall be treated as if it were the greater for
7 purposes of this section.

8 (b) The percentage-of-value amount equals 10 per cent of the gross
9 value at the point of production of the taxable gas produced from the
10 lease or property.

11 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet
12 of taxable gas produced from the lease or property as adjusted by sec.
13 12 of this chapter.

14 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided
15 in this chapter and in ch. 58 of this title, the taxes imposed by this
16 chapter are in place of all taxes now imposed by the state or any of its
17 municipalities, and neither the state nor a municipality may impose a
18 tax upon

- 19 (1) producing oil or gas leases;
20 (2) oil or gas produced or extracted in the state;
21 (3) the value of intangible drilling and exploration expen-
22 ses.

23 (b) The taxes imposed by this chapter are in place of all taxes
24 imposed by a municipality upon oil or gas in place or nonproducing oil
25 or gas leases or properties.

26 (c) The taxes imposed by this chapter are not in place of the tax
27 imposed by ch. 57 of this title or income taxes, franchise taxes or
28 taxes upon the retail sale of oil or gas products.

29 * Sec. 2. AS 43.55.020(a) is amended to read:

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

6 * Sec. 3. AS 43.55.020(e) is amended to read:

7 (e) Gas produced and used, except gas used in the operation of a
8 lease or property in drilling for or producing oil or gas, or for
9 repressuring, is considered, for the purpose of this chapter and in the
10 amount used, as gas produced [REMOVED OR SOLD] from a lease or property.
11 Gas flared under a permit granted by the Department of Natural Resources
12 under AS 31.05.170(11)(H) is considered as gas produced, except that it
13 is subject to a tax equal to twice the tax computed under sec. 16 of
14 this chapter as adjusted by sec. 12 of this chapter per thousand cubic
15 feet of gas for the month in which the gas was flared.

16 * Sec. 4. AS 43.55.030(a)(1) is amended to read:

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

20 * Sec. 5. AS 43.55.030(a)(3) is amended to read:

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

24 * Sec. 6. AS 43.55.030(a)(4) is amended to read:

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

28 * Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

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

1 if any, on the premises of the lease or property from which the gas
2 is recovered, whichever is the higher value; for gas run through a
3 gas processing plant, the gross value at the point of production is
4 the full consideration received by the producer for the gas if sold
5 in an arm's length transaction or, in the absence of an arm's
6 length transaction, is the sum of the value of the liquids ex-
7 tracted from the gas at the plant and the value of the residue gas,
8 less a reasonable allowance for processing the gas at the plant and
9 for transporting the gas to the plant from the point where it was
10 accurately metered or measured;

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

15 (14) "pipeline quality" means good and merchantable condi-
16 tion;

17 (15) "well days" means the number of days in which a well is
18 operating during a month.

19 * Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-
20 pealed.

21 * Sec. 9. This Act takes effect July 1, 1977 and applies to production
22 during the month of July 1977 and succeeding months.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

HOUSE CS for CS SB 238
HB 321

I. REQUEST
Bill/Resolution No. _____
Title Oil and Gas Properties Production Tax
Requested by _____ Date March 7, 1977

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Petroleum Revenue Division
Budget Request Unit(s) Affected _____

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	None					

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						
	None					

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

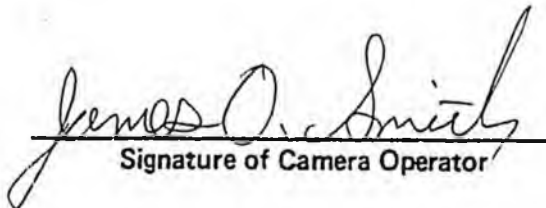
IV. DATE March 7, 1977 PREPARED BY John R. Messinger, Deputy Commissioner
AGENCY Department of Revenue
PHONE 465-2300
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

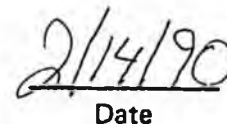


RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

HOUSE JOURNAL

FINANCE COMMITTEE CHAIRMAN'S REPORT
FOR
COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 322

The House Finance Committee reports out CSHB 322, an oil and gas corporate franchise tax, which includes as additions to the original bill, HB 322, the following provisions:

1. A requirement that the tax be paid even though it be challenged before the department or under appeal in the courts (Sec. 43.21.060(i)); and

2. Relief for the taxpayer if the taxpayer can establish that it is being taxed on more than 100% of its net income (Sec. 43.21.065).

The original bill, HB 322, in the main addresses two basic deficiencies with the corporate income tax as it relates to oil and gas corporations.

The first problem is the eroded federal tax base. The department found that the federal corporate tax base which Alaska has adopted has been substantially eroded by special exemptions, deductions, credits and other accounting devices. The result has been, according to Dr. Milton Lipton of Walter Levy Associates, that oil and gas corporations pay an effective tax rate of about 2.5% instead of the statutory 9.4%. Accordingly the bill would enact a separate franchise tax on a corporation's "book income." This is the net income which the corporation reports to its stockholders and to the Securities and Exchange Commission. This would eliminate all the special Congressional tax provisions.

In addition, the department found that the present apportionment formula generally measures the income producing activity of businesses in the state, but not in the case of the oil and gas industry. In particular, the value of North Slope production is not in proportion to the Alaskan property, sales, and payrolls of the companies. Accordingly, the bill will substitute for the present sales factor an extraction factor which will give weight specifically to oil and gas production activity.

One of the advantages of this franchise tax is that it will take into account elements of property, payroll, and extraction located on the Outer Continental Shelf. The Committee believes that the proposal comes within the limits of the state's taxing powers given the impact of these OCS activities on Alaskan coastal communities.

Steve Cowper

HB 322

March 8, 1977

The Honorable Hugh Malone
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.50.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill establishing an oil and gas corporate franchise tax.

The Department of Revenue, in its oil and gas tax study, found two basic deficiencies with the corporate income tax as it relates to oil and gas corporations. This bill would correct those deficiencies.

The first problem is the eroded federal tax base. The department found that the federal corporate tax base which Alaska has adopted has been substantially eroded by special exemptions, deductions, credits and other accounting devices. The result has been that oil and gas corporations pay an effective tax rate much smaller than the statutory 48 percent. Accordingly, the bill would enact a separate franchise tax on a corporation's "book income." "Book income" is the net income which the corporation reports to its stockholders. This would eliminate all the special Congressional tax provisions.

In addition, the department found that the present apportionment formula does not fully represent the oil and gas corporate activity in the state. The present formula of property, payroll, and sales generally measures corporate business activity in the state. For natural resource companies, however, it does not. No reflection in the present formula is made for the

scarcity value of the oil and gas produced. Accordingly, the bill will substitute for the present sales factor an extraction factor which will give weight specifically to oil and gas production activity.

One of the advantages of this franchise tax is that it will take into account elements of property, payroll, and extraction located on the Outer Continental Shelf which causes a resulting impact on the adjoining state. Thus property, payroll, and extraction not located in any state but which are located off the shores of an adjoining state which is impacted by the oil and gas production activity will be allocated to that state suffering the impact. Although this latter provision may raise some constitutional law questions, we believe that the proposal comes within the limits of the state's taxing powers given the impact on the coastal communities of our state of these OCS activities.

Sincerely,

Jay S. Hammond
Governor

A M E N D M E N T

Offered in the HOUSE

By _____

To: (Fin) CS HOUSE BILL NO. 322
321
SENATE BILL NO. _____

AMENDMENT: Page 4 Line 2

After the word "year" insert the following: calculated using historical cost accounting

P. W. [unclear] 0657 Petition for Relief
LINE 19

FORM 02-0018C
FOR BRIEF COMMUNICATIONS
MAY BE HANDWRITTEN

MEMORANDUM

State of Alaska

TO: Legislative Affairs Agency

DEPT. _____
DIV. _____
SEC. _____

DATE : May 9/ 1977

FROM: Anne Lindbeck, Secy.
House Finance Committee

SUBJECT: Committee Substitute
for HB 322

Please prepare a committee Substitute for House Finance committee per the attached copy. Needed for Tuesday, AM.- Session.

Original sponsor: Rules Committee
by request of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 322

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and gas corporate franchise
7 tax; and providing for an effective date."

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

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

10 CHAPTER 21. OIL AND GAS CORPORATE

11 FRANCHISE TAX.

12 Sec. 43.21.010. LEGISLATIVE FINDINGS AND PURPOSE. (a) The
13 legislature finds that Alaska has large deposits of nonrenewable re-
14 sources of oil and gas which belong to the citizens of the state.
15 Therefore, it is incumbent upon the state to provide an equitable
16 taxing system to be applied to corporations engaged in the extraction,
17 transportation, and refining of this wealth from the state. In addi-
18 tion, it is important that the tax system be designed to return to the
19 state tax revenues measured by the income generated by these resources
20 and activities. Accordingly, the taxing formula must fairly reflect the
21 business activities in the state by those corporations extracting,
22 transporting, and refining these nonrenewable resources.

23 (b) The legislature finds that, as a general rule, the three-
24 factor formula set out in AS 43.19.010, Article IV, fairly measures the
25 income-producing activity of corporations doing business both in and
26 outside the state. With regard, however, to the extraction, transporta-
27 tion, and refining of oil and gas, the legislature finds that the uni-
28 form formula does not fully reflect corporate income-producing activity
29 in the state. The legislature finds that the income from the extrac-

1 tion, transportation, and refining of oil and gas should be allocated
2 and apportioned by a separate state formula just as financial insti-
3 tutions and public utilities are under the provisions of AS 43.19.010,
4 Article IV.

5 (c) Although the legislature is mindful of the importance and
6 the advantages of uniformity which the formula in AS 43.19.010,
7 Article IV, represents, the legislature also recognizes its responsi-
8 bility to provide an apportionment formula which fairly represents a
9 taxpayer's business activity in the state. Accordingly, the legislature
10 has struck a balance between the uniform formula in AS 43.19.010,
11 Article IV, and a direct measure of oil and gas extracted in the
12 state by the substitution of a factor based upon units of extraction,
13 which will more fairly indicate the taxpayer's income attributable to
14 its business activity in the state.

15 (d) The legislature is concerned about the possibility of a
16 corporation's income not being attributable to any specific state, as
17 when property, payroll, and extraction are present in a location where
18 the corporation is not subject to state taxation. In such cases, some
19 portion of the income of the corporation would escape taxation by all
20 states even though a state may have been impacted by that corporation's
21 business activity and has given services and protection for which it
22 is entitled to ask for compensation. The legislature finds that the
23 apportionment formula in AS 43.19.010, Article IV, is deficient in
24 this respect for corporations engaged in the extraction, transportation,
25 and refining of oil and gas. Specifically, the legislature finds that
26 income generated from activities taking place on the outer continental
27 shelf should not escape state taxation entirely but should be taxed by
28 the state which has made contributions of services and protection to
29 those corporations as a result of those activities taking place off
30

1 its shores. The legislature finds that the state is currently adversely
2 impacted by activities occurring on the outer continental shelf off
3 the state's shores. The state has given and will continue to give
4 those corporations engaged in those activities hospital services,
5 educational services, police protection, regulatory protection, and
6 access to its courts, as well as many other services and protections.
7 Accordingly, the legislature finds that it is entitled to ask for
8 compensation for these services and protections. The return which the
9 state asks is the inclusion of property, payroll, and extraction units
10 not occurring in any state but which are directly serviced from a
11 base of operations in the state.

12 Sec. 43.21.020. PRIVILEGE TAX IMPOSED. A tax is hereby imposed
13 for each tax year on the privilege of engaging in business, exercising
14 a corporate franchise, doing business in corporate form, employing
15 capital, labor, or property, or maintaining an office, place of business,
16 or base of operations in Alaska of every corporation which has ordinary
17 gross receipts during the tax year in excess of \$250,000,000 (or which
18 is a member of a unitary business with combined ordinary gross receipts
19 in excess of \$250,000,000), more than 50 per cent of which is derived
20 from production, transportation, refining, manufacturing, processing,
21 distribution, or retail sale of oil or gas or products derived from
22 oil or gas. The tax imposed by this chapter is measured by the net
23 income of the corporation and is determined at the rate imposed under
24 AS 43.20.011(e). The tax imposed under this chapter is in place of
25 the tax imposed under AS 43.20.

26 Sec. 43.21.030. "NET INCOME" DEFINED. (a) Net income for the
27 purposes of this chapter is the higher of taxable income (as the term
28 is used in AS 43.20.011(e)) or the net income determined and certified
29 by an independent certified public accountant for the purposes of a

1 report to shareholders covering its earnings and profits for the
2 taxable year ^{calculated using historical cost accounting} without regard to any taxes on, or measured by, net
3 income.

4 (b) The department shall provide by regulation for the determina-
5 tion of net income in circumstances where the income statement deter-
6 mined and certified to shareholders does not truly reflect the corpora-
7 tion's net income. Those circumstances include but are not limited to
8 situations in which a qualified or disclaimed opinion is given by an
9 independent accountant on the corporation's net income, the net income
10 report does not meet standards promulgated by the Securities and
11 Exchange Commission, a change in accounting method, or the income
12 statement is not prepared in accordance with generally accepted account-
13 ing principles.

14 Sec. 43.21.040. "ORDINARY GROSS RECEIPTS" DEFINED. The term
15 "ordinary gross receipts" means total gross receipts, except that
16 there shall be excluded:

17 (1) all gains and losses from the sale or other disposition
18 of capital assets, and

19 (2) all gains and losses from the sale or other disposition
20 of property of a character described in sec. 1231(b) of the Internal
21 Revenue Code (determined without regard to holding period).

22 Sec. 43.21.050. APPORTIONMENT OF NET INCOME. (a) A corporation
23 subject to this tax which is taxable both in and outside the state
24 shall apportion its entire unitary business net income to Alaska by a
25 fraction the numerator of which is the property factor plus the payroll
26 factor plus the extraction factor and the denominator of which is
27 three. Under regulations adopted by the department, the property
28 factor and the payroll factor shall be determined in accordance with
29 Article IV of AS 43.19.010 and with AS 43.20.071, except as otherwise

1 provided in this section.

2 (b) Compensation earned by employees who are not employed in any
3 state in which the corporation is taxable shall be included in the
4 numerator of the payroll factor if the employees are directly supplied
5 from a base of operations maintained in the state.

6 (c) The value of oil or gas production facilities or other
7 properties which are not located in any state in which the corporation
8 is taxable shall be included in the numerator of the property factor
9 if the property is serviced or supplied from a base of operations
10 maintained in the state or if that property relies on onshore facilities
11 for storage of the oil and gas produced.

12 (d) The extraction factor is a fraction the numerator of which
13 is the net amount of oil and gas energy units produced in Alaska
14 expressed in terms of their equivalents in British Thermal Units and
15 the denominator of which is the total net amount of oil and gas energy
16 units produced everywhere. Oil and gas energy units which are not
17 extracted in a state in which the corporation is taxable shall be
18 included in the numerator of the extraction factor if the extraction
19 is performed by facilities which are serviced or supplied from a base
20 of operations in the state or if those facilities rely on onshore
21 facilities for storage of the oil and gas produced.

22 (e) If the denominator of any factor of the apportionment formula
23 set out in this section is zero or is so insignificant that its inclu-
24 sion will result in a distortion of income, the department may exclude
25 that factor or include one or more additional factors which will
26 fairly represent the taxpayer's business activity in the state.

27 Sec. 43.21.060. RETURNS AND PAYMENT OF TAXES. (a) A corporation
28 subject to tax under this chapter shall make and file a return with
29 the department at the same time as it files a return under the provisions

1 of the Internal Revenue Code. The return must set out

2 (1) the amount of tax due under this chapter, and
3 (2) other information which the department requires for the
4 purpose of carrying out the provisions of this chapter.

5 (b) The return must either be on oath or contain a written
6 declaration that it is made under penalty of perjury, and the department
7 shall prescribe forms accordingly.

8 (c) The total amount of tax imposed by this chapter is due and
9 payable to the department at the same time and in the same manner as
10 the tax payable to the United States Internal Revenue Service.

11 (d) A taxpayer shall furnish to the department a true and correct
12 copy of the tax return which he has filed with the United States
13 Internal Revenue Service.

14 (e) The department may credit or refund overpayments of taxes,
15 taxes erroneously or illegally assessed or collected, penalties col-
16 lected without authority, and taxes that are found unjustly assessed
17 or excessive in amount, or otherwise wrongfully collected. The depart-
18 ment shall set limitations, specify the manner in which claims or
19 credits or refunds are made and give notice of allowance or disallow-
20 ance. When a refund is allowed to a taxpayer, it shall be paid out of
21 the general fund on a warrant issued under a voucher approved by the
22 department.

23 (f) Every taxpayer shall notify the department in writing of any
24 alteration in, or modification of, his federal income tax return and
25 of a recomputation of tax or determination of deficiency (whether with
26 or without assessment). A full statement of the facts must accompany
27 this notice. The notice must be filed within 60 days after the final
28 determination of the modification, recomputation, or deficiency, and
29 the taxpayer shall pay the additional tax or penalty under this chapter.

1 For purposes of this section, a determination is final at the time
2 that an amended return is filed or a notice of deficiency or an assess-
3 ment is mailed to the taxpayer by the Internal Revenue Service, except
4 that in no event is there a final determination for purposes of this
5 section until the taxpayer has exhausted his rights of appeal under
6 federal law.

7 (g) Every taxpayer shall notify the department in writing of any
8 recomputation or restatement of a prior year's net income. A full
9 statement of the facts must accompany this notice. The notice must be
10 filed within 60 days after the recomputation or restatement of a prior
11 year's net income.

12 (h) In the case of additional tax due by reason of a modification,
13 recomputation, or determination of deficiency in a taxpayer's federal
14 income tax return, or by reason of a recomputation or restatement of a
15 prior year's net income, the period of limitation on assessment
16 commences from the date that the notice required in (f) or (g) of this
17 section is filed, and, if no notice is filed, the tax may be assessed
18 at any time.

19 (i) The tax imposed by this chapter is payable on the due date set
20 out in this section even though the assessment is under appeal or the
21 validity, enforceability or application of this chapter or any provi-
22 sion of this chapter is challenged before the department or in the
23 courts.

24 Sec. 43.21.065. PETITIONS FOR RELIEF. (a) If a corporation
25 taxable under this chapter can establish that it is actually being
26 taxed on more than 100 per cent of its net income by the states in
27 which it does business, it may petition the department for relief. To
28 establish that it is being taxed on more than 100 per cent of its net
29 income the corporation shall provide the department with copies of the

1 tax returns and supporting documents filed in the other states in which
2 it does business.

3 (b) Upon a showing under this section by a corporation, the com-
4 missioner shall negotiate with the tax administrators in the other
5 states in which the corporation does business to arbitrate the total
6 tax liability of the corporation. The efforts shall include the use
7 of the arbitration procedures set out in AS 43.19.010, Article IX.

8 (c) If the efforts of arbitration set out in (b) of this section
9 are not successful in providing tax relief to the taxpayer, the depart-
10 ment may then modify the apportionment formula by excluding one or more
11 apportionment factors or including one or more additional factors which
12 will provide tax relief to the taxpayer and still accurately represent
13 the taxpayer's business activity in the state.

14 (d) The department shall provide an annual report to the legisla-
15 ture of the total tax relief given under this section.

16 Sec. 43.21.070. REVIEW AND ASSESSMENT. (a) As soon as practice-
17 able after a return is filed, the department shall examine it and
18 determine the correct amount of the tax. If an error is disclosed by
19 the examination, the department shall notify the taxpayer of the
20 deficiency.

21 (b) If a taxpayer fails to file a return in the time required by
22 law, or makes an erroneous or fraudulent return, the department shall
23 proceed to assess the tax and make a return from information which it
24 obtains. A return made and subscribed by the department is prima
25 facie sufficient for all legal purposes.

26 Sec. 43.21.080. REGULATIONS. The department may adopt regulations
27 in accordance with the Administrative Procedure Act (AS 44.62) as
28 appropriate to administer and enforce this chapter.

29 Sec. 43.21.090. PENALTIES. (a) A person who wilfully attempts

1 to evade the tax imposed by this title is, in addition to other penal-
2 ties provided by this title, guilty of a felony and, upon conviction, is
3 punishable by a fine of not more than \$5,000, or by imprisonment for
4 not more than five years, or by both.

5 (b) A person required under this title to collect, account for,
6 and pay over the tax imposed by this title who wilfully fails to collect
7 or truthfully account for and pay over the tax is, in addition to other
8 penalties provided by this title, guilty of a felony and, upon convic-
9 tion, is punishable by a fine of not more than \$5,000, or by imprison-
10 ment for not more than five years, or by both.

11 (c) A person required under this title to pay a tax, make a
12 return, keep records, or supply information, who wilfully fails to pay
13 the tax or estimated tax, make the return, keep the records, or supply
14 the information, is, in addition to other penalties provided by this
15 title, guilty of a misdemeanor and, upon conviction, is punishable by a
16 fine of not more than \$5,000, or by imprisonment for not more than one
17 year, or by both.

18 (d) A person who wilfully makes and subscribes a return, state-
19 ment, or other document required under this title which contains or is
20 verified by a written declaration that it is made under the penalties of
21 perjury which he does not believe to be true and correct as to every
22 material matter is, in addition to other penalties provided by this
23 title, guilty of a felony and, upon conviction, is punishable by a fine
24 of not more than \$5,000, or by imprisonment for not more than three
25 years, or by both.

26 (e) A person who wilfully and knowingly aids or assists in, or
27 procures, or counsels the preparation or presentation in connection with
28 any matter arising under this title of a return, affidavit, claim, or
29 other document, which is fraudulent or is false as to any material

1 matter is guilty of a felony whether or not the falsity or fraud is with
2 the knowledge or consent of the person required to present the return,
3 affidavit, claim, or document, and, upon conviction, is punishable by a
4 fine of not more than \$5,000, or by imprisonment for not more than three
5 years, or by both.

6 (f) A person who wilfully delivers or discloses to the commis-
7 sioner or the department under this chapter any list, return, account,
8 statement, or other document, known by him to be fraudulent or to be
9 false as to any material matter, upon conviction, is punishable by a
10 fine of not more than \$1,000, or by imprisonment for not more than one
11 year, or by both.

12 (g) In this section, "person" includes, but is not limited to, an
13 officer or employee of a corporation who as officer or employee is under
14 a duty to perform the act in respect to which the violation occurs.

15 Sec. 43.21.50. DEFINITIONS. In this chapter, unless the context
16 requires otherwise,

17 (1) "base of operations" means the closest point on land to
18 the offshore oil and gas production operations from which goods, ser-
19 vices, and supplies flow to those offshore oil and gas production
20 operations;

21 (2) "department" means the Department of Revenue;

22 (3) "net amount of oil and gas energy units produced" means
23 gross production less any portion of the production which represents a
24 royalty interest, overriding royalty interest, production payment, or
25 any other interest in a lease concession, joint venture, or other
26 agreement for oil or gas production belonging to a third party;

27 (4) "unitary business" means a corporation or group of cor-
28 porations having at least 50 per cent common ownership, direct or
29 indirect, or a group of corporations in which there is common control

1 either direct or indirect as evidenced by any arrangement, contract, or
2 agreement.

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

4 (d) The tax imposed by this chapter is not in place of the tax
5 imposed by ch. 57 or ch. 21 of this title or income taxes or taxes upon
6 the retail sale of oil or gas products.

7 * Sec. 3. If any of the provisions of this Act relating to the incor-
8 poration into the apportionment formula of payroll, property, or extraction
9 arising out of activities conducted on the outer continental shelf, or if any
10 other provisions of this Act are held to be invalid or unenforceable, it is
11 the intent of the legislature that the invalidity or unenforceability does
12 not affect the remainder of this Act.

13 * Sec. 4. This Act takes effect January 1, 1978.
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Original sponsor: Rules Committee
by request of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 322

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and gas corporate franchise
7 tax; and providing for an effective date."

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

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

10 CHAPTER 21. OIL AND GAS CORPORATE
11 FRANCHISE TAX.

12 Sec. 43.21.010. LEGISLATIVE FINDINGS AND PURPOSE. (a) The
13 legislature finds that Alaska has large deposits of nonrenewable re-
14 sources of oil and gas which belong to the citizens of the state.
15 Therefore, it is incumbent upon the state to provide an equitable
16 taxing system to be applied to corporations engaged in the extraction,
17 transportation, and refining of this wealth from the state. In addi-
18 tion, it is important that the tax system be designed to return to the
19 state tax revenues measured by the income generated by these resources
20 and activities. Accordingly, the taxing formula must fairly reflect the
21 business activities in the state by those corporations extracting,
22 transporting, and refining these nonrenewable resources.

23 (b) The legislature finds that, as a general rule, the three-
24 factor formula set out in AS 43.19.010, Article IV, fairly measures the
25 income-producing activity of corporations doing business both in and
26 outside the state. With regard, however, to the extraction, transporta-
27 tion, and refining of oil and gas, the legislature finds that the uni-
28 form formula does not fully reflect corporate income-producing activity
29 in the state. The legislature finds that the income from the extrac-

1 tion, transportation, and refining of oil and gas should be allocated
2 and apportioned by a separate state formula just as financial insti-
3 tutions and public utilities are under the provisions of AS 43.19.010,
4 Article IV.

5 (c) Although the legislature is mindful of the importance and
6 the advantages of uniformity which the formula in AS 43.19.010,
7 Article IV, represents, the legislature also recognizes its responsi-
8 bility to provide an apportionment formula which fairly represents a
9 taxpayer's business activity in the state. Accordingly, the legislature
10 has struck a balance between the uniform formula in AS 43.19.010,
11 Article IV, and a direct measure of oil and gas extracted in the
12 state by the substitution of a factor based upon units of extraction,
13 which will more fairly indicate the taxpayer's income attributable to
14 its business activity in the state.

15 (d) The legislature is concerned about the possibility of a
16 corporation's income not being attributable to any specific state, as
17 when property, payroll, and extraction are present in a location where
18 the corporation is not subject to state taxation. In such cases, some
19 portion of the income of the corporation would escape taxation by all
20 states even though a state may have been impacted by that corporation's
21 business activity and has given services and protection for which it
22 is entitled to ask for compensation. The legislature finds that the
23 apportionment formula in AS 43.19.010, Article IV, is deficient in
24 this respect for corporations engaged in the extraction, transportation,
25 and refining of oil and gas. Specifically, the legislature finds that
26 income generated from activities taking place on the outer continental
27 shelf should not escape state taxation entirely but should be taxed by
28 the state which has made contributions of services and protection to
29 those corporations as a result of those activities taking place off

1 its shores. The legislature finds that the state is currently adversely
2 impacted by activities occurring on the outer continental shelf off
3 the state's shores. The state has given and will continue to give
4 those corporations engaged in those activities hospital services,
5 educational services, police protection, regulatory protection, and
6 access to its courts, as well as many other services and protections.
7 Accordingly, the legislature finds that it is entitled to ask for
8 compensation for these services and protections. The return which the
9 state asks is the inclusion of property, payroll, and extraction units
10 not occurring in any state but which are directly serviced from a
11 base of operations in the state.

12 Sec. 43.21.020. PRIVILEGE TAX IMPOSED. A tax is hereby imposed
13 for each tax year on the privilege of engaging in business, exercising
14 a corporate franchise, doing business in corporate form, employing
15 capital, labor, or property, or maintaining an office, place of business,
16 or base of operations in Alaska of every corporation which has ordinary
17 gross receipts during the tax year in excess of \$250,000,000 (or which
18 is a member of a unitary business with combined ordinary gross receipts
19 in excess of \$250,000,000), more than 50 per cent of which is derived
20 from production, transportation, refining, manufacturing, processing,
21 distribution, or retail sale of oil or gas or products derived from
22 oil or gas. The tax imposed by this chapter is measured by the net
23 income of the corporation and is determined at the rate imposed under
24 AS 43.20.011(e). The tax imposed under this chapter is in place of
25 the tax imposed under AS 43.20.

26 Sec. 43.21.030. "NET INCOME" DEFINED. (a) Net income for the
27 purposes of this chapter is the higher of taxable income (as the term
28 is used in AS 43.20.011(e)) or the net income determined and certified
29 by an independent certified public accountant for the purposes of a

1 report to shareholders covering its earnings and profits for the
2 taxable year ^{calculated using historical cost accounting} without regard to any taxes on, or measured by, net
3 income.

4 (b) The department shall provide by regulation for the determina-
5 tion of net income in circumstances where the income statement deter-
6 mined and certified to shareholders does not truly reflect the corpora-
7 tion's net income. Those circumstances include but are not limited to
8 situations in which a qualified or disclaimed opinion is given by an
9 independent accountant on the corporation's net income, the net income
10 report does not meet standards promulgated by the Securities and
11 Exchange Commission, a change in accounting method, or the income
12 statement is not prepared in accordance with generally accepted account-
13 ing principles.

14 Sec. 43.21.040. "ORDINARY GROSS RECEIPTS" DEFINED. The term
15 "ordinary gross receipts" means total gross receipts, except that
16 there shall be excluded:

17 (1) all gains and losses from the sale or other disposition
18 of capital assets, and

19 (2) all gains and losses from the sale or other disposition
20 of property of a character described in sec. 1231(b) of the Internal
21 Revenue Code (determined without regard to holding period).

22 Sec. 43.21.050. APPORTIONMENT OF NET INCOME. (a) A corporation
23 subject to this tax which is taxable both in and outside the state
24 shall apportion its entire unitary business net income to Alaska by a
25 fraction the numerator of which is the property factor plus the payroll
26 factor plus the extraction factor and the denominator of which is
27 three. Under regulations adopted by the department, the property
28 factor and the payroll factor shall be determined in accordance with
29 Article IV of AS 43.19.010 and with AS 43.20.071, except as otherwise
30

1 provided in this section.

2 (b) Compensation earned by employees who are not employed in any
3 state in which the corporation is taxable shall be included in the
4 numerator of the payroll factor if the employees are directly supplied
5 from a base of operations maintained in the state.

6 (c) The value of oil or gas production facilities or other
7 properties which are not located in any state in which the corporation
8 is taxable shall be included in the numerator of the property factor
9 if the property is serviced or supplied from a base of operations
10 maintained in the state or if that property relies on onshore facilities
11 for storage of the oil and gas produced.

12 (d) The extraction factor is a fraction the numerator of which
13 is the net amount of oil and gas energy units produced in Alaska
14 expressed in terms of their equivalents in British Thermal Units and
15 the denominator of which is the total net amount of oil and gas energy
16 units produced everywhere. Oil and gas energy units which are not
17 extracted in a state in which the corporation is taxable shall be
18 included in the numerator of the extraction factor if the extraction
19 is performed by facilities which are serviced or supplied from a base
20 of operations in the state or if those facilities rely on onshore
21 facilities for storage of the oil and gas produced.

22 (e) If the denominator of any factor of the apportionment formula
23 set out in this section is zero or is so insignificant that its inclu-
24 sion will result in a distortion of income, the department may exclude
25 that factor or include one or more additional factors which will
26 fairly represent the taxpayer's business activity in the state.

27 Sec. 43.21.060. RETURNS AND PAYMENT OF TAXES. (a) A corporation
28 subject to tax under this chapter shall make and file a return with
29 the department at the same time as it files a return under the provisions

1 of the Internal Revenue Code. The return must set out

- 2 (1) the amount of tax due under this chapter, and
3 (2) other information which the department requires for the
4 purpose of carrying out the provisions of this chapter.

5 (b) The return must either be on oath or contain a written
6 declaration that it is made under penalty of perjury, and the department
7 shall prescribe forms accordingly.

8 (c) The total amount of tax imposed by this chapter is due and
9 payable to the department at the same time and in the same manner as
10 the tax payable to the United States Internal Revenue Service.

11 (d) A taxpayer shall furnish to the department a true and correct
12 copy of the tax return which he has filed with the United States
13 Internal Revenue Service.

14 (e) The department may credit or refund overpayments of taxes,
15 taxes erroneously or illegally assessed or collected, penalties col-
16 lected without authority, and taxes that are found unjustly assessed
17 or excessive in amount, or otherwise wrongfully collected. The depart-
18 ment shall set limitations, specify the manner in which claims or
19 credits or refunds are made and give notice of allowance or disallow-
20 ance. When a refund is allowed to a taxpayer, it shall be paid out of
21 the general fund on a warrant issued under a voucher approved by the
22 department.

23 (f) Every taxpayer shall notify the department in writing of any
24 alteration in, or modification of, his federal income tax return and
25 of a recomputation of tax or determination of deficiency (whether with
26 or without assessment). A full statement of the facts must accompany
27 this notice. The notice must be filed within 60 days after the final
28 determination of the modification, recomputation, or deficiency, and
29 the taxpayer shall pay the additional tax or penalty under this chapter.

1 For purposes of this section, a determination is final at the time
2 that an amended return is filed or a notice of deficiency or an assess-
3 ment is mailed to the taxpayer by the Internal Revenue Service, except
4 that in no event is there a final determination for purposes of this
5 section until the taxpayer has exhausted his rights of appeal under
6 federal law.

7 (g) Every taxpayer shall notify the department in writing of any
8 recomputation or restatement of a prior year's net income. A full
9 statement of the facts must accompany this notice. The notice must be
10 filed within 60 days after the recomputation or restatement of a prior
11 year's net income.

12 (h) In the case of additional tax due by reason of a modification,
13 recomputation, or determination of deficiency in a taxpayer's federal
14 income tax return, or by reason of a recomputation or restatement of a
15 prior year's net income, the period of limitation on assessment
16 commences from the date that the notice required in (f) or (g) of this
17 section is filed, and, if no notice is filed, the tax may be assessed
18 at any time.

19 (i) The tax imposed by this chapter is payable on the due date set
20 out in this section even though the assessment is under appeal or the
21 validity, enforceability or application of this chapter or any provi-
22 sion of this chapter is challenged before the department or in the
23 courts.

24 Sec. 43.21.065. PETITIONS FOR RELIEF. (a) If a corporation
25 taxable under this chapter can establish that it is actually being
26 taxed on more than 100 per cent of its net income by the states in
27 which it does business, it may petition the department for relief. To
28 establish that it is being taxed on more than 100 per cent of its net
29 income the corporation shall provide the department with copies of the

1 tax returns and supporting documents filed in the other states in which
2 it does business.

3 (b) Upon a showing under this section by a corporation, the com-
4 missioner shall negotiate with the tax administrators in the other
5 states in which the corporation does business to arbitrate the total
6 tax liability of the corporation. The efforts shall include the use
7 of the arbitration procedures set out in AS 43.19.010, Article IX.

8 (c) If the efforts of arbitration set out in (b) of this section
9 are not successful in providing tax relief to the taxpayer, the depart-
10 ment may then modify the apportionment formula by excluding one or more
11 apportionment factors or including one or more additional factors which
12 will provide tax relief to the taxpayer and still accurately represent
13 the taxpayer's business activity in the state.

14 (d) The department shall provide an annual report to the legisla-
15 ture of the total tax relief given under this section.

16 Sec. 43.21.070. REVIEW AND ASSESSMENT. (a) As soon as practic-
17 able after a return is filed, the department shall examine it and
18 determine the correct amount of the tax. If an error is disclosed by
19 the examination, the department shall notify the taxpayer of the
20 deficiency.

21 (b) If a taxpayer fails to file a return in the time required by
22 law, or makes an erroneous or fraudulent return, the department shall
23 proceed to assess the tax and make a return from information which it
24 obtains. A return made and subscribed by the department is prima
25 facie sufficient for all legal purposes.

26 Sec. 43.21.080. REGULATIONS. The department may adopt regulations
27 in accordance with the Administrative Procedure Act (AS 44.62) as
28 appropriate to administer and enforce this chapter.

29 Sec. 43.21.090. PENALTIES. (a) A person who wilfully attempts

1 to evade the tax imposed by this title is, in addition to other penal-
2 ties provided by this title, guilty of a felony and, upon conviction, is
3 punishable by a fine of not more than \$5,000, or by imprisonment for
4 not more than five years, or by both.

5 (b) A person required under this title to collect, account for,
6 and pay over the tax imposed by this title who wilfully fails to collect
7 or truthfully account for and pay over the tax is, in addition to other
8 penalties provided by this title, guilty of a felony and, upon convic-
9 tion, is punishable by a fine of not more than \$5,000, or by imprison-
10 ment for not more than five years, or by both.

11 (c) A person required under this title to pay a tax, make a
12 return, keep records, or supply information, who wilfully fails to pay
13 the tax or estimated tax, make the return, keep the records, or supply
14 the information, is, in addition to other penalties provided by this
15 title, guilty of a misdemeanor and, upon conviction, is punishable by a
16 fine of not more than \$5,000, or by imprisonment for not more than one
17 year, or by both.

18 (d) A person who wilfully makes and subscribes a return, state-
19 ment, or other document required under this title which contains or is
20 verified by a written declaration that it is made under the penalties of
21 perjury which he does not believe to be true and correct as to every
22 material matter is, in addition to other penalties provided by this
23 title, guilty of a felony and, upon conviction, is punishable by a fine
24 of not more than \$5,000, or by imprisonment for not more than three
25 years, or by both.

26 (e) A person who wilfully and knowingly aids or assists in, or
27 procures, or counsels the preparation or presentation in connection with
28 any matter arising under this title of a return, affidavit, claim, or
29 other document, which is fraudulent or is false as to any material

1 matter is guilty of a felony whether or not the falsity or fraud is with
2 the knowledge or consent of the person required to present the return,
3 affidavit, claim, or document, and, upon conviction, is punishable by a
4 fine of not more than \$5,000, or by imprisonment for not more than three
5 years, or by both.

6 (f) A person who wilfully delivers or discloses to the commis-
7 sioner or the department under this chapter any list, return, account,
8 statement, or other document, known by him to be fraudulent or to be
9 false as to any material matter, upon conviction, is punishable by a
10 fine of not more than \$1,000, or by imprisonment for not more than one
11 year, or by both.

12 (g) In this section, "person" includes, but is not limited to, an
13 officer or employee of a corporation who as officer or employee is under
14 a duty to perform the act in respect to which the violation occurs.

15 Sec. 43.21.900. DEFINITIONS. In this chapter, unless the context
16 requires otherwise,

17 (1) "base of operations" means the closest point on land to
18 the offshore oil and gas production operations from which goods, ser-
19 vices, and supplies flow to those offshore oil and gas production
20 operations;

21 (2) "department" means the Department of Revenue;

22 (3) "net amount of oil and gas energy units produced" means
23 gross production less any portion of the production which represents a
24 royalty interest, overriding royalty interest, production payment, or
25 any other interest in a lease concession, joint venture, or other
26 agreement for oil or gas production belonging to a third party;

27 (4) "unitary business" means a corporation or group of cor-
28 porations having at least 50 per cent common ownership, direct or
29 indirect, or a group of corporations in which there is common control